JUSTICE TODAY

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JANUARY 2016

Promoting the rights of persons with disabilities

Victim support services takes centre stage in SA

Upcoming projects in 2016

the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

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Note from the editor

Despite overcoming great hurdles over the past 21 years of freedom and democracy and making enormous strides in promoting the rights of vulnerable groups, issues such as domestic violence, sexual abuse, and gender-based violence continue to plague our communities.

As the guardian of the country's Constitution, the Department of Justice and Constitutional Development has, to date, rolled out a range of programmes aimed at assisting and placing victims needs first, above all else. This issue focuses on empowering women especially, with information about departmental services and programmes that aim to ensure that they can live their rights.

From upgrading 12 regional courts into sexual offences courts; launching 43 new model courts aimed and assisting victims of abuse; to amending the Criminal Law Sexual Offences and Related Matters Act, and signing the new *Prevention and Combating of Trafficking in Persons Act, 2013* into law, we continue to show our commitment to creating access to justice for all.

While there has been good progress, ending abuse requires a commitment from us all. Let us not turn a blind eye to those in need. Let us help our people, our families and our communities to come forward and report cases of abuse. Let us create a society where victims feel safe to seek out help without further victimisation and free of judgement.

Let us all be counted in the fight against sexual violence and abuse!

Samona Naidu

Service contacts

Child line- Report child abuse: 0800 055 555
Family and Marriage Society of South Africa – Advice on family relationships: 011 975 7107
Thuthuzela Care Centres: 012 8456136
Suicide Crisis Line: 0800 567 567
AIDS Helpline: 0800 012 322 / 011 725 6710
SAPS Crime Stop: 08600 10111
SA National Council for Child Welfare: 011 339 5741

THUTHUZELA CARE CENTRE
Turning Victims into Survivors

There are currently **fifty-five (55)** operating Thuthuzela Care Centres in the country. Thuthuzela Care Centres are one-stop facilities that have been introduced as a critical part of South Africa's anti-rape strategy, aiming to reduce secondary victimisation, improve conviction rates and reduce the cycle time for finalisation of cases.

A total of 7 917 matters were reported at the 55 TCC sites currently operating.

The Department of Justice and Constitutional Development (DoJ&CD) established the new model sexual offences courts to reduce and ultimately eliminate the secondary traumatisation of victims from the court system. **There are currently 43 new model sexual offences courts countrywide.** The new model courts aim to improve the conviction rates of the sexual crimes and decrease the turnaround time from the date of report to the police to the finalisation of the case.

The Department of Social Development's Gender-Based Violence Command Centre (GBVCC) is a 24-hour call centre dedicated to providing support and counselling to victims of gender based violence.

Since inception in March 2014, the GBVCC has taken more than **24 046** calls and received more than **22 683 'please call me'** messages from distraught members of the public who need help.

The toll free number to call to speak to a social worker for assistance and counselling is 0800 428 428 (0800 GBV GBV). Callers can also request a social worker from the Command Centre to contact them by dialling *120*7867# (free) from any cell phone.

Upcoming projects in 2016

As from 25 January 2016, the magisterial districts in Mpumalanga and Limpopo will be realigned to ensure that they align with municipal boundaries.

This process will also ensure that more people have access to justice services at courts that are located closer to where they live.

The rationalisation project aims to align the jurisdiction of magisterial districts with municipal boundaries. Through the rationalisation of courts project, magisterial boundaries drawn before 1994 are redrawn in accordance with the new democratic dispensation. Rationalisation enables communities to access justice services closer to where they live and reduce travelling costs.

From 25 January 2016, communities will get the following services from courts near to them;

- Hearings of criminal cases and civil disputes,
- Maintenance,
- Small Claims Courts,
- Domestic Violence,
- Children's Court,
- Deceased Estates.

This is the second phase of the rationalisation process. The first phase was undertaken on 1 December 2014 for the Gauteng and North West; other provinces will undergo the same process in 2016.

Court Recording Technology

FASTER. EASIER. RELIABLE

In an effort to improve daily operations in the court environment, the department is embarking on a new Court Recording Technology (CRT) project which will enhance recording and safe-keeping of information in the country's courts.

The project, which was first piloted at the Johannesburg Magistrate's Court in November 2015, aims to modernise the audio recording, storage and transcription processes of court proceedings, through the implementation of a new CRT solution.

The CRT solution will soon replace the current Digital Court Recording System (DCRS) which was implemented by the Department in 2006. This system has now reached its end-of-life cycle and needs to be replaced, hence the new system.

The envisaged benefits of the new CRT solution will include, amongst others:

- improve business processes related to the audio recording of court proceedings and retrieval thereof,
- implement technology in order to improve the quality of audio recordings, storage (safe-keeping) and retrieval thereof,
- avail audio recordings more efficiently for the purposes of trans criptions.

The CRT solution will be implemented over three (3) phases and once successfully piloted, the system will be rolled out country-wide starting with Gauteng, Western Cape and the North-West. Phase one is envisaged to be completed at all the country's courts by March 2016.

Andile Tshona

Justice introduces new law to deal with cable theft

The signing of the Criminal Matters Amendment Act by President Zuma on 13 December 2015 will have a positive impact on our country's economy. The protection of essential infrastructure such as telecommunications network, water supply pipes and power distribution cables, is directly linked to the growth of the country's economy.

The goals of creating employment, eradication of poverty and elimination of inequalities can be achieved if there is appropriate infrastructure in place, provision of affordable and energy and effective transport systems in place.

Over the years there has been an increase in crime relating to essential infrastructure that is used to provide or distribute basic services to the public.

In April 2015, 179 metric tons of cooper were stolen from Eskom, Transnet and Telkom and the cost to replace the stolen metal amounted to R13, million while the loss to the economy was estimated to be R5-7 billion per year.

These crimes poses measure risks to public safety, electricity supplies, provision of water, communications and transportation and has a negative impact on the country's economy.

"It should therefore be quite clear that the offences relating to essential infrastructure have a very negative impact on what we seek to achieve. Without energy, the public and the private sector cannot provide the necessary services, in some cases, causing the loss of lives. The delays in transporting passengers and even goods because of cable theft or theft of steel or iron have a negative effect on productivity," said Minister Masutha during the tabling of the Bill in Parliament.

A major concern for government is that infrastructure-related offences are becoming increasingly more organised and are often committed by armed and dangerous criminal groups.

The new law introduces stricter penalties for those who are caught damaging or stealing essential services. It criminalises the unlawful and intentional tampering with or damaging or destroying of essential infrastructure and provides for the possibility of the imposition of a severe penalty, namely imprisonment which may be up to 30 years or R100 million in fines.

The legislation has been welcomed by many in the business sector as they believe this intervention will go a long way in trying to curb the tide of essential public infrastructure theft and vandalism in South Africa.

In order to ensure that this new law contributes meaningfully to the development of the economy and public safety, communities are urged to work with the law enforcement agencies and report these crimes.

BILL OF RIGHTS

EQUALITY
Everyone is equal before the law and may not be unfairly discriminated against.

HUMAN DIGNITY
Everyone has inherent human dignity which must be respected.

LIFE
Everyone has the right to life.

FREEDOM AND SECURITY OF THE PERSON
You have a right not be physically detained without trial or abused in any way.

SLAVERY, SERVITUDE AND FORCED LABOUR
You may not be subjected to slavery or forced labour.

PRIVACY
Your right to privacy includes your body, home and possessions.

FREEDOM OF RELIGION, BELIEF AND OPINION
You have the right to think, believe and worship.

FREEDOM OF EXPRESSION
You have the right to say, read and study whatever you choose but hate speech is not allowed.

ASSEMBLY, DEMONSTRATION, PICKET AND PETITION
You have the right to peacefully assemble, demonstrate and protest.

