



The Department of Justice and Constitutional Development aims to uphold and protect the Constitution and the rule of law. Its objective is to render accessible, fair, speedy and cost-effective administration of justice in the interest of a safer and more secure South Africa.

The department's four national core branches are Court Services, Master of the High Court, Legal Advisory Services and Legislative Development. The National Prosecuting Authority (NPA) forms a separate programme on the department's Budget Vote.

To ensure the efficiency of its services and to enhance accessibility, the NPA, Court Services and the Master of the High Court have established provincial and local structures linked to courts to co-ordinate the implementation of national policy.

Legal Advisory Services has also established state-attorney offices in Pretoria, Johannesburg, Cape Town, Bloemfontein, Kimberley, Port Elizabeth, East London, Thohoyandou and Durban to provide decentralised services. The following constitutional institutions, among other things, were established to strengthen constitutional democracy:

- the South African Human Rights Commission (SAHRC), which promotes, protects and monitors the observance of human rights in South Africa
- the Commission on Gender Equality (CGE), which promotes respect for gender equality and the protection, development and attainment of gender equality
- the Public Protector, who investigates any alleged improper, unlawful or prejudicial conduct in state affairs or in public administration in any sphere of government.
- the Department of Justice and Constitutional Development, which administers the following public entities:
  - the Special Investigating Unit (SIU), which provides professional forensic investigating and litigating services to all state institutions at national, provincial and local level to combat maladministration, corruption and fraud, and to protect state assets and public money
  - the Legal Aid Board (LAB), which provides legal aid and representation to indigent people at the State's expense.

Between 2004/05 and 2010/11, the department's budget is expected to increase at an average annual rate of 13,4%, from R5,5 billion to R11,7 billion.

The department's total budget for the 2008/09 financial year was R9,7 billion. Some R3,4 billion was allocated to the Court Services branch,

including R368 million to improve infrastructure. Some R2,1 billion was allocated to the NPA and R968 million went to the Chapter Nine constitutional institutions and public entities reporting to the Minister of Justice and Constitutional Development.

### Judicial system

The Constitution of the Republic of South Africa, 1996, is the supreme law of the country and binds all legislative, executive and judicial organs of the State at all levels of government.

In terms of Section 165 of the Constitution, the judicial authority in South Africa is vested in the courts, which are independent and subject only to the Constitution and the law. No person or organ of state may interfere with the functioning of the courts, and an order or decision of a court binds all organs of state and persons to whom it applies.

Chapter Eight of the Constitution provides for the following courts:

- Constitutional Court
- Supreme Court of Appeal (SCA)
- high courts, including any High Court of Appeal that may be established by an Act of Parliament to hear appeals from high courts
- magistrates' courts
- any other court established or recognised in terms of an Act of Parliament, including any court of a status similar to either high courts or magistrates' courts.

In line with this, Parliament has also established special income tax courts, the Labour Court and the Labour Appeal Court, the Land Claims Court, the Competition Appeal Court, the Electoral Court, divorce courts, "military courts" and equality courts.

The Minister of Justice and Constitutional Development is leading a process to rationalise high courts. The Superior Courts Bill, which was introduced in Parliament in 2005, will abolish the last remnants of the homeland-based supreme courts, and will introduce new provincial divisions of the High Court in each province. Their jurisdiction and capacity will be determined in accordance with people's needs. This will result in the opening of high courts in Mpumalanga and Limpopo, which the Pretoria High Court currently services.

There are 199 permanent judges at any given time and also a fluctuating number of acting judges.



### Constitutional Court

The Constitutional Court, situated in Johannesburg, is the highest court in all constitutional matters. It is the only court that may adjudicate disputes between organs of state in the national or provincial sphere concerning the constitutional status, powers or functions of any of those organs of state, or that may decide on the constitutionality of any amendment to the Constitution or any parliamentary or provincial Bill. The Constitutional Court makes the final decision on whether an Act of Parliament, a provincial Act or the conduct of the President is constitutional. It consists of the Chief Justice of South Africa, the Deputy Chief Justice and nine Constitutional Court judges. Justice Pius Langa is Chief Justice of South Africa and Justice Dikgang Moseneke is Deputy Chief Justice. There are 11 constitutional court judges.

### Supreme Court of Appeal

The SCA, situated in Bloemfontein in the Free State, is the highest court in respect of all other matters. It consists of the President and Deputy President of the SCA, and a number of judges of appeal determined by an Act of Parliament. The SCA has jurisdiction to hear and determine an appeal against any decision of a high court.

Decisions of the SCA are binding on all courts of a lower order, and the decisions of high courts are binding on magistrates' courts within the respective areas of jurisdiction of the divisions. The SCA comprises 25 judges, including its president.

### High courts

There are 10 high court divisions: Cape of Good Hope (with its seat in Cape Town), Eastern Cape (Grahamstown), Northern Cape (Kimberley), Orange Free State (Bloemfontein), Natal (Pietermaritzburg), Transvaal (Pretoria), Transkei (Mthatha), Ciskei (Bhisho), Venda (Sibasa), and Bophuthatswana (Mmabatho). Each of these divisions, with the exception of Venda, has a judge president and, if the Judge President so determines, one or more deputy judge presidents, and as many judges as the Judge President may determine from time to time.

There are also three local divisions: the Witwatersrand Local Division (Johannesburg), Durban and Coast Local Division (Durban) and South-Eastern Cape Local Division (Port Elizabeth). Judges in these courts preside over these divisions.

A provincial or local division has jurisdiction in its own area over all persons residing or present in that area. These divisions hear matters that are of such a serious nature that the lower courts would not be competent to make an appropriate judgment or to impose a penalty. Except where minimum or maximum sentences are prescribed by law, their penal jurisdiction is unlimited and includes handing down a sentence of life imprisonment in certain specified cases.

### Circuit local divisions

These itinerant courts, each presided over by a judge of the provincial division, periodically visit areas designated by the Judge President of the provincial division concerned.

### Other high courts

The Land Claims Court and the Labour Court have the same status as the high court. The Land Claims Court hears matters on the restitution of land rights that people lost after 1913 as a result of racially discriminatory land laws. The Labour Court adjudicates matters relating to labour disputes. Appeals are made to the Labour Appeal Court.

Decisions of the Constitutional Court, the SCA and the high courts are an important source of law. These courts are required to uphold and to enforce the Constitution, which has an extensive Bill of Rights binding all state organs and all persons. The courts are also required to declare any law or conduct that is inconsistent with the Constitution to be invalid, and to develop common law that is consistent with the values of the Constitution, and the spirit and purpose of the Bill of Rights.

### Regional courts

The Minister of Justice and Constitutional Development may divide the country into magisterial districts and create regional divisions consisting of districts. Regional courts are then established per province at one or more places in each regional division to hear matters within their jurisdiction.

Unlike the High Court, at present, legislation limits the penal jurisdiction of the regional courts to serious criminal matters. By mid-2008, draft legislation was being considered to give regional courts civil jurisdiction also. There are nine regional court presidents and 328 regional court magistrates.

### Magistrates' courts

Magisterial districts have been grouped into 13 clusters headed by chief magistrates. This system



has streamlined, simplified and provided uniform court-management systems applicable throughout South Africa, in terms of judicial provincial boundaries.

It has also facilitated the separation of functions pertaining to the judiciary, prosecution and administration; enhanced and developed the skills and training of judicial officers; optimised the use of limited resources in an equitable manner; and addressed imbalances in the former homeland regions. In terms of the Magistrates' Act, 1993 (Act 90 of 1993), all magistrates in South Africa fall outside the ambit of the Public Service. The aim is to strengthen the independence of the judiciary.

Although regional courts have a higher penal jurisdiction than magistrates' courts (district courts), an accused cannot appeal to a regional court against the decision of a district court; only to the High Court.

By mid-2008, there were 366 magisterial districts and main magistrates' offices, 80 branch courts and 246 periodical courts in South Africa. There were 1 830 magistrates in the country, including regional court magistrates. In addition, full jurisdiction was conferred to courts in rural areas and former black townships that exercise limited jurisdiction and depend entirely on the main courts in urban areas to deliver essential justice services. Because this compels the poor to travel to the main cities for judicial services, 24 of the 80 branch courts countrywide were to be converted during 2008/09 to hear, among other things, maintenance, domestic violence, deceased estates and children's court cases. An estimated seven million people will benefit from these courts.

A ground-breaking programme in the justice sector, introduced in 2008, is set to create a skills base of qualified and experienced attorneys which will ensure that poor communities have access to free legal services.



The candidate attorney programme is located at most of the major universities in South Africa and provides LLB graduates an opportunity to serve their articles through university law clinics and simultaneously give legal services to disadvantaged communities.

The Department of Justice and Constitutional Development will pay the graduates a monthly stipend for 24 months, their practical law school fees, registration of articles and board examination fees to qualify as attorneys after the two-year period.

### Criminal jurisdiction

Apart from specific provisions of the Magistrates' Courts Act, 1944 (Act 32 of 1944), or any other Act, jurisdiction regarding sentences imposed by district courts is limited to an imprisonment of not more than three years or a fine not exceeding R60 000. A regional court can impose a sentence of not more than 15 years' imprisonment or a fine not exceeding R300 000.

Any person charged with any offence committed within any district or regional division may be tried either by the court of that district or by the court of that regional division.

Where it is uncertain in which of several jurisdictions an offence has been committed, it may be tried in any of such jurisdictions.

Where, by any special provision of law, a magistrate's court has jurisdiction over an offence committed beyond the limits of the district or regional division, the court will not be deprived of such jurisdiction.

A magistrate's court has jurisdiction over all offences except treason, murder and rape. A regional court has jurisdiction over all offences except treason. However, the High Court may try all offences. Depending on the gravity of the offence and the circumstances pertaining to the offender, the Directorate of Public Prosecutions (DPP) decides in which court a matter will be heard and may even decide on a summary trial in the High Court.


Prosecutions are usually summarily disposed of in magistrates' courts, and judgment and sentence passed.

The following sentences may, where provided for by law, be passed upon a convicted person:

- imprisonment
- periodical imprisonment
- declaration as a habitual criminal (regional courts and high courts)
- committal to an institution established by law
- a fine with or without imprisonment as an alternative, correctional supervision or a suspended sentence
- declaration as a dangerous criminal (regional courts and high courts)
- a warning or caution
- discharge.

The sentencing of "petty" offenders to do community service as a condition of suspension, correctional supervision or postponement in appropriate circumstances, has become part of an alternative





sentence to imprisonment. Where a court convicts a person of any offence other than one for which any law prescribes a minimum punishment, the court may, at its discretion, postpone the passing of sentence for a period not exceeding five years, and release the convicted person on one or more conditions; or pass sentence, but suspend it on certain conditions.

