

2019/20 SOUTH AFRICA YEARBOOK

**Justice and  
Correctional  
Services**



## Justice and Constitutional Development

The Department of Justice and Constitutional Development (DoJ&CD) derives its mandate from a number of Acts, in addition to the mandate it derives from the Constitution of the Republic of South Africa, 1996.

These Acts, and the Constitutional Framework, assign functions to the department, such as the establishment of magistrates' courts, and the appointment of magistrates and other judicial officers; the establishment and functioning of the Special Investigating Unit (SIU) and the National Prosecuting Authority (NPA), including the Asset Forfeiture Unit (AFU); the conducting of criminal proceedings; the prosecution of organised crime and corruption, and the forfeiture of assets obtained through illicit means; the provision of witness protection to vulnerable and intimidated witnesses and their related persons in judicial proceedings; the establishment and functioning of bodies responsible for legal aid, law reform and rulemaking; the appointment of masters of the high courts; the management of third-party funds; the administration of the Guardian's Fund and deceased and insolvent estates; the regulation and provision of legal advisory services to government departments; the promotion, protection and enforcement of human rights; the protection of vulnerable groups; and the provision of support to Chapter 9 institutions.

The National Development Plan (NDP) sets out a vision for building and maintaining safe communities in South Africa through, among other things, strengthening the criminal justice system. This vision is expressed in terms of Priority 5 (social cohesion and safe communities) of government's 2019 – 2024 Medium Term Strategic Framework (MTSF). The work of the DoJ&CD is directly aligned with this priority in that a well-functioning criminal justice system provides relief to victims of crime, protects vulnerable groups and swiftly acts against perpetrators of corrupt activities. To this end, over the medium term, the DoJ&CD will focus on implementing an integrated criminal justice strategy, eradicating gender-based violence and femicide (GBVF) and strengthening the State's capability to combat corruption.

## Implementing an integrated criminal justice strategy

The most effective deterrent to criminal activity is an efficient and effective criminal justice system. In this regard, in 2017 Cabinet approved a broad framework for adopting an integrated criminal justice strategy. The strategy aims to improve the efficiency of the criminal justice system through aligning the business processes of various stakeholders in the criminal justice system, improving and strengthening the capabilities of the criminal justice system, and coordinating integrated interventions across the criminal justice value chain.

The DoJ&CD leads the implementation of the strategy in the Justice, Crime Prevention and Security (JCPS) Cluster. To fast-track the implementation of the strategy, R123.3 million is allocated over the Medium Term Expenditure Framework (MTEF) period to the Court Services programme. Measures are also being implemented to align the strategy with the Integrated Justice System programme included under the Justice Modernisation subprogramme.

Other key activities carried out in the Court Services programme that support an integrated criminal justice system include developing practical, short-term and medium-term proposals to improve the performance of courts by focusing court work on trials and ancillary proceedings such as bail; and removing some administrative functions relating to postponements. Spending in the Court Services programme accounts for 32.1% (R22.9 billion) of the department's total expenditure, increasing at an average annual rate of 5.9%, from R6.7 billion in 2019/20 to R8 billion in 2022/23.

## Eradicating GBVF

A common criticism levelled against the State is that it is slow to respond to the crisis of rape, domestic violence, femicide, child homicide and related forms of GBV. In response, the government has developed a GBVF national strategic plan, which requires large-scale changes in the criminal justice system.

For the DoJ&CD specifically, these changes include upgrading the existing 309 magisterial district courts to victim-centric justice courts that offer centre-based support services, particularly to victims of domestic violence, GBV and related

violence. The department also plans to increase the number of courts dealing with sexual offences from 90 in 2018/19 to 148 in 2022/23.

To expedite the transformation of justice support services for victims of GBVF, the DoJ&CD plans to introduce a justice rapid results transformation programme, which will be led by trained and dedicated multidisciplinary teams comprising officials across line functions. To ensure a seamless transformation process, training in producing rapid results will also be undertaken at all levels of management. The department plans to transform 30 district courts in this regard between 2020/21 and 2021/22. Related activities will be carried out in the Lower Courts subprogramme. Spending in this subprogramme accounts for 74.2% (R16.8 billion) of the programme's total expenditure over the MTEF period.

In contributing to building a victim-centric criminal justice system, the NPA plans to increase the number of Thuthuzela Care Centres (TCCs) from 55 in 2019/20 to 60 in 2022/23. This function will be carried out in the National Prosecutions Service (NPS) subprogramme. Spending in this subprogramme accounts for 80.7% (R11.8 billion) of the programme's total expenditure over the medium term.

## Strengthening the State's capability to combat corruption

In responding to the urgent need to combat corruption in South Africa, additional funding amounting to R1.2 billion over the medium term (R369 million in 2020/21, R421.7 million in 2021/22 and R444.3 million in 2022/23) has been allocated to the NPA. These funds will be used to increase capacity in all business units; rejuvenate the Aspirant Prosecutor Programme; and operationalise an investigative directorate to deal with serious, high-profile or complex corruption, and any other cases referred to it by the National Director of Public Prosecutions (NDPP) in accordance with the NPA Act, 1998 (Act 32 of 1998). Due to these additional allocations, spending in the NPA programme will increase at an average annual rate of 8.1%, from R4 billion in 2019/20 to R5.1 billion in 2022/23.

Over the period ahead, the NPA plans to appoint 277 new staff. This is intended to enable the authority to increase the



value of recoveries relating to corruption or related offences by the AFU from R1.6 billion in 2019/20 to R1.8 billion in 2022/23; increase the number of persons convicted of corruption in the private sector from 57 in 2019/20 to 166 in 2022/23; and increase the number of government officials convicted of corruption from 202 in 2019/20 to 243 in 2022/23.

To further strengthen the State's capability in combating corruption, additional funding of R120.2 million is allocated to increase the number of specialised commercial crime courts, and R225 million is allocated for the SIU to appoint forensic investigators and operationalise the special tribunal, which has a statutory mandate to recover public funds syphoned from the fiscus through corruption, fraud and illicit money flows.

