



Enforcement and Prosecution



PRESENTATION





Introduction



- **The objectives of Prosecution:**
- To ensure that offenders are made amenable to Justice.
- The ultimate aim is to ensure that persons are held to account before the law – the sum total of all efforts employed by officials may equal zero, but it is the Order of the Court that will ensure that compliance will be achieved due to consequence

Introduction



- The Enforcement and Prosecution Branch, amongst other tasks, focuses its efforts in the following areas:
 - Enforcement of the [National Building Regulations](#) and Standards Act;
 - Enforcement of the Planning and Development Act;
 - Enforcement of the Building and other By-Laws relevant to the offences in this specific sector;
 - Support Service to Legal Unit, Real Estate and other Secondary Enforcing Departments; and
 - Facilitation of all matters escalated to both Magistrates and High Court

Enforcement & Prosecution Process



Initiating Phase

Time Frame – 21 Days

Branch receives complaint

Complaint logged onto BPM Data base - EA

Case Distributed to EO – Conducts desktop and records enquiry

EO conducts site Inspection and updates BPM

EO Drafts Full Statement and updates BPM. Full Statement sent to Metro Police for Processing

Summons is served on the accused by EO or the Summons Server.

Enforcement & Prosecution Process



Continued:
Magisterial Court
Phase

Time Frame – 30 Days

Accused must admit guilt or appear in court – AG paid BI to monitor

If AG not paid, accused appears in Magistrate's Court – Criminal Prosecution

Non appearance Warrant. May be withdrawn or convicted – seek order for compliance

If Convicted monitor in terms of Order.

Non Compliance – obtain Contempt Warrant and arrest

Monitor for Compliance

Enforcement & Prosecution Process



Continued: High Court Phase

Time Frame – Varies

Non Compliance – refer to Legal Branch

Attend Consult with Counsel. Collect evidence, serve instruments and complete affidavits

