

2020-2025 STRATEGIC PLAN MID-TERM PROGRESS REPORT



Our vision is an accessible justice system in a vibrant and evolving constitutional democracy



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA





**ACCESS
TO
JUSTICE
FOR ALL**



CONTENTS

- MINISTER STATEMENT4**
- DEPUTY MINISTER STATEMENT7**
- ACCOUNTING OFFICER/ACCOUNTING STATEMENT9**
- PART A: OUR MANDATE 11**
- PART B: OUR STRATEGIC FOCUS..... 17**
- PART C: MEASURING OUR PERFORMANCE 18**
- 1. IMPACT STATEMENT..... 18**
- 2. PROGRESS ON THE ACHIEVEMENT OF OUTCOMES..... 19**
 - 2.1 *Outcome 1: Modernised and digitized justice service platform: 19*
 - 2.2 *Outcome 2: Improved organisational capabilities and good governance 24*
 - 2.3 *Outcome 3: Improvement awareness of justice services and constitutionalism: 29*
 - 2.4 *Outcome 4: Increased access to justice services 31*
 - 2.5 *Outcome 5: Improved Masters’ services 35*
 - 2.6 *Outcome 6: Colonial/apartheid era justice-related legislation reviewed and replaced: 37*
 - 2.7 *Outcome 7: Transformed state litigation services 46*
 - 2.8 *Outcome 8: Transformed legal profession 50*
 - 2.9 *Outcome 9: Advanced constitutionalism, human rights and the rule of law 52*
 - 2.10 *Outcome 10: Crime and corruption reduced through effective prosecution 59*

LIST OF ABBREVIATIONS/ACRONYMS

| | | | |
|---------------|--|----------------|---|
| ACTT | Anti-Corruption Task Team | DVA | Domestic Violence Amendment Bill |
| AFU | Asset Forfeiture Unit | DWF | Democracy Works Foundation |
| APP | Annual Performance Plan | EC | Eastern Cape |
| AVR | Audio-Visual Remand Solution | EFT | Electronic Funds Transfer |
| B-BBEE | Broad-based Black Economic Empowerment | EME | Exempt Micro Enterprises |
| BCMI | Business Continuity Management Instruction | ERM | Enterprise risk management |
| BEC | Bid Evaluation Committee | EXCO | Executive Management Committee |
| BIA | Business Impact Analysis | FS | Free State |
| BMS | Building Management System | FY | Fiscal Year |
| CAO | Community Advice Officer | GBV | Gender-based violence |
| CAT | Convention Against Torture | GBVF | Gender-based violence and Femicide |
| CAVS | Court Audio Visual Solutions | HC | High Court |
| CCJS | Crime and Criminal Justice Survey | HR | Human resource |
| CCTV | Closed-Circuit Television | HSRC | Human Sciences Research Council |
| CJS | Criminal Justice System | HVAC | Heating Ventilation and Air Conditioning |
| CLO | Chief Litigation Officer | ICERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| COGTA | Department of Corporate Governance and Traditional Affairs | ICERD | International Convention for the Elimination of all Forms of Racial Discrimination |
| CPA | Criminal Procedure Act | ICESCR | International Covenant on Economic Social and Cultural Rights |
| CPED | Convention for the Protection of all persons from Enforced Disappearance | ICSPCA | International Instrument including the Convention on the Suppressing and Punishment of the Crime of Apartheid |
| CRE-WG | Constitutional Rights Education Working Group | ICT | Information and Communications technology |
| CS | Court Service | ID | Investigating Directorate |
| DBE | Department of Basic Education | IJS | Integrated Justice System |
| DCS | Department of Correctional Services | INLF | Intergovernmental National Litigation Forum |
| DDG | Deputy Director-General | IOM | International Organisation for Migration |
| DDM | The District Development Model (DDM), | ISM | Information System Management |
| DG | Director-General | JCPS | Justice, Crime Prevention and Security |
| DHA | Department of Home Affairs | KPI | Key Performance Indicator |
| DOJCD | Department of Justice and Constitutional Development | KZN | Kwa-Zulu Natal |
| DPCI | Directorate for Priority Crime Investigation | LGBTQI+ | Lesbian, Gay, Bisexual, Transgender, Queer and Intersexed |
| DPSA | Department of Public Service and Administration | LMP | Limpopo |
| DPWI | Department of Public Works & Infrastructure | MC | Magistrate Court |
| DR | Disaster Recovery | MOVIT | Masters' Own Verification Technology |
| DSAC | Department of Sport, Arts and Culture | | |
| DSD | Department of Social Development | | |

| | |
|-----------------|--|
| MP | Mpumalanga |
| MTSF | Medium Term Strategic Framework |
| NAP | National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance |
| NDPP | National Director of Public Prosecution |
| NHRCMRFC | National Human Rights Coordinating, Monitoring, Reporting and Follow-up Committee |
| NHRD | National Human Rights Days |
| NOC | National Operations Centre |
| NPA | National Prosecuting Authority |
| NPC | National Planning Commission |
| NPS | National Prosecutions Service |
| NSG | National School of Government |
| NSP | National Strategic Plan |
| NW | North West |
| OCJ | Office of the Chief Justice |
| OCM | Office of Chief Master |
| OCSLA | Office of Chief State Law Advisor |
| ODD | Organisation Development and Design |
| ODG | Office of the Director-General |
| OHS | Occupational Health and Safety |
| OSA | Office of State Attorney |
| OSG | Office of Solicitor General |
| OSHA | Occupational Safety and Health Administration |
| OWP | Office for Witness Protection |
| PAIA | Promotion of Access to Information Act |
| PAIA | Promotion of access to Information Act |
| PDI | Previously disadvantaged individual |
| PEAS | Paperless Estates Administration System |
| PEAS | Paperless Estates Administration System |
| PEC | Public Education and Communication |
| QSE | Qualifying Small Enterprises |
| RCCS | Regional Coordinating Committees |
| RTMC | Road Traffic Management Corporation |
| SA | South Africa |
| SACE | South African Council of Educators |

| | |
|--------------|---|
| SALRS | South African Law Reform Commission |
| SASSA | South African Social Security Agency |
| SCC | State Capture Commission |
| SCCC | Special Commercial Crimes Court |
| SCCU | Specialised Commercial Crime Unit |
| SDIP | Service Delivery Improvement Plan |
| SEIAS | Socio-Economic Impact Assessment System |
| SHERQ | Safety Health Environment Risk & Quality |
| SITA | State Information Technology Agency |
| SMS | Senior Management Service |
| SOCA | Sexual offences and community affairs |
| SOE | State Owned Enterprises |
| TCC | Thuthuzela Care Centre |
| TIP | Trafficking in Person |
| TOR | Terms of Reference |
| UN | United Nations |
| UNHCR | United Nations High Commissioner for Refugees |
| UPR | Universal Periodic Review |
| VHAF | Vaal Heritage Activist Foundation |
| VPN | Virtual Private Network |
| VPS | Virtual Platform Solution |



MINISTER STATEMENT

This midterm review of the 2020-2025 strategic plan cycle is a reflection on the path taken, and it highlights the most significant achievement and challenges faced by the Department during the implementation of strategic plan. The impact of COVID-19, the slowdown in economic growth and rising unemployment, especially among youth, are delaying the advancement of government priorities. Levels of serious and violent crime continue to be unacceptably high, resulting in lower perceptions about the performance of the Criminal Justice System.

Our challenges include persisting negative audit outcomes, dilapidated infrastructure, ICT and budgetary constraints.

To address these challenges in an effort to restore good governance and public confidence in the criminal justice

system, the Department focused on these priorities:

- (a) the development of human capabilities and skills;
- (b) increasing access to justice services through modernisation and digitisation;
- (c) transformation of state legal services;
- (d) Strengthening the fight against fraud and corruption; and
- (e) ensuring that the Specialised Commercial Crime Courts (SCCCs) are capacitated among others.

On a broader scale, this review also appraises our progress on advancing access to justice; ensuring the rule of law and promoting constitutional values.

The main highlight is a significant reduction in the **SMS vacancy rate from 25% to 12.6%** over the period under consideration, in order to improve organisational capacity and good governance. The Department grappled with under performance from 2018/19 to 2019/20 financial years. The capacitation of senior management brought stability and improved performance from 51% in 2019/20 to 79% in 2021/22.

While significant progress had been made with regard to audit qualifications, the contingent liability and performance information remains a challenge. Management continues to put measures in place to address the audit qualifications.

The Department suffered a **ransomware attack** in September 2021, which impacted not only the delivery of existing services enabled by technology, but also its modernization program. The Department was able to restore services within a reasonable timeframe, given the complexity of the matter, with the assistance of relevant government agencies and industry experts. The Department is continuously working to protect its digital assets through the continued detection and monitoring of threats. This includes the implementation

of new security products, based on ongoing security assessments as well as ongoing user awareness and cyber security training.

The Department is in a process to **overhaul the criminal justice system (CJS)** in order to strengthen constitutional democracy. The terms of reference for CJS were developed for South African Law Reform Commission to commence with the review of CJS in the 2021/22 financial year to accelerate the re-enactment of the Criminal Procedure Act. In addition, a proposal paper for the inclusion of the investigation into the review of the Criminal Justice System (CJS) on the South African Law Reform Commission (SALRC) research programme was approved.

Transforming state legal services is one of the key initiatives that will enable the government to build capable state legal services and address organisational challenges within the State Attorney environment, in particular to state litigation contingent liability.

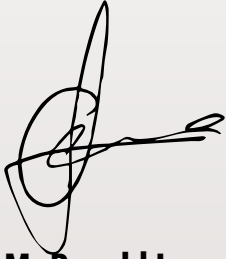
During the period under review, the policy on management on the state litigation contingent liability was finalised in order to manage the escalation of contingent liabilities. Furthermore, the Briefing and Outsourcing of Legal Work and Initiating, Defending, and Opposing of Matters policies were finalised and will be submitted to Cabinet for endorsement during the 2022/23 financial year.

The enhancement of the capacity of the designated **Special Commercial Crimes Courts (SCCCs)** to respond quickly to economic crimes. The indicator established to achieve this requires the establishment of five SCCC be established across five provinces (LMP, NW, MP, EC and FS), with at least one new SCCC being established annually over the MTSF period. To date, eight new SCCC have been established by the end of 2021/22 financial year. The Department continues to build the capacity of established SCCC by ensuring that commercial crimes, particularly corruption cases, are brought to a dedicated SCCC court and dealt with expeditiously.

The Department is working towards strengthening and accelerating the implementation of **the seven-point plan** aimed primarily at modernising the Criminal Justice System (CJS) to make it more efficient and effective. The Department is also focusing on modernisation and digitalisation of the CJS with the objective to electronically enable and integrate the end-to-end criminal justice business processes and manage the related inter-departmental information exchanges across the CJS. Currently, ten government departments/entities are connected to the IJS hub and able to electronically exchange information. The integrated departments/entities include: the SAPS, the NPA, the DOJ&CD, Legal Aid SA, DHA, DCS, Road Traffic Management Corporation (RTMC), DSD, and the OCJ. In addition, SASSA is also connected for the purposes of the Person Identity verification against the DHA database. Cases continue to be electronically processed via the IJS Transversal Hub using IJS system integrations between the SAPS, NPA and the DOJ&CD. In 2022/23 financial year, the 11th member department/entity will be connected to the IJS Hub.

The conversion of certain places for the holding of courts (branch courts) into **full-service courts** is a significant milestone in enhancing access to justice in South Africa. Having full-service courts closer to the people will ultimately make justice more accessible to the public. A total of six courts, Bityi and Dimbaza courts in Eastern Cape, Booyens and Lenasia courts in Gauteng, Magudu and Nsuze courts in KwaZulu-Natal were converted from periodical courts into full-service courts during the reporting period.

In summary, the Department has made substantial progress in improving service delivery, but not at the required levels. As we advance through the remaining strategic cycle, we will focus on addressing the challenges and implementing the Department's priorities to improve the lives of South Africans.



Mr Ronald Lamola (MP)
Minister of Justice and Correctional Services





DEPUTY MINISTER STATEMENT

Access to justice remains an on-going priority and we are continuously reviewing our performance to improve our service delivery so as to have a tangible and meaningful impact.

When we prepare our Strategic Plan, we are constantly guided by the need to improve the lives of the people of our country.

Like the rest of the country, and the world as a whole, we are still confronted by the Covid-19 pandemic's consequences. The pandemic placed considerable demands on the justice system to adapt and continue to function optimally under difficult conditions. During this time we had to prioritise the operation of our courts and justice system as well as the preservation of human rights and the rights of vulnerable groups.

We worked with a number of key stakeholders in our magistrates' courts - the Chief Magistrates, the National Prosecuting Authority, Legal Aid SA, the Department of Correctional Services, the South African Police Service, and the Department of Social Development - to ensure that as many cases as possible were successfully and timeously finalised during the time under consideration.

The magistrates' courts continued to deal with case backlogs which were already substantial even before the outbreak of Covid-19. During the lockdown, these backlogs grew. Prior to the March 2020 announcement of the lockdown, case backlogs in regional and district courts stood at **53% and 48%**, respectively, according to information maintained by the Department.

By the end of March 2021, the backlogs for regional and district courts had dropped to **48.87% and 14.14%**, respectively. This is due to the Department's and our stakeholders' continuous focus on lowering the backlog of cases and prioritising situations involving Gender-Based Violence and Femicide, matters affecting minors, and corruption-related crimes. Priority was also given to matters involving awaiting trial detainees. Where matters could be proceeded with by way of audio-visual measures, this was done.

Furthermore, to improve service delivery for all and to improve the way the Department delivers services to the vulnerable in society, **modernisation and digitization justice services** will increase efficiencies and improve service delivery turnaround times. The Department adopted a phased-in approach to provide justice services online. This will provide access to all persons and communities across the country regardless of where they are situated.

During the midterm period, a total of **6 justice services** were piloted online, which is a significant step in the right direction for the department. These justice services include -

- **Maintenance Phase 1 Online Services** - piloted at the Branch Court Point (Durban) with walk-in public, utilising kiosks that were set up at the court.

- **Trusts Phase 1 Online Services** - piloted at the Masters Office: Pretoria, with identified trusted agents that utilised the online portal.
- **Deceased Estates Phase 1 Online Services** - piloted at the Masters Office: Pretoria, with identified trusted agents as well as with walk-in public, utilising kiosks.
- **Expungement of Criminal Records Phase 1 Online Services** - piloted at the National Office Legal Services component, with walk-in public utilising kiosks.
- **NRSO Phase 1 Online Services - during 2021/22** - piloted at the National Registrar's Office, with SACE (South African Council of Educators).
- **Civil Phase 1 Online Services** - piloted at Polokwane Magistrates Court with identified legal aid attorneys that utilised the online portal.

The Department will continue to improve the services by using technology. We have also extended services at courts to provide full services to the public. Out of a total of **724 courts, 576 courts** are able to provide all justice services.

Resource management plays an important role in building capacity and improve service delivery, and during this time, the Department managed to make significant progress to reduce the vacancy rate for senior management from **25% to 12.6%**. Skills development also remains a key strategic objective and the Department trained 9790 employees in various aspects around service delivery.

Efforts to raise awareness of the Constitution and human rights are on-going and **73 awareness sessions** (on the rights of women, persons with disabilities, children and LGBTIQ+ rights) were conducted. A further **542 learner engagements, 195 community sessions and 43 exhibitions** were conducted.

We shall continue to monitor our progress so as to ensure the best possible service delivery to the country and its people.



Mr John Jeffery (MP)
Deputy Minister of Justice and Constitutional Development

ACCOUNTING OFFICER STATEMENT



The Mid-Term Review will inform and shape our priorities and operational plans going forward, as we are implementing the 2020/25 Strategic Plan to achieve Departmental Outcomes by 2024/25. This review also demonstrates how, over time, we have proactively sought to address issues and work towards our strategic goals.

Major challenges that have affected the Department include the **instability of administrative leadership; skills gaps; weaknesses in organisational design; staff morale; budget reductions; ICT and high vacancy rate** in senior management positions, as evidenced by the poor audit outcomes and declined performance from 2018/19 to 2019/20 financial periods.

The key focus was to develop an **eight-pillar Turnaround strategy**. These pillars include the strategy's alignment with priorities, macro-structure redesign, human capital and skills audit, repositioning of the Justice College, service delivery improvement plan, modernisation, audit turnaround strategy and change management and communication.

In the financial year 2020/21, substantial progress was made in improving Departmental performance and service delivery in certain areas, with a focus on **improving operational management**.

To improve organizational capacity, the Department reviewed and approved its **macro-structure** with DPSA's concurrence in 2022, and began by implementing and aligning the structure to improve strategic leadership capacity and give effect to the priorities and goals outlined in the strategic plan.

Over the next strategic plan cycle, the Department will focus on **strengthening the skills of lower-level employees** that form the basis for 60% of the Department's overall human capacity through the development of career aspirations, capacity and succession plans.

The Department recognises the use of **information and communication technology (ICT)** as its strategic resource and an enabler of operational effectiveness and efficiency, aligned with the objective of improving service delivery. The Department has experienced significant setbacks in the IT environment, including ransomware attacks in September 2021, aging ICT infrastructure, procurement process challenges and capacity issues.

To address **procurement process challenges**, a high level engagement with SITA was undertaken to resolve the delays and consider the possibility of being exempted from SITA for other minor services. These delays have had an impact on achieving certain strategic plan outcomes and targets.

We are building a **stable and reliable ICT infrastructure** to enable the systems to function optimally in order to provide services to the public.

