

SOUTH AFRICA YEARBOOK 2012/13



Justice and Correctional Services

The responsibilities of the Department of Justice and Constitutional Development are closely linked to those of the Department of Correctional Services. Both include ensuring a just, peaceful and safe society and both are involved in South Africa's criminal justice and court system.

The Department of Justice and Constitutional Development is responsible for ensuring an accessible justice system that promotes and protects social justice, fundamental human rights and freedoms, thus providing a transparent, responsive and accountable justice for all.

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 disadvantaged backgrounds.

The Department of Correctional Services is responsible for ensuring 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 people subject to community corrections.

South African law is a combination of different legal systems, with its origin in Europe and in Great Britain. Its foundation lies in Roman-Dutch law, which is itself a blend of indigenous Dutch customary law and Roman law. It was this legal system that prevailed in Holland during the 17th and 18th centuries and was introduced into and applied in South Africa after the southernmost tip of the Cape was settled by the Dutch in the 1600s.

When, at the end of the 18th century, the Cape was occupied by the British, Roman-Dutch law was retained and confirmed as the common law of the country. English, however, became the language of the courts and English legal procedures and the English law of evidence in both criminal and civil matters were introduced. As with any other country, the common law has been augmented by statutory law and many of the cases before the court are now concerned with their interpretation and application.

Because of the unique heritage of South African law, and the constitutional imperative to regard comparative law, foreign law is frequently consulted, not as binding but as persuasive authority.

Judicial decisions are themselves a source of law. The decisions of the court are binding on all lower courts.

The Department of Justice and Constitutional Development

The Department of Justice and Constitutional Development's mandate from the Constitution is twofold. On the one hand, it seeks to provide a framework for the effective and efficient administration of justice. On the other, it seeks to promote constitutional development through the development and implementation of legislation and programmes that seek to advance and sustain constitutionalism and the rule of law.

At the same time, the department also seeks to provide an enabling environment for the judiciary and constitutional institutions to exercise their constitutional powers and functions freely and independently.

Legislation and policies

The department derives its statutory mandate from various pieces of legislation in the form of statutes and subordinate legislation. The department administers the Constitution and over 160 principal Acts.

The following are categories of functions, emanating from different legislative instruments relevant to the department:

- Legislation providing for the establishment and functioning of the superior courts, magistrates' courts and special courts: the Constitutional Court Complementary Act, 1995 (Act 13 of 1995), the Supreme Court Act, 1959 (Act 59 of 1959), the Magistrates' Courts Act, 1944 (Act 32 of 1944), and the Small Claims Court Act, 1984 (Act 61 of 1984).
- Legislation providing for the appointment of judges and other judicial officers, the conditions of service, discipline and training: the Judges Remuneration and Conditions of Employment Act, 2001 (Act 47 of 2001), the Judicial Service Commission Act, 1994 (Act 9 of 1994) as amended, the South African Judicial Education Institute (SAJEI) Act, 2008 (Act 14 of 2008), and the Magistrates' Act, 1993 (Act 90 of 1993).
- Legislation providing for the establishment and functioning of the National Prosecuting Authority (NPA), the Special Investigating Unit (SIU) and the Asset Forfeiture Unit (AFU); the

conduct of criminal proceedings; the investigation of organised crime and corruption; and the forfeiture of assets obtained through illicit means: the NPA Act, 1998 (Act 32 of 1998), the Criminal Procedure Act, 1977 (Act 51 of 1977), the Prevention of Organised Crime Act, 1998 (Act 121 of 1998), the Special Investigating Units and Special Tribunals Act, 1996 (Act 74 of 1996) and the Witness Protection Act, 1998 (Act 112 of 1998).

- Legislation providing for the establishment and functioning of bodies responsible for legal aid, law reform and rule-making: the Legal Aid Act, 1969 (Act 22 of 1969), the South African Law Reform Commission (SALRC) Act, 1973 (Act 19 of 1973) and the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985).
- Legislation providing for the appointment of masters of the high courts and the administration of the Guardian's Fund and deceased and insolvent estates: the Administration of Estates Act, 1965 (Act 66 of 1965), and the Insolvency Act, 1936 (Act 24 of 1936).
- Legislation regulating the provisioning of legal advisory services to government departments: the State Attorney Act, 1957 (Act 56 of 1957).
- Legislation relating to the promotion, protection and enforcement of certain human rights: the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), the Promotion of Access to Information Act (Paia), 2000 (Act 2 of 2000), and the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000) better known as the Equality Act, 2000.
- Legislation pertaining to the protection of vulnerable groups: the Child Justice Act, 2008 (Act 75 of 2008), the Children's Act, 2005 (Act 38 of 2005), the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), the Maintenance Act, 1998 (Act 99 of 1998), and the Domestic Violence Act, 1998 (Act 116 of 1998).
- Legislation providing support to Chapter-9 institutions: the Human Rights Commission Act, 1994 (Act 54 of 1994), and the Public Protector Act, 1994 (Act 23 of 1994).

- Legislation regulating management and control of public expenditure: the Public Finance Management Act, 1999 (Act 1 of 1999).
- Legislation regulating operations in the public service: the Public Service Act, 1994 (Act 103 of 1994), as amended.

The following Acts were promulgated in 2012, affecting the execution of the department's mandate:

- Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2012 (Act 6 of 2012)
- Criminal Procedure Amendment Act, 2012 (Act 9 of 2012)
- Judicial Matters Amendment Act, 2012 (Act 11 of 2012)
- Repeal of Black Administration Act and Amendment of Certain Laws Amendment Act, 2012 (Act 20 of 2012)
- Sheriffs Amendment Act, 2012 (Act 14 of 2012)

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 criminal justice system 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.

Budget and funding

A budget of R15 480 billion was allocated to the department for the 2012/13 financial year. Of this, R5 284 billion was earmarked for the Court Services Programme; R2 816 billion was allocated to the NPA and R1 814 billion to public entities and Chapter-9 institutions. Growth in 2012/13 was driven by increased provisions for appointments of judges and magistrates, the carry-through cost of salary increases, planned Information Technology (IT) upgrades and funding for the building of two high courts and other court infrastructure.

Role players

Legal Aid South Africa (Lasa)

Lasa provides legal aid or makes legal aid available to indigent people within the budget allocated to it by the State.

Its full-time legal staff is stationed at 64 justice centres, 13 high courts and 64 satellite offices countrywide. Lasa also makes use of "judicare", a system whereby lawyers in private practice are instructed to perform work in return for a set fee. Judicare is used in situations where there is conflict of interest, where specialist skills are needed and to maintain a mixed delivery system.

Lasa's achievements in 2012 included:

- Quality legal services were delivered in approximately 429 000 new legal matters, comprising 382 419 (89%) criminal and 47 060 (11%) civil matters.
- Children were assisted in 27 960 matters

(80% criminal and 20% civil). The number of matters decreased slightly in comparison to 2010/11.

- General advice services were rendered to 256 681 clients.
- A fully operational client call centre, which facilitated telephonic access of first-level legal assistance, led to 46 025 clients being assisted (18% of general advice matters).

Lasa continued to participate in the Case Backlog Courts Project by providing legal aid at district and regional backlog courts. It also maintained strong governance and financial management platforms that ensured a 10th unqualified audit with no matters of emphasis.

Special Investigating Unit (SIU)

The SIU is an independent statutory body that is accountable to Parliament and the President. It was established by the President, conducts investigations at his request, and reports to him on the outcomes.

The SIU was created in terms of the SUI Act, 1996. The SIU functions in a manner similar to a commission of inquiry in that the President refers cases to it by issuing a proclamation. It may investigate any matter set out in Section 2 of the SIU Act, 1996 including:

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

The SIU can also take civil action to correct any wrongdoing it discovers during an investigation. For example, it can obtain a court order to:

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

The SIU litigates its cases in the Special Tribunal, a specialised court that deals specifically with its cases. This avoids some of the delays usually associated with civil litigation. The focus of the SIU is the public sector, but it also deals with private-sector accomplices. It can investigate private-sector matters that cause substantial harm to the interest of the public.

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

The SIU works closely with the NPA to ensure that prosecutions take place as soon as possible. It also works with the AFU in cases where the powers of this unit are more suitable for recovering the proceeds of crime.

By February 2013, the capacity of the SIU had increased from 70 staff members to more than 600.

Between 2009 and the end of 2012, the President signed 34 proclamations directing the SIU to investigate allegations of corruption, fraud or maladministration in various government departments and state entities. Criminal investigations had been initiated against 203 accused people in 67 priority cases under investigation by the end of September 2012, with pre-trial proceedings initiated against 191 people.