FREEDOM OF ASSOCIATION
You have the right to associate with anyone.

POLITICAL RIGHTS
You may form a political party, run for office and vote for any party in free and fair elections.

CITIZENSHIP
No citizen may be deprived of citizenship.

FREEDOM OF MOVEMENT AND RESIDENCE
You have the right to enter and leave the Republic at will.

FREEDOM OF TRADE, OCCUPATION AND PROFESSION
You have the right to choose any legal trade or occupation freely.

LABOUR RELATIONS
Every worker and employer has the right to organise and negotiate to further their aims.

ENVIRONMENT
You have the right to live in a protected, healthy environment.

PROPERTY
No-one may be deprived of property, except in terms of law of general application.

HOUSING
You have the right to have access to adequate housing.

HEALTH CARE, FOOD, WATER AND SOCIAL SECURITY
You have the right to have access to health care, adequate food and water and social security.

CHILDREN
Every child has the right to a name, nationality and protection from abuse and exploitation.

EDUCATION
You have the right to receive basic education in the official language of your choice where that education is reasonable practicable.

LANGUAGE AND CULTURE
You have the right to use the language of your choice and practise your own culture.

CULTURAL, RELIGIOUS AND LINGUISTIC COMMUNITIES
You have the right to form, join and maintain cultural, linguistic and religious grouping of your own choice.

ACCESS TO INFORMATION
You may access any information held by the state for the protection of your rights.

JUST ADMINISTRATIVE ACTION
You have the right to administrative action that is lawful, reasonable and procedurally fair.

ACCESS TO COURTS
You have the right to resolve your legal disputes in a court or another impartial tribunal.

ARRESTED, DETAINED AND ACCUSED PERSONS
When arrested for allegedly committed an offence, you have the right to remain silent, to be brought before a court within 48 hours and the right to legal representation

LIMITATION OF RIGHTS
Everyone's rights may be limited. The limitation should apply to everyone to the extent that it is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

RESPONSIBILITIES
All citizens are equally subject to the duties and responsibilities of citizenship.

ALL THESE LAWS ARE SUBJECT TO THE LAW OF THE LAND, BUT APPLY TO ALL WHO LIVE IN THE REPUBLIC OF SOUTH AFRICA.

the doj & cd
Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

20 years
The Constitution
ONE NATION, ONE CONSTITUTION

Deputy Minister John Jeffery

New Criminal Law Amendment Act protects under-aged children

The promotion and protection of children's rights remain a priority of the Department of Justice and Constitutional Development (DoJ&CD). The Constitution requires that every decision made about the Child must be in the best interest of the child.

In July, President Zuma signed the amendments to *Sections 15 and 16 of the Criminal Law (Sexual Offences and Related Matters)* with the intention of protecting children, between the ages of 12 and 16 years, from sexual exploitation by adults. This objective therefore remains unaffected by the new amendment to the legislation.

Contrary to popular belief, the new legislation does not lower the age of persons consenting to sexual acts to 12 years of age. The age of consent still remains 16 years; this has not changed. It is also not about whether children should or should not engage in sexual conduct.

However, what the new legislation does is to ensure that children between the ages of 12 and 16, who are involved in consensual sexual acts with each other, will no longer be criminally prosecuted.

Before the amendments came into operation, children who got involved in sexual activities consensually could be investigated, criminally charged and prosecuted. Sexual activities could range from kissing and hugging to intercourse – and everything in between.

So why was there a need to change the law? This is because the provisions of Sections 15 and 16 were challenged in the Constitutional Court and found to be unconstitutional. The Constitutional Court then ordered Parliament to change the legislation.

Contrary to popular belief, the new legislation does not lower the age of persons consenting to sexual acts to 12 years of age.

In the case before the Constitutional Court – the case of Teddy Bear Clinic for Abused Children v the Minister of Justice and Constitutional Development – the Court found that Sections 15 and 16 of the Act infringed an adolescent's right to human dignity and privacy and were not in the best interests of the child. Therefore, the court determined that Sections 15 and 16 are unconstitutional insofar as they criminalise consensual sexual conduct between adolescents.

In coming to its decision, the court took many factors into account. The evidence before the court stated that South African children reach physiological sexual maturity during adolescence; between the ages of 12 and 16 years. They undergo various and significant changes in their transition to adulthood and during adolescence children ordinarily engage in some form of sexual activity, ranging from hugging and kissing to intercourse.

It was argued that Sections 15 and 16 of the Act, although these provisions were initially put into the law to try and protect adolescents, were in reality doing them more harm than good.

The court found that these provisions were contributing more towards silencing and isolating adolescents, which makes unhealthy behaviour and poor developmental outcomes more likely. In view

of the fact that they could be prosecuted criminally, teenagers would be less likely to seek guidance or assistance from adults with regards to their sexuality.

This meant that parents, caregivers, and institutions and organisations were unable to help these children because they cannot promote behaviour that is considered illegal and they are legally obligated to report sexual offences involving children and young adolescents. Therefore parents/caregivers could not legally offer adequate and appropriate support and guidance to promote healthy sexual development.

The trauma that is caused to a child when criminally charged with a consensual sexual act is immense. In this regard, the court considered the Jules High School case. In this case, two boys had sexual intercourse with a girl. All three children were investigated and subsequently prosecuted under Section 15. The National Director of Public Prosecutions explained that the two boys "were arrested outside school premises in the late morning during the week. Their peers were aware that they had been arrested. The media had dubbed them 'gang rapists'. The boys and their family were deeply shamed and traumatised". The National Director of Public Prosecutions then decided to prosecute the girl because she had "willingly sneaked out of the school yard to engage in consensual sexual intercourse with two boys."

In this particular case, the three children went through the criminal justice system, but they were eventually diverted and did not end up with criminal records.

But the trauma of the criminal justice process took its toll on them. At the time proceedings were initiated in the High Court the female learner had yet to return to school or write her end of the year examinations. She also moved to two different schools because children made fun of her. Tragically, she committed suicide last year.

The court also looked at the issue of stigmatisation of adolescents who are investigated and prosecuted. The stigma of criminalisation is exacerbated by the provisions of Section 41 of the Act, which states that the name of any person who commits an offence in terms of Sections 15 and 16 must be placed on the National Register for Sex Offenders (NRSO). If a person's particulars are recorded in the register in connection with a sexual offence against a child, a number of adverse consequences follow. The person may not be employed to work with a child; may not hold any position which places him or her in authority, supervision or care of a child; and may not become a foster parent or an adoptive parent. This would have meant, for example, that two adolescents who experiment sexually with each other could both have ended up as registered sex offenders on the NRSO for the rest of their lives.

Parents called upon to play a role

As any parent of a teenager will know, the question of whether or not one's child is engaging in consensual sexual conduct is, in itself, a major concern. The very last thing one would like to see is them being criminally charged in a court and being labelled a sex offender.

Parents/caregivers must play an important role in children's sexual education. Children are important and precious members of our society and we have a duty to ensure that they receive the support and assistance that is necessary for their positive growth and development.

Sinenhlanhla Mkhwanazi

Victim support services takes centre stage in South Africa

Government has tightened its efforts to improve support services for gender-based violence victims in the country. Cases of sexual abuse and domestic violence continue to plague our communities. In an effort to curb violence altogether the Justice, Crime Prevention and Security (JCPS) Cluster departments, which include the South African Police Service (SAPS), and the Departments of Justice and Constitutional Development (DoJ&CD), Home Affairs, Defence and Military Veterans, and State Security, call upon victims of gender-based violence to come forward and report their cases.

In January 2005, the Service Charter for Victims of Crime in South Africa, also known as the Victim's Charter was approved by Cabinet. Included in Section 234 of the Constitution, the Charter highlights the rights and obligations of government relating to services offered to victims and survivors of crime in South Africa.

