



SA YEARBOOK 2007/08 | JUSTICE AND CORRECTIONAL SERVICES



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

The department's four national core branches are Court Services, Master of the High Court, Legal Advisory Services, and Legislative and Constitutional Development.

The National Prosecuting Authority (NPA) forms a separate programme on the department's Budget Vote.

To ensure the efficiency of its services and to enhance accessibility, the NPA, Court Services and the Master of the High Court have established provincial and local structures linked to courts to co-ordinate the implementation of national policy. Legal Advisory Services has also established state-attorney offices in Pretoria, Johannesburg, Cape Town, Bloemfontein, Kimberley, Port Elizabeth, East London, Thohoyandou and Durban to provide decentralised services.

The following constitutional institutions, among other things, were established to strengthen constitutional democracy:

- the South African Human Rights Commission (SAHRC) promotes and monitors the observance of human rights in South Africa
- the Commission on Gender Equality (CGE) aims to create a society free from gender discrimination and any other forms of oppression
- the Public Protector investigates any alleged improper, unlawful or prejudicial conduct in state affairs or in public administration in any sphere of government.

The Department of Justice and Constitutional Development administers the following public entities:

- the Special Investigating Unit (SIU) provides professional forensic investigating and litigating services to all state institutions at national, provincial and local level to combat maladministration, corruption and fraud, and to protect state assets and public money
- the Legal Aid Board (LAB) provides legal aid and representation to indigent people at the State's expense.

The department has received a further R1,9 billion to, among other things, increase court capacity, reduce case backlogs, modernise the integrated justice sector, and increase the statutory provisions for judges and magistrates' salaries over the next three years.

Between 2003/04 and 2009/10, the department's budget is expected to increase at an average annual rate of 13,6%, from R5 billion to R10,6 billion.

The department's total budget for the 2007/08 financial year was R8,5 billion. Some R2,9 billion was allocated to the Court Services branch, including R467 million to improve infrastructure. Some R1,8 billion was allocated to the NPA and R925 million went to the institutions.

Judicial system

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

In terms of Section 165 of the Constitution, the judicial authority in South Africa is vested in the courts, which are independent and subject only to the Constitution and the law.

No person or organ of state may interfere with the functioning of the courts, and an order or decision of a court binds all organs of state and persons to whom it applies.

Chapter Eight of the Constitution provides for the following courts:

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

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

The Minister of Justice and Constitutional Development, Ms Brigitte Mabandla, is leading a process to rationalise high courts. The Superior Courts Bill, which was introduced in Parliament in 2005, will abolish the last remnants of the homeland-based supreme courts, and will



introduce new provincial divisions of the High Court in each province. Their jurisdiction and capacity will be determined in accordance with people's needs. This will result in the opening of high courts in Mpumalanga and Limpopo, which the Pretoria High Court currently services.

There are 218 permanent judges and at any given time and also a fluctuating number of acting judges.

Constitutional Court

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

Supreme Court of Appeal

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

Decisions of the SCA are binding on all courts of a lower order, and the decisions of high courts are binding on magistrates' courts within the respective areas of jurisdiction of the divisions. The SCA comprises 23 judges, including its president.

High courts

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

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

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

Circuit local divisions

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

Other high courts

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

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

Regional courts

The Minister of Justice and Constitutional Development may divide the country into magisterial districts and create regional divisions consisting of districts. Regional courts are then established per province at one or more places in each regional division to hear matters within their jurisdiction. Unlike the High Court, at present, legislation limits the penal jurisdiction of the regional courts to serious criminal matters. By mid-2007, legislation was being considered to give regional courts civil jurisdiction as well. There are nine court presidents and 307 regional court magistrates.

Magistrates' courts

Magisterial districts have been grouped into 13 clusters headed by chief magistrates. This system has streamlined, simplified and provided uniform court-management systems applicable throughout South Africa, in terms of judicial provincial boundaries.

It has also facilitated the separation of functions pertaining to the judiciary, prosecution and administration; enhanced and developed the skills and training of judicial officers; optimised the use of limited resources in an equitable manner; and addressed imbalances in the former homeland regions.

In terms of the Magistrates' Act, 1993 (Act 90 of 1993), all magistrates in South Africa fall outside the ambit of the Public Service. The aim is to strengthen the independence of the judiciary. Although regional courts have a higher penal jurisdiction than magistrates' courts (district courts), an accused cannot appeal to a regional court against the decision of a district court; only to the High Court.

By mid-2007, there were 366 magisterial districts and main magistrates' offices, 104 branch courts and 230 periodical courts in South Africa.

There were 1 912 magistrates in the country, including regional court magistrates.

In addition, full jurisdiction was conferred to courts in rural areas and former black townships that exercise limited jurisdiction and depend entirely on the main courts in urban areas to deliver essential justice services. Because this compels

the poor to travel to main cities for judicial services, 24 of the 90 branch courts countrywide were to be converted during 2007/08 to hear, among other things, maintenance, domestic violence, deceased estates and children's court cases. An estimated seven million people will benefit from these courts.

Criminal jurisdiction

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

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

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

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

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

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

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

- imprisonment
- periodical imprisonment
- declaration as a habitual criminal (regional courts and high courts)
- committal to an institution established by law
- a fine with or without imprisonment as an



Chapter nine institutions are organisations established by Chapter Nine of the South African Constitution. These independent organisations have as their general mandate the strengthening of constitutional democracy in South Africa.

They are subject only to the Constitution and the law. They must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice.

The chapter nine institutions are the Public Protector; South African Human Rights Commission; Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities; Commission on Gender Equality; Auditor-General; and the Independent Electoral Commission.

alternative, correctional supervision or a suspended sentence

- declaration as a dangerous criminal (regional courts and high courts)
- a warning or caution
- discharge.

The sentencing of “petty” offenders to do community service as a condition of suspension, correctional supervision or postponement in appropriate circumstances, has become part of an alternative sentence to imprisonment. Where a court convicts a person of any offence other than one for which any law prescribes a minimum punishment, the court may, at its discretion, postpone the passing of sentence for a period not exceeding five years, and release the convicted person on one or more conditions; or pass sentence, but suspend it on certain conditions.

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

Other criminal courts

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

Community courts

Community courts, like the Hatfield Community Court in Pretoria, are normal district magistrates’ courts that assist in dealing with matters in partnership with the local community and businesses. These courts focus on restorative justice processes, such as diverting young offenders into suitable programmes.

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

Thirteen community courts have been established. By mid-2007, four were fully

operational and had been formally launched in Hatfield, Fezeka (Gugulethu), Mitchell’s Plain and Cape Town.

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

Courts for income tax offenders

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

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

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

Family courts

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

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

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

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

Many new applications have been received countrywide and the number of children receiving maintenance has increased.

Between January and February 2007 alone, 865 beneficiaries and defaulters were traced.

Equality courts

The role of equality courts is to enforce the provisions of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000). The Act outlaws unfair discrimination and allows for the creation of equality courts within magistrates' and high courts, each to be presided over by trained magistrates or judges appointed as presiding officers.

The Act also authorises the Minister of Justice and Constitutional Development to appoint the Equality Review Committee to monitor the implementation of the Act's provisions.

By the end of 2006/07, 220 magisterial courts had designated equality courts and the remaining 146 magisterial districts were expected to be designated in the first quarter of 2007/08. Section 16(1)(a) of the Promotion of Equality and Prevention of Discrimination Act, 2000 provides that every high court acts as an equality court for its area of jurisdiction. To support the effective functioning of equality courts, 139 permanent equality clerk posts were created and over 1 290 magistrates and 300 clerks of court were trained in equality matters.

Civil jurisdiction

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

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

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

Unless all the parties in a case consent to higher jurisdiction, the jurisdiction of a magistrate's court is limited to cases in which the claim value does not exceed R100 000 where the action arises out of a liquid document or credit agreement, or R50 000 in all other cases.

Small claims courts

The limit of cases involving civil claims is R7 000. By July 2006, there were 156 small claims courts throughout the country. The Commissioner of Small Claims is usually a practising advocate or attorney, a legal academic or other competent person, who offers his/her services free of charge.

An average of 120 commissioners are appointed for small claims courts annually.

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

A national programme aims to strengthen and roll out small claims courts to rural and peri-urban areas by pursuing the strategic objectives of:

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

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

Other civil courts

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

Courts constituted in this way are commonly known as chiefs' courts. Litigants have the right to choose whether to institute an action in the chief's court or in a magistrate's court. Proceedings in a chief's court are informal. An appeal against a judgment of a chief's court is heard in a magistrate's court.

Towards transforming partnerships

A key aspect of the transformation of the justice system concerns the department's key strategic partners and stakeholders. The considerable effort put into transforming prosecution and allied

services into a prestigious professional force, in accordance with the Constitution, is paying off.

By mid-2007, of the 218 judges, 53% (115) were white, 31% (68) were African, 3% (16) were coloured and 9% (19) were Indian. Overall, 16% were female and 84% male. In terms of the lower-court judiciary, of the 1 912 magistrates, 47% were white, 38% African, 7% coloured and 8% Indian. Overall, 31% were female and 69% male.

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

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

The department assists law graduates through its internship programme, which also provides research training to give much-needed assistance to state legal officers, prosecutors, public defenders, the judiciary and the magistracy.

To boost youth development, by mid-2007 the department had employed 134 young interns and placed 69 of them in Court Services, 35 candidate attorneys with the State Attorney on two-year contracts, while 15 were employed as legal secretaries and two as state law advisers. The department planned to employ 100 law graduates at the law clinics of various universities in 2007/08, to grow the pool of potential recruits and offer them a chance to gain invaluable experience.

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

the profession to aspirant lawyers, especially to those from previously marginalised backgrounds.

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

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

By mid-2007, the Judicial Service Commission (JSC) Amendment Bill and the Judicial Education Institute Bill were served before Parliament.

The proposed South African Judicial Education Institute Bill will, for the first time in history, introduce a state-sponsored judicial education programme for judges. The proposed Judicial Education Institute will provide training for both judges and magistrates.

The JSC Amendment Bill will enhance the accountability of judicial officers.

Other bills identified for priority introduction in 2007/08 included the Child Justice Bill, 13th Constitutional Amendment Bill, the Reform of Customary Law of Succession Bill and the National Prosecution Amendment Bill.

