To Dr P M Maduna, MP Minister for Justice and Constitutional Development

I have pleasure in presenting to you the Annual Report for the Department of Justice and Constitutional Development for the period of 1 July 2000 to 31 March 2001.

Mr Vusi Pikoli
Director-General: Justice and Constitutional Development

Message from the Minister

It is with pride that I accept this Annual Report, the first in its new format to take into consideration the provisions of the Public Finance Management Act, 1999 (Act 1 of 1999). The achievements contained in this report is yet again indicative of the dedication, commitment and loyalty of all departmental officials, from the most junior to the management echelon. I wish to thank the Deputy Minister, Director-General and his staff for the hard work during the past year. We are yet another step closer towards our goal of transforming the justice system into one that would render justice for all.

Dr PM Maduna
Minister for Justice and Constitutional Development

ISBN NO. 0-621-31572-9 RP NO. 158/2001
PRINTED FOR THE GOVERNMENT PRINTER PRETORIA BY FORMESET PRINTERS CAPE

Contents

Chapter 1

Preface 2

Chapter 2

National Head Office

Legislation Research Branch 6
Legal Services Branch 17
Human Resources Branch 40
Regional Coordination Branch 74
Corporate Services Branch 77

Chapter 3

State Law Adviser's Branch 105

Chapter 4

Family Advocate's Branch 110

Chapter 5

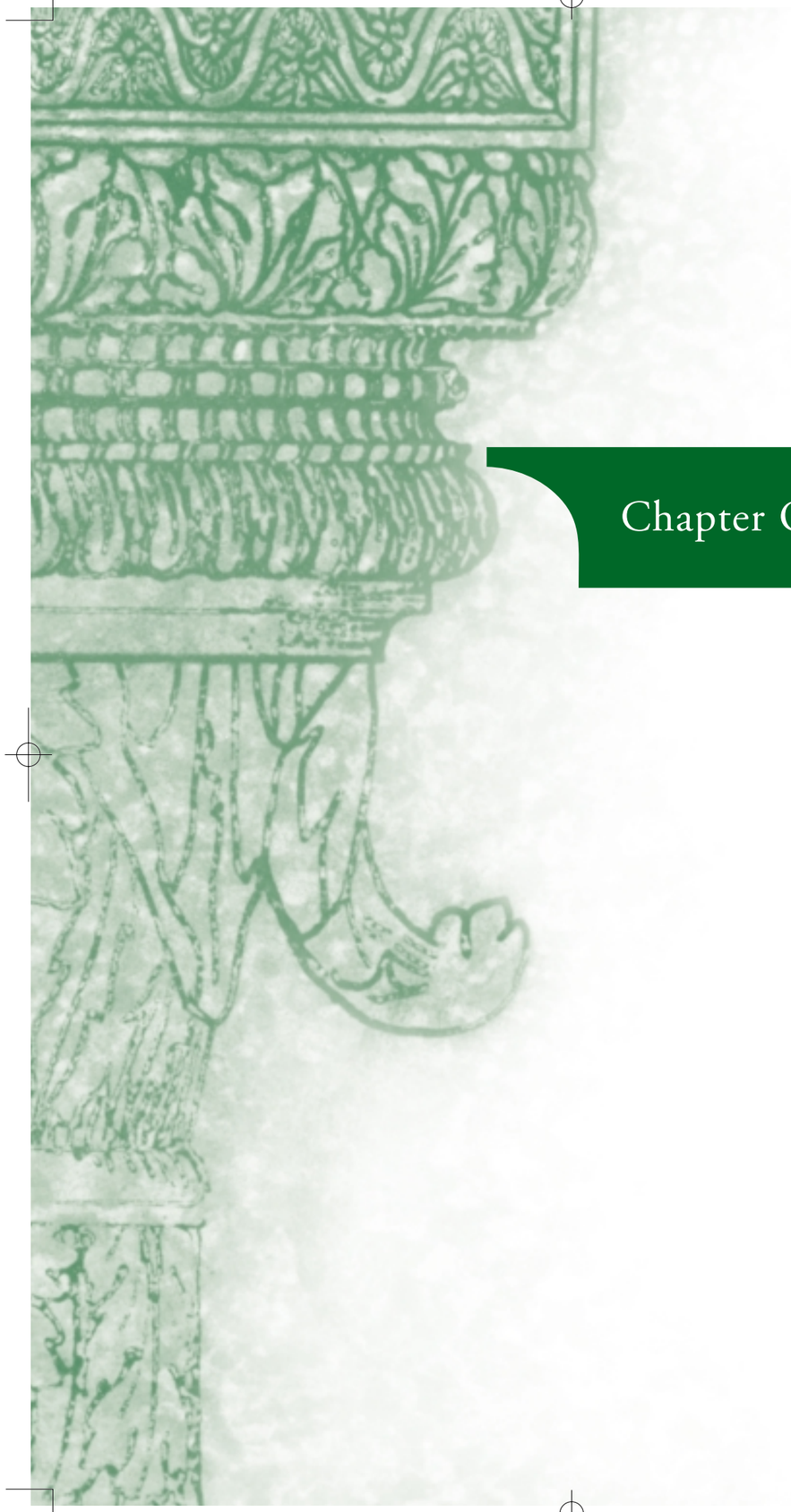
Registrar's Branch 113

Chapter 6

State Attorney's Branch 115

Annexures

Report of the Auditor General - Part A
Report of the Auditor General - Part B
Financial Statements of the Department



Chapter One - Preface

intro/contents/chapt1 26/09/2001 12:19 Page 2

1.1 The past year under review saw the introduction or completion of a multitude of departmental initiatives and programmes. We are indeed proud of the progress made in various areas to improve the administration of justice. Various programmes were designed to make justice more accessible to members of the public through transformation of existing legislation, technological advancements and measures to make courts more effective and efficient. In some areas office accommodation was upgraded, while programmes were also embarked upon to make justice more accessible, especially in regard to children awaiting trial.

TRANSFORMATION OF THE DEPARTMENT

1.2 During the past few months, the Department has embarked upon a restructuring process. This was done to achieve better service delivery to the public and to ensure that the Department conducts its business in an efficient and cost-effective manner. In terms of restructuring, our resources, both human and financial, are directed towards the core business functions of the Department. Therefore the emphasis is placed on courts and access to justice in general.

