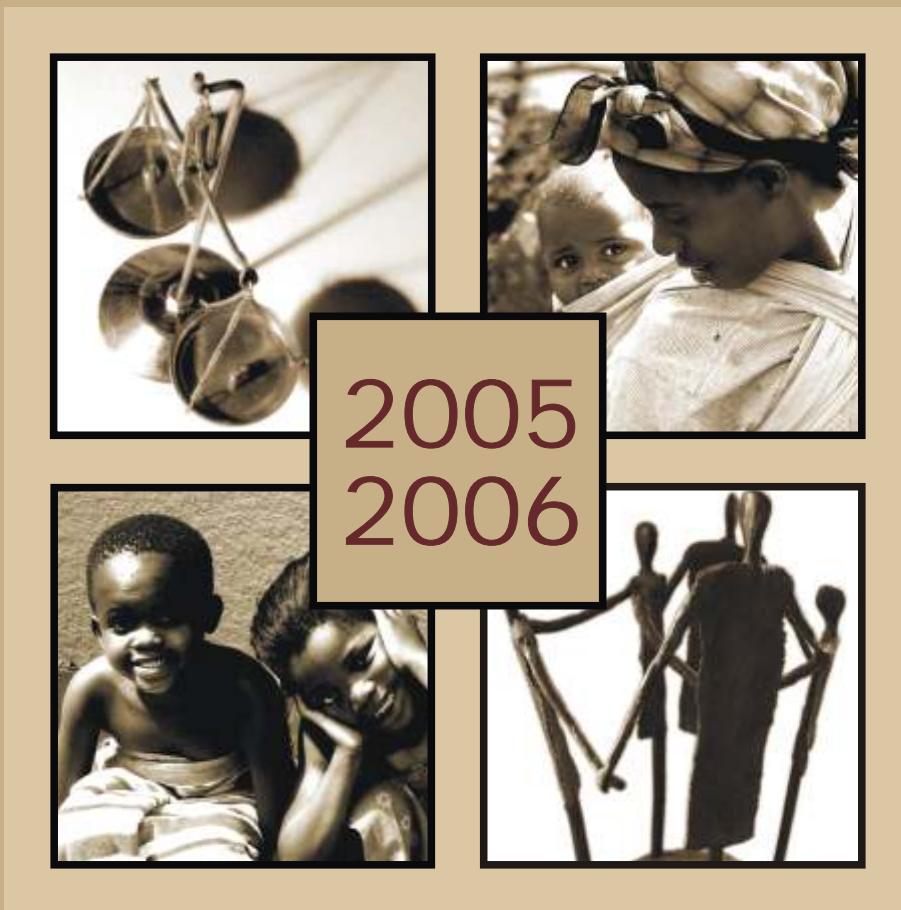


# Annual Report

## National Prosecuting Authority



## 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.

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## Introduction by the National Director of Public Prosecutions



## Office of the National Director of Public Prosecutions



It is once again, with great honour and pleasure that I submit my report as National Director of Public Prosecutions to the Minister for Justice and Constitutional Development and the Parliament of the Republic of South Africa, on the work of the National Prosecuting Authority (NPA) for 2005/2006, in terms of Section 35(2) of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (NPA Act) and Section 40 of the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA).

While the past year has not been an easy one, I am proud of the achievements staff in the NPA have attained by virtue of their commitment and passion to combat crime in South Africa. Nevertheless, we have recognised that we still have some way to go in terms of improving our services and working environment, which is why the transformation programme, Serurubele, was embarked upon. The achievements of this project will be evident throughout this report.

On assumption of this appointment, I took an oath to "uphold and protect the Constitution and enforce the law of the Republic without fear, favour or prejudice in accordance with the Constitution and the law". I am a proud prosecutor and I want all prosecutors in this organisation to be as proud.

However, much to my consternation, information has emerged that implicates a few of our prosecutors in corrupt activities. While these incidents are few in number, and are receiving the necessary attention to ensure that the perpetrators are severely dealt with, I am of the view that even one incident is one too many for an institution such as the NPA. Investigations and prosecutions are underway and further reports will be forthcoming.

Whilst it is important to have mechanisms such as effective prosecutions in place to fight crime, we should never lose sight of the underlying causes of crime. Our efforts to combat crime should therefore be also aimed at bringing about a democratic state underpinned by good governance and to also address the underlying causes of crime such as poverty, unemployment and other socio-economic conditions, and other intolerances.

We also acknowledge that the diversification of organised crime as an emerging trend, manifesting itself in a new crime environment, which is trans-national and global in nature is becoming more prevalent. This is the new reality confronting all countries and posing greater challenges to investigators and prosecutors.

The globalization of crime therefore demands the development of a new breed of investigators and prosecutors.

In going forward some of our key priorities are:

- To increase the number and quality of prosecutions of violent crime.
- To have more dedicated sexual offences courts to ensure that we can deal effectively with the horrific crimes against women and children, and that the victims are treated with respect and dignity.
- To re-examine our role in the maintenance courts and to provide the services required.
- To establish more dedicated commercial crime courts to ensure that more effective action is taken against corruption and economic crime.
- To set up a team of senior prosecutors to work with SAPS to ensure that organised crime syndicates that continue to plague our country are speedily brought to justice.
- To do more asset forfeiture cases to ensure that crime does not pay.

The report on the activities and achievements of the NPA for this financial period in the main body of this report will, in keeping with the new direction of the NPA's Strategy 2020, broadly be dealt with under the categories of Governance, Delivery and Resourcing.

Adv. Vusumzi Patrick Pikoli  
National Director of Public Prosecutions

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

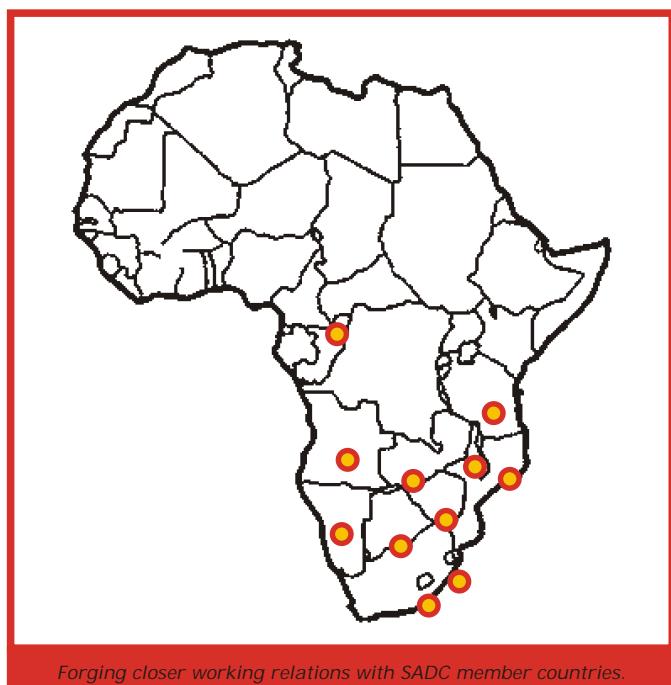
# Report of the Office of the National Director of Public Prosecutions

## International Co-operation

The NPA has over the past year been very active in terms of its interaction and strengthening of relationships with many African countries, especially those within the Southern African Development Community (SADC) region in its aim to fight trans-national crime. The trans-national nature of crime makes such co-operation and interactions imperative in the fight against crime.

The National Director embarked upon a major drive to establish closer working relations with SADC member countries. The objective of this drive, themed "Prosecutors without boundaries", is to strengthen co-operation to deal more effectively with trans-national crime, as well as to contribute to the development of more effective criminal justice systems on the continent; thereby ensuring that the rule of law is upheld.

In terms of this drive, meetings were held with the Attorneys-General, Directors of Public Prosecutions, and in some instances with Ministers of Justice, Chief Justices, Law Societies and Bar Councils in the following SADC member countries:



- Zimbabwe
- Mozambique
- Namibia
- Swaziland
- Seychelles
- Tanzania
- Democratic Republic of Congo
- Lesotho
- Malawi
- Botswana
- Angola
- Zambia
- Mauritius
- Madagascar

The purpose of these meetings was to develop and strengthen relationships with these countries and to enter into Memoranda of Understanding, which will inform the co-operation between South Africa and the above-mentioned countries. Draft agreements are in place and are currently being considered with a view to signing in the near future.

In addition to the above initiatives, the NPA has hosted meetings in South Africa with the following countries in order to assist with providing information, guidance and advice on legislation, systems and structures in dealing with serious crime, more particularly corruption and economic crimes:

- Nigeria
- Burundi
- Iceland
- Botswana
- Mauritius
- Benin
- Zimbabwe
- Sudan
- Mozambique
- Kenya
- Russia

The NPA also hosted meetings with the Head of the International Criminal Tribunal for Rwanda (ICTR), on two occasions during 2005/2006. The meetings related to assistance the organisation could provide to the ICTR. Discussions are underway in this regard.

Officials from the NPA formed part of the South African delegation that attended the United Nations 5th Crime Congress in Bangkok in April 2005. This conference proved beneficial as a global view of crime trends and developments was obtained, in addition to information sharing and relationship building.

During June 2005, the National Director was part of the delegation on the President's State visit to Chile. During this visit a Memorandum of Understanding was signed between the NPA, South Africa and the Chilean Attorney-General's Office.

***"The objective of this drive, themed "Prosecutors without boundaries", is to strengthen co-operation to deal more effectively with trans-national crime"***

The National Director and his delegation attended the Heads of Prosecuting Authorities Conference (HOPAC) during September 2005, where a paper was delivered on the Legal Liability of Prosecutors. This bi-annual conference was an ideal opportunity for Heads of Prosecuting Authorities to meet and share information on the running of their respective Prosecuting Services as well as to consider ways to ensure more effective co-operation in dealing with trans-national organised crime.

The National Director and a delegation of two senior members of the National Prosecution Service (NPS), attended the Second World Summit of Attorneys-General, Prosecutors-General and Chief Prosecutors in Dohar, Qatar in November 2005, where a paper was also delivered on behalf of South Africa. This gave the National Director and his delegation an opportunity to engage with their counterparts on matters of mutual concern, as well as to share best practice and experiences.

The National Director also hosted a meeting with a senior member of the International Criminal Court (ICC). This meeting dealt with the relationship between the NPA, South Africa and the ICC. A request has been made to send Prosecutors to the ICC to develop skills to prosecute crimes of human rights abuses. This issue is currently being dealt with.

Guidelines for the prosecution of cases arising from conflicts of the past and which were committed before 11 May 1994

In his statement to the National Houses of Parliament and the Nation on 15 April 2003 the President, among others, gave Government's response to the final Report of the Truth and Reconciliation Commission (TRC) regarding the handling of cases arising from conflicts of the past which were committed prior to 11 May 1994.



Adv Vusumzi Patrick Pikoli  
National Director of Public Prosecutions

The essential features are the following:

- It was recognised that not all persons availed themselves of the TRC process for a variety of reasons ranging from undue influence to a deliberate rejection of the process.
- A continuation of the amnesty process cannot be considered as this would constitute a suspension of victims' rights and would fly in the face of the TRC process. The question as to the prosecution or not of persons who did not take part in the TRC process, is left in the hands of the prosecuting authority, as is normal practice.
- As part of the normal process and in the national interest, the NPA, working with the Intelligence Agencies, will be accessible to those persons who are prepared to unearth the truth and who wish to enter into agreements that are standard in the normal execution of justice and are accommodated in our legislation.
- Following Government's response to the final Report of the TRC, and because it is important for the prosecuting authority to deal with these matters on a uniform basis in terms of specifically defined criteria, the National Director, with the concurrence of the Minister for Justice and Constitutional Development and after consultation with the various Directors of Public Prosecutions issued prosecution policy and policy directives in terms of section 179(5)(a) and (b) of the Constitution regarding the handling of such cases arising from conflicts of the past. This prosecution policy and policy directives, which must be observed in the prosecution process, were tabled in Parliament towards the end of 2005 and came into operation on 1 December 2005. During January and February 2006 the NPA briefed the Portfolio Committee on Justice and Constitutional Development and the Committee on Security and Constitutional Affairs of the National Council of Provinces regarding the contents of these directives. I am sad to report, as at the time of writing this report, that not much has been achieved in this regard despite all the attempts that have been made in taking this matter forward.

## The Khampepe Commission of Inquiry into the Mandate and Location of the Directorate of Special Operations

On 1 April 2005, the President, acting under section 84(2) of the Constitution, appointed a Commission of Inquiry into the Mandate and Location of the Directorate of Special Operations (DSO). Subsequently, the Commission invited interested parties to make written submissions in respect of each and every aspect of the Commission's terms of reference.

Following the President's announcement, the National Director appointed a Task Team to prepare the NPA's submission. On 17 June 2005, the National Director and the Head of the DSO submitted comprehensive affidavits to the Commission setting out the position of the DSO. The NPA also provided the Commission with further particulars and various submissions in response to submissions made by, among others, the South African Police Service, the National Intelligence Agency and the Minister for Justice and Constitutional Development.

The National Director and the Head of the DSO also testified at the hearings held by the Commission.

The Commission reconfirmed the mandate and the location of the DSO within the National Prosecuting Authority.

In brief, the Commission made, among others, the following findings and recommendations:

(a) The argument that the rationale of the DSO no longer holds since the levels of crime are showing a decline is without substance. The Commission further finds that the DSO still has a place in the government's law enforcement plan and that notwithstanding indications that organised crime is being addressed on a concerted basis, the rationale for the establishment of the DSO is as valid today as it was at conception. Therefore, the Commission finds that the rationale for locating the DSO under the National Director and the Minister for Justice and Constitutional Development still pertains and recommends that the DSO should continue to be located within the NPA.

(b) The argument that the legal mandate of the DSO to investigate and prosecute serious organised crime is unconstitutional is without merit. The Commission is

*"The Commission reconfirmed the mandate and the location of the DSO within the National Prosecuting Authority"*

satisfied that the mandate of the DSO as described in section 7 of the NPA Act, and in particular relating to information gathering capabilities of the DSO, should be left as is and not be amended.

- (c) The Commission recommends the establishment of an Operational Committee. This Operational Committee would be responsible for, among others, enhancing the operational co-operation and co-ordination between the relevant stakeholders, facilitating inter-agency communication and to provide a framework for the sharing of information and developing and managing cross functional hi-tech, hi-skill capacity that is relatively localised to tackle organised crime.
- (d) The Commission recommends that the President should by proclamation place the responsibility for the DSO on two Cabinet Ministers, namely the Minister for Justice and Constitutional Development and the Minister of Safety and Security. In terms of such a proclamation the Minister of Safety and Security shall have political responsibility of the law enforcement component of the DSO and the Minister for Justice and Constitutional Development shall have responsibility of the prosecutorial component of the DSO.

On 29 June 2006 Cabinet indicated that it endorsed the decision of the National Security Council (NSC) to accept in principle the recommendations of the Commission. Cabinet further charged the Directors-General of the NSC, working with the Department of Public Service and Administration to develop proposals that would specifically enable the Government to implement the Commission's recommendations. In a media statement of 30 June 2006, the National Director indicated, among others, that the NPA welcomes the Cabinet's decision which it fully supports and accepts.

## African Programme of Action to Counter Crime, Insecurity and Corruption

In September 2005 a Round Table of senior state officials and policy makers from African countries, organised in association with the United Nations Office on Drugs and Crime (UNODC), endorsed a comprehensive Programme of Action to tackle crime, insecurity and corruption on the continent.

The five-year Programme of Action, the implementation of which began on 1 January 2006, contains a detailed set of priority areas and actions across a number of sectors, including the rule of law and criminal justice reform, organised and violent crime, trafficking in human beings, money-laundering, terrorism and corruption.

The Round Table was attended by senior officials from 50 African countries, including 14 Ministers as well as representatives of donor countries, international financial institutions, development agencies and non-governmental organizations.

The South African delegation consisted of 14 members from various departments. The NPA was represented by Mr NVE Ngidi of the DSO (who was also the head of the delegation) and Adv Gerhard Nel of the Office of the National Director.

The South African delegation proposed various amendments to the Programme of Action, which were accepted and it became clear that South Africa has taken the initiative in a number of aspects in crime fighting and law enforcement on the Continent, especially the legislative front. There is a need for South Africa to play the leading role as it has already begun, but beyond that, to ensure that it assists African countries with transferring skills and expertise so that they are also on par with South Africa in the arena of law enforcement.

### New appointments and resignations

During the financial year the President made the following senior appointments in the NPA:

- On 7 April 2006 Adv Mokotedi Joseph Mpshe, SC, was appointed as Deputy National Director of Public Prosecutions with effect from 1 March 2006.

- On 17 May 2006, the President transferred and appointed Adv Sibongile Mzinyathi, the then Director of Public Prosecutions of the Northern Cape Division of the High Court, to Pretoria in the vacant post of Director of Public Prosecutions of the Transvaal Provincial Division of the High Court of South Africa, with effect from 1 July 2006.
- On 17 May 2006 Adv Mukhali Ivy Thenga was appointed as Director of Public Prosecutions of the Northern Cape Division of the High Court of South Africa at Kimberley, with effect from 1 July 2006.
- On 30 May 2006 Adv Aubrey Thanda Mngwengwe was appointed as Special Director of Public Prosecutions in the Directorate of Special Operations with effect from 1 June 2006.

Ms Bulelwa Makeke was appointed as Executive Manager: Communications from 5 September 2005.

During the past year the following senior personnel resigned or retired from the NPA:

- Adv MG Ledwaba, a Director of Public Prosecutions and Investigating Director in the DSO, resigned with effect from 31 July 2005.
- During December 2005 the President allowed Adv JSM Henning, SC, a Deputy National Director of Public Prosecutions, to vacate his office on account of continued ill-health.
- Adv GJ Rabaji, a Special Director of Public Prosecutions in the Asset Forfeiture Unit, resigned with effect from 7 February 2006.
- Adv LC Davids, a Special Director of Public Prosecutions in the National Prosecution Service resigned with effect from 1 March 2006.
- Mr Brian Graham (CA), Chief Financial Officer, resigned with effect from 1 January 2006.

# Report of the Chief Executive Officer

The CEO's Report will cover the areas of transformation, governance and strategy.

## 3.1 Transformation

*"The word lead, at its root, means 'go, travel, guide'. Leadership has about it a kinaesthetic feel, a sense of movement... Leaders begin the quest for a new order. They venture into unexplored territory and guide us to new and unfamiliar destinations."* (Kouzes and Barry, 1995)

The NPA's Transformation Programme, Serurubele, moved into top gear in 2005, completing the Understand Phase and moving into the exciting area of solution design and early implementation of some key programmes.

This ambitious business transformation programme was launched in 2004. It aims to improve the overall functioning of the organisation through solution design and implementation across the areas of governance, delivery and resourcing.

The name Serurubele, the Sesotho word for Butterfly, was chosen to symbolise the kind of constant change and agility required of organisations in today's fast-paced environment.

The Programme has six measurable objectives:

- Achieve optimal levels of governance
- Create a best-in-class customer management capability
- Achieve optimal levels of co-operation with the NPA's partners in the broader Criminal Justice System



Figure 1: NPA Transformation Logo

- Engineer organisational processes so that they deliver an excellent service to the NPA's customers (those vulnerable to crime, victims and state witnesses)
- Create a best-in-class operations management capability
- Ensure that the management of people enables the organisation to become an employer of choice

The table below highlights the major achievements in 2005/06. More details follow after the table.

Transformation Programme Achievements in 2005/06
The Understand Phase of the Serurubele Transformation Programme was finalised and its recommendations informed the development of project plans for the two Design Phases of the Programme, Design I and II.
The NPA's first ever engagement with stakeholder groups across the board was conducted with great success. A stakeholder segmentation was completed to final draft and a customer services plan was developed.
A set of 250 governance processes were designed to enhance governance in the NPA.
A Crime and Criminal Justice survey was completed and a final draft of the report submitted to Exco.
A long-term strategy was developed for the NPA, with supporting strategic plans for governance, delivery and resourcing.
A policy segmentation and a Policy on Policies were developed for the NPA in draft format.

### Understand Phase

The Understand Phase of the Serurubele Transformation Programme was wrapped up with the finalisation and printing of a 3,000-page situation analysis report that informed strategy development and the project plans for the two Design Phases of the Programme.

### Stakeholder Analysis

The NPA's first ever engagement with stakeholder groups across the board was conducted through a series of 15 workshops titled: Conversations with Stakeholders. Valuable input was gained from stakeholders on their



Marion Sparg  
CEO

needs, wants, expectations and perceptions of the NPA, and the role they expect the NPA to play. Stakeholder groups covered in these sessions include: State and Governors, Business, NGOs, Media, Youth, Faith-based organisations, Educational Organisations, Institutions, Employees, Organised labour and Donors.

Based on the outcomes of these sessions, stakeholder segmentation was conducted resulting in the identification of the following stakeholder segments for the NPA: Governors, Customers, The Accused, Partners, Suppliers, Employees and Civil Society. The First draft value delivery plans for each of the stakeholder groups were developed. This included the development of the NPA's first customer services plan based on the identification of the NPA's customers as those vulnerable to crime, victims and state witnesses. Customer sub-segments were identified to be: individuals, communities, industries and institutions, the State and other states. This work is to be finalised during Design Phase II taking place in 2006/07.

#### Governance

Based on the groundbreaking governance work done in the Understand Phase with the development of a Governance Model and Governance Index for the NPA, a set of 250 governance processes were designed to enhance governance in the NPA. These processes provide guidance on the implementation of the governance cycle of the NPA, and will greatly enhance the organisation's ability to do assessments, information gathering and analysis, planning, monitoring and review.

#### Crime and Criminal Justice Survey

The Crime and Criminal Justice Survey was commenced in the Understand Phase and the final draft of the report was submitted to Exco in November 2005. This work will assist the NPA and government in measuring the NPA's impact on society in terms of reducing crime, contributing to civic morality and increasing confidence in the Criminal Justice System. The Survey Report produces the findings and recommendations on the six areas surveyed:

- The experiences of freedom and security in South Africa and the NPA's contribution to enhancing these.
- The culture of civic morality in South Africa and the NPA's role in advancing it in the country.
- Levels of public confidence in the Criminal Justice system and the NPA's contribution to enhancing public confidence.
- The system throughput of the Criminal Justice System in relation to levels of victimisation and the NPA's role in reducing crime and victimisation.
- CJS Partner perspectives on the nature and extent of the NPA's co-operation with the broader criminal justice system.
- An attempt to develop a model to estimate the size of the criminal economy in order to inform the NPA's efforts to take the profit out of crime.

NPA Service Delivery performance indicators - 2002/03 to 2005/06							
	2002/03	2003/04	2004/05	2005/06	Change over prev yr	Change over period	Notes
NPA Overall							
Total budget (R'000)	R 923,877	R 1,048,061	R 1,170,435	R 1,354,810	15.8%	46.6%	Actual - 04/05 incl R15.5m Innes Chambers roll over
Prosecutions	R 621,284	R 740,989	R 921,388	R 944,350	2.5%	52.0%	
Special operations (DSO, AFU)	R 271,666	R 265,191	R 206,723	R 364,561	76.4%	34.2%	
Witness Protection	R 30,927	R 41,881	R 42,324	R 45,899	8.4%	48.4%	



Mariaan van Kaam  
Executive Manager: Strategy and Risk

## Strategy

A 15-year strategy was developed for the NPA, with supporting strategic plans for governance, delivery and resourcing. The NPA Strategy 2020 gives principle guidance on a more preventative and proactive role for the NPA and explores avenues to reduce victimisation, enhance crime investigations, improve case management and prosecution efficiencies and build on partner and stakeholder co-operation and joint problem-solving. Strategic initiatives for the year 2006/07 were identified based on the new strategy of the NPA. Cross-cutting strategic projects and operations will drive the first year of strategy execution in the NPA.

## Policies

A policy segmentation framework was developed and will guide the development and review of policies in the areas of governance, delivery and resourcing. The NPA's first Policy on Policies was developed to ensure consistency in format and drafting of policies according to internationally benchmarked standards.

## Early Implementation

At the conclusion of the Understand Phase, it was also agreed that there should be early implementation of some critical improvements required in the organisation. One of these areas was in the Corporate Services Division. This project, driven by managers within Corporate Services, entailed solution design and implementation. More detail on this project, titled Corporate Services Turnaround Project, appears in the Resourcing section of this Report.

### 3.2 Strategy

*"The tasks of crafting, implementing and executing company strategies are the heart and soul of managing a business enterprise". (Thompson and Strickland, 2003)*

One of the most important achievements of the Serurubele Transformation Programme has been the NPA's new Strategy 2020.

The NPA's strategy map for 2005/06 is as follows.

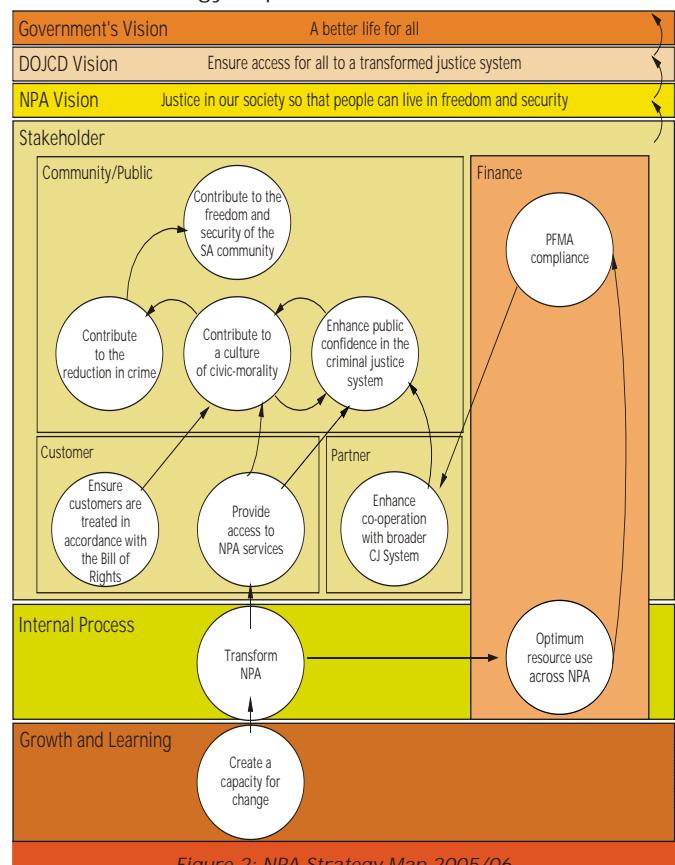


Figure 2: NPA Strategy Map 2005/06

This was supported by business unit plans. The new approach however involves the development of a much more comprehensive NPA strategic plan to ensure full alignment of all business units.

The process which commenced with the appointment of a fully representative Strategy Team led by the CEO started in September 2005. The 15-year strategy adopted by the National Management Meeting in February 2006 consists of the following pieces of pioneering work in the NPA:

- NPA Strategy 2020 supported by three strategic pillars:
  - The NPA Governance Plan 2020, containing two sub-strategies: Good Governance and transforming the NPA.
  - The NPA Delivery Plan 2020. Four sub-strategies are contained in this plan: crime prevention and community prosecution, better crime investigations, prosecution and better case management and joint problem solving with stakeholders.

- The NPA Resourcing Plan 2020 containing one sub-strategy aimed at developing governance, delivery and resourcing capabilities and capacity for the NPA.

The NPA Strategy 2020 is guided over the 15-year time span by four defined horizons for strategy execution and will be sustained through annual reviews, business plans, strategic initiatives and projects. A communications plan has also been developed for Strategy 2020.

Before looking at what the organisation should achieve, the strategy team commenced with an exhaustive situational analysis. It reviewed the macro-, stakeholder and micro-environments within which the NPA operates and the particular requirements it places on and implications it has for the organisation.

The situation analysis confirmed the need for the NPA to have a long-term Strategy that will guide short, medium and long-term strategic decision-making and implementation in a meaningful way. The analysis guided the NPA's new strategy and identified the opportunity gaps the organisation should harness to make a positive impact in society around justice and crime solutions, improved partner and stakeholder co-operation, closer engagement with communities and other stakeholders, and improving on its own weaknesses and constraints in the areas of governance, delivery and resourcing.

The NPA Strategy 2020 is the organisation's first fully developed and documented long-term strategy, thinking over a period of 15 years and setting principled guidance for the organisation up to the year 2020. It is named Strategy 2020, reflecting the 15-year horizon during which the strategy will be executed to realise the NPA's vision by the year 2020.

The NPA's vision was benchmarked internationally. International trends in public prosecution show a clear shift towards a 'higher reach' in vision and the NPA's vision was thus confirmed to remain:

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

In a constitutional state such as South Africa, where a young democracy has dawned, all people should enjoy a better standard of living and quality of life free from crime and the fear of crime. However, sustained economic growth and social development is required in order to

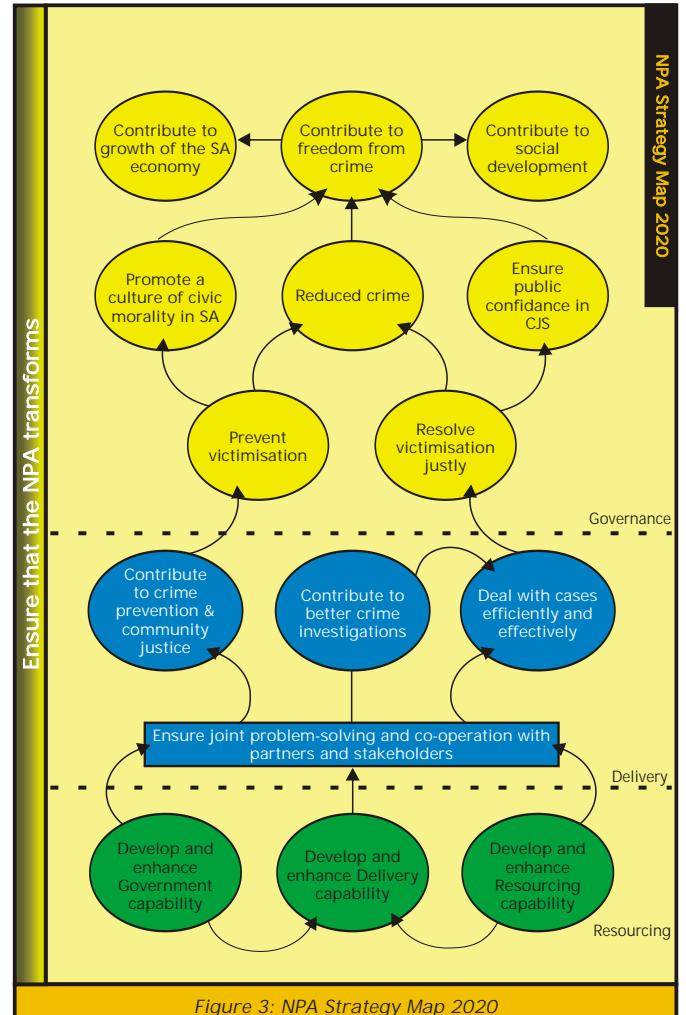


Figure 3: NPA Strategy Map 2020

achieve a better life for all. The NPA acknowledges that it has a much broader role to play in society and is a key player in achieving these outcomes.

Against this background, it was held that the NPA's vision is a clear and far-seeing reflection of what the NPA wants to become and ensure in its long-term future.

The mission was also revisited against international standards and criteria, as well as against the environmental demands identified in the situation analysis. It was felt that the mission should serve as a bridge between the far-reaching vision of the organisation and the steps required to achieve the vision. It was felt the existing mission required some refinement and a new mission was adopted:

*"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."*

A new strategy map was developed, setting out strategic outcomes and objectives to be attained, and identifying a new role for the NPA apart from the normal case-processing role it played to date - that of taking up the responsibility and contribution that the organisation can make in preventing victimisation, contributing to better crime investigation and resolving victimisation justly by ensuring more efficient and effective case management and utilising avenues of alternative dispute resolution.

Three pillars support NPA strategy 2020.

Figure 4 provides an 'at-a-glance' summary of the NPA Strategy 2020.

NPA Strategy 2020			
Three Strategic Pillars			
Strategic Governance Plan 2020	Strategic Delivery Plan 2020	Strategic Resourcing Plan 2020	
2 sub-strategies: • Ensure Good Governance • Transformation	4 sub-strategies: • Crime prevention and community justice • Better crime investigations • Better cases management • Joint problem-solving	1 sub-strategy: • Develop governance, delivery and resourcing capability and capacity	
Four strategic horizons			
Horizon 1: 2006/07 1 year	Horizon 2: 2009/10 4 years	Horizon 3: 2015/16 5 years	Horizon 4: 2020/21 5 years
Supported by annual plans, initiatives and projects			

Figure 4: Three strategic pillars of NPA Strategy 2020

### 3.3 Governance

*"Corporate Governance is much more than compliance issues. The approach to it needs to be strategically aligned with the organisation's objectives and both vertically and horizontally integrated throughout the organisation."* (Horwood, 2004)

In crafting its Strategy 2020, the NPA developed a Governance Plan 2020 that sets out the principles, the broad strategic approach and milestone horizons that will guide the development and implementation of governance in the organisation. The NPA places a high premium on good governance, and adopted governance as a key strategic perspective in its Strategy 2020. The following principles will guide governance in the NPA:

- *Inclusivity* - the NPA will follow an inclusive approach that takes into account the interests of stakeholders in setting and executing its strategic direction.
- *King II principles* - the NPA will adopt the King II code on corporate governance and its principles of: transparency, accountability, responsibility, fairness, discipline, independence and social responsibility.
- *Assurance* - the NPA will provide assurance to stakeholders that the organisation is well-governed and has delivered the value required to its stakeholders.
- *Good governance* - in the light of the considerable public trust placed in government, the NPA will practice good governance.

The NPA will follow a strategy for good governance to develop the governance and management competency, standards, policies, processes and systems conducive to good governance and management of a world-class organisation. This strategy will aim to reorganise the NPA for effectiveness and impact, improve governance, institute improved and efficient processes and systems, and adopt a project management discipline. Without a solid governance base, other interventions related to the NPA Strategy 2020 will not be meaningful and will fail to make an impact toward attaining the strategic outcomes.

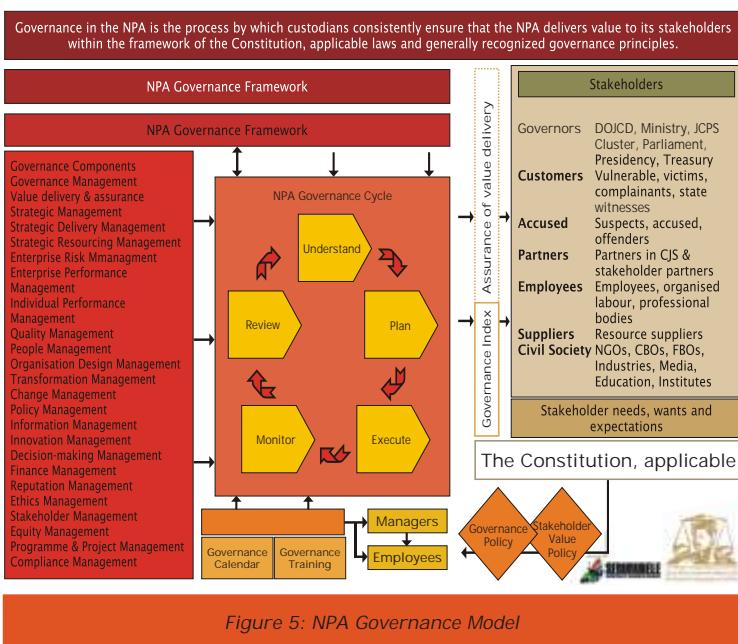
This Strategic Governance Plan 2020 will be underpinned by annual plans that will identify the governance initiatives and projects to be undertaken in order to execute the governance strategies.

### 3.3.1 New Governance Model

Governance in the NPA is still in its infancy and the development and growth of the organisation's governance capability requires focussed attention and planning. In order to address these challenges, a governance definition and model has been developed.

Governance in the NPA is defined as the process by which custodians consistently ensure that the organisation delivers value to its stakeholders within the framework of the Constitution, applicable laws and generally recognised governance principles.

As such, the governance function of the NPA will have to govern the delivery of value to stakeholders and the attainment of strategic outcomes. This will rest on the base that corporate governance is about management and control of organisations, reporting thereon and the supervision thereof for the benefit of stakeholders. These are the controls required to support the organisation to achieve its outcomes.



The Minister for Justice and Constitutional Development has final responsibility for governance of the NPA. This model does not attempt to deal with that process but instead deals with the role of managers in the NPA as custodians of governance within the organisation.

The governance cycle begins with understanding

stakeholder needs by segment, and planning to achieve objectives to fulfil stakeholder needs through a value delivery policy. The Constitution, applicable laws and generally accepted governance principles act as a filter for the value delivery policy. Value that is contrary to the provisions of these filters will not be delivered.

On the left of the model depicted in Figure 5 are the 25 governance components and in the centre of the diagram is a five-step management process that will drive all work to be done in and by the NPA - Understand, Plan, Execute, Monitor and Review.

The NPA has also developed an assessment tool to test the effectiveness of the various areas of governance within the organisation. The assessment tool, called the Governance Index, is based on the components of the new governance model. A governance calendar has also been developed to guide and co-ordinate planning, events and milestone dates in the NPA. The calendar, planned for implementation in 2006/07, will schedule the major activities and events of the NPA and will monitor and review compliance with milestone dates for events and deliverables. The calendar is also designed to assist the organisation in proactively aligning its strategic planning process with government processes such as the Medium Term Strategic Framework (MTSF).

