

Message from the Minister

It is with great pleasure that I accept this Annual Report, the last of this millennium and my first as Minister of Justice and Constitutional Development. When I took office after our second democratic election in June 1999, I envisaged a challenging yet rewarding task ahead of me. This has indeed been the case and I have to thank my predecessor, Dr A M Omar, now Minister of Transport, for initiating the transformation of the justice system. His Deputy, Dr Manto Tshabalala-Msimang, now Minister of Health, is also thanked for her invaluable contribution. I intend to lead the Justice team on this road with the same efficiency and devotion.

It is with pride that I acknowledge our achievements as reflected in this Annual Report. We have indeed made significant progress in respect of our objective to make justice accessible to all. I also want to take this opportunity to extend best wishes to the new Deputy Minister, Ms Cheryl Gillwald, and the newly appointed Director-General, Mr Vusi Pikoli. I look forward to working with this team at my side.



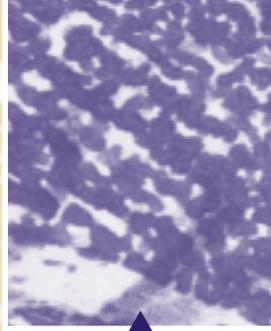
*Dr P M Maduna, MP
Minister of Justice and Constitutional Development*

To Dr P M Maduna, MP, Minister of Justice and Constitutional Development

I have pleasure in presenting to you the Annual Report for the Department of Justice for the period 1 July 1998 to 30 June 1999.



*Mr Vusi Pikoli
Director-General: Department of Justice*

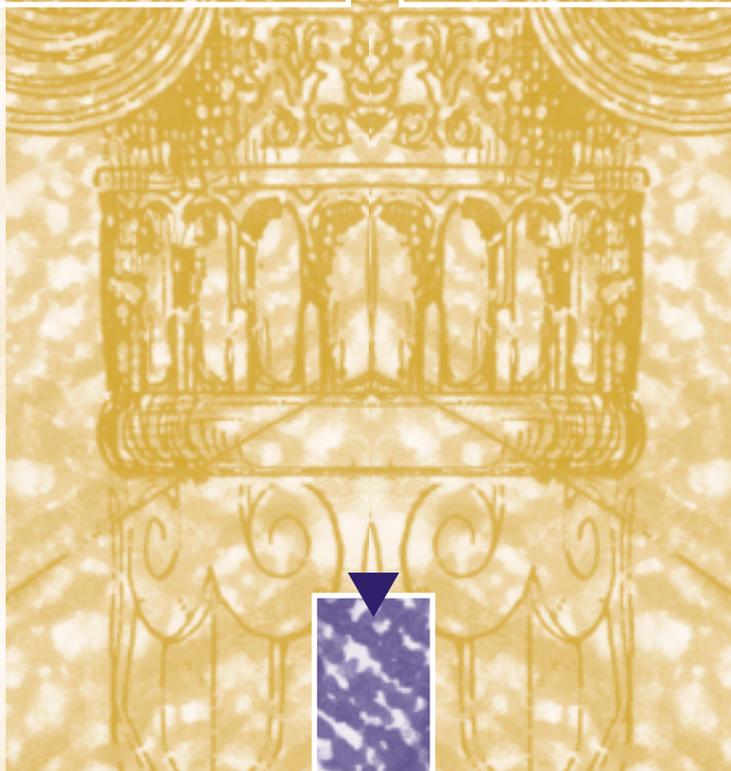


Annual Report 1998/1999



Chapter 1

Preface





1.1 By the time this report is published, the much awaited turn of the century would already have taken place and we would be well on our way in the new millennium. It is, of course, true to human nature to target the new millennium for important changes and the attainment of goals.

1.2 During the period under review we were faced with the challenges of a general election. One of the most significant changes facing us in the future will be the incorporation into the Justice Department of the functions of the Department of Constitutional Development. Negotiations in this regard are currently taking place and we are ready to face these newly acquired challenges.

1.3 The goals set by the Department of Justice are to a large extent reflected in the Justice Vision 2000 Policy Document. Although some shifts in emphasis have occurred, the transformation of the justice system and access to justice remain the Department's key focus areas. The year under review was marked by significant progress in terms of delivery in these two key areas. A number of initiatives, legislative changes and developments in justice-related areas have been planned and/or implemented during the period under review. We are continuously taking the needs of the community into consideration to bring about a justice system geared towards the challenges of the new millennium.

Legislation

1.4 The following Acts were passed by Parliament during the period under review:

- Prevention of Organised Crime Amendment Act, 1998 (Act 121 of 1998)
- Maintenance Act, 1998 (Act 99 of 1998)
- Domestic Violence Act, 1998 (Act 116 of 1998)
- Witness Protection and Services Act, 1998 (Act 112 of 1998)
- Recognition of Customary Marriages Act, 1998 (Act 120 of 1998)

1.5 Most of these Acts have either been implemented or are in the process of implementation.

Bills tabled during this period include:

- Promotion of Equality Bill
- Directorate of Special Operations Bill
- Sexual Offences Amendment Bill

Priorities for the year 2000

- Superior Courts Bill
- Directorate of Special Operations Bill
- Juvenile Justice Bill
- Sexual Offences Bill
- Public Interest and Class Actions Bill
- Judicial Services Amendment Bill
- Amendment of Customary Law of Succession Bill

Representivity

1.6 During the year under review significant progress in terms of gender and race has been made in respect of the appointment of judges, magistrates and prosecutors. The following figures were applicable on 1 December 1999.

	BLACK		WHITE	
	Male	Female	Male	Female
JUDGES:	33	4	137	8
MAGISTRATES:				
Regional Court Presidents	3	1	4	0
Regional Magistrates	37	8	145	19
Special Grade Chief Magistrate	1	0	0	0
Chief Magistrate	14	1	8	1
Senior Magistrates	75	5	55	5
Magistrates	358	77	445	171
PROSECUTORS:				
Directors of National Prosecutions	1	0	0	0
Directors of Public Prosecutions	2	0	6	0
Senior Prosecutors	36	10	31	28
Prosecutors	713	403	319	384

Office of the National Director of Public Prosecutions

1.7 This office is now fully functional and its creation has resulted in the more effective monitoring and managing of cases. Three Investigating Directorates have also been established under the auspices of the NDPP in an effort to eradicate crime. Prosecutors undergo training on a continuous basis, although the lack of social context training is receiving attention. In this regard a training director was appointed.

Witness Protection

1.8 The importance of witness protection in the ongoing fight against crime is widely recognised and the existence of the Witness Protection Programme has already made a difference in a large number of cases throughout the country. This programme is managed by the Directorate: Witness Protection. Although the number of witnesses vary from day to day, between 750 and 800 are being protected at any given time. The growing numbers of witnesses protected under the programme is indicative of its value in the fight against crime.

Establishment of Sexual Offences Courts

1.9 Special courts dealing with sexual offences have been set up at Wynberg, Western Cape and Bloemfontein in the Free State. A court was also launched at Mdantsane, Eastern Cape on 2 December 1999. The training of personnel is conducted on a continuous basis. Courtrooms at approximately 180 centres countrywide have been augmented with specialised audio and visual equipment for the adjudication of crimes with a sexual content. The roll-out process of these courts to other centres remains a challenge, particularly as far as financial resources are concerned. Consequently the Canadian Embassy has been approached for assistance in this regard. It is envisaged that a further twenty sexual offences courts will be established during the next few years.

Separate waiting rooms for witnesses and the Witness Friend

1.10 The Department is in the process of establishing separate waiting rooms at all courts for victims of violence, with particular focus on women and children. Such waiting rooms for witnesses have already been set up at Mitchells Plain and the Pretoria Magistrate's Court. At some courts a witness friend is also present. A witness friend assists witnesses with issues such as ushering them to the correct courts to members of the staff. The expansion of this project is dependent on a number of factors, such as the availability of funds, accommodation, availability of volunteers, etc.

Lay assessors

1.11 The Magistrates' Courts Amendment Act, 1998 (Act 67 of 1998) regulates the appointment of lay assessors in criminal trials in the magistrates' courts. Due to financial constraints this Act has not been implemented as yet. However, its implementation is envisaged for the near future. The introduction of lay assessors will increase community involvement in the administration of justice and improve the court's legitimacy in the eyes of the public.

Awaiting-trial Prisoners Project

1.12 This pilot project was implemented during the year under review. The objective of the project was to initiate collective actions within the Departments of Justice, SAPS, Welfare and Correctional Services, to reduce the detention cycle time of awaiting-trial prisoners in the custody of the Department of Correctional Services. It is believed that such a reduction would result in a reduction of the number of awaiting-trial persons, hereby expediting the justice process.

1.13 This project is NCPS-driven and is also linked to the Pre-trial Services Project. The Department is planning to take over this project within its own budget.

Pre-trial Services

1.14 The Pre-trial Services pilot project is well-established at the Mitchells Plain, Johannesburg and Durban Magistrates' Courts. Although initially managed by the Bureau for Justice Assistance, the project was taken over by the Department on 2 September 1999. Pre-trial Services have already had an impact on the profile of awaiting-trial prisoners. For example, at Pollsmoor Prison, the awaiting-trial population sent from Mitchells Plain, who had been granted bail but could not afford to pay the amount set, declined from 75% in June 1997 to just 47% in January 1998. The figure at the end of September 1998 was less than 40%.

Training: Justice College

1.15 The promotion of the fundamental principles of judicial independence was taken a step further with the introduction of the Directorate: Judicial Training, whose sole function is to attend to the training needs of court officials. An emergency training intervention project led by experienced magistrates and prosecutors was set up to provide in-house training to lower courts experiencing difficulties with service delivery.

1.16 Most of the College's training projects are funded by donors, such as USAID, the United Nations, the Netherlands, the Commonwealth, Denmark, Britain and Canada.

Youth and family matters

Family Courts

1.17 Family Court Centres have become fully operational at Cape Town, Johannesburg, Durban, Port Elizabeth and Lebowakgomo. These Family Court Centres consist of the Divorce Court, Maintenance Court, Children's Court, Office of the Family Advocate, Office of the Administration of Deceased Estates, Advice Desk and support services relating to domestic violence. The Family Court Centre has an identity of its own, distinct from other courts, and all family-related disputes are handled under one roof. They are one-stop family centres. It is the Department's ultimate goal to establish permanent Family Court Centres nationwide.



Citizens' Advice Desks

1.18 This project is funded by Irish Aid and entails the establishment of five Citizens' Advice Desks at courts in Pretoria, Johannesburg and Durban. It is intended that these courts be the first point of contact with the public and will provide information about the court, procedures and human rights. Implementation of these desks were planned for late 1999.

Juvenile Justice

1.19 The SA Law Commission released a Discussion Paper on a new child justice system on 14 December 1998. The Paper contains recommendations and a draft Bill on a new proposed child justice system. The contents of the paper is dealt with in the Law Commission's own Annual Report.

Maintenance

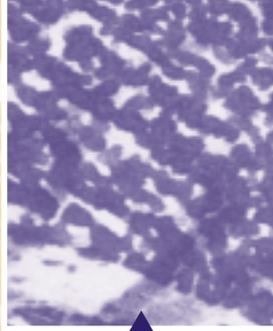
1.20 The new Maintenance Act, 1998 repeals the Act of 1963. It heralds the start of a reform process as far as maintenance is concerned. It is seen as an interim measure, pending the implementation of the South African Law Commission's recommendations once its investigation into the review of the maintenance system has been finalised. The Act is intended to bring about a number of improvements to the maintenance system, e.g by the appointment of maintenance investigators to assist maintenance officers; by the setting out of core statutory guidelines relating to the duty of support of parents in respect of their children, by enabling maintenance courts to make maintenance ordering the absence of the respondent in appropriate cases; and by extending the circumstances in which a maintenance court can order the payment of maintenance to be made on behalf of respondents.

Domestic Violence

1.21 The Domestic Violence Act replaces the Prevention of Family Violence Act. This Act comprises a substantial broadening of the 1993 Act, and recognises that domestic violence is a social evil and an obstacle to achieving gender equality. The Act offers protection to any victim of domestic

violence who is in a domestic relationship with an abuser. A broad definition has been given to "domestic violence", so as to include any form of abuse and not only physical abuse. The Act places a duty on a member of the South African Police Service to inform a victim of his or her rights at the scene of the incident of domestic violence. Provision is also made for the Commissioner of the SAPS to issue national guidelines which must be observed when dealing with domestic violence. Failure to comply with these guidelines will result in disciplinary proceedings against the member concerned.





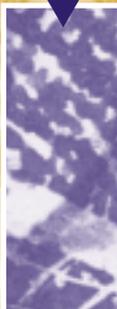
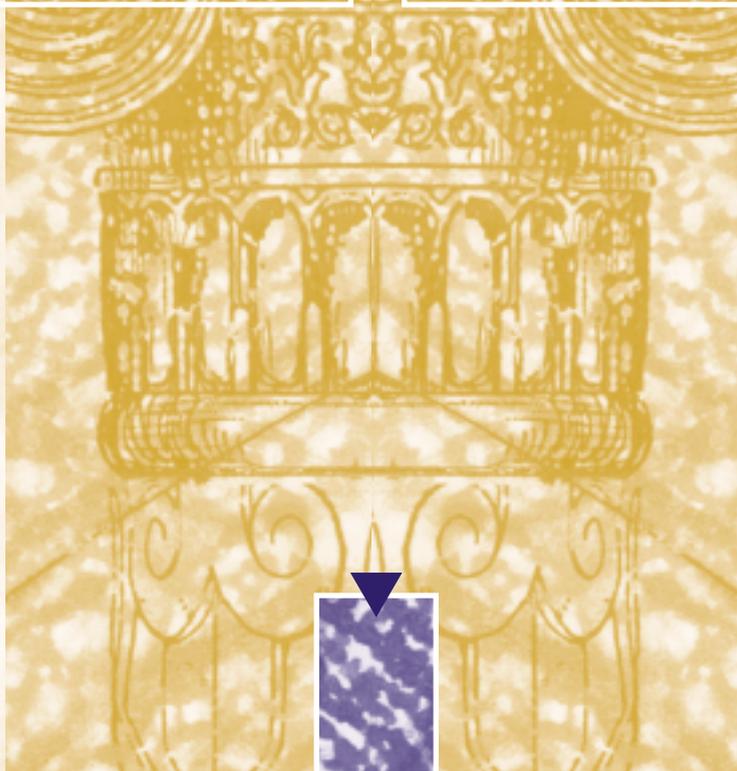
Annual Report 1998/1999



Chapter 2

National Head Office

- *Legislation Research Branch*
- *Legal Services Branch*
- *Corporate Services Branch*
- *Human Resources Branch*
- *Regional Coordination Branch*



Chapter 2



Legislation Research Branch

2.1 This Branch is concerned with establishing efficient and effective legislation, and consists of the Chief Directorate of the Secretariat of the South African Law Commission and the Chief Directorate of Legislation Development.

Chief Directorate of the Secretariat of the South African Law Commission

2.2 The South African Law Commission is a statutory body established in terms of the South African Law Commission Act, 1973 (Act 19 of 1973). The objectives of the Law Commission are to advise the Government on the development, improvement, modernisation and reform of South African law. The Law Commission consists of the following seven members appointed by the President: Mr Justice I Mahomed (Chairperson), Madam Justice Y Mokgoro (Vice-Chairperson), Mr J J Gauntlett, SC (Cape Bar), Mr P Mojapelo (practising attorney), Madam Justice M L Mailula, Prof R T Nhlapo (full-time member) and Ms Z Seedat (practising attorney).

2.3 Provision is made by law for the appointment by the President of additional members if he deems it necessary for the investigation of any matter. The Law Commission is also empowered by law to establish committees if it deems it necessary for the proper performance of its functions. The Minister appoints persons (who are not already members of the Commission) to such committees.

2.4 The Law Commission regards itself as a bridge between the people and the law and it envisages consultation on a broad base, beginning at grassroots level, which will give effect to the principle of participatory democracy in developing the law and ensure that the law evolves in a manner that is in tune with society.

2.5 The Law Commission is assisted in its task by a full-time Secretariat of officers on the establishment of the Department. The Secretariat consists of a professional component and an administrative component. The professional component, which consists of 18 units, does legal research on behalf of the Commission and compiles issue

papers, discussion papers and reports. Discussion papers and reports contain draft legislation. The administrative component consists of 12 units. The Secretary of the Commission exercises overall control over the Secretariat.

2.6 The functioning and activities of the Law Commission are dealt with in full in its own annual report.

The Chief Directorate of Legislation

2.7 The Chief Directorate consists of the Directorate of Parliamentary Legislation and the Directorate of Secondary Legislation.

The Directorate of Parliamentary Legislation

2.8 Chapter two of the Constitution of the Republic of South Africa, 1996, contains the Bill of Rights which is the cornerstone of democracy in South Africa and enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom. A positive duty is also placed on the state to protect, respect, promote and fulfil the rights in the Bill of Rights. Service delivery is an area which has received, and still receives, constant attention by all government departments since 1994, with the general aim to improve the services provided to the general public. The Department of Justice is also committed to the achievement of proper service delivery and the Directorate of Parliamentary Legislation contributes to this commitment by aspiring to achieve its objectives as set out below.

2.9 The objectives of the Directorate are, firstly, to investigate and do research in respect of proposals for new or amending legislation in order to develop and maintain a legitimate system for administering justice and state legal affairs and, secondly, to promote legislation in order to develop and maintain a legal system that is efficient, accessible, responsive, humane, accountable, user-friendly and representative of the South African community.

2.10 The functions of the Directorate are of a diverse nature and require spe-

cialised experience and knowledge owing to the intricate and technical nature thereof. These functions include the evaluation and investigation of legislative proposals and representations relating to the line functions of the Department, the submission of Bills and accompanying documentation to Parliament, appearing before Parliamentary Committees to brief the Committees in respect of the contents of proposed legislation, evaluating reports and legislative recommendations of the South African Law Commission that have a bearing on the line functions of the Department and providing the Minister with advice on draft legislation submitted to Cabinet by other departments. The Department of Justice administers approximately 170 statutes relating to matters such as human rights, the different adjudication structures, the law of persons and family, admiralty law, criminal law and the law of criminal procedure, the law of succession, the administration of estates, legal practitioners and investigative bodies.

2.11 It is considered appropriate to give an overview in this report of the Justice Department's legislative programme over the last five years preceding the second democratic elections held in June 1999.

2.12 One of the Department's first priorities after the 1994 elections was to promote legislation emanating from the Interim Constitution, 1993 (Act 200 of 1993), and later the new Constitution, 1996 (Act 108 of 1996). Legislation in respect of the institutions of democracy and related structures, as required by the Constitution, was enacted. The Judicial Service Commission Act, 1994 (Act 9 of 1994), provides a framework within which the Judicial Service Commission can perform its functions as required by section 105 of the Interim Constitution. Chapter 8 of the Interim Constitution required the appointment of a Public Protector. The Public Protector Act, 1994 (Act 23 of 1994), created a statutory framework within which the functions of the Public Protector, namely to stamp out maladministration and abuse of power, can be performed. In 1998 the Act was amended to bring it into line with the new Constitution.

2.13 The Human Rights Commission

Act, 1994 (Act 54 of 1994) provides a framework for the Human Rights Commission to perform its functions, as required by the Interim Constitution, which are primarily the protection and promotion of human rights. The Promotion of National Unity and Reconciliation Act, 1995 (Act 43 of 1995) amongst others, provided for the establishment, appointment and functioning of the Truth and Reconciliation Commission and related structures. It is the result of the concluding provisions of the Interim Constitution which required the passing of legislation to promote reconciliation and reconstruction in the country. Section 119 of the Interim Constitution required the establishment of a Commission on Gender Equality, the objects of which are to promote gender equality and to advise Government on legislation which affects gender equality and the status of women. Section 120 of the Interim Constitution required an Act of Parliament to set out the composition, powers and functions of the Commission. The Commission on Gender Equality Act, 1996 (Act 39 of 1996) gave effect to this requirement.

2.14 Since 1994 a number of judgments of the then Supreme Court and the Constitutional Court have related to legislation which is administered by the Department of Justice and have required amending legislation to ensure that our legislation is in line with these constitutional decisions of the courts. The Investigation of Serious Economic Offences Act, 1991, originally gave the Director: Office for Serious Economic Offences certain powers without due regard to the right of privacy. The Supreme Court found that these provisions were in conflict with the Interim Constitution. The Investigation of Serious Economic Offences Amendment Act, 1995 (Act 46 of 1995), consequently amended the provisions of the 1991 Act by requiring entry on premises, for purposes of investigating a serious economic offence, to be authorised by a judicial officer on the strength of information under oath. The Abolition of Corporal Punishment Act, 1997 (Act 33 of 1997), repealed or amended all provisions on the Statute Book in terms of which corporal punishment could be imposed by the courts, bringing them into line with the

Constitutional Court's decision that corporal punishment as a sentencing option by the courts was in conflict with the Interim Constitution.

2.15 In the past before an accused person who had been convicted by a magistrate's court and who was in prison could appeal to a higher court, he or she had to obtain a so-called "judge's certificate" in terms of the Criminal Procedure Act, 1977. The Constitutional Court found this procedure to be in conflict with the Constitution. The Criminal Procedure Amendment Act, 1997 (Act 76 of 1997) has now made all criminal appeals from the lower courts subject to leave to appeal to the trial court, failing which a petition can be addressed to the appeal court, that is the High Court having jurisdiction. The Magistrates' Courts Amendment Act, 1997 (Act 81 of 1997) made the necessary changes to the relevant legislation to give effect to the judgment of the Constitutional Court relating to the imprisonment of debtors for not paying civil debts. The Criminal Law Amendment Act, 1997 (Act 105 of 1997) repealed or amended all provisions on the Statute Book in terms of which capital punishment could be imposed by the courts. The Act also provides for a mechanism to deal with all the cases of persons on "death row" whose death sentences must now be replaced by another suitable sentence.

2.16 The Interim Constitution and later the new Constitution have played a major role in the laws that have been adopted in the last five years, in addition to those laws which have been referred to above. Transformation and rationalisation, in line with the spirit and goals of the Constitution, formed the basis of the various pieces of legislation.

2.17 Numerous Acts were passed in this category which have a bearing on the legal professions. The Admission of Advocates Amendment Act, 1994 (Act 55 of 1994) and the Admission of Legal Practitioners Amendment Act, 1995 (Act 33 of 1995), in line with the language provisions in the Constitution, abolished the Latin, English and Afrikaans statutory language requirements for admission to the legal professions. Also relating to the legal profession the Right of Appearance in Courts Act, 1995 (Act 62 of 1995) enables

attorneys to appear in certain instances in the High Courts. The Contingency Fees Act, 1997 (Act 66 of 1997) allows attorneys to conclude contingency fee agreements with clients in terms of which the client will only pay legal costs if he or she wins the case in question. The Qualification of Legal Practitioners Amendment Act, 1997 (Act 78 of 1997) provides for the establishment of a single, uniform four-year LLB degree for entry into any branch of the legal profession.

2.18 As far as rationalisation is concerned, reference should be made to the Justice Laws Rationalisation Act, 1996 (Act 18 of 1996), which made most laws that have a bearing on the line functions of the Department of Justice and which were in force in the former RSA, applicable throughout the country. It also repealed the corresponding laws of the former territories, giving rise to a single set of laws dealing with the administration of justice. The Legal Aid Amendment Act, 1996 (Act 20 of 1996) extended the application of the Legal Aid Act, 1969, of the former RSA, to the former TBVC states and self-governing territories and also extended the powers of the Legal Aid Board to enable the Board to provide legal representation at state expense for accused persons in deserving cases, as contemplated in the Constitution. The Sheriffs Amendment Act, 1998 (Act 74 of 1998) rationalised the different statutes existing throughout the country that regulated the sheriff's profession, resulting in a single statute in this regard.

2.19 As far as transformation generally is concerned, the Magistrates' Amendment Act, 1996 (Act 35 of 1996) was intended to facilitate the recomposition of the Magistrates Commission so as to promote representivity. The Abolition of the Restriction on the Jurisdiction of Courts Act, 1996 (Act 88 of 1996), giving effect to section 22 of the Interim Constitution, which provided that every person shall have the right to have justiciable disputes settled by a court of law, amended all the legislation on the Statute Book which limited the jurisdiction of the courts in any way. The Divorce Courts Amendment Act, 1997 (Act 65 of 1997) opened the Black Divorce Courts to all races. These courts were previously only accessible to Black

persons. The Natural Fathers of Children Born out of Wedlock Act, 1997 (Act 86 of 1997) gives fathers of children born out of wedlock an express right to approach a court regarding access to and custody and guardianship of his child. It also requires the father of such a child to be informed of any impending adoption proceedings of his child. The Magistrates' Courts Amendment Act, 1998 (Act 67 of 1998) regulates the appointment of lay assessors in criminal trials in the lower courts so as to increase community involvement in the administration of justice and to enhance the legitimacy of the courts. The Debt Collectors Act, 1998 (Act 114 of 1998) subjects all debt collectors to regulation by a new Council for Debt Collectors, in an attempt to eradicate unethical practices and the exploitation of uninformed debtors. The Judicial Matters Second Amendment Act, 1998 (Act 122 of 1998), amongst others, amends section 49 of the Criminal Procedure Act, 1977, dealing with the use of force in effecting arrests of suspects, so as to bring it into line with the Constitution.

2.20 Since 1994 the Government has actively taken steps to address the crime problem in the country. Numerous statutes have been placed on the Statute Book aimed at reducing the crime rate. The following are relevant:

(A) The Criminal Procedure Amendment Act, 1995 (Act 75 of 1995) and the Criminal Procedure Second Amendment Act, 1997 (Act 85 of 1997) made comprehensive changes to our law on bail. In 1995 the bail provisions were amended to bring them into line with the Interim Constitution and to clarify the legal position regarding the law of bail and bail procedures. The 1997 Amendment Act, amongst others, provides (i) that bail applications may only be heard during court hours since bail applications outside court hours often give rise to numerous problems, (ii) that bail applications in respect of serious offences may only be heard in the Regional Court, unless such a court is not available, (iii) that bail can be refused if this will be in the interests of justice, where there is a likelihood that the release of the accused person will disturb the public order or undermine public peace or security and (iv) that a

court can detain an accused person charged with certain serious crimes, unless that person satisfies the court that exceptional circumstances exist that justify his or her release.

(B) The Special Investigating Units and Special Tribunals Act, 1996 (Act 74 of 1996) provides a mechanism through which allegations of serious corruption, maladministration or misappropriation of state funds can be investigated and dealt with quickly. It also provides a mechanism through which remedial steps can be taken to retrieve these funds.

(C) As far as transnational organised crime is concerned, the International Cooperation in Criminal Matters Act, 1996 (Act 75 of 1996), the Proceeds of Crime Act, 1996 (Act 76 of 1996) and the Extradition Amendment Act, 1996 (Act 77 of 1996) deal with the issue of international cooperation in criminal prosecutions and more specifically with the obtaining of evidence from foreign states, supplying evidence to foreign states, transferring the proceeds of crime, the execution of foreign penal orders and sentences and extradition. (It should be mentioned that the Prevention of Organised Crime Act, 1998 repealed the Proceeds of Crime Act, 1996).

(D) The Criminal Procedure Amendment Act, 1996 (Act 86 of 1996) amended the Criminal Procedure Act, 1977 and is aimed at the elimination of delays in the finalisation of criminal trials and addressing abuses of the criminal process. The Criminal Law Amendment Act, 1997 (Act 105 of 1997) not only gives effect to the Constitutional Court's judgment in respect of the death penalty, but also provides for the imposition of minimum sentences in respect of certain serious crimes. The Witness Protection and Services Act, 1998 (Act 112 of 1998) provides for the proper protection of witnesses through witness protection programmes that will be administered by a Central Office for Witness Protection under the supervision of the Minister of Justice. The Prevention of Organised Crime Act, 1998 (Act 121 of 1998) is aimed at giving the police and prosecutors new powers to help them deal effectively with organised crime. It

creates a new offence of participating in the affairs of any criminal organisation and allows the state to seize assets used to commit crimes or which are the proceeds of crime through a civil action. It also criminalises certain activities of street gangs.

2.21 In the past some sectors of our society have been marginalised and the following legislation which was passed after the country's first democratic election, has a bearing particularly on women, youth and children, who possibly suffered the most under the previous constitutional dispensation:

(A) The National Youth Commission Act, 1996 (Act 19 of 1996) makes provision for a framework within which the National Youth Commission can perform its functions. The principal objectives of this Commission are to generate a national plan that utilises available resources and expertise for the development of the youth and to assist in the creation and implementation of a national youth policy. The Hague Convention on the Civil Aspects of International Child Abduction Act, 1996 (Act 72 of 1996) makes the Hague Convention on the Civil Aspects of International Child Abduction part of our domestic law. The objectives of the Convention are to secure the prompt return of children who have been wrongfully removed from any country who is party to the Convention and to ensure that rights of custody of and access to children under the laws of countries who are party to the Convention, are respected.

(B) The Maintenance Act, 1998 (Act 99 of 1998) heralds the start of a reform process as far as maintenance is concerned. It is intended to bring about a number of improvements to the existing judicial maintenance system, eg by the appointment of maintenance investigators to assist maintenance officers in the performance of their functions, by enabling maintenance courts to make maintenance orders in the absence of the respondent in appropriate cases, by extending the circumstances in which a maintenance court can make garnishee orders and by providing for the recovery of arrear maintenance by way of civil proceedings. The Domestic Violence Act, 1998 (Act 116 of 1998) recognises

that domestic violence is a serious social evil and an obstacle to achieving gender equality. Amongst others, it offers protection to any victim of domestic violence, that is physical or mental abuse, who is in a domestic relationship with an abuser. It places a duty on a member of the Police Service to inform a victim of his or her rights at the scene of the violence and requires the National Commissioner of the South African Police Service to issue national guidelines which must be observed when dealing with domestic violence. The Recognition of Customary Marriages Act, 1998 (Act 120 of 1998) extends full recognition to marriages entered into in accordance with customary law or traditional rites. It lays the foundation for a uniform code of marriage law that will be applicable to all South Africans. The principles laid down in the Act, eg consent and minimum ages for spouses, community of property and judicial regulation of divorce in a system of family courts, are intended to provide a uniform national framework receptive to all marriages.

2.22 The following Bills are intended to be promoted during the 1999 session of Parliament and thereafter:

(A) Criminal Procedure Amendment Bill, 1998

Section 29 of the Correctional Services Act, 1959 (Act 8 of 1959) provides for the detention of unconvicted juveniles. In view of recent events pertaining to the detention of juvenile offenders, amongst others, the introduction of the Correctional Services Bill, 1998 into Parliament by the then Minister of Correctional Services, it was decided that provisions dealing with the detention of children is an issue that should be dealt with in the Criminal Procedure Act, 1977. The Criminal Procedure Amendment Bill, 1998, regulating the detention of juvenile offenders, was introduced into Parliament during 1998, but it was withdrawn based on the decision that a new Bill should be introduced with a few adaptations.

(B) Open Democracy Bill, 1998

Section 32 of the Constitution deals with the right to access to information and provides that everyone has the right of access to any information held by the state and any information that is held by

another person and that is required for the exercise or protection of any rights. The aim of the Open Democracy Bill is to give effect to this constitutional right. It further requires information to be made available to the public about the functions of governmental bodies. The Bill also provides persons with access to their personal information held by private bodies; provides for the correction of personal information held by governmental or private bodies and regulates the use and disclosure of that information. An important chapter in the Bill relates to "whistle blowing", which makes provision for the protection of persons disclosing evidence of any contravention of the law and serious maladministration or corruption in governmental bodies.

(C) Superior Courts Bill, 1999

This Bill is aimed at rationalising the former Supreme Court of South Africa and the High Courts of the former TBVC states. This legislation emanates partially from the recommendations made by the Commission of Inquiry into the Rationalisation of the Provincial and Local Divisions of the Supreme Court and is aimed at giving effect to item 16(6) of Schedule 6 to the Constitution.

(D) Review Powers of Courts Bill

Section 33 of the Constitution deals with the right to administrative action which is lawful, reasonable and procedurally fair. The South African Law Commission is investigating the matter and will submit legislative recommendations in this regard to the Department, giving effect to the rights contained in section 33 of the Constitution.

(E) Equality Legislation

Section 9 of the Constitution, which deals with equality, provides that everyone is equal before the law and has the right to equal protection and benefit of the law. It also requires that national legislation must be enacted to prevent or prohibit unfair discrimination. The Bill will therefore give effect to the right to equality as contemplated in the Constitution and will set out measures for the promotion and achievement of substantive equality and the prevention of discrimination.

(F) Juvenile Justice Bill

To provide for a new juvenile justice system.

(G) Sexual Offences Amendment Bill

The South African Law Commission has on its programme an investigation relating to the review of statutory and common law sexual offences, the procedural aspects of these cases and sexual offences against children. The legislative recommendations of the Commission in this regard will be submitted to Parliament for consideration, once they are finalised.

(H) Interception and Monitoring Prohibition Amendment Bill, 1999

The Bill aims to amend the Interception and Monitoring Prohibition Act, 1992, so as to prohibit the provision of telecommunication services which are not presently capable of being monitored and to regulate the enabling of monitoring of conversations and communications by persons, bodies or organisations rendering a telecommunication service.

(I) Administration of Estates Amendment Bill, 1999

The Bill, amongst others, provides for the extension of the operation of the Administration of Estates Act, 1965 (Act 66 of 1965) of the former South Africa to the former TBVC states, and for the simultaneous repeal of the corresponding legislation in force in those areas.

(J) Amendment of Customary Law of Succession Bill, 1998

The Bill was introduced into Parliament during August 1998 and is aimed at harmonising the customary law of succession with the common law. Certain problems were identified in submissions to the Portfolio Committee on Justice and it was decided to refer the matter back to the South African Law Commission for further investigation.

(K) Prevention of Crime Fund Bill

The Bill will emanate from the South African Law Commission's investigation. The investigation includes restorative justice with the emphasis on victim issues, such as a compensation fund for victims and victims' rights. After the finalisation of the Law Commission's report, the Bill will be submitted to Parliament for consideration.

(L) Public Interest and Class Actions Bill

The legislative recommendations of the South African Law Commission in its investigation into the recognition of class actions and public interest actions in South Africa, is contained in this Bill. The aim of the Bill is to make provision for the institution of and regulating the conduct of public interest and class actions.

(M) International Arbitration Bill

The Bill, which emanates from the South African Law Commission's report on International Arbitration legislation for South Africa, aims to amend and consolidate the law relating to international commercial arbitration and the recognition and enforcement of foreign arbitral awards and to provide for the settlement of certain international investment disputes.

(N) Limitation of Legal Proceedings Against Government Institutions Bill

The numerous provisions in different Acts which lay down different requirements for the institution of actions against the state, create uncertainty. The Bill provides that no legal proceedings for the recovery of a debt arising from a delict shall be instituted against the state, a government body, a member of the Cabinet or of an Executive Council or other functionary of the state in his or her official capacity or a person for whose actions the state or a government body is liable in law, unless the defendant has been given a written notice of the intention to institute such proceedings.

(O) Judicial Service Commission Amendment Bill, 1999

Providing for a complaints mechanism regarding judicial officers.

(P) International Criminal Court and Related Matters Bill, 1999

To facilitate South Africa's accession to the Statute on the International Criminal Court. Consideration is also being given to the possibility of extending this Bill to give effect to United Nations' Security Council Resolutions pertaining to gross human rights violations, for example the International Tribunals that have been established in respect of Rwanda and Yugoslavia.

Looking forward to the year that lies ahead, the legislation that will most probably receive priority attention during the 1999 Parliamentary session include Bills that are intended to rationalise the High Courts, to give effect to the right of access to information, to the right to just administrative action and to the right of equality, as required by the Constitution.

The Directorate of Secondary Legislation

2.23 The Directorate of Secondary Legislation consists of the Subdirector: Legal Directives and The Secretariat of the Rules Board for Courts of Law.

Subdirector: Legal Directives

2.24 This Subdirector is responsible for, *inter alia*, the commencement and implementation of Acts, the consideration, formulation and amendment of subordinate legislation and the review of the fees and rates in terms of laws administered by the Department. The Subdirector deals with all representations on subordinate legislation received by the Department.

2.25 The following legislation was put into operation during the year under review:

(A) The Justice Laws Rationalisation Act, 1996 (Act 18 of 1996), in so far as it repeals the Bophuthatswana Ombudsman Act, 1986 (Act 9 of 1986), and the Bophuthatswana Ombudsman Amendment Act, 1991 (Act 39 of 1991) was put into operation with effect from 1 April 1999.

(B) Sections 3, 4 and 5 of the Legal Aid Amendment Act, 1996 (Act 20 of 1996), which deal with the appointment of additional members to the Legal Aid Board and related matters, were put into operation with effect from 1 October 1998.

(C) The Magistrates Amendment Act, 1996 (Act 35 of 1996), which provides for, *inter alia*, the restructuring of the Magistrates Commission and that a complaints structure be established in terms of which members of the public may report any alleged improper conduct or any conduct which has resulted or might result in any impropriety or

prejudice on the part of a magistrate, was put into operation with effect from 1 October 1998.

(D) The Contingency Fees Act, 1997 (Act 66 of 1997), which, *inter alia*, provides for contingency fees agreements between legal practitioners and their clients, was put into operation with effect from 23 April 1999.

(E) Sections 1 to 3 of the Criminal Procedure Amendment Act, 1997 (Act 76 of 1997), which regulate appeals against decisions of lower courts and legal representation in respect of appeals, were put into operation with effect from 28 May 1999.

(F) The Criminal Procedure Second Amendment Act, 1997 (Act 85 of 1997), which amends various provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977), mainly to regulate bail proceedings in criminal matters and matters related thereto, was put into operation with effect from 1 August 1998.

(G) The Natural Fathers of Children Born out of Wedlock Act, 1997 (Act 86 of 1997), which provides for the possibility of access to and custody and guardianship of children born out of wedlock by their natural fathers, commenced on 4 September 1998, with the exclusion of section 6 which deals with the notification of a natural father of any intended adoption of his child born out of wedlock. The Adoption Matters Amendment Act, 1998 (Act 56 of 1998), administered by the Department of Welfare, repealed section 6 and provides for such notification.

