



WE ARE WOMEN FROM EVERY PART OF SOUTH AFRICA  
 WE ARE WOMEN OF EVERY RACE  
 WE COME  
 FROM THE CITIES AND THE TOWNS  
 FROM THE RESERVES AND THE VILLAGES  
 WE ARE WOMEN UNITED IN OUR PURPOSE  
 TO SAVE THE AFRICAN WOMEN FROM THE DEGRADATION OF PASSES  
 IN THE NAME OF THE WOMEN OF SOUTH AFRICA  
 WE SAY TO YOU EACH ONE OF US  
 THAT WE ARE OPPOSED TO THE PASS SYSTEM  
 WE SHALL NOT REST  
 until  
 WE HAVE WON FOR OUR CHILDREN  
 their  
 FUNDAMENTAL RIGHTS  
 of  
 FREEDOM  
 OF EXPRESSION



SOUTH AFRICA  
 Yearbook  
 2021/22

Justice and Correctional  
 Services



**Report Corruption**

**0800 212 580**

## Justice and Correctional Services

The Department of Justice and Constitutional Development (DoJ&CD), and the Department of Correctional Services (DCS) report to the Ministry of Justice and Correctional Services.

## Justice and Constitutional Development

The 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 of 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.

As part of its overarching goal of ensuring South Africans feel safe and are able to live without fear, the department plans to invest in ensuring that it serves everyone in South Africa in the most efficient possible manner. Accordingly, over the medium term, it will focus on increasing access to its services, and on strengthening the fight against maladministration and corruption.

Sexual offences courts play a critical role in the fight against gender-based violence and femicide (GBVF). A total of 100 sexual offences courts will be dedicated to improve the adjudication of sexual offences matters during the 2021/22 financial year.

## Broadening access to justice

In its efforts to afford greater protection, particularly to the more vulnerable among us, the department plans to move towards a more gender-focused criminal justice system by implementing the national strategic plan on gender-based violence and femicide. This includes designating 115 additional courts as sexual offences courts and improving the management of the national register for sex offenders to ensure that all people who work with children and people with disabilities are properly vetted. A national action plan to fight racism, racial discrimination, xenophobia and related intolerance, including

promoting constitutional awareness and education on the rights of lesbian, gay, bisexual, transgender and intersex people, is also expected to be implemented. To carry out these activities, R30 million is allocated over the MTEF period in the Lower Courts subprogramme in the Court Services programme.

Additionally, there are plans to upgrade all justice buildings to be accessible to people with disabilities at a cost of R49 million over the medium term; construct and refurbish 38 courts through an allocation of R463.9 million per year over the MTEF period in the Court Services programme; and convert six periodical and/or branch courts into full-service courts in partnership with the Department of Public Works and Infrastructure.

To complement these activities, the department plans to implement programmes to modernise and digitise its services. This is expected to broaden access to justice even further by introducing interventions such as enabling deceased estates and trusts to be registered remotely. To this end, R24.2 million is allocated over the medium term in the Justice Modernisation subprogramme in the Auxiliary and Associated Services programme.

## Rooting out fraud and corruption

Initiatives are under way to strengthen the fight against fraud and corruption, and will continue over the MTEF period. These include: reviewing the extradition regime and the mutual legal assistance framework to improve cases of international criminal cooperation; appointing 15 legal practitioners in specialised commercial crimes courts through a transfer of R34.3 million over the medium term to Legal Aid South Africa; and hiring an estimated 90 additional permanent staff with specialised skills and experience, and training and developing existing employees, through an allocation of R426 million over the medium term in the Investigating Directorate subprogramme in the NPA programme. As such, the number of state capture fraud or corruption and related matters enrolled is expected to increase from 9 in 2022/23 to 27 in 2024/25.

In line with the priorities set out for the peace and security function in government's 2019-2024 medium-term strategic framework, R611.6 million is allocated over the MTEF period to the NPA in order to strengthen the state's capacity to prosecute allegations of crime and corruption. This allocation will be used to recruit aspirant prosecutors and rebuild critical capacity in units such as asset forfeiture, sexual offences and priority crimes litigation, among other things. Accordingly, the number of personnel in the NPA programme is set to increase from 5 707 in 2021/22 to 6 139 in 2024/25.

