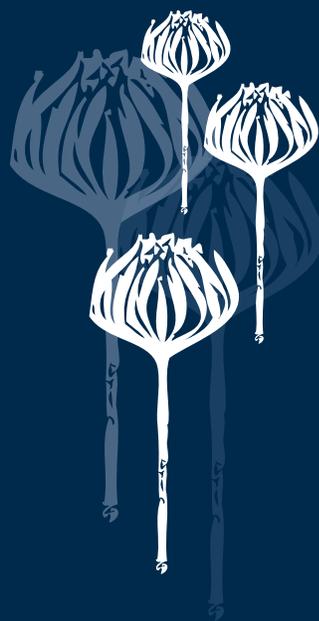




Justice and correctional services



**SOUTH
AFRICA**
YEARBOOK
2011/12

The mandate of the Department of Justice and Constitutional Development is to ensure a robust legal and institutional framework that enhances the rule of law, including the prosecution of offenders and settlement of all disputes by legal means. In particular, the department leads government programmes to afford all citizens equal benefit and protection of the law and the realisation of the Bill of Rights. The department also exercises executive oversight in the provision of public defence for citizens from a poor background.

The Department of Justice and Constitutional Development comprises six core branches:

- Court Services
- Master of the High Court
- Chief State Law Adviser
- State Litigation
- Legislative Development
- Justice College.

The department's responsibilities include:

- coordinating the work of the Justice, Crime Prevention and Security (JCPS) Cluster
- ensuring the provision of integrated court services through the establishment and maintenance of court facilities
- constitutional development
- drafting constitutional amendments and other legislation pertaining to the mandate of the department
- conducting research to support legislative development
- providing legal advisory services to government departments
- providing litigation services to protect the organs of state
- administering deceased and insolvent estates and the Guardian's Fund
- promoting cost-effective and quality court services
- managing case flow
- appointing magistrates and judges following recommendations from the Magistrates' Commission and the Judicial Services Commission (JSC)
- adjudicating criminal, civil and family law-related disputes.

The department is administratively accountable for ensuring the independence of and support to its entities, namely the National Prosecuting Authority (NPA) and Legal Aid South Africa; and constitutional institutions such as the South African Human Rights' Commission (SAHRC), the Public Protector, the Special Investigating Unit

(SIU), including the administration of the Represented Political Parties' Fund and the President's Fund.

Legislation

The department administers the Constitution and over 160 principal Acts. The Legislation Branch is responsible for conducting legal research and drafting legislation to promote a justice system that is simple, fair, inexpensive and responsive to the needs of South Africa's diverse communities. The branch consists of three main components, namely the research activities of the South African Law Reform Commission (SALRC), the Secretariat for the Rules Board for Courts of Law, and Legislative Development.

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

Acts passed in 2011 included the Correctional Matters Amendment Act, 2011 (Act 5 of 2011), which will enhance the effectiveness and integration of the country's Criminal Justice System (CJS) with a revised medical parole policy, new management system for remand detainees and overall enhancement of the parole system.

The following Bills were before Parliament during 2010/11 for consideration and are at different stages in the parliamentary process:

- The Traditional Courts Bill is intended to regulate anew the role and functions of traditional leaders in the administration of justice in accordance with constitutional imperatives.
- The Protection of Personal Information Bill aims to introduce certain minimum conditions for the lawful processing of personal information by public and private bodies. An independent information-protection regulator will be established in terms of the Bill to ensure compliance with its provisions.
- The Prevention and Combating of Trafficking in Persons Bill aims to offer protection to the most vulnerable in society against highly organised crime syndicates which traffic persons.
- The Protection from Harassment Bill is intended to prohibit harassing conduct by providing a complainant with the right to approach a court for an order in terms of which the harassing conduct must be stopped.
- The Criminal Procedure Amendment Bill aims to amend the Criminal Procedure Act, 1977 (Act 51 of 1977), so as to substitute and align the provisions of the Act relating to the use of

force in effecting arrest of a suspect with a judgment of the Constitutional Court.

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 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, small claims courts, "military courts" and equality courts.

Decisions of the Constitutional Court, the SCA and the high courts are an important source of law. These courts uphold and 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 develop common law that is consistent with the values of the Constitution, and the spirit and purpose of the Bill of Rights.

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 constitutional-

ity 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.

In September 2011, Justice Mogoeng Mogoeng was appointed Chief Justice.

Supreme Court of Appeal

The SCA, situated in Bloemfontein in the Free State, is the highest court in respect of all other matters other than constitutional ones. It consists of the President and Deputy President of the SCA, and 23 other judges of appeal. The SCA has jurisdiction to hear and determine an appeal against any decision of a high court. Justice Lex Mpati is the President of the SCA.

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.

High courts

A high court has jurisdiction in its own area over all persons residing or present in that area.

These courts 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 a minimum or maximum sentence is prescribed by law, their penal jurisdiction is unlimited and includes handing down a sentence of life imprisonment in certain specified cases.

There are 13 high courts:

- Eastern Cape High Court, Grahamstown
- Eastern Cape High Court, Port Elizabeth
- Eastern Cape High Court, Mthatha
- Eastern Cape High Court, Bhisho
- Free State High Court, Bloemfontein
- North Gauteng High Court, Pretoria
- South Gauteng High Court, Johannesburg
- KwaZulu-Natal High Court, Pietermaritzburg
- KwaZulu-Natal High Court, Durban
- Limpopo High Court, Thohoyandou
- Northern Cape High Court, Kimberley
- North West High Court, Mahikeng
- Western Cape High Court, Cape Town.

Specialist high courts

The following specialist high courts exercise national jurisdiction:

- Labour Court and Labour Appeal Court in Braamfontein, Gauteng, which adjudicate over labour disputes and hear labour appeals, respectively
- Land Claims Court, in Randburg, Gauteng, which hears matters on the restitution of land rights that people lost after 1913 as a result of racially discriminatory land laws
- Competition Appeal Court, situated in Cape Town, which deals with appeals from the Competition Tribunal
- Electoral Court, situated in Bloemfontein, which sits mainly during elections to deal with associated disputes
- Tax Court, situated in Pretoria, which deals with tax-related matters, including non-compliance with tax obligations.

Circuit local divisions

These itinerant courts, each presided over by a judge of the provincial division, periodically conduct hearings at remote areas outside the seat of the High Court designated by the Judge President of the provincial division concerned. This is with a view to enhancing access to justice.

Regional courts

Regional courts are established largely in accordance with provincial boundaries with a regional court division for each province to hear matters within their jurisdiction. There are nine regional court presidents and 351 regional court magistrates.

Regional courts hear most serious matters, including murder and rape but excluding treason. The penal jurisdiction of regional courts was increased and, similarly to the high courts, regional courts may pass life sentences.

The regional courts, by virtue of the Jurisdiction of Regional Courts Amendment Act, 2008 (Act 31 of 2008), adjudicate civil disputes. The Minister of Justice and Constitutional Development, with effect from August 2010, established a court for each regional division for the purposes of adjudicating over civil disputes. In addition, the Minister appointed within each regional division the places (64 in total) of holding court for adjudicating civil disputes. The divorce courts were subsumed under the regional-court divisions. The

divorce court rules made under Section 10(4) of the Administration Amendment Act, 1929 (Act 9 of 1929), were repealed from 15 October 2010. The regional courts therefore started adjudicating divorce matters from 15 October 2010. This has addressed the jurisdictional challenges in terms of which litigants have to travel to remote courts to get legal redress.

The Jurisdiction of Regional Courts Amendment Act, 2008 will, in the medium to long term, reduce the workload in the high courts. In this way, divorce and other family-law matters and civil disputes of an amount determined from time to time is within the jurisdiction of regional courts. This means that attorneys have the opportunity to represent their clients in matters where they ordinarily brief counsel, thus reducing the cost of litigation and increasing access to justice.

Magistrates' courts

The Minister of Justice and Constitutional Development may divide the country into magisterial districts and create regional divisions consisting of districts.

The country is divided into 384 magisterial districts (18 subdistricts), 384 main magistrates' offices (18 detached courts), 79 branch courts and 235 periodical courts. The magisterial districts are still informed by the pre-1994 demarcations of the defunct self-governing states and the Republic of South Africa territory. Processes are underway to align the magisterial districts in accordance with the constitutional dispensation.

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 equitably; 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.

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.

Other courts

Small claims courts

Small claims courts have been established in terms of the Small Claims Court Act, 1984 (Act 61 of 1984), to adjudicate small civil claims. They are created to eliminate the time-consuming adversary procedures before and during the trial of these claims. The limit of cases involving civil claims in these courts is R12 000.

By March 2012, there were 240 small claims courts countrywide. The department, in partnership with representatives of the legal fraternity and the Swiss Agency for Development and Cooperation, finalised manuals for commissioners of small claims courts and for court officials, to be followed by training programmes in conjunction with the Justice College.