1.3 In this regard significant progress has been made with the creation of business units, aligned to the Department's line functions. Acting Managing Directors were appointed to spearhead the transformation process of the Department. They are as follows:

- Court Services - Mr Simon Jiyane
- Legislative and Constitutional Development - Mr Deon Rudman
- Master of the High Court - Mr Mike Tshishonga
- Financial Management - Mr Alan Mackenzie
- Legal Advisory Services - Mr Enver Daniels
- Human Resources - Ms Jackie Ngeva
- Information Management Services - Mr Hassen Ebrahim
- Public Education and Communication - Mr Clive Barrows

1.4 Mr Alan Mackenzie was seconded from Business Against Crime (BAC) to act as Chief Financial Officer. He is to assume responsibility for the financial matters within the Department. He brings with him considerable expertise from the private sector, and we wish to welcome him onboard. A Board of Directors similar to that of a private company has been appointed to guide the Department. Serving as directors of the Board, are executive and non-executive members.

1.5 Included as non-executive members of the Board are the Chief Justice and the National Director of Public Prosecutions. This will ensure that these independent bodies will be able to address concerns at the most senior organ of the Department. Also included as non-executive members of the Board are members of the legal fraternity, a senior business executive and a chartered accountant. The accounting officer and managing directors of the other seven business units are to serve as the executive members of the Board. Business Units are self-contained structures with clearly defined responsibilities and are accountable to the Board for their performance. Among the Business Units are the three line function structures dealing with all court services, legal services to the state and the public and the Master's Office. The supporting Business Units, that are designed to formulate policy at a national level, are the office of the CFO, Human Resources, Information and Systems Management and Communication and Public Education.

1.6 An Executive Management Committee (EXCO) has also been created, to ensure implementation of departmental policies and facilitate coordination between the Business Units. This marks the turning of a page with a new approach to doing business in our Department. Although this Annual Report will reflect upon work carried out in terms of our previous structure, readers should take note of new managerial developments, since next year's Annual Report will be in accordance with the new departmental structure.