The department was also finalising a consolidated policy framework document to address other outstanding aspects relating to the transformation of the judicial system. These include rationalising high courts, harmonising the appointment procedures for judges and magistrates, and addressing aspects relating to language usage in courts.

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

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

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

Only sections 12 and 20, which deal with the establishment and functioning of traditional courts, were kept in operation until 30 September 2007. The extension allowed the department to formulate policy on the role of traditional leaders under a democratic dispensation, which would be followed by appropriate legislation to replace the repealed sections.

An interdepartmental task team, comprising officials of the departments of justice, of provincial and local government and of land affairs, was appointed to draft the required policy in conjunction with the national and provincial houses of traditional leadership.

The legislation was expected to be finalised in 2007/08.

Capacitating courts and restructuring the court system

Through its courts-turnaround strategy, such as the Re Aga Boswa (We Are Rebuilding) Project, the department seeks to enhance court efficiency. The project capacitates courts and institutionalises a new customer-focused court-management model ensuring that court managers are entrusted with managing courts, and that judges and magistrates invest more time in their judicial work. This will result in increased court hours and better-quality judgments.

Re Aga Boswa seeks to affirm the principle of the separation of powers as enshrined in the Constitution, to relieve magistrates and judges, who

are also heads of courts, of administrative functions. This will enable them to concentrate on their judicial work, which is expected to lead to increased court productivity and improved quality of judgments.

By February 2007, 288 court managers had been appointed.

The roll-out of Re Aga Boswa integrated the implementation plan of the Justice, Crime Prevention and Security (JCPS) Service Charter for Victims of Crime, to ensure sufficient capacity to implement the charter. A dedicated telephone line was launched in 2005/06 to provide crime victims with direct access to the courts.

The Court Process Project (CPP) was initiated in 2000 to pilot business process re-engineering and electronic filing of documents and dockets. Lessons learned through the project about court scheduling, case management and general court-administration processes were incorporated into the Re Aga Boswa Project.

The National Anti-Rape Strategy was expected to be finalised in 2007 to deal with the management of gender-based violence.

The strategy will provide impetus to the work being done to reduce gender-based violence, improve reaction in cases of gender-based violence, and improve support for victims and witnesses in cases of gender-based violence.

Rationalising high courts and redemarcating magisterial districts form part of the restructuring programme.

By mid-2007, a process to redemarcate magisterial boundaries to align them with municipal boundaries was under way.

The department is responsible for developing and monitoring processes and systems, which include case-flow management (CFM) that facilitate efficient and effective court and case management.

It has developed and facilitated the implementation of a court-management policy framework and uniform performance standards to enhance institutional performance. It is also responsible for providing effective and responsive management and administrative support for the judicial decision-making process within the court environment.



From 30 July to 3 August 2007, ordinary South Africans were given free access to legal services by hundreds of female lawyers countrywide, as part of the Department of Justice and Constitutional Development's and the South African Women Lawyers' Association's "Access to Justice Week" initiative.

The initiative aimed to provide free legal advice and services to the people, especially those who could not afford to pay for such services at private law firms.

Services included drafting wills, securing maintenance, administering estates, child custody and rights in marriage, foster parenting and guardianship, domestic violence and providing information regarding the National Credit Act, 2005 (Act 35 of 2005).

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

- Establishing judicial leadership through CFM. In this regard, integrated CFM guidelines were developed and implemented.
- Re-engineering CFM support structures in the courts to respond adequately to the CFM system.

The following projects are linked to the integrated CFM project:

- E-Scheduler

By March 2007, E-Scheduler – a case-management system providing case-management information to enhance case planning and scheduling – had been implemented in more than 200 courts and was being rolled out to all district courts in the country. The target date for completion of the roll-out was July 2007.

The system seeks to modernise the court system through greater use of information technology (IT). It allows the user to generate information on the courts that indicates at which stage the case is, including the case number, first appearance, last postponement date and the number of days per case.

Through the system, the courts can now identify and address backlogs and blockages. The Justice Deposit Account System helps to improve the management of all cash payments into and from the courts. This includes managing maintenance and bail monies.

- Video-remand system

By mid-2007, the pilot was still in place in KwaZulu-Natal and over 15 months, 4 899 remands were concluded without the detainee leaving the correctional facility. The system adds tremendous value to the process of conducting remands and ensuring that cases using the system are turned around faster. The video-remand system will be implemented in the top 40 courts, and will be aligned to the 169 contact crime priority police stations and linked to the correctional centres housing the remand inmates.

- Remand Detention Project

This system is meant to reduce risks imposed by awaiting-trial detainees (ATDs) on public safety while improving compliance with constitutional imperatives in terms of access to basic services like education, health and other social services for those regarded as innocent until proven guilty.

- Digital Court Recording System (DCRS)

The DCRS replaced the analogue system in all 164 high-court rooms. By mid-2007, 1 058 machines had been installed.

- Document Management System

By mid-2007, the analysis of the process flow of documents to support an automated process of filing, archiving and retrieving files in the court environment had been finalised in five courts. The recommendations were expected to conclude the development of the system.

- Scanning solution

A scanning solution is linked to the E-scheduler system and provides for scanning all incoming cases, case dockets and charge sheets. Some 300 scanners have been procured and installed in various courts throughout all provinces.

- Transcription services

New transcription service-providers have been appointed per province to enhance transcription services.

Each province's regional office will facilitate actual implementation of these new systems. This will see cases being managed better and the clients of the court getting quicker results.

- The National Backlog Project was implemented to reduce the high volume of backlog cases on court rolls, and to improve the efficient and effective functioning of the courts. Additional courts were established to assist in decreasing the backlog of cases. Various new regional-court posts were created and filled, which helped decrease case backlogs.

National Prosecuting Authority of South Africa

Section 179(1) of the Constitution established a single NPA, which consists of the National Director of Public Prosecutions (NDPP), who is the head of the NPA, the DPP and prosecutors as determined by an Act of Parliament.

The NPA structure includes the National Prosecutions Service (NPS), the Directorate: Special Operations (DSO), the Witness-Protection Programme, the Asset Forfeiture Unit (AFU) and specialised units such as the Sexual Offences and Community Affairs (Soca) Unit, the Specialised Commercial Crime Unit (SCCU), the Priority Crimes Litigation Unit (PCLU) and the Integrity Management Unit.

In terms of the NPA Act, 1998 (Act 32 of 1998), the DSO is a distinct and autonomous directorate.

In May 2005, President Thabo Mbeki appointed the Khampepe Commission of Inquiry into the Mandate and Location of the DSO.

By September 2006, the commission had completed its report after receiving written and oral submissions from various parties. Most of its hearings were held in public.

The commission recommended that the DSO be retained within the NPA, but that political oversight and responsibility for the law-enforcement component of the DSO be conferred on the Minister of Safety and Security. Prosecutors working for the DSO would continue to receive instructions from the NDPP, which would remain accountable to the Minister of Justice and Constitutional Development.

Office of the National Director of Public Prosecutions

The Office of the NDPP is the head office of the NPA. The prosecuting authority vests in the NDPP and the DPP. This authority has been delegated to other members of the NPA. They have the power to:

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

Directorate: Special Operations

The DSO pursues its objectives and complies with its legislative mandate through the application of numerous legislative tools. In addition to the NPA Act, 1998, other statutes include the Prevention of Organised Crime Act, 1998 (Act 121 of 1998), International Co-operation in Criminal Matters Amendment Act, 1996 (Act 75 of 1996), and the Extradition Amendment Act, 1996 (Act 77 of 1996).



By January 2007, 37 225 cases had been diverted away from the criminal justice system into suitable programmes, compared with the total of 29 935 diversions during 2005/06. By diverting cases, the incarceration of people on trivial matters, such as being unable to pay a fine, is also prevented. The diversion process is deemed an effective method to deal with first-time offenders in less serious matters. As it is closely linked with the concept of restorative justice, it aims for people to rejoin the law-abiding community and prevent re-offending.

The objective of the DSO is to prioritise, investigate and prosecute serious and organised crime that threaten the South African democracy and economy.

This includes complex financial crime, syndicated organised crime and high-level corruption affecting business integrity and state administration. The core business of the DSO has been layered by a selection of investigations, where racketeering, money laundering and the forfeiture of the proceeds of crime form the main activities.

The primary client of the DSO is government, which has a fundamental interest in combating and suppressing insidious (and apparently victimless) organised crime.

Equally, complainants from the private sector and regulatory bodies for example Sars, the Financial Services Board and the South African Reserve Bank base their expectations on how the DSO deals with financial crimes.

Rare individual complainants form part of the DSO's client base, when they are affected by large-scale money rackets or organised violence.

The DSO renders services that include the determination, investigation and prosecution of crime to restore justice, to enhance public confidence in governance and to reduce crime through deterrence.

Products are realised through accurate assessments of crime threats, impact-driven and opportune investigations, successful prosecutions, confiscation of contraband, and forfeiture of ill-gotten gains and compensations, where warranted.

Asset Forfeiture Unit

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

The AFU has two major strategic objectives, namely to:

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

The use of asset forfeiture to fight crime has been one of government's most important innovations.

In 2007, the AFU deposited some R120 million in the special account for fighting crime, with R77 million paid out in 2006 towards centres for battered women and to boost the capacity of the South African Police Service (SAPS), the NPA and Sars to deal with crime.

Special Investigating Unit

The SIU is an independent statutory body that is accountable to Parliament and the President. It was established to conduct investigations at the President's request, and to report to him on the outcomes thereof. It receives its budget through the Department of Justice and Constitutional Development.

The SIU was created in terms of the SIU and Special Tribunals Act, 1996 (Act 74 of 1996). The SIU was initially headed by former Judge Willem Heath, who resigned in June 2001 after the Constitutional Court ruled that a judge could not head the SIU.

The SIU then formally ceased to exist. A new SIU was established in July 2001 through a presidential proclamation.

The SIU functions in a manner similar to a commission of inquiry, in that the President refers cases to it by way of a proclamation. It may investigate any matter set out in Section 2 of the SIU and Special Tribunals Act, 1996, regarding:

- serious maladministration concerning the affairs of any state institution
- improper or unlawful conduct by employees of any state institution
- unlawful appropriation or expenditure of public money or property
- any unlawful, irregular or unapproved acquisitive act, transaction, measure or practice that has a bearing on state property
- intentional or negligent loss of public money or damage to public property
- corruption in connection with the affairs of any state institution
- unlawful or improper conduct by any person who has cause to or may cause, serious harm to the interest of the public or any category thereof.