The NPA's governance definition and model follows the seven characteristics of good governance as identified by the King II Report on Corporate Governance:

- Fairness
- Accountability
- Responsibility
- Transparency
- Discipline
- Independence
- Social responsibility

These characteristics are embedded in a foundation of governance principles based on substance over form that goes beyond minimum requirements, and a forward-looking, inclusive approach that ensures integrated, sustainable value delivery and reporting.

### 3.3.2 Enterprise risk management

*"Enterprise risk management is a process, effected by an entity's board of directors, management and other personnel, applied in strategy setting and across the*

enterprise, designed to identify potential events that may affect the entity, and manage risk to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity objectives." (Committee of Sponsoring Organisations of the Treadway Commission Integrated Framework for Enterprise Risk Management)

The management of enterprise risk is a critical component of managing and governing an organisation. This rings true for the NPA as well, and as such its enterprise risk management system is located within the organisation's governance system. The executive management recognises that an efficient and effective enterprise risk management process, embedded in the principles of good corporate governance, is the key to addressing the uncertainties, challenges, associated risks and opportunities the NPA will face in pursuit of its strategic objectives.

The NPA views enterprise risk management as imperative for successful delivery on its mandate and its obligation to deliver value to stakeholders. It further recognises that identifying, understanding and managing enterprise risk will ensure accountability and sustainability, and that the management of enterprise risk will compel the organisation to address negative events in a proactive and timeous manner, whilst exploiting the opportunities presented by positive events. Enterprise risk management will ensure that good corporate governance is applied throughout the organisation and that key risks are escalated to Exco. The NDPP and Exco accept their responsibility for the establishment of an effective governance structure and an integrated enterprise risk management system, both of which are supported by an effective system of internal control.

The NPA's enterprise risk management co-ordination is located at head office with a direct reporting line to the CEO, under the title: Executive Manager: Strategy and Risk.

As reported last year, the NPA adopted its first Enterprise Risk Management Framework in 2005. In terms of this guideline, the NPA has defined enterprise risk management as "the process used to identify and manage events that may influence the organisation's ability to achieve its strategic objectives."

Figure 6 depicts the NPA's enterprise risk management process. Since enterprise risk management is a new

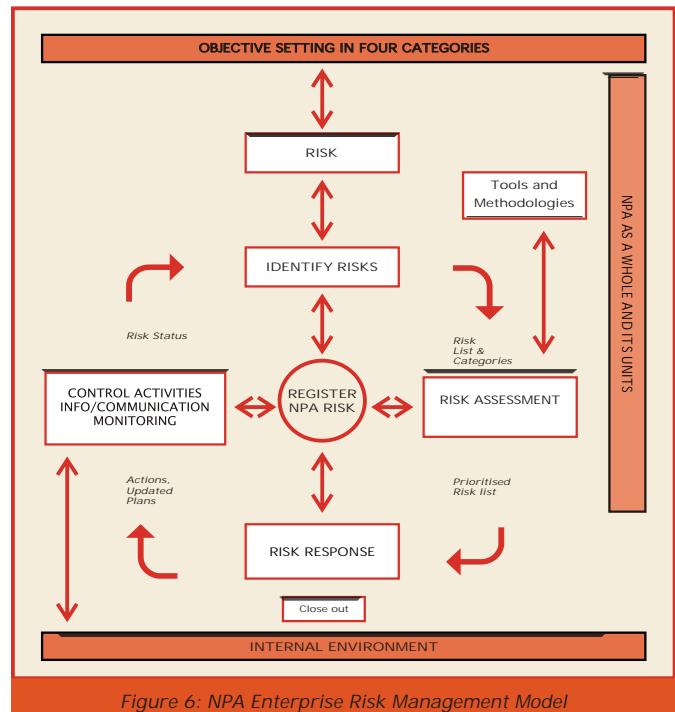


Figure 6: NPA Enterprise Risk Management Model

function in the NPA still in its infancy, a formal structure for the function is in its developmental stages. In lieu of this, the NPA Exco is currently acting as the Risk Committee of the NPA until such time as a formal structure has been established in this regard. The intention is that, like the Audit Committee, a Governance Committee and a Risk Committee will be established for the NPA to be custodians of the governance and risk management processes of the organisation.

As reported last year, the NPA commenced with the process of building its risk register as a first priority for finalisation. Enterprise risk management was enhanced further during this reporting period. This included the identification of the NPA's top ten risks, assigning risk owners, developing mitigation plans and commencing with risk reporting on the top risks. This Top Risk Register was reviewed following the development and adoption of the NPA's Strategy 2020 and updated. This register will be updated in July 2006/07 to pick up on top risks identified in business unit plans.

An independent risk assessment of the NPA will be conducted in the next financial year, following delays experienced in the procurement of a service provider.

The NPA acknowledges that risk is an integral part of its business. The organisation does not seek to avoid risk, but rather to understand its risk universe and the specific risks facing it in order to manage it effectively and to evaluate risks in the context of the reward earned on these risks. The risk management emphasis is on a sound enterprise risk management framework, high-quality governance and service delivery that is sustainable and will give the assurance required by Government and the public of South Africa.

The new strategy process adopted by the organisation required all unit business plans to include risk identification and management as an integral part of these plans. The review of these plans by top management in 2006 will thus include review of the effectiveness of risk management at unit level.

### 3.3.3 Integrity Management

*"The supreme quality for leadership is unquestionable integrity. Without it, no real success is possible, no matter whether it is on a section gang, a football field, in an army or in an office." (Dwight David Eisenhower)*

The Integrity Management Unit of the NPA plays a key role in ensuring good governance in the organisation. The unit was established in 2001 to promote the integrity of the NPA and enhance stakeholder confidence and trust.

The unit has three key objectives:

- Promote and enhance a culture of integrity, which is intolerant of unethical conduct, fraud and corruption.
- Facilitate the transformation of aspects of the NPA that undermine integrity.
- Combat unethical conduct, fraud and corruption in the NPA.

The IMU has set out to achieve the following key programmes in 2005/06:

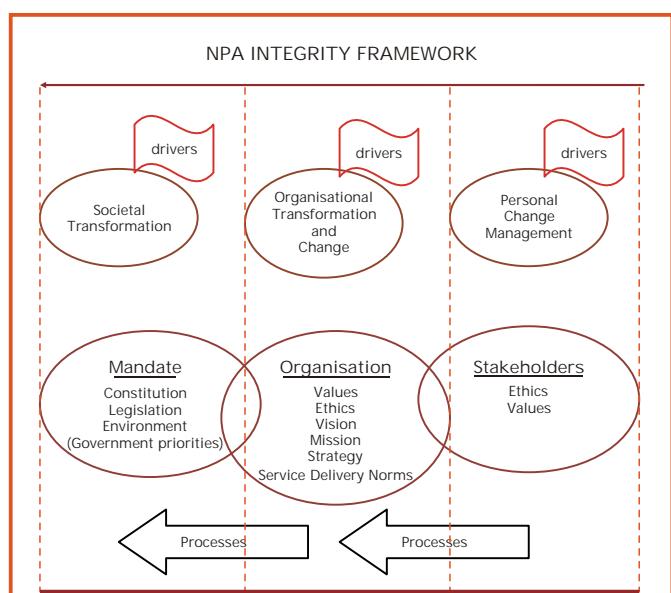
#### Promotion of Integrity in the NPA

The objective of this programme is primarily concerned with raising awareness and educating the NPA and its leadership and employees about the standards and policies aimed at promoting integrity and enhancing stakeholder confidence and trust.

This programme consists of three elements:



Dipuo Mvelase  
Head: Integrity Management Unit



The Framework illustrates an organisational shift from its current values to complete congruence with Constitutional values. At the same time the state of the individual's value system is shifted to be in congruence with the organizational standards and values. Lastly, the organization itself is attuning itself to meet its own values, mission, vision and strategy.

Figure 7: NPA Integrity Framework

- Education and Awareness of NPA employees
  - During 2005/2006 the IMU intensified its education and awareness efforts to heighten integrity and professional ethics. An additional 15 workshops were conducted for managers and staff across all business units in the NPA.
  - The content of these workshops covered both the integrity promotions strategy of the NPA and supporting policies and mechanisms.
  - This awareness programme was complemented by regular communication of integrity messages in the internal publications, and through the NPA's intranet. The initiative will be intensified in the new financial year.

## Leadership Support Programme

The NPA's integrity promotion programme prioritizes leadership as the principal driver for integrity promotion. The IMU moves from the premise that high level of organizational integrity is largely made possible by the unequivocal endorsement and championing by the leadership.

The IMU implemented four key initiatives to support leadership in this effort:

- Integrity promotion has now been incorporated into the performance contracts of all senior managers as a Key Results Area.
- Presentations on integrity are made at all NMM meetings to raise awareness, enhance compliance and support managers in their endeavours to promote integrity in the NPA.
- A resource book to support managers has been finalised and will be printed and distributed in the new financial year.

## Integrity Champions

To enhance the capacity to promote integrity throughout the NPA, the Integrity Champions Forum was launched with 57 employees. Two training sessions were held to empower and support Integrity Champions.

## Integrity Steering Committee

To enable an integrated approach to managing the oversight function in the NPA, the IMU has facilitated the co-ordination of the meetings that would look into areas of integration pertaining to oversight functions. The committee met three times during the year to ensure co-ordination of initiatives.

## Partnerships and Stakeholder management

The IMU participated in the National Anti-Corruption Forum.

## Integrity Promoting Policies and Mechanisms

The approval of policies has been delayed due to further work required to ensure alignment to the Prevention of Corrupt Activities Act of 2004.

## Fraud Response Plan

The delays experienced in finalising the Prevention of Corrupt Activities Policy also led to a delay in finalising the Fraud Response Plan. The draft however continues to serve as a guideline for the organisation.

## Gift Register

During 2005/2006 the IMU distributed Gift Registers to all Business Units in the NPA. Dedicated staff has been assigned to manage these registers and a report detailing observations of use of registers will be available in 2006 and incorporated into the Integrity Health Status report. Inspections are underway with 10 gift registers in the Gauteng Province completed.

## Hotline

A dedicated toll-free integrity hotline was launched in 2005. This hotline was established to provide both NPA employees and the public with a mechanism to report concerns. The hotline has proved to be an extremely useful tool in enabling the NPA to detect and deal with issues threatening integrity in the organisation. There were 78 reports received since the launch - 21 of them that relate to the NPA are being investigated. 57 were relating to other government departments and non-government institutions and were accordingly referred to them.

## Declaration of Financial Interests

In terms of the Public Service Regulation, Code of Conduct and the NPA Act, all designated employees in the NPA are required to declare their financial interests.

The NPA had 213 SMS members in the 2005/06 financial year. Of these, 206 disclosed their financial status for the 2005/06 financial year. Twenty-two (22) of these submissions were received after the due date. Seven members have still not disclosed their financial interests. Of these, two have resigned and the remaining five are either on suspension, incapacity leave or maternity leave.

## Remunerative Work outside the Public Service

The IMU, in collaboration with the Human Resources Management and Development Unit, initiated a process of review of NPA staff who undertake remunerative work outside of the Public Service. A system to monitor this activity was developed and a dedicated person was assigned to manage, monitor and report.

## Enforcement: Combating of Unethical Conduct, Fraud and Corruption

The objective of this programme is to deter, detect and investigate unethical conduct, fraud and corruption.

## Investigations

A total of 30 cases were registered, of which 19 were finalised and 11 are currently still under investigation.

**Exco Members**  
 Seated in front, left to right: Beryl Simelane,  
 Adv Vusumzi Pikoli, Kalyani Pillay  
 Back row: Adv Leonard McCarthy,  
 Marion Sparg, Dr Silas Ramaite,  
 Adv Mokotedi Mpshe, Bulelwa Makeke  
 Not in the picture: Adv Willie Hofmeyr and  
 Dipuo Mvelase



### 3.3.4 Internal Audit Unit

A decision was taken with the concurrence of the Director-General of the Department of Justice and Constitutional Development and the Audit Committee, to combine the internal audit units of the department and the NPA. Dedicated staff will remain focussed on the work of the NPA but the unit is managed by a single Head of Internal Audit Unit. This is intended to ensure better sharing of resources.

### 3.3.5 Management Structures

The NPA's two top management structures continued to function during 2005/06. The NPA Executive Committee (Exco) which meets three times a month, is chaired by the National Director of Public Prosecutions. Other Members of Exco include the CEO, Deputy CEO, Deputy National Directors of Public Prosecutions, Chief Financial Officer, Head of Integrity Management Unit, Executive Manager: Communications and the Special Director in the NDPP's Office.

As reported last year, the Exco has established a Budget Committee which holds quarterly Budget Review meetings with all heads of business units. During these reviews heads of business units present their budget performance and provide reasons for either under or over spending. The reviews provide units with the opportunity to explain why certain funds projected for expenditure are not spent. They also provide Exco with the opportunity to reprioritise funding during the year as and when required.

A new broader management structure, incorporating senior management from NPA Head Office and all Directors of Public Prosecutions, Regional Heads of structures such as the DSO, AFU and SCCU was launched in 2005. This structure, known as the National Management Meeting (NMM), meets every second month.

### 3.3.6 Policies

The NPA has for the past two years prioritised the development and adoption of policies for the organisation. Last year's report listed 25 policies either approved or considered by Exco in 2004/05. Eight policies of those listed were not approved by 31 March 2005. Of these, four were approved in the current reporting period. The other four are still under consideration.

Policies approved in the past year include:

- Bursary Scheme Policy
- S & T Policy
- Employee Wellness Policy
- Smoking Policy
- Theft & Losses Policy
- Internet & E-mail Usage Policy
- Policy on Policies

Policies in an advanced stage of development and scheduled for adoption in 2006 include:

- Security & Risk Policy
- Employment Equity Policy
- Utilisation Policy
- Prevention of Corrupt Activities Policy
- Official Entertainment Policy
- Performing Remunerative Work outside the NPA Policy

Policies approved in previous reporting periods include:

- Recruitment, Selection & Appointment Policy
- Resettlement Policy
- Intern Policy
- Petty Cash Policy
- Conditions of Service Policy
- Employee Debt Management Policy
- Employee Relations Policy
- Asset Management Policy
- Supply Chain Management Policy
- Vehicle Management Policy
- Telephone and Cellular Phone Policy
- Parking Policy
- Payment of Acting Allowance Policy
- Termination of Services Policy
- Donor Funding Policy
- Sexual Harassment Policy
- Training Policy

A number of policies in other areas are still in the process of development.

*M Sparg*

M Sparg  
CEO

# Delivery

Appropriation	Main Appropriation	Adjusted Appropriation	Actual Amount Spent	Under Expenditure
Amount Approriated	R 1,272,810	R 1,354,810	R 1,399,923	R 47,768
Responsible Minister	Minister for Justice and Constitutional Development			
Administering Dept	Department of Justice and Constitutional Development			
Accounting Officer	Director-General of the Department of Justice and Constitutional Development as well as the Chief Executive Officer of the NPA (DSO)			
<i>Figure 8: Voted Funds 2005/06</i>				

Programmes	Voted for 2005/06	Roll-overs and adjustments	Virement	Total Voted	Actual Expenditure	Variance
Public Prosecutions	R 862,350	R 82,000	R 205,506	R 1,149,856	R 1,102,088	R 47,768
Special Operations	R 364,561	-	(R 121,227)	R 243,334	R 243,334	-
Witness Protection	R 45,889	-	R 8,602	R 54,501	R 54,501	-
Total	R 1,272,810	R 1,354,810	R 92,881	R 54,501	R 1,447,691	R 1,399,923
<i>Figure 9: NPA Expenditure 2005/06</i>						

## 4.1 National Prosecuting Service (NPS)

### Purpose

The National Prosecuting Service (NPS) performs the core function of the National Prosecuting Authority, namely instituting criminal proceedings on behalf of the State.

The NPS needs to carry out any necessary functions incidental to the instituting and conducting such criminal proceedings.

The NPS also co-ordinates and assists the offices of the Directors of Public Prosecutions and Lower Court Prosecutors.

### Measurable Objectives

The strategic goal of the NPS is to transform into a performance-driven unit focusing on the following key objectives:

- Creating the capacity for change by developing and establishing dynamic and accountable leaders who can steer the staff towards achieving the objectives of the NPS and ensuring a full and representative complement of skilful prosecutors, who are committed to the mission and objectives of the NPS.
- Improving the quality of services rendered by developing improved internal processes and mechanisms, and innovative delivery models.
- Improving co-ordination and working relationships with other role-players (internal and external), partners and stakeholders.
- Effective and efficient alignment of resources according to the strategic priorities of each division.
- Ensuring satisfaction of customers and access to NPS services.

### Highlights of Achievements

- Aspirant Prosecutors:
  - One hundred and twenty Aspirant Prosecutors were appointed during July 2005 after successful completion of the six months training course.
- Court Preparation Officers:
  - Sixty-eight court preparation officials appointed on contract to provide support to victims of crime especially abused children. To date 45,261 witnesses have been prepared for court.



Adv Mokotedi Mpshe  
Head: NPS

***“The National Prosecuting Service (NPS) performs the core function of the National Prosecuting Authority”***

- Community Outreach Programmes:
  - All DPP offices initiated community outreach programmes, some in conjunction with SOCA unit such as 'Adopt a School Project'.
- Community Courts:
  - Fourteen community courts established nationally
  - Community Courts focused on needs of specific communities:
    - Specific prevalent crimes which threaten the safety and order of communities; or
    - A need to restore law and order in a specific area.
- Specialised Tax Units:
  - Mutual co-operation between NPA and South African Revenue Services (SARS) to enhance State's capacity to prosecute criminal activity and to collect State revenue. Four dedicated Tax Units established to manage and oversee the prosecution of all tax related cases.
- Service Charter:
  - The Service Charter is the NPA's commitment to the people of South Africa to certain service standards from Public Prosecutors.
- Ethics Manual:
  - The NPS Training Forum assisted Justice College with the finalisation of a basic ethics manual for prosecutors.

**NPA Service Delivery performance indicators - 2002/03 to 2005/06**

	2002/03	2003/04	2004/05	2005/06	Change over prev yr	Change over period	Notes
<b>National Prosecution Service</b>							
Cases finalised incl diversions	422,338	414,488	399,966	414,282	3.6%	-1.9%	Total fairly stable due to increased diversions
Divisions	14,808	17,952	18,946	37,422	97.5%	152.7%	
Cases finalised	407,530	396,536	381,020	376,860	-1.1%	-7.5%	Decrease continues, mainly due to abolition of Sat & Addit courts
Cases finalised (Sat & Add crt)	29,969	23,380	11,751	1,432	-87.8%	-95.2%	
New cases	1,117,879	1,117,488	1,084,137	1,074,581	-0.9%	-3.9%	Slight decrease due to better screening
Decision dockets received - lower courts	484,547	514,355	523,169	517,101	-1.2%	6.7%	Stable after increasing due to screening
Withdrawals	414,211	363,391	318,767	311,078	-2.4%	-24.9%	Significant decrease due to better screening
Outstanding roll	188,691	185,423	206,005	198,990	-3.4%	5.5%	Slight decrease
Court hours	04:09:09	04:08:04	04:07:58	04:06:34	-0.6%	-1.0%	Increased from 3:40 in 1999/00
Conviction rate	81.6%	83.5%	85.1%	85.7%	0.6%	4.1%	Increased from 80% in 1999/00

## Service Delivery Achievements

Objective: Improving the quality of services rendered by developing improved internal processes and mechanisms, and innovative delivery models

Measure	Target	Progress	Measure	Target	Progress
<i>Continued</i>					
Reduction in case cycle times	High Court: 75% not older than 12m  Regional Court: 78% not older than 6m  District Court: 90% not older than 6m	High Court: 5% of outstanding cases exceeding 12m  Regional Court: 42% of cases outstanding exceeding 6m  District Court: 11% of outstanding cases exceeding 6m	Reduction of children in custody	Children only to remain in custody where there is no other alternative that would be in the interest of justice	Reduction of 20%, from 1,462 during March '05 to 1,169 children during March '06
Improvement in conviction rate	High Court: 85%  Regional Court: 70%  District Court: 85%	High Court: 87% (2% above)  Regional Court: 71% (1% above)  District Court: 87% (2% above)	Prioritisation of cases where children are in custody	Regional Court: 75% not older than 6m  District Court: 90% not older than 6m	Regional Court: 42% of outstanding cases exceeding 6m  District Court: 11% of outstanding cases exceeding 6m
Increase in the number of cases finalised	All courts: 5% increase p.a.  High Court: 238 pm  Regional Court: 3 644 pm  District Court: 29 398 pm	High Court: target achieved (239pm)  Regional Court: 9.9% below (3 283pm)  District Court: 5.6% above (31 053pm)	Increase in the number of cases finalised by means of alternative measures such as diversions and plea bargaining	10% increase p.a.  Diversions: 1 740pm  Plea bargaining: 183pm	Regional Court: 42% of outstanding cases exceeding 6m  District Court: 11% of outstanding cases exceeding 6m (47% above)
			Implementation of NPS internal communication plan	100%	Drafted and aligned to the plans of the other business units. Final document still to be signed off and implemented by Directors of Public Prosecutions

Figure 10: NPS Achievements in Improving Quality of Service

Objective: Improved co-operation and working relationships with other role-players

Measure	Target	Progress	Measure	Target	Progress	
Implementation of court and Case Flow Management (CFM)	Lower Courts - 50%	<p>CFM is currently not formally measured as judiciary is still busy with workshops to get buy-in of all stakeholders. A total of 5,300 CFM Practical Guides were published and nationally distributed to Magistrates, Public Prosecutors and Admin Components.</p> <p>In addition thereto, an alignment of projects and initiatives by all stakeholders which could impact CFM is still in progress.</p>	<p><i>Continued</i></p>	<p>Reduction in awaiting trial prisoners</p>	<p>10 % reduction p.a (47,093)</p>	<p>4% below (48,807 - figures of Department of Correctional Services)</p>
Improvement in court hours	<p>High Courts 4h00</p> <p>Regional Courts 4h30</p> <p>District Courts 4h45</p>	<p>High Court 3h19 (17% below target)</p> <p>Regional Court 4h02 (10% below target)</p> <p>District Court 4h08 (13% below target)</p>	<p>Promotion of partner integration</p>	<p>To participate in all joint structures or to initiate where no joint structures exist</p>	<p>4% below (48,807 - figures of Department of Correctional Services)</p>	
Reduction in awaiting trial prisoners	10 % reduction p.a (47,093)	4% below (48,807 - figures of Department of Correctional Services)	<p>Increase in organised crime prosecutions resulting from initiatives with partners</p>	<p>10 % increase p.a</p>	<p>Dedicated Public Prosecutors with Deputy Director of Public Prosecutions. Establishment of core committee to draft uniform guidelines and monitoring procedures is in progress</p>	

Figure 11: NPS Achievements in Improving Partner Co-operation

Objective: To ensure satisfaction of customers and provide increased access to services

Measure	Target	Progress
Determine customer requirements, needs and expectations	All Control Prosecutors and Senior Prosecutors to consult community leaders, identify challenges and draw up action plans	All divisions participated in the establishment of community forums.
Implementation of public interest litigation	Two (2) cases per division	Various initiatives and outreach projects already established

Figure 12: NPS Achievements in Ensuring Customer Satisfaction

## Court Performance

### High Courts

#### Reduction in Case Cycle Times

Only 8% of the outstanding cases on the High court rolls were longer than twelve months on the High court roll at the end of March 2006. Apart from the Transkei Division of the High Court (with 180 days on average), all other divisions managed to finalise the average of their trials in the High Courts within 100 days from the start of the trials until sentence. The national average number of days from the start of the trials until sentence was 64 days compared to 51 days during the previous financial year of 2004/05. The cycle times of cases referred to the High Courts for passing of sentence (life imprisonment) has decreased from a National average of 332 days to 258 days from the date of conviction in the Regional Court until the passing of sentence in the High Court.

#### Conviction Rate

The High Courts were able to improve their conviction rate in trial cases conducted in the High Courts by accomplishing an 87% conviction rate. The target was set at 85% and was reached for the past four financial years.

The cases in which minimum sentences are applicable and which are convicted in the Regional Courts but referred to the High Court for the passing of sentence are excluded from the 87%. The convictions of the Regional Courts were confirmed in 90% of the minimum sentence matters referred to the High Court.

The information on minimum sentence matters had been changed during the current financial year to make provision for the monitoring of the number of cases sentenced, number of convictions overturned and the number of cases referred back to the Regional Courts. Minimum sentence matters comprised 46% of all criminal cases finalised in the High Courts. Only 5% of cases referred to the High Court for passing of minimum sentences were sent back to the Regional Courts. Life imprisonment was imposed in 22% of the cases referred to the High Court whilst a sentence of more than 15 years imprisonment was imposed in 41% of the cases.

#### Finalisation Rate

The average number of cases finalised per month has increased from 2002 with an average of 58 cases per month.

### HIGH COURTS: CONVICTION RATES

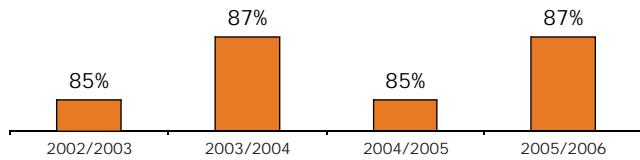


Figure 13: High Courts Conviction Rates

## Court Hours

The average court hours in the High Courts decreased from 3h32 during the previous financial year (2004/05) to 3h19 in the current financial year (2005/06). The Free State Provincial Division has attained the highest average in court hours during the year (3h55) whilst the lowest hours were recorded by the Western Cape Provincial Division (2h48). Valuable court time is spent on appeals, motion applications, reviews and bail applications but is currently not included in the calculation of actual hours spent in court.

## New Cases

The average number of new cases received by the High Courts per month has increased from an average of 163 (a total of 1,955 cases) in the 2003/04 financial year to an average of 183 (a total of 2,190) cases during 2004/05 and an average of 243 cases (a total of 2,918) during 2005/06. This represents a 25% increase in the new trial cases received during the current financial year. Previously, the number of new minimum sentence matters was not indicated as it was seen to be mere sentences. It was however discovered that in most instances evidence needs to be presented in the High Court to determine the possible presence of exceptional Regional Court circumstances. The inclusion of the data was therefore necessitated and the impact is illustrated in the table below. Data of 2002 to March 2005 reflects only incoming trial cases as opposed to the data of the current financial year which reflects both incoming new trial cases and minimum sentence matters.

## Lower Courts

### Reduction in case cycle times

The target set for case cycle times provides an indication of the bulk of backlog cases currently on roll. The backlog of cases is defined as the number of cases that exceed their cycle time, which comprised in the Lower Courts at the end of March 2006, a total of 36,915 cases (19% of the outstanding roll of 197,404 cases). The backlog has therefore increased by 10% from the total of 33,595 at the end of March 2005.

At the end of March 2005, the backlog in the District Courts comprised 9% (14,763) of the total of 158,120 outstanding cases. The backlog has now been increased to 11% at the end of March 2006. A total of 16,663 cases of the total of 149,591 outstanding case roll comprised cases on the roll for a period longer than 6 months. Although the number of outstanding cases has been

HIGH COURTS: FINALISATION RATE

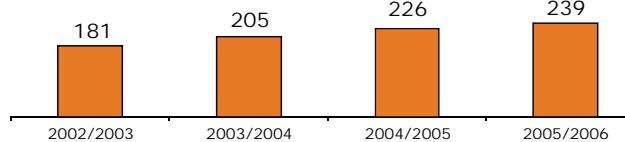


Figure 14: High Courts Finalisation Rate

HIGH COURTS: AVERAGE COURT HOURS

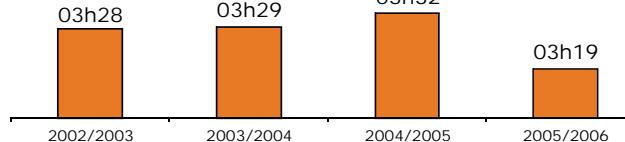


Figure 15: High Courts Average Court Hours

HIGH COURTS: TOTAL NEW CASES

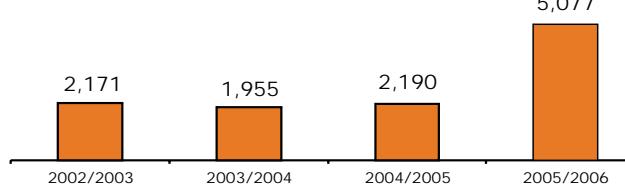


Figure 16: High Courts Total New Cases

reduced, the case cycle times of the cases have been increased.

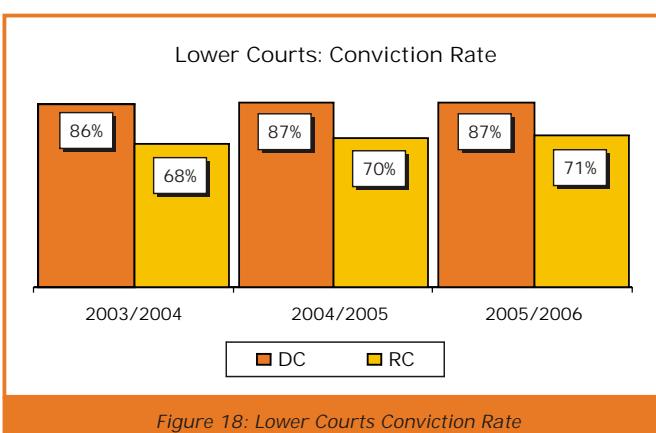
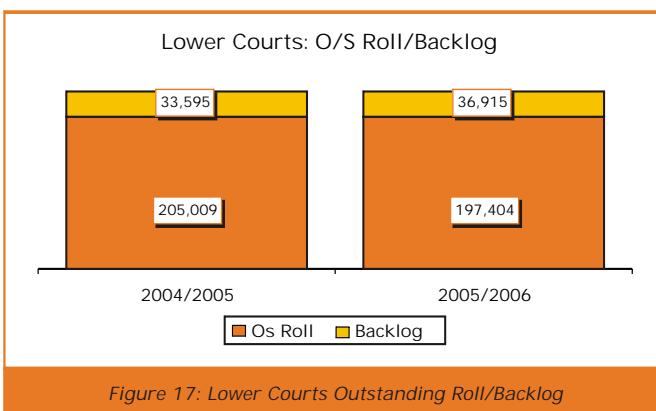
The backlog in the Regional Courts has also increased by 2% - from 40% (18,832) of the total of 46,889 outstanding cases at the end of March 2005 to 42% (20,252) of the total of 47,813 outstanding cases at the end of March 2006.

Various factors contributed to an increased backlog:

- The high level of non-attendance of court proceedings by accused. The number of warrants issued by the courts has increased from an average of 14,574 warrants per month issued during the previous year to a current average of 15,155 per month. The negative impact of warrant cases is also noted in an increased

number of recycled cases from an average of 6,864 recycled cases to a current average of 7,552 cases per months.

- A vacancy rate of 10% in the prosecutorial component during this year. The vacancy rate impacts directly on the court performance as the current personnel who are already inundated with a heavy workload has to compensate for vacant posts.
- A lack of adequate court facilities has also impacted negatively on the overall progress shown by the courts.
- The unavailability of some role players in the criminal justice system has also contributed to the increased backlog of cases together with a lack of commitment to a proper implementation of the case flow management principles.
- Incomplete investigations causing unnecessary delays are furthermore detrimental to the backlog of cases.



#### Conviction Rate

The Lower Courts are to be commended for their effort and dedication as they managed to improve their conviction rate with 3% compared to the rate of 2003/2004. This outstanding achievement is largely due to proper screening procedures to ensure that cases are ready for trial when they are enrolled.

The District Courts managed to exceed their conviction rate target by 2%. An average of 87% was maintained during this financial year

The Regional Courts have not only managed to exceed their target of 70% but they have further managed to achieve the highest rate (71%) in the past three years. An improvement of 5% compared to the average of 68% achieved during 2003/2004.

#### Finalisation Rate

The high influx of cases in our Lower Courts, especially in the District Courts, necessitated the consideration of alternative methods to reduce trial cases. One of the alternative dispute resolution processes applied with great success in our Lower Courts is the diversion process. The diversion process is a very effective method to deal with first time offenders in less serious matters. The Lower Courts managed to improve the number of cases diverted by a remarkable 102% compared to the total number of cases diverted during the previous financial year. A total of 18,925 more cases were diverted during 2005/06 than the total of 18,918 cases diverted during 2004/05.

As the offender admits guilt before the case is diverted via the attendance of a suitable diversion program, the case is regarded as finalised and it was decided to analyse it as such.

The Lower Courts have therefore managed to finalise a total of 372,644 cases - 335,028 cases were finalised with a verdict and a total of 37,616 cases were diverted. Compared to the previous year 4,281 fewer cases were finalised with a verdict during 05/06, but due to the increased diversion rate (18,925 more cases diverted) the Lower Courts have still managed to improve their finalisation rate by 4% as illustrated in Figure 19.

The District Courts have achieved their finalisation rate target by finalising 5% more cases than the previous financial year. A total of 372 644 cases were finalised compared to the total of 355 236 cases finalised during 2004/05.

The Regional Courts finalised a total of 39,390 cases. This constitutes a reduction of 7% compared to the total of 42,150 cases finalised during 2004/05.

#### Court Hours

Prosecutors were asked to focus on finalisation rates in 2005 as opposed to average court hours per court. However, these hours are still good indicators of the effective utilisation of court time. In Figure 22 a comparison is made of the average court hours achieved during three financial years.

The national average hours maintained by the District Courts decreased by 1.5% compared to the achievements of the previous year. These hours decreased from an average of 4h12 maintained during the two previous financial years to an average of 4h08 during 2005/06.

In the table below the average hours during the past financial year are compared to that achieved during 2004/05. A reduction in the court hours is noted from June 2005. The highest average of 4h17 was achieved during May 2005.

If the average court hours achieved (4h08) are measured against the target hours of 4h45 set for all District Courts, it is clear there is room for improvement. At the end of the financial year, the hours are still 13% below target.

One of the knock-on effects of the introduction of alternative measures to reduce trial cases is the negative impact of such measures on the recorded court hours. Court hours consist of actual hours spent in court and do not make provision for the time spent on alternative methods to reduce trial cases. Whilst alternative methods reduce workload, the reduction of court hours is inevitable. An improvement in court hours is achievable however when the ratio of two prosecutors per court is accomplished.

The Regional Courts have improved their average hours with an average of 4h02 - the highest average in the past three years. If their court performance is measured against that of the previous financial year, an overall improvement is noted except for a slight decline in the beginning of 2006.

#### Dedicated Courts

A dedicated court is a court dealing with specific crimes requiring some specialised skills and attention. Hence all Regional Courts dealing with serious crimes can be seen

Lower Courts: Finalisation Rate (Verdict + ADR)

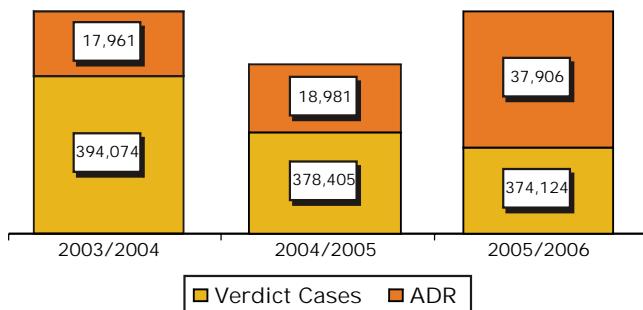
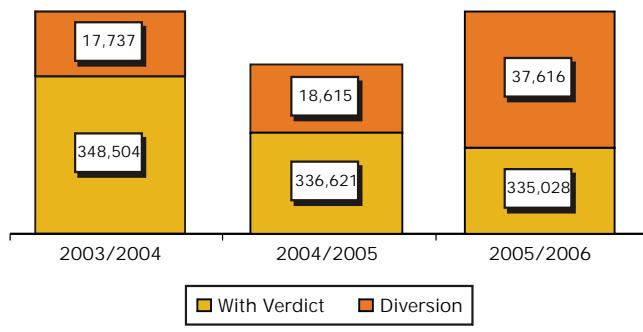


Figure 19: Lower Courts Finalisation Rate

District Courts: Finalisation Rate (Verdict + ADR)



(ADR = Alternate Dispute Resolution)

Figure 20: District Courts Finalisation Rate

Regional Courts: Finalisation Rate (Verdict + ADR)

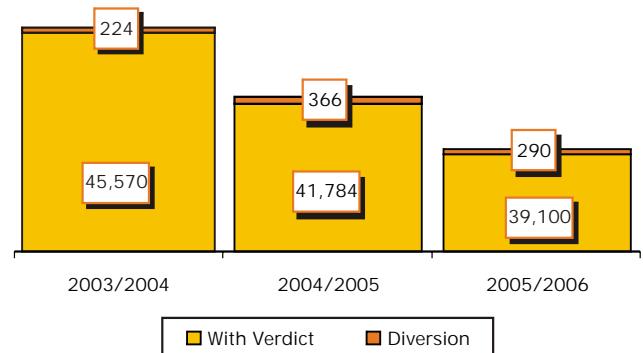


Figure 21: Regional Courts Finalisation Rate

as specialist courts, with some courts focusing on prioritised crimes such as fraud, hi-jacking or child abuse. In addition thereto, even some District Courts are dedicated courts, focusing on statutory offences that are requiring special skills.