### Legislation and policies

The following instruments of legislation are relevant to the successful functioning of the DoJ&CD:

- Legislation providing for the establishment and functioning of the superior courts, magistrates' courts and special courts: The Constitutional Court Complementary Act, 1995 (Act 13 of 1995), the Supreme Court Act, 1959 (Act 59 of 1959), the Magistrates' Courts Act, 1944 (Act 32 of 1944), and the Small Claims Court Act, 1984 (Act 61 of 1984).
- Legislation providing for the appointment of judges and other judicial officers, the conditions of service, discipline and training: The Judges Remuneration and Conditions of Employment Act, 2001 (Act 47 of 2001), the Judicial Service Commission (JSC) Act, 1994 (Act 9 of 1994), as amended, the South African Judicial Education Institute (SAJEI) Act, 2008 (Act 14 of 2008), and the Magistrates' Act, 1993 (Act 90 of 1993).
- Legislation providing for the establishment and functioning of the NPA, the SIU and the AFU; the conduct of criminal proceedings; the investigation of organised crime and corruption; and the forfeiture of assets obtained through illicit means: the NPA Act of 1998, the Criminal Procedure Act (CPA), 1977 (Act 51 of 1977), the Prevention of Organised Crime Act (POCA), 1998 (Act 121 of 1998), the SIU and Special Tribunals Act, 1996 (Act 74 of 1996), and the Witness Protection Act, 1998 (Act 112 of 1998).

- Legislation providing for the establishment and functioning of bodies responsible for legal aid, law reform and rule-making: The Legal Aid Act, 1969 (Act 22 of 1969), the South African Law Reform Commission (SALRC) Act, 1973 (Act 19 of 1973), and the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985).
- Legislation providing for the appointment of masters of the High Court and the administration of the Guardian's Fund and deceased and insolvent estates: The Administration of Estates Act, 1965 (Act 66 of 1965), and the Insolvency Act, 1936 (Act 24 of 1936).
- Legislation regulating the provisioning of legal advisory services to government departments: The State Attorney Act, 1957 (Act 56 of 1957).
- Legislation relating to the promotion, protection and enforcement of certain human rights: The Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), the Promotion of Access to Information Act, 2000 (Act 2 of 2000), and the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000), better known as the Equality Act of 2000.
- Legislation pertaining to the protection of vulnerable groups: The Child Justice Act, 2008 (Act 75 of 2008), the Children's Act, 2005 (Act 38 of 2005), the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), the Maintenance Act, 1998 (Act 99 of 1998), and the Domestic Violence Act, 1998 (Act 116 of 1998).
- Legislation providing support to Chapter 9 institutions: The Human Rights Commission Act, 1994 (Act 54 of 1994), and the Public Protector Act, 1994 (Act 23 of 1994).
- Legislation regulating the management and control of public expenditure: The Public Finance Management Act, 1999 (Act 1 of 1999).
- Legislation regulating operations in the Public Service: The Public Service Act, 1994 (Act 103 of 1994), as amended.
- Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2012 (Act 6 of 2012).
- Criminal Procedure Amendment Act, 2012 (Act 9 of 2012).
- Judicial Matters Amendment Act, 2012 (Act 11 of 2012).
- Repeal of the Black Administration Act and Amendment of

Certain Laws Amendment Act, 2012 (Act 20 of 2012).

- Sheriffs Amendment Act, 2012 (Act 14 of 2012).
- The Criminal Law SIU (Forensic Procedures) Amendment Bill 2013 paves the way to regulate and promote the use of DNA in combating crime, taking into account constitutional requirements. The use of DNA evidence holds the potential to alleviate bottlenecks in the criminal justice system. Maximising the use of DNA evidence promotes fairness, confidence and certainty in the administration of South Africa's laws.
- The Constitution 17th Amendment Act of 2013 is implemented with the Superior Courts Act, 2013 (Act 10 of 2013), which repeals the Supreme Court Act of 1959.
- The Legal Practice Act, 2014 (Act 28 of 2014) establishes a new regulatory framework for the profession, enhances opportunities to enhance access to services of attorneys and advocates, and creates mechanisms to address the spiralling cost of litigation.

### Budget

For the 2019/20 financial year, the DoJ&CD was allocated R21 billion. The department's expenditure is expected to increase at an average annual rate of 5.8%, from R21 billion in 2019/20 to R24.9 billion in 2022/23. Spending on the compensation of employees accounts for 57.4% (R41.2 billion) of the DoJ&CD's total expenditure over the medium term.

### Entity

#### Legal Aid South Africa

Legal Aid South Africa was established in terms of Section 2 of the Legal Aid South Africa Act, 2014 (Act 39 of 2014), to provide legal aid and legal advice to eligible people at the State's expense. The entity is mandated to ensure access to justice and the realisation of people's right to legal representation, as envisaged in the Constitution. To this end, over the medium term, the entity will continue to focus on providing legal aid and representation to people who cannot afford it.

Expenditure is expected to increase at an average annual rate of 5.4%, from R2 billion in 2019/20 to R2.3 billion in 2022/23. Compensation of employees is the main cost driver, spending on which accounts for 81.2% (R5.4 billion) of the entity's total

expenditure over the medium term. Revenue is mainly derived from transfers from the DoJ&CD, which are expected to increase at an average annual rate of 5.5%, from R2 billion in 2019/20 to R2.3 billion in 2022/23. The entity has been allocated an additional R75 million over the MTEF period to assist with issuing a greater number of instructions on criminal matters to judicare practitioners.

### Other entities

#### Public Protector of South Africa

The Public Protector of South Africa is mandated to strengthen the country's constitutional democracy by investigating any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice; to report on that conduct; and to take appropriate remedial action. The institution's total budget for 2019/20 was R31.4 million.

#### South African Human Rights Commission (SAHRC)

The SAHRC is an independent statutory body established to support constitutional democracy by promoting, protecting and monitoring matters relating to human rights. The commission's total budget for 2019/20 was R189.2 million.

#### Special Investigating Unit

The SIU investigates and litigates on serious malpractice, maladministration and corruption, in connection with the administration of state institutions. The unit is also empowered to institute and conduct civil proceedings in any court of law or special tribunal in its own name or on behalf of other state institutions. Its total budget for 2019/20 was R363 million.