The SIU can also take civil action to correct any wrongdoing it uncovers during an investigation.

The SIU can, for example, obtain a court order to:

- compel a person to pay back any wrongful benefit received
- cancel contracts when the proper procedures were not followed

- stop transactions or other actions that were not properly authorised.

The SIU conducts civil litigation through the Special Tribunal, a specialised court that deals specifically with its cases. This avoids some of the delays usually associated with civil litigation in the ordinary civil courts.

The focus of the SIU is the public sector, but it also deals with private-sector accomplices. It investigates private-sector matters that cause substantial harm to the interest of the public.

As the focus of the SIU is on civil litigation, it does not have the power to arrest or prosecute suspects. When it uncovers evidence of criminal activity, it hands a court-ready docket to the SAPS and/or the DSO (Scorpions).

The SIU also works closely with the NPS, the core prosecuting division of the NPA, and other attached divisions, such as the SCCU in the case of fraud and other related matters, and the AFU in cases where the powers of this unit are more suitable for recovering the proceeds of crime.

Generally, the SIU works closely with other relevant enforcement agencies, ensuring greater effectiveness in dealing with corruption cases.

Sexual Offences and Community Affairs Unit

The Soca Unit was established in September 1999 through a presidential proclamation and with a specific mandate that includes:

- formulating policy regarding capacity-building,



Efforts to transform the legal sector have led to the completion of the draft Legal Services Charter, with a second draft expected to have been finalised by the third quarter of 2007.

This is expected to lay the foundation for the introduction of the Legal Practice Bill.

The draft Legal Services Charter seeks to address:

- access to justice by poor, uneducated communities
- quality and affordable delivery of legal services to citizens
- accessibility of legal services to communities
- entry requirements to the legal profession
- equal opportunities of legal services among legal practitioners
- access to legal work, including state and parastatal contracts by black practitioners
- the role of the legal profession in promoting equality in the judiciary
- transforming the legal profession's governance structures
- a unified regulatory framework for the legal profession
- empowering historically disadvantaged black legal practitioners
- skills development, employment equity, ownership and management within the legal profession.

sensitising and scientific functional training in respect of the prosecution of sexual offences and gender-based violence

- co-ordinating the establishment of special courts for the adjudication of sexual offences and gender-based violence
- facilitating and/or formulating research techniques for the prosecution of sexual offences, gender-based violence, maintenance and child justice
- developing and implementing community-awareness programmes and plans for the participation of non-governmental organisations (NGOs) in processes and procedures aimed at preventing or containing sexual offences
- developing training, plans and mechanisms regarding the prosecution of sexual offences, gender-based violence, maintenance and child justice.

The Department of Justice and Constitutional Development, together with the SAPS and the departments of social development and of health, has established several Thuthuzela care centres for victims of sexual offences.

The Thuthuzela care centres are 24-hour one-stop service centres where victims have access to services that include police, counselling, doctors, court preparation and prosecutors.

The main objectives of these centres are to eliminate secondary victimisation, to reduce case-cycle time and to increase convictions. Specially trained police investigators, medical personnel, community volunteers, social workers and prosecutors work together.

They ensure that the victim is not further traumatised in the process of reporting the incident, and that the information needed to secure a prosecution and conviction is passed seamlessly from one person to another.

These multipurpose centres render the services of these departments to communities where these services either do not exist, or do exist but are not easily accessible (especially in rural areas). By June 2007, there were 10 such centres.

Through Project Ndabezitha, Soca successfully trained 104 traditional leaders from five provinces on managing domestic violence in rural areas.

Priority Crimes Litigation Unit

The PCLU manages and directs investigations and prosecutions of priority crimes, including contraventions of nuclear, chemical, biological and conventional-arms control legislation; and tracing missing persons arising from the Truth and Reconciliation Commission (TRC).

Regarding missing persons, by mid-2007, 36 exhumations and 20 reburials had been conducted.

The unit has also been engaged with various cases dealing with mercenary activities and nuclear proliferation.

Sexual offences courts

The fight against sexual offences is a national priority. The department is providing facilities at courts where child witnesses, especially in child-abuse cases, can testify in a friendly and secure environment without the risk of being intimidated.

New child-witness rooms are fitted with one-way glass partitions adjacent to the courtrooms. Where it is impossible to provide such rooms in existing buildings, other rooms away from the courts are used by providing a closed-circuit television (CCTV) link.

Intermediaries act as buffers against hostile and potentially protracted cross-examinations of child witnesses in an open court, especially in cases of sexual victimisation. Most intermediaries are social workers by profession, and fulfil their intermediary functions part-time or as volunteers.

The Draft Criminal Law (Sexual Offences) Amendment Bill aims to provide intermediaries to all vulnerable witnesses in sexual-offence cases, where appropriate.

The Criminal Law (Sexual Offences and Related Matters) Amendment Bill reached an advanced stage of promotion in the parliamentary process during 2006. The Bill aims, among other things, to comprehensively and extensively review and amend all aspects of the law relating to sexual offences, and to deal with all legal aspects of or relating to sexual offences in a single statute. The provisions of the Compulsory HIV-Testing of Alleged Sexual Offenders Bill, 2003 were also incorporated into the Criminal Law (Sexual Offences and Related Matters) Amendment Bill. These provisions aim to provide a speedy and uncomplicated mechanism

whereby a victim of a sexual offence can apply to have the alleged sex offender tested for HIV and have the test results disclosed to him or her.

National Prosecutions Service

The NPS performs the core function of the NPA, namely, instituting criminal proceedings on behalf of the State, and carrying out any necessary functions incidental to instituting and conducting criminal proceedings.

The mission of the NPS is to raise the levels of productivity in the NPA and to make it efficient and credible.

It has to ensure the proper planning of court rolls, prioritisation, and proper preparation and arrangement for all cases to be heard, as well as the avoidance of unreasonable delays.

Specialised Commercial Crime Unit

The Pretoria-based SCCU was established in 1999 as a pilot project to bring specialisation to the investigation and prosecution of commercial crimes emanating from the commercial branches of the SAPS in Pretoria and Johannesburg.

Three new courts and offices were established in the Johannesburg and Pretoria central business districts for specialised commercial-crime cases. Similar courts were established during 2004/05 in Durban and Port Elizabeth. The SCCU continues to achieve an above-average conviction rate.

In 2006, the number of offenders sentenced for economic crimes reached the lowest number in six years, with a 34% decline to 21% of the total offender population.

Witness-Protection Programme

The Office for Witness Protection falls under the auspices of the NPA. The office is responsible for the protection of witnesses in terms of the Witness Protection Act, 1998 (Act 112 of 1998), and its regulations.

The office aims to:

- combat and reduce crime
- create a culture of civil morality
- enhance public confidence in the office and in the criminal justice system (CJS)
- enhance prosecutions through the evidence of vulnerable and intimidated witnesses.

It also provides for placing a person related to the witness under protection at the request of the witness, prospective witness or a person who has given evidence or is required to give evidence in criminal proceedings or before a commission of inquiry.

The programme does not offer incentives such as those offered by the SAPS to witnesses of serious crimes.

Instead, it offers sustenance in the form of a food allowance; replacement of salary if employment has been lost; free accommodation, including all municipal services; a clothing allowance; transport; a housing allowance for school-going children; medical expenses; etc.

By mid-July 2007, the Witness Protection Unit (WPU) had completed the review of the draft United Nations (UN) guidelines on the matter of witness protection. Officials of the International Criminal Court (ICC) received training in witness-protection best practices. South Africa assisted Kenya in establishing a WPU structure following their introduction of witness-protection law. Cabinet is considering requests for similar assistance from other African countries.

Legal practitioners

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

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

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

In terms of the Right of Appearance in Courts Act, 1995 (Act 62 of 1995), advocates can appear in any court, while attorneys may be heard in all of the country's lower courts and can also acquire the right of appearance in the superior courts. Attorneys who wish to represent their clients in the High Court are required to apply to the registrar of a provincial division of the High Court. Such an attorney may also appear in the Constitutional Court. All attorneys who hold an LLB or equivalent degree, or who have at least three years' experience, may acquire the right of audience in the High Court.

The Attorneys Amendment Act, 1993 (Act 115 of 1993), provides for alternative routes for admission as an attorney. One of these is that persons who intend to be admitted as attorneys and who have satisfied certain degree requirements prescribed in

the Act, are exempted from service under articles or clerkship. However, such persons must satisfy the society concerned that they have at least five years' appropriate legal experience.

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

Other legal practitioners

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

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

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

Human rights

Human rights, in terms of Chapter Two (Bill of Rights) of the Constitution, bind all legislative and executive bodies of state at all levels of government.

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

- freedom from unfair discrimination
- the right to life.

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

The Service Charter for Victims of Crime, approved by Cabinet, seeks to consolidate the present legal framework in South Africa relating to the rights of and services provided to victims of

crime, and to eliminate secondary victimisation in the criminal justice process.

The ultimate goal is victim empowerment by meeting victims' material or emotional needs.

Crime prevention

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

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

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

Integrated justice system (IJS)

Following government's approval of the NCPS in 1996, the IJS Board was formed in 1997 to integrate the activities of departments in the JCPS Cluster in a co-ordinated manner.

The IJS, approved in 2002, aims to increase the efficiency and effectiveness of the entire criminal justice process by increasing the probability of successful investigation, prosecution, punishment for priority crimes and ultimately rehabilitation of offenders. A second version of the IJS was published in May 2003.

Issues receiving specific attention include overcrowding in prisons and awaiting-trial prisoner problems, as well as bail, sentencing and plea-bargaining.

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

Benefits of proper alignment include:

- less duplication of services
- effective use of scarce and limited resources and skills

- joint strategic planning and a planned approach instead of simply reacting to problems.

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

Modernising the justice system

This includes establishing proper governance structures, effective monitoring mechanisms based on proper review findings, and the integration and automation of the justice system.

Key projects already receiving attention include the following:

Criminal Justice Review Commission

By September 2005, the Cabinet had endorsed proposals by the JCPS Cluster to review the CJS.

