



## Justice and correctional services

Judicial authority 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.

### The courts

#### Constitutional Court

This is the highest court in all constitutional matters and deals only with constitutional issues. The Court's work includes deciding whether Acts of Parliament and the conduct of the President and executive are consistent with the Constitution, including the Bill of Rights.

The Court's decisions are binding on all persons including organs of State, and on all other courts.

#### Supreme Court of Appeal

The Supreme Court of Appeal is the highest court in respect of all other matters. The Court has jurisdiction to hear and determine an appeal against any decision of a High Court. Decisions of the Supreme Court of Appeal are binding on all courts of a lower order.



FACT

Between 2000 and 2002, District court rolls decreased to 127 per court, and to 106 in Regional courts. The conviction rate in District courts is over 80%, and in Regional courts approximately 70%.

## High courts

There are 10 court divisions and three local divisions which are presided over by judges of the provincial courts concerned.

A provincial or local division has jurisdiction in its own area over all persons 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 impose a penalty. Except where minimum or maximum sentences are prescribed by law, their penal jurisdiction is unlimited and includes life imprisonment.

The Land Claims Court and the Labour Court have the same status as the High Court. In the case of labour disputes, appeals are made to the Labour Appeal Court.

## Regional courts

Regional courts are established in each regional division to hear matters within their jurisdiction. Unlike the High Court, the penal jurisdiction of the regional courts is limited.

## Magistrate's courts

Magisterial districts are grouped into 13 clusters. By March 2003, there were 370 Magistrate's offices, 51 detached offices, 107 branch courts and 234 periodical courts in South Africa, with 1 772 magistrates.

## Small Claims courts

Cases involving civil claims not exceeding R7 000 are heard by a commissioner in the Small Claims Court. By July 2003, there were 142 such courts. The commissioner is usually a practising advocate or attorney, a legal academic or other competent person who offers his or her services free of charge.



The South African Human Rights Commission promotes a culture and respect for human rights. It also monitors the observance of human rights.

Neither the plaintiff nor the defendant may be represented or assisted by counsel at the hearing. There is no appeal to a higher court.

### Equality courts

These courts, which are to be rolled out countrywide, enforce legislation which outlaws unfair discrimination and upholds equality. By June 2003, there were 62 Equality courts.

## National Prosecuting Authority (NPA)

The NPA structure includes the National Prosecuting Services, the Directorate: Special Operations, the Witness-Protection Programme, the Asset Forfeiture Unit (AFU) and units such as the Sexual Offences and Community Affairs Unit and the Specialised Commercial Crime Unit.

### Asset Forfeiture Unit

By June 2003, the AFU had initiated over 300 cases and frozen nearly R500 million worth of criminal assets. There was more than R25 million in the Criminal Assets Recovery Account, which will be used to fight crime.

### Sexual Offences and Community Affairs Unit

Various concrete steps have been taken to give effect to the national crackdown on sexual offences:

- Four multidisciplinary rape care centres, known as the Thuthuzela Care Centres, have been established. Here rape investigations are speeded up and 'humanised'.
- New child-witness rooms have one-way glass partitions.
- Forty Sexual Offences courts have been established.



#### FACT

At the end of March 2003, 704 people were in the Witness-Protection Programme. In the first three months of 2003, 114 witnesses testified, resulting in 141 convictions and combined jail sentences of 2 626 years.

## Integrated Justice System

This System aims to use technology to improve the co-ordination of the activities of departments in government's Justice, Crime Prevention and Security Cluster.

The System will entail, among other things:

- a Virtual Private Network
- an automated fingerprint identification system and DNA database
- an Integrated Case-Flow Management System, including case, person (offender, victim and witness) and exhibits
- better tracking of people, including inmates.


## Improving court productivity

Productivity in courts is increasing, as are the number of new cases. Between January and December 2002, the lower courts finalised 833 594 cases, of which 421 213 were withdrawn.

The Court Process Project will automate civil and criminal case-management systems. The objective is to implement it in all Magistrate's courts as well as community safety centres and prisons countrywide.

Other outcomes include:

- Court managers are being recruited to improve court efficiency.
- Between 1991 and 2001, there was a 49% increase in the number of daily court sittings.



The Integrated Justice System has resulted in the average case-cycle time declining from 110 days to 74 days.

Courts are working longer hours, and between 1999 and 2001 there was a 49% increase in the number of daily court sittings. As a result, the number of cases finalised in courts has increased since 2001.

To deal with case backlogs, 3 027 Saturday and additional court days were introduced. Between January 2002 and March 2003, these courts finalised 27 570 cases. More courts are being encouraged to sit over weekends to reduce unacceptable case backlogs.

The Legal Aid Board assists about 250 000 people a year, operating through 44 Justice Centres countrywide.

According to the Truth and Reconciliation Commission (TRC), some 22 000 individuals or their surviving family members appeared before the Commission. Of these, 19 000 required urgent reparations, and virtually all of them, where the necessary information was available, were attended to as proposed by the TRC with regard to interim reparations.

With regard to final reparations, during 2003/04, government planned to provide a once-off grant of R30 000 to those individuals or survivors designated by the TRC. This was over and above other material commitments.

- There has been a positive reversal in the ratio between sentenced and other prisoners.
- In 2002, 18 new permanent judges were appointed while further appointments are being processed. Some R20 million was set aside to employ more magistrates and prosecutors.
- In 2003/04, R264 million was budgeted for building and upgrading courts.

### The Public Protector

The Public Protector is independent of government and is responsible for investigating any improper conduct in State or public affairs. In 2002/03, the Office received 15 680 new cases and 13 108 cases were carried forward from 2001/02. Of these, 21 707 cases were finalised in 2002/03.

## Correctional Services

In March 2003, the Department of Correctional Services had 33 385 staff and 189 748 offenders in 241 prisons. In April 2003, there were 48 000 parolees and 24 500 probationers.

Prison overcrowding is estimated at 67%. To alleviate this, unsentenced juveniles have been transferred to places

Department of Correctional Services spending, 2003/04:

- R3 554 million on incarceration
- R398 million on the rehabilitation of offenders
- R260 million on community corrections
- R1 547 million on facility management and capital works
- R2 455 million on administration.

South Africa has:

- eight female prisons
- 13 youth correctional facilities
- 134 men-only prisons
- 72 prisons for both men and women
- 14 temporarily inactive prisons closed for renovations.

of secure care, some sentences have been converted to correctional supervision, and facilities have been renovated or upgraded.

No prisoner may be released before he or she has served at least half their sentence. The Criminal Law Amendment Act, 1997 makes provision for much harsher sentences for serious crimes. These changes are expected to place an even greater burden on the prisons.

An independent judicial inspectorate regularly visits all prisons to report on conditions and prisoners' treatment.

Rehabilitation is a key policy. The budget for rehabilitation has increased by 8,3% per annum from R264,8 million in 1999/2000, and is projected to amount to R427,5 million in 2005/06.

As part of the Department's rehabilitation initiatives, a total of 22 360 offenders were trained in a variety of skills in 2002. The further establishment of training centres in the various provinces is aimed at equipping offenders with basic technical skills in a variety of fields such as brick-making, brick-laying, woodwork, welding, garment-making, etc. Training is also provided in business skills to equip individuals to operate their own small businesses upon release.

FACT

Ninety-four prisoners escaped between January and August 2003, compared with 166 in the same period during 2002, representing a 43% reduction.