According to Kamogelo Lekubu-Wilderson, Director for Victim Support and Specialised Services within the department, "Victim support services aim to empower victims, and ensures that their rights are protected at all times." She emphasises that through the various specialised victim support services, victims needs, come first above all else.

In an effort to end sexual offences and abuse, the department along with stakeholders have introduced several programmes such as the Family Violence, Child Protection and Sexual Offences (FCS), the Sexual Offences and Community Affairs (SOCA) Unit, and the Thuthuzela Care Centres (TCC). These are specialist units which work on combating sexual offences against women and children, by preventing secondary victimisation.

Highlighting this year's campaign for *16 Days for No Violence Against Women and Children* recently,

President Jacob Zuma revealed that in, the 2014/15 financial year, regional courts linked to TCCs reported an increased conviction rate of 68% in sexual offences cases. "The conviction rate had been sixty percent the previous year," said President Zuma. The TCC's provides a one-stop service centre in that all the required departments which are critical in collecting evidence in response to the victim and in preparation of a successful prosecution of the case, are at one place.

To promote a justice system that is user-friendly, efficient and sensitive to the needs of victims the department reintroduced the dedicated sexual offences courts in 2013. To date, 43 new model sexual offences courts have been established to fight the scourge of sexual violence in the country.

Two of the sexual offences courts were recently launched in Durban, KwaZulu-Natal and in Atlantis, Western Cape. "The launch of these courts are a testament to the department's commitment to deal with violence against vulnerable groups in society," said Director-General Nonkululeko Sindane.

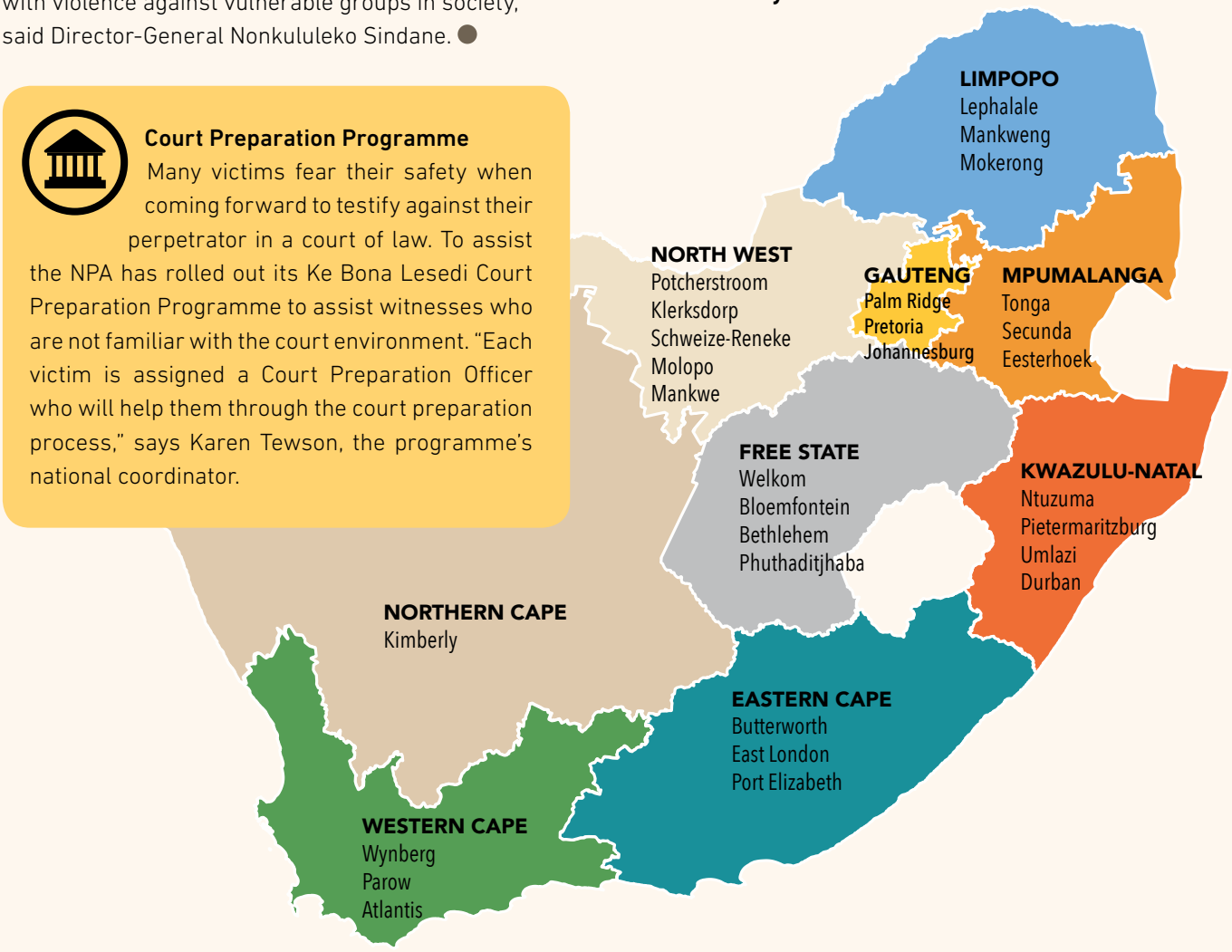
Court Preparation Programme

Many victims fear their safety when coming forward to testify against their perpetrator in a court of law. To assist the NPA has rolled out its Ke Bona Lesedi Court Preparation Programme to assist witnesses who are not familiar with the court environment. "Each victim is assigned a Court Preparation Officer who will help them through the court preparation process," says Karen Tewson, the programme's national coordinator.

Domestic Violence

Domestic Violence continues to undermine the right of the victims. Regulated by the *Domestic Violence Act, 1998 (Act No. 116 of 1998)*, it provides for the issuing of protection orders with regard to domestic violence. A domestic violence protection order is a document issued by the court which aims at preventing an abuser from committing an act of domestic violence and entering a residence shared or a specified part of the residence shared by the victim. You can apply for a protection order at your nearest Magistrates Court.

The department has launched 43 new model sexual offences courts across the country since 2013.



Support for victims

Government introduced the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007) to protect communities against sexual offences. This Act requires that support services be provided in the criminal justice system to reduce and ultimately, remove the secondary traumatisation of victims. It also aims to establish a criminal justice system that is fast, effective, sensitive and responsive to the needs of victims.

What are sexual crimes (offences)?

Sexual crimes include:

RAPE occurs when a person has sexual penetration with a victim without their consent. The law also makes it a crime for one person to force another person to rape a victim. This is known as compelled rape.

SEXUAL ASSAULT occurs when a person sexually violates the victim by, for example, touching the genital organ of the victim or causing the victim to touch his/her genital organ. The law makes it a crime for one person to force another person to sexually violate a victim. This is known as compelled sexual assault.

COMPELLED SELF-SEXUAL ASSAULT occurs when a person compels the victim to masturbate or engage in any form of self-sexual arousal or stimulation.

'FLASHING' happens when a person displays their private parts to a victim without their consent.

SEXUAL EXPLOITATION of children/persons who are mentally disabled occurs where a person engages the sexual services of a child victim or a mentally disabled person with or without consent, for financial favour or reward. This is generally known as child prostitution.

SEXUAL GROOMING of children/persons who are mentally disabled means making a child or a mentally disabled person sexually ready with the aim of committing a sexual act with such child/mentally disabled person.

CHILD PORNOGRAPHY occurs when a person or company uses a child to make pornographic material for a reward or money, with or without the consent of such child.

Who can be a victim of a sexual crime?