Some 66 people under investigation were alleged to have received R5 million or more through corruption, and orders for the freezing of assets had been obtained against 46 people.

South African Law Reform Commission (SALRC)

The SALRC is an independent statutory body, established by the SALRC Act, 1973, which advises government on law reform. The members of the SALRC are appointed by the Pres-

ident 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. Recent SALRC programmes 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
 - assisted 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).

National Prosecuting Authority of South Africa (NPA)

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 criminal justice system was the formation of the Office of the National Director of Public Prosecutions, established in 1998.

The Office of the National Director of Public Prosecutions consists of deputy national directors and special directors of public prosecution who head the following specialised units:

- Sexual Offences and Community Affairs Unit (Soca)
- Specialised Commercial Crime Unit (SCCU)
- Priority Crimes Litigation Unit
- Office for Witness Protection.

In December 2012, Nomgcobo Jiba was appointed as acting National Director of Public Prosecutions.

In 2011/12, courts finalised 216 cybercrime cases, with a conviction rate of 87,5%. In this time, the Anti-Corruption Task Team also finalised 175 cases with charges of corruption involving 182 justice, crime prevention and security officials.

National Prosecutions Service

A significant majority of the NPA's prosecutors are housed in the National Prosecutions Service, the organisation's biggest unit. The National Prosecutions Service is headed by the deputy directors of public prosecutions. 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 directors of public prosecutions in their respective areas of jurisdiction.

Office for Witness Protection

The Office for Witness Protection provides a support service to the criminal justice system by protecting threatened or intimidated witnesses and related people by placing them under protection, thus ensuring that they testify in criminal and other defined proceedings. The Office for Witness Protection has a proud record of no witnesses or family members in the programme being harmed or threatened since the office was established.

Asset Forfeiture Unit (AFU)

The AFU focuses on restraining and forfeiting the proceeds of crime or property used to commit crime. The unit has two major strategic objectives, namely to:

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

The unit convicted 150 officials for corruption in 2011/12, a conviction rate of 73%. Assets worth R533,4 million were seized in 2011/12, bringing the total of seized assets over the past 13 years to R5 billion. About R150 million recovered by the unit were allocated from the Criminal Assets Recovery Account to the Anti-Corruption Task Team to intensify its investigative capacity.

Specialised Commercial Crime Unit (SCCU)

Professor Ann Skelton, a South African advocate and the director of the Centre for Child Law at the University of Pretoria, was named one of three laureates of the 2012 World's Children's Prize in August 2012, in honour of her work over the past 25 years to protect the rights of children affected by the South African justice system.

The SCCU was established in 1999 as a pilot project to combat the deteriorating situation pertaining to commercial crime. The unit aims to reduce commercial crime by the effective investigation 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 unit comprises a broad spectrum of complainants in commercial cases, ranging from private individuals and corporate bodies to state departments.

Priority Crimes Litigation Unit

This specialist unit is mandated to tackle cases that threaten national security. It was created by presidential proclamation and is allocated categories of cases either by the President or by the National Director of Public Prosecutions. The primary function of the unit 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 Statute of Rome
- national and international terrorism
- prosecution 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)

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 Soca'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).

TCCs are one-stop facilities located in public hospitals in communities where the incidence of rape is particularly high. These one-stop facilities are aimed at reducing secondary victimisation, improving conviction rates and reducing the cycle time for finalisation of rape cases.

Further, the TCCs ensure that service providers are available to a rape survivor in one location, rather than the victim being shuttled around through the criminal justice system.

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 way.

By July 2012, there were 52 operational TCCs in the country. In March 2013, Soca, in partnership with various state departments and USAID, launched the Increasing Services for Survivors of Sexual Assault Programme to enhance the role of the TCCs.

The project is supported by the roll-out of victim support rooms in an effort to show empathy to victims of violent crime, especially in cases of sexual offences, child abuse and domestic violence. By April 2012, there were 803 police stations with victim support rooms nationwide. These rooms are used for interviews, taking statements and other consultations.

The Family Violence, Child Protection and Sexual Offences (FCS) units

The FCS units have been reintroduced in all 176 SAPS clusters across the country. There are currently 2 155 detectives placed at these units and they are issued with 1 276 vehicles. Previously, the FCS units consisted of only 1 864 detectives.

R49,5 million was provided to all provinces to capacitate the FCS units with resources. To date, the FCS units have achieved over 363 life sentences, with a conviction rate of 73% for crimes against women above 18 years old and 70,04% for crimes against children under 18 years old.

Some 479 trained detectives who had been transferred to other components and divisions within SAPS in the past have been placed back in the detective services environment. Six courses for training of detective commanders, in which 346 commanders were trained, were presented in the 2011/12 financial year.

Rules Board for Courts of Law

The Rules Board for the Courts of Law may review existing rules of court from time to time on a regular basis with a view to efficient, expeditious and uniform administration of justice in the Supreme Court of Appeal, high courts and magistrates' courts. Subject to the approval of the Minister, it may enact, amend or repeal rules for the above courts.

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

Its mandate includes:

- 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.

On 27 April 2013 – Freedom Day – the Protection from Harassment Act come into effect. It is seen as a true testimony of the progress made in safeguarding the rights of all South Africans.

The new law makes it possible for people who believe they are being stalked, harassed via SMS, fax, telegrams and emails to approach the courts for relief. Those hiding behind anonymity to send offensive SMSes will be able to be traced because the Act compels service providers to give the addresses and ID numbers of offenders when asked to do so by courts. Once granted, interim protection orders come into effect immediately.

Judicial Service Commission

The Judicial Service Commission selects fit and proper people for appointment as judges and investigates 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 Judicial Service Commission 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 commission 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 commission, appoints the chief justice and the deputy chief justice, and the president and deputy president of the Supreme Court of Appeal.

The President appoints other judges on the advice of the commission. 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 commission 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 Board for Sheriffs

Sheriffs are officers of the court appointed 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.

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 criminal justice system
- implementing training and capacity-enhance-

ment programmes to establish an accountable and competent sheriffs' profession that respects and protects human rights and Batho Pele.

South African Human Rights Commission (SAHRC)

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, the Batho Pele principles, and equality.

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; the Paia, 2000 and the Equality Act, 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 United Nations (UN) Office of the High Commissioner for Human Rights as an A-status national human rights institution. As an A-status institution, the SAHRC has adhered to the Paris Principles, which are the guiding principles that set out the nature and functioning of a national human rights

institution. These principles emphasise the independent nature of national human rights institutions 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 people and communities.

Eight Batho Pele principles were developed to serve as acceptable policy and legislative framework regarding service delivery in the Public Service. These service-delivery principles are aligned with the Constitutional ideals of:

- promoting and maintaining high standards of professional ethics
- providing service impartially, fairly, equitably and without bias
- using resources efficiently and effectively
- responding to people's needs; the citizens are encouraged to participate in policy-making
- rendering an accountable, transparent, and development-oriented public administration.

The eight Batho Pele principles are:

1. Consultation
2. Setting service standards
3. Increasing access
4. Ensuring courtesy
5. Providing information
6. Openness and transparency
7. Redress
8. Value for money.

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 Combatting 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 office of the Public Protector investigated 20 219 complaints in 2011/12 and 5 609 complaints carried over from the previous financial year, of which 16 509 were finalised.

South African Judicial Education Institute (SAJEI)

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.

The training of judges and magistrates began in January 2012, and by May the SAJEI had trained 666 judges and magistrates on various aspects of judicial work.

Court services

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 people 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.

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.

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 people to whom it applies.

The Constitution provides for the following courts:

- Constitutional Court
- Supreme Court of Appeal
- 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.

There are also 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 Supreme Court of Appeal 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 people.

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.

The statistics of cases finalised by the lower courts in 2011/12 declined when compared to the outputs realised in 2010/11. Some 448 760 criminal court cases were finalised by all courts in 2011/12, slightly down from 460 791 in 2010/11. However, the average conviction rate

in South Africa's courts for 2011/12 remained high and increased from 88,3% in 2010/11 to 88,8% in 2011/12.

Constitutional Court

The Constitutional Court, situated in Johannesburg, is the highest court in all constitutional matters. It is the only court that may adjudicate disputes between organs of state in the national or provincial sphere concerning the constitutional status, powers or functions of any of those organs of state, or that may decide on the constitutionality of any amendment to the Constitution or any parliamentary or provincial Bill.

The Constitutional Court makes the final decision on whether an Act of Parliament, a provincial Act or the conduct of the President is constitutional. It consists of the Chief Justice of South Africa, the Deputy Chief Justice and nine Constitutional Court judges.