## Commemorating the 25th anniversary of the Constitution

The year 2021 presented a significant landmark in the creation of constitutional democracy in South Africa. It marks the 25th anniversary of the signing of the Constitution into law. The commemoration of the 25th anniversary of the Constitution will extend beyond 2021 into 2022, as the Constitution's legal entry into force will be marked on 4 February 2022.

The DoJ&CD, as custodian of constitutionalism in the country, in collaboration with key identified stakeholders, is embarking on leading and coordinating a focused national dialogue with the aim of reviewing and assessing the impact of 25 years of constitutional democracy in South Africa. This process aims to create a conversation about

whether the intention of the Constitution to build a nation based on constitutionalism and human rights is being realised.

The project will be research and policy focused. It will culminate into a symposium to celebrate of 25 years of the Constitution. This will be an opportunity for national and continental (and international) constitutional and human rights scholars to present their research focused on the implementation of the South African Constitution over the past 25 years.

This research will be generated internally within constitutional development, as well as by researchers, universities, students and South African citizens. This research will be used to guide policy making within government. In the next five years, efforts will be made to increase and deepen the constitutional and human rights awareness of the citizenry.

## National Anti-Corruption Strategy

The National Anti-Corruption Strategy, adopted by Cabinet in November 2020, has signalled the resolve of the Anti-Corruption Task Team (ACTT) to deliver on its work. Building on the key tenets of the Constitution, the Anti-Corruption Legal Framework, the NDP and other instruments, such as international treaties, the strategy uses research and stakeholder inputs to outline actions needed to achieve a society free of corruption.

The strategy is a whole-of-society effort that envisions an ethical and accountable state, business and society, characterised by high levels of integrity and respect for the rule of law. It promotes active citizenry that is empowered to hold leaders and organisations accountable. It foresees a state where all members of society have zero tolerance for corruption.

This National Anti-Corruption Strategy provides a framework and action plan for the country as a whole and seeks to create a society in which:

- government's administrative and procurement processes are reinforced to allow for greater monitoring, accountability and transparency;
- the public is educated about what constitutes corruption and empowered to respond when or where it is noted;
- the public and whistle-blowers are encouraged to report corruption, are supported and adequately protected when doing so;
- public officials are held accountable for service delivery or the lack thereof;
- the business sector and civil society organisations operate in a values-driven manner and are held accountable for corrupt practices; and
- there is a culture of zero tolerance towards corruption in any sector and full accountability for those involved in corruption.

The ACTT case management committee has been revived and serious corruption cases are being addressed in various projects. By May 2021, a total of 128 cases were registered, with 91 of them under investigation, 19 closed and 18 before court, with 35 accused persons. A total of 25 new cases were included on the list of the ACTT's priority corruption case.

## Corruption Perception Index

The Corruption Perception Index measures the perception levels of public sector corruption in 180 countries and territories around

the world. According to the 2019 Corrupt Perceptions Index Report published in January 2020 by Transparency International, South Africa scored 44 out of 100 and ranked 70 out of 180 participating countries. The Corruption Perception Index report published in 2019 indicated that South Africa's ranking improved from 73 to 70, out of 180 participating countries.

The DoJ&CD continues to establish specialised courts that will deal with corruption and complex economic crime cases in order to restore public and investor confidence in South Africa's justice system.

#### Anti-corruption compact:

We champion a new spirit of business, government, labour and civil society leadership that upholds professionalism, ethics and anti-corruption practices at all times.

We will enforce good governance principles in all spheres and ensure consequences for corrupt individuals and organisations. Our citizens will always act with integrity and will not be hindered to act against corrupt individuals through whistle-blowing and other measures that promote transparency and accountability.

State and business procurement systems will be run with high levels of integrity, efficiency and effectiveness. State law enforcement and anti-corruption bodies will be capacitated, integrated and their independence and authority respected by all.

We will build resilient institutions and go out of our way to protect vulnerable sectors and individuals in society who are at a high risk of experiencing corrupt practices and unethical conduct.