If the conditions of suspension or postponement are violated, the offender may be arrested and made to serve the sentence. This is done provided that the court may grant an order further suspending the operation of the sentence if offenders prove that circumstances beyond their control, or that any other good and sufficient reason prevented them from complying with the conditions of suspension.

### Other criminal courts

In terms of statutory law, jurisdiction may be conferred upon a chief or headman or his deputy to punish an African person who has committed an offence under common law or indigenous law and custom, with the exception of certain serious offences specified in the relevant legislation. The procedure at such trials is in accordance with indigenous law and custom. The jurisdiction conferred upon a chief and a magistrate does not affect the jurisdiction of other courts competent to try criminal cases.

### Community courts

South Africa's community courts provide timely judicial services – usually within 24 hours of an arrest of a criminal suspect. This assists in easing the country's court case backlog. Community courts, like the Hatfield Community Court in Pretoria, are normal district magistrates' courts that assist in dealing with matters in partnership with the local community and businesses. These courts focus on restorative justice processes, such as diverting young offenders into suitable programmes.

The business community and other civil-society formations contribute significantly to the establishment and sustainability of these courts.

Thirteen community courts have been established. By mid-2008, four were fully operational and had been formally launched in Hatfield, Fezeka (Gugulethu), Mitchells Plain and Cape Town.

Another nine pilot sites commenced in Durban (Point), KwaMashu, Mthatha, Bloemfontein, Thohoyandou, Kimberley, Phuthaditjhaba, Hillbrow and Protea (Lenasia).

### Courts for income tax offenders

In October 1999, the South African Revenue Service (Sars) opened a criminal courtroom at the Johannesburg Magistrate's Office, dedicated to the prosecution of tax offenders.

The court deals only with cases concerning failure to submit tax returns or to provide information requested by Sars officials. It does not deal with bigger cases such as tax fraud.

Another Sars court operates twice a week at the Roodepoort Magistrate's Office. In 2005, a new tax court facility was opened in Megawatt Park, Sunninghill, Gauteng.

### Family courts

A family court structure and extended family advocate services are priority areas for the department. The establishment of family courts in South Africa was motivated by three broad aims, namely to:

- provide integrated and specialised services to the family as the fundamental unit in society
- facilitate access to justice for all in family disputes
- improve the quality and effectiveness of service delivery to citizens who have family law disputes.


To ensure the proper and efficient functioning of maintenance courts, government has introduced initiatives that include appointing and training 171 maintenance investigators, creating 569 maintenance clerk and 83 legal intern positions, appointing 87 legally qualified maintenance officers to improve service delivery, and facilitating the development of Magistrates' Guidelines for the Implementation of Maintenance and Operation Isondlo.

Operation Isondlo (an initiative which the Department of Justice and Constitutional Development initiated in 2006/07) has led to many children's maintenance defaulters being traced, appearing in court and paying maintenance.

The Access to Justice Week, officially launched in August 2008, was initiated by the South African Women Lawyers Association in partnership with the Department of Justice and Constitutional Development.



Access to Justice Week ensures that poor, previously marginalised and rural females receive free legal advice. During this week, female lawyers are stationed at different public areas in South Africa to give free legal advice on maintenance, wills, domestic violence, rights in marriage, divorce, custody and access, small claims courts, guardianship and fostering.



Many new applications have been received countrywide and the number of children receiving maintenance has increased. In 2007/08, 20 744 warrants of arrest were issued for defaulters.

### Mediation in maintenance matters

In dealing with maintenance, there is an inevitable link of dealing with mediation, although it is not really recognised as mediation as such. The Maintenance Act, 1998 (Act 99 of 1998), provides for an element of mediation to be used as a mechanism in resolving disputes. A need has been identified to train officials to deal with mediation as this provides an opportunity for both parties to talk things through. Both parties contribute towards amicable resolution of maintenance and bring about restoration of dignity to the aggrieved party.

The Johannesburg Family Court and Pretoria Magistrate Court have been identified as pilot sites as they are centrally located and it would be easier for the national office to monitor and maintain contact for their progress, before moving to other regions. Once this is fully operational, it will reduce high volumes of maintenance cases that block the court and reduce the high turn-around time in finalising family law matters.

### Domestic violence

The overall strategic objective of the Domestic Violence Programme is to strengthen the effectiveness of the Domestic Violence Act (DVA) 1998 (Act 116 of 1998). This will be implemented through a series of review projects aimed at identifying challenges and best practice in the past 10 years of the implementation of the DVA, 1998. The projects will lay the foundation for informing the development of a framework for the effective and co-ordinated implementation of actions aimed at providing victim-friendly court-support services. This will include a holistic approach to all implementation initiatives aimed at the eradication of domestic violence.

### Equality courts

The establishment of equality courts seeks to achieve the expeditious and informal processing of cases, which facilitates participation by the parties to the proceedings. The courts also seek to ensure access to justice to all persons in relevant judicial and other dispute-resolution forums.

South Africans' rights are entrenched in and protected by the South African Constitution and its Bill of Rights. In turn, laws give effect to the various rights. The right to equality, as one of these rights,

is protected by law in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000), and the Employment Equity Act, 1998 (Act 55 of 1998). The two acts work in synergy.

The Equality Act, 1998 aims to:

- prevent and prohibit unfair discrimination and harassment
- promote equality
- eliminate unfair discrimination
- prevent and prohibit hate speech.

The Act also provides for:

- remedies for victims of any of the above
- compliance with international law obligations, including treaty obligations
- measures to educate the public and raise public awareness on equality.

By the end of 2007/08, 219 magisterial courts had been designated as equality courts and the remaining 152 magisterial districts were expected to be designated in 2008/09. Section 16(1)(a) of the Equality Act, 1998 provides that every high court acts as an equality court for its area of jurisdiction. To support the effective functioning of equality courts, 371 clerks of court, 129 judges and 732 magistrates were trained in equality matters.

To ensure the effectiveness of equality courts, the Department of Justice and Constitutional Development was expected to embark on a nationwide campaign in 2008/09 to raise awareness on the purpose of the Equality Act, 1998 and the equality courts.

### Civil jurisdiction

Except when otherwise provided by law, the area of civil jurisdiction of a magistrate's court is the district, subdistrict or area for which the court has been established. South African law, as applied in the Western Cape, is in force on Prince Edward and Marion islands which, for the purpose of the administration of justice, are deemed to be part of the Cape Town magisterial district.

On 1 May 1995, the civil jurisdictional limits of magistrates' courts were increased for both liquid and illiquid claims, from R50 000 and R20 000 respectively, to R100 000.

In addition to the considerable increase, the previous distinction between jurisdictional limits regarding the different causes of action was abolished.

Unless all the parties in a case consent to higher jurisdiction, the jurisdiction of a magistrate's court is limited to cases in which the claim value does not exceed R100 000 where the action arises



out of a liquid document or credit agreement, or R50 000 in all other cases.

### Small claims courts

Small claims courts have been established in terms of the Small Claims Court Act, 1984 (Act 61 of 1984), to adjudicate over small civil claims. They are created to eliminate the time-consuming adversary procedures before and during the trial of these claims. The limit of cases involving civil claims in these courts is R7 000. In 2008, there were 168 established small claims courts throughout the country. Matters within small claims courts are presided upon by commissioners who are usually practising advocates or attorneys, a legal academic or other competent person. The service is voluntary as there are no fees paid to the commissioners.

In 2007/08, the department appointed 60 commissioners and 23 advisory board members to assist small claims courts.

Neither the plaintiff nor the defendant may be represented or assisted by counsel at the hearing. The commissioner's decision is final and there is no appeal to a higher court; only a review process is allowed.

The department has developed a national programme on re-engineering small claims courts, which aims to strengthen and roll out these courts to rural and peri-urban areas by pursuing the strategic objectives of:

- providing access for all, especially the poor and the vulnerable
- establishing systems and rules of court that are accessible and easy to understand
- providing trained administrative support staff
- attracting and retaining commissioners.

Funding from the Swiss Agency for Development and Co-operation has enabled the Small Claims Court Project Office to be set up to manage the National Plan of Action aimed at re-engineering small claims courts and specifically addressing issues of training for commissioners and clerks.

### Other civil courts

An authorised African headman or his deputy may hear and determine civil claims arising from indigenous law and custom, brought before him by an African against another African within his area of jurisdiction.

Courts constituted in this way are commonly known as chiefs' courts. Litigants have the right to choose whether to institute an action in the chief's

court or in a magistrate's court. Proceedings in a chief's court are informal. An appeal against a judgment of a chief's court is heard in a magistrate's court.

### Transforming the judiciary

A key aspect of the transformation of the justice system concerns the department's key strategic partners and stakeholders. The considerable effort put into transforming prosecution and allied services into a prestigious professional force, in accordance with the Constitution, is paying off.

By mid-2008, of the 199 judges, 48,23% (96) were white, 35,68% (71) were African, 7,54% (15) were coloured and 8,55% (17) were Indian. Overall, 18,59% were female and 81,42% male. In terms of the lower-court judiciary, of the 1 830 magistrates, 47% were white, 38% African, 7% coloured and 8% Indian. Overall, 31% were female and 69% male.


The transformation of the judiciary is closely linked with the transformation of the legal profession and of legal scholarship. The Department of Justice and Constitutional Development has worked in partnership with law schools in transforming the curriculum of the basic law degree to bring it in line with modern best practices. In addition to encouraging law schools to widen access to students from previously disadvantaged communities, these institutions will further be encouraged to forge linkages with leading law firms, with prominent practitioners and with relevant international organisations. This will:

- ensure the relevance of the training they offer to the practical demands of the profession
- expose students, especially those from previously disadvantaged communities, to the profession and vice versa to facilitate professional training prospects
- engage the legal profession in the evolution of a new legal system that fully expresses the constitutional and cultural aspirations of the new dispensation.

The department assists law graduates through its internship programme, which also provides

In 2008, the Department of Justice and Constitutional Development finalised the Legal Services Charter. Full participation of the legal profession is a reflection of the commitment of the legal sector towards establishing a transformed justice system.





research training to give much-needed assistance to state legal officers, prosecutors, public defenders, the judiciary and the magistracy.

Transformation of the legal profession includes making judicial services accessible to the poor, the uneducated and the vulnerable. This entails establishing a physical presence in rural areas and in townships, offering affordable fees and providing speedy and empathetic services. It also entails facilitating access of all aspects and levels of the profession to aspirant lawyers, especially to those from previously marginalised backgrounds.

The provision of alternative dispute-resolution mechanisms is another key aspect of transforming justice services, thus making justice more accessible and more affordable.