In 2010/11, the Department of Justice and Constitutional Development appointed 229 commissioners and 217 advisory board members to assist small claims courts.

Matters within small claims courts are presided over by commissioners who are usually practising advocates or attorneys, a legal academic or other competent person. The service is voluntary as commissioners are paid no fees.

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; only a review process is allowed.

The department has developed a national programme for re-engineering small claims courts, which aims to strengthen and roll out such 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.

The department continues to strengthen the capacity of small claims courts. The improvement of the functioning of the small claims courts is a key priority area. Small claims courts constitute an inexpensive tool that was created to settle minor civil disputes in an informal manner.

Equality courts

The establishment of equality courts seeks to achieve the expeditious and informal processing of cases, which facilitates participation by the par-

ties to the proceedings. The courts also seek to ensure access to justice to all persons in relevant judicial and other dispute-resolution forums.

The right to equality is protected by law in the Promotion of Equality and Prevention of Unfair Discrimination Act (Equality Act), 2000 (Act 4 of 2000), and the Employment Equity Act, 1998 (Act 55 of 1998). The two Acts work in synergy. The Equality Act, 2000 aims to:

- prevent and prohibit unfair discrimination and harassment
- promote equality
- eliminate unfair discrimination
- prevent and prohibit hate speech.

The Act also provides for:

- remedies for victims of any of the above
- compliance with international law obligations, including treaty obligations
- measures to educate the public and raise public awareness about equality.

After the Minister designated the remaining magisterial districts as equality courts in 2009, the Department of Justice and Constitutional Development held a series of consultations in various provinces. Mpumalanga, North West, Northern Cape, Western Cape and KwaZulu-Natal were covered by 2011. The remaining provinces were expected to follow.

The department is engaged in the Access to Justice and Promotion of Constitutional Rights Programme. This programme was developed under the framework of the joint *European Union/South Africa (EU/SA) Country Strategy Paper* and National Indicative Plan, which set out South Africa's development strategy between 2007 and 2013 and identifies the areas to be funded by the EU.

The aim of the programme is to contribute to the promotion, protection and realisation of rights established in the Constitution through the following three key performance areas:

- improving access to justice
- raising awareness of rights
- strengthening participatory democracy.

Traditional courts

There are traditional courts (formerly chiefs' courts) in traditional community areas in rural villages. The judicial functions of traditional leaders are regulated in terms of sections 12 and 20 and the Third Schedule of the repealed Black Administration Act (BAA), 1927 (Act 38 of 1927).

The BAA, 1927 was repealed by the Repeal of the Black Administration Act and Amendment of Certain Laws Act, 2005 (Act 28 of 2005).

Community courts

South Africa has established community courts on a pilot basis to provide speedy resolution of certain types of community offences. These courts focus on restorative justice processes, such as diverting young offenders into suitable programmes.

These courts seek to assist the country's court case backlog. Community courts are normal district magistrates' courts that assist in dealing with matters in partnership with the local community and businesses.

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

Thirteen community courts have been established. Four are fully operational and were formally launched in Hatfield, Gauteng; and Fezeka (Gugulethu), Mitchell's Plain and Cape Town in the Western Cape.

Another nine pilot sites commenced in Durban (Point) and KwaMashu in KwaZulu-Natal; Mthatha, Eastern Cape; Bloemfontein and Phuthaditjhaba in the Free State; Thohoyandou, Limpopo; Kimberley, Northern Cape; and Hillbrow and Protea (Lenasia) in Gauteng.

Lessons from the pilot sites will assist in finalising the policy and legislative framework that will institutionalise community courts as a permanent feature of the judicial system.

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. A tax court facility was opened in Megawatt Park, Sunninghill, Gauteng, in 2005.

Pilot sites for 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 was motivated by three broad aims, namely:

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

With the implementation of the Jurisdiction of Regional Courts Amendment Act, 2008 in August 2010, regional courts in South Africa also have jurisdiction to hear family-law cases, including divorce matters.

The department is developing a policy to prioritise family-law services, which include domestic violence, maintenance, divorce and children's court matters, in all 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 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 those jurisdictions.

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 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.

Sexual offences

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), provides a legal framework to support an integrated approach to the management of sexual offences, thereby aiming to reduce secondary trauma to victims of such violence.

In ensuring that the legal framework and the rights of victims are realised and operationalised to ensure effective service delivery, the Act prescribes in Section 62 the establishment of the Intersectoral Committee for the Management of Sexual Offence Matters, a monitoring framework overseen by the most senior government officials. This structure aims to eradicate the fragmented nature of service delivery by ensuring that the

directors-general (DGs) of the relevant departments meet regularly to ensure coordination as the DGs’ Intersectoral Committee on the Management of Sexual Offences.

The functions of this committee are to develop the Draft National Policy Framework.

An operational intersectoral committee was established to support the work of the Intersectoral Committee of DGs at operational level.

These departments ensure that there are specialised services to support the victims of crime during court processes. These include intermediary services, court-preparation services, forensic services, victim-friendly rooms and counselling, and are aimed at eliminating secondary traumatising of victims.

The department has developed the *National Register for Sexual Offenders*, which was deployed in 195 courts.

Maintenance

The main objective of the Maintenance Act, 1998 (Act 99 of 1998), is to facilitate the securing of maintenance moneys from parents and/or other persons able to maintain maintenance beneficiaries, mainly children, who have a right to maintenance.

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

The Integrated Case Management System (ICMS) that was piloted in 2010 in two provinces, was expected to be rolled out to all the courts during 2011/12. The purpose of the process is to alleviate the issues of collating statistics on different templates and to introduce case-flow and diary management of cases. The ICMS process will capture detailed information, which will help in collating and analysing statistics accurately, and also assist with case-flow management.

Guidelines for maintenance officials, as well as for the judiciary, have been developed and distributed to all courts for proper and common implementation of the Maintenance Act, 1998. Training has been and will be provided to all officials coming into the system for proper compliance with the obligations of the Maintenance Act, 1998.

TransUnion helps maintenance investigators to trace the whereabouts of beneficiaries and defaulters. The system has been decentralised and improved to also detect fraudulent usage.

Every investigator coming into the system is trained.

The Maintenance Turnaround Strategy has been developed to improve the services of maintenance by introducing new systems for the next five years.

Electronic Funds Transfer (EFT)

The EFT allows people to access maintenance payments through their bank accounts. This has reduced the need for maintenance beneficiaries to spend excessive time in queues at courts. In some instances, this has reduced their public transport costs and, in cases where the beneficiaries are employed, they do not have to spend unnecessary time away from work every month. In 2011, more than 185 000 beneficiaries were paid monthly by EFTs.

EFTs have been implemented in four of the six Guardian's Funds of the Master, namely in Bloemfontein, Kimberley, Grahamstown and Cape Town. Payments made in this way are available immediately to the beneficiary, as there is no need for a clearance period at the bank.

Domestic violence

The Department of Justice and Constitutional Development is committed to supporting and promoting the rights of victims of domestic violence, especially women, children and the elderly, through the courts and criminal-justice processes. It also ensures that victims of such crimes are assisted through the Victim Empowerment Programme (VEP), led by the Department of Social Development, which aims to improve their circumstances and quality of life.

Perpetrators of domestic violence should also be brought to court so that victims can be and feel more safe and secure.

During 2009/10, the department finalised a review of the implementation of the Domestic Violence Act, 1998 (Act 116 of 1998), in courts; and submitted the findings to the JCPS Development Committee, the VEP Task Team and the Portfolio Committee on Women, Children and People with Disabilities, which gave a mandate to the department to develop the JCPS Domestic Violence Strategy to link with the broader VEP.

The draft document was expected to be finalised in 2011/12. To achieve this, the JCPS Cluster mandated the department to chair a task team to draft the strategy.

Further services on domestic-violence matters

Various government departments have put measures in place to facilitate the implementation of the Domestic Violence Act, 1998. For instance, resources have been made available for the following:

- developing policies and programmes
- outreach and education
- training
- the hiring of personnel
- establishing family court centres
- the *16 Days of Activism of No Violence Against Women and Children* Campaign.

The Department of Justice and Constitutional Development launched and circulated guidelines in conjunction with and to support the judiciary in 2008, drafted by the Lower Court Management Committee. Recommended updates were discussed with the judiciary in 2010/11.

The Ndabezitha Project with the NPA trains traditional leaders and clerks of the court in domestic-violence matters in rural areas.

This includes the development of a safety tool and intersectoral statistical tool by the NPA and the Department of Justice and Constitutional Development, which were expected to be concluded during 2010/11.

The department engaged in research methodology called the *10-Year Review of Implementation of the Domestic Violence Act, 1998* aimed at taking stock of all initiatives and projects in courts and the CJS to address the reduction and prevention of domestic violence.

Electronic forms and systems were developed and approved to be piloted at two magistrates' courts, after which they would be rolled out to all magistrates' courts' service points to improve the handling of domestic-violence cases.