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

In 2011/12, the Constitutional Court received 123 new applications. In addition, three cases were awaiting direction (old and new applications), 97 matters were dismissed and 35 judgments were given.

Supreme Court of Appeal

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

Decisions of the Supreme Court of Appeal 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.

In 2011/12, 119 criminal appeals were enrolled and 83 were finalised; 222 new petitions were enrolled and 189 finalised. Addition-

ally, 601 civil appeals were enrolled, and 259 were finalised, 412 new petitions were enrolled and 427 were finalised.

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:

- the Eastern Cape High Court has four branches, located in Grahamstown, Port Elizabeth, Mthatha and Bhisho
- the Free State High Court in Bloemfontein
- Gauteng has two high courts, one in Pretoria (North Gauteng) and one in Johannesburg (South Gauteng)
- KwaZulu-Natal also has two high courts, in Pietermaritzburg and in Durban
- the Limpopo High Court in Thohoyandou
- the Northern Cape High Court in Kimberley
- the North West High Court in Mafikeng
- the Western Cape High Court in Cape Town.

In 2011/12, high courts enrolled 27 804 new civil matters for trial and finalised 28 886 (which included settlements and withdrawals). The high courts received 104 884 new motion applications and finalised 82 431 matters.

In 2011/12, the high courts received 902 first-appearance criminal matters and finalised 1 130 cases, as opposed to 2010/11, when 1 039 first-appearance criminal matters were enrolled and 1 027 were finalised.

Specialist high courts

The following specialist high courts exercise national jurisdiction:

- The Labour Court and Labour Appeal Court in Braamfontein, Gauteng, which adjudicate over labour disputes and hear labour appeals, respectively.

- The 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.
- The Competition Appeal Court, situated in Cape Town, which deals with appeals from the Competition Tribunal.
- The Electoral Court, situated in Bloemfontein, which sits mainly during elections to deal with associated disputes.
- The Tax Court, situated in Pretoria, which deals with tax-related matters, including non-compliance with tax obligations.

Labour and Labour Appeal Court

The Labour Court and Labour Appeal Court received 11 235 new cases in the 2011/12 financial year and finalised 6 553 matters. This included referrals from the Commission for Conciliation, Mediation and Arbitration, urgent applications and petitions.

Land Claims Court

In 2010/11, the Land Claims Court enrolled 197 new matters and finalised 248 matters. In 2011/12, 187 new matters were enrolled (Act 22 of 1994, Act 3 of 1996 and Act 62 of 1997 matters). The court finalised 141 matters.

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.

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.

In 2010/11, the regional courts enrolled 75 428 new criminal cases (first appearances) and finalised 39 078 cases. In 2011/12, 68 211 new matters were enrolled and 40 242 matters were finalised. The regional courts managed to finalise 7% more matters compared to the previous year. This included old and new matters.

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), 90 branch courts and 235 periodical courts. The magisterial districts are still informed by the pre-1994 demarcations of the defunct self-governing states and South African territory. Processes

are underway to align the magisterial districts in accordance with the constitutional dispensation.

In the Department of Justice and Constitutional Development's *Strategic Plan 2013 – 2018*, 24 of the 90 branch courts were identified for rehabilitation into full-service courts by 2014. Of these 24 branch courts, 19 had been converted into full-service courts by 2012. Additional funding was being sourced to upgrade and convert the outstanding six branch courts by 2014, with half of these courts envisaged for completion in 2013.

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, 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.

The Ashton Magistrate's Court was opened in May 2012, with the Ntuzuma Magistrate's Court in KwaZulu-Natal, followed by the Palm Ridge Magistrate's Court in Gauteng in August 2012 and the Tsakane Magistrate's Court in Gauteng in March 2013. Six branch courts, namely Atteridgeville, Tsakane and Sebokeng in Gauteng, Secunda in Mpumalanga and Orkney and Stilfontein in North West, were expected to be proclaimed as full services courts by the end of 2012.

In 2010/11, district courts enrolled 800 896 new criminal cases (first appearances) and finalised 412 857 cases. In 2011/12, 748 231 new matters were enrolled and 400 991 final-

ised. District courts managed to finalise 2% more matters than the previous year. This included old and new matters.

Small claims courts

Small claims courts were established to adjudicate small civil claims. They were 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.

In 2011/12, 118 889 litigants chose to use small claims courts to settle their disputes.

In June 2012, Gauteng became the first province to achieve "wall-to-wall" small claims court coverage in each of its 28 magisterial districts.

Most of the 23 small claims courts established in 2011/12 were in rural areas, including Botsabelo, Nongoma, Ingwavuma, Umbombo, Ganyesa, Bloemhof, Balfour, Mamelodi, Mata-tiele and Cala.

Some 79 Legal Aid South Africa practitioners joined the ranks of 1 370 small claims court commissioners. A further 25 were expected to join by the end of 2012.

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.

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

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.

The establishment of at least one small claims court in every magisterial district is part of the improvements proposed for the civil justice system. The department established 23 new small claims courts in 2011/12. Five additional places of sitting were also proclaimed for existing small claims courts. In 2011/12, 195 new commissioners and eight ad hoc commissioners were appointed, 185 advisory board members were appointed and 28 government notices were published. Eight small claims courts that had been inactive due to a lack of commissioners were revived by the appointment of new commissioners.

By April 2013, there were small claims courts in 248 magisterial districts, 66 more than in 2009. The department worked hard to ensure that the remaining 139 magisterial districts also benefit from using these courts to resolve civil disputes involving claims of less than R12 000.

Equality courts

The right to equality is protected by law in the

The opening of the Soweto Small Claims Court at the Protea Magistrates' Court in Soweto in April 2013, was a significant milestone in the quest to ensure access to justice for all South Africans. The court, which will be used to settle minor civil disputes and claims between parties in an informal manner without representation by an attorney, forms part of the Department of Justice and Constitutional Development's commitment to establish a Small Claims Court in every magisterial district country-wide.

Gauteng is the first province to have a Small Claims Court in all of the magisterial districts.

Equality Act, 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.

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 (EU)/South Africa 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 Schedule 3 of the repealed Black Administration Act, 1927 (Act 38 of 1927).

The Black Administration Act, 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), Mitchells 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 Phuthadijhaba 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.

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 to:

- provide integrated and specialised services to the family as the fundamental unit in society

- facilitate access to justice for all in family disputes
- improve the quality and effectiveness of service delivery to citizens who have family-law disputes.

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 of the respective courts

Apart from specific provisions of the Magistrates' Courts Act, 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 decides in which court a matter will be heard and may even decide on a summary trial in the High Court.

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.

Areas of legislation

Sexual offences

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

The Intersectoral Committee for the Management of Sexual Offence Matters is a monitoring framework overseen by the most senior

Deputy Minister of Justice and Constitutional Development, Mr Andries Nel, represented the South African Government in a meeting of ministers of justice/attorneys-general in Addis Ababa, Ethiopia, on 14 and 15 May 2012.

South Africa joined other member states of the African Union in a meeting to discuss, among other things, the following topics:

- the draft Statute of the African Court of Justice and Human and People's Rights
- the draft Protocol to the Constitutive Act of the African Union Relating to the Pan African Parliament
- the draft model national legislation on universal jurisdiction the progress report of the Commission on the implementation of Assembly decision on the International Criminal Court.

government officials. The purpose of the structure is to eradicate the fragmented nature of service delivery.

The functions of this committee are to develop the National Policy Framework (NPF).

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.

In the past financial year, the Minister tabled the Sexual Offences National Policy Framework in Parliament. However, the gazetting of the NPF had to be stalled to allow the re-opening of the consultative process to include additional inputs from non-governmental organisations (NGOs) and other departments that were co-opted as additional members of the Directors-General Intersectoral Committee on the Management of Sexual Offences. The amended policy framework was to be presented to the Interministerial Committee by the end of June 2012 before it being re-tabled in Parliament.

In showing commitment to the capacitation of specialised services in sexual offences, the department commits funds to the progressive procurement of audio-visual court equipment and the establishment of witness testifying rooms every year.

In 2011/12, 335 closed-circuit television cameras, 49 one-way mirrors, 225 child witness testifying rooms and 195 anatomically correct dolls had been supplied. These dolls were a single purchase made last year to assist child witnesses of sexual offences to testify in court with the demonstrative expression of their personal experiences using the dolls.

National Register for Sex Offenders

The number of registered names of sex offenders on the National Register for Sex Offenders increased from 978 in 2010/11 to 2 340 in 2011/12. This figure clearly indicates a progressive increase in the registration of offenders.