Anyone can be a victim of a sexual crime. The law requires all criminal justice officials (police, prosecutors, magistrates and court clerks) to deal with all reported sexual crimes without discriminating against victims on the basis of race, nationality, sex, gender, age, sexual orientation or any other reason. In terms of the law, men and boys can also be victims of sexual crimes.

The Department of Justice and Constitutional Development established the new sexual offences courts to:

- reduce and ultimately eliminate the secondary traumatisation of victims from the court system
- provide speedy finalisation of sexual offences cases
- increase the conviction rate and improve sentencing in these cases.

Currently, there are 43 new model sexual offences courts countrywide.

Quick facts

A total of **43** sexual offences courts were upgraded since August 2013 to meet the requirements set out by the Ministerial Advisory Task Team Adjudication of Sexual Offences (MATTSO) report.

Since the reintroduction of sexual offences courts, some **1800** cases were finalised with life sentences for perpetrators.

More cases relating to the sexual offences are being finalised with a conviction. In the first quarter of this year, a total of **71, 1% (1231)** cases were finalised with a conviction.

Currently, there are **51** Thuthuzela Care Centres providing dedicated services to victims of sexual violence, of which **50** are fully operational.

25,1 % of sexual offence victims were victimised by their relatives and **24.0%** by a known community member.

Anyone (women, men, children, babies), irrespective of gender can be a victim of rape.

# of sexual offences

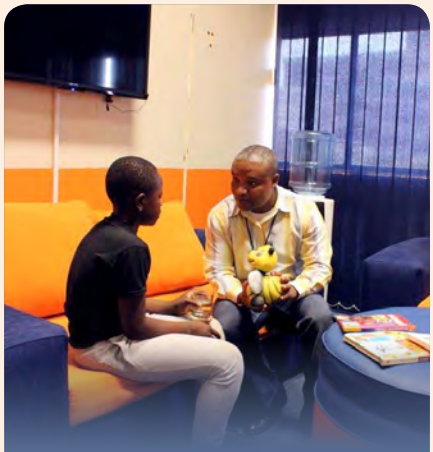
The new model sexual offences courts offer the following services:

Court preparation services:

The programme familiarises you with court processes, procedures, services and benefits. It aims to help you to be an effective witness in court. On the date of trial, you will be welcomed in court by the Court Preparation Officer (CPO).

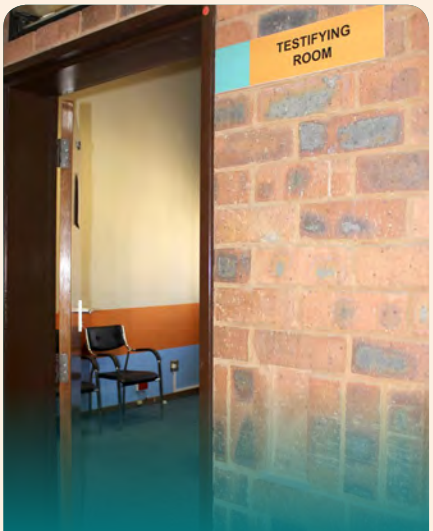
Pre- and post- trial trauma debriefing services:

The CPO will take you through trial trauma debriefing sessions before the trial commences and once it is concluded to help you deal with the trauma of the incident.



Intermediary services:

If you are a child victim or a person with mental disability, the prosecutor will apply to court to allow you to testify in a private testifying room with the assistance of an intermediary. The role of the intermediary is to convey questions from court to you in an understandable manner.



Private testifying room/ closed court services:

If you are an adult witness, the law allows you to testify from a private testifying room via the closed-circuit TV system if you feel more comfortable to do so. This will ensure that you do not need to be in the physical presence of the accused when testifying.

Private waiting rooms for adult and child victims:

The child witness room has standard furniture specifically designed to meet the needs of traumatised children. It also provides a play area, reading centre, and a child's bed-sofa for resting. The adult waiting room is also furnished to make the court experience more comfortable for victims.

Information services are available at the private waiting rooms for victims, mainly to inform you of your rights and the available court services. The information is offered in the form of educational booklets, DVDs, and in braille.

Witness fee services:

The department provides witness fees to cover your return travelling costs and food while in court.

Steps to follow if you are a victim of a sexual offence

Step 1: Immediately go to the nearest police station or a Thuthuzela Care Centre (TCC) to report the matter.

- Do not take a bath or change your clothes after a sexual crime. Your body and the clothes you wore during the crime may provide critical DNA evidence.
- A TCC is a one-stop victim-support service centre located at the hospital/clinic to facilitate the speedy collection of evidence in a victim-friendly environment, particularly DNA evidence. You may ask someone you trust, such as a friend or family member, to go with you as your support person.

Step 2: You will be required to make a statement.

- At the police station/ TCC, you will be taken to a private victim-friendly room, where the police officer will take down your sworn statement. You need to provide the investigator with the list of people who witnessed the crime or may have any relevant information concerning the case.
- Ensure that you read your statement and make the necessary changes before you sign it.
- The police will issue you with a case number. Please keep this safe.

Step 3: Immediately obtain a medical examination.

- You will be assisted to get medical assistance from the nearest hospital/clinic. The findings of your medical examination will be included in the police docket as evidence.
- The doctor will collect the necessary evidence from your body and/or clothes.
- If the sex offender did not use a condom or any protection, you are entitled to receive Post-Exposure Prophylaxis (PEP) for HIV infection within 72 hours after the alleged sexual crime. The PEP services are available at the public health centres managed by the Department of Health.
- You may also be referred for counselling or trauma debriefing services to a local social worker for free.

Step 4: The police will start with the investigation and may arrest the suspect.

When the sex offender did not use a condom or protection while committing the sexual offence, you may apply to a magistrate for an order compelling the alleged sex offender to be tested for HIV. This application is free and must be done within 90 days, with assistance of a prosecutor.

Step 5: Cooperate with the police and prosecutor assigned to your case.

The district court prosecutor may consult with you to determine if there is enough evidence to prosecute the accused. The prosecutor is your lawyer. Ensure that you tell the prosecutor every detail of the alleged sexual crime.

The law allows the accused to apply for bail. You will be informed by the investigator when this application will come to court. It is important that you tell the prosecutor the risk/ danger that you will be exposed to should the accused be released on bail. The prosecutor may use this information to oppose the bail application.

When the police investigation is finalised.

Once the police investigation is finalised, the matter will be handed to the sexual offences court/regional court trial.

Step 6: On the date of trial, go to the sexual offences court.

Arrive on time at the court. It is advisable that you come to court with support persons, who may be your family members or friends.

If the regional court prosecutor is satisfied that there is enough evidence to prosecute the accused, the date of trial will be set for the case. You will be informed of this date by the investigator or prosecutor.

Step 7: Appearing in court.

If you are a child, mentally disabled person or a traumatised adult victim, you may testify in a private testifying room via the closed-circuit TV system. This system ensures that you do not come into contact with the alleged offender when you are testifying.

Step 8: The verdict is given by the magistrate.

Upon conviction, the magistrate will hand down an appropriate sentence, as indicated by the law. In the case where the accused was convicted of a sexual crime involving a child or a mentally disabled person, the court will order that the particulars of the accused be entered in the National Register for Sex Offenders. This register aims to prevent sex offenders from working or doing business in environments accessible to children and mentally disabled persons.

Mosima Mashao

Moot Court raises Constitutional awareness

In an on-going effort to raise constitutional rights awareness, the Department of Justice and Constitutional Development (DoJ&CD) joined forces with the Department of Basic Education and the University of Pretoria to host the 5th annual National Schools Moot Court Competition.

The provincial rounds of the competition took place from 1 August until 20 September 2015. This led to the preliminary rounds at the University of Pretoria from 9 to 10 October which culminated in the finals at the Constitutional Hill in Braamfontein, Gauteng on 11 October 2015.