#### Sexual offences courts

On average, 67 Regional Courts dedicated to sexual offences were in session during the current financial year. Results obtained from the audit conducted on all outstanding cases in the Regional and High Courts during 2005 have shown that 24.1% of all charges involved sexual offences. One would therefore expect that at least the same percentage of all Regional Courts be dedicated to sexual offences. The 67 courts represent only 15% of the average number of 457 Regional Courts in session per month.

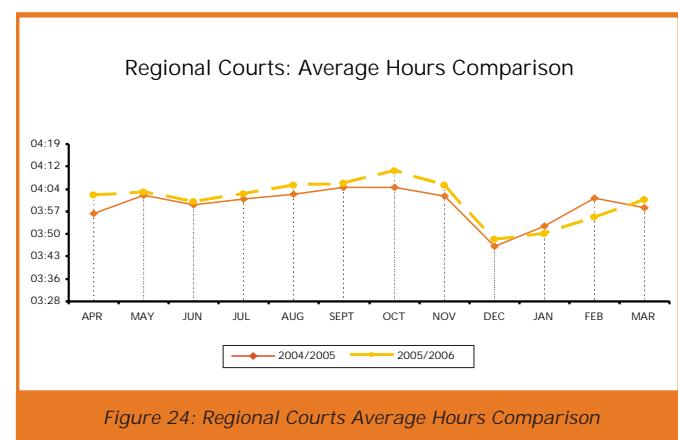
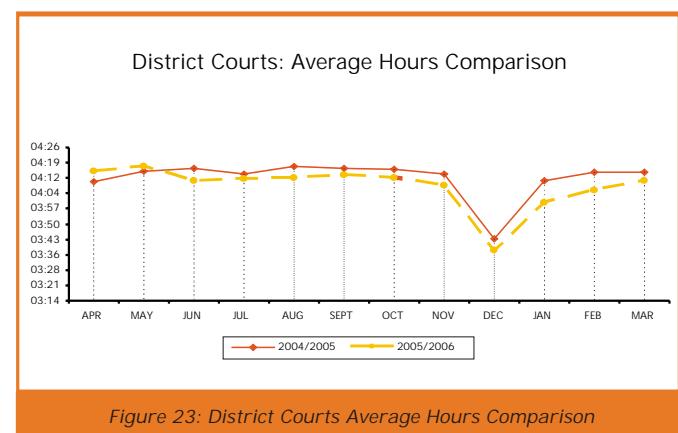
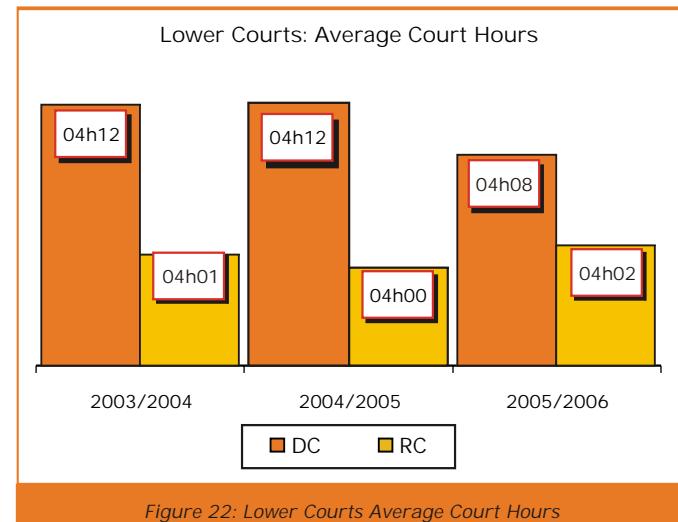
The incoming workload of these dedicated courts were 19% of the total of 83 760 new cases received by all Regional Courts and they have managed to finalise 16% of the total of 39 390 cases finalised by the Regional Courts. This represents a total of 6 379 cases finalised at the end of March 2006 with a 68% conviction rate. A total of 122 cases were diverted. From Figure 13, the improvement of the conviction rates achieved by these dedicated courts is evident, from an average rate of 61% obtained during 2003/2004 to the current average rate of 66%.

A major concern that is impacting negatively on the performance of the dedicated sexual offences courts is the reluctance of the judiciary to preside in a dedicated court. The constant rotation of presiding officers also resulted in unacceptable case cycle times.

Sixty-eight (68) court preparation officials have been appointed to provide support to victims of crime especially abused children. At the end of March 2006, a total of 45 261 witnesses were prepared for court by these officials.

#### Hi-jacking courts

By utilising local case flow management principles, hi-jacking cases in the Gauteng Regional courts are being prioritised in seven courts - Johannesburg, Germiston, Krugersdorp, Pretoria, Springs, Vanderbijlpark and Soweto. At the end of March 2006 a total of 289 cases were finalised with a conviction rate of 75%. This success rate could not have been achieved without the dedication of all role-players.



## Environmental court

The environmental Regional Court at Hermanus deals mainly with abalone matters due to the high level of illegal abalone activities threatening the natural resources in the surrounding area. The court managed to finalise a total of 158 cases during the previous financial year, and a total of 98 cases between April 2005 and December 2005 with an 84% conviction rate.

## Community courts

The community courts focused mainly on specific needs identified in the community it serves. Currently, 15 community courts are established and situated at Hatfield (2 Courts), Umtata, Bloemfontein, Thohoyandou, Kimberley, Phuthaditjhaba, Wynberg/Fezeka, Johannesburg/Hillbrow, Mitchellsplein, Protea/Lenasia, Durban, Kwa Mashu, Cape Town and Mankweng.

The Community Courts managed to finalise a total of 23,192 cases at the end of March 2006 with a conviction rate of 96%. A total of 5,753 cases were diverted. During 2004/2005, 13 courts managed to finalise a total of 10,108 cases with a conviction rate of 96%. A total of 735 cases were diverted.

Community Courts focus on the needs of a specific community to restore law and order with a specific prevalent crime threatening the safety and order of community.

## Drug courts

The two drug courts situated in Cape Town and Durban have again excelled in their performance. A total of 1 883 cases were finalised with a conviction rate of 95%. What makes this achievement even more remarkable is the fact that some of these convictions include prominent Nigerian drug dealers. A total of 134 cases were also diverted.

## Plea and sentence agreements

(Section 105A of Act 51 of 1977)

Plea and sentence agreements were reached in 2,164 offences. The increase in plea and sentence agreements is illustrated in Figure 26.

## Awaiting trial detainees

The reduction of the number of awaiting trial detainees and children in custody was a priority in the past financial year. The figures received from the Department of Correctional Services (DCS) indicate that the numbers of awaiting trial detainees have been reduced, from 52,326

detainees during January 2005 to 48,807 detainees during March 2006. A 7% reduction has therefore been achieved.

Dedicated Sexual Offences Courts: Conviction Rate

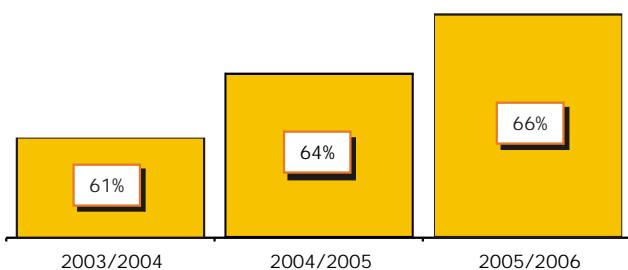


Figure 25: Dedicated Sexual Offences Courts Conviction Rate

Main Crime Categories	2004/2005	2005/2006
Fraud	872	853
Possession of abalone	156	148
Theft	137	437
Transportation of abalone	65	-
Culpable homicide	53	93
Dealing in narcotics	38	67
Rape	30	23
Drunken driving	27	67
Corruption	26	8
Housebreaking	25	56
Robbery	23	122
Possession of firearm w/o license	21	84
Murder	19	72
Total Cases (Agreements):	703	1,202
Total Counts	1,993	3,234
% Custodial sentences:	20.7%	35.6%

Figure 26: Main Crime Categories in Plea and Sentence Agreements

A remarkable reduction of 20% has been achieved in the number of un-sentenced children in custody - from 1,462 during March 2005 to 1,169 children during March 2006.

#### Training and Development in the NPS

A total of 29 training courses ranging from trial advocacy, decentralised courses for state advocates, district and regional prosecutors, child law and social context courses were held country wide. A total of 825 prosecutors were trained in this regard. In addition, the Justice College lecturers assisted with 46 ad hoc training interventions and a total of 842 prosecutors received training during these interventions. A total of 1,667 prosecutors were thus reached during the past financial year.

Training with the assistance of donor funding (either outside donors such as USAID or other state departments, for example SARS and DEAT) continued during the past year. Prosecutors were trained on Plea-Bargaining (141 prosecutors), Anti-Corruption (224 prosecutors), prosecution of Environmental Crimes (15 prosecutors) and Income tax and tax related matters (46 advocates).

A number of Senior Prosecutors and Training co-ordinators (state advocates) attended Train-the-Trainer workshops and are in the process of compiling their portfolio evidence with the aim of being accredited as trainers.

In addition, a number of other Senior Prosecutors are undergoing the required training at SASSETA which will lead to their registration as qualified Education Development Practitioners.

A very successful pilot workshop on the application of the Prevention of the Organised Crime Activities Act and the sharing of best practices in investigating and prosecuting these matters was held at the end of last year. The participants represented not only the members of other business units within the NPA (i.e. DSO and AFU) but also a large contingency of senior managers in the South African Police Services attended.

One hundred and twenty (120) aspirant Prosecutors were appointed during July 2005 after successfully completing of the six months training course. Due to budgetary constraints the second intake for 2005 only took place in October 2005.



NPS leadership seated in front, left to right: Pietermaritzburg DPP Adv Shamila Batohi, Kimberley DPP Adv Ivy Thenga and Johannesburg Adv Charin de Beer. Back row: NPS Head Adv Mokotedi Mpshe, Cape Town DPP Adv Rodney de Kock, Pretoria DPP Adv Sibongile Mzinyathi and Umtata DPP Adv Humphrey Lusu. Not in the picture are Grahamstown DPP Adv Lungisile Mahlathi and Mmabatho DPP Adv Johan Smit.

#### 4.2 Asset Forfeiture Unit (AFU)

*"Through its work, the Asset Forfeiture Unit sends out a strong message that crime does not pay. This contributes to the NPA's general strategic objectives to enhance the freedom and security of communities, to reduce crime, to build a culture of civic morality and to increase public confidence in the criminal justice system."* (W Hofmeyr, 2006)

##### Purpose

The AFU implements the asset forfeiture provisions in Chapters 5 and 6 of the Prevention of Organised Crime Act (POCA). Chapter 5 provides for the forfeiture of assets from a person convicted of an offence. Chapter 6 provides for the forfeiture of assets that are the proceeds of crime or have been involved in the commission of crime through a civil process that is not dependent on criminal prosecution.

##### Objectives

- To contribute to the reduction in crime by making a significant impact on crime
- To establish a good jurisprudence
- To establish a national presence
- To ensure partner and customer satisfaction and co-operation
- To target priority crimes
- To establish efficient and effective business processes
- To establish a skilled, committed and representative staff

##### Highlights of Achievements

- Exceeding its target of succeeding in more than 85% of all its cases
- The total property frozen since AFU's inception reached R1 billion last year
- By September 2006 AFU will do its 1 000th case
- Later in 2006 it will have forfeited R500m from criminals
- Making significant headway in establishing good jurisprudence

NPA Service Delivery performance indicators - 2002/03 to 2005/06							
	2002/03	2003/04	2004/05	2005/06	Change over prev yr	Change over period	Notes
Asset Forfeiture Unit							
New restraint orders (No.)	125	228	161	252	56.5%	101.6%	
Value of new restraints (R'000)	R 131,938	R 222,616	R 234,406	R 344,129	46.8%	160.8%	
Completed forfeiture cases (No.)	80	148	151	221	46.4%	176.3%	
Value of assets forfeited (R'000)	R 51,910	R 86,741	R 172,855	R 106,748	-38.2%	105.6%	Very large case in 04/05 distorted figures
Money paid to CARA	R 17,313	R 35,737	R 24,500	R 18,823	-23.2%	8.7%	Lower than expected, partly due to amounts paid to victims
Success rate (overall)	87%	86%	87%	88%	1.0%	1.0%	

	Performance		Target	Performance against target and previous year		Total
	2004/05	2005/06	2005/06	% of target achieved	% of previous year	1999 to Mar '06
Number of Cases	No.	No.	No.	%	%	No.
New seizures	165	252	210	120%	153%	942
Cases completed	153	220	160	138%	144%	655
Other orders	312	422	320	132%	135%	1,352
Total Number	630	894	690	130%	142%	2,949
Monetary Targets	Rm	Rm	Rm	%	%	Rm
New seizures	222.2	344.1	250.0	138%	155%	1,298
Cases completed	174.3	106.7	100.0	107%	61%	430
Funds into CARA	25.0	18.8	50.0	38%	75%	99

Note: Figures for 2004/05 have been changed slightly as some cases were reported late.

Figure 27: AFU Achievements

### Service Delivery Achievements

#### Crime reduction

The most important objective of the AFU is to make a significant impact on crime through the volume of work that it does. The table below summarises the achievements of the AFU in 2005/06 against its overall service delivery targets.

During the year the AFU obtained 252 new freezing orders (20% above target) and seized R344 million from criminals (38% above target). It was the first time that more than R300 million was frozen in a single year.

The AFU was also well above target for completed cases, completing 220 cases to the value of R107 million (38% and 7% above target).

The only disappointing figures were monies paid into the Criminal Assets Recovery Account (CARA), which at R19 million, was only 38% of target. This was largely due to the fact that the realisation of assets takes considerably longer than anticipated, and more realistic targets are being set.

The AFU measures its overall success rate as the number of cases that are successfully completed and are not lost

or withdrawn for any reason, for example when the prosecution does not succeed. It has regularly exceeded its target of succeeding in more than 85% of all its cases.

The AFU has reached or is about to reach several landmarks:

- Last year the total property frozen since its inception reached R1 billion;
- Shortly after the close of the financial year, the amount of funds deposited in CARA reached R100 million;
- By September 2006 the AFU will do its 1 000th case;
- Later in 2006 it will have forfeited R500 million from criminals.

#### Establishing good jurisprudence

The development of good jurisprudence in a very complex area of law is one of the major objectives of the AFU.

This is vital because as the law becomes clearer and good precedents are established, it reduces the amount of litigation required, and makes it possible to increase the volume of cases that can be done. Thus it supports the first objective of ensuring that asset forfeiture makes an increasing impact on crime.

But it is also vital that the many complex legal issues are litigated effectively to ensure that the jurisprudence does not develop in a way that results in asset forfeiture becoming ineffective in the fight against crime.

This important principle was recognised for the first time by the Supreme Court Appeal (SCA) in the cases of *Simon Prophet v NDPP* where Mpati DP endorsed the observation by Willis J in *NDPP v Cole* that: "judicial discomfort with a consequence is insufficient to render (the forfeiture) disproportional to the extent that the relief sought may be refused".

Mpati went on to state that:

"The introduction of the forfeiture procedures by the Act was brought about because of the realisation, by the Legislature, that there was rapid growth, both nationally and internationally, of organised criminal activity and the desire to combat these criminal activities by, *inter alia*, depriving those who use property for the commission of an offence of such property. The consequences may be harsh, but as Willis J said in *NDPP v Cole*, forfeiture may play an important role in the prevention and punishment of drug offences. In my view, courts should thus guard against the danger of frustrating the law-maker's purpose for introducing the forfeiture procedure in the Act. A mere

sense of disproportionality should not lead to a refusal of the order sought. To ensure that the purpose of the law is not undermined, a standard of 'significant disproportionality' ought to be applied for a court to hold that a deprivation of property is 'arbitrary' and thus unconstitutional, and consequently refuse to grant a forfeiture order. And it is for the owner to place the necessary material for a proportionality analysis before the court."

To ensure that it meets this objective, the AFU measures the number of written judgements that it obtains in matters that are litigated, as well as its success rate in these judgements.

A major change over the past two years has been a very significant increase in the success rate.

Initially, for the four years up to March 2003, the judgement success rate was low at 47% (24 of 51 judgments) as the AFU started to familiarise the courts with the new legislation. Since then, however, the situation has changed dramatically with the judgement success rate over the past three years being 71% (85 of 119 judgments).

	99/0	00/001	01/02	02/03	03/04	04/05	05/06	Total
Total judgements	10	10	13	18	35	46	38	170
Total success rate	40%	70%	38.5%	44.4%	77.1%	65.2%	72.4%	63.8%
SCA judgements	1	0	2	0	2	6	4	15
SCA success rate	0%	-	50%	-	100%	50%	75%	60%
CC judgements	0	0	0	1	1	0	1	3
CC success rate	-	-	-	100%	100%	-	100%	100%

Figure 28: AFU Judgement Success Rate



Adv Willie Hofmeyr  
Head: Asset Forfeiture Unit

The increased success was evident in 2005/06, with an overall judgement success rate of 72.4%, well above the target of 66.7%.

There has been a similar pattern in the SCA where the success rate in its first 8 judgements was only 37.5%. Since then, however, it has won 6 of 7 cases, a success rate of 86%.

The number of High Court judgements obtained continues to increase rapidly, with another 31 judgments obtained during the year. In total, the AFU obtained 38 judgments in 2005/06, below its target of 45, which was probably too ambitious.

It was also a busy year for appeals with the AFU winning four of five judgments in the Supreme Court of Appeal and Constitutional Court. The appeal success rate of 80% is remarkable as most of the cases had been lost by the AFU in the High Court. It is also very important for the AFU as these cases have a profound influence on the development of its jurisprudence.

The AFU targets for 2005/06 are 40 judgments with a 70% success rate.

#### Constitutional Court (CC) cases

In NDPP v Phillips, the Constitutional Court (CC) upheld the ruling of the SCA that a high court did not have inherent jurisdiction to vary or set aside a restraint order. The CC held that the power which courts have to exercise their inherent jurisdiction have to be used sparingly and only in clear cases. A defendant who sought variation or rescission of restraint orders was required to bring such an application on the grounds provided for in POCA. The CC also held that the defendant was not allowed to raise a constitutional issue for the first time on appeal.

#### Supreme Court of Appeal (SCA) cases

The case of Prophet v NDPP was a landmark decision in that it established criteria to guide courts in deciding whether property is an instrumentality of an offence. These include whether the use of the property was

deliberate or planned or incidental and fortuitous, whether the illegal use of the property was isolated or had been repeated and whether the property was important to the success of the crime. The SCA also held that a forfeiture order could be refused only if it was "significantly disproportionate."

In NDPP v Parker the SCA further developed the jurisprudence around instrumentalities. It made it clear that residential property would qualify as an instrumentality where it had frequently been involved in drug dealing even if the property had not been adapted to facilitate the commission of the offence. The SCA followed a similar position in NDPP v Mohunram, which involved property that had been used as an illegal casino.

In NDPP v Nel and Du Toit the court refused an appeal by the NDPP against a decision by the Northern Cape High Court granting legal expenses to the defendant. The SCA held that the defendant was only required to make full disclosure of property which he owned at the time the restraint order was given, not property which he previously owned but no longer has.

In Absa v Fraser, the SCA held that a concurrent creditor could intervene in a defendant's application for living and legal expenses in order to prevent the court from authorising the payment of monies for legal expenses that would otherwise have been available to the creditor.

#### High Court cases

In the Shaik matter the Durban High Court granted a confiscation order against the defendant for R34m in respect of various benefits which the defendant had obtained as a result of his corrupt relationship with Jacob Zuma. This judgment clarifies many principles pertaining to confiscation orders. For instance, the court held that a court could grant a confiscation order against a defendant who had benefited even "indirectly" from unlawful activity. The court also held that where a criminal benefit had passed through multiple persons, the court can make a confiscation order against each of the defendants jointly and severally up to the total value of the benefit involved. The court also made it clear that it was concerned with gross benefits not net proceeds.

In NDPP v Naidoo (project Yield) the court held that the admission of hearsay was sometimes unavoidable, particularly where the disclosure of the direct evidence would endanger the lives of witnesses or prejudice the prosecution. It would however be undesirable to grant a

restraint order on the basis of "wild and unsupported hearsay." The court also held that as it was not required to evaluate the veracity of the state's evidence at restraint, it was not necessary to make a formal ruling on each and every piece of hearsay evidence.

In the drunken driving judgment, the High Court in Port Elizabeth held that the seizure of vehicles belonging to drunk drivers was not contemplated in POCA. The court also held that a vehicle driven by a drunk driver was not an instrumentality of an offence. This position was also adopted by the Pretoria High Court in the Vermaak matter. The Eastern Cape judgment will be taken on appeal to the SCA on 14 September 2006 whilst the Pretoria High Court granted leave to appeal in the Vermaak case.

#### Legal amendments

The AFU is in discussions with the Department of Justice and Constitutional Development (DOJCD) regarding the final content of our draft amendment Bill. We are also in discussions with the Rules Board regarding the drafting of special rules to govern asset forfeiture applications to court.

A number of areas have been identified where the law should be clarified or strengthened. Amendments have been prepared and submitted to the DOJCD. It is important that they be processed in Parliament in the second half of the year. The Minister for Justice and Constitutional Development is soon to publish regulations to specify the maximum legal expenses that may be paid from assets preserved in terms of Chapter 6.

#### Establishing a national presence

The unit achieved its plans to establish offices in Mmabatho and Polokwane. The opening of the Nelspruit office however was delayed due to the resignation of the staff member who had been identified for this office. Other than this office, the AFU has at least a small office in each province and this has enabled it to provide a better service in almost all provinces.

#### Ensuring partner satisfaction and co-operation

Joint national guidelines are in place with the Directorate of Special Operations (DSO) and it has helped to improve co-operation significantly. There has been significant progress in the development of joint forfeiture targets to be incorporated in the DSO regional targets.

National guidelines have been agreed with the South

African Police Service (SAPS) and are ready to be signed. We are grateful that SAPS has agreed to set up task teams focusing solely on forfeiture work in all provinces. In almost all provinces they are co-located with the AFU, and this has made co-operation with SAPS really successful.

Although a proposed SAPS structure for the task teams has now been formalised, there are still several problems regarding the accountability and career paths of task team members that still need to be resolved. SAPS have recently indicated that they will bolster the size of the task teams in several provinces, which will alleviate some of the difficulties. It should be mentioned that, for the first time, in some provinces the AFU have to turn away work referred by the SAPS due to lack of internal capacity in the unit. Although this is not desirable, it is an indication of how much co-operation has improved.

A Memorandum of Understanding (MOU) has been agreed with the South African Revenue Service (SARS) as part of a broader NPA MOU and is due for signature soon. In the meantime, a member of SARS has been devoted full-time to servicing the requirements of the AFU.

One of the major challenges that remain for the AFU is to find a successful model for involving prosecutors in the magistrates' courts in the work of the AFU. This is especially due to the heavy workload faced by lower court prosecutors.

During the year the AFU piloted a new program with asset forfeiture specialists working with prosecutors in several courts to try to source more forfeiture cases from these courts. However, this delivered only limited results and the program is being scaled down. The AFU has developed draft guidelines for co-operation with the NPS, and joint targets for the number of referrals.

Due to huge problems being experienced with the level of service from most state attorneys, the AFU agreed with the state attorneys to employ staff on its own budget who can assist the state attorneys in Johannesburg, Pretoria, Durban and Cape Town on a full-time basis to serve the rapidly growing needs of the AFU. These positions have all been filled, and a similar arrangement will be implemented in the Eastern Cape in 2006/07.

The AFU has been working closely with the Financial Intelligence Centre (FIC), and has received many useful reports from the centre.



Adv Leonard McCarthy  
Head: Directorate of Special Operations

#### Targeting priority crimes

The AFU has continued to work with the SAPS and the DSO to target serious organised criminals, and financial investigations have proved invaluable in providing the evidence that is required to link different members of the syndicate to enable the state to use racketeering charges.

The initiative to work with the Arrive Alive campaign to seize the vehicles of drunken drivers has been on hold awaiting the outcome of the appeal to the Supreme Court of Appeal.

#### 4.3 Directorate of Special Operations (DSO) or Scorpions

##### Purpose

The Scorpions' purpose was perhaps best described when President Thabo Mbeki announced in his opening address to Parliament in 1999 that "a special and adequately staffed and equipped investigation unit would be established urgently to deal with all national priority crimes, including police corruption."

The DSO's mandate has deliberately been couched in a wide, encompassing and flexible manner to enhance its operational efficiency. However, in pursuance of its mandate and the challenges facing the DSO, the Directorate has primarily focused its efforts on, and laid down specific guidelines for the intake of cases in the following major areas of crimes:

- Organised criminal groups.
- Complex and serious financial crimes.
- Public and private sector corruption.
- The offences of racketeering and money laundering created in terms of the provisions of POCA.

##### Strategic Objectives

- To develop crime information products that strengthen a pro-active approach within the DSO, and gives it a pre-emptive edge.

- To combat organised crime in a focused manner that visibly asserts the DSO's mandate, and tactically impacts on a reduction in serious crime.
- To deliver services that respond to client complaints in respect of criminal activity.
- To enhance partner management and co-operation with government and other agencies, to enable and support the work of the DSO.
- To ensure effective financial management that ensures PFMA compliance, and encourages value-for-money service delivery.
- To ensure effective management and compliance through quality governance.
- To achieve business effectiveness and efficiency through operational excellence.
- To attract, develop, retain and manage people in a manner that bolsters the multi-disciplinary approach of the DSO.
- To position the DSO as a unique, select crime-fighting agency that inspires public confidence and widespread stakeholder support/engagement.
- Increase work performance and impact, measurable as value-for-money.
- Counter organised crime in a more focused manner that gives the DSO a pre-emptive edge.
- Position the DSO as an elite crime-fighting agency that prides itself on a multi-disciplinary approach.
- Draw from best practice in international law enforcement to improve effectiveness.
- Exploit partner co-operation and collaboration, in order to enhance service delivery.

##### DSO Case Highlights for the Year 2005/06

The DSO has handled a number of high-profile and important cases during the year under review.

##### National Projects

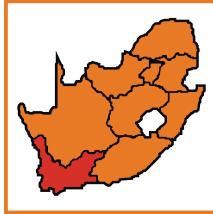
##### Guanxi

This project addresses the role of Chinese triads in organised crime, in particular the trade in abalone and drugs. The illegal trade in abalone attracts much public attention in the Western Cape. The DSO has made over 100 arrests in this project in the past year. The DSO is currently prosecuting two ostensibly legitimate fishing companies, one in the Western Cape and the other in Gauteng, which processed the poached abalone. A prosecution for racketeering against individuals of Chinese extraction is also underway.

## Western Cape

### Malatsigate

This prosecution is directed at addressing the corrupt granting of permission to develop a golf estate. A Deputy Minister, and a former Premier of the Western Cape, were charged. It has attracted much publicity and public interest in exposing the role of multi-national developers in promoting corruption in the property market.



### Leisurenet

This was an investigation into certain aspects of the biggest corporate collapse in SA history. This matter is presently sub judice, being part-heard in the High Court. Four (4) accused are facing charges under a large scale fraud indictment that has demonstrated the difficulty of piercing the veil of boardroom and corporate arms-length decisions.

### Alexkor

An investigation was launched into a national syndicate involved in the national and trans-national smuggling of uncut diamonds. Uncut diamonds are used as a commodity by criminals to launder the proceeds of crime. The prosecution in State v Dos Santos and Others, has resulted in the first conviction for racketeering in a defended matter in the High Court, where precedent has now been laid down in respect of certain aspects of the POCA.

### Travel Fraud

This very lengthy investigation has focused on the fraudulent use of travel vouchers by Members of

Parliament. The prosecution of travel agents and Members of Parliament on various counts of fraud and theft totalling R25m is due to commence on 31 July 2006. Recently one of the strategically-placed co-accused pleaded guilty rather unexpectedly, and her evidence will significantly bolster the State's case.

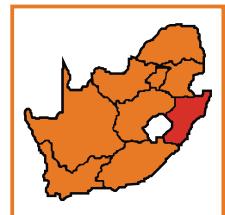
### Stormer

This project related to money laundering, fraud, forgery and uttering and theft committed by employees in the Western Province Rugby Union. The accused have been arrested - one was found guilty on various counts of fraud and money laundering, and sentenced to eight years imprisonment. Although complex in nature, this matter was finalised within four months of it being reported to the DSO.

### Kwazulu-Natal

#### PC

This is an investigation into so-called paperless crimes being committed directly on the Government's cyber/computer systems. The DSO office in KwaZulu-Natal found that the syndicate does not operate in a single Government Department, but moves its activities from Department to Department, as the opportunity arises. Millions of Rands have been lost as a result of this type of cyber abuse in which system codes and passwords are circumvented through sophisticated use of spyware and other unlawful computer techniques. The project also created the opportunity for the DSO, SAPS, Special Investigating Unit (SIU) and various Government Departments to join forces to combat these crimes that present major future threats to systems integrity.



NPA Service Delivery performance indicators - 2002/03 to 2005/06							
	2002/03	2003/04	2004/05	2005/06	Change over prev yr	Change over period	Notes
Directorate of Special Operations							
Investigations finalised (No. of cases)	190	205	325	318	-2.2%	67.4%	Uncertainty
Arrests (No. of persons)	66	290	471	447	-5.1%	577.3%	
Prosecutions finalised (No. of cases)	180	189	234	243	3.8%	35.0%	
Conviction rate	86%	94%	88%	82%	-6.0%	-4.0%	
Restraint orders with AFU (R'000)		R 132,000	R 180,000	R 236,000	31.1%	78.8%	Not avail for 02/03
Contrabrand seized (R'000)	R 500,000	R 1,150,000	R 2,460,000	R 445,000	-81.9%	-11.0%	

## Lucky Packet

The DSO KZN investigated the threat of high-level Mandrax smuggling from Gauteng to KZN. An undercover operation in fact listed under Schedule 5 of the Medicines Act, No. 101 of 1965. The State proved to the court the danger of this drug being sold in the market as Mandrax. The court took this into account during sentencing and imposed a 16-year imprisonment sentence on the accused. The arrest and conviction prevented the influx of this dangerous dependence-producing drug into KZN. This was also the highest period of imprisonment under the Medicines Act of 1965 imposed in the country. The arrests also disrupted the organised flow of drugs from Gauteng to KZN.

## Stompie

The project entails the illegal smuggling of cigarettes with an estimated loss to the national fiscus running into billions of Rands. Five arrests and a major search and seizure operation were conducted during March 2006 with the assistance of DSO Gauteng. A total number of 2,179 master cases of cigarettes, cash and exhibits were seized. The estimated value of the cigarettes is R9m. The case is currently in court.

## Social Welfare

The project relates to fraud in social grants in KZN and its surroundings. The investigations and arrests, particularly of public servants, have had such an impact that the Department of Social Welfare reported huge savings in this regard. These matters are high volume and high impact, judged by the sweeping effect of the interventions made. In the process 328 people have been arrested and prosecuted, with 142 convictions.

## Snow

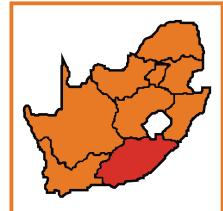
An international drug smuggling network was uncovered during undercover investigations. The project team is informally being assisted by the Australian Federal Police. The suspects were investigated for a number of years by the Australian authorities for smuggling drugs into Australia. The syndicate has links in South America, Singapore and the UK.

Through recruitment of informants, the drug smuggling and money laundering activities were uncovered. The suspects use RSA and other African countries as transit points for the drug smuggling. It was established that millions of Rands are laundered through the British Virgin Islands and the illegal proceeds are used to purchase up-market properties in RSA.

## Eastern Cape

### Mastermind

Mastermind Tobacco South Africa (Pty) Ltd was a registered company operating from East London. It had a number of foreign nationals as its directors. It also had operations in several African countries. Their main business was manufacturing of cigarettes. Investigations have revealed that the company had been turned away by other countries in Africa for exactly the same kind of activities the DSO's project team is investigating and prosecuting.



The matter is a high profile case, because of the amount of fraud involved in the unlawful round-tripping activities of the company. The activities have also attracted the attention of SARS, with whom the DSO Eastern Cape team is working on this matter. A number of people have been arrested and the directors have fled the country. Warrants of arrest were authorized.

## Pepper

The Government set up a special pensions scheme in terms of the Special Pension Act, No. 69 of 1996. In terms of the Act, only people who made sacrifices or served the public interest in establishing a non-racial democratic constitutional order, qualify for the special pension. Such people should either have been in exile or prison for at least five years for political crimes only.

The project team uncovered a syndicate operating in Port Elizabeth and Pretoria, which was defrauding the Special Pension Fund. False applications, false affidavits, false bank accounts, false beneficiaries and false information were supplied to National Treasury and payouts amounting to millions of Rands were made to undeserving people. A number of people have been arrested, prosecuted, and convicted. The syndicate leader was also arrested. The matter is a high profile case because of the nature of the fund that the syndicate is defrauding and the noble purpose for which it was established.

## Pakistan

Pakistan is an investigation that seeks to address fraud and corruption taking place at the Department of Home Affairs. The main focus lies in Port Elizabeth. The crimes are committed by Pakistani nationals residing in Port Elizabeth colluding with departmental officials. The investigation revealed that there is a syndicate that recruits people from Pakistan, Bangladesh and India to

come to South Africa. The syndicate uses unemployed women from the townships around Port Elizabeth as "spouses" for the illegal immigrants to obtain South African citizenship. The matter is important because of the social threat of human trafficking, the highly publicized problems at Home Affairs and the international implications around illegal immigrants from the Middle East. Two people have been arrested and are due to stand trial on 16 August 2006.

#### Blyde

Blyde is a project pertaining to irregularities unearthed in the awarding of tenders for certain projects by the Eastern Cape Department of Public Works. The investigation relates to a consultant of the Mbashe Municipality, who conspired with others to award contracts to his wife under false pretences. The matter is in court after arrests were made.

The matter has been targeted, because it addresses the problem of fraudulent tendering in municipalities which is presently seen as wide spread and insidious in the country. Municipality fraud has been identified by the Crime Threat Analysis (CTA) as an area for tactical intervention by the DSO, because of the societal paralysis arising from dishonest procurement.

#### SSG

The DSO and the Department of Social Development entered into an agreement to investigate allegations of government officials and/or private individuals fraudulently receiving social grants, attorneys submitting taxed bills of costs under pretence that they had represented social grant beneficiaries, medical doctors fraudulently recommending disability grants in return for receiving money and money lenders making fraudulent applications on behalf of people they have lent money to.

This composite inquiry is far-reaching because of the prevalence of criminal wrongdoing, the level of engagement between the DSO and the Department, and the costs involved. High profile individuals have been arrested, including attorneys and doctors. Investigations are continuing in respect of other suspected doctors and attorneys. The project team has sought the involvement of SARS and the AFU for maximum impact.

#### Resmed

Resmed Pharmaceuticals cc is an entity registered in the country as a supplier of medicines. It was contracted to the Eastern Cape Health Department to supply the Mthatha

and Port Elizabeth medical depots. Allegations are that the company paid bribes to government employees for them to submit fraudulent payments through the MEDSAS payment system. One co-accused has already been convicted and is serving a five year term of imprisonment, following an agreement to testify in the main trial. The DSO and AFU have obtained a restraint order to the value of R12.5m.

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This case demonstrates the extent to which well-heeled accused will go in fighting and exhausting the prosecution.

#### Kangela Project - Joint Anti Corruption Task Team (JACTT)

A complaint was received which relates to the suspicious circumstances under which the Department of Agriculture contracted and dealt with payments to a company, generally referred to as the Kangela Project, involving the establishment of an agricultural development project for the benefit of the local community and previously disadvantaged persons. The investigation established that the MEC for the Department, entered into an agreement on behalf of the Department with two companies, in terms of which shares and loan claims were exchanged as consideration for payment of the sum of R 15 680 000 in cash.

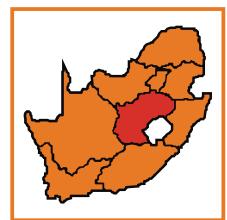
Three arrests have been made and the accused are due to stand trial in November 2006. One of the accused has agreed to a forfeiture order of R13m.

#### Free State

##### Lejweleputswa and others

The project concerns allegations of fraud and corruption against the municipal management of Lejweleputswa District Municipality and other businessmen. This matter attracted significant public attention.

The amount of fraudulent abuse exceeds R5m. People of



Lejweleputswa reported the matter to the President who advised that it be reported to the law enforcement agency during his visit to Lejweleputswa. In similar investigations affecting four other municipalities, greed, arrogance and collusion seem to be the driving force behind public-private corruption.

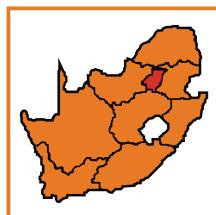
#### Mangaung

The project involves allegations of fraud and corruption within the Mangaung Local Municipality. The people involved are the Executive Mayor, his wife, the Speaker of the local government council, the political advisor and the chief operating officer. The matter has taken centre stage in the DSO's drive to address serious and pervasive corruption in public structures in the province. The amount involved is R150m. Ten people were arrested and will be appearing in court again in October 2006.

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#### Gauteng Yield

This matter deals with illicit smuggling of precious metals and laundering the proceeds through various foreign countries. Several arrests have been made in South Africa and Europe. The case is currently in court. Close co-operation between the DSO and the UK authorities was required to enable a joint arrest as well as search and seizures to take place.