Colloquium

1.7 During the year under review the Department also hosted a legal colloquium, with the aim to discuss:

- the strengths and weaknesses of the judicial system;
- challenges facing the administration of justice;
- the structure and hierarchy of the courts; and
- other relevant issues affecting service delivery and its impact on access to justice.

1.8 The two-day conference was held in Centurion and attended by various stakeholders in the legal fraternity, including members of the bench, the organised profession, academics, officials and NGOs. Post-colloquium reports were furnished to the Minister for his consideration, and further initiatives to implement some of the recommendations/findings are currently under consideration. Delegates agreed that regular consultations of this nature is vital to strengthen the capacity of the justice system.

Techno-Justice

1.9 On a more technical level, the Court Process Project (CPP) bore fruition. The Phambili Consortium,which was successful in securing the tender to develop the CPP for the Department, has made good progress with the development of an integrated court system for both criminal and civil cases. The CPP has to a large extent re-engineered the way in which our courts will function and provide them with the necessary tools to deal with the caseloads and the management of courts in a more effective manner. During the pilot project it was established that it is possible to electronically manage and control criminal cases from its origin, up until sentence is passed and the accused is handed over to either the Department of Correctional Services or Welfare. Strict security measures have been built into the system by means of biometric identification/verification and encryption technology. In civil cases, the proposed business solution will cover the full spectrum applicable to courts, ranging from interaction with private attorneys and sheriffs, the registration and administration of case documentation, the scheduling of hearings, the recording of results and the notification to the public of the outcome.

1.10 An impressive demonstration of the criminal court process was recently held in Cape Town for Members of Parliament. Significant progress has been made in regard to the civil court process and it was reported that officials at the Johannesburg and Durban pilot sites are undergoing training to familiarise them with the new systems.

1.11 As far as the much publicised e-Justice system for the Department is concerned, good progress has been made with the development of the Digital Nervous System Project (DNS) and the Financial Administration System (FAS), whereby sub-offices would be linked electronically and enabled to communicate with one another. It is hoped that the successful implementation of these projects will lead to the elimination of duplication, as well as unnecessary red tape in the workplace. It is clear that the techno age has finally dawned upon justice officials.

Upgrading of Courts

1.12 During the year under review progress was made with the upgrading of court buildings, especially in the previously disadvantaged areas. Court buildings such as those at Tsomo and Sterkspruit were completely revamped and upgraded and we are now proud to serve the public from these premises. Our heartfelt thanks go to USAID, who has financially supported our Department in this endeavour.

1.13 We have also seen greater involvement from the business fraternity in the administration of Justice. Not only did organisations such as Business Against Crime (BAC) contribute valuable expertise, but they also made financial contributions to development and upgrading of court facilities at the Commercial Courts. During the year under review, a further court in Pretoria was created with the assistance of BAC. Philips South Africa has also contributed to the upgrading and renovations of the court in Newlands, whereas Vodacom made substantial contributions towards the Wynberg (Alexandra) courts. Partnerships such as these can only strengthen our hands in the fight against crime and corruption.

Crime and Corruption

1.14 Combating crime remains one of our greatest challenges and will feature as a priority for the Department for a substantial time. It goes without saying that the high levels of crime not only influence our economic growth, but also places a tremendous burden on our courts. The Department is continuously revising the criminal justice system and laws within the ambit of its line functional responsibility to eradicate crime.

Legislation

1.15 In a rapid changing society the law requires constant revision to align statutes with the changing demands of society. The following legislation highlights how society demands rapid intervention from our departmental lawmakers:

- Protected Disclosures Act, 2000 (Act 26 of 2000) - makes provision for procedures in terms of which employees in both the public and private sector may disclose information regarding unlawful or irregular conduct by their employers or other employees. The Act also provides for the protection of employees from being subjected to an occupational detriment on account of having made a disclosure which is protected in terms of the Act.