Legal Dept/Counsel brings forth application – granted/not granted

If granted – monitor site for compliance

Non Compliance – obtain Contempt Warrant and arrest

Demolish or act in accordance with Order



Enforcement & Prosecution

Serving Summons

What is a
Summons
54 vs 56

Who
processes a
Summons

Who Serves
the
Summons

Recording and
Reporting on
Stats Monthly

Reporting to
Audits on
Productivity
and Compliance

How many
times do we
prosecute

What do we
do if
Summons
does not deter

What is a Rate
Coding

What Legal
Steps do we
follow



What is Court Procedure

Who Appears in Court

What Is required in Court

Administrative Processes to Secure attendance of Accused

Service Level Agreements with Metro Police

Relationship with Court Staff

What are we pursuing in Court

What are warrants of Arrest and how do we Acquire

Where to from there



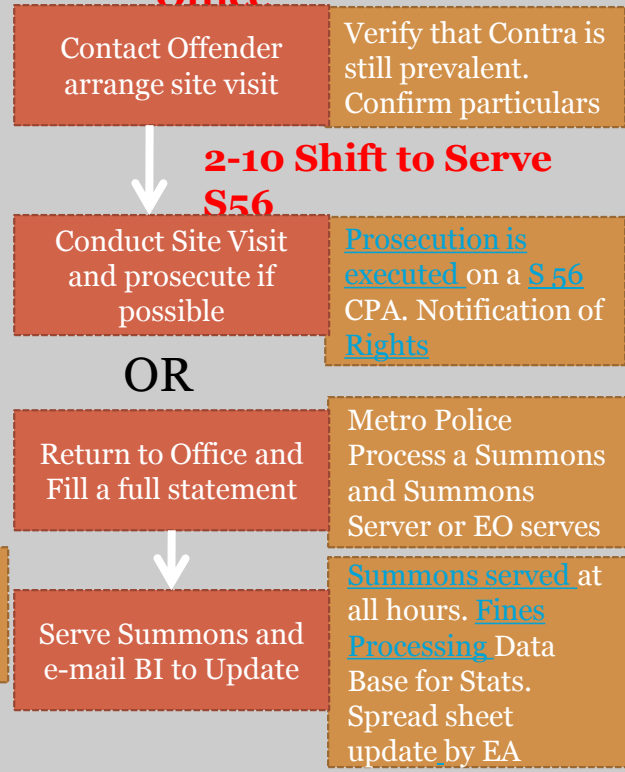
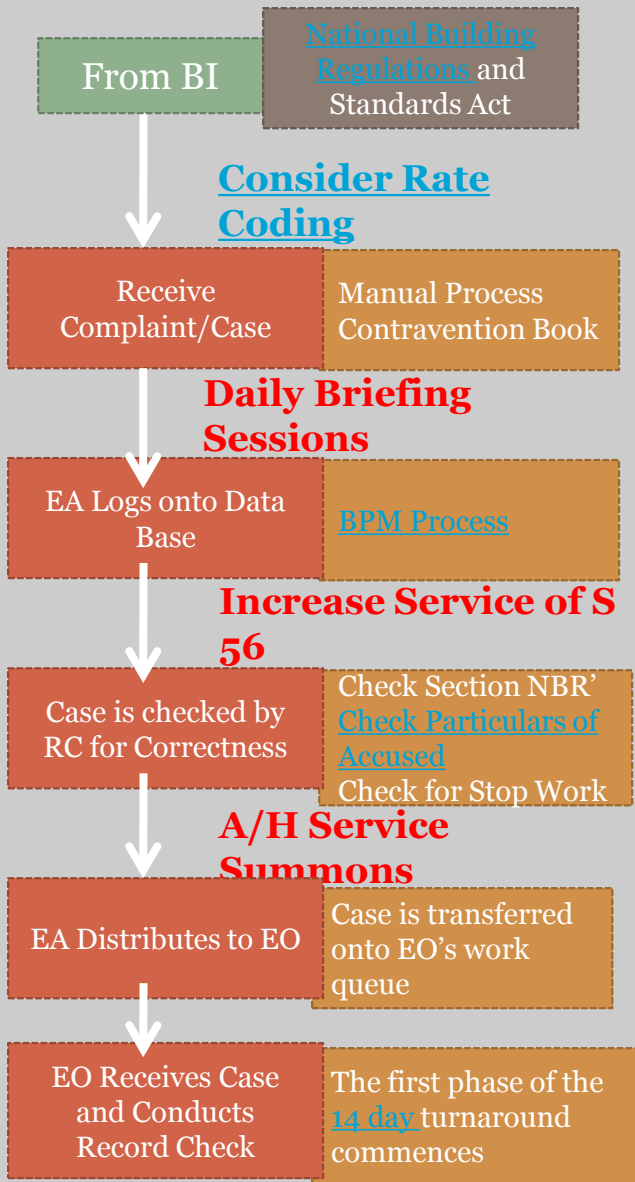
Building Inspectorate Process



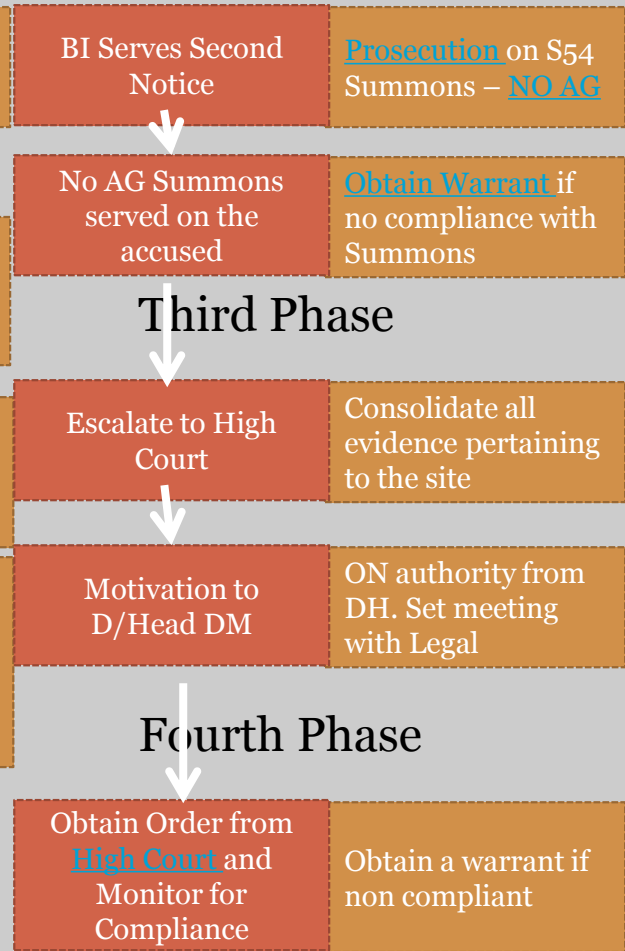
Current Interventions to improve Effectiveness