In a positive judgement, the Supreme Court of Appeal had this to say about the investigation and asset forfeiture: "In an application for a restraint order, especially one involving alleged criminal activities of the magnitude alleged in the present case, reliance upon hearsay evidence is virtually indispensable and even more so where the restraint is applied for before an indictment is served. This is so because the application for a restraint will usually precede the completion of the criminal investigation and disclosure of evidence before completion of the investigation might well prejudice the capacity of the prosecution to effectively prosecute in the ensuing trial". (NDPP vs. K Naidoo & 21 Others)

#### Reserve Bank

Investigations relating to corporate identity hijacking of various corporations and banks (including the SA Reserve Bank), and Government Departments, as well as advance fee frauds, generally known as "419-scams", have escalated during the past year. These offences, involving trans-national syndicates from various foreign countries and lately from South Africa itself, require the use of financial information as an investigative tool, as well as the ability to gather such information with the assistance of foreign authorities. A specific project team has achieved such successes in tracking such syndicates via the Internet, and in the subsequent prosecution and forfeiture of all the acquired assets, that they have become the investigators and prosecutors of choice of the Reserve Bank and the Banks in such matters. Much goodwill towards the DSO, and RSA as a whole, has been gained amongst both the foreign victims of such scams, as well as the governments and regulatory agencies in which they reside. These matters illustrate the ability of the DSO to successfully combat crime by means of pro-active measures.

#### Saambou

Subsequent to the failure of various other smaller banks, the collapse of Saambou Bank constituted possibly the largest failure of a major bank in South African history, and ultimately the huge financial losses to depositors, creditors and investors. At the heart of the collapse were office bearers of the bank misrepresenting exposure of the bank's assets to its share price, profits, liquidity and capital structures, as well as share price manipulation, insider trading, and a general manipulation of the financial records to disguise these actions. The obviously complex nature of this matter has required close co-operation between, and co-ordination of the diverse expertise of lawyers, investigators, accountants and digital detectives. Arrests have been made and the trial is proceeding.

#### Arms deal (Shaik/Zuma/Yengeni)

One of biggest successes, and certainly one that received the most public attention, was the successful prosecution of Schabir Shaik and his Nkobi group of companies on charges of corruption and fraud.

This prosecution was a success on a number of levels. Firstly, it demonstrated unequivocally that the DSO is capable of competently and successfully handling the most complex and challenging of cases. The investigation of this matter encompassed obtaining evidence from

foreign countries through carefully co-ordinated search operations, the forensic analysis of vast numbers of documents, unravelling complex commercial transactions, tracing and interviewing various witnesses in overseas jurisdictions and building a successful case against formidable opponents.

It also illustrated the benefits of a prosecution-led investigation. This is illustrated by the fact that of the thousands of documents produced by the prosecution during the trial, all but a handful were found by the court to be inadmissible. This speaks volumes for the careful legal oversight of the investigation which ensured that all evidence was obtained in a lawful manner and with due regard to constitutional imperatives.

Thirdly, it succeeded in showing the country that the DSO will not shirk its constitutional duty to investigate and prosecute without fear or favour.

Finally, this case demonstrated how evidential obstacles can be overcome with innovative thinking and legal research. A number of vital documents that the State needed to prove in order to be sure of success technically amounted to hearsay evidence. Nevertheless, the prosecution succeeded in having these documents admitted into evidence by relying on various legal exceptions to the hearsay doctrine, including the doctrine of executive statements, sections 222 and 332 of the Criminal Procedure Act and section 3(1)(c) of the Law of Evidence Amendment Act of 1988. This provided a timely lesson to all prosecutors that "where there's a will there's a way".

The sentences imposed on Shaik and his companies have also sent out a stark message to all persons involved in this sort of corruption that the game is not worth the candle. The successful forfeiture of Nkobi's benefits derived from their corrupt activities to the tune of R30 million has further driven home that message. The appeal against the conviction, sentence and asset forfeiture will be heard by the Supreme Court of Appeals from 21 to 25 August 2006.

One negative aspect of this case that calls for comment is the vocal protest that the conviction drew from certain corners of the population and, in particular, the personal attacks on the integrity of the presiding judge and the prosecuting team. It is instructive to note that the accused and their defence team had no problems with the way in which the judge handled the case.

#### The State vs. Jacob Zuma and Others

Hard on the heels of the Shaik success, the NDPP announced his decision to pursue the case against then Deputy President Zuma, and subsequently against the French Arms Company, Thint. This was followed by a countrywide search operation aimed at widening the ambit of the previous searches as well as obtaining up-to-date evidence concerning the ongoing payments to Mr. Zuma. The investigation of this matter received some early set-backs, with two applications to set aside certain of the search warrants being decided against the State. However, these decisions are still subject to appeal, and a recent decision in the Transvaal Provincial Division, which found that the searches of the Thint offices were lawful, has given cause for cautious optimism.

Although the various legal challenges have had the inevitable result of delaying the finalisation of the investigation and thus the DSO's ability to start the prosecution on schedule, the unit remains committed to pursuing a speedy and fair trial at the earliest opportunity. prosecution on schedule, the unit remains committed to pursuing a speedy and fair trial at the earliest opportunity.

#### The State vs. Yengeni

The appeal and review application by Tony Yengeni against his conviction of fraud against Parliament and sentence of four years imprisonment was decided in the Pretoria High Court on 11 November 2005. In dismissing both the appeal and the application for review, the Appeal Judges confirmed the propriety of the conduct of the DSO prosecutors. *"If these facts were to lead to the public perception that the National Prosecuting Authority was open to political deal-making and was inclined to grant preferential treatment to dishonest and corrupt politicians, it would have extremely grave consequences for the credibility of the entire legal system. Any suggestion of favouritism towards politically well-connected criminals on the part of the Authority should therefore be rooted out immediately".*

Without deciding on the precise nature of Parliament's legal personality, the court also held that it was capable of being mislead. "An assembly of natural persons, who have to perform tasks of national importance, acting together... has a vital interest in not being mislead". It is noteworthy that punitive costs have been awarded against Mr. Yengeni in the review application.

#### Project K

This project demonstrates the highly complex nature and

sheer volumes of material involved in DSO investigations. The investigation focuses around a core of alleged perpetrators moving outward in ripple effect to the recipients of the proceeds of a variety of crimes relating to the misappropriation of shares. It is envisaged that there will be at least over 60 separate, but related investigations in this matter. Both Johannesburg Consolidated Investment (JCI) and Ringgold & Exploration are companies that were chaired and "controlled" by the late Mr. Brett Kebble. It has come to light from the forensic reports of KPMG (on JCI) and Umbono (on Randgold & Exploration) that shares were apparently stolen, sold on the JSE and on NASDAQ, the proceeds were then repatriated into the country via various entities and then distributed amongst many individuals and entities. The theft of the shares and assets were allegedly "hidden" by creating loan transactions with parties who knew that no such loans had in fact been made. The theft of shares and assets were also allegedly "hidden" by creating fictitious Scrip Lending Agreements wherein the impression was created that the stolen shares were in existence and on loan to the entity mentioned in the Scrip Lending Agreement whereas this was not the case. No board resolutions could be found for the authorisation of the sale of the shares and so these were obviously not done with the shareholders' knowledge. The amounts currently involved totals approximately R2.1 billion.

#### Macmed

Macmed was a public company with about 90 subsidiaries listed on the Johannesburg Stock Exchange. They operated within the pharmaceutical and medical sectors and supplied services, equipment and medicine to, as well as the building of hospitals throughout SA. Its directors and office bearers allegedly generated funds through the issuing of false financial statements. The utilisation of these financial statements were allegedly used for obtaining loan facilities from banks entering into double and/or false discounting agreements and operating a so-called "slush fund" on the trust account of an attorney firm. The end result was that the banks suffered prejudice to the amount of approximately R1 billion. Four (4) arrests were made and the case is currently on trial.

#### DC King

This classic case of alleged corporate raiding and racketeering count amongst the five most complex financial investigations the DSO has dealt with. As sole director of a listed company, Mr King, allegedly, sold the largest portion of his shares (profiting by over a billion Rand), channelled these overseas without Reserve Bank

approval and converted them to asset, disguising his interests in the assets. It is further alleged that Mr King neither declared these profits, nor paid the required tax thereon. This case clearly illustrates the ability of extremely wealthy accused to bring numerous, lengthy and costly court applications, often vexatious and frivolous, in an attempt to delay and ultimately frustrate the prosecution. Given the huge loss to public revenues that is alleged, this tactic has, however, merely served to strengthen the resolve of the DSO, in conjunction with the SARS and Reserve Bank, to pursue the matter to its fullest extent, even to the point of having his assets in the UK and Guernsey frozen with the assistance of the British Authorities. The case is currently in court.

#### Racketeering and Money Laundering

Racketeering as dealt with in the Preventing of Organised Crime Act, No.121 of 1998 (POCA) was one of the special focus areas of DSO activities.

Firstly, a dedicated DSO racketeering policy document was developed in order to promote the utilisation of POCA legislation and the development of jurisprudence.

Secondly, the aim was to get as many appropriate cases as possible in court. The first judgment resulting from a trial (as opposed to a plea of guilty), where legal issues were raised and argued, was given in a matter arising out of a DSO investigation, Project Alexcor. This investigation deals with the illegal trafficking of diamonds in the Port Nolloth area (in the judgment of The State vs. Dos Santos and Others CC32/2005).

In convicting Dos Santos and a co-accused, le Grange, AJ held: *"In terms of the preamble to POCA, one of its aims is to prevent organised crime as it infringes on the rights of the people of South Africa, as enshrined in the Bill of Rights. It also states the difficulty in proving organised and related conduct in connection with enterprises, which are involved in a pattern of racketeering activity."*

"On the totality of the evidence before the court the State has proved beyond reasonable doubt that accused no.1 had planned ongoing and repeated participation in dealing in unpolished diamonds, which constituted a pattern of racketeering as dealt with in POCA."

In addition to current ongoing investigations and prosecutions, there were fifteen Racketeering prosecutions by the DSO, resulting in 23 convictions in the 2005/06 year.

## Transnational Legal Assistance and Liaison

The DSO deals with both foreign requests for mutual legal assistance and the utilisation of mutual legal assistance in its own investigations.

Requests related to transnational syndicate activities, offshore investments, transfer pricing and corrupt nominal shareholding, the location of and registration of websites used in fraud scams and identity theft and extraditions.

Given the often international and transnational nature of DSO investigations, the utilisation of mutual legal assistance plays a crucial role, especially with regard to major cases. Most major cases have international links to offshore corporate entities and banking facilities, which are used to launder the proceeds of crime. In Project Yield (where a syndicate exported stolen platinum group metals disguised as base metals and laundered them through their normal business with foreign refineries) there have been six. Project Specialised Outsourcing (DC King) had five and in the NDLC investigation there were three, (UK, Switzerland and Bermuda). Bumiputera investigators have travelled to France, the United Kingdom and Mauritius in pursuit of their investigations uncovering vital evidence for the prosecution of the Shaik and Zuma matters.

## Phishing

The huge development of the Internet as a vehicle for international commerce has attracted the attention of sophisticated criminals. A recent crime phenomenon dubbed "Phishing" has threatened to undermine online banking and the use of the Internet for this purpose. It is one form whereby identity theft is used to commit a variety of crimes. The perpetrator sends an e-mail to a user, falsely claiming to be an established legitimate enterprise, in an attempt to scam the user into surrendering private information that will be used for identity theft. The e-mail directs the user to visit a website, where they are asked to update personal information, such as passwords and credit card and bank account numbers that the legitimate organization already has. The website, however, is bogus and set up only to steal the user's information. There has been a global proliferation of this type of crime.

"Phishing" also referred to as brand spoofing or carding, is a variation on "fishing," the idea being that bait is thrown out with the hopes that while most will ignore the bait, some will be tempted into biting.

The DSO has a project team dedicated to investigating and prosecuting cases involving identity theft. Projects Laundromat, Biafra and Service all deal with different manifestations of crimes perpetrated by means of identity theft. "Phishing" is one such manifestation. The DSO has made breakthroughs in countering this crime phenomenon. In Project Station Café an Eastern European syndicate successfully mimicked Standard Bank's, website and having obtained client particulars effected, withdrawals. The stolen funds were paid into the account of a "runner" and from there to a second runner and back to the syndicate. Swift intervention by bank officials and DSO investigators has led to arrests and the issue of search warrants. This type of case represents the cutting edge of cyber-fraud and presents a major challenge to the DSO.

## Financial Intelligence

The Financial Intelligence Centre (FIC) and Money Laundering Advisory Council were created (after much debate) in terms of the Financial Intelligence Centre Act, No. 38 of 2001 as part of an overall strategy to prevent and combat money laundering and to gather information in this regard. The international nature of money laundering is stressed.

Section 7(1)(a)(ii) of the NPA Act provides the DSO with a limited "crime information" gathering mandate to be exercised "in the prevention of crime or to conduct criminal investigations and to prepare evidence for the purpose of law enforcement and the prosecution of offenders".

Effective co-ordination with FIC is essential in order to carry out the fight against organised crime. The NPA has appointed a co-ordinator to the FIC and a number of lawyers and investigators in the DSO have been appointed as "authorized officers" (in terms of section 1(1)(b) of FICA). At this stage the NPA/DSO are participating in the financial investigator-training programme offered by the FIC and members of DSO regularly attend inter-departmental seminars hosted by the FIC. Certain investigations have arisen from or have been enriched by our association with the FIC.

## Joint Action Corruption Task Team

The President in consultation with the Eastern Cape Premier decided in January 2003 that a multi-sectoral interim management team must be deployed in the Eastern Cape to assist with service delivery challenges, including corruption.

As a result, a Joint Anti-Corruption Task Team (JACTT) was established in January 2003 to deal with the crime challenges, especially fraud and corruption. The task team was made up of the NPA, SAPS, National Intelligence Agency and the Special Investigating Unit.

Of the 803 JACTT cases to date, 125 were under investigation during this financial year. The cases related to crimes committed against eighteen different government departments, the office of the Premier and private entities. One hundred and forty (140) were in court and there were 188 convictions (and 20 acquittals). R18,44 million has been the subject of final restraint. R394,438 was subject to confiscation orders and R194,000 the subject of preservation orders. The DSO's East London Regional Office has actively contributed towards the results of JACTT, with the head of that office chairing up the steering committee.

#### Service Delivery Achievements

The unit set itself the following delivery targets for 2005/06:

The achievements of the unit against these targets are outlined in Figure 29.

Operational Oversight	
Output/Indicator	Target
New priority investigations generated	128
Investigations finalised in Focus Areas	250
Prosecutions finalised in Focus Areas	250
Conviction Rate	75%
Match between threat analysis and targets in focus areas	33%
High Impact investigations/prosecutions in strategic focus areas	30
Money-laundering and racketeering cases	50
Pro-activity scope and information-gathering products	51
Value of assets under restraint	R200m
Deposits into CARA	R43m
Operative Action	726
Confiscation of contraband yield	R665m

Figure 29: DSO Targets

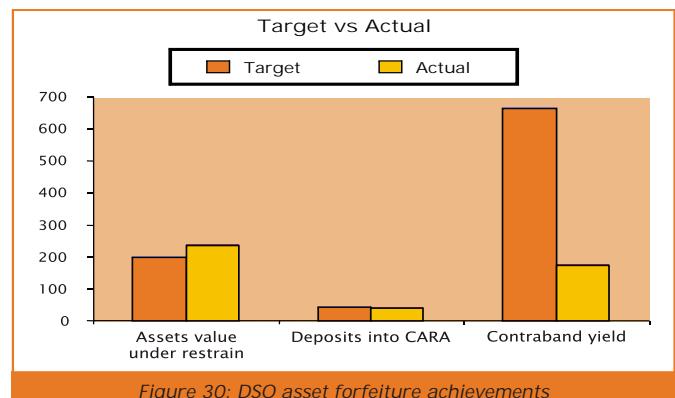


Figure 30: DSO asset forfeiture achievements

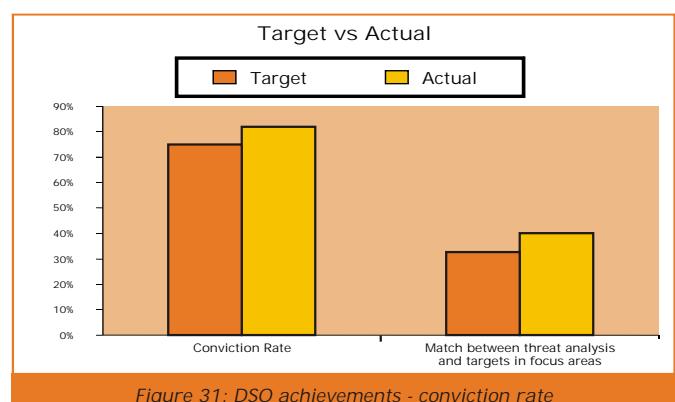


Figure 31: DSO achievements - conviction rate

#### 4.4 Sexual Offences and Community Affairs Unit (SOCA)

*"Putting the rights of women and children first."*

##### Purpose

The Sexual Offences and Community Affairs (SOCA) unit was established through a Presidential proclamation in 1999 under Section 13(1) (c) of the National Prosecuting Authority Act, 1998 (Act No.32 of 1998), primarily to deal with the victimisation of women and children by focusing on:

- The formulation of policy regarding capacity building sensitisation and scientific functional training in respect of prosecution and sexual offences.
- The co-ordination of the establishment of Special Courts for the adjudication of sexual offences.
- The facilitation and/or formulation of research techniques for the prosecution of sexual offences.
- The development and implementation of community awareness programmes and of plans for the

participation of non-governmental organisations in processes and procedures aimed at the prevention or containment of sexual offences.

- The development of training and plans and mechanisms regarding the prosecution of sexual offences.
- To perform all these functions with respect to managing domestic violence, maintenance as well as the appropriate management of child offenders.

The prosecution service is traditionally associated with simply reacting to crimes by prosecuting arrested (alleged) offenders. The SOCA unit, however, sees its approach to gender based violence, young offender management and child support (maintenance) as being more holistic. Sustainable reduction and prevention of crime can only be achieved by effective reaction, support and prevention. As such, the unit is vigilant to ensure that all work that is performed maintains a balance between reacting to crimes, preventing crimes, and supporting those affected by crimes.

Furthermore, it aims to maintain a balance between investment in the future and working on current problems. At the core of this function is making the decision to prosecute cases and actually prosecuting cases involving sexual offences and young offenders and diverting them where appropriate, as well as maintenance and domestic violence cases that require prosecution. Additional functions include policy development, which includes amending and implementing Acts in order to make them more appropriate, as well as assisting complainants in domestic violence and maintenance cases.

The broad outcome that the SOCA unit seeks to achieve as a specialised unit is to improve the conviction rate in gender crimes and crimes against children, actively ensuring the protection of vulnerable groups from abuse and violence, ensure access to support where necessary, and ensure systematic reduction of secondary victimisation.

#### **Strategic Objectives**

- The improvement of conviction rates in cases of violence against women and children.
- The systematic reduction of secondary victimisation within the criminal justice system as experienced by victims of crimes of violence and indecency against women and children.
- Increase in the diversion of child offenders from the



Adv Thoko Majokweni  
Special Director of Public Prosecutions  
Head: SOCA

criminal justice process to high quality diversion programmes that ensure their exposure to rehabilitative as opposed to solely punitive programmes.

- To ensure the access of every child (or others legally entitled to maintenance) to reasonable support by parents, guardians or others liable to provide maintenance as well as the reduction and minimisation of feminisation of poverty.

#### **Highlights of Achievements**

- The establishment of 14 Sexual Offences Courts in 2005/06 in collaboration with the NPS and the Department of Justice and Constitutional Development. Sixty seven (67) in total now exist.
- Creation of five Thuthuzela Care Centres resulting in a total of ten established and managed, whilst planning has been initiated to establish an additional eight by 2007.
- The development of minimum standards for diversion regarding rehabilitation of young offenders and minimum standards for service providers.
- By the end of March 2006, 130,059 child offenders have been diverted away from the justice system.
- 4,290 rape survivors have been treated and comforted in the ten TCC's between February 2005 and March 2006.
- The Special Director of the Unit's ambassadorial award for innovation by the Minister of Public Service, Minister Geraldine Fraser-Moleketi in April 2005 made on a national television program, Morning Live.
- UN Secretary General, Kofi Annan's visit to the Mananberg Thuthuzela Care Centre in March 2006 and his commendation of the model's success in integrating the various relevant services, its victim-centred approach, and in all that, to maintain the success it has in relation to the conviction rate and cycle times.

#### **Service Delivery Achievements**

The unit aims to establish an active learning environment that allows people to play to their strengths while not

NPA Service Delivery performance indicators - 2002/03 to 2005/06							
	2002/03	2003/04	2004/05	2005/06	Change over prev yr	Change over period	Notes
Sexual Offences - NPS and Sexual Offences and Community Affairs							
Number of dedicated courts	22	41	53	67	26.4%	204.5%	Dedicated prosecutors plus better victim service. About 20-26% of cases in Regional Courts are sexual offences. 50% of victims younger than 16. About 25 more courts required.
Conviction rate	64%	61%	63%	70%	7.0%	6.0%	About 63% in other regional courts. (Last yr 42%)
Number of Thuthuzela Care Centres	3	5	5	10	100.0%	233.3%	Integration of services from all depts - Conviction rates improved.
Conviction rate	74%	82%	80%	80%	0.0%	6.0%	95% at well established TTC in Wynberg.

being ashamed or afraid to identify and rectify their weakness.

- Sexual Offences Bulletin: The Unit developed and published two bulletins (6th and 7th volumes) on sexual offences to empower prosecutors in their goal of increasing successful prosecutions in these cases. They contain valuable and practical information including the latest legal developments apposite on sexual offences. The Bulletin has now been expanded as from the 7th to include domestic violence, human trafficking, child justice and maintenance related issues.
- Sexual harassment policy: The unit took the initiative in collaboration with relevant role players to develop a policy, to assist the NPA in creating a conducive, healthy and safe working environment, which is free of any sexual behavioural offences for all its employees. This policy was approved by EXCO and launched during the 16 days of activism in December 2005.
- Human trafficking: A human trafficking inter-sectoral task team has been established with representatives from relevant departments, international organisations and an NGO, to address our response in combating human trafficking. The strategy developed by the task team focuses on the development of policy and legislation, research, capacity-building, public education as well as victim support and integration. Impressed with the draft policy, the European Union has allocated 6, 7 million Euros to the programme.

- The National Anti-Rape Strategy: As a lead department in the Inter-Departmental Management Team (IDMT), the unit commissioned research that broadly highlighted the following factors as contributing to the incidence of rape:
  - The culture of violence within communities
  - Patriarchal attitudes, values and norms that inform relationships with women
  - Substance abuse
  - Dysfunctional families
  - Sexual gratification
  - Inadequacies of the legal system
  - Socio-economic factors
  - The impact of the political transition on communities
- Also within the anti rape strategy, is the roll out of good practice models such as the Thuthuzela Care Centres (TCC's) and Sexual Offences Courts (SOC's), with 18 TCC's and 100 SOC's planned for 2006.
- Public Awareness Campaigns: In December 2005 the unit planned to go beyond the 16 days campaign and make it 365 days of education and information sharing and thus use the 16 days to account to the South African public on progress made in combating gender based violence. From 3 to 5 March 2006, the unit together with various stakeholders hosted a conference to dialogue around a strategy for this vision.

- So far in all provinces (totals are all inclusive up to March 2006):
  - Adopt a school project for prosecutors
  - Speak-out campaign, 356,478 learners in 450 schools
  - Adult workshops, 5,163 attendees

### Training

Training of all role-players dealing with offences against women and children is an essential part of service delivery for SOCA. A total of 938 people, covering domestic violence, sexual offences, child justice and maintenance were trained during 2005/06 financial year:

- Multi-disciplinary workshop: Domestic Violence Integrated training (phase 1&2, NQF aligned assessment process)=172
- Child sex offender =135
- Integrated domestic violence training = 64  
Train the trainer = 4
- Multi-disciplinary training for stakeholders at TCC's on Sexual Offences = 196
- Management of sexual offences at TCC's (Case managers, Site Co-ordinators, Victim Assistance Officers) = 20
- Prosecuting sexual offences (advanced training) = 17
- Multi-disciplinary training on sexual offences, Swaziland = 78
- Law of Evidence, Section 170A CPA training for social workers = 15
- Court preparation = 50
- Training on Gender based violence and Human Trafficking for SAPS = 83
- Application of Maintenance Act and related law procedures (SOCA and Justice College) = 124

The unit has also recorded the following successes for 2005/06:

- The Thuthuzela model reflects a victim centred, prosecutor-guided and court directed approach, which has resulted in having success rate of sexual offence prosecutions of 95% at the Wynberg Dedicated Court J in Cape Town. Due to the successes of this model it has been incorporated in the prosecutor-guided and case flow management models of the NPA transformation process.
- Victim support services, including victim assistant officers, uniform protocol on victim management developed and drafted.

- Increase in the number of diverted child offenders (July 1999 October 2004 = 81 478). From NPS statistics it was 18,523 diversions between April 04 to March 05. Until March 2006 the number is 130,059.
- Project Ndabezitha (for Traditional Leaders), to ensure co-operation and co-ordination in combating the spread of domestic violence in rural and urban areas. Sixty (60) traditional leaders were included in skills development programmes based on the Domestic Violence manual during the period under review, with the last 20 scheduled for the Eastern Cape in July 2006.
- Inputs to law reform (Sexual Offences Bill, Child Justice Bill, Children's Bill, Films and Publication Act, discussion document on Stalking, Interim Legislation on Human Trafficking).
- National and Provincial oversight committees dealing with gender based violence matters on a national and provincial strategic level.
- In order to streamline service delivery between relevant stakeholders, the Unit has embarked on a process of developing memoranda of understanding.

### Conviction rates in cases involving sexual offences

The table below simultaneously records some of the achievements in improving the conviction rate in cases involving sexual offences. It points to the particular successes of dedicated Sexual Offences Courts but also painfully highlights the long road ahead to ensure justice for all in sexual offences cases.

Sub-programmes	Outputs	Output performance measures/ service delivery	Actual performance against target	
			Target	Actual
Public Prosecutions	Prosecution of criminal cases	Conviction rate	High Courts: 85% Regional Courts: 75% District Courts: 85% Overall: 80% in 2005/06	Actual
	Prosecution of cases involving women and children	Conviction rate in sexual offences cases	70 % in 2005/06	Blue print courts have an average of 72% conviction rate while dedicated courts have 68% in the normal (other) courts <sup>1</sup>

<sup>1</sup>Audit conducted by SOCA in September 2005

Figure 32: Comparison of Conviction Rates in Sexual Offences Cases and Other Cases



Adv Chris Jordaan  
Special Director of Public Prosecutions  
Head: SCCU



#### 4.5 Specialised Commercial Crime Unit (SCCU)

##### Purpose

The purpose of the SCCU is to effectively investigate and prosecute complex commercial crime emanating from the South African Police Services Commercial Branches in the provinces where it is operational, thereby contributing to the growth of the South African economy.

##### Strategic Objectives

Activities in the unit in 2005/6 were directed by the following set of strategic objectives:

- Ensuring speedy and effective prosecutions, which is linked to ensuring that investigators and prosecutors are properly co-ordinated and managed
- Providing increased access to SCCU services
- Ensuring that customers are treated in accordance with the Bill of Rights and Batho Pele principles
- Ensuring that sound business processes are followed
- Transformation of the NPA and development of skilled staff

NPA Service Delivery performance indicators - 2002/03 to 2005/06							
	2002/03	2003/04	2004/05	2005/06	Change over prev yr	Change over period	Notes
Specialised Commercial Crime							
Number of courts	2	2	4	4	0.0%	100.0%	Pretoria, Johannesburg, Durban, PE
Convictions	283	491	653	857	31.2%	202.8%	Huge increase as new courts become productive
Conviction Rate	95.9%	95.0%	94.8%	94.6%	-0.1%	-1.3%	
Cases enrolled for trial	524	625	935	1,431	53.0%	173.1%	
Cases finalised	1,315	1,357	1,772	2,271	28.2%	72.7%	

## Highlights of achievements

- The SCCU process is reliant on prosecutor-guided investigations. This is enhanced by a system of case planning which is reviewed annually. Copies of all processes and discussions on the content were put at the disposal of the Serurubele change centre.
- The SCCU finalised their Client Charter, including an information pamphlet and feedback forms, the latter of which is meant to be completed by the customer so as to assess the standard of customer service.
- Several high profile cases are being investigated or are pending on the court rolls, including prosecutions of members of the DSO, high ranking police officials and other civil servants as well as prominent businessmen.
- In many cases, the accused were sentenced to periods of imprisonment ranging from 12 to 23 years' effective imprisonment. In 176 cases sentences of direct imprisonment were imposed.

Four of the above cases should be mentioned:

- R21.5m investment scheme, State v Procopos, in which an agreement in terms of section 105A of Act 51 of 1977 was reached and the accused sentenced to 12 years' imprisonment.
- A case expected to set legal precedent is State v Kalmeyer, an international kidney trafficking scam, enrolled at the SCCU Durban. "Donors" from Brazil were allegedly recruited by a syndicate to supply kidneys for rich Israeli patients.
- State v Porrit has been described as one of the most sophisticated alleged investment scams yet. The 1,400 page indictment proffers 3,160 counts ranging from fraud to racketeering and other statutory offences. The case has been enrolled for trial on 10-11 August 2006.
- State v Ghavalas in which the accused is charged with pension fund fraud involving R400m. The matter is still under investigation.
  - The roll out of the SCCU to Cape Town is at an advanced stage, with appointments of some staff having been finalised.
  - For all intents and purposes the roll out to Bloemfontein has been finalised save for the fact that the Bloemfontein office does not have a dedicated court for the hearing of commercial crime cases at its disposal. This to a large extent is attributable to the fact that accommodation for the court could not be procured by the Department of Justice and Constitutional Development. This matter is still in abeyance.
- The Road Accident Fund (RAF) project

- This project is running very successfully, with a large number of cases being finalised by a relatively small staff complement.
- The South African Federation Against Copyright Theft (SAFACT) project
  - This project has not reached its full fruition as yet, but interviews have been held and appointees recommended. In the interim, these matters are being dealt with by SCCU prosecutors with a reasonable amount of success.

## Service Delivery Achievements

Objective: Ensuring speedy and effective prosecutions

Measure	Target	Progress
Reduction in cycle times of cases enrolled	18 months baseline as per plan (Target less than 20% deviation of previous year baseline)	Actual 246.12 days per case
Reduction in cycle times of cases received	Target 75-100% of previous year Baseline 177 days per case Previous 39%	Actual 244.72 days per case (28% decrease)
Reduction in cases on roll longer than 6 months	Previous 39%	Actual 51% on roll longer than 6 months (see infra)
Maintain high conviction rate	75 - 100% of previous year (94.78%)	Actual 94.63%
Increase in no of cases finalised	2% deviation (1,772 cases finalised)	28.16% decrease (2,271 cases finalised)
Increase in case finalised by way of alternative measures: e.g. AOG and 105A	No baseline Admission of guilt Baseline 90 Section 105A	38 cases (Admission of guilt) paid 171 (105A)
Improvement in court hours	4 hours 19 min (baseline)	4 hours 53 min
Reduction in recidivism	Target less than 15	Actual 2
Case load per prosecutor	50	63.4 cases per prosecutor (1.54% decrease)

Figure 33: SCCU Achievements in Ensuring Speedy and Effective Prosecutions

**Objective:**  
Providing increased access to SCCU services

Measure	Target	Progress
Roll out to Cape Town and Bloemfontein	60%	Cape Town: 70% Bloemfontein: 80%
SCCU Client Charter	70%	100% complete
RAF project	70%	100% of centres
Investigate and implement SAFACT Projects	60%	80% complete
Increase SCCU presence in courts where no SCCU	7% increase from previous year (no baseline to compare)	Roll out, access on ad hoc basis. Detached office in East London
Formal channels of communication maintained	70% of all scheduled meetings taking place	90% compliance

Figure 34: SCCCU Achievements in Providing Increased Access to Services

**Objective:**  
Ensure that sound Internal Business Processes are

Measure	Target	Progress
Transform SCCU into high performance and strategy driven Unit	Projects given to all Deputies	Ongoing, phased into new strategic plan for 2006/2007
Develop, maintain and implement all policies and procedures	Obtain all policies and make available to all staff.	100% compliance (access to approved policies)
Maintain and update SCCU prosecution guidelines and methodology	70%	80% compliance
% staff familiar with these	80%	100% compliance
% of planning session held in accordance with process	70%	85% compliance
Performance contracts	80% staff with job descriptions, performance contracts, security clearance, oath, delegation to prosecute	100% compliance
	% posts with completed JE's and correctly graded 30%	100%
	70% satisfactory appraisal results	100% compliance
	100% contracts aligned to scorecard	100% compliance

Figure 36: SCCU Achievements in Ensuring that Sound Business Processes are Followed

**Objective:** Ensuring customers are treated in accordance with the Bill of Rights and Batho Pele principles

Measure	Target	Progress
Customer charter	100% finalised	Finalised, will be implemented in following year
Number of legitimate complaints against prosecutors	80% reduction in complaints	None
% staff trained in Batho Pele principles	80%	85%
Communication plan (internal)	Drafting of internal communication plan	Drafted, awaiting approval
Increase access		Roll out to Cape Town and Bloemfontein, plus access in East London

Figure 35: SCCU Achievements in Ensuring Customers are Treated in Accordance with Bill of Rights and Batho Pele Principles

#### 4.6 Priority Crimes Litigation Unit (PCLU)

##### Purpose

The Priority Crimes Litigation Unit was created by Presidential proclamation and is allocated categories of cases either by the President or by the National Director. Its primary function is to manage and direct investigations and prosecutions of the following crimes:

- Non-proliferation of weapons of mass destruction (nuclear, chemical and biological);
- Regulation of conventional military arms;
- Regulation of mercenary and related activities;
- International Court created by the Statute of Rome;
- National and international terrorism;
- Prosecutions of persons who were refused or failed to apply for amnesty in terms of the Truth and Reconciliation Commission processes.

##### Strategic Objectives

- To effectively manage all investigations and prosecutions reported to the unit;
- To contribute to a reduction in crime in cases falling within the unit's mandate by identifying and rectifying flaws in legislation and operating procedures;
- To establish and maintain working arrangements with all stakeholders;
- To establish a properly equipped, professional and administrative component in order to enable the unit to discharge its mandate;
- To give effect to the President's directive regarding TRC missing persons.

##### Highlights of key investigations and prosecutions

###### • Proliferation of nuclear technology

- S v Wisser & Geiges: This case relates to an attempt to supply Libya with a nuclear weapons capability and is linked to the international nuclear proliferation syndicate, commonly referred to as the AQ Khan network. The final indictment has been served on the accused and the matter is due to proceed in March 2007 in a specially convened sitting of the Pretoria High Court. The case has attracted considerable international interest and co-operation has taken place between the NPA and several foreign government agencies who are investigating the network's activities in their own countries.



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Special Director of Public Prosecutions  
Head: PCLU

- *Other matters relating to nuclear proliferation:* Four sensitive further matters are under investigation in conjunction with relevant stakeholders.
- *Chemical and biological proliferation:* Two cases are under investigation relating to the export of goods controlled under the Non-Proliferation Council.
- Foreign Military Assistance  
Attempt to overthrow the Government of Equatorial Guinea
  - In early 2004, a group of South African citizens were arrested in Zimbabwe and Equatorial Guinea en route to overthrow the government of Equatorial Guinea. The case was originally investigated by both SAPS and the DSO under supervision of the unit. However, the DSO ultimately assumed sole responsibility for the investigation. As a follow-up to the prosecutions conducted the previous year and as a result of the release of persons detained in Zimbabwe, the following further prosecutions were instituted:

###### S v Archer and Payne

- The two accused were the air crew of the plane which was seized in Zimbabwe. On 27 October 2005, the two accused pleaded guilty in the Pretoria Regional Court on charges of contravening the Regulation of Foreign Military Assistance Act No 15 of 1998 and each were sentenced to a fine of R20 000 or one year imprisonment plus a further one year suspended for three years on appropriate conditions.

###### S v Dracula & 7 others

- These persons were passengers on board the air craft seized in Zimbabwe. They have also been charged for contravening the Regulation of Foreign Military Assistance Act No 15 of 1998. At the request of the defence, the case has been postponed to 2007 for trial in the Pretoria Regional Court.

- A sensitive matter relating to Iraq was fully investigated by SAPS and the PCLU. After consultations with various agencies, a decision was taken not to prosecute.
- The PCLU continued to conduct legal research into the applicability of the Regulation of the Foreign Military Assistance Act No 15 of 1998 to the case of security companies operating in Iraq and again came to the conclusion that an amendment to the Act was necessary before this situation could be properly dealt with. The PCLU in this regard liaised with other relevant stakeholders and the head of the unit attended the relevant parliamentary hearings relating to the issue.

- Conventional arms contraventions

S v Grobelaar

- The accused in this matter is a former employee of a local arms manufacturer. He was charged with contravening the Copyright Act and Conventional Arms Legislation relating to allegations that he made copies of his employer's weapons' designs and supplied same to Pakistan. After a lengthy trial in the Germiston Regional Court, he was acquitted on all charges. There were problems in proving that his conduct fell within the provisions of the Copyright Act and at the time of the commission of the offences, the original conventional arms legislation only made provision for controlling commodities designed to military specifications. The Court found that the items concerned did not meet these specifications.