- Cross-Border Insolvency Act, 2000 (Act 42 of 2000) - which emanates from an investigation by the South African Law Commission, gives effect to a resolution of the General Assembly of the United Nations, which recommended that states review their legislation on cross-border insolvency with the view to considering the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law, bearing in mind the need for internationally harmonised legislation governing instances of cross-border insolvency.

- National Prosecuting Authority Amendment Act, 2000 (Act 61 of 2000) - amends the National Prosecuting Authority Act, 1998 (Act 32 of 1998), so as to make provision for the establishment of the Directorate of

Special Operations and for the existing Investigating Directorates to become part of the Directorate of Special Operations. The Act also amends the Interception and Monitoring Prohibition Act, 1992 (Act 127 of 1992), so as to make provision for applications for directions in terms of that Act by the head of the Directorate of Special Operations.

- Judicial Matters Amendment Act, 2000 (Act 62 of 2000) - amends various Acts in order to, among others, further regulate the hearing of bail proceedings and the granting of bail; to provide for the recovery of costs by law clinics; to further regulate the powers of the Rules Board for Courts of Law; to further regulate the imposition of minimum sentences for certain serious offences; and to further regulate the committal of an accused for the imposition of sentence by a High Court after conviction in a regional court.

- Special Investigating Units and Special Tribunals Amendment Act, 2001 (Act 2 of 2001) - amended the Special Investigating Units and Tribunals Act, 1996, so as to bring the appointment of the Head of a Special Investigating Unit into line with a judgment of the Constitutional Court. The Act also empowers the President to appoint a person as Acting Head of a Special Investigating Unit in the absence of the Head of a Special Investigating Unit.

Children and Justice

1.16 During February of this financial year, our efforts to improve the child justice system received a welcome injection from the Swedish Government in the form of a bilateral agreement signed by the RSA and Sweden relating to capacity building in the field of children and justice.

1.17 Initiatives directly resulting from this agreement included, *inter alia,* the drafting and publishing of the Protocol for Children Awaiting Trial, as well as a Legal Representation Workshop for Children.

1.18 The drafting and production of a simplified version of the Convention on the Rights of the Child was a further international first for the Department, and will go a long way in educating the public on the rights of children.

A new Approach to Business

1.19 For the first time in the history of the Department, the Master's Business Unit has embarked upon a dynamic way in securing funding. It is a known fact that the Master's Division has a critical resources shortage, both in respect of personnel and information technology. It is also a known fact that they cannot accept donations or staff assistance from any private sector practitioner, as it may compromise its regulatory and supervisory functions.

1.20 The Justice Resources Trust was created and registered with the view to seek sponsorship from private enterprise, without compromising the integrity of the Masters Unit, through a intricate system of checks and balances.

1.21 If initiatives like these prove fruitful, it will pave the way to greater involvement of the private sector within the Justice system, which will in turn create an environment for greater cooperation in solving mutual problems.

Of great concern

1.22 The tragic murder of Mr Pieter Theron, former Regional Magistrate of the Western Cape, has highlighted a new tendency, which is of great concern to all within the Justice Fraternity. Members of the Bench and in certain instances their families, are now being threatened by individuals with no regard or respect for the Law.

1.23 What is of particular concern is that this is becoming more and more common, and only recently have we heard the news that yet another Regional Magistrate, Mr Tony Hofert, a Magistrate from Pinetown, has been murdered. This is completely unacceptable and has to stop.

1.24 The Department wishes to reassure the public that it is doing its utmost to ensure the safety of its officials, including presiding officers and members of the prosecuting authority.

1.25 The Department also wishes to convey its sympathy to these families for their tragic loss.

Zero tolerance for corruption

1.26 The Department is continuing with its policy of zero tolerance for corruption. Since the publication of the previous annual report, a comprehensive strategy was drafted and implemented. A hotline was also created to report corruption at a national level.

A word of Thanks

1.27 During the past year we have received substantial assistance from donors all over the world. The Department is greatly endebted to the donor organisations or countries who have assisted us in the process of development and upliftment in various fields.

legislation research branch 26/09/2001 12:21 Page 5

Chapter Two
National Head Office

legislation research branch 26/09/2001 12:21 Page 6

Chapter Two
Legislation Research Branch

2.1 This Branch is concerned with establishing efficient and effective legislation and comprises the Chief Directorate of Legislation Development and the Chief Directorate of the Secretariat of the South African Law Commission.