Integrating the criminal justice system

While each department within the JCPS Cluster must have its own IT plan to achieve its specific vision, mission and objectives, the IJS Board co-ordinates the broader and shared duty to integrate information flow throughout the CJS.

Child justice

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

- Implementing relevant legislation and enabling policy, for example, accelerating the finalisation of the Child Justice Bill. The Sexual Offences Bill, which among other things, broadens the definition of sexual assault, was passed by Parliament in May 2007.
- Ensuring assistance from prosecutors and public defenders for child maintenance.
- Enforcing the right of children to receive support from earning parents.
- Prioritising child justice and all cases involving children, especially those children in prison awaiting trial.

Victim-Empowerment Programme

This programme aims to improve services rendered to crime victims.

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

The Service Charter for Victims of Crime is expected to go a long way towards assisting crime victims.

Integrated justice case-flow management centres

CFM centres provide an integrated solution to managing cases through the court system, facilitated by IT that allows the monitoring of aspects such as case-cycle time and court rolls.

Contributing to interdepartmental and cluster co-ordination and co-operation

The Development Committee is mandated to align and co-ordinate cluster activities across the various departments, with the ultimate aim of improving service delivery, policy co-ordination and planning.

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

Children awaiting trial

National and provincial action plans to fast-track all children awaiting trial in prisons and police cells, have led to a reduction in children awaiting trial, from over 1 775 in January 2005 to 1 243 in January 2006 and 1 089 in January 2007.

Specific interventions to address the backlog of cases pending trial include moving away from placing children who are in trouble with the law in correctional detention centres. Children awaiting trial will be placed under home-based supervision, in places of safety or in the care of parents or caregivers. Three child-justice centres have been established in Port Elizabeth, Bloemfontein and Port Nolloth.

The National Inter-Sectoral Committee on Child Justice monitors and evaluates all child-justice issues and reports to the JCPS Cluster. This forum has also been established at regional level.

E-Justice Programme

The E-Justice Programme supports the fundamental reforms necessary to establish a more fair, accessible and efficient justice system in South Africa.

The programme aims to reform and modernise the administration and delivery of justice through re-engineering work processes by using technologies, strengthening strategic planning and management capacity, organisational development and human resource interventions.

The E-Justice Programme has evolved into the Information and Systems Management Programme, which has 25 projects in addition to the three main ones, i.e. CPP, Digital Nervous System (DNS) Project

and Financial Administration System Project. The E-Justice Programme is funded mainly by the Justice Vote and supplemented with donor funding from the European Union Commission, the Royal Netherlands Embassy and the Irish Embassy.

With the completion of the DNS III Project in March 2007, 554 sites were deployed and 14 000 users trained. This is expected to substantially enhance service delivery at suboffice level.

Legislative and constitutional development

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

The branch consists of four main components, namely, the research activities of the South African Law Reform Commission (SALRC), the Secretariat for the Rules Board for Courts of Law, a legislative-development component and one for constitutional development.

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

It is also responsible for promoting, implementing, maintaining and developing the Constitution and its values.

The component is also responsible for assisting and protecting certain chapter nine institutions such as the Public Protector, the SAHRC and the CGE to ensure their independence, impartiality, dignity and effectiveness.

In 2006, the department, among other things, promoted the Repeal of the Black Administration Act and Amendment of Certain Laws Amendment Act, 2006 (Act 8 of 2006), which extended the statutory deadline contained in the Repeal of the Black Administration Act and Amendment of Certain Laws Act, 2005 (Act 28 of 2005).

The Repeal of the Black Administration Act and Amendment of Certain Laws Act, 2005 brings

about an incremental repeal of the Black Administration Act, 1927 and further amends the Administration of Estates Act, 1965 (Act 66 of 1965), so as to give the Masters of the High Court jurisdiction over the property of all minors, including those who are governed by the principles of customary law.

The Civil Unions Act, 2006 (Act 17 of 2006), which is transformative and promotes access to justice, was implemented in November 2006 and provides for same-sex marriages.

The Regulation of Interception of Communications and Provision of Communications-Related Information Amendment Bill, 2006 was introduced into Parliament during 2006.

The Bill aims to provide for the electronic capturing of the personal particulars of cellphone and SIM-card holders, replacing the current paper-based system. The Bill will contribute to the fight against crime and enhance organisational efficiency.

State Legal Services

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

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

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

In the past 10 years, state law advisers certified 610 Bills, passed by Parliament. These Bills have dealt with complex social, political and economic issues. During the same period, they provided the executive with 6 679 opinions, international agreements and subordinate legislation.

Research conducted in the Office of the Chief State Law Adviser suggests that the division saved the State about R92 million in private legal fees in 2006.

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

International legal relations

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

The chief directorate is involved in direct liaison and negotiations at administrative and technical level with foreign states to promote international legal co-operation, and for the possible conclusion of extradition and mutual legal-assistance agreements.

The chief directorate also aims to establish greater uniformity between the legal systems of southern African states, especially the Southern African Development Community (SADC).

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

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

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

International Criminal Court

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

This Act provides a framework to:

- ensure the effective implementation of the Rome Statute of the ICC in South Africa
- ensure that South Africa conforms with the obligations set out in the statute

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

Legal structures

Master of the High Court

The Master of the High Court is involved with the administration of justice in estates of deceased persons and those declared insolvent, the liquidation of companies and close corporations, and the registration of trusts.

Each year, the value of estates under the supervision of the masters' offices amounts to about R18 billion. This includes about R4 billion in the Guardians' Fund.

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

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

Deceased estates

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

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

All intestate estates must be administered in terms of the Intestate Succession Act, 1987 (Act 81 of 1987), as amended. This will ensure that all South Africans are treated equally, and that the dignity of each person is respected.

The institutional structures are the following:

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

Curatorships

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

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

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

Guardian's Fund

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

These include minors, persons incapable of managing their own affairs, unborn heirs, missing or absent persons, or persons having an interest in

the money of an usufructuary, fiduciary or fideicommissary nature.

The money in the Guardian's Fund is invested with the Public Investment Commission and is audited annually. Interest is calculated monthly at a rate per year determined from time to time by the Minister of Finance. The interest is compounded annually at 31 March. Interest is paid for a period from a month after receipt up to five years after it has become claimable, unless it is legally claimed before such expiration.

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

In the past 10 years, there has been a dramatic increase in the size of the fund, which grew by more than R2 billion over that period.

Rules Board for Courts of Law

The Rules Board for Courts of Law was established by the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985), to review the rules of court and to make, amend or repeal rules, subject to the approval of the Minister of Justice and Constitutional Development.

The Rules Board Secretariat provides secretarial and administrative support to the board. The secretariat also conducts research into the rules of court.

Justice College

The Justice College provides vocational training to all officials of the Department of Justice and Constitutional Development. It also presents training to autonomous professions such as magistrates and prosecutors.

Training is integral to the department's efforts to widen and improve citizens' access to justice, enable the department to meet its strategic objectives and empower employees to heighten their performance. The Justice College is being



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

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

Training interpreters is a departmental priority. The college continues presenting courses that focus on complex concepts including, but not limited to, environmental crimes; cyber crimes; the National Credit Act, 2005 (Act 35 of 2005); and developing terminology in indigenous languages. The college is developing curricula on cross-cutting, non-legal, but essential training programmes, such as management and leadership, project management, service excellence and general administrative training.

Office of the Family Advocate

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

The Family Advocate derives its duties and obligations from the Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987), and other related legislation. In certain instances, the Family Advocate also assists the courts in matters involving domestic violence and maintenance.

The Office of the Chief Family Advocate is the designated central authority regarding the implementation of the Hague Convention on the Civil Aspects of International Child Abduction, to which South Africa became a signatory in 1996.

Under this Act, the Chief Family Advocate assists in securing the return of, or access to, children abducted or unlawfully retained by their parents or caregivers.

Legal Aid Board

By mid-2007, the LAB had completed the roll-out of a national infrastructure of four regional offices, 58 justice centres, 35 satellite offices and 13 high-court units. It employs more than 1 700 staff of whom more than 1 300 are legal professionals.

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

With its national infrastructure in place, the LAB focuses on improving access to clients and communities, and on improving the quality of delivery of legal services.

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

As a public defender in criminal matters, the LAB is important in defending indigent accused people and protecting children's rights. In 2006/07, the LAB defended and protected the interests of indigent and vulnerable people in some 400 000 cases, which was 15% more than the case load handled in 2005/06.

In 2007/08, R574 million was granted to the LAB to continue providing public defender services in courts across South Africa. This represented an additional R20 million allocated to the LAB for 2007/08, which will enable improvements in service delivery and increases to the legal services' capacity for service delivery at LAB centres countrywide.

Public Protector

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

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

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

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

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

The President appoints the Public Protector on recommendation of the National Assembly and in terms of the Constitution for a non-renewable period of seven years. The Public Protector is subject only to the Constitution and the law, and functions independently from government or any political party. No person or organ of state may interfere with the functions of the Public Protector.

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

Magistrates' Commission

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

The commission also attends to grievances, complaints and misconduct investigations against magistrates.

It advises the Minister of Justice and Constitutional Development on matters such as the appointment of magistrates, promotions, salaries and legislation.

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

South African Law Reform Commission

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

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

The commission's investigation into statutory law revision is one of considerable magnitude that Cabinet has endorsed. It requires scrutiny of all post-1910 legislation for purposes of identifying unconstitutional, redundant and obsolete provisions.

As part of the investigation, the *Discussion Paper on the Review of the Interpretation Act, 1957 (Act 33 of 1957)* was published for general information and comment in October 2006.

An investigation into Hindu marriages from a constitutional viewpoint is also conducted as part of statutory law revision.

Another crucial issue that the commission is investigating is human trafficking. The commission's investigation aims to develop legislative measures to counter trafficking in persons.

Judicial Service Commission

In terms of the Constitution, the President, in consultation with the JSC, appoints the Chief Justice and the Deputy Chief Justice, and the President and Deputy President of the SCA. The President appoints other judges on the advice of the JSC.

In the case of the Chief Justice and the Deputy Chief Justice, the leaders of parties represented in the National Assembly are also consulted.