### 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 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, 1998 (Act 32 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 deoxyribonucleic acid (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 2021/22 financial year, the DoJ&CD was allocated R21.9 billion. Total expenditure is expected to increase at an average annual rate of 1.9%, from R21.9 billion in 2021/22 to R23.2 billion in 2024/25, with

spending on compensation of employees accounting for 56.8% (R12.7 billion) of this, increasing at an average annual rate of 1.4%.

This low increase is reflective of the expectation that the number of personnel in the department will decrease from 23 515 in 2021/22 to 23 401 in 2024/25 through early retirement, natural attrition and contract termination in order to remain within the expenditure ceiling for compensation of employees. The department will ensure that the decrease in personnel does not affect service delivery as it will fill critical vacant posts and share services where possible.

### Entities

#### 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.

Expenditure is expected to increase at an average annual rate of 2.7%, from R2.1 billion in 2021/22 to R2.2 billion in 2024/25, with compensation of employees accounting for 81.6% (R1.7 billion) of this spending, increasing at an average annual rate of 2.5%. Included in this are additional allocations of R11.2 million in 2022/23, R11.3 million in 2023/24 and R11.8 million in 2024/25 to fund the costs of 15 legal practitioners appointed in 2021/22 to service newly established courts for specialised commercial crimes in Limpopo, Mpumalanga, North West and Northern Cape.

The entity expects to derive 99% (R6.4 billion) of its revenue over the medium term through transfers from the department, increasing at an annual average rate of 2.8%, from R2 billion in 2021/22 to R2.2 billion in 2024/25.

#### 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.

Section 182 of the Constitution also states that the public protector must be accessible to all persons and communities.

Over the medium term, the entity will continue to focus on investigations to root out improper conduct and maladministration in state affairs. Accordingly, it plans to finalise 80% of: service delivery cases within six months, good governance within 12 months, integrity cases within 24 months, and complex cases within 36 months. This focus is expected to enable the entity to increase the number of finalised investigation reports from 50 in 2021/22 to 100 in 2024/25.

Expenditure is expected to increase at an average annual rate of 1.3%, from R362.7 million in 2021/22 to R377.3 million in 2024/25. The entity's work requires skilled personnel and sophisticated investigative techniques to strengthen the anti-corruption system, thus spending on compensation of employees accounts for an estimated 74.7% (on average R273 million per annum) of total spending, increasing at an average annual rate of 3.4%.

The entity expects to derive 99.2% (R1.4 billion) of its revenue over the MTEF period through transfers from the department, in reasing at

an average annual rate of 1.3%, from R359.9 million in 2021/22 to R374 million in 2024/25.

### South African Human Rights Commission (SAHRC)

The SAHRC is mandated to promote respect for and a culture of human rights; promote the protection, development and attainment of human rights; and monitor and assess the observance of human rights in South Africa. The powers and functions of the commission are further detailed in the Human Rights Commission Act of 1994.

Over the medium term, through strategic interventions with stakeholders, the commission will aim to promote, protect and monitor human rights by advocating for and seeking to incorporate pro-human rights principles and positions in policy and legislation, as enshrined in the Bill of Rights. This will include advocating for targeted service delivery improvements by implementing public and private entities.

Total expenditure is expected to increase at an average annual rate of 3.5%, from R198 million in 2021/22 to R219.5 million in 2024/25. This increase is mainly driven by a one-off allocation of R5 million in 2022/23 for ICT infrastructure and additional allocations amounting to R12 million to fulfil the commission's commitments to the United Nations (UN) Optional Protocol to the Convention Against Torture. Compensation of employees is set to account for 66.8% (R558.1 million) of total spending, increasing at an average annual rate of 1.1%, from R138.7 million in 2021/22 to R143.2 million in 2024/25.

The commission expects to derive 99.3% (R830.3 million) of its revenue between 2021/22 and 2024/25 through transfers from the department. These are expected to increase at an average annual rate of 3.9%.

### Special Investigating Unit

The SIU investigates and litigates on serious malpractice, maladministration and corruption, in connection with the administration of state institutions and take or assist in instituting appropriate and effective action against wrongdoers.