2.2 The Legislation Research Branch is headed by the Deputy Director-General: Legislation Research, Mr TD Rudman. He is assisted in the management of his Branch by -

- Mr W Henegan, who heads the Chief Directorate: South African Law Commission. (This component constitutes the Secretariat of the South African Law Commission)
- Mr LGS Bassett, the Chief Director: Legislation Development
- Mr JA de Lange, the Director: Parliamentary Legislation
- Ms HC Botha, the Director: Secondary Legislation.

2.3 The Secretariat of the South African Law Commission, being a Chief Directorate on its own, is mandated by law, the South African Law Commission Act, 1973 (Act 19 of 1973), to assist the South African Law Commission in the development, improvement, modernisation and reform of South African law in all its facets. It usually undertakes projects of a complex and comprehensive nature, which require in-depth and often long-term research and wide consultation.

2.4 The Directorate: Parliamentary Legislation, falling within the Chief Directorate: Legislation Development, on the other hand, is responsible for investigating and promoting new legislation, as well as amending legislation which has a bearing on the line functions of the Department, including the promotion of any legislative recommendations emanating from the investigations of the South African Law Commission which have a bearing on the line functions of the Department.

2.5 The Directorate: Secondary Legislation, also falling within the Chief Directorate: Legislation Development, depends largely on the above two components in the sense that it is, among others, mandated to implement the legislation which emanates from these two components. This Directorate furthermore prepares subordinate or secondary legislation required in terms of the primary legislation and it also accommodates the Secretariat of the Rules Board for Courts of Law, which is required to assist the Rules Board in its mandate of making rules of court.

2.6 The mission of the Branch is as follows:
"Through appropriate research and consultation, we -
- review and amend existing legislation; and
- investigate and develop primary and secondary legislation for the National Government, Parliament and relevant statutory bodies.

We will protect and promote the values of the Constitution and give effect to the policies of the Government of the day."

THE CHIEF DIRECTORATE OF THE SECRETARIAT OF THE SOUTH AFRICAN LAW COMMISSION

2.7 As mentioned above, the South African Law Commission is a statutory body established in terms of the South African Law Commission Act, 1973 (Act 19 of 1973). The objectives of the Law Commission are to advise the Government on the development, improvement, modernisation and reform of South African law. The Law Commission comprises the following members appointed by the President:

- Madam Justice Y Mokgoro (Chairperson)
- Mr J J Gauntlett, SC (Cape Bar)
- Madam Justice ML Mailula
- Prof IP Maithufi (Full-time member)
- M Mojapelo (Practising attorney)
- Mr Justice C T Howie
- Ms Z Seedat (Practising attorney)

2.8 Provision is made for the appointment by the President of additional members if he or she deems it necessary for the investigation of any matter. Professor C Hoexter (University of the Witwatersrand) was appointed for this purpose. The Law Commission is also empowered by law to establish committees if it deems it necessary for the proper performance of its functions. The Minister appoints persons (who are not already members of the Commission) to such committees.

2.9 From 1994 to date the Commission has completed 110 publications, which include issue papers, discussion papers and reports. The Commission's involvement in the transformation of the justice system is apparent from its reports on customary marriages, domestic violence, juvenile justice, aspects of the law relating to AIDS, and sentencing. Investigations with a crucial relevance and which are in an advanced stage of completion include sexual offences, the review of the Child Care Act, 1983 and the customary law of succession.

2.10 The Law Commission is assisted in its task by a full-time Secretariat of officers on the establishment of the Department. The Secretariat consists of a professional component and an administrative component. The professional component does legal research on behalf of the Commission and compiles issue papers, discussion papers and reports. Discussion papers and reports invariably contain draft legislation. The Secretary of the Commission exercises overall control over the Secretariat.