Masters/Deeds Office

Second Phase



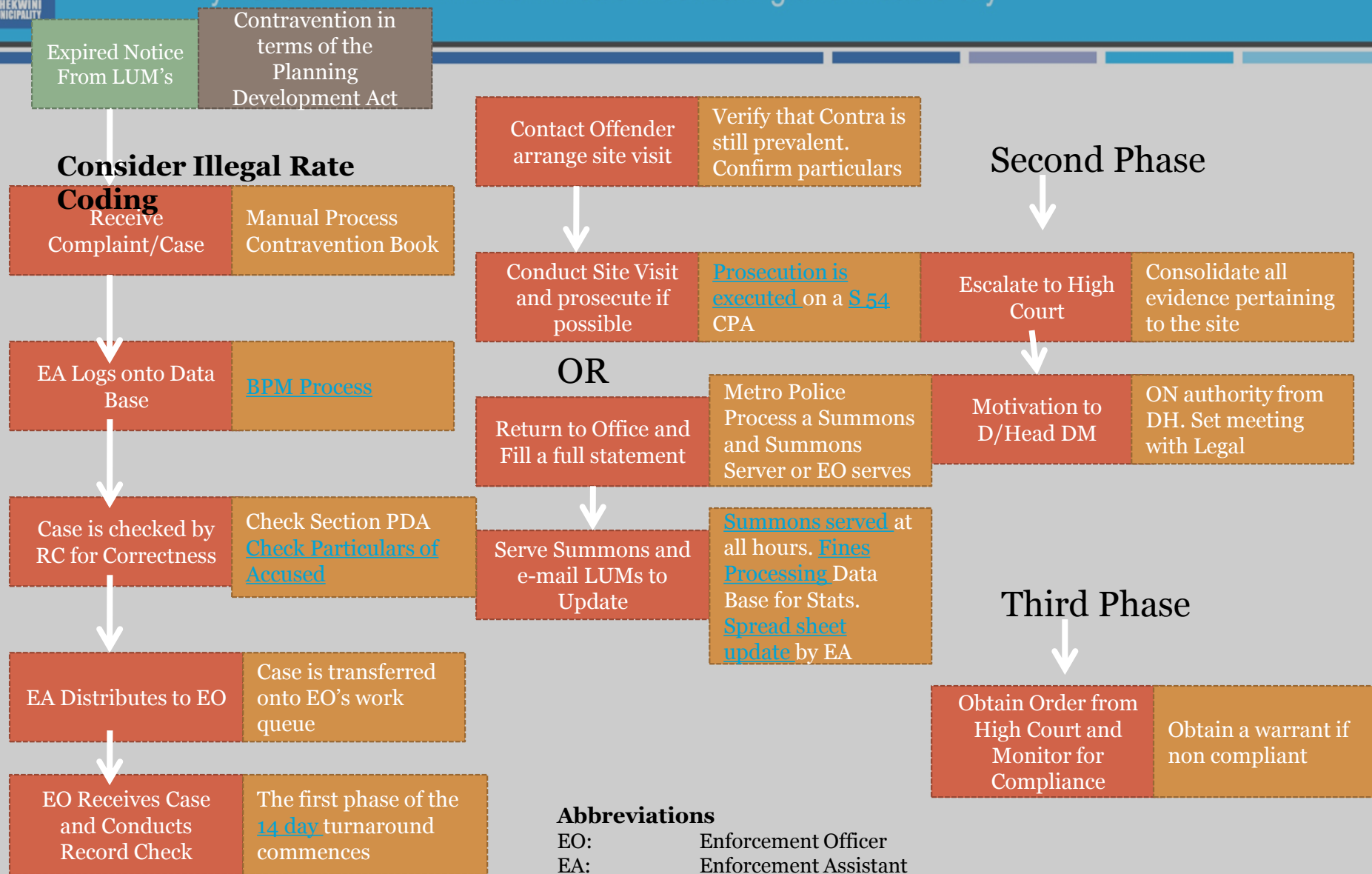
Integrated Enforcement Forums and JEAT





Land Use Management Process





Abbreviations

- EO: Enforcement Officer
- EA: Enforcement Assistant
- RC: Regional Co-ordinator
- LUM's: Land Use Management
- BPM: Business Process Management System
- CPA: Criminal Procedure Act

Important Definition



- **“peace officer” includes any magistrate, justice, police official, correctional official as defined in**
- section 1 of the Correctional Services Act, 1959 (Act 8 of 1959), and, in relation to any area, offence, class of offence or power referred to in a notice issued under section **334 (1)**, any person who is a peace officer under that section;
- [Definition of “peace officer” amended by s. 4 of Act No. 18 of 1996.]