The department gives prominence to integrating and modernising justice services through technology. It seeks to evolve simplified, cheaper and faster processes geared for the poor and vulnerable in townships and rural areas. It seeks to achieve this in partnership with its customers, with other government departments and with stakeholders.

The South African Judicial Education Institute Act, 2008 (Act 14 of 2008), will, for the first time in history, introduce a state-sponsored judicial education programme for judges. The Judicial Education Institute will provide training for both judges and magistrates.

The Judicial Service Commission (JSC) Amendment Bill will enhance the accountability of judicial officers by introducing complaints-handling procedures for judges.

Other bills identified for priority introduction in 2008 included: Constitution 14th Amendment Bill and Constitution 15th Amendment Bill, dealing with floor-crossing; the Reform of Customary Law of Succession Bill; Jurisdiction of Regional Courts Amendment Bill, conferring civil jurisdiction on regional courts; Traditional Courts Bill, regulating the role of traditional leaders in the administration of justice; National Prosecuting Authority (NPA) Amendment Bill; Criminal Procedure Amendment Bill, dealing with the expungement of criminal records for certain offences and the postponement of certain criminal proceedings by means of audio-visual linkage; the Renaming of high courts Bill to bring the names of the high courts in line with the Constitution; and the Legal Practice Bill.

The department was also finalising a consolidated policy framework document to address other outstanding aspects relating to the transformation of the judicial system. These include rationalising

high courts, harmonising the appointment procedures for judges and magistrates and addressing aspects relating to language use in courts.

By mid-2007, the special project of selecting aspirant female judges had been completed. Twenty-three women were selected from the legal profession to undergo a specially designed judicial education programme, which commenced in June 2007.

Transforming the judicial system also includes transforming traditional courts. Traditional leaders are conferred with criminal and civil jurisdiction to exercise judicial authority in respect of certain offences and claims. The conferment is by virtue of sections 10 and 20 of the Black Administration Act, 1927 (Act 38 of 1927).

Since the Act is not consistent with the current constitutional dispensation, it was repealed in November 2005.

Only sections 12 and 20, which deal with the establishment and functioning of traditional courts, were kept in operation until 30 September 2007. The Repeal of the Black Administration Act, 1927 and Amendment of Certain Laws Amendment Act, 2007 (Act 13 of 2007), extended the deadline of 30 September 2007 to 30 June 2008.

The extension allowed the department to formulate policy on the role of traditional leaders under a democratic dispensation, which will be followed by appropriate legislation to replace the repealed sections.

An interdepartmental task team, comprising officials of the departments of justice, provincial and local government, and land affairs, was appointed to draft the required policy in conjunction with the national and provincial houses of traditional leadership. The policy was approved by Cabinet and launched on 28 March 2008 in Nelspruit. The Traditional Courts' Bill has also been introduced into Parliament. The Criminal Law (Sexual Offences and Related Matters) Amendment Bill was finalised by Parliament in 2007.

### **Court performance**

The branch Court Performance is responsible for the development and monitoring of processes and systems, introducing case-flow management (CFM), that facilitate efficient and effective court and case management, develop and facilitate the implementation of a court-management policy framework, evaluation of the quality of services and performance within the courts and facilitation of the development of uniform performance





standards to enhance institutional performance. It is also responsible for providing an effective and responsive management and administrative support for judicial decision-making process within the court environment.

As a service-delivery improvement programme, the CFM Project seeks to put in place institutional arrangements for integrated CFM in the court system. Given the broad and large sector of the justice system, this will be done incrementally over the years. The project therefore supports the institutional arrangements in the following ways:

- establishing judicial leadership regarding CFM – as the judiciary is in control of the court, it makes sense to facilitate extending such control to judicial pre-adjudication stages to achieve a holistic CFM judicial leadership
- re-engineering CFM support structures in the courts to respond adequately to the CFM regime.

The following projects are linked to the Integrated CFM project:

- registrars
- legally qualified clerks of court
- court clerks to support the proceedings of each court
- court managers' skills-development programme
- legal research support to the higher courts
- facilitating development and maintenance of CFM systems through exploiting technology to inculcate a culture of management by information
- E-Scheduler
- Video Remand System
- Digital Court Recording System (DCRS)
- Document Management System
- Scanning Solution
- transcription services
- Re Aga Boswa
- case backlogs.

Actual implementation at the courts will be facilitated by the regional offices in each province.

Operation Sesifikile was launched as part of transforming the master's offices. Through this initiative, the services of the Office of the Master of the High Court have been expanded to rural and other remote areas to reach the vulnerable members of society. During 2007/08, 16 new service points were provided to extend services to the rural areas. There are at least 600 legally qualified personnel to fill the posts of Master, Deputy Master and Assistant Master.



The Department of Justice and Constitutional Development introduced an internship programme to give graduates opportunities to acquire the required skills in law. In 2008/09, the department put aside R15 million to sustain the programme. In 2007, more than 130 legal graduates were placed in the various areas of the legal profession as part of the National Youth Service Programme. In 2008, at least 80 were placed with university law clinics, while another 45 were placed with the offices of the state attorney countrywide.



This approach will provide for a uniform CFM framework, which will be streamlined in the entire court system. This will have the benefits of cases being managed better, the customers of the court seeing quicker results and confidence in the justice system being restored.

The Court Performance Programme is faced with the following challenges:

- increasing capacity at programme and region/court levels to effect service delivery
- increasing/improving skills and competencies
- continued efforts to reduce case backlogs
- outdated court procedures/processes and the regulatory framework
- organisational efficiency
- skills required to operate the new systems and support.

As an effort to address these challenges the Court Performance Programme has embarked on a number of roadshows and information sessions.

### Case-flow management

The Department of Justice and Constitutional Development is engaged in the development of an enhanced version of the CFM framework for implementation by involving all stakeholders. In the process, the participants from other partner organisations will make meaningful contributions on the issues and blockages affecting the proper implementation of CFM in the court environment. Efforts to eradicate such blockages will be proposed by adopting workable solutions. These include the following:

- continuous co-operation of stakeholders to implement and maintain CFM at all courts
- establishing judicial leadership and CFM buy-in processes in the lower and higher courts in the form of CFM forums
- facilitating and monitoring the creation of CFM governance structures to sustain productivity in the courts environment



- maintaining the CFM concept (guidelines, plans, governance, reporting, and systems).

### E-Scheduler

The E-Scheduler is one of the most prominent information technology (IT) innovations of the department. It is set to make a dynamic impact on service delivery. This application is used to register criminal case information for the district court environment. The enhancement for the regional court environment has been completed and is currently in testing phase. The E-scheduler, which is the department's official monitoring case-management tool, is used to determine performance at court, as well as at institutional level.

The system provides for daily information capturing, which includes, among other things, the following:

- case details (case number, name of investigating officer, date reported, first appearance date, relevant charges and remand dates)
- details of the accused party
- postponement details (the postponement history of the case).

The application allows the court to schedule cases, thereby determining when the future court diary is available. This information can be displayed both per court and per court room. The daily court roll is also available for printing, for perusal and to address queries from the public and the South African Police Service (SAPS) in some instances.

The following reports are available on the application:

- case cycle-time statistics
- cases registered per month
- charge sheet filing audit
- cases scheduled for the court (notice board)
- monthly statistics – cases closed, children outstanding on the roll, outstanding cases, postponed cases and unreturned cases.

### Video postponements

By mid-2008, the pilot was still in place in KwaZulu-Natal and over a period of 15 months, the successes yielded were 4 899 remands concluded without the detainees leaving the correctional facility. The system has added tremendous value to the process of conducting remands and ensuring faster turnaround on cases using the system. The video remand system will be implemented in the top 40 courts, which will be aligned to the 169 contact crime priority police stations and linked to correctional centres housing the remand inmates.

### Scanning solution

The E-scheduler system provides document scanning of all incoming cases' dockets/charge sheets.

A total of 300 scanners have been procured and placed into various courts throughout all provinces. As soon as the finalisation of the final version of the scanning solution is signed off, the roll-out will take effect in all the courts with scanners installed. More scanners will be purchased in the new financial year, with respective budget allocations.

### Digital Court Recording System

The DCRS has been rolled out to all courts to replace the outdated analogue recording machines. By mid-2008, a total of 2 430 recorders had been installed in the courts. The roll-out, which commenced in October 2006, has been completed in 164 high-court rooms, which have also been installed with a server in each court house (13 servers in total).

### Document Management System

By mid-2008, the analysis of the process flow of documents to support an automated process of filing, archiving and retrieving files in the court environment had been finalised in courts.

### Special Investigating Unit

The SIU, created in terms of the SIU and Special Tribunals Act, 1996 (Act 74 of 1996), is an independent statutory body that is directly accountable to Parliament and the President of South Africa. It was established to conduct investigations at the President's request, and to report to him on the outcomes of these.

The SIU functions in a manner similar to a commission of inquiry, in that the President refers cases to it by way of a proclamation. It may investigate any matter set out in Section Two of the SIU and Special Tribunals Act, 1996 regarding:

- serious maladministration concerning the affairs of any state institution
- improper or unlawful conduct by employees of any state institution
- unlawful appropriation or expenditure of public money or property, and any unlawful, irregular or unapproved acquisitive act, transaction, measure or practice that has a bearing on state property
- intentional or negligent loss of public money or damage to public property



- corruption in connection with the affairs of any state institution
- unlawful or improper conduct by any person who has caused to or may cause serious harm to the interest of the public or any category of the public.

The unit can also take civil action to correct any wrongdoing it uncovers during an investigation and can therefore, for example, obtain a court order to:

- compel a person to pay back any wrongful benefit received
- cancel contracts when the proper procedures were not followed
- stop transactions or other actions that were not properly authorised.

A critical factor contributing towards the success of the SIU has been the development of an integrated forensic service to state institutions that require an intervention to address allegations of corruption, maladministration and fraud which include forensic audit and investigation; remedial legal actions encompassing civil, criminal and disciplinary action; as well as the recommendation and facilitation of systemic recommendations.

The SIU's output-driven approach to investigations is supported by an effective national presence and excellent relations with other law agencies such as the National Prosecution Service (NPS), the core prosecuting division of the NPA, and other attached divisions, such as the Specialised Commercial Crime Unit in the case of fraud and other related matters, and the Asset Forfeiture Unit (AFU) in cases where the powers of this unit are more suitable for recovering the proceeds of crime.

### National Prosecuting Authority of South Africa

South African society post-1994 has been marked by profound political changes and the establishment of progressive legislation, policies and programmes that have served to lay the basis for a new society. Key milestones along the way have been the adoption of the new Constitution in 1996 that outlined the formation of the NPA and Section 179 of the Constitution of the Republic of South Africa, 1996, that created a single NPA.