### Role players

#### National Prosecuting Authority

The NPA was established in 1998 and comprises the NDPP, Deputy National Directors of Public Prosecutions (DNDPPs), Directors and Special Directors of Public Prosecutions (DPPs and SDPPs) and other members of the prosecuting authority appointed at or assigned to the NPA, and members of the administrative staff. It provides a coordinated prosecuting

service that ensures that justice is delivered to victims of crime through general and specialised prosecutions. It also removes profit from crime and protect certain witnesses.

The NPA has the power to:

- institute and conduct criminal proceedings on behalf of the State;
- carry out any necessary functions incidental to instituting and conducting such criminal proceedings); and
- discontinue criminal proceedings.

The DNDPPs are responsible for the following divisions:

- the NPS.
- AFU and International Relations.
- Legal Affairs.
- Administration.

The SDPPs head the following specialised units:

- Sexual Offences and Community Affairs (SOCA) Unit.
- Priority Crimes Litigation Unit (PCLU).
- Office for Witness Protection (OWP).

Over the medium term, the authority will focus on:

- ensuring successful prosecution by maintaining a conviction rate of 87% in high courts, 74% in regional courts, and 88% in district courts;
- conducting impactful prosecution by increasing the number of persons convicted of corruption in the private sector, from 57 in 2019/20 to 166 in 2022/23;
- removing the profit from crime by intensifying the impact of asset forfeiture through increasing the value of recoveries relating to corruption or related offences from R1.6 billion in 2019/20 to R1.8 billion in 2022/23; and
- contributing to the effectiveness of the criminal justice system on an ongoing basis by ensuring that no witnesses and related persons are threatened, harmed or killed.

#### National Prosecutions Service

The NPS is a core division of the NPA, responsible for general and specialised criminal prosecutions. The DPPs are the heads of their respective areas of jurisdiction, which are established according to provincial demarcations in each of the seats of the high courts.

All the public prosecutors and state advocates working in the district, regional and high courts fall under the responsibility and direction of the DPPs. The SDPPs are appointed to carry out certain functions and responsibilities related to a particular crime type, as assigned by the President by proclamation in the Government Gazette.

#### Office for Witness Protection

The OWP is established in terms of the Witness Protection Act of 1998, and is headed by a director, appointed by and operating under the direction and authority of the Minister of Justice and Correctional Services, for the purpose of administering the Act. The OWP is responsible for the protection (including temporary protection) of witnesses and related persons, in accordance with the Act. All OWP functions and duties are classified secret in terms of the Witness Protection Act of 1998.

#### Asset Forfeiture Unit

The AFU was established in May 1999 as a division of the NPA to focus on the implementation of Chapter 5 and Chapter 6 of the POCA of 1998. The AFU was created to ensure that the powers in the Act to seize criminal assets would be used to their maximum effect in the fight against crime, in particular, organised crime. Criminal assets seized by the AFU are paid into the Criminal Assets Recovery Account.

#### Specialised Commercial Crime Unit (SCCU)

A division of the NPS, the SCCU's mandate is to prosecute complex commercial crime and corruption cases. The client base of the unit comprises a broad spectrum of complainants in commercial cases, ranging from private individuals and corporate bodies to state departments.

#### Priority Crimes Litigation Unit

The PCLU is mandated to tackle cases that threaten national security. It was created by a Presidential proclamation. The primary function of the unit is to manage and direct investigations and prosecutions in respect of the non-proliferation of weapons of mass destruction (nuclear, chemical and biological).

### Sexual Offences and Community Affairs

The SOCA unit's mandate is to act against the victimisation of vulnerable groups, mainly women and children. The unit develops strategy and policy, and oversees the management of cases relating to sexual offences, domestic violence, human trafficking, maintenance offences and children in conflict with the law.

The unit aims to:

- improve the conviction rate in gender-based crimes and crimes against children;
- protect vulnerable groups from abuse and violence;
- ensure access to maintenance support; and
- reduce secondary victimisation.

One of the SOCA's key achievements in ensuring government's commitment to the fight against sexual offences and GBV is the establishment of TCCs – one-stop facilities located in public hospitals in communities where sexual assault is particularly high. The facilities are aimed at reducing secondary victimisation, improving conviction rates and reducing the cycle time for the finalisation of rape cases.

### Master of the High Court

The Master of the High Court serves the public in respect of:

- deceased estates;
- liquidations (insolvent estates); and
- registration of trusts, tutors and curators' administration of the Guardian's Fund (minors and people with mental disabilities).

The Master's Office has five main divisions, which are all aimed at protecting the financial interests of people whose assets or interests are, for various reasons, managed by others.

As part of the turnaround strategy in the Master's Office, there has been a special focus on training frontline officials. The Master's Office is also investigating methods to deliver a more efficient and effective service to the public through the Internet.

### Office of the Family Advocate

The role of the Family Advocate is to promote and protect the best interests of children in civil disputes over parental rights and responsibilities.

This is achieved by monitoring pleadings filed at court, conducting enquiries, filing reports, appearing in court during the hearing of the application or trial, and providing mediation services in respect of disputes over the parental rights and responsibilities of fathers of children born out of wedlock.

In certain instances, the Family Advocate also assists the courts in matters involving domestic violence and maintenance. Furthermore, litigants are obliged to mediate their disputes before resorting to litigation. Unmarried fathers can approach the Family Advocate directly for assistance without instituting any litigation.

Children's rights to participate in, and consult on, decisions affecting them have been entrenched; the Family Advocate is the mechanism whereby the voice of the child is heard.

### Truth and Reconciliation Commission (TRC)

The TRC was dissolved in March 2002 by way of proclamation in the Government Gazette. The TRC made recommendations to government regarding reparations to victims and measures to prevent the future violation of human rights and abuses experienced during the apartheid years.

Government approved categories of recommendations in June 2003 for implementation, namely:

- final reparations;
- TRC-identified victims;
- symbols and monuments;
- medical benefits and other forms of social assistance; and
- community rehabilitation.

### New Bills

#### Recognition of Customary Marriages Amendment Bill of 2019

In July 2019, Cabinet approved the submission of the Recognition of Customary Marriages Amendment Bill of 2019 to Parliament. The Bill brings Section 7(1) and (2) of the Recognition of Customary Marriages Act (RCMA), 1998 (Act 120 of 1998) in line with the judgment of the Constitutional Court in 2017, which declared these provisions constitutionally invalid. These sections discriminated unfairly against women in customary marriages.