In 2011/12, the Registrar received 39 684 purified names of historical convictions from the SAPS. This was the very first submission of historical convictions made to the Registrar, and is therefore considered to be a huge breakthrough in the registration of this data. Unfortunately, data from other sources that had been identified was not received. The historical data will be purified and captured to be used for vetting purposes and for the issuing of clearance certificates.

Maintenance

The main objective of the Maintenance Act, 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 in 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 that 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 was developed to improve the services of maintenance by introducing new systems for the next five years.

Maintenance Turnaround Strategy: Project Kha Ri Unde

The department initiated Project Kha Ri Unde in 2010/11 as one of the subprojects of the Maintenance Turnaround Strategy. This is a three-year project aimed at reducing the turnaround times in service delivery from the entry point into the maintenance system up to the issuing of a maintenance order.

The following achievements were attained in 2011/12:

- One pilot court was identified in each province, namely KwaMhlanga (Mpumalanga), Thohoyandou (Limpopo), Umlazi (KwaZulu-Natal), Johannesburg Family Court (Gauteng), Phillipi (Western Cape), East London (Eastern Cape), Moretele (North West), Kimberley (Northern Cape) and Botshabelo (Free State).
- Physical resources at pilot courts were addressed and improved through the procurement of office furniture, computers, scanners and partitioning to ensure a sequential workflow in the maintenance value chain. The re-arrangement of offices and service points was effected mainly to ensure that all services are located in one area in an endeavour to be time-efficient in service delivery, especially when clients are referred from one point to another.
- The National Family Law Signage System was introduced at two pilot courts (KwaMhlanga and the Johannesburg Family Court) to help guide members of the public through the court building.
- Mediation services were introduced in the

maintenance value chain to ensure the speedy finalisation of cases.

- The Lean Process Management System was introduced at Moretele Magistrate's Court. This system is intended to identify all the steps in the maintenance value stream for each service point, eliminate steps that do not create value so as to ensure speedy services, make the value-creating steps occur in tight sequence to ensure the smooth flow of services towards the client, and ensure that the value is specified from the client's perspective. This process is primarily aimed at eliminating waste and delays, while creating a client-centred approach to maintenance service delivery. The Lean Management System will be rolled out to the remaining pilot sites in 2012/13.

Child protection and justice

The Child Justice Act, 2008 envisages the establishment of one-stop centres to streamline the process from arrest to the formal court process. The plan is to include all services, includes holding cells, assessment rooms, police services, probation services and a courtroom in one building so that parents and children will not need to travel. The Directors-General Intersectoral Committee on Child Justice recommended the establishment of one-stop child justice centres at the Matlosana Secure Care Centre in Klerksdorp and the Khayaletumba Centre in Buffalo City, Eastern Cape. The designation was not finalised during the period under review due to delays in the concurrence process.

In 2011/12, the department trained 190 child justice clerks. Three preliminary inquiries' workshops for the judiciary were also held to build and strengthen the judicial knowledge of the Child Justice Act, 2008.

At the last workshop, the Standard Form and the Uniform Procedure for Conducting Preliminary Inquiries were drafted and finalised for the approval of the Magistrates Commission. In addition, 306 intersectoral stakeholders were trained on the Child Justice Act, 2008 in various regions.

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.

In 2009/10, the department finalised a review of the implementation of the Domestic Violence Act, 1998 in courts; and submitted the findings to the Justice, Crime Prevention and Security (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.

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 for 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

Indicator	Annual target	Annual performance
Anti-corruption, fraud and dishonesty	190	156
Maintenance (all staff)	510	293
Sexual offences training	680	461
Domestic violence training	360	227
Child law training	545	532
Service excellence	735	612
Foundational management	270	333
Quasi-judicial services	2698	2355
Master's training	60	582

includes the development of a safety tool and intersectoral statistical tool by the NPA and the Department of Justice and Constitutional Development.

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 criminal justice system 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.

The Protection from Harassment Act, 2011 (Act 17 of 2011) is the first specific legislation to address sexual harassment in the Southern African Development Community (SADC) region. The essence of the Act is to provide a quick, easy and affordable civil remedy in the form of a protection order for incidences of stalking. It expands on the harm caused to include not only physical harm but also mental, psychological and economic harm.

The legislation arose out of a SALRC investigation into the legal framework governing

stalking and domestic violence. The commission recommended that the law on stalking had to be tightened up. A key component of the Act is that it seeks to cover all forms of stalking, not just that involving people engaged in a relationship.

A protection order can now be issued instructing the harasser to cease harassment. If the harasser contravenes this order, he or she will be guilty of an offence.

The Act sets out how a complainant is to apply for a protection order and the procedure to be followed in granting one. The legislation also provides for the issuing of an interim protection order without the knowledge of the respondent, given certain conditions.

A warrant of arrest will be issued for the harasser when an interim or final protection order is granted. This warrant will only be enforced if the respondent does not comply with a condition of the order.

A victim of cyberstalking can apply to a court for an interim protection order even when the identity of the alleged stalker is unknown.

The law will also empower the police to investigate a stalker to identify the perpetrator even before a victim launches an application for a protection order.

Human trafficking

The department developed the draft National Policy Framework on Trafficking in Persons, in conjunction with the JCPS Cluster departments, in 2011/12.

To ensure a structured, coordinated and victim-centred service system, the department, in consultation with the JCPS Cluster departments, developed and printed National Guidelines for Frontliner Staff on Human Trafficking.

These guidelines are intended to guide the intersectoral management of trafficking in persons cases, and will be launched in 2012/13.

The Prevention and Combatting of Trafficking in Persons Bill gives effect to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (the Palermo Protocol). It focuses, among others, on the prosecution

of people involved in human trafficking and provides for appropriate penalties. It also puts measures in place for protecting trafficking victims and providing them with assistance.

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.

In 2011/12, the department established 23 additional small claims courts, which enabled people to institute a civil claim to the value of R12 000 without the need for legal representation; and the proclaimed three courts (Mamelodi, Ntuzuma and Northam) as full-service courts to handle a wider range of cases, such as civil family matters.

In addition, the Extension of the Civil Jurisdiction Act, promulgated in 2010, made it possible for civil matters (such as divorce), which could only be heard at high courts, to be dealt with in one of the 62 regional courts. An analysis of the effectiveness of this effort is underway through the Civil Justice Review Project.

Transforming the judiciary

The transformation of the judiciary remains one of government's key priorities. Through the efforts of the Judicial Service Commission, by mid-2012, of the 233 permanent judges appointed to superior courts across the country, 65 were women – 25 were black, eight coloured, 12 Indian and 20 were white.

Significant strides have been regarding 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.

The departmental *Employment Equity Report* indicated that by the end of March 2012, 38% of senior management service members was female, against the prescribed target of 50%. In terms of people with disabilities, only 1,29% of the staff fell in this category, as opposed to the prescribed 2%.

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

- 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
- Judicial Service Commission Amendment Act, 2008 (Act 20 of 2008), which establishes internal systems for judicial accountability
- Child Justice Act, 2008, which establishes a criminal justice system for children who are in conflict with the law.

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, thus making justice more accessible and more affordable.

State Legal Services

The purpose of this programme is to provide legal and legislative services to government, supervise the administration of deceased and insolvent estates and the Guardian's Fund,

prepare and promote legislation and undertake research in support of this.

This programme is mainly aimed at transforming justice, the state and society. It deals with the following functions:

- constitutional development
- legislative development (including conducting legal research)
- the provision of legal advisory services to other organs of state (including Parliament)
- providing litigation services to protect the organs of state
- the provision of probate services
- administration of the Guardian's Fund
- regulation of insolvency and liquidation systems.

The State Legal Services Programme's objectives include:

- improving service delivery at the Master's Office service points
- increasing efficiency in the provision of services to beneficiaries of the Guardian's Fund, trusts, and insolvent and deceased estates
- promoting constitutional development and the strengthening of participatory democracy to ensure respect for fundamental human rights
- improving the provision of legal services to state organs
- improving the policy and legislative framework for the effective and efficient delivery of justice services.

The State Legal Services Programme is divided into the following subprogrammes:

- Legislative Development, the Law Reform Commission and the Rules Boards for Courts of Law prepare and promote legislation, conduct research and administer the Constitution.
- The Master of the High Court funds the Masters' offices, which supervise the administration of deceased and insolvent estates, trusts, curatorships and the Guardian's Fund.
- Litigation and Legal Services provides attorney, conveyance and notary public services to the executive, all state departments,

parastatals and other government bodies through the Office of the State Attorney, and provides legal support to the department and the ministry.