Arrest by Peace Officer



- Section 40 Criminal Procedure Act and Regulations

Appointment Card



Method of Securing the Attendance of the Accused in Court




- **38. Methods of securing attendance of accused in court.**—The methods of securing the attendance of an accused in court for the purposes of his trial shall be arrest, summons, written notice and indictment in accordance with the relevant provisions of this Act.
- [Summons – Sect. 54 CPA](#) - Discuss Process
- [Written Notice – Sect. 56 CPA:](#)
- [Full Statement](#) / [Annexure](#) / [Fines Processing System](#) / [Warrants](#) / [Summons](#)
- [Admission of Guilt Fines](#)
- Discussion of “Spot Fine”



WRITTEN NOTICE



 DURBAN METROPOLITAN POLICE SERVICE 16 ARCHIE GUMEDE PLACE, DURBAN - P.O. BOX 1172, DURBAN 4000 WRITTEN NOTICE TO APPEAR IN THE MAGISTRATE'S COURT UNDER SECTION 56, CRIMINAL PROCEDURE ACT, ACT 51 OF 1977.				WRITTEN NOTICE NUMBER: 2/36592228	
Accused Surname					
First Name					
I.D. Number		Sex		Age	
Home Address					
Business Address		Occupation			
Telephone Numbers		Cell		Business	
				Res	
You are hereby notified in terms of Section 56 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) to appear in the Magistrates Court mentioned in block A at 08:30 on the date mentioned in block B, to answer a charge of contravening the section(s) mentioned in block D, or such other charges as the Prosecutor may bring against you, on the grounds that on the date and time mentioned in block C, you did wrongfully and unlawfully commit the offence mentioned in block E.					
A Court of Appearance		B Trial Date			
		Year		Month	
		2 0			
C Place of Offence		Time		Date of Offence	
				Year	
				Month	
				Day	
				2 0	
D Section Contravened		E Details of Offence		Code	
				Amount	
1				.00	
2				.00	
3				.00	
4				.00	
5				.00	
F Total Admission of Guilt Fine Amount <i>(in words)</i>				TOTAL R .00	
G Vehicle Registration No.		Make of Vehicle		Type of Vehicle	
H License Disc No.		Date of Expiry		Colour of Vehicle	
I hereby certify that I informed the accused that he/she has the right to be represented at his/her own expense by a legal advisor of his/her own choice and if he/she cannot afford legal representation, that he/she may apply for legal aid and of the institution which he/she may approach for legal assistance. The original thereof was today handed to the aforementioned accused personally and the contents thereof explained to him/her.					
Date		Signature of Officer		Force No.	
Year					
Month					
Day					
2 0					
Name of Officer (please print) Full Names				District	
You may admit your guilt in respect of this offence and pay the fine stipulated in block F, without appearing in court. See reverse side for payment sites and details.					
Note: Payment must be made on or before:				Year	
				Month	
				Day	
				2 0	
Warning: If you fail to comply with this notice, a warrant of arrest may be authorised and you may be sentenced to a fine of R300,00 or three months imprisonment.					

FULL STATEMENT



DURBAN METRO POLICE FULL STATEMENT F/S 00003521841

FORCE NO.	REGISTRATION NO.	MAKE	TYPE	COUNTRY LICENSE	COLOUR

ACCUSED NAME 1	SEX	AGE
I.D. NO.		
ACCUSED HOME ADDRESS 1	BUSINESS ADDRESS	

ACCUSED NAME 2	SEX	AGE
I.D. NO.		
ACCUSED HOME ADDRESS 2	BUSINESS ADDRESS	

DATE	TIME	TIME	PLACE OR INTERSECTION	AREA
	:	:		

SECTION	OFFENCE	OFFENCE CODE	AMOUNT
TOTAL			

CLEARANCE CERT:

FULL STATEMENT OF EVIDENCE

I, _____ a Constable/Sergeant in the Durban Metro Police state that at about _____ on the _____ day of _____ and upon _____ a public road within the City of Durban the said accused did _____

WITNESS: _____ Has accused been informed of offence YES NO
Mark appropriate block ✓