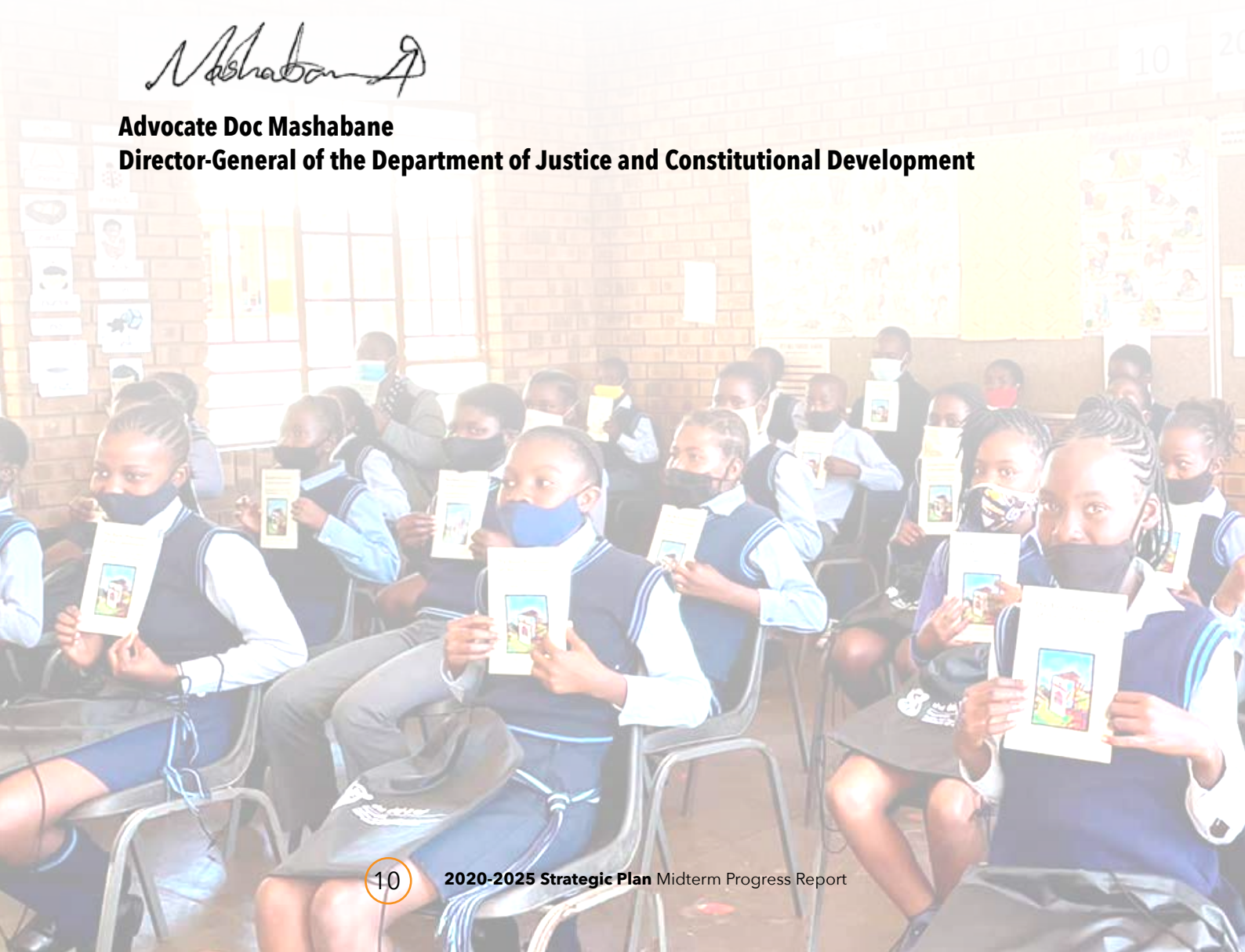
Infrastructure maintenance pose ongoing challenges to the Department. A number of areas that need to be addressed have been identified and they include budgets, day to- day maintenance, professional skills required and capacity. A key decision has been taken to devolve functions such as infrastructure maintenance, gardening, and cleaning services. The day to day maintenance budget delegation has been increased from **R100 000.00 to R1 million**. It is important for the Department to build internal capacities to implement its projects. A comprehensive approach is required as part of spatial planning to enable Departments to enter into shared services contracts.

Infrastructure maintenance and operational challenges have **impacted service delivery**. This challenges will be achieved through the implementation of service improvement plans that respond to the challenges at service delivery points.

To ensure improved service delivery to the public, the Department has implemented various interventions which include senior managers working closely with front-line staff and an ongoing service delivery monitoring system.



Advocate Doc Mashabane
Director-General of the Department of Justice and Constitutional Development



PART A: OUR MANDATE

1) Constitutional mandate

The Department's mandate, derived from the Constitution, is two-fold. Firstly, it seeks to provide a framework for the effective and efficient administration of justice. Secondly, 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. This is accomplished through the implementation of programmes to deepen and nurture our constitutional democracy. Following the transfer of superior courts to the Office of the Chief Justice, the Department continued to support lower courts in line with its constitutional mandate.

Furthermore, there are specific provisions of the Bill of Rights that give rise to other pieces of legislation which form a significant part of the legislative mandate of the Minister. The specific provisions are found in the following sections:

- a) Section 9: "Equality"
- b) Section 12: "Freedom and Security of the person"
- c) Section 14: "Privacy"
- d) Section 28: "Children"
- e) Section 32: "Access to Information"
- f) Section 33: "Just Administrative Action"
- g) Section 34: "Access to Courts"
- h) Section 35: "Arrested, detained and accused persons"

2) Legislative and policy mandates

The Department derives its statutory mandate from various statutes and subordinate legislation. Most of these Acts impact, in some way or other, on the daily functioning of the Department, but, in the context of the priorities of government, the following legislative instruments are particularly relevant:

Legislation providing for the establishment and functioning of the superior courts, magistrates' courts and other courts, the most important of which are the following:

- a) Superior Courts Act, 2013, (Act No. 10 of 2013)
- b) Magistrates' Courts Act, 1944 (Act No. 32 of 1944)
- c) Small Claims Courts Act, 1984 (Act No. 61 of 1984).

Legislation providing for the appointment of judges and other judicial officers, their conditions of service, discipline and training:

- a) Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001)
- b) Judicial Service Commission Act of 1994 (Act No. 9 of 1994)
- c) South African Judicial Education Institute (SAJEI) Act, 2008 (Act No. 14 of 2008)
- d) Magistrates Act, 1993 (Act No. 90 of 1993)

Legislation relating to the prosecution of offenders and the combatting of crime:

- a) National Prosecuting Authority Act, 1998 (Act No. 32 of 1998)
- b) Criminal Procedure Act, 1977 (Act No. 51 of 1977)
- c) Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998)
- d) Special Investigation Units and Special Tribunals Act, 1996 (Act No. 74 of 1996)
- e) Witness Protection Act, 1998 (Act No. 112 of 1998)-
- f) Implementation of the Rome Statute of the International Criminal Court Act, 2002 - (Act No. 27 of 2002)
- g) Protection of Constitutional Democracy -against Terrorist and Related Activities -Act, 2004 (Act No.33 of 2004)
- h) Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)
- i) Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) (Sexual Offences Act)
- j) Child Justice Act, 2008 (Act No. 75 of 2008)
- k) Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013)

Legislation providing for the establishment and functioning of bodies responsible for legal aid, law reform and court rules:

- a) Legal Aid South Africa Act, 2014 (Act No. 39 of 2014);
- b) South African Law Reform Commission Act, 1973 (Act No. 19 of 1973); and
- c) Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985).

Legislation providing for the administration of estates:

- a) Insolvency Act, 1936 (Act No. 24 of 1936)
- b) Administration of Estates Act, 1985 (Act No. 107 of 1985)
- c) Trust Property Control Act, 1988 (Act No. 57 of 1988)

Legislation on the administration of legal services to government Departments:

- a) State Attorney Act, 1957 (Act 56 of 1957)
- b) State Attorney Amendment Act, 2014 (Act No. 13 of 2014)
- c) State Liability Act, 1957 (Act No.20 of 1957)

Legislation relating to the promotion, protection and enforcement of human rights:

- a) Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)
- b) Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)
- c) Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 52 of 2000)

Legislation relating to extraditions in relation to crime occurring beyond the border of the Republic:

- a) Extradition Act of 1962 (Act No. 627 of 1962)

Legislation which protect personal information:

- a) Protection of Personal Information Act 2013 (Act No. 4 of 2013)

Legislation governing the legal profession, sheriffs and debt collectors:

- a) Legal Practice Act, 2014 (Act No. 28 of 2014)
- b) Sheriffs Act, 1986 (Act No. 90 of 1986)
- c) Debt Collectors Act, 1998 (Act No. 114 of 1998)

3) Institutional policies and strategies governing the five-year planning period

The Department of Justice and Constitutional Development will develop and implement the below listed institutional policies, bills and strategies:

3.1 List of policies:

- a) Policy on Community Courts
- b) Policy on Judicial Governance and Court Administration
- c) Court Interpretation Foreign Language Policy
- d) Guidelines on the appointment of acting Judges in the Republic of South Africa
- e) Guidelines on the conferral of Senior Counsel status
- f) Policy recommendations to reform the Criminal Justice system and the Criminal Procedure Act
- g) Policy to reform the Civil Justice system
- h) Policy on Insolvency

3.2 Some of the Bills that the Department plans to introduce to Parliament during the MTSF period:

- a) Commissions of Inquiry Bill
- b) Criminal Procedure Bill
- c) Land Court Bill
- d) Lower Courts Bill
- e) Magistrates' Court Bill
- f) Insolvency Bill
- g) Community Advice Offices and Paralegals Bill
- h) Domestic Violence Amendment Bill
- i) Criminal Law (Sexual Offences and Related Matters) Amendment Act
- j) The Sheriffs Bill
- k) The Small Claims Court Bill
- l) The Administration of Estates Bill
- m) Regulation of Trusts Bill
- n) Regulation of Interception and Communications Amendment Bill

4. Relevant Court Rulings

- 4.1 Ramuhovhi and Others v President of the Republic of South Africa and Others 2017 ZACC 42 Section 7(1) of the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998) (Customary Marriages Act) was declared unconstitutional and suspended for 24 months to afford Parliament an opportunity to correct the defect giving rise to the constitutional invalidity. Section 7(1) of the Customary Marriages Act provides that "The proprietary consequences of customary marriages entered into before the commencement of this Act continue to be governed by customary law".

- 4.2 *Levenstein and Others v Estate of the Late Sidney Lewis Frankel and Others* 2018 ZACC 16 Section 18 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) (the CPA) was declared unconstitutional and suspended for 24 months to afford Parliament an opportunity to enact remedial legislation. Section 18 of the CPA provides that the right to institute a prosecution for all sexual offences other than rape or compelled rape is limited to a period of 20 years from the time when the offence was committed.
- 4.3 *My Vote Counts NPC v Minister of Justice and Correctional Services and Another* 2018 ZACC 17 The Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA), was declared invalid and unconstitutional to the extent of its inconsistency with the Constitution by failing to provide for the recordal, preservation and reasonable disclosure of information on the private funding of political parties and independent candidates. Parliament must amend PAIA and take any other measure it deems appropriate to provide for the recordal, preservation and facilitation of reasonable access to information on the private funding of political parties and independent candidates within a period of 18 months. The court declared that information on the private funding of political parties and independent candidates is essential for the effective exercise of the right to make political choices and to participate in the elections. The court declared further that information on private funding of political parties and independent candidates must be recorded, preserved and made reasonably accessible.
- 4.4 *Moosa and Others v Minister of Justice and Correctional Services and Others* 2018 ZACC 19 Section 2C(1) of the Wills Act, 1953 (Act No. 7 of 1953) (the Wills Act) was declared unconstitutional and is to be read as including the following underlined words: "If any descendants of a testator, excluding a minor or a mentally ill descendant, who, together with the surviving spouse of the testator, is entitled to a benefit in terms of a will, renounces his right to receive such benefit, such benefit shall vest in the surviving spouse. For the purposes of this sub-section, a 'surviving spouse' includes every husband and wife of a monogamous and polygamous Muslim marriage solemnised under the religion of Islam." The declaration of invalidity operates retrospectively with effect from 27 April 1994 except that it does not invalidate any transfer of ownership that was finalised prior to the date of this order of any property pursuant to the application of section 2C(1) of the Wills Act, unless it is established that, when the transfer was effected, the transferee was on notice that the property in question was subject to a legal challenge on the grounds upon which the applicant brought the present application.
- 4.5 *Minister of Constitutional Development and Another v South African Restructuring and Insolvency Practitioners Association and Others* 2018 ZACC 20 The court found that the policy in respect of the appointment of provisional trustees, in terms of the Insolvency Act, 1936 (Act No. 24 of 1936), is not reasonably capable of achieving equality due to the paucity of information regarding its implementation and that the insolvency industry will not be transformed by this initiative. The Master is to relook the policy to address the gaps highlighted in the judgment.
- 4.6 *Corruption Watch NPC and Others v President of the Republic of South Africa and Others* 2018 ZACC 23 Section 12(4) and 12(6) of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (the NPA Act), was declared unconstitutional and suspended for 18 months to afford Parliament an opportunity to correct the constitutional defect. Section 12(4) of the NPA Act deals with the extension

of the term of office of an NDPP who is otherwise liable to retire on grounds of age and section 12(6) provides for the indefinite suspension of an NDPP by the President without pay or with such pay as the President may determine.

- 4.7 Minister of Justice and Constitutional Development and Others v Prince; National Director of Public Prosecutions and Others v Rubin; National Director of Public Prosecutions and Others v Acton and Others 2018 ZACC 30 Sections 4(b) and 5(b) of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), were declared unconstitutional to the extent that they criminalise the use or possession in private or cultivation in a private place of cannabis by an adult for his or her own personal consumption in private and was suspended for a period of 24 months from the date of the handing down of this judgment to enable Parliament to rectify the constitutional defects.
- 4.8 Bukelwa Nolizwe Holomisa v Sango Patekile Holomisa and Another 2018 ZACC 40 Section 7(3) of the Divorce Act, 1979 (Act No. 70 of 1979) (the Divorce Act), was declared unconstitutional to the extent that it excludes a spouse married out of community of property who has not entered into an antenuptial contract or an express declaration in terms of section 39(2) of the now repealed section 39 of the Transkei Marriage Act, 1978 (Act No. 21 of 1978) (Transkei Marriage Act), from its ambit. It was suspended for 24 months to allow Parliament to remedy this defect. The case concerns the discriminatory oddity that women married out of community of property under the Transkei Marriage Act do not enjoy the protection, on divorce, of section 7(3) of the Divorce Act which empowers a court granting a decree of divorce in respect of a marriage out of community of property to order a redistribution of assets where it considers it just and equitable to do so, taking into consideration the contribution, monetary and otherwise, of the parties to the marriage
- 4.9 Centre for Child Law and Others v Media 24 Limited and Others 2019 ZACC 46. This case was about the publication of the names of child witnesses, victims and accused persons. Section 154(3) of the Criminal Procedure Act was declared constitutionally invalid to the extent that the protection that children receive in so far as the publication of their names does not extend beyond their reaching the age of 18 years. The declaration of constitutional invalidity was suspended for 24 months to afford Parliament an opportunity to correct the defect. The court provided a reading-in to remedy the defect in the interim, which will apply until the defect is remedied.
- 4.10 Economic Freedom Fighters and Another v Minister of Justice and Correctional Services and Another 2020 ZACC 25 Section 18(2)(b) of the Riotous Assemblies Act, 1956 (Act No. 17 of 1956), was declared inconsistent with section 16(1) (right to freedom of expression) of the Constitution and invalid to the extent that it criminalises the incitement of another to commit "any offence". This case is about the criminal offence of incitement to commit a crime. The wording of this section was found to be overbroad in that it limits the right to freedom of expression. The operation of section 18(2)(b) was suspended for a period of 24 months to enable Parliament to rectify the defect. During this period, the court provided for a reading-in to cater for the offence of incitement in respect of serious crimes.

- 4.11 *Smit v Minister of Justice and Correctional Services and Others* 2020 ZACC 29 -This court made a declaration of constitutional invalidity in respect of two different pieces of legislation. Section 63 of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), was declared to be inconsistent with the Constitution and invalid to the extent that it purports to delegate plenary legislative power to amend Schedules 1 and 2 to the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992) to the Minister of Justice and Correctional Services. Section 5(1)(a) of the Extradition Act, 1962 (Act No. 67 of 1962) is declared to be inconsistent with the Constitution and invalid. The order of invalidity in respect of the Schedules was suspended for a period of 24 months to enable Parliament to remedy the defect, and the order in respect of extradition came into effect immediately. Extradition orders are now issued only in terms of section 5(1)(b).
- 4.12 *AmaBhungane Centre for Investigative Journalism NPC and Another v Minister of Justice and Correctional Services and Others; Minister of Police v AmaBhungane Centre for Investigative Journalism NPC and Others* 2021 ZACC 3 The Constitutional Court, in respect of the regulation of interception of communications, declared the Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002 (Act No. 70 of 2002) (RICA), unconstitutional in so far as it fails to provide for safeguards to ensure that a Judge designated in terms of section 1 is sufficiently independent; provide for notifying the subject of surveillance of the fact of her or his surveillance as soon as notification can be given without jeopardising the purpose of surveillance after surveillance has been terminated; adequately provide safeguards to address the fact that interception directions are sought and obtained ex parte; adequately prescribe procedures to ensure that data obtained pursuant to the interception of communications is managed lawfully and not used or interfered with unlawfully, including prescribing procedures to be followed for examining, copying, sharing, sorting through, using, storing or destroying the data; and provide adequate safeguards where the subject of surveillance is a practising lawyer or journalist. The declaration of unconstitutionality in paragraph 6 takes effect from the date of this judgment and is suspended for 36 months to afford Parliament an opportunity to cure the defect causing the invalidity.

PART B: OUR STRATEGIC FOCUS

VISION

An accessible justice system in a vibrant and evolving constitutional democracy

MISSION

- To enable Access to Justice
- To promote Constitutionalism, Rule of Law, Respect for Human Rights and
- To coordinate the State Litigation and Legal Advisory Services

VALUES

| | | | |
|---|---|---|--|
|  BATHO PELE <ul style="list-style-type: none">• We commit to put the needs of our people at the centre of service delivery.• We respond to customer needs in a professional, speedy and timely manner. |  UBUNTU <ul style="list-style-type: none">• We provide services with an attitude of compassion, kindness, selflessness and humility.• We are respectful and considerate in performing our duties. |  PATRIOTISM <ul style="list-style-type: none">• We serve our country and its people with pride, integrity and loyalty.• We love, cherish and honour South Africa. | |
|  HUMAN RIGHTS <ul style="list-style-type: none">• We acknowledge the dignity and worth of every individual we serve.• We strive to make every person feel valued and respected in our daily activities. |  GOOD GOVERNANCE <ul style="list-style-type: none">• We act in an ethical and transparent manner.• We are responsible and accountable in handling public funds and resources. |  COLLEGIALITY <ul style="list-style-type: none">• We foster good and supportive working relations with each other in achieving our goals.• We demonstrate care, cooperation and compassion in working with each other. |  SOCIAL JUSTICE <ul style="list-style-type: none">• We render services in a fair, just, honest and unbiased manner.• Every person is served with tolerance and without discrimination. |

PART C: MEASURING OUR PERFORMANCE

1. Impact Statement

IMPROVED PUBLIC PERCEPTION, CONFIDENCE IN THE JUSTICE SYSTEM AND RESPECT FOR THE RULE OF LAW.