- State Law Advisers provides legal advisory services to the executive, all state departments, parastatals and autonomous government bodies.

Master of the High Court

The Master of the High Court serves the public in respect of:

- deceased estates
- liquidations (insolvent estates)
- registration of trust's, tutor's and curator's administration of the Guardian's Fund (minors and mentally challenged persons).

The Master's Office has five main divisions, which are all aimed at protecting the financial interests of people whose assets or interests are, for various reasons, being managed by others.

As part of the turnaround strategy in the Master's Office, special focus has been placed on training frontline officials. The Master's Office is currently also investigating methods to deliver a more efficient and effective service to the public through the Internet.

Justice College

The Justice College is a training branch of the Department of Justice and Constitutional Development. It has a range of training interventions that target magistrates, prosecutors, masters of the High Court, family advocates, court interpreters, legislative drafters, registrars of the High Court, clerks of the court, court and area court managers, management and administration personnel and other legal professionals.

The Justice College was accredited as a learning institution in 2009. The purpose of accrediting the Justice College is to convert and/or align its training material to existing or new unit standards pitched at the appropriate National Qualification Framework levels.

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.

In certain instances, the Family Advocate also assists the courts in matters involving domestic violence and maintenance.

The sections of the Children's Act, 2005 that 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)

The TRC was dissolved in March 2002 by way of proclamation in the *Government Gazette*. The TRC made recommendations to government regarding reparations to victims and measures to prevent the future violation of human rights and abuses experienced during the apartheid years. Four categories of recommendations were approved by government in June 2003 for implementation, namely:

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

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 unit works closely with the President's Fund Office, which is located in the Office of the Chief Financial Officer.

Since the end of April 2011 (at which point 875 beneficiaries remained to be traced and paid), the department has renewed its efforts to trace the outstanding beneficiaries. The database of the South African Social Security Agency, as well as physical searches, coordinated by the regional offices, was used for this purpose.

The department also embarked on an advertising campaign in the *Daily Sun*, *Isolezwe*, *Cape Argus* and *The Star* newspapers. In addition, tracing outstanding beneficiaries was included as a feature on the *Final Verdict* television series and aired on SABC 2.

A number of initiatives have been embarked on throughout the years to trace the outstanding beneficiaries. These included door-to-door searches conducted by the regional structures of the Government Communication and Information System and enlisting the services of a professional tracing agency.

The TRC identified 21 769 people as victims of human-rights violations. Of the 875 outstanding beneficiaries at the end of April 2011, 435 living beneficiaries or their rightful next-of-kin in the case of deceased beneficiaries were paid by May 2012. Some 219 payments were made to living beneficiaries and 216 were made to the rightful next-of-kin of deceased beneficiaries.

This contributed to about 16 837 beneficiaries being traced and an amount of R541 million being cumulatively paid from the President's Fund. This means that 440 of the 16 837 beneficiaries who applied and were approved for reparation remain to be paid.

Child justice

Children's Act, 2005

The Department of Social Development is the lead department for the implementation

of the Children's Act, 2005. The Department of Justice and Constitutional Development's main responsibility is towards children's court operations relating to the Act.

As the Children's Act, 2005 emphasises the effective implementation by all organs of state in an integrated, coordinated and uniform manner, the Members of the Implementation of the Children's Act, 2005 Working Group was established in 2010 to address challenges the department faced in implementing the Children's Act, 2005. Two meetings in the latter part of 2010 brought about the creation of the Children's Act, 2005 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 developed a child-friendly "Frequently Asked Questions" (FAQ) link on its website. The FAQ serves as a resource point for the public and will be updated frequently. The FAQ also includes links to the websites of the Department of Social Development's and the South African Social Security Agency. In addition, the department created an email 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 Child Justice Act, 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 was established to give strategic direction in the cluster implementation of the Act. The National Operational Intersectoral Child Justice Committee was established to give technical support to the Directors-General Intersectoral Child Justice Committee.

Nine provincial child justice forums are coordinating 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 criminal justice system are in place to try and 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 social 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.

In 2011/12, 10 600 cases were converted to alternative dispute resolutions, against a target of 7 600. Where restorative justice has been found to be effective, such as child justice, the department will continue to hold dialogue and share experiences. In the period under review, a workshop was held with traditional leaders, as well as a national conference on restorative justice, to grow awareness and share best practice on diversion programmes and restorative justice.

Court performance

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

- developing and monitoring processes and systems
- introducing case-flow management 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.

The Directorate: Court Efficiency's key priorities include:

- facilitating integrated case-flow management with stakeholders
- supporting the implementation of the Re Aga Boswa (meaning "We are renewing") and Court Capacitation projects
- facilitating the implementation of multi-lingualism in courts and developing indi-genous 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 in the development of IT tools and systems, and supporting initiatives for the effective management of court records.

The directorate assists in court capacitation initiatives, namely:

- the 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 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.

The number of criminal court cases finalised by all courts in 2011/12, namely 448 760, is slightly down from 460 891 in 2010/11. However, the average conviction rate in South African courts for 2011/12 remains high and has increased from 88,3% in 2010/11 to 88,8% in the past financial year.

Integrated Case-Flow Management Framework

The Department of Justice and Constitutional Development is developing an enhanced version of the case-flow management 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 case-flow management 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 case-flow management at all courts
- establishing judicial leadership and case-flow management buy-in processes in the lower and higher courts in the form of case-flow management forums
- facilitating and monitoring the creation of case-flow management governance structures to sustain productivity in the courts' environment
- maintaining the case-flow management concept (guidelines, plans, governance, reporting and systems).

Systems that support case-flow management 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 masters and designated lower courts
- ICMS Masters has been introduced in all 14 Masters' offices and all 402 service points.

In November 2012, the Brandvlei Youth Correctional Centre in the Western Cape was awarded second place at the finals of the 2012 Centre for Public Service Innovation Annual Public Sector Innovation Awards.

The centre's radio project, which seeks to develop offenders' life and technical skills, was a finalist in the category for Innovative Use of Information Communication Technology for Effective Service Delivery.

The project, dubbed Basic Radio, competed with 11 other government departments.

The further development of the ICMS Masters System is in progress. This aims to create a Paperless Estate Administration System for the Master's Office. The first two modules regarding the administration of deceased estates were finalised in 2011/12 and have been tested in the Pretoria Master of the High Court Office and Atteridgeville Magistrate's Court. The successful implementation of the Paperless Estate Administration System will relieve work pressure on Master of the High Court officials, and also curb the possibility of fraud and documents getting lost.

This system will computerise the administration process in deceased estates, as all documentation will be scanned and stored electronically. Interested parties will be able to view all relevant information at any given time on the Master of the High Court's portal, available on the website.

Case-flow workshops

Sixteen civil case-flow management workshops were held for the regional court divisions, targeting both regional court magistrates and administration support personnel. Some 280 regional court magistrates, as well as 322 clerks of civil courts, registrars and assistant registrars, were capacitated through these workshops.

The workshops dealt with the impact of civil jurisdiction on case-flow management in the regional courts, and empowered the participants to manage court and case-flow management.

Audio-Visual Remand System

The Video Remand Solution has been implemented at 47 courts and 22 correctional facilities. In 2011/12, 4 061 cases were remanded through the Audio-Visual Remand System. The development in this area of support to case flow management for the courts has brought about a significant improvement in the movement of cases through the use of technology.

Case-Reduction Backlog Project

The JCPS Cluster departments have introduced the case backlog reduction intervention, which is aimed at reducing the number of backlog cases in the regional and district courts, providing additional capacity to the backlog priority sites. The aim of the backlog intervention is to ensure that the inflow of the number of new cases is balanced by the number of matters concluded. The project deliverables have been integrated into the outputs of the JCPS Cluster Delivery Agreement.

In 2011/12, the number of cases on the backlog decreased to 34 926. From the inception of the backlog reduction intervention in November 2006 until the end of March 2012, 59 232 criminal cases were removed from the regional and district court rolls and processed by these additional backlog courts.

The department provided resources in the form of infrastructure, court personnel, the judiciary, magistrates and budget in support of the prosecution and judiciary to remove these cases off the backlog roll.

Victim Empowerment Programme (VEP)

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 criminal justice system among NGOs and CBOs, in line with Outcome 3 of the National Negotiated Service Delivery Agreement, namely that all people in South Africa are and feel safe.

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.

Integrated Justice System

The Integrated Justice System 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 Cluster 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.

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 within the 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).

In 2011/12, the Directorate: International Legal Relations (Africa and South) received 131 requests for extradition and mutual legal assistance in criminal matters. Of these requests, 32 had to be returned to the respective states, as the requests did not comply with South Africa's domestic law. Some 99 valid requests were processed and channelled to the NPA and/or Interpol for execution.