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

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

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

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

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

South African Human Rights Commission

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

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

The operations of the SAHRC consist of the following programmes:

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

Structure

The SAHRC is made up of two sections: the commission, which sets out policy; and a secretariat, which implements policy. The Chairperson is overall head, and the Chief Executive Officer is head of the Secretariat, accountable for the finances of the SAHRC and responsible for the employment of staff.

As set out in Section Five of the Human Rights Commission Act, 1994 (Act 54 of 1994), the SAHRC has established standing committees to advise and assist it in its work. The SAHRC appoints the members of the standing committees, each of which is chaired by a commissioner.

The SAHRC has also established provincial offices to ensure its services are widely accessible.

Education and training

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

Advocacy, public awareness and community outreach

The SAHRC has developed the community-outreach initiative, "Omnibus". The Omnibus encompasses a range of educational interventions ranging from workshops, seminars, presentations, site visits and walkabouts to widespread campaigns, events and advocacy initiatives. The annual Human Rights Week Campaign, built around Human Rights Day on 21 March, continues to be convened and organised under this subprogramme.

Legal Services

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

Research and Documentation

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

Commission on Gender Equality

Chapter Nine of the Constitution provides for the establishment of the CGE. Section 187 of the Constitution specifically grants the CGE powers to promote respect for, and to protect, develop and attain gender equality.

The composition, functions and objectives of the CGE are outlined in the CGE Act, 1996 (Act 39 of 1996).

- The CGE has the following powers and functions:
- developing, conducting or managing information and education programmes to foster public understanding of matters pertaining to the promotion of gender equality and the role and activities of the commission

- monitoring and evaluating the policies and practices of state organs, statutory and public bodies, as well as the private sector, to promote gender equality
- investigating any gender-related complaints received or on its own initiative
- liaising with institutions, bodies or authorities with similar objectives
- conducting research to further the objectives of the CGE.

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

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

Truth and Reconciliation Commission Unit

The TRC was dissolved in March 2002 by way of proclamation in the *Government Gazette*. The TRC handed its final report to the President in March 2003.

The TRC made recommendations to government in respect of reparations to victims and measures to prevent the future violation of human rights. In keeping with the presidential mandate given on 15 April 2003 in Parliament, the TRC Unit was established in the Department of Justice and Constitutional Development in September 2005, with a view to audit, monitor and co-ordinate the implementation of the TRC's recommendations and render victim-support services.

The TRC Unit works closely with the President's Fund, which is located in the Office of the Chief Financial Officer in the Department of Justice and Constitutional Development. The President's Fund has been giving effect to the payment of both urgent interim reparations and the once-off individual grants of R30 000 each to the 16 837 victims who applied for reparations and were approved by the TRC.

By March 2007, 15 610 beneficiaries had received reparations. Of the 1 227 still to be paid, 357 were deceased and 260 were in the process of being paid.

By March 2007, R50 million had been paid in respect of urgent interim reparations and

R469 million in respect of once-off individual grants, amounting to a total of R519 million.

The TRC Unit's activities also include the engagement of TRC-identified victims and organisations representing victims, as well as the drafting of an exhumation policy in respect of missing-person cases reported to the TRC. In respect of the exhumation process, the TRC Unit has rendered assistance to affected families regarding applications for reparations and special pensions (where relevant) and obtaining death certificates. The Department of Justice and Constitutional Development has also made *ex gratia* payments of R15 000 each to contribute towards reburial costs.

Efforts in this regard have included awareness campaigns via the print and electronic media. The Government Communication and Information System is also conducting door-to-door campaigns via its regional structures.

The unit was facilitating the drafting of regulations to enable access to the monies in the President's Fund, in accordance with the Promotion of National Unity and Reconciliation Act, 1995 (Act 34 of 1995). The remaining monies in the fund will be used to implement broader reparation programmes, including community rehabilitation.

Correctional services

The Department of Correctional Services contributes towards maintaining and protecting a just, peaceful and safe society by enforcing court-imposed sentences and detaining inmates in safe custody while maintaining their human dignity.

The department facilitates the correcting of offending behaviour and is responsible for the general development of all offenders as part of their rehabilitation, including those subject to community corrections.

In pursuing these objectives, the department launched the *White Paper on Corrections* in 2005 that embodies its long-term strategic policy and operational framework.

The White Paper promotes corrections as a societal responsibility and it puts rehabilitation at the centre of all its activities.

The six service-delivery areas the department has identified in relation to offenders are security,

facilities, correction, development, well-being and social reintegration.

The department received R10,74 billion in 2007/08 and increased its staff complement from 36 311 in 2005/06 to 41 406 in 2006/07, with a target of reaching 45 674 by the end of 2009/10. This represents a 25,79% increase and the provision of 9 363 more jobs within five years.

Several milestones attained by the department in 2006/07 included:

- Surpassing its employment target of 8 311 additional employees as part of it implementing the seven-day working week scheduled to kick off in April 2008. In addition to the thousands of new recruits, 752 new positions were created as part of the ongoing alignment of the department's structures with the *White Paper on Corrections*.
- A standardised framework for providing comprehensive care programmes in the department's 36 centres of excellence (CoEs) was implemented by training six master trainers, 27 chaplains, 100 spiritual-care workers and 40 external service-providers.
- The department implemented the National Curriculum Statement for Grade 10 in its CoEs in 2006/07, as part of rehabilitation. By mid-2006, the department was registering all its youth centres as full-time schools to ensure the transformation of CoEs into rehabilitation centres providing education, knowledge and information.
- The department's partnerships with the SIU and the DSO delivered good results in its fight against corruption and fraud. Twenty-seven medical practitioners were investigated and 16 appeared in court, resulting in one conviction and over R316 million recovered, together with savings in medical-aid claims of more than half a billion rand. The Code Enforcement Unit of the department concluded 60 hearings and registered a 92% conviction rate.
- In 2006, the department developed the Compliance Improvement Plan aimed at enhancing compliance with internal controls, policies and procedures.
- The department is accelerating access to antiretroviral (ARV) treatment by offenders. Eight correctional centres were accredited as ARV sites in 2006 and the ninth in early 2007.
- The department is reducing the number of children in custody by transferring them to secure-care facilities and emphasising alternative sentencing options. At the end of 2006/07, there were 1 149 children in

correctional centres. This number was reduced by 187 during 2007.

- Altogether, 1 804 youth offenders in four regions are involved in the President's Awards Programme. The programme focuses on developing leadership skills, self-awareness, self-discipline, entrepreneurship and community service among young offenders, as part of the department's rehabilitation aims.
 - The department has aligned itself with the aims of the Accelerated and Shared Growth Initiative for South Africa's procurement programmes, thereby engaging more local small and medium-sized producers and suppliers.
 - The Electronic Management Information System for offender-skills development was developed and tested. The system was expected to be implemented in 2007/08.
 - In mid-2006, the department developed a social reintegration framework that seeks to optimise stakeholder participation and strengthen family relations, while improving the management of rehabilitation programmes outside correctional centres. The Social Reintegration Programme is expected to improve the implementation of diversion programmes, non-custodial sanctions for offenders who pose limited danger to society, and the role of society in preventing crime and in correcting offending behaviour. The budget for social reintegration increased by 9,15% (from R313,3 million in 2005) to R342 million in 2006.
- The Offender Rehabilitation Path (ORP) is a nine-phase programme that seeks to re-engineer the department's offender-management approach to become needs-based and informed by an offender's life cycle. Each stage demands different interventions by the department and other players in government and society.

The nine phases of the ORP include:

- admissions to correctional facilities
- assessments, which include orientation and profiling
- allocation to an incarceration unit in line with one's risk profile and classification
- interventions that are informed by a sentence plan
- monitoring and evaluating of progress made in implementing the sentence plan
- a placement phase, including considering placement on parole or correctional supervision
- allocation to a pre-release unit for training or last interventions before placement in communities
- admission to a community corrections office with a clear plan for implementation

- focusing on the management of probationers, who are directly placed under community corrections by courts.

The Correctional Sentence Plan and its revision framework were finalised in 2006/07 in consultation with offenders to establish their needs. The sentence plan will include the implementation of six programmes aimed at addressing offence-specific crimes resulting from aggressive behaviour, sexual offences and substance abuse.

In addition, all offenders due for release will be progressively compelled to undergo the pre-release programme designed to prepare them for social reintegration.

For the roll-out of care programmes aimed at the personal well-being of offenders, inclusive of healthcare; social-work services; and spiritual, moral and psychological services; the department has been allocated an annualised increase of 8,7% over the Medium Term Expenditure Framework (MTEF), reaching R1,5 billion by 2009/10. Part of the increase is the additional allocation of R17 million aimed at improving health professionals' salaries following extensive discussions with the departments of public service and administration, and of health.

The allocation will be increased to R19 million and R47 million in 2008/09 and 2009/10 respectively.

Offender accommodation

The department strives to provide adequate prison accommodation that complies with accepted standards. By the end of March 2007, offenders were housed in 238 active correctional centres countrywide, including:

- eight correctional centres for female offenders only
- 13 youth correctional facilities
- 131 correctional centres for male offenders only
- 86 correctional centres for both male and female offenders.

In centres where men, women and juvenile offenders are accommodated, women and juvenile offenders are housed in separate designated sections.

Overcrowding in prisons

Over the past six years, the department has reduced overcrowding by an average rate of 4,77% per year.

With mandatory sentences, the category of offenders serving 10 to 15 years increased by over 12% from 45% in 2000 to 57% of the total offender population in 2006.

By March 2007, South Africa's correctional centres, which collectively have an accommodation capacity of 115 327 inmates, housed 161 023 inmates.

Overcrowding was about 40% (45 696 people), meaning that the country's correctional centres were 140% full. Of the total offender population, 48 228 inmates were awaiting trial. The average cost of incarceration is estimated at R123,37 a day.

The department is implementing an eight-pronged strategy to address overcrowding.

The strategy consists of the following dimensions:

- managing levels of ATDs through the IJS Case Management Task Team and Intersectoral Committee on Child Justice
- managing levels of sentenced inmates by improving effective and appropriate use of conversion of sentence to community correctional supervision, release on parole and transfers between correctional centres to establish some degree of evenness of overcrowding in all centres
- ensuring progress on the capital-works programme to upgrade its facilities and to build new centres that are both cost-effective and rehabilitation-oriented
- encouraging debate in South Africa about reasons for incarceration as a sentence, and encouraging appropriate sentencing that is focused on rehabilitation
- strengthening community correctional supervision so that it is better used as an appropriate sentence for less serious crimes
- improving correction and development programmes
- encouraging the correction of offending behaviour in family and social structures and encouraging economic-sector engagement to decrease the rate of entry into the CJS
- encouraging community involvement in the social reintegration of offenders back into their communities to assist in reducing levels of repeat offending.