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 was established.

The civil jurisdictional limits of magistrates' courts were increased for both liquid and illiquid claims to R100 000.

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.

Traditional courts may hear and determine civil claims arising from indigenous law and custom, brought before them by an African against another African within his area of jurisdiction.

Transforming the judiciary

The transformation of the judiciary remains one of government's key priorities. Through the efforts of the JSC, by mid-2011, of the 226 permanent judges, 40,3% (91) were white; 40,7% (92) were African; 9,3% (21) were coloured; and 9,7% (22) were Indian. Overall, 26,3% were female.

Significant strides have been made in respect of the magistracy. Through the efforts of the Magistrates' Commission, during the same period, of the 1 694 magistrates, 42,8% were white; 40,8% African; 7,6% coloured; and 8,8% Indian. Overall, 37,6% were female.

Legislation enacted to advance the transformation of the judiciary and enhance access to justice include the:

- Renaming of the High Courts Act, 2008 (Act 30 of 2008), which removed the pre-1994 names used during apartheid
- Jurisdiction of Regional Courts Amendment Act, 2008, which seeks to extend civil jurisdiction to regional courts
- JSC Amendment Act, 2008 (Act 20 of 2008), which establishes internal systems for judicial accountability
- Child Justice Act (CJA), 2008 (Act 75 of 2008), which establishes a CJS for children who are in conflict with the law.

Some of the key principles introduced by the Act are the Code of Judicial Conduct and the requirement for financial disclosure by judicial officers. The disclosure of financial interest will ensure judicial officers' impartiality and eliminate corruption within the judiciary.

The code will serve as prevailing ethical standards for judicial officers and will, among other things, set the standard of behaviour for judicial officers, including the requirement to perform judicial functions diligently, impartially and expeditiously.

These far-reaching amendments are consistent with global trends to enhance the independence of the judiciary and increase public confidence in the judicial system.

The department redrafted the Constitution Amendment Bill and Supreme Courts Bill to

accommodate the views of the judiciary, which emanated from the Judges' Conference held in July 2009.

These Bills, which seek to consolidate the outstanding aspects relating to the transformation of the judicial system, provide, among other things, for the:

- Constitutional Court to be the apex court in South Africa
- Chief Justice as the head of the judiciary to be assigned the responsibility to develop and monitor the implementation and observance of norms and standards for the effective functioning of all the courts
- rationalising the high courts to ensure that there is equitable distribution of superior courts through the country
- enhancing the capacity of the Office of the Chief Justice to be commensurate with the added responsibilities of that office.

The Bills were submitted for processing during 2010/11.

A significant feature of the transformation of the judicial system, which will be addressed in a later Bill, relates to court administration.

A policy framework was drafted to pursue ways of enhancing institutional independence in line with the separation of powers and the independence of the judiciary, which are the pillars of South Africa's constitutional democracy.

The transformation of the judiciary is closely linked to the transformation of the legal profession and scholarship.

The department continues to work 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, prominent practitioners and relevant international organisations, which 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 to facilitate professional training prospects
- engage the legal profession in the evolution of a new legal system that 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.

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 townships, offering affordable fees and providing speedy and empathetic services. It also entails facilitating access to all aspects and levels of the profession by aspirant lawyers, especially those from previously marginalised backgrounds.

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

Integrated Case-Flow Management (CFM)

The Department of Justice and Constitutional Development is developing an enhanced version of the CFM Framework for implementation by all stakeholders.

In the process, participants from other partner organisations will make meaningful contributions on the issues and blockages affecting the proper implementation of CFM in the court environment.

Efforts to eradicate such blockages will be proposed by adopting workable solutions. These include:

- continuous cooperation of stakeholders to implement and maintain CFM at all courts
- establishing judicial leadership and CFM buy-in processes in the lower and higher courts in the form of CFM forums
- facilitating and monitoring the creation of CFM governance structures to sustain productivity in the courts' environment
- maintaining the CFM concept (guidelines, plans, governance, reporting and systems).

Systems that support CFM in the courts include the ICMS. This system spans all disciplines of cases administered in the justice environment.

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

The following offices have started experiencing the benefits of the ICMS:

- ICMS Civil is deployed in all lower courts and 13 high courts
- ICMS Criminal is deployed in all lower courts
- ICMS Small Claims is used in all small claims courts and designated lower courts
- ICMS Masters has been introduced in all 14 Masters' offices and all 402 service points.

New programmes and systems enhancing the Criminal Justice System **Audio-Visual Remand System**

The roll-out of the Audio-Visual Remand System allows for remand court proceedings to be conducted via video linkage, eliminating the unnecessary transportation of remand detainees to and from court and its associated risks. By September 2011, 47 courts and 22 correctional centres had been equipped with the system; and of the 47 courts, 17 were operational. Of the 22 correctional centres, 10 were operational.

Case-Reduction Backlog Project

The JCPS Cluster departments have introduced various interventions to deal with reducing case backlogs. The Case Backlog Reduction Project intervention was implemented in 2006.

Backlog cases are viewed as all those cases that have been on a district court roll for longer than six months, nine months on the regional court roll and 12 months on the High Court roll.

The Case Backlog Reduction Project assists those regional and district court centres in identified priority areas countrywide that require focused attention.

The project's aim is to ensure that the inflow of the number of new cases is balanced by the number of matters concluded and that matters are finalised more speedily.

Initially, the reduction of the regional court backlogs was the main focus area. After an investigation into the performance of the district courts, several high-priority district backlog courts were established in 2010.

By September 2011, there were 56 regional backlog courts and 22 district courts. There was a marked decrease in the number of outstanding cases from 218 660 to 197 391 (9,7%) between March and June 2011. Between June and July 2011, it decreased by a further 4 905 cases from 197 391 to 192 487.

The project assists with the appointment of additional magistrates, clerks, prosecutors, interpreters and legal-aid lawyers on contract to augment court capacity at the identified priority centres.

From November 2006 until the end of March 2011, the project assisted with the removal of 36 974 cases from the court rolls of the identified priority centres, comprising 24 532 cases finalised through verdicts, 11 096 cases withdrawn and 1 346 cases transferred to other or higher courts.

Court performance

The subbranch Court Performance of the Department of Justice and Constitutional Development is responsible for:

- developing and monitoring processes and systems
- introducing CFM that facilitates efficient and effective court and case management
- developing and facilitating the implementation of a court-management policy framework
- evaluating the quality of services and performance within the courts
- facilitating the development of uniform performance standards to enhance institutional performance.

As a service-delivery improvement programme, the CFM Project seeks to put in place 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 the years. The project supports the institutional arrangements by:

- establishing judicial leadership regarding CFM to achieve holistic CFM judicial leadership
- re-engineering CFM support structures in the courts to respond adequately to the CFM regime.

The Court Performance Programme focuses on:

- increasing capacity at regions and courts to effect service delivery
- increasing and improving skills and competencies
- continuing efforts to reduce case backlogs
- reviewing outdated court procedures/processes and the regulatory framework
- facilitating organisational efficiency
- facilitating efforts to secure skills required to operate the new systems and processes.

The Directorate: Court Efficiency's key priorities include:

- facilitating integrated CFM with stakeholders
- supporting the implementation of the Re Aga Boswa (meaning "We are renewing") and Court Capacitation projects
- facilitating the implementation of multilingualism in courts and developing indigenous languages in line with constitutional imperatives
- facilitating the securing of standardised transcription services for courts across all regions, rendering case-management business intelligence support to information-system management (ISM) in the development of information technology (IT) tools and systems, and supporting initiatives for the effective management of court records.

The directorate assists in court capacitation initiatives, namely:

- the United Nations (UN) Office on Drugs and Crime Court Integrity Project
- upgrading five pilot courts, namely Pretoria, Thembisa, Nelspruit, Mkobola and Kimberley with notice boards, flat-screen television sets and DVD players
- providing integrity training to 120 departmental, 15 NPA and 15 judicial officers
- conducting audits on the management of court records
- facilitating activities on the Court Capacitation National Centre for State Courts Project in consultation with all other stakeholders such as chief directors and regional heads
- engaging human resources (HR) and the Safety and Security Sector Education and Training Authority and securing learnership programmes for court interpreters (R4 million)
- engaging in legislation development and finalising the legislative and operational framework for implementing and institutionalising the lay assessor system.

Special Investigating Unit

The SIU, created in terms of the SIU and Special Tribunals Act, 1996 (Act 74 of 1996), is an independent statutory body that is directly accountable to Parliament and the President of South Africa. It was established to conduct investigations at the President's request, and to report to him on the outcomes of these.

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 Two 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, and 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 caused or may cause serious harm to the interest of the public or any category of the public.

The unit can also take civil action to correct any wrongdoing it uncovers during an investigation and can therefore, for example, obtain a court order to:

- compel a person to pay back any wrongful benefit received
- cancel contracts where the proper procedures were not followed
- stop transactions or other actions that were not properly authorised.