Also vital within the Criminal Justice System (CJS) was the formation of the Office of the National Director of Public Prosecutions (NDPP), established on 1 August 1998.

Legislation governing the prosecuting authority is the NPA Act, 1998. The Constitution, read

with the said Act, provides the prosecuting authority with the power to institute criminal proceedings on behalf of the State and to carry out any necessary functions incidental to instituting criminal proceedings.

Over the years, various units have been added, resulting in a formidable prosecuting and crime-fighting force that has made its mark on the South African scene and has gained a reputation as a professional organisation of note. The NPA structure includes the NPS, the AFU, and specialised units such as the Specialised Commercial Crime Unit (SCCU), the Witness Protection Programme (WPU), the Priority Crimes Litigation Unit (PCLU) and the Sexual Offences and Community Affairs (SOCA) Unit.

In October 2008, Parliament approved the NPA Amendment Bill and the South African Police Service (SAPS) Amendment Bill, which provide for the dissolution of the Directorate: Special Operations (DSO). The DSO and SAPS Organised Crime Unit will become a single agency in the SAPS. The Bills were signed into law in January 2009.

While the core work of the NPA will remain prosecutions and "the people's lawyer", the NPA Strategy seeks to ensure that the organisation becomes more proactive so as to:

- contribute to economic growth
- contribute to freedom from crime
- contribute to social development
- promote a culture of civic morality
- reduce crime
- ensure public confidence in the CJS.

Over the years, the NPA has been involved in ground-breaking work in bringing criminals to boot and precedent-setting cases that have struck a cord with the nation as a whole and contributed to the development of South African post-1994 jurisprudence.

### National Prosecutions Service

The significant majority of the NPA's prosecutors are housed in the NPS, the organisation's biggest unit. The NPS is headed by a Deputy National Director who reports to the NDPP. A Director of Public Prosecutions (DPP) heads the organisation in each region, with public prosecutors and state advocates manning the nation's district, regional and high courts.

The NPA as "the people's lawyer" thus represents and acts on behalf of the people in all criminal trials. The NPA does not seek only to secure convictions but rather to ensure that the interest of justice is served in all cases. The NPA is blessed



to have some of the country's most committed, intelligent, creative and ambitious attorneys in its employ. Prosecutors are significant drivers of the CJS, controlling the speed and direction of court proceedings.

### **Witness Protection Programme (WPU)**

In 2001, the WPU was transferred from the Department of Justice and Constitutional Development to the Office of the NDPP. The office was created in terms of the Witness Protection Act, 1998 (Act 112 of 1998), to provide for temporary protection, pending placement under protection; placement of witnesses and related persons under protection; and services related to the protection of witnesses and related persons.

### **Asset Forfeiture Unit**

The AFU was created in 1999 in terms of the Prevention of Organised Crime Act, 1998 (Act 121 of 1998). The AFU can seize and forfeit property that was bought with the proceeds of crime, or property that has been used to commit a crime.

The AFU has two major strategic objectives, namely to:

- develop the law by taking test cases to court and creating the legal precedents necessary to allow for the effective use of the law
- build capacity to ensure that asset forfeiture is used as widely as possible to have a real effect in the fight against crime.

According to the Department of Justice and Constitutional Development's *2007/08 Annual Report*, the AFU had finalised 1 100 cases to the value of R663 million.

### **Specialised Commercial Crime Unit**

The SCCU was established on 1 August 1999 as a pilot project to combat the deteriorating situation pertaining to commercial crime. The SCCU aims to reduce commercial crime by the effective investigation and prosecution of complex commercial crime. The SCCU's mandate is to accept responsibility for the investigation and prosecution of commercial crime cases emanating from the commercial branches of the SAPS in Pretoria and Johannesburg, respectively. The client base of the SCCU comprises a broad spectrum of complainants in commercial cases, ranging from private individuals and corporate bodies to state departments. The investigation and prosecution process of the SCCU is driven through a combined

prosecutor and investigator approach conducive to the methodical planning of the outcome and speedy finalisation of cases registered.

### **Priority Crimes Litigation Unit**

The PCLU is a specialist unit mandated to tackle cases that threaten national security. The PCLU was created by Presidential proclamation and is allocated categories of cases either by the President or by the NDPP. The primary function of the PCLU is to manage and direct investigations and prosecutions in respect of the following areas:

- the non-proliferation of weapons of mass destruction (nuclear, chemical and biological)
- the regulation of conventional military arms
- the regulation of mercenary and related activities
- the International Court created by the Statue of Rome
- national and international terrorism
- prosecutions of persons who were refused or failed to apply to amnesty in terms of the Truth and Reconciliation Commission (TRC) processes.

### **Sexual Offences and Community Affairs Unit**

Since its establishment in October 1999, the SOCA Unit has aimed to:

- reduce victimisation of women and children by enhancing capacity to prosecute sexual offences and domestic violence cases
- reduce secondary victimisation of complainants and raise public awareness of the scourge of sexual offences and domestic violence
- ensure proper management of young offenders.

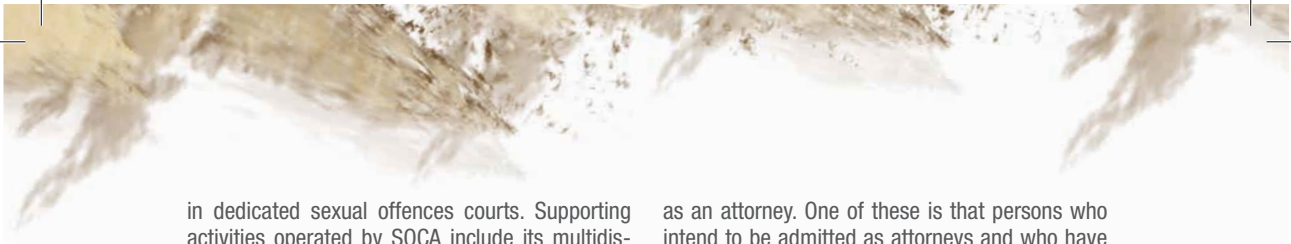
SOCA acts against the victimisation of women and children, with specialised prosecutors positioned

The Department of Justice and Constitutional Development is in the process of rolling out the Justice Deposit Accounts System in the country's courts. The system will be used for depositing maintenance money, making the system more efficient.



In 2008, the department was in the process of designating branch courts as main courts in various rural areas and townships. In recent months, the department has focused on creating the necessary infrastructure and human-resource capacity in branch courts to make them more self-functioning.





in dedicated sexual offences courts. Supporting activities operated by SOCA include its multidisciplinary Thuthuzela Care Centres (TCCs), recognised by the United Nations General Assembly as a “world best practice model” in the field of gender-violence management and response. TCCs are one-stop facilities that have been introduced as a critical part of South Africa’s anti-rape strategy, aiming to reduce secondary trauma for the victim, improve conviction rates and reduce the cycle time for finalising cases.

TCCs are in operation in public hospitals in communities where the incidence of rape is particularly high. They are also linked to sexual-offences courts, which are staffed by prosecutors, social workers, investigating officers, magistrates, health professionals, non-governmental organisations (NGOs) and police, and located in close proximity to the centres. The centres are managed by a top-level interdepartmental team comprising various role-players.

### Legal practitioners

The legal profession is divided into two branches – advocates and attorneys – that are subject to strict ethical codes.

Advocates are organised into Bar associations or societies, one each at the seat of the various divisions of the High Court. The General Council of the Bar of South Africa is the co-ordinating body of the various Bar associations. There is a law society for attorneys in each of the provinces. A practising attorney is *ipso jure* a member of at least one of these societies, which seek to promote the interests of the profession.

The Law Society of South Africa is the co-ordinating body of the various independent law societies.

In terms of the Right of Appearance in Courts Act, 1995 (Act 62 of 1995), advocates can appear in any court, while attorneys may be heard in all of the country’s lower courts and can also acquire the right of appearance in the superior courts.

Attorneys who wish to represent their clients in the High Court are required to apply to the registrar of a provincial division of the High Court. Such an attorney may also appear in the Constitutional Court. All attorneys who hold an LLB or equivalent degree, or who have at least three years’ experience, may acquire the right of audience in the High Court.

The Attorneys Amendment Act, 1993 (Act 115 of 1993), provides for alternative routes for admission

as an attorney. One of these is that persons who intend to be admitted as attorneys and who have satisfied certain degree requirements prescribed in the Act, are exempted from service under articles or clerkship. However, such persons must satisfy the society concerned that they have at least five years’ appropriate legal experience.

State law advisers give legal advice to ministers, government departments, provincial administrations and a number of statutory bodies. In addition, they draft Bills and assist the minister concerned with the passage of Bills through Parliament. They also assist in criminal and constitutional matters.

### Other legal practitioners

In terms of the NPA Act, 1998, state advocates and prosecutors are separated from the Public Service in certain respects, notably by the determination of salaries.

State attorneys derive their power from the State Attorney Act, 1957 (Act 56 of 1957), and protect the interests of the State in the most cost-effective manner possible. They do this by acting on behalf of the State in legal matters covering a wide spectrum of the law.

State attorneys draft contracts for the State and also act on behalf of elected and appointed officials in the performance of their duties, e.g. civil and criminal actions instituted against ministers and government officials in their official capacities.

### Human rights

The Bill of Rights is the cornerstone of South

Justice Richard Goldstone was named the 2008 recipient of the MacArthur Award for International Justice.


The South African judge and prosecutor was honoured by the United States-based foundation for his work as Chief Prosecutor during the International Criminal Tribunals for Rwanda and the former Yugoslavia.

The award is given to individuals and organisations that have been transformative forces in the fields of human rights and international justice, making significant contributions to advancing both fields.

Prior to his appointment as Chief Prosecutor of the International Criminal Tribunals in 1994, Goldstone chaired South Africa’s Commission of Inquiry Regarding Public Violence and Intimidation, commonly called the “Goldstone Commission”.

The MacArthur Award for International Justice will be conferred upon Goldstone in The Hague in May, 2009.





Africa's democracy. It enshrines the rights of all people in South Africa and affirms the democratic values of human dignity, equality and freedom.

While every person is entitled to these rights, they also have a responsibility to respect these rights.

The Bill of Rights binds the legislature, the executive, judiciary and all organs of state.

The rights contained in the Bill of Rights are subject to the limitations contained in or referred to in Section 36 of the Constitution, or elsewhere in the Bill of Rights.

They apply to all laws, administrative decisions taken and acts performed during the period in which the Constitution is in force. In terms of the Constitution, every person has basic human rights such as:

- equality before the law and to equal protection and benefit of the law
- freedom from unfair discrimination
- the right to life
- the right to human dignity
- the right to freedom and security of the person.

Since 1994, and in keeping with the promotion of a human-rights culture, the focus is progressively shifting from an adversarial and retributive CJS to that of a restorative justice system.