The Department had various outcomes and initiatives that contributed towards the achievement of the impact statement. Access to justice has been enhanced through the creation of more courts, especially in communities that were previously disadvantaged. Since 2019, **four new courts** were built and **six additional branch courts** were elevated into proper full-service courts. The establishment of the Specialised Commercial Crime Courts (SCCCs) in all the provinces ensures improved access to justice and contributes to the fight against corruption and commercial crimes. To date, **eight new SCCCs** have been established by the end of 2021/22 financial year. This will have a positive impact on the economy and will improve the conditions of the most vulnerable members of society. It also sends a strong message that the Rule of Law remains a fundamental priority for government.

There have been significant advances in modernizing and digitizing justice services to deliver service to the public, the Department continues to improve the online service in order to ensure a positive economic impact on the public, such as reduced travel costs and hours spent visiting courts.

The Department is committed to dealing robustly with **Gender-Based Violence (GBV)** and other crimes that undermine people's sense of safety. In January 2022, the President assented to the Criminal Law (Sexual Offences and Related Matters) Amendment Act, the Criminal and Related Matters Amendment Act and the Domestic Violence Amendment Act. The enacted legislation is a deliverable from the National Strategic Plan of Gender-based Violence and Femicide, which was called for at the November 2018 Presidential Summit against Gender-Based Violence and Femicide (GBVF). The National Assembly subsequently undertook to consider together the **three Bills** as part of legislative measures to strengthen South Africa's response to GBV. Following the enactment of the three gender-based violence Bills, the Department is working around the clock to implement the provisions of these Acts. To date, **61** operational Thuthuzela care centres (TCCs) were established, in support of the victims of crime, particularly the victims of sexual offences who are mainly women and children.

In addition, the **Child Justice Act** was amended on the 19 August 2022 to increase the minimum age for children capacity from 10 years to 12 years, to promote the rights of children and to conform to international norms.

2. Progress on the Achievement of Outcomes

2.1 Outcome 1: Modernised and digitized justice service platform:

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (TIDS) | Improvements required for the remainder of the planning period |
|---|------------------|--|--|---|--|
| Number of justice services provided online | - | 14 services | A total of six services were piloted as follows: 1. Maintenance: New Application Submission. 2. Trusts: New Application Submission. 3. Deceased Estates: New Application Submission. 4. Expungement of Criminal Records: New Application Submission. 5. NRSO: New Application Submission. 6. Civil: New Application Submission. | List of services provided online | See Explanation below |
| Number of sites providing court proceedings virtually. | - | 170 sites | The bid specifications for procurement of equipment and services was completed and approved for publication via SITA. | List of sites providing virtual court proceedings | See Explanation below |
| Number of KPIs completed on the Integrated Justice System dashboard | 22 | 28 KPIs completed on the Integrated Justice System dashboard | 26 KPIs completed on the Integrated Justice System dashboard | Signed off report by the chairperson of the Integrated Justice System (IJS) Board, project schedules and project minutes. | See Explanation below |

In line with the Department's strategic approach on the use of ICT as an enabling resource to function more effectively and efficiently, the Department continues to intensify its efforts in utilising ICT as a strategic enabler, with the objective of digitising access to justice services and internal operations, thus creating a smart justice system. Furthermore, the Department will endeavour to exploit the efficiencies brought about by the Fourth Industrial Revolution. These technologies will include, amongst others, the Internet of Things, Robotics, Virtual Reality and Artificial Intelligence, which are changing the way we live and work.

In modernising and digitising South Africa's courts, some of the above-mentioned technologies will enable the Department to improve access to justice services through the use of online channels and mobile applications where services can be initiated, processed and tracked through these online channels (e.g. maintenance applications) without the public having to physically obtain these services from a service point (e.g. court). This will include, where required, the provision of documents (e.g. payslips for maintenance applications) in an electronic format, thus saving the Department onsite physical storage space as well as time and money for the use of external offsite storage services.

Through these technologies the serving of court processes (e.g. summons traditionally served physically by the police and sheriffs) will now be able to be served electronically to the parties, thus freeing up time to focus on service delivery priorities. The integration of these technologies across the justice system will also enable a real-time single view of individuals engaging with the justice system, where for example, this integrated system will indicate, at any given point, whether individuals have protection orders against their name or are applying for maintenance from different defendants at different courts, across the country.

Exploiting the efficiencies brought about by Fourth Industrial Revolution, the Department will also embrace technologies which will include video solutions that allows for the parties of a case to appear in court via video links displayed in court, without having to be physically present in the court. These parties will include the likes of foreign language interpreters, witnesses, SAPS forensic laboratory experts, etc.)

In the current digital era, it has become imperative for the Department to have an effective online presence between citizens and the Department itself. This improves citizens' service through greater flexibility, cost savings, faster delivery of justice service, less paper to waste and certainly increased professionalism. The availability of Justice Services through Online Channels as well as the ability to virtually engage with justice processes through Virtual Platforms (e.g. appearing in court through video link) is fundamental in the Departments quest to achieve its strategic outcome to modernise and digitise its justice services platforms.

The set outputs or solutions not only increase accessibility to justice services for all citizens, but also improves the way in which the Department delivers services to the vulnerable in society, which include women, children and people with disabilities. As an example, in cases of gender-based violence against women, using online channels to apply-for and receive the protection order through online channels, is aimed at reducing the added strain of women having to physically visit a court during these difficult and traumatising times. Furthermore, the use of Virtual Platforms (appearing in court through video link) aims at ensuring that vulnerable victims, like women and children can appear in court virtually, and not be in close proximity of the perpetrator. Likewise, detainees at correctional facilities appearing in court through video link for case remands, reduces the risk of detainees escaping whilst in transit or in court physically, as well alleviates the associated transportation costs.

During 2021/22, a total of 6 services were piloted online, as part of Phase 1 Online Services. Phase 1 entails Online Application Submission services. These Online Application Submission services include the following:

- 1. Maintenance** Phase 1 Online Services - piloted at the Branch Court Point (Durban) with walk-in public, utilising kiosks that were set up at the court.
- 2. Trusts** Phase 1 Online Services - piloted at the Masters Office: Pretoria, with identified trusted agents that utilised the online portal.
- 3. Deceased Estates** Phase 1 Online Services - piloted at the Masters Office: Pretoria, with identified trusted agents as well as with walk-in public, utilising kiosks.
- 4. Expungement of Criminal Records** Phase 1 Online Services - piloted at the National Office Legal Services component, with walk-in public utilising kiosks.
- 5. NRSO** Phase 1 Online Services - during 2021/22 - piloted at the National Registrar's Office, with SACE (South African Council of Educators).
- 6. Civil** Phase 1 Online Services - piloted at Polokwane Magistrates Court with identified legal aid attorneys that utilised the online portal.

The following online services are planned to be achieved in the remaining strategic plan cycles:

2022/23 Plan: **7 services** envisaged to be piloted as follows:

1. Protection Orders: New Application Submission. *(currently being enhanced)*
2. State Attorneys: New Application Submission *(technical discussions with donor to be held)*
3. Maintenance: Case Status Tracking. *(currently in design phase)*
4. Maintenance: Emolument Orders. *(currently in design phase)*
5. Maintenance: Attachment of Debt Orders. *(currently in design phase)*
6. Deceased Estates: Status Tracking (current Masters Portal) *(currently in design phase)*
7. NRSO: Digital Signatures (for National Registrar). *(currently in design phase)*

2023/24 Plan: **9 services** envisaged to be piloted as follows:

1. Maintenance: Payment Tracking.
2. Maintenance: Warrants of Execution
3. Maintenance: Orders by Default.
4. Maintenance: Electronic Receipt of documents by Sheriffs for serving.
5. Maintenance: Variation Orders.
6. Deceased Estates: Booking Appointments online.
7. Deceased Estates: Digitally approved LOA/LOE.
8. Protection Orders: integration with E-Judiciary Workspace; SAPS; Sheriffs
9. NRSO: Integration SAPS

During 2021/22, the bid specifications was completed and approved for publication via SITA. The delays were result of the followings:

- The DOJ&CD component of the solution specifications was completed but put on hold by the IJS Board, due to a broader need for the JCPS Cluster to incorporate its needs into the specifications.
- Change in sourcing strategy where SITA will manage the procurement as a procurement agency.

The **18** sites where the audio-visual remand (AVR) system was rolled out as well as the 16 sites where the Virtual Platforms Solution (VPS) (Video Conferencing) was, was deployed. The set target was 12 for the Department, however this was exceeded and the VPS solution was deployed to 16 sites.

The list of the **18 sites for the AVR roll-out** is MC Booyens; MC Tsakane; MC Springs; MC Randfontein; MC Worcester; MC George; MC Knysna; MC Botshabelo; MC Ficksburg; MC Aliwal North; MC Empangeni; MC Camperdown; MC Port Shepstone; MC Mahikeng; MC Klerksdorp; MC Potchefstroom; MC Polokwane and MC Seshego.

The list of the **16 sites where the VPS was deployed and completed** is Momentum Building (Auditorium 1; Auditorium 6; NOC) , SALU Building (ODG; DDG: CS), Justice College; MC Durban Point; and 8 of the 9 Regional Offices (Eastern Cape, Free State, KwaZulu Natal, Limpopo, Mpumalanga, North-West, Northern Cape, Western Cape)

Unfortunately in September 2021, the Department suffered a Ransomware attack, which not only impacted on the delivery of existing services enabled by technology, but also its modernisation program. With the

support of the relevant state agencies and industry experts, the Department managed to restore services within a reasonable amount of time, given the complexity of the issue at hand. The Department continuously strives to protect its digital assets through continuous threat detection and monitoring, which includes the implementation of new security products, based on continuous security assessments as well as continuous user awareness and training on cyber security.

Modernising justice services through the use of digital capabilities, requires a supporting, responsive and stable underlying IT infrastructure. The Department's currently ageing IT Infrastructure does not bode well in this regard. In order to address this challenge, the Department held an ICT Strategic Retreat in December 2021, where, amongst others, the ageing IT infrastructure was extensively discussed and a plan was devised. This 3-year plan, which will continue to be implemented throughout the MTSF period seeks to address challenges with outdated end-user equipment (e.g. computers, laptops, printers, and scanners), networks (e.g. local LAN, VPN) and the datacentre (e.g. servers and storage).

The Department endeavours on upgrading and ensuring the continuous upkeep of its IT infrastructure as this will not only impact on the delivery of existing services enabled by technology, but also its modernisation program.

The internal challenges that impacted on the branch's ability to deliver on some of the planned activities, including measures that were adopted by the branch to mitigate the impact of these challenges on delivery of services are explained below:

- Inadequate Cybersecurity Infrastructure (maintenance and support contracts, toolsets, and security operations center), inadequate Cybersecurity Attack Simulations (pen tests, recovery simulations, etc.) and lack of Cybersecurity awareness by the user community contributed to the inadequate Cybersecurity programme.

To mitigate the risk above the Department will continuously assess and ensure the effectiveness and coverage of the ICT Security Awareness program, the coverage of the online KnowBe4 security awareness training by getting feedback from the reports. The Department will also ensure that all ICT security incidents are responded to on time, resolved and that all ICT Security policies, processes and procedures are reviewed periodically.

- The Inadequate Disaster Recovery Infrastructure (in the event of a disaster in respect of servers, storage and toolset, including the simulating and the testing of disaster recovery processes.)

To mitigate the risk above the Department will continuously assess and ensure that there are adequate resources allocated and available for the Disaster Recovery(DR) site as the organisation's IT landscape grows, ensure that the DR Testing and Simulations are performed periodically and ensure that the DR policy and procedures are reviewed.

The lack of ICT Infrastructure Maintenance and Support contracts and the Technology Upgrade (datacentre servers & storage; VPN upgrade; switches; desktops; laptops; licenses renewal (antivirus, applications single sign-on))

To mitigate from the risk above the Department will embark on the procurement processes to source new hardware. The Department will decommission unused servers, applications and storage as a means to free up resources and put in place a moratorium on new resource requirement as a means to ensure continued service availability. The Department will also ensure that the Approved Procurement Plan are implemented on time, and that the newly awarded data-centre tender delivers on all the specified equipment. The Department will also ensure that the data-centre equipment is configured, tested and available for usage as intended.

The lack of a permanent ISM organisational structure and, the loss of key resources due to contractual nature of appointments also contributed to the internal risk.

To mitigate the risk above the Department will continuously participate in the establishment and filling of the ISM permanent organisational structure, bring-in key skill sets as and when required for a specific purposes, through the use of existing mechanisms (e.g. SITA contract 1183) and the Shortage of required skills in the market.

The Integrated Justice Service programme continues to drive modernisation of the Criminal Justice System through improved use of technology, and the development, maintenance and operation of an inter-Departmental information exchange platform, namely the IJS Transversal Hub. Currently ten (10) government Departments / entities are connected to the IJS hub and able to electronically exchange information.

The integrated Departments include: The SAPS, the NPA, the DOJ&CD, Legal Aid SA, DHA, DCS, Road Traffic Management Corporation (RTMC), DSD, and the OCJ. In addition, SASSA is also connected for the purposes of the Person Identity verification against the DHA database. Cases continue to be electronically processed via the IJS Transversal Hub using IJS system integrations between the SAPS, NPA and the DOJ&CD. In the current financial year, 11th member Department/entity will be connected to the IJS Hub. The maintenance of the IJS transversal hub operations was and will continue to be undertaken, these include weekly, monthly maintenance and support function.

In addition to the 22 KPI's that were reported electronically on the CJS performance dashboard at the start of 2018/19, an additional four KPIs were added, bringing the total to 26 KPI's. Below are the four additional KPIs:

1. KPI 20 – Appeal Time
2. KPI 21 – Appeal Success Rate
3. KPI 22 – Review Success Rate
4. KPI 28 – Abscondment Rate

At as the end of the reporting period, **26 out of 28 KPI's** have been completed and are active. This is based on available electronic data submitted by the SAPS, DOJCD and DCS. In the current financial year, IJS is also working on completing the 27th KPI.

It is envisaged that the above 2024/25 targets will be achieved during the remaining MTSF period.

Financial Resourcing

The table below provides an overview on how ICT is financially resourced. The resourcing entails not only the MTSF targets but also the ICT Operations.

| BUDGET SOURCE | BUDGET ALLOCATED | | | COMMENTS |
|------------------------|----------------------|----------------------|----------------------|--|
| | 2022/23 | 2023/24 | 2024/25 | |
| PROGRAMME 1 | R 550 365 000 | R 561 125 000 | R 589 390 000 | Utilised mainly for the Day-to-Day Management and Security of the Existing ICT Operations and Services (i.e. underlying ICT Infrastructure, ICT Security, ICT Toolsets, Business Applications) |
| PROGRAMME 5 IJS | R 176 252 000 | R 184 593 000 | R 189 493 000 | Utilised mainly for Modernisation Projects, the likes of which include the MTSF targets (e.g. online solutions). |
| | R 110 000 000 | R 159 130 000 | R 156 500 000 | Utilised only for CJS Projects, the likes of which include some of the MTSF targets (e.g. CAVS). |
| TOTAL | R 836 967 000 | R 904 848 000 | R 935 383 000 | |

2.2 Outcome 2: Improved organisational capabilities and good governance

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|--|--|---|---|---|--|
| Unqualified audit opinion on all accounts and pre-determined objectives achieved and sustained | <p>Unqualified audit opinion achieved on:</p> <ul style="list-style-type: none"> Guardian's Fund Justice Administered Fund President's Fund <p>Qualified audit opinion achieved on:</p> <ul style="list-style-type: none"> Vote Fund Predetermined objectives | <p>Unqualified audit opinion achieved on:</p> <ul style="list-style-type: none"> Guardian's Fund Justice Administered Fund President's Fund Vote Fund Predetermined objectives | <p>Unqualified audit opinion achieved on:</p> <ul style="list-style-type: none"> Guardian's Fund Justice Administered Fund President's Fund <p>Qualified audit opinion achieved on:</p> <ul style="list-style-type: none"> Vote Fund Predetermined objectives | Final Audit report from the Auditor-General | Continuous improvement of the internal control environment. |

The Department continues to improve the audit outcomes however the contingent liability and performance information continues to be a challenge. The Department has made some strides in addressing issues that resulted in the qualification in prior years related to contingent liability, however a new aspect was raised which resulted in 2021/22 year qualification. This repeated qualification results in the Department facing a reputational risk that have a negative impact on the Department.

A task team was established specifically for contingent liability related matters. Additional and dedicated capacity that will focus on maintaining and updating the contingent liability register is being employed to ensure that the contingent liability register complies with both the accounting and legal requirements.

The management of the Department, however, remains committed towards the achievement of an effective and efficient Internal Control environment thereby enabling improved audit outcomes. This is also evidenced by the fact that the Audit Turnaround strategy has been identified as one of the 8 pillars of the Department's wide turnaround strategy. The mitigation processes is to enhance the functionality of internal structures with the main purpose of integrating the procurement processes and to conduct an Industry market research, to support DBSC in drafting a clear TOR.

The Department has over the medium-term period 2019/2020- 2021/2022 received an unqualified audit outcome on asset management. This is an improvement from the qualified audit outcome obtained in the 2018/2019 financial year. The asset management is exposed to the risk of assets which have been declared to be under investigation throughout the Department. The other risk to sustaining the unqualified audit outcome in the asset management is that of assets which were procured for the Commission of Enquiry into State Capture, Corruption and Fraud in the Public Sector including Organs of State (State Capture Commission) by National Treasury through the funds transferred by the Department.

In order to achieve improved organisational capabilities and good governance outcome, Human Resources management unit plays important role in building capable state which require human capabilities, institutional capacity, service processes and technological platforms to deliver on the Department priorities. The primary focus areas in the Department remain the historical poor organisational design, skills deficit, the wellness of employees, career and talent management and strengthening accountability and responsibility. Human Resources must and will strive to serve as a conduit to ensure that over the remaining period of the strategic plan cycle, the Department can constantly adopt and adjust to provide a continuous enabling contributor towards a capable, ethical and developmental state. Focus on the last two and half years was around the development of the organizational structure to give effect to the Departmental outcomes.