A special tribunal was re-established in 2019/20 to act as a dedicated court for civil proceedings. The tribunal improves perceptions of how justice is served through timely litigation to recover funds and assets that have been wrongfully acquired. To this end, the number of cases enrolled at the tribunal is set to increase from 25 in 2021/22 to 55 in 2024/25.

Expenditure is expected to increase at an average annual rate of 17.9%, from R751.6 million in 2021/22 to R1.2 billion in 2024/25, driven by an increase in spending on compensation of employees from R531.2 million in 2021/22 to R927.9 million in 2024/25, at an average annual rate of 20.4%. This increase reflects the planned increase in the number of personnel from 612 in 2021/22 to 816 in 2024/25, in line with the objective of increasing the number of investigations finalised in order to root out maladministration and corruption at all levels of the state.

As a result, the number of investigations closed per year is expected to increase from 1 400 in 2021/22 to 1 600 in 2024/25, and the number of investigative reports submitted to the Presidency is set to increase from 18 to 30 over the same period.

The unit expects to derive 52.2% (R1.4 billion) of its revenue over the medium term through transfers from the department and 44.5% (R1.2 billion) through charging client departments and state institutions

for services rendered. Non-tax revenue is expected to increase at an average annual rate of 9.6%, from R363 million in 2021/22 to R478.6 million in 2024/25, mainly as a result of the projected increase in the number of billable hours dedicated to investigations.

### Role players

#### National Prosecuting Authority

The NPA was established in 1998 and comprises the National Directors of Public Prosecutions, Deputy National Directors of Public Prosecutions, Directors and Special Directors of Public Prosecutions 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 protects 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 Deputy National Directors of Public Prosecutions are responsible for the following divisions:

- the National Prosecutions Service (NPS).
- AFU and International Relations.
- Legal Affairs.
- Administration.

The Special Directors of Public Prosecutions head the following specialised units:

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

Over the medium term, the authority will focus on:

- increased feelings of safety and security,
- improved investor confidence in South Africa through
- high-impact prosecution, and
- improved access to NPA services for all.

To achieve these outcomes, the NPA plans to address key challenges in its operating environment, including stabilising the organisation, ensuring that sufficient financial and human resources are available to enable effective operations, improving public perceptions of the NPA and repairing its reputation, and enhancing collaboration and cooperation between all criminal justice agencies.

#### National Prosecutions Service

The NPS is a core division of the NPA, responsible for general and specialised criminal prosecutions. The Directors of Public Prosecutions 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 Directors of Public Prosecutions. The Special Directors of Public Prosecutions 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 unit 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.

#### Specialised commercial crime courts (SCCC)

The DoJ&CD will continue to play a crucial role in the fight against corruption through the implementation of the Anti-Corruption Strategy. Part of the department's responsibility in combatting corruption is ensuring the effective and optimal functioning of the SCCCs, which are expected to be extended to all provinces that do not have these courts – over the medium term.

Much success has been derived from the existing SCCC model which allows for a close integration of the work between prosecutors and investigators, and dedicated courts, ensuring that matters are quickly and effectively processed instead of having to await space on an open court roll.

Whilst it was initially envisaged that these courts would be set up in three years, the DoJ&CD was able to expedite this by establishing six courts in the 2020/21 financial year. In the 2021/22 and 2022/23 financial years, the department will ensure that the capacity and efficacy of the SCCCs is enhanced and optimised.

#### Priority Crimes Litigation Unit

The unit 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 entity's key achievements in ensuring government's commitment to the fight against sexual offences and GBV is the establishment of Thuthuzela Care Centres – one-stop facilities located at 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.

Over the Medium Term Expenditure Framework (MTEF) period, the department will focus on addressing the scourge of GBV and against women and children. Dedicated courts to deal with GBV-related matters will be designated in terms of Sexual Offences Courts Regulations developed in terms of Section 55A of the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007. Legal and policy framework will be enhanced and tightened by amending the provisions regulating the National Register for Sex Offenders (the NRSO) in the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007.