The Service Charter for Victims of Crime, approved by Cabinet, seeks to consolidate the present legal framework in South Africa relating to the rights of and services provided to victims of crime, and to eliminate secondary victimisation in the criminal justice process.

The ultimate goal is victim empowerment by meeting victims' material or emotional needs. The Department of Justice and Constitutional Development has embarked on a programme of information sessions in all nine provinces to raise awareness of the Service Charter for Victims of Crime.

### Crime prevention

The Department of Justice and Constitutional Development is one of five core departments in the Justice, Crime Prevention and Security (JCPS) Cluster that has been tasked with implementing the National Crime Prevention Strategy (NCPS). This is government's official strategy to combat, control and prevent crime. (See Chapter 16: *Safety, security and defence*.)

The main responsibilities of the department in implementing the NCPS are to:

- promote legislation to create an effective CJS
- create an effective prosecution system

- create an effective court system for the adjudication of cases
- co-ordinate and integrate the departmental activities of all role-players involved in crime prevention.

### Integrated Justice System (IJS)

The IJS, approved in 2002, aims to increase the efficiency and effectiveness of the entire criminal justice process by increasing the probability of successful investigation, prosecution, punishment for priority crimes and ultimately rehabilitation of offenders. A second version of the IJS was published in May 2003. Issues receiving specific attention include overcrowding in prisons and awaiting-trial prisoner problems, as well as bail, sentencing and plea-bargaining.

Government wants to eliminate duplication of services and programmes at all levels. The need for strategic alignment of cluster activities has also been raised at a series of governmental meetings and forums.

The benefits of proper alignment include:

- less duplication of services
- effective use of scarce and limited resources and skills
- joint strategic planning and a planned approach instead of simply reacting to problems.

The JCPS has structured itself to focus on two main areas of responsibility, namely operational and developmental issues relating to the justice system, and improving the safety and security of citizens.

### Modernising the justice system

This includes establishing proper governance structures, effective monitoring mechanisms based on proper review findings and the integration and automation of the justice system. While each department within the JCPS Cluster must have its own IT plan to achieve its specific vision, mission and objectives, the IJS Board co-ordinates the broader and shared duty to integrate information flow throughout the CJS.

### Child justice

The department continues to prioritise access to justice for vulnerable groups, including:

- implementing relevant legislation and enabling policy, for example, accelerating the finalisation and implementation of the Child Justice Bill
- the Sexual Offences Amendment Act, 2007 (Act 32 of 2007), which, among other things, broadens the definition of sexual assault



- ensuring assistance from prosecutors and public defenders for child maintenance
- enforcing the right of children to receive support from earning parents
- prioritising child justice and all cases involving children, especially those in prison awaiting trial.

The Child Justice Bill was resubmitted to Parliament during the first quarter of 2008. The passage of the Child Justice Bill through Parliament will assist with formalising the legislation and practice, many parts of which have already been successfully piloted in South Africa.

The aim of the Child Justice Bill is to:

- establish a CJS for children who are in conflict with the law and are accused of committing alleged offences, in accordance with the values underpinning the Constitution and international obligations
- create, as a central feature of this new CJS for children, the possibility of diverting children away from the CJS
- provide for the minimum age of criminal capacity of children as being 10 years of age
- make provision for child-justice courts to hear all trials of children who are charged with certain serious offences
- extend the sentencing options available in respect of children who have been convicted
- entrench the notion of restorative justice in the CJS in respect of children who are in conflict with the law
- provide for related matters.

### Children awaiting trial

The national and provincial focus to fast-track all children awaiting trial in prisons and police cells has led to a reduction in children awaiting trial.

Specific interventions to address the backlog of cases pending trial include moving away from placing children who are in trouble with the law in correctional detention centres. Children awaiting trial will be placed under home-based supervision, in places of safety or in the care of parents or caregivers.

Three one-stop child-justice centres have been established in Port Elizabeth, Bloemfontein and Port Nolloth. The National Inter-Sectoral Committee on Child Justice monitors and evaluates all child-justice issues and reports to the JCPS Cluster. This forum has also been established at regional level. With the expected adoption of the Child Justice Bill in 2008, the departments have gone ahead with practical steps to improve the lives of children

going through the CJS. During the past five years, for example, focused attention to this matter has resulted in the numbers of children awaiting trial in and sentenced to correctional facilities decreasing by 50%.

The Legal Aid Board (LAB) has appointed children's units to legally represent children in conflict with the law and appearing in courts. The number of children assisted in this regard increases by 20% every year.

The number of children being diverted from the CJS during the past five years has increased every year. Statistics received from the NPA indicated that 19 066 children were diverted from the CJS between April 2007 and March 2008.

A time policy for children awaiting trial has further been agreed upon, as:

- three to six months for children's cases in district courts
- six to nine months for children's cases in regional courts
- nine to 12 months for children's cases in high courts.

### Implementation of the Children's Act, 2005 (Act 38 of 2005)

The department has prioritised the planning for and implementation of the Children's Act, 2005, especially relating to the protection and care of children through children's court processes. The Department of Justice and Constitutional Development is working closely with the Department of Social Development to ensure an integrated and uniform approach to the Children's Act, 2005.

To improve general service delivery in the children's courts, the department intends to continuously train the administrative personnel and magistrates in children's courts, especially in view of the new legislation.

The role of the Department of Justice and Constitutional Development is to ensure that courts, and especially children's courts, are capacitated to handle disputes affecting children in courts.

Sections 14 and 15 of the Children's Act, 2005 have been put into operation. These sections provide rights to access to courts for children and the right to enforcement of the rights of children through the courts.

Persons who may approach a court are:

- a child who is affected by or involved in the matter to be adjudicated
- anyone acting in the interest of the child or on behalf of another person (child) who cannot act in their own name



- anyone acting as a member of, or in the interest of, a group or class of persons (children)
- anyone acting in the public interest.

Section 28(3) of the Constitution provides that a child is anyone under the age of 18 years.

In terms of the above rights and sections which have been put into operation, all children's rights are protected through court processes. The department therefore foresees that courts will be requested to help protect and enforce children's rights in a rights-based approach.

However, the department also believes that approaching the courts should be a measure of last resort. The department has started consultations with the relevant role-players in this regard. The first port of call for the protection, promotion and realisation of children's rights should be the children's families, caregivers, the community and service-delivery departments.

For the above purpose, measures to resolve disputes outside the formal court procedures have also been provided for in the Children's Courts Chapter of the Children's Act, 2005, such as family group conferences, mediation services and pre-trial conferences.

### Restorative justice

Restorative justice is a response to crime that focuses on the losses suffered by victims, holding offenders accountable for the harm they have caused and building peace in communities.

Restorative justice means the promotion of reconciliation, restitution and responsibility/accountability through the involvement of a child, the child's parent, the child's family members, communities and all interested parties in all matters of a criminal or civil nature.

Restorative justice elements in many pieces of legislation, such as the Child Justice Bill, the Traditional Courts Bill and the Children's Act, 2005 will promote the use of restorative justice in the handling of matters within and outside the criminal and civil justice systems.

The JCPS Cluster ensures that the many practical steps and programmes that have been developed during the past few years, both in government and NGO sectors, will be aligned and will have an impact towards nation-building, restorative justice and the healing of past and present wounds caused by crimes.

### Victim-Empowerment Programme

This programme aims to improve services rendered to victims of crime.

The NPA has court-preparation officials on contract who provide support to crime victims and especially abused children, in preparing them for court proceedings.

The Service Charter for Victims of Crime is expected to go a long way towards assisting crime victims and contributing to interdepartmental and cluster co-ordination and co-operation. The Development Committee is mandated to align and co-ordinate cluster activities across the various departments, with the ultimate aim of improving service delivery, policy co-ordination and planning.

It consists of senior representatives from each of the partner departments participating in the IJS, and is chaired by the Department of Justice and Constitutional Development. National Treasury, the judiciary and the Department of Home Affairs are also represented on the committee.

### E-Justice Programme

The E-Justice Programme supports the fundamental reforms necessary to establish a more fair, accessible and efficient justice system in South Africa. The programme aims to reform and modernise the administration and delivery of justice through re-engineering work processes by using technologies, and strengthening strategic planning and management capacity, organisational development and human-resource interventions.


The E-Justice Programme has evolved into the Information and Systems Management Programme, which has 25 projects in addition to the three main ones, namely the Court Process Project, Digital Nervous System (DNS) Project and Financial Administration System Project. The E-Justice Programme is funded mainly by the Justice Vote and supplemented with donor funding from the European Union Commission, the Royal Netherlands Embassy and the Irish Embassy. With the completion of the DNS III Project in March 2007, 554 sites were deployed and 14 000 users trained. This was expected to substantially enhance service delivery at suboffice level.

### Legislative development

The Legislative Development Branch of the department administers the Constitution and over 160 principal Acts. The branch is also responsible for researching, developing and promoting supporting legislation, reflecting the basic constitutional ideals, which facilitates a justice system that is simple, fair, inexpensive and responsive to the needs of the diverse communities in South Africa.







The branch consists of three main components, namely, the research activities of the South African Law Reform Commission (SALRC), the Secretariat for the Rules Board for Courts of Law and the Legislative Development component.

The branch's Legislative Development component researches, develops and promotes appropriate legislation affecting the department's line functions.

In 2007, the department, among other things, promoted the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007). The Act comprehensively and extensively amends all aspects of the laws and implementation of the laws relating to sexual offences, and deals with all legal aspects of, or relating to, sexual offences in a single statute. For instance, the common law offence of rape was repealed and replaced with a new expanded statutory offence of rape that is applicable to all forms of sexual penetration without consent, irrespective of gender.

The Criminal Law (Sentencing) Amendment Act, 2007 (Act 38 of 2007), was enacted to further regulate the imposition of discretionary minimum sentences for certain serious offences. For example, it gives the regional court jurisdiction to impose a life sentence for certain offences, such as premeditated murder.

The Constitution 13th Amendment Act, 2007 (Act 23 of 2007), re-enacted provisions of the Constitution relating to the provincial boundary between the provinces of the Eastern Cape and KwaZulu-Natal.

### State Legal Services

State Legal Services provides government with legal services and facilitates constitutional amendments through three subprogrammes.

State Legal Services provides for the work of the State Attorney and state law advisers. The former acts as attorney, notary and conveyancer for government.

State law advisers provide legal opinions for all organs of state, scrutinise and amend international agreements, draft legislation and subordinate legislation and attend relevant parliamentary portfolio committees as legal advisers for all national departments.

The component hosts the National Forum Against Racism and facilitates South Africa's participation in the International Court for Criminal Justice.