(H) The Criminal Law Amendment Act, 1997 (Act 105 of 1997) provides, firstly, for a mechanism in terms of which the sentence of all persons under the sentence of death can be set aside and substituted by lawful punishment, and repeals or amends all statutory provisions in terms of which the sentence of death may be imposed and, secondly, for the imposition of minimum sentences in respect of certain serious offences. The Act was put into operation in two phases. Sections 51 to 53, which deal with minimum sentences, were put into operation on 1 May 1998 and the remaining sections, which deal with the death sentence, on 13 November 1998.

(I) The National Prosecuting Authority Act, 1998 (Act 32 of 1998), which, *inter alia*, provides for a single national prosecuting authority and matters relating thereto, was implemented as follows:

- Sections 9, 10, 12 and 17 were put into operation with effect from 1 August 1998
- Sections 1 to 8, 11, 13 to 16, 18 to 37 and 39 to 46 were put into operation with effect from 16 October 1998
- Section 38 of the Act was put into operation with effect from 23 April 1999

(J) The Judicial Matters Amendment Act, 1998 (Act 34 of 1998), which amends a number of Acts and *inter alia* prohibits certain acts concerning military, paramilitary and similar operations, were put into operation as follows:

- Section 1 was put into operation with effect from 31 March 1999
- Sections 2, 6, 7, 11, except in so far as it inserts section 16B in the Criminal Law Second Amendment Act, 1992 (Act 126 of 1992), 12 to 18 and 20 were put into operation with effect from 15 January 1999
- Section 11, in so far as it inserts section 16B in the Criminal Law Second Amendment Act, 1992, was put into operation with effect from 1 April 1999

(K) The Sheriffs Amendment Act, 1998 (Act 74 of 1998), with the exception of section 2, was put into operation with effect from 1 March 1999. The Act provides for the rationalisation of legislation regarding the sheriffs profession, the restructuring of the composition of the Board for Sheriffs to make it more representative, the admission of guilt fines, additional actions against a sheriff who is found guilty of improper conduct and the creation of certain offences.

(L) The Attorneys and Matters relating to the Rules of Court Amendment Act, 1998 (Act 115 of 1998) provides for the following:

- The amendment of the Attorneys Act, 1979 (Act 53 of 1979) to limit the liability of the Attorneys Fidelity Fund and to extend the jurisdiction of the Fund to practitioners in the areas of the former Republics of Bophuthatswana and Venda

- The repeal of rules of court regulating the conduct of proceedings in the various High Courts of the former TBVC-States by the Rules Board for Courts of Law. The Act was put into operation with effect from 15 January 1999

(M) The Prevention of Organised Crime Act, 1998 (Act 121 of 1998) was put into operation on 21 January 1999. The Act contains measures to combat organised crime, money laundering and criminal gang activities, and also provides for the confiscation of the proceeds of unlawful activities.

(N) Sections 6, 9 and 11 to 15 of the Judicial Matters Second Amendment Act, 1998 (Act 122 of 1998), which amend various other Acts, were put into operation with effect from 1 April 1999.

2.26 The following subordinate legislation was promulgated during the year under review:

(A) The monetary jurisdictional limits for purposes of section 92 of the Magistrates' Courts Act, 1944 (Act 32 of 1944) were increased to R300 000 in respect of a regional court and R60 000 in respect of a magistrate's court.

(B) The Rules regulating the Proceedings of the Northern Cape Division, the Transvaal Provincial Division and the Witwatersrand Local Division of the High Court of South Africa were amended in terms of section 43(2)(b) of the Supreme Court Act, 1959 (Act 59 of 1959).

(C) Regulation 22 of the Regulations made in terms of the Companies Act, 1973 (Act 61 of 1973), which provides that no bill of legal costs or charges arising out of a liquidation under a winding-up by the court or under a creditor's voluntary winding-up shall be paid to the liquidator unless it has been taxed, was repealed.

(D) The amounts determined for the purposes of section 300 of the Criminal Procedure Act, 1977 (Act 51 of 1977) were increased to R300 000 in respect of a regional court and R60 000 in respect of a magistrate's court.

(E) The Rules of Court governing the practical examinations and admission of attorneys, notaries and conveyancers, made under section 82 of the Attorneys

Act, 1979 (Act 53 of 1979) were amended.

(F) Judges' remuneration were determined under sections 2 and 10A(1) of the Judges' Remuneration and Conditions of Employment Act, 1989 (Act 88 of 1989), section 2(2)(a) of the Bophuthatswana Judges' Remuneration and Conditions of Employment Act, 1989 (Act 27 of 1989) and section 2 of the Transkei Judges' Remuneration and Conditions of Service Decree, 1990 (Decree No. 19 of 1990).

(G) The daily allowance of acting judges was increased in the Regulations made in terms of the Judges' Remuneration and Conditions of Employment Act, 1989 (Act 88 of 1989), the Restitution of Land Rights Act, 1994 (Act 22 of 1994) and the Bophuthatswana Judges' Remuneration and Conditions of Employment Act, 1989 (Act 27 of 1989).

(H) Schedule 2 to the Drugs and Drug-Trafficking Act, 1992 (Act 140 of 1992) was amended to include a number of new prohibited substances.

I) Regulations were made under section 6A of the Magistrates Act, 1993 (Act 90 of 1993), which provides for the creation of a structure and the prescribing of procedures in terms of which members of the public may report to such structure any alleged improper conduct or any conduct which has resulted or might result in any impropriety or prejudice on the part of a magistrate, as well as the determination of the powers and functions of such structure.

(J) The following amendments were effected to the Regulations made under section 16 of the Magistrates Act, 1993 (Act 90 of 1993):

(i) Various regulations were amended/ or repealed to be in line with the new salary structure of magistrates. Regulations 7, 9, 10, 12 and 13 were repealed. Regulations 1, 8, 11, 16, 17, 18, 21, 41 and 50 as well as Forms 1 and 2 in Schedule B and Schedule E to the Regulations, were amended. The amendments, *inter alia*, provide that the Public Service Regulations and Public Service Staff Code under the Public Service Act, 1994 (Proclamation 103 of 1994) are applicable to magistrates in

respect of certain matters. The amendments further entail that a magistrate may not without the permission of the Magistrates Commission accept membership of any legislative or executive authority as it may compromise the constitutional division between legislative and executive authorities and the judiciary.

(ii) Regulation 23(1)(h)(iii) and (iv) were amended in order to amend the basis of calculation on which a non-recurrent amount to defray miscellaneous expenses in respect of resettlement costs is calculated. This was done to bring the basis of calculation in accordance with the basis of calculation used for the Public Service.

(iii) Regulation 45 was amended to provide that the monthly amount payable by a magistrate who makes use of State transport between his or her residence and place of work, shall be in accordance with the amount as prescribed from time to time for the Public Service.

(iv) Regulation 49(1)(a) was amended to provide that the subsistence allowances received by magistrates shall be in accordance with the allowances prescribed from time to time for the Public Service.

(K) A notice was published under section 12(1) of the Magistrates Act, 1993 (Act 90 of 1993) to increase magistrates' salaries.

(L) The design of the Official Seal of the Land Claims Court was prescribed in terms of the Restitution of Land Rights Act, 1994 (Act 22 of 1994).

(M) The Regulations prescribing the remuneration, allowances and other benefits of commissioners of the Truth and Reconciliation Commission and the Regulation prescribing the tariff of fees contemplated in section 34(3) of the Promotion of National Unity and Reconciliation Act, 1995 (Act 34 of 1995), published under section 40 of the said Act, were amended to further provide for the gratuity payable to commissioners, the purchase of motor vehicles by commissioners and the fees payable to legal representatives appearing before the Commission.

(N) The following subordinate legislation was promulgated under the Contingency Fees Act, 1997 (Act 66 of 1997):

- The form of a contingency fees agreement was prescribed under section 3.
- Professional controlling bodies were determined in terms of sections 1(vi)(b) and designated in terms of section 5 for purposes of the said Act.

(O) In terms of the National Prosecuting Authority Act, 1998 (Act 32 of 1998):

- a Special Investigating Directorate: Organised Crime and Public Safety was established;
- categories of offences in respect of which the Investigating Directorate: Serious Economic Offences must exercise its functions, were specified; and
- the powers, duties and functions of the Special Director of Public Prosecutions were determined.

(P) Several determinations of salaries of deputy directors of public prosecutions and of prosecutors for the purposes of the National Prosecuting Authority Act, 1998 (Act 32 of 1998), were made during the year under review.

(Q) The Regulations relating to Sheriffs, 1990, made under section 62 of the Sheriffs Act, 1986 (Act 90 of 1986) were amended to -

- give effect to the provisions of the Sheriffs Amendment Act, 1998 (Act 74 of 1998);
- increase the percentage amount payable to the Board for Sheriffs; and
- amend the composition of the advisory committee contemplated in regulation 2 of the Regulations.

(R) A maximum amount of R10 000 for the fine contemplated in section 49(1)(b) of the Sheriffs Act, 1986 (Act 90 of 1986), was determined.

S) Regulations under the Prevention of Organised Crime Act, 1998 (Act 121 of 1998) were published on 24 January 1999 and 1 April 1999 to provide for the fees of a *curator bonis* appointed in terms of the Act, the person to whom reports of suspicions regarding the proceeds of crime are to be made, the nature and manner in which reports are to be made, and the procedure of meetings of the Criminal Assets Recovery Committee.

2.27 During the year under review, 34 proclamations were promulgated under the Special Investigating Units and Special Tribunals Act, 1996 (Act 74 of 1996), by which matters have been referred to the Special Investigating Unit for investigation.

2.28 A list of all proclamations, government notices and rules promulgated in terms of Acts administered by the Department was prepared in terms of section 17 of the Interpretation Act, 1957 (Act 33 of 1957), section 6(5) of the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985), section 2(3) of the Judges' Remuneration and Conditions of Employment Act, 1989 (Act 88 of 1989), section 62(1) of the Drugs and Drug-Trafficking Act, 1992 (Act 140 of 1992), section 12 of the Magistrates Act, 1993 (Act 90 of 1993) and section 18 of the National Prosecuting Authority Act, 1998 (Act 32 of 1998) for tabling in, or submission to, Parliament. During the year under review, 93 tablings and submissions were made.

Subdirectorates: Secretariat of the Rules Board for Courts of Law

Appointment of New Rules Board

2.29 The Rules Board for Courts of Law (hereinafter referred to as the Rules Board) is a statutory body established in terms of section 2 of the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985) (the Act), charged with the responsibility of making rules for the Magistrates' Courts, the High Courts and the Supreme Court of Appeal. The rules to be made by the Rules Board cover a wide scope and make provision for, *inter alia*, the practice and procedure in connection with litigation, the service and execution of process and fees and costs of litigation. The Rules Board should thus be seen as an important agent for the transformation and change in the administration of justice.

2.30 The term of office of the previous members of the Rules Board expired during September 1998. A new Board was only constituted on 6 March 1999 and the new members have been appointed for a period of 3 years. The new members of the Board are the following:

(a) The Honourable Mr Justice S S

Ngcobo as the Chairperson in terms of section 3(1)(a) of the Act.

(b) The Honourable Mr Justice C M Somyalo as the Vice-chairperson in terms of section 3(1)(b) of the Act.

(c) Mr N B Makabanyane from Lehurutshe as the magistrate in terms of section 3(1)(c) of the Act.

(d) Advocate C D A Loxton SC from Johannesburg and advocate J J Moses from Cape Town as the practising advocates in terms of section 3(1)(d) of the Act.

(e) Mr S S Gamede from Johannesburg and Mr P Horn from Kimberley as the practising attorneys in terms of section 3(1)(e) of the Act.

(f) Professor C Loots of the University of the Witwatersrand and at present also attached to the Policy Unit of the Department of Justice, as the lecturer in law in terms of section 3(1)(f) of the Act.

(g) Ms H C Wolmarans, Director: Secondary Legislation of the National Office of the Department of Justice, as the official of the Department of Justice in terms of section 3(1)(g) of the Act.

(h) Mr I M Ayob, an attorney from Johannesburg, Ms B Franks of the Law Clinic of the University of the Western Cape and Ms P Tlakula of the Human Rights Commission, as members who, in the opinion of the Minister, have the expertise to serve as members of the Board, in terms of section 3(1)(h) of the Act.

(i) Advocate D J Jacobs from Cape Town and Mr C M Sardiwalla, an attorney from Ladysmith, as alternate members in terms of section 3(1A) of the Act.

2.31 At its first meeting on 29 April 1999 the members of the Rules Board accepted the following challenges:

- In the face of an unprecedented explosion in the volume of litigation, the broader challenge is to ensure the delivery of prompt and effective justice to all South Africans at all levels
- Secondly, the Rules Board must ensure that it develops court procedures that will ensure a speedy, but less expensive civil justice system, accessible to all, which are in harmony with the Constitution and technological developments

- The translation of the rules into all official languages to ensure that all South Africans know how to get to court
- The primary function of the rules is to facilitate, and not to obstruct, access to the courts.

2.32 In line with the above-mentioned challenges, the Rules Board appointed the following committees which will consist of experts in the relevant fields:

- (a) Executive Committee
- (b) High Court Committee
- (c) Magistrates' Courts Committee
- (d) Costs Committee
- (e) Reform of Civil Justice Committee
- (f) Constitutional Matters Committee
- (g) Information Technology Committee
- (h) Family Courts Committee
- (i) Admiralty Proceedings Rules Committee

2.33 The new Rules Board also resolved that a vision and mission statement for the Board should be considered at a later meeting and attention was also paid to an effective working procedure to deal with all its functions.

2.34 (a) At the Rules Board meeting on 19 June 1999, it was addressed by Mr Ebrahim, Deputy Director-General: Corporate Services of the Department and Mr Mandelstam, Senior Magistrate and Head of the Civil Section, Magistrate, Johannesburg on the envisaged pilot project of the computerisation of the civil justice system in the Magistrate's Court, Johannesburg. After a detailed discussion, the Board resolved that -

- (i) it agreed in principle to the launching of the project on condition that no one should be prejudiced by this;
- (ii) the Board would be approached with specific requests for the amendment of rules whenever it is required; and
- (iii) for purposes of the pilot project, rules will have to be developed on an experimental basis and therefore provision to allow the Board to do this, must be made in the Act.

(b) With regard to the report of Professor Erasmus, the Board resolved that the Reform of Civil Justice Committee should investigate the matter and make recommendations.

Activities of the previous Rules Board during the year under review

2.35 The previous Rules Board held two meetings during the year under review, namely on 17 July 1998 and 5 September 1998 before the expiry of its members' term of office.

2.36 In line with the areas of focus of Vision 2000, the previous Rules Board achieved the following:

(a) It approved -

- (i) rules to extend the Magistrates' Courts Rules to the former self-governing territory of Lebowa so as to ensure uniformity; and
- (ii) the further amendment of rule 43 of the Magistrates' Courts Rules and rule 46 of the High Court Rules (both dealing with execution of immovables), so as to simplify the calculation of the prescribed time periods for the publishing of a notice of sale.

(b) On 5 September 1998 a special meeting was held to, *inter alia*, consider the report of Professor Erasmus of Stellenbosch who was appointed for one year to investigate the introduction of a core set of simplified rules as well as a memorandum submitted to the Minister regarding the restructuring of the Rules Board.

- (i) In respect of the report, the Rules Board recommended to the Minister that the report be carried over to the next Rules Board for development and implementation, if deemed appropriate and in the interim, the report be circulated for comments to major role players. (The Minister, however, wished to address the new Rules Board on the issue and therefore the report was not circulated for comments.) The Rules Board also resolved that consideration be given to a comprehensive review of the civil justice system with specific attention being given to matters referred to in the report, efforts be made to build up a base of empirical data dealing with the functioning of the courts, concerted efforts be made to coordinate efforts of all bodies concerned with the reform of the administration of justice, efforts made in regard to the use of infor-

mation technology in the courts be coordinated, consideration be given to increasing the ambit of the powers of the Rules Board to make rules with regard to courts presently not under its jurisdiction and consideration be given to establishing separate bodies to make rules for civil and criminal matters.

- (ii) With regard to the proposed restructuring of the Rules Board, it expressed its general agreement that the Board be restructured with a view to streamlining the structure thereof so as to improve the efficiency of the Rules Board.

2.37 The previous Rules Board also approved the following amendments to improve the rules of court in general -

- (a) the amendment of rule 70 of the High Court Rules, which deals with attorney's costs, so as to empower the taxing master to take certain steps if a party does not attend the taxation or if parties do not behave at a taxation; and
- (b) the amendment of rule 4 of the Admiralty Proceedings Rules to correct the wording of sub-rule (7)(b)(ii) which deals with the instances when a release warrant in a matter in which property has been arrested or attached may be issued.

The Secretariat of the Rules Board

2.38 During the year under review, the Secretariat performed its duties which include the following (although not all the posts have been filled):

- (a) Studying existing court rules and making representations for their amendment.
- (b) Making recommendations and drawing up draft rules.
- (c) Submitting draft rules and other documents to the Board.
- (d) Dealing with the general administration of the Board.

2.39 The possibility of the relocation of the Secretariat to the Sanlam Centre where the Secretariat of the Law Commission is also situated, is investigated. The relocation of the Secretariat will ensure greater access to information systems which in turn will result in better service delivery to the Board and its customers.

2.40 Apart from its general functions, the Secretariat was during the period under review also involved in the drafting and publishing of rules regulating electoral disputes and complaints about infringements of the Electoral Code of Conduct and the determination of courts having jurisdiction.

Chapter 2



Legal Services Branch

2.41 This Branch is directly involved in the core functions of the Department in that it concerns itself with ensuring an efficient legal administration, overseeing the establishment and distribution of courts and other appropriate structures relating to the administration of justice, as well as ensuring that the administration of courts and community justice structures are sound and in line with the mission, values and vision of the Department.

2.42 The Branch consists of two Chief Directorates, namely the Chief Directorate of Administration of Courts and Witness Protection and the Chief Directorate of Legal Administration, as well as the following Directorates which are listed below:

Chief Directorate: Legal Administration

- Directorate of International Affairs
- Directorate of Law Enforcement
- Directorate of Legal Process

Chief Directorate: Administration of Courts and Witness Protection

- Directorate of Administration of Courts and Community Justice
- Directorate of Community Service
- Directorate of Crime
- Directorate of Witness Protection
- Child and Youth Affairs
- The Office of the Chief Family Advocate

Chief Directorate of Legal Administration

Directorate: International Affairs

Introduction

2.43 The functions of the Directorate consist mainly of the identification and researching of legal questions that relate to matters pertaining to the administration of justice between South Africa and other states. The Directorate is involved in direct liaison and negotiations at administrative and functional official level with foreign states in an effort to promote international legal cooperation and for the possible conclusion of extradition and mutual legal assistance agreements. The Directorate also aims to

establish greater uniformity between the legal systems of Southern African states, especially with the Southern African Development Community (SADC), and thus promote and establish an efficient administration of justice in the Southern African region. The Directorate coordinates human rights issues under the auspices of the United Nations and organisation of African Unity.

2.44 The current activities of the Directorate can be divided into six broad categories:

- The establishment of regular liaison with Southern African states within the SADC. Matters relating to the administration of justice that demand the attention of these states and South Africa have been identified and are receiving attention
- The coordination of all Commonwealth matters pertaining to the administration of justice
- Interaction with other international bodies, such as the United Nations, the Hague Conference and UNIDROIT
- Interaction with other foreign states outside Southern Africa
- Negotiation of extradition and mutual legal assistance agreements with countries
- Preparation of Cabinet and Parliament documentation for ratification of human rights treaties, including report writing

Initiatives within the SADC

Establishment of the SADC Legal Sector

2.45 The SADC Summit meeting, held in Mauritius from 7 - 14 September 1999, established the SADC Legal Sector. At its meeting held from 10 - 11 February 1999 in Lusaka, Zambia, the SADC Council of Ministers approved the allocation of the SADC Legal Sector to Namibia for coordination. Mr I S Thindisa, Deputy Director of the Directorate, has been appointed as a national contact person to the Sector.

The SADC Tribunal

2.46 At a meeting of Justice Ministers/Attorneys-General under the auspices of the SADC Legal Sector held in June 1999 in Namibia, it was agreed that the Draft Protocol on the SADC Tribunal needs further consideration by senior

legal experts before approval by the former and adoption by the SADC Summit. This project includes the development of Rules of Procedure which are to be adopted together with the Protocol on the Tribunal. The SADC Tribunal will, after the Protocol has come into force, be a crucial SADC institution to deal with some of the disputes which constantly confront the region.

Interaction with other International Bodies

UNIDROIT

2.47 At its 52nd Session held in Rome on 27 November 1998, the General Assembly appointed to the UNIDROIT General Assembly, *inter alia*, Judge Nhlapo of the SA Law Commission as representative of South Africa.

United Nations (UN)

2.48 *National Action Plan for the Promotion and Protection of Human Rights (NAP)*

The NAP for the Promotion and Protection of Human Rights is Government's response to the recommendation of the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in Vienna, Austria in 1993. Each State could consider the desirability of drawing up a national action plan identifying steps whereby the State would improve the protection and promotion of human rights.

Since coming into office, our Government has fully associated itself with the Vienna Declaration and Programme of Action. The Cabinet, in line herewith, mandated the Department as a lead Department on human rights to initiate the process of developing the NAP. The process was a collective effort of civil society, in particular the South African Human Rights Commission, Commission on Gender Equality and all Government Departments. Two committees were formed in which all these structures were represented via the NAP Steering Committee and the Coordinating Committee. The NAP document was launched on 10 December 1998 nationally and internationally with the UN in New York on the day

on which the community of nations was celebrating the 50th anniversary of the Universal Declaration of Human Rights.

The two above-mentioned committees need to be transformed into a body that could monitor the implementation of the NAP within the Government. Cabinet has consequently been approached and it has approved that the Minister of Justice should convene a meeting to establish the National Consultative Forum on Human Rights aimed at monitoring the NAP.

Human Rights Instruments

On 10 December 1998, Parliament ratified the following Conventions:

- The International Covenant on Civil and Political Rights
- The Convention on the Elimination of All Forms of Racial Discrimination
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The Convention on the Prevention and Punishment of the Crime of Genocide

International Criminal Court (ICC) Project

Cabinet has mandated the Department to lead the South African delegation to the United Nations Preparatory Commission Sessions, which are aimed at negotiating and concluding Rules of Procedure and Evidence, Elements of Crime and Definition of the Crime of Aggression. This mandate is an extension of the one leading to the adoption of the Statute for the ICC. The Department is represented by the Directorate and the Policy Unit at the Preparatory Commission Session.

Following the signing of the Statute by South Africa in July 1998, the Department has set up an Inter-departmental Committee on the ratification of the Statute. The main purpose of the committee is to discuss and agree on the domestic legislation required by the Statute.

Furthermore, the Department hosted a SADC consultative workshop on the ICC from 4 - 9 July 1998. The outcome of the workshop was the following:

- A ratification kit
- Model Enabling Legislation
- A Statement of Common Understanding

Commonwealth

2.49 The 1999 meeting of Law Ministers of the Commonwealth was held at the Hilton Hotel, Port of Spain, Trinidad and Tobago from 5 - 7 May 1999. It took place just a few days after the 50th Anniversary of the London Declaration, which laid the foundations of the modern Commonwealth. The meeting was attended by Ministers, Attorneys-General and other law officers and officials from 46 countries and 2 overseas territories.

The following issues were discussed at the Law Ministers of the Commonwealth:

- Good governance
- Foreign and International Law Issues
- Human Rights Issues

The meeting agreed on actions to be taken by member states on most of the issues so as to promote effective and sustainable cooperation between member states. Of importance is that South Africa indicated that there should be a shift from the meeting's operandi, from being informative towards action plan-oriented, and this was agreed to by the meeting.

Organisation of African Unity (OAU)

2.50 *Protocol on an African Court on Human and Peoples' Rights*

Documentation with regard to the ratification of the Protocol on the establishment of an African Court on Human and Peoples' Rights were submitted to Cabinet during February 1999. Should Parliament approve ratification, an instrument of ratification will be deposited with the Secretary-General of the OAU.

African Renaissance

The Directorate represents the Department on the Inter-departmental Committee on African Renaissance, and has made inputs when required.

African Charter on Human and Peoples' Rights (the Charter): Initial Report

South Africa acceded to the Charter in July 1996. The Charter requires that a country acceding to it should submit a report to the African Commission on Human and Peoples' Rights after two years of accession. A report was drafted indicating the legislative and other measures taken with a view to give effect to the rights and freedoms recognised and guaranteed in the Charter.

The previous Deputy Minister of Justice (Dr Tshabalala-Msimang) led a South African delegation to present the report at a meeting of the African Commission from 26 April to 4 May 1999 in Bujumbura, Burundi. A periodical report is to be presented again in July 2000.

Hosting of the African Commission Session on Human and Peoples' Rights (SAHCR)

2.51 The Department, in consultation with the SAHCR and the Department of Foreign Affairs, is busy with preparatory work for the hosting of the 27th Session of the African Commission. A response from the OAU is expected with regard to financial implications in hosting the session. Cabinet will then be approached for approval and the necessary funding. The 27th Session is likely to be in Oct/Nov 2000.

Non-aligned Movement (NAM)

2.52 During a NAM Summit meeting held in Durban from 29 August to 3 September 1998, South Africa was appointed chair of the NAM. The Department participated during the organising of the said Summit and the Directorate played the major role in this regard. Of importance is that the Summit agreed on the need to ratify the Statute for the ICC.

Negotiation of extradition and mutual legal assistance agreements

2.53 The Committee on Extradition and Mutual Legal Assistance in Criminal Matters deals with the negotiation of treaties with foreign

countries and the European Union. The following were the outcomes of negotiations during the year under review:

- The conclusion of an Extradition Treaty with Australia (this Treaty is currently before Parliament for ratification)
- The finalisation of Extradition and Mutual Legal Assistance Treaties with the United States of America
- The finalisation of Extradition and Mutual Legal Assistance Treaties with Hong Kong
- The acceptance of South Africa as member of the EU Convention on Extradition

Other initiatives

9th International Anti-Corruption Conference

2.54 The Directorate played a major role in the preparations for the hosting of this Conference by South Africa. An official of the Directorate has been appointed as a coordinator for the Conference. Various subcommittees have been established to attend to matters relating to the conference, which is scheduled for 10 to 15 October 1999.

The Directorate of Law Liability

2.55 This Directorate, which has as its main objective to deal with law enforcement matters effectively, consists of the

Subdirectorate: Legal Liability and the Subdirectorate: Diverse Legal Matters.

Subdirectorate: Legal Liability

2.56 This Subdirectorate advises the Minister and/or the Director-General, as the case may be, on dealing with civil litigation on behalf of and against the Minister and/or the Director-General and/or his or her officers arising from the performance of official duties. During the year under review 180 new civil claims, 186 motion applications and 91 *ad hoc* matters, which are connected to civil litigation, were received.

2.57 In addition, the Subdirectorate is responsible for the collection of all departmental debt from the *in mora* stage until finalisation. During the year under review 1545 cases were dealt with. The causes of action are diverse and include breach of contract, salary overpayments and under-recovery of taxes.

2.58 Dealing with losses of state funds and property form a large part of the Subdirectorate's activities. Despite the fact that there is general compliance with instructions on the handling of state funds and property, losses do still occur.

2.59 During the year under review 495 losses of state funds and 205 losses of state property occurred. The total loss of state funds experienced is R12 387 146,19 and comprises the following:

Gauteng/Western Cape/Free State/ Northern Cape:	R 1 208 634,40
KwaZulu-Natal:	R10 764 772,07
Mpumalanga:	R 115 248,95
North West Province:	R 138 462,15
Eastern Cape:	R 1 627,93
Northern Province:	R 158 400,69

The following losses, which occurred through theft, fraud, robberies and burglaries, are included in the total of R12 387 146,19:

Magistrate, Krugersdorp:	R129 113,32
National Office, Pretoria:	R505 311,33
Magistrate, Tshitale:	R 11 240,00
Magistrate, Boksburg:	R 69 727,00
Magistrate, Bloemfontein:	R 24 147,32
State Attorney, Bloemfontein:	R 25 406,90
Magistrate, Bethal:	R 45 000,00

2.60 With reference to the losses incurred as a result of burglary, it needs to be mentioned that there is no physical security at most magistrates' offices after hours, as security services cannot be provided owing to the lack of adequate funds.

2.61 The total sum of stolen warrant vouchers that were encashed during the year under review before payment could be stopped, amounts to a potential loss of R2 890 781,49. The actual loss suffered by the Department owing to the encashment of stolen warrant vouchers will only be clear after all the incidents have been investigated and the steps taken to recover the money have been finalised.

2.62 The following recoveries were, *inter alia*, effected in the year under review:

Magistrate, Kempton Park:

±R93 000,00

Magistrate, Ndwedwe:

R353 578,00

2.63 The Subdirectorate performs accountability assessments on losses in terms of section 34 of the Exchequer Act, 1975 (Act 66 of 1975) and the relevant Treasury Instructions. Where applicable, officers are held accountable. The writing off of irrecoverable legal costs, monies owed in terms of contribution orders made under the Child Care Act, 1983 (Act 74 of 1983) and transport claims, are also dealt with.

Subdirectorate: Diverse Legal Matters

2.64 The Diverse Legal Matters Subdirectorate deals with a diversity of matters. A brief summary of the activities of the Subdirectorate is given hereunder.

Extraditions

2.65 The Republic has extradition agreements and conventions with several countries. A request from such countries for the extradition of persons is usually made through diplomatic channels. The channels through which a request is advanced may depend on the extradition agreement in question. The Act provides for extradition of offenders to three categories of countries:

- where there exists an extradition agreement between the Republic of South Africa and the requesting State (sec. 3(1); or

- no extradition agreement exists, but the President has consented to the surrender of such a person (sec. 3(2); or
- the requesting country is a designated State. In terms of sec. 2 (1) of the Act, the President may designate any foreign State for the purposes of sec. 3 (3).

2.66 A total of 25 applications for extradition of persons by and to the Republic were received during the period under review.

International cooperation in Criminal Matters

2.67 In terms of section 7 of the International Cooperation in Criminal Matters Act, 1996 (Act 75 of 1996), a request by a court or tribunal exercising jurisdiction in a foreign State, for assistance in obtaining evidence in the Republic for use in such foreign State shall be submitted to the Director-General: Justice and the Minister of Justice for their consideration. These requests are received when proceedings have been instituted in a court or tribunal exercising jurisdiction in the requesting State; or there are reasonable grounds for believing that an offence has been committed in the requesting State or that it is necessary to determine whether an offence has been so committed and that an investigation in respect thereof is being conducted in the requesting State. After the Minister's approval, the documents pertaining to each request are forwarded to the Magistrate within whose area of jurisdiction the witness resides.

2.68 A total of 20 applications for assistance in criminal matters were received during the year under review.

Reciprocal enforcement of maintenance orders

2.69 The Reciprocal Enforcement of Maintenance Orders Act, 1963 (Act 80 of 1963) provides for the proclamation of countries and territories in which, on a reciprocal basis with South Africa, final and provisional maintenance orders made in the one proclaimed country or area, may be enforceable after registration or confirmation in the other proclaimed country or territory.

2.70 This Subdirectorate has received 144 new cases of final and provisional maintenance orders for attention during the period under review.

Rogatory Commissions

2.71 Rogatory Commissions are requests received from foreign countries for the taking of evidence by way of commission from a witness who is resident in South Africa. Effect is given to these requests in terms of section 33(1) of the Supreme Court Act, 1959 (Act 59 of 1959) without requiring the parties or their agents to make applications to the Court. The papers are submitted before a judge for the necessary order for the appointment of a commissioner to take the evidence of the witness.

2.72 A total number of 29 requests for Rogatory Commissions were received during the period under review.

Peace Officers

2.73 The Minister may, in terms of section 334 of the Criminal Procedure Act, 1977, by notice in the Government Gazette, declare certain persons to be peace officers by virtue of their office. The Minister may determine the area within which they may act, the powers which they may exercise and the offences in respect of which they may exercise their powers.

2.74 Several requests were dealt with during the year under review.

Estates

2.75 Intestate estates of Black persons are administered in terms of section 23 of the Black Administration Act, 1927 (Act 38 of 1927), read with the Regulations for the Administration and Distribution of the Estates of Deceased Blacks, promulgated under Government Notice No R.200 of 6 February 1987.

2.76 The Subdirectorate also deals with intestate estates of Black persons where there is a male successor, but where the Minister is of the opinion in terms of the said Regulations that the application of Black law and custom makes the inheritance of the whole or a part of the deceased's property inequitable or inappropriate. Should a Black person die intestate, having no male successor, his estate devolves, in terms of Black law and custom, upon the President as paramount chief of all Black persons in the Republic. In such cases the President is authorised to make donations to, for example, other family members of the deceased, and the Subdirectorate pre-

pare the necessary submissions to be made to the President.

2.77 During the period under review 40 cases were dealt with. The Black Administration Act as well as the Regulations are currently being revisited in order to bring them up to date with the new developments in South Africa.

Petitions in terms of section 327 of the Criminal Procedure Act, 1977

2.78 In terms of section 327 of the Criminal Procedure Act, 1977, a person who is convicted of an offence in a court and who has exhausted all the recognised legal procedures pertaining to appeal or review, may address the Minister by way of a petition, together with the relevant affidavits, if he claims that further evidence has since become available that materially affects his conviction. The Minister may then, if he considers that such further evidence, if true, might reasonably affect the conviction, direct that the petition and the relevant affidavits be referred back to the trial court.

2.79 Four requests were received during the year under review.

Appointment of a Magistrate and Designation of a Judge of an inquest

2.80 The Minister of any person authorised thereto by him may, where he deems it expedient, or where it is uncertain whether a death has occurred in or outside the Republic, designate any regional magistrate or magistrate in terms of section 6(c) of the Inquests Act, 1959, to hold an inquest at a designated place. In terms of section 6(d) of the said Act, the Minister may also request a judge-president of a provincial division of the High Court of South Africa to designate a judge of the High Court, notwithstanding anything to the contrary in any other law, to hold an inquest at any place, determined from time to time by such a judge. During the year under review 33 applications were received by this Subdirectorate.

Assessors at inquests

2.81 Section 9(1) of the Inquests Act, 1959 (Act 58 of 1959) provides that a judge may, of his own accord, and a regional magistrate or a magistrate may, with the approval of the Minister or any person acting under the authority of the Minister, summon to his assistance any

person who has, or any two persons who have, in his opinion, experience in the administration of justice or skill in any matter which may have to be considered at an inquest, to sit with him at an inquest as assessors.

2.82 During the year under review five applications for the appointment of assessors were received.

Increased fees of assessors and witnesses

• Assessors

2.83 In terms of the provisions of the code: Accounts, Annexure H, expert assessors are currently being remunerated at R360,00 per day or part of a day of actual attendance in court or in chambers when directed by the presiding judge, and lay assessors at R20,00 per hour or part thereof with a maximum of R100,00 per day of actual attendance in court or in chambers on request by the presiding officer. These fees can be increased in exceptional circumstances. In cases of exceptional difficulty or of great volume, reasonable increments in fees were approved.

2.84 During the year under review 24 requests for increased fees have been received.

• Witnesses

2.85 In terms of the Regulations prescribing the tariff of Allowances payable to Witnesses in Criminal Proceedings (Government Notice No R.2596 of 1 November 1991), the reasonable actual travel and subsistence expenditure may be remunerated to a witness. However, should a witness claim an amount which is more than R400,00 per day for income forfeited, the claim has to be submitted to the National Office for consideration.

2.86 A total of four requests for increased fees were received during the year under review.

Attorneys Fidelity Fund

2.87 In terms of section 46 of the Attorneys Act, 1979 (Act 53 of 1979), the Attorneys Fidelity Fund Board of Control may make certain grants to the Fidelity Fund (for, amongst other things, education or research in law and for the furtherance of the administration of justice) with the approval of the Minister.

2.88 During the period under review, several requests in this regard were received from the Attorneys Fidelity Fund Board of Control and dealt with.

Estreated Bail Money

2.89 In terms of section 66 and 67 of the Criminal Procedure Act, 1977 bail may be estreated to the State under certain circumstances. The authority to remit the whole or any part of the bail money was delegated to the magistrates to decide on the repayment of estreated bail.

2.90 However, during the year under review, this Subdirectorate had to deal with 48 applications for the remittance of estreated bail money.

The Directorate of Legal Process

2.91 The Directorate aims at maintaining functional, effective and fair legal processes and consists of the administration of Legal Process Subdirectorate and the Legal Planning Subdirectorate.

Subdirectorate: Administration of Legal Process

2.92 This Subdirectorate deals with a variety of legal matters. The following is a brief review of the Subdirectorate's activities during the period under review:

Representations arising from criminal and civil hearings, inquests and the activities of Masters

2.93 This task, which constitutes the largest volume of work, involves contentious matters that have to be handled with great circumspection. A distinction may be drawn between representations regarding verdicts of the judiciary (judges, magistrates and commissioners of small claims courts), prosecutions by directors of public prosecutions and state prosecutors, and the conduct of other officers of the court, legal representatives and masters. Information on such cases is obtained from the relevant parties and, if necessary, perspective on the matter is provided. As far as possible, efforts are made to provide the person making the representations with a satisfactory answer. If it appears that there are grounds for a specific complaint, steps are taken to prevent a recurrence of the

conduct concerned in the future. In this regard it has to be borne in mind that there may be no interference with a discretion conferred by law.

2.94 In all, 722 representations were received in this regard and 49 memoranda on such matters were submitted to the Minister, the Deputy Minister and the Director-General.

Representations arising from maintenance matters

2.95 It is the task of the Subdirectorate to investigate representations that result from maintenance matters and, where necessary, to take steps to solve problems. In all cases the complainant has to be provided with a satisfactory answer.

2.96 The complaints received from persons seeking maintenance, mainly relate to problems experienced with the enforcement of maintenance orders as a result of, *inter alia*, the inability to trace maintenance defaulters, sentences considered as being ineffective, maintenance officers considered as being inexperienced and delays in the finalisation of maintenance matters. In contrast, persons liable to pay maintenance complain of their inability to comply with the maintenance order and of abuse of the maintenance system by those who receive maintenance. In addition to the fact that individual cases are taken up with the offices concerned in an effort to solve the particular individual's problem and/or furnish him or her with a satisfactory reply, the Department has embarked upon a review of various aspects of the present maintenance system.