S v P&O Nedlloyd

- In July 2005, this shipping company pleaded guilty to three charges of conveying armaments through the territorial waters of South Africa without the necessary conveyance permits. A substantial fine was imposed on the corporate body. This was the first prosecution in terms of the National Conventional Arms Control Act, No. 41 of 2002 which came into effect in May 2003. The case was dealt with in the Port Elizabeth Regional Court. The armaments were part of an arms deal between a Brazilian arms manufacturer and the armed forces of Saudi Arabia.
- A number of sensitive matters relating to end user certificates issued by arms manufacturers, the management of sensitive military

technology and procedures for the issue of permits were investigated by the PCLU in conjunction with SAPS and other relevant stakeholders. No prosecutions were instituted arising from such investigations; however, the controlling body was furnished with an opinion identifying certain problem areas relating to the issuing of end user certificates and other related issues.

- National and international terrorism / Security related cases
  - Although no prosecutions resulted, the PCLU, in conjunction with other relevant stakeholders, evaluated various cases which had connotations to international terrorism and also provided opinions.
  - The PCLU served on the Department of Foreign Affairs' Counter-Terrorism Group and provided a number of inputs relating to this group's mandate.
- Statute of Rome
  - No requests were received by the International Criminal Court either for assistance or to institute prosecutions. The PCLU however gave lectures concerning the workings of the International Criminal Court to various role players.
  - On a related issue, the PCLU provided a legal opinion upon the legality of South Africa taking over prosecutions from the United Nations War Tribunals.
- TRC Prosecutions
  - In late 2004, the Acting National Director requested that prosecutions for TRC cases be placed on hold pending the formulation and approval of prosecution guidelines relating to these matters. The guidelines were only finally approved in early 2006. The PCLU, as a result of complaints by various persons, identified at least 15 cases which warrant further investigations in order to determine whether prosecutions are justified. On an ongoing basis, the PCLU receives requests from victims to look into cases where amnesty has been refused or not applied for. Where these matters can be followed up without further investigations and where no prosecutions are warranted, they are disposed of. Seven such matters have been dealt with in this manner. In 2006, the Directors of Prosecution: Mthata and Pretoria seconded two Senior State Advocates to the PCLU to assist with these matters.

- The PCLU attended various conferences dealing with prosecutions arising from the TRC processes.

#### S v Wouter Basson

- In late 2005, the Constitutional Court delivered its judgment in the above matter. The State had appealed on the following three main grounds:
  - The failure of the Trial Judge to recuse himself and further alleged bias during the further continuation of the trial;
  - The exclusion of key evidence relied on by the State;
  - The finding that South African Courts lack jurisdiction to try conspiracy charges relating to crimes committed outside the borders of the Republic.
- The Constitutional Court, while accepting that certain of the decisions of the Trial Court were questionable, was not prepared to find that the Court was biased and to set aside the acquittal, nor was it prepared to find in favour of the State as far as the exclusion of evidence was concerned. It did however find that the Trial Court and the Supreme Court of Appeal had erred in finding that the South African Courts did not have jurisdiction on the conspiracy charges. The findings in this regard were set aside and the State was thereby afforded an opportunity to consider reinstating these charges. After careful consideration, the PCLU concluded that the conspiracy charges had in fact been dealt with on the merits by the Trial Court on other charges relating thereto. As such, the principle of double jeopardy applied and consequently, the charges could not be reinstated.

#### S v Nieuwoudt, Van Zyl & Koole

- The above three former security branch members have been indicted on charges of murder, kidnapping and assault relating to the "PEBCO 3" incident. Prior to the moratorium on prosecutions being imposed, the three accused had already appeared in the Port Elizabeth High Court. In August 2005, Nieuwoudt, the main accused died. The case against the remaining two accused has been postponed to August 2006, pending a review against the refusal of amnesty being heard.

*"...Several requests have been received from persons requesting that the disappearance of their relatives be investigated..."*

#### Missing Persons Project

- The Missing Persons' Task Team was established to investigate the cases of missing persons who disappeared in political circumstances during the period 1960 to 1994 with the aim of exhuming and returning the remains of the persons to their families. This arises from the President's response to the final report of the Truth and Reconciliation Commission (TRC).
- At the commencement of the year, only one researcher was employed. However, during the course of the year, the team was strengthened by two further full-time contract employees.
- The team received funding from the NPA, Department of Justice and Constitutional Development and the Foundation for Human Rights (European Union).
- Between March 2005 and July 2006, 32 exhumations were conducted. The identities of 13 of these have been confirmed, some through DNA tests and others through forensic anthropological identification techniques. DNA tests are still underway in respect of the other 19 cases. The remains of five of these persons were handed over to their families for reburial at a high level government ceremony at Freedom Park in July 2005. The remains of a further 8 persons are now ready for handover and reburial.
- The exhumations and associated analysis are performed as a partnership between local experts and the Argentine Forensic Anthropology Team. Training of local post-graduate students, particularly black students, is also taking place in order to develop a local network of appropriate skills.
- Due to the age and condition of the remains, specialised DNA testing has had to be employed. In this regard, partnerships have been established with international DNA laboratories, as well as that at the University of the Western Cape. In this regard, attention is being paid to developing local capacity.
- Partnerships are in place with a number of State departments and in particular, with the TRC Unit recently established in the Department of Justice and Constitutional Development and the South African Heritage Resources Agency (SAHRA).

- Partnerships are in place with NGO organisations, victim support groups and local community and government structures.
- Several requests have been received from persons requesting that the disappearance of their relatives be investigated. These are matters over and above the cases documented in the TRC report.
- In late 2005, the Namibian Government found mass graves relating to the conflicts that had taken place in Namibia during the Apartheid Era. The success which the team had achieved in local investigations led to the Namibian Government requesting the team to travel to Namibia to inspect the exhumation sites and to provide advice as to how the exhumations should be managed. The team has prepared a detailed proposal for the Namibian Government as to how these exhumations may be taken further. The Namibian government is currently developing policy proposals in this regard.
- The Missing Persons Task Team, in conjunction with the Department of Arts and Culture, Social Development, SAPS, Home Affairs and other relevant departments also forms part of a team established by the Minister of Justice and Constitutional Development in order to develop exhumations policy for the country as a whole. This will be submitted to Cabinet in the very near future.

#### 4.7 Witness Protection Unit

*"Words of the mind of thoughts cannot be proved by witnesses unless they are expressed by words." (J. Stair)*

##### Purpose

The purpose of the WPU is to provide protection and support services to vulnerable and intimidated witnesses and related persons in serious crimes in judicial proceedings so that they are able to provide essential evidence without fear of harm to them or their families in terms of the Witness Protection Act 112 of 1998.

##### Strategic Objectives

- Ensure good governance in WPU
  - Compliance with WP Act, WPU and NPA policies & procedures
  - Optimal co-operation with partners
  - Deliver on WPU business plan, JCPS targets and objectives
  - Optimal value for money for budget
  - Provide governors with assurance that WPU is well governed
  - Uncompromising levels of integrity in WPU

NPA Service Delivery performance indicators - 2002/03 to 2005/06							
	2002/03	2003/04	2004/05	2005/06	Change over prev yr	Change over period	Notes
<b>Witness Protection</b>							
Witnesses	375	422	247	220	-10.9%	-41.3%	Had to cut post trial care for budget reasons
Total including families	735	865	499	488	-2.2%	-33.6%	Had to cut post trial care for budget reasons
Conviction rate in cases involving WPU			85%	95%	10.0%	na	New indicator
Jail terms from evidence (yrs)	2,626	2,542	3,227	1,923	-40.4%	-26.8%	
Life terms from evidence (yrs)	72	128	159	383	140.9%	431.9%	
Witnesses harmed	0	0	0	0	0.0%	0.0%	
Walking off program (%)	30%	1%	6%	3%	-53.6%	-90.7%	
Formal grievances laid (%)	40%	10%	3%	1%	-66.7%	-97.5%	Reduced from 90% in 01/02
Cycle time (months)	54	42	30	30	0.0%	-44.4%	

***“...provide protection and support services to vulnerable and intimidated witnesses and related persons in serious crimes in judicial proceedings...”***

- Contribute to crime prevention and community justice
  - Slick assessment, on-boarding, management and aftercare processes
  - Contribute to better crime investigations
  - Manage WPU cases effectively and efficiently
- Develop and enhance WPU capability
  - Working towards NPA becoming an employer of choice
  - Participate in capacitating WPU
  - Resourcing priority areas in WPU

**Highlights of achievements**

- No witnesses or related persons who complied with the Protection Agreement and Rules of the Programme were threatened, harmed or assassinated in the past 5 years.
- The number of witnesses and related persons voluntarily walking off the programme reduced from 40% in 2001-2002 to 5% in 2005-2006.
- The number of Witnesses' grievances reduced from 90% in 2001 - 2002 to 1% in 2005 - 2006.
- The conviction rate of cases with WPU Witnesses, Estimates of National Expenditure (ENE) Targets exceeded 95%, against the target of 80% set for the year.
- Setting World Standards - The Unit's Operating Model, supported by technology ensured that all facets of the Unit are modernised.
- The Unit developed Internationally Acclaimed Specialised Training, supported by technology, to achieve the objectives and mandate of the Act. 88 WPU Officials were trained and achieved a B-Tech SAQA approved "Close Protection of Persons". A follow up training plan is still to be developed to build further capacity.
- The unit's redesign and transformation and its Best Practice has been nationally and internationally acclaimed and sought after. The strategy is to ensure modernisation of all facets of WPU to ensure excellence in Service Delivery which is customer focused.
- The Unit developed a four-year Special Project Plan to support the unit's operating model and modernization as part of its Redesign and Transformation Strategy.

The Plan is over a 4 year period: 2004 - 2008, with quick wins, medium- and long-term targets to achieve objectives and mandate of the Act.

- Cycle Time - witnesses staying on Programme remained constant at an average of 2.5 years, despite sustained Fast Track initiatives of WPU cases.
- Redesign and transformation of RSA WPU acclaimed nationally and internationally - the South African operating model is much sought after and the unit has assisted in the development of witness protection legislation and units in Africa.
- WPU provided training to the International Criminal Tribunal for Rwanda.
- WPU is a member of Europol's Heads of Experts in the Field of Witness Protection forum.

Outputs	Output performance measures/service delivery indicators	Actual performance against target	
		Target	Actual
Effective efficient support services to vulnerable and intimidated witnesses or related persons in Judicial Proceedings	Number of witnesses or families assassinated or harmed while on the programme	Zero	Zero
	Number of witnesses abandoning the programme	Zero	12 walk off's of 431
	Number of Grievances	Zero	1%
	Conviction rate of cases with Witness Protection Unit (WPU) witnesses	80% of cases with WPU witnesses	95%

Figure 36: SCCU Achievements in Ensuring that Sound Business Processes are Followed

# Resourcing

## 5.1 Introduction

The major resourcing function in the NPA resides in the Corporate Services Division (CS), headed by the Deputy Chief Executive Officer. This division consists of the following service centres:

- Human Resources Management and Development
- Finance and Procurement
- Information Management Services
- Security and Risk Management
- Research and Policy Information Services
- Communications

As reported in the previous financial year, an Executive Manager for Strategy and Risk Management was appointed in the CEO's Office. This unit has not yet been established and will become part of the new Governance Centre to be established in 2006.

The Corporate Services Division currently performs both a resourcing and governance service in the NPA. In keeping with the organisation's new Strategy 2020, it is intended however to draw a much stronger distinction between these two functions. This will be achieved through the establishment of a Governance Centre and implementation of the new governance model adopted by the organisation. This will allow Corporate Services to concentrate much more effectively on its resourcing responsibilities.

The following definition has been adopted for resourcing in the new Strategy 2020: The process by which the NPA ensures that it is fully resourced to deliver justice to its customers and value to its stakeholders. A resourcing model is also currently under development, which commences with understanding customer requirements. The model follows best practice in operation management based on principles of demand forecasting and scheduling to ensure service delivery.

As mentioned earlier in this report, Corporate Services was identified as one of the areas in the NPA requiring urgent attention. This led to a CS Turnaround Project, which commenced on 1 April 2005.

The project has made great strides in the past year. The project has mapped and redesigned two critical processes:

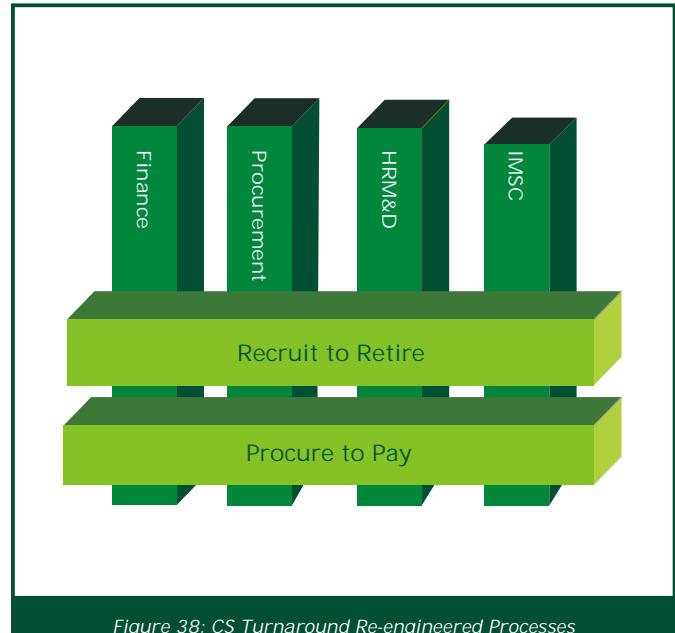


Figure 38: CS Turnaround Re-engineered Processes

- the process of recruitment and exiting of staff, "Recruit to Retire" process
- the process procurement and payment, "Procure to Pay" process

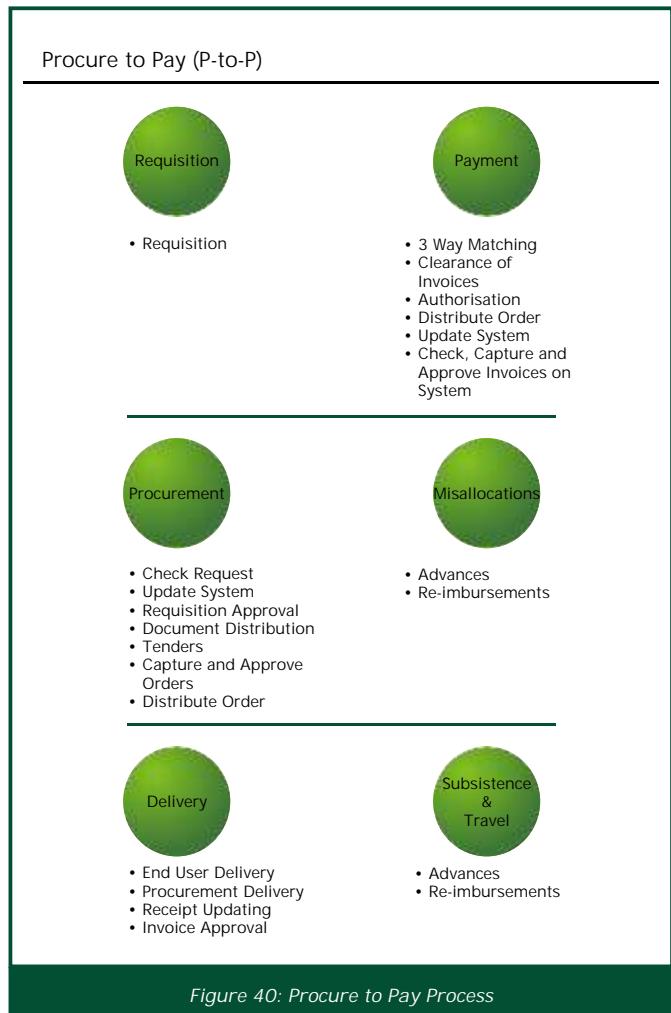
The following critical processes and sub-processes were identified:



Figure 39: Recruit to Retire Process



Beryl Simelane  
Deputy CEO & Head of Corporate Services



During the first six months of the project, the team completed most of the design work, mapping and re-engineering processes and collecting data. In the pre-implementation phase, the focus shifted to the roles of Corporate Managers in the regions and preparing customers for implementation. A detailed process manual was also finalised.

One of the intentions of the project was to shift as much of the processing work to regions as possible, to shorten delivery times and ensure customer satisfaction.

By the end of June 2006 the following processes had been decentralised to those regional offices with the necessary capacity:

#### Recruit to Retire Processes

- Probation (entire process)
- State guarantee (entire process)
- Housing allowance (entire processes)
- Leave (inclusive of the drafting of the memo for temporary and permanent disability/incapacity leave but not the approval delegation of disability/incapacity leave)
- Long service recognition (entire process inclusive of the drafting of the Filling of vacancies (Except advertising of post and conducting competency assessment and approval of appointment)
- New/extension of contracts (except approval delegation)

The project team has adopted a cautious approach to decentralisation, to ensure that regional offices have the capacity to implement the new processes. This has meant a careful assessment of the capacity of each office, consultation and training of all role players. A principled decision was taken not to go for a "big bang" approach. Thus, some regions have implemented all processes whilst others have implemented those that they have capacity to implement. A work study will be completed in 2006 to address the regions' capacity challenges.

#### Procure to Pay Processes

The only process decentralised here was the Subsistence & Travel (S&T) allowance system. All of the processes in this chain, with the exception of S&T, are to be automated. This will lead to further improvement in turnaround times. The approval for the new automated system, to be known as "P2P", was obtained from National Treasury in July 2006. Implementation of this new system, which is an adaptation of the existing "Justice Yellow Pages" system of the Department of Justice and Constitutional Development, will be a priority for 2006/7.



Emily Dhlamini  
Acting Executive Manager: HRM&D

## 5.2 Corporate Service Strategic Objectives for 2005/06

- Transform NPA into a strategy focused organisation
- Provide NPA with resources required for delivery
- Promote optimal resource use across the NPA
- Ensure PFMA compliance
- Ensure CS operational excellence
- Implement performance management in CS
- Implement CS Turnaround Project

### Highlights of achievements

- The first phase of the implementation of the outcome of Job Evaluation was successfully implemented with effect from 1 June 2005. Over 99% of positions in the NPA have been evaluated and preparation for the 2nd and 3rd phases commenced in January 2006.
- The NPA achieved an unqualified audit opinion from the Auditor-General for 2004/05 marking an unbroken record of unqualified opinions since the NPA was first required to produce a separate set of financial statements in 2001/02.
- An Employment Equity Plan was developed and submitted to the Department of Labour on 1 July 2005 and is being implemented.
- The NPA became the second department to move over from the State Information Technology Agency (SITA) to a Telkom Virtual Private Network (VPN). This has resulted in a saving of 46% over SITA costs and a 300% improvement in network response times.
- The NPA became the first government agency to adopt an operating lease for the procurement and use of Information Technology equipment. The arrangement has enabled the leveraging of existing funds to pay for all licences using the savings.

### Service Delivery Achievements

The major achievements of each of the units in Corporate Services are highlighted in the following tables:

Human Resource Management & Development	
Job Evaluation	First phase of implementation of Job Evaluation results successfully implemented with effect from 1 June 2005. Over 99% of positions evaluated.
Employment Equity	Developed and submitted NPA Employment Equity Plan to Department of Labour on 1 July 2005.
Audited Files	Audited 788 personnel files and addressed discrepancies relating to promotions and merits and notches.
Decentralisation	Obtained approval for decentralisation of employee relation function.
Employee Wellness	Conducted training in Employee Wellness for managers in eight regional offices and saw increased utilisation of EWP services by employees.
Turnaround Times	Achieved a 55% improvement in turnaround times in human resource administration.
Training	Only achieved a 35% level of implementation of training and development plan due to budgetary constraints.

Figure 41: HRM&D Service Delivery Achievements



Sandra Gomm  
Acting CFO

Finance and Procurement	
Financial Statements	Produced financial statements and obtained unqualified audit opinion for the fifth year since NPA required to produce separate statements from 2001.
New Lease	Finalised a new operating lease for vehicles and computer hardware.
CARA Audit	Produced separate financial statements for Criminal Asset Recovery Account (CARA) and received unqualified audit report for five years since establishment of CARA in 1999.
Fleet Management	Redesigned and implemented new fleet management system.
96.6% Spend	Achieved a 96.6% spend on a budget of R 1,447,691,000 for 2005/06.

Figure 42: Finance and Procurement Service Delivery Achievements

Security & Risk Management	
Information Security	159 information security awareness sessions conducted - 2500 NPA employees attended
Loss Control Investigations	Completed 145 loss control investigations resulting in R 212,142.28 to be recovered from NPA staff and R 79,643.81 to be written off.
Employee Protection	23 threat investigations conducted, nine (9) of which were classified as high and afforded protection costing R1.5 million.
Vetting	Countermeasures implemented within 48 hours (against target of 24 hours) and threat assessments completed within target of 7 days.
	Reduction of vetting backlog by 32.5% (against target of 40%).
	Signing of service level agreement with SAPS Criminal Record Centre for access to fingerprints database to speed up criminal record checks.
	Installation of NIA SVIS at NPA, reducing turnaround time for vetting investigation by 50%.

Figure 43: S&RM Service Delivery Achievements



**Marnus Steyn**  
Acting Executive Manager: IMSC

Information Management Services	
Document Centre	Handled, scanned, indexed and filed in excess of 194,265 documents, invoices and files.
	Thirty eight (38) linear metres of files were sorted and filed.
	Training provided to 244 document practitioners or staff working with documents in NPA.
Call Centre	All units in CS provided with access to Call Management System.
	First call resolution of HR matters improved from 70% to 80% and finance matters from 50% to 60%.
	Handled 23 588 calls or an average of 92 per business day and resolved 24,016 including additional calls from previous financial year.
Telecommunications	PABX and instrument refresh successfully completed.
	Services expanded to four new offices.
Infrastructure Management	Server refresh in regions successfully completed.
Systems Management	Telkom VPN successfully completed.
	Implementation of operating lease for hardware.
	Storage Area Network and Enterprise Modular Library installed ensuring capability for disaster recovery.
	Enabled Outlook Web Access.
	Expanded capability of E-leave system.
	DSO Unomadudwana system improved.

Figure 44: IMSC Service Delivery Achievements



**Bulelwa Makeke**  
Executive Manager: Communications

Communications	
Integrity Awareness	Developed a successful publicity and awareness campaign for the launch of Integrity Hotline.
Public Education Material	Developed public education material for SOCA's educational campaign on Child Justice, Maintenance, Domestic Violence and The Child Victim in the Sexual Offenses Court; launched the Specialised Commercial Crime Unit's Client Charter and the put up a stand at the Royal Show exhibition as part of the public awareness programme.
TRC Exhumations	Event management and media publicity for the official TRC exhumations and handover ceremony.
Transformation Support	Provided communication support for the transformation and Strategy 2020 processes.
Social Responsibility	Developed a corporate social responsibility proposal for the NPA.
Annual Report	Produced and distributed annual report.
Media Monitoring	Developed a media monitoring system as a management tool to track national media coverage and to manage issues.
Internal Publications	Developed and distributed internal publications and reviewed the intranet to enhance its effectiveness as the key internal communication channel.

Figure 45: Communications Unit Service Delivery Achievements



Mariaan van Kaam  
Acting Executive Manager: Research and  
Policy Information

Research and Policy Information Services	
Research	Finalised NPA's first national Crime and Criminal Justice Survey. This included an in-depth analysis of factors affecting public confidence in the Criminal Justice System, the impact of crime and fear of crime on peoples' feelings of security and their daily activities, partner perceptions of nature and extent of co-operation with them and the first assessment of civic morality in South Africa.
	Developed a conceptual model for measuring the effectiveness with which the CJS resolves acts of criminal victimisation.
	Concluded desktop research studies in alternative dispute resolution, restorative justice, crime investigations, crime prevention in South Africa and traditional outcomes of justice.
Library & information services	Established new networks and services including additional alerting service (Legalbrief), monthly Juta Law report content update and regular updates on information published and daily and weekly alerts were distributed.
	Set up small training centre to conduct training on LexisNexus and Juta.
	Enhanced regional libraries with new acquisitions and appointment of service provider to update all loose leaf material. Audit completed of all loose leaf publications and finalised record of all loose leaf binders in different libraries.
	Procured a state of the art library management system for implementation in 2006. This system will establish one central catalogue for the NPA with access from any location connected to the NPA network.
	Assisted SCCU with information support during the roll-out of four new offices in Johannesburg, Cape Town and Durban.

Figure 46: R&PI Service Delivery Achievements

### 5.3 Constraints and Challenges

Most units reported lack of resources as their major constraint in the past financial year and the challenge facing them in the new financial year. The NPA experienced enormous challenges in the 2005/06 financial year and had to force savings to fund the implementation of the first phase of the implementation of the outcome Job Evaluation in June 2005. This had an impact on all business units in the organisation.

The NPA has obtained additional funding for the new financial year but most units still report the need for additional funding.

Another major constraint units identified is the difficulty in attracting and retaining sufficiently skilled and experienced staff due to competition with the private sector. The skills deficit in the country thus remains a major organisational challenge for the NPA.

The Corporate Service Unit reported on the difficulty it faces due to its inability to keep apace with the growing size of core business units. Most of these have received additional funding for the appointment of more staff during the past two to three years. However, it is only recent that an agreement has been reached that a percentage of these funds be allocated to CS to ensure that support services can also grow to with overall NPA growth.

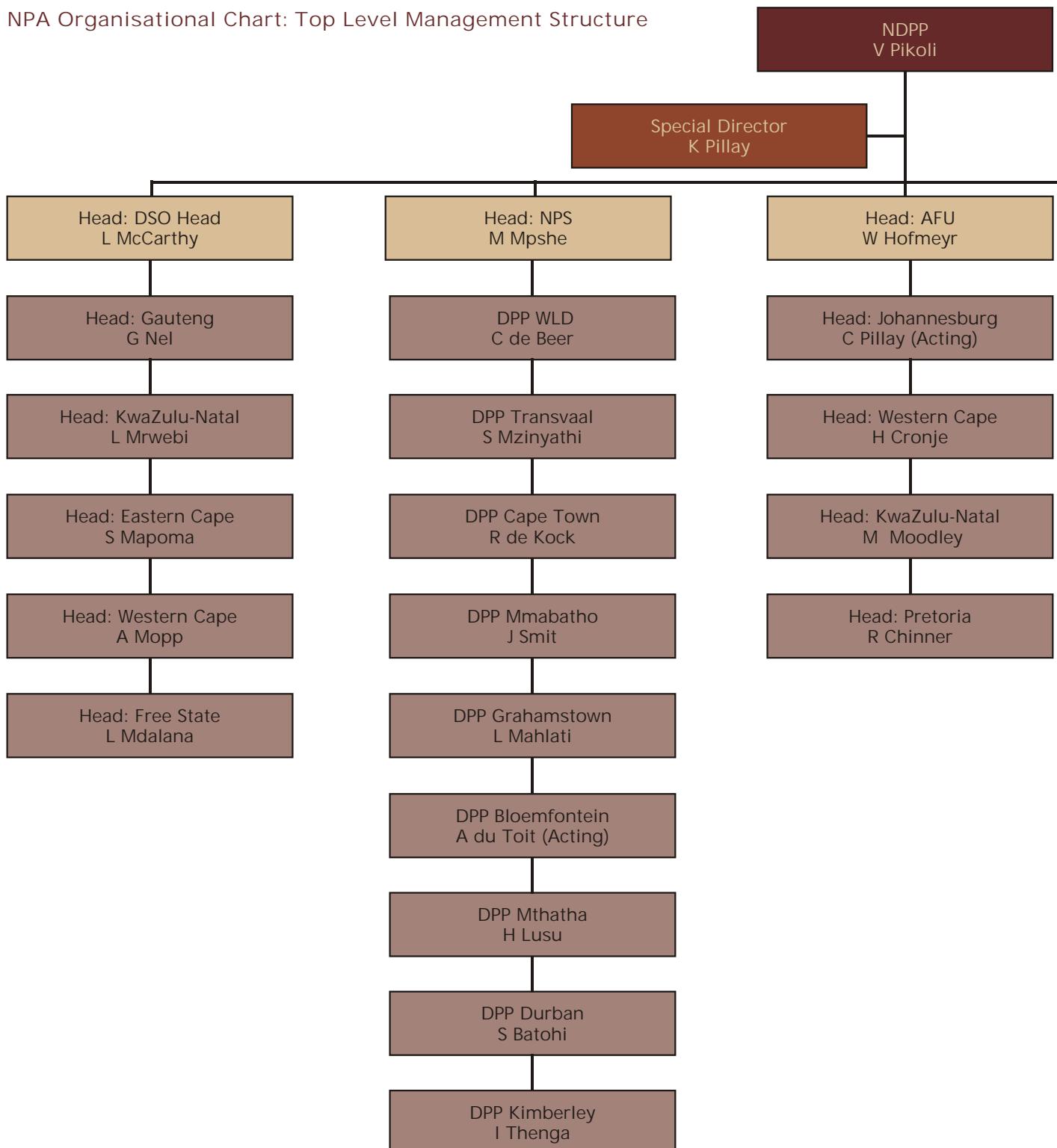
The lack of resources and the insufficient number of skilled staff in partner departments, such as SAPS, also impacts directly on the work of the NPA. The SOCA Unit raised the lack of a cross-cutting financing policy amongst government departments as one of the challenges they faced in the past year. The delay faced in the development of the Anti-Rape Strategy was cited as one example.

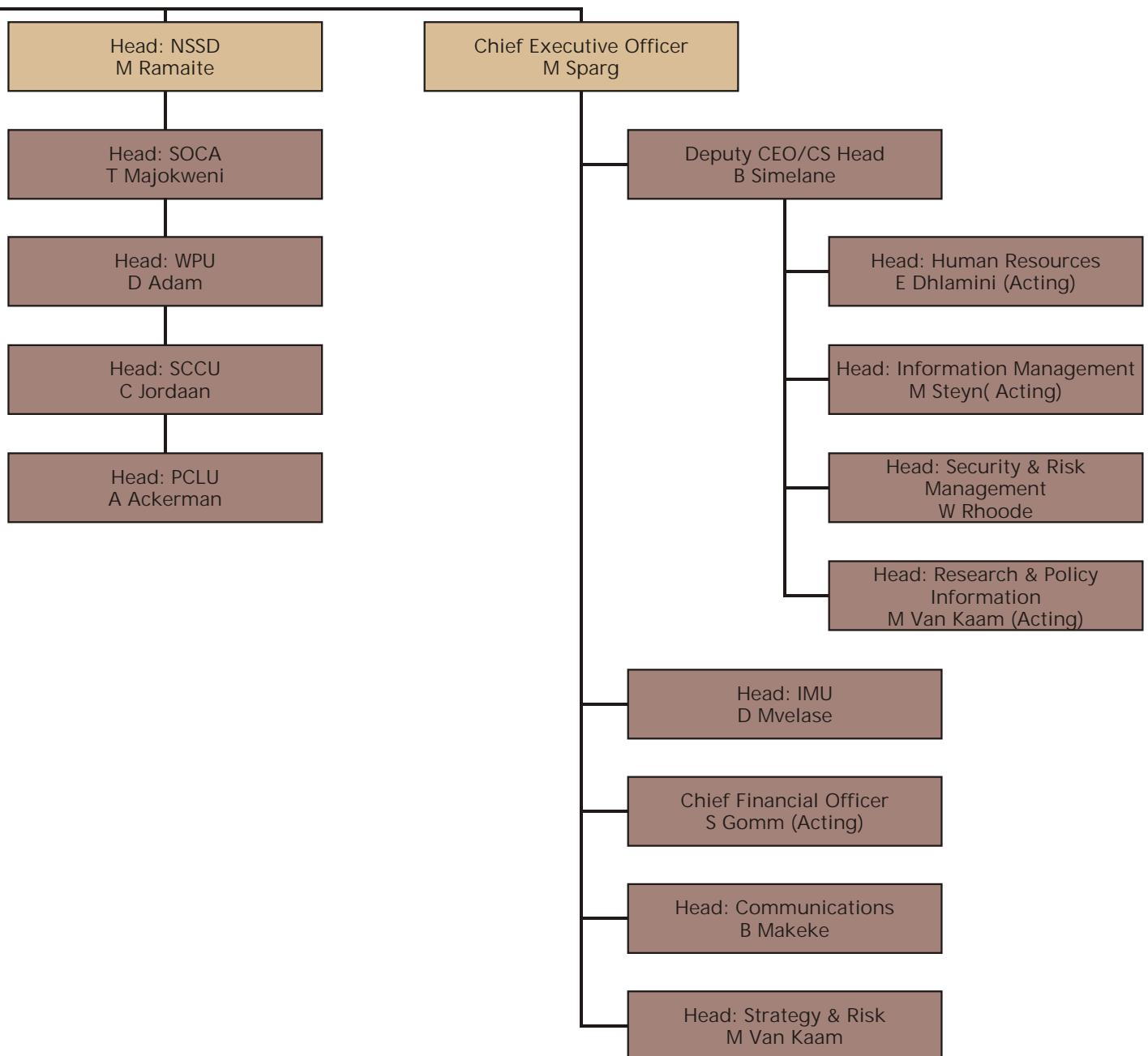
Broader organisational challenges raised by other units include issues such as inadequate co-ordination with other departments and government agencies, particularly in the law enforcement field. The DSO also reports on the hostile climate it has faced over the past year as a particular challenge it has faced.

As reported in earlier sections of this report, business unit plans for 2006/07 include an assessment of the top risks units face in achieving their stated objectives. Units are required to assign responsibility for the management of these risks.