### International legal relations

The main functions of the Chief Directorate: International Legal Relations in the Department of Justice and Constitutional Development are to identify and research legal questions that relate to matters pertaining to the administration of justice between South Africa and other states/bodies/institutions.

The chief directorate is involved in direct liaison and negotiations at administrative and technical level with foreign states to promote international legal co-operation, and for the possible conclusion of extradition and mutual legal-assistance agreements. The chief directorate also aims to establish greater uniformity between the legal systems of southern African states, especially with the Southern African Development Community (SADC).

The chief directorate co-ordinates human-rights issues at international level under the auspices of the United Nations (UN) and the African Union (AU).

The functions of the chief directorate are divided into eight broad categories:

- regular liaison with SADC states
- co-ordinating all Commonwealth matters pertaining to the administration of justice
- interacting with other international bodies, such as the UN, the Hague Conference and the International Institute for the Unification of Private Law
- interacting with foreign states outside the SADC region
- negotiating extradition and mutual legal-assistance agreements with other countries/international bodies
- preparing Cabinet and Parliament documentation for the ratification of human-rights treaties, including report writing
- processing requests for extradition, mutual legal assistance in criminal matters, interrogatory commissions and service of process
- processing requests for maintenance in terms of the Reciprocal Enforcement of Maintenance Orders Act, 1963 (Act 80 of 1963).

### International Criminal Court (ICC)

As required by the Rome Statute of the ICC, South Africa promulgated the Implementation of the Rome Statute of the ICC Act, 2002 (Act 27 of 2002).

This Act provides for a framework to:

- ensure the effective implementation of the Rome Statute of the ICC in South Africa

- ensure that South Africa conforms with the obligations set out in the statute
- address the crime of genocide, crimes against humanity and war crimes
- address the prosecution in South African courts of persons accused of having committed said crimes in South Africa and beyond the borders of the country in certain circumstances
- deal with the arrest of certain persons accused of having committed said crimes and their surrender to the ICC in certain circumstances
- enhance co-operation between South Africa and the ICC.

### Legal structures Master of the High Court

The Master of the High Court is involved with the administration of justice in estates of deceased persons and those declared insolvent, the liquidation of companies and close corporations, and the registration of trusts. Each year, the value of estates under the supervision of the masters' offices amounts to about R18 billion. This includes about R4 billion in the Guardian's Fund.

The key statutory functions of the masters' offices are to:

- control the administration of deceased and curatorship estates
- control the administration of insolvent estates and the liquidation of companies and close corporations
- control the registration and administration of both testamentary and inter vivos trusts
- manage the Guardian's Fund
- assess estate duty and certain functions with regard to estate duty
- accept and take custodianship of wills in deceased estates
- act as an office of record.

### Deceased estates

On 15 October 2004, the Constitutional Court declared Section 23 and regulations of the Black Administration Act, 1927 (Act 38 of 1927), unconstitutional.

In 2005, legislation to repeal the Black Administration Act, 1927 was finalised. This decision implied that the Master of the High Court takes over the powers of supervision in all deceased estates, and that all estates have to be administered in terms of the Administration of Estates Act, 1965 (Act 66 of 1965), as amended.

All intestate estates must be administered in terms of the Intestate Succession Act, 1987

(Act 81 of 1987), as amended. This will ensure that all South Africans are treated equally, and that the dignity of each person is restored.

The institutional structures are the following:

- The Chief Master heads the national office and is responsible for co-ordinating all the activities of the masters' offices.
- There are masters' offices in Bhisho, Bloemfontein, Cape Town, Durban, Grahamstown, Johannesburg, Kimberley, Mafikeng, Polokwane, Port Elizabeth, Pietermaritzburg, Pretoria, Thohoyandou and Mthatha.
- Suboffices are located in places where the High Court does not have a seat, but where workloads require the presence of at least one assistant master.
- At service points, officials attached to the Branch: Court Services deliver services on behalf of, and under the direction of, the Master. Each magistrate's court is a service point. Each service point has at least one designated official who is the office manager or a person of equal rank. They only appoint masters' representatives in intestate estates of R50 000 or less, in terms of Section 18(3) of the Administration of Estates Amendment Act, 2002 (Act 47 of 2002).

### Curatorships

On 26 December 2004, the Mental Healthcare Act, 2002 (Act 17 of 2002), came into operation, repealing the Mental Health Act, 1973 (Act 18 of 1973).

The new Act provides that where a person falls within the ambit of this Act, the Master can appoint an administrator to handle the affairs of the person. The administrator, in this instance, replaces the appointment of a curator, as was done in the past.

In terms of the Prevention of Organised Crime Act, 1998 the Master also appoints curators in these estates to administer the assets of persons and legal entities attached by the AFU, in terms of a court order.

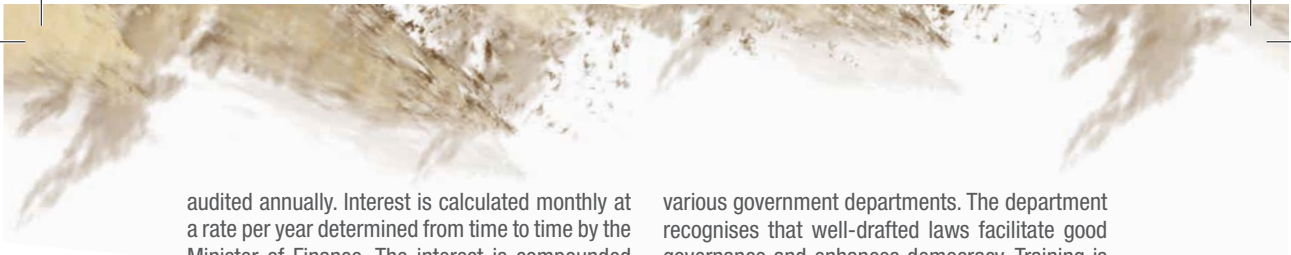
### Guardian's Fund

The fund holds and administers funds which are paid to the Master on behalf of various persons, known or unknown.

These include minors, persons incapable of managing their own affairs, unborn heirs, missing or absent persons, or persons having an interest in the money of a usufructuary, fiduciary or fideicommissary nature.

The money in the Guardian's Fund is invested with the Public Investment Corporation and is





audited annually. Interest is calculated monthly at a rate per year determined from time to time by the Minister of Finance. The interest is compounded annually at 31 March. Interest is paid for a period from a month after receipt up to five years after it has become claimable, unless it is legally claimed before such expiration.

Five years after the money has become claimable, the Master pays the unclaimed money to the Receiver of Revenue Payment Register. This does not mean that the owner of the money cannot claim the money from the Guardian's Fund. However, 30 years after the money has become claimable, the money is forfeited to the State. Every September, the Master advertises unclaimed amounts in the *Government Gazette*.

### Rules Board for Courts of Law

The Rules Board for Courts of Law was established by the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985), to review the rules of court and to make, amend or repeal rules, subject to the approval of the Minister of Justice and Constitutional Development. The Rules Board Secretariat provides secretarial and administrative support to the board. The secretariat also conducts research into the rules of court.

### Justice College

Justice College provides vocational training to all officials of the Department of Justice and Constitutional Development. It also presents training to autonomous professions such as magistrates and prosecutors. Training is integral to the department's efforts to widen and improve citizens' access to justice, enable the department to meet its strategic objectives and empower employees to heighten their performance.

Justice College is being transformed by reviewing the governance structure, processes and systems, and revamping the curriculum to ensure that the college serves the training and development needs of all its stakeholders.

By 2008, the college had been granted provincial accreditation status and was continuously extending its scope of its accreditation as a training-provider.

The transformed college will extend training to all professionals and officials of the department, including state attorneys, masters, family advocates, registrars, court managers and interpreters.

The college provides training in legislative drafting to officers working with legislation in the

various government departments. The department recognises that well-drafted laws facilitate good governance and enhances democracy. Training is given to national, provincial and municipal officers and officers working for statutory bodies.

The training focuses on creating awareness in officers of the constitutional imperatives in legislative drafting generally and this should minimise constitutional challenges to legislation. Focus is also put on developing policies and drafting laws that are easily understood by the target audience and thus facilitate access to justice by all. Training interpreters is a departmental priority.

The college continues presenting courses that focus on complex concepts including, but not limited to, environmental crimes; cyber crimes, the National Credit Act, 2005 (Act 35 of 2005); and developing legal terminology in indigenous languages.


The college is developing curricula on cross-cutting, non-legal, but essential training programmes, such as management and leadership, project management, service excellence and general administrative training

### Office of the Family Advocate

The role of the Family Advocate is to assist the courts in establishing the best interest of minor children in civil legal disputes involving such children.

The Family Advocate derives its duties and obligations from the Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987), and other related legislation. In certain instances, the Family Advocate also assists the courts in matters involving domestic violence and maintenance. The Office of the Chief Family Advocate is the designated central authority regarding the implementation of the Hague Convention on the Civil Aspects of International Child Abduction, to which South Africa became a signatory in 1996. Under this Act, the Chief Family Advocate assists in securing the return of, or access to, children abducted or unlawfully retained by their parents or caregivers.

The sections of the Children's Act, 2005 that came into operation on 1 July 2007 have significantly expanded the Family Advocate's responsibilities and scope of duties, as the Act makes the Family Advocate central to all family-law civil litigation. Furthermore, litigants are now obliged to mediate their disputes before resorting to litigation and unmarried fathers can approach the Family Advocate directly for assistance without instituting any litigation at all.



In addition, children's rights to participation in, and consultation on, decisions affecting them have been entrenched and the Family Advocate is the mechanism whereby the voice of the child is heard.

The Family Advocate's office won (in competition with all government departments) the Department of Public Service and Administration's Innovator of the Year Competition.

### **Legal Aid Board**

The LAB continues to provide legal assistance to the indigent, in accordance with the Constitution and other legislative requirements. This is done through a system of in-house outsourcing to private lawyers (a system of *judicare*) and co-operation partners.

With its national infrastructure in place, the LAB focuses on improving access to clients and communities, and on improving the quality of delivery of legal services. There are 58 justice centres, 35 satellite offices and 13 high-court units.

The LAB and the SAPS are working on systems that will allow legal-aid applications to be submitted electronically from police stations, to facilitate access to legal representation and ensure that arrested people have legal representation when they first appear in court. This is expected to reduce delays caused by accused people having to find attorneys.

### **Public Protector**

The Public Protector was established in terms of Chapter Nine of the Constitution to strengthen constitutional democracy. The Public Protector investigates any conduct in state affairs or public administration (including national, provincial and municipal administrations, or government entities such as Eskom and Transnet) that is suspected to be improper or that results in impropriety or prejudice. The Public Protector may not investigate court decisions.