Parliamentary Queries with regard to the Administration of Justice

2.97 Numerous queries on the administration of justice are annually addressed to the Minister during parliamentary sessions. Many of the questions relate to statistics that are not kept by the Department. The desired information is obtained by the Subdirectorate from various sources, processed and submitted to the Minister for consideration.

2.98 During the year under review 11 questions were received. Answers to these were prepared and submitted to the Minister for his consideration.

Information to Magistrates, Directors of Public Prosecutions, Masters, etc

2.99 Matters relating to the administration of justice are regularly brought to the attention of magistrates, directors of public prosecutions and masters without interfering with the discretion granted them by law.

Requests for Legal Opinions from the State Law Advisers

2.100 Occasionally, an officer in the Department identifies a matter that requires research and, possibly, a legal opinion from the State Law Advisers. During the period under review the Subdirectorate drafted submissions on problems experienced in practice with the interpretation of certain laws and proclamations and submitted them to the State Law Advisers for legal opinions.

Mandates in terms of Section 111 of the Criminal Procedure Act, 1977

2.101 In terms of section 111 of the Criminal Procedure Act, 1977 the Minister could order an offence committed in the jurisdiction of one attorney-general (director of public prosecutions) to be tried in the jurisdiction of another. (It should be mentioned that with the coming into operation of the National Prosecuting Authority Act, 1998 (Act 32 of 1998), section 111 of the Criminal Procedure Act, 1977 was amended.) In terms of the new provisions, the National Director of Public Prosecutions is authorised to order an offence committed in the jurisdiction of one director of public prosecutions to be tried in the jurisdiction of another. During the period under review nine submissions in this regard were made. As was stated above, this function has now been taken over by the National Director.

Subdirectorate: Legal Planning

2.102 During the year under review the Legal Planning Subdirectorate dealt with the following matters:

Pardon/Reprieve in respect of Convictions

2.103 In terms of section 84(2)(j) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) the President can pardon or reprieve offenders. He or she can furthermore remit fines, penalties or forfeitures.

2.104 During the year under review applications for pardon (to have convictions removed from a person's record) and reprieve (to commute or change a sentence) increased in number. Each case was considered on its merits and, where necessary, the President was accordingly advised. In all, 356 applications were received. In 90 cases pardon was granted. There were no cases of reprieve.

Exemption in terms of Section 16C of the Criminal Law Second Amendment Act, 1992 (Act 126 of 1992)

2.105 Chapter 4A (sections 16A, 16B, 16C and 16D) of the Criminal Law Second Amendment Act, 1992 deals with offences relating to military, paramilitary or similar operations and weapons, ammunition, explosives or other explosive devices. Section 16C provides that an employer may apply for temporary exemption from the provisions of section 16A(1). The Minister of Justice may, in consultation with the Minister of Safety and Security, exempt an employer, employee or group of employees for such a period and on such conditions as he may deem fit.

2.106 Since the Chapter came into operation on 1 April 1999, 15 applications have been received. Discussions have already been held with the South African Police Services and the Office of the National Director of Public Prosecutions with regard to the implementation of the Act. The Minister was advised comprehensively about possible policies that he will have to approve in concurrence with the Minister of Safety and Security.

Chief Directorate of Administration of Courts and Witness Protection

The Directorate of Administration of Courts and Community Justice

2.107 This Directorate is composed of:

- the Subdirectorate: Court Management which is responsible for managing the administration of courts; and
- the Division of Statutory Appointments, which is concerned mainly with administrative duties incidental

to statutory appointments in respect of the High Court and the lower courts.

Subdirectorate: Court Management

Functions

2.108 The Subdirectorate: Court Management performs the following functions:

- (1) The research into the distribution and performance of courts, periodical courts, specialised courts and alternative dispute resolution fora.
- (2) The demarcation of magisterial districts.
- (3) The establishing and/or relocation of courts, periodical courts and specialised courts.
- (4) The planning and implementation of uniform and user-friendly court systems and procedures.
- (5) The monitoring of effective court performance (including court rolls).
- (6) The monitoring of the assessor system.
- (7) The maintaining of criminal jurisdiction of lower courts.
- (8) The decriminalisation of lesser offences.
- (9) The establishing and/or relocation of small claims courts and alternative dispute resolution fora.
- (10) The coordination of inter-action between formal judicial structures and traditional courts and community justice structures.
- (11) The appointment of presiding officers for alternative dispute resolution fora.

Research into distribution and performance of Courts

Periodical Courts

2.109 Numerous requests were received from magistrates' offices for the increase of days for the sitting of periodical courts. These requests were based on the fact that there was an increase in the volume of work performed at the periodical courts. An investigation into the volume of work, based on departmental reports and the verification of figures is done. Since the implementation of the Judicial Manual, these matters are referred to the Regional Heads: Judiciary to decide on the days on which the court sessions of a periodical court will take place.

Re-demarcation of Magisterial Boundaries

2.110 The Department of Justice is committed to making justice accessible to all. One of the projects concentrating on this goal is the re-demarcation of magisterial boundaries according to the new dispensation. The Minister approved the establishment of a National Steering Committee and Regional Steering Committees to oversee the process. The Regional Steering Committees are presently consulting with all interested parties such as local government, communities, South African Police Services etc. in all the magisterial districts. The re-demarcation process of the Department has been slowed down to allow the Municipal Demarcation Board to determine the boundaries that are to be incorporated and/or combined in the area of another municipality in terms of the Local Government: Municipal Structures Act. The process of the re-demarcation of magisterial boundaries will be finalised thereafter.

Establishing and/or relocation of Courts

Divorce Courts

2.111 The itinerary for the various Divorce Courts for the year 1999 was prepared and gazetted in the Government Gazette. The places for sittings have also been expanded to include various rural areas, for instance Mmabatho, Mogwase and Wolmaransstad in the Central Divorce Court. In the North Eastern Divorce Court, sittings has been extended to include Empangeni, Lebowakgomo, New Castle and Pietersburg. With regard to the Southern Divorce Court sittings will now also take place at Mitchells Plain, Queenstown and Welkom.

The planning and implementation of Uniform and User-friendly Court System and Procedures

Pre-trial Service

2.112 The Pre-trial Service system was a joint undertaking between the Vera Institute and the Minister of Justice. The system is designed to identify and track accused offenders and witnesses through the justice system. The PTS-office interviews and photographs accused, verifies their information and submits it to the

courts for consideration in bail decisions. If accused are released, the PTS-office also monitors whether their bail conditions (if set) are met. The system has enabled the courts to make better bail decisions. The effectiveness of the Pre-trial Service has meant that when magistrates consider petty offences, they set conditions for bail, rather than just consider monetary amounts. It has also meant that dangerous persons are less likely to be released on bail, and petty offenders are released on warning or affordable bail.

2.113 Pilot projects have been opened at the following offices: Mitchells Plain, Durban and Johannesburg. This project will now be mainstreamed into the activities of the Department. The extension of the system to other offices, namely Pretoria, Pietersburg, Port Elizabeth, East London, Umtata, Bloemfontein and Rustenburg is being investigated at present.

Commercial Courts

2.114 After an investigation by a team consisting of officials from the Department of Justice and Business Against Crime, the National Director of Public Prosecutions and the Minister agreed to the establishment of a pilot project for such a court for Pretoria. A Steering Committee for the establishment of a Commercial Court at Pretoria has been established. This is a venture between the South African Police Services, Department of Justice and Business Against Crime.

Family Courts

2.115 Prior to 1993, the legislative framework of courts for the hearing and determination of divorce, separation and nullity of marriage actions, and ancillaries thereto, separated court facilities and structures for different race groups. This was changed and all courts are now open to all citizens. The previous Minister of Justice, Dr A M Omar, approved the implementation on a pilot basis of user-friendly separate Family Courts in five centres in the country, via Port Elizabeth, Johannesburg, Durban, Cape Town and Lebowakgomo. This project has as basis the changes ef-

fectured by the Divorce Courts Amendment Act, 1997 (Act 65 of 1997), to the Black Administration Act, 1927. The pilot has been hugely successful and plans are afoot to extend it to more courts countrywide in order to increase access to justice.

Specialised Courts for Sexual Offences

2.116 A specialised court for sexual offences was implemented in Wynberg some time ago. The experience gained from this pilot project has been such that it forms a good basis for the extension of the concept to other centres throughout the country. Besides the sexual offences court in Wynberg, new courts with full facilities for use of sexual offences courts have been built at Pietermaritzburg, Grahamstown, Somerset West, Mossel Bay, Soweto and Atlantis. In addition, 179 courts have been equipped with closed-circuit TV and/ or one-way mirrors. A task team has been set up and a business plan has been drawn to roll out sexual offences projects to other areas. The NDPP has promised his full support in this endeavour.

Reception Courts

2.117 The handling of pre-trial matters such as bail hearings, requests for postponements, etc, takes up a lot of valuable court time, especially in the Regional Courts, leading to overcrowded court rolls. In order to address this, the Minister has approved the establishment of a Reception Court in Durban as a pilot project. The programming of the necessary software is receiving attention. The establishment of Reception Courts in other centres, for example Johannesburg, is also receiving attention.

Maintenance system

2.118 A task team established to redesign the judicial maintenance system to be effective, efficient, racially integrated and sensitive to all users, compiled a report recommending new legislation in this regard. The South African Law Commission is also conducting an investigation of the entire judicial maintenance system. The Maintenance Act, 1998 has been passed as an interim measure to address problems in the mainte-

nance system. Full implementation as well as the drafting of regulations envisaged in the above-mentioned Act is receiving attention.

Lay Assessors

2.119 The Lay Assessors system has been introduced countrywide and District Assessors Committees is in place in most districts. Training of lay assessors also received attention and Justice College has given courses in several centres. Training in the form of discussions and workshops have also been organised by magistrates. Cluster Heads and heads of offices have been requested to compile lists of suitable persons who can be utilised as assessors. Training of lay assessors was conducted by Justice College throughout the country.

Awaiting-trial Prisoners

2.120 The number of awaiting-trial prisoners is growing rapidly and overcrowded prisons are no longer in a position to accept unsentenced prisoners. In addition, overcrowding of the prisons presents a security risk and has a detrimental effect on the management and control of prisoners as well as the smooth functioning of the entire criminal justice system.

2.121 To deal with this more effectively, the Integrated Justice System Board, which is looking at cross-cutting issues between the NCPS departments, approved the launching of an Awaiting-trial Prisoners Project during March 1999. A collective action was identified within the Departments of Justice, SAPS and Correctional Services to reduce the number of awaiting-trial prisoners at the following prisons: Durban Medium A; Empangeni; Johannesburg Medium A; Pretoria Local Prison; Pietermaritzburg and Port Elizabeth (St Albans).

2.122 An integrated approach was adopted. All cases are reviewed on an individual basis by a case review team consisting of investigators, prosecutors and correctional services officials. A change implementation team representing the relevant departments, takes the lessons learnt from the case review team and consolidates recommendations for implementa-

tion on a continuous improvement basis. A management team oversee the activities of each pilot project.

2.123 The project has been highly successful thus far. In the few months it has been operative, it has resulted in the release of several hundred awaiting-trial prisoners from the system, whether by way of -

- arranging affordable bail;
- bringing trials forward; and/or
- deciding to withdraw cases because case evidence does not warrant trials.

Key elements of the success of the project is -

- that the operation was developed by the role players themselves for the specific circumstances at the specific centres;
- it relies strongly on a full-time dedicated team; and
- it eases the case loads of detectives.

2.124 The project has also led to the strengthening of working relationships between the Department of Justice, the South African Police Services and the Department of Correctional Services. Investigating Officials became keen to assist the members allocated to the project in the realisation that their cases would be finalised earlier. Correctional Services became more effective in ensuring that prisoners were brought to court on the receipt of requisitions, realising that prison numbers were being reduced.

Parliamentary Questions with regard to the administration of justice

2.125 Numerous questions on the administration of justice are addressed to the Minister annually during parliamentary sessions. Many of the questions relate to statistics that are not kept by the Department. The desired information is obtained by the Subdirectorate from a variety of sources, processed and submitted to the Minister for consideration. During the year under review various queries were received. Answers to these were prepared and submitted to the Minister.

Requests for Legal opinions from the State Law Advisers

2.126 Occasionally an officer in the

Department identifies a matter that requires research and, possibly, a legal opinion from the State Law Advisers as well as the scrutinising of government notices. During the period under review the Subdirectorate drafted several submissions on problems experienced in practice with the interpretation of certain laws, proclamations, and the wording of government notices, and submitted them to the State Law Advisers for a legal opinion.

National Steering Committee on Court Management

2.127 The National Steering Committee on Court Management - which was formed to assist with the implementation of the cluster system and court management in general - was expanded to include representatives from the regional Court Presidents, the Office of the National Director of Public Prosecutions, the Administration (on regional and national level), as well as Justice College. This Committee is at present also investigating matters such as a single independent judiciary, the Regional Court Cluster System, the Prosecuting Cluster System, management structures at regional level, and the implementation of the Judicial, Administration and Prosecuting Manuals.

Division: Statutory Appointments: High and Lower Courts

Small Claims Courts

2.128 Small Claims Courts are established in terms of section 2 of the Small Claims Courts Act, 1984 (Act 61 of 1984) in order to make justice more accessible to the people in the street. Any claim worth R3 000 or less, can be referred to the Small Claims Court. Litigants do not need attorneys and can state their own case, which makes the system also much more affordable to the average man in the street.

2.129 At present there are approximately 130 Small Claims Courts operating in the Republic of South Africa. The establishment of more small claims courts, especially for the previously disadvantaged communities and rural communities, are receiving attention. During the past year, ten Small Claims Courts were established, namely

at Thohoyandou, Kriel, Giyani, Thabamoo, Cullinan, Mafikeng, Umbumbulu, Emlazi, Ritavi and Bolobedu. Three areas were added to existing Small Claims Courts in order to also help the residents in those areas, namely Petrus Steyn was added to the area of the Small Claims Court for Heilbron; Clanwilliam was added to the Small Claims Court for the area of Vredendal; and Amersfoort was added to the area of the Small Claims Court for Volksrust. The establishment of these courts illustrates the Department's commitment to further its goal of making justice accessible to all communities. The establishment of such courts is addressing the needs of the people in the afore-mentioned regions, whereby their small claims can be settled in an informal, inexpensive and expeditious manner.

2.130 The commissioners for small claims who preside at these Small Claims Court hearings, are admitted attorneys, admitted advocates, law lecturers from universities or retired magistrates, who do this service as a community service free of charge, for which the Department is very thankful.

2.131 More persons from previously disadvantaged communities are also volunteering to serve as commissioners for small claims or as members of Advisory Boards for Small Claims Courts. In the past year, 90 commissioners for small claims were appointed, of whom 16 are from the previously disadvantaged communities. 31 Advisory Board members were appointed, of whom 14 are from the previously disadvantaged groups.

2.132 Because of the rationalisation of the Department of Justice and the establishment of Regional Offices of Justice in every province, the function regarding the establishment of Small Claims Courts has also been delegated to the Regional Offices, except for the Western Cape and Gauteng, who do not have enough personnel yet. The Regional Offices prepare the memorandums for the Deputy Minister's approval and do all administrative work pertaining to the establishment of Small Claims Courts and the appointment of commissioners for small claims and Advisory Board members, since July 1998. As a re-

sult the National Office now deals mainly with policy matters and coordination relating to small claims court matters and the work emanating from the Western Cape and Gauteng. National Office staff have also trained personnel from the various regions to do this work during three courses in Pretoria during 1998 and 1999.

Sheriffs

2.133 Regarding Sheriffs, the following has happened during the past year:

- The Sheriffs Amendment Act, 1998 (Act 74 of 1998) came into operation on 1 March 1999. This Amendment Act provides for the rationalisation of the sheriff's profession in South Africa. It also provides for a single dispensation for sheriffs throughout the country.
- In terms of the above-mentioned Act, the provisions of the Sheriffs Act, 1986 (Act 90 of 1986) were made applicable throughout the national territory of the Republic of South Africa; it amended certain definitions; empowered the Minister to appoint more than one sheriff for a particular area to perform the duties and functions assigned to a sheriff (the only section not implemented yet, because the regulations have not been finalised); restructured the composition of the Board for Sheriffs in order to make it more representative; provided for a disciplinary enquiry by an independent and impartial person who must be suitably qualified in law; provided that sheriffs be allowed, before they pay over the interest accrued on their trust accounts to the Fidelity Fund for Sheriffs, to deduct from it their expenses in respect of their trust accounts; further regulated the issuing of fidelity fund certificates to acting sheriffs; compels a sheriff to obtain professional indemnity insurance; provides for admission of guilt fines; provides for additional actions against a sheriff who is found guilty of improper conduct; created certain offences; extended the application of the Act to the entire national territory of the Republic of South Africa; provided for transitional provisions; and provided for related matters.

- As requested by the Portfolio Committee for Justice, the Board for Sheriffs and South African Institute for Sheriffs are holding workshops in each province in order to inform sheriffs, magistrates and clerks of the civil court regarding the implementation of the Sheriffs Amendment Act, 1998, and what is expected of them regarding the permanent appointment, acting appointment and *ad hoc* appointment of sheriffs.
- The Department has sent copies of the Sheriffs Act, 1986; the Sheriffs Amendment Act, 1998; the Regulations relating to Sheriffs, 1990, as amended; the Code of Conduct for Sheriffs; and the Code "Sheriffs" to all magistrates in the former TBVC-States and self-governing territories, with the request that they furnish copies of the documents to the sheriffs concerned. In addition, a circular letter was sent to all magistrates, informing them of the implications of the implementation of the Sheriffs Amendment Act, 1998.
- At the opening of the first meeting of the new, more representative Board for Sheriffs, the former Minister requested the members to again look at the recommendations of the Working Group investigating the Rationalisation of the Sheriff's Profession, submitted to the Minister in January 1998, as well as the new recommendations by the South African Institute for Sheriffs in order to make the sheriff's profession more representative of race and gender. The Manager of the Board for Sheriffs has been requested for the Board's urgent comments in this regard. As soon as these have been received, the Minister will be requested to consider the recommendations received. These recommendations, if approved, will ensure that the sheriff's profession becomes more professional, representative of the community and geared to more efficient service delivery. In the interim, the Department is continuing with its programme to encourage more persons from previously disadvantaged communities to apply to be appointed as sheriffs. To assist in this regard, vacant offices of sheriffs are advertised countrywide.

- Regarding the composition of the Advisory Committee, a meeting was held on 24 August 1998, with the former Minister and Deputy Minister of Justice, who *inter alia* indicated that they wished the composition of the Advisory Committees, who advise the Minister regarding suitable applicants for appointment as sheriff, to be amended, so as to make the Advisory Committee more representative of the communities the sheriffs will serve. As a result, the Regulations relating to Sheriffs, 1990 were amended to include the following people on the Advisory Committee: The Magistrate of the district where the vacancy has occurred; a sheriff nominated by the South African Institute for Sheriffs; an attorney nominated by the local attorneys' association; the Regional Head of Justice in the province in which the vacancy occurred, or his representative; and a member of the local community.

Commissioners of Oaths

2.134 Appointments are made by the Deputy Minister in terms of section 5 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act 16 of 1963), in a person's business or personal capacity. In the past year, 557 commissioners of oaths were appointed, of whom 213 are from previously disadvantaged groups.

2.135 The National Department is also tasked with the updating of the *ex officio* list of commissioners of oaths, which was done comprehensively in July 1998 and an amendment was published in December 1998. Several requests for inclusion in the *ex officio* list of commissioners of oaths, are still receiving attention.

2.136 The function regarding Commissioners of Oaths has been delegated to the Regional Offices, except for the Western Cape and Gauteng, who do not have enough personnel yet. Personnel from the various Regional Offices were trained in Pretoria regarding this work during three courses in 1998 and 1999.

Justices of the peace

2.137 Appointments of Justices of the Peace are made by the Deputy Minister in terms of section 2(1) of the Justices of

the Peace and Commissioners of Oaths Act, 1963. In the past year, 99 Justices of the Peace were appointed, of whom 42 are from previously disadvantaged groups.

2.138 The power of arresting or granting a warrant for the arrest of a person suspected of having committed a crime, is one of the most important duties conferred on a Justice of the Peace.

2.139 The function regarding Justices of the Peace has been delegated to the Regional Offices, except for the Western Cape and Gauteng, who do not have enough personnel yet. The personnel from various Regional Offices were trained in Pretoria regarding this work during three courses in 1998 and 1999.

Maintenance Investigators

2.140 Regarding the appointment of maintenance investigators in terms of section 5(1) of the Maintenance Act, 1998 (Act 99 of 1998), the Division: Statutory Appointments launched a research programme to develop a policy for the appointment of such maintenance investigators in December 1998. Role-players were consulted in this regard and several meetings were held. Inputs from several role-players are being considered. Maintenance investigators will assist maintenance officers in the gathering of information and the tracing of persons liable for maintenance.

Debt Collectors Council

2.141 Regarding the appointment of the Debt Collectors Council in terms of the Debt Collectors Act, 1998 (Act 114 of 1998), the Division requested nominations from a variety of role-players. The nominations and applications received, together with several representations in this regard, are receiving the attention of the Minister. The Debt Collectors Council will exercise control over the occupation of debt collectors. Debt collectors will have to register with the Council, before they are allowed to engage in the occupation of debt collecting, and they will be subject to a strict disciplinary and ethical code.

National Prosecuting Authority

2.142 The National Prosecuting Authority Act, 1998 (Act 32 of 1998) makes provision for the establishment of

a National Prosecuting Authority in accordance with the provisions of section 179 of the Constitution. Provision is made for the appointment of a National Director of Public Prosecutions and Directors of Public Prosecutions, and for their conditions of employment and those of public prosecutors. Several appointments were facilitated in the past year.

Appraisers

2.143 It is the Department's aim to bring about representivity regarding the appointment of appraisers. During the

past year, the Department appointed 93 appraisers, of whom 30 are from previously disadvantaged groups.

Judges

2.144 The higher court Bench (Judges) reflects the following composition:

Male (black)	33
Female (black)	4
Male (white)	137
Female (white)	8
TOTAL	182

2.145 During the year under review 17 permanent appointments of judges were

made. During the same period 231 appointments of acting judges were made in terms of section 10 of the Supreme Court Act, 1959 (Act 59 of 1959), and section 104(1) of the Constitution. Thirty-one motor vehicles were ordered for newly appointed judges and for the replacement of motor vehicles that had been withdrawn from the scheme.

2.146 The administrative duties connected with the following permanent appointment of judges of the High Court, made by the President of the Republic of South Africa in terms of section 104(1) of the Constitution, were performed:

Name	Race	Capacity	Division	With effect from	Reason for appointment
D M Davis	WM	Judge	Cape of Good Hope Provincial Division	19.10.1998	Existing vacancy
E L King	WM	Judge President	Cape of Good Hope Provincial Division	01.11.1998	Existing vacancy
A M Motala	BM	Judge	Cape of Good Hope Provincial Division	01.11.1998	Existing vacancy
F Kgomo	BM	Judge	Northern Cape Provincial Division	01.11.1998	Existing vacancy
B Pillay	IM	Judge	Natal Provincial Division	01.11.1998	Existing vacancy
N P Willis	WM	Judge	Transvaal Provincial Division	10.11.1998	Existing vacancy
T M Masipa	BF	Judge	Transvaal Provincial Division	01.12.1998	Existing vacancy
B M Ngoepe	BM	Judge President	Transvaal Provincial Division	01.01.1999	Existing vacancy
J van der Westhuizen	WM	Judge	Transvaal Provincial Division	01.01.1999	Existing vacancy
V E M Tshabala	BM	Deputy President	Natal Provincial Division	01.02.1999	Existing vacancy
J M Hlophe	BM	Deputy Judge President	Cape of Good Hope Provincial Division	18.05.1999	Existing vacancy
E H Stafford	WM	Deputy Judge President	Transvaal Provincial Division	18.05.1999	Existing vacancy
R M M Zondo	BM	Judge	Transvaal Provincial Division	18.05.1999	Existing vacancy
J V Knoll	WF	Judge	Cape of Good Hope Provincial Division	18.05.1999	Existing vacancy
Z S Peko	BM	Judge	Ciskei Provincial Division	18.05.1999	Existing vacancy
E Moosa	IM	Judge	Cape of Good Hope Provincial Division	18.05.1999	Existing vacancy
H M Musi	BM	Judge	Free State Provincial Division	21.06.1999	Existing vacancy

2.147 The administrative duties concerned with the recording of 248 appointments for acting judges, made in terms of section 10 of the High Court Act, 1959 (Act 59 of 1959) and section 104(1) of the Constitution, in the following Divisions of the High Court, were performed:

Division	Additional Judges	In an existing vacancy	In the place of a judge absent, on vacation or sick leave, or acting in another Division
Supreme Court of Appeal	6	10	-
Transvaal Provincial Division	43	16	25
Natal Provincial Division	9	3	4
Eastern Cape Provincial Division	3	-	5
Cape of Good Hope Provincial Division	10	9	24
Free State Provincial Division	1	2	5
Northern Cape Provincial Division	3	1	2
Transkei High Court	2	1	8
Ciskei High Court	1	2	-
Bophuthatswana High Court	2	1	-
Venda High Court	3	6	-
Constitutional Court	-	1	-
Labour and Labour Appeal Court	18	2	3
Land Claims Court	-	-	-

Particulars of serving judges and retired judges acting in other offices:

Name	Division	Period
H E Davies	Transkei Provincial Division	01.10.1998 - 30.06.1999
T M Mullins	Bophuthatswana Provincial Division	01.07.1998 - 31.08.1998
J H Steyn	Cape of Good Hope Provincial Division	01.07.1998 - 30.06.1999
E L King	Cape of Good Hope Provincial Division	17.10.1998 - 31.10.1998
G P C Kotze	Cape of Good Hope Provincial Division	01.07.1998 - 30.09.1998
	Free State Provincial Division	01.10.1998 - 31.01.1999
	Cape of Good Hope Provincial Division	01.01.1999 - 31.05.1999
S W McCreath	Transvaal Provincial Division	01.07.1998 - 25.09.1998 25.01.1999 - 09.04.1999
N M MacArthur	Transvaal Provincial Division	27.07.1998 - 25.09.1998 05.10.1998 - 04.12.1998

Name	Division	Period
H E Mall	Natal Provincial Division	01.07.1998 - 30.06.1999
G Gordon	Transvaal Provincial Division	01.07.1998 - 30.06.1999
J J Trengove	Cape of Good Hope Provincial Division	01.06.1998 - 30.06.1999
D J H le Roux	Transvaal Provincial Division	01.07.1998 - 02.10.1998 01.11.1998 - 31.03.1999
I G Farlam	Supreme Court of Appeal	01.07.1998 - 30.06.1999
B M Ngoepe	Supreme Court of Appeal	01.07.1998 - 30.11.1998
L S Melunsky	Supreme Court of Appeal	01.07.1998 - 30.06.1999
C Plewman	Transvaal Provincial Division	30.11.1998 only
M D J Steenkamp	Northern Cape Provincial Division	25.01.1999 - 11.04.1999
M R Madlanga	Supreme Court of Appeal	01.12.1998 - 30.06.199
J M Hlophe	Cape of Good Hope Provincial Division	01.01.1999 - 17.05.1999
F C Kirk-Cohen	Transvaal Provincial Division	15.01.1999 - 30.04.1999
D A Basson	Transvaal Provincial Division	12.04.1999 - 18.06.1999
E Cameron	Constitutional Court	01.07.1999 - 30.06.1999
E H Stafford	Transvaal Provincial Division	01.05.1999 - 17.05.1999
L Mpati	Supreme Court of Appeal	01.06.1999 - 30.06.1999
S S Ngcobo	Labour Court	01.02.1999 - 30.06.1999

Discharge from active service in terms of the applicable sections of the Judges' Remuneration and Conditions of Employment Act, 1989 (Act 88 of 1989):

Name	Discharged from active service with effect from/ deceased	Section of Act
A M van Niekerk	01.08.1998	3(1)(c)
G Friedman	13.09.1998	3(1)(a)
J M Didcott	20.10.1998	Deceased
D J H le Roux	16.10.1998	3(1)(a)
J J Chulu	26.02.1999	Deceased
J F Myburgh	15.01.1999	Resigned
J W Edeling	01.04.1999	3(1)(b)
G Leveson	13.04.1999	Deceased
L F Weyers	23.04.1999	Deceased
W A van Deventer	01.05.1999	3(1)(c)

2.148 A judge who has been discharged from active service, except a judge who has been discharged from active service in terms of section 3(1)(b), (c) or (d) of the Judges' Remuneration and Conditions of Employment Act, 1989, has to be available until he or she attains the age of 75 years to perform service for a period or periods which, in the aggregate, amount to three months a year.

Name	Division	Period
H J Preiss	Transvaal Provincial Division	01.07.1998 - 31.07.1998 01.09.1998 - 31.10.1998
S W McCreath	Transvaal Provincial Division	01.07.1998 - 31.07.1998 01.09.1998 - 31.10.1998
C F Eloff	Transvaal Provincial Division	01.07.1998 - 31.07.1998 01.09.1998 - 30.05.1999
D J Curlewis	Transvaal Provincial Division	01.07.1998 - 31.07.1998 01.09.1998 - 30.05.1999
H P van Dyk	Transvaal Provincial Division	01.07.1998 - 31.07.1998 01.09.1998 - 30.05.1999
F C Kirk-Cohen	Transvaal Provincial Division	01.07.1998 - 31.07.1998 01.09.1998 - 30.05.1999
D J H le Roux	Transvaal Provincial Division	01.12.1998 - 30.05.1999

Statistics

The following appointments for the year 1 July 1998 to 30 June 1999, were made:
(The codes are as follows: M=Male; F=Female; W=White; B=Black; C=Coloured; I=Indian.)

	WM	WF	BM	BF	CM	CF	IM	IF	Total
--	----	----	----	----	----	----	----	----	-------

A. Sheriffs - High Court:

Appointed	4	1	3	0	0	0	0	0	8
-----------	---	---	---	---	---	---	---	---	---

B. Sheriffs - Magistrates' Courts:

Appointed	4	0	1	0	0	0	0	0	5
-----------	---	---	---	---	---	---	---	---	---

C. Messenger of the Court - Magistrates' Courts

Appointed:	0	0	3	0	0	0	0	0	3
------------	---	---	---	---	---	---	---	---	---

D. Sheriffs - High and Magistrates' Courts

Appointed:	10	0	0	0	0	0	0	0	10
------------	----	---	---	---	---	---	---	---	----

E. Commissioners of Oaths:

Appointed:	344	130	31	11	3	2	30	6	557
------------	-----	-----	----	----	---	---	----	---	-----

F. Justice of the peace:

Appointed	57	7	14	2	5	6	8	0	99
Withdrawn:	17	5	0	0	0	0	1	0	23

G. Small Claims Courts:

(a) Courts established:									
(1) By Minister	10								
(2) <i>Ad hoc</i> by magistrates	5								
(b) Commissioners for small claims appointed	74	5	6	2	0	0	3	0	90

H. Appraisers:

Appointed	81	3	3	0	0	0	6	0	93
Appointments withdrawn	18	0	0	0	1	0	0	0	19
Deceased or resigned	28	2	0	0	0	0	0	0	30
Appointments after reaching the age of 70 years (extended)	53	0	0	0	1	0	1	0	55
<i>Ad hoc</i> appointments approved	0	0	0	0	0	0	0	0	0

I. Advocates:

Placed on the Roll	176	97	57	23	7	3	14	20	397
Removed from the Roll	10	5	2	1	0	1	3	2	24
Certificates issued in terms of section 8(3) of the Admission of Advocates Act, 1964	15	6	4	0	0	0	2	1	28
Senior counsel appointed	15	0	3	0	0	0	0	1	19

The Directorate of Community Services

2.149 The purpose of this Directorate is to coordinate the Department's services that are specifically directed at facilitating access to justice for communities. Its main functions are to -

- conduct research into the needs and perceptions of the communities relating to the administration of justice;
- provide legal information to communities; and
- liaise with the Legal Aid Board.

2.150 Commitment to the upliftment of disadvantaged communities is the driving force behind this Directorate which allows for a high output from the small staff.

2.151 Limited funds were secured with which to implement projects. Restrictions on spending and further cutbacks in allocated amounts hampered the complete execution of projects. Amongst other administrative tasks and project management, the following highlights were achieved during the year under review:

- The Gauteng School Art Competition highlighted a need for presentations to be done to children so that they can understand the Department's functions and their important role as witnesses and/or victims when they are needed to give evidence in trials. Fourteen schools were visited before the official prize-giving ceremony which took place in September 1998. This pilot project was handed over to this Directorate by the Deputy Minister to be rolled out to the remaining eight provinces.
- The Western Cape and Bloemfontein Provinces were next to be involved in an art competition for children from disadvantaged schools. Training of Regional Office and suboffice officials was conducted by this Directorate. Sponsorships for prizes were secured from the following companies: Crayola, Woolworths, Mague, Coca Cola, Gold and Silver Jewelry and Barclay Jewellers. Forming a strong basis for this outreach programme is the "Law Talk for Children" booklet which is in great demand from all sectors. This booklet was launched in Pinetown (KwaZulu-Natal) by the Deputy Minister in April 1998.
- The Directorate managed to forge relations with the Human Rights Commission and undertook to distribute their pamphlet relating to how they function, as well as rights education booklets entitled "My Rights, Your Rights" to all listed NGOs, CBOs and Regional Offices for further distribution to communities. These booklets were published and distributed in four official languages. Publication in the remaining official languages are planned for the near future.
- The Directorate played an important role in the compilation of a publication entitled "Justice News" which is a community newspaper dealing with everyday issues relating to the Law. It has been well received and further issues are in progress. Topics like bail, maintenance, domestic violence, witness information and witness protection etc were covered in the first publication, which went out in February/April 1999.
- The Directorate was actively involved in the preparation and execution of the Sixteen Days of Activism on No

Violence Against Women, which ran from 25 November to 10 December 1998. Civic organisations were mobilised to participate in the train initiative which ran from 28 November 1998 to February 1999. A good partnership was established with Metro and Spoornet Mainline Passenger Services, who made available train carriages which were painted with slogans declaring war against domestic violence.

- Two video productions relating to Human Rights and Maintenance are in the process of being developed. They are aimed to entertain as well as educate communities on these concepts. The unselfish participation of many justice officials in the drafting of scripts and role-playing as actors have made this a cost-effective project that will be launched soon.
- By way of showcasing service delivery during the past four years, Masakhane Week was celebrated. Because there were no funds to engage in activities nationally, the Directorate arranged with the Mpumalanga region to have the Deputy Minister launch an event which took place from 12 to 16 September 1998. Other regions participated in provincial inter-departmental activities. The main event in Mpumalanga was a great success. All pamphlets, booklets and posters that the Department had developed by then were distributed to all who attended the occasion and passers-by, as the event took place in an open air space in town.

2.152 Several Legal Aid issues became burning points which the Directorate is dealing with in conjunction with the Legal Aid Board. The Directorate also assisted with the finalisation and approval of Directives for the Legal Aid Board pertaining to persons sentenced to death.

2.153 After many administrative hiccups, an agreement for a grant of R1,5 million from the Irish Government for the establishment of several Citizen's Advice Desks in courts was secured in December 1998. Implementation of the project began with the installation of infrastructure for the desks at Pretoria, Johannesburg and Durban Magistrates' Offices. Officials to man the desks will be appointed in due course.

2.154 In an attempt to establish a fixed database regarding non-governmental advice centres for the dissemination of information and printed material to reach the community directly, a response form for the inclusion of such offices in the Community Service Mailing list was sent to approximately 490 offices. 320 responses were received and distribution has commenced by means of this list. This has proven to be a quick and effective means to communicate with these advice offices and new responses are received almost daily.

2.155 The Directorate is assisting Regional and sub-offices with the coordination of outreach programmes. It needs to be said that even though these offices do not have designated officials responsible for community outreach on a full-time basis, many participants, from Regional Heads, Directors, Magistrates, Prosecutors, administrative officials, Interpreters and clerical officials give their time voluntarily over and above their other tasks. From their reports it is apparent that, although some logistical problems were experienced, their hearts were in the projects and they were rewarded for their efforts by very eager communities, especially children from disadvantaged schools, and they could see how, by imparting information on the functions of the Department, they were contributing to the upliftment of these communities. The Directorate's success is, however, largely dependent on the participation of all officials in outreach programmes.

The Directorate of Crime

2.156 The main objective of the Directorate: Crime is the coordination of the Department's drive toward the combating of crime. The Directorate renders assistance to the Minister and the Director-General in developing programmes and activities to combat crime, in liaising with other departments, Directors of Prosecutions and communities on programmes relating to crime and crime prevention, and in working with other departments to develop anti-crime strategies. The Directorate also responds to petitions and letters received from concerned citizens and associations regarding the combating of crime.

Support for the work of the National Crime Prevention Strategy

2.157 One of the main tasks of the Directorate is the coordination of the Department's involvement in the National Crime Prevention Strategy (NCPS). The Department is involved in a number of NCPS-related structures, such as the NCPS Ministers and Directors-General Committee, the NCPS Coordinating Mechanism, the User Board of the Integrated Justice System project and the National Operational Coordinating Committee. The Department is fully represented on these structures. The Directorate also ensures that the Minister and Director-General are fully informed before meetings of such structures to make it possible for them to participate meaningfully in the proceedings.

2.158 Members of the Directorate represent the Department on a number of NCPS programme committees, such as the Rural Safety Task Team and the Domestic Violence Programme Steering Committee. Meetings are attended, the Minister and Director-General are informed of new developments and the Department's response to requests for input and participation are facilitated by the Directorate.

The Integrated Justice System (IJS)

2.159 It is generally accepted that the criminal justice system is not presently an effective enough deterrent against crime, due mainly to the time delays involved in effectively dealing with offenders. Some of the reasons for the inadequate response of the system to the problem of crime are the following:

- Inefficient and ineffective functioning within the four departments in the criminal justice cluster (Justice, Safety and Security, Welfare and Correctional Services)
- A lack of integration of the activities, systems, processes and information within the core departments
- Poor teamwork and insufficient joint training
- A low level of automation of systems and processes
- A high degree of duplication within and between departments
- A lack of timely positive identification of offenders

- A lack of timely access to accurate, complete criminal history records

2.160 In order to address the inefficiencies within the criminal justice system, Government commissioned a project called the Integrated Justice System (IJS) project. The overall aim of the project is to transform the system so that it functions in an integrated, rather than in a compartmentalised manner. The vision is that the system should operate in a fair, accessible and efficient manner. The NCPS is assisted in this project by a group of experienced private sector executives who have been provided full-time and without cost by Business Against Crime. The project is controlled by a User Board, comprising senior representatives of the NCPS departments, who in turn report to a Ministerial Committee consisting of Ministers and Directors-General from the relevant departments.