A critical factor contributing towards the success of the SIU has been the development of an integrated forensic service to state institutions that requires an intervention to address allegations of corruption, maladministration and fraud, which include:

- forensic audit and investigation
- remedial legal actions encompassing civil, criminal and disciplinary action
- recommendation and facilitation of systemic recommendations.

The SIU's output-driven approach to investigations is supported by an effective national presence and excellent relations with other law agencies such as the National Prosecution Service (NPS), the core prosecuting division of the NPA, and other attached divisions, such as the Specialised Commercial Crime Unit (SCCU) in the case of fraud and other related matters, and the Asset Forfeiture Unit (AFU) in cases where the powers of this unit are more suitable for recovering the proceeds of crime.

By December 2011, the SIU had almost 1 000 individual investigations underway. Of these, nearly 600 were related to procurement, while

360 conflicts of interests on contracts valued at R3,5 billion were also under investigation.

National Prosecuting Authority of South Africa

South African society post-1994 has been marked by profound political changes and the establishment of progressive legislation, policies and programmes that have served to lay the basis for a new society. Key milestones along the way have been the adoption of the Constitution in 1996 that outlined the formation of the NPA and Section 179 of the Constitution of the Republic of South Africa, 1996, which created a single NPA.

Also vital within the CJS was the formation of the Office of the National Directorate of Public Prosecutions (NDPP), established in 1998.

The Office of the NDPP consists of deputy NDPPs, and special DPPs who head the specialised units – the Sexual Offences and Community Affairs Unit (Soca), the SCCU, Priority Crimes Litigation Unit (PCLU) and Office for Witness Protection (OWP).

These units were established through presidential proclamations relevant to their specific focus areas such as sexual offences, special commercial crimes and priority crimes litigation. The AFU was also created to ensure that the powers in the Prevention of Organised Crime Act, 1998 (Act 121 of 1998), to seize criminal assets are used effectively to remove the profits of crime.

Legislation governing the prosecuting authority is the NPA Act, 1998 (Act 32 of 1998). The Constitution, read with this Act, provides the prosecuting authority with the power to institute criminal proceedings on behalf of the State and to carry out any necessary functions incidental to instituting criminal proceedings.

The NPA Amendment Act, 2008 (Act 56 of 2008), and the South African Police Service (SAPS) Amendment Act, 2008 (Act 57 of 2008), provided for the dissolution of the Directorate: Special Operations (DSO). The DSO and SAPS Organised Crime Unit became a single agency, known as the Directorate: Priority Crime Investigation (DPCI), within the SAPS. The Acts are expected to strengthen the investigative capacity of the police in relation to organised and serious crime.

While the core work of the NPA will remain prosecutions and being “the people’s lawyer”, the

NPA Strategy seeks to ensure that the organisation becomes more proactive so as to:

- contribute to economic growth
- contribute to freedom from crime
- contribute to social development
- promote a culture of civic morality
- reduce crime
- ensure public confidence in the CJS.

National Prosecutions Service

A significant majority of the NPA's prosecutors are housed in the NPS, the organisation's biggest unit. The NPS is headed by the Deputy DPPs. They head the respective regional jurisdictions, which are attached to the high courts of the country.

All the public prosecutors and state advocates manning the district, regional and high courts report to the DPPs in their respective areas of jurisdiction.

Office for Witness Protection

The OWP was created in 2001, in terms of the Witness Protection Act, 1998 (Act 112 of 1998).

The OWP provides a support service to the CJS by protecting threatened or intimidated witnesses and related persons by placing them under protection, ensuring that they testify in criminal and other defined proceedings. The OWP has maintained a proud record of no witnesses or family members in the programme being harmed or threatened since the office was established.

Asset Forfeiture Unit

The AFU was created in 1999 in terms of the Prevention of Organised Crime Act, 1998. The unit focuses on restraining and forfeiting the proceeds of crime or the property used to commit 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.

Specialised Commercial Crime Unit

The SCCU was established in 1999 as a pilot project to combat the deteriorating situation pertaining to commercial crime. The SCCU aims to reduce commercial crime by the effective invest-

igation and prosecution of complex commercial crime.

The SCCU's mandate is to effectively prosecute complex commercial crime cases emanating from the commercial branches of the SAPS. The client base of the SCCU comprises a broad spectrum of complainants in commercial cases, ranging from private individuals and corporate bodies to state departments.

Priority Crimes Litigation Unit

The PCLU is a specialist unit mandated to tackle cases that threaten national security. The PCLU was created by Presidential proclamation and is allocated categories of cases either by the President or by the NDPP. The primary function of the PCLU is to manage and direct investigations and prosecutions in respect of the following areas:

- the non-proliferation of weapons of mass destruction (nuclear, chemical and biological)
- the regulation of conventional military arms
- the regulation of mercenary and related activities
- the International Court created by the Statue of Rome
- national and international terrorism
- prosecutions of persons who were refused or failed to apply for amnesty in terms of the Truth and Reconciliation Commission (TRC) processes.

Sexual Offences and Community Affairs Unit

Soca acts against the victimisation of vulnerable groups, mainly women and children. The unit develops strategy and policy, and oversees the management of cases relating to sexual offences, domestic violence, human trafficking, maintenance offences and children in conflict with the law. Soca aims to:

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

One of the unit's key achievements in ensuring government's commitment to the fight against sexual offences and gender-based violence is the establishment of Thuthuzela care centres (TCCs).

The TCC concept is recognised by the UN General Assembly as a "world best-practice model" in the field of gender-violence management

and response. The TCCs are one-stop facilities located in public hospitals in communities where the incidence of rape is particularly high.

The TCCs aim to provide survivors with a broad range of essential services – from emergency medical-care counselling to court preparation – in a holistic, integrated and victim-friendly manner.

By December 2011, there were 27 fully operational TCCs in the country.

The Thuthuzela Project is supported by the roll-out of victim support rooms (VSRs) in an effort to show empathy to victims of violent crime, especially in cases of sexual offences, child abuse and domestic violence. In 2011, the department increased the number of VSRs from 806 to 900 across the country. These rooms are used for interviews, taking statements and other consultations.

Legal practitioners

The legal profession is divided into two branches – advocates and attorneys – that 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.

There are voluntary associations of advocates such as the General Council of the Bar and other formations of independent bars. There are four regional societies for attorneys, each made up of a number of provinces. A practising attorney is *ipso jure* (by the operation of the law) 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 a voluntary association established to coordinate the various regional 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, should a person

not be qualified and accepted as an attorney yet. 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.

Human rights

The Bill of Rights is the cornerstone of South Africa's democracy. It enshrines the rights of all people in South Africa and affirms the democratic values of human dignity, equality and freedom.

While every person is entitled to these rights, they also have a responsibility to respect them.

The Bill of Rights binds the legislature, the executive, judiciary and all organs of state.

The rights contained in the Bill of Rights are subject to the limitations contained in or referred to in Section 36 of the Constitution, or elsewhere in the Bill of Rights.

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

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

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

The Service Charter for Victims of Crime 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

In October 2010, the Minister of Justice and Constitutional Development, Mr Jeff Radebe, and five other Cabinet ministers co-signed a delivery agreement, renewing their commitment to and strengthening their partnership in eradicating crime. The ministers promised a transparent and coordinated approach in achieving Outcome 3: All people in South Africa are and feel safe.

The delivery agreement forms part of the 12 outcomes approved by Cabinet in 2010 to improve performance and service delivery.

The JCPS Cluster intends to reduce crime by between 4% and 7%. This will be achieved through improved coordinated crime intelligence; increased visible policing and crime-prevention initiatives; reducing firearms; improved strategies to arrest and charge known perpetrators; and a reduction in the number of escapes from custody.

Integrated Justice System (IJS)

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

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

The benefits of proper alignment include:

- less duplication of services
- the 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 aspect includes establishing proper governance structures, effective monitoring mechanisms based on proper review findings and the integration and automation of the justice system.

The IJS Board Programme comprises:

- The Transversal Subprogramme, which focuses on the enablement of interdepartmental information exchange and clusterwide performance management information services through the established IJS Transversal Hub.
- Six departmental subprogrammes that focus on the modernisation of system capabilities within departments. While each department within the JCPS Cluster must have its own IT plan to achieve its specific vision, mission and objectives, the IJS Board coordinates the broader and shared duty to integrate information flow throughout the CJS.

Child justice Children's Act, 2005

The Children's Act, 2005 (Act 38 of 2005), came into effect in April 2010. The Department of Social Development is the lead department for the implementation of the Act. The Department of Justice and Constitutional Development's main responsibility is towards children's court operations relating to the Act.

As the Act also emphasises the effective implementation by all organs of state in an integrated, coordinated and uniform manner, the Implementation of the Children's Act Working Group was established in 2010 to address challenges the department faced in implementing the Children's Act, 2005. Two meetings during the latter part of 2010 brought about the creation of the Children's Act Training Reference Group, which was launched in 2011/12. It assists in ensuring that key stakeholders are sufficiently versed in the Children's Act, 2005 and the challenges it presents.