These measures have started to pay off, resulting in overcrowding being reduced consistently by 4, 77% a year, reaching 15,72% and 10% reduction rates respectively in the past two years. The amount of bed space has increased through renovations, limited expansions and recommissioning, while ATDs have been reduced by 22% through the integration of the CJS as a whole.

The construction of one of three new-generation correctional centres in Kimberley is under way and due for completion in November 2008. By mid-2007, construction at Klerksdorp and Nigel was due to start. Similar facilities are to be built in the Eastern Cape, Western Cape and KwaZulu-Natal. Construction of another three new-generation correctional centres in Paarl, East London and Port Shepstone respectively, announced in 2006, is expected to start in 2008. The five new-generation correctional centres will have 3 000 beds each.

Managing awaiting-trial detainees

In 2006, Cabinet mandated the department to lead a project of re-engineering the Management of Awaiting-Trial Detention (MATD) system in South Africa.

The scope goes beyond addressing the congestion of facilities and includes ensuring that all provisions of the Constitution, legislation and international protocols applicable to unsentenced inmates are applied.

The task team members are from the departments of justice and constitutional development, of home affairs, of social development and the SAPS.

As a result, the Department of Correctional Services has established a directorate to drive the development of appropriate policies and procedures, identification of correctional centres for use as pilot remand-detention facilities in each region, as well as the development and implementation of a synchronised cluster programme of action aimed at meeting short- to long-term strategic needs in managing ATDs.

Of the 158 859 inmates in June 2007, 44 507 were ATDs, which put significant strain on already congested facilities. Those who were awaiting trial represented almost 30% of the total offender population.

The MATD system aims to reduce risks imposed by ATDs on public safety while improving compliance with constitutional imperatives in terms of access to basic services such as education, health and other social services for those regarded as innocent until proven guilty.

By March 2007, the MATD Project Team was focusing on:

- developing policies, appropriate legislation and procedures for consideration and approval during 2007/08
- identifying suitable facilities for conversion or dedicated use as remand-detention facilities across the country
- optimising the use of technology, including the tracking and electronic monitoring of the accused so that, where appropriate, non-custodial options are also used to reduce overcrowding
- ensuring an integrated information-management system across the CJS to assist with decision-making.

Safety and security

One of the core objectives of the department is to ensure that every correctional centre has a secure environment with a correcting influence. This refers not only to the prevention of escapes from custody, but also to creating and maintaining an environment characterised by a significantly low prevalence or absence of inmate abuse, violence, corruption and negligence.

The department has implemented various measures aimed at combating escapes. These include:

- the optimal use of existing security aids and equipment
- continued evaluation of security directives
- upgrading personnel training
- taking disciplinary action against negligent personnel
- rewarding offenders who report or warn of planned escapes
- installing electronic fences and X-ray scanners in high-risk prisons.

By implementing national and regional escape-prevention strategies, the department succeeded in reducing the number of escapes from 113 in 2005/06 to 93 in 2006/07. The number of escapes decreased by 67% between 2002/03 (281 escapes) and 2006/07.

The department has created a culture of security awareness among its staff. All managers are involved in monitoring and ensuring adherence to security policies and procedures, through strict supervision, control mechanisms and disciplinary action against negligent officials.

The department is rolling out a biometric security system and state-of-the-art fencing with CCTV monitors. The system includes a biometric

Inmates per security category as at 31 August 2007

Sentence categories	Women	Men	Total
Maximum security	184	28 052	28 236
Medium security	1 474	60 314	61 788
Minimum security	52	2 134	2 186
Total	1 710	90 500	92 210

Source: Department of Correctional Services

fingerprinting system to manage inmate visitations. Some R300 million has been allocated over the MTEF.

The recently developed Minimum Security Policy and Standards outlines five integrated pillars, namely:

- personnel security and vetting
- security equipment
- security technology
- security information management
- operational security procedures.

Offender assessment and profiling

The department assesses and profiles offenders to determine the risk they pose to the public, and to identify their rehabilitation and reintegration needs. Offenders are assessed upon admission to identify

Sentence length breakdown as at 31 August 2007

Sentence length	Number
<6 months	4 572
6 – 12 months	4 046
12 – 24 months	4 012
2 – 3 years	13 081
3 – 5 years	10 975
5 – 7 years	7 614
7 – 10 years	15 278
10 – 15 years	23 117
15 – 20 years	11 731
>20 years	9 747
Life	7 640
Death	6
Other sentenced	977
Total sentenced	112 796

Source: Department of Correctional Services

immediate risks and needs that require urgent intervention.

They are each subjected to a comprehensive assessment by a multidisciplinary team to work out a sentence plan. The information from the comprehensive assessment is then analysed to compile a profile of the offender.

These interventions aim to determine risks of re-offending and to prepare offenders for reintegration into society. The department also profiles the national offender population biannually to identify different types of offenders in its facilities for planning purposes and to identify trends.

Classification and categorisation of offenders

Offenders undergo safe-custody classification upon admission to determine the level of security required to detain them. Offenders are classified according to high, medium and minimum security risk levels for placement in maximum-, medium- or minimum-security correctional centres or units.

Variables taken into account are the type of crime committed, the length of the sentence, previous convictions, current multiple offences (number), current multiple offences (categorisation), time lapse between current offence/s and previous convictions, history of violence (prior convictions) for violent offences within the last five years, escape history, age at admission on current sentence, motive/circumstances under which crime was committed, crime committed in gang-context/crime syndicate, and number of victims (human).

The safe-custody classification of all offenders is reviewed regularly, and if their behaviour or any other aspect affecting their security risk justifies it, reclassification takes place.

There are eight categories of offenders in South African prisons, namely:

- ATDs (mainly offenders standing trial on a charge and detained in prison pending the conclusion of the judicial process)
- short-term offenders (offenders serving a sentence of less than two years)
- long-term offenders (offenders serving sentences of two years and longer)
- children/juvenile and youth ATDs between the ages of 14 and 25

- sentenced children/juveniles and youths between the ages of 14 and 25
- women, including women with children
- foreign nationals
- offenders with disabilities.

Young offenders

In terms of the Constitution, a child is a person under the age of 18 years. The Department of Correctional Services regards a person between the ages of 14 and 25 years as a youth. The department is responsible for the detention, treatment and development of sentenced juveniles.

Section 7(2)(c) of the Correctional Services Act, 1998 (Act 111 of 1998), stipulates that children must be kept separate from adult offenders and in accommodation appropriate to their age, as young offenders are predisposed to negative influences.

The separation aims to provide distinctive custodial, development and treatment programmes, as well as spiritual care, in an environment conducive to the care, development and motivation of youths to participate and to develop their potential.

The nature of serious offences committed by ATDs and sentenced offenders under the age of 20 years is decreasing. A breakdown of the nature of the crimes of those in custody in March 2007 revealed that there were 4 042 offences of an economic nature, 6 160 aggression-related offences, 1 591 sexual offences, 154 drug-related offences and 445 for other crimes committed.

Of the crimes committed by 36 363 sentenced youths between the ages of 14 and 25, 19 848 were aggression-related, 9 858 of an economic nature, 4 704 sexual, 595 drug-related and 1 360 for other types of offences.

There are 13 youth correctional facilities in the country, namely Hawequa, Brandvlei, Drakenstein Medium B and Pollsmoor Medium A (Western Cape); Leeuwkop, Emthonjeni and Boksborg (Gauteng); Rustenburg (North West); Durban and Ekuseni (KwaZulu-Natal); Groenpunt and Kroonstad (Free State) and Barberton Prison (Mpumalanga).

The development and support of youth offenders form an essential part of their incarceration. The aim of rendering professional services (education, lifeskills, learning a trade, moral and spiritual enlightenment and personal development) is to rehabilitate youth offenders, contribute towards their behavioural change and prepare them for reintegration into society. The focus is on promoting and developing leadership qualities. A holistic approach is followed in which:

- young offenders are motivated to actively participate in their own development and the realisation of their potential
- a culture and atmosphere where development prevails
- discipline and co-operation between officials and offenders, and among offenders, are fostered and maintained.

By May 2007, there were 1 149 children in correctional facilities, compared with 1 336 in 2006/07.

Mother-and-child units

The department has aligned its Infants and Mothers Policy with the Children's Act, 2006 (Act 25 of 2006).

Mother-and-child units have been established in eight female correctional centres countrywide. By March 2007, there were 154 infants under the age of five in these units, which was less than the previous year's figure.

Policy stipulates that mothers and children be kept in separate units in the correctional centre, where the surroundings and facilities are complementary to the sound physical, social and mental care, and development of children. Those of crèche-going age attend crèche either in the centres where there are such facilities or at external facilities.

Infants are allowed to stay with their mothers only if no other suitable accommodation and care are available at that stage. It should also be regarded as a temporary measure. The policy recognises the right of the mother to have her infant with her during admission because it promotes a positive relationship between mother and child. The policy emphasises that the mother should be taught sound childcare practices to build her own self-esteem and self-confidence, and for the benefit of the child.

The privilege system

The main objectives of the privilege system are to encourage offenders to display good behaviour, to engender a sense of responsibility in them and to ensure their interest and co-operation in treatment programmes. The system consists of primary and secondary privileges. Primary privileges are aimed at retaining, maintaining or furthering family ties to, among other things, facilitate reintegration into society. These privileges are divided into A, B and C groups.

The entry level for all new admissions is the B group and, depending on behaviour, an offender

may be promoted or demoted to either the A or the C privilege group. Secondary privileges are aimed at leisure-time activities such as participation in sport and watching television. No sentenced offenders are allowed to receive food from outside prison or to use private electrical appliances.

Healthcare services

The Department of Health views the healthcare of offenders as an important responsibility. It includes nutrition, personal care, environmental hygiene and pharmaceutical services.

The department endorses the fundamental rights and privileges of all offenders. In accordance with the Correctional Services Act, 1998, an independent judicial inspectorate regularly inspects all prisons and reports on their conditions and the treatment of offenders.