2.161 The project team has made significant progress and has completed the business process analysis of a substantial part of the present Criminal Justice System. A large number of blockages have been identified and solutions in the form of projects have been formulated. These range from very simple corrections to complex interventions.

2.162 The most obvious benefits of the IJS are as follows:

- Information pertaining to criminals and crime will be available when and where it is needed
- Persons with a criminal history who come into contact with the system will be quickly identified and prevented from preying on the public
- Decisions on bail, community diversion, prosecution, sentencing and incarceration will be based on accurate and timely information
- It will be possible for victims to be informed of the progress of a case throughout the criminal proceedings
- The Criminal Justice System will be more efficient, and cost savings will eventually lead to reduced funding requirements

2.163 The term "Quick Fixes" is used to describe the blockages which are considered to require little or no cost to address, and which can be removed within a relatively short period. Twenty-

six Quick Fixes were identified as falling within the sphere of activity of the Department of Justice. A Task Team, with representatives of all Branches within the Department, was set up by the Directorate: Crime to address the Quick Fixes. By June 1999 the Team, which met on a monthly basis, had disposed of most of the blockages.

The National Anti-Corruption Campaign

2.164 Corruption has become one of the most prominent problems facing the country. It has serious negative effects on socio-economic development, the provision of infrastructure and services, and the attractiveness of South Africa as an investment destination. In 1997, the Minister of Justice, with the assistance of the Ministers of Public Service and Administration and Provincial Affairs and Constitutional Development, was requested by Cabinet to consider proposals for the implementation of an anti-corruption campaign at national and provincial level. The Minister was instructed to address corruption in its broadest sense, and to give due consideration to the development of a programme to restore a system of social values. He was also requested to compile a consolidated report on government's efforts to deal with corruption and to consider the nature of the anti-corruption campaign, the participants and a framework for implementation.

2.165 A Public Sector Anti-Corruption Conference, which was attended by representatives of all government departments, was held in Cape Town from 10 to 11 November 1998. This was followed by a National Anti-Corruption Summit, which took place in Cape Town from 13 to 15 April 1999. In preparation for the Summit, government produced a comprehensive report on progress with the implementation of the recommendations of the Public Sector Anti-Corruption Conference. The Directorate: Crime coordinated and produced the Department of Justice's input for this report. The Directorate also assisted with preparations for the National Anti-Corruption Summit.

2.166 The Summit, which involved the private sector, NGOs, CBOs, labour, academic and religious bodies and the

public sector itself, aimed to instill a sense of urgency regarding corruption as an issue of national concern, to highlight the need for a new proactive approach to combat corruption, and to develop strategies to make the fight against corruption more effective. It led to the adoption of a number of resolutions, including the improvement of the investigation and prosecution of corruption by the establishment of special courts, the need for the rationalisation of agencies combating corruption, a review of the relevant legislation, steps to improve management systems and discipline at all levels of government and the protection of whistle-blowers and witnesses. The Office of the Public Service Commission has been assigned the task of monitoring the implementation of the resolutions. The Directorate: Crime will assist with the monitoring process within the Department of Justice.

Activities in support of the United Nations Commission on Crime Prevention and Criminal Justice (UNCCPCJ)

2.167 The United Nations Commission for Crime Prevention and Criminal Justice (UNCCPCJ) is a body of the Economic and Social Council of the General Assembly of the United Nations. The function of the Commission is to coordinate the crime combating and prevention efforts and activities of all participating countries, with a view to promoting a synergistic approach to dealing with the world-wide problem of crime. South Africa is an active participant in the work of the UNCCPCJ. Reports on progress with the implementation of relevant United Nations declarations and other crime prevention activities are regularly made by the South African correspondent to the UNCCPCJ, Adv V P Pikoli, Acting Director-General of the Department of Justice. An Inter-departmental Committee assists the national correspondent in this task. The Committee has representatives of the Departments of Safety and Security, Justice, Correctional Services, Welfare and Foreign Affairs. A member of the Directorate: Crime serves on this Committee and the Directorate facilitates and coordinates the Department's inputs. A member of the Directorate was also part of the South African delegation to the 8th

Session of the UNCCPCJ, which took place from 27 April to 6 May 1999, in Vienna, Austria.

2.168 Prior to the 8th Session, an African Regional Preparatory Meeting for the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders took place from 7 to 9 December 1998 in Kampala, Uganda. A member of the Directorate: Crime represented the Department of Justice at this meeting. The United Nations Congresses have been taking place every five years, since 1955. To date, the United Nations has held nine world congresses, which have served to improve international cooperation in crime control and have produced important guidelines and standards on crime prevention and criminal justice.

The Directorate of Witness Protection

2.169 The Directorate of Witness Protection is responsible for the safety of all persons placed on the Witness Protection Programme. It also has to provide in the basic needs of all witnesses and their dependants while they are on the Programme. This entails that persons on the Programme are provided with accommodation, an allowance to purchase food and the basic items necessary, children are sent to school if they are still attending school, medical care is provided and, where necessary, psychological treatment is paid for. In short, the Programme provides in all the basic needs, both physical and mental, of protected persons.

2.170 The Directorate consists of a Director and 9 other persons. In addition, 70 SAPS members were made available to protect and care for the protected persons.

2.171 The Programme boasts a 100% success figure. Since its inception, not a single protected person has been harmed or intimidated by the source of the danger against which the Programme protects the witnesses and their dependants. This is ascribed to the dedication of the SAPS members who ensure that the people in their care receive the necessary protection.

2.172 On average, the Programme provides for 650 persons at any given time.

2.173 New legislation, the Witness Protection and Services Act, 1998 (Act 112 of 1998) was promulgated in November 1998, but has not been put into operation as a result of, amongst others, a lack of funds, the need to create additional posts, etc. The implementation of this Act is receiving attention, but in the interim the Programme is administered in terms of section 185A of the Criminal Procedure Act, 1977 (Act 51 of 1977).

2.174 The success of the Programme is reflected in the number of convictions obtained in cases where previously prosecutions were not possible as a result of the fact that witnesses were intimidated and were not prepared to testify. Specific examples of such cases are cases relating to taxi violence, cases against gangs and syndicates and cases relating to faction fighting on the mines.

2.175 The amount budgeted for Witness Protection for the 1998/1999 financial year was R14,5 million. Witness Protection Units now exist in all the Regions.

Subdirectorates: Children and Youth affairs

2.176 The key functions of the Subdirectorates: Children and Youth Affairs are to -

- integrate the rights of children and youth into mainstream activities of the Department by ensuring children's practical access to justice;
- facilitate the implementation of Section 28 of the Constitution, the Convention on the Rights of the Child, African Charter on the Rights and Welfare of the Child (once ratified) and other relevant human rights instruments pertaining to children, in so far as it has a bearing on the Department's line functions; and
- facilitate the transformation of a legal system that is child sensitive.

2.177 The Subdirectorates: Children's Issues was transferred to the Branch: Legal Services early this year and also acquired the function "Youth Affairs" from the Chief Directorate: Communication Services. The activities for the Subdirectorates: Children and Youth Affairs for the year under review centred around the following areas:

National Programme of Action for Children

2.178 The Department is a core member of the National Programme of Action for Children (NPA) in South Africa. This year saw the Office of the President review and evaluate the NPA in order to effectively mainstream children's issues into departmental agendas. The Subdirector is a member of the Drafting Committee of the NPA (Office of the President) and played a significant role in the evaluation process and drafting of the new NPA to be launched later this year.

2.179 President Thabo Mbeki launched the Children's Promise on 19 April 1999. The Children's Promise, which is a unique fund raising campaign, will support specific projects aimed at helping create a better future for the children of the next millennium. The objectives of the Children's Promise are -

- establish national crisis centres providing for the holistic treatment of children in crisis and need;
- extend TV education and life skills to schools in rural areas;
- establish new telephone lifelines and train volunteers for children in trouble or danger;
- establish national rehabilitation centres and safety nets for street children;
- help even more children through small children's community-based organisations;
- develop child-friendly court environments in conjunction with the Department of Justice; and
- develop recreational facilities in poorer communities.

Regarding the Promises to "develop child friendly court environments in conjunction with the Department of Justice", and to "establish national crisis centres providing for the holistic treatment of children in crisis and need", the Subdirector is a member of a Working Group tasked with the responsibility of developing a business plan to realise these goals.

United Nations Development Programme-Capacity building in the field of Youth Justice

2.180 The former Minister of Justice signed a United Nations Development Programme Agreement, entitled Capa-

city Building in the Field of Youth Justice, on 15 February 1999. The purpose of the Agreement is to assist the Government and the non-governmental sector in the development of adequate responses to young offenders and to -

- enhance the capacity and use of programmes for diversion and appropriate sentencing and the development and introduction of new programmes;
- increase the protection of young people in pre-trial detention;
- strengthen the implementation of legislation in the area of juvenile justice;
- raise awareness among professionals in the criminal justice system and the general public of the transformation of juvenile justice;
- establish an independent monitoring process; and
- enhance the capacity of both governmental departments and the non-governmental sector to enter into contractual relationships for the provision of services on a grant or fee for service basis in the area of juvenile justice.

2.181 The duration of this agreement will be for two years and the net value of the Project is approximately R3 830 800-00. The Subdirector is the executing agency for the implementation of this Agreement, which will commence on 1 October 1999.

Child Protection Week 31 May - 6 June 1999

2.182 In conjunction with the Directorate: Publications, the Subdirector played a key role in developing posters, pamphlets and a colouring book called "Busi Goes to Court". The purpose of this book is to make it easier for children who have to testify in court, by explaining to them in child-friendly language what to expect when coming to court.

Development of a Policy framework for Children and Youth in the Justice System

2.183 The Subdirector recognises the urgent need for a clear, inter-sectorally developed policy framework in relation to child protection in the justice system. In this regard, the Subdirector will be engaging with the relevant stakeholders, in particular non-governmental organi-

sations, to begin the process of developing a policy framework.

Development of a programme for Child Rights training at Justice College

2.184 In conjunction with Justice College, the Subdirector is involved in the process of developing a comprehensive programme on child rights training for court personnel, the purpose of which is to sensitise court personnel on current developments in respect of child rights, so that they begin to integrate it into their daily activities.

First Ministerial OAU Conference on Human Rights in Africa (11-16 April 1999)

2.185 The Acting Director-General nominated a person from the Subdirector to accompany the Deputy Minister of Justice to attend the First Ministerial Conference on Human Rights, held in Mauritius. The Conference gathered Ministers from 46 African states out of 54 member states of the Organisation of African Unity (OAU). Member States reaffirmed their commitments to human rights and pledged cooperation with the OAU to promote and protect human rights. The Conference adopted the Grand Bay (Mauritius) Declaration and Plan of Action. The Subdirector together with the former Deputy Minister, actively participated in the shaping of the Declaration.

Inter-departmental Committee on Youth Affairs

2.186 The Inter-Departmental Committee on Youth Affairs is chaired by the National Youth Commission and the Department is represented by the Subdirector. The purpose of this Committee is to coordinate a comprehensive national framework of government services, programmes, research and initiatives affecting young men and women across all relevant departments. During the year under review, the Subdirector provided an extensive input to the National Youth Commission on programmes administered by the Department that have a bearing on youth affairs. This will be published in a publication of the National Youth Commission called the "Government Guide to Youth Services" .

Child Labour inter-sectorial Working Group Executive Committee (CLIG)

2.187 The Subdirectorate represents the Department on CLIG. The purpose of CLIG is to engage all relevant role-players on issues pertaining to child labour. The Subdirectorate recently participated in the drafting of an enforcement policy on child labour and presently training sessions are being conducted with all role-players on the policy.

Newsletter on Juvenile Justice

2.188 The Subdirectorate is a member of the Editorial Board of the University Western Cape: Community Law Centre. This Body is tasked with the responsibility of producing a newsletter on Juvenile Justice for role-players in the criminal justice system. The publication entitled "*Article 40 -The Dynamics of Youth Justice and the Convention on the Rights of the Child*" seeks to create an awareness amongst justice professionals on the developments relating to the emerging juvenile justice system in South Africa. The newsletter is distributed to magistrates' offices countrywide.

Presentation of South Africa's first Country Report to the African Commission on Human and Peoples' Rights

2.189 The former Deputy Minister of Justice led a delegation to Burundi to present South Africa's first country report on the implementation of the provisions of the African Charter on Human and Peoples' Rights. The Subdirectorate was responsible for the preparation of the presentation of the Report which outlined steps, as well as legislative and policy initiatives taken by the Government of South Africa to protect and promote human rights. The African Commission on Human and Peoples' Rights stated that the Report and the presentation could be viewed as a model for other states to follow for its openness, sincerity and far-reaching implications for the rest of Africa.

2.190 Due to the enormous workload of the Subdirectorate and the importance of its functions, the Acting Director-General has requested Work Study to investigate the Unit being converted into a fully fledged Directorate. The Branch

was also requested to budget for such a Directorate in the next financial cycle.

Chapter 2



Corporate Services Branch

2.191 This Branch is responsible for rendering efficient corporate management support services and consists of three Chief Directorates, namely Administration, Communication Services and Financial Administration.

Chief Directorate of Administration

2.192 This Chief Directorate is responsible for rendering support services and is composed of the Directorates: Provisioning Administration, Auxiliary Services, Information Technology and Efficiency Services.

The Directorate of Provisioning Administration

2.193 This Directorate is composed of the following Subdirectorates:

Subdirectorates: Accommodation

2.194 The allocation of funds for the provisioning of functional court buildings and the renovation and maintenance thereof, unfortunately falls far short of the needs. Critical conditions are experienced at some magistrates' offices, which cannot be permitted to continue and which can only be rectified if sufficient funds are available. The judicial system must be accessible to all and this can partly be achieved through the provision of adequate infrastructure, of which the construction of functional court buildings is the most essential. An allocation of R145 million during the year under review for capital works enabled the Directorate to commence with the construction of new buildings and other major works at centres where there are no facilities or where service delivery was seriously hampered because of lack of facilities.

Major Services Building Programme

During the year under review the construction of the following major works was completed:

Town	Office	Service
Bellville	Magistrate's Office	Additional courtrooms and offices
Knysna	Magistrate's Office	New building
Bethlehem	Magistrate's Office	New building
Standerton	Magistrate's Office	One additional courtroom, offices and renovation
Somerset West	Magistrate's Office	Rebuilding of a part of building (fire damage)
Soshanguve	Magistrate's Office	Upgrading, adaptation and security measures
Cape Town	High Court	Civil courts and chambers in Old College Building
Durban	Labour Appeal Court	Additional courtroom and chambers
Port Elizabeth	Labour Appeal Court	Additional court room and chambers
Johannesburg	Magistrate's Office	Conversions and upgrading of the Market Street Building

Major works building services under construction:

Town	Office	Service
Khayelitsha	Magistrate's Office	New building
Botshabelo	Magistrate's Office	New building
Waterval	Magistrate's Office	New building
Queenstown	Magistrate's Office	New building
Upington	Magistrate's Office	New building
Paarl	Magistrate's Office	Additional courtroom and offices for regional court
Nqamakwe	Magistrate's Office	Additional accommodation, upgrading and security measures
Bizana	Magistrate's Office	Additional accommodation, upgrading and security measures
Flagstaff	Magistrate's Office	Additional accommodation, upgrading and security measures
Lady Frere	Magistrate's Office	Additional accommodation, upgrading and security measures
Mount Frere	Magistrate's Office	Additional accommodation, upgrading and security measures
Maluti	Magistrate's Office	Additional accommodation, upgrading and security measures
Kroonstad	Magistrate's Office	Three additional courtrooms, offices and renovation
Mqanduli	Magistrate's Office	Additional accommodation, upgrading and security measures
Ngqeleni	Magistrate's Office	Additional accommodation, upgrading and security measures
Tsomo	Magistrate's Office	Additional accommodation, upgrading and security measures
Umtata	Magistrate's Office	Additional accommodation, upgrading and security measures
Sterkspruit	Magistrate's Office	Additional accommodation, upgrading and security measures
Nyanga	Magistrate's Office	Conversion and refurbishment of a building for a branch court

At the following centres the planning of the installation of security measures, ie burglar bars, metal detectors, fencing, safety counters in cash halls, etc, has been completed. (Some of the services also include repair and renovation services.)

Town	Expected	Cost Estimate
Ermelo	01-07-1999	To be determined
Fickburg	03-08-1999	R 691,258
Ceres	04-08-1999	R 408,905
Moorreesburg	05-08-1999	R 618,072
Tseseng	06-08-1999	R 364,899
Phuthaditjhaba	10-08-1999	R 597,585
Brandfort	11-08-1999	R 298,374
Calvinia	12-08-1999	R 123,242
CT: Justitia Bldg.	13-08-1999	R1,245,059
Dordrecht	16-08-1999	R 250,943
Harrismith	17-08-1999	R 811,367
Louis Trichardt	18-08-1999	R2,989,345
Parys	19-08-1999	R 331,834
Robertson	20-08-1999	R 291,518
Senekal	23-08-1999	R 333,279
Sundumbili	24-08-1999	R 138,150
Tseki	25-08-1999	R 382,641
Vrede	26-08-1999	R 625,796
Vredefort	27-08-1999	R 274,280

Town	Expected	Cost Estimate
Wesselsbron	30-08-1999	R 449,747
Makwane	31-08-1999	R 401,915
Mokerong	05-11-1999	R 672,274
Ndwedwe	01-08-1999	R 184,848
Newcastle	02-08-1999	R 297,165
Orlando	03-09-1999	R 617,406
Matatiele	06-09-1999	R1,092,225
Vereeniging	09-09-1999	R 332,443
Manguzi	08-09-1999	R 314,222
Mankwe	09-09-1999	R 626,778
Moretele	10-09-1999	R 855,000
Mount Fletcher	13-09-1999	R1,424,752
Bethal	14-09-1999	R 901,694
Odi	15-09-1999	R 578,739
Alexandra	16-09-1999	R4,915,674
Moutse	21-07-1999	To be determined
Standerton	20-09-1999	R1,941,145
Sterkstroom	21-09-1999	R 548,872
Brits	22-09-1999	R2,931,216
Inkanyezi	23-09-1999	R 926,724
Maclear	27-09-1999	R 727,205
Port Nolloth	28-09-1999	R 525,249
Idutywa	29-09-1999	R 944,526

Community Safety Centres

2.195 The National Community Safety Centre Programme involves the four core departments within the criminal justice system, viz. South African Police Services, Department of Justice, Department of Correctional Services and the Department of Welfare, as well as the Department of Health. It aims to bring services rendered by these departments to communities where these services either do not exist, or do exist but are not easily accessible, especially in rural areas, in an integrated way. The projects are funded from the Programme's own budget.

2.196 The following projects, all of which the Department has bought into, have been approved and are to go out on tender before or during August 1999:

Province	District	Project	Amount Approved (R million)
Eastern Cape	Centane	Centane	24,3
Gauteng	Oberholzer/ Carletonville	Khutsong	19,7
KwaZulu-Natal	Umbumbulu	Nsimbini	15,1
Northern Province	Praktiseer	Leboeng	21,6
North West	Molopo	Tshidilamolomo	12,1

The following projects, which the Department has bought into, have been approved and are presently in planning:

Province	District	Project	Amount Approved (R million)
Free State	Welkom	Thabong	22,0
Northern Cape	Kakamas	Augrabies	10,3
Western Cape	George	Thembaletu	15,0

The Department has also bought into the following project, which still has to be approved:

Province	District	Project	Requested Amount (R million)
Northern Province	Sekgosese	Matoks	20,0

Business plans for the following projects, which the Department is interested in buying into, still have to be submitted by the respective Provincial Steering Committees:

Province	District	Project	Estimated Amount (R million)
Eastern Cape	Peddie	Moyeni	Unknown
Eastern Cape	Sterkspruit	Lundean's Nek	Unknown
Gauteng	Brakpan	Tsakane	10,0
Gauteng	Heidelberg	Zonkezizwe	17,1
North West	Kudumane	Baohitong	10,6
Western Cape	Worcester	Zweletemba	3,4

The planning of the following services has been completed or has reached an advanced stage of completion:

Town	Office	Service
Johannesburg	Constitutional Court	New building
Atteridgeville	Magistrate's Office	New building
De Aar	Magistrate's Office	Additional courtrooms and offices
Scottburgh	Magistrate's Office	Additional courtrooms and offices
Sasolburg	Magistrate's Office	Additional courtrooms and offices
Bloemfontein	Magistrate's Office	Additional courtrooms and offices
Blue Downs	Magistrate's Office	New building
Pretoria North	Magistrate's Office	Additional courtrooms, offices and renovation
Margate	Magistrate's Office	Refurbishment of a building for branch court sittings

In addition to the above, the following premises were rented:

Pretoria	Alternative accommodation for the NDPP in the Maize Board building
Pretoria	Additional accommodation for the Investigating Directorate of Serious Economic Offences
Pretoria	Accommodation for the Specialised Commercial Crime Unit
Pretoria	Accommodation for the Directorate: Witness Protection
Nelspruit	Alternative accommodation for the Regional Office Mpumalanga

Model Courts

2.197 In previous annual reports the Branch reported on a programme for the delivery of model courts. Various courts in the country have since been upgraded to model court standard. The new court building at Atlantis in the Western Cape is an example of a court building which conforms to the requirements of a model court.

2.198 The court building provides accommodation for a Supreme Court, two Regional Courts and four District Courts, one of which is used as a court for civil cases; a facility which previously was not available in Atlantis. The Department required the court building to form part of the Department's efforts to transform the justice system and to educate the community to understand and use the judicial systems and processes.

2.199 The officials of the court, the support staff, the public (both general and with involvement in the court proceedings) and the awaiting-trial prisoners have access to the courts from different parts of the building without having to come into contact with each other.

2.200 The seven courts are directly accessible from the security of the Judges' Chambers and Magistrates' Offices, as well as the holding cells for awaiting-trial prisoners in a basement below the courts. Witnesses and other court officials have access to consultation rooms and offices, close to the courts, with further support facilities, including a legal library, archives, cash hall and administrative offices forming another wing.

2.201 The hierarchy of the court is reflected in the Supreme Court, placed on a podium on the central entrance axis, flanked by the two Regional Courts, one of which provides a facility for the protection of witnesses in sexual offence cases, and four District Courts. The building is "user-friendly" to strengthen the Department's efforts to make justice more accessible to the community.

Subdirectorates: Procurement Administration

2.202 This Subdirectorates is responsible for the provisioning of equipment and services for the Ministries and National Office, approval of purchases and

services for regional and sub-offices, policy in respect of procurement, submissions to the Tender Board for invitation of tenders and the Department's asset register.

Logis System

2.203 In the previous report it was reported that the Department of State Expenditure has developed a new Procurement Administration System, known as "Logis", through which every Department will be linked to a main frame computer. On 1 February 1999 the Department successfully converted to the new system. It has also been decided to implement the system at regional offices.

2.204 An assessment workshop was held by the Department of State Expenditure and officials from the various regions were invited to attend. During this workshop the completion of a detailed questionnaire was dealt with and officials from regional offices furnished the required information. Officials of the Department of State Expenditure are in the process of visiting each region to assess and determine a date on which conversion will take place and which equipment is needed for the Logis system.

Delegation of Powers to the Regional Office

2.205 Until recently all approvals for purchasing of equipment and requests for services in respect of sub-offices have been dealt with by the Departmental Control Committee at the National Office. This was a very cumbersome procedure and the Director-General delegated certain powers in this regard to Regional Heads.

2.206 Regional Control Committees have been appointed by the Director-General and the committees were provided with copies of the Treasury Instructions, Code Logistics, ST36 - State Tender Board: General Conditions and Procedures and ST37 - User Manual: Directives to Departments in respect of Procurement. These prescripts are applicable to the functions of the committees. During the year under review the Departmental Control Committee at the National Office dealt with 1317 applications for services and equipment.

Telecommunications

National Office

2.207 The Chief Director: Office of the State Tender Board invited tenders for the installation of a new PABX-system in the National Office. The tenders received from the State Tender Board were evaluated and the Tender Board awarded the tender to the firm Dimension Data Interactive.

2.208 The PABX system has been installed and functions effectively. It is an improvement on the previous system and also provides for voice mail and fax facilities. The three buildings in which the National Office is accommodated, as well as the Ministry, are now connected to one system.

Court Recording and Transcription Services

2.209 The contract for recording and transcription of recorded proceedings in High courts and lower courts expires on 31 January 2000.

2.210 The Branch investigated alternative methods for recording and transcription services in courts. It has been decided that tenders for a new system for High Courts should be called for and that the existing system should be proceeded with in magistrates' courts.

2.211 The following two new systems have been demonstrated to the Department.

Digital Audio Recording and Transcript Production Service

2.212 The system digitally captures the spoken word on ultra-sensitive condenser microphones located at specific points in the courtroom e.g. the bench, witness stand, counsel table, etc. Live audio is mixed into four separate audio channels, with a fifth composite channel providing back-up recording. This channel functions as a fall back in the event that any of the separate channels are lost.

2.213 Once captured, audio is transmitted to a central control room where it is digitised by the audio servers and stored on hard disc and digital audio tape.

2.214 Instead of sitting in the courtroom, court reporters monitor proceedings from a central control room. For every four courtrooms, one reporter is required to sit and monitor all the ac-

tivities through the aid of a closed-circuit television. The system operator is able to add “tags” (text notes) to identify speakers, events or captions.

2.215 The most significant advantage of the system is the resulting accuracy added to the transcription process. Transcription doesn't have to be done as the proceedings occur, which means reporters can rewind tapes to check what they've just heard. It eliminates the human factor in the recording process.

2.216 Recording quality was rated as exceptional by observers.

2.217 Transcriptions were prepared by a trained typist and one of the Department's inexperienced typists. The latter was able to effectively produce transcriptions from the recordings with minimal training. Copies of the transcriptions were made available to the Department and are of a high standard. A complete transcript of a court case was, for instance delivered on the same day of the hearing of the case. These transcriptions were prepared in a control room in the court building.

2.218 The digital Audio Recording and Transcript production system is impressive and is being used in many overseas countries.

Real-time Transcriptions

2.219 This involves a machine called a steno writer. Simply stated, the court reporter, who attends the court session, types on the steno writer in a phonetic based shorthand, called steno. This steno is digitally stored on a standard “stiffy” disk housed in the writer. At the end of the day the steno is fed into a computer running special software that will translate the steno into Normal English text. This is known as a CAT (computer-aided transcription) system. The transcription can now be printed or stored on disk.

2.220 An enhancement to the CAT system is when the writer is connected directly to a computer CAT software. This allows the text to be viewed virtually instantly, and is known as real-time.

2.221 This highlights one of the most important differences between real-time and all other methodologies, namely that the record is being typed

immediately. It is not done in a phase two operation at a later stage, as is done in all other systems. Where real-time is being used, not only is the reporter able to watch the testimony appear on the screen, but the judge, attorneys and other participants are able to watch as well.

2.222 With real-time, the need for detailed notes is greatly diminished, and the necessary notes can be made directly into the computer. It is important to understand that a court reporter is not a highspeed typist, but rather a highly skilled professional.

2.223 The audio system that the Department presently use has the following disadvantages:

- The Department has a huge capital outlay for providing and maintaining the equipment which is distributed to various tenderers countrywide
- Transcription services are more than often unsatisfactory; review judges often complain of poor recording and poor transcriptions
- The statutory requirement that copies of a review case be submitted to registrars within seven days after the date of sentence, is seldom met by tenderers
- The Department deals with various tenderers. The Department is inundated with enquiries from sub-offices and the tenderers. A central help desk established by a tenderer for monitoring, maintaining and managing the service nationally for High Courts will solve these problems
- There is no standardised payment structure
- There is no common training approach

2.224 The present system will, however, still meet the demands of magistrates' courts in view of the contemplated amendments to the Criminal Procedure Act, 1977. The Criminal Procedure Amendment Bill provides for only the plea, judgment and sentence proceedings in a criminal review case emanating from a magistrate's court, to be transcribed and submitted to the High Court. This will considerably reduce the need for transcription services in magistrates' courts.

2.225 The existing transcribing and recording equipment in High Courts will be utilised to replace equipment in magistrates' courts whenever the need arises. Some of the recording and transcription machines used in magistrates' courts are older than ten years and the maintenance costs are very high. The transfer of this equipment from High Courts will result in a considerable saving. The Tender Board has been requested to invite tenders based on certain special conditions and specifications for a five-year period. It has also been requested that in future the contract for the High Courts be awarded to only one contractor in order to establish a central help desk for the effective monitoring, maintaining and managing of the service.

Reconstruction and Development Programme (RDP)

2.226 In the previous report it was reported that R 24,7 million was allocated for the upgrading of the infrastructure (excluding buildings) at various offices of the Department. The full amount has been committed during the year under review to mainly upgrade the infrastructure at the offices of the former TBVC states and self-governing territories.

The Directorate of Auxiliary Services

Subdirectorates: Office Services

2.227 Office Services consist of the following sections:

- Library Services
- Registry Services
- Archives
- Prescripts
- Typing Services
- Telephone Management and Administration
- Photocopiers
- Messenger Services

2.228 This Subdirectorates consists of 97 employees and is the largest subdirectorates in the National Office.

2.229 In addition to the abovementioned, the responsibility of Secretarial Services has been added to this Subdirectorates.

2.230 This Subdirectorates has provided all the Regional Offices with the prescribed Codified Instructions as con-

tained in the Justice Codes, as well as the Circulars, General Minutes, etc dated as far back as 1962.

2.231 The existing Head Office Filing System has been translated into English and made available at the National Office and Regional Offices.

2.232 The Deputy Director of the Subdirectorates has been appointed as Records Manager of the Department, in terms of the National Archives of South Africa Act, 1996 (Act 43 of 1996).

2.233 The function of the Records Manager is to inspect all records and provide the necessary training required.

2.234 The Minister has appointed the Records Manager and three officials to prepare and transfer all records kept in terms of the Repealed Internal Security Act and Terrorism Act. These records were transferred to the National Archives on the 15th April 1999.

2.235 The Director-General appointed an autonomous Library Committee to govern the purchasing of publications for the National Office. This includes the standing orders for periodical publications, overseas publications and legal magazines. Sabinet Online has been purchased and installed in the library to provide a more efficient and effective information service for its users. Sabinet Online provides access to books, journals, conference information, government publications and much more in and around South Africa.

2.236 A new computerised telephone management and administration system was purchased by the National Office and the installation project was headed by officials of this Subdirectorates. After the successful completion of this project, this Subdirectorates has been allocated with the responsibility of managing this system. Office Services provides functional training in respect of registry, library and administration functions to sub-offices and regional offices whenever necessary.

Subdirectorates: Security

2.237 This Subdirectorates's primary responsibility is to ensure the safety of its personnel and members of public at all times. The frequency of theft, robberies, vandalism and destruction of government assets has resulted in the

Department initiating an extensive campaign to provide and install effective safety and security devices in an attempt to counter these negative acts.

Guarding Services

2.238 Hundred and three (103) offices are being guarded by security personnel. Twenty-four hour (24h) guarding services are provided at 25 sub-offices and at 78 offices during office hours.

2.239 The Department has 595 security personnel in the provinces as indicated:

Gauteng and National Office	206
KwaZulu-Natal	85
Western Cape	82
Northern Province	70
Eastern Cape	6
Free State	35
Northern Cape	22
North West Province	18
Mpumalanga	15

2.240 An additional ± 3 000 Security Officer posts are required but these could not be created due to non-availability of funds.

2.241 The Provincial Administration, Free State indicated that 55 Security Officer posts, together with the budget for these posts, can be transferred to this Department. This matter is being investigated.

Aggression Report

2.242 During the year under review the following incidents occurred at various offices:

Burglaries:	24
Armed robberies:	3
Bomb Threats:	4

Outsourcing of Security Services: Transit of State Money, Guarding Service, Installation of Alarm Systems and the monitoring thereof

2.243 An amount of R 13,6 million was made available for the outsourcing of the abovementioned services countrywide. The amounts allocated to the provinces are as follows:

KwaZulu - Natal	R2 620 000,00
Eastern Cape Province	R2 346 000,00
Gauteng Province	R1 616 000,00
Western Cape Province	R1 610 000,00
Northern Province	R1 348 000,00
North West Province	R 590 000,00
Mpumalanga Province	R 490 000,00
Free State Province	R 490 000,00
Northern Cape Province	R 490 000,00

The number of offices that will receive a service as mentioned above are as follows:

Kwazulu-Natal Province:

Type of service:	Number of offices
Transit of State money	10 offices
Guarding Services	5 offices (full-time) 4 offices (part-time)
Alarm Systems	40 offices

Eastern Cape Province:

Type of service:	Number of offices:
Transit of state money	29 offices
Guarding services	5 offices (full-time) 5 offices (part-time)
Alarm Systems	30 offices

Gauteng Province

<i>Type of service:</i>	<i>Number of offices:</i>
Transit of State Money	29 offices
Guarding Services	4 offices (full-time) 2 offices (part-time)
Alarm Systems	14 offices

Western Cape:

<i>Type of service:</i>	<i>Number of office</i>
Transit of State money	15 offices
Guarding services	3 offices (full-time) 4 offices (part-time)
Alarm Systems	25 offices

Northern Province:

<i>Type of service:</i>	<i>Number of offices:</i>
Transit of State money	22 offices
Guarding services	3 offices (full-time) 2 offices (part-time)
Alarm Systems	14 offices

North West Province

<i>Type of service:</i>	<i>Number of offices:</i>
Transit of State money	10 offices
Guarding services	2 offices (full-time)
Alarm Systems	5 offices

Mpumalanga Province:

<i>Type of service:</i>	<i>Number of offices:</i>
Transit of State money	10 offices
Guarding services	2 offices (full-time)
Alarm Systems	5 offices

Free State Province:

<i>Type of service:</i>	<i>Number of offices:</i>
Transit of State money	10 offices
Guarding services	2 offices (full-time)
Alarm Systems	5 offices

Northern Cape Province:

<i>Type of service:</i>	<i>Number of offices:</i>
Transit of State money	10 offices
Guarding services	2 offices (part-time)
Alarm Systems	5 offices

Training

2.244 During the year under review instructors from this Subdirectorate presented five courses at the centres as indicated below. The training includes the following:

Orientation to security, discipline, legislation with regard to access control, firearm training, etc.

<i>Period:</i>	<i>Centre:</i>
31 August - 18 September 1998	Bloemfontein
23 November - 11 December 1998	Pretoria
15 February - 9 March 1999	Cape Town
3 May - 21 May 1999	Pretoria
20 June - 9 July 1999	Durban

The Directorate of Information Technology

2.245 This report outlines the projects undertaken by the Directorate: IT from 1-07-1998 to 30-06-1999. These projects are long-term, and have to be rolled out to all courts in the Department.

Basic Automation Project

2.246 When completed, the project will provide the normal office automation including network as well as mail facilities. In the long-term the courts will be able to participate in the Integrated Criminal Justice System (ICJS). The prosecutors will be able to track cases and it will also be easy for the courts to compile statistics. The e-mail will expedite internal and external communication within the courts.

Phase I: Infrastructure Cabling

2.247 Forty-two offices, 21 Chief Magistrates' Courts, 8 Masters' Offices and 13 Registrars' Offices were successfully cabled, with a total of 3 403 Network points installed.

Phase II: Procurement

2.248 1500 PCs with 200 printers and 54 file servers were purchased and distributed to 50 different offices (Chief Magistrates' Courts, Masters, State Attorney and High Courts).

Phase III: Networking Infrastructure

2.249 The Directorate has put out a tender to SITA which will cover the LAN installations in Chief Magistrates' Offices, High Courts, and Masters' Offices. Jutastat Law Reports, e-mail facilities, Internet and word processing will be provided to the offices. The process should be completed before the end of this financial year.

Maintenance/Deposit Account System Project

2.250 The main objective of the project is to replace the old Maintenance/Deposit Account System in the five Chief Magistrates' Courts at Johannesburg, Pretoria, Bloemfontein, Durban and Cape Town by the Western Cape Maintenance system and to upgrade this system to link up with the banks, but this link will be done at a later stage.

Phase I: Maintenance Roll-out

2.251 Tremendous progress has been made beyond expectation in this project: the replacement of the old system in the five Chief Magistrates' Offices was successfully completed before the target date, which implies that these courts will be running on a Y2K-compliant system ahead of the looming "Millennium Bug".

Phase II: Deposit Account

2.252 The upgrading process has already been completed and this new system will enable the courts to link up with the banks. The system has been rolled out to Pretoria, Durban and Bloemfontein. The remaining courts will be covered before the end of this financial year. The future plan is to roll out this system to those courts that are still on manual systems. Given the fact that the Department has 533 courts around the country, this project will still take a long time to complete. Hopefully, with further funds the process could be expedited.

Integrated Justice System/SITA

2.253 The Department is also making its mark on the Integrated Justice System which comprises the Police, Justice, Correctional Services and Welfare. The processes that are currently taking place in ICJS/IJS cannot be ignored, as they impact on the Department. The Directorate is about to start the re-alignment and is geared to position itself in order to join SITA within the next two years.

Pre-trial Services: Application System

2.254 The pilot project has been completed. However, the Consortium has made a proposal to the Department to donate this code to the Department.

2.255 This process is currently in the development phase and there is no concrete decision as yet. Phase I of the system is currently running in the Johannesburg and Mitchells Plain Magistrates' Courts. Phase II of this system (ECIS) is still incomplete and is currently running in the Durban Magistrate's Court.

Y2K Project

2.256 The project (awarded to Phambili Technologies) has mostly focused on mission-critical systems: computer equipment and software operating systems. The mission-critical equipment is all PCs and laptops that are connected to the LAN/WAN, including the file servers and the routers plus the operating systems (NT, Novell, Win98 and Word Processing Packages). The Y2K project is actually divided into 5 or 6 phases:

1. Assessment
2. Planning
3. Remediation
4. Internal Testing
5. Implementation
6. Post Implementation

The last process is the Contingency Plan.