### 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, including:

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

The DoJ&CD offers education to TRC-identified victims of apartheid. Calls for applications are opened annually for those who were declared victims by the TRC and their dependants to apply for assistance with tuition fees for basic and higher education and training.

Dependants include any person to whom the TRC-identified victim has or had a legal or customary duty to support, including children, grandchildren and spouses of the identified victim. Applications close on 30 September each year.

### 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

The DoJ&CD has developed the NRSO, which was deployed in 195 courts. The register 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.

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.

#### Domestic violence

Rigorous steps being taken by the Justice Crime Prevention and Security (JCPS) Cluster to root out GBV include the adoption of zero tolerance towards rape, violation of the rights of lesbian, gay, bisexual, transgender and 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 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.

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 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

### 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 and destruction of, 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 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 these challenges, 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. 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 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 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, 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 and 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 of 2005

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

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 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' courts 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.

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

South Africa has, over the past 25 years, become a signatory to many international and regional human rights instruments and has complied with obligations emanating from instruments. Over the next five years, the DoJ&CD plans to table country reports in compliance with its international obligations arising out of core human rights treaties such as the Universal Periodic Review, the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; and the International Convention against Torture and Other Cruel or Degrading Treatment or Punishment.

The department will work towards the finalisation of accession to outstanding international instruments, including the Convention on the Suppression and Punishment of the Crime of Apartheid, International Convention for the Protection of All Persons from Enforced Disappearance and many relevant others.

The department will also review, modernise and improve the Extradition Regime and the Mutual Legal Assistance Framework to ensure effectiveness and enhance collaboration with other states in the fight against crime in general. The conclusion of extradition and mutual legal assistance treaties will focus on countries in Latin America and South East Asia.

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)

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.

The OCJ is also required to provide and coordinate legal and administrative support to the Chief Justice; provide communication and relationship management services; provide internal and intergovernmental coordination; develop administration policies, and norms and standards for courts; support the development of judicial policy, and norms and standards; support the judicial function of the Constitutional Court; and support the Judicial Service Commission and SAJEI in the execution of their mandates.

Over the period ahead, the department will focus on strengthening access to justice and superior court services, and ensuring measures are adopted to mitigate against COVID-9. Expenditure on compensation of employees is the department's largest cost driver, accounting for an estimated 74.3% (R7.1 billion) of its total budget over the medium term.

To strengthen access to its services, the department plans to employ five researchers and 19 registrars over the period ahead. This additional capacity will enable it to increase the percentage of default judgments finalised within 14 days and ensure that all warrants of release are delivered within 1 one day of being issued. Funding for these initiatives is with the Superior Court Services programme's allocation of R2.8 billion over the MTEF period.

Activities in the South African Judicial Education Institute subprogramme in the Judicial Education and Support programme will continue to centre on providing education and training through virtual platforms, with the number of courses provided set to increase from 105 in 2021/22 to 120 in 2024/25. As a result of this shift away from physical venues, expenditure in this subprogramme is set to decrease at an average annual rate of 3.8%, from R34.7 million in 2021/22 to R30.9 million in 2024/25, although related ICT infrastructure upgrades are expected to cost R22.4 million over the same period. Similarly, with the increasing demand for virtual meetings and other event streaming services, estimated spending in the Corporate Services subprogramme in the Administration programme is expected to increase at an average annual rate of 4.6%, from R151.9 million in 2021/22 to R173.9 million in 2024/25.

### Capacitation of the SAJEI

The SAJEI provides judicial education and training for Judicial Officers. Some of the training courses that have been provided in the past included areas on court annexed mediation and case management, children's court skills, criminal court skills, family court skills, civil court skills, competition law and maritime law, judicial management, judicial ethics as well as environmental law.

These courses contribute towards enhanced service delivery and the transformation of the judiciary as informed by the SAJEI Act of 2008. The capacitation of the SAJEI remains one of the key priorities for the OCJ. An adequately capacitated SAJEI is important for the training of serving and aspirant judicial officers and, ultimately, the delivery of quality justice. During the period of the COVID-19 pandemic, the SAJEI leveraged virtual platforms to continue providing training to judicial officers.