The department has developed a child-friendly Frequently Asked Questions (FAQ) link on its

website. The FAQ serves as a resource point for the public and is updated frequently. The FAQ also includes links to the websites of the Department of Social Development, and the South African Social Security Agency (Sassa). In addition, the department created an e-mail address, *children@justice.gov.za*, which the public may use to contact the department on issues relating to children.

The Children's Court is the Department of Justice and Constitutional Development's principal legal mechanism to intervene and assist children who are in need of care and protection. To gather statistics from the children's courts, the department developed the Children's Court Monitoring Tool. Data about matters coming to court relating to children in need of care is gathered monthly.

Section 14 of the Children's Act, 2005 states that every child has the right to bring a matter to the Children's Court. This means that every children's court can serve as a direct entry point for a child to seek help and protection. Children's courts have been rendered highly accessible through the Act. Children's courts must be child-friendly and conducive to the participation of the child.

Child Justice Act, 2008

In April 2010, South Africa implemented the CJA, 2008, as part of an ongoing effort to promote and protect the constitutional rights of children in conflict with the law. The Act provides special measures for children in conflict with the law, designed to break the cycle of crime and restore in these children a lifestyle that is law-abiding and productive.

The National Policy Framework was tabled in Parliament in June 2010, and published in August 2010. The remarkable decline in the number of children awaiting trial in prisons marks a further success in the implementation of the Act. The number of children between the ages of 14 and 17 who were in prison and awaiting trial dropped from 502 in April 2010 to 298 in December 2010.

The department further established governance structures to ensure the effective intersectoral implementation of the Act. The Directors-General Intersectoral Child Justice Committee (DG ISCJC) was established to give strategic direction in the clusteral implementation of the Act. The National Operational Intersectoral Child Justice Committee was established to give technical support to the DG ISCJC.

Nine provincial child justice forums are co-ordinating and monitoring the implementation of the Act at provincial level.

Restorative justice

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

As defined by the JCPS Cluster, the restorative-justice concept is an approach to justice that aims to involve the parties to a dispute and others affected by the harm (victims, offenders, families concerned and community members) in collectively identifying harms, needs and obligations by accepting responsibilities, making restitution and taking measures to prevent a recurrence of the incident. This may be applied at any appropriate stage after the incident.

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

Restorative-justice strategies, programmes and processes in the CJS are in place to try to heal the harm caused by the crime or offence, from a holistic point of view, for the victim, the offender and the community concerned, which will lead towards rebuilding broken relationships and encouraging social justice and dialogue.

Any restorative-justice option, which may include but not be limited to victim-offender mediation or a family-group conference, is always voluntary for the victim involved. Therefore, such programmes and/or strategies will not be forced upon the victim of any crime or offence.

The JCPS Restorative-Justice Task Team, under the chair of the Department of Justice and Constitutional Development, drafted the Restorative-Justice Strategy during 2009/10, which the JCPS Developmental Committee approved in principle. It was submitted to the JCPS directors-general for ratification during 2011.

These documents will be consulted further with national government departments, especially relating to the implementation strategy and costing; and with civil-society and non-governmental organisations (NGOs) concerned. Regular reports will be submitted on progress made in implementing the strategy.

Victim-Empowerment Programme

This programme aims to improve services rendered to victims of crime.

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

The Victims Charter Project engaged NGOs and community-based organisations (CBOs) on the initiation of a capacity-building project for 2011/12. This will focus on training for NGOs and CBOs on the Victims Charter to influence a change in perception of the CJS among NGOs and CBOs, in line with Outcome 3 of the JCPS.

The department appointed intermediaries in regions to assist child witnesses in presenting evidence in court.

The Service Charter for Victims of Crime is expected to go a long way towards assisting crime victims and contributing to interdepartmental and cluster coordination and cooperation.

State Legal Services

The purpose of State Legal Services is to provide legal and legislative services to government, supervise the administration of deceased and insolvent estates and the Guardian's Fund, prepare and promote legislation, facilitate constitutional development and undertake research. It is divided into four branches, namely:

- The State Law Advisers, who provide legal advisory services to the executive, all state departments, parastatals and autonomous government bodies.
- The Chief Litigation Officer was established to provide litigation services to the Government and its organs. It represents the State and its organs in all matters of litigation. The core function of the branch is executed by the State Attorney's offices, which are located in the provinces. Besides the State Attorney's offices, the branch has the Chief Directorate: Legal Services, which serves as a legal adviser to the Department of Justice and Constitutional Development.
- Legislative Development and the SALRC prepare and promote legislation, conduct research and promote, maintain and develop the Constitution and its values.
- The Master of the High Court funds the masters' offices, which supervise the administration

of deceased and insolvent estates, trusts, curatorship and the Guardian's Fund.

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 cooperation, 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 with the Southern African Development Community (SADC).

The chief directorate coordinates human-rights issues at international level under the auspices of the UN and the African Union.

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

- regular liaison on international legal matters with SADC states
- coordinating 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
- 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 (ICC)

South Africa was one of the proponents of the negotiation and adoption of the Rome Statute of the ICC in 1998, creating the first permanent international criminal tribunal to combat impunity

for the most serious crimes of concern to the international community, namely crimes of genocide, crimes against humanity, war crimes and the crime of aggression.

South Africa promulgated the Implementation of the Rome Statute of the ICC Act, 2002 (Act 27 of 2002). The Act provides for 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, war crimes and the crime of aggression
- address the prosecution in South African courts of persons accused of having committed 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 crimes and their surrender to the ICC in certain circumstances
- enhance cooperation between South Africa and the ICC
- negotiate extradition and mutual legal-assistance agreements with other countries and international bodies.

Services of the Master of the High Court

The Office of the Master remains one of the key service-delivery programmes, as it impacts on the vulnerable members of society. The department provides appropriate skills to the staff in the masters' offices to improve turnaround times.

The Department of Justice and Constitutional Development provides for the following services of the Master of the High Court:

- deceased estates
- liquidations
- registration of trusts
- administration of the Guardian's Fund.

Each year, the value of estates under the supervision of the masters' office amounts to about R18 billion. This includes some R6,7 billion in the Guardian's 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 to estate duty
- accept and take custodianship of wills in deceased estates
- act as an office of record.

Deceased estates

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 (Act 66 of 1965), as amended.

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

The institutional structures are the following:

- The Chief Master heads the national office and is responsible for coordinating all the activities of the masters' offices.
- There are masters' offices in Bhishe, Bloemfontein, Cape Town, Durban, Grahamstown, Johannesburg, Kimberley, Mahikeng, Polokwane, Port Elizabeth, Pietermaritzburg, Pretoria, Thohoyandou and Mthatha.
- 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. Masters' representatives are only appointed 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).

A cooperation agreement was signed with Legal Aid South Africa in which it undertakes to assist in the administration of deceased estates where minor heirs are concerned. The cooperation agreement is part of the Master's drive to identify measures continuously to ensure the protection of vulnerable and poor people, especially in the administration of estates. The agreement gives

Legal Aid South Africa a mandate to protect children and minors' interests by administering estates on their behalf. It regulates the provision of administration of estates where minors are heirs and qualify for assistance.

The Master's services have been extended to widows who entered into customary marriages without their registration at the Department of Home Affairs. Although registration of a customary marriage is peremptory in terms of the Customary Marriages Act, 1998 (Act 120 of 1998), Section 4(9), which provides that failure to register a customary marriage does not affect the validity of that marriage. It makes no difference whether the customary marriage was concluded before or after the Act.

Curatorships

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

The 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 that are paid to the Master of the Supreme Court 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 a usufructuary, fiduciary or fideicommissary nature.

The money in the Guardian's Fund is invested with the Public Investment Corporation 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.

The computerisation of the administration of the Guardian's Fund allows for more accurate reporting on the activities of the fund and reduces the opportunity to manipulate the system for purposes of committing fraud and corruption.

The department aims to ensure that 80% of the beneficiaries receive their entitlements within 40 days of submitting their applications to the Guardian's Fund.

The Department of Home Affairs developed the online Home Affairs National Identity System.

This system has been made available to masters of the Supreme Court to verify the identity of claimants against the Guardian's Fund. The Guardian's Fund has the Master's Own Verification IT that is linked to the Department of Home Affairs, and which verifies identities within three minutes. The system proved most valuable when tested in the pilot sites of Pretoria, Pietermaritzburg and Cape Town; and further roll-out to the remainder of the masters' offices and 402 service points is planned.

Justice College

The Justice College is the training branch of the Department of Justice and Constitutional Development. It has a range of training interventions, which target:

- prosecutors
- masters of the High Court
- family advocates
- court interpreters
- legislative drafters
- registrars of the High Court
- clerks
- court and area court managers
- administrative personnel
- other legal professionals.