To enter, learners were requested to write two short essays with a problem statement provided, defending opposing sides of the case by citing the South African Constitution.

The teams with the highest scores for their essays from each province were then selected to argue the case in the oral rounds. 32 teams, made up of two learners each from all nine provinces competed in this year's competition.

This year's winners – Claire Rankin and Clara-Marie Macheke from Springfield Convent in the Western Cape – were both ecstatic about their prize, which is a bursary to study law. "It took a lot of hard work and research, but it was all worth it in the end. Everyone should exercise their rights and should never be discriminated against," said Rankin.

Runners up, Shandre Smith and Katelyn Chetty from Gibson Pillay Learning Academy in Gauteng said that the experience had strengthened their passion to study law. "The comments that were given to us by the judges were insightful and we will work on rectifying our mistakes so that we become exceptional lawyers in future," said Chetty.

Both the winners and runners up were awarded certificates and a R30 000 bursaries each to study a law degree, sponsored by Cliffe Dekker Hofmeyr a South African law firm.

Addressing the learners at the finals, Deputy Minister, Mr John Jeffery, expressed his excitement at the progress of the National Schools Moot Court Competition which he said is going from 'strength to strength'. "If people are not aware of their constitutional rights, or are not allowed to exercise these rights in their daily lives, then our constitutional rights are only promises on paper and all these constitutional ideals that icons like Nelson Mandela and Mahatma Ghandi were jailed and fought for, are in vain," he said.

Deputy Minister Jeffery also thanked the University of Venda, the South African Human Rights Commission (SAHRC), Legal Aid South Africa, the Constitutional Literacy and Service Initiative (CLASI), the Foundation for Human Rights, Constitution Hill and law firm, Webber Wentzel for their support of the competition.

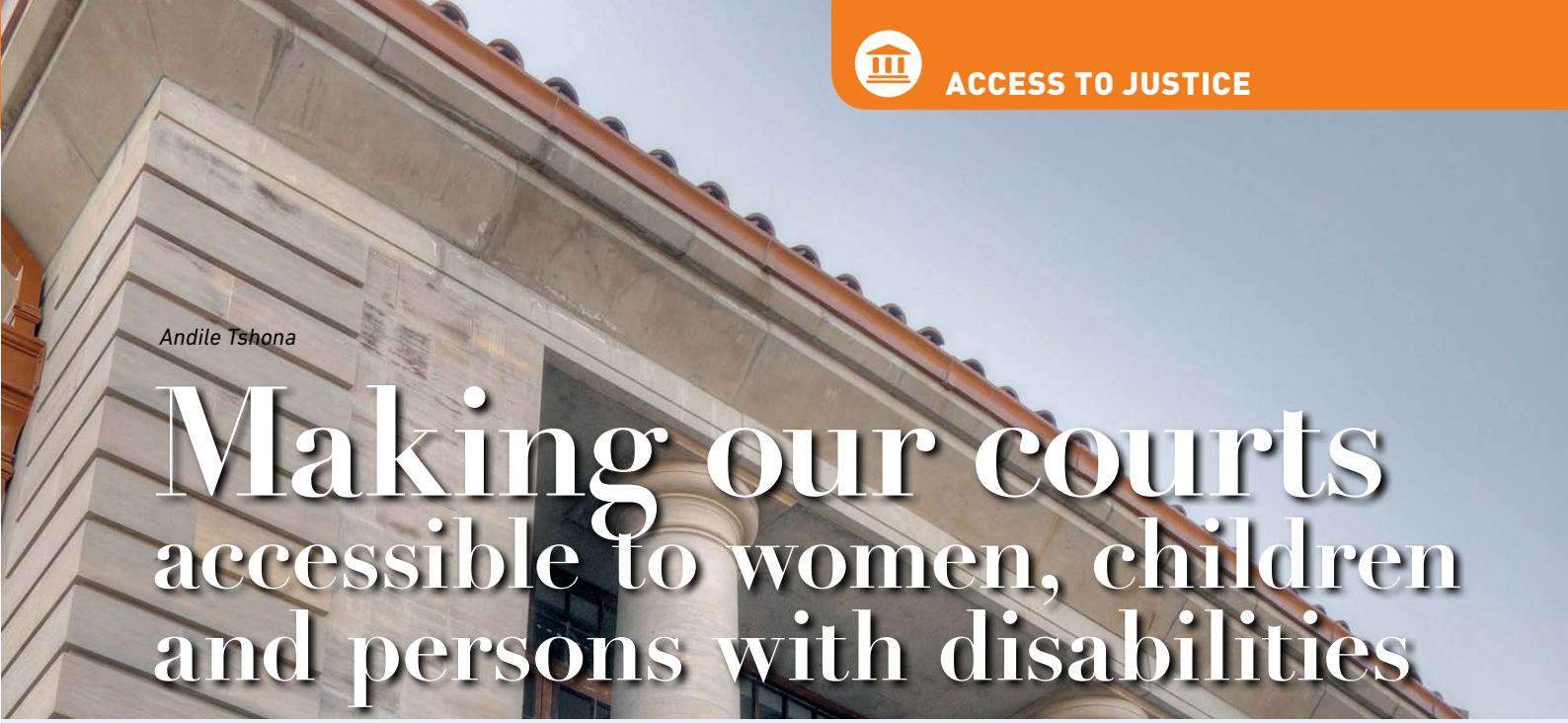
Learners get to experience how icons like Nelson Mandela lived in prison at Constitutional Hill.

5th National Schools Moot Court Competition 2015

Winner and runners-up: Clara-Marie Macheke (winner), Shandre Smith (runner-up), Deputy Minister Mr John Jeffery, Katelyn Chetty (runner-up) and Claire Rankin (winner).

> "If people are not aware of their constitutional rights, or are not allowed to exercise these rights in their daily lives, then our constitutional rights are only promises on paper and all these constitutional ideals that icons like Nelson Mandela and Mahatma Ghandi were jailed and fought for, are in vain."
> -Deputy Minister John Jeffery

The 2015 National Schools Moot Competition winners, Clara-Marie Macheke and Claire Rankin celebrate their victory.



Andile Tshona

Making our courts accessible to women, children and persons with disabilities

The refurbishment of court infrastructure to cater for the special needs of vulnerable groups has been taken a step further by the Department of Justice and Constitutional Development (DoJ&CD).

The department is ensuring that newly-built courts have special facilities for women, children, elderly and personss with disabilities. These facilities are aimed at preserving the dignity of all people who use the courts and service areas of the department.

One of the major successes in improving court infrastructure has been the introduction of family rooms which include, among others, breastfeeding and nappy changing facilities for mothers and children. Mothers in Ntuzuma, KwaZulu-Natal and the Kagiso and Palmridge communities in Gauteng were recent beneficiaries of initiative.

A total of 366 magistrates courts have been refurbished to better meet the needs of women, children, persons with disabilities and the elderley.

Mahlatse Mogane, a mother of two from Kagiso commended the work of the department, saying that she felt more comfortable as a nursing mother, who needed to come to the court accompanied by her young child. "I think it was a great idea because as mothers we are always with our kids, and we have to feed and take care of them. We are in a society where you cannot trust anyone, and it is very uncomfortable to breastfeed in public," said Mahlatse.

The department is in the process of rolling out these facilities in various courts that are currently being constructed such as the Limpopo and Mpumalanga High Courts and the Port Shepstone and Schweizer–Reneke Magistrate's Courts in the North-West province.

According to the Advocate Praise Kambula, Chief Director: Promotion of Rights and Vulnerable Groups in the department, these are positive steps that show government's commitment to ensure that women, children, people with disabilities and the elderly are protected and treated with the dignity they deserve.

"We are in constant communication with our Facilities Management Directorate to ensure that they are aware of the needs of the public when they build court infrastructure," she said.