2.11 The functioning and activities of the Law Commission are dealt with in detail in its own annual report.

THE CHIEF DIRECTORATE OF LEGISLATION DEVELOPMENT

2.12 The Chief Directorate consists of the Directorate of Parliamentary Legislation and the Directorate of Secondary Legislation.

THE DIRECTORATE OF PARLIAMENTARY LEGISLATION

2.13 The objectives of the Directorate are to investigate and do research in respect of proposals for new or amending legislation in order to develop and maintain a legitimate system for administering justice and state legal affairs.

2.14 The main functions of the Directorate include the following:
- The investigation of legislative proposals and representations
- The research of legislation
- Advising the Minister in respect of legislative proposals relating to the line functions of the Department
- Preparing documentation in order to submit legislative proposals to the Cabinet
- Preparing draft legislation and related documentation for submission to Parliament
- Appearing before the relevant Parliamentary Committees in order to brief the Committees on the draft legislation, to assist the Committees with amendments to the draft legislation and to advise the Committees on legal and policy issues arising from the draft legislation
- Evaluating reports and legislative recommendations of the South African Law Commission that have a bearing on the line functions of the Department with the view to promoting these recommendations in Parliament
- Advising the Minister on draft legislation of other state departments
- Representing the Department at workshops, seminars and conferences where the expertise of the officials of the Directorate in general or in respect of a particular matter is required
- Typing the legislation of all state departments after it is has been checked by the State Law Advisers and before it is submitted to Parliament.

2.15 The Directorate is a small component within the Department's National Office, consisting of a director, three senior legal administration officers, eight legal administration officers, one administration clerk, one secretary and two typists. At the beginning of 2000 the Directorate had a full complement of staff for the first time in a long while. A high degree of representivity was achieved at the lower levels during this period. However, by the middle of the period under review the personnel component was again depleted by the transfer of four legal administration officers. The retention of professional staff, especially at the lower levels, is very problematic for the Directorate. Because of their specialised drafting skills and because of a shortage of these skills, they are often lured elsewhere in the Public Service and to the private sector for better prospects.

2.16 The Directorate, operating on a budget of R2,7 million, R2,5 million of which was spent by the end of the financial year under review, was nevertheless able to fulfil its mandate by facilitating the enactment of the following statutes:

- **Protected Disclosures Act, 2000 (Act 26 of 2000)**
  This Act makes provision for procedures in terms of which employees in both the public and private sector may disclose information regarding unlawful or irregular conduct by their employers or other employees. The

Act also provides for the protection of employees from being subjected to an occupational detriment on account of having made a disclosure which is protected in terms of the Act.

- **Cross-Border Insolvency Act, 2000 (Act 42 of 2000)**
  This Act emanates from an investigation by the South African Law Commission. It gives effect to a resolution of the General Assembly of the United Nations, which recommended that States review their legislation on cross-border insolvency with the view to considering the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law, bearing in mind the need for internationally harmonised legislation governing instances of cross-border insolvency. The Act is based on the Model Law (with some adaptations to suit South African circumstances) and aims to promote -

  (i) cooperation between the courts and other competent authorities of South African foreign states involved in cases of cross-border insolvency;
  (ii) greater legal certainty for trade and investment;
  (iii) the fair and efficient administration of cross-border insolvencies that protects the interests of all creditors and other interested persons, including debtors;
  (iv) the protection and maximisation of the value of debtors' assets; and
  (v) the facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

- **National Prosecuting Authority Amendment Act, 2000 (Act 61 of 2000)**
  The Act amends the National Prosecuting Authority Act, 1998 (Act 32 of 1998), so as to make provision for the establishment of the Directorate of Special Operations (the "Scorpions") and for the existing Investigating Directorates to become part of the Directorate of Special Operations. The Act also amends the Interception and Monitoring Prohibition Act, 1992 (Act 127 of 1992), so as to make provision for applications for directions in terms of that Act by the Head of the Directorate of Special Operations.

- **Judicial Matters Amendment Act, 2000 (Act 62 of 2000)**
  This Act amends various Acts in order to further regulate the hearing of bail proceedings and the granting of bail; to provide for the recovery of costs by law clinics; to further regulate the powers of the Rules Board for Courts of Law; to further regulate the imposition of minimum sentences for certain serious offences; and to further regulate the committal of an accused for the imposition of sentence by a High Court after conviction in a regional court. These amendments are largely technical in nature and uncontroversial and are included in a single amending statute to avoid amending numerous statutes separately.