The college evolved into two distinctive institutions when the South African Judicial Education Institute Act, 2008 (Act 14 of 2008), came into effect.

The training offered by the college assists in capacitating the department's officials, both in terms of the acquisition of knowledge and the demonstration of requisite skills in the workplace.

Office of the Family Advocate

The role of the Family Advocate is to promote and protect the best interests of the children in civil disputes over parental rights and responsibilities. This is achieved by monitoring pleadings filed at

court, conducting enquiries, filing reports, appearing in court during the hearing of the application or trial, and providing mediation services in respect of disputes over parental rights and responsibilities of fathers of children born out of wedlock.

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.

The sections of the Children's Act, 2005 which came into operation on 1 July 2007, have expanded the Family Advocate's responsibilities and scope of duties, as the Act makes the Family Advocate central to all family-law civil litigation. Furthermore, litigants are obliged to mediate their disputes before resorting to litigation, and unmarried fathers can approach the Family Advocate directly for assistance without instituting any litigation at all.

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

Truth and Reconciliation Commission (TRC) Unit

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

Four categories of recommendations were approved by government in June 2003 for implementation, namely:

- final reparations: the provision of a once-off individual grant of R30 000 to individual TRC-identified victims
- symbols and monuments: academic and formal records of history, cultural and art forms, as well as erecting symbols and monuments to

exalt the freedom struggle, including new geographic and place names

- medical benefits and other forms of social assistance: education assistance, and the provision of housing and other forms of social assistance to address the needs of TRC-identified victims
- community rehabilitation: rehabilitating whole communities that were subject to intense acts of violence and destruction, and which are still in distress.

The TRC Unit, located within the Department of Justice and Constitutional Development, was established in 2005 to monitor, coordinate and audit the implementation of the TRC's recommendations.

The TRC identified 21 769 people as victims of human-rights violations. Of these, 16 837 applied for reparations.

By June 2011, 15 962 beneficiaries had been paid once-off grants of R30 000 as final reparation. These payments are made from the President's Fund, established in terms of Section 42 of the Promotion of National Unity and Reconciliation Act, 1995 (Act 34 of 1995).

The fund is located within the Office of the Chief Financial Officer in the Department of Justice and Constitutional Development.

The department has experienced difficulties tracing some of the beneficiaries because of incorrect or changed addresses, or in some cases where the victims have died.

The database of the Independent Electoral Commission and the Sassa was used to send letters to beneficiaries. In 2011, a process to verify those traced was underway. The Department of Justice and Constitutional Development developed Regulations on Exhumation, Reburial and Symbolic Burial of Missing Persons, which were finalised in 2010. Monies in the President's Fund can be accessed for exhumation and reburial purposes. The regulations provide mainly for the following allowances:

- travel and subsistence for exhumations for a maximum of four people
- a once-off grant of R17 000 for the reburial, or a once-off grant of R8 500 for a symbolic burial.

The regulations also provide for their retrospective application. This is to ensure that families who buried the remains of their family members before the date of implementation of the regulations, and who have not received any assistance through other avenues, also receive assistance. By June 2011, 36 out of 39 families had been paid.

The department developed two sets of draft regulations in conjunction with the departments of basic education and higher education and training, which deal with assistance to TRC victims.

The department also developed and gazetted draft regulations related to physical and mental health assistance to victims.

Statutory bodies operating within the administration of justice

Judicial Service Commission

The JSC was established in terms of Section 178 of the Constitution. Its function is to select fit and proper persons for appointment as judges and to investigate complaints about judicial officers. It also advises government on any matters relating to the judiciary or to the administration of justice.

When appointments have to be made, the JSC publishes a notice giving details of the vacancies that exist and calls for nominations. It 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 interviews are conducted in public, after which the JSC deliberates and makes its decisions in private. Its recommendations are communicated to the President, who then makes the appointments.

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.

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.

In terms of the Magistrates Act, 1993, the Minister appoints a magistrate after consultation with the Magistrates' Commission. The commis-

sion also investigates grievances and complaints about magistrates and submits reports and recommendations to the Minister, who in turn tables them in Parliament.

The commission has established committees to deal with appointments, 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), which advises government on law reform. The members of the SALRC are appointed by the President on the recommendation of the Minister of Justice and Constitutional Development.

The SALRC is chaired by a judge and consists of members from the judiciary, legal professions and academic institutions. It conducts research with reference to all branches of South African law to make recommendations to government for the development, improvement, modernisation or reform of the law. This includes the following functions:

- repealing obsolete or unnecessary provisions
- removing anomalies
- bringing about uniformity in the law
- consolidating or codifying any branch of the law
- making common law more readily available.

To achieve its objectives, the SALRC is drawing up a programme in which matters requiring consideration are included and submitted to the Minister for approval. By 2011, the SALRC's programme included:

- statute law: establishing a simplified, coherent and accessible statute book
- statutory law revision: redundancy, obsolescence and constitutionality of legislation
- reviewing the Interpretation Act, 1957 (Act 33 of 1957)
- arbitration
- family mediation
- family law and the law of persons
- custody of and access to minor children
- review of aspects of matrimonial property law
- Hindu marriages
- sexual offences: adult prostitution
- decision-making for adults with impaired decision-making capacity
- prescription periods
- review of the Law of Evidence

- hearsay and relevance
- electronic evidence
- review of administration orders
- specific civil action in respect of consequential damages arising from hoaxes
- administration of estates
- review of witchcraft legislation
- multidisciplinary legal practices
- expungement of certain criminal records
- the practice of ukuthwala (child abduction and forced child marriages).

Rules Board for Courts of Law

The Rules Board for Courts of Law, established by the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985), may with a view to efficient, expeditious and uniform administration of justice in the SCA, high courts and magistrates' courts, from time to time on a regular basis review existing rules of court and, subject to the approval of the Minister, enact, amend or repeal rules for the above courts.

The Rules Board is headed by a Constitutional Court judge and has experts in procedural law drawn from the judiciary, legal profession and academic institutions.

The board's vision is:

- improving and modernising the rules of courts in accordance with technological changes and constitutional imperatives
- addressing challenges to the constitutionality of specific rules and effecting amendments precipitated by such challenges
- simplifying the courts' rules to promote access to justice
- harmonising rules of superior and lower courts
- reviewing the civil justice system to address inadequacies
- conducting legal and comparative research to determine viable solutions
- stimulating discussion with role players and interested and/or affected parties in the process of amending rules
- unifying and harmonising rules, regulations and procedures to transform the courts and to make justice accessible to all.

South African Board for Sheriffs

Sheriffs are officers of the court appointed in terms of Section 2 of the Sheriffs Act, 1986 (Act 90 of 1986), to serve and execute court

processes and court orders. Sheriffs serve and execute civil-court processes against payment of a fee in accordance with the tariffs determined from time to time by way of rules of courts made by the Rules Board for Courts of Law.

The sheriffs are regulated by the South African Board for Sheriffs, appointed by the Minister in terms of the Act. The sheriffs' profession is one of the institutions that requires attention in terms of transformation.

Some of the policy initiatives undertaken by the department to transform the sheriffs' sector entail:

- drafting amendments to the sheriffs' regulations to establish objective criteria for the appointment of sheriffs
- developing and implementing progressive measures to ensure that communities living in underdeveloped areas have equal access to the services of a sheriff to enjoy the equal benefit and protection of the law as required by the Constitution
- modernising the CJS
- implementing training and capacity-enhancement programmes to establish an accountable and competent sheriffs' profession that respects and protects human rights and the principles of Batho Pele.

Legal Aid South Africa

Legal Aid South Africa provides legal assistance to the indigent, in accordance with the Constitution and other legislative requirements. This is done through a system of in-house legal practitioners, and outsourcing to private lawyers (a system of *judicare*) and cooperation partners.

During 2010/11, the organisation provided legal services at all criminal courts through its 64 justice centres and 64 satellite offices; legal services in 421 365 new legal matters, which included assistance in 389 914 criminal legal matters and 31 451 civil legal matters; and general legal advice to 243 693 clients.

Legal Aid South Africa has prioritised the representation of children for civil and criminal matters. In 2010, 28 115 matters taken on by the organisation were on behalf of children. As a result, dedicated children's units have been established at a number of justice centres to ensure specialised representation for children.

In November 2010, Legal Aid South Africa launched the Legal Aid Advice Line to provide

telephonic primary legal advice to clients, allowing many more South Africans to access justice without having to travel to its offices.

The Legal Aid Advice Line is a toll-free number (0800 110 110) offering legal advice in five South African languages. By the end of March 2011, the line had assisted 13 926 callers.

Constitutional commissions South African Human Rights Commission

As the independent national human rights institution, the SAHRC was created to support constitutional democracy by promoting, protecting and monitoring the attainment of everyone's human rights in South Africa without fear, favour or prejudice.

The values of the SAHRC are integrity, honesty, respect, objectivity, Batho Pele principles, and equality.