Despite the high-profile cases involving politicians that have been investigated, most of the office's work involves complaints from people in townships, shack dwellers and those in rural areas who are struggling to access services to which they are entitled.

Some of the cases investigated include long delays in pension payouts from government and parastatals; the adverse impact of a decision or policy on individuals, institutions or groups; denial of access to information; and insufficient reasons provided for a decision taken.

With a staff complement of about 200, the Public Protector resolves about 17 000 cases per year. The bulk of the cases are resolved within three months.

The Public Protector's services are free and available to anyone who has a complaint. Complainants' names are kept confidential as far as possible.

The President appoints the Public Protector on recommendation of the National Assembly and in terms of the Constitution for a non-renewable period of seven years.

The Public Protector is subject only to the Constitution and the law, and functions independently from government or any political party. No person or organ of state may interfere with the functions of the Public Protector.

The Public Protector has the power to report a matter to Parliament, which will debate it and ensure that the Public Protector's recommendations are followed.

### **Magistrates' Commission**

The Magistrates' Commission ensures that the appointment, promotion, transfer or discharge of, or disciplinary steps against judicial officers in the lower courts take place without favour or prejudice, and that the applicable laws and administrative directions in connection with such actions are applied uniformly and correctly.

The commission also attends to grievances, complaints and misconduct investigations against magistrates. It advises the Minister of Justice and Constitutional Development on matters such as the appointment of magistrates, promotions, salaries and legislation.

The commission has established committees to deal with appointments, misconduct, disciplinary inquiries and incapacity; grievances; salary and service conditions; and the training of magistrates.

### **South African Law Reform Commission**

The SALRC is an independent statutory body, established by the SALRC Act, 1973 (Act 19 of 1973). The SALRC and its secretariat are responsible for research in respect of the law of South Africa with a view to advising government on the development, improvement, modernisation and reform of the law of South Africa in all its facets, by performing, among other things, the following functions:



- executing the law-reform programme of the SALRC by conducting legal research, including legal comparative research, by developing proposals for law reform and, where appropriate, by promoting uniformity in the law
- preparing legislative proposals
- establishing a permanent, simplified, coherent and generally accessible statute book, complying with the principles of the Constitution
- consolidating or codifying any branch of the law
- assisting parliamentary committees during the deliberation of draft legislation emanating from the SALRC
- advising ministers and state departments on proposed legislation and recommendations.

The SALRC's investigation into statutory law revision is one of considerable magnitude that Cabinet has endorsed.

The SALRC has identified the speedy completion of the review of pre-1994 statutes, with a focus on statutes that blatantly violate Section Nine of the Constitution (equality clause), as a priority.

The SALRC was expected to release reports on the following:

- trafficking in persons
- protected disclosures
- assisting adults with impaired decision-making capacity
- sexual offences and adult prostitution
- privacy and data protection
- stalking.

### Judicial Service Commission

In terms of the Constitution, the President, in consultation with the JSC, appoints the Chief Justice and the Deputy Chief Justice, and the President and Deputy President of the SCA. The President appoints other judges on the advice of the JSC. In the case of the Chief Justice and the Deputy Chief Justice, the leaders of parties represented in the National Assembly are also consulted.

The JSC was established in terms of Section 178 of the Constitution to perform this function. It also advises government on any matters relating to the judiciary or to the administration of justice.

When appointments have to be made, the commission gives public notice of the vacancies that exist and calls for nominations.

The JSC shortlists suitable candidates and invites them for interviews. Professional bodies and members of the public have the opportunity to comment prior to the interviews or to make representations concerning the candidates to the commission.

The JSC has determined criteria and guidelines for appointments, which have been made public.

The interviews are conducted as public hearings and may be attended by anyone who wishes to do so. Following the interviews, the JSC deliberates and makes its decisions in private. Its recommendations are communicated to the President, who then makes the appointments.

### South African Human Rights Commission

The SAHRC is a national institution that derives its powers from the Constitution and the South African Human Rights Commission Act, 1994 (Act 54 of 1994). It is also given additional powers and responsibilities by other national legislation. Since its inauguration in October 1995, the commission has taken up the challenge of ensuring that the noble ideals expressed in the Constitution are enjoyed by all in South Africa.

The SAHRC works with government, civil society and individuals, both nationally and abroad, to fulfil its Constitutional mandate.

In terms of Section 184(1) of the Constitution, the SAHRC must:

- promote respect for human rights and a culture of human rights
- promote the protection, development and attainment of human rights
- monitor and assess the observance of human rights in South Africa.


The operations of the SAHRC consist of the following programmes:

- Strategic Management and Support Services
- Commissioners
- Education, Training and Public Awareness
- Legal Services
- Research and Documentation
- Parliamentary Liaison and Legislation and Treaty Body Monitoring
- Information and Communication
- Special Programmes
- Co-ordinators
- Civil-Society Advocacy Project.

### Structure

The SAHRC is made up of two sections: the commission, which sets out policy; and a secretariat, which implements policy. The chairperson is overall head, and the chief executive officer is head of the Secretariat, accountable for the finances of the SAHRC and responsible for the employment of staff.





As set out in Section Five of the Human Rights Commission Act, 1994 the SAHRC has established standing committees to advise and assist it in its work. The SAHRC appoints the members of the standing committees, each of which is chaired by a commissioner. The SAHRC has also established provincial offices to ensure its services are widely accessible.

### Education and Training

The objectives of the Education and Training Subprogramme are to conduct training workshops, seminars, presentations and capacity-building programmes on equality, economic and social rights, promotion of access to information and other focus areas of the SAHRC. The SAHRC continues its collaboration with the SADC region.

### Legal Services

This subprogramme implements the commission's protection mandate and deals primarily with complaints of human-rights violations in pursuance of redress, monitoring the agencies of the justice system, submitting recommendations and conducting hearings and public inquiries.

### Research and Documentation

This subprogramme implements the commission's monitoring and assessment of the observance of the human-rights mandate. It has three components: the Equality Unit, the Economic and Social Rights Unit and the Library.

### Commission on Gender Equality

The CGE is one of six state institutions set up in terms of the Constitution to promote democracy and a culture of human rights in the country. The commission's role is to advance gender equality in all spheres of society and to make recommendations on any legislation affecting the status of women.

The CGE has the following powers and functions:

- developing, conducting or managing information and education programmes to foster public understanding of matters pertaining to the promotion of gender equality and the role and activities of the commission
- monitoring and evaluating the policies and practices of state organs, statutory and public bodies, as well as the private sector, to promote gender equality
- investigating any gender-related complaints received or on its own initiative

- liaising with institutions, bodies or authorities with similar objectives
- conducting research to further the objectives of the CGE.

Complaints are received from the public at large and dealt with either through personal consultations, telephonically or in writing, including electronically.

In cases where the complaint does not fall within the CGE's mandate, it may be referred to a relevant institution or forum.

### Truth and Reconciliation Commission (TRC) Unit

The TRC Unit was established in September 2005 to audit, monitor and co-ordinate government's implementation of the TRC recommendations.

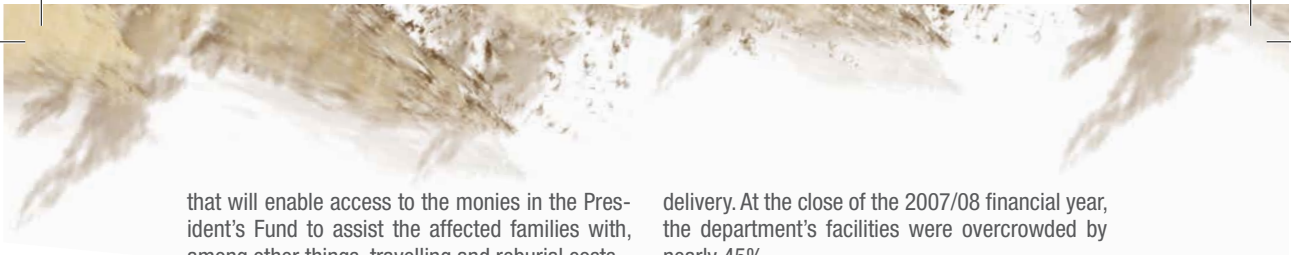
The TRC Unit works closely with the President's Fund Office, which is located in the Office of the Chief Financial Officer in the Department of Justice and Constitutional Development. The President's Fund Office has been giving effect to the payment of both urgent interim reparations and final reparations to the 16 837 victims who applied for reparations and were approved by the TRC.

By the end of April 2008, 15 839 beneficiaries had received reparations. A total of 998 beneficiaries still had to be paid, including beneficiaries who must still comply with regulatory requirements, cases where the rightful next of kin of deceased beneficiaries still had to be established, and 423 beneficiaries who still had to be traced. By the end of April 2008, a total of R525 million had been paid in respect of urgent interim and final reparations.

The TRC Unit's activities also include liaison with relevant stakeholders and rendering assistance to TRC-identified victims on an ad hoc basis. This includes assistance to the families of missing persons (reported to the TRC) who have been exhumed by the NPA's Missing Persons Task Team. Such assistance has included applications for reparations and special pensions (where relevant), obtaining death certificates, arranging bereavement counselling for the affected families in conjunction with the Department of Social Development, and assisting victims' children born outside South Africa to reclaim their rightful citizenship.

The TRC Unit has developed a policy in consultation with relevant stakeholders to co-ordinate the exhumation process. At the same time, the unit has facilitated the development of regulations





that will enable access to the monies in the President's Fund to assist the affected families with, among other things, travelling and reburial costs.

In 2008, draft regulations on medical and education assistance were almost finalised.

### Department of Correctional Services

The responsibilities of the department are not merely to keep individuals who have committed crimes out of circulation in society, or to enforce a punishment meted out by the courts, but also to correct offending behaviour in a secure, safe and humane environment to avoid repeat offending/recidivism.

However, corrections is also a societal responsibility and rehabilitation cannot be complete or sustainable without reintegrating offenders back into their communities upon their release. The department's parole system reflects the principles of social reintegration. While the offender on parole is under the supervision of a correctional official based in the community, the view of the department is that the community should assume a bigger role in ensuring that lasting corrections/rehabilitation takes place. In view of this, the department strives to establish new and strengthen existing partnerships with many community organisations, NGOs and the business sector to ensure that this view becomes entrenched in the fabric of South African society.

The department structurally operates within six geographic regions. This means that some of the provinces have been lumped together to form one region. The six regions are Gauteng, Limpopo/Mpumalanga/North-West, Free State/Northern Cape, KwaZulu-Natal, Western Cape and Eastern Cape.

### Inmate profile

In March 2008, there were 165 840 inmates in correctional service centres, accommodated in 239 facilities throughout the country. Of the 239 correctional centres, eight are female centres, 13 are for the youth, 130 are male centres and 86 are mixed female and male. By March 2008, two centres were closed for renovations. There are two private prisons in South Africa.

