

NPA under pressure to bring Lottery looters to court

By [Raymond Joseph](#)

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Pressure is mounting on the police and the Hawks to speed up investigations into grant corruption at the National Lotteries Commission (NLC), and for the National Prosecuting Authority (NPA) to prosecute people implicated in the looting.



Source: www.unsplash.com

So far, only one person [has been convicted](#) in a case involving Lottery corruption. In 2022 Christopher Tshivule was sentenced to eight years in prison after the Specialised Commercial Crimes Court found he had “hijacked” a non-profit organisation and then used it to defraud the NLC of R1.5-million.

In September 2020 [a dossier](#) of evidence involving four multimillion rand grants to dodgy non-profits, compiled by independent forensic investigators commissioned by Minister of Trade, Industry and Competition Ebrahim Patel, was handed to police. Yet three years later, the investigation is still underway.

The Special Investigating Unit (SIU) is currently investigating about 700 matters involving Lottery grants totalling over R2bn. The SIU and the NPA’s Assets Forfeiture Unit have so far obtained preservation orders valued at almost R84m over properties, luxury vehicles, and the pension of former NLC COO Phillemon Letwaba.

More court applications to preserve assets fraudulently bought with lottery money are in the pipeline.

Offer to assist NPA

The lack of prosecutions has brought into sharp focus issues with cooperation between the NPA and various investigative authorities, and the knock-on effect this has had for prosecutions.

A Memorandum of Understanding (MOU) was signed between the NPA and the SIU in 2017 to speed up prosecutions, and then another MOU to address the issue was signed by the NPA, the Hawks, SAPS and the SIU in December 2022. Yet prosecutions have still not happened.

Advocate Andy Mothibi, the head of the SIU, told *GroundUp* in a recent interview that he had made an offer to assist the NPA with preparing dockets for prosecution. The SIU, which he said was familiar with the cases it has investigated and enjoyed a relationship with witnesses, has offered to assist the NPA.



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“To improve the situation, we’re saying [to the NPA], if you still need any further investigation, I think it would help to come back to us ... and not go to other investigating entities, because we know the case, we’ve done it, we can do further investigations quickly.

“I think the progress we have made in the civil litigation outcomes, like freezing, recoveries and so on, I think we’ve done good work. [But] it’s obviously the expectation of the public that we must move even swifter in producing results,” Mothibi said.

Although the NPA responded to questions from *GroundUp*, it failed to answer the one asking it if it would take up the SIU’s offer of assistance.

Growing frustration

Earlier this year, Parliament [was told of concerns](#) on the part of Minister Patel, the NLC board and MPs at the lack of prosecutions of people implicated in Lottery corruption.

This frustration was verbalised by EFF MP Khonziwe Hlonyana, who said, “We hear a lot of investigation this, investigation that, but we don’t see anyone going to jail. It would have been very nice seeing someone going to jail for what people have done in mismanaging the monies that could have assisted the poorest of the poor.”

Since then frustration at the lack of prosecutions has increased, evident in responses by NLC Commissioner Jodi Scholtz and the Trade, Industry and Competition ministry, in replies to *GroundUp*’s questions this week.

“The NLC [reiterates the concern](#) expressed by the board Chairperson when appearing in Parliament earlier in the year regarding the pace of prosecutions against those implicated in fraud and corruption that has impacted the organisation and funds intended for good causes,” said Scholtz.

In its response, the ministry said it had “anticipated that by now several prosecutions would be underway”, based on the work done by the SIU.

“Significant progress has been made in uncovering organised criminal syndicates that have taken resources that belong to

the public. We expect that persons implicated in the investigation by the SIU should be brought before a court of law as soon as possible, and if found guilty, should face the consequences of their actions.

“The Minister [Patel] stated in Parliament in September last year that there is compelling evidence now available that can result in criminal charges and recovery of money. Resignations do not absolve any implicated party from civil and criminal prosecution.”

The ministry added that, while it respected the independence of the prosecutorial authorities, “information at the disposal of the department is available to the prosecutorial authorities, and the new NLC leadership is ready and available to assist in any lawful way to provide support to ensure prosecution of wrongdoers takes place. Within the protocols applicable, the Ministry is continuing to take the matter up.”

Cases under investigation

It is unclear precisely how many matters involving lottery corruption are being investigated by the Hawks and the SAPS.

Hawks spokesperson Colonel Katlego Mogale told *GroundUp* that there are “currently 30 case dockets relating to allegations of misappropriation of Lottery funds under criminal investigation” by Hawks’ Serious Economic Offences Unit.

But NPA national spokesperson Mthunzi Mhaga told *GroundUp* that there are currently 27 case dockets under investigation, 12 by the SAPS detective branch and 15 by the Hawks. These matters were allocated to SAPS and the Hawks for investigation, he said, adding that the case dockets were opened between 2018 and 2023, with the latest having been opened as recently as August 2023.

“It should be noted that although the SIU has referred the matters to the NPA in terms of the SIU legislation, that does not mean that the referred matters are ready for the initiation of a criminal prosecution by the NPA,” Mhaga said.

“The process regarding the SIU referrals is such that matters, in turn, are referred to the SAPS and/or DPCI [Hawks] to open a case docket and thus initiate criminal investigations. This is because investigations by the SIU are administrative and not criminal in nature,” said Mhaga.

In a February 2022 [presentation](#) to Parliament, NPA national head Shamila Bathohi [told MPs](#) that the NPA and the SIU were “governed by different Acts and operated under very different legal regimes and mandates”.

The SIU’s role was to investigate maladministration in state institutions and municipalities, she said. Its mandate was to provide investigations primarily for civil recovery, while the police and the NPA were mandated to conduct criminal prosecutions.

There was a big difference between investigations that were civil and investigations that were criminal, Bathohi said. The burden of proof in civil investigations was on a balance of probabilities, while the burden of proof in criminal investigations was beyond a reasonable doubt. “This was a much higher standard of proof,” she said.

SAPS national spokesperson Brigadier Athlenda Mathe failed to respond to questions sent to her via WhatsApp at her request.

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