She added that the department is on track in this regard, pointing out that by the end of March 2015, a total of 366 out of 684 magistrates courts have been refurbished throughout the country to accommodate the physical accessibility needs of vulnerable groups.

Mokgethwa Ngoepe

Justice officials awarded for putting people first

Being a service environment that sees hundreds of members of the public entering the courts and service areas everyday, the Department of Justice and Constitutional Development (DoJ&CD) advocates high standards for service delivery. Putting people first remains a key priority for the department. To encourage staff to play their part, and to acknowledge those who actively try to improve service delivery, the department recently held the annual Public Service Excellence Awards in Gauteng.

The Western Cape province, among others, won the Model Court Award for the Worcester Magistrate's Court.

Regional Justice Department head Advocate Hishaam Mohamed highlighted that the region's officials are dedicated and would continue to eradicate corruption wherever it occurs.

In a letter circulated to courts and staff, he wrote: "I am exceptionally proud of our staff, from senior management to each clerk and interpreter who contributed towards making this prestigious achievement possible. Our obligation is to ensure service delivery in a dignified manner which respects the human rights of all people. The privilege bestowed on us as court administrators is to provide basic court services to all and promote access to justice, but, more particularly, to the poor and vulnerable groups who continue to inspire us," said Advocate Mohamed.

About the awards

The Public Service Excellence Awards are held annually to highlight innovation and service excellence of departmental outputs and targets; and application of departmental core business values and other principles of good governance.

The department also wants to entrench the culture of professionalism, and recognition of excellence in the public service. The awards are bestowed on individuals who are creative and innovative in improving service delivery and are willing to go the extra mile in their line of duty.

Highlights of the 2015 Public Service Excellence Awards

Nzuzo Jali Mtyawazo (centre) from the KwaZulu-Natal regional office was awarded the Model Manager Award. "It is very exciting to be recognised as an individual. Hard work pays off and I am honoured today for doing my work to the best of my ability. I am representing the KwaZulu-Natal region so this award will stimulate my fellow employees to also work hard and deliver services," said Mtyawazo.

Miranda Mhlanga (right) from the Mpumalanga Regional Office who works as an Administration Clerk won the Best Implemented Programme Award. "I am committed to ensuring that everyone has access to services rendered by the department. I work in line with Batho Pele principles and my aim is to bring justice to the people by helping communities' access information," said Mhlanga.

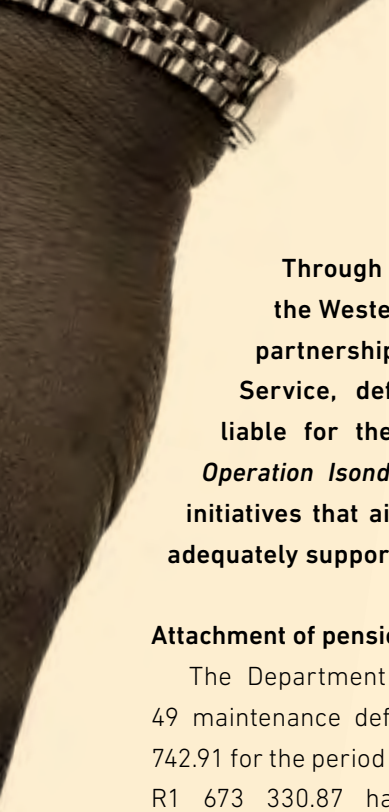
The Stakeholder Management and Coordination Award went to Teboho Manaka (second form right), Deputy Director: Training and Development in the Free State. "I manage and coordinate all service delivery programmes in the region, focusing on service delivery improvement plans, service standards, the service delivery charter, coordinating service delivery visits and all the service delivery flagship programmes." His passion lies in ensuring that all officials undergo training and development in their respective fields, in line with the National School of Government.

Scooping the top award for Client Orientation and Customer Focus was Laverne Petersen (right), a Senior Administration Clerk in the North West region at Schweizer–Reneke court. Peterson works in the cash hall and family children's court and also assists other sections in court. "In the cash hall, I pay maintenance beneficiaries whilst in the Children's Court I manage the filing system for the social workers," she explained. She also emphasised that is it imperative to put the needs of clients first.

Clamping down on maintenance defaulters

operation ISONDLO

The Department of Justice and Constitutional Development has, to date, helped more than 200 000 beneficiaries countrywide to access their maintenance reliably and quickly, with speedier turnaround times and shorter queues at service points. Despite this, many responsible for paying maintenance choose not to pay as directed by the courts. These maintenance defaulters not only violate the court order, but also the Constitutional rights of their children.



Through the *Operation Isondlo* campaign the Western Cape regional department in partnership with the South African Police Service, defaulters are traced and held liable for their child maintenance monies. *Operation Isondlo* is one of the department's initiatives that aims to ensure that children are adequately supported by their parents.

Attachment of pensions

The Department has attached the pensions of 49 maintenance defaulters to the value of R2 547 742.91 for the period April to November 2015, of which R1 673 330.87 has already been paid out to beneficiaries.

One of the major aspects of the amendment is that, if a person has defaulted on paying maintenance, their personal details will be submitted to all credit bureaus.

Chantal Michaels from Strandfontein applied for child maintenance in 2010 for her children and an order was granted for an amount of R1 500 per month per child by the Mitchell's Plain Magistrates' Court. An emolument attachment order was granted which ordered that her husband's employer should deduct maintenance of R3 000 per month and an additional amount of R300 towards the arrears of R6 000. Michaels also applied for future maintenance on 31 August 2015 and a final order was granted on 15 October 2015 for the amount of R175 572.46 (which includes R155 944.96 for future maintenance and R19 627.50 for arrears). The money will be paid out to the Michaels once received from the Government Pension Fund, which is expected over the next few weeks.

Mother of two, Gillian Mercia Samuels from Simon's Town applied for child maintenance in 2005 and an order was granted by the Simon's Town Magistrates' Court on 23 June 2005 for the amount of R1 000 per month per child. Her former husband had retired from his employment during March 2015, and since one child was still a minor at this time, she applied for future maintenance on 29 May 2015 on behalf of her youngest child. There was an agreement that her husband would continue to pay maintenance of R1 000 for the youngest child, and that an amount of R115 000 was ordered to be paid out from her former husband's pension fund for future maintenance. The money was paid over to the Guardian's Fund on 8 October 2015 and is to be administered by the department on behalf of the minor child.

Maintenance defaulters

In March 2015, the department identified 1 078 outstanding warrants of arrest for maintenance defaulters. As at the end of October 2015, 391 warrants worth approximately R 3, 358 537.54 was executed. Recently President Jacob Zuma signed the Maintenance Amendment Act, 2015 (Act No.9 of 2015) into law on September 9, 2015. One of the major aspects of the amendment is that, if a person has defaulted on paying maintenance, their personal details will be submitted to all credit bureaus. This will prevent maintenance defaulters from continuing to receive credit while owing maintenance.

Maintenance beneficiaries

In March 2015, there were 94 untraced maintenance beneficiaries who have not claimed an amount totaling R120 012.14. To date, 75 beneficiaries have been traced and an amount totaling R99 422.14 has been paid to them.

Emmah Maluleke

Justice promotes the rights of persons with disabilities

People with disabilities have the same rights and deserve the same service as everyone in the country. As the custodian of the Constitution of the country, the Department of Justice and Constitutional Development (DoJ&CD) has prioritised the rights of persons with disabilities. To do this, a unit called the Directorate of Persons with Disabilities, was established within the Chief Directorate of Promotion of the Rights of Vulnerable Groups (PRVG) in the department. This Directorate is led by Dr Praveena Sukhraj-Ely, who is committed to keeping the rights of the disabled firmly on the departmental agenda.