2.257 The conversion of hardware and software to Year 2000 compliant

Phase	Percentage Completion
Phase 1: Assessment	100%
Phase 2: Planning	100%
Phase 3: Remediation	100%
Phase 4: Internal Testing	100%
Phase 5: Implementation	100%
Phase 6: Post-Implementation	75%

2.258 The percentage of 75 regarding the last phase has been caused by various management problems experienced at our various sub-offices. However, good progress has been recorded and the Department will be Y2K ready before the end of this financial year.

2.259 Hardware statistics from Phambili Technologies Report:

All the offices were informed by circular 1 of 1999, which covered clear project instructions.

2.260 The project commenced on 11 January 1999 and completed on 31 March 1999. According to Phambili's report, 224 offices were audited with a total of 2 360 computers. Three hundred and seventy-two of these computers were replaced, 494 upgraded with Corel 8 and the hard drives of 314 PCs were upgraded to 6.2 GB, 1 020 upgraded with Y2K cards, 131 operating systems were upgraded to WIN 98. In addition, 20 file servers were replaced due to the

fact that they could not be made Y2K compliant and 9 routers were also upgraded.

2.261 The above figures give a total of 2 360 computers that are Y2K compliant. If the new computers from the Automation Project are added to these figures, the Department has a total of 3 860 computers which are Y2K compliant. These statistics still need manual verification from the offices.

2.262 However, computers which are used for typing only and not connected to the LAN/WAN, do not form part of the mission-critical equipment; the same applies to laptops. If the Department has enough funds, it is possible for these computers to be made Y2K compliant after the year 2000. They will not have any effect on the date-roll-over after the year 2000. However, under no circumstances should these computers and laptops be connected to the LAN/WAN. If need be, the IT personnel must be contacted before any decision is taken.

Video Conferencing

2.263 This project is a joint project between the Department of Justice and the Department of Correctional Services. The aim of the project is to cut down on the backlog of cases by swiftly disposing of postponements via video arraignment, thereby making the process faster and reducing the possibility of awaiting-trial prisoners escaping. The pilot project was successful and test cases were held on 14 October 1998, at Johannesburg Magistrate's Court. Owing to the lack of provision in the law, the case was unsuccessful. However, the Minister has given the assurance that he will pursue this matter further to make provision in the law to include the use of the latest technology. It is also very important that our legal system keep up with the latest technological advances.

The Directorate of Efficiency and Advisory Services

2.264 Organisation and Work Study is a management aid used in the investigation of all factors affecting efficiency, including cost-efficiency, with a view to improve efficiency. In this regard it is important to note that productivity involves the optimum combination

and maximum utilisation of all production factors to maximise efficiency. Continuous efforts towards better performance by staff, better utilisation of equipment and the replacement of existing working methods with more efficient methods is, ultimately, how increased productivity is ensured.

2.265 The Directorate of Efficiency Advisory Services advises management with regard to establishing an efficient and cost-effective administration of Justice. The Directorate performs the following functions:

1. The rendering of advice to management, on request, on any subject pertaining to the efficiency of the Department.
2. The rendering of advice to management regarding the following specific matters:
 - Organisational structures of the Department
 - The determination of the organisa-

tion and establishment requirements of all offices in the Department in instances where the post provisioning norms cannot be applied or where no norms exist

- Procedures and systems
- Viability of the computerisation of procedures
- Viability of the mechanisation of offices
- Draft legislation
- The promotion of productivity

3. The determining of post-provisioning norms

4. Form design, amendment and abolishment

2.266 In order to perform the above-mentioned functions, the Directorate concentrates on increasing the administrative efficiency of the Department by establishing improved procedures, methods, systems, communications, control techniques and organisational structures.

2.268 The following investigations are mentioned as examples of the work performed by the Directorate during the year under review:

- Investigation into the appointment of a tracer for maintenance defaulters at the Magistrate's Office, Johannesburg
- Investigation into the possible creation of posts of Social Worker on the establishment of Model Courts
- Investigation into the possible involvement of banking institutions in the maintenance payment system
- Investigation into the possible introduction of a new post class within the children's court at magistrates' offices
- Investigation into the possible creation of various posts at the Labour Court
- Investigation into the fees payable for authorisation of signature
- Investigation into the appointment of Family Counsellors by the department at Family Advocate's Offices
- Investigation into the improvement of service delivery to the Public: Assistance to Witnesses
- Investigation into the creation and amendment of forms in conjunction with the Regulations under the Child Care Amendment Act, 1996 (Act 96 of 1996)
- Rationalisation of the State Attorney's Branch: determination of establishment in respect of the State Attorney Offices in the KwaZulu-Natal, Eastern Cape and Western Cape Provinces
- Investigation into providing name tags for personnel rendering a service to the public at magistrates' offices
- Investigation into a core establishment for the office of the National Director of Public Prosecutions
- Investigation into the establishment of Internal Auditing in the Department
- Investigation into the recovery of departmental debt by the Subdirector: Legal Liability

2.267 The investigations performed by the Directorate are reflected in the statistical information below:

	1997/98	1998/99
Organisation and establishment investigations finalised	65*	49**
Procedure and method investigations finalised	20	6
Work measurement investigations finalised	0	0
Mechanisation investigations finalised	5	1
<i>Ad hoc</i> investigations finalised	34	23
Form design and control investigation finalised	<u>280</u>	<u>468</u>
Total	404	547

* A decrease in the number of investigations (1996/97 - 113) resulted from the Directorates involvement in the Rationalisation of the Magistrates' Offices of the Eastern Cape Province (80 offices).

** The decrease resulted from the Directorate's involvement on Task Teams:

1. Rationalisation and right-sizing of Magistrates' Offices for the following Provinces:

Northern Cape	35 Reports
Northern Province-	36 Reports
Mpumalanga	36 Reports
Free State	67 Reports
Gauteng	24 Reports
North West	<u>32</u> Reports
Total	230

2. Rationalisation of the State Attorney Offices (5 Reports).

3. Facilitator in the Project Office of the Integrated Justice System [one Deputy Director (full-time)].

Chief Directorate of Communication Services

2.269 The Chief Directorate: Communication Services is structured into two Directorates, namely the Directorate of Liaison and Information Services and the Directorate of Publications and

Language Services. The Chief Directorate provides communication services and products with a view to actively promote the image of the Department and the administration of justice, both internally and externally. This service includes the promotion of the justice system through the broad media and information services to internal clients and other state departments, as well as members of the public.

2.270 The Directorate of Liaison and Information Services comprises the Subdirectorates: Media Services and the Subdirectorates: Information and Liaison Services. At present the Directorate: Publications and Language Services comprises the Subdirectorates: Publications.

2.271 The Subdirectorates: Media Services forms the link between the Department of Justice and the media. It allows information from the Department to filter through to the public and *vice versa*, with the view to maintain good relationships with the community. The Subdirectorates is also responsible for enhancing the image of the Department and the justice system as a whole. This Subdirectorates also offers specialised public relations/media services to the Ministry and the Department.

2.272 The Subdirectorates: Liaison and Information Services is responsible for distributing information about the Department to both internal and external customers/end users.

2.273 The Subdirectorates focuses mainly on external customers. Information is distributed scientifically to suit the needs of customers. In carrying out this task, various vehicles are used, e.g the Justice News, brochures, radio and television, etcetera.

2.274 The Subdirectorates: Publications oversees the development of new publications. The Subdirectorates facilitates all departmental publications/materials from the planning stages to printing. Distribution is handled by the Directorate: Liaison and Information Services.

2.275 During the period under review the Chief Directorate dealt with, initiated or was involved in the following activities:

1 A database containing information

in respect of the Department and all justice-related matters was created. The information is available to all stakeholders, both internal and external, and is regularly updated.

- 2 A speech writing service was provided to the Ministry.
- 3 Fact sheets containing information on all departmental activities were compiled and updated for distribution to the general public, NGOs, CBOs, other government departments and institutions.
- 4 Information was disseminated about the Department and the administration of justice in general, through talk shows on SABC Radio and community radio stations such as Radio Winterveldt, Radio Ikwewezi, Voice of Soweto, Lesedi FM, Radio 702, Alex FM, Radio Turf, Radio Punt, Vaal Community Radio and others. Topics such as maintenance, Family Courts and domestic violence were covered. Various enquiries from members of the public were dealt with on a daily basis as a direct result of these talk shows.
- 5 During the period under review the Chief Directorate also embarked on the development of a "Justice 2000" radio series. The series, comprising fifteen-minute talks on, for instance, transformation, sexual offences, corruption, domestic violence, bail, accessibility, etc will be broadcast in eight official languages on various community and regional radio stations.
- 6 A television series "Justice for All", was developed in conjunction with the SABC and the Royal Danish Embassy. It dealt with issues such as consumer rights, children's rights, maintenance, etc and was rated among the top five programmes on SABC 2.
- 7 Various events and conferences were organised and/or managed, including the International Anti-Corruption Conference, Child Protection Week, NCPS Awareness Week, Human Rights Day, Youth Day, National Women's Day, Heritage Day, the International Child Abduction Seminar at Justice College, International Day of No

Violence Against Women and Children, the USAID-Transkei Refurbishment Project in Tsolo and the presentation of the Truth and Reconciliation Commission's Report to former Deputy President Thabo Mbeki.

- 8 As part of the Chief Directorate's commitment to providing a communication and information service, initiatives were launched to inform and educate the general public about their role and responsibility in the administration of justice. This was done through information campaigns such as the "No violence against women and children" train campaign, and open court days in major centres. The "Busi goes to court" colouring book, developed in conjunction with the Directorate: Community Services, targeted children.
- 9 The production of various policy and/or discussion documents, including the Initial Country Report on the African Charter on Peoples' and Human Rights, the Gender Policy Statement (first edition), the HIV/AIDS Policy and the Stakeholders' Summit on Service Delivery in Courts.
- 10 Material such as brochures, posters, stickers, peaks, etc were developed with a view to distribution at or during various events, such as Human Rights Day, Women's Day, NCPS Week and Child Protection Week.
- 11 Posters and brochures pertaining to the Equality Legislation Drafting Project were developed.
- 12 The Chief Directorate was to a large extent involved in the departmental briefing to the Justice Portfolio Committee and Select Committees.
- 13 Reports on departmental achievements were compiled on an annual basis, for forwarding to the President's Office.
- 14 Various local and overseas visitors to the Department were received, including delegations from Malawi, Cameroon and Ireland. Delegations were also assisted with the planning of itineraries and guided tours.
- 15 Radio and television interviews were facilitated for the Minister and Deputy Minister, various members

of senior management and the judiciary, on topics such as Divorce Courts, the Heath Special Investigating Unit, maintenance, resignations of departmental staff, etc.

- 16 The Annual Report of the Department was compiled and produced and an editorial service rendered to its editor.
- 17 Production of the Annual Reports of the SA Law Commission and Judicial Service Commission was facilitated.
- 18 Production of the departmental calendar was facilitated.
- 19 The production of various *ad hoc* materials was facilitated, including stationery for the Land Claims Court, business cards, etc.
- 20 Three editions of the internal newsletter, JV 2000, were compiled and produced.
- 21 One edition of the external newsletter, Justice News, was compiled, in conjunction with the Directorate: Community Services, and produced.
- 22 A departmental contact list was compiled and distributed.
- 23 Two media breakfasts were held for purposes of distributing information and improving relations with the media. A media breakfast was also held to promote Human Rights.
- 24 Articles on various justice-related matters were written and furnished to the print media for publication. These included articles on Family Courts and the newly established Family Court Centres, the National Conference on Witchcraft Violence, Sexual Offences, the Gender Policy Statement, Witness Protection and Divorce Courts.
- 25 Media campaigns were conducted on, amongst others, the following issues:
 - Women's Day and "No violence against women and children" train initiative
 - The Gender Policy Statement
 - Child Protection Week
 - NCPS Week
 - "Busi goes to court" colouring book
 - USAID-Transkei Refurbishment Project.
- 26 A total of 612 media enquiries were

dealt with, whilst 198 media releases were issued and/or drafted and issued on behalf of the Department, the Ministry, the Judicial Service Commission and the South African Law Commission.

- 27 Daily Reviews were distributed to the Ministry and senior management on an *ad hoc* basis.
- 28 A daily newspaper clipping service was rendered to the Ministry and members of senior management.

Budget

2.276 During the financial year, the budget of the Chief Directorate amounted to R1,69 million. Approximately 80% of the budget was absorbed by staff-related expenditure. This resulted in an insufficient amount being left for operational expenditure, taking into account the demands by the public for more information. The Chief Directorate used a substantial amount of money, sourced from donor countries,

for major information campaigns, such as the production and promotion of the "16 days of activism" document and the domestic violence campaign.

The Chief Directorate of Financial Administration

Introduction

2.277 The Chief Directorate: Financial Administration's core function is to ensure that proper financial administration is maintained throughout the Department of Justice. There are two Directorates within the Chief Directorate, namely Financial Operations and Budget. The following is an exposition of the budget as well as the achievements in respect of the 1998/99 financial year.

1998/99 Budget and Expenditure

2.278 The total adjusted budget allocated to this Department for 1998/99 was R2 206 872 000 (Judges' salaries excluded). Due to the limited funding received compared to the expected increase in service delivery placed on this Department, certain outputs had to be down-scaled in order to stay within the allocation. The distribution of the funds was therefore effected in consultation with senior management within the Department. The budget was distributed as follows, against which the respective expenditure for the same period is indicated.

Programme	Description	Budget R'000	Expenditure R'000
Programme 1	Administration	237 147	163 173
Programme 2	Administration of Justice	1 305 992	1 356 966
Programme 3	Administration of Law	155 836	139 512
Programme 4	Public Protector	7 539	5 627
Programme 5	Legal Aid	222 927	222 924
Programme 6	Auxiliary and Associated Services	277 431	285 486
	Theft and Losses	-	977
Sub-total		*2 206 872	2 174 665
Less Suspension		79 254	
Total		*2 127 618	2 174 665

*Sub-total and Total exclude Judges' salaries

2.279 An amount of R47 047 000 was overspent as a result of the allocation of the funds being exceeded by Programme 2 (Administration of Courts) ie the core function of the Department.

In-depth analysis of the 1998/99 budget allocation is as follows:

	R'000
Budget	2 315 568
Less: Judges' salaries (Statutory)	108 696
	2 206 872
Less: Funds to Commissions and other self-accountable bodies	418 328
Less: Funds to National Crime Prevention Strategic Projects	16 880
Less: Suspension i.r.o. foreign grants not received	79 254
Available funds for the Department's core function	1 692 241
Less: Personnel Expenditure	1 359 076
This represents the nett funds available for other standard items to fund the core functions and support services	333 3334

2.280 It is therefore evident that the nett amount available was insufficient to fund approximately 550 sub-offices, which are mainly magistrates' courts representing the primary/core business of the Department.

The MTEF Budget

2.281 The Department's MTEF allocation is as follows:

1999/00	R2 544 932 000
2000/01	R2 542 122 000
2001/02	R2 599 690 000

2.282 It is therefore evident that the growth of the Justice budget is very minimal. However, when inflation and other factors such as crime and population growth which has a bearing on the increase in services, are taken into account, it is evident that the Department will be faced with a very limited budget for future financial years. Although this will require reprioritisation of the Department's activities, it is important to note that the Department will not be able to sustain the same level of service delivery in the future.

2.283 The final allocation after the adjusted budget, amounted to R2 315 568 000 for the 1998/99 financial year. This amount, however, includes donor funding to the amount of R96 015 000, of which approximately only R16,761 million was received. The

revised situation is therefore R2 271 980 000 for 1998/99. The increase in allocation from 1998/99 to 1999/2000 is only 5,4%, thus clearly indicating that inflation alone cannot be accommodated.

Electronic Fund Transfers (EFTs)

2.284 The method of payments to suppliers by way of Electronic Fund Transfers (EFTs) has been implemented in the Department. Not only suppliers but also employees' subsistence and travel claims are paid in this manner. The aim is to effect all payments by way of EFTs in order to reduce the number of warrant vouchers in circulation, which will also reduce fraud with warrant vouchers.

Guardian Fund

2.285 The Guardian Fund, which is administered by the Department, has been commercialised and all ten Guardian Offices are currently making payment and receiving monies on behalf of third parties in their own bank accounts. The old Paymaster-General Account (PMG) that was utilised has been closed.

Agency Services

2.286 The policy regarding the rendering of agency services by the Department on behalf of other National

and Provincial Departments has been reviewed because of the adverse effect that this expenditure has on the Department's bank account. As from 1 April 1999 National and Provincial Departments who require this type of service will have to settle their outstanding claims and provide the Department with an advance prior to the rendering of the service. Non-compliance with these requirements will result in termination of agency services with effect from 1 July 1999.

Remunerations

2.287 Salaries are paid to 13 185 employees who are stationed at 654 pay points. The total salary budget is R1,310 billion.

Training

2.288 With the decentralisation of support functions to the regions, training was conducted in the Department on a variety of financial aspects, with a view to empower and equip officials with the necessary knowledge and expertise to perform their functions efficiently. It was conducted at regional level with a view to it being extended to sub-offices within their respective regions. In this regard training manuals were compiled and are available to further assist the relevant staff. These manuals will assist officials in acquiring the necessary skills to perform independently of National Office.

2.289 In addition to basic financial training, specific training in respect of the following was also conducted:

- **Agency Services:**

2.290 This Department renders services on behalf of other departments and must claim back such expenses incurred. Officials were trained to compile/calculate such claims and forward them to the respective departments. They were also requested to follow-up and ensure that all claims are timely settled.

- **Budget:**

2.291 Guidance with the compilation of MTEF estimates and monitoring of expenditure as well as other budget-related matters were provided to all persons involved with Finance. Specific training was provided on:

compilation of the budget, exercising of control over monthly expenditure, First/Second budget reports, motivations, etc.

- **Remuneration:**

2.292 To ensure that officials are timely remunerated, as well as to ensure that salary deductions such as tax, medical aid, etc are paid over to the respective institutions without delay, officials were trained on the following aspects: calculation of remuneration in respect of salaries and allowances, implementation of deductions on the Persal System, calculation and recovery of debts in respect of salary overpayments.

- **Metanet:**

2.293 To ensure that management has up to date information on the Financial Management System, it is necessary that all expenditure incurred is immediately brought to book. The Metanet facility was introduced at regional office level in order to achieve the aforementioned. Training in respect of batching, capturing of data, correcting of rejections and re-submissions thereof, as well as updating of batch control registers, was provided.

Chapter 2



Human Resources Branch

2.294 This Branch is composed of four Chief Directorates, namely Personnel Management, Human Resource Development, Transformation and Equity and Justice College.

Chief Directorate of Personnel Management

The Directorate of Personnel Utilisation

2.295 The issues dealt with by this Directorate in the previous year included matters relating to the recruitment and appointment of staff, establishment and structural changes, conditions of service and staff utilisation, and the monitoring of the personnel expenditure against the budget.

Functions

2.296 A brief overview of functions performed by the Directorate:

- (a) The management and supervision of personnel matters
- (b) To control the proper utilisation of personnel, which includes:
 - (i) The employment/appointment of personnel
 - (ii) Implementation of occupational specific and general salary adjustments
 - (iii) Acknowledgment of higher qualifications
 - (iv) The maintenance of the establishment on the Persal estimate reports against the approved posts.
Transfer in rank of officials
 - (vii) Administration of Personnel evaluation
- (c) The maintenance of personnel, which includes:
 - (i) The handling of cross-transfers (within a province)
 - (ii) Handling of aspects pertaining to transfer cost.
 - (iii) Handling of judicial appointments
 - (iv) Handling of court roll statistics
 - (v) Collection of annual statistical returns
 - (vi) Handling of resignations
 - (vii) Handling of retirements
 - (viii) Handling of service benefits
- (d) Rendering of relief services

- (e) Monitoring of Personnel Expenditure:
 - salaries
 - overtime
 - temporary units

Appointment section

2.297 With effect from 1 May 1998 the functions performed by this section, which is -

- appointment of personnel;
- translation in rank of officials;
- recognition of higher qualifications; and
- salary adjustment,

were decentralised to the various Regional Offices, except for general salary enquiries. The section is still assisting the 9 regional offices where needed.

Report Promotion Section

2.298 During October/November 1997 the following functions -

- promotions;
- translation in rank of officials; and
- appointment of magistrates,

were transferred to all the regional offices, excluding the Western Cape and Gauteng. The functions of these two offices pertaining to promotions are still dealt with by Head Office.

2.299 The following statistics are available for the Western Cape and Gauteng regions for the period 1 July 1998 to 30 June 1999

Promotions **1031**

Translation in rank **90**

Report: Service Conditions

2.300 With effect from 1 October 1997 and 1 August 1998 respectively the following functions were transferred to the various Regional Offices:

- state guarantees
- home-owner allowance
- leave
- long-service recognition
- service bonus
- resignations
- retirements
- pension matters
- motor finance scheme for senior officials

- applications for remunerated overtime
- transport between residence and place of duty
- applications for driver's licence
- uniforms
- admittance to government offices of consultants of Insurance companies
- transfer costs.

The abovementioned functions are, however, still performed for the Western Cape and Gauteng regions.

Statistics regarding resignations of legal personnel is attached as annexure A.

Statistics regarding retirements are as follows:

Ill health:

January 1999	:	2
February 1999	:	1
March 1999	:	1
April 1999	:	1
May 1999	:	5

Premature retirements:

January 1999	:	1
February 1999	:	2
March 1999	:	1
April 1999	:	1
May 1999	:	1

Normal retirements:

February 1999	:	2
March 1999	:	1
April 1999	:	1

Service condition: leave section

Statistics for incoming leave forms which are dealt with by 4 officials is as follows:

January 1999	:	5055
February 1999	:	5468
March 1999	:	6267
April 1999	:	4152
May 1999	:	4081
June 1999	:	5876
July 1999	:	5658

Section: Housing

This section is responsible for National Office, Gauteng and Western Cape regions overtime, state guarantees, service bonus and resignations.

State Guarantee processed

Per month	:	50
Stop order	:	150
Application for allowances	:	100
Service bonuses not paid	:	10

Telephone enquiries	:	50
Overtime	:	200
Resignations and retirements:	30	
Reminders	:	80
Stambome	:	20

Report: Personnel Utilisation

2.301 The Subdirector: Personnel Utilisation is mainly responsible for the filling of vacancies. This division deals with transfers and utilisation of all the personnel in the Department.

2.302 With effect from 1 May 1998 all the functions, except for the filling of posts of Magistrate, were decentralised to the various regional offices. Together with the decentralisation of functions, the division compiled a training manual to help the regional offices with their training. Taskteams were also selected to give training to some of the regions.

2.303 Currently the division is still helping with the coordination of work between the regional offices, and performing some of the functions of the four skeleton offices.

The Directorate of Employee Relations

2.304 The above Directorate's goal is to ensure minimum misconduct and sound labour relations. It consists of the following Subdirectorates:

- Labour Relations
- Conduct

2.305 As already indicated in the previous report, this Directorate has a coordinating unit, comprising officials from the above-mentioned Subdirectorates. This unit continued to exist in the year under review and has submitted various inputs for the Directorate and also coordinated activities of the Directorate to ensure smooth functioning. When the Public Service Regulations, 1999 were introduced and when the need consequently arose for briefing sessions to be conducted in all the regions, an official from this unit was nominated to represent the Directorate as a member of the Baseline Implementation Task Team (which came to be known as BITT), which was mandated to carry out the briefing in question.

2.306 The Directorate has completed on-the-job training at all the Regional

Offices, but will have to arrange another round of training due to the introduction of the new Public Service regulations referred to in the preceding paragraph.

The Subdirector: Labour Relations Decentralisation of Functions

2.307 All functions, except arbitration matters, have now been decentralised to all the Regional Offices. The Subdirector, however, still continues to render assistance whenever needed by these offices.

Arbitrations

2.308 These matters were dealt with by this Directorate before the Department's rationalisation process and were transferred to the Directorate: Legal Liability due to loss of experienced personnel during the mentioned process. Meetings were held around the handling of these matters and it was decided that the Directorate: Legal Liability would finalise all matters in its possession and that the Subdirector: Labour Relations would handle all new matters, including those that are supposed to be handled by the Regional Offices, as these offices are not fully equipped to deal with these matters.

Departmental Bargaining Chamber

2.309 The Departmental Chamber of the Public Service Coordinating Bargaining Council has addressed several matters, some of which were carried over from previous years. These include:

- Safety of personnel
- Organisational rights - a memorandum has been sent to the Minister to obtain a mandate that will enable the Department to enter into a collective agreement, in terms of section 19 of the Labour Relations Act, 1995, that will automatically give certain organisational rights to registered trade unions that are parties to the Council in respect of all workplaces within the registered scope of the Council, regardless of their representativeness in any particular workplace
- Progression to the second and third salary notches of the revised grading system
- Extension of rank/leg promotions to certain occupational classes

- Minimum services agreement - the unions approached the employer with the view of reaching a minimum services agreement - the unions' inputs are still awaited
- The establishment of a monitoring mechanism for affirmative action in the Department

Statistics Monthly Returns

2.310 Regional Offices still submit these returns to the National Office to facilitate monitoring, guidance and assistance by the latter office.

The statistics are as follows:

Number of grievances dealt with in terms of the repealed Public Service Regulation A: 22: 38

Number of representations dealt with in terms of the repealed Public Service Labour Relations Act, 1994 read with item 15(l) of schedule 7 of the Labour Relations Act, 1995 (Act 66 of 1995): 50

The Subdirectorate: Conduct

2.311 The following pro-active steps were taken after documents announcing the introduction of the new Public Service Regulation referred to in the introduction supra were received:

Disciplinary Code

2.312 The parties to the Public Service Coordinating Bargaining Council (PSCBC) recently entered into a collective agreement on a new Disciplinary Code and Procedure for the Public Service (PSCBC Resolution 2 of 1999 dated 29 January 1999), which code will come into effect at the beginning of the 1999/2000 book year, ie 1 July 1999 and must be complied with by all employees. This code has been distributed throughout the Department with a clear instruction that each and every employee must be provided with a copy.

Nominations of officials to serve as investigating or presiding officers in disciplinary matters

2.313 The disciplinary code and procedures *inter alia* sets out time-frames for dealing with disciplinary enquiries. To be able to meet these time-frames, proposals were prepared to the Director-General, all Chief Directors and the

various regional offices to nominate officials to act as investigating and presiding officers. They will be offered the necessary training, which is expected to commence shortly after 1 July 1999.

Appeal structure to deal with appeals emanating from disciplinary sanctions

2.314 In terms of the new Public Service Regulations, the power to hear appeals has been delegated to the various executing authorities. Regulation A (Part II of Chapter 1) of the mentioned Regulations states as follows:

“To enable a head of department to manage effectively and efficiently, her or his executing authority should provide her or him with appropriate powers and authority. A head of department should similarly provide appropriate powers to employees.” Against this background, this Subdirectorate moved swiftly by approaching the Minister to delegate this function to the Director-General. Response from the Minister is being awaited.

Policies

2.315 The Subdirectorate envisages to draft the following policies in the spirit of the new Public Service Regulations, as soon as the relevant task team has commenced with its duties:

- A. Suspension
- B. Abscondment
- C. Discrimination
- D. Sexual harassment

On-the-job training manual

2.316 An on-the-job training manual in line with the new Regulations is already receiving attention.

Assistance to Regional Offices

2.317 This Subdirectorate has continued assisting the Regional Offices in handling misconduct matters. Officials from this office were sent to some regional offices and some officials from the latter offices even visited this office. This Subdirectorate also handles memoranda to the Deputy Minister in respect of retirements due to continued ill-health. Assistance was also rendered in this regard.

Analysis of Statistics

2.318 There is a 156% increase in outstanding disciplinary matters at the end of the year under review (compared to the end of the previous year). This is despite a 16.66% increase in matters finalised during this year, compared to the previous year. This can, *inter alia*, be ascribed to -

- more disciplinary matters brought forward from previous years (153 matters at the beginning of 97/98) - please see row no. 1 of the table, and
- an increase in disciplinary matters during 98/99 (140,26% increase, ie from 149 matters during 97/98 to 358 matters during 98/99) - please see row no. 2 of the table. This means that misconduct is on the increase.

This calls for -

- More attention to the finalisation of pending matters, especially those that are brought forward from previous years. This Subdirectorate intends, without delay, to engage the various regional offices in finding solutions in this regard. The process will be started by requesting each regional office to identify its own problems and make suggestions as to how those problems can be solved. This Subdirectorate will work hand in hand with the Branch: Regional Coordination in this endeavour.
- Proactive steps to be taken. A newsletter is planned to be issued shortly, which will address various disciplinary issues. The Subdirectorate also plans to draft a code of conduct to be signed by all employees in the Department so that all are aware of what is expected of them in terms of their conduct and what the consequences of misconduct are.

Further statistics show -

- an increase in abscondments;
- a decrease in civil debts; and
- a 2.7% increase in the number of commendatory letters issued to employees. A study of the various returns show that some regional offices have not issued even a single commendatory letter in the entire year, which is a matter that needs to

be looked into. This Subdirectorate to all regional offices intends emphasising the importance of commending officials for their good actions as this will show employees that not only misconduct is concentrated on but also good conduct.

Chief Directorate of Human Resource Development

2.319 Currently the Chief Directorate comprises the two Directorates, namely Human Resource Development (HRD) and Human Resource Planning and Work Performance Management. In turn, each of these Directorates comprises two and three subdirectorates respectively. The Human Resource Development Subdirectorates are Training and Training Administration while the three in Human Resource Planning and Work Performance Management are the National Inspectorate, Work Performance and Human Resource and Establishment Planning. The goals of the Chief Directorate for this period were seen as:

- Making recommendations to the Minister on the establishment of a National Training Committee
- Doing a holistic Training and Development Needs analysis while programme driven analysis are seen as axiomatic
- Building training capacity nationally through train-the-trainer programmes and regional deployment of trainers
- Increase the availability of appropriate and client-needs based management and administrative (functional training) programmes accessed by Department of Justice officials
- Initiate and implement some key Organisational Development (OD) interventions across the whole Department, eg team-building and goal setting
- Set up a Training Research capability and start using it for some Human Resource Development research and monitoring activities
- Resource and effectively manage the Departmental Bursary system, including policy updates and implementation

- Refine Human Resource Planning for the whole Department
- Research and start to implement a new Performance Management system in line with the implementation of the new Public Service Regulations
- Start discussion, lobbying for resources as well as building broad awareness and research on the Employee Assistance Programme
- Policy formulation in each of the Directorates as anticipated by new Public Service Regulations.

The Directorate of Human Resource Development

2.320 Training, development and education is the responsibility of every single manager and all officials within the Department of Justice. Managers need to plan creative ways of addressing training needs, they need to budget for this and they need to personally take responsibility for implementing training. The Directorate of Human Resource Development is available to provide managers and officials with advice and practical assistance regarding education, training and development matters and has formulated policy guidelines in this regard. In this report period a **Training, Education and Development Policy** was compiled in collaboration with Justice College. This Policy will guide all training, education and development processes within the Department of Justice. The **Internship Policy** and **Bursary Policy** were also finalised. A **Training, Education and Development Catalogue** was also launched. This can be compared to a product catalogue which gives our internal and external customers an overview of what is currently available in terms of training, development and education programmes. The Directorate of Human Resource Development decentralised in this report period in order to ensure that capacity becomes available within the regions. At the end of this report period all regions except Western Cape had at least one training officer at its regional office.

2.321 One of the current priorities is to ensure proper alignment of all training and development with the NQF and SAQA requirements. Participation in an SGB, NSB and SETA is already taking

place in order to effect this alignment.

2.322 Programmes implemented in this report period are:

- **Team building for senior managers:** a series of team building exercises were facilitated by external consultants to assist teams of senior managers at National Office and in the 9 regions to develop as teams. A total of 212 senior managers attended.
- **Goal-setting for senior managers:** training of senior managers in goal-setting was coupled with the team building interventions. A total of 212 senior managers attended.
- **Basic Orientation:** Basic Orientation workshops for officials below the level of Director were conducted on a national basis to assist new Justice officials in orientating themselves within the Department. A total of 160 officials attended.
- **Valuing and Managing Diversity:** a large number of these workshops were conducted at National Office and in the different regions. A total of 216 officials underwent this training.
- **Service Excellence programme :** training in principles of service delivery has been conducted on a national basis. 144 Officials attended.
- **Computer training:** this training started on a small scale within this report period. The new financial year will see an expansion of this project. A total of 210 officials received training (Basic training: 124 and WP Intermediate: 96).
- **Women Leadership Development and Empowerment Programme:** this programme was conducted by the University of the Western Cape. A total of 222 women benefited from the training.
- **Presentation skills training for line-functionaries:** a programme was developed to train line-functionaries who will be conducting line-function training in the basics of presenting training. A total of 22 officials were trained.
- **Public Service Regulations training:** a team of trainers and line-functionaries are currently in the process of conducting sessions to brief all the regions on the new Public Service Regulations

which were implemented on 1 July 1999.

- **Conflict Management:** Mathilde Bazinet, a representative from the Canadian Justice Department, trained 123 of our officials in managing work-related conflict.
- **HIV/AIDS:** training commenced in April and a total of 183 officials have already received training.

2.323 SAMDI courses/seminars attended by Justice officials are the following:

Advanced Time Management	2
Core course for sr managers	5
Customer Care	13
Diversity Management	8
Developing Your Idea	1
Finance Management	24
Human Resource Management	45
Improve Public Service	5
Labour Relations for Managers	18
Meeting Procedures	1
Personnel Performance Management System	15
Planning Finance Management	2
Productivity Quality Improvement Jnr	5
Project Management	2
Provisional Administration	7
Research Skills	8
Secretarial Course	26
Self-management	5
Strategic Management	4
Training Task of the Manager	5
Training of Trainers	8
Time Management	3

2.324 A total of 889 new bursary applications were received from serving Justice officials in this report period and most of these applicants were able to register for studies for 1999. A total of 187 new applications were received in this period for the year 2000. This brought the total number of Justice officials involved in studies and receiving bursaries for 1999 to 2150.

2.325 Future priorities of this Directorate include -

- The establishment of an Employee Assistance Directorate which will be responsible for psychological and social support to Justice officials. Currently at final stages of planning,

budgetary allocations have been made from 1999/2000 onwards

- Strategic management training for all senior and middle managers
- Operations management training
- Project Management
- An ABET programme
- Tighter management and direction of functional training
- Integration with Justice College
- Ongoing policy review and formulation to suit the New Public Service regulations and the Department's needs
- A competence acquisition process that relies on competency-based HR management and management systems envisaged by the New Public Service
- Organisational re-alignment
- HR Policy Bank and Monitoring
- Pilot and start to implement the proposed Performance Management system
- Pilot and implement the Employee Assistance Programme
- Cultural and competence audits and profiles as tools of change management

The Directorate of Human Resource Planning and Work Performance Management

2.326 The Directorate: Human Resource Planning and Work Performance Management is responsible for the creation and maintenance of the establishment and planning of human resource needs of the Department; assessment of employee performance to determine justification for rewards in the form of movement in salary notches, promotions and merit awards; and conducting regular inspections to deal with deficiencies and investigate compliance in various offices to the regulatory framework of public service in general and to regulations governing the functions of various professionals within the Department.

2.327 The Directorate comprises three Divisions, namely Human Resource Planning, the Inspectorate and Evaluations.

Human Resource Planning

2.328 The period 1998 - 1999 was also characterised by requests for expanding the establishment of various offices. The main reason for the requests was that the expanding of the establishment could not be considered for the past five years as lack of funding prevented new posts from being created.

2.329 The Subdirectorate is involved in the maintenance of the establishment of the Department by ensuring that posts are utilised as per approved establishment plan and that posts and incumbents are moved when transfers or promotions occur. Various Regional Offices were visited for purposes of auditing their establishment and dealing with anomalies in those establishments. This process will continue into the next year of reporting.

2.330 The Subdirectorate is involved in the implementation of the recommendations of the task teams appointed to investigate the rationalisation of the establishments of magistrates offices. The process commenced in December 1998 with the active participation of the division and is continuing.

2.331 The Subdirectorate assisted in the transfer of agency functions to relevant Departments and is managing the process of amending the establishments as a result of such transfers and other resultant activities.

2.332 The Subdirectorate is rendering support to the Regional Offices as far as establishment matters are concerned, as this is a centralised function.

2.333 Officials in this Subdirectorate underwent training on, for instance, Human Resource Planning courses, for purposes of ensuring that capacity is also built to deal with matters of human resource needs forecasting and human resource planning formulation. The Subdirectorate will be more occupied with addressing these two areas in the next reporting year.

2.334 The development of an integrated Human Resource policy manual, system and acquisition of an integrated computerised system that impacts all HR functions has been brought a step closer to finalisation with the establishment of project teams to look into developing Human Resource poli-

cies that emanate from the new Public Service regulations. The Subdirectorate is actively taking part in the process of bringing these to fruition.

Challenges for the Subdirectorate

2.335 Training of employees of the Subdirectorate in all facets of People Management so that the Subdirectorate's interaction with its customers within is qualitative, meaningful and enhance service delivery, is an inescapable challenge which has to be met.

2.336 The realignment of the structure of the Department to its strategic objectives and the resultant of such realignment is another challenge facing the Subdirectorate and to that effect the Subdirectorate is part of a task team that is looking into the organisational structure of the Department.

Evaluations

2.337 The main functions of the Subdirectorate are to evaluate employee performance for purposes of notch increments and merit awards and to develop a Performance Management System in line with the new Public Service Regulations.

2.338 The reporting year was characterised by the establishment of committees responsible for the evaluation of performance of others and processing of the results of such evaluations.

2.339 The year was also consumed by clearing outstanding evaluations and dealing with current evaluations. These were cleared by decentralising the responsibility to moderate evaluations to the regions and magistrates' offices. Prescribed committees sat at that level to expedite such current and outstanding assessments.

Challenges for the Subdirectorate

- 2.340 • The biggest challenge for the Subdirectorate is to implement and manage a Performance Management system peculiar to the Department and to respond to matters arising from the process.
- The devolution of the system and management of results from the system is another challenge facing the Subdirectorate.
 - Automation for easy access to

information is a challenge that has to be surmounted in order to enhance service delivery.