# NPA Structure

NPA Organisational Chart: Top Level Management Structure







# Human Resources - Oversight April 2005 to March 2006

## Expenditure

Table 1.1 - Personnel costs by Programme

Programme	Total Voted Expenditure (R'000)	Compensation of Employees Expenditure (R'000)	Training Expenditure R	Professional and Special Services R	Compensation of Employees as percent of Total Expenditure	Average Compensation of Employees Cost per Employee (R'000)	Employment
Donor expenditure	97	0	0	0	0	0	3,884
Sp 1: public prosecutions	1,094,699	735,726	1,380,768.41	24,561,643.54	67.2	189	3,884
Sp 2: special operations	243,334	158,303	311,979.21	33,200,481.69	65.1	41	3,884
Sp 3: witness protection prog	54,502	6,160	0	0	11.3	2	3,884
Z=Total as on Financial Systems (BAS)	1,392,631	900,190	1,692,747.62	57,762,125.23	64.6	232	3,884

Table 1.2 - Personnel costs by Salary band

Salary Bands	Compensation of Employees Cost (R'000)	Percentage of Total Personnel Cost for Department	Average Compensation Cost per Employee (R)	Total Personnel Cost for Department including Goods and Transfers (R'000)	Number of Employees
Lower skilled (Levels 1-2)	1,470	0.2	52,500	907,618	28
Skilled (Levels 3-5)	16,038	1.8	64,931	907,618	247
Highly skilled production (Levels 6-8)	230,104	25.4	143,905	907,618	1,599
Highly skilled supervision (Levels 9-12)	496,398	54.7	285,122	907,618	1,741
Senior management (Levels 13-16)	122,347	13.5	585,392	907,618	209
Contract (Levels 1-2)	188	0	188,000	907,618	1
Contract (Levels 3-5)	9,389	1	552,294	907,618	17
Contract (Levels 6-8)	5,323	0.6	190,107	907,618	28
Contract (Levels 9-12)	7,543	0.8	838,111	907,618	9
Contract (Levels 13-16)	1,702	0.2	851,000	907,618	2
Total	890,502	98.1	229,452	907,618	3,881

Table 1.3 - Salaries, Overtime, Home Owners Allowance and Medical Aid by Programme

Programme	Salaries (R'000)	Salaries as % of Personnel Cost	Overtime (R'000)	Overtime as % of Personnel Cost	HOA (R'000)	HOA as % of Personnel Cost	Medical Ass. (R'000)	Medical Ass. as % of Personnel Cost	Total Personnel Cost per Programme (R'000)
National Prosecuting Authority	667,633	73.6	1,217	0.1	5,238	0.6	30,794	3.4	907,618
Total	667,633	73.6	1,217	0.1	5,238	0.6	30,794	3.4	907,618

Table 1.4 - Salaries, Overtime, Home Owners Allowance and Medical Aid by Salary Band

Salary bands	Salaries (R'000)	Salaries as % of Personnel Cost	Overtime (R'000)	Overtime as % of Personnel Cost	HOA (R'000)	HOA as % of Personnel Cost	Medical Ass. (R'000)	Medical Ass. as % of Personnel Cost	Total Personnel Cost per Salary Band (R'000)
Lower skilled (Levels 1-2)	1,010	68.5	1	0.1	33	2.2	128	8.7	1,475
Skilled (Levels 3-5)	11,960	74.1	39	0.2	186	1.2	1,087	6.7	16,149
Highly skilled production (Levels 6-8)	177,088	75.8	528	0.2	1,330	0.6	10,370	4.4	233,580
Highly skilled supervision (Levels 9-12)	380,845	75.2	576	0.1	3,491	0.7	15,533	3.1	506,189
Senior management (Levels 13-16)	75,015	59.6	10	0	197	0.2	3,655	2.9	125,780
Contract (Levels 1-2)	182	95.8	0	0	0	0	0	0	190
Contract (Levels 3-5)	8,803	93.2	60	0.6	0	0	11	0.1	9,444
Contract (Levels 6-8)	5,010	93.5	3	0.1	0	0	10	0.2	5,361
Contract (Levels 9-12)	6,613	86	0	0	0	0	0	0	7,694
Contract (Levels 13-16)	1,106	63	0	0	0	0	0	0	1,756
Total	667,632	73.6	1,217	0.1	5,237	0	30,794	3.4	907,618

## Employment

Table 2.1 - Employment and Vacancies by Programme at end of period

Programme	Number of Posts	Number of Posts Filled	Vacancy Rate	Number of Posts Filled Additional to the Establishment
National Prosecuting Authority, Permanent	5,081	3,884	23.6	86
Total	5,081	3,884	23.6	86

Table 2.2 - Employment and Vacancies by Salary Band at end of period

Salary Band	Number of Posts	Number of Posts Filled	Vacancy Rate	Number of Posts Filled Additional to the Establishment
Lower skilled (Levels 1-2), Permanent	38	34	10.5	4
Skilled (Levels 3-5), Permanent	621	414	33.3	9
Highly skilled production (Levels 6-8), Permanent	3,890	3,036	22	15
Highly skilled supervision (Levels 9-12), Permanent	248	168	32.3	2
Senior management (Levels 13-16), Permanent	224	172	23.2	1
Contract (Levels 1-2), Permanent	3	3	0	3
Contract (Levels 3-5), Permanent	17	17	0	17
Contract (Levels 6-8), Permanent	34	34	0	29
Contract (Levels 9-12), Permanent	4	4	0	4
Contract (Levels 13-16), Permanent	2	2	0	2
Total	5,081	3,884	23.6	86

## Employment

Table 2.3 - Employment and Vacancies by Critical Occupation at end of period

Salary Band	Number of Posts	Number of Posts Filled	Vacancy Rate	Number of Posts Filled Additional to the Establishment
Administrative related, Permanent	247	125	49.4	15
Advocates, Permanent	369	296	19.8	0
Attorneys, Permanent	1	1	0	0
Cleaners in offices workshops hospitals etc., Permanent	2	1	50	0
Client inform clerks (switchboard, reception, information clerks), Permanent	9	5	44.4	0
Communication and information related, Permanent	6	5	16.7	0
Finance and economics related, Permanent	4	4	0	0
Financial and related professionals, Permanent	32	15	53.1	0
Financial clerks and credit controllers, Permanent	43	33	23.3	2
General and special investigations, Permanent	1	1	0	0
General legal administration & rel. professionals, Permanent	259	220	15.1	0
Human resources & organisat development & related proffesions, Permanent	16	11	31.3	0
Human resources clerks, Permanent	46	36	21.7	1
Human resources related, Permanent	19	14	26.3	0
Identification experts, Permanent	1	0	100	0

Table 2.3 - Employment and Vacancies by Critical Occupation at end of period (continued)

Information technology related, Permanent	1	0	100	0
Language practitioners interpreters & other communication, Permanent	10	5	50	0
Librarians and related professionals, Permanent	1	1	0	0
Library mail and related clerks, Permanent	40	31	22.5	1
Logistical support personnel, Permanent	10	5	50	0
Magistrates, Permanent	2	2	0	0
Messengers porters and deliverers, Permanent	25	23	8	0
Other administrators & related clerks and organisers, Permanent	170	118	30.6	2
Other administrative policy and related officers, Permanent	38	33	13.2	0
Other occupations, Permanent	734	507	30.9	28
Prosecutor, Permanent	2,700	2,161	20	31
Secretaries & other keyboard operating clerks, Permanent	107	87	18.7	5
Security guards, Permanent	2	2	0	0
Security officers, Permanent	3	3	0	0
Senior managers, Permanent	183	139	24	1
Total	5,081	3,884	23.6	86

## Evaluation

Table 3.1 - Job Evaluation

Salary Band	Number of Posts	Number of Jobs Evaluated	% of Posts Evaluated	Number of Posts Upgraded	% of Upgraded Posts Evaluated	Number of Posts Downgraded	% of Downgraded Posts Evaluated
Lower skilled (Levels 1-2)	38	0	0	0	0	0	0
Contract (Levels 1-2)	3	0	0	0	0	0	0
Contract (Levels 3-5)	17	0	0	0	0	0	0
Contract (Levels 6-8)	34	0	0	0	0	0	0
Contract (Levels 9-12)	4	0	0	0	0	0	0
Contract (Band A)	1	0	0	0	0	0	0
Contract (Band B)	1	0	0	0	0	0	0
Skilled (Levels 3-5)	621	609	98.1	0	0	0	0
Highly skilled production (Levels 6-8)	3,890	3,820	98.2	0	0	0	0
Highly skilled supervision (Levels 9-12)	248	243	98	0	0	0	0
Senior Management Service Band A	40	35	87.5	0	0	0	0
Senior Management Service Band B	161	156	96.9	0	0	0	0
Senior Management Service Band C	4	2	50	0	0	0	0
Senior Management Service Band D	19	0	0	0	0	0	0
<b>Total</b>	<b>5,081</b>	<b>4,865</b>	<b>95.7</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Table 3.2 - Profile of employees whose positions were upgraded due to their posts being upgraded

Beneficiaries	African	Asian	Coloured	White	Total
Female	43	33	21	87	184
Male	159	12	17	75	263
<b>Total</b>	<b>202</b>	<b>45</b>	<b>38</b>	<b>162</b>	<b>447</b>
Employees with a Disability	0	0	0	0	0

## Employee Changes

Table 4.1 - Annual Turnover Rates by Salary Band

Salary Band	Employment at Beginning of Period (April 2005)	Appointments	Terminations	Turnover Rate
Lower skilled (Levels 1-2), Permanent	34	0	2	5.9
Skilled (Levels 3-5), Permanent	250	42	18	7.2
Highly skilled production (Levels 6-8), Permanent	1,761	169	115	6.5
Highly skilled supervision (Levels 9-12), Permanent	1,650	18	98	5.9
Senior Management Service Band A, Permanent	29	1	2	6.9
Senior Management Service Band B, Permanent	134	1	9	6.7
Senior Management Service Band C, Permanent	27	0	1	3.7
Senior Management Service Band D, Permanent	23	0	4	17.4
Other, Permanent	0	1	4	0
Contract (Levels 1-2), Permanent	21	112	260	1,238.1
Contract (Levels 3-5), Permanent	239	171	185	77.4
Contract (Levels 6-8), Permanent	58	119	116	200
Contract (Levels 9-12), Permanent	32	34	40	125
Contract (Band A), Permanent	3	5	4	133.3
<b>Total</b>	<b>4,261</b>	<b>673</b>	<b>858</b>	<b>20.1</b>

Table 4.2 - Annual Turnover Rates by Critical Occupation

Occupation	Employment at Beginning of Period (April 2005)	Appointments	Terminations	Turnover Rate
Administrative related, Permanent	153	128	107	69.9
Advocates, Permanent	340	11	28	8.2
Attorneys, Permanent	1	0	0	0
Cleaners in offices workshops hospitals etc., Permanent	1	0	1	100
Client inform clerks (switchboard, reception, information clerks), Permanent	9	2	4	44.4
Communication and information related, Permanent	6	0	0	0
Finance and economics related, Permanent	5	2	0	0

Table 4.2 - Annual Turnover Rates by Critical Occupation (continued)

Occupation	Employment at Beginning of Period (April 2005)	Appointments	Terminations	Turnover Rate
Financial and related professionals, Permanent	20	10	8	40
Financial clerks and credit controllers, Permanent	35	1	2	5.7
General and special investigations, Permanent	1	0	0	0
General legal administration & rel. professionals, Permanent	325	0	26	8
Head of department/chief executive officer, Permanent	1	0	0	0
Human resources & organisat developm & relate prof, Permanent	12	1	3	25
Human resources clerks, Permanent	34	5	5	14.7
Human resources related, Permanent	10	1	1	10
Language practitioners interpreters & other commun, Permanent	5	0	0	0
Librarians and related professionals, Permanent	1	0	0	0
Library mail and related clerks, Permanent	32	1	3	9.4
Logistical support personnel, Permanent	1	0	0	0
Magistrates, Permanent	4	0	0	0
Material-recording and transport clerks, Permanent	1	0	0	0
Messengers porters and deliverers, Permanent	20	1	1	5
Other administrative & related clerks and organisers, Permanent	143	18	27	18.9
Other administrative policy and related officers, Permanent	40	0	1	2.5
Other occupations, Permanent	770	164	315	40.9
Prosecutor, Permanent	2,044	320	306	15
Rank: Unknown, Permanent	9	0	0	0
Secretaries & other keyboard operating clerks, Permanent	85	4	5	5.9
Security officers, Permanent	6	0	0	0
Senior managers, Permanent	147	4	15	10.2
<b>Total</b>	<b>4,261</b>	<b>673</b>	<b>858</b>	<b>20.1</b>

Table 4.3 - Reasons why staff are leaving the department

Termination Type	Number	Percentage of Total Resignations	Percentage of Total Employment	Total	Total Employment
Death, Permanent	26	3	0.6	858	4,261
Resignation, Permanent	242	28.2	5.7	858	4,261
Expiry of contract, Permanent	564	65.7	13.2	858	4,261
Discharged due to ill health, Permanent	5	0.6	0.1	858	4,261
Dismissal-misconduct, Permanent	12	1.4	0.3	858	4,261
Retirement, Permanent	6	0.7	0.1	858	4,261
Other, Permanent	3	0.3	0.1	858	4,261
Total	858	100	20.1	858	4,261
Resignations as % of Employment					
	20.1				

Table 4.4 - Promotions by Critical Occupation

Occupation	Employment at Beginning of Period (April 2005)	Promotions to another Salary Level	Salary Level Promotions as a % of Employment	Progressions to another Notch within Salary Level	Notch progressions as a % of Employment
Administrative related	153	7	4.6	37	24.2
Advocates	340	56	16.5	176	51.8
Attorneys	1	0	0	0	0
Cleaners in offices workshops hospitals etc.	1	0	0	1	100
Client inform clerks (switchboard, reception, information clerks)	9	0	0	7	77.8
Communication and information related	6	1	16.7	4	66.7
Finance and economics related	5	0	0	3	60
Financial and related professionals	20	2	10	3	15
Financial clerks and credit controllers	35	4	11.4	12	34.3
General and special investigations	1	1	100	0	0
General legal administration & related professionals	325	0	0	186	57.2
Head of department/chief executive officer	1	0	0	0	0
Human resources & organisational development & related professions	12	2	16.7	6	50

Table 4.4 - Promotions by Critical Occupation (*continued*)

Occupation	Employment at Beginning of Period (April 2005)	Promotions to another Salary Level	Salary Level Promotions as a % of Employment	Progressions to another Notch within Salary Level	Notch progressions as a % of Employment
Human resources clerks	34	6	17.6	8	23.5
Librarians and related professionals	1	0	0	1	100
Library mail and related clerks	32	6	18.8	8	25
Logistical support personnel	1	0	0	1	100
Magistrates	4	0	0	3	75
Material-recording and transport clerks	1	0	0	0	0
Messengers porters and deliverers	2	0	0	17	85
Natural sciences related	0	1	0	0	0
Other administrat & related clerks and organisers	143	0	0	98	68.5
Other administrative policy and related officers	40	3	7.5	28	70
Other occupations	770	28	3.6	246	31.9
Prosecutor	2,044	23	1.1	1,036	50.7
Rank: Unknown	9	0	0	0	0
Secretaries & other keyboard operating clerks	85	3	3.5	56	65.9
Security officers	6	0	0	3	50
Senior managers	147	6	4.1	24	16.3
Translators and air traffic communicators	0	1	0	0	0
<b>Total</b>	<b>4,261</b>	<b>153</b>	<b>3.6</b>	<b>1,974</b>	<b>46.3</b>

Table 4.5 - Promotions by Salary Band

Salary Band	Employment at Beginning of Period (April 2005)	Promotions to another Salary Level	Salary Level Promotions as a % of Employment	Progressions to another Notch within Salary Level	Notch progressions as a % of Employment
Lower skilled (Levels 1-2), Permanent	34	0	0	25	73.5
Skilled (Levels 3-5), Permanent	250	3	1.2	131	52.4
Highly skilled production (Levels 6-8), Permanent	1,761	59	3.4	968	55
Highly skilled supervision (Levels 9-12), Permanent	1,650	80	4.8	813	49.3
Senior management (Levels 13-16), Permanent	213	9	4.2	30	14.1
Contract (Levels 1-2), Permanent	21	0	0	0	0
Contract (Levels 3-5), Permanent	239	0	0	4	1.7
Contract (Levels 6-8), Permanent	58	0	0	3	5.2
Contract (Levels 9-12), Permanent	32	1	3.1	0	0
Contract (Levels 13-16), Permanent	3	1	33.3	0	0
Total	4,261	153	3.6	1,974	46.3

## Employee Equity

Table 6.2 - Total number of Employees (incl. Employees with disabilities) per Occupational Category (SASCO)

Occupational Categories	Male, African	Male, Coloured	Male, Indian	Male, Total Blacks	Male, White	Female, African	Female, Coloured	Female, Indian	Female, Total Blacks	Female, White	Total
Legislators, senior officials and managers, Permanent	36	12	3	51	52	17	0	6	23	16	142
Professionals, Permanent	1,009	99	56	1,164	371	557	109	137	803	529	2,867
Clerks, Permanent	51	6	1	58	8	122	41	9	172	60	298
Service and sales workers, Permanent	3	0	0	3	0	2	0	0	2	0	5
Elementary occupations, Permanent	186	38	17	241	88	156	18	12	186	38	553
Other, Permanent	9	0	0	9	2	4	1	0	5	3	19
Total	1,294	155	77	1,526	521	858	169	164	1,191	646	3,884

Table 6.2 - Total number of Employees (incl. Employees with disabilities) per Occupational Bands

Occupational Bands	Male, African	Male, Coloured	Male, Indian	Male, Total Blacks	Male, White	Female, African	Female, Coloured	Female, Indian	Female, Total Blacks	Female, White	Total
Top Management, Permanent	7	3	0	10	26	3	0	2	5	5	46
Senior Management, Permanent	40	13	6	59	50	21	3	7	31	22	162
Professionally qualified and experienced specialists and mid-management, Permanent	532	81	36	649	360	210	53	92	355	376	1,740
Skilled technical and academically qualified workers, junior management, supervisors, foremen, Permanent	641	46	34	721	80	456	70	54	580	210	1,591
Semi-skilled and discretionary decision making, Permanent	42	5	1	48	3	123	35	7	155	26	242
Unskilled and defined decision making, Permanent	8	5	0	13	0	10	1	0	11	0	14
Not Available, Permanent	10	0	0	10	2	6	1	0	7	3	22
Contract (Senior Management), Permanent	1	0	0	1	0	0	0	0	0	1	2
Contract (Professionally qualified), Permanent	3	0	0	3	0	4	0	0	4	2	9
Contract (Skilled technical), Permanent	7	2	0	9	0	12	4	2	18	1	28
Contract (Semi-skilled), Permanent	3	0	0	3	0	12	2	0	14	0	17
Contract (Unskilled), Permanent	0	0	0	0	0	1	0	0	1	0	1
<b>Total</b>	<b>1,294</b>	<b>155</b>	<b>77</b>	<b>1,526</b>	<b>521</b>	<b>858</b>	<b>169</b>	<b>164</b>	<b>1,191</b>	<b>646</b>	<b>3,884</b>

Table 6.3 - Recruitment

Occupational Bands	Male, African	Male, Coloured	Male, Indian	Male, Total Blacks	Male, White	Female, African	Female, Coloured	Female, Indian	Female, Total Blacks	Female, White	Total
Senior Management, Permanent	0	0	0	0	0	1	1	0	2	0	2
Professionally qualified and experienced specialists and mid-management, Permanent	6	1	1	8	3	5	1	2	8	0	19
Skilled technical and academically qualified workers, junior management, supervisors,	78	5	2	85	7	46	7	4	57	20	169
Semi-skilled and discretionary decision making, Permanent	11	0	0	11	0	23	6	1	30	1	42
Not Available, Permanent	0	0	0	0	0	1	0	0	1	0	1
Contract (Senior Management), Permanent	2	0	0	2	1	0	0	0	0	2	5
Contract (Professionally qualified), Permanent	10	1	0	11	2	7	5	1	13	9	35
Contract (Skilled technical), Permanent	28	22	0	50	6	32	21	7	60	4	120
Contract (Semi-skilled), Permanent	44	3	1	48	1	106	9	3	118	4	171
Contract (Unskilled), Permanent	62	6	2	70	2	27	7	1	35	5	112
Total	241	38	6	285	22	248	57	19	324	45	676

Table 6.4 - Promotions

Occupational Bands	Male, African	Male, Coloured	Male, Indian	Male, Total Blacks	Male, White	Female, African	Female, Coloured	Female, Indian	Female, Total Blacks	Female, White	Total
Top Management, Permanent	2	0	0	2	3	1	0	0	1	0	6
Senior Management, Permanent	9	4	2	15	7	5	0	3	8	4	34
Professionally qualified and experienced specialists and mid-management, Permanent	229	42	20	291	218	110	25	36	171	214	894
Skilled technical and academically qualified workers, junior management, supervisors, foremen, Permanent	396	33	24	453	51	289	38	46	373	150	1,027
Semi-skilled and discretionary decision making, Permanent	17	5	2	24	5	57	25	2	84	21	134
Unskilled and defined decision making, Permanent	8	5	0	13	0	11	1	0	12	0	25
Contract (Top Management), Permanent	1	0	0	1	0	0	0	0	0	0	1
Contract (Professionally qualified), Permanent	0	0	0	0	0	0	1	0	1	0	1
Contract (Skilled technical), Permanent	0	0	0	0	0	2	0	1	3	0	3
Contract (Semi-skilled), Permanent	1	0	0	1	0	0	1	0	1	2	4
Contract (Unskilled), Permanent	1	0	0	1	0	0	1	0	1	0	2
Total	664	89	48	801	284	475	92	88	655	391	2,131

## Performance

Table 6.5 - Terminations

Occupational Bands	Male, African	Male, Coloured	Male, Indian	Male, Total Blacks	Male, White	Female, African	Female, Coloured	Female, Indian	Female, Total Blacks	Female, White	Total
Top Management, Permanent	1	0	0	1	2	1	1	0	2	0	5
Senior Management,	3	1	1	5	1	3	0	0	3	2	11
Professionally qualified and experienced specialists and mid-management, Permanent	34	3	4	41	19	11	4	5	20	20	100
Skilled technical and academically qualified workers, junior	45	9	0	54	8	33	6	3	42	16	120
Semi-skilled and discretionary decision making, Permanent	3	0	0	3	1	10	1	1	12	3	19
Unskilled and defined decision making, Permanent	0	0	0	0	0	2	0	0	2	0	2
Not Available, Permanent	2	0	0	2	0	1	1	0	2	0	4
Contract (Senior Management), Permanent	2	0	0	2	1	0	0	0	0	1	4
Contract (Professionally qualified), Permanent	13	1	0	14	3	7	6	2	15	8	40
Contract (Skilled technical), Permanent	28	23	0	51	7	29	19	5	53	7	118
Contract (Semi-skilled), Permanent	48	3	1	52	1	116	8	5	129	5	187
Contract (Unskilled), Permanent	133	11	2	146	7	68	13	6	87	21	261
Total	312	51	8	371	50	281	59	27	367	83	871
Employees with disabilities	0	0	0	0	1	1	0	0	1	0	2

Table 7.1 - Performance Rewards by Race, Gender and Disability

	Number of Beneficiaries	Total Employment	Percentage of Total Employment	Cost (R'000)	Average Cost per Beneficiary (R)
African, Female	130	857	15.2	1,590	12,228
African, Male	163	1,292	12.6	2,500	15,337
Asian, Female	57	164	34.8	902	15,824
Asian, Male	27	77	35.1	578	21,420
Coloured, Female	39	169	23.1	485	12,428
Coloured, Male	41	155	26.5	661	16,113
Total Blacks, Female	226	1,190	19	2,976	13,169
Total Blacks, Male	231	1,524	15.2	3,739	16,186
White, Female	283	646	43.8	5,294	18,708
White, Male	213	519	41	4,821	22,632
Employees with a disability	2	5	40	40	19,948
<b>Total</b>	<b>955</b>	<b>3,884</b>	<b>24.6</b>	<b>16,870</b>	<b>17,665</b>

Table 7.2 - Performance Rewards by Salary Band for Personnel below Senior Management Service

Salary Band	Number of Beneficiaries	Total Employment	Percentage of Total Employment	Cost (R'000)	Average Cost per Beneficiary (R)
Lower skilled (Levels 1-2)	9	28	32.1	34	3,778
Skilled (Levels 3-5)	45	247	18.2	241	5,356
Highly skilled production (Levels 6-8)	264	1,599	16.5	2,774	10,508
Highly skilled supervision (Levels 9-12)	567	1,741	32.6	12,030	21,217
Other	0	3	0	0	0
Contract (Levels 1-2)	0	1	0	0	0
Contract (Levels 3-5)	1	17	5.9	4	4,000
Contract (Levels 6-8)	0	28	0	0	0
Contract (Levels 9-12)	0	9	0	0	0
<b>Total</b>	<b>886</b>	<b>3,673</b>	<b>24.1</b>	<b>15,083</b>	<b>17,024</b>

Table 7.3 - Performance Rewards by Critical Occupation

Critical Occupations	Number of Beneficiaries	Total Employment	Percentage of Total Employment	Cost (R'000)	Average Cost per Beneficiary (R)
Administrative related	37	125	29.6	584	15,784
Advocates	115	339	33.9	2,913	25,330
Attorneys	0	1	0	0	0
Client inform clerks (switchboard, reception, information clerks)	1	6	16.7	6	6,000
Communication and information related	2	5	40	55	27,500
Finance and economics related	2	7	28.6	57	28,500
Financial and related professionals	4	19	21.1	29	7,250
Financial clerks and credit controllers	7	25	28	65	9,286
General and special investigations	1	1	100	26	26,000
General legal administration & related professionals	89	317	28.1	1,769	19,876
Head of department/chief executive officer	0	1	0	0	0
Human resources & organisational development & related professionals	5	9	55.6	116	23,200
Human resources clerks	8	34	23.5	61	7,625
Human resources related	2	12	16.7	64	32,000
Language practitioners interpreters & other communication	1	3	33.3	8	8,000
Librarians and related professionals	1	1	100	9	9,000
Library mail and related clerks	9	31	29	59	6,556
Logistical support personnel	0	1	0	0	0
Magistrates	2	4	50	57	28,500
Material-recording and transport clerks	0	1	0	0	0

Table 7.3 - Performance Rewards by Critical Occupation (*continued*)

Critical Occupations	Number of Beneficiaries	Total Employment	Percentage of Total Employment	Cost (R'000)	Average Cost per Beneficiary (R)
Messengers porters and deliverers	7	18	38.9	26	3,714
Other administrat & related clerks and organisers	43	115	37.4	319	7,419
Other administrative policy and related officers	23	42	54.8	314	13,652
Other occupations	82	535	15.3	1,648	20,098
Prosecutor	429	1,982	21.6	7,175	16,725
Rank: Unknown	0	19	0	0	0
Secretaries & other keyboard operating clerks	36	84	42.9	295	8,194
Security officers	1	4	25	4	4,000
Senior managers	48	141	34	1,209	25,188
Translators and air traffic communicators	0	2	0	0	0
<b>Total</b>	<b>955</b>	<b>3,884</b>	<b>24.6</b>	<b>16,868</b>	<b>17,663</b>

Table 7.4 - Performance Related Rewards (Cash Bonus) by Salary Band for Senior Management Service

SMS Band	Number of Beneficiaries	Total Employment	Percentage of Total Employment	Cost (R'000)	Average Cost per Beneficiary (R)	% of SMS Wage Bill	Personnel Cost SMS (R'000)
Band A	44	30	146.7	1,076	2,446	6.3	17,090
Band B	16	135	11.9	439	2,744	0.6	73,571
Band C	9	26	34.6	272	3,022	1.6	17,282
Band D	0	20	0	0	0	0	0
<b>Total</b>	<b>69</b>	<b>211</b>	<b>32.7</b>	<b>1,787</b>	<b>2,589.9</b>	<b>1.7</b>	<b>107,943</b>

## Foreign Workers

Table 8.1 - Foreign Workers by Salary Band

Salary Band	Employment at Beginning Period	Percentage of Total	Employment at End of Period	Percentage of Total	Change in Employment	Percentage of Total	Total Employment at Beginning of Period	Total Employment at End of Period	Total Change in Employment
Highly skilled supervision (Levels 9-12)	1	100	1	50	0	0	1	2	1
Contract (Levels 1-2)	0	0	1	50	1	100	1	2	1
Total	1	100	2	100	1	100	1	2	1

Table 8.2 - Foreign Workers by Major Occupation

Major Occupation	Employment at Beginning Period	Percentage of Total	Employment at End of Period	Percentage of Total	Change in Employment	Percentage of Total	Total Employment at Beginning of Period	Total Employment at End of Period	Total Change in Employment
Other occupations	0	0	1	50	1	100	1	2	1
Professionals and managers	1	100	1	50	0	0	1	2	1
Total	1	100	2	100	1	100	1	2	1

## Leave

Table 9.1 - Sick Leave for Jan 2005 to Dec 2005

Salary Band	Total Days	% Days with Medical Certification	Number of Employees using Sick Leave	% of Total Employees using Sick Leave	Average Days per Employee	Estimated Cost (R'000)	Total number of Employees using Sick Leave	Total number of days with medical certification
Lower skilled (Levels 1-2)	127	22.8	17	0.7	7	19	2,493	29
Skilled (Levels 3-5)	962	6.2	170	6.8	6	182	2,493	60
Highly skilled production	6,017.5	5.7	1,002	40.2	6	2,292	2,493	344
Highly skilled supervision	6,716.5	10.3	1,094	43.9	6	5,103	2,493	695
Senior management (Levels 13-16)	712	23.3	115	4.6	6	1,472	2,493	166
Other	2	0	1	0	2	0	2,493	0
Contract (Levels 1-2)	14	0	7	0.3	2	3	2,493	0
Contract (Levels 3-5)	167	7.8	46	1.8	4	28	2,493	13
Contract (Levels 6-8)	107	5.6	23	0.9	5	41	2,493	6
Contract (Levels 9-12)	69	1.4	14	0.6	5	54	2,493	1
Contract (Levels 13-16)	25	0	4	0.2	6	43	2,493	0
<b>Total</b>	<b>14,919</b>	<b>8.8</b>	<b>2,493</b>	<b>100</b>	<b>6</b>	<b>9,237</b>	<b>2,493</b>	<b>1,314</b>

Table 9.2 - Disability Leave (Temporary and Permanent) for Jan 2005 to Dec 2005

Salary Band	Total Days	% Days with Medical Certification	Number of Employees using Disability Leave	% of Total Employees using Disability Leave	Average Days per Employee	Estimated Cost (R'000)	Total number of days with medical certification	Total number of Employees using Disability Leave
Lower skilled (Levels 1-2)	78	100	2	14.3	39	12	78	14
Skilled (Levels 3-5)	28	100	2	14.3	14	6	28	14
Highly skilled production (Levels 6-8)	105	100	4	28.6	26	44	105	14
Highly skilled supervision (Levels 9-12)	170	100	4	28.6	43	184	170	14
Senior management (Levels 13-16)	107	100	2	14.3	54	205	107	14
<b>Total</b>	<b>488</b>	<b>100</b>	<b>14</b>	<b>100</b>	<b>35</b>	<b>451</b>	<b>488</b>	<b>14</b>

Table 9.3 - Annual Leave for Jan 2005 to Dec 2005

Salary Band	Total Days Taken	Average days per Employee	Number of Employees who took leave
Lower skilled (Levels 1-2)	456	18	25
Skilled (Levels 3-5)	3438	15	229
Highly skilled production (Levels 6-8)	23,936.72	15	1,557
Highly skilled supervision (Levels 9-12)	32,520.92	19	1,730
Senior management (Levels 13-16)	3,936.24	18	217
Other	9	5	2
Contract (Levels 1-2)	63	4	15
Contract (Levels 3-5)	599.52	7	88
Contract (Levels 6-8)	234	9	26
Contract (Levels 9-12)	203	8	25
Contract (Levels 13-16)	25	6	4
<b>Total</b>	<b>65,421.4</b>	<b>17</b>	<b>3,918</b>

Table 9.4 - Capped Leave for Jan 2005 to Dec 2005

	Total days of capped leave taken	Average number of days taken per employee	Average capped leave per employee as at 31 December 2005	Number of Employees who took Capped leave	Total number of capped leave available at 31 December 2005	Number of Employees as at 31 December 2005
Skilled (Levels 3-5)	12	6	20	2	804	40
Highly skilled production (Levels 6-8)	148	6	35	26	12,775	364
Highly skilled supervision (Levels 9-12)	889	8	55	112	75,522	1,371
Senior management (Levels 13-16)	70	4	96	16	15,542	162
<b>Total</b>	<b>1,119</b>	<b>7</b>	<b>54</b>	<b>156</b>	<b>104,643</b>	<b>1,937</b>

Table 9.5 - Leave Payouts

Reason	Total Amount (R'000)	Number of Employees	Average Payment per Employee (R)
Leave payout for 2005/06 due to non-utilisation of leave for the previous cycle	0	1	0
Capped leave payouts on termination of service for 2005/06	275	33	8,333
Current leave payout on termination of service for 2005/06	0	2	0
<b>Total</b>	<b>275</b>	<b>36</b>	<b>7,639</b>

## HIV

Table 10.2 - Details of Health Promotion and HIV/AIDS Programmes

Question	Yes	No	Details, if yes
1. Has the department designated a member of the SMS to implement the provisions contained in Part VI E of Chapter 1 of the Public Service Regulations, 2001? If so, provide her/his name and position.	X		Beryl Simelane, Head of Corporate Services
2. Does the department have a dedicated unit or have you designated specific staff members to promote health and well being of your employees? If so, indicate the number of employees who are involved in this task and the annual budget that is available for this purpose.	X		Employee wellness Programme = 3 STAFF internal + outsourced service provider EAP services BUDGET = R1 million services outsourced to external service provider
3. Has the department introduced an Employee Assistance or Health Promotion Programme for your employees? If so, indicate the key elements/services of the programme.	X		Counselling, health promotion, preventative workshops, debriefing and observance of all national HIV/Aids calender awareness days
4. Has the department established (a) committee(s) as contemplated in Part VI E.5 (e) of Chapter 1 of the Public Service Regulations, 2001? If so, please provide the names of the members of the committee and the stakeholder(s) that they represent.	X		The EWP Action Committee members that represent different business units within the organisation
5. Has the department reviewed the employment policies and practices of your department to ensure that these do not unfairly discriminate against employees on the basis of their HIV status? If so, list the employment policies/practices so reviewed.	X		Draft HIV/AIDS policy
6. Has the department introduced measures to protect HIV-positive employees or those perceived to be HIV-positive from discrimination? If so, list the key elements of these measures.	X		Draft policy-HIV/AIDS, awareness programmes and peer education programme
7. Does the department encourage its employees to undergo Voluntary Counselling and Testing? If so, list the results that you have achieved.	X		Through educational programmes and posters employees are encouraged to get tested utilising external service providers
8. Has the department developed measures/indicators to monitor & evaluate the impact of your health promotion programme? If so, list these measures/indicators.	X		Monthly meetings and reports

## Labour Relations

Table 11.2 - Misconduct and Discipline Hearings Finalised

Outcomes of disciplinary hearings	Number	Percentage of Total	Total
Total	22	34.9	63

Table 11.3 - Types of Misconduct Addressed and Disciplinary Hearings

Type of misconduct	Number	% of total
Misrepresentations	7	11.1
Theft, bribery, corruption, defeating the ends of justice and fraud	23	36.5
Assault	3	4.8
Abuse of alcohol drugs and other stupefying substances	3	4.8
Abscondments and un-authorized absenteeism	2	3.2
Insolence and insubordination	3	4.8
Improper, disgraceful and unacceptable conducts at work	3	4.8
Sexual Harassment	2	3.2
Poor performance	7	11.1
Misuse/Damage to State Property	2	3.2
Negligence	1	1.6
Dereliction of Duty	2	3.2
Non adherence to policy & procedure	1	1.6
Incapacity	1	1.6
Misuse of State Funds	1	1.6
Other, Criminal Conviction outside NPA & Non Discl of previous convictions	2	3.2
	0	0
Total	63	100.3

Table 11.4 - Grievances Lodged

Number of grievances addressed	Number	% of total
Resolved	70	72.2
Not resolved	27	27.8
Total	97	100

Table 11.5 - Disputes Lodged

Number of disputes addressed	Number	% of total
Upheld	5	9.8
Dismissed	14	27.45
Pending at GPSSBC & PSBC	32	62.75
Total	51	100

Table 11.7 - Precautionary Suspensions

Precautionary Suspensions	-
Number of people suspended	39
Number of people whose suspension exceeded 30 days	39
Average number of days suspended	365
Cost (R'000) of suspensions	3,941

## Skills Development

Table 12.2 - Training Provided

Occupational Categories	Gender	Employment	Learnerships	Skills Programmes & other short courses	Other forms of training	Total
Legislators, senior officials and managers	Female	0	0	26	39	65
	Male	0	0	13	15	28
Professionals	Female	0	0	86	39	125
	Male	0	0	128	42	170
Technicians and associate professionals	Female	0	0	35	12	47
	Male	0	0	35	17	52
Clerks	Female	0	0	89	43	132
	Male	0	0	113	34	147
Service and sales workers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Skilled agriculture and fishery workers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Craft and related trades workers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Plant and machine operators and assemblers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Elementary occupations	Female	0	0	0	0	0
	Male	0	0	0	0	0
Gender sub totals	Female	0	0	236	133	369
	Male	0	0	289	108	397
Total		0	0	525	241	766

## Injuries

Table 13.1 - Injury on Duty

Nature of injury on duty	Number	% of total
Required basic medical attention only	0	0
Temporary Total Disablement	11	100
Permanent Disablement	0	0
Fatal	0	0
Total	11	100

# Report of the Audit Committee

## for the year ended 31 March 2006

National Prosecuting Authority of South Africa

We are pleased to present our report for the financial year ended 31 March 2006.

### Audit Committee members and attendance

The Audit Committee is the same as that of the Department of Justice and Constitutional Development and consists of the members listed below. It is required to meet four times a year as per its approved terms of reference. During the current year six meetings were held, some concurrently with the meetings of the Department of Justice and Constitutional Development.

Name of Members	Number of Meetings attended
SA Patterson (Chairperson)	6
Cedric Boltman (appointed 25 January 2006)	2
Ntombi Langa Royds (appointed 25 January 2006)	3
Motsamai Karedi (appointed 31 March 2005)	2
Ronald Lubisi (retired 31 August 2005)	-
Jasper Noeth (retired 31 August 2005)	3
Andrew Sefala (appointed 25 January 2006)	2

### Audit Committee responsibility

The Audit Committee reports that it has complied with its responsibilities arising from Section 3 (1)(a) of the PMFA and Treasury Regulation 3.1.13. The Audit Committee also reports that it has adopted appropriate formal terms of reference as its Audit Committee charter, has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein.

The exception is that the chairperson was scheduled to retire along with other standing members on 31 August 2005. However, in order to retain continuity and experience the Accounting Officer extended his contract for further period. The Audit Committee charter has been amended to provide scope for this exception.

### The effectiveness of internal control

The system of internal control was not entirely effective during the year under review. Common causes of significant findings reported by internal audit were:

- Non-compliance with prescribed policies and procedures;
- Over-riding of controls by management;
- Lack of skills training or inadequate training;
- Lack of supervision and discipline; and
- Lack of capacity due to vacancies .

Contributory reasons for these are, in certain instances, a lack of laid down policies and guidelines and inadequately developed systems.

These weaknesses continue to be addressed by the Accounting Officer and the management team although certain elements appear to be endemic.

For security reasons internal audit has been unable to review and audit certain areas and accordingly we are unable to comment on the effectiveness of internal controls in these areas.

Significant control weaknesses have been reported by the Auditor-General under emphasis of matter and in the management letter. The weaknesses reported have been addressed satisfactorily by the Accounting Officer. The effect of these instances has been included in the annual financial statements and in the report of the Accounting Officer.

The quality of in year management and monthly/quarterly reports submitted in terms of the PFMA and the Division of Revenue Act.

The Committee is satisfied with the content and quality of monthly and quarterly reports prepared and issued by the Accounting Officer and the Department during the year under review.

## Evaluation of Financial Statements

The Audit Committee has:

- Reviewed and discussed with the Auditor-General and the Accounting Officer, the audited annual financial statements to be included in the annual report;
- Reviewed the Auditor-General's management letter and management response;
- Reviewed significant adjustments resulting from the audit.

The Audit Committee concurs and accepts the conclusions of the Auditor-General on the annual financial statements and is of the opinion that the audited financial statements be accepted and read together with the report of the Auditor-General.



Chairperson of the Audit Committee  
04 August 2006

## Department of Justice and Constitutional Development Criminal Assets Recovery Account (CARA)

We are pleased to present our report for the financial year ended 31 March 2006.

### Introduction

The administration and accountability for the CARA falls within the responsibilities of the Department of Justice and Constitutional Development. Accordingly as the duly constituted Audit Committee of the Department of Justice and Constitutional Development we have reviewed to the extent considered necessary the financial statements of the CARA.

### Evaluation of Financial Statements

The Audit Committee has

- Reviewed and discussed the audited annual financial statements to be included in the annual report with the Auditor General and the Accounting Officer;
- Reviewed the Auditor-General's management letter and management's response thereto; and
- Reviewed significant adjustments resulting from the audit.