The Bill also provides for the equal treatment of women in pre-Act monogamous and polygamous customary marriages.

The amendments eliminate gender-based discrimination in polygamous marriages entered into before the commencement of the RCMA of 1998. Spouses will now have joint and equal proprietary rights over marital property. This means that husbands will no longer have exclusive proprietary rights over marital property to the detriment of their wives. Children can also benefit as they will be able to inherit from the mother as well.

### Human rights

The Bill of Rights is the cornerstone of South 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 them.

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

### Areas of legislation

#### Sexual offences

The Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007 provides a legal framework to support an integrated approach to the management of sexual offences, thereby aiming to reduce secondary trauma to victims of such crimes.

### National Register for Sexual Offenders (NRSO)

The DoJ&CD has developed the NRSO, which was deployed in 195 courts. The NRSO was established by an Act of Parliament in 2007.

It is a record of names of those found guilty of sexual offences against children and people with mental disabilities.

The NRSO gives employers in the public or private sectors such as schools, crèches and hospitals the right to check that the person being hired is fit to work with children or mentally disabled people.

Information on whether a person is on the list is available on request, along with the relevant motivation, before any confirmation or information is released.

### Maintenance

The main objective of the Maintenance Act of 1998 is to facilitate the securing of maintenance money from parents and/or other persons able to maintain maintenance beneficiaries, mainly children, who have a right to maintenance.

Parents and/or guardians must maintain children in the proportion in which they can afford. Therefore, both parents and/or sets of families need to take responsibility for the maintenance of the child or children concerned.

The Maintenance Amendment Act, 2015 (Act 9 of 2015), further ensures that maintenance systems are effective, putting the following measures in place, among others:

- A beneficiary will be able to claim maintenance where they work and not only where they live. This will make it easier for beneficiaries to go to the maintenance court during working hours.
- If the person from whom maintenance is sought cannot be located, despite all reasonable efforts, the court can grant an order directing electronic communication service providers to provide the court with contact information.
- Maintenance courts must complete their enquiries as speedily as possible. The views of the person who is obliged to pay maintenance must be sought.
- If a person has defaulted on paying maintenance, their personal details will be submitted to all credit bureaus. This will prevent maintenance defaulters from continuing to

receive credit while owing maintenance. They will effectively be blacklisted.

From the 369 maintenance courts nationwide, the DoJ&CD registers about 200 000 new maintenance complaints a year. To reduce the maintenance queues at courts, the department has installed technology to process payments through electronic financial transfers to replace the card-based manual system. The courts are also increasingly making orders for payments to be deposited directly into the accounts of beneficiaries.

The Guardian's Fund was created to hold and administer funds which are paid to the Master of the High Court on behalf of various persons known or unknown, for example, minors, persons incapable of managing their own affairs, unborn heirs, missing or absent persons or persons having an interest in the moneys of a usufructuary, fiduciary or fideicommissary nature. Each Master of the High Court has its own Guardian's Fund. Through the fund, the DoJ&CD contributes substantially to poverty alleviation.

Over the medium term, the DoJ&CD aims to ensure an enhanced and integrated family law service by:

- increasing the percentage of maintenance matters finalised within 90 days from the date of proper services of process from 50% in 2016/17 to 60% 2019/20; and
- increasing the percentage of family advocate reports filed within six months from the date of opening matters, from 50% in 2016/17 to 60% in 2019/20.

### Domestic violence

Rigorous steps being taken by the JCPS Cluster to root out GBV include the adoption of zero tolerance towards rape, violation of the rights of lesbian, gay, bisexual, transgender and

Child maintenance money can be deposited directly into the bank accounts of beneficiaries. Equally, the introduction of the Paperless Estates Administration System in the Master's Office has enhanced the efficacy in the management of deceased estates.

The system was rolled out to 15 Masters' offices countrywide and about 206 service points, resulting in improved accountability and faster turnaround times.

The DoJ&CD uses a system called MojaPay, which has ensured that 80% of payments are made within four working days, as opposed to the previous manual system that could take up to a month.

intersex people, and other forms of violence towards women and children.

The Ndabezitha Project trains traditional leaders and clerks of the court in domestic violence matters in rural areas. This includes the development of a safety tool and intersectoral statistical tool by the NPA and the DoJ&CD.

The DoJ&CD conducted research under the topic, 10-Year Review of Implementation of the Domestic Violence Act of 1998, aimed at taking stock of all initiatives and projects in courts and the criminal justice system to address the reduction and prevention of domestic violence.

The Protection from Harassment Act, 2011 (Act 17 of 2011), is the first specific legislation to address sexual harassment in the Southern African Development Community (SADC) region. The essence of the Act is to provide a quick, easy and affordable civil remedy in the form of a protection order for incidences of stalking. The legislation arose out of a SALRC investigation into the legal framework governing stalking and domestic violence.

A key component of the Act is that it seeks to cover all forms of stalking, not just that involving people engaged in a relationship.

A protection order can be issued instructing the harasser to cease harassment.

The Act sets out how a complainant is to apply for a protection order and the procedure to be followed in granting one. The legislation also provides for the issuing of an interim protection order without the knowledge of the respondent, given certain conditions.

A victim of cyberstalking can apply to a court for an interim protection order even when the identity of the alleged stalker is unknown. The law will also empower the police to investigate a stalker to identify the perpetrator even before a victim launches an application for a protection order.

### Human trafficking

The Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013), defines trafficking to include the recruitment, transportation, sale or harbour of people by means of force, deceit, the abuse of vulnerability and the abuse of power for exploitation. The Act addresses the scourge of trafficking in persons holistically and comprehensively.



Besides creating the main offence of trafficking in persons, the legislation creates offences such as debt bondage; the possession, destruction and tampering with travel documents; and using the services of victims of trafficking, all of which facilitate innocent persons becoming victims of this modern-day form of slavery.

The legislation gives effect to South Africa's international obligations in terms of the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

South Africa fully recognises the existence of human trafficking and smuggling activities. These crimes are mostly perpetuated by transnational syndicates, hence the call from many states for regional and international cooperation, as well as the introduction of aligned legislation and immigration procedures.