The commission is an independent institution supporting constitutional democracy established in terms of Chapter 9 of the Constitution. Its specific mandate is stipulated in Section 184 of the Constitution and states that it 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 the country.

The commission has the powers, as regulated by national legislation, necessary to perform its functions, including the power to:

- investigate and report on the observance of human rights
- take steps to secure appropriate redress where human rights have been violated
- carry out research
- educate.

Each year, the SAHRC requires relevant organs of state to provide it with information on the measures taken towards the realisation of the rights contained in the Bill of Rights concerning housing, healthcare, food, water, social security, education and the environment.

The SAHRC has additional powers and functions prescribed by specific legislative obligations in terms of the Human Rights Commission Act, 1994 (Act 54 of 1994), the Promotion of Access to Information Act (Paia), 2000 (Act 2 of 2000), and the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000).

The commission has to:

- promote awareness of the statutes
- monitor compliance with the statutes
- report to Parliament in relation to these statutes
- develop recommendations on persisting challenges related to these statutes and any necessary reform.

The SAHRC is actively involved in ensuring the ratification of international and regional human-rights instruments by, among other things, advocating for the domestication of human-rights instruments.

At international level, the SAHRC is recognised by the UN Office of the High Commissioner for Human Rights as an A-status national human rights institution (NHRI). As an A-status NHRI, the SAHRC has adhered to the Paris Principles, which are the guiding principles that set out the nature and functioning of a NHRI. These principles emphasise the independent nature of NHRIs and guide the manner in which the SAHRC conducts its work. The principles state further that national human-rights institutions should:

- monitor any situation involving the violation of human rights
- advise government and Parliament on specific violations
- educate and inform on issues of human rights
- use their quasi-judicial powers where violations exist.

Public Protector

Section 182 of the Constitution mandates the Public Protector to:

- investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice
 - report on that conduct
 - take appropriate remedial action
 - be accessible to all persons and communities.
- The Public Protector has additional legislative powers contained in about 16 statutes. Among other things, it must resolve disputes or grievances involving the State through mediation, consultation, negotiation and any other remedies. It also has a mandate to enforce executive ethics; the Paia, 2000; the Protected Disclosures Act, 2000 (Act 26 of 2000); and the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004). The only matters excluded from the mandate of the Public Protector are court

decisions, judicial functions and matters outside the public sector.

The Public Protector's vision is to be a trusted, effective and accessible public servant who rights administrative wrongs and consistently acts with integrity to ensure fair, accountable and responsive decision-making, service and good governance in all state affairs and public administration in every sphere of government.

Its mission is to strengthen constitutional democracy in pursuit of the constitutional mandate by investigating, rectifying and redressing any improper or prejudicial conduct in state affairs and resolving related disputes through mediation, conciliation, negotiation and other measures to ensure fair, responsive and accountable public sector decision-making and service delivery.

South African Judicial Education Institute (SAJEI)

The SAJEI Act, 2008 (Act 14 of 2008), came into operation in January 2009. The SAJEI Act, 2008 established the institute to provide independent judicial education for judicial officers.

The SAJEI is responsible for the formal training of magistrates and legal practitioners in this legislation and other areas of judicial work. The purpose of the SAJEI is to promote the independence, impartiality, dignity, accessibility and effectiveness of the courts by providing judicial education for judicial officers.

In carrying out this function, the SAJEI is primarily directed and controlled by the judiciary. The institute provides education and training for aspirant and newly appointed judicial officers, and ongoing legal education and training for experienced judicial officers.

Department of Correctional Services

The Department of Correctional Services aims to contribute to a just, peaceful and safe society by detaining inmates in safe custody, while maintaining their human dignity, developing their sense of social responsibility and promoting the general development of all inmates and persons subject to community corrections.

The White Paper on Corrections

The *White Paper on Corrections in South Africa* is the principal strategic document aimed at directing the management and service provision of the department over the next 20 years and beyond.

The White Paper also sets objectives against which the people of South Africa can measure the department's performance and service delivery.

The White Paper represents the final fundamental break with a past archaic penal system and ushered in the start to the Second Decade of Freedom, where prisons became correctional centres of rehabilitation and offenders are given new hope and encouraged to adopt a lifestyle that will result in them having a second chance to become law-abiding South African citizens.

Policy development Correctional Services Amendment Act, 2008 (Act 25 of 2008)

The Correctional Services Amendment Act, 2008 was gazetted in November 2008. This followed a series of consultations with stakeholders to ensure broad representation by all concerned.

The amendments included: substitution, amendment or deletion of certain definitions; further provisions for the manner in which correctional centres are managed; authorisation of the National Council for Correctional Services (NCCS) to determine, under certain conditions, the period before an offender may be placed on parole; and further provision for matters relating to correctional supervision, parole boards and the Judicial Inspectorate. It also provides for compliance management and monitoring of relevant prescriptions, a departmental investigation unit and a unit dealing with disciplinary procedures.

In 2011, Parliament debated the Correctional Matters Amendment Bill, 2010.

The Bill seeks to improve the administration of three key areas of corrections, namely medical parole; the parole system in general; and the management of remand detention.

The provisions of the Bill limit the granting of medical parole to sentenced offenders who are in the final phase of terminal illness. The proposed Medical Parole System balances the medical condition of the inmate against the risk posed to society should such inmate be placed on medical parole.

Work of statutory bodies National Council for Correctional Services

The NCCS is a statutory body with the primary aim of guiding the Minister of Correctional Services in developing policy relating to the correctional system and the sentence-management process.

The NCCS serves as the recommending institution to the Minister in relation to parole decisions for offenders sentenced to life imprisonment. The NCCS also serves as the parole-review mechanism and meets as the Correctional Supervision and Parole Review Board.

Ministerial Task Team on Categorising Inmates

This is an independent team appointed by the Minister to conduct an audit of certain categories of inmates within the correctional facilities.

Statistics are collected and trends, shortcomings and best practices identified. The audit helps the department address the state of overcrowding within facilities.

The task team audits the following categories of inmates:

- unsentenced inmates awaiting trial
- sentenced inmates – placement of certain categories of inmates on parole, correctional supervision, or the conversion of sentences to correctional supervision
- vulnerable inmates (mothers with babies, mentally ill and elderly inmates).

Judicial Inspectorate of Correctional Services (JICS)

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

Key projects and programmes Corrections Week

The Department of Correctional Services celebrates Corrections Week every year from 27 September to 3 October to create awareness of the department's mandate and promote understanding of corrections as a societal responsibility. The project was launched in September 2006.

Operation Vala

Operation Vala (meaning "close") is a 50-day special festive-season security plan. It was launched in 2006 to deal with security pressures and escapes experienced during the festive season.

The campaign plan includes:

- tightening security
- limiting offenders' externally focused activities to essential services only

- curtailing goods and products brought to facilities by families and friends
- conducting impromptu searches to eliminate illegal substances
- maintaining appropriate staffing levels as informed by local threat assessments by heads of correctional centres and area commissioners.

Without security, no rehabilitation can take place. The department adopted a minimum security standards policy with six key pillars, namely: personnel, technology, information, operational, physical and management supervision of security.

Operation Funda

Operation Funda (meaning "learn") is one of the Department of Correctional Service's flagship projects, launched by the Minister in January 2011 to enhance offenders' access to education and training to equip them for effective and sustainable social reintegration.

It came into being after the Minister raised concerns about the number of inmates serving life sentences considered for placement on parole who were incarcerated as juveniles for serious crimes, and had not had access to or used the opportunity to empower themselves.

Young people between the ages of 18 and 25 constitute 69% of the total offender population. There are 13 dedicated youth facilities nationally, but for years there was only one full-time school doing the National Curriculum Statement (NCS) programme – the Usethubeni Youth Centre in Durban-Westville Correctional Services.

Of the many young inmates that should be eligible for studying full-time, Usethubeni catered for about 30 inmates a year.

In 2011, three additional full-time schools doing the NCS Programme were launched in the Voorberg, St Albans and Kuthama Senthumule correctional centres.

Mother and Child Units (MCUs)

The MCUs are separate cells built for mothers incarcerated with babies in correctional centres.

The Department of Correctional Services launched two MCUs in August 2011 as part of celebrating Women's Month. The two facilities were launched in Cape Town and Durban respectively. Two more facilities were expected to be built in Gauteng and the Eastern Cape by the end of 2011/12. The vision is to develop and design child-focused and child-friendly units across the department's six regions.

The idea is to allow the child as close to normal an existence as possible, while at the same time providing rehabilitation programmes that enhance the mothers' capacity to care for their children.

These facilities were also launched in response to the CJA, 2008. The Act created an imperative for the department to treat children incarcerated with their mothers in a humane way. It called for a revisit in the department's programmes, particularly those designed for women with children. These ideals resulted in the MCUs.