The Audit Committee concurs and accepts the Auditor General's conclusions on the annual financial statements and is of the opinion that the audited annual financial statements be accepted and read together with the report of the Auditor General.



Chairperson of the Audit Committee  
04 August 2006

# Report of the Auditor-General

for the year ended 31 March 2006

## 1. Audit Assignment

The financial statements as set out on pages 101 to 138 for the year ended 31 March 2006, have been audited in terms of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996), read with sections 4 and 20 of the Public Audit Act, 2004 (Act No 25 of 2004). The fixed asset opening balances have not been audited because of the timing of guidance from National Treasury to the departments relating to the treatment, valuation and disclosure of fixed assets. These financial statements are the responsibility of the accounting officer. My responsibility is to express an opinion on these financial statements, based on the audit.

## 2. Scope

The audit was conducted in accordance with the International Standards on Auditing read with General Notice 544 of 2006, issued in Government Gazette No. 28723 of 10 April 2006 and General Notice 808 of 2006, issued in Government Gazette No. 28954 of 23 June 2006. Those standards require that I plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement.

An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements
- assessing the accounting principles used and significant estimates made by management
- evaluating the overall financial statement presentation

I believe that the audit provides a reasonable basis for my opinion.

## 3. Basis Of Accounting

The department's policy is to prepare financial statements on the modified cash basis of accounting determined by the National Treasury, as described in paragraph 1.1 of the accounting policies to the annual financial statements.

## 4. Audit Opinion

In my opinion, the financial statements fairly present, in all material respects, the financial position of the National Prosecuting Authority (NPA) at 31 March 2006 and the

results of its operations and cash flows for the year then ended, in accordance with the modified cash basis of accounting determined by the National Treasury of South Africa, as described in paragraph 1.1 of the accounting policies to the annual financial statements and in the manner required by the Public Finance Management Act, 1999 (Act 1 of 1999) (PFMA).

## 5. Emphasis Of Matter

Without further qualifying the audit opinion, attention is drawn to the following matters:

### 5.1 Financial management

The late finalisation of the budget reprioritisation process by the Department of Justice and Constitutional Development resulted in additional allocations being approved and received by the NPA in March 2006. This resulted in pressure being placed on the NPA to spend these additional allocations before the end of the financial year, which increases the risk that normal procurement practices may not be complied with.

### 5.2 Non-compliance with Treasury Regulations and Public Finance Management Act (PFMA)

I have noted the following instances of non-compliance with Treasury Regulations and PFMA:

- Treasury Regulation 16A6.4 states: "If in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority". The procurement process as stated above for the procurement of leased vehicles was inadequate.
- Treasury Regulation 12.1.2 requires that the accounting officer of an institution (if deemed economical and based on a risk assessment) insure motor vehicles, including hired vehicles, or such other movable assets determined by the relevant treasury, but the insurance premium cost may not exceed R250 000 a year on that vote, unless otherwise approved by the relevant treasury. NPA has incurred quarterly lease rentals for motor

vehicles which were structured to include insurance for the leased motor vehicles. The insurance amounted to more than R250 000.

- Treasury Regulation 8.2.2, which requires approval from a delegated or authorised official prior to incurring expenditure, was not always complied with.
- Treasury Regulation 8.2.3 requires payments to service providers to be made within 30 days of receipt of invoice. The NPA has no control in place to record the date of receipt of invoices, with the result that compliance with this requirement could not be verified.
- Section 38 of the PFMA requires the accounting officer to implement effective, efficient and transparent systems of financial management. It was identified that approved and formalised policies were still not implemented for the following areas, which constituted non-compliance with the Public Finance Management Act:
  - No overtime policy
  - Fraud prevention plan

### 5.3 Donor funds

As reported in my previous report, due to inadequate controls, donations from foreign donors were again not received via the RDP fund as required by annexure A, paragraph 2.2 of the official development assistance guideline. Furthermore, a lack of monitoring of adherence to donor agreements has resulted in several instances of non-compliance with terms of donor agreements.

### 5.4 Debt management

The lack of monitoring and reconciliation of debtors by management resulted in the following weaknesses:

- PERSAL was not always timely and accurately updated with addresses of debtors, resulting in management being unable to forward monthly statements and recovering amounts due.
- Debtors' files were not always updated and were, in some cases, incomplete.

### 5.5 Accountability and governance status of the NPA

Interim approval has been granted by the Accountant-General for the NPA to prepare its own set of financial statements from the 2002 financial year. No finality has been reached on the following critical matters, affecting the accountability and governance status of the NPA:

- Clear definition of the duties of the accounting officer of the NPA
- The listing of the NPA as an entity in terms of the PFMA
- The mechanism of funding for the NPA

### 5.6 Performance information

Lack of a clear policy and procedure framework to standardise, enforce, and provide guidance with regards to performance reporting has resulted in the following inefficiencies:

- Non-compliance with Treasury Regulation 5.3.1, which requires the establishment of procedures for quarterly reporting to the executive authority.
- Inadequate quarterly reporting to the executive authority as required by Treasury Regulation 5.3.1.
- Objectives included in the performance information provided for audit purposes that could not be traced to objectives identified in the strategic plan
- Measures of actual performance not always included for all objectives in the performance information provided for audit purposes

### 6. Appreciation

The assistance rendered by the staff of NPA during the audit is sincerely appreciated.



S. Cele for Auditor-General

Pretoria  
31 July 2006





# Financial Statements

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# Report of the Accounting Officer

for the year ended 31 March 2006

Report by the Accounting Officer to the Executive Authority and Parliament/Provincial Legislature of the Republic of South Africa.

## 1. General review of the state of financial affairs

The structure of the National Prosecuting Authority (NPA) consists of the following business units:

- National Prosecuting Service (NPS)
- Directorate of Special Operations (DSO)
- Asset Forfeiture Unit (AFU)
- Special National Services Division: consisting of the Sexual Offences and Community Affairs Unit (SOCOA), Specialised Commercial Crimes Unit (SCCU), Witness Protection Unit (WPU) and the Priority Crimes Litigation Unit (PCLU)
- Corporate Services

The NPA has continued to operate on the same basis with respect to its relationship with the Department of Justice and Constitutional Development (DOJCD) during the year under review. This means that, with respect to all NPA business units, excluding the DSO, the CEO of the NPA operates as the Accounting Officer on the basis of a delegation of authority from the Director-General of the DOJCD. With respect to the DSO, the CEO of the NPA operates as the Accounting Officer in terms of the provisions of the NPA Act.

These financial statements are the fifth set of financial statements produced by the NPA, separately from the DOJCD and whilst they are separately audited by the Auditor-General, will be consolidated with the financial statements of the DOJCD. These arrangements are by agreement with the DOJCD, National Treasury and the Office of the Auditor-General.

### Highlights of the Financial Position

	2005/06	2004/05
	R'000	R'000
Adjusted Appropriation	1,354,810	1,146,559
Virement from DoJ&CD	92,881	55,701
Final Appropriation	1,447,691	1,202,260
Less: Total Expenditure	1,399,923	1,170,435
Variance	47,768	31,825

A saving of R46,5 million is attributed to unpaid invoices currently under dispute with a service provider. An application has been made to National Treasury for a rollover of these funds. The outcome of this request is still awaited.

With respect to budgetary matters, the NPA does not administer the full budget for lower court prosecutors. The NPA still has only the personnel budget for lower court prosecutors. The non-personnel budget remains with the DOJ&CD.

### Funds not received via the Budget Process

A special program, namely the Integrated Justice System (IJS), was established within the security cluster. The Department of Safety and Security was identified as the Administrating Department and an amount of R 178,000,000 was allocated to their budget in respect of the 2005/06 financial year.

Departments within the cluster incur expenditure, via a suspense account, through the normal procurement processes and claim expenditure back from the Department of Safety and Security. These claims are submitted to the IJS Committee for approval and reimburse.

As a result of this process the NPA did receive an amount of R 12 366 078.29 from the Department of Safety and Security in respect of services and capital expenditure. These assets are included in the departmental asset register.

### The Criminal Assets Recovery Account (CARA)

A separate set of financial statements will be published for CARA as agreed with the Office of the Accountant-General.

## 2. Services rendered by the NPA

The NPA Vision has been confirmed and remains: "Justice in our society so that people can live in freedom and security".

The new mission statement 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."

- Public Prosecutions co-ordinates and assists prosecutions in the Offices of the Director of Public Prosecutions and lower courts.
- The Witness Protection Programme co-ordinates the safekeeping and protection of witnesses in certain serious cases.
- Special Operations, comprising the Directorate of Special Operations (also known as Scorpions) and the Asset Forfeiture Unit, deal with serious organised crime and the proceeds there from.
- Corporate Services renders the following services to the other operational units:
  - Finance & Procurement Management Services;
  - Human Resources Management & Development Services;
  - Information Management Services;
  - Research & Policy Management Services;
  - Security Services;
  - Communication Services;
  - Strategy & Risk Management Services; and
  - Integrity Management Services.

## 2.1 Inventories

A stock take was conducted on 31 March 2006 and the value thereof was established at R 112,960.05. The valuation was done at invoice cost.

## 3. Capacity constraints

### a) Directorate of Special Operations

The major constraints facing the DSO relate to the delays in the filling of vacant posts, the relative difficulty in recruiting appropriately skilled staff, the inability to offer market-related salaries and the current inappropriate budgetary arrangements.

This has resulted in insufficient operational staff to conduct investigations, insufficient administrative staff to properly support the DSO and insufficient prosecutors to appear in court.

The posts of Chief Executive Officer and Chief Financial Officer have been created and will be filled in due course. These appointments will provide leadership in

establishing proper reporting and system procedures for the DSO.

### b) Sexual Offences and Community Affairs (SOCA)

Major constraints experienced by the SOCA unit are as follows:

- Budgetary constraints which led to the Unit being unable to fill all vacancies and to remain reliant on donor funding for some critical projects and being unable to cater for necessary growth for the Unit to fulfil its mandate;
- The absence of provincial presence, due to human resources constraints, limits the ability to monitor and evaluate implemented initiatives, projects and policies.

### c) Asset Forfeiture Unit (AFU)

A major constraint that the unit has had to contend with was lack of sufficient skilled human resource capacity to deal with complex cases and an inadequate budget for legal and other professional services required to be effective. The AFU has embarked on the following measures to alleviate the constraints:

- Additional funds were requested through the MTEF process and was partially successful in securing funds for additional posts and professional services;
- A focused recruitment campaign to attract skilled investigators and advocates, combined with intensive training and the development for all staff has commenced.
- Additional funds were requested from the Criminal Assets Recovery Account to fund some of its training and professional services requirements. The indications are positive that it will receive some additional funds.

### d) Witness Protection Unit (WPU)

The WPU is also facing staff shortages. The current ratio of protectors to witnesses in South Africa is 1:12. International Best Practice is 3 protectors for 1 witness.

A meeting was held with members of National Treasury to discuss the way forward regarding the transfer of SAPS members to the WPU, funding and the establishment of further expansion in the WPU.

#### e) Corporate Services

There is a general constraint in Corporate Services of personnel caused by high turnover of staff in this unit as well as a lack of funds. The CS Unit has been unable to keep pace with the growth in the rest of the NPA. Whilst the NPA has received substantial additional funding for additional prosecutors and other operational staff, the request to Treasury through the MTEF process to ensure that CS is able to keep pace with this growth has not been successful.

#### f) General

General capacity constraints experienced by the NPA are in three major areas:

- An inability to attract and retain staff and managers with the necessary skills and experience;
- Budgetary constraints in the vital area of training and development;
- A budget that is not yet sufficiently balanced with high personnel expenditure that is not yet supported by the required non-personnel budget.

#### 4. Utilisation of donor funds

Below is an exposition of projects funded through donations during the 2005/06 financial year:

Donor	Project	Short Description
USAID	Specialist Prosecutors	To empower prosecutors and other role players with specialised knowledge and skills to better handle cases of sexual and domestic violence through multidisciplinary training, community outreach and research programmes.
WK Kellogg Foundation	Thuthuzela Project	To manage care centres for victims of child abuse and rape, training and development and public education.

UNICEF	Sexual Offences Courts	To manage care centres for victims of child abuse and rape, training and development and public education.
Vodacom	Thuthuzela Project	To establish, renovate and launch sexual offences courts.
SARS	SARS Tax Unit	To assist the NPA in establishing a Tax unit.
Business Against Crime (BAC)	RJ Hillhouse	To collaborate and co-ordinate in the preparation for prosecutions.
Greece	Thuthuzela Project	To manage care centres for victims of child abuse and rape, training and development and public education.
Royal Danish Commission	Ndabezitha Project	Manage domestic violence in Rural communities.
Woolworths	Sexual Offences Courts	To develop a child friendly environment.
Foundation for Human Rights (FHR)	Missing Persons Task Team	Implementation of recommendations of the Truth and Reconciliation Commission (TRC) regarding missing persons.

Donor funds were received by the department and not paid into the Reconstruction and Development Programme (RDP) as required. Please refer to Annexure 1E in the Annual Financial Statements for more details in this regard.

## 5. Corporate governance arrangements

### *Risk management*

Governance remains a key focus area for improvement through the NPA's transformation programme. The NPA's Governance Model guided the development of a set of generic processes to embed good governance practices in the organisation. These processes deal with the governance cycle on understanding (situation analyses), planning, monitoring and reviewing activities. These generic cycle processes will guide the operations of a set of 21 governance components that include components such as strategic management, enterprise risk management, financial management, strategic delivery management, strategic resourcing management and policy management.

The NPA's governance capacity will be enhanced by the establishment of a Governance Centre in the new financial year. This centre will serve to set standards, co-ordinate, monitor and review all governance activities in the NPA. A Governance Calendar for the NPA is in the final stages of development. The calendar will co-ordinate and support the scheduling of mainline governance, delivery and resourcing activities, as well as to serve as a management support tool in meeting and event management, housing the relevant templates and posting of related documents.

Enterprise risk management was enhanced during this reporting period. This included the identification of the NPA's top ten risks, assigning risk owners, developing mitigation plans and commencing with risk reporting on the top risks. This Top Risk Register was reviewed following the development and adoption of the NPA's Strategy 2020 and this was updated.

An independent risk assessment of the NPA will be conducted in the next financial year, following delays experienced in the procurement of a service provider.

The NPA acknowledges that risk is an integral part of its business. The organisation does not seek to avoid risk, but rather to understand its risk universe and the specific risks facing the NPA in order to manage it effectively and to evaluate risks in the context of the reward earned on these risks. The risk management emphasis is on a sound enterprise risk management framework, high-quality governance and service delivery that are sustainable and will give the assurance required by Government and the public of South Africa.

### *Integrity Management Unit*

The Integrity Management Unit now operates as fully established unit with a staff compliment of 15 people. The Integrity Promotion Strategy (IPS) was endorsed and is currently being implemented. The strategy outlines the approach and programmes to promote integrity and prevent unethical conduct. The strategy also emphasizes the role of the leadership in the promotion of integrity. The Anti-Corruption Policies and the Response Plan on Corruption are firmly derived from the IPS, and they further elucidate the processes and procedures regarding the responsibility of the organization with respect to the individuals' conduct. The policies have in principle been accepted by the Management and have been referred for legal scrutiny.

The unit has conducted education and awareness in all regions, established and trained Integrity Promotions Champions drawn from all units and facilitated the incorporation of Integrity Promotion as a KPA in performance contracts of all managers in the NPA. The unit is finalising a programme to support and enhance the capacity of leadership to promote integrity.

The IMU has conducted assessment and evaluations on the areas that have resulted in or could potentially result in integrity challenges. In May 2005 NPA launched an independently managed hotline to further facilitate the reporting of unethical conduct. An internal investigation policy was developed and allegations of transgressions are investigated and corrective action recommended.

### *Internal Audit and Audit Committee*

The Internal Audit unit was fully capacitated and operational during the 2005/06 financial year. The Chief Audit Executive (CAE) from the DOJCD continued to act in the capacity of CAE for the NPA for the full financial year.

The NPA and DOJCD share the same Audit Committee. The Audit Committee which operates in terms of its own charter continued to hold quarterly meetings with the Internal Audit Unit, Executive Management and External Auditors. New external independent members, with the exception of the Chairman, were appointed in December 2005 to serve on the Audit Committee. A process has also been implemented to ensure that individual committee members declare any interest at each meeting in order to avoid conflict of interest and so far no conflict of interest has been declared. A special approval was given to retain

the services of the chairperson in order to ensure continuity of the committee since all other members are new and both NPA and DoJ&CD have undergone significant changes at senior management level. The Audit Committee charter is in the process of being amended to provide for this.

The Internal Audit Unit's primary responsibility had to prove assurance on risk management, control and governance processes. The Internal Audit Unit also operates in terms of its charter which has been approved by the Audit Committee. The Internal Audit Unit has developed a three year rolling plan and an annual plan which have also been approved by the Audit Committee. The internal audit process is risk based and the risk management process of the NPA, amongst others, also serves as an input in the development of the Internal Audit Plan. Management also provides input in the internal audit strategic planning process. The Internal Audit Unit continued to report to management and the Audit Committee during the year on significant findings emanating from the auditing process in terms of its charter. Management also continued to address significant issues raised by the Internal Audit Unit in order to enhance the risk management and governance processes within NPA.

A decision was also taken to absorb the NPA Internal Audit Unit into the DoJ&CD Internal Audit establishment with effect from 01 April 2006 in order to optimise efficiencies on the utilisation of auditing resources. Both units reports to one Chief Audit Executive.

#### *Budget Control*

The NPA EXCO held quarterly Budget Review Meetings with all heads of business units. During these reviews, heads of business units presented their budget performance and provided reasons for either under or over spending. The reviews allow the business units the opportunity to explain to the Budget Committee why certain funds projected for certain major projects were not sent. Management to reprioritises funding available to certain projects during the financial year.

#### **6. Asset management**

Asset management was given priority in the 2005/06 financial year.

With the assistance of the DoJ&CD as well as NPA staff, we were able to complete the bar-coding of NPA assets on a national basis. The assets have subsequently been captured on Excel spreadsheets, were verified and are now awaiting input into the new procurement and asset management (P2P) system. Once this process is complete the asset register will be fully compliant with the National Treasury's minimum requirements.

The information disclosed in Annexure 3 is derived as a result of the completion of this take-on exercise. Asset values reflected were arrived at by means of a fair valuation process.

The depreciated replacement cost method was used to assess the fair value. The fair value principle has been consistently applied to arrive at a closing balance per asset.

The condition of the asset was linked to the perceived useful life left. The value was determined based on the conditions of the asset and the market related price per asset.

Goods	75% of current new value
Satisfactory	50% of current new value
Poor	25% of current new value

#### **7. Performance information**

The NPA has prioritised the need to devote dedicated capacity to this end and adopted a uniform set of annual planning and performance progress reporting templates in order to ensure horizontal planning and performance integration, regular performance reviews and the collation and co-ordination of performance information. These templates will be used for the first time in the new financial year and units will submit monthly reports and consolidated quarterly performance reports. The annual business plans of all units will be submitted to Internal Audit for independent verification of performance data and reports. The NPA is further investigating support technology to enhance the accessibility, timeliness and availability of performance information.

#### **8. Scopa resolutions**

During the 2005/06 financial year the NPA did not receive any SCOPA resolutions and the NPA have not been notified by SCOPA of any related queries.

## 9. Information Technology and Motor Vehicle Leasing Arrangements

An amount of R 64,167,709 for lease payments is disclosed as irregular expenditure. Payments constituted information technology and motor vehicle leasing arrangements in terms of a master rental agreement. The leases were concluded in terms of a master rental agreement in respect of an operating lease vetted by the State Attorney and agreed to by National Treasury.

Management, mindful of the fact that entering into finance leases is strictly not permitted sought the assistance of National Treasury in structuring an operating lease in terms of the provisions of National Treasury regulation 13.2.4 issued in terms of the PFMA. By structuring arrangements in terms of this provision, management was at the point of entering into the agreement satisfied that the substance of the transaction is that of an operating lease. The opinion of the Auditor-General is that the transactions constitute finance leases. The NPA could not secure a written confirmation from National Treasury confirming their agreement to this classification and therefore decided to revise the annual financial statements as was recommended by the Auditor-General.

Raising the matter as a finance lease will bring further challenges to public sector reporting. It is agreed that the provisions of the operating leases entered into will remain and as such ownership of the assets will not be reflected in the books of the NPA. The NPA thus may be seen to have secured a three year usufruct of an asset that it does not own. Following the established accounting practices that have not been provided for yet in our transition to accrual accounting we may, in the future, need to consider raising the usufruct as an asset, then depreciate it over three years even though we do not yet depreciate assets. These assets will not be reflected in the assets register which is fortunate as if they were to be so reflected we would need to consider showing the outstanding operating lease payments, in part, as a loan. Loans are not permitted.

A further effect of disclosing the leases as finance leases is the fact that due to finance leases not being permitted this disclosure gives rise to irregular expenditure. The termination of arrangements with an existing supplier at that stage meant that critically needed goods would not be available to the NPA. The leases entered into after much analysis and after the input of National Treasury gave rise to a saving over the lease term of some R30 million.

Clearly management felt that securing this saving was in the best interest of the NPA.

We trust that in taking the advise of the Auditor-General on this matter we will not be raising matters that, in the future, will detract from the fact that management are convinced that the substance of the leases remains in line with the intentional structuring of the leases to be that of operating leases.

### Approval

The Annual Financial Statements set out on pages 101 to 138 have been approved by the Accounting Officer.



Adv. M Simelane  
Director-General: DOJCD  
31 May 2006



Marion Spang  
Chief Executive Officer: NPA  
31 May 2006

# Accounting Policies

for the year ended 31 March 2006

The Financial Statements have been prepared in accordance with the following policies, which have been applied consistently in all material aspects, unless otherwise indicated. However, where appropriate and meaningful, additional information has been disclosed to enhance the usefulness of the Financial Statements and to comply with the statutory requirements of the Public Finance Management Act, Act 1 of 1999 (as amended by Act 29 of 1999), and the Treasury Regulations issued in terms of the Act and the Division of Revenue Act, Act 1 of 2005.

## 1. Presentation of the Financial Statements

### 1.1 Basis of preparation

The Financial Statements have been prepared on a modified cash basis of accounting, except where stated otherwise. The modified cash basis constitutes the cash basis of accounting supplemented with additional disclosure items.

Under the cash basis of accounting transactions and other events are recognised when cash is received or paid or when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

### 1.2 Presentation currency

All amounts have been presented in the currency of the South African Rand (R) which is also the functional currency of the NPA.

### 1.3 Rounding

Unless otherwise stated all financial figures have been rounded to the nearest one thousand Rand (R'000).

### 1.4 Comparative figures

Prior period comparative information has been presented in the current year's financial statements. Where necessary figures included in the prior period financial statements have been reclassified to ensure that the format in which the information is presented is consistent with the format of the current year's financial statements.

A comparison between actual and budgeted amounts per major classification of expenditure is included in the appropriation statement.

## 2. Revenue

### 2.1 Appropriated funds

Appropriated funds are recognised in the financial records on the date the appropriation becomes effective. Adjustments to the appropriated funds made in terms of the adjustments budget process are recognised in the financial records on the date the adjustments become effective.

Total appropriated funds are presented in the statement of financial performance.

Unexpended appropriated funds are surrendered to the National Revenue Fund, unless approval has been given by the National Treasury to rollover the funds to the subsequent financial year. These rollover funds form part of retained funds in the annual financial statements.

Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.

### 2.2 Departmental revenue

All departmental revenue is paid into the National Revenue Fund when received, unless otherwise stated. Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.

#### 2.2.1 Sales of goods and services other than capital assets

The proceeds received from the sale of goods and/or the provision of services is recognised in the statement of financial performance when the cash is received.

#### 2.2.2 Interest, dividends and rent on land

Interest, dividends and rent on land is recognised in the statement of financial performance when the cash is received.

#### 2.2.3 Sale of capital assets

The proceeds received on sale of capital assets are recognised in the statement of financial performance when the cash is received.

**2.2.4 Financial transactions in assets and liabilities**  
Repayments of loans and advances previously extended to employees and public corporations for policy purposes are recognised as revenue in the statement of financial performance on receipt of the funds. Amounts receivable at the reporting date are disclosed in the disclosure notes to the annual financial statements.

Cheques issued in previous accounting periods that expire before being banked are recognised as revenue in the statement of financial performance when the cheque becomes stale. When the cheque is reissued the payment is made from Revenue.

**2.2.5 Gifts, donations and sponsorships**

(transfers received)

All cash gifts, donations and sponsorships are paid into the National Revenue Fund and recorded as revenue in the statement of financial performance when received. Amounts receivable at the reporting date are disclosed in the disclosure notes to the financial statements.

All in-kind gifts, donations and sponsorships are disclosed at fair value in the annexures to the financial statements.

**2.3 Local and foreign aid assistance**

Local and foreign aid assistance is recognised in the financial records when notification of the donation is received from the National Treasury or when the NPA directly receives the cash from the donor(s). The total cash amounts received during the year is reflected in the statement of financial performance as revenue.

All in-kind local and foreign aid assistance are disclosed at fair value in the annexures to the annual financial statements.

The cash payments made during the year relating to local and foreign aid assistance projects are recognised as expenditure in the statement of financial performance. A receivable is recognised in the statement of financial position to the value of the amounts expensed prior to the receipt of the funds.

A payable is raised in the statement of financial position where amounts have been inappropriately

expensed using local and foreign aid assistance. Unutilised amounts are recognised in the statement of financial position.

**3. Expenditure**

**3.1 Compensation of employees**

Salaries and wages comprise payments to employees. Salaries and wages are recognised as an expense in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March of each year). Capitalised compensation forms part of the expenditure for capital assets in the statement of financial performance<sup>1</sup>.

All other payments are classified as current expense.

Social contributions include the entities' contribution to social insurance schemes paid on behalf of the employee. Social contributions are recognised as an expense in the statement of financial performance when the final authorisation for payment is effected on the system.

**3.1.1 Short term employee benefits**

Short term employee benefits comprise of leave entitlements (capped leave), thirteenth cheques and performance bonuses. The cost of short-term employee benefits is expensed as salaries and wages in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

Short-term employee benefits that give rise to a present legal or constructive obligation are disclosed in the notes to the financial statements. These amounts are not recognised in the statement of financial performance.

**3.1.2 Long-term employee benefits**

**3.1.2.1 Termination benefits**

Termination benefits such as severance packages are recognised as an expense in the statement of financial performance as a transfer when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

<sup>1</sup> This accounting policy is only relevant where the NPA elects to capitalise the compensation paid to employees involved on capital projects.

**3.1.2.2 Post employment retirement benefits**  
The NPA provides retirement benefits (pension benefits) for certain of its employees through a defined benefit plan for government employees. These benefits are funded by both employer and employee contributions. Employer contributions to the fund are expensed when the final authorisation for payment to the fund is effected on the system (by no later than 31 March of each year). No provision is made for retirement benefits in the financial statements of the NPA. Any potential liabilities are disclosed in the financial statements of the National Revenue Fund and not in the financial statements of the NPA.

The NPA provides medical benefits for its employees through defined benefit plans. Employer contributions to the fund are incurred when the final authorisation for payment is effected on the system. No provision is made for medical benefits in the Annual Financial Statements of the NPA.

### **3.2 Goods and services**

Payments made for goods and/or services are recognised as an expense in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March of each year). The expense is classified as capital if the goods and services were used on a capital project.

### **3.3 Interest and rent on land**

Interest and rental payments are recognised as an expense in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March of each year). This item excludes rental for the use of buildings or other fixed structures.

### **3.4 Financial transactions in assets and liabilities**

Debts are written off when identified as irrecoverable. Debts written-off are limited to the amount of savings and/or underspending of appropriated funds. The write off occurs at year-end or when funds are available. No provision is made for irrecoverable amounts but amounts are disclosed as a disclosure note.

All other losses are recognised when authorisation has been granted for the recognition thereof.

### **3.5 Unauthorised expenditure**

Unauthorised expenditure is defined as:

- The overspending of a vote or a main division within a vote, or
- Expenditure that was not made in accordance with the purpose of a vote or, in the case of a main division, not in accordance with the purpose of the main division.

When discovered unauthorised expenditure is recognised as an asset in the statement of financial position until such time as the expenditure is either approved by the relevant authority, recovered from the responsible person or written off as irrecoverable in the statement of financial performance.

Unauthorised expenditure approved with funding is recognised in the statement of financial performance when the unauthorised expenditure is approved and the related funds are received. Where the amount is approved without funding it is recognised as expenditure, subject to availability of savings, in the statement of financial performance on the date of approval.

### **3.6 Fruitless and wasteful expenditure**

Fruitless and wasteful expenditure is defined as:

Expenditure that was made in vain and would have been avoided had reasonable care been exercised, therefore:

- It must be recovered from a responsible official (a debtor account should be raised), or
- The vote. (If responsibility cannot be determined)

Fruitless and wasteful expenditure is recognised as an asset in the statement of financial position until such time as the expenditure is recovered from the responsible person or written off as irrecoverable in the statement of financial performance.

### **3.7 Irregular expenditure**

Irregular expenditure is defined as:

- Expenditure, other than unauthorized expenditure, incurred in contravention or not in accordance with a requirement of any applicable legislation, including:

- The Public Finance Management Act
- The State Tender Board Act, or any regulations made in terms of this act, or
- Any provincial legislation providing for procurement procedures in that provincial government.

Irregular expenditure is recognised as expenditure in the statement of financial performance. If the expenditure is not condoned by the relevant authority it is treated as an asset until it is recovered or written off as irrecoverable.

### 3.8 Transfers and subsidies

Transfers and subsidies are recognised as an expense when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

### 3.9 Expenditure for capital assets

Payments made for capital assets are recognised as an expense in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

## 4. Assets

### 4.1 Cash and cash equivalents

Cash and cash equivalents are carried in the statement of financial position at cost.

For the purposes of the cash flow statement, cash and cash equivalents comprise cash on hand, deposits held, other short-term highly liquid investments and bank overdrafts.

### 4.2 Receivables

Receivables are not normally recognised under the modified cash basis of accounting. However, receivables included in the statement of financial position arise from cash payments made that are recoverable from another party.

Revenue receivable not yet collected is included in the disclosure notes. Amounts that are potentially irrecoverable are included in the disclosure notes.

### 4.3 Asset Registers

Assets are recorded in an asset register, at cost, on receipt of the item. Cost of an asset is defined as the total cost of acquisition. Assets procured in previous financial periods, may be stated at fair value, where

determinable, or R1, in instances where the original cost of acquisition or fair value cannot be established. No revaluation or impairment of assets is currently recognised in the asset register. Projects (of construction/development) running over more than one financial year relating to assets, are only brought into the asset register on completion of the project and at the total cost incurred over the duration of the project.

Annexure 3 of the disclosure notes, reflect the total movement in the asset register of assets with a cost equal to and exceeding R5,000 (therefore capital assets only) for the current financial year. The movement is reflected at the cost as recorded in the asset register and not the carrying value, as depreciation is not recognised in the financial statements under the modified cash basis of accounting. The opening balance reflected on Annexure 3 will include items procured in prior accounting periods and the closing balance will represent the total cost of the register for capital assets on hand.

## 5. Liabilities

### 5.1 Payables

Recognised payables mainly comprise of amounts owing to other governmental entities. These payables are recognised at historical cost in the statement of financial position.

### 5.2 Lease commitments

Lease commitments represent amounts owing from the reporting date to the end of the lease contract. These commitments are not recognised in the statement of financial position as a liability or as expenditure in the statement of financial performance but are included in the disclosure notes.

Operating and finance lease commitments are expensed when the payments are made. Assets acquired in terms of finance lease agreements are disclosed in the annexures to the financial statements.

### 5.3 Accruals

Accruals represent goods/services that have been received, but where no invoice has been received from the supplier at the reporting date, or where an invoice has been received but final authorisation for payment has not been effected on the system.

Accruals are not recognised in the statement of financial position as a liability or as expenditure in the statement of financial performance but are included in the disclosure notes.

#### 5.4 Contingent liabilities

A contingent liability is a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the NPA; or

A contingent liability is a present obligation that arises from past events but is not recognised because:

- It is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or
- The amount of the obligation cannot be measured with sufficient reliability.

Contingent liabilities are included in the disclosure notes.

#### 5.5 Commitments

Commitments represent goods/services that have been approved and/or contracted, but where no delivery has taken place at the reporting date.

Commitments are not recognised in the statement of financial position as a liability or as expenditure in the statement of financial performance but are included in the disclosure notes.

### 6. Net Assets

#### 6.1 Capitalisation reserve

The capitalisation reserve comprises of financial assets and/or liabilities originating in a prior reporting period but which are recognised in the statement of financial position for the first time in the current reporting period. Amounts are transferred to the National/Provincial Revenue Fund on disposal, repayment or recovery of such amounts.

#### 6.2 Recoverable revenue

Amounts are recognised as recoverable revenue when a payment made and recognised in a previous financial year becomes recoverable from a debtor.

### 7. Related party transactions

Related parties are departments that control or significantly influence the NPA in making financial and operating decisions. Specific information with regards to related party transactions is included in the disclosure notes.

### 8. Key management personnel

Key management personnel are those persons having the authority and responsibility for planning, directing and controlling the activities of the NPA.

Compensation paid to key management personnel including their family members where relevant, is included in the disclosure notes.

### 9. Public private partnerships

A public private partnership (PPP) is a commercial transaction between the NPA and a private party in terms of which the private party:

- Performs an institutional function on behalf of the institution; and/or
- Acquires the use of state property for its own commercial purposes; and
- Assumes substantial financial, technical and operational risks in connection with the performance of the institutional function and/or use of state property; and
- Receives a benefit for performing the institutional function or from utilising the state property, either by way of:
  - consideration to be paid by the department which derives from a Revenue Fund;
  - charges fees to be collected by the private party from users or customers of a service provided to them; or
  - a combination of such consideration and such charges or fees.

A description of the PPP arrangement, the contract fees and current and capital expenditure relating to the PPP arrangement is included in the disclosure notes.

# Appropriation Statement

for the year ended 31 March 2006

Appropriation per programme									
	Adjusted Appropriation	Shifting of Funds	Virement	2005/06			2004/05		
				Final Appropriation	Actual Expenditure	Variance	Expenditure as % of Final Appropriation	Final Appropriation	Actual Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
1. Programme 4									
Current payment	1,336,195	-	46,254	1,382,449	1,334,884	47,565	96.6%	1,160,672	1,128,847
Transfers and subsidies	2,635	-	3,471	6,106	6,106	-	100.0%	5,920	5,920
Payment for capital assets	15,980	-	43,156	59,136	58,933	203	99.7%	35,668	35,668
<b>Total</b>	<b>1,354,810</b>	<b>-</b>	<b>92,881</b>	<b>1,447,691</b>	<b>1,399,923</b>	<b>47,768</b>	<b>96.7%</b>	<b>1,202,260</b>	<b>1,170,435</b>
Reconciliation with Statement of Financial Performance									
Add:									
Departmental receipts				22,750				1,915	
Local and foreign aid assistance received				2,814				1,438	
Actual amounts per Statement of Financial Performance (Total revenue)				1,473,255				1,205,613	
Add:									
Local and foreign aid assistance					3,871				6,618
Actual amounts per Statement of Financial Performance (Total expenditure)					1,403,794				1,177,053

**Appropriation per economic classification**

	Adjusted Appropriation	Shifting of Funds	Virement	2005/06				2004/05	
				Final Appropriation	Actual Expenditure	Variance	Expenditure as % of Final Appropriation	Final Appropriation	Actual Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Current payments									
Compensation of employees	905,156	-	(4,967)	900,189	900,189	-	100.0%	817,171	817,171
Goods and services	431,039	-	51,208	482,247	434,682	47,565	90.1%	343,499	311,674
Financial transactions in assets and liabilities	-	-	13	13	13	-	100.0%	2	2
Transfers and subsidies									
Provinces and municipalities	1,580	-	1,520	3,100	3,025	75	97.6%	2,504	2,504
Departmental agencies and accounts	-	-	-	-	-	-	0.0%	262	262
Households	1,055	-	1,951	3,006	3,081	(75)	102.5%	3,154	3,154
Payments for capital assets									
Buildings and other fixed structures	-	-	15,000	15,000	15,000	-	100.0%	15,536	15,536
Machinery and equipment	15,980	-	28,156	44,136	43,933	203	99.5%	20,132	20,132
<b>Total</b>	<b>1,354,81</b>	<b>-</b>	<b>92,881</b>	<b>1,447,691</b>	<b>1,399,92</b>	<b>47,768</b>	<b>96.7%</b>	<b>1,202,26</b>	<b>1,170,43</b>

## Detail per Programme 4

for the year ended 31 March 2006

Appropriation per sub-programme										
Programme per sub-programme	Adjusted Appropriation	2005/06						2004/05		
		Shifting of Funds	Virement	Final Appropriation	Actual Expenditure	Variance	Expenditure as % of Final Appropriation	Final Appropriation	Actual Expenditure	
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000	
1.1	Public Prosecutions									
	Current payment	929,001	-	161,901	1,090,902	1,043,337	47,565	95.6%	917,291	885,466
	Transfers and subsidies	2,149	-	2,517	4,666	4,666	-	100.0%	4,825	4,825
	Payment for capital assets	13,200	-	41,088	54,288	54,085	203	99.6%	31,097	31,097
1.2	Special Operations									
	Current payment	361,598	-	(124,505)	237,093	237,093	-	100.0%	201,086	201,086
	Transfers and subsidies	463	-	938	1,401	1,401	-	100.0%	1,079	1,079
	Payment for capital assets	2,500	-	2,340	4,840	4,840	-	100.0%	4,558	4,558
1.3	Witness Protection									
	Current payment	45,596	-	8,858	54,454	54,454	-	100.0%	42,295	42,295
	Transfers and subsidies	23	-	16	39	39	-	100.0%	16	16
	Payment for capital assets	280	-	(272)	8	8	-	100.0%	13	13
Total		1,354,81	-	92,881	1,447,691	1,399,92	47,768	96.7%	1,202,26	1,170,43

Appropriation per economic classification									
Economic Classification	2005/06						2004/05		
	Adjusted Appropriation	Shifting of Funds	Virement	Final Appropriation	Actual Expenditure	Variance	Expenditure as % of Final Appropriation	Final Appropriation	Actual Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Current payments									
Compensation of employees	905,156	-	(4,967)	900,189	900,189	-	100.0%	817,171	817,171
Goods and services	431,039	-	51,208	482,247	434,682	47,565	90.1%	343,499	311,674
Financial transactions in assets and liabilities	-	-	13	13	13	-	100.0%	2	2
Transfers and subsidies									
Provinces and municipalities	1,580	-	1,520	3,100	3,025	75	97.6%	2,504	2,504
Departmental agencies and accounts	-	-	-	-	-	-	0.0%	262	262
Households	1,055	-	1,951	3,006	3,081	(75)	102.5%	3,154	3,154
Payments for capital assets									
Buildings and other fixed structures	-	-	15,000	15,000	15,000	-	100.0%	15,536	15,536
Machinery and equipment	15,980	-	28,156	44,136	43,993	203	99.5%	20,132	20,132
<b>Total</b>	<b>1,354,81</b>	<b>-</b>	<b>92,881</b>	<b>1,447,691</b>	<b>1,399,92</b>	<b>47,768</b>	<b>96.7%</b>	<b>1,202,26</b>	<b>1,170,43</b>

# Notes to the Appropriation Statement

for the year ended 31 March 2006

## 1. Detail of transfers and subsidies as per Appropriation Act (after Virement):

Detail of these transactions can be viewed in note 7 (Transfers and subsidies) and Annexure 1 (A-E) to the Annual Financial Statements.