To address those challenges, the UN member states require fair, responsible, ethical and efficient criminal justice systems and crime prevention strategies that contribute to sustainable economic and social development. It also imposes a responsibility on states to work together.

These scourges have also had a negative impact on the people of South Africa. The government therefore fully supports the UN's promotion of objectives relating to the continued and focused national and international prevention, and combating of these crimes.

In South Africa, migration and human trafficking are a result of a complex set of interrelated push-and-pull factors. On the push side, factors such as poverty, lack of opportunities, dislocations from family and community, gender, racial and ethnic inequalities and the break-up of families are all relevant. The pull factors include the promise of a better life, consumer aspirations and lack of information on the risks involved, established patterns of migration, porous borders and fewer constraints on travel.

As a result of these factors, South Africa has become a source, transit and destination country for trafficked and smuggled men, women and children. South African girls are trafficked or smuggled for the purposes of commercial sexual exploitation and domestic servitude, while boys are trafficked or smuggled for use in street vending, food service and agriculture.

The Prevention and Combating of Trafficking in Persons Act of 2013 deals comprehensively with human trafficking in all its forms and, in particular, provides for the protection of and assistance to victims of trafficking.

Persons engaged with trafficking will be liable on conviction to a severe fine or imprisonment, including imprisonment for life or such imprisonment without the option of a fine or both.

Other existing laws being used to prosecute traffickers include the Children's Act of 2005, which provides for the criminalisation of the trafficking of children, while the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007, contains provisions that criminalise trafficking in persons for sexual purposes.

South Africa has also been successful in using the racketeering offences in the POCA of 1998 to deal with criminal organisations involved in trafficking.

Under the common law, depending on the circumstances of each case, persons suspected of trafficking could be charged with kidnapping, common assault, assault with intent to do grievous bodily harm, extortion, attempted murder and murder.

Those involved in acts of trafficking in persons may be prosecuted using other acts that include the Immigration Act, 2002 (Act 13 of 2002), the Basic Conditions of Employment Act, 1997 (Act 75 of 1997), the Intimidation Act, 1982 (Act 72 of 1982), the Domestic Violence Act of 1998, and the Films and Publications Act of 1996 (Act 65 of 1996).

## Programmes and projects

### Court Services

The purpose of the programme is to facilitate the resolution of criminal and civil cases, and family law disputes by providing accessible, efficient and quality administrative support to the lower courts, and managing court facilities.

Over the medium term, the programme's objective is to deliver modern, accessible and people-centric services for all by:

- reducing the number of criminal cases on the backlog roll in lower courts, from 48 223 in 2019/20 to 45 388 in 2022/23;
- increasing the percentage of child justice preliminary inquiries finalised within 90 days after the date of first appearance, from 85% in 2019/20 to 90% in 2022/23;

- increasing the percentage of maintenance matters finalised within 90 days from the date of proper service of process, from 72% in 2019/20 to 79% in 2022/23;
- increasing the number of clearance certificates for the NRSO, in respect of particulars issued to applicants, from 3 000 in 2019/20 to 18 000 in 2022/23;
- expediting the implementation of Femicide Watch, established as required by Article 15 of the 2019 Presidential Summit Declaration against GBVF, from phase 2 in 2019/20 to phase 5 in 2022/23;
- increasing the number of regional courts upgraded to sexual offences courts, as required by the 2019 Presidential Summit Declaration against GBVF, from 90 in 2018/19 to 148 in 2022/23; and
- upgrading 72 magisterial district courts in terms of the Victim-Centric Justice Strategy by March 2023.

### State Legal Services

The purpose of this programme is to provide legal and legislative services to government, supervise the administration of deceased and insolvent estates and the Guardian's Fund, prepare and promote legislation and undertake research in support of this. The objectives of the programme over the medium term include:

- delivering modern, accessible and people-centric justice services for all, by maintaining the percentage of letters of appointment issued in deceased estates within 15 days of receipt of all required documents at 93%;
- ensuring a regulated and transformed legal profession by increasing the percentage of briefs allocated to historically disadvantaged individuals, from 80% in 2020/21 to 85% in 2022/23;
- ensuring effective and efficient state legal advisory and litigation services by increasing the percentage of legal opinions finalised within 40 days of receipt of instruction, from 82% in 2019/20 to 86% in 2022/23;
- increasing the percentage of international agreements and accompanying legal opinions finalised within 40 days of receipt of instruction, from 85% in 2019/20 to 86% in 2022/23;
- increasing the percentage of draft Bills approved by Cabinet

for introduction within 40 days of receipt of instruction, from 82% in 2019/20 to 85% in 2022/23;

- maintaining the number of research papers submitted to the SALRC for consideration and approval at 11 from 2020/21 onwards;
- enhancing the protection and promotion of fundamental human rights and freedoms by maintaining sustained and visible anti-xenophobia campaigns conducted in collaboration with other departments and role players at six from 2020/21 onwards;
- maintaining the number of awareness sessions on lesbian, gay, bisexual, trans and intersex issues conducted with organisations, as well as traditional and faith-based leaders' communities at 13 from 2020/21 onwards; and
- improving reparations accessed by qualifying beneficiaries of Parliament-approved TRC recommendations, by maintaining the number of community projects launched at five from 2020/21 onwards.

### Auxiliary and Associated Services

The purpose of the programme is to provide a variety of auxiliary services associated with the DoJ&CD's purpose. It also funds the Interdepartmental Justice Modernisation programme, the President's Fund, and transfers payments to public entities and constitutional institutions.

Its objective is to deliver modern, accessible and people-centric justice services for all, by maintaining the number of government departments and entities exchanging information electronically at nine from 2020/21 to 2022/23, and increasing the number of branches, sites or service centres of government departments and entities where person verification services are deployed, from 280 in 2019/20 to 560 in 2021/22.

### Child justice

#### Children's Act

The Department of Social Development leads the implementation of the Children's Act of 2005. The DoJ&CD's main responsibility is towards the Children's Court operations relating to the Act.

Embracing information and communication technology has allowed the DoJ&CD to extend its reach on modern-

day platforms that are more accessible to children, thereby increasing access and engagement with potentially vulnerable or threatened children who would otherwise not have access to the department and, consequently, support and assistance.