Over the preceding 36 months, the focus has shifted from a phased in program implementation approach to a holistic review of the macro-organizational structure. To improve organisational capabilities, the Department has reviewed and approved its macro structure with concurrence from the DPSA in 2022, and has commenced with the implementation and alignment of the structure to improve the strategic leadership capabilities and give effect to the priorities and goals outlined in the Strategic plan.

Significant progress to eradicate the backlog of job evaluations were made over the last 12 months as part of the turnaround strategy to improve the Organisational Development and Design (ODD). The high vacancy rate for SMS members has seen a significant improvement and was reduced from **25% to 12.6 %** over the MTSF period with many of these vacancies to be filled in the coming months. This will contribute towards an improved management and leadership structure for the remaining period of the strategic plan cycle. The Department further commenced with the review of functional structures that will further contribute towards the effective management and leadership capability in the business units.

Human Resource Development in general remains a focus area for improvement. Talent management and skills development remains a key strategic objective to provide employees with the necessary competencies to deliver on the Department's mandate. The Covid - 19 pandemic had a significant impact on the ability to deliver on the work skills plan in 2020/2021 with only **878** employees subjected to skills development programs. From April 2021, the Department has recovered significantly from the backlog created by the pandemic and trained **9790** employees and is likely to maintain this momentum for the remaining period of the MTSF. The resuscitation of the skills audit has contributed towards the development of the integrated Human Resource Development implementation plan, which will focus on addressing critical and scarce skills gaps for improved performance and the establishment of a talent pipeline (Retention strategy).

To further ensure improved organisational capabilities and good governance, the Department over the MTSF period established several annual performance targets to ensure that **70%** of misconduct and grievance matters are finalised within 90 days and to ensure that backlog misconduct cases not finalised within the previous financial year are finalised by the end of the third quarter. This include **70%** finalisation of investigation for corruption cases. These targets were achieved in 2021/22 and the Department is likely to achieve the same result in 2022/23. To further support good governance, the Department has embarked on awareness campaigns on the prevention of theft, fraud and corruption, as well as improved discipline. Employee relations remains a focus area due to the number of increased fraud and corruption cases.

In line with the 16 Point Plan in relation to mainstreaming of gender, empowerment of youth and people with disabilities, the Department has improved the representation of women in SMS positions from **47 %** in 2020 to **51.6 %** across the MTSF and has further implemented targets for the employment of youth of 22 % to be increased to **24 %** over the MTSF. Currently **24.6 %** of the Departments workforce are occupied by youth and **2.1%** of people living with disability against a target of **2.1%**. To achieve this target the Department commenced with projects to increase the compliance. The number of unemployed youth and empowerment programs remain a priority for the Department and as a result will continue to strive towards achieving a balanced workforce. Employment Equity, people living with disability and the employment of youth are measured on a monthly basis to ensure a representative workforce.

The Broad-Based Black Economic Empowerment Act (Act No. 53 of 2003) was developed with the objective of addressing the inequalities of the past by ensuring that the South African economy is structured and transformed to enable the meaningful participation of the majority of its citizens and to further create capacity within the broader economic landscape at all levels through skills development, employment equity, socio-economic development, preferential procurement enterprise development (especially small and medium enterprises), promoting the entry of black entrepreneurs into the mainstreaming of the economy

activity, and the advancement of the cooperatives. The Department is committed to mainstream enterprise development, empowerment and equity in the economy to designated groups through the implementation of National Treasury prescripts. The Department will support its procurement spend to advance historically disadvantaged persons by giving preference to Exempt Micro Enterprises (EME) and Qualifying Small Enterprises (QSEs). In the first quarter of financial year 2022/23 the Department awarded approximately 90% of all contracts (bids and quotation) to BBBEE level one contributors to a value of R210 915 293,50 and a further **3,3%** to level two contributors to a value R7 058 369,34. Department remains committed to the advancement of the previously disadvantaged service providers through the use of the preferential procurement prescripts.

The Department will also monitor the implementation of the subcontracting clause on procurement above R30Million to improve the end users on the procurement of goods and services from 30% and above by female owned companies and to conduct industry market research on identified commodities..

Additional in light of Priority 6: Safe Communities, Risk and Security Management's aspiration is to be a security benchmark, for security best practices in all sectors and acknowledged as best in ensuring a risk and threat free environment, using the highest security standards in the corporate offices and courts. The Department seeks to provide leadership in the protection of people, state property and sensitive information of the Department and are committed to continuous improvement in service rendering through solution based, value-added, reliable and indispensable service to all employees and visitors of the Department at our national and provincial offices as well as all the courts.

The Department plays a social responsibility role by creating security awareness to all employees of the Department with regards to personal security. The Department has taken every reasonable precaution for the protection of all workers and sensitive information of the Department, in particular the protection of the administrators and the judiciary in the implementation of the recommendation of the Zondo report on State Capture. In that pursuit, threats and risk assessments were conducted with those who received threats emanating from their scope of their employment and other physical security assessments were conducted in various offices of DoJ&CD, NPA and OCJ. The findings and recommendations were considered to the development of Security Model which was presented and adopted by EXCO.

The insourcing of control room operators in various offices is in progress and entails up-skilling, training and deployment of Security Officers employed by the Department. A total of **158** Departmental Security Officers were deployed to control rooms to reduced costs for pay outsourced security service. One of the remarkable novel Departmental intervention was the initiative to introduce "Speed-Points" in the courts to reduce the risk of theft of cash, robbery and related risk exposures. This initiative was "First-of-its-kind" in the creation of a modern cashless court. It has further resulted in the appointment of a Cash-in-Transit Service provider for a lesser period of 18 months instead of 36 months due to the gradually elimination of cash transactions in our courts to make our courts a cash free zone. The Department has furthermore appointed a service provider to do repair and maintenance of security infrastructure for a period of 36 months for all the corporate offices and courts countrywide. The inclusion of security upgrading will intensify security measures and improve the safety of Departmental assets.

The challenges the Department furthermore experience is the slow growth of the economy, that strained fiscal position and competing interests, the budget constraint that impacted negatively on the provision of security management services, like security guarding and maintenance and repairs of the National Security Infrastructure in the courts, as well as the continuous load shedding that is seriously affecting the functionality of the CCTV and access control system in various courts. The aging infrastructure, heritage related elements in most of the courts and courts infrastructure are making the assets to be vulnerable to theft and vandalism.

In compliance to OHS Act, the Department in 2019/20 financial year has consistently conducted **32** SHE inspections and during the 2020/21 financial year the Department of Labour and Employment reported that the Department achieved **94%** compliance with OSHA and Covid 19 regulations. Due to climate change, load-shedding, unreliable water supply, droughts and/or flooding, the Department has taken a firm stand to put plans in place for Business Continuity Plans in all corporate offices and the different courts to ensure continued service delivery in an event of a disaster or related disruptions. **Forty four (44) offices** has been sampled and assessed for compliance and continuous improvements were recommended. To promote and maintain the Business Continuity Management culture, the Department continued to monitor the established Business Continuity System with the aim of sustaining resilience and continuity of services in the event of a disruption and/or disaster.

During the year 2020, the country was challenged with the novel virus of Covid-19 pandemic, which imposed an assortment of restrictions and has impeded the Department to achieve some of the commitments that have been made. To comply with section 25 (3) Disaster Management Act, 57 of 2002 , the Department commits in the remaining 18 months of the 6th administration to conduct **39** SHE inspections and awareness sessions, and **18** Business Continuity Management Instructions (BCMI).

The Department is committed and has prioritised the health and safety of employees at work. By protecting workers, absenteeism is reduced, ensuring that the workplace is more efficient and productive.

Security Management and Forensic Audit is continually contributing towards the creation of a workplace that is free of risks of theft, fraud and corruption. The Department received **88** theft, fraud and corruption cases in the current financial year and manage to finalise **43** cases. Security management is forging better ways to ensure that measures are in place to detect corruption and ensure that there is general awareness to all employees on prevention methods

The management of the Department, however, remains committed towards the achievement of an effective and efficient Internal Control environment thereby enabling improved audit outcomes. This is also evidenced by the fact that the Audit Turnaround strategy has been identified as one of the 8 pillars of the Department's wide turnaround strategy.

2.3 Outcome 3: Improvement awareness of justice services and constitutionalism:

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|--|------------------|----------------|---|------------------------------|--|
| Percentage of people who are aware of justice services | - | 55% | Various awareness campaigns were conducted. | Awareness survey report | Processes are underway to commission the survey |

The Public Education and Communication Initiative heightened communication around access to justice services. This was done through the mainstream and community media, including the social media and the Departmental website. It should be noted that during the reporting period, the Departmental systems were unreliable in providing adequate support on electronic and virtual platforms. There was also a crash in the system during the hard lockdown, which created a lot of uncertainty in the public and heightened complaints regarding the maintenance system. There was an immense level of uncertainty from members of the public regarding service delivery from the Masters' Office and complaints regarding maintenance services during the cybercrime crash period, which were followed by a lot of radio interviews and swift responses to media inquiries. The second pandemic of GBVF also posed a challenge, which was followed through with heightened engagement on GBVF issues.

In 2019, the President established the National Emergency Response Plan to curb the surge of Gender-Based Violence and Femicide (GBVF), which continues to plague the nation. During the period under review, once again, GBVF took centre stage as there was a spike, and it was declared the second pandemic by Honourable President Cyril Ramaphosa.

Due to the lockdown restrictions and State of National Disaster Regulations, PEC could no longer host large community gatherings that could be attended by hundreds of community members. In response, PEC came up with the concept of "Under-the-Tree Dialogues On-Air." The dialogues were held at community radio stations across the country, where anti-GBVF messages were communicated. Infographics were also used on government social media platforms to communicate the anti-GBVF message. Public education and communication continue to heighten awareness of constitutional education using various methods.

Constitutional Awareness Day was observed, as was the 25th anniversary of the Constitution.

Efforts to raise awareness are ongoing, as the Constitution remains the bedrock of South African democracy. It is interesting to note that citizens are becoming increasingly aware of their constitutional rights, as evidenced by the heightened demand for justice services at various service points. Seventeen activities, including dialogues and activations, targeted staff and members of the public in promoting and raising awareness of the Constitution and commemorating the Constitution's 25th anniversary

The Department conducted a total of **73** awareness sessions for vulnerable groups (women, people with disabilities, children, and LGBTIQ+ rights) during the period under review. Numerous activities were undertaken in the fight against GBVF, targeting staff, public servants, and members of the public. Some engagements were specifically targeted at men, as they are a critical stakeholder in dealing effectively with the scourge of GBVF. During the mid-term review, the Chief Directorate: Public Education and Communication

Services conducted a series of community awareness programmes. These activities range from learner engagements to community sessions, exhibitions, activations, and Izimbizo and stakeholder engagements to profile the work of the Department.

During this period, PEC conducted **542** learner engagements, reaching **123,100** learners. The unit also reached a total of **14,332** through the implementation of **195** community sessions. A total of **9,277** beneficiaries were reached through the implementation of **43** exhibitions and activations. Additionally, the unit also conducted a total of **73** stakeholder engagements, with Izimbizo reaching **14,313** stakeholders and community members. In the first quarter of the 2020/21 financial year, the COVID-19 pandemic impacted the performance of the unit, and most activities could not be implemented due to lockdown regulations. The use of virtual platforms, including radio, was used as a medium to share information about the Department's service offerings.

Radio and television interviews

These are free, solicited, and unsolicited media spaces that allow the Department to share information with the citizenry.

- During the period 2020/21, 185 radio and television interviews were conducted on justice services and COVID-19-related matters.
- During the period 2021/22, 180 radio and television interviews were conducted on justice and related matters.

Between April 2022 – September 2023, 139 radio and television interviews were conducted on justice and related matters.

PAIA is a product of Section 32 of the Constitution which provides for the right of access to information. PAIA aims to encourage transparency and to establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner. Consequently, a public body such as the Department is required to process requests for access to information within the prescribed period of a maximum of sixty (60) calendar days.

The Department has over the MTSF period managed to process over **90%** of PAIA requests within the prescribed period. Strict adherence to these time frames is very important as it gives substance to the strategic goals of the Department which are "transparent, responsive and accountable justice services for all" – including the promotion of constitutionalism and a human rights culture.

In addition, the efficient implementation of PAIA is fundamental in ensuring that the public understands, amongst others, the functions and operations of public bodies; what the Department is doing; services it is providing and how the public can access those services. Thus, the citizens are, amongst others, better informed of how to e.g. exercise their constitutional rights, engage with relevant stakeholders etc. thereby improving public participation in matters affecting them and effectively utilizing its services. This is also in line with the government's strategic priorities and principles set out in section 195 of the Constitution, particularly the enhancement of accountability, transparency and openness. Consequently, providing the public with timely and accurate information ensures that the public enjoy their constitutional rights and helps to re-engineer social change and improves the people's lives.

2.4 Outcome 4: Increased access to justice services

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|---|------------------|----------------|--|---|--|
| Number of approved service standards increased for justice services | 13 | 18 | 0% | Approved service standards for services provided by the Department. | Implementation of 18 service standards in progress |
| Number of justice services footprint increased | 720 | 725 | 724 | Occupational certificate | Of the five projects committed, only one project is outstanding. DOJ&CD will closely monitor the project to ensure its completion at the end of the MTSF. The project is being discussed at different project management forums with DPWI. |
| Number of courts providing full services increased | 479 | 520 | 576 | Proclamation by the Minister | Target exceeded Target has been removed |

Service Delivery Improvement entails implementing programmes with the primary objective of improving the quality of service delivery experienced by citizens. The goal of the SDIP is to provide a mechanism for continuous and incremental improvement in service delivery. The SDIP is aligned to the strategy of the Department and focuses on strategies to bring Batho Pele principles to life.. The Department commits to improve and implement the Service Standard in the remaining reporting period

The Department has made a commitment to deliver **five (5) new courts** to previously disadvantaged communities over the current MTSF period. This is to address the issue of citizens travelling long distances and using multiple modes of transportation to interact with the justice system. The Department is committed to delivering justice services by constructing new courts closer to communities to support efficient service delivery and to dispense justice. There are communities in the far-flung outlying towns and villages that struggle to access justice services.

The Department had new projects to be delivered in the MTSF. **Four new courts** were delivered from April 2019 to August 2022: Bityi MC, which was completed in April 2019, Mpumalanga HC, which was completed in May 2019, Dimbaza MC, which was completed in October 2020, and Point Family Court, which was finished in January 2021. These new courts that have been completed so far have reasonable accommodations in terms of access for people with disabilities and new information technology (IT). The courts operate on a Building Management System (BMS) that is managed through the courtroom. The BMS coordinates the operation of all critical equipment on the court. E.g., HVAC, fire, lifts, etc. The courts are green buildings (energy and water efficient equipment is installed) and have a backup generator and water supply.

In terms of the implementation of Total Facilities Management Solutions, **four courts** were identified under Phase 1: the high courts in Limpopo and Mpumalanga and the two magistrate courts in Plettenberg Bay and Booyens.

The DPWI 2022/23 procurement plan includes **88 projects** for planned maintenance. The projects are estimated at R832 million over the MTEF period. The projects are at different stages, including the appointment of consultants. These are courts that are planned for refurbishments, repairs, and upgrades. The Department received an increased day-to-day maintenance threshold of R1 million per incident. This delegation will be implemented by the regional offices.

The challenges affecting the delivery of the four courts include insufficient land parcels suitable for court construction, as courts need to be located where communities can access them without taking multiple connecting taxis. The construction of courts is being interrupted by construction mafias and communities.

The COVID-19 pandemic had an impact on the delivery of two courts, with some contractor businesses going into financial rescue and unable to complete the courts on time. The implementing agents are not capable of managing the contractors and contracts that have been signed.

The Department was able to mitigate these by managing our stakeholder relations with municipalities, councillors, communities, and implementing agents.

The complete rationalisation of areas of jurisdiction process is a constitutional imperative which finds reflection in item 16 of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (the Constitution) which states as follows:

“Courts 16(1) Every court, including courts of traditional leaders, existing when the new Constitution took effect, continue to function and to exercise jurisdiction in terms of legislation applicable to it, and anyone holding office as a judicial officer continues to hold office in terms of the legislation applicable to that office, subject to: and amendment or repeal of that legislation; and consistency with the new Constitution.

(6) (a) As soon as is practical after the new Constitution took effect all courts, including their structure, composition, functioning and jurisdiction, and all relevant legislation, must be rationalized with a view to establishing a judicial system suited to the requirements of the new Constitution.

(b) The Cabinet member responsible for the administration of justice acting after consultation with the Judicial Service Commission must manage the rationalisation envisaged under paragraph (a)“.

Prior to the implementation of the Rationalisation of Magisterial Districts in 2014, the country was divided into **373** magisterial districts, **23** Detached Courts, **90** places for the holding of court (Branch Courts) and **153** places for the holding of periodical court. A total number 29 Branch Courts were converted into full services courts, between 2009 and 2013, **15** branch courts in 2009, 4 in 2011, and 6 in 2013. A further **6** places for the holding court (Branch Courts) were converted into full services courts in 2022.

The implementation of the Rationalisation of Magisterial Districts and the reconfiguration of all the courts, as a Constitutional imperative, commenced in 2014, in the Gauteng, North West provinces, followed by the Limpopo and Mpumalanga provinces, in 2016 and Northern Cape province in 2018. The implementation in the Eastern Cape, Free State, KwaZulu-Natal and the Western Cape provinces took effect from 1 April 2022.

The outcome of the rationalisation created **110 Magisterial Districts** (The number of Magisterial Districts will be reduced to 52, after the completion of the alignment of the Magisterial Districts with the 44 Districts and 8 Metropolitan Municipalities process in the Gauteng, Limpopo, Mpumalanga and North West provinces. A total of **724 courts** were created out of implementation process and of the 724 new courts, 576 courts are created to provide all justice services.

The conversion of branch courts into full services was one of the Department's efforts to increase access to justice, especially by the marginalised rural and township communities.

The conversion of these courts came into being prior to the commencement of the implementation of the broader Rationalisation of Magisterial Districts and the Alignment of the Magisterial districts with the District Development Model (DDM) Project. The implementation of this project, commenced in earnest in December 2014, starting with the Gauteng, North West provinces, Limpopo and Mpumalanga provinces in 2016 and Northern Cape province in 2018. This process will be implemented in the last four (4) provinces, being Eastern Cape, Free State, KwaZulu-Natal and the Western Cape with effect from 1 April 2022.

During this process, which is facilitated by the Regional Coordinating Committees (RCCS) which established in all the 9 provinces, access to justice is an overriding principle. All the JCPS Cluster departments, including, Judiciary, Prosecutions, Legal Aid South Africa etc. participate at this level and make recommendations regarding how access to justice can be improved.

