


## Introductory Comments

- ✓ Working Hard, is Working Smart
- ✓ Core Characteristics of Successful Prosecutor:
- ✓ Knowledge
- ✓ Know-how –Expertise
- ✓ Drive – Passion
- ✓ Environmental Crimes normally part of Organised Crime – demanding different investigative and prosecution approach




## DIFFERENCES SAPS/NPS vs DSO

- SAPS investigate and complete docket
- Prosecutor receives docket, instructs further investigation, or
- Prosecutor prepares for trial and conducts prosecution
- Prosecutor accountable for prosecution only
- DSO:
- DSO investigators conduct investigation under full control of prosecutor
- Prosecutor directs and controls all investigative procedures
- Prosecutor prepares for trial and conducts prosecution
- Prosecutor responsible and accountable for both investigations and prosecutions
- Methodology provides its own control measure and motivation




## Legislative Framework

- ✓ Sec 28(6) of Act 32 of 1998: Summons Procedure
- ✓ Obligation to disclose all information, even if self-incriminating
- ✓ Obligation to Produce Documents and Objects
- ✓ Sec 29: Search and Seizure Procedure
- ✓ Power to Question anyone at Premises
- ✓ Failure to: Appear, Produce Book, Document or Object, to be Sworn in, or to Answer fully to all questions, and giving False information = Offence, with sentence of any Fine and/or 15 years



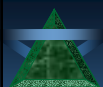
## Marx Investigation: Methodologies:

- ✓ Intelligence Gathering: Recruitment Sources
- ✓ Information from other Agencies –SAPS, MCM
- ✓ Sec 252A Undercover Operations – Pro Active
- ✓ Sec 204 Witnesses
- ✓ Searches and Seizures
- ✓ Bail Conditions
- ✓ Sec 28(6) Interviews
- ✓ Surveillance, - Physical and Electronic



## Methodologies Continue

- ✓ Act 127 Monitoring Communications
- ✓ Financial Investigations and AFU Applications
- ✓ Collection of Police Dockets as anchor evidence
- ✓ Sec 105A Plea and Sentence Agreements
- ✓ Breaking trust, security, secrecy and moral of syndicate,
- ✓ Create Insecurity, Uncertainty and Vulnerability



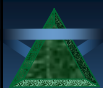
## Chronological History of Investigation

- ✓ First source recruited March 2002 – general information
- ✓ Commenced physical surveillance, identified storage facility in Kraaifontein
- ✓ Placed premises under 24 hour electronic surveillance
- ✓ Identified role players and courier vehicle
- ✓ Conducted 5 controlled deliveries from March to May
- ✓ DSO agent dealing directly with Marx
- ✓ Surveillance – follow courier to Johannesburg, identify courier company and Bin Liu, national buyer



## History continued

- ✓ Last delivery Kraaifontein 31 May, arrest Ronell Ferreira, main organizer of Marx enterprise
- ✓ Seize note book from Ronell, containing details of her abalone dealings since December 2001
- ✓ Discover police docket on Basson, Durbanville
- ✓ Turn Basson State witness and get details of 9 deliveries at his house
- ✓ 23 Aug 2002, extensive search Gansbaai 15 premises
- ✓ Seize documents and 500kg abalone, arrest Gustav Bernard and Kurtz



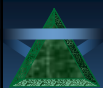
## History continued

- ✓ Recruited further sources in September 2002
- ✓ Arrest Swanepoel 22 September for storage 1 ton abalone at house Gansbaai
- ✓ Conduct further Sec 28 interviews, including Swanepoel and wife in October 2002
- ✓ Nov Swanepoel disclosed earlier delivery to Gauteng, flew him to Jhb, identify storage warehouse Sebenza



## History continued

- ✓ Place warehouse under 24 hour surveillance
- ✓ 14 November 2002, arrest Butch and Yben with delivery of 1 ton abalone, and Bin Liu and Ou
- ✓ Identify processing plant of Bin Liu and Ou
- ✓ 29 November 2002, arrest Marx and 33 others in Gansbaai and a further 11 in Dec and Jan
- ✓ AFU Restraint order 14 million on 17 Feb 2003
- ✓ Re-arrest Marx March 2003 for breaching bail



## History continued

- ✓ 13 September 2003 finalize 12 Sec105A plea and sentence agreements – first convictions
- ✓ Obtained detailed statements from 12 accused and others,= new evidence + corroboration
- ✓ R870 000 in AFU confiscation orders
- ✓ Convict 2 policemen, uncover police involvement
- ✓ Recruited agent in September 2003, info on Marx intentions to rob storage facility Worcester