The DoJ&CD has developed a child-friendly Frequently Asked Questions link on its website. In addition, the department created an email address, *children@justice.gov.za*, which the public may use to report issues relating to children.

The Children's Court is the DoJ&CD's principal legal mechanism to intervene and assist children who need care and protection. To gather statistics from the Children's Courts, the department developed the Children's Court Monitoring Tool. Data about matters coming to court relating to children in need of care is gathered monthly.

Section 14 of the Children's Act of 2005 states that every child has the right to bring a matter to the Children's Court.

This means that Children's Courts can serve as direct entry points for a child to seek help and protection. Children's Courts have been rendered highly accessible through the Act.

### Child Justice Act

The Child Justice Act of 2008 promotes and protects the constitutional rights of children in conflict with the law. The Act provides special measures, designed to break the cycle of crime and restore in these children a lifestyle that is law-abiding and productive.

The DoJ&CD established governance structures to ensure the effective intersectoral implementation of the Act. Nine provincial child justice forums are coordinating and monitoring the implementation of the Act at provincial level.

### Restorative justice

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

Restorative justice strategies, programmes and processes in the criminal justice system are in place to try and heal the harm caused by crime, from a holistic point of view, for the victim,

the offender and the community concerned – with the aim of rebuilding broken relationships and encouraging social justice and social dialogue.

Restorative justice options are always voluntary for victims involved.

Alternative dispute resolution is defined as the disposal of disputes outside formal court proceedings. The processes and mechanisms may or may not include the restorative-justice approach.

### Integrated Case-Flow Management Framework

The DoJ&CD, in partnership with stakeholders from other partner organisations, is developing an enhanced version of case-flow management in the court environment.

To eradicate case-flow blockages, workable solutions were adopted. These include:

- continuous cooperation of stakeholders to implement and maintain case-flow management at all courts,
- establishing judicial leadership and case-flow management buy-in processes in the lower and higher courts in the form of case-flow management forums,
- facilitating and monitoring the creation of case-flow management governance structures to sustain productivity in the courts' environment, and
- maintaining case-flow management.

Systems that support case-flow management in the courts include the Integrated Case Management System (ICMS). This system spans all disciplines of cases administered in the justice environment.

The ICMS draws on several core modules to perform basic functions such as information warehousing, case numbering and document scanning. The specific functionality for each court and office are then built on these foundations.

The further development of the ICMS Masters System aims to create a Paperless Estate Administration System for the Master's Office.

This system will computerise the administration process in deceased estates, as all documentation will be scanned and stored electronically.



### Audio-Visual Remand (AVR) System

The AVR System links magistrates' courts to correctional detention centres via closed-circuit television. The development in this area of support to case-flow management for the courts has brought about a significant improvement in the movement of cases through the use of technology. One of the directives issued by the Chief Justice to address, prevent and curb the spread of COVID-19 in court precincts, was that AVR centres in correctional centres linked to magistrates' court should be used for purposes of the postponement of cases where accused persons were in custody.

### Case-Reduction Backlog Project

The JCPS Cluster departments have introduced a case backlog intervention to reduce the number of backlog cases in regional and district courts, and provide additional capacity to the backlog priority sites. The intervention ensures that the inflow of the number of new cases is balanced by the number of matters concluded. The project deliverables have been integrated into the outputs of the JCPS Cluster Delivery Agreement.

The DoJ&CD has provided resources in the form of infrastructure, court personnel, the judiciary, magistrates and budget, in support of the prosecution and judiciary to remove these cases from the backlog roll.

### Integrated Justice System

This aims to increase the efficiency and effectiveness of the entire criminal justice system by increasing the probability of successful investigation, prosecution, punishment for priority crimes and, ultimately, rehabilitation of offenders. Further issues receiving specific attention include overcrowding in prisons and awaiting-trial prisoner problems, as well as bail, sentencing and plea-bargaining.

The government wants to eliminate the duplication of services and programmes at all levels. The benefits of proper alignment include:

- less duplication of services;
- the effective use of scarce and limited resources and skills; and
- joint strategic planning and a planned approach instead of being reactive.

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

### International Legal Relations

The main functions of the Chief Directorate: International Legal Relations, in the DoJ&CD, is to identify and research legal questions that relate to matters pertaining to the administration of justice between South Africa and other countries, as well as international bodies and institutions.

The chief directorate is involved in direct liaison and negotiations at administrative and technical levels with foreign countries to promote international legal cooperation, and for the possible conclusion of extradition and mutual legal assistance agreements. It also aims to establish greater uniformity between the legal systems of southern African countries, especially within the SADC.

The chief directorate coordinates human rights issues at international level under the auspices of the UN and the African Union. Its functions are divided into eight broad categories:

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

Owing to the number of departments and/or institutions involved in the execution of extradition and mutual legal assistance, requests and taking into consideration that diplomatic channels are followed to transmit documents, delays are experienced from time to time.

Provisions are included in extradition and mutual legal assistance agreements to provide for direct communication between central authorities.

The drastic reduction in the turnaround time for the processing of these requests should be a clear indication to the rest of the world that South Africa will neither be a safe haven for fugitives nor a breeding ground for transnational organised crime.

### International Criminal Court (ICC)

South Africa remains committed to the global promotion of the rule of law and will continue cooperating with the UN system to ensure the success of the international human rights architecture.

South Africa views the ICC as an important element in a new system of international law and governance.

### Office of the Chief Justice (OCJ) and Judicial Administration

The OCJ derives its mandate of providing support to the Chief Justice as the head of the Judiciary from Section 165 (6) of the Constitution, read together with the Superior Courts Act of 2013.

It provides support to the judiciary to ensure that it remains independent, accessible and effective in promoting accountability and fighting corruption. This is in line with the NDP's vision of promoting accountability and the rule of law, and Priority 5 (social cohesion and safe communities) of government's 2019 – 2024 MTSF.

To give expression to these guiding policies over the medium term, the OCJ will focus on broadening access to justice, increasing efficiencies in court administration, and ensuring judicial accountability.

The OCJ also has the following functions supplementary to its mandate:

- provide and coordinate legal and administrative support to the Chief Justice;
- provide communication and relationship management services;
- provide intergovernmental and internal coordination services;
- develop administration policies for courts;
- support the development of judicial policy, norms and standards;

- support the judicial function of the Constitutional Court; and
- support the JSC and SAJEL in the execution of their mandates.