The policy and administrative framework for the maintenance of an adequate, affordable and comprehensive healthcare service is based on the principles of primary healthcare (PHC).

The service includes mental, dental and reproductive health, supplementary healthcare, health-promotion, and management of communicable diseases, including HIV, AIDS and sexually transmitted infections (STIs).

The approach to healthcare in South Africa's correctional facilities focuses on:

- adherence to ethical codes by health professionals
- regular health inspections
- compliance with rules of confidentiality and privacy regarding the medical records of offenders
- continuous evaluation and upgrading of emergency medical services.

The Department of Correctional Services provides a system in which offenders are treated in the same way as other patients in state facilities following PHC principles. Offenders in need of further healthcare are, as far as possible, treated in state hospitals.

The use of private hospitals for offenders is permitted in cases where public hospitals are unable to provide access to healthcare and only after approval by the Regional Commissioner of Correctional Services.

The department's objective is to maintain a high standard of personal hygiene by ensuring that the following are provided to offenders:

- toilet and bathing amenities with hot water
- suitable clothing and comfortable shoes
- adequate bedding
- a clean and healthy environment
- safe drinking water
- a smoke-free prison environment.

The Minister of Correctional Services approved the department's HIV and AIDS Policy in October 2002. In 2006, the department conducted a health-needs assessment based on government priority areas, as well as a survey on the prevalence of HIV and syphilis among inmates and staff. The results of the survey will inform the department's related programmes and policies.

The department is implementing the Comprehensive Plan on Prevention and Care of HIV and AIDS of the Department of Health, which includes providing ARV therapy to offenders who qualify for this treatment. Altogether, 47 438 HIV and AIDS awareness and health-education sessions were held with offenders in 2006/07.

The department is also collaborating with the Department of Health to assess identified correctional centres for accreditation as ARV therapy-providers. In March 2007, Kimberley Correctional Centre became the ninth accredited correctional location to roll out ARV treatment to offenders. The other eight ARV-accredited sites are Qalabusha, Durban-Westville, Pietermaritzburg, St Albans, Johannesburg, Grootvlei, Groenpunt and Kroonstad.

By the end of 2006, 2 323 offenders were receiving ARV therapy.

The department's HIV and AIDS Policy caters for:

- prevention, which involves the promotion of safe sexual practices, management and control of STIs, provision of condoms and access to voluntary counselling and testing
- treatment, care and support
- respect for human rights
- awareness campaigns and the commemoration of HIV and AIDS calendar events
- partnerships with other government departments, the private sector, NGOs and educational institutions

- peer-led education programmes to introduce behavioural changes among peers
- the appointment of employee-assistance practitioners to implement employee-wellness programmes.

Exceeding its target of 445 in 2006/07, the department trained 1 159 offenders and officials as peer educators to strengthen prevention initiatives.

Nutrition

The department is committed to maintaining the health and strength of those entrusted to its care by satisfying their nutritional needs according to the Recommended Daily Allowance for food intake.

The objective is to provide all offenders with three nutritious meals per day and to provide for therapeutic and special diets when they are prescribed by a medical doctor. The system also allows for religious and cultural diets.

To ensure compliance in this regard, a contract is negotiated with an external service-provider to provide balanced meals to offenders, and to train staff and offenders who work in the kitchens.

Rehabilitation

Rehabilitation aims to provide treatment and development programmes to offenders in partnership with the community. Participation in rehabilitation programmes enhances personal and social functioning, and prepares offenders for reintegration into society as productive, well-adapted and law-abiding citizens.

Multidisciplinary teams, consisting of social workers, psychologists, chaplains, educators, correctional officers and others (the external community), address the basic needs of offenders with comprehensive assessments and various needs-based programmes.

The development and rehabilitation processes, which enable offenders to improve their mental health, social functioning, competencies, knowledge, skills and spiritual well-being, focus on the following key strategies:

- raising the literacy rate within the prison environment
- engaging community organisations to assist with development programmes for offenders
- establishing training centres at large correctional centres, but also building capacity to deliver training programmes in smaller centres
- marketing rehabilitation programmes to offenders and the community
- promoting and implementing restorative justice principles to ensure the involvement of

offenders, victims and the community in the rehabilitation process.

Institutional committees

Institutional committees at each prison are responsible for ensuring a professional and co-ordinated approach towards the incarceration, treatment, training and development of all offenders.

This is implemented by means of a multidisciplinary approach in which all role-players are involved, i.e. those concerned with custodial, training, educational, psychological, religious-care and social-work functions, recreational sport and library projects, as well as self-sufficiency and life-skills programmes.

Education and training of offenders

All offenders have the right to basic education. The aim is to enhance the education level of offenders so that their reintegration into society can be strengthened.

All formal education programmes are outcomes-based, needs-driven and meet the requirements of the National Qualification Framework. Offenders are given access to the General Education and Training, Further Education and Training (FET) and Higher Education and Training (HET) bands. Services are provided to sentenced offenders and ATDs, in collaboration with external partners such as government institutions, training institutions and NGOs.

Education programmes include:

- Pre-Adult Basic Education and Training (Abet) and Abet levels 1 – 4
- 10 – 12 FET grades
- HET (FET degrees/diplomas)
- computer-based training
- life-skills training and development
- entrepreneurial skills training.

The main emphasis is on providing literacy and numeracy programmes, which include training in occupational, life and entrepreneurial skills. This should enhance the chances of the successful reintegration of the offender into society and labour market. During 2006/07, 102 000 offenders participated in sport, arts and culture programmes.

Participation in trade workshops and farming activities develops the employability of offenders and complements rehabilitation by providing offenders with skills.

The department uses the products and produce, sells to other departments (office furniture) and donates some to impoverished communities.

The department has 20 prison farms on about 40 000 hectares (ha) of which 6 386 ha are dry land, 2 040 ha are under irrigation, 20 885 ha are natural grazing and 9 937 ha are barren. In addition, the department has 116 vegetable gardens at smaller correctional centres.

The department produces a wide range of agricultural products that contribute to self-sufficiency. Milk, butter, broilers, eggs, beef, pork, venison, vegetables, fruit, maize-meal and fodder products (maize, silage, hay, etc.) for livestock are being produced.

Apart from the practical skills that an offender acquires while working on a farm, the department offers formal training with the assistance of instructors in the following courses, which are based on the syllabi of acknowledged external agricultural training centres: irrigation, vegetable cultivation, care for calves, operating milking machines, cattle care, operating tractors and maintaining fencing.

The department has 10 production workshops for wood and steel manufacturing. It also has 16 textile workshops for the manufacturing of clothing and bedding for offenders. Qualified production managers and technicians manage these workshops.

The workshops produce office furniture, benches, recreational equipment, student tables, broom handles, kitchen equipment, beds for offenders, cabinets, lockers, trailers, shirts, trousers and shoes.

Almost R3 million in revenue was generated in 2006 from selling products made in the workshops.

Qualified instructors give formal training and offenders receive accreditation from relevant training boards. The following courses are presented:

- fitting and machining
- metal work
- cabinet-making
- wood machining
- garment manufacturing
- technical drawing
- machines
- materials.

Every offender who completes the training is evaluated through an examination and is issued

with a certificate, which is acknowledged by the labour market and the relevant sector education and training authority.

Psychological services

Psychological services are provided for sentenced offenders to improve their mental health and emotional well-being. In areas where there are no departmental psychologists, the department uses the following procedures to address the emotional needs of offenders:

- External registered psychologists can be contracted if a medical practitioner referred the offender for psychological treatment.
- Offenders may see a private psychologist at their own expense.
- Students who are studying towards their MA degrees in clinical or counselling psychology provide services without remuneration under the supervision of their respective universities. Following an agreement with the Department of Health, the department offers places for psychologists who need to complete their one-year compulsory community service. This came into effect in January 2005 and has had a very positive effect on the psychological resources available in the department.

By May 2007, the department had 48 psychologists. It surpassed the 2006/07 targets of 15 500 by reaching 17 818 offenders.

Social-work services

Social-work services aim to provide professional services to help offenders cope more effectively with problems relating to their social functioning, and to prepare them for reintegration into society. Social workers employed by the department provide structured programmes on life skills, family care and marriage, alcohol and drug abuse, orientation, sexual offences, trauma, pre-release, and HIV and AIDS treatment.

In 2006/07, some 86 571 social-work sessions took place.

Spiritual care of offenders

Spiritual-care services are rendered to offenders through needs-based programmes within a multidisciplinary context. This is done in

partnership with churches or faith-based organisations (FBOs) to rehabilitate offenders and reintegrate them into society. It also aims to contribute to changing offenders' behaviour, based on a lifestyle which is in accordance with the acceptable values and norms of their faith.

Sentenced and unsentenced offenders, probationers, parolees and personnel (on an ad hoc basis) have access to spiritual-care services. The department employs full-time chaplains and part-time spiritual workers from various religious backgrounds.

The department is a member of the International Prison Chaplaincy Association. A working relationship also exists with FBOs like Prison Fellowship International, Alpha, New Life Behaviour Ministries and Kairos. Provision is made for offenders to observe the main religious festivals and holy days such as Ramadan, Passover, Good Friday and Christmas. Religious and spiritual literature, such as the *Bible* and the *Qur'an*, are supplied to offenders.

In 2006/07, 164 582 spiritual-care sessions took place against a target of 162 500.

Case-management committees (CMCs)

CMCs at each correctional centre are responsible for ensuring a professional and co-ordinated approach towards the incarceration, treatment, training and development of all offenders.

This is implemented by means of a multidisciplinary approach in which all role-players are involved, i.e. those concerned with custodial, training, educational, psychological, spiritual-care and social-work functions; recreational, sport and library projects; as well as self-sufficiency and life-skills programmes.

CMCs have statutory decision-making competencies regarding the safe custody of offenders, individual participation, subgroup and group programmes, as well as rewarding positive behaviour promptly.

In 2006/07, the department intensified the work of CMCs and the correctional supervision and parole boards (CSPBs) and reduced cases by 49,16% to 9 957.

Release of offenders

The Department of Correctional Services, as part of the Criminal Justice Cluster, is entrusted with dealing responsibly with all offenders in its charge, for the duration of their sentence. Part of this responsibility is ensuring that offenders are returned to society in a responsible manner and at

the most appropriate stage of their sentence or at the end thereof. This has to be done not only in the offender's own interest, but also in the interest of the State and society.