Therefore the conversion of branch courts into full services has already been addressed during this process and can cannot be separated as a standalone function/activity.

The District Development Model (DDM), was piloted by the President of the Republic of South Africa at the OR Tambo District Municipality in September 2019. The DDM focuses on the Districts and Metropolitan spaces, as an appropriate scale and arena for intergovernmental planning and coordination. The focus is mainly on the forty-four (44) Districts and the eight (8) metropolitan municipalities, as Developmental Spaces, that will be strategic alignment platforms for all spheres of government and to provide a spatial integrated single government. Similarly, during the MTF period, the Department commenced with the process of aligning all the Magisterial Districts with the DDM, resulting in the re-configuration of the Magisterial Districts and courts in the Eastern Cape, Free State, KwaZulu-Natal and the Western Cape to conform to the DDM with effect from 1 April 2022. The revision and the reconfiguration of courts in respect of the rationalised Magisterial Districts of the Gauteng, North West, Limpopo and Mpumalanga, implemented between 2014 and 2016, is therefore inevitable. The process of aligning and reconfiguring the rationalised Magisterial Districts and courts in the 4 provinces, with a view to conform to the DDM is underway and have an impact on this MTF outcome which was crafted before the coming into effect of the DDM IN 2019.

- Developed a **National Policy Framework** on Reasonable Accommodations and Measures to Access Justice and minimum standards for the Policy Framework.
- Upgraded **113 lower courts** in line with the Minimum Standards to provide reasonable accommodation and measures for court users with disabilities. Each court has a Disability Champion. to monitor the implementation of the Minimum Standards.

- Developed **Handy Hints Guide** on Disabilities for the Frontline court officials.
- Conducted **12 training sessions** on the National Policy Framework and its Minimum Standards where 182 court managers and frontline court officials were reached.

The Department participated in the development of the National Strategic Plan to END Gender-Based Violence and Femicide (GBVF) (2020-2030), which was approved by Cabinet in March 2020. In February 2020, the Minister approved Regulations relating to Sexual Offences Courts, which set out a catalogue of support services to create victim-centric justice system for survivors of sex crimes.

The **three GBV Bills** were assented by the president on 28 Jan 2022, and are as follows:

- a) The Criminal and Related Matters Amendment Act, 2021 (Act No 12 of 2021)
- b) The Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act, 2021 (Act No 13 of 2021)
- c) The Domestic Violence Amendment Act, 2021 (Act No 14 of 2021)

The **Online Web Portal** for applications for protection order was developed in 2021/2022 financial year. It will be implemented once the commencement date for the implementation of the Domestic Violence Amendment Act of 2021 is established.

The upgrading of the Femicide Watch Dashboard to a Phase 4 development was finalised in March 2022, in conjunction with IJS. Phase 4 involved the incorporation of additional data metrics to collect more data on GBV- related femicide cases. The Femicide Watch is the national repository for GBV- related femicide cases. Among other things, it is intended to assist the country to profile these cases for appropriate prevention and response programming.

The National Integrated Prevention Strategy against Femicide has been successfully developed and adopted through NSP collaborations.

A total of **110 intermediaries** were trained to provide intermediary services for cases involving child witnesses, persons with mental disabilities and older persons.

The National Guidelines for the Establishment of the section 55A Sexual Offences Courts were developed and approved by the Minister.

A total of **40 courts** were successfully upgraded in terms of the Regulations relating to Sexual Offences Courts, but could not be established as Sexual Offences Courts pending the designation of the regional courts where these courts will be established. This is a statutory requirement that will be adhered to in 2022/2023 financial year.

2.5 Outcome 5: Improved Masters' services

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|---|---|---|---|---|--|
| Percentage of Masters' services accessed online | | 40% of Masters' services accessed online | Deceased estates and trusts systems online registration piloted | Solution Production implementation sign-off | The online solution being enhanced |
| Master's matters finalised within the required timeframes increased | 80% of Masters matters finalised within the required timeframes | 85% of Masters matters finalised within the required timeframes | 80% | % Calculation Matters done/ done within the timeframe | the Department will continuously monitor the services |

Development of the Master's **online Deceased estates and Trusts systems** provides for a modernized and digitized Masters Services platform and easy access to all. The online deceased estates registration will cut across the population as both rich and poor would and are affected by death. The development and roll out of online registrations will be a convenient method that allows people who want to report deceased estates or register trusts, to do so remotely from the comfort of their offices, homes, or any other place. This approach will be an effective move to reduce the number of customers in the offices of the Masters or at the service points, and will enhance access to the Masters' services in the country. Online registration will speed up the registration process and ensure quicker availability of the details/particulars of the beneficiaries and trustees.

Masters has been, together with ISM working on an online registration of deceased estates as well as online registration of trusts systems. Pilot was to take place in September 2021, but was halted by Justice system ransoms attack. System development had to be restarted. Limited piloting took place in Pretoria Office during January and February 2022. The pilot was put on hold as many issues were experienced during the pilot and these system issues need to be resolved before the pilot can continue. However, it was agreed that the Justice Network stability and upgrade needs to be finalised first as these systems are dependent on a stable and efficient IT system to be successfully implemented.

The Paperless Estates Administration System (PEAS), which computerises the administration process related to deceased estates, has successfully been rolled out to **12** more Service points in the 2019/20 financial year, increasing the access to Master Deceased Estate Services at local Magistrate Courts from **278** offices to **290** offices. Roll out was however halted during the COVID period, as officials could not physically visit Service Points to install and provide training. However, as part of the Master's proposed 2023/24 Operational Plan, more Service Points will be rolled out.

Rolling out to Service Points enables the Service Points to be linked with the relevant Masters' offices, who then are able to oversee the appointment process in the Service Points, and thus ensuring that the whole country receives the same service and are able to access the same quality of services provided directly at Master's Offices, without the need to travel long distances to the **15** Master's Offices countrywide.

This will also relieve the work pressure on officials of the Masters' offices with regards to handling of estate enquiries, as well as curb fraud and the loss of documents, as all documents are scanned before being processed. Interested parties will be able to view all relevant information at any given time on the Master's Portal, which will be available on the website.

During past years, the Master has rolled out Movit (fingerprint verification) to **302 Service Points**, which allowed applicant to lodge their Guardian's Fund applications at those Magistrate Courts and have their fingerprints verified there. However, when the Justice System ransom attack took place in September 2021, the relevant server was lost as well as all user data and connectivity to Home Affairs with regards to MOVIT. The server and connectivity has subsequently been restored, but users at all sites have to be re-registered and MOVIT application re-installed. At the end of June 2022, Masters already re-registered users at all 15 Master's Offices and 124 Service Points.

For the 2022/23 financial year, Masters are planning to ensure that at least 150 of these service points are re-registered. This will be measured through Masters SDIP. This will again ensure that more citizens receive the same service and are able to lodge their applications in the area where they reside, without the need to travel long distances to the six Master's Offices providing the Guardian's fund services. Completed applications for funds can be lodged directly at these mentioned Offices, instead of needing to travel long distances to the Master's Office where their funds are being administrated to lodge same. The Magistrate's Office then couriers the completed application to the correct Master's Office, who in turn processes the application and pays the beneficiary by way of EFT.

Five year target of 40% of Masters' services accessed online as explained above, the Online Deceased Estates and -Trusts are not yet functional and implemented, as many issues were experienced during the pilot and these system issues need to be resolved before the pilot can continue. However, the Justice Network stability and upgrade needs to be finalised first and these systems are dependent on a stable and efficient IT system to be successfully implemented.

Whilst the Masters are aware that IT is not currently the best to ensure Service Delivery, the Branch has however developed a self-help / kiosk desk for the registration of deceased estates and trusts which was effectively piloted at Johannesburg Master and Master Pretoria. After months of success, distribution of desktops for the specific use as self-help-computers, made to all offices.

The project has been successfully implemented in eight Offices who are now fully functional (Johannesburg, Cape Town, Pretoria, Mafikeng, Nelspruit, Bisho, Kimberley and Bloemfontein).The other Master's Offices have not started to provide the service yet due to training and setting up of the computers and network points etc.

However, the Justice network stability and upgrade needs to be finalised first and these systems are dependent on a stable and efficient IT system to be successfully implemented. Self-help-computers were installed in all Master's Offices, to enable professional members of the industry to capture new deceased estates themselves thus freeing the hands of officials to attend to considering documents and issuing of appointments. The implementation of the Self-help Computers improved the Master's services provided to walk-in clients and reducing queues.

Master's matters finalised within the required timeframes increased

Five year target of 85% of Masters Matters finalised within the required timeframes.

| | TOTAL DONE from April 2020 - Sept 2022 | TOTAL DONE from April 2020 - Sept 2022 | % |
|--------------------------------------|--|--|------------|
| Total 2020/21 | 263324 | 218747 | 83% |
| Total 2021/22 | 312981 | 239675 | 77% |
| Total 2022/23 Apr - Sept 2022 | 149685 | 121864 | 81% |
| | 725990 | 580286 | 80% |

Due to the negative impact COVID regulations, ongoing network challenges, loadshedding etc. had, and is having, on the performance of the Masters, performance fluctuated over the last few years, as can be seen from the table above. The overall performance for the branch during the reporting period translated to 80%.

Improved network stability and addressing the challenges experienced by the Master, will assist in increasing performance in this indicator and having the effect that the overall target can be achieved. If the Masters are able to do more matters within the prescribed timeframe, it will have a positive effect on service delivery and thus indicates improvement in services delivered.

As soon as Justice network stability and upgrade is finalised, the further development and pilot of the Master's Online Deceased Estates and Online Trust registration will commence again, as these systems are dependent on a stable and efficient IT system to be successfully implemented. As part of the Master's proposed 2023/24 Operational Plan, it is planned that PEAS will be rolled out to more Service Points.

For the 2022/23 financial year, Masters are planning to ensure that at least **150** of service points who previously had MOVIT installed are re-registered. This will be measured through Masters SDIP.

Ensuring that all Master's Offices have fully functional Self-help- kiosks, to enable professional members of the industry to capture new deceased estates themselves thus freeing the hands of officials to attend to considering documents and issuing of appointments.

2.6 Outcome 6: Colonial/apartheid era justice-related legislation reviewed and replaced:

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|--|------------------|----------------|--|---|--|
| 6. Number of Colonial/Apartheid era justice-related legislation reviewed | | 12 | 9 | Bills: Memoranda to the Minister, Government Gazette or Parliamentary papers (whichever is applicable). | 3 remaining |

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|---|------------------|--|--|---|--|
| Percentage of constitutionally –sound legislative instruments that withstand court challenges | 0% | Less than 2% of legislative instruments successfully challenged in court for constitutionality | - | Government Gazette, parliamentary reports, research papers, rules of court, emails, minutes of meetings and memoranda to the Minister, Rules Board or South African Law Reform Commission, whichever applicable | Outcome indicator was amended to align it with the outcome |

For a constitutional democracy to thrive, its citizens must have confidence in the judicial system and respect for the rule of law. The public must have confidence that, in the event of any legal dispute arising among individuals or private entities, or between individuals or private entities and the State, their matters will be adjudicated fairly and in a non-partisan manner.

All laws that are applicable in our country should conform to the Constitution and its values. The Department of Justice and Constitutional Development has, among others, the primary responsibility to engender improved public perception and confidence in the justice system, together with respect for and adherence to the rule of law.

As part of the transformation of the justice system, the Department has prioritised the review of justice-related colonial and apartheid era legislation with the aim of aligning this legislation with the Constitution of the Republic of South Africa, 1996 (Constitution).

The new pieces of legislation will ensure improved and equal access to justice services that will cater for all, including vulnerable groups such as women, children, and people with disabilities, so as to create a transformed society that is freed from the divisions of the past.

The Bills that have been able to identify as having been attended to and approved by the Minister thus far are as follows:

- (1) Insolvency Bill to replace the Act of 1936;
- (2) Magistrates Bill to replace the Act of 1992;
- (3) Lower Courts Bill to replace the Act of 1944; and
- (4) Extradition Bill to replace the Act of 1962.
- (5) Regulation of Trusts Bill to replace Trust Property Act of 1988
- (6) Conspiracy and Inducement to Commit A Serious Offence Bill to replace Riotous Assemblies Act of 1956
- (7) Repeal of the Transkeian Penal Code Bill to replace the Transkei Penal Code of 1983
- (8) Criminal Law and Related Matters Amendment, 2021 – amended some provisions of the Criminal Procedure Act of 1977
- (9) Judicial Matters Amendment Act, 2020 amended some provisions of the Divorce Act of 1979

The Department has also prioritised a few other pieces of colonial and apartheid-era legislation for review, as they also need to be repealed or repealed and replaced. In this regard, the following is to be noted:

- 1. Criminal Law Amendment Bill (relating to Riotous Assemblies Act)** - A draft Bill to repeal the Riotous Assemblies Act, 1956, and to make provision for the offences of attempt, conspiracy, and inducing another person to commit a serious offence has been developed and has been submitted to the Cabinet for consideration and approval. The Bill will also address the Constitutional Court's decision in *Economic Freedom Fighters and another vs. the Minister of Justice and another (ZACC) 2020*, which declared the Act unconstitutional and invalid insofar as Section 18(2)(b) of the Act is concerned. It is anticipated that the Bill will be introduced in Parliament during 2023.
- 2. Unlawful Entering on Premises Bill (to repeal and replace the Trespass Act)** - The Trespass Act has been identified as a piece of colonial/apartheid era legislation, as it was originally designed to combat trespass, publications, and conduct engendering hostility between certain population groups. The Act has lost its relevance in constitutional democracy given that its express purpose was to suppress political resistance and manage interaction between race groups in line with apartheid objectives. A draft Bill has been developed and published for public comment and is currently in the process of consultation with the relevant cluster with a view to obtaining Cabinet approval for the introduction of the Bill in Parliament during 2023.
- 3. Repeal of the Transkeian Penal Code Bill** - The Transkei Penal Code, 1983, was enacted during the apartheid era and remains in full force and effect, despite the amendments made to it in 1996 and 1997, when certain provisions relating to sexual offences were repealed. A draft Bill to repeal the Penal Code has been prepared and is being consulted on with the relevant cluster with a view to obtaining Cabinet approval for the introduction of the Bill in Parliament during 2023.
- 4. Insolvency Act, 1936 (to be repealed and replaced by the Insolvency Bill)** - There should be no doubt that this outdated Act should have long ago been replaced. With the assistance of a task team representing relevant government Departments, a draft Bill was prepared. The next stage in the process will be to approach Cabinet to have it approve that the Bill be published in the *Gazette* for public consultation.
- 5. Sheriffs Act, 1986 (to be repealed and replaced by the Sheriffs Bill)** - This is one piece of outdated legislation that regulates the sheriffs' profession, which is not broadly representative of the demographics of South Africa as it restricts the opportunities for entry into the sheriffs' profession. Therefore, a review is underway in order to, amongst others, provide a legislative framework for the transformation and restructuring of the sheriffs' profession into a profession that is broadly representative of the Republic's demographics; to ensure that the values underpinning the Constitution are embraced and that the rule of law is upheld; to ensure that services rendered by sheriffs are accessible; to strengthen the independence of the sheriffs' profession; and to ensure the accountability of the sheriffs' profession to the public.
- 6.** The Department will further process the **Judicial Matters Amendment Bill** in order to implement other judgments of the Constitutional Court in relation to provisions of legislation that were declared unconstitutional, as this is critical to upholding the rule of law and affording individuals the protection provided for in the Constitution. These would include colonial or apartheid-era pieces of legislation such as the Matrimonial Property Act of 1984, the Intestate Succession Act of 1987, and the Maintenance of Surviving Spouses Act of 1990.

As part of the Department's contribution towards social cohesion and safer communities, the Department has identified the need to review and replace colonial and apartheid-era legislation, with the intended impact being to improve public perception, confidence, and respect for the rule of law.