SIGNATURE _____

NOTIFICATION OF RIGHTS



ADDITIONAL INFORMATION IN REGARD TO WRITTEN NOTICE TO APPEAR IN COURT IN TERMS OF
SECTION 56 OF THE CRIMINAL PROCEDURE ACT, NO. 51 OF 1977

THE STATE VERSUS _____ (Accused) 025871
DEVIAN GOVENDER (Peace Officer),

I hereby certify that I, in addition to that certified by me (in terms of section 56(1)(d) of the Criminal Procedure Act, 1977) on the written notice, personally explained the following to the above-mentioned accused in a language of his/her understanding, namely, ENGLISH (language) without the aid of an interpreter/or/ with the aid of _____ (name*) who acted as interpreter. (delete which is not applicable)

YOU ARE INFORMED AS FOLLOWS:

- In terms of Section 56(2) of the Criminal Procedure Act, the effect of a written notice to appear in court handed to you is that you shall be forthwith released from custody.
- That you are entitled to make representations to a Public Prosecutor regarding the institution of prosecution or for reduction of the fine on good cause shown.
- Upon payment of the above-mentioned admission of guilt fine, you shall be deemed to have been duly convicted and sentenced by the court with jurisdiction in respect of the stipulated offence(s) and such conviction and sentence may appear on your criminal record if it has been reported to the Criminal Records Bureau. (Note that some of the institutions, for example, Metro Police, do not report any of their matters to the Criminal Records Bureau and therefore such conviction and sentence will not appear on your criminal record).
- On payment of the above mentioned admission of guilt fine, you waive the constitutional right to:
 1. A fair trial in an open court, i.e.,
 - contest the allegation(s) in open court
 - confront your accuser(s);
 - call witnesses;
 - testify in open court;
 - (adduce) evidence and/or present argument in mitigation of sentence
 2. Legal representation
 3. Be convicted only upon proof beyond reasonable doubt that you are guilty of the commission of the stipulated offence(s);

The Accused was informed of the date, time and place of the appearance. The full nature, importance and exigency of the notice was explained to the accused. The original notice was handed to the accused personally.

Signature

OFFICER
ENFORCEMENT
Designation

25/06/2015
Date

I, _____, the above mentioned accused, hereby confirm that the above-mentioned was explained to me and that I understand the full consequences thereof.

Signature: Accused

25/06/2015
Date

The Essence of the New Strategy



- **Increase Admission of Guilt**
 - ✦ 2ND Notice
 - ✦ New AG
- **Empower the Enforcement Officer**
 - ✦ Internal Training
 - ✦ New Accreditation and additional powers
- **Appoint Summons Servers**
 - ✦ Specifically for DPEM Notices
- **Streamline/Rationalize Processes**
 - ✦ All regions: Documentation – Processes – Protocols
- **Linkage to Metro Fines Processing**
 - ✦ With limitations
- **Business Process Re-engineer**
 - ✦ ICSM – BPM – DMS – DATA BASES
- **SLA's with Police – SAPS /METRO**
 - ✦ Training of Peace Officers
 - ✦ Certification
 - ✦ Accreditation
 - ✦ Appointment
 - ✦ Renewal



The Essence of the New Strategy



- **SLA's with Fines Processing and Court Clerks**
 - ✦ Processing Summons
 - ✦ Issuing Warrants
 - ✦ Executing Warrants
 - ✦ Managing Court Rolls
- **Increasing Resources**
 - ✦ Employ Enforcement Officers
 - ✦ Regional Coordinators
 - ✦ Summons Servers
- **Integrated Modus Operandi**
 - ✦ Night Ops
 - ✦ Regional Integrated Enforcement Forums



Workshop Recommendations



- Integrated enforcement (co-operation and co-ordination of individual departments/branches) – limited multi-disciplinary tasking
- Specialised legal support with regards to branch specific needs
- Public education/awareness to encourage reporting of contraventions
- Thorough review of enforcement officer's – salary/safety/training
- Creation of multi-disciplined task teams to cover the city
- Effective financial management from the billing, to project selection process:
 - Must cater for special levies to resource special operations
 - Present the opportunity to provide compliance incentives and enforcement incentives
- Establish interdepartmental and intergovernmental linkages
- Provide safe conditions/practice for enforcement officers
- Selection of the most updated and effective electronic systems (hard/software) to facilitate information sharing and documentation (eg. DMS)





Thank You