### Broadening access to justice

The official opening of the Mpumalanga High Court in 2019/20 marked a significant achievement in fulfilling the government's democratic commitment to providing access to justice for all. The OCJ will ensure that the court is fully operationalised over the MTEF period to provide access to quality justice services to residents of Mpumalanga. The projected costs for the project is R136.2 million over the medium term.

### Increasing efficiencies in court administration

There is a crucial need to improve data management at superior courts. Recognising that modernising processes and infrastructure at these institutions is key to ensuring their effective administration, expenditure in the Corporate Services subprogramme is expected to increase from R121 million in 2019/20 to R134.2 million in 2022/23. This will provide for the implementation of an electronic filing system that will allow cases and evidence to be accessed more easily, and cloud-based software that will enable evidence to be digitised in court to streamline court proceedings. Implementing these systems forms part of the broader implementation of the Integrated Criminal Justice Strategy, led by the DoJ&CD.

By modernising systems and processes at superior courts to reduce inefficiencies in court administration, the OCJ aims to increase its capacity to make the Superior Court Services more widely available, as well as improve their quality. As a result of this anticipated greater efficiency, the department is targeting an increase in the percentage of default judgements finalised within 14 days from 70% in 2020/21 to 74% in 2022/23; the percentage of taxations of legal costs finalised within 60 days from 70% in 2020/21 to 80% in 2022/23; and the percentage of warrants of release delivered within one day of release issued from 98% in 2019/20 to 100% in 2022/23.

### Ensuring judicial accountability

The efficiencies gained through the modernisation and digitisation of systems at superior courts is also expected to

improve the quality of the OCJ's reporting on performance information by simplifying the monitoring and evaluation of norms and standards. The department supports the Chief Justice in monitoring and reporting on the implementation of norms and standards for the performance of judicial functions, whereas the Judiciary reports on court performance. These activities are carried out in the Superior Court Services programme. The department further ensures judicial accountability by administering a record of judges' registrable interests, as informed by Section 13 of the Judicial Service Commission Act, 1994 (Act 9 of 1994). Expenditure for this work is in the Judicial Policy, Research and Support subprogramme, which has a budget of R52.5 million over the MTEF period.

### Legislation and policies

In discharging its mandate, the OCJ is guided by the Constitution, other legislation and policies that constitute the legal framework for the establishment of the office. The Superior Courts Act of 2013 reaffirms the Chief Justice as the head of the Judiciary, responsible for the establishment and monitoring of norms and standards for the judicial functions of all courts. The Act further empowers the Chief Justice to issue written protocols or directives, or give guidance or advice, to judicial officers – in respect of norms and standards for the performance of the judicial functions; and regarding any matter affecting the dignity, accessibility, effectiveness, efficiency or functioning of the courts.

### Constitutional mandates

The Constitution provides for the independence of the Judiciary and protects judicial independence by prohibiting any interference with the functioning of the courts. It further imposes a duty on organs of state to assist and protect the courts to ensure, amongst other things, their independence, impartiality and efficiency. Furthermore, the Constitution as amended in 2013, formalises the Chief Justice as the head of the Judiciary and entrusts him with the responsibility for the establishment and monitoring of norms and standards for the judicial functions of all courts. It also designates the Constitutional Court as the highest court in all matters.

In order to advance the transformation imperatives of the Constitution, Schedule 6 to the Constitution provides for the rationalisation of all courts and all relevant legislation with the view to establishing a judicial system suited to the requirements of the Constitution.

The Constitution furthermore provides that, after a national election, the Chief Justice is required to convene the first sitting of the National Assembly, and to preside over the election of the Speaker of Parliament.

### Budget and funding

An estimated 38.9% (R3 billion) of the OCJ's total budget of R7.8 billion over the MTEF period is earmarked for spending in the Superior Court Services programme, which houses the High Courts subprogramme. Spending in this subprogramme alone is expected to account for 30.7% (R2.4 billion) of the department's total projected expenditure. Due to the labour-intensive nature of the OCJ's work, an estimated 69.9% (R2.1 billion) of the budget in this programme is earmarked for spending on compensation of employees, increasing from R624.8 million in 2019/20 to R743.4 million in 2022/23. Total expenditure on compensation of employees accounts for an estimated 76.5% (R5.9 billion) of the department's budget over the MTEF period, increasing from R1.8 billion in 2019/20 to R2.1 billion in 2022/23 at an average annual rate of 5.9%.

### Department of Correctional Services (DCS)

The DCS is mandated to place offenders in a secure, safe and humane environment, and ensure that rehabilitation and successful reintegration programmes are implemented. This mandate is derived from the Correctional Services Act, 1998 (Act 111 of 1998), the CPA of 1977, the *2005 White Paper on Corrections in South Africa*, and the *2014 White Paper on Remand Detention Management in South Africa*.

The NDP articulates a vision for a safer South Africa by 2030, and this vision is supported by Priority 5 (social cohesion and safe communities) of government's 2019 – 2024 MTSF. To give effect to these guiding policies over the medium term, the work of the DCS will focus on providing detention that is humane,

safe and secure; providing needs-based rehabilitation; and successfully reintegrating offenders into communities.

### Providing detention that is humane, safe and secure

The DCS aims to ensure that conditions of detention are safe and secure, and to maintain the human dignity of inmates, the department's personnel and members of the public. These considerations give effect to the core functions and bulk of the department's work. Funding for security operations, facilities, remand detention, offender management, the proper administration and profiling of inmates, and the consideration of offenders for release or placement into the system of community corrections is in the Incarceration programme. Expenditure in the programme accounts for an estimated 59.4% (R50.5 billion) of the department's total budget over the MTEF period.