- A challenge facing every employee in the Subdirectorate is the mastery of the management of performance, be it individual, team or organisational and to that effect skills would have to be developed to contend with the changed framework.

Training Administration

<i>No</i>	<i>Outputs</i>	<i>Progress to date</i>
1	Business plan for two Project Management Programmes were finalised: <ul style="list-style-type: none"> • Denmark • Sweden 	Two projects will be run during the second part of 1999. The Danish government has promised to sponsor 20 officials of the Department in Denmark. The Swedish government has also advised that SIDA has agreed to run the Project Management Programme during the second part of 1999. The venue will be in South Africa whilst using their own consultants.
2	Internship Policy for the Department of Justice	The draft policy has now been finalised pending approval by the DG and the Minister.
3	Demarcation for a SETA for Justice, Police and Prisons	Various workshops have been held with the other role-players regarding the formation of a SETA for this sector. A task team representing the sector will submit a report to the Department of Labour on or before the 30th of July 1999.
4	Bursary Administration	889 bursaries were granted in the following lines of study: <ul style="list-style-type: none"> • LLB • MBA • NDPA • B ADMIN
5	Operations Management Programme for the whole Department	The whole tender process was finalised, only to be canceled at a later stage by the Tender Board on procedural aspects. The process is being decentralised to all the Regions as separate cases. The roll-over of funds is still being investigated with Finance. In cases where the funds are not available, regions will be requested to do the necessary budgetary allocation for the following financial year.
6	Total Quality Management	Three officials have completed their two modules in Project Management and Operations Management in March 1999. Plans are being made to have these concepts incorporated in the training within the Department.
7.	Cultural Audit Project	The first phase of this project has been finalised, and this involves the designing of the questionnaire for the project and the training of the three researchers who will be involved in the actual implementation. The second phase has also begun with the implementation of the survey instrument nationally and regionally. The researcher is currently involved in processing the completed responses from National Office.
8	Evaluation of outsourced training	The process of auditing all outsourced learning solutions is being implemented by the Research Division. The instrument designed has been finalised and distributed via a general minute.
9	Database for the different programmes	Databases to capture all the new programmes that are running in the Department were designed.
10	Allocations for the training budgets in the Regions	Arrangements were made with Finance that a separate budget allocation be made at the Regional level as well as at the National Office to capture all expenditure that relates to training. Responses in this regard has been received by various offices.
11	Compilation and revision of the TED Catalogue	The first TED Catalogue was launched last year and it has subsequently been revised regularly on a six-month basis to ensure the relevance of the programmes.
12	Purchasing of material for the HRD Resource Centre	Approximately 120 books and 15 videos were bought from different service providers during the financial year.

<i>No</i>	<i>Outputs</i>	<i>Progress to date</i>
13	Membership to professional bodies	Thirteen officials were registered with the different professional bodies: <ul style="list-style-type: none"> • IPM • SABPP • HSRC
14.	Official launching of the HRD Resource and Computer Centres	The official launching of these two centres of learning occurred in June 1999 and was attended by officials of various Directorates as well as the acting DG.
15	Costing of the training, education and development programmes	Programmes which have been run by the Department as well as outside providers.
16	Designing of evaluation tools/instruments	Evaluation tools for the different programmes were designed and implemented. This includes instruments for: <ul style="list-style-type: none"> • Two women leadership programmes • Computer training programme An evaluation instrument for HIV/AIDS has also been designed.
17	Survey tracker instrument	Liaison with consultants from organisational Diagnostics resulted in the purchasing of this software and it is used to conduct research in the Department on leadership, OD and other related aspects.
18	Integrate the database of Justice College, HRD and all the Regions	This process has begun and will be completed before the end of 1999.
19	Evaluation of ABET	The involvement of the research team in this process is to ensure quality management throughout the process of the ABET Programme. The programmes were delayed because of tender procedures and the tendering procedure had to be re-conducted.
20	Customer Care Audit for Bursaries	This project is in the phase of drawing its sample, delays were experienced by the fact that details of many bursary holders were not computerised.

National Inspection Services

2.341 The purpose of this Subdirectorate is to promote efficient work performance and service delivery in the Department by means of regular and coordinated inspections.

2.51 In order to achieve this objective, the following functions are being performed:

- (i) The execution of physical work performance inspections at Head Office, Regional Offices and sub-offices on an *ad hoc* basis.
- (ii) The conducting of judicial quality control inspections at court houses in the clusters.
- (iii) The coordination of inspections and inspection reports of the regional inspectors.
- (iv) The handling of miscellaneous legal tasks.
- (v) The rendering of training and guidance to regional inspectors in re-

spect of organisation and establishment requirements of magistrates' offices.

- (vi) The coordination of the reports and recommendations of regional inspectors in respect of organisation and establishment requirements of magistrates' offices.
- (vii) The examining of clerical, administrative and professional activities in order to determine whether the work is being done according to the prescriptions and whether it is up to date and standard.
- (viii) The identification and coordination of judicial training needs and provisioning of training.
- (ix) The identification of training needs and the functional and task-oriented training of staff to enable officers to provide an efficient service. During inspections, advice and guidance are given regarding better work procedures and methods, the

elimination of shortcomings and cumbersome and unnecessary work, the effective performance of control, supervisory and management functions, cost-effective management, the training and development of staff and the effective utilisation of staff and other resources. To promote the efficient utilisation of staff, high priority is given to the exercise of control and to supervisory skills. Heads of divisions are given advice and guidance in this respect. Supervisory officers are encouraged to attend to the training and development of their staff in their respective specialised set-ups.

- (x) The emphasising of the cost-effective management at all offices and the verification of control over expenditure and compliance with financial instructions.
- (xi) The execution of misconduct investigations and reporting thereon.

- (xii) The analysis of and reporting on procedures, methods and systems.
- (xiii) The reporting to management about changed circumstances and conditions in Head Office, the Regional Offices and sub-offices.

2.342 The year under review was once again characterised by comprehensive and time-consuming investigations into organisations and establishments, functioning problems at various offices, misconduct, irregularities and crime. As a result of these *ad hoc* tasks, this Division was unable to attend to its line functions. The following serves as examples (the investigations performed by the Division are reflected in the statistical figures below):

- Investigations into the rationalisation of 48 magistrates' offices in the Western Cape Province during which the incumbency of 1 372 posts was investigated and as a result, it was recommended that 37 posts be abolished and 409 created which represents a recurrent additional expenditure of R39 199 791,00 per annum
- Investigations into misconduct and crime in which the institution of misconduct proceedings and suspensions were recommended
- Investigations into deficiencies, losses and damage for the Department caused by irregularities, fraud, theft, wilful damage, negligence, delay and omissions on the part of employees amounting to R70 722 176,00
- Rendering of training and guidance to regional inspectors regarding the conducting of work performance inspections and *ad hoc* tasks

2.343 In facilitating the implementation of the Judicial and Administrative Manuals within the Department, various presentations were conducted countrywide. The presentations focused mainly on the provisions of the Constitution and the vision of Government regarding the establishment of an efficient, affordable and sound court administration, an independent judiciary and the upgrading of service delivery within the Department.

2.344 Officials of the Division also serve on various task teams on a continuous basis and are often required to assist in various meetings at all levels of management.

2.345 Statistical Figures

Task	1998/99
Sub-offices inspected on behalf of regional offices	15
Organisation and establishment investigations	53
<i>Ad hoc</i> investigations carried out	68
<i>Ad hoc</i> tasks finalised	352
Legal opinions and advice to the Department	184
Distance traveled (kilometres)	108 914
Unremunerated overtime performed (hours)	3 750

Chief Directorate of Transformation and Equity

2.346 The following programmes primarily deal with institutional development to bring about the necessary capacity for effective and responsive service delivery to all, regardless of difference and for ensuring that suitably qualified persons from the groups designated in the White Paper on Affirmative Action in the Public Service and the Employment Equity Act are attracted into, developed, advanced and retained at all levels and in all structures in the Public Service. The key programmes are as follows:

The Batho Pele Justice for All Initiative

2.347 The initiative was born at the beginning of 1998 as an earnest attempt to synchronise the implementation of Batho Pele: White Paper on Transformation of Public Service Delivery and Justice Vision 2000: Department's Strategy for Transforming the Administration of Justice and State Legal Affairs.

2.348 This programme has since resulted in a Draft Customer Service Charter for Court Users. This draft was subjected to an Internal Stakeholder Summit comprising a representative of the Chief Justice, Judge Presidents, Regional Court Presidents, Heads of Magistrates Court Clusters, Masters of the High Court, Registrars and Senior Management in the then Department of Justice, amongst them Deputy Directors-General, the Acting Director-General and the Minister of Justice.

2.349 The Summit generally supported the contents of the Charter. However, it was suggested that the implementation process needed to be staggered in order to be successful. This was in recognition of disparities in the state of readiness

between various courts, to meet the promises in the Charter. It was observed in particular that courts in the rural areas and historically black townships, did not have adequate human and infrastructural resources, including adequate rooms, to provide services according to the standards stipulated in the Charter.

2.350 The Draft Charter is the result of an extensive consultative process which included customer opinion surveys, internal and external consultations at court cluster level and provincial summits involving internal stakeholders and the public.

2.351 Following the National Internal Stakeholder Summit, letters were written to the Chief Justice, Presidents of the High Courts and Regional Courts, Court Cluster Heads, Masters of the High Court, Regional Heads and Heads of Business Units at the National Office, asking them to indicate their state of readiness to implement the Draft Charter.

2.352 Responses received revealed overwhelming support for the Draft Charter. However, it was clear that not all service centres could immediately comply with all the Charter standards. Unfortunately, not all respondents concretely quantified their needs, which were meant to go into the service delivery improvement programme.

2.353 Since June 1999, National Office has been involved in dialogue with the heads of all service delivery centres to assist them to quantify their needs so that these could go into the Service Delivery Improvement Programme Plan and ultimately, the Medium Term Expenditure Framework for the Department. A Draft Service Delivery Improvement Plan was developed and also distributed and discussed at the Internal Stakeholder Summit in June 1999. It is being fi-

nalised with further inputs particularly on resource requirements or adjustments and the time-frames for addressing such resource adjustments.

2.354 Areas that were not adequately addressed during the Charter drafting process include the areas Traditional Service Delivery Institutions, Administration of Estates and the Delivery of Legal Services to the State. With the expansion in the business of the Ministry in the wake of the new Cabinet, the area of Constitutional Development also needs to be addressed. With regard to traditional institutions, some initial consultations were held with the traditional leaders. This included their involvement in the provincial summits and a special focus group workshop at national level. They supported the idea of a Charter for Court Users and offered to develop and submit their inputs on standards in the traditional courts and requested training on matters such as gender, children's issues and human rights in general. This will be pursued in the new year.

2.355 The consultations on the Charter for Court Users also involved dialogue with the legal profession. They too pledged support for the efforts to improve service delivery to all regardless of difference. One of the key subjects of the dialogue with the legal profession, was the issue of harmonising independence and accountability. All agreed that the tax payer is entitled to value for money and responsive service and that nothing, including the notion of judicial independence, could be construed to allow service providers to be indifferent to the needs of the public and to be unaccountable.

2.356 One of the reading materials distributed at the summit was a position paper on a framework for transforming the Judicial System, including the Judiciary. The paper, which had since been developed by the Chief Directorate: Transformation and Equity, at the direction of the former Minister, was well received and has been the subject of comments beyond the summit. The paper elaborates on themes already dealt with in Justice Vision 2000.

2.357 A final national summit with external stakeholders which was planned for September 1999, could not take

place due to resource constraints. Efforts are under way to hold the Summit in the beginning of 2000. Efforts are also under way to develop a strategic plan to assist the Department in the management of the strategic adjustments or changes it has to make in all business processes and structures, in order to achieve the service delivery objectives contained in the standards enshrined in the Charter.

2.358 The Batho Pele Justice for All initiative integrates the mainstreaming of gender and other special service delivery issues such as accommodating the needs of people with disabilities, the aged, children, illiterate people, poor people and refugees. It also deals with the role of the justice system in the African Renaissance and the harmonisation of service delivery improvement with the equalisation of work opportunities in the Justice System. These messages are continuously disseminated through workshops, meetings, posters and other promotional materials. The programme is also backed up by a Batho Pele Ambassador Award Project. The Justice Choir has up until now been the main ambassador for the Batho Pele Justice for All initiative.

2.359 Spin-offs from the National Office driven programme have been many. Notable amongst these is the operation Isondlo in Kwazulu-Natal which has sought to deal with the maintenance case backlog and societal attitudes towards the payment of maintenance. Another area of improvement is the improvement in the user-friendliness of courts. The National Director for Public Prosecutors has taken the process much further through rewarding excellence, promoting healthy competition between service centres and regular monitoring of indicators.

2.360 As a result of resolutions arrived at strategic planning workshops in April 1998 and November 1998 various quick improvements have been introduced. One of these is the practice of calling witnesses to court by telephone when their case is ready to be heard, where possible. This ensures that people do not wait in court endlessly when they could be at work. Coordination of services has also

improved, particularly between the prosecution, police, administration and the judiciary. In many areas the involvement of communities has also improved. This is particularly the case in areas such as maintenance, family court services, violence against women and the provision of services to children. The key resolutions of the November 1998 strategic planning workshop included the following:

Mainstreaming Gender

2.361 The finalisation and launch of the Gender Policy Statement constitutes the greatest milestone in the quest to mainstream gender in all activities in the Department. Following the launch of the Gender Policy Statement in March, 1999, implementation work has begun in earnest.

2.362 The first step in the implementation process was the launch of the National Gender Forum in April 1999. This has since been followed by the launch of Regional Gender Fora and in some provinces gender fora at court cluster and sub-cluster level. The gender fora serve as part of the implementation support mechanisms in the gender policy statement that are there to anchor the implementation process.

2.363 One of the key implementation challenges is that of capacity building with regard to knowledge, skills and attitudes for the implementation of the policy which requires every departmental activity to be informed by gender equality analysis. The Gender Policy Statement entrenches the principle of gender equality analysis in all work performed under the auspices of the Ministry of Justice. This includes planning, including the planning of new services, policy development and implementation, law making and interpretation of law by the courts.

2.364 The key challenges for the Department in this regard is to facilitate the provision of appropriate training to all personnel under the Ministry, including those in direct service provision to the public and those in planning, policy development and administration.

2.365 Dialogue with key role-players and stakeholders has commenced. One

of the initiatives in this regard is the development of a draft Resource Manual on Gender Equality analysis. Once finalised, the manual will be used as the basis for training all personnel falling within the scope of this Ministry.

2.366 Another implementation area that the Department is currently grappling with is the mainstreaming of gender in the budget. The Gender Policy Statement commits the Department to achieve a gender budget. Dialogue in this regard, has begun in earnest. This issue has been integrated in the policy considerations guiding the preparation of the Department's MTEF.

2.367 The Department has discovered that this is not any easy task, particularly in the absence of concrete statistics that indicate the customer profile and cost of service per customer. However, where it is known that certain services are likely to help reduce the gender gap, efforts are being made to invest in those services. Examples include community outreach, family services, victim empowerment and the prioritisation of combating violence against women.

2.368 Strengthened relationships with civil society have improved the Department's understanding of customer needs. In some instances, partnerships with civil society have strengthened the Department's ability to respond to people's needs, particularly the needs of the historically marginalised. One of the pillars of the relationship with civil society is the Annual NGO Forum which has taken place every April since 1998. This forum serves as a joint planning and monitoring structure. It also facilitates the process of identifying areas where NGOs are better placed to provide service on behalf of the Department.

2.369 The key benefits of this strong relationship have included the Helpline for Abused Women (0800 150 150) and the conceptualisation of the 365 Days Campaign on Activism Against Gender Violence (November 25, 1999 - November 25, 2000). This campaign marks a move away from focusing on victims/survivors and breaking the silence, to mobilising the whole of society particularly men and agents of socialisation, with a view to breaking the cycle of gender violence.

2.370 To ensure that a holistic inte-

grated response to gender violence is maintained, the one-year campaign against Gender Violence is integrated in the Five-Year National Plan of Action on Violence against Women. The Five-Year Plan of Action covers the implementation of the Commitments this country made on November 25, 1998 with regard to the implementation of the Prevention and Eradication of Violence Against Women Addendum to the SADC Declaration on Gender and Development and obligations in terms of CEDAW, the Beijing Platform for Action and other international instruments. On November 25, 2000 we will not only be evaluating the 365 Day Campaign, we will also be measuring the progress we have made after two years of implementing the SADC Addendum and one year of implementing the five-year plan of action.

2.371 The partnership with civil society is critical for mobilising and maintaining an integrated response which touches on all areas of life including the media, the church, cultural and training institutions and business. It is also playing a vital strategic role with regard to the development and tracking of indicators to monitor progress.

Victim Empowerment

2.372 The Draft Victim Charter which was initially developed in June 1998, has gone through various phases of consultation. Most of these consultations have involved dialogue with and integration of the inputs of service providers in the wider justice system beyond the Department of Justice. The Draft Charter will be distributed to the public and subjected to public hearings as soon as Cabinet has approved it.

2.373 At the level of service delivery, things have improved significantly. Despite the occasional aberrations, service providers have become more aware of the needs of victims. Responses to the Accountability Framework on Victim Support and Empowerment reveal that more centres have adopted measures to empower victims and the quantity and quality of victim services has improved. For example, the number of courts with technological aids for sensitive victims, such as CCV and one-way mirrors has increased. More courts have separate waiting rooms for

victims and more service providers have been exposed to awareness programmes such as social context training, diversity awareness and training on the Guidelines on Handling Victims/Survivors of Sexual Offences on the responsive service as envisaged in Batho Pele.

2.374 New legislation has also ensured to the extent possible, that victim concerns are understood and responded to. Notable examples in this regard are the Domestic Violence and Maintenance Acts (1998).

Equity in the Workplace

2.375 One of the recent key challenges for the Department has been the need to build adequate capacity for effective implementation of the Employment Equity Act, 1998 and the White Paper on Affirmative Action in the Public Service.

2.376 The challenges have been made easy for the Department by the existence of its own internal policy on Representativeness and the Achievement of Employment Equity. Although the internal policy preceded the national policy frameworks, it captured the fundamental compliance requirements in the Employment Equity Act and White Paper.

2.377 The implementation process commenced with a national training and planning workshop conducted with the assistance of the Economic Justice Agency. In addition, input on Employment Equity is regularly inserted in workshops/seminars on service delivery improvement and other matters.

2.378 At a practical level, equity indicators are developed and reviewed regularly. These reveal a lot of progress particularly with regard to changing the profile of service providers. The indicators reveal that the White Paper target of achieving 50% representation of Black people in senior management, has been achieved. The representation of women is also almost on target and available disability data reveals commendable progress.

2.379 However, areas such as the judiciary, continue to present a challenge. This challenge, as we all know, transcends the powers and responsibilities of the Department. However, something is

being done within the powers of the Department, to facilitate transformation of the profile of service providers in the judiciary as envisaged by the Constitution and national policy. This is one of the matters dealt with in the Gender Policy Statement. Other strategies employed included integration of this matter in the dialogue on transformation of the judiciary, particularly issues relating to judicial training and accountability. This is one of the issues dealt with in the paper distributed at the National Summit in June 1999.

HIV/AIDS

2.380 The Department has been very consistent in its commitment to play a significant role in national efforts to combat the AIDS pandemic. Most of the efforts have gone into awareness raising activities amongst personnel in the Department and participation in interdisciplinary activities led by the Department of Health. Some effort has also been directed at developing coping skills for people affected by HIV/AIDS. This is eventually intended to be part of the Department's Employee Assistance Programme (EAP).

2.381 Awareness raising efforts have extended to services to the justice community. This has involved services to court users and members of families of personnel in the Department. Interventions of this nature have been made possible since the establishment of a departmental aids committee with membership throughout the country, including provincial and sub-offices.

2.382 One of the areas prioritised in departmental efforts recently has been an inquiry into possible law reform to deal with HIV testing of persons accused of rape. The Department was also asked to investigate the constitutionality as a measure aimed at preventing the spread of AIDS in prison. These investigations are drawing close to finality.

Millennium Challenges

2.383 One of the key challenges facing the Department is the development of reliable information systems to facilitate the development of indicators that can accurately reflect progress in service delivery improvement. Another key challenge is that of understanding and responding to the different justice needs

of the diverse users and potential users of the justice system. The harmonisation of accountability and independence of the judiciary and other professionals in the court services will be one of the keys to achieving responsive service delivery. Gender mainstreaming and affirming difference constitute another key.

Chief Directorate of Justice College

Introduction and Background

2.384 The primary task of Justice College is practice-oriented, functional, legal training of magistrates, prosecutors and other officials in the employ of the Department. In addition, formal academic legal tuition is presented to departmental officials enrolled for the LLB degree at UNISA. Classroom tuition is further presented to officials attached to Deeds Registries and enrolled with the Technikon SA for the National Diploma in the Registration of Deeds. The College also provides legal training in a variety of legal subjects to officials of other government departments.

Functional Training

• *Seminars for aspirant regional magistrates*

2.385 It is expected of aspirant regional magistrates to attend a seminar at Justice College before their suitability for appointment as regional magistrates is determined.

2.386 One four-week seminar for this purpose was presented during the period under review. During the seminar attention was given to the latest developments in the field of the law relevant to criminal. Fifty-four aspirant regional magistrates attended this course.

• *Seminars for aspirant magistrates*

2.387 In terms of regulation 3 of the Regulations for Judicial Officers in the Lower Courts, 1993, published in terms of section 16 of the Magistrates Act, 1993 (Act 90 of 1993) in Government Notice No R 361 of 11 March 1994, no person shall be appointed as a magistrate unless he or she has *inter alia* successfully completed an applicable course at Justice College.

2.388 During the period under review two courses of eight week's duration, of which four-weeks of each seminar were devoted to criminal court training, were presented to 114 aspirant magistrates.

• *Seminars for criminal court magistrates*

2.389 During the period under review one four-week seminar was presented to 16 magistrates.

2.390 In addition to the above training, five one-week seminars were presented to a total of 90 magistrates on a decentralised basis. *Capita selecta* of the seminar content mentioned above were presented.

2.391 In addition to the above, lecturers of Justice College presented lectures on a variety of topics to a group of 80 regional magistrates at their annual ARMSA meeting held in Bloemfontein during November 1998.

• *Seminars for regional court magistrates*

2.392 Eighty regional court magistrates from all over the Republic attended a refresher seminar where important aspects of Ethics, Independent Judiciary and Misconduct procedures were discussed.

• *Seminar for Namibian aspirant regional court magistrates*

2.393 An aspirant regional magistrate seminar was conducted from 5 to 16 October 1998 for the Namibian Justice Authorities in Windhoek. During the seminar attention was given to their latest developments in the field of the law relevant to criminal justice and human rights. Eight aspirant regional magistrates attended the seminar.

• *Seminars for advanced civil court magistrates*

2.394 A seminar was scheduled for June 1999, but was cancelled at the request of several cluster heads who requested that it be converted into an intermediate seminar for civil magistrates. The request was acceded to.

- **Intermediate civil court magistrates' seminars**

2.395 Three such seminars were hosted during the period under review. Two were presented at Justice College and a third was hosted in East London at the request of the cluster heads for the Eastern Cape. A total audience of 68 magistrates were reached. These seminars are presented to duly appointed magistrates seeking refresher courses. The emphasis is on substantial and procedural law, evidence and human rights. The duration of each seminar is four weeks.

- **Seminars for aspirant civil court magistrates**

2.396 Four seminars of four week's duration each were presented. These were attended by 133 candidates. The training is of an introductory nature. Civil procedure and evidence is accentuated far more than substantive law.

- **Training for taxing masters**

2.397 Advanced Taxations-Magistrates' Court: The course is attended by clerks of the civil court who are experienced taxing masters and have already attended the basic clerks of the court course. One course was presented for one week and 23 officials attended.

- **Courses for Registrars of the High Court**

2.398 Three courses were presented; two in default judgments and one in the taxation of bills of costs in the High Courts. The former two courses endured for a week each, and the taxation course lasted for three weeks and culminated in an examination which candidates need to pass to receive a certificate of successful completion. These courses were attended by 68 candidates.

- **Training of maintenance clerks and officers**

2.399 Four decentralised courses were presented to maintenance clerks and officers throughout the Republic. A total of 105 officials attended these courses. The aim of these courses is not only to equip the officers/clerks to efficiently deal with maintenance matters, but also to sensitise them to the

needs of the public in order to render a more "user-friendly" service to the public.

- **Seminars for state advocates**

2.400 One seminar for state advocates was presented during the period under review. Twenty-nine advocates attended this seminar. The aim of this seminar was to train advocates in all aspects of the criminal justice process with special reference to their working environment and to fundamental rights.

- **Ordinary prosecutors courses**

2.401 Two four-week courses and one three-week course, attended by a total of 125 prosecutors were presented. Aspects of

- Law of Evidence
 - Criminal Procedure
 - Criminal Law (general principles and specific offences)
 - Human Rights
 - Social context training and
 - Maintenance
- were presented.

2.402 In addition to the courses mentioned above, eleven one-week courses were presented to a total of 229 prosecutors on a decentralised basis at various centres throughout the Republic. *Capita selecta* of the seminar content mentioned above and topics identified by various Attorneys-General were presented.

- **Courses for master's office personnel**

2.403 Attendance of the appointments, securities and accounts course (ASA course)/junior estate controller's course, senior estate controller's course and the course for aspirant assistant masters are compulsory for promotion purposes. A one-week seminar dealing with specific problem areas experienced by assistant masters in practice, is also presented.

2.404 During the period under review, two appointment, securities and accounts courses (ASA course)/junior estate controller's courses, two senior estate controller's courses and one assistant master's seminar were presented.

- **Courses for clerks of the civil court**

2.405 Three courses of two week's du-

ration each were presented. It attracted an audience of 82 officials. The course deals with the duties and functions of a clerk of the civil court. Legal aspects such as default judgments, taxations of costs, grant of warrants, etc are dealt with.

- **Courses for clerks of the criminal courts**

2.406 The aim of these courses was to train clerks of the criminal courts in all their administrative tasks. During the period under review, four one-week courses were presented to 99 clerks of the criminal court.

- **Training of court interpreters**

2.407 Aspirant court interpreters are required to pass a language proficiency test taken down by a chief court interpreter in consultation with an inspector of court interpreters. After having passed the test, the candidate is appointed temporarily to do interpreting work in court under the supervision of a chief court interpreter. A further test is taken down by an inspector of court interpreters and, after having passed that test, the candidate is appointed on probation for twelve months. Within this period, the candidate must attend a course at Justice College.

2.408 During this four-week course, classroom tuition is presented on certain legal subjects, on the meaning and interpretation of terminology peculiar to court interpretation and on proficiency in the various official languages. Upon completion of the classroom tuition, the candidate receives two weeks' practical training in court under supervision of an inspector of court interpreters. Thereafter the interpreter resumes duty at his or her station and is visited by an inspector of interpreters on a regular basis during inspection tours. During these visits, individual in-service training is given.

2.409 During the period under review, eight interpreters' courses were presented and 106 interpreters attended these courses. During the period under review, a total of 197 interpreters were visited by inspectors of interpreters conducting inspection tours.

- **Training in human rights**

2.410 Training in human rights is included in all courses presented at or by Justice College.

2.401 During the period under review, a further ten two- and three-day courses on basic human rights were presented to a total of 297 clerks, interpreters and para-legals on a decentralised basis. In 1999 this course was also included in the training for disciplinary hearings at both local and decentralised level.

- **Courses for the Extension of Security of Tenure Act**

2.402 Both the above Act and the Prevention of Illegal Evictions Act were presented countrywide on a decentralised basis. The intention is to apprise all attendees of the contents of the Act and to sensitise them in the administration hereof. Six such courses were presented, reaching an audience of 172.

- **Training of Commissioners of Child Welfare**

2.403 Five decentralised courses were presented to commissioners of child welfare throughout the Republic. A total of 78 magistrates attended these courses. The aim of the courses is not only to equip the Commissioners to effectively deal with matters pertaining to the Child Care Act, but also to sensitise them to the needs of the children.

- **Courses for Clerks of the Family Courts**

2.404 Three courses of one week's duration each were presented on a decentralised basis in Durban, Port Elizabeth and Cape Town. It reached an audience of 43 officials.

- **State Attorneys' Debt Collections Course**

2.405 A first ever such course was presented to State Attorneys in Bloemfontein over a period of three days. The course focused on the provisions of section 65 of the Magistrates' Court Act, the attendant cost-awards, and selected commercial aspects of work. It was attended by 19 officials.

- **Mediation Training**

2.406 A mediation course was presented to officials from the Family Advocates' offices over a period of one week. It was attended by 40 officials.

- **International Child Abduction Conference**

2.407 Based upon the Hague Child Abduction Convention, of which the Republic of South Africa is a signatory, practical training was presented on the convention over a period of three days. The audience included judges, magistrates, attorneys, advocates, prosecutors, etc. In all 140 people attended this training conference.

- **Training to officials of other departments**

2.408 The lecturers of the Sub-Directorate: Deeds Training attached to the office of the Chief Registrar of Deeds are, for practical reasons, housed at Justice College to cater for the training needs of deeds office personnel and also to assist Justice College in their specialized field of the law.

2.409 Presently the Sub-Directorate has also embarked on a decentralized training programme, whereby a law lecturer has been appointed in each deeds registry to train as many deeds office officials in the shortest period of time.

2.410 The Sub-Directorate, during the period under review, presented the following functional courses:

1. Decentralized Deeds Registration Level II course at Cape Town to 17 attendants
2. Deeds Controllers Course in Namibia to 9 attendants
3. Two Deeds Registration Course Level IV courses to 26 attendants
4. Three Land Tenure Right Courses to 49 attendants.

2.411 Over and above the functional courses, the Sub-Directorate also presented finishing courses for the first, second and third year students enrolled for the National Diploma in Registration of Deeds. A total of 105 students attended the finishing courses.

2.412 Justice College lecturers are regularly involved in presenting courses or lectures at the request of other government departments or bodies. Examples of such training presented during the period under review are *inter alia* the following:

- Due to an increase in the demand for basic legal training of officials of other departments who act as prosecutors and presiding officers at disciplinary hearings, various courses to meet this demand were presented by Justice College in Pretoria and on a decentralised basis. In this regard lectures have been presented to officials in various Departments of the Northern, Free State and Eastern Cape Provinces as well as the central departments such as the Departments of Public Works, Communication Systems, Foreign Affairs, Agriculture, Sport and Recreation and Health and Social Welfare.
- Courses were also presented to road traffic inspectors and to officials of Nature Conservation, as well as probation officers and intermediary officers of the Department of Welfare.
- A course on insolvency law was presented to staff of the South African Revenue Services by the Master's Training Section. A total of 140 officials attended this course.

2.413 In total 22 courses, attended by 676 officials, were presented to staff of other departments.

- **Training as part of the National Crime Prevention Strategy**

2 414 The Human Resource Training Project, one of the projects financed through donor funding under the National Crime Prevention Strategy, was continued during the year under review. Particulars of the sub-projects involving training, which have already been implemented or identified for implementation in addition to the ordinary training programme, are as follows:

- (a) **Fast-tracking of training of prospective prosecutors**

- (i) During 1997 Justice College facilitated the fast-track training of prospective prosecutors programmes. One hundred candidate prosecutors

were selected from 1500 applicants and appointed on a contractual basis to undergo an intensive in-service training programme of 12 months' duration under the supervision of 12 monitoring tutors at various magistrates' offices. The training programme was compiled by Justice College. After completion of the programme, the candidates were evaluated and 98 of them were permanently appointed as prosecutors in the Department. This was a special project financed by the NCPS.

During the period under review, the College continued with this programme and embarked on a training programme for permanent prosecutors. Training were presented to 104 permanent prosecutors who underwent training in two phases of three months each. The training took place at various magistrates' offices under the guidance of 6 tutors.

Since April 1999 a second group of prospective prosecutors underwent training at various magistrates' offices under the guidance of 6 tutors. This phase of training ended at the end of September 1999. A total of 58 prospective prosecutors were trained.

(b) Multi-departmental joint training

The aim of this training is to present joint training to officials of various departments on topics of a generic nature or of mutual concern. A joint training committee of representatives from the Departments of Justice, Correctional Services, Home Affairs, Welfare and the SAPS was formed. Several meetings, seminars and workshops were attended and topics for a joint training initiative have been identified.

Training commenced during February 1999 with the presentation of a one-week seminar to prosecutors and officials of SAPS, the Department of Correctional Services and Welfare. A total of 17 officials attended. This project is financed by the NCPS. A further three courses will be presented during the latter part of 1999.

(c) Court and docket management

The aim of this programme is to pro-

vide training in the speedy resolution of matters concerning court and docket management. Information is currently being gathered to enable Justice College to compile a curriculum in consultation with other role-players.

(d) Academic training for interpreters

The aim of this programme was to assist in the institution of a university diploma in legal interpreting. A curriculum has been compiled with financial assistance from NCPS funds. Bursaries were allocated and interpreters have commenced with their studies.

(e) Language laboratory

The aim of this programme is to establish a computer driven language laboratory to assist in the training of interpreters and to assist other officials to enhance their language proficiency.

All hardware and some of the software have been installed. One course for interpreters was presented during the period under review and 17 interpreters received training. This project is financed from NCPS funds.

(f) Fast-tracking training of registrars

A need was identified to provide a pool of trainee registrars to supplement the high rate of resignations amongst registrars. Thirty three-trainee registrars assumed duty on 1 June 1998 for a period of nine months. A week long orientation programme was presented at Justice College at the commencement of the programme. At the completion of the programme in February 1999, 12 trainee registrars had already been absorbed into permanent positions. The project was financed by the NCPS.

(g) "Children and the Law" seminar for prosecutors, magistrates and social workers

A seminar was held at Justice College from 29 June 1998 to 3 July 1998 on Children and the Law. This training was part of the NCPS cross cutting training and attendants included

prosecutors, magistrates, social workers and personnel from the office of the erstwhile Attorneys-General. The seminar focused on the child as an offender and diversion options, presentation of evidence, competence and compellability and victim empowerment were discussed. The seminar have been attended by 32 prosecutors, 8 state advocates, 9 social workers and 2 magistrates.

Academic Training

- ***LLB scheme for training at Justice College***

2.415 Justice College had the last group of students for the Diploma Iuris and B.Iuris degree during 1998. It has been replaced by the four-year LLB degree with effect from January 1999. A total of 96 students received tuition at Justice College during the period under review.

- ***National Diploma in the Registration of Deeds***

2.416 The National Diploma in the Registration of Deeds is a three-year legal qualification which may be enrolled for on a correspondence basis at the Technikon SA.

Courses of one month's duration in respect of each of the three years are presented at Justice College for officers in the employ of Deeds Registries in South Africa.

Foreign Assistance

2.417 Justice College, with the assistance of foreign organisations and Government, is involved with a number of initiatives with a view to capacity building. The following foreign organisations and governments are involved in these programmes, which received attention during the period under review:

- ***Canada-South Africa Justice Linkage Project***

The aim of this project is to assist with institutional capacity building in the Department of Justice. The following projects were identified by the advisory committee for implementation:

- Constitutional Law and Human Rights training for magistrates and prosecutors

- Social context and diversity training for prosecutors and magistrates
- Judgment writing for magistrates
- Judicial ethics/independence/accountability for magistrates
- Bench book for civil and criminal court magistrates
- Manual for prosecutors
- Overall report on the status of training of judicial officers in South Africa
- Audit of Justice College
- Train the trainers programme
- Child Law Training

The following should be mentioned regarding the last special project: The Department has been granted an amount of R200 000,00 by the Canadian Project fund to be utilised for training. This amount will be channelled toward the training of court officials on child law, child offenders and victim empowerment. The curriculum is currently being developed. It is envisaged that a number of seminars, workshops and conferences will be arranged to effect this training.

- **United Nations Development Programme (UNDP)**

The aim of this project is to assist with human rights training in the Department of Justice and other departments. A programme manager has been appointed by the UNDP.

- **International Criminal Investigative Training Assistance Programme (ICITAP)**

The aim of this programme is to develop training programmes for prosecutors and investigating officers involved in money laundering, drug-trafficking and other transnational crimes. A resource person has been appointed by the USA Government.

- **United Nations Drug Control Programme (UNDCP)**

The aim of this programme is to launch a sub-regional drug control programme in Africa. A sub-regional meeting and conference were held and training programmes are currently being drawn up. The training involves drug-trafficking and related matters to judges, magistrates, prosecutors and investigating officers. The 14 SADC

countries and 5 other African countries are involved in this programme and it is envisaged that training will commence during the second half of 1999.

- **Commonwealth Secretariat**

This programme is aimed at capacity building at Justice College in terms of providing training in legislative drafting and legal writing. Negotiations are under way with the Commonwealth Secretariat that an expert in the field be based here at Justice College for a period of 2 years.

- **United States Information Service (USIS)**

The aim of this initiative was to afford a group of judges from the United States of America the opportunity to conduct seminars in various parts of the country on various topics. Two of these seminars were arranged and presented.

- **Judicial Conference of the United States of America**

The aim of this programme was to do a needs assessment on the training of judges and magistrates. A federal judge of appeal has visited various parts of the country to gather information. Discussions are currently taking place to implement such training.

- **Raoul Wallenberg Institute**

The aim of this initiative is to assist with the human rights training of prosecutors/state advocates. Negotiations are still to be implemented to discuss the presentation of such training.

- **Fast-Track Civil Magistrates' Training**

Negotiations are being conducted with USAID that sponsorship be given for the fast-track training of 24 civil magistrates under the guidance of 6 tutors. The 24 magistrates will be selected from the group of previously disadvantaged magistrates. The tutors will be either retired attorneys or civil magistrates. The 6 tutors will each train 4 magistrates in 6 different cities throughout the country. The intention is to increase the pool of experienced civil magistrates.

Violence against Women

2.418 Justice College, with the aid of the Danish Embassy, embarked on a special training project on violence against women. The project aims to train officials on issues relating to violence against women. As mentioned the projects are funded by the Danish Embassy and managed by an Advisory Committee consisting of: The Centre for the study of Violence and Reconciliation, Nissa Institute for Women's Development, Tshwaranang Legal Advocacy Center, National Institute for Public Interest Law and Research, National Institute for Crime and the Reintegrating of Offenders (NICRO) and the Justice College.