The Department has embarked upon the following projects, among others, of a policy and legislative nature to strengthen the fight against corruption:

1. The review of the anti-corruption architecture of SA;
2. The extensive overhaul of the Prevention of Organized Crime Act, 1998 (Act No. 121 of 1998);
3. The review of the NPA Act in respect of appointment processes, as per the recommendation of the State Capture Commission (SCC);
4. Consideration is being given to the oversight role of the Minister and the NPA, and other aspects of the SCC recommendation, including the institutional arrangements;
5. The declaration of the officials in the Investigating Directorate (ID) as peace officers;
6. Other amendments to strengthen the ID by making it a permanent entity;
7. Review of the Special Investigating Unit and Special Tribunal Act, 1996 (Act No. 74 of 1996)

Since the 2019- 2020 strategic plan cycle to the end of September 2022, 32 out of the 55 research papers have been submitted to the SA Law Reform Commission for consideration and approval. Some of the papers considered by the Commission were proposal papers, which were subjected to a selection criterion to determine whether they should be included in the research programme of the Commission or not. These papers do not warrant further attention as they are internal papers that are not published. The following is a list of the substantive papers:

ISSUE PAPERS

| Serial Number of the Paper | Project Number | Title of Investigation | ISBN Number and Date Published |
|----------------------------|----------------|---|---------------------------------------|
| 35 | 144 | Single Marriage Statute including measures against sham marriages | 978-0-621-47268-4 8 April 2019 |
| 36 | 142 | Investigation into Legal Fees | 978-0-621-47357-5 7 May 2019 |
| 37 | 146 | Review of regulatory, compliance and reporting obligations imposed on local government by legislation | 978-0-621-47358-2 01 May 2019 |
| 38 | 147 | Review of laws regulating funeral parlours, crematoria, cemeteries and related services industry | 978-0-621- 48864-7 16 October 2020 |
| 39 | 148 | Domestication of the United Nations Convention on the Rights of Persons with Disabilities | 978-0-621-49276-7 26 March 2021 |
| 40 | 145 | Review of Mechanisms of Intergovernmental Relations Applicable to the Social Development Sector | 978-0-621-49382-5 30 April 2021 |

| Serial Number of the Paper | Project Number | Title of Investigation | ISBN Number and Date Published |
|----------------------------|----------------|--|--------------------------------------|
| 41 | 100 | Extension of the Consultation Process: Revised Issue Paper 34: Review of Aspects of Matrimonial Property Law | 978-0-621-49625-3 |
| 4 | 100 | Domestic Violence: The Criminal Law Response | 978-0-621-49955-1 8 December 2021 |

DISCUSSION PAPERS

| Serial Number of the Paper | Project Number | Title of Investigation | ISBN Number and Date Published |
|----------------------------|----------------|---|--|
| 148 | 100D | Alternative Dispute Resolution in Family Matters | 978-0-621-47270-7 18 November 2019 |
| 149 | 107 | Sexual Offences (Pornography and Children) | 978-0-621-47287-5 11 April 2019 |
| 150 | 142 | Legal Fees, including Access to Justice and Other Interventions | 978-0-621-48796-1 10 September 2020 |
| 151 | 127 | Review of Administration Orders | 978-0-621-48938-5 30 October 2020 |
| 152 | 144 | Single Marriage Statute | 978-0-621-49077-0 11 January 2021 |
| 153 | 143 | Maternity and Parental Benefits for Self-Employed Workers in the Informal Economy | 978-0-621-49630-7 23 June 2021 |
| 154 | 141 | Medico-Legal Claims | 978-0-621-49817-2 11 November 2021 |
| 155 | 100D | Relocation of Families with Reference to Minor Children | 978-0-621-49922-9 November 2021 |
| 156 | 149 | Repeal of the Transkeian Penal Code, 1983 (Act 9 of 1983) | 978-0-621-50203-9 22 April 2022 |

REPORTS

| Serial Number of the Paper | Project Number | Title of Investigation | ISBN Number and Date Published |
|----------------------------|--|---|--------------------------------|
| 125 | Prescription Periods (Harmonisation of Existing Laws Providing For Different Prescription Periods) | Report published on 29 March 2022 at an official media release and handover by Chairperson of the Commission to Minister of Justice and Correctional Services | ISBN 978-0-621-49078-7 |
| 138 | The practice of <i>ukuthwala</i> | Report under consideration by the Department of Justice and Constitutional Development. | To be published |
| 142 | Legal Fees, including Access to Justice and Other Interventions | Report published on 29 March 2022 at an official media release and handover by Chairperson of the Commission to Minister of Justice and Correctional Services | |

| Serial Number of the Paper | Project Number | Title of Investigation | ISBN Number and Date Published |
|----------------------------|---|------------------------|--------------------------------|
| 143 | Maternity and Parental Benefits for Self-Employed Workers in the Informal Economy | | Yet to be published |
| 144 | Enacting a Single Marriage Statute including measures against sham marriages | | Yet to be published |

The South African Law Reform Commission is working on a research paper on the 'Repeal of Colonial and Apartheid Era Legislation (Project 149).' This paper looks at the following:

- a special emphasis on the scourge of violent protests (problems and causes; current interventions; legal framework and deficiencies; reform proposals; and comparative law);
- Exposure of the laws impacting on expressive rights (Riotous Assemblies Act, Indemnity Act, Inquests Act, Prohibition of Disguises, Intimidation Act, among others);
- Exposition of law that is not within the scope of this investigation
- International law and lessons from other jurisdictions; and
- list of respondents to the SALRC's call for submission.

Capacity and budget are two of the main challenges to performance. Since 2013, four vacancies have arisen due to LP 10 officials retiring. These positions could not be filled as a result of the moratorium on filling vacancies at this level. This has meant that there have been more investigations than there are researchers to deal with them, leading to some investigations lying dormant for a long time.

Law reform is a very elaborate and consultative process that requires the Commission to go out to the deepest of rural areas to listen to the voice of the most marginalised in our communities. Due to a lack of resources, the Commission does not always consult as much as it would like to.

The legislation that emanates from the SALRC reports is often well researched and unassailable. Care is taken to ensure that it addresses the current challenges faced by the general population, especially the most vulnerable in society. This engenders public confidence in the justice system.

A multi-disciplinary team comprised of law reform researchers as well as legislative drafters will be established to draft the new Criminal Procedure legislation. As part of the Department's contribution towards social cohesion and safer communities, the Department has identified the need to review and replace colonial and apartheid-era legislation, with the intended impact being to improve public perception, confidence, and respect for the rule of law. In the three years of the current Medium Term Strategic Framework (MTSF), the Department has prioritised a few of the colonial and apartheid era pieces of legislation for review. To date, six pieces of legislation out of the 12 targeted pieces of legislation have been reviewed with the aim of aligning the legislation with the Constitution of the Republic of South Africa, 1996 (the Constitution), as some members of the public are already beginning to challenge the constitutionality of some of these pieces of legislation.

The reviewed legislation will ensure improved and equal access to justice services that will cater for all, including vulnerable groups such as women, children, and people with disabilities, in order to create a transformed society that is freed from the divisions of the past. It will ensure that the pieces of legislation are

aligned with the Constitution, which is the supreme law of the country. The reviewed legislation guarantees improved and equal access to justice services that will cater to all persons, including vulnerable groups such as women, children, and people with disabilities, in order to create a transformed society that is freed from the divisions of the past. These pieces of legislation include the following:

- a) **The Divorce Act, 1979 (amended through the Judicial Matters Amendment Act, 2020)**
- The review followed a constitutional challenge (in the case of the Constitutional Court judgement in *Bukelwa Nolizwe Holomisa v. Sango Patekile Holomisa and Another [2018] ZACC 40*) to the provisions of section 7(3) of the Divorce Act, which catered only for persons who were married (out of community of property) before the commencement of the Matrimonial Property Act, 1984, in terms of an ante-nuptial contract, which excluded community of property, profit and loss, and accrual, and out of community of property before the commencement of the Marriage and Matrimonial Property Law Amendment Act, 1988, in terms of section 22(6) of the Black Administration Act, 1927. This in effect excluded persons married out of community of property under the repealed Transkei Marriage Act, 1978. The Amendment Act therefore seeks to further regulate the division of assets and maintenance of parties in divorce proceedings in accordance with a judgment of the Constitutional Court, thus ensuring equality and fairness to the parties to a marriage.
- b) **Magistrates Court Act, 1944**, and (c) **Magistrates Act, 1993** The Magistrates Act, 1993, emanates from an era before the advent of the new constitutional dispensation in South Africa. The Magistrates' Courts Act, 1944, has been amended on various occasions, but because it is still archaic, it is necessary to review the whole Act. The Department prepared and published for public comment the two separate Bills that are intended to transform the statutory framework regulating the structure and functioning of the lower courts and the conditions of employment of the lower courts' judiciary. The comments received on the two bills are being considered, and thereafter the Bill will be consulted through the relevant cluster with a view to obtaining Cabinet approval to introduce the Bill in Parliament during 2023.
- c) **Criminal Procedure Act, 1977 (some provisions have been amended through the Criminal Law and Related Matters Amendment Act, 2021)**. - In adhering to its commitment towards the eradication of the scourge of gender-based violence, the Department processed, as part of the three pieces of legislation, the amendment to the Criminal Procedure Act in order to provide more protection for complainants of gender-based violence, more victim-centred mechanisms available for their use, and a stricter approach towards the measures to be taken against perpetrators before, during, and after the trial. The Criminal Law and Related Amendment Act, 2021, further regulates, among other things, the granting and cancellation of bail, the giving of evidence by means of closed circuit television or similar electronic media, the giving of evidence by a witness with a physical, psychological, or mental disability, the appointment, oath, and competency of intermediaries, and the right of a complainant in a domestic-related offence to participate in parole proceedings. This will most likely stand out as one of the most positive initiatives from the government to ensure justice is done to the most vulnerable members of society. The implementation of all three pieces of legislation on gender-based violence will have a positive impact on dealing with the scourge of gender violence in our country.
- d) **Extradition Act, 1962, to be repealed and replaced by the Extradition Bill** The Extradition Act, 1962, is an outdated Act that is not in line with modern law and practises and that does not enable

South Africa to comply with all its international obligations relating to extradition in an appropriate manner. A new Bill was prepared providing for the extradition of persons sought for extraditable offences to and from South Africa to requested States with which South Africa has concluded an agreement and for the surrender of persons sought to international entities having jurisdiction in respect of international crimes (genocide, war crimes, and crimes against humanity). The Bill also seeks to clarify the roles and responsibilities of the different functionaries and to put procedures in place to expedite extradition requests. This Bill is aimed at ensuring that South Africa is not a safe haven for criminals or to be said to act with impunity. The Bill has been processed through the relevant clusters, and the Department further published the Bill for public comment and is currently revising the Bill following submissions received. The Bill will be further processed with a view to obtaining the Cabinet's approval to introduce the Bill in Parliament during 2023.

- e) **Trust Property Control Act, 1988 (to be repealed and replaced by the Regulation of Trusts Bill)** The Bill seeks to develop legislation that regulates the institution of trusts in order to provide for legislative measures that are on par with the current socio-economic, jurisprudential, and practical landscapes in which the trusts are created and operate. A draft Bill has been prepared and is being consulted on with certain key stakeholders in its development; the next step will be to publish the Bill for public comment.

The Rules Board has been conducting a continuous review of the rules of the Supreme Court of Appeal, the High Courts, the Practice Directives of the various Divisions of the High Court, the alignment of the Magistrates' Courts Rules, where possible, with the Superior Court rules, as well as the review of the Small Claims Court rules, which are functions that the Rules Board performs as part of its statutory mandate.

Five-year Target: 119 Rules to be approved by the Board

The Rules Board has contributed to the following outcomes in order to achieve the impact statement:

- (1) Colonial and Apartheid era justice-related legislation reviewed and replaced by ensuring that rules are reviewed, drafted, and approved annually,
- (2) Modernized and digitised platforms for justice services by ensuring the development and approval of e-justice rules. These rules seek to ensure that we have a modernised civil court system that will provide for electronic hearings of civil court cases, optimal use of resources provided for civil courts, and time and cost savings to litigants in civil cases. Litigants who do not have access to electronic systems will still be able to use the conventional system.

During the strategic plan cycle The Rules Board has approved 72 rules:

- 23 rules during the 2020/21 financial year, and
- 33 rules during 2021/22 financial year; and
- 16 rules during the mid-term 2022/23 financial year .

In accordance with its statutory mandate, the expected outcome and impact for the Rules Board for Courts of Law is to improve access to justice. Over the past four financial years (2019–2022), the Rules Board has developed a number of court rules that have promoted access to justice. Some of the rules of significance are:

- a) **Uniform Rule 32 Procedure for summary judgment:** The remedy of summary judgement in commercial claims was improved to strengthen the remedy for deserving plaintiffs who often would not succeed because of technical defences raised by recalcitrant defendants, while defendants with genuine defences were provided with a more fair procedure to advance their defences and proceed to trial.
- b) **Uniform Rule 41A (Mediation as a Dispute Resolution Mechanism):** The Rules Board introduced mediation into High Court practise to curtail the volume of litigation and the load on court rolls so that cases that have to proceed to trial can be heard sooner. Parties to litigation are required to file a notice indicating whether the case is capable of mediation and whether they agree to go to voluntary litigation. If the issues in dispute are not fully settled, then fewer issues are actually referred to trial. Parties can use mediators of their own choice, and there is no prescribed tariff of fees for mediators.
- c) **Rule 37A; Judicial Case Management:** This rule provides for a Case Management Judge to manage the progress of court case procedures, inter alia, calling for case management meetings with the parties, monitoring discovery of documents, witnesses, and pre-trial procedures, and certifying cases as trial ready, to ensure that cases proceed quicker to trial.
- d) **Rule 4: Service:** The rule regulating service of documents has been improved to provide, inter alia, that the court must be satisfied that a party has been properly served with a court process, so as to align with the *audi alteram partem* rule and access to courts.
- e) **Rule 40: Legal assistance to indigent persons:** This rule as well as Supreme Court of Appeal Rule 15 have increased the qualifying threshold for indigent litigants to receive legal representation free of charge and made other improvements to the procedure, which benefits litigants who would otherwise not have been able to obtain legal remedies through the court system.
- f) **Rule 37B: Administrative Archiving This rule helps URC 37A control and manage cases that aren't being worked on, so that the court and judicial resources can be used as well as possible.**
- g) **Revised rules for the Small Claims Courts:** The rules for the Small Claims Courts were outdated in terms of how the Small Claims Courts have evolved. The procedure has been improved, and procedures such as the review of decisions by a commissioner and the execution of judgments have been simplified.
- h) **e-Justice Rules:** These Rules seek to ensure a modernised civil court system that will provide for electronic filing, service, and storage of documents and the hearing of civil court cases, optimise the use of resources provided for civil courts, and provide time and cost savings to litigants in civil cases. Litigants who do not have access to electronic systems will still be able to use the conventional system.
- i) People convicted of certain categories of crimes who qualify have had their criminal records expunged. This process has enabled people to be reintegrated into their socio-economic environment and to live their lives free of a criminal record, thus enhancing the public's perception of the Department and building confidence in the justice system.

People convicted of certain categories of crimes may apply for the expungement of their criminal records in terms of Section 271B of the Criminal Procedure Act. This process enables people to be reintegrated into their socio-economic environment.

During the midyear reporting period, **34717** expungement certificates were finalized, of which **25109** certificates were done within 90 days (**72%**)

The outcome indicator was amended from “Percentage of constitutionally –sound legislative instruments that withstand court challenges” to “Number of Colonial/ Apartheid era justice-related legislation reviewed” to align it to the outcome: “Colonial/apartheid era justice-related legislation reviewed and replaced”

2.7 Outcome 7: Transformed state litigation services

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|--|------------------|----------------|--|---|---|
| Percentage decrease in state litigation liabilities annually | - | 5% annually | 0% | Report from the SG and the office of the State Attorney | The achievement of the targets has a number of dependencies which to a certain degree make it unrealistic. It depends on implementing the policies as provided by the State Attorney Amendment Act. These policies have been drafted and endorsed by the cabinet but not implemented as they are to be tabled in Parliament before implementation |

State Attorneys negotiate legal fees with State organs in litigation matters, therefore the fees paid are considered to be reasonable. It must also be noted that State Attorneys only deal with the symptoms of litigation, therefore State organs must ensure compliance with National Legislation and improve service delivery to ensure reduction of litigation liabilities as per the outcome indicator. The operationalization of the State Mediation policy will capacitate legal practitioners and ensure participation in the economy.

The Office of Solicitor General (OSG) has finalised the development of a **five (5)** Litigation Strategy as well as policies on the Management of State Litigation; State Mediation, Briefing and Outsourcing of State legal Work, Initiating, Defending and Opposing of matters, State Legal Representation and Management of State Litigation Contingent Liability in line with Section 3(4) of the State Attorney Amendment Act.

The policies and the litigation strategy have been approved by the Minister of Justice for processing at Cabinet and were further presented and approved by both DGs and Ministers JCPS cluster committees as well as the JCPS Cabinet Committee. Processes are underway to table the policies before a full Cabinet Committee and thereafter to Parliament for noting.

An implementation plan for State policies to raise awareness and deal with barriers has been developed. The OSG shall, in collaboration with State organs and other stakeholders, adopt a collective approach towards the implementation and review of State policies and Strategy. **Nine** stakeholder relations were conducted with State organs and legal practitioners on the implementation of policies for smooth operationalization. The challenge currently is the lack of leadership as the result of vacant positions of the five Office Heads which hindered branch from achieving the 2021/22 performance targets. The post of the Office Head of Thohoyandou and Kimberley were sent for Job Evaluation, and interviews were conducted for the position

of Office Head for State Attorney. In Port Elizabeth, competency assessment was done, however the position has not yet been filled. Most of the Office Head positions have been vacant since 2012. The offices of the State Attorney have **31** approved Deputy State Attorney posts of which **18** are vacant. The vacant State Attorney and the Deputy State Attorney positions had objectionable impact on the management of the branch and its ability to achieve planned performance targets.

The impact of the introduction of the post review committee has resulted in the suppression of a significant number of vacancies in the branch. The post review process resulted in **17** Senior Assistant State Attorney and **41** Assistant State Attorney positions not being filled. Regrettably, thirteen of the vacant Senior Assistant Attorney Posts were abolished on recommendation by the Post Review Committee. This was regardless of the Department being aware of abnormal situation the offices of the State Attorney were experiencing.

It goes without saying that without ample staff compliment, the branch could not have achieved some of its performance targets.

Office spaces are dilapidated and working conditions (especially in the State Attorney Thohoyandou) are unconscionable. Some attorneys have to share offices; some of which have no windows; office furniture is broken and there is no access to proper boardroom facilities to hold meetings with counterparts.

The increasing volume of work due to insufficient human resources capacity in most offices has impacted negatively on the quality of work of attorneys as well as on the quality of performance information or reports produced by the branch. As at the end of the 2020/21 financial year, the branch had **13** offices of State Attorney in nine provinces with a total estimated workload of just over **300 000**, with only **291** attorneys country wide and this translate to just over **1000** ratio of files per attorney.

The assessment on the effectiveness and efficiency of the office of the state attorney report published by the Public Services Commission in March of 2016, recommended that statistically, OSA needs **2487** attorneys to bring the ratio of files per attorney to an acceptable standard of between 100 and 150.

The Office of the State Attorney lacks a proper system for electronic diary and alerts; the management and sharing of knowledge within the offices (in the form of precedents and tools to develop learning through best practices) and sustained training and development in the field of trial advocacy.

The small changes that have been effected are superficial and have not developed the existing infrastructure in line with new realities and challenges. State Attorney Offices are not equipped with appropriate electronic tools, including computers. Their systems are managed as part of the DOJ&CD's IT system, which focuses on administration. This infrastructure is not in line with that of an attorney's practice.

Whilst the Department subscribes to electronic resources, the question is whether State Attorneys are capacitated in accessing these resources. Many private law firms invest in the development of their staff through training, up skilling, newsletters and other forms of enhancing their ability to access up-to-date and relevant information. Being armed with information on updates to legislation and case law is crucial to an attorney's operations but this is an acute limitation to the State Attorney model. There is no such system or planned investment in this sphere to equip Offices of the State Attorney to be fit for purpose.

Since the appointment of the Solicitor-General in March 2020, the Office of the Solicitor-General has not yet established a structure (Organogram), because the structure is not yet approved. Solicitor-General cannot, without any assistance, manage and supervise all **13** offices of State Attorney; assist the Minister in developing policies; monitor the implementation of the policies relating to the functions of the offices of State of Attorney; develop and issue directives and standards for the State Attorney and perform other ancillary functions required of him without a proper structure.