The department celebrated the *International Day for Persons with Disabilities* on 3 December, at Voortrekker Monument in Pretoria.

According to Dr Sukhraj-Ely, the main aim of the directorate is to ensure that people with disabilities are able to effectively exercise their rights in practice. Under her leadership, the directorate has already initiated various programmes to ensure that justice services are accessible to all, including people with disabilities. The department has also committed to ensuring that all courts and services offered to the public across the country are accessible and user-friendly to persons with disabilities.

The department is aware that people with disabilities, especially those who are visually impaired, have difficulty in accessing print information and has committed to ensure that public education materials are being converted into alternative accessible formats, such as audio books and in Braille.

In addition, a task team has been established to assist in the drafting of a best practice court services victim support model to ensure that children, women, older persons and victims with disabilities have equal access to the courts and the broader justice system. It is envisaged that a draft of the court services model will be finalised by the end of March 2016 and will be rolled out throughout the courts in the country.

Another move in the department has been towards equipping staff with disabilities with the appropriate equipment to enable them to fully productive.

In the meantime, the department continues to conduct workshops with its employees across the country to teach officials about the diverse needs of people with disabilities and how to offer better services to those in need.

A partnership with relevant stakeholders to ensure that the rights of people with disabilities are protected has also been established. Since 2014, the department has partnered with DeafSA to highlight and resolve the challenges that persons with hearing disabilities are facing every day in courts while accessing justice services. Gauteng Provincial Director of DeafSA, Judith Madi has encouraged court interpreters and officials to learn more about deaf cultures and sign language.

Adam Ely from South African National Council for the Blind (BlindSA) has also welcomed efforts by the department to ensure that access to justice for people with disabilities is a reality. "Since our partnership in 2006, we are proud to say that the DoJ&CD are one of the leading government departments that adhere to the Batho Pele principles, and on employing people with disabilities," said Ely.

For more information or to raise issues related to improving the department's services to people with disabilities, contact Dr Sukhraj-Ely's office on:
Email: PSukhraj@justice.gov.za or
Tel: 012 357 8614

MY CHILD'S FUTURE IS MY PRIORITY:
I PAY MAINTENANCE

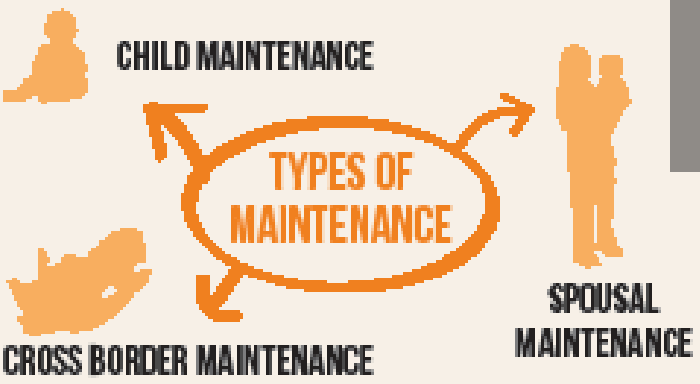
THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT HAS IDENTIFIED AS A PRIORITY SERVICE DELIVER IMPROVEMENTS, WHICH INCLUDE THE TURNAROUND OF THE MAINTENANCE SERVICES.

Maintenance is administered in terms of the Maintenance Act No 99 of 1998.

Maintenance is the obligation to provide another person, for example a minor, with housing, food, clothing, education and medical care, or with the means that are necessary for providing the person with these essentials. This legal duty to maintain is called 'the duty to maintain' or 'the duty to support'.

DOCUMENTS NEEDED TO LODGE A MAINTENANCE CLAIM?

- ✔ Birth certificate of the child/ren
- ✔ Your identity document
- ✔ Divorce order and/or settlement if any
- ✔ Proof of your income and expenditure
- ✔ Name and surname of parent/ person responsible for the payment of maintenance money
- ✔ Physical/work address of the parent/person responsible for the payment of maintenance money if available,
- ✔ Copy of bank statement
- ✔ Proof of residence/affidavit.



WHERE CAN ONE APPLY FOR MAINTENANCE?

You can lodge a complaint for maintenance in any **local magistrate court** where the applicant and/or the child resides.

CHILDREN SHOULD NOT SUFFER:
APPLY FOR MAINTENANCE

WHO CAN APPLY FOR MAINTENANCE?

The **parent/person** who is in custody of the child/ren may claim maintenance from the other parent who is responsible or liable to pay maintenance

Or in an instance where **one spouse** would like to apply for support from the other where applicable.

Maintenance can be claimed from the **biological grandparent** if the parents cannot pay maintenance.

the doj & cd
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REPUBLIC OF SOUTH AFRICA

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MOMENTUM CENTRE, 329 PROTEA ROAD STREET, PRETORIA
WWW.JUSTICE.GOV.ZA

WHAT SHOULD I DO WHEN I GET TO THE COURT?

1. **Ask to see the maintenance clerk**
   - The maintenance clerk will then assist you in **completing the forms**.
   - The Maintenance Clerk will refer your application to the Maintenance Officer for **final assessment** of your documents.
2. After assessment the registration of application and **reference number** will be issued.
3. The Maintenance Officer will issue a **directive calling upon the parties to meet**, for the purposes of conducting an investigation into the alleged complaint.
4. The Maintenance Officer will then **conduct an investigation into the alleged complaint**, or conduct mediation with both parties present.

MEDIATION AND GRANTING OF AN ORDER BY CONSENT

- The Maintenance Officer will **conduct mediation with both parties** to reach an agreement/settlement
- Where the parties reach an agreement/settlement, the agreement will be made an order of the court. The Maintenance Officer may request both parties to **sign a written consent and have that made an order of the court**.
- The court then makes an **order for payment of maintenance in accordance with the agreement** between the two parties.
- Where parties do not reach an agreement, the matter is then referred to court for **formal enquiry**.

PAYMENT METHOD

The court may order the respondent to make payments by means of:

1. An **electronic funds transfer (EFT)** to the beneficiaries bank account.
2. A deduction of the maintenance money from the respondents' salary, **(Garnishee order)**
3. **Direct deposit** to the beneficiaries bank account

PROCEDURE IN CASES WHERE A RESPONDENT DOES NOT PAY

If the respondent fails to pay within the specified times, you should report the matter to the Maintenance Offices. The court will follow one of the following two options:

1. Civil Enforcement of Maintenance, through the Magistrate may order one of the following:
   - emolument attachment: take the money from the defaulter's salary
   - attachment of debt and/or: take the money from the defaulters' investment account
   - execution of movable/immovable property: take the property from the defaulter, auction it and use the money to maintain the child
2. Criminal Prosecution. A warrant of arrest can be issued if the respondent failed to comply with an order of court.

IT'S YOUR DUTY AS A PARENT TO SUPPORT YOUR CHILDREN:

MAINTENANCE INVESTIGATORS WILL FIND YOU

COURT DATE

- On the day of the court appearance, an enquiry will be held to determine the **needs of the applicant** and the means available to provide maintenance from **both parties**.
- After consideration, the Magistrate will make a **maintenance order** indicating the amount to be paid.

WHAT SHOULD I DO IF I NOTICE THAT THE PARENT RECEIVING MAINTENANCE IS NOT USING THE MONEY TO TAKE CARE OF THE CHILD?

- Go to the nearest court and **report the alleged neglect**.
- If the claim is proven, the court will assess the **best possible solution** in the interest of the child.
- If as a result you feel that **custody of the child** should be granted to you, you will need to report the matter to the children's court.