2.419 The first training course in this regard has been presented in the Gauteng Province and 14 clerks and 20 prosecutors attended the course. The Magistrates Commission has given its approval that magistrates will receive similar training and it is envisaged that further training will be provided during the course of 1999 to all occupational groups.

USAID

2.420 USAID indicated a willingness to support certain training programmes and to donate funds for this purpose. Justice College are currently involved in negotiations with USAID in this regard. If funds are donated, fast-track training of civil magistrates, telematic training and certain training programmes for prosecutors will be developed.

Functional Training

		1997/199	1998/199
1.1	Regional Court Magistrates		
	- Aspirant Regional Court Magistrates	1	1
	- Officers	82	54
	- Refresher course	2	2
	- Officers	125	160
1.2	Magistrates (Criminal Court)		
	- Aspirant Magistrates	2	2
	- Officers	62	114
	- Ordinary Magistrates courses	1	1
	- Officer	22	16
	- Decentralised Magistrates' courses	1	5
	- Officers	20	90
1.3	Magistrates (Civil Court)		
	- Aspirant Magistrates	2	4
	- Officers	62	113
	- Advanced Civil Magistrates course	1	-
	- Officers	22	-
	- Introductory Civil Magistrates' course	2	3
	- Officers	57	68
1.4	Prosecutors		
	- Ordinary courses	3	4
	- Officers	166	125
	- Decentralised courses	3	11
	- Officers	67	229
	- Advanced courses	2	-
	- Officers	118	-
	- Seminar for State Advocates	1	1
	- Officers	29	19
	- Trial advocacy course	1	-
	- Officers	16	-
	- Money laundering seminar	1	-
	- Officers	187	-
1.5	Clerks of the Court (Civil)		
	- Courses	3	3
	- Officials	60	82
	Clerks of the Family Court		
	- Courses	-	3
	- Officials	-	43
	Clerks of the Criminal Court		
	- Courses	3	4
	- Officials	60	90
1.6	Commissioner of Child Welfare		
	- Courses	-	5
	- Officers	-	78
1.7	Courses for officers in the master's branch		
	- Courses for junior estate controllers	2	2
	- Officers	24	19
	- Courses for aspirant assistant masters	2	0
	- Officials	12	0
	- Seminar for masters	1	1
	- Officials	14	11
	- Courses for senior estate controllers	0	2
	- Officers	0	23

Functional Training**1997/199****1998/199**

1.8	Taxing Master's Training	3	1
	- Courses	3	1
	- Officials		
1.9	Courses for Registrars of the High Court		
	- Taxation course	1	1
	- Officials	19	23
	- Default judgments	1	3
	- Officials	10	45
1.10	Courses for maintenance clerks and officers		
	- Courses	6	4
	- Officers	273	105
1.11	"Children and the Law" seminar for magistrates and prosecutors		
	- Courses	2	1
	- Officers	119	51
1.12	Seminar for public defenders		
	- Courses	2	-
	- Officers	59	-
1.13	Courses for court interpreters		
	- Courses	-	8
	- Officers	-	106
	Interpreters visited during inspection tours	-	197
1.14	Training of clerks, interpreters and para-legals in Fundamental Rights		
	- Courses	13	10
	- Officers	278	297
1.15	Courses for the Extension of Security of Tenure Act		
	- Courses	5	6
	- Officers	287	172
1.16	Course in Debt Collections for State Attorneys		
	- Courses	-	1
	- Officers	-	19
1.17	Mediation Course for Family Advocates		
	- Courses	-	1
	- Officers	-	140
1.18	Violence against women		
	- Courses	1	1
	- Officials	67	34
1.19	International Child Abduction Conference		
	- Course	-	1
	- Officers	-	140
1.20	Courses for outside institutions		
	- Deeds Registries		
	- Course in Land Registration	3	3
	- Officers	113	49
	- Training seminar	1	1
	- Officers	9	9
	- Course on Tenure Options and Conditions	1	0
	- Officers	7	0
	- Deeds Registration Course Level IV	1	2
	- Officers	8	26
	- Decentralised Deeds Registration Course Level II	0	1

Functional Training

	1997/199	1998/199
- Officers	0	17
- Decentralised Deeds Registration Course :Namibia	0	1
- Officers	0	9
- Training of Trainers Course	1	-
- Officers	12	-
- Probation Officers' Courses	20	2
- Officers	779	35
- Courses on misconduct for all departments	3	7
- Officers	104	194
- Intermediary courses for Department of Welfare	1	1
- Officers	34	63
- General legal aspects course	1	-
- Officers	34	-
- Road Traffic Inspectors courses	3	2
- Officers	130	102
- Courses for Nature Conservation officers	1	1
- Officers	43	32
- Course for officials of South African Revenue Services	0	1
- Officers		140
1.21 Training as part of the National Crime Prevention Strategy	1	-
- Fast-tracking of training of prospective prosecutors	100	-
- Twelve months training course	-	1
- Officers	-	58
- Six months training course	-	2
- Officials	-	104
- Three months training course	4	11
- Officials	98	229
- One week-decentralised course	1	-
- Officers	67	-
- Violence against women	1	-
- Officers	33	-
- Fast-tracking of Registrars' course	-	-
- Officers	-	1
- Multi-departmental joint training	-	17
- Courses	-	-
- Officials	-	-
- Language Laboratory Courses for Interpreters	-	1
- Courses	-	17
- Officers	-	-

Academic Training 1998/1999			
Year of Study	Course Member	Passed %	Passed
Diploma Iuris Scheme			
First year	-	-	-
Second year	18	2	11%
Third year	5	3	60%
B.Iuris Scheme			
First year	-	-	-
Second year	-	-	-
Third year	42	17	40%
LLB Scheme			
First year	31	7	23%

Chapter 2



Regional Coordination Branch

Background

2.421 This branch is composed of a Deputy Director-General: Regional Coordination, a Director and 9 Regional Heads. Regional Offices are situated in the following centres:

Bloemfontein	Mr KR Makola
Cape Town	Mr HM Mohamed
Durban	Mr MJ Langenhoven
East London	Ms NP Cetwayo
Johannesburg	Ms BR Simelane
Kimberley	Mr RD Isaacs
Mmabatho	Ms Sejanamane (Acting)
Nelspruit	Mr MD Mhlanga
Pietersburg	Ms WK Sonti

2.422 In the transformation of the Public Service, central to the problems besetting Human Resource Management, is the traditional practice of centralised control and top-down management. For the Public Service to carry out its new role effectively, there is an increasing agreement that there will need to be greater devolution of management and decision-making throughout the service (within clearly defined lines of accountability), to ensure innovation, creativity and responsiveness to the needs of clients.

2.423 The White Paper on the Transformation of the Public Service provides that the key precondition for the success of the transformation process will be the devolution and decentralisation of authority. This will enable Service Delivery frontiers to act creatively and flexibly in translating the broad goals of transformation and national policy guidelines into specific strategies that are capable of responding effectively to local needs and circumstances. This is in line with the RDP priority of bringing governance closer to the people.

2.424 At the same time, devolution of decision-making power should be accompanied by increased accountability, both internally and externally. In line with the Constitution, decentralisation and devolution will ensure conformance to national norms and standards.

2.425 In terms of the Department of Justice National Strategy for Transforming the Administration of Justice and State Legal Affairs, commonly known as Justice Vision 2000,

one of the accepted key objectives is the rationalisation and streamlining of the administration of the Department of Justice and the decentralisation of sufficient powers and functions to the Regional and sub-regional offices to make sure that the objectives of the Department are implemented effectively and efficiently.

2.426 In pursuance of the above broad goals of both the government and the Department of Justice, the Rationalisation Committee recommended certain Human Resource Management, Legal Administration, Auxiliary and Financial Management functions to be decentralised to the Regional Offices. The recommendations were approved by the Minister. To this end, an organisational structure was created in each Regional Office to carry out the functions decentralised to the Regional Offices. Consequent to the functions approved for the Regional Offices, the Head of the Department, under cover of Circular No 4 of 1999, dated 5 March 1999, delegated some of his powers in relation to the functions mentioned above to the Regional Offices.

2.427 Various capacity building programmes were designed and implemented in order to equip the Regional Offices with the competencies required to deal with the functions decentralised. Such training programmes are still under way and it is a process that may take some time before completion.

Mission of the Regional Coordination Branch

2.428 The mission of the Branch is to “endeavour to manage the translation of the Department’s policies into actions as well as monitoring and evaluating the implementation thereof by sharing information, resources and experiences; to formulate and implement strategies to discharge our responsibilities to the regions in a coordinated manner to ensure an efficient and effective administration of justice”.

1 The key role of the Regional Coordination Branch is more supportive and facilitative in nature with regard to the implementation of the programmes of all the branches of

the Department which have a bearing on Regional and Sub-offices. It is an execution agency with the purpose of facilitation and actualisation of the programmes of the Department through the creation of the necessary infrastructure and the enabling environment for the realisation of the branche's objectives.

2 It is a vehicle to transport the programmes of the national components to the proximity of the communities in terms of implementation and the management of such programmes. One of the important functions is to empower the Regional Offices, through various programmes, to be able to create the capacity at all Sub-offices and to promote the ideal governance through the participation of communities in the administration of justice.

Functions

2.429 This Branch, through the Regional Office, is responsible for the following functions:

1 Human Resources

- (a) The management and supervision of personnel matters.
- (b) To control the proper utilisation of personnel, which includes:
 - The employment/appointment of personnel
 - Confirmation of officials on probation
 - Translation in rank of officials
 - Implementation of occupational, specific and general salary adjustments
 - Acknowledgement of higher qualification
 - The maintenance of the establishment of Regional Offices and Sub-offices
 - Checking of establishment on the Persal estimate reports against the approved posts
 - The processing of promotions of officials
 - Handling of the progression of officials
 - Administration of Personnel evaluation.
- (c) The maintenance of personnel, which includes:
 - The handling of cross transfers (within a province)
 - Handling of aspects pertaining to transfer costs

- Handling of judicial appointments
- Handling of court roll statistics
- Collection of annual statistical returns
- Handling of resignations
- Handling of retirements
- Handling of service benefits
- The investigation of charges of misconduct
- The approval of appointment of investigating officer and presiding officer
- Suspension of officials
- Investigation to determine gainful employment of personnel
- Handling of abscondments
- Consideration of civil judgements and criminal convictions against personnel
- Handling of general complaints.

(d) Rendering of relief services.

(e) To sustain and promote sound labour relations, which includes:

- Handling of grievances
- Handling of strikes
- Interacting with employee organisations to establish sound working relationships at operational level.

2 Legal Services

(a) Attend to legal matters, including:

- The disposal of representation originating from the legal functions of magistrates and prosecutors
- The handling of miscellaneous legal tasks
- The handling of representations in respect of estreated bail
- Appointment of magistrates and regional court magistrates in inquests
- The determining of responsibility in respect of losses of government money and goods
- The administration in respect of the collection of departmental debts and the writing off of debts

(b) In respect of Sub-offices for efficient work performance, including:

- Inspections of all Sub-offices in the Province
- Organisation and establishment of Magistrates' Offices
- Identification of training needs
- Handling of miscellaneous legal tasks

(c) To render administrative management training, which includes:

- To render introduction/presentation courses
- To render supervisors' courses
- To render middle management courses

(d) To facilitate and coordinate training at regional level

3 Corporate Services

(a) To ensure effective financial management in the region, which includes:

- Remuneration of personnel
- The implementation of salary deductions
- Handling of miscellaneous payments
- Collection of debts
- Checking of vouchers
- Checking and verification of suspense accounts
- The submission of budgetary inputs to National Office
- The handling of budgetary planning and control

(b) To provide efficient auxiliary services, which includes:

- The formulation and management of emergency plans
- The submission of relevant information to National Office
- The training of security guards
- The management of security clearances of officials
- The attending to enquiries
- The submission of applications for the rendering of agency functions to National Office for approval
- The disposal of archives
- The recovery of waste paper
- The issuing and distribution of departmental instructions to Sub-offices
- The rendering of registration services
- The rendering of library services
- The rendering of typing services
- The rendering of communication services
- Identifying the needs in respect of office accommodation and the submission thereof for recommendation to National Office
- The securing of maintenance services and residential accommodation
- The requisitioning of stationery, forms, office equipment and furniture
- The requisitioning of publications
- The rendering of transport services

4 A Regional Head will be responsible for the following functions:

- (a) Oversee the above-mentioned functions
- (b) Coordinate court administration on the regional level which include the following:

- (i) Liaise with top management of all Sub-offices in the region, to wit:
 - Judges
 - Attorneys-General
 - Registrars of the Supreme Court
 - Magistrates
 - Regional Court Presidents
 - Family Advocates
 - Masters of the Court
 - State Attorneys
- (ii) The proper distribution of courts
- (iii) Establish new court structures such as small claims courts, alternative dispute resolution fora, etc
- (iv) Assure that proper personnel and infrastructures are in place at Sub-offices
- (c) Liaise with statutory bodies operating in the province
- (d) Promote the assessor system in the province
- (e) Interact and liaise with the Premier and other senior people of the provincial administration and its departments with regard to the rendering of agency functions
- (f) Oversee the implementation of policy decisions within the region
- (g) Liaise with senior police and correctional services personnel regarding the criminal justice system and court administration in particular
- (h) Implement crime prevention fora in the region
- (i) Capacity-building within communities
- (j) Coordinate community outreach programmes such as information desks and advice bureaus in courts
- (k) Liaise/negotiate with various employee organisations
- (l) Ensure the coherent administration of justice in the region

Overview

2.430 With the regional offices having been established during the 1997/98 financial year, the year 1998/99 was dedicated to the process of decentralising certain functions to them. This process also entailed capacitating the Regional Offices to ensure that they have enough personnel to execute such functions. Some of the offices, like the Gauteng,

Western Cape and Free State Regional Offices are, however, still scaled down offices pending the availability of financial resources to ensure that they are adequately capacitated. As an interim solution, these offices have been assisted by transferring supernumeraries from the Eastern Cape province to address the problem.

2.431 The decentralisation of human resource, legal services and financial and auxiliary functions has been completed except in certain scaled down offices where this process will be finalised once the offices are fully capacitated. Meanwhile, National Office still retains the specific functions where they cannot be carried out by the regional offices.

2.432 The above process has been accompanied by extensive training programmes to ensure that the new personnel are able to carry out their functions effectively and efficiently. The National Office, Justice College and sometimes the regions amongst themselves, took responsibility for the success of this process.

2.433 There has been consensus between the Ministry, the Regional Heads and other relevant role-players that there needs to be clarity in terms of the role of the National Office, Regional Offices and the Court Cluster Management.

2.434 Prior to the establishment of the, Regional Offices, some Magistrates' offices, especially the Chief Magistrates, were delegated some administrative functions by the Department in accordance to Section 14 of the Magistrates Court Act, 1993 (Act 90 of 1993). The Minister, on the recommendation of the Magistrates' Commission, assigned the following duties to the heads of some magistrates' offices:

- Management of a specific magistrate's office
- Utilisation and evaluation of personnel
- Maintenance of discipline
- Control over the use of and maintenance of government property
- Functions assigned to deputy accountants
- Various agency duties on behalf of other departments and provincial administrations

Administrative functions presently

performed by the magistrates will be transferred to the Administrative Cluster Heads once the administrative clusters have been established and the Administrative Cluster Heads have been appointed.

2.435 The Branch: Regional Coordination will ensure that the values and principles contained in the Constitution and Justice Vision 2000 are promoted, in particular to ensure an efficient and professional administration of justice service to the community in all provinces, through:

- the management of all administrative functions of the regions in a transparent manner by acting as a responsible, accountable and accessible representative of the Department in the regions, thereby bringing service closer to the Sub-offices and the communities in the regions;
- the speedy attention of regional legal matters and control over work performance of service delivery offices through, *inter alia*, effective inspections, thus assisting in making justice more fair, just and responsive to the needs of the community;
- the efficient management of human resources, including the proper use of skills, the development of the potential of all personnel as well as the promotion of representivity in the region;
- the provision of efficient auxiliary services, the distribution of resources equally in the region and ensuring that state assets are optimally utilised;
- the establishment and maintaining of sound and proper financial systems, control and accountability; and
- the promotion of the ideal of governance through the participation of communities in the administration of justice; the ensuring and promotion of access to justice to the public.

2.436 During the year under review the following were achieved by the regional offices:

2.437 **Establishment of Provincial Management Committees:** The creation of the Provincial Management Committees emanates from the recommendations of the meeting between Regional Heads and Chief Magistrates held in Durban on 18 September 1998. The Durban resolution was ap-

proved by the Minister and was adopted at the National Service Delivery Workshop on 11 and 12 November 1998.

2.438 Subsequently, all Regional Offices have since set up these provincial management committees where all heads of Department of Justice establishments, including the NDPP, are represented. The main objective of these structures is to identify, on a provincial level, priorities in terms of improved service delivery and sound management of courts. They provide a platform for all the role-players to address such issues in an integrated and coordinated manner.

2.439 Other objectives of the provincial management committees are:

- To maximise efforts through joint planning
- To monitor the coordination of court management
- To share information and improve communication on management decisions in relation to other external role-players
- To resolve disputes that may arise through mutual and bilateral discussions with all role-players in the region
- To ensure the smooth running of courts and administration of the regions
- To build strong and cohesive teams of managers
- To promote the integration and coordination of all regional office activities
- To facilitate and enhance Human Resource Development and Training
- To ensure and support transformation in the regions.

The committees are chaired and coordinated by the Regional Heads. Usually, meetings are convened quarterly in each province. These opportunities are also exploited to disseminate information, clarify policy issues and to communicate the latest developments within the Department and the legal fraternity.

2.440 **Extension of Court Services and Setting up of New Courts:** In fulfilment of bringing services and justice nearer to the people, branch courts have been set up in various provinces,

sometimes in partnership communities or donor agencies. Family Court Centres have also been set up in Johannesburg, Durban, Cape Town, Port Elizabeth and Lebowakgomo. At present, a branch court has been established in Nyanga, Cape Town and others like the Wynberg and Newland courts are being revamped with the view to increase court services to the previously disadvantaged areas.

2.441 **Coordination of Court Management:** Regional Offices play a supportive role towards the functioning of the courts. The decentralisation of functions, like the appointments of entry level prosecutors and other occupational groups excluding magistrates, has expedited the process of filling of posts and other related activities. The courts now have easy access to some services required from the department.

2.442 Regional offices also serve as nodal points in terms of the coordination of the administration of justice. To this end, they ensure that there is proper liaison and coordination within the internal structures and a proper integration of services with outside stakeholders like the other NCPS partners.

2.443 All Regional Offices provide regular reports on the functioning of the courts to the National Office as part of their mandate in terms of the provincial management committees. In KwaZulu-Natal, this has culminated in a workshop with all the criminal justice departments and private sector which resulted in an action plan to address overcrowded court rolls, backlog in administrative functions of prosecutors, etc.

2.444 **Sustained Relationships with Provincial Governments and other Structures of Civil Society:** Regional Offices have forged ongoing relationships with other structures outside the Department. These partnerships address issues which cut across departments and civil society, like crime related issues, sharing of resources for optimal rendering of services on matters of common interest, etc.

2.445 **Coordination with Justice Partners in NCPS Projects:** Close contact has been established with the relevant stakeholders such as Departments of Welfare, Transport, Correctional Services, Safety and Security, non-governmental organisations, community leaders and political parties regarding the involvement of the Regional Offices in the National Crime Prevention Strategy (NCPS) activities and initiatives.

2.446 As the Department of Justice is one of the core Departments in the implementation of the NCPS, the following are its main responsibilities:

- Promotion of legislation to bring about an effective criminal justice system;
- Creation of an effective court system for the adjudication of cases
- Creation of an effective prosecution system
- Coordination and integration of the Department's activities with those of other role-players involved in crime prevention.

Regional Offices embarked on several projects relating to victim empowerment initiatives which included the following:

- The Cato Manor Development Association
- Setting up of Community Policing Fora in the regions
- Visits to prisons and places of safety;
- Partnership with the South African Prisoners Organisation on Human Rights
- Introduction of the lay assessor system to bring in community involvement in the administration of justice
- Various open court days to familiarize women, children and witnesses and victims generally, with court surroundings.

2.447 **Implementation of the Gender Policy Statement:** All Regional Offices except one have launched the Department's gender policy statement and the provincial gender fora, these being one of the implementation mechanisms of the policy.

2.448 **Operation "ISONDLO" (Maintenance):** The Regional Office, KwaZulu-Natal embarked on a major



project on maintenance which commenced on the 2nd August 1999. The project was developed as a result of a deep concern about the accessibility, fairness, justice and sensitivity of the present maintenance system. In an attempt to unblock the operational bottlenecks in the maintenance system, the Regional Office, within its available resources, and together with all the magistrates' offices in the province, are conducting a "blitzkrieg" on backlogs in the maintenance courts in an effort to improve service delivery.

2.449 Phase One entailed establishing a baseline for the project, consultation with relevant stakeholders, conducting the "blitzkrieg", courtesy to maintenance court users, optimum use of court hours, corresponding with beneficiaries in matters which have been defunct for a period of more than a year, and making a list of files and/or card numbers available where money is at hand on pay-out days to prevent unnecessary waiting.

2.450 Phase Two entailed an extensive advertising campaign where volunteers held up posters and placards on maintenance at all robots of main streets throughout the province. Flyers and bumper stickers were also handed out to motorists. The project received wide media coverage.

2.451 Linkages with Communities: The main objective was to establish a positive partnership with communities, as well as greater participation of communities in the administration of justice, including NGOs and CBOs relevant to the administration of Justice, specifically reaching out to the disempowered and removing barriers that affect access to courts and other legal remedies.

2.452 Various community outreach programmes were held, such as Constitutional Week, Youth Day, International Anti-Drug Day, No Violence Against Women and Children, National Women's Day Celebrations, NICRO Whistle Week on the Anti-Crime Campaign, World Aids Day, Children and the Law, Victim Empowerment, etc.

2.453 Communication actions, including radio interviews and press re-

leases, were done in order to create and maintain a high level of awareness of the administration of justice issues at all levels through the participation of civil society. These targeted issues such as children in custody, establishment of family courts, new bail legislation, organised crime legislation, maintenance and family violence, model court concept, human rights, the role of the Department in the criminal justice system, pre-trial services, re-demarcation of magisterial district boundaries, etc.

2.454 **Training:** Training committees were set up in all the regions. They consist of representatives of all the components of the Department in the regions. These committees are responsible for identification of training needs and the coordination of all training.

2.455 Various seminars were held in respect of Basic Orientation, Diversity Management, Service Excellence, Computer Literacy, Basic Human Rights, Elder Abuse, Maintenance, Labour Relations, Security, Organised Crime, Family Law Mediation and Divorce Matters (for volunteers working at the Family Court Centres), etc Training of personnel on line functions is ongoing and is done with the assistance of the National Office.

2.456 **Re-demarcation of magisterial boundaries:** All Regional Offices, with the exception of Gauteng, have completed their reports regarding the re-demarcation of magisterial boundaries. The recommendations contained therein have to be aligned with those of the Municipal Demarcation Board (MDB). The Department is working closely with the MDB to achieve an integrated process of drawing up new boundaries for the magisterial districts.

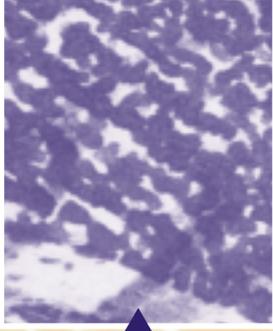
2.457 **Rationalisation of Sub-offices:** Task Teams were set up in all regions to investigate the rationalisation of sub-offices in each region. This investigation is finalised and their reports and recommendations were forwarded to National Office.

Budget

2.458 The budget of the High Courts, Magistrates' Offices, State Attorneys' Offices, Regional Offices and other offices is made out of 88% of the entire budget of the Department. Though the budget is insufficient, the offices have been able to prioritise their activities in order to ensure delivery on key issues.

Conclusion

2.459 We hope that the report will provide incisive information about the work of the regional offices and its constituent offices.

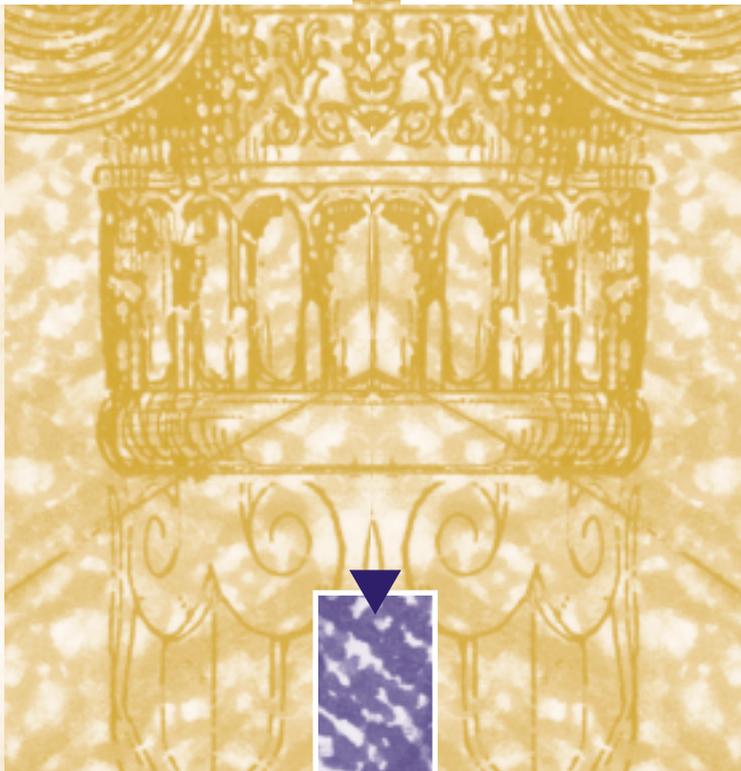


Annual Report 1998/1999



Chapter 3

State Law Adviser's Branch





Introduction

3.1 The State Law Adviser's Branch provides a broad, general legal advisory service to the Executive and state departments. In addition, it drafts, scrutinises, peruses and certifies all intended legislation and sub-ordinate legislation.

3.2 Once legislation has been tabled in Parliament, the law advisers provide advice to the Parliamentary committees, draft amendments and generally provide a supportive role. This is particularly important, as the parliamentary law advisers do not give advice on legislation to the committees. To execute this function professionally, some law advisers spend time in Cape Town during the Parliamentary session.

3.3 The law advisers work independently of the State Attorneys who fall under the Branch: Legal Services and whose main task is to represent the South African Government in litigation matters. The Treasury regulations provide that, in the event of a dispute between a Director-General and the State Attorney, the view of the Chief State Law Adviser will prevail. Any person who fails to heed an opinion of the Chief State Law Adviser, in terms of those regulations, may be held personally liable for any loss caused to the government. The opinions of the State Law Advisers are, therefore, treated with a degree of deference.

3.4 Prior to the abolition of the death penalty, the Branch recommended to the State President whether those condemned to death should be hanged.

3.5 The Chief State Law Adviser is also required to issue opinions in connection with various bond and other financial transactions entered into by the government.

Personnel Composition at present

- 3.6 • A Chief State Law Adviser
- Four Deputy Chief State Law Advisers
- Thirteen Principal State Law Advisers
- Eleven Senior State Law Advisers
- Two State Law Advisers
- Four secretaries

- Three administrative persons
- One clerk

3.7 The support staff consist of four black women, three white women and one white male.

3.8 Fourteen of the law advisers are black and 17 are white. However, only five are black women and four are white women. As far as is possible, preference will be given to filling the vacancies with women. Ten vacancies have not been filled because the staff complement is sufficient at present. This aspect is dealt with more fully later on.

The position of Chief State Law Adviser

3.9 The post became vacant in or about June 1997. On 1 August 1997, Mr Enver Daniels was requested to assume the post, on contract, for a period of one year, by Dr Dullah Omar, the former Minister of Justice. The post of Chief State Law Adviser had been advertised, prior to that appointment, but a selection committee was unable to recommend any of the applicants for the post. Two Deputy Chief State Law Advisers applied for the post, but were not recommended. They have lodged grievances.

3.10 The contract was renewed on 1 August 1998 for a further period of one year and expired on 31 July 1999. It was extended for a further period of three months up to the end of October 1999. The post has been advertised and steps are to be taken to fill it. This will be done by 31 October 1999.

History of the Branch

3.11 The Branch is primarily an amalgamation of the state law advisers divisions of the former Republic of South Africa and the Homelands. Pursuant to the rationalisation of the former eleven departments of justice, which took place between 1995 and 1996, all the state law advisers from the former Homelands were transferred to the Pretoria office. This has had devastating consequences on the family lives of those transferred, as in many instances, the families could not move from the regions and it may have affected morale as well.



Unfortunately, there appears to be no way of being of assistance to those affected, in this way, by the transfers.

3.12 The previous Chief State Law Adviser had retired and there appeared to be many problems. Amongst other things, no budget had been prepared, there was a shortage of office accommodation and equipment and law advisers had not been assessed for merit awards and notch increases, unhappiness about the work distribution system abounded, and no training took place.

Assessment of the Branch

3.13 In August 1997:

1. The Cape Town component consisted of mainly white state law advisers.
2. No mentoring processes were in place.
3. Training was not given to the law advisers.
4. Work was distributed only to law advisers who were perceived as having the skills to attend to the work.
5. Productivity was low.
6. No quality control mechanisms were in place.
7. The Branch was inadequately resourced.
8. Some law advisers considered themselves to be independent.
9. General unhappiness about salaries, promotions, notch and merit assessments and attitudinal problems prevailed.
10. Departments appeared to lack confidence in the Branch.

Remedial Steps

3.14 Three black law advisers were immediately designated as session officials to ensure that the Cape Town office was representative of the population as a whole.

Mini Workshop

3.15 A meeting of all the state law advisers was held in November 1997, to

discuss the Branch, its work and its role and functions. An official of the personnel section also addressed the meeting on the promotions, notch and merit assessments and increases.

3.16 At that meeting, the distribution of the work, training, the lack of secretarial help, the shortage of computers and unhappiness about the filling of vacancies were dealt with and steps taken to address complaints.

Team-building exercise

3.17 A team-building exercise and goal-setting workshop was held with the law advisers in June 1998. There the Branch formulated a policy statement or mission which would guide the way in which it executed its tasks. Essentially this vision will ensure that all work is carried out competently, efficiently and effectively, in the interests of the country as a whole. The informal system of team work which had been introduced earlier was adopted and agreed upon.

3.18 The facilitators of the programme made negative observations about the Branch. Amongst other things, they were of the view that attitudes prevailed within the Branch. The facilitators were invited to address the Branch on their observations. Two of them did so.

Work distribution

3.19 The major source of complaint was the distribution of the work. The distribution of work complements training, enhances self-esteem and contributes to efficiency. Work was previously distributed only or mainly to those who were perceived as having the necessary experience to attend to matters.

3.20 That was changed immediately. Work is distributed on the basis of availability only and on no other basis. The distribution of work is monitored regularly and a register records all the work received and distributed. A weekly report is provided by the law advisers. The report not only provides information on the work being done by each law adviser, but indicates the time taken to finish work, problems encountered and additional assistance needed. The reports enable steps to be taken, to overcome problems. Sometimes, for example, a

team may be unable to agree on an opinion. When that happens, the matter will be referred to someone else for consideration. Occasionally adverse comments are made about the team members. Those, too, are investigated.

3.21 The submission of reports is not compulsory. The work done by law advisers who do not submit such reports is, nevertheless, carefully monitored.

Filling of vacancies, merit and notch assessments

3.22 In 1997, the Department created three additional posts to create career paths for law advisers. These consisted of a Deputy Chief State Law Adviser and two Principal State Law Adviser positions. The Branch decided that all promotion posts should be filled from within. Despite the fact that the decision was taken democratically by the entire Branch, some law advisers were extremely unhappy about the outcomes, despite the fact that, in the process, both black and white law advisers, male and female benefited.

3.23 During the past two years, a black male person and a white female person were promoted to the posts of Deputy Chief State Law Adviser. Two white males, a black male and a black female were appointed to the posts of Principal State Law Adviser. Recently a black male was promoted to the post of Principal State Law Adviser. One post of Principal State Law Adviser and one of Senior State Law Adviser were advertised recently. Only female candidates were short-listed for those positions.

3.24 During the same period, a white Senior State Law Adviser resigned due to unhappiness about the transformation process. Two black females also resigned for similar reasons. Two black law advisers requested transfers to provincial departments for domestic reasons, while one white female law adviser resigned to pursue better opportunities. The resignations compare favourable with the number of resignations in other Branches within the Department of Justice. In recent months, two black female law advisers were specifically recruited to address the gender issue.



Teamwork

3.25 A system of teamwork has been introduced in the Branch. All work is done in teams consisting of two or three persons, depending on the complexity of the matter. In some matters, many more law advisers are assigned to the teams and in one case, eight law advisers considered a problem. The system works well and the team leader furnishes a weekly report on each matter being attended to by the team.

Teamwork in respect of legislative drafting

3.26 Teamwork has also been introduced in respect of legislative drafting. Fourteen state law advisers have been designated to attend to legislation during the next parliamentary session. They have been divided into two groups which consist of three teams each. Each team consists of two law advisers. The work of each group is checked by a "supervisor". No legislation will actually be tabled in Parliament until such time as the supervisors have approved of the texts.

3.27 For the first time in the history of the Branch, the majority of persons designated as session officials are black. The number of female session officials has also increased to four, of whom three are black. In addition, legislative drafting is being carried out by two black female law advisers, one white female and two white males who are all Pretoria-based.

Training

(a) Legislative drafting

3.28 Last year, we started a training programme in legislative drafting. The training is conducted twice a week and is designed for those with limited experience and those with no experience in legislative drafting. The training has ensured that we are able to use all the law advisers for legislative drafting during very busy periods. During the last session of Parliament, many departments requested us to certify legislation at very short notice and also requested us to attend to legislation, although the deadlines for the tabling of legislation had passed. We were mindful of the elections which were to be held in June and

the need to ensure that whatever legislation was approved by the Cabinet, was passed during that session. The success of the training programmes can perhaps be measured by the fact that we were able to use all our law advisers to attend to 137 Bills and that the majority of law advisers designated for session duty, this year, are black.

3.29 Law advisers have also attended seminars conducted by the Commonwealth Secretariat and by various American institutes. One law adviser secured funding for a course in legislative drafting in London and was granted permission to attend that course. The same law adviser also secured funding for a course in Sweden.

(b) Vista University

3.30 Vista University offers a distance learning course in legislative drafting which consists of course work and seminars. It is conducted in conjunction with the Commonwealth Secretariat and the Commonwealth of Learning. Upon completion of the course, successful students are awarded a Diploma in Legislative Drafting.

3.31 The Branch has discussed the possibility of enrolling some of the law advisers for the course. Vista university has offered to reduce the tuition fees if more than eight law advisers enroll for the course. The approval of the Minister will be sought to obtain donor funding for law advisers who have indicated that they are interested in enrolling for the course.

(c) Constitutional law seminars

3.32 During 1999, a series of seminars in constitutional law were held within the Branch. The seminars were conducted by Prof Shadrack Gutto of the University of the Witwatersrand and Prof Nico Steytler of the University of the Western Cape. The seminars were designed to enhance the ability of the state law advisers to interpret the Constitution.

3.33 A second series is being planned for later this year.



(d) Language usage

3.34 Two years ago, the Cabinet authorised the law advisers to certify only the English version of a Bill. It was necessary to seek such approval because the first language of a large number of law advisers is neither English nor Afrikaans. Compelling law advisers to certify the Afrikaans text would have meant that many aspirant legislative drafters would have been prevented from doing so. The authority has also helped to expedite the certification process.

3.35 Recently, legislation has been severely criticised by the judges and various other persons. We have analysed the offending provisions of the criticised legislation carefully. Although we are of the view that not all the criticism was justified, we have, nevertheless, taken steps to try to enhance the quality of the legislative drafts. These steps include working in teams, allocating more time to the certification process and the implementation of greater supervision.

3.36 In addition, discussions have been held with the English department of the University of the Western Cape to consider ways of improving the language used in legislation and the use of plain language. These measures are designed to make legislation more accessible to everyone and to eliminate uncertainty. A proposal, in terms of which that university will render assistance to the Branch, has been submitted to the Minister for consideration and approval.

Deloitte and Touche

3.37 Deloitte and Touche conducted a goal-setting exercise with the Branch in June last year and also provided advice on the implementation of the system of teamwork which is currently used.

3.38 That firm has been requested to undertake a review of the Branch to ascertain the extent to which the Branch fulfills its mission. In addition, the review will consider measures to improve efficiency and productivity and assess the attitudes of law advisers and other factors which impact on service delivery. A proposal has been submitted to the Minister for consideration and approval as donor funding will be sought for the review.

Weekly meetings

3.39 A meeting is held with the law advisers regularly and, as far as possible, once a week. At these meetings, complaints are aired, the Branch is advised about developments which affect it, the training and seminars are discussed and the law advisers interact with each other. A lekgotla is being planned to examine the way in which we have worked and related issues.

Training Manual

3.40 The law advisers have been using basic drafting principles formulated many years ago. Those principles have to be adapted to reflect the values of our Constitution. In addition, an easy to use reference work is needed by the law advisers. Therefore, a training manual has been drafted. Once the final draft has been completed it will be printed in loose-leaf form, to enable us to update it from time to time, and a copy thereof will be given to every law adviser and each department.

Reports to Ministers

3.41 Because the state law advisers were often blamed for any delays which occurred in the tabling of legislation, comprehensive reports on all legislation entrusted to us for certification were sent to all the Cabinet Ministers last year. The reports indicated the dates on which draft bills were sent to us, problems encountered and the anticipated date of certification. The reports enabled Ministers to take steps to ensure that their departments were not delaying matters.

3.42 We also wrote to all the Ministers to introduce ourselves and to explain the services which we render.

Meeting with all State Departments

3.43 The complexity of the certification process appears not to be fully understood by all the departments. In November 1998, we invited all departments and the Offices of the President and the Deputy President to send representatives to a meeting which we had

convened to discuss matters of mutual concern.