## 2. Detail of specifically and exclusively appropriated amounts voted (after Virement):

Detail of these transactions can be viewed in note 1 (Annual Appropriation) to the Annual Financial Statements.

## 3. Detail on financial transactions in assets and liabilities

Detail of these transactions per programme can be viewed in note 6 (Financial transactions in assets and liabilities) to the Annual Financial Statements.

## 4. Explanations of material variances from Amounts Voted (after Virement):

4.1 Per Programme	Final Appropriation	Actual Expenditure	Variance R'000	Variance as a % of Final Appropriation
Programme 4	1,447,691	1,399,923	47,768	3.30%

The underspending of R46,5 million is attributed to unpaid invoices currently under dispute. Application has been made to National Treasury for a rollover of saving of R46,5 million.

Per Economic classification	2005/06	2004/05
	R'000	R'000
Current payment:		
Goods and services	47,768	31,825

# Statement of Financial Performance

for the year ended 31 March 2006

	Note	2005/06	2004/05
		R'000	R'000
<b>REVENUE</b>			
Annual appropriation	1	1,447,691	1,202,260
Departmental revenue	2	22,750	1,915
Local and foreign aid assistance	3	2,814	1,438
<b>TOTAL REVENUE</b>		<b>1,473,255</b>	<b>1,205,613</b>
<b>EXPENDITURE</b>			
Current expenditure			
Compensation of employees	4	900,189	817,171
Goods and services	5	434,682	311,674
Financial transactions in assets and liabilities	6	13	2
Local and foreign aid assistance	3	3,320	5,732
Total current expenditure		<b>1,338,204</b>	<b>1,134,579</b>
Transfers and subsidies	7	6,106	5,920
Expenditure for capital assets			
Buildings and other fixed structures	8	15,000	15,536
Machinery and equipment	8	43,933	20,132
Local and foreign aid assistance	3	551	886
Total expenditure for capital assets		<b>59,484</b>	<b>36,554</b>
<b>TOTAL EXPENDITURE</b>		<b>1,403,794</b>	<b>1,177,053</b>
<b>SURPLUS</b>		<b>69,461</b>	<b>28,560</b>
Add back fruitless and wasteful expenditure	9	166	175
<b>SURPLUS FOR THE YEAR</b>		<b>69,627</b>	<b>28,735</b>
Reconciliation of Surplus for the year			
Voted Funds	13	47,934	32,000
Departmental Revenue	14	22,750	1,915
Local and foreign aid assistance	3	(1,057)	(5,180)
<b>SURPLUS FOR THE YEAR</b>		<b>69,627</b>	<b>28,735</b>

# Statement of Financial Position

for the year as at 31 March 2006

	Note	2005/06	2004/05
		R'000	R'000
<b>ASSETS</b>			
Current assets		76,374	51,582
Fruitless and wasteful expenditure	9	2,425	2,259
Cash and cash equivalents	10	38,504	4,881
Prepayments and advances	11	23,647	1,570
Receivables	12	11,179	42,872
Local and Foreign aid receivable		619	-
<b>TOTAL ASSETS</b>		<b>76,374</b>	<b>51,582</b>
<b>LIABILITIES</b>			
Current liabilities		75,689	51,218
Voted funds to be surrendered to the Revenue Fund	13	47,934	32,000
Departmental revenue to be surrendered to the Revenue Fund via DOJ&CD	14	21,035	1,915
Payables	15	2,256	12,401
Local and foreign aid assistance unutilised	3	4,464	4,902
<b>TOTAL LIABILITIES</b>		<b>75,689</b>	<b>51,218</b>
<b>NET ASSETS</b>		<b>685</b>	<b>364</b>
Represented by:			
Recoverable revenue		685	364
<b>TOTAL</b>		<b>685</b>	<b>364</b>

## Statement of Changes in Net Assets

for the year ended 31 March 2006

	Note	2005/06	2004/05
		R'000	R'000
Recoverable revenue			
Opening balance		364	83
Transfers		321	281
Debts raised		321	281
Closing balance		685	364
TOTAL		685	364

# Cash Flow Statement

for the year ended 31 March 2006

	Note	2005/06 R'000	2004/05 R'000
<b>CASH FLOWS FROM OPERATING ACTVITIES</b>			
Receipts		1,451,356	1,205,613
Annual appropriated funds received	1.1	1,447,691	1,202,260
Departmental revenue received		851	1,915
Local and foreign aid assistance received	3	2,814	1,438
Net (increase)/decrease in working capital		(529)	(29,454)
Surrendered to Revenue Fund		(35,630)	(2,640)
Current payments		(1,338,204)	(1,134,404)
Transfers and subsidies paid		(6,106)	(5,920)
Net cash flow available from operating activities	16	70,887	33,195
<b>CASH FLOWS FROM INVESTING ACTVITIES</b>			
Payments for capital assets		(59,484)	(36,554)
Proceeds form sale of capital assets		21,899	-
Net cash flows from investing activities		(37,585)	(36,554)
<b>CASH FLOWS FROM FINANCING ACTVITIES</b>			
Increase/(decrease) in net assets		321	-
Net cash flows from financing activities		321	-
Net increase/(decrease) in cash and cash equivalents		33,623	(3,359)
Cash and cash equivalents at the beginning of the period		4,881	8,240
Cash and cash equivalents at end of period	17	38,504	4,881

# Notes to the Annual Financial Statements

for the year ended 31 March 2006

## 1. Annual Appropriation

### 1.1 Annual Appropriation

Included are funds appropriated in terms of the Appropriation Act for the National Prosecuting Authority:

	Final Appropriation	Actual Funds Received	Funds not requested/ not received	Appropriation received 2004/05
	R'000	R'000	R'000	R'000
National Prosecuting Authority	1,447,691	1,447,691		1,202,260
<b>Total</b>	<b>1,447,691</b>	<b>1,447,691</b>		<b>1,202,260</b>

## 2. Departmental revenue to be surrendered to revenue fund via the Department of Justice and Constitutional Development

### Description

	Notes	2005/06	2004/05
Sales of goods and services other than capital assets	2.1	389	848
Interest, dividends and rent on land	2.2	180	99
Sale of capital assets	2.3	21,899	-
Financial transactions in assets and liabilities	2.4	282	918
Transfer received	2.5	-	50
<b>Total revenue collected</b>		<b>22,750</b>	<b>1,915</b>
<b>Departmental revenue collected</b>		<b>22,750</b>	<b>1,915</b>

### 2.1 Sales of goods and services other than capital assets

	2005/06	2004/05
Sales of goods and services produced by the department	389	848
Sales by market establishment	389	848
<b>Total</b>	<b>389</b>	<b>848</b>

2.2 Interest, dividends and rent on land

	2005/06	2004/05
Interest	180	99
Total	<u>180</u>	<u>99</u>

2.3 Sale of capital assets

	2005/06	2004/05
Other capital assets	21,899	-
Total	<u>21,899</u>	<u>-</u>

2.4 Financial transactions in assets and liabilities

Nature of loss recovered

	2005/06	2004/05
Other Receipts including Recoverable Revenue	282	918
Total	<u>282</u>	<u>918</u>

2.5 Transfers received

	2005/06	2004/05
Public corporations and private enterprises	-	50
Total	<u>-</u>	<u>50</u>

### 3. Local and foreign aid assistance

3.1 Assistance received in cash: Other	2005/06	2004/05
Local	R'000	R'000
Opening Balance	1,967	7,188
Revenue	-	705
Expenditure	2,187	5,926
Current	1,636	5,151
Capital	551	775
Closing Balance	(220)	1,967
Foreign		
Opening Balance	2,935	2,894
Revenue	2,814	733
Expenditure	1,684	692
Current	1,684	581
Capital	-	111
Closing Balance	4,065	2,935
Total		
Opening Balance	4,902	10,082
Revenue	2,814	1,438
Expenditure	3,871	6,618
Current	3,320	5,732
Capital	551	886
Closing Balance	3,845	4,902
Analysis of balance		
Local and foreign aid receivable	619	
Local and foreign aid unutilised	4,464	4,902
Closing balance	3,845	4,902

#### 4. Compensation of employees

	2005/06 R'000	2004/05 R'000
4.1 Salaries and Wages		
Basic salary	667,625	611,127
Performance award	18,321	34,502
Service Based	315	888
Compensative/circumstantial	2,956	4,204
Periodic payments	-	10
Other non-pensionable allowances	86,412	49,764
Total	775,629	700,495
4.2 Social contributions		
4.2.1 Employer contributions		
Pension	93,405	87,941
Medical	31,032	28,600
UIF	10	14
Bargaining council	113	121
Total	124,560	116,676
Total compensation of employees	900,189	817,171
Average number of employees	3,872	4,218

	Note	2005/06	2004/05
		R'000	R'000
<b>5. Goods and Services</b>			
Advertising		1,861	4,352
Bank charges and card fees		369	567
Bursaries (employees)		1,361	1,087
Communication		41,832	27,154
Computer services		41,401	32,978
Consultants, contractors and special services		57,857	41,928
Courier and delivery services		394	1,058
Drivers' licences and permits		2	-
Entertainment	5.1	1,087	734
External audit fees		2,265	852
Equipment less than R5000		1,122	640
Government motor transport	5.2	17,842	-
Inventory		15,254	15,624
Legal fees		24,927	17,911
Maintenance, repairs and running cost		3,213	2,795
Medical Services		221	12
Operating leases		54,729	49,005
Personnel agency fees		899	135
Photographic services		3	68
Plant flowers and other decorations		11	11
Printing and publications		112	336
Professional bodies and membership fees		36	24
Resettlement cost		3,248	3,454
Subscriptions		5,967	3,081
Owned leasehold property expenditure		13,522	9,775
Translations and transcriptions		767	897
Transport provided as part of the departmental activities	5.3	61,327	167
Travel and subsistence		42,158	40,844
Venues and facilities		2,273	3,292
Protective, special clothing & uniforms		282	2,490
Training & staff development		1,711	10,440
Witness and related fees		36,629	39,963
<b>Total</b>		<b>434,682</b>	<b>311,674</b>

	<i>Note</i>	2005/06	2004/05
		R'000	R'000
5.1 External audit fees			
Regulatory audits		2,265	-
Other audits		-	852
Total external audit fees		2,265	852
		<hr/>	<hr/>
		2005/06	2004/05
		R'000	R'000
5.2 Inventory			
Domestic consumables	50	50	1,062
Food and Food supplies		-	2
Fuel, oil and gas	3	3	-
Other consumables		-	724
Parts and other maintenance material	173	173	20
Stationery and printing	15,021	15,021	13,761
Medical supplies	7	7	-
Weapons and armaments		-	55
Total Inventory	15,254	15,254	15,624
	<hr/>	<hr/>	<hr/>
5.3 Travel and subsistence			
Local	39,975	39,975	38,796
Foreign	2,183	2,183	2,048
Total travel and subsistence	42,158	42,158	40,844
	<hr/>	<hr/>	<hr/>

	Note	2005/06	2004/05
		R'000	R'000
<b>6. Financial transactions in assets and liabilities</b>			
Other material losses written off	6.1	9	-
Debts written off	6.2	4	2
<b>Total</b>		<b>13</b>	<b>2</b>
<b>6.1 Other material losses</b>			
Nature of losses			
Non arrivals charges		9	-
<b>Total</b>		<b>9</b>	<b>-</b>
<b>6.2 Debts written off</b>			
Nature of debts written off			
Writing off debts less than R100		4	2
<b>Total</b>		<b>4</b>	<b>2</b>
<b>7. Transfers and subsidies</b>			
	Note	2005/06	2004/05
		R'000	R'000
Provinces and municipalities	Annex 1A	3,025	2,504
Departmental agencies and accounts	Annex 1B	-	262
Households	Annex 1C	3,081	3,154
<b>Total</b>		<b>6,106</b>	<b>5,920</b>
<b>8. Expenditure for capital assets</b>			
Buildings and other fixed structures	Annex 3	15,000	15,536
Machinery and equipment	Annex 3	43,933	20,132
<b>Total</b>		<b>58,933</b>	<b>35,668</b>

9. Fruitless and wasteful expenditure

		2005/06	2004/05
9.1	Reconciliation of fruitless and wasteful expenditure	R'000	R'000
	Opening balance	2,259	2,084
	Fruitless and wasteful expenditure – current year	166	175
	Current	166	175
	Fruitless and wasteful expenditure awaiting condonement	2,425	2,259
9.2	Analysis of current fruitless and wasteful expenditure		
Incident	Disciplinary steps taken/criminal proceedings		
Hotel non-arrivals	Under investigation - letters sent to officials to obtain explanations	166	
Total		166	
10.	Cash and cash equivalents		
	Consolidated Paymaster General Account	38,486	4,854
	Cash receipts	2	6
	Disbursements	1	-
	Cash on hand	15	21
	Total	38,504	4,881
11.	Prepayments and advances		
	Description	1,748	1,570
	Travel and subsistence	21,899	-
	Prepayment	23,647	1,570
	Total		

12. Receivables

2005/06

2004/05

R'000

R'000

		Less than one year	One to three years	Older than three years	Total	Total
Staff debt	12.1	2,921	4,287	2,108	9,316	8,490
Other Debtors	12.2	520	260	59	839	33,593
Claims recoverable	Annex 4	1,024	-	-	1,024	789
		4,465	4,547	2,167	11,179	42,872

12.1 Staff Debt

2005/06

2004/05

R'000

R'000

Sal: Deduction Disall Acc:CA	13	272
Sal: Disallowance Account: CA	343	2,226
Sal: Tax Debt: CA	125	227
Debt Account: CA	8,480	5,456
Sal: Reversal Control	264	-
Irregular Expenditure: Dept Vote Account	26	-
Sal: Medical Aid	48	35
Sal: Housing	8	-
Sal: Financial Institutions Study Loans	9	9
Sal: Insurance Deductions	-	264
Sal: Personnel Club Deductions	-	1
	9,316	8,490

12.2 Other debtors

	2005/06	2004/05
	R'000	R'000
Disallowance Miscellaneous	376	263
Disallowance Dishonoured Cheques	-	1
Penalty Charges	-	2
Private Telephone	463	1,327
DOJ/CD	-	32,000
	839	33,593

13. Voted funds to be surrendered to the Revenue Fund

	2005/06	2004/05
	R'000	R'000
Opening balance	32,000	1,596
Transfer from Statement of Financial Performance	47,934	32,000
Paid during the year	(32,000)	(1,596)
Closing balance	47,934	32,000

The under spending of R46,5 million is attributed to unpaid invoices currently under dispute. Application has been made to National Treasury for a rollover of the saving of R46,5 million.

14. Departmental revenue to be surrendered to the Revenue Fund via the Department of Justice and Constitutional Development

	2005/06	2004/05
	R'000	R'000
Opening balance	1,915	1,044
Transfer from Statement of Financial Performance	22,750	1,915
Paid during the year	(3,630)	(1,044)
Closing balance	21,035	1,915

15. Payables - current

Description

	Notes	30 Days	30+ Days	2005/06 Total	2004/05 Total
Clearing Accounts	15.1	157	2,099	2,256	2,401
		157	2,099	2,256	2,401
15.1 Clearing accounts					
				2005/06	2004/05
				R'000	R'000
Sal: Reg Service Coucil				56	46
Sal: Pension Fund				5	19
Sal Income Tax				191	11,883
Sal:Housing				-	5
Sal: Official Unions				-	73
Sal: Garnishee Order				1	7
Telephone Control Acc				56	250
Telephone Erroneous Interfa Acc				-	36
Sal ACB Recalls				19	82
Pension Recoverable Account				127	-
Disallowance Miscellaneous				1,727	-
Other Departments				74	-
				2,256	12,401

16. Net cash flow available from operating activities

	2005/06	2004/05
	R'000	R'000
Net surplus/(deficit) as per Statement of Financial Performance	69,627	28,735
(Increase)/decrease in receivables – current	31,693	(35,403)
(Increase)/decrease in prepayments and advances	(22,077)	14,380
(Increase)/decrease in other current assets	(785)	(175)
Increase/(decrease) in payables – current	(10,145)	(8,256)
Proceeds from sale of capital	(21,899)	-
Surrenders to Revenue Fund	(35,630)	(2,640)
Expenditure on capital assets	59,484	36,554
Other Non Cash Items	619	-
Net cash flow generated by operating activities	<u>70,887</u>	<u>33,195</u>

17. Reconciliation of cash and cash equivalents for cash flow purposes

	2005/06	2004/05
	R'000	R'000
Consolidated Paymaster General account	38,486	4,854
Cash receipts	2	6
Disbursements	1	-
Cash on hand	15	21
	<u>38,504</u>	<u>4,881</u>

# Disclosures Notes to the Annual Financial Statements

for the year ended 31 March 2006

These amounts are not recognised in the Annual Financial Statements and are disclosed to enhance the usefulness of the Annual Financial Statements.

## 18. Contingent liabilities

Liable to	Nature	Notes	2005/06	2004/05
			R'000	R'000
Motor vehicle guarantees	Employees	Annex 2A	1,042	2,302
Housing loan guarantees	Employees	Annex 2A	5,960	5,686
Claims against the department		Annex 2B	86,011	80,000
			93,013	87,988

Claims against the department: Fleet Management - On 8th February 2006, the service provider issued summons against the government of the Republic of SA in the amount of R78,529,406.75 plus interest at the rate of 15.5%. The state has since lodge a notion to defend and a counter claim in the region of R23 million, based on the findings of the forensic investigation. The matter is currently pending.

The DSO has estimated a contingent liability as at 31 March 2006 to be in the amount of approximately R1 million. This amount is made from details relating to litigation against the DSO. Certain high profile cases are currently pending against the DSO and are in a negotiation stage. Due to the sub judice rule, details of these matters may not be provided for publication.

The Asset Forfeiture Unit has ten outstanding law suits against it, details of which may not be disclosed due to the sensitivity of the information. However, a total settlement amount of R 2.2 million in the next financial year is likely.

One lawsuit (Witness Lekolwane vs the Honourable Minister for Justice and Constitutional Development) is pending against the Witness Protection Unit. The case involves the interpretation of the WPU Act with regards to a R10 daily allowance to related persons. Should the WPU be found liable, the retrospective application will result in approximately R70,000 liability to the Unit.

One lawsuit is pending against the Priority Crimes Litigation Unit (AAK Singh V The Minister & NDPP). This is a delictual claim for damages of R2.8 million. The State Attorney has given notice to defend the claim and a private attorney and council have been instructed as such. In the event of the claim being successful, the NPA would be liable for the amount of the claim, as well as the plaintiff's taxed legal fees, as well as the NPA's legal fees in defending the action. The prospect of the claim being unsuccessful is, however strong, in which case the NPA would be able to cover its taxed legal costs.

Housing loan guarantees: The Department is of the opinion that, due to the continuous increase in property market value, the risk of the housing loans collateral (which is covered by employees' pension benefits) being honored, is minimal.

19. Commitments

	2005/06	2004/05
	R'000	R'000
<b>Current expenditure</b>		
Approved and contracted	35,592	<u>57,287</u>
	<u>35,592</u>	<u>57,287</u>
<b>Capital expenditure</b>		
Approved and contracted	11,864	<u>4,108</u>
	<u>11,864</u>	<u>4,108</u>
<b>Total Commitments</b>	<b>47,456</b>	<b><u>61,395</u></b>

20. Accruals

	2005/06	2004/05		
	R'000	R'000		
	30 Days	30+ Days	Total	Total
<b>Listed by economic classification</b>				
Compensation of employees	587	587	46	46
Goods and services	9,207	33,060	42,267	61,953
Transfers and Subsidies	11	11	11	11
Machinery and equipment	994	30,178	31,172	260
<b>Total</b>		<b>74,037</b>	<b><u>62,259</u></b>	<b><u>62,259</u></b>
<b>Listed by programme level</b>				
Public Prosecution	34,067	41,767	41,767	41,767
Special Operation	30,911	13,120	13,120	13,120
Witness Protection	9,059	7,372	7,372	7,372
	<b>74,037</b>	<b><u>62,259</u></b>	<b><u>62,259</u></b>	<b><u>62,259</u></b>
Confirmed balances with other departments	Annex 5	4,355	-	-
		<b>78,791</b>	<b><u>62,259</u></b>	<b><u>62,259</u></b>

20. Employee benefits

	2005/06 R'000	2004/05 R'000
Leave entitlement	41,645	94,377
Thirteenth cheque	27,726	43,844
Performance awards	15,553	35,000
Capped leave commitments	95,674	-
<b>Total</b>	<b>180,598</b>	<b>173,221</b>

22. Lease Commitments

22.1 Operating leases	Motor Vehicles R'000	Buildings and other fixed structures R'000	Machinery and equipment R'000	2005/06 Total R'000
Not later than 1 year	-	2,483	8,567	11,050
Later than 1 year and not later than 5 years	-	15,730	53,644	69,374
Later than five years	-	17,752	6,404	24,156
<b>Total present value of lease liabilities</b>	<b>-</b>	<b>35,965</b>	<b>68,615</b>	<b>104,580</b>

As a result of changes made in the classification of leases, comparative figures are not available and are therefore not included in the annual financial statements.

22.2 Finance leases	Motor Vehicles R'000	Buildings and other fixed structures R'000	Machinery and equipment R'000	2005/06 Total R'000
#Computer equipment and Motor Vehicles	24,648	-	37,846	62,494
*Photocopiers	-	-	3,845	3,845
<b>Total value of finance leases</b>	<b>24,648</b>	<b>-</b>	<b>41,691</b>	<b>66,339</b>

# Payments constituted information technology and motor vehicle leasing arrangements in terms of a master rental agreement. The leases were concluded in terms of a master rental agreement in respect of an operating lease vetted by the State Attorney and agreed to by National Treasury. Please refer to paragraph 9 of the Accounting Officer's Report for more detail.

\* The leases in respect of photocopiers were entered into under the auspices of an operating lease in terms of a transversal contract entered into by National Treasury. These leases do however fulfil some of the criteria for finance leases and are therefore disclosed as such.

## 23. Irregular expenditure

	2005/06	2004/05
	R'000	R'000
<b>23.1 Reconciliation of irregular expenditure</b>		
Opening balance	1,147	16,647
Irregular expenditure – current year	64,194	114
Transfers to receivable for recovery (not condoned)	-	(15,614)
Irregular expenditure awaiting condonement	<u>65,341</u>	<u>1,147</u>
<b>Analysis</b>		
Current	64,194	-
Prior Years	<u>1,147</u>	<u>1,147</u>
	<u>65,341</u>	<u>1,147</u>

An amount of R 64,167,709 for lease payments is disclosed as irregular expenditure. Payments constituted information technology and motor vehicle leasing arrangements in terms of a master rental agreement. The leases were concluded in terms of a master rental agreement in respect of an operating lease vetted by the State Attorney and agreed to by National Treasury. Please refer to paragraph 9 of the Accounting Officer's Report for more detail.

## 24. Key management personnel

	No. of individuals	2005/06	2004/05
		R'000	R'000
Political office bearers (provide detail below)	5	4,157	5,028
Officials	17	13,053	12,454
Level 15 to 16	2	1,785	834
Level 14	1	558	534
		<u>19,553</u>	<u>18,850</u>

# Annexures to the Annual Financial Statements

for the year ended 31 March 2006

## Annexure 1A

### Statement Of Conditional Grants Paid To Provinces

Name of Province/grant	Grant Allocation				Transfer		Spent			2004/05
	Division of Revenue Act	Roll Overs	Adjustments	Total Available	Actual Transfer	% of Available funds transferred	Amount received by department	Amount spent by department	% available funds spent by department	Division of Revenue Act
	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000	%	R'000
Regional Council Service Levies	-	-	-	-	3,025	-	-	-	-	-
	-	-	-	-	3,025	-	-	-	-	-

## Annexure 1B

### Statement Of Transfers To Departmental Agencies And Accounts

Department/ Agency/ Account	Transfer Allocation					Transfer		2004/05
	Adjusted Appropriation Act	Roll Overs	Adjustments	Total Available	Actual Transfer	% of Available funds Transferred	Appropriation Act	
		R'000	R'000	R'000	R'000	R'000	%	R'000
Act of Grace	-	-	-	-	-	-	-	262
	-	-	-	-	-	-	-	262

## Annexure 1C

### Statement of Transfers to Households

Households	Transfer Allocation				Expenditure		2004/05
	Adjusted Appropriation Act	Roll Overs	Adjustments	Total Available	Actual Transfer	% of Available funds Transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
<b>Transfers</b>							
Social Benefits	-	-	-	-	3,006	-	3,154
of Household: Act of Grace	-	-	-	-	75	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>3,081</b>	<b>-</b>	<b>3,154</b>

## Annexure 1D

### Statement of Gifts, Donations and Sponsorships Received

Name of Organisation	Nature of Gift, Donation or Sponsorship	2005/06 R'000	2004/05 R'000
<b>Received in kind</b>			
BHP Billiton	Year-end function	58	-
Centre of Organised Crime	Sponsorship for International Travel by the National Head of the Witness Protection Unit (Mr D Adam)	11	-
Lexmark	Furniture	41	-
Standard Bank	Furniture	37	-
Justice College	SA Law Reports	1,526	-
SA Law Commission	SA Law Reports	88	-
USAID	Training	1,143	-
Nashua	Office equipment	12	-
<b>Total</b>		<b>2,916</b>	<b>-</b>

## Annexure 1E

### Statement of Local and Foreign Aid Assistance Received

Name of Donor	Purpose	Opening Balance R'000	Revenue R'000	Expenditure R'000	Closing Balance R'000
Received in cash					
Vodacom	Thutuzela C.C.	1,774	-	1,532	242
SARS	SARSTax Unit	-	-	465	(465)
Woolworths	Child Courts	179	-	28	151
BAC	Payment for JR Hillhouse to collaborate and co-ordinate in preparation of cases for prosecution	14	-	8	6
Foundation for Human Rights	Implementation of recommendations of the TRC regarding missing persons	-	-	154	(154)
WK Kellog	Thutuzele Training	1,665	-	336	1,329
UNICEF	SOCA C.C. TV's	244	1,877	1,248	873
USAID	Prosecution of Child Sex Offenders	293	-	-	293
Greece	Thutuzele	733	-	100	633
Royal Danish Commission	Ndabezitha Project	-	937	-	937
<b>Total</b>		<b>4,902</b>	<b>2,814</b>	<b>3,871</b>	<b>3845</b>

## Annexure 2A

### Statement of Financial Guarantees issued as at 31 March 2006 - Local

Guarantor institution	Guarantee in respect of	Original guaranteed capital amount	Opening balance 1 April 2005	Guarantees issued during the year	Guarantees released/paid/ cancelled/reduced during the year	Guaranteed interest for year ended 31 March 2006	Closing balance 31 March 2006	Realised losses not recoverable
		R'000	R'000	R'000	R'000	R'000	R'000	R'000
Stannic	Motor Vehicles	-	2,302	260	1,520	-	1,042	-
		-	2,302	260	1,520	-	1,042	-
	Housing							
Standard Bank	Housing	-	1,345	128	95	-	1,378	-
Nedbank	Housing	-	705	38	32	-	711	-
Firstrand Bank Limited	Housing	-	667	141	39	-	769	-
ABSA	Housing	-	1,976	394	267	-	2,103	-
Old Mutual Finance Limited	Housing	-	(4)	-	-	-	(4)	-
Peoples Bank Limited	Housing	-	40	-	-	-	40	-
Nedbank Limited Incorporated	Housing	-	400	-	-	-	400	-
First Rand Bank	Housing	-	282	-	38	-	244	-
Old Mutual Finance Limited	Housing	-	223	-	10	-	213	-
Free State Development Corp.	Housing	-	10	36	-	-	46	-
VBS Mutual Bank		-	42	18	-	-	60	-
		-	5,686	755	481	-	5,960	-
Total		-	7,988	1,015	2,001	-	7,002	-

## Annexure 2B

### Statement Of Contingent Liabilities As At 31 March 2006

Nature of Liability	Opening Balance 01/04/2005 R'000	Liabilities incurred during the year R'000	Liabilities paid/cancelled/ reduced during the year R'000	Liabilities recoverable (Provide details hereunder) R'000	Closing Balance 31/03/2006 R'000
Claims against the department					
Fleet Management	80,000	-	-	-	80,000
DSO Litigation cases	-	1,000	-	-	1,000
Outstanding Lawsuits (AFU, WPU and PCLU)	-	5,011	-	-	5,011
<b>Total</b>	<b>80,000</b>	<b>6,011</b>	<b>-</b>	<b>-</b>	<b>86,011</b>

## Annexure 3

### Capital Tangible Asset Movement Schedule For The Year Ended 31 March 2006

	Opening Balance R'000	Additions R'000	Disposals R'000	Closing Balance R'000
Building and Other Fixed Structures	15,336	15,000	-	30,336
Other fixed structures	15,336	15,000	-	30,336
Machinery and Equipment	31,941	51,299	21,899	61,341
Computer equipment	21,899	42,746	21,899	42,746
Other machinery, furniture and equipment	10,042	8,553	-	18,595
<b>Total Capital Assets</b>	<b>47,277</b>	<b>66,299</b>	<b>21,899</b>	<b>91,677</b>

Included in Computer Equipment above, is the actual expenditure of assets purchased in terms of the Integrated Justice System Cluster Programme. The actual expenditure is incurred by the Department of Safety and Security and the assets are included in the NPA's asset register. Also see paragraph 1 of the Report of the Accounting Officer in this regard.

The balance of the Computer equipment was included against its actual cost. Other machinery, furniture and office equipment was included in the asset register at year end at fair value. The depreciated replacement cost method for assessing fair value was utilised. For further details on the method use please refer to the Report of the Accounting Officer, paragraph 10.

### Annexure 3.1

#### Additions Movement Schedule For The Year Ended 31 March 2006

	Cash R'000	In-Kind R'000	Total R'000
Building and Other Fixed Structures	15,000	-	15,000
Other fixed structures	15,000	-	15,000
Machinery and Equipment	43,933	-	43,933
Computer equipment	30,380	-	30,380
Other machinery, furniture and equipment	13,553	-	13,553
<b>Total Capital Assets</b>	<b>58,933</b>	-	<b>58,933</b>

### Annexure 3.2

#### Disposals Movement Schedule For The Year Ended 31 March 2006

	Carrying Amount R'000	Cash R'000	Profit/(loss) on Disposal R'000
Machinery and Equipment			
Computer equipment	-	21,899	-
<b>Total Capital Assets</b>	<b>-</b>	<b>21,899</b>	<b>-</b>

### ANNEXURE 3.3

#### CAPITAL TANGIBLE ASSET MOVEMENT SCHEDULE FOR THE YEAR ENDED 31 MARCH 2005

	Additions R'000	Disposals R'000	Total Movement R'000
Building and other Fixed Structures	15,536		15,536
Other fixed structures	15,536		15,536
Machinery and Equipment	20,132		20,132
Computer equipment	20,132		20,132
<b>Total Capital Assets</b>	<b>35,668</b>		<b>35,668</b>

#### Annexure 4

##### Inter-government Receivables

Government Entity	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31/03/2006	31/03/2005	31/03/2006	31/03/2005	31/03/2006	31/03/2005
	R'000	R'000	R'000	R'000	R'000	R'000
<b>Department</b>						
Correctional Services	-	-	23	-	23	-
Department of Agriculture	-	-	43	-	43	-
Department of Defence	-	-	12	-	12	-
Department of Education	-	-	10	-	10	-
Department of Environmental Affairs	-	-	15	-	15	-
Department of Health	-	-	90	-	90	-
Department of Justice	-	-	559	-	559	-
Department of Public Works	-	-	18	-	18	-
Department of Trade and Industry	-	-	25	-	25	-
Department of Transport	-	-	45	-	45	-
DPSA	-	-	15	-	15	-
Free State Province	-	-	12	-	12	-
Gauteng Province	-	-	22	-	22	-
Gauteng Shared Service Centre	-	-	65	-	65	-
National Intelligent Agency	-	-	21	-	21	-
SA Secret Services	-	-	35	-	35	-
Other	-	-	14	-	14	-
Prior year classification	-	-		789		789
<b>Total</b>			<b>1,024</b>	<b>789</b>	<b>1,024</b>	<b>789</b>

## Annexure 5

### Inter-government Payables

Government Entity	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31/03/2006	31/03/2005	31/03/2006	31/03/2005	31/03/2006	31/03/2005
	R'000	R'000	R'000	R'000	R'000	R'000
<b>Departments</b>						
<b>Current</b>						
DOJCD	3,484	-	-	-	-	-
Gauteng Provincial Government: Motor Transport	868	-	-	-	-	-
Safety and Security	-	-	41	-	-	-
Correctional Services	-	-	16	-	-	-
DPSA	-	-	22	-	-	-
Department of Agriculture	3	-	-	-	-	-
<b>Total</b>	<b>4,355</b>	<b>-</b>	<b>79</b>	<b>-</b>	<b>-</b>	<b>-</b>

# Directors of Public Prosecutions

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  - Physical Address  
High Court Building  
High Street  
Grahamstown
- Bisho
  - Telephone Number: (040) 608 6800
  - Fax Number: (040) 608 6828
  - Physical Address  
Phalo Avenue  
Tourism Building  
Bisho
- East London
  - Telephone Number: (043) 700 5300
  - Fax Number: (043) 700 5303
  - Physical Address  
Old Spoornt Building  
East London
- Umtata
  - Telephone Number: (047) 501 2600
  - Fax Number: (047) 532 6486
  - Physical Address  
Broadcast House,  
Low Sissons street,  
Forthighe
- Durban
  - Telephone Number: (031) 304 9362
  - Fax Number: (031) 304 4466
  - Physical Address  
6th Floor Sanjro House  
417 Smith street  
Durban
- Pietermaritzburg
  - Telephone Number: (033) 845 4400
  - Fax Number: (033) 394 6891
  - Physical Address  
High Court Building 3rd floor  
301 Church Street  
Pietermaritzburg
- Bloemfontein
  - Telephone Number: (051) 400 6700
  - Fax Number: (051) 400 6737
  - Physical Address  
C/O Aliwal & Andrew str  
3rd Floor Waterfall Centre  
Bloemfontein
- Kimberley
  - Telephone Number: (053) 807 4506
  - Fax Number: (053) 832 9434
  - Physical Address  
Jansmarts Building  
Kimberly
- Johannesburg
  - Telephone Number: (011) 220-4000
  - Fax Number: (011) 337 8190
  - Physical Address  
High Court 10th floor  
C/O Pritchard & Kruis Streets  
Johannesburg  
2000
- Pretoria
  - Telephone Number: (012) 401 9000
  - Fax Number: (012) 323 0866
  - Physical Address  
28 Church Square  
Pretoria
- Mmabatho
  - Telephone Number: (018) 381 2240
  - Fax Number: (018) 381 9033
  - Physical Address  
Old Standard Bank Building  
cnr Main & Roberns  
Mmabatho
- Thohoyandou
  - Telephone Number: (015) 960 9900
  - Fax Number: (015) 963 6700
  - Physical Address  
Mphephu street,  
Venda High court  
Venda





**National Prosecuting Authority of South Africa**

Victoria & Griffiths Mxenge Building, 140 Westlake Ave  
cnr Harley Street, Weavind Park, Silverton

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