## History continued

- ✓ Sec 252A and Act 127 applications
- ✓ Cooperation with SAPS w.r.t. robbery 25/09/03
- ✓ Aborted plans, planned new operations- adapt
- ✓ Provided vehicle for transport abalone 26/09/03
- ✓ Arrest driver of Marx at Worcester 27/09/03
- ✓ Seize 1 ton abalone
- ✓ Arrest Marx and brother Conspiracy etc October



## History continued

- ✓ Dec 2003, arrest Boetie Otto + 12 for harvesting abalone seized at Worcester
- ✓ March 2003, commence plea negotiations with Marx
- ✓ Drafting Racketeering charge sheet, debriefing witnesses, adding detail
- ✓ June 2004, Marx and Ricardo convicted for Conspiracy to Robbery and Transportation abalone
- ✓ 30 Sept 2004, Marx, Derick and Ricardo convicted Racketeering and Money Laundering



## Charges

- ✓ Main Charge: Racketeering i.t.o. Sec 2(1)(e) or (f) of Act 121 of 1998
- ✓ Benefits: All members jointly prosecuted
- ✓ Prosecuting members for repeated participation in activities of enterprise, not only specific acts
- ✓ Defences to specific offences neutralized
- ✓ Context of each offence and blameworthiness of each accused exposed to court



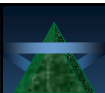
## Charges continued

- ✓ Racketeering founded on offences i.t.o. Sec 58(1)(a) of Act 18 of 1998, with regulations only as alternatives
- ✓ Benefits: Section 58 covers fishing (harvesting), on shore storing, buying, selling of fish
- ✓ Fish includes every living specie and is not restricted to abalone, eliminating the need to prove the substance as *haliotis midae*
- ✓ Section refers to "the undertaking of fishing or related activities," implying a business and not limited to specific offences and details



## Sentencing Strategies

- ✓ Securing Convictions, saving time, money, reducing number of accused
- ✓ Securing more witnesses against Marx and others, corroborating other evidence
- ✓ Obtaining details of more offences
- ✓ Breaking the ring of secrecy, security and camaraderie between accused, create disarray, uncertainty, vulnerability  
Maximize asset forfeiture



## Sentencing continued

- ✓ Maximize asset forfeiture
- ✓ Rehabilitation of accused and society



## Marx Investigation Achievements

- ✓ Arrested 66 accused
- ✓ Convicted and sentenced 44 accused already
- ✓ Marx, husband and brother convicted for racketeering, based on 440 offences, including 3 counts money laundering
- ✓ Asset forfeiture: R870 000 plus assets of R2 million.
- ✓ Syndicate Completely dismantled
- ✓ Dismantled Hoosen syndicate
- ✓ Built strong case against Bin Liu – Racketeering on 60 charges
- ✓ Boetie Otto case- arrested courier Smit and seized abalone, arrested organisers Marx and Ricardo, arrested couriers who provided Marx, arrested diving team responsible for harvesting



### Achievements – Basson docket

- ✓ Police arrested Basson + 4 on 21/02/02, while boxes abalone were loaded onto courier vehicle at his house
- ✓ The 5 were to be prosecuted for possession and courier driver was to be used as a witness
- ✓ DSO withdrew against Basson, used as witness – he disclosed details of 9 deliveries
- ✓ DSO successfully prosecuted the courier company Pretorius and wife and driver each on 18 counts of transportation, R100 000 AFU and secured them as witnesses against Marx and Bin Liu



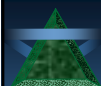
### Basson continue

- ✓ 4 hands of Hoosen enterprise, convicted on respectively 18, 10, 8 and 3 charges
- ✓ Miriam Hoosen, leader of Hoosen enterprise, convicted on 45 charges and R100 000 AFU + secured her evidence against Marx and Bin Liu
- ✓ Marx convicted on 18 acts of racketeering
- ✓ Derick Marx convicted on 1 act of racketeering
- ✓ Ronell and Ricardo convicted on 9 and 3 charges



### Basson continue

- ✓ Hoosen enterprise, that bought and sold more than 90 tons abalone in 2001 and 2002, dismantled
- ✓ Associated courier companies identified and unlawful activities stopped
- ✓ Total: 13 accused convicted on 158 charges



### Closing Remarks

- ✓ Pro-active investigations are essential to address organised crime
- ✓ There is no shortcut to easy success
- ✓ Always be alerted crime connections and context of crime
- ✓ Strategic planning and dedication of prosecutor and investigative team are essentials
- ✓ Broader Picture: Focus on resolving crime and dismantling criminal structures, stopping the crime, rather than killing the criminal