Owing to the number of departments and/or institutions involved in the execution of extra-

dition and mutual legal assistance requests, and taking into consideration that diplomatic channels are followed to transmit documents, delays are experienced from time to time.

Provisions are, however, now included in extradition and mutual legal assistance agreements to provide for direct communication between central authorities. The department is also in consultation with embassies to provide foreign states with a clear indication of the requirements of extradition and mutual legal assistance requests in an attempt to reduce the number of invalid requests received.

The drastic reduction in the turnaround time for the processing of these requests should be a clear indication to the rest of the world that South Africa will neither be a safe haven for fugitives nor a breeding ground for transnational organised crime.

International Criminal Court (ICC)

South Africa 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 people accused of having committed crimes in South Africa and beyond the borders of the country in certain circumstances
- deal with the arrest of certain people 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.

Department of Correctional Services

The Department of Correctional Services strives 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 people subject to community corrections.

The department is further committed to contribute to reduce re-offending through offender management and rehabilitation intervention as well as to add to social re-integration of offenders through management of non-custodial sentences and parole.

Legislation and policies

The department is compelled by the Constitution to comply with the following rights in terms of the treatment of offenders:

- equality
- human dignity
- freedom and security of the person
- right to healthcare services
- children's rights
- right to education
- freedom of religion
- rights to humane treatment and to communicate and be visited by family and next of kin.

The department is further mandated by the following legislation: Correctional Services Act, 1998 (Act 111 of 1998); Correctional Services Amendment Act, 2008 (Act 25 of 2008); and Criminal Procedure Act (CPA), 1977 (Act 51 of 1977).

Section 63A, Chapter 28 and Section 299A of the Criminal Procedure Act, 1977 are of particular importance to the department.

Section 63A of the CPA, 1977 provides for a procedure in terms of which the court may, on application by a head of a correctional centre and if not opposed by the Director of Public

Prosecutions concerned, order the release of certain accused on warning in lieu of bail or order the amendment of the bail conditions imposed by that court on the accused.

Section 63A also forms the basis of a protocol between JCPS Cluster departments to encourage the use of this provision to assist accused who do not pose a danger to society to be released from detention in circumstances where the bail set by the court cannot be afforded by the accused or his or her family.

Chapter 28 of the CPA, 1977 deals with sentencing and the entire chapter is applicable to the department's mandate. Offenders must be detained in accordance with the sentences handed down under this chapter.

The granting of parole and the conversion of sentences to correctional supervision is also done in accordance with this chapter, read together with the Correctional Services Act, 1998.

Section 299A of the CPA, 1977 regulates victim involvement in the decisions of parole boards.

In 2012, the Correctional Matters Amendment Act, 2011 (Act 5 of 2011) was tabled in Parliament.

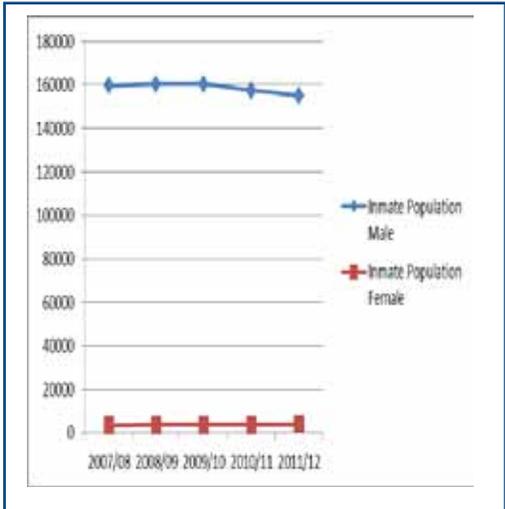
Role players

Portfolio Committee on Corrections

Both houses of South Africa's Parliament, the National Assembly and the National Council of Provinces, do much of their work through committees made up of members from all parties.

The committee system enables work to be done efficiently, allows greater time for debate, increases participation of members of Parliament and provides a forum for direct presentation of public views.

The role and mandate of Portfolio Committees are to facilitate public participation, promote cooperative government, exercise oversight on the Executive, state departments and bodies they are responsible for, and on international relations as well as pass legislation. The Department of Correctional Services has a similar body and it keeps the department



in check with regard to the humane treatment of offenders and the fair labour practice for its workforce, among other pressing matters.

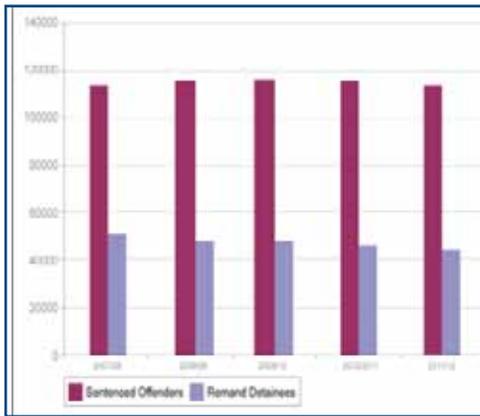
National Council for Correctional Services

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

Judicial Inspectorate of Correctional Services

The Judicial Inspectorate of Correctional Services 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 Judicial Inspectorate of Correctional Services is an independent office.



Medical Parole Advisory Board

A newly established Medical Parole Advisory Board was appointed on 23 February 2012 to look into all seriously and terminally ill inmates who have submitted reports requesting to be released on medical grounds. The Medical Parole Advisory Board was established with a view to strengthen the general policy on parole and correctional supervision. The Correctional Matters Amendment Act, 2011 provides for a new medical parole policy and correctional supervision. It lays the legislative basis for management of remand detainees and regulates detention in police cells by stipulating that no inmate may be detained in police cells for a period exceeding seven days.

Correctional Supervision and Parole Board

The Correctional Supervision and Parole Board is responsible for dealing with parole of non-lifers and supervision matters. There are 53 correctional supervision and parole boards countrywide. These boards are composed of a chairperson and vice-chairperson (appointed by the Minister), a correctional official and two additional community members. The boards have the authority to make decisions on parole except in the following cases:

- decisions regarding the placement of offenders who have been declared dangerous criminals in terms of Section 286A of the CPA, 1977 are referred back to court for a decision

- offenders who were sentenced to life imprisonment are referred to the Minister of Correctional Services for a decision
- recommendations regarding the conversion of a sentence that was imposed in terms of Section 276 A(3) of the CPA, 1977 into correctional supervision are referred to a court for a decision

Programmes and projects

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 visits to offenders to support family ties between offenders and their families.

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 through the annual National Corrections Excellence Awards

The Department of Correctional Services was also part of the development of the *Training Manual on Innovation* at the Public Administration Leadership and Management Academy, in collaboration with the Centre for Public Service Innovation.

The Gallows Memorial

The Gallows Memorialisation Project at the Pretoria Central Prison was initiated to honour those political prisoners who were hanged and serve as a reminder to future generations not to take their freedom for granted.

It comprises a memorial and a museum, which includes the death row block housing the gallows where an estimated 130 political prisoners were hanged between 1961 and

1989. As part of the museum, the chapel at the gallows was renamed the Steve Biko chapel, in memory of all those who died in detention. There is also a garden of remembrance. A roll of honour with the names of all the political prisoners can be seen at the entrance to the gallows.

Special remission of sentences

On 27 April 2012, the State President granted a special remission of sentence to certain categories of offenders, parolees and probationers as part of the celebration of Freedom Day.

The remission of sentence in question was undertaken over a 10-week period from 30 April 2012 until 6 July 2012. In the 10-week period, 19 695 offenders were released from correctional centres, of which 9 387 were conditional (serving non-custodial sentences) (48%) and 10 308 (52%) unconditional (sentences expired). Some 25 338 probationers and parolees were released unconditionally from community correctional centres within weeks one to three when the release process was finalised. The number of actual releases is 4 483 (21%).

The application of the Special Remission of Sentence 2012 had an impact on case loads at community correctional centres. The average caseload of 68 652 probationers/parolees in March 2012 decreased by 22 551 (33%) to 46 101 on 13 May 2012, when the release of offenders on special remission of sentence from correctional centres ended. From May 2012, the case load increased by 7 044 (15%) to 53 145 in July 2012, as a result of the admission of offenders from correctional centres into the system of community corrections. The case load in July 2012 stood at 15 507 (23%), lower than the average recorded in March 2012.