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The Constitution 20 years
ONE NATION, ONE CONSTITUTION

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LET'S TALK JUSTICE

Live your Rights

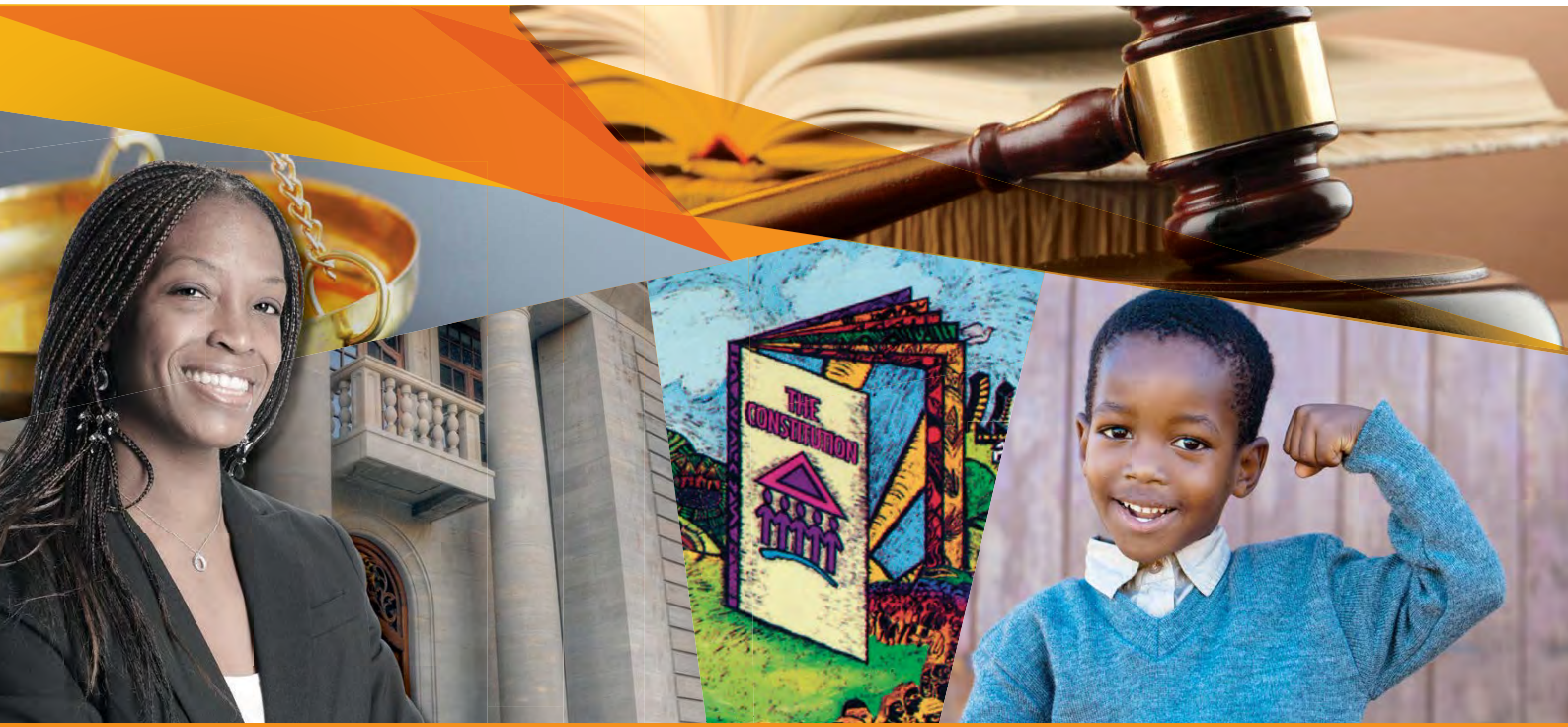
THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT IS BRINGING JUSTICE TO YOU!

The 2016 series of the phone-in radio shows starts 14 January 2016 onward!

It's your chance to call in, talk to us and learn more about Maintenance, Careers in Justice, Ukuthwala, Domestic Violence, Child Justice and loads more. Each week we tackle a new topic, so stay tuned and learn with us.

For a full list of community radio stations that broadcast the show and the broadcast times, go to: www.justice .gov.za or listen out for more information on your community radio stations.

Remember, you can call in or send your comment/question via Facebook or Twitter live during the show.



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"LET'S TALK JUSTICE"

will be aired in all nine provinces on the community radio stations listed below.

Episodes will air every Thursday from 18.05 to 19:05

WESTERN CAPE

No	Name of Station	Languages
1	786	English /Afrikaans
2	Atlantis	English
3	VOC	English
4	Namakwaland	English/Afrikaans
5	Gamkaland	English / Afrikaans
6	Eden	English / Afrikaans
7	Zibonele	IsiXhosa / English
8	Valley	English
9	Whalecoast	English

NORTHERN CAPE

No	Name of Station	Languages
10	Riverside	Setswana / English/ Afrikaans
11	NFM	Setswana / English/ Afrikaans
12	Kurara	Setswana / English/ Afrikaans

EASTERN CAPE

No	Name of Station	Languages
13	Kouga	IsiXhosa / English
14	Inkonjane	IsiXhosa / English
15	UNITRA	IsiXhosa / English
16	Vukani	IsiXhosa / English
17	Bay	IsiXhosa / English
18	Forte	IsiXhosa / English

FREE STATE

No	Name of Station	Languages
19	Naledi	English / Sesotho
20	Motheo	English / Sesotho
21	Setsoto	English / Sesotho

KWAZULU-NATAL

No	Name of Station	Languages
22	Goodnews	English / IsiZulu
23	Maputaland	English / IsiZulu
24	Izwilomzantsi	English / IsiZulu
25	Zululand	English / IsiZulu
26	Inanda	English / IsiZulu
27	Khwezi	English / IsiZulu
28	Mgungundlovu	English / IsiZulu
29	Siyathuthuka	English / IsiZulu

MPUMALANGA

No	Name of Station	Languages
30	Mash	English/Siswati/Sindebele
31	Bushbuckridge:	English/Siswati/Sindebele
32	Barbeton	English/Siswati/Sindebele
33	Kanyamazana	English/Siswati/Sindebele
34	Moutse	English/Siswati/Sindebele
35	Alpha	English/Siswati/Sindebele

LIMPOPO

No	Name of Station	Languages
36	Mohodi	English / Sepedi / TshiVenda
37	Mala	English / Sepedi / TshiVenda
38	Zebediele	English / Sepedi / TshiVenda
39	Phalaborwa	English / Sepedi / TshiVenda
40	G Tzaneen	English / Sepedi / TshiVenda
41	Tubatse	English / Sepedi / TshiVenda
42	Botlokwa	English / Sepedi / TshiVenda
43	Sekhukhune: North Sotho	English / Sepedi / TshiVenda
44	Segkosese	English / Sepedi / TshiVenda
45	Giyane	English / Sepedi / TshiVenda
46	Makhado	English / Sepedi / TshiVenda
47	univen	English / Sepedi / TshiVenda

GAUTENG

No	Name of Station	Languages
48	Soshanguve	English/Setswana
49	Impact	English
50	Eldos	English /Afrikaans
51	Rainbow	English /Afrikaans
52	VUT	English
53	VOT	English / Sesotho
54	Kofifi	English /Afrikaans
55	Westside	
56	Mams	English / Sesotho

NORTH WEST

No	Name of Station	Languages
57	Aganang FM: Setswana	English/Setswana
58	NWU	English/Setswana
59	Mahikeng: Setswana	English/Setswana
60	Moretele	English/Setswana
61	Radio Mafisa 93.4 FM: Setswana	English/Setswana
62	Star FM 102.9 Mhz: Setswana	English/Setswana
63	Life	English/Setswana
64	Lithlabile	English/Setswana
65	Village	English/Setswana
66	Vaaltar FM (Vtr FM): Setswana	English/Setswana

JUSTICE TODAY

A MAGAZINE of the Department of Justice & Constitutional Development

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