- **Special Investigating Units and Special Tribunals Amendment Act, 2001 (Act 2 of 2001)**
  This Act amends the Special Investigating Units and Tribunals Act, 1996, so as to bring the appointment of the Head of a Special Investigating Unit into line with a judgment of the Constitutional Court. The Act also empowers the President to appoint a person as Acting Head of a Special Investigating Unit in the absence of the Head of a Special Investigating Unit.

- **Administration of Estates Amendment Act, 2001**
  This Bill, which was introduced into Parliament during its 2000 session, is seen as a continuation of the Department's role in the transformation process. It is intended to rationalise the laws in the Republic regulating the administration of deceased estates. It extends the operation of the Administration of Estates Act, 1965 (Act 66 of 1965) of the former RSA to the entire national territory, including the former TBVC States, and it repeals the corresponding laws still being applied in those areas of the national territory.

2.17 The Directorate has prepared the following draft legislation which is intended to be promoted in Parliament as soon as circumstances permit, hopefully during the course of the 2001 session of Parliament:

- **Constitution of the Republic of South Africa Amendment Bill, 2001**
  This Bill aims to amend the Constitution of the Republic of South Africa, 1996, to allow municipal councils to bind future municipalities in the exercise of their executive and legislative authority if it is necessary to secure loans or investments for the municipalities concerned. The Bill also gives effect to a decision of the Legal Colloquium held last year, namely that the Chief Justice, as head of the judiciary, is head of the Constitutional Court and that the Supreme Court of Appeal is headed by a President of that Court.

- **Constitution of the Republic of South Africa Second Amendment Bill, 2001**
  The main object of this Bill is to address a range of practical difficulties that have been encountered in implementing the Constitution, especially with reference to the financial regime established by the Constitution.

- **Jurisdiction of High Courts Interim Amendment Bill, 2001**
  This Bill aims to enable the Minister to adjust the territorial jurisdiction of High Courts. This is an interim measure, pending the rationalisation and restructuring of the courts as envisaged in the Constitution.

- **Judicial Officers Amendment Bill, 2001**
  The main object of the Bill is to create a mechanism to determine the salaries of judges and magistrates and a mechanism to deal with complaints against judges of the Superior Courts. It will also regulate the vacation of office of judges of the Constitutional Court.

- **International Criminal Court Bill, 2001**
  This Bill is intended to facilitate South Africa's accession to the Rome Statute on the International Criminal Court and to make the Rome Statute on the International Criminal Court part of South African law. It will also create a legislative framework to ensure that the Statute is effectively implemented in South Africa.

- **Interception and Monitoring Bill, 2001**
  This Bill is intended to bring the legislation dealing with the interception and monitoring of communications that have a bearing on serious crimes, including corruption, into line with the latest telecommunications technology. This legislation will extend the ambit of the existing legislation, particularly in respect of cellular networks and will strengthen the powers of law enforcement agencies in the combating of serious crimes.

- **Criminal Procedure Second Amendment Bill, 2001**
  The Bill, emanating from an investigation of the South African Law Commission, aims to amend the Criminal Procedure Act, 1977 (Act 51 of 1977), so as to provide for a prosecutor and an accused person to enter into a plea and sentence agreement.

- **Judicial Matters Amendment Bill, 2001**
  This Bill is intended to amend a number of unrelated provisions in various Acts of Parliament administered by the Department, for example by bringing the appointment of a member of the judiciary as chairperson of the South African Law Commission into line with the court structure as provided for in the Constitution. The Promotion of Access to Information Act, 2000, and the Promotion of Administrative Justice Act, 2000, are also amended so as to effect certain textual corrections to the relevant Acts.

2.18 The Directorate is also working on the following draft legislation, among others:

- **Legal Practice Bill**
  The Bill is intended to rationalise the laws in the Republic regulating the legal professions and will provide, among others, for the establishment of a Legal Practice Council and the requirements for the registration, admission and enrolment as a legal practitioner. The Bill therefore aims to provide for a single statute in respect of the legal profession, which will facilitate transformation within the profession, thereby enhancing access to justice.