The number of sentenced offenders decreased by 12 436 (11%) from 114 038 in April 2012 to 101 602 in July 2012. The number of inmates decreased by 14 563 (9%) from 160 251 in April 2012, to 145 688 in July 2012 (influenced by the number of admissions [remand detainees and sentenced offenders] at correctional centres). The average popula-

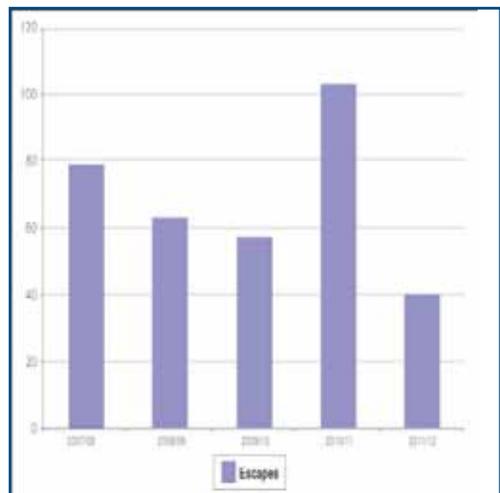
tion rate decreased by 12,33% (from 135,63% on 30 April to 123,30% by July 2012).

Against 45 033 offenders/probationers/parolees that were released, 101 had re-offended. At least 22 of the alleged re-offending group have been sentenced (all committed economic crimes).

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 in 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 and 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.



The Department of Correctional Services announced that from April 2013, it would be compulsory for every inmate to complete Adult Basic Education and Training levels 1 to 4. This forms part of the department's view that key to rehabilitation is empowering offenders with skills to function effectively in society upon their release, and to ensure that offenders are actively involved in productive activity while they serve their sentences.

During the past six years, correctional centre schools have been achieving an above 90% average matric pass rate. Currently, 991 offenders are studying towards post-matric or higher education and training qualifications, 4 042 towards Further Education and Training college programmes (including electrical engineering, civil engineering, mechanical engineering and marketing) and 3 853 towards skills development programmes (including basic business skills training and entrepreneurship).

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 re-integration.

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 offender population. There are 13 dedicated youth facilities nationally, but for years there was only one full-time school doing the National Curriculum Statement 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 National Curriculum Statement Programme were launched in the Voorberg,

St Albans and Kuthama Senthumule correctional centres.

Mother and baby units

The mother and baby units are separate cells built for mothers incarcerated with babies in correctional centres to allow the child as close to normal an existence as possible.

The Department of Correctional Services launched two mother and baby units 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 established in Gauteng and the Eastern Cape in 2012. The vision is to develop and design child-focused and child-friendly units across the department's six regions.

The idea is to allow children as close to normal an existence as possible even if this is under the conditions of incarceration of the mother, while at the same time providing rehabilitation programmes in a centre that enhances their capacity to care for their children.

These facilities were also launched in response to the Child Justice Act, 2008. The Act created an imperative for the department to treat children incarcerated with their mothers in a humane manner. It called for a revisit to the department's programmes, particularly those designed for women with children. These ideals resulted in the mother and baby units. The facilities cater for children up to two years, after which they are released to a legal guardian chosen or recommended by the mother.

The department, through its Imbeleko Project, facilitates a soft landing for children older than two years whose mothers do not have proper family structures. It also has accredited childcare facilities to which some of these children are released.

Imbeleko Project

The Imbeleko Project places children of two years of age and above within sustainable family structures outside correctional facilities. The objectives of the project are aligned with those of the UN Convention on the Rights of the

Child and the Child Justice Act, 2008. The first phase of the Imbeleko Project was rolled out across all regions. This entailed the creation of a safe, humane and friendly environment for mother-child interaction.

The implementation of the first phase created an opportunity for the department to create partnerships with other stakeholders in working together. It focused on what happens to a child released from a child-friendly mother and baby unit after reaching the limited two years.

It also creates a harmonious environment between social workers from the welfare department and those from the department to continuously track the progress of the child who has to maintain contact with the mother through the foster parents.

It calls for a continuous interaction among the baby, mother and the foster parent well before the child is given away. This also calls for the department to review its visitation policies to allow the new foster parent enough time to build trust with the mother as well as to develop a bond with the baby in question.

Halfway House Pilot Project

The halfway houses offer an opportunity to offenders who meet all the requirements to be placed on parole but do not have fixed addresses that can be monitored to which they can return to in communities. Halfway houses reduce such offenders' potential to re-offend because they are given a second chance to experience a home-like environment. A halfway house is considered as the final part of an offender's rehabilitation process. The first pilot project was officially launched with seven young parolees aged between 18 and 25 in February 2012, in Naturena, Soweto. It was named Victory House.

The halfway house programme will be rolled out to all the department's six regions. The regions would be required to budget for the halfway houses within their respective regions. This will be informed by the successful evaluation of the pilot halfway house as it will provide critical input.

Sanitary Dignitary Project

The Department of Correctional Services launched a pilot project to establish low-volume sanitary napkin manufacturing to enhance self-sufficiency. From the onset it was evident that information from local suppliers on the manufacture of sanitary napkins was scarce and closely guarded by the market stakeholders.

After intensive research, the department managed to procure machinery for the Eastern Cape region to kickstart the project. The name of the project is Letshadi Boitumiso ("female pride").

The project was piloted at East London Medium C Female Centre. A suitable site inside the centre was identified and upgraded and machinery was installed. The necessary application to the SABS for approval was done and the SABS manual was received to manufacture sanitary napkins according to SABS specifications.

In 2012, 10 maximum security offenders underwent training and participated in the project, along with three officials. The department finalised the process of re-categorising rehabilitation programmes, which resulted in 30 development programmes, 26 correctional programmes and two care programmes.

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 the 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.

Electronic monitoring

In an effort to deal with overcrowding at correctional facilities and to minimise the possibility of violation of parole conditions, a pilot project on the electronic monitoring of parolees and probationers was implemented in February 2012. The pilot involved 150 parolees, including 70 lifers who were on parole.

The project is meant to ensure that certain categories of offenders serve their sentences in the community to alleviate overcrowding in correctional facilities.

The electronic monitoring of parolees and probationers will also alleviate challenges of parolees absconding from the system of community corrections while also reducing the risk of recidivism. This system will reduce the workload for guarding, enhance effective use of correctional supervision, promote the confidence of various partners and the public for the effective utilisation of alternative sentencing options, and address the challenges of overcrowding.

Automated Fingerprint and Identity System (Afis)

The Department of Correctional Services 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.

In 2012, it was decided that it was not feasible to use the Department of Home Affairs’ Afis database, as offenders do not necessarily provide the Department of Correctional Services with their identity numbers upon admission. Trying to match a fingerprint on the database without an ID number would, therefore, result in a full scan of more than 50 million records stored in the database. As a result, the department’s Automated Personal Identity System, which was developed through the Inmate Tracking Project, was implemented at 32 correctional centres and 99 community correc-

tions offices. This will eventually interface with the Department of Home Affairs’ database to verify the identity of offenders.

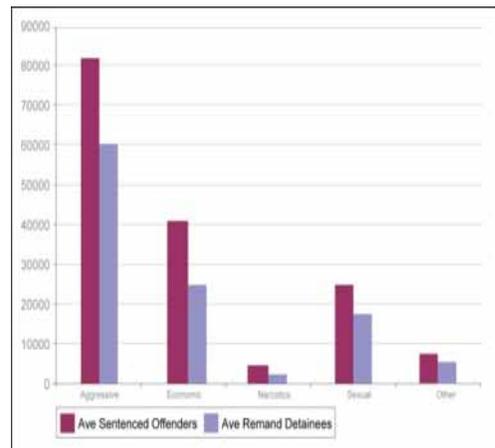
Operational structure of correctional facilities

Inmates profile and statistics

For 2011/12, the inmate population was on average 158 790. Since 2009/10, there has been a slight decrease annually in the male inmate population: from 160 280 in 2009/10 to 157 345 in 2010/11 to 155 032 in 2011/12. Conversely, there was a slight increase in the female inmate population, from 3 562 in 2010/11 to 3 758 in 2011/12.

The average number of sentenced offenders in 2011/12 was 112 748, while remand detainees numbered 46 062. Between 2007/08 and 2009/10 there was an increase of 2 432 in the sentenced offender population, a growth of 0,71%. In the same period, there was a decrease of 1 424 in the remand detainee population, a decrease of 0,97%.

Compared to 2010/11, 2011/12 saw a decrease of 2 716 in the sentenced offender population, a decrease of 1,2%. In the same period, the downward trend regarding remand detainees continued with 2 363, a decrease of 1,7%. Compared to the 2010/11 financial year, there was thus a decrease of 2,9% in the inmate population.