3.44 At that meeting, we explained our procedures, outlined what we required of the departments when requested to certify legislation or to provide an opinion and invited them to furnish us with details of any problems which they may have with us. The meeting was very useful, as it provided a clearer picture of the wide range of services available to departments, the legal costs which they could save by making greater use of these services and incidental matters. We took the few complaints seriously and made changes immediately.

3.45 We also requested details of their legislative programmes to enable us to prepare for the following parliamentary session. Because of the cooperation we received, we were able to plan coherently and saved about R45 000,00 as we found that we only needed six law advisers in Cape Town, during the parliamentary session in the first half of this year.

3.46 Our communications and interaction with the Ministers and departments have dispelled misconceptions about the Branch. The steps which we are taking to improve efficiency and service delivery generally are helping to increase confidence in our ability to be of greater assistance to the government.

3.47 Departments have advised us that they hope to table approximately 110 bills in Parliament between August 1999 and March 2000. We have made preparations to cope with that load. We envisage that 14 state law advisers will again be designated as session officials and that at least five Pretoria-based law advisers will also assist with the drafting of legislation as required.

3.48 In order to execute its tasks efficiently, the Branch needs to plan ahead. Based on information which the departments supply, the Branch is able to determine how many law advisers need to be allocated to attend to various tasks and how many should be designated as session officials. Interaction with departments is crucial to service delivery. Our interaction with Parliament needs to be improved, to ensure that our assistance to that institution can be improved.



3.49 The law advisers are subjected to severe pressure by Parliament and departments. This occurs because legislation often has to be tabled hurriedly. Law advisers usually require a minimum of four weeks within which to attend to the certification of legislation. The pressure can impact negatively on quality and should be minimised. To avoid such situations, departments should not only plan in advance, but should liaise with the Branch at all times.

Additional assistance to Departments

3.50 Law advisers have been assigned to work with different departments while draft legislation is being considered. For example, law advisers have assisted -

- the Department of Transport to consider changes to the Road Accidents Fund;
- the Department of Trade and Industry to formulate the Competitions Bill;
- the Department of Minerals and Energy Affairs to help with drafting;
- the South African Law Commission with draft Bills on juvenile justice and customary marriages;
- the Department of Justice and Constitutional Development with “equality” legislation;
- the Office of the Presidency with the Open Democracy Bill;
- the Department of Public works to draft a Bill on the construction industry;
- the Department of Defence with a new Defence Act and a Military Discipline Code;
- the Department of Labour with the Injaka Bridge and labour related enquiries;
- the Human Rights Commission with regulations; and
- the Youth Commission with a review of its White Paper.

3.51 In addition, we have provided assistance to various provinces and to municipalities. Although we are required to assist only the national government,

as part of a process to help the provinces to develop capacity, we have indicated a willingness to assist wherever we can. Law advisers also serve on various committees, such as the Extradition Committee.

3.52 Departments which are presently cash-strapped are paying huge amounts in legal fees to attorneys and advocates in private practice. We have indicated that we could possibly save them considerable sums of money if they used us more extensively.

3.53 We have on occasions assisted with court applications as well.

Productivity

3.54 This has been a major problem, but is receiving constant attention. All work is monitored regularly and a work schedule reflecting all the work done by each law adviser is distributed to the Branch. A complete and detailed account of all the work done by law advisers is in the process of being finalised.

3.55 The amount of work done in 1998 increased by more than 50% compared to 1997, despite the fact that the number of law advisers decreased. The indications are that the figure will be higher this year.

Interaction with Parliament

3.56 One of the major challenges facing us is how to improve the quality of our legislation, which has to rank with the best in the world.

3.57 During the course of the past two years we have ascertained that departments appear not to plan in advance for the sessions and that the parliamentary committees do not consult us when planning their programmes. We are, therefore, often required to attend committee meetings at very short notice and are often not fully prepared for the discussions and can provide only superficial advice. We have raised this matter with the Speaker and hope to resolve this problem soon.

3.58 Complaints about legislation are fully investigated and discussions have been held within our Branch to ascertain what further steps can be taken by us to

eliminate complaints, ambiguities and carelessness. Greater cooperation between us, state departments and Parliament is essential, if standards are to be maintained and improved.

3.59 Newspapers have also reported comments made by judges about the drafting of legislation. In some instances the perception has been wrongly created that the law advisers were responsible for ambiguous drafting. Those comments and other criticisms have been examined by us and taken into account in our planning.

Current work situation

3.60 Although we are still receiving a steady flow of work from various departments, we are not fully occupied. We have, therefore, considered organisational development.

3.61 Most departments have furnished us with information on their legislative programmes for this year. From that information, we have been able to establish that about 110 Bills are going to be drafted. However, we have been informed by the Office of the Leader of Government Business that it will permit a maximum of 60 Bills to be dealt with.

3.62 Interesting legislation which will be debated this year include the Open Democracy Bill, the Equality Bill and amendments to the Prevention of Organised Crime Bill.

Resources

3.63 Two years ago the Branch was inadequately resourced. This was due to a number of factors, one of which was that a proper budget had never been prepared for the Branch and no planning took place. Budgets are project-driven these days. Budgets have to be carefully planned to take all the needs of the Branch into account. A process commenced in which all those requirements were assessed. Computers, furniture, secretarial help, Jutastat and the Internet and training were identified as essential to render an efficient service.

3.64 All our requirements have been attended to and those law advisers who need it, are receiving computer training. Procurement policies within the Department impact on the Branch as it

often takes a long time for us to obtain essential equipment. Computers were delivered 14 months after the order was placed and many law advisers are still awaiting furniture ordered a long time ago.

3.65 The Branch is connected to Jutastat. The Department of Water Affairs invited us to send ten law advisers to a seminar which they had arranged on Jutastat earlier this year. This has also contributed to our being able to render a better service. Uncertainty about office accommodation in Cape Town has resulted in the Branch not being connected to Jutastat or to e-mail or the Internet because the costs which will be incurred will be wasted, if the Cape Town office is relocated. Discussions about the matter are being held with the Department of Public Works and the Department of Justice and Constitutional Development.

Overseas seminars

3.66 Law advisers have attended seminars on various matters relating to international trade, extradition and legislative drafting in Virginia, USA, Kampala, London and Stockholm. They have also attended various seminars in South Africa.

Problems in the Branch

3.67 A dispute in connection with various overtime claims is receiving attention and a matter involving a Deputy Chief State Law Adviser who, despite being ordered to return to Pretoria from Cape Town, has refused to do so, is being investigated.

3.68 Two Deputy Chief State Law Advisers have lodged grievances in connection with their unsuccessful attempts to obtain promotion. They have to attend interviews to be considered for absorption into their present posts in accordance with the rationalisation process within the Department, but have apparently refused to do so.

3.69 Complaints about notch assessments are also being handled. These relate to assessments made last year which caused a great deal of unhappiness.

3.70 Discipline, productivity and adherence to rules and regulations are some of the matters which need attention.

3.71 The Principal State Law Advisers and the Deputies have concluded performance agreements with the Departments. Most of them have submitted the reports required in terms of those agreements and will be considered for salary increases.

International assistance

3.72 We helped Swaziland to draft a number of Bills and to train their personnel. Four law advisers spent some time in Swaziland for this purpose. That country has requested that we return to render additional assistance.

3.73 A law adviser has also been seconded to Namibia. That secondment expires at the end of June. However, Namibia has requested additional assistance with its legislation and has requested that we send an additional law adviser to that country for two or three months.

Committees

3.74 Various committees have been established in the Branch to deal with matters which need attention. These are:

1. A budget committee which prepares our budget and helps to monitor expenses
2. A committee of responsibility managers who monitor the budget and who have to report to the programme manager
3. Notch and assessment committee which evaluates law advisers for increases
4. Training committee which has considered training and a manual for the law advisers
5. Office accommodation committee which is considering our accommodation needs

Training for black lawyers

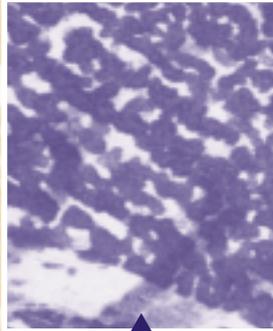
3.75 We have just commenced, after lengthy negotiations with Nadel and BLA, training in legislative drafting. The training is designed to introduce the



lawyers to basic legislative drafting principles and concepts and to equip them to tender for drafting work required by departments. It will help to empower black lawyers to deal with aspects of work which they have not previously dealt with and which they were denied access to.

Conclusion

3.76 This report is intended to provide a broad overview of the State Law Advisers Branch. It outlines the work usually done by the Branch, its history and problems, the transformation process and the steps being considered to improve the service which is rendered. The issues confronting the Branch are not unique to it. They are matters which all institutions undergoing transformation experience. Transformation is a painful experience. During that process, some people experience feelings of anxiety, unease, pessimism, anger or disillusionment, while others become excited and motivated. Some become obstructive, others more helpful. Transformation has to take place within the context of a broad strategy for change, which in the case of the state law advisers, is Vision 2000.

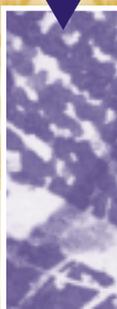
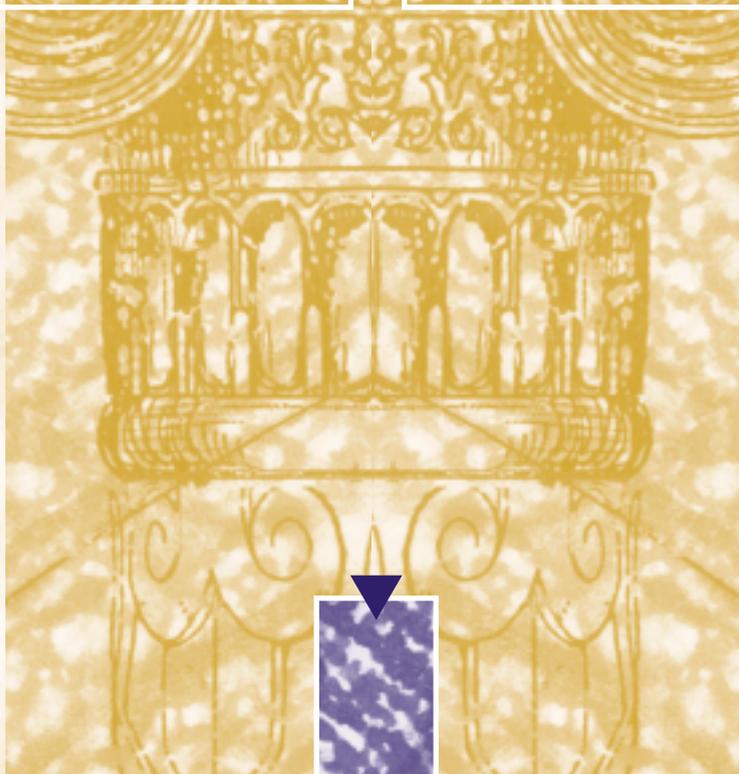


Annual Report 1998/1999



Chapter 4

Family Advocate's Branch





4.1 The Family Advocate functions in terms of the Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987), with the following specific duties:

- (1) Monitoring all settlement agreements and court documentation involving minor or dependent children, in order to determine whether the arrangements contained in the documents are *prima facie* in the best interests of the children.
- (2) Mediation in order to reach a viable solution in a dispute concerning minor children, where the parties are actively involved and accept responsibility for implementing the solution.
- (3) Evaluation of parents and children in order to make a meaningful recommendation to the court as to the best interests of the minor children involved.

4.2 Inquiries are made at the request of the court, one or both parties to the litigation or on the initiative of the Family Advocate, in which case the authorisation of the court must be obtained.

4.3 In the execution of the above functions, the Family Advocate is assisted by a Family Counsellor, in practice usually a registered social worker of the Department of Welfare or of private agencies. During the year under review, the Branch experienced severe pressure on the social work component, mainly owing to the restructuring and rationalisation of the provincial departments of welfare and cuts in the subsidies of registered private welfare organisations. The Branch successfully handled an increased workload and 28 770 court documents were examined, 10 366 settlements endorsed and 4 811 formal investigations completed during the year under review.

4.4 The staff component countrywide at present is as follows:

Chief Family Advocate	1
Family Advocates	27
Full-time Family Counsellors	11
Administrative component	36

4.5 During the past year the Branch worked 4 011 hours overtime.

4.6 At present there are Family Advocates' Offices in Pretoria, Johannesburg, Bloemfontein, Durban, Port Elizabeth, Cape Town, Bisho, Umtata and Mmabatho. As in the past, the Family Advocate still relies heavily on the services of social workers from private welfare organisations, especially in the remote country areas.

4.7 The statistics furnished below show a marked increase in cases in comparison with previous years. The increased workload has also been adversely influenced by a shortage of Family Counsellors, owing to processes of rationalisation of the Department of Welfare.

4.8 Although the Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987), still forms the principle Act under which this Office operates, a number of new Acts have been put into operation during the past year (or shortly before) that extended the services provided in terms of the principle Act beyond divorce or applications to vary divorce orders, as originally made provision for. These Acts are:

- The Hague Convention on the Civil Aspects of International Child Abduction Act, 1996 (Act 72 of 1996), in operation since 1 October 1997
- The Natural Fathers of Children Born out of Wedlock Act, 1997 (Act 86 of 1997), in operation since 4 September 1998
- The Divorce Courts Amendment Act, 1997 (Act 65 of 1997), in operation since 6 April 1998

4.9 In the case of the Hague Act, new cases have been registered in the Pretoria Office, bringing a new dimension to the Family Advocate, as it involves the protection of children's rights in cross-country abductions. The Office seems to have coped well with the additional function and with the resources available. The majority of the Family Advocates in the Office attended either the Cape Town conference on the Hague Convention or the later one held in Pretoria. At the Pretoria conference in particular, hosted by Justice College and arranged by the Chief Family Advocate, a lot was learned and new contacts made with overseas colleagues.



4.10 In the case of the Natural Fathers Act and the Divorce Courts Amendment Act, no statistics as to the number of cases dealt with in terms of these Acts are available, since the inquiries are dealt with as part and parcel of the inquiries conducted in terms of the principle Act. There is, however, a general consensus within the Office that the impact of these new cases in terms of the new legislation was less than initially anticipated.

4.11 The statistics (attached hereto) of the offices indicate a slight increase in the workload. This has been the tendency over the full period since its inception in 1990. Coupled to this is the urgency of the work, simply because the lives of children are involved and, in cases where an inquiry is pending, the parties cannot proceed with the matter without the Family Advocate's report. In general, the cases dealt with seem to be increasingly complex, often reflecting serious family disfunction and conflict. As in the past, the severe lack of in-house counsellors seems to be the most important stumbling block in rendering a more effective service. More acknowledgement should also be given to the hundreds of social workers throughout the country who assist the Office on a regular basis despite an already heavy case load.

4.12 The Office of the Family Advocate has been designated to provide support services to the pilot projects and most offices have been involved in mediation training to a large contingent of social workers and other mental health professionals.

4.13 In accordance with the principles set out in Justice Vision 2000, it is envisaged that the Office of the Family Advocate will play an important role in the implementation of the proposed Family Court projects and that the services of the offices would also be extended to other courts dealing with family matters.

4.14 The Office renders free legal advice to all matters concerning the rights of children nationally and internationally. Various international organisations such as the National Council of Missing and Exploited Children, International Social Services and Department of Foreign Affairs have regularly consulted this

Office. This service has proven to be indispensable in the creation of a children's right culture.

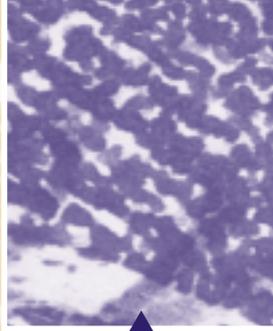
4.15 The offices in various areas initiated and assisted in training of social workers and justice officials in the field of family mediation. Successful training programmes were also conducted in the Eastern Cape and Kwa-Zulu Natal.

4.16 Emphasis has also been placed by the court on the fact that the Office of the Family Advocate contributes to the saving of costs in the otherwise expensive litigation process, and the judiciary holds the recommendations of the Office in high regard.

4.17 The various offices have also been involved in the provincial initiatives concerning the National Plan of Action for Children. The Office of the Family Advocate acts as a representative of children and this should be seen as a very important function promoting the rights of children in South Africa.

**STATISTICS FOR ANNUAL REPORT
PERIOD 1 JULY 1998 - 30 JUNE 1999**

	Pretoria	Johannesburg	Cape Town	Bloemfontein	Kimberley	Durban	Pieter- maritzburg	Port- Elizabeth	Grahamstown	East London	Thohoyandou	Mmabatho	Bisho	Umtata	Total
Court Documentation Scrutinised	6 111	4 553	7 530	2 467	920	3 604	908	1 470	289	420	0	0	145	353	28 770
Settlement Agreements Scrutinised	2 780	2 964	1 933	650	297	804	240	531	124	167	0	0	22	54	10 566
Inquiries requested by Parties	680	462	550	231	85	1 410	297	228	49	36	0	0	36	53	4 117
Inquiries initiated by Family Advocate	1	0	409	79	32	5	0	21	5	3	0	0	3	165	723
Inquiries by Court Order	137	110	149	98	22	54	16	32	6	11	0	0	8	84	727
Parties Reconciled	25	15	97	37	7	141	19	16	4	3	0	0	0	2	366
Inquiries finalised	619	520	1 099	288	99	1 313	264	309	63	47	0	0	34	156	4 811
Inquiries of special Divorce Courts	90	73	20	110	3	97	4	41	0	0	0	0	0	0	438

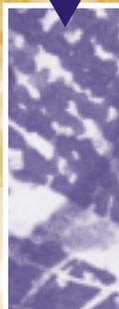
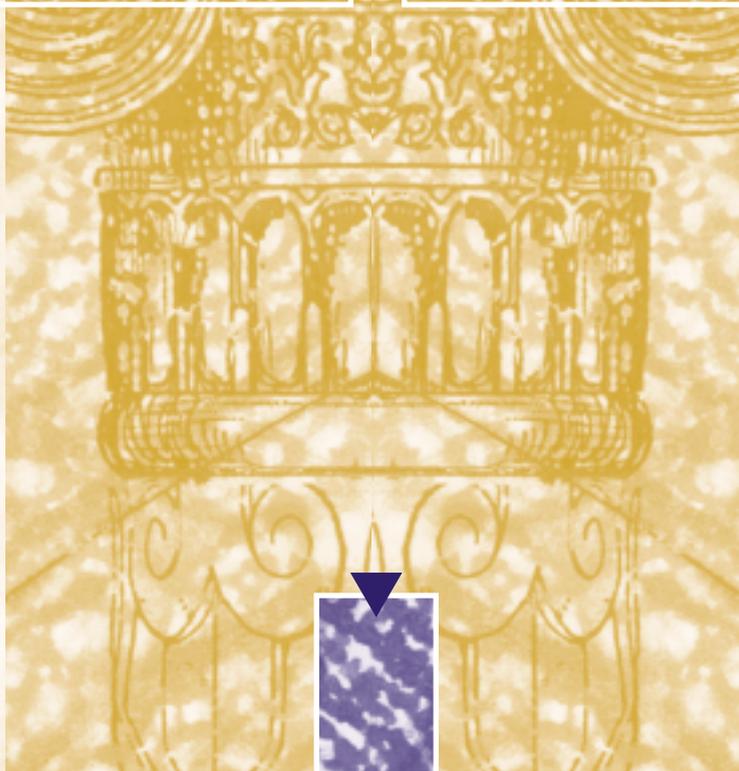


Annual Report 1998/1999



Chapter 5

Master's Branch





5.1 A Master of the High Court is appointed for every provincial division of the High Court of South Africa. Masters' Offices are situated in Bloemfontein, Cape Town, Grahamstown, Kimberley, Mmabatho, Pietermaritzburg, Pretoria, Umtata, Bisho and Thohoyandou. The Master's Branch celebrated its 325th anniversary during the year under review. Although the said branch underwent many changes during that time, it is still in the process of rationalisation. The finalisation thereof is dependent on implementation of the recommendations of the Hoexter Commission.

5.2 The Master of the High Court is a creature of statute and various acts regulate the duties and powers of the Master. The most important of these are the Administration of Estates Act, 1965 (Act 66 of 1965), the Insolvency Act, 1936 (Act 24 of 1936), the Companies Act, 1973 (Act 61 of 1973), the Close Corporations Act, 1984 (Act 69 of 1984), and the Trust Property Control Act, 1988 (Act 57 of 1988). The rationalisation of the Administration of Estates Act, 1965, which includes the functioning of the Guardian's Fund and the appointment of the Master, is at present under consideration. A new bill on bankruptcies and liquidations, which will have a major impact on the present laws on liquidations and sequestrations, the duties of the Master and greater responsibilities on appointees and creditors, has reached an advanced stage of development.

5.3 In terms of the present Acts the Masters' Offices execute the following functions, *inter alia*:

- (a) The administration of estates of deceased and insolvent persons in accordance with the applicable statutory prescriptions.
- (b) The protection of the interests of minors and legally incapacitated persons.
- (c) The protection and administration of the funds of minors, contractually incapacitated and determined and absent heirs, that have been paid into the Guardian's Fund.
- (d) The handling of liquidations of companies and close corporations in accordance with the relevant statutory prescriptions.

- (e) The determination and assessment of estate duties in terms of the Estate Duty Act, 1955 (Act 45 of 1955), by virtue of a delegation by the South African Revenue Services.
- (f) The supervision of trusts in terms of the Trust Property Control Act, 1988.
- (g) The safeguarding of all documentary material received by him in respect of estates, insolvencies, liquidations, trusts, etc.
- (h) The processing of enquiries by executors, attorneys, beneficiaries and other interested parties.
- (i) The holding in security of several millions of rands provided by executors, attorneys, trustees, curators and liquidators for the proper execution of their duties.
- (k) The appointment of impartial and capable persons as executors, trustees, curators and liquidators.

5.4 The Masters and their staff are specialists in the field of the administration of the abovementioned matters and their role in the effective and rapid settlement of those matters is essential. They have an ever increasing scope of duties and an exacting workload. The Masters' staff is in daily contact with practising attorneys, chartered accountants, insolvency practitioners, persons attached to trust companies, boards of executors, commercial banks and other financial institutions, valuers of estate goods as well as members of the general public. The general public still views the Master as the *pater familias* of widows and those incapable of managing their own affairs. In view of the fact that people from the previously disadvantaged groups are becoming more active and involved in the economical and financial life of the country, the personnel in the Masters' Offices are more and more called upon to get involved in an advisory capacity with those not previously exposed to the functions and duties of the Masters' Offices. The staff in the Masters' Offices regard this contribution to the upliftment of all South Africa's citizens very seriously.

Loss of experience

5.5 The Offices of the Masters of the High Court continue to suffer a drainage



of experienced staff. In the Pretoria office alone, 16 experienced staff members resigned, 2 retired and 4 were transferred to other branches of the Department of Justice. Consequently the Pretoria office lost 124 years of experience. Those who resigned took up positions in the private sector, especially with liquidators and attorneys.

The complexity of matters handled by the Offices of the Masters of the High Court continue to increase, especially due to the country's increased exposure to international influences. Cross-border insolvencies also increased. Consequently, the pressure on the staff in the Master's Branch has increased substantially. Due to the extreme loyalty of and hard work done by Master's Office officials, this Branch managed to maintain the high standard of service.

Much publicised matters

5.6 Control over the administration of deceased estates is still the major function of the Master and forms $\pm 50,2\%$ of all new matters reported to the Master's Office, Pretoria. At this stage the Master executes jurisdiction in respect of the estate of any deceased person dying in the Republic leaving any property or any document being or purporting to be a will. The Master also executes jurisdiction in respect of any person dying outside the Republic leaving any property or any document purporting to be a will in the Republic. However, the intestate estates of black persons are excluded from the provisions of Act 66 of 1965 by Act 38 of 1927. In view of the fact that the Master is not by law clothed with any discretion in this matter, many matters relating to the latter estates had to be turned away, resulting in public criticism.

There was a continuous increase in sequestrations and liquidations - a 36% increase on the previous year. The increase in the liquidation of large business enterprises, *inter alia*, led to more complex interrogations and examinations which called for specialised knowledge and experience.

The following prominent cases received wide media coverage (television and press):

L SUZMAN DISTRIBUTORS (PTY) LTD which was, *inter alia*, involved in the distribution of cigarettes to the majority of outlets;

The **WEENEN GROUP OF COMPANIES** which was involved in black housing with many outlets in the rural areas. In this instance many people from the previously disadvantaged groups entered into lay buy contracts with the companies and millions of rands were lost by those people;

In **NATIONAL SMALL BUSINESS COUNCIL** prominent political figures were involved.

Guardian's Fund

5.7 The Guardian's Fund falls under the administration of the Master's Office in terms of the Administration of Estates Act, 1965 (Act 66 of 1965). The Fund consists of all moneys received under the Act or any other law or in pursuance of an order of court and also funds accepted by the Master in trust for any known or unknown person.

The functions of the Guardian's Fund have not been computerised yet and an estimated 200 000 accounts in the Pretoria office alone are still administered by hand.

Continuous pressure was put on personnel in the Guardian's Fund for payments of allowances to minors and those unable to manage their own affairs, which could be attributed to the then prevailing economic climate and the financial pressure on guardians.

Although declared as unlawful practices, the so-called "tracing agents" continued to harass personnel to make payments directly to them instead of to the persons entitled to such funds. An alarming number of cheques were once again unlawfully intercepted in the post and cheque fraud increased. Personnel had to travel many kilometres to give evidence at the various courts.

The commercialisation of the banking system of the Guardian's Fund initially also placed a heavy load on personnel. In view of the fact that the electronic transfer of funds from the Guardian's Fund has not been effected yet, the new system is still cumbersome.

The Office of the Auditor-General, which carried out an audit investigation into the Guardian's Fund, found no irregularities on the part of the Masters' staff and expressed their appreciation for the courtesy shown and assistance rendered by the staff of the Guardian's Fund.

Trusts

5.8 The use of the trust figure continued unabatedly with a negative effect on the same staff complement in all the Masters' Offices.

Trusts have become an important vehicle in financial management and estate planning and quite a number of officials have attended seminars to obtain a working knowledge of the fundamentals and developments in trust administration. An ever increasing burden of attending to enquiries and complaints by beneficiaries occurred.

Training of Personnel

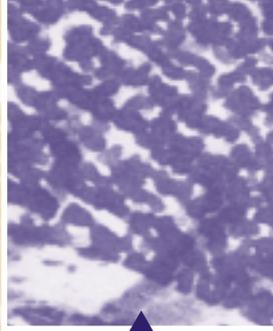
5.9 (A) Statistics of personnel who attended seminars/courses at Justice College

Junior examiners course :	9
Senior examiners course:	4
Seminars for Assistant Masters:	3

(B) Two members of the staff also attended a workshop "Women Leadership Empowerment Workshop" as well as a "Gender Sensitisation Workshop".

Computerising of the Master's Branch

5.10 The automation of the Master's Guardian's Fund forms part of the general automation of the Department's court management and office administration.

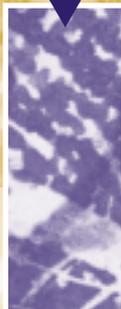
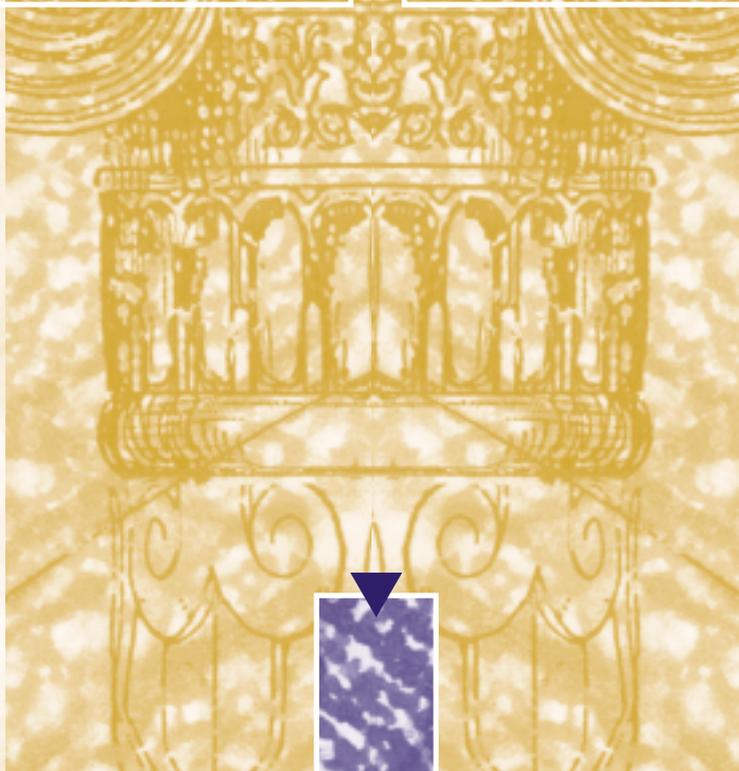


Annual Report 1998/1999



Chapter 6

Registrar's Branch





6.1 During the year under review the Registrar's Branch of the Department also shared in the challenges and excitement of the new era. The vacancies filled by way of affirmative action have been to a large extent successful. However, many of these appointments have since been lost to the private sector, due to more attractive salaries. This is especially applicable to the Johannesburg office. Decisions which have been taken to link the salaries of the Registrars to that of the prosecutors, have unfortunately not been implemented.

6.2 The Registrar's Branch is also in the process of computerisation. Ninety nine percent of the Registrars' offices have already received computers. The Regional Offices are busy with training programmes in order to help the staff to utilise their computers in the best possible way. The Pretoria office has its network up and running. E-mail and Internet have already been installed. Most of the judges have also received computers and the Regional Offices are busy with a training programme for them.

6.3 There was a noticeable increase in the work of this Office during the year under review, despite the fact that the magistrates' courts' jurisdiction has been raised to R100 000,00. For example, process issued by this Office during the statistical year 97/98 was 28 259. During the year 98/99, 32 191 process were issued. The number of criminal cases have also increased from 298 in 97/98 to 307 in 98/99.

6.4 The total number of civil appeals received during 97/98 was 247. During the 98/99 year 263 appeals were received.

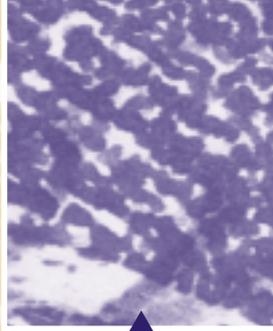
6.5 Criminal appeals have also increased dramatically. During the 97/98 statistical year 601 appeals were received, while during the 98/99 year 1 064 appeals were received. This is most likely due to the fact that the "judges' certificates" have been declared unconstitutional by the constitutional court.

6.6 It can be stated that the work has increased over a broad spectrum and the following statistics can be provided to complete the picture:

	97/98	98/99
Reviews	7 542	6 233
Bills of costs taxed	8 936	9 862
Motion court matters heard	15 691	20 662

6.7 This Office also made use of the system of "fast-tracking". This Office employed 7 selected individuals, to train them as fast as possible. The idea was that they should be able to "solo" within 7 to 9 months as registrars.

6.8 This programme was very successful indeed. One of the trainees successfully applied for a vacancy as a registrar in Johannesburg. One person sadly passed away and the rest of them are still on this staff and doing well.

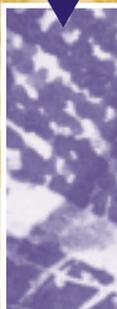
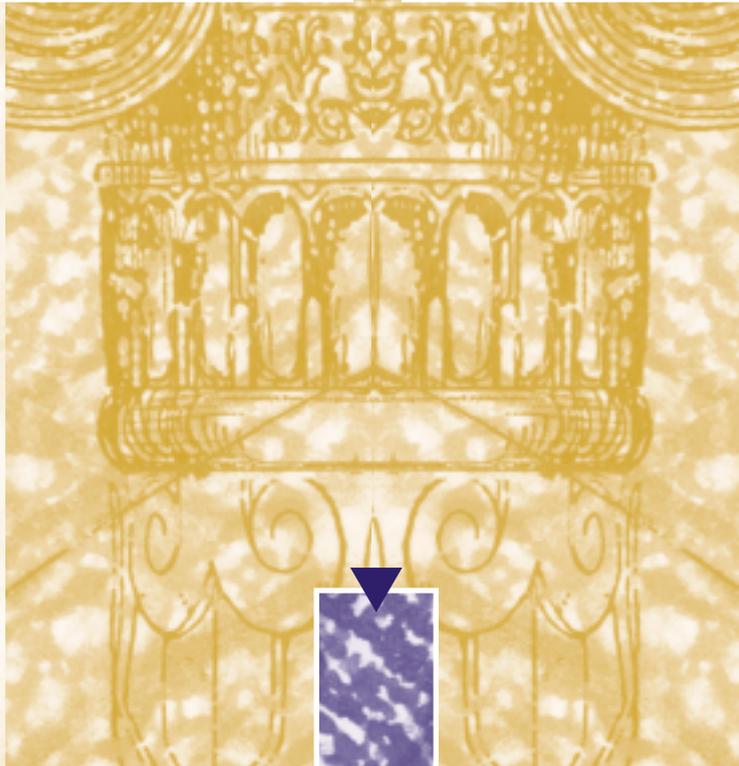


Annual Report 1998/1999



Chapter 7

State Attorney's Branch





5.1 In terms of section 1(1) of the State Attorney's Act, 1957 (act 56 of 1957), the State Attorney's Office is seated in Pretoria under the control of the Minister of Justice. Branches of the State Attorney's Office are situated in Cape Town, Port Elizabeth, Johannesburg, Bloemfontein, Durban, Bisho and Mmabatho.

5.2 The state is involved in virtually every facet of society in one way or another and therefore needs the services of good attorneys.

5.3 The State Attorney protects the interests of the State in the most cost-effective manner possible. This is done by acting on behalf of the State in legal matters that cover a wide spectrum of the law. The State Attorney's functions are regulated by the above Acts and Treasury Instructions and are basically the following:

- 1) Performing in any court or in any part of the Republic of South Africa, such work on behalf of the Government of the Republic as is by law, practice or custom performed by attorneys, notaries, conveyancers or parliamentary agents. This includes conducting all litigation for or on behalf of the State, defending public servants in criminal courts where charges arise from the execution of their duties and the drafting and checking of contracts to which the State is a party.
- 2) Performance of like functions for or on behalf of the administration of any province subject to such terms and conditions as may be arranged between the Minister of Justice and the administration concerned.
- 3) Unless the Minister of Justice otherwise directs, performing functions in or in connection with any matter in which the Government or an administration as aforesaid, though not a party, is interested or concerned, or in connection with any matter where, in the opinion of the State Attorney or any person acting under his or her authority, it is in the public interest that such function be performed.

5.4 Legislation is currently being promoted to rationalise the various Acts mentioned above.

5.5 The Minister of Justice has appointed an interm committee to advise him on the rationalisation of the State Attorney's Branch with special reference to the creation of offices in the provinces that do not have the services of a State Attorney situated within their provincial boundries.

5.6 The committee has already done a lot of work and a preliminary report will be submitted to the Minister regarding where such offices should be situated and their composition.

5.7 The 1998/1999 review period was once again characterised by a considerable drain in terms of experience and expertise. In an attempt to lessen the burden on existing personnel caused by the moratorium on the filling of senior posts, a number of candidate attorneys and recently qualified attorneys have been appointed on a temporary basis. Those permanent appointments which could be made, *viz* in the category of candidate and assistant state attorneys, have resulted in an increase in representivity at that level.

5.8 The work load of the State Attorney increased in general. Furthermore, various client departments have required additional services due to matters requiring attention of which neither existing nor new personnel had much experience.

5.9 A few examples will suffice to give an indication of the variety of legal work performed during the year:

- 1) Urgent applications with regard to gambling and the granting of casino licences.
- 2) Cases resulting from damages to government vehicles.
- 3) Cases involving corruption or probable corruption.
- 4) Constitutional court cases and opinions relating to constitutional rights.
- 5) Innovative contracts such as those designed to involve previously disadvantaged groups (RDP), turnkey or build, operate and transfer agreements (BOT) and Asset Procurement and Operating Partnership Systems Agreement (APPOPS).
- 6) Client departments were also confronted with many labour disputes



where the advice of the State Attorney was required on an urgent basis. These included disputes arising out of retrenchment and failure of people to be appointed in positions for which they applied.

- 7) Claims before the Land Claims Court.
- 8) Cases for and on behalf of the Truth and Reconciliation Committee.
- 9) Cases on behalf of the Receiver of Revenue, Customs and Excise and Trade and Industry relating to moneys owed to the State. The Pretoria Office alone handled cases involving more than R7,8 billion.

5.10 State Attorneys have established separate collections divisions which are staffed by administration clerks under the guidance of a Senior Assistant State Attorney. As a result of this, the State Attorneys spent considerably less time on this time-consuming task and were able to direct their attention to more important matters.

5.11 The State Attorney's Branch worked 312639 hours during the year. A total amount of 21062 hours was spent working after office hours. Such heavy work loads would have necessitated an employment of 189 attorneys and candidate attorneys. The Branch has 181 approved posts of which 22 were vacant during the relevant period.

5.12 Continuing efforts, initiated by the Minister, are being made to ensure that departments and provincial administrations recommend to the State Attorney that lawyers be briefed who had not been afforded the necessary opportunities in the past. State Attorneys, as agents for the client departments, are bound to carry out the instructions of their clients in this regard. The services of the aforementioned lawyers are, in cooperation with client departments, being used at an increasing rate where and whenever possible.

Number of cases handled by the State Attorneys

	1996/97	1997/98	1998/99
1. Debt collections completed	12 658	22 347	19 971
2. Process in connection with debt	36 947	21 507	20 725
3. Inquiries dealt with in terms of sections 65 and 74 of the Magistrates' Courts Act, 1944	2 394	1 131	1 089
4. Deeds, bonds, etc registered	7 843	7 980	7 640
5. Deeds, bonds, etc given out to private practitioners	2 963	63	161
6. Criminal cases and inquiries completed	2 684	1 668	1 807
7. Contracts drawn up or scrutinised	1 240	1 340	1 273
8. High Court cases completed	3 791	2 869	2 670
9. Magistrates' Court cases completed	14 651	131 311	12 151
10. Written opinions	8 201	9 389	8 525