Although offenders have to serve their full sentences, the department realises that, in the interests of successfully reintegrating offenders, it is normally not appropriate for them to serve the full period of their sentences in a correctional centre.

In South Africa, parole is a form of conditional placement, which may be granted to offenders after they have served a certain period of the sentence imposed by a court. The remainder of the sentence is then served under supervision in the community, subject to specific conditions of the system of community corrections.

The majority of cases under consideration for parole are dealt with by the CSPBs, with some exceptions, e.g. those sentenced to less than 12 months, which the Head of the Correctional Centre deals with. Those sentenced to life imprisonment or who are declared dangerous criminals are considered by the Minister of Correctional Services and the courts.

The primary task of a parole board is to consider and approve/disapprove the placement of offenders under either correctional supervision, on day parole or parole on medical grounds. By mid-2007, there were 52 parole boards countrywide, which will be expanded during the next few years.

Crime victims can make representations to a parole board when the placement of an offender on parole or under correctional supervision is considered.

Although the Correctional Services Act, 1998 allows for a parole-board decision to be final, which means that members of the department cannot overrule the decision of a parole board, the legislator deemed it necessary to provide for a correctional supervision and parole review board empowered to review decisions of any parole board.

The Parole Review Board acts as the mechanism whereby the minister and the commissioner can ensure that parole boards do not abuse their powers.

Should reasons exist that a parole board might have failed in its decision, the minister or the commissioner may refer such a case to the Parole Review Board. The review board has the authority to either confirm the decision of the parole board or substitute the decision, which must be made known to the relevant parole board and also to

other parole boards to serve as future guidelines. The Parole Review Board, through the rule of law, gives guidance to other parole boards.

The board consists of members selected from the National Council on Correctional Services and is chaired by a judge of the SCA. Other members who serve on the board are a member of the NPA, two members of the community, a person with special knowledge of the correctional system and a member of the Department of Correctional Services.

At the end of the 2006, there were more than 60 000 parolees and probationers who were serving their sentences under community corrections.

Reintegration into society

The department aims to equip offenders with the skills needed for their effective reintegration into society after release. Offenders sentenced to longer than six months' imprisonment undergo a basic pre-release programme before release. Aspects receiving attention include how to secure employment and personal-finance management.

Specialists from the community are also involved in the reintegration process. Care and support for an offender are prerequisites for release. Before offenders are placed, they are assisted with obtaining employment and accommodation, or at least care and support. Community involvement in supporting offenders after release is encouraged. Offenders are provided with some financial and material assistance before they are released.

Four corrections programmes have been developed and endorsed, marking a real focus on root causes of crime in society, namely anger management, a sexual-offenders programme, substance abuse and a pre-release programme. Participation in rehabilitation programmes will soon be compulsory.

The *White Paper on Corrections* is based on the principle that the Department of Correctional Services should be an institution for rehabilitation, and that rehabilitation and social reintegration of offenders are the joint responsibility of society and the State.

The department has partnerships with NGOs, FBOs and community-based organisations in

rendering reconciliation and moral renewal programmes for offenders and communities, so that rehabilitated offenders may be released into a receptive environment to ensure that both offenders and their victims, or affected families and communities, are reconciled.

Community corrections

A position paper on the social reintegration of offenders was developed in alignment with the *White Paper on Corrections* and with due cognisance of African and other international policy instruments.

The paper focuses on the need to increase the involvement of communities and the capacity to efficiently rehabilitate offenders subject to correctional and parole supervision and other non-custodial measures.

Policies and supporting procedures were subsequently developed and changes made to the organisational structure. The judiciary and stakeholders were briefed accordingly during roadshows to promote co-operation and the use of non-custodial measures such as community service.

During February 2007, 1 706 officials at 194 community corrections offices managed a daily average of 46 558 active offenders (29 218 parolees and 17 340 probationers) as well as the tracing of 24 145 absconders (18 403 parolees and 5 742 probationers).

It is an offence for probationers or parolees to abscond from the system of community corrections and, if found guilty, they may be sentenced for up to 10 years' incarceration. Absconding from community service has decreased since the end of the 1990s, and a framework was drafted to further reduce absconding and to trace absconders.

Supervision of parolees

Parolees are subject to certain conditions and supervisory measures aimed at gradually re-integrating them into society.

To achieve these goals, parolees are allocated to a supervision official of the department, who ensures that they are monitored regularly and receive the necessary support and guidance to promote their reintegration.

Contravention of parole conditions leads to interventions such as correctional programmes, stricter conditions, increased supervision and revocation of parole. Based on their risk profile, there are five supervision phases for parolees. The conditions for parole usually include periods of house detention, restriction to a specific magisterial district, attendance of correctional programmes and performance of community service.

Monitoring includes visits to the parolee's home and workplace, telephonic liaison and consultations at the Community Corrections Office.

Correctional supervision

Correctional supervision refers to several alternative sentencing or placement options available to courts, and entails the sentencing or placement of offenders under correctional supervision for a certain period.

Some offenders may have to serve a short period of incarceration before their sentences can be converted to correctional supervision. Correctional supervision provides the opportunity to deal with some offenders outside the walls of correctional centres. Offenders who pose a real threat to the community and who have chosen crime as a career, however, do not qualify for correctional supervision.

Offenders under correctional supervision have to report to a supervision official who ensures compliance with conditions such as:

- house detention
- free community service
- victim's compensation
- restriction to a magisterial district
- prohibition of alcohol use or abuse
- participation in certain correctional programmes.

If the conditions are violated, offenders can be referred to the court for consideration of an alternative sentence or, in certain cases, correctional supervision can be revoked in which case they have to serve the remainder of their sentences in correctional centres.

Persons awaiting trial may also be placed under correctional supervision. Because little is known about their criminal record prior to conviction, they are classified under the supervision category. Persons accused of a crime can also, instead of bail or in addition to bail, be placed under the department's supervision while awaiting trial or sentencing.

Day parole

A small number of offenders are placed on day parole either because they are institutionalised or

they have a doubtful prognosis and pose a high security risk to the community. These offenders are gradually resettled into society as a bridging measure, instead of being released upon termination of sentence. Day parolees have to comply with certain conditions.

Contravention leads to withdrawal of privileges, stricter conditions or suspension of day parole.

Under certain circumstances, offenders whose parole has already been approved may be allowed to spend weekends at home for the consolidation of family ties, preparation for release or for reasons that involve the reintegration of the offender into society.

Offenders may also be granted compassionate leave, for them to attend close family members' funerals.

The offender has to observe strict conditions, which include abstaining from drugs and alcohol, being in the care of a specific person and at a specific address, personally accepting liability for any event that might result in expenses for the State, and not being found guilty of any misconduct.

Employee organisations

Employees of the Department of Correctional Services subscribe to the Labour Relations Act, 1995 (Act 66 of 1995).

Two labour unions are active in the department, namely the Police and Prisons' Civil Rights Union and the Public Servants' Association.

Because the department renders an essential service, its members are not allowed to strike.

Good governance

The department approved a three-pronged anti-corruption strategy in 2003 in line with the Public Service Anti-Corruption Strategy, which focuses on:

- preventing and investigating corruption, fraud, theft and serious maladministration
- sanctioning officials found guilty of corruption, fraud, theft or serious maladministration.

The department has complied fully with government's Minimum Anti-Corruption Capacity requirement, and of utmost importance is the agility displayed by units in the department tasked with combating and preventing fraud and corrupt activities within the department. Its policy frameworks include a fraud-prevention policy, a whistle-blowing policy and an anti-corruption policy. The department took a bold step in 2006 by naming and shaming those officials who were found guilty of fraud and corruption.

To strengthen its anti-corruption mechanisms and security in its facilities, the department plans to set up its own Vetting Fieldwork Unit together with the National Intelligence Agency.

The department's efforts at building an ethical and secure correctional system are ongoing, as evidenced by the launch of anti-corruption and ethics management training in 2006, which equipped 880 managers with the skills needed to improve work ethics and fight corruption.

The R4-million training programme comprises nine modules that include:

- ethos in correctional services
- evolution of corruption and factors contributing to corruption
- understanding corruption and factors contributing to it
- understanding anti-corruption strategies
- risk management
- conflict, diversity and change management
- ethical reasoning and decision-making
- professional ethics for the Public Service.

This training was expected to be rolled out to lower levels during the 2007/08 financial year.

To combat fraud and corruption, the department has forged partnerships with external agencies such as the SIU, the DSO and SAPS.

The results of these partnerships include:

- A new code of conduct that closed gaps in the disciplinary system.
- A task team with regional representatives being established to accelerate the implementation of the disciplinary recommendations of the Jali Commission that were tabled in 2006. As a result of the Jali Commission, the Departmental Investigation Unit investigated over 100 officials.
- Also emanating from the Jali Commission recommendations, the Scorpions arrested

120 persons as part of investigations into medical-aid fraud amounting to R45 million. By mid-2007, the disciplinary hearings of 96 officials were in the final stages.

- The department's internal anti-corruption campaign was expected to kick off in 2007 to strengthen the move to a more secure and ethical correctional system.

International co-operation

The Department of Correctional Services works closely with organisations such as the American Correctional Association and the International Corrections and Prisons Association (ICPA).

The department endorsed the Charter of Fundamental Rights for Prisoners at the 11th UN Congress on Crime Prevention and Criminal Justice in April 2005.

It will continue to participate in multilateral forums such as ICPA, the Conference of Commissioners for East and Southern Africa and the UN.

In conjunction with other African states, the department is developing a programme that will result in full compliance with the UN Minimum Standards on the Treatment of Offenders. Participation in bilateral commissions and joint commissions of co-operation has resulted in the department hosting several delegations from various countries, as well as the Commission on Human and Peoples' Rights under the AU.

Ministers responsible for prison management and correctional services in SADC countries are continuing efforts to implement the July 2003 Johannesburg Declaration on Corrections.

The declaration seeks to include the field of corrections in the work of regional and continental multilateral structures.

Acknowledgements

Beeld

BuaNews

Commission on Gender Equality

Department of Correctional Services

Department of Justice and Constitutional Development

Estimates of National Expenditure 2007, published by National Treasury

Public Protector

South African Law Reform Commission

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