Imbeleko Project

The department launched the Imbeleko Project which seeks to provide, as far as possible, a home-like environment for children below the age of two in centres and subsequently to place children of two years of age and above outside correctional facilities with sustainable family structures. The objectives of the programme are aligned with those of the United Nations Convention on the Rights of the Child. The first phase of the Imbeleko Project was successfully rolled out across all the regions. This entailed the creation of a safe, humane and friendly environment for mother-child interaction. The second phase will focus on finding alternative placement for children above two years, outside correctional facilities.

Offender labour

Offenders continue to be awarded opportunities to participate in community-development projects by providing offender labour. In an effort to enhance the use of available resources, the Department of Correctional Services has engaged various stakeholders to involve offenders in mainstream activities that could lead towards poverty alleviation within communities.

The aim is to formulate a relationship with other government departments and stakeholders, so that they consider offenders as an available workforce that can be used as some sort of reparation and payback to the communities they have offended. The department has developed a draft concept document on the use of offenders in meaningful work activities.

The involvement of offenders in community projects or activities is of fundamental importance in their rehabilitation and reintegration process.

Strategic priority areas

The department's strategic priority areas include:

- Improved rehabilitation and reintegration of offenders: A draft project charter was developed, as well as draft action plans for the respective work streams. The key elements of improved rehabilitation and reintegration of offenders lie in the implementation of the correctional sentence plans, the responsibilities of case-management committees and parole processes, and the refinement of correctional officials' job functions that have been part of the Occupation Specific Dispensation (OSD) process.
- Improved Remand Detention Management System: Development of the system is a departmental and cluster priority and the policy framework has been put in place. In 2009/10, the department signed the Bail Protocol with the Minister of Justice and Constitutional Development and the Minister of Police. The agreement ensures that inmates who committed petty crimes and cannot afford bail are diverted to alternative programmes. In 2010/11, the department finished setting up the Remand Detention Branch.
- Improved stakeholder relations: The work of the department towards establishing an all-Africa corrections body saw results with the launch in September 2008 of the Africa Correctional Services Association (ACSA). South Africa was appointed secretary of ACSA and the department has been actively involved in the SADC substructures, including interaction with counterparts on transferring foreign offenders to their countries of origin.

Achievements

The Department of Correctional Services' achievements for 2010/11 include:

- The implementation of the Seven-Day Establishment. It has enabled the department to comply with Section 8(5) of the Correctional Services Act, 1998 (Act 11 of 1998), which prescribes intervals between meal times for offenders. The implementation of a shift system as a component of the Seven-Day Establishment has made more time available in day programmes within correctional centres. This has enabled more rehabilitation activities to

be implemented, as well as improved offender labour programmes. The shift system also allows for compliance with legislation governing basic conditions of employment as adequate rest time is available to personnel.

- Implementation of the OSD was delivered within budget. The OSD allows for improved career pathing for professions within the department. Another consequence of implementing this remuneration system was the migration of qualified personnel to the coalface of service delivery, thereby distinguishing between administrative officials and those working with the correction of offenders.
- The department continues to win the war on fraud and corruption:
 - the anti-fraud and corruption capacity of the department is rated as the third most efficient of departments audited by the Department of Public Service and Administration
 - the measures put in place resulted in an 89% conviction rate during 2009/10
 - R2,5 million was recovered from a R4,5-million debt owed by officials who were found guilty of defrauding the department's medical aid scheme.
- The Minister of Correctional Services launched the department's Service-Delivery Charter in 2010. The charter confirms that the department will provide high-quality professional services that are responsive to all service recipient needs.
- In 2010/11, the department reduced overcrowding by 5,75%. This was due to efforts within the department and across the JCPS Cluster, such as the completion of a new correctional centre in Kimberley, the signing of bail protocols and the application of diversion sentences in terms of the Criminal Procedure Amendment Act, 2008 by heads of correctional centres. A process of reclassifying some offenders reduced the number of maximum security offenders by 12%.
- Two correctional centres, namely Boksburg and Krugersdorp, were accredited to provide antiretroviral treatment to offenders, bringing the total number of such facilities across the country to 21.
- A total of 138 correctional officials participated in the 13th World Police and Fire Games (WPFPG) held in Vancouver, Canada. The department has expressed interest in hosting

the 2017 WPFPG. The games attract thousands of officials from 80 countries and present about 70 different sporting codes. South African correctional officials were the gold medallists in athletics and rugby, and the athletes returned with 216 medals.

- In partnership with the Department of Basic Education, the department has initiated an Early Childhood Development (ECD) programme for babies and toddlers who are incarcerated with their mothers. The programme recruits unemployed community members and parolees and trains them as ECD practitioners. The ECD qualification empowers the beneficiaries with a qualification equivalent to National Qualification Framework levels four and five.
- The Pre-Adult Basic Education and Training Programme, also in partnership with the Department of Basic Education, is a mass literacy campaign that involves illiterate offenders. Volunteers from the community are recruited and trained as literacy facilitators.
- Eleven computer-based training centres were established for offenders. Computer-based training forms an integral part of the subject Life Orientation within the NCS for grades 10 to 12 as well as the National Curriculum Vocation. The department completed and implemented the national project to align presentation of the curricula with national requirements.

Inmate profile

In March 2011, there were 162 162 inmates in 241 correctional service centres throughout the country. Of the 162 162 offenders in the department's correctional centres, 158 400 were male and 3 762 were female.

There are two private prisons in South Africa. Of the 241 correctional centres, eight are for women, 13 are for the youth, 129 are for men and 91 are mixed (women and men). The average cost of incarceration per offender per day was estimated at R123,37.

Overcrowding

Overcrowding in correctional centres continues to pose a challenge, affects how the department functions and influences its service delivery. At the close of the 2010/11 financial year, the department's facilities were overcrowded by 137,25%.

By mid-2011, the actual capacity in correctional facilities stood at 118 154, with 25 000 beds meant

for remand detainees and 93 154 earmarked for sentenced offenders.

The department manages overcrowding through the transfer of offenders between centres and through releases resulting from sentence conversions. The construction of new centres should furthermore alleviate the pressure put on facilities and staff.

The intersectoral Management of the Awaiting Trial Detention Project involves all the departments in the criminal justice sector. There are continued efforts to encourage the judiciary to use the Criminal Procedure Amendment Act, 2008 (Act 65 of 2008), with a view to reduce overcrowding.

Automated Fingerprint and Identity System (AFIS)

The Department of Correctional Services had initiated the roll-out of AFIS in correctional centres around the country. By 2011, facilities for capturing and storage of fingerprint data had been installed at 145 sites. The integration of this system with those of the SAPS and the departments of home affairs and social development was expected to be completed by the end of 2011.

Service delivery

The focus of the department remains to be on improving service delivery through initiatives such as the:

- Integrated HR Strategy: The department developed and launched the strategy in 2007/08 for effective work organisation, recruitment, retention and development of employees. In 2010, the three-year strategy was implemented and reviewed.
- Compliance Improvement Plan: Since its inception in 2005/06, this plan has been used as a system to monitor matters concerning the performance of management areas and centres that have been recurring in the Auditor-General's reports. The management of compliance is tracked annually with the Compliance Improvement Plan as a strategic focus area.
- Risk Management Framework: Significant progress has been made in identifying risk indicators

and mitigation plans. By mid-2010, the Risk Management Committee was developing indicators to assist in tracking the mitigation progress.

- Service Delivery Improvement Plan (SDIP): The department identified four key services to form the basis of the SDIP for 2009/10 to 2013/14. These are integrated into the department's strategic and operational plans. Regions report quarterly on:
 - improving access of service-providers and other stakeholders to correctional centres
 - improving telephone and switchboard etiquette at all service points
 - managing the payment of bail and fines at correctional centres
 - improving the scheduling of visitations to offenders to support family ties between offenders and their families.
- Security enhancement: Security continues to receive priority attention as one of the core pillars of the department's legal mandate. The decrease in escapes from the Department of Correctional Services' centres over the last eight years is the result of the department's escalated measures to improve security, including security operations, technological installations, policy developments and training of personnel.
- Care and development of inmates: The department continues to improve the healthcare of inmates. The implementation of the OSD for nurses also ensures the availability of suitably qualified nurses to take care of the inmates' health and assist in the retention strategy in relation to nurses.
- Rewarding service excellence: Each year, the department honours officials who excel in their tasks and go beyond the call of duty to ensure that quality service is delivered. The annual National Corrections Excellence Awards represent the executive management's appreciation and recognition of the good and hard work done by many departmental officials.

Acknowledgements

Beeld
BuaNews
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INKUNDLA YOMGAQOSISEKO
INKANTOLO YOMTHETHOSISEKELO
KHOTO YA VURUJWA
INKANTOLO YEMTSETFOSISEKELO
KGOROTSEHO YA MOLAOTHEO
ENWANTHO YOMTHETHOSISEKELO
CONSTITUTIONAL COURT
LEKGOTLA LA DIBUWE LA MOLAOTHEO
KHOTHE YA DDAYOTSWA
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MAKHO...