### Court digitisation

Court digitisation is crucial in ensuring accessible and quality justice. Efficiencies in the court system require modernised technologies. It is important that the OCJ leverages on the advent of the Fourth Industrial Revolution, through prompt digitisation of the court system, focusing on prioritised information and communications technology (ICT) projects that include e-filing and digitisation of court records. In addition, ICT infrastructure will be refreshed to be responsive to digital transformation initiatives and improved service delivery.

The court online system will provide a platform for law firms/litigants to file documents to the courts electronically over the Internet, amongst other uses and benefits. The court online system is meant to fully exploit the ICT advancement to minimise not just the physical movement of people and paper-based court documents from parties to the courts, but also to leverage the benefits of electronic storage within the courts (faster document filing and retrieval, eradication of the misplacement of case files, concurrent access to view the same case filed by different parties).

The COVID-19 pandemic has compelled the country to move with greater urgency to leverage digital platforms and make digital transformation a reality in the courts.

### 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 of 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

For the 2021/22 financial year, the OCJ was allocated R2.4 billion.

### 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*. This legislation allows the DCS to contribute to the preservation and promotion of a just, peaceful and safe society by ensuring that the corrections environment is secure, safe and humane, and that offenders are optimally rehabilitated to reduce their likelihood of reoffending.

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.

The department's overarching objectives are to detain inmates in safe, secure and humane conditions in correctional centres and remand detention facilities; provide sentenced offenders with needs-based rehabilitation programmes and interventions; and reintegrate offenders into communities as law-abiding citizens by effectively managing non-custodial sentences and parole. To achieve these objectives, over the period ahead, the department will focus on implementing its self-sufficiency and strategic framework, providing

adequate security at correctional facilities, and facilitating restorative justice.

In response to budget constraints, over the period ahead, the department plans to become more self-sufficient. This will entail running production workshops and agricultural farms aimed at upskilling and rehabilitating offenders by training them to produce items – such as furniture, uniforms, shoes, baked goods and agricultural products that can be sold or used within the department. The department plans to supplement these potential income streams by hiring out offender labour. To implement the self-sufficiency and strategic framework, R54.1 million is allocated over the MTEF period in the Rehabilitation programme. The programme's total allocation over the period ahead is R9.3 billion.

The COVID-19 pandemic has placed increased pressure on the department to provide adequate security for staff and inmates, as infected and exposed inmates need to be isolated and quarantined,



which poses difficulties as most of the centres are overcrowded. Accordingly, the department has budgeted R244.7 million over the MTEF period in the Incarceration programme to respond to such challenges arising from the pandemic. Spending in the Incarceration programme accounts for an estimated 58.7% (R61.3 billion) of the department's overall spending over the MTEF period.

This funding is expected to enable the department to reduce the rate of escape from prisons from 0.032% in 2021/22 to 0.029 in 2024/25 and employ adequate equipment and security techniques to reduce threats at correctional facilities.

The department plans to facilitate restorative justice by increasing the number of victims participating in restorative justice programmes from 4 100 in 2022/23 to 5 300 in 2024/25. To this end, the Community Reintegration subprogramme in the Social Reintegration programme is allocated R273.3 million over the MTEF period.

### 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.

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.

To complement this focus on security, R1.6 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.

### 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.

### 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.

### Budget

For the 2021/22 financial year, the DCS was allocated R25.9 billion. Expenditure is expected to increase at an average annual rate of 1%, from R25.9 billion in 2021/22 to R26.7 billion in 2024/25, mainly driven by an increase in payments for capital assets (mostly IT equipment and vehicles) from R626.7 million in 2021/22 to R763.2 million in 2024/25. Compensation of employees accounts for an estimated 67.5% (R70.4 billion) of total expenditure over the period ahead.

### Role players

#### National Council for Correctional Services (NCCS)

The NCCS is a statutory body that guides 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

Correctional supervision and parole boards are responsible for dealing with parole matters and matters of correctional supervision.

- The boards have decision-making competency except for:
- 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 such cases, recommendations are submitted to courts that, in turn, make decisions 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 South African Police Service (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 the departments to provide written inputs in respect of specific serious crimes.