However, at the same time for that period there was an increase of 1 756 offenders sentenced to life imprisonment, an increase of 8,3%. Thus, while the inmate population has decreased with 2,9% since 2010/11, only the category of inmates sentenced to life imprisonment increased.

Some 729 sentenced child offenders were admitted and 564 children were released in 2011/12. This is 165 fewer releases than admissions. After considering the admissions and releases, there were 740 sentenced children in the department's facilities by the end of March 2012.

Parole boards

The interim case management committees structures were established in all centres in accordance with Section 42 of the Correctional Services Act, 1998.

In March 2012, the Minister of Correctional Services held a national work session for correctional supervision and parole boards and case management committees in Pretoria Management Area to improve their functioning.

The Incarceration Framework was replaced through the Correctional Matters Amendment Act, 2011. In addition, the Medical Parole System has been included in the regulatory framework and operationalised.

In 2011/12, 175 members of parole boards and case management committees attended a one-week training session and another 185 attended a follow-up session of two days. By the end of 2012, 53 parole boards have been approved.

In 2011/12, 76,1% parolees did not violate their parole conditions, while the number of victims who made representations at parole sittings increased from 253 in 2010/11 to 684 in 2011/12.

Prison capacity and overcrowding

In March 2012, there were 243 correctional facilities with an approved bed capacity of 118 441 in the department. In the course of the year some of these were temporarily closed either as the centre or as a section, resulting

in an available bed space for the financial year of 118 154.

Of the 243 correctional centres, there were 156 centres with a bed capacity of up to 500 beds, with a combined capacity of 27 837 beds.

Of these, 112 correctional centres had a bed capacity less than 250, which represents 13 214 approved bed spaces; and 44 centres had a bed capacity of 250 to 500 beds, which represented 14 626 approved bed spaces.

There were 61 centres in the capacity group 500 to 1 000 beds, with a combined capacity of 42 502 beds; and 11 centres with a capacity of 1 000 to 1 500, which accounted for an approved bed space of 13 705. Lastly, there were 15 centres (13 plus two private prisons) with a capacity of over 1 500 beds, which represented 34 397 approved bed spaces.

Overcrowding in correctional centres continues to pose a challenge, affecting how the department functions and influencing its service delivery.

The department succeeded in keeping the level of overcrowding within the target of 36% for the 2011/12 financial year, at 35,95%.

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 with a view to reduce overcrowding.

The department conducted an analysis of cost and resource efficiency of the various size correctional centres, as well as benchmark research. The resulting recommendations were that the optimal size for correctional centres is a capacity for 1 371 beds. Going forward, infrastructure planning will be informed by a strategy to optimise the size of facilities. To this end the Department is considering two models for ideal size of facilities.

- Model 1: Correctional centres should in principle not cater for a capacity less than 500 inmates.
 - Model 2: Correctional centres should ideally cater for between 1 000 and 1 500 inmates.
- In 2011/12, the Brandvlei Correctional Centre Project was completed, resulting in an additional 346 bed spaces.

Escapes

In relation to mitigation of security risk, the focus is on ensuring that violence and escapes are reduced to facilitate the rehabilitation of inmates. Escapes have been down-managed from 106 in 2010/11 to 41 in 2011/12.

This down-management of escapes in 2011/12 is a continuation of the trend that existed before the mass escape episode in 2010/11, which distorted the good work the department has done regarding the down-management of escapes.

Remand detention

The department has showed improvement in the following areas: reduction of escapes, reduction of overcrowding and improved conditions of detention, offender involvement in correctional programmes and the finalisation of the review of medical parole legislation and regulations.

There has also been significant progress with establishing a Remand Detention System to the extent that the position for Chief Deputy Commissioner: Remand Detention was filled with effect from 1 June 2012.

The Minister of Correctional Services gazetted the establishment of 26 remand detention facilities countrywide and another 109 correctional centres, which are authorised to accommodate remand detainees in dedicated sections or units and in which the head of centre must determine such section or unit.

Audio-Video Remand intends to fast-track and reduce the transporting of remand detainees going to courts every day. Phase 1 of the project was implemented in 21 correctional centres that are linked to 46 courts in 2011/12.

Review of the criminal justice system

The involvement of the department in the review of the criminal justice system has resulted in the development of two draft protocols among all the JCPS Cluster role players to enable the department to put into operation sections 49E and 49G of the Correctional Matters Amendment Act, 2011, the draft *Protocol on the Maximum Incarceration Periods for Remand Detainees* and the draft *Protocol on the Referral of Terminally Ill or Severely Incapacitated Remand Detainees to Court*.

An effort has also been undertaken to review the protocol on procedure to be followed in applying Section 63A of the Criminal Procedure Act, 1977, the so-called Bail Protocol, to further the use of this provision, whereby a court could order the release on warning instead of bail or the amendment of bail conditions for accused who have been granted bail but who cannot afford to pay the amount granted and as a result remain in correctional facilities.

The Risk Management Framework was reviewed and approved in 2011/12, to ensure alignment with the Public Sector Risk Management Framework published by National Treasury in April 2010. The 2011/12 Risk Assessment Process, which evaluated and rated the significant risk in the Department, resulted in a refined risk register, and mitigation strategies will focus going forward on the top prioritised risks.

In 2011/12, the Department of Correctional Services reviewed the Logic Model which had been developed in 2006/07 and approved the Refined Logic Model that maps the outcomes that the Department contributes towards achieving the impact that people in South Africa are and feel safe in line with the Strategic Outcome 1.

Development and care of offenders

The 2012 achievement with regard to the number of offenders with correctional sentence plans is 93,9% against the set target of 70%. Participation in Correctional Programmes was recorded at 239%.

The Department of Correctional Services continues to donate products to disadvantaged communities from time to time to help alleviate poverty. From April 2011 to March 2012, inmates at correctional centre farms and abattoirs produced more than 6,3 million litres of milk, 583 000 kg of red meat, 1,7 million kg of pork, 1,1 million kg of chicken, 1,5 million dozen of eggs, nine million kg of vegetables and 652 000 kg of fruit.

In addition to what is already being produced in correctional facilities, the department is liaising with the Department of Basic Education to use offender labour to build schools, and supply furniture to schools.

Some 65% of eligible offenders had access to adult education. Eight instead of the target of six schools have been registered as full-time schools and this will allow more offenders to participate in formal education programmes. The targets for offenders participating in Further Education and Training college programmes and participation in agricultural programmes were also exceeded.

The department identified three facilities to be converted and/or upgraded to special facilities for female offenders at Pretoria, Emthonjeni and East London. Business cases are currently being processed.

Conclusion

The Department of Justice and Constitutional Development will continue to prioritise service delivery in relation to its core functions in different programmes.

As part of this modernisation process, the department will continue to put effort into developing ICMSs and other initiatives in key priority areas, which include improved services in the offices of the masters of the High Court, improved maintenance services, and improved governance and administration towards an unqualified audit.

The department undertook to strengthen the legislative framework in which the justice system operates. In this regard, the Constitution 17th Amendment Act has been finalised and the Superior Courts Bill was approved by the National Assembly. The Legal Practice Bill, on

the other hand, is being considered by Parliament. These endeavours are aimed at consolidating the outstanding aspects relating to judicial reform, and rationalising the courts and the legal profession with a view to establishing a judicial system suited to the requirements of the Constitution.

The department has published a discussion document on the transformation of State Legal Services, and part of this effort includes improved management of litigation against the State.

In the 2013/14 financial year, efforts will be put in place to appoint a Solicitor-General, who will oversee all legal services of the state, and assist in improving the quality of services offered to the State.

The Department of Correctional Services remains committed to place humane and safe detention and rehabilitation at the centre of service delivery. In doing so, the department strives to promote corrections as a societal responsibility, contributing to enhanced public safety and reducing re-offending.

In this regard there is a close link with government's Outcome 3, namely that all people in South Africa should be and feel safe. The strategic focus of the department is situated in four key deliverables, namely

- reducing the average length of time in remand detention
- increasing the number of offenders in rehabilitation programmes
- increasing the number of victims who participate in parole hearings
- increasing the number of parolees without parole violations.

The department is also committed to turning around service delivery. A priority is to gear all its activities to serve a rehabilitation mission that ensures, through delivery of relevant programmes, that the people who leave correctional centres have appropriate attitudes and competencies enabling them to successfully integrate back into society as law-abiding and productive citizens.

Acknowledgements

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Budget Vote, 2011

Department of Correctional Services

Department of Justice and Constitutional Development

Estimates of National Expenditure 2011, published by National Treasury

South African Law Reform Commission

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