Prison escapes can be largely attributed to overcrowding, the failure of personnel to adhere to basic security policies, and dilapidated infrastructure. To improve adherence to security procedures, meetings are frequently held in all correctional centres, and security awareness is provided during morning parades. The DCS provides personnel with appropriate security equipment such as body armour, ammunition, leg irons, handcuffs, metal detectors, tonfas, gas or fire filters, pepper spray, neutralisers and movable parcel scanners. An allocation of R27.6 billion over the medium term in the Security Operations subprogramme provides for this equipment, accounting for an estimated 54.6% of the Incarceration programme's total budget over the same period. An additional amount of R66 million has been allocated for the implementation of the Criminal Justice Strategy over the MTEF period. These funds, allocated under the information technology subprogramme, will be used to implement the mesh network for device management.

To complement this focus on security, R1.8 billion over the medium term is earmarked for the upgrading, rehabilitation, repair and refurbishment of dilapidated correctional and other remand facilities. The completion of these renovations is expected to ease overcrowding, as many offenders have

been moved to other centres while facilities are in the process of being upgraded. Through these measures, despite the anticipation that new offender admissions will increase at a higher rate than the number of new bed spaces created over the medium term, a decrease is expected in the percentage of inmates who escape each year, from 0.034% in 2019/20 to 0.031% in 2022/23, and in the percentage of inmates injured each year, from 4.7% in 2019/20 to 4.55% in 2022/23.

### Providing needs-based rehabilitation

Although the NDP envisages that offenders should be released and successfully reintegrated into society, the effectiveness of this process largely depends on the quality of programmes offenders receive while incarcerated. Recognising this contingency, the department plays a vital role in rehabilitating offenders and reducing the likelihood of them reoffending by conducting proper assessments and informing them about the programmes and interventions available within their facilities.

These include correctional and skills development programmes, and psychological, social and spiritual care services. Through the improved marketing of skills development programmes, and the appointment of external service providers to provide more training opportunities for offenders, the percentage of offenders participating in skills development programmes is expected to be maintained at 80% over the MTEF period. Training programmes will be provided to a targeted 11 944 offenders over this period in areas such as vocational skills, computer skills, engineering, business and entrepreneurial skills.

To carry out these activities, R6.8 billion is allocated to the Rehabilitation programme over the MTEF period. An estimated 74.4% (R5.1 billion) of this allocation is for spending on compensation of employees, with 24.4% (R1.7 billion) allocated for supplies at various sites where work opportunities are provided to offenders, such as bakeries, farms and a shoe factory; as well as for rehabilitation workshops.

### Reintegrating offenders into communities

Most offenders find it difficult to adapt when they are released back into society. They are often stigmatised and ostracised

by their families and communities, and their ability to find jobs or housing, return to formal education, or build or rebuild individual and social capital is severely hampered. Unless offenders receive help, they risk getting caught up in a cycle of failed social integration, reoffending, reconviction and social rejection.

To ensure the successful reintegration of offenders into communities, all parole considerations should include victim participation to provide a platform for dialogue between offenders and victims, and thereby contribute to healing and restoration. The DCS plans to increase the number of victims participating in dialogues and other restorative justice programmes from 7 560 in 2019/20 to 9 615 in 2022/23. To assist in reintegrating offenders into communities, the department has contracted 63 auxiliary social workers to facilitate these dialogues until 2021/22.

These activities contribute to spending in the Community Reintegration subprogramme, in which expenditure is expected to increase from R51.2 million in 2019/20 to R63.7 million in 2022/23. The Social Reintegration programme is allocated R3.4 billion over the medium term, of which 89.9% (R3.1 billion) is earmarked for compensation of employees because of the labour-intensive nature of the work in this programme.

### Budget

For the 2019/20 financial year, the DCS was allocated R25.3 billion. The department's total expenditure is expected to increase at an average annual rate of 5.6%, from R25.3 billion in 2019/20 to R29.8 billion in 2022/23. Cabinet has approved budget reductions to the department's baseline of R397.2 million in 2020/21, R418.9 million in 2021/22 and R308.1 million in 2022/23, mainly on the allocations for compensation of employees. As a result, the number of personnel in the DCS is expected to decrease from 37 709 in 2019/20 to 36 996 in 2022/23 through the gradual termination of contracts and natural attrition, including early retirement. The work of the department remains labour intensive, and, as such, an estimated 70% (R59.6 billion) of total expenditure over the MTEF period is earmarked for compensation of employees.



## Role players

### National Council for Correctional Services (NCCS)

The NCCS is a statutory body that guide the Minister of Justice and Correctional Services in developing policy relating to the correctional system and the sentence-management process.

### Judicial Inspectorate of Correctional Services (JICS)

The JICS was established in 1998 with the statutory objective to facilitate the inspection of correctional centres so that the inspecting judge may report on the treatment of inmates and on conditions in correctional centres. The JICS is an independent office.

### Medical Parole Advisory Board

The Correctional Matters Amendment Act, 2011 (Act 5 of 2011), provides for a new medical parole policy and correctional supervision. The Medical Parole Advisory Board was appointed in February 2012 to look into all seriously and terminally ill inmates who have submitted reports requesting to be released on medical grounds.

### Correctional Supervision and Parole Board

The Correctional supervision and parole boards are responsible for dealing with parole matters and matters of correctional supervision. The boards have decision-making competency except:

- decisions regarding the granting of parole to people who are declared dangerous criminals in terms of Section 286A of the CPA of 1977,
- the converting of sentences of imprisonment imposed in terms of Section 276 (A) (3) of the CPA of 1977 into correctional supervision, and
- decisions with regard to those sentenced to life imprisonment.

In cases such as the above-mentioned, recommendations are submitted to courts that, in turn, make decision in respect of conditional placement.

There are 53 correctional supervision and parole boards in South Africa. These boards are chaired by community members who are regarded as suitable and capable of carrying out the responsibilities by virtue of occupation, standing or cultural

reverence. The DCS provides the members with intensive training in respect of the processes, legislative implications and relative policies.

In addition, two members of the community are appointed as members of the board. Trained staff members of the DCS fill the positions of vice-chairperson and secretary.

A board can also co-opt a representative of the SAPS and a representative of the DoJ&CD. However, if the representatives of the SAPS and of DoJ&CD are not co-opted to participate in a board hearing, the chairperson of the board may request such departments to provide written inputs in respect of specific serious crimes.

As part of its mandate, the DCS aims to improve the effectiveness of the parole system by increasing the percentage of offender profiles submitted by case management committees that have been considered by correctional supervision and parole boards to 93% in 2019/20.