### Overcrowding

Overcrowding in correctional service centres continues to pose a challenge and impacts on how the department functions and on its service

delivery. At the close of the 2007/08 financial year, the department's facilities were overcrowded by nearly 45%.

Overcrowding has an impact on the provision of programmes in that officials are often not able to reach the targets they set. Overcrowding puts constraints on building infrastructure, and has created a shortage of beds, thus increasing the demand for more space. The department is implementing an eight-pronged strategy to address overcrowding.

The department partly manages overcrowding through the transfer of offenders between centres and releases resulting from sentence conversion. The construction of new centres should furthermore alleviate the pressure put on facilities and staff because of overcrowding. Over and above these, there is an intersectoral team, the Management of Awaiting-Trial Detention Project, and continued efforts to encourage the judiciary to use the Criminal Procedure Act, 1977 (Act 51 of 1977), to reduce overcrowding. In March 2008, there were 52 662 awaiting-trial detainees in the department's correctional centres.

### Policy development

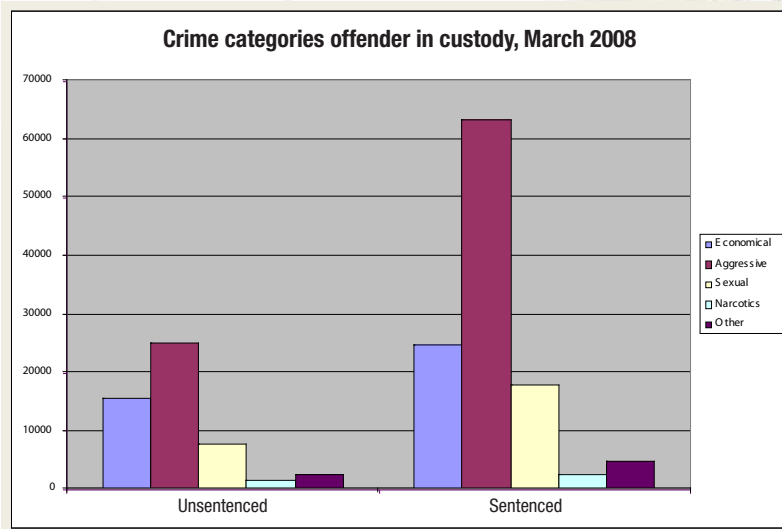
The Department of Correctional Services' guiding policy is the *White Paper on Corrections*, which was adopted by Cabinet in 2005. Since its adoption, the department has undergone various changes that included policy review and amendment of the Correctional Services Act, 1998 (Act 111 of 1998). By 2008, more than 40 policies had been reviewed and aligned to the White Paper, replacing what was referred to as A and B orders. The department has also gone a step further to ensure implementation takes place. Over 400 officials have been trained on policy development and implementation.

The department's spending improved from 94,1% (R9,3 billion against an allocated budget of R9,8 billion) in 2006/07 to 97,7% (R11,1 billion against an allocated budget of R11,4 billion) in 2007/08.

### Departmental achievements

Some of the department's achievements include the following:

- Stakeholders and communities were successfully mobilised to participate in Corrections Week, with the aim of strengthening corrections as a societal responsibility and encouraging society to play a role in rehabilitation and the



Source: Department of Correctional Services

reintegration of offenders. Corrections Week is an annual event that celebrates achievements and pockets of excellence in the department.

- A stakeholder conference was held in February 2008 during which resolutions were taken and a pledge was signed. The stakeholders renewed their commitment to build a corrections community that will serve as a legitimate platform for promoting consensus, co-operation, research, and networking, as well as to drive the implementation of a joint programme of action.
- Twenty-four pharmacists were allocated to the department to undertake community service.
- Ten computer-based training centres for offenders were established. Computer-based training forms an integral part of the subject Life Orientation within the National Curriculum Statement for grades 10 to 12 as well as the National Curriculum Vocation. The department has embarked on this national project to ensure that presentation of the curricula is aligned with national requirements.
- The department was involved in the “Second Chances” Conference hosted by the President’s Awards for Youth Empowerment. The aim of the conference was to share best practice, knowledge and first-hand experience with colleagues from correctional systems internationally. Correctional Services South Africa was used as an example since the department is one of the first countries internationally that has successfully implemented the President’s Awards programme (under the Internal Awards) within a correctional environment.

- During the 2007/08 financial year, 45 324 submissions for placement on parole, including placement under correctional supervision were dealt with by the 52 national parole boards. Of the 48 967 cases that served before the boards, 22 254 were approved.

### Improving service delivery

The focus of the department continues to be improving service delivery. In 2007/08, the department enhanced a number of initiatives that will improve how the department functions and its service delivery:

- Integrated Human-Resource Strategy
- Compliance Improvement Plan
- Risk-Management Framework
- key strategic projects
- Service-Delivery Improvement Plan (SDIP)
- security enhancement
- care and development of inmates.

### Integrated Human-Resource Strategy

The department developed and launched the Integrated Human-Resource Strategy in 2007/08 aimed at establishing a framework providing for effective work organisation, recruitment, retention and development of its employees. The department recognises personnel as a critical asset for the implementation of its mandate. The focus areas include recruitment and retention, training and retraining, enhancing capacity to deliver, employee relations and wellness, organisational culture, career management and organisational design.





### Compliance Improvement Plan

This plan is used as a system to monitor the performance of management areas and centres on matters that have been recurring in the findings of the Auditor-General's reports. Accountability has been built into the system by requiring regional offices to submit bimonthly certifications on the progress, which is made by different management areas under their jurisdiction, in managing and ensuring compliance. These certifications are followed by inspections, which are quantified and recorded to monitor performance trends of each management area and centres falling under it. Performance trends are used in the performance assessments of different regional and area commissioners. The results of these inspections are also used in quarterly progress reports to the department's Risk Management Committee (RMC) and the Audit Committee.

The overall improvement in compliance moved from 79% to 84% in 2007/08. The challenge of non-compliance has entrenched itself over some time in the department but management is determined to turn the situation around within a reasonable period. Compliance Improvement Plan inspections are monitored by the RMC.

### Risk-Management Framework

The department established the RMC in 2002. The

RMC meets on a quarterly basis to assess the level of risk and progress on mitigation of risks. The quarterly risk-mitigation reports on the 2007/08 Significant and Prioritised Risk Profile were presented to each executive management committee meeting in 2007/08, focusing on recommendations to enhance the mitigation of each risk.

### Key strategic projects

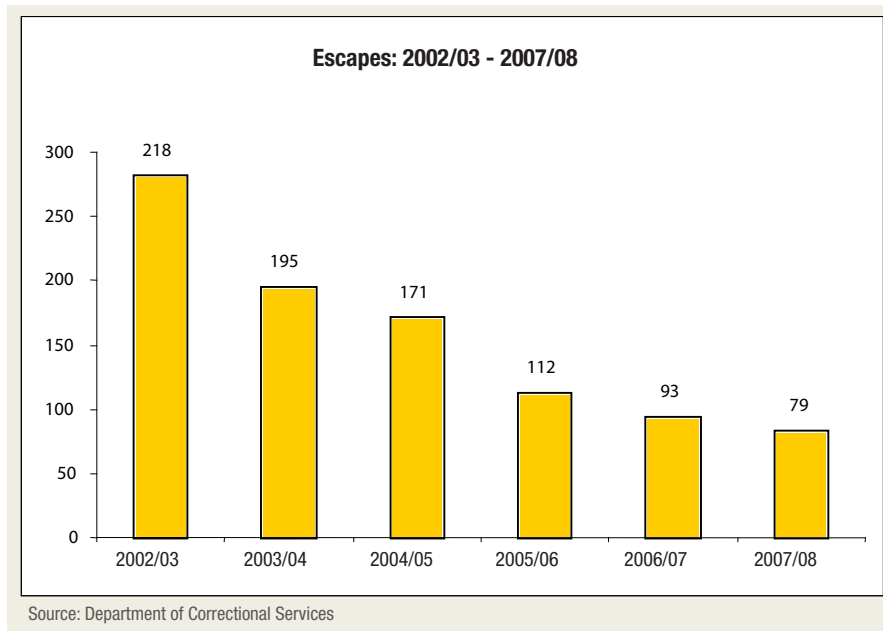
The department has identified eight projects to deliver on its mandate as per the *White Paper on Corrections*. The aim of these projects is to prioritise objectives and deliver them within a period of one to 10 years. The projects identified are the following:

- Infrastructure Development
- Social Reintegration
- Offender Rehabilitation
- Security Enhancement
- Management of Awaiting-Trial Detainees
- Monitoring, Evaluation and Reporting
- Seven-Day Establishment and Job Refinement
- Centres of Excellence.

The department established a project management office to assist in delivery on these projects.

### Service-Delivery Improvement Plan

Three SDIPs were identified for the 2008/09 financial year. They aim to:



- fill vacancies across the department
- improve Adult Basic Education and Training for thousands of offenders who have no functional skills, to reduce survival crimes
- improve the management of visitations to support family ties between offenders and their families.

### Enhancing security

Security continues to receive priority attention as one of the core pillars of the department's legal mandate. The department has developed measures to improve security. These include the Biometric Access Control System, electric fencing and X-ray scanners. These interventions have contributed to the significant decline in the rate of escapes over the past 13 years. The approval of the vetting field unit for the department will assist in expediting the vetting of officials, especially in critical areas such as maximum-security facilities.

The Department of Correctional Services initiated a security threat and risk-assessment project with the National Intelligence Agency, SAPS and the Electronic Communications Security (Pty) Limited, which will deliver a report in 2008/09 to be used in reviewing the work of the Security Enhancement Project, initiated in 2007.

### Care and development of inmates

The department continues to improve the health-care of inmates. During 2007/08, four facilities were accredited for the provision of antiretroviral treatment, bringing the total number of facilities accredited to 16. The implementation of the Occupation Specific Dispensation for nurses will also ensure availability of suitably qualified nurses to take care of the health of inmates and assist in the retention strategy in relation to nurses.

The department entered into a partnership with the Shuttleworth Foundation during 2006, with the aim of establishing a pilot Information and Communications Technology Skills Programme at two identified correctional centres, namely Malmesbury and Pollsmoor. The pilot project was concluded in 2007 with a 100% pass rate.

The ICDL Foundation in Ireland has recognised the Minister of Correctional Services and the Department of Correctional Services as a world finalist for an innovation award for the implementation of the Open Source Learning Centre Programme.



## Acknowledgements

Beeld

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*Estimates of National Expenditure 2008*, published  
by National Treasury

Public Protector

South African Law Reform Commission

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