In order for the office to operate effectively and provide quality professional services required and expected of it, there is a need to formally form a structure. The structure should have professionals that assist the Solicitor-General, in executing his powers and functions, by providing services in all areas that fall within powers and functions of the Office of the Solicitor-General and should consist of the following functionaries:

- (a) planning, monitoring and evaluation
- (b) taxation and management of legal costs
- (c) litigation contingent liability
- (d) legal research
- (e) policy development
- (f) constitutional and contracts services
- (g) management of state legal services
- (h) alternative dispute resolution
- (i) stakeholders and SOE management
- (j) quality management and processing

Transformed State Legal Services

- a) Present for adoption, the implementation plan for State policies at the INLF to be hosted in February 2023. This will enable members of the INLF to provide inputs into the plan to ensure successful implementation of policies. Barriers to successful implementation will be addressed and the State will adopt uniform standards in the coordination and management of State litigation which will result in the decrease in State litigation costs and fees.
- b) The State Attorney Amendment Act envisages that once all the policies are tabled in Parliament, the Solicitor-General shall pursuant to the provisions of section 3A (1)(c) issue standards and directives to streamline the operationalization of all policies. Standards and directives shall also be developed in consultation with members of the INLF and same has been targeted in the next financial year.
- c) State policies will be implemented in the 2023/24 financial year. The reduction of State liabilities will be measured only in the 2024/25 financial year. The 2020 to 2024 financial years were/are reserved for the development and implementation of policies. The Coordination and Management of State Litigation, State Mediation policy and Management of State Litigation Contingent policy will present the State an opportunity to address challenges encountered prior to the proclamation of the State Attorney Amendment Act.
- d) Fast track the costing and implementation of the Litigation Strategy. The Litigation Strategy is the key strategic directive on the establishment of the Office of the Solicitor-General as a central authority for State Legal Services.
- e) Interim templates and systems to collate and measure performance reporting to be developed with State Attorneys pending finalization of the Legal Practice Management System for State Attorneys.
- f) The Office of the Solicitor-General shall fast track the finalization of the OSG structure and capacitation of State Attorneys in consultation with relevant stakeholders.
- g) The OSG shall in consultation with State Attorney interrogate for inclusion of the below mentioned outcome and indicators in the Branch operational plan so as to achieve a percentage decrease in state litigation liabilities (capital and costs) in line with policies for the implementation of the State Attorney Amendment Act.
- h) Outcome: Savings on litigation costs and capital amounts claimed against the State Indicators will be measured as follows:
 - Percentage of savings on capital amounts in claims against the State
 - Percentage of savings in relation to bill of costs presented to the State.
 - Percentage of savings in relation to litigation invoices submitted for payment.

The Department, through the Office of the Chief State Law Advisor (OCSLA), has the responsibility of providing legal advice, representation and legislative drafting services to the Executive, namely all State departments, at both national and provincial levels, municipalities, parastatals and independent or autonomous bodies that may refer work to it. The Office of the Chief State Law Advisor further provides legal advice and guidance to the State on its proposals, legislation and international agreements and ensures that potential litigation against the State, on constitutional and other legal grounds, is considerably reduced. It provides legal advice and guidance with regard to the Constitution, other legal instruments and constitutional muster. The performance contributes to the transformation of state legal services.

Legal opinions assist the government in carrying out its activities in accordance with the Constitution and other laws and thereby reduce potential litigation against the government. This enables government to focus on its service delivery programs. In total, **1 437** legal opinions out of **1 636** (80%) were finalised within 30 days of receipt of instructions.

When the National State of Disaster was declared during March 2020, OCSLA was required to attend a large number of legal opinions, Regulations and Directions related to COVID-19.

Preliminary opinions and certification of bills help the government to operate in accordance with the Constitution and other laws and, as a result, to reduce potential litigation against the government. It also assists in translating Cabinet policy decisions into legislation that would be used to promote service delivery. During the reporting period, a total of **751** suggested Bills and subordinate legislation received, while **694** were finalised within 30 days from the date of receipt of the instructions.

Scrutiny of international agreements assists the government in entering into agreements that will not negatively impact the government and its citizens. A total of **278** out of **301** International Agreements were finalised within 30 days from the date of receipt of instructions.

OCSLA management will continue to monitor the progress of work to ensure compliance with timelines and to ensure that the work produced continues to be of the highest quality.

2.8 Outcome 8: Transformed legal profession

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|---|------------------|---|--|---|---|
| Percentage increase of previously disadvantaged individuals (PDI) legal practitioners briefed | 1971 | PDI legal practitioners briefed increase by 2% annually | 0% | BAS report and batches monthly statistics | The achievement of the targets has a number of dependencies which to a certain degree make it unrealistic. It depends on implementing the policies as provided by the State Attorney Amendment Act. These policies have been drafted and endorsed by the cabinet but not implemented as they are to be tabled in Parliament before implementation |

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|---|------------------|--|--|------------------------------------|--|
| Percentage increase annually of previously disadvantaged individuals legal practitioners conferred as senior counsels in line with the Policy Guideline | 188 | 10% increase annually in PDI legal practitioners conferred as senior counsel | 0% | Database of Legal Practice Council | Target has been removed |

Development and finalisation of the Briefing and outsourcing of State legal work policy

Wide consultation was conducted with the national, provincial and local spheres of government including the SOEs as well as private legal practitioners in order to solicit comments, inputs and obtain support for implementation of policy. The policy was examined and certified to be in compliance with the Socio-Economic Impact Assessment System and Quality Assurance. The SEIAS certificates have been issued by the Office of the Presidency. The policy has been approved by the Minister of Justice for processing at Cabinet and were further presented and approved by both DGs and Ministers JCPS cluster committees as well as the JCPS Cabinet Committee. Processes are underway to table the policy before a full Cabinet Committee and thereafter to Parliament for noting.

The implementation plan for policy was developed in order to raise awareness, deal with barriers to ensure effective implementation of policy. The Minister of Justice approved the Framework Contract to solicit inputs from legal service providers to establish a pre-approved panel of legal practitioners. The Bid specification in respect of the Framework Contract has been finalised. Specifications were presented to the Quality Assurance committee at the National Treasury for approval in September 2022. Specifications were not approved, but were returned for corrections and amendments.

Challenges making the OSG to not achieve the targets for the outcome indicator are, the lack of capacity from certain Bar Councils; under representation of female legal practitioners; lack of experience/legal expertise from some of the PDI legal practitioners ;interference by State departments in the appointment of legal practitioners; and the State issuing work to traditional legal practitioners at the expense of PDI legal practitioners.

Transformed Legal Profession

- a) The OSG will fast track the advertisement and implementation of the Framework Contract. This will promote effective and sustainable economic participation; ensure fair distribution of briefs; introduce uniform fee guidelines; promote the development of legal expertise and capacitate legal practitioners. The State will be able to decrease inimical repetitive briefing trends and increase the number of different previously disadvantaged (PDI) legal practitioners briefed.

- b) The OSG has developed guides on Outsourcing of state legal work to private legal practitioners and female legal practitioners and a guide on briefing of young female legal practitioners. The OSG will workshop the guides with members of the INLF and private legal practitioners to obtain support and capacitate legal practitioners to achieve transformation of the legal profession.
- c) The OSG will through the INLF encourage State departments to align their strategic plans with that of the Office of the Solicitor General relating to transformation of state legal services and transformation of the legal profession.
- d) Implement the Briefing and Outsourcing of State Legal Work in the 23/24 financial year.

2.9 Outcome 9: Advanced constitutionalism, human rights and the rule of law

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual achievement as at 30 September 2022 | Data Sources (refer to TIDS) | Improvements required for the remainder of the planning period |
|---|------------------|----------------|--|------------------------------|---|
| Percentage of people who have knowledge and awareness of constitution | 51% | 55% | 0% | Survey report | Processes are underway to commission the survey |
| Percentage compliance with international obligations | 63% | 100% | 71% | Compliance Report | The Department will work towards the preparation and submission of country reports to ensure compliance |

South Africa is a constitutional democracy with the Constitution being the supreme law of the land. The judicial authority of the Republic is vested in the courts, which are independent and subject only to the Constitution and the law. In this regard, everyone has the right to have their dispute that can be resolved by the application of law decided in a fair public hearing by a court or, where appropriate, another independent and impartial tribunal or forum.

The Department of Justice and Constitutional Development (the Department) is committed to improving the lives of all citizens, upholding the rule of law, promoting equality and ensuring the advancement of human rights and freedoms. This includes building a transformed and accessible justice system, which promotes and protects social justice, fundamental human rights and freedoms.

The Bill of Rights enshrined in the Constitution of South Africa, 1996 (the Constitution) amongst others guarantees the right to equality and prohibition of unfair (direct/indirect) discrimination on one or more grounds, including gender, sex and sexual orientation. Section 7(2) mandates the State to respect, protect, promote and fulfil the rights in the Bill of Rights.

Although human rights law deals mainly with state-citizen relationships, it can be used to guide state action in transforming situations that contribute to poverty. The State can also strengthen the accountability of non-

state actors under its jurisdiction. In this way, it can address the three crucial areas outlined in the National Planning Commission (NPC) Diagnostic Report, namely, economy and employment, improving education, training and innovation and building a capable and developmental state.

Within the seven priorities of government identified, the Department plays a major role in Priority 6: Social Cohesion and Safe Communities. The Department included outcomes and indicators in its Strategic Plan and in this Annual Performance Plan that are fully aligned with the government's Programme of Action and the Medium-Term Strategic Framework (MTSF).

During the first three years of the current Medium Term Strategic Framework (MTSF) to date, the Department of Justice and Constitutional Development (DOJ&CD or the Department) in terms of its mandate as the custodian of constitutionalism, has continued to collaborate with the Department of Sport, Arts and Culture (DSAC) as the Department tasked by Cabinet to be the custodian of all National Days including national Human Rights Day on 21 March, and other strategic stakeholders to plan and host the national Human Rights Days (NHRD). This includes collaborating to conduct several build-up events and activities aimed at promoting respect for human rights, constitutionalism and the rule of law over the relevant MTSF period to date.

Similarly, the Department has over the reporting period to date, continued to collaborate with key partners and role-players to mark International Human Rights Day on 10 December, through the hosting of physical events, community engagements and online webinars aimed at entrenching a culture of human rights.

In addition, the Department continued to engage in and support the work of the Constitutional Rights Education Working Group (CRE-WG) to share and align the activities conducted by its members in order to integrate campaigns for Constitutional Rights Education across the sector. The CRE-WG is a broad coalition of government and non-government organisation which are involved in conducting Constitutional Rights Awareness.

Furthermore, the Department engaged with several stakeholders in endeavours to promote collaboration with Departments and civil society organisations to promote Constitutional Rights Education, which include the Democracy Works Foundation (DWF), the Foundation for Human Rights (FHR), European Union (EU) and the National school of Government (NSG).

The Department continued work to support the sustainability of Community Advice Office (CAOs) who deliver legal advice and other human rights-based services to poor, marginalised and vulnerable communities in order to help them realise their constitutional rights.

ACTIVITIES TO COMMEMORATE THE 25TH ANNIVERSARY OF THE CONSTITUTION

- **Freedom Month Constitutional Community Dialogue** - Kopanong Secondary School, Turflaagte, Bloemfontein (29 May 2021);
- **Africa Month webinar**- "The Constitution as an enabler for fostering inter-continental relations" (24 May 2021);

- **Parliament Special Joint Sitting-debate** to mark the adoption of the Constitution (28 May 2021)
- **Ministerial student engagement**, themed "The Constitution as a catalyst for providing equal access to quality further education" UNISA, Parow (28 May 2021).
- **Webinar-25 Years of the Constitution** hosted on 22 July 2021 led by the Minister with inputs from SAHRC and other Civil Society Formations.
- **Virtual Men's Dialogue** 28 July 2021 in commemoration of the 25th Anniversary of the Constitution hosted as part of the closing for Men's Month.
- **Launch of the 25th Anniversary programme** - Mandela Month Ministerial Webinar 30 July 2021, themed 'Deepening of Constitutionalism, the respect for the Rule of Law and the Promotion and Protection of Fundamental Human Rights'.
- **Radio interview** on Motsweding FM "Assessing the performance of the South African Constitution, analysing if the current incidents undermines the democratic gains and the rule of law" was hosted and lead by the DG (1 August 2021).
- **Outreach to 45 schools** to raise awareness to high school learners on their constitutional rights during July and August in and around Durban.
- Following the July uprising and looting, the Department conducted **4 Restorative Justice Community Dialogues** in KZN starting from 24 August 2021. Over 300 people attended the sessions. The dialogues committed to building a reconciled and united society, to raising awareness about the role and mandate of the Department, to raise awareness on human rights and deal with violations of human rights, and other issues.
- **A Justice Services fair** and Psycho-social support were provided to those affected by the riots and to encourage victims to access justice services.
- **Service Delivery Month** Webinar on the role of public service servants in advancing the provisions of the Constitution in Sep 2021
- A further **two Restorative Justice Community Dialogues** were conducted in Durban and Pietermaritzburg on 09 and 14 Sep 2021.
- Participated in the **Department of Tourism's Webinar** on 07 September 2021 to engage and educate youth on Constitutional Rights and the importance of the 25th Anniversary of the Constitution.

These outcomes have contributed towards the MTSF Priority 6: Social Cohesion Programme. The Cabinet resolution of 12 May 2021 directed that the DoJ&CD lead the coordination of the national programme in commemoration of the 25th anniversary of the Constitution in 2021/2022, continuing into 2022/23.

The Cabinet approved commemorative programme is based on 6 x broad themes that are closely aligned to Priority 6: Social Cohesion Programme, including fostering a culture of human rights.

The President in his keynote address mentioned the Commemoration during the Freedom Day Celebrations event of the 27 April 2021 at Botshabelo, Free State. The formal launch of the commemoration took place during the Nelson Mandela Month Webinar on 30 July 2022. Several activities were hosted to commemorate the 25th Anniversary of the Constitution.

Further Community and youth engagements have been planned to take place in the next 18 months, including three round tables proposed as build-up activities towards the National Conference to commemorate the 25th Anniversary of the Constitution coming into effect.

In response to the July unrest in KZN during July 2022, the Phoenix restorative justice intervention was conceptualised and implemented as part of the Department efforts to promote social cohesion and in terms of its mandate and role as focal agency in respect to the NAP implementation. This was an Ad Hoc project conducted in August 2022 at schools and communities in KZN after the unrest.

During the Human Rights Month and within the Anti-Racism Week, the Department in collaboration with Ahmed Kathrada Foundation visited schools from 2019/ 22 promoting anti-discrimination and anti-xenophobia issues.

A Hybrid Capacity Development Session for Department Directors Legal was hosted in collaboration with the UNHCR.

The NAP Baseline Research Study to determine current Levels of Racism, Anti-Foreigner Sentiment, Homophobia, Racial Incidents, Inter-Racial Relations and Perceptions of National Identity was concluded in 2021 by the Human Sciences Research Council (HSRC) commissioned by the Department. The Department hosted the WCAR20+ Conference which was held from 23-24 May 2022, during which event the Baseline report was officially launched.

The Department has formed collaboration in support of activities supporting the implementation of the NAP including promoting anti-discrimination issues with the following amongst others:

- International Organization on Migration
- Department of Traditional Affairs
- Vaal Heritage Activist Foundation
- Department of Social Development
- Department of Sport, Arts and Culture
- Community radio stations to do radio talks to promote awareness of the NAP
- African Policing Civilian Oversight Forum collaboration (APCOF)
- Government Communication and Information Systems
- UN Migration Multi Partner Trust Fund (MPTF)
- United Nations Protection Working Group
- Wits Centre for Diversity Studies (WiCDS)

The National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP) as approved by Cabinet in February 2019, is aligned to the MTSF (Priority 6) and commits all sectors of our society to the promotion and protection all human rights and to raise awareness of anti-racism, equality and anti-discrimination issues. It calls for a partnership between government Departments and Chapter Nine institutions and all other sectors to implement anti-racist and anti-discrimination education.

The NAP also makes provision for the identification of legislation that needs to be amended or adopted with a view to improving the protection of victims, the building of a more equal society, and strengthening of the rule of law and democracy.

The NAP calls for commitment by all South Africans to values and behaviour that will break with our hurtful and damaging past and that will keep our moral compass trained on our path of renewal and growth.

The NAP indicators as reflected in the MTSF broadly aim to:

- Educate the public and raise awareness in order to bring about behavioural change.
- Collect data and information on incidents of discrimination.
- Reduce inequality of opportunity.
- Redress – spatial, economic and cultural divisions.
- Engender knowledge of the Constitution and foster the values contained therein.

There is an agreement and existing collaboration between the DOJ&CD and the UN Migration MPTF to provide technical capacity required to develop the Framework for the virtual repository on disaggregated statistical data for the measurements of racism, racial discrimination, xenophobia and related intolerance. Over and above the current work for rest of current financial year, the 2023/2024 target for Virtual Data Repository will be achieved over next 18 months

During 2019/2020 financial year, 19 awareness sessions were conducted on LGBTI rights, women, people with disabilities and children.

In addition, the Department submitted and presented 11 progress reports on LGBTI Hate Crimes cases to the Rapid Response Team meetings during the financial period under review. As at the end of the financial period, 12 training sessions were conducted with communities and other stakeholders on hate crimes. A total of 18 awareness sessions on LGBTI rights, women, people with disabilities and children were conducted during the 2020/2021 financial year

By the end of 2020/2021, a total of four (4) TIP campaigns were conducted in collaboration with other Departments and role-players.

The implementation of constitutionally mandated legislation, namely Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 (Equality Act), Promotion of Administrative Justice Act, 2000; and

Promoting the Constitution and its values:

- **Thirteen (13)** awareness sessions on LGBTI rights conducted with communities and civil society organisations (including traditional and faith-based leaders) through various media platforms
- **Twelve (12)** awareness sessions conducted on LGBTI rights, women, people with disabilities and children
- **Nine (9)** awareness sessions on LGBTI rights conducted in collaboration with other Departments and role-players
- A total of **19** sessions on LGBTI rights conducted in collaboration with other Departments and role-players
- A total of **five (5)** Trafficking in Persons campaigns were conducted in collaboration with other Departments. In addition, a total of A total of 19 sessions on LGBTI rights conducted in collaboration with other Departments and role-players. These are aimed at advancing constitutionalism, human rights and respect for rule of law including tolerance of LGBTI persons in our communities.

Stakeholders towards the promotion of Equality Courts. These were held as follows:

- 15 September 2022 in Mbombela, Mpumalanga. This was attended by Traditional Leaders and facilitated by COGTA;
- 25 August 2022 at Telkom Towers, Pretoria CBD. It was attended by Police officials and their management stationed at national level; and
- Riviera Hotel, Vereeniging on 02 June 2022. Participants included officials from DOJ&CD, Department of Basic Education (DBE), South African Police Service (SAPS), MEC's Office (Community Safety), International Organisation for Migration (IOM) and members of civil society. The event was hosted by the Vaal Heritage Activist Foundation (VHAF).

The Department is committed to improving the lives of all citizens, upholding the rule of law, promoting equality and ensuring the advancement of human rights and freedoms. This includes building a transformed and accessible justice system, which promotes and protects social justice, fundamental human rights and freedoms.

The aim of the Department is to enhance the protection of the rights of **Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons** by conducting awareness campaigns with communities and civil society organisations.

The Department is also mandated to raise public awareness and **prevent human trafficking**; To improve knowledge of human trafficking and related matters and to ensure that victims of trafficking have access to comprehensive assistance programmes.

The activities relating to the promotion of **Equality Courts** is aligned to the MTSF Priority 6: Social Cohesion Programme and is aimed at achieving equality, prohibit unfair discrimination, hate speech and harassment. In addition, it is aimed at increasing use of Equality Courts by individuals in an endeavour to get access to justice.

Both the LGBTI and TIP programmes have since been transferred to the **Branch: Court Services**.

The Department has improved compliance with international obligations by reducing backlogs in terms of submitting periodic reports to international human rights treaty monitoring bodies. From April 2009 to date, the Department has submitted the following periodic country reports to the human rights treaty monitoring bodies:

1. Replies of South Africa to the list of issues in relation to the second periodic report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), submitted to the United Nations on 2 April 2019.
2. The Combined ninth to eleventh periodic reports under the International Convention for the Elimination of All Forms of Racial Discrimination (ICERD), submitted to the UN on 27 May 2021.
3. Responses to concluding observations and recommendations on the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), submitted to the UN on 20 April 2021.
4. Responses to concluding observations and recommendations on the International Covenant on Economic Social and Cultural Rights (ICESCR), submitted to the UN on 21 May 2021.
5. The 4th Universal Periodic Review (UPR) Country Report submitted to the UN in July 2022.

Furthermore, the Department has spearheaded the work towards the finalisation of acceding to outstanding international instruments including the Convention on the Suppression and Punishment of the Crime of Apartheid (ICSPCA), and the International Convention for the Protection of All Persons from Enforced Disappearance (CPED). The two human rights instruments have been approved by Cabinet and are currently being scrutinised by Parliament for approval in terms of section 231(2) of the Constitution of the Republic of South Africa, 1996.

The process of submitting periodic country reports on human rights treaties also serve to raise government officials and public awareness on human rights particularly through the dialogues and engagements with civil society organisations during the preparations of reports who are on the ground and interface with ordinary citizens at the coalface of society.

To ensure compliance with the above mentioned international and regional treaty obligations, the Department will table in Cabinet for approval the Terms of Reference establishing the National Human Rights Coordinating, Monitoring, Reporting and Follow-up Committee (NHRCMRFC) in South Africa to serve as a national public mechanism or structure that is mandated to coordinate and prepare reports to and engage with international and regional human rights mechanisms (including international and regional treaty bodies, the UPR and special procedures), and to coordinate and track national follow-up and implementation of the treaty obligations and the recommendations emanating from these mechanisms.

2.10 Outcome 10: Crime and corruption reduced through effective prosecution

| Outcome Indicator | 2019/20 Baseline | 2024/25 Target | Actual Achievement as at 30 September 2022 | Data Sources | Improvements required for the remainder of the planning period |
|--|------------------|----------------|--|---|--|
| Level of satisfaction with the prosecution of identified crime types | n/a | Baseline + 30% | 0% | Questionnaires and Survey Report | Processes are underway to commission the survey |
| % of identified high impact corruption prosecutions instituted | n/a | Baseline +25% | 100% | NPS Corruption Registers/ ID Case Register/ ACTT priority case list | Not applicable |
| Level of customer satisfaction with NPA services | 84% | 92% | 84% | NPA Crime and Criminal Justice Survey | Processes are underway to commission the survey |

Crime and violence have been rife in South Africa and remains to be a serious concern in the country. The crime trends and public perceptions of crime are indicative of the negative impact the high crime rates had on the South African community, such as widespread feelings of fear and insecurity, little confidence in the criminal justice system (CJS) and a barrier to the economic growth of the country.

The crime statistics still make for grim reading with regards to the incidence of crime and public safety in South Africa. The increase in murder over the past four years, as well as the notable high rates of assaults, rapes, other violent crimes and quality of life crimes, is clear evidence of this.

The NPA occupies a strategic position in the Justice, Crime Prevention and Security (JCPS) cluster and through effective service delivery the organisation upholds the Government's vision of a better life for all by being a key driver in creating a safer South Africa. By prosecuting speedily and effectively in conjunction with all its partners, and showing that crime does not pay, the NPA can significantly impact on the reduction of national crime levels, and thus improving the feelings of safety and security within the South African community. Further to this, the NPA aims to increase access to justice, ensure speedy justice and improving service delivery through increasing operational efficiency. The NPA also turned the curve of thinking by not only being prosecutors of crime, but also by enhancing the role of victims in the criminal justice process where measurable improvements in service delivery to victims of crime is a focal point.

In this ever-changing and dynamic environment within which the NPA operates, it has been imperative to be mindful of the change and to continuously strive to ascertain new and innovative ways to deal with crime. The last two and a half years have thus been characterised by bold initiatives and new approaches, to not only increase the organisational effectiveness within the CJS, but also to make a real impact on crime in the South African society.

The NPA continued to do good work and performed well in many spheres, through the prioritisation of certain crime types. All the performance successes and improvements were achieved as a result of the prosecutors' commitment and passion to fight crime in South Africa and is proof of a dedicated and committed workforce within the NPA, led by a strong and competent leadership team.

The vision of the NPA, "Justice in our society so that people can live in freedom and security", remains the organisational guiding measure that provided direction to the organisation in the last two and a half years and will continue to take the NPA into the future. There is a commitment to the strategic outcomes of increased feelings of safety and security by conducting effective prosecutions and removing profit from crime by effectively dealing with fraud and corruption, freezing of money and assets that are the proceeds of crime and recovery of money and assets that are the proceeds of crime.

The outcome of effective prosecutions conducted stated in the NPA Annual Performance Plan (APP) with regard to prosecutions, is to ensure effective prosecutions and is measured through the **conviction rates of the High Courts, Regional Courts and District Courts**. Despite the challenge of the COVID-19 pandemic, great strides have been made to ensure that the high conviction rates were maintained, in all court fora over the last two and a half years. The NPA successfully continuously upheld the focus placed on quality prosecutions which is evident in the number of convictions and criminal court cases finalised with verdict in all three court fora, i.e., 1 563 convictions from 1 716 verdict cases in the High Courts, 38 624 convictions from 47 374 verdict cases in the Regional Courts and 312 585 convictions from 330 204 verdict cases in the District Courts.

As one of the MTSF indicators, a special focus was placed on the prosecution of cable theft matters, which contributed to the increase in the conviction rate of this crime type, i.e. a conviction rate of 81,5% (119 convictions from 146 verdict cases) in the 2020/21 financial year, 92% (193 convictions from 210 verdict cases) in the 2021/22 financial year and 86,7% (169 convictions from 195 verdict cases) in the first six months of the 2022/23 financial year.

- In accordance with the Presidential directives to increase the focus on Sexual Offence matters, the NPA continued to put special emphasis on the conviction of sexual offences matters. The NPA performed well in terms of enhancing victim-centric services by obtaining high conviction rate in sexual offences during the last two and a half years, i.e., **75,8%** in the 2020/21, **74,3%** in the 2021/22 financial year and **73,6%** in the first six months of the 2022/23 financial year. This reflects a firm commitment to deliver justice for the most vulnerable members of society – the victims of sexual offences and gender-based violence.

The SOCA unit established 61 operational Thuthuzela care centres (TCCs), in support of the victims of crime, particularly the victims of sexual offences who are mainly women and children. These TCCs is also in support of the victims of crime.

A special focus was also placed on the prosecution of murder cases, trio crimes and organised crime, contributing to high conviction rates in the prosecution of the aforementioned crime types:

- Murder conviction rate – **79,3%** (2020/21); **77,7%** (2021/22) and **80,5%** (first 6 months of the 2022/23 financial year)
- Trio crimes conviction rate – **85,2%** (2020/21); **81,3%** (2021/22) and **83,4%** (first 6 months of the 2022/23 financial year) and
- Organised crime conviction rate – **92,5%** (2020/21); **95,9%** (2021/22) and **92,2%** (first 6 months of the 2022/23 financial year).

Government's fight against corruption have been and remains a key priority for the NPA. Corruption is a global phenomenon that impedes service delivery and undermines governance and the rule of law. Furthermore, corruption committed by law enforcement personnel undermines the government's efforts to fight corruption and crime in the broader society. It erodes public trust in the state and entrenches a culture of lawlessness. The Asset Forfeiture Unit (AFU) has been a critical part of the state's arsenal against this scourge of corruption and has delivered significant returns in the past few years showing that crime does not pay.

Explanation of Achieved Performance Over the Mid-Term Period

- a) Level of satisfaction with the prosecution of identified crime types
- b) Progress made towards the achievement of the impact statement
- c) No progress has been made in the achievement of the impact statement in terms of level of satisfaction with the prosecution of identified crime types. The Crime and Criminal Justice Survey (CCJS) five-year contract came to an end in 2019. Due to the COVID-19 pandemic and budget constraints, the CCJS were not conducted after 2019 again. It must be further noted that there was no specific metric for this outcome indicator in the previous CCJS that were conducted.
- d) Progress made towards the achievement of the five-year target for the outcome indicator
- e) No progress has been made in the achievement of the five-year target. The Crime and Criminal Justice Survey (CCJS) five-year contract was concluded in 2019. Due to the COVID-19 pandemic and budget constraints, the CCJS were not conducted again from 2020. It must be further noted that there was no specific metric for this outcome indicator in the previous CCJS.

The COVID-19 pandemic and budget constraints negatively impacted on the five-year target, since the CCJS could not be conducted again.

The NPA is conceptualising a new tender and contract to conduct the CCJS again from 2023. This survey will serve as data source for measuring this indicator, since this outcome indicator will be included as a metric in the CCJS. Following the concluding of the first year's survey, the baseline will be determined. Due to the scope of the survey (inclusive of a national sample) and the high number of fieldworkers needed, the CCJS will be outsourced to an external research company. External funding will be sought to conduct the survey. –

External research (CCJS) will be reinstated from 2023 on an annual basis to measure the achievement of this outcome. Recommendations of the surveys will be implemented to ensure the outcome is achieved by the end of the 2024/25 financial year.

Percentage of identified high-impact prosecutions instituted, this is a new indicator, which has been only measured from the 2022/23 financial year. Significant progress has been made to investigate and successfully prosecute public officials and private sector role-players who orchestrated and profited from grand corruption to restore public confidence in ethical governance.

During the current financial year, the Investigating Directorate (ID) has enrolled **11** matters. Further to this, the ID is attending to 16 other matters that have already been enrolled. Of the **26** matters enrolled, **21** are criminal and **5** are related to tax charges. It is projected that the five-year target will be achieved and therefore no corrective measures is needed.

The programme output, fraud and corruption dealt with, contributes to the achievement of the outcome, by ensuring that applicable ID investigations are authorised, and state capture matters are enrolled. Cases are flagged as priority by the National Prosecutions Service (NPS) divisions, cases are referred from State Owned Enterprises (SOEs) and priority cases are listed by the Anti-Corruption Task Team (ACTT).

Level of customer satisfaction with NPA services

Significant progress had been made in the achievement of the impact statement through the CCJS. The level of customer satisfaction with NPA services were determined and recommendation for improvement were implemented.

The 2019 baseline for this outcome indicator is **84%**, **8%** below the five-year target of **92%**. No further progress was made in the achievement of the five-year target since the CCJS was concluded in 2019. Due to the COVID-19 pandemic and budget constraints, the CCJS were not conducted again from 2020.

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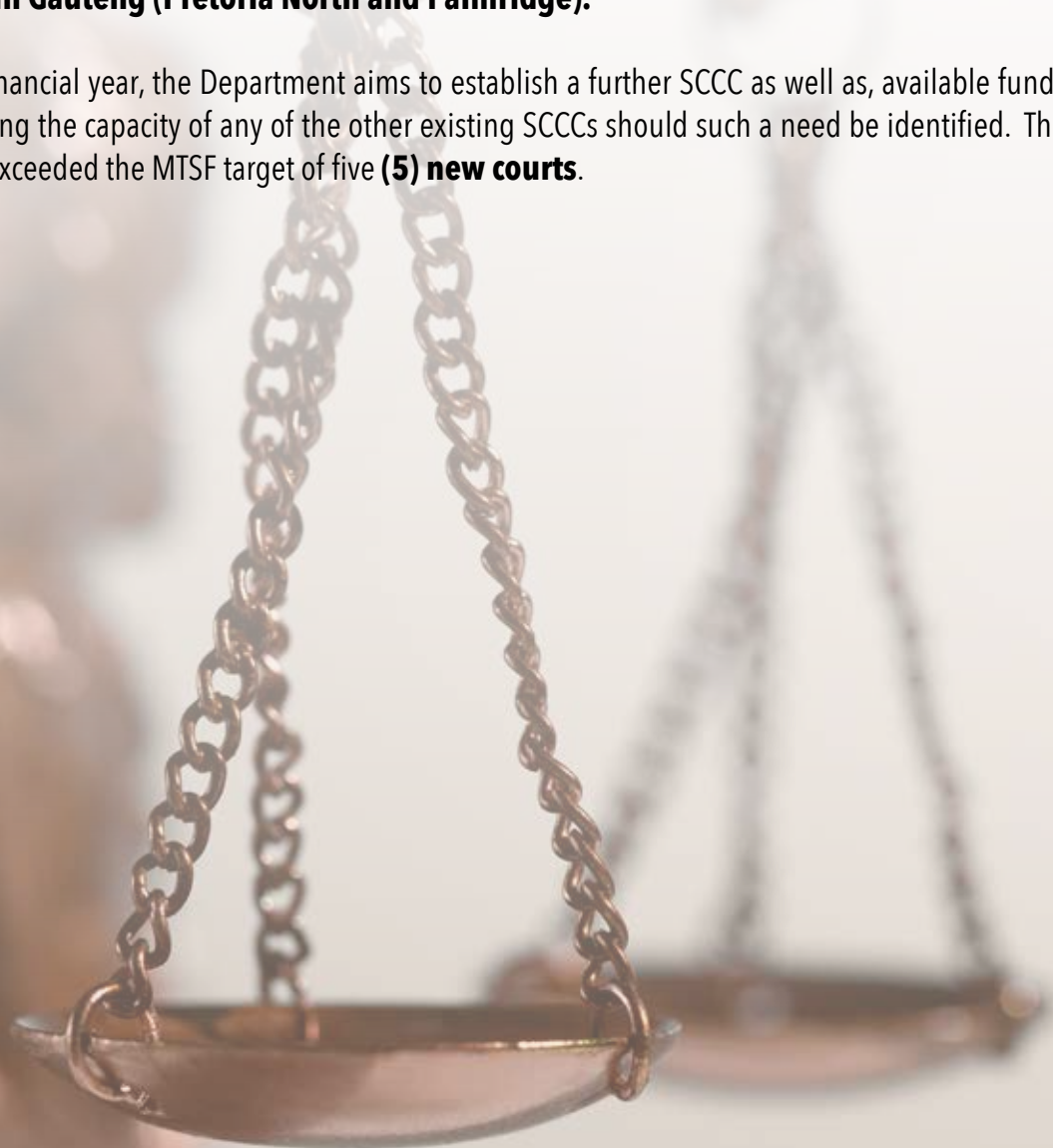
Enhance the capacity of the designated **Special Commercial Crimes (SCCCs) Courts** to deal speedily with economic crimes. The Department developed a two-phase SCCC Project Plan that included a first phase aimed at establishing SCCC in these regions (provinces) that did not yet have a dedicated SCCC, and a second phase that would see existing SCCC fully resourced and capacitated.

The Department convened a National SCCC Steering Committee to coordinate the establishment of SCCC's in 2020 in accordance with the approved SCCC Project Plan. In turn, each region (province) has established Regional SCCC Steering Committees that included all stakeholders i.e. Legal Aid South Africa, the National Prosecuting Authority, members of the Lower Courts judiciary and officials from the Department. Each Regional SCCC Steering Committee was tasked with considering the need for an SCCC in their region or the enhancement of existing SCCC's in their region. The need for a SCCC was determined by considering the existing number of cases which would be classed as SCCC matters and those cases which were pending to be brought to court. Regional SCCC Steering Committees who identified a need for a new SCCC submitted budgeted proposals to the National SCCC Steering Committee for their consideration and approval.

By 31 March 2021, **five (5) new SCCC's** were established in Limpopo (Giyani and Polokwane), Mpumalanga (Mbombela), North West (Mmabatho) and in the Northern Cape (Kimberley). These five new courts were fully operational as of 31 March 2021.

In the 2021/2022 financial year, the Department established a further three (3) new SCCC's in Eastern Cape (Mthatha and East London) and in KwaZulu-Natal (Pietermaritzburg) **as well as fully capacitating the existing SCCC's in Gauteng (Pretoria North and Palmridge).**

In the 2022/23 financial year, the Department aims to establish a further SCCC as well as, available funds allowing, enhancing the capacity of any of the other existing SCCC's should such a need be identified. The Department has exceeded the MTSF target of five **(5) new courts.**



OFFICIAL SIGN OFF BY THE EXECUTIVES:


Ms T.C Mametja

DDG: Corporate Services

Signature: 

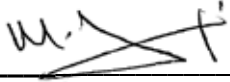
Mr Z Malema

Acting DDG: Court Services

Signature: 


Adv. M Mafojane

Chief Master

Signature: 

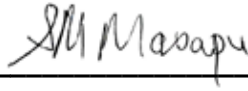
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DDG: Legislative Development

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Mr L Lotz

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Ms R.I. Singo

Chief Financial Officer

Signature: 

Adv. S Batohi

National Director of Public Prosecutions

Signature: 

Adv. D Mashabane

Director-General: Justice and Constitutional Development

Signature: 

Mr J J Jeffery, MP

Deputy Minister: Justice and Constitutional Development

Signature: 

Approved by

Mr R Lamola, MP

Minister of Justice and Correctional Services

Signature: 