- **Restoration of Enrolment of Certain Legal Practitioners Bill**
  The purpose of the Bill is to make provision for a mechanism to restore the enrolment of legal practitioners who were struck off the roll of advocates or attorneys as a result of their opposition to the political dispensation of apartheid and who are since deceased.

Other draft legislation, emanating from the South African Law Commission, which will receive the attention of the Department, includes the following:

- Sexual Offences Bill
- Child Justice Bill
- Customary Law of Succession Amendment Bill

THE DIRECTORATE OF SECONDARY LEGISLATION

2.19 The Directorate of Secondary Legislation comprises the Subdirectorate: Legal Directives and the Secretariat of the Rules Board for Courts of Law.

SUBDIRECTORATE: LEGAL DIRECTIVES

2.20 This Subdirectorate is responsible for, *inter alia*, the implementation of legislation, the formulation and promulgation of subordinate legislation in terms of such legislation, the subsequent amendment of subordinate legislation, the enactment of prescripts regarding certain aspects necessary for the administration of justice, the review of fees and rates in terms of laws administered by the Department, the processing of applications under the Special Investigating Units and Special Tribunals Act, 1996

(Act 74 of 1996) and the further administration of any of the above.

2.21 The following legislation was put into operation during the year under review:

(a) The Justice Laws Rationalisation Act, 1996 (Act 18 of 1996), in so far as it repeals the Transkeian Decree No. 4 (Ombudsman) of 1998 and the QwaQwa Ombudsman Act, 1987 (Act 6 of 1987), was put into operation with effect from 1 July 2000.

(b) Sections 1 to 5 and 10 of the Judicial Matters Amendment Act, 1998 (Act 122 of 1998), which provide that specified claims of workers, in the case of insolvency of an employer, should rank higher than most other preferent claims, was put into operation with effect from 1 September 2000.

(c) The Recognition of Customary Marriages Act, 1998 (Act 120 of 1998), provides, inter alia, for -

(i) the recognition and registration of customary marriages;
(ii) the equal status and capacity of spouses in customary marriages;
(iii) the regulation of proprietary consequences of customary marriages; and
(iv) the dissolution of customary marriages.

This Act was put into operation with effect from 15 November 2000.

(d) The Witness Protection Act, 1998 (Act 112 of 1998), with the exception of sections 6 and 20, was put into operation with effect from 31 March 2000. The Act aims to provide for temporary protection pending placement under protection and the placement of witnesses and related persons under protection. It also provides for services related to the protection of witnesses and related persons.

(e) The National Prosecuting Authority Amendment Act, 2000 (Act 61 of 2000) was put into operation with effect from 12 January 2001. The Act makes provision for, among others, the establishment of the Directorate of Special Operations and for the existing Investigating Directorate to become part of the Directorate of Special Operations.

(f) The Protected Disclosures Act, 2000 (Act 26 of 2000) was put into operation with effect from 16 February 2001. The aforementioned Act makes provision for procedures in terms of which employees in both the private and public sector may disclose information regarding unlawful and irregular conduct by the employer or other employees in the employ of the employers, and to provide for the protection of employees who make a disclosure, which is protected in terms of the Act.

(g) Section 2 of the Sheriffs Amendment Act, 1998 (Act 74 of 1998), which provides for the appointment of more than one sheriff for a particular area, commenced on 1 September 2000.

(h) Sections 1, 2, 3, 4(2), 5, 6, 29 (with the exception of subsection (2)), 32, 33 and 34(1) of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000) were put into operation with effect from 1 September 2000. The aforementioned sections, *inter alia*, provide for the establishment of the Equality Review Committee.

(i) The Promotion of Access to Information Act, 2000 (Act 2 of 2000) aims to give effect to the constitutional right of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights. The Act, with the exception of sections 10,14,16 and 51, commenced on 9 March 2001.

(j) The Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), with the exception of sections 4 and 10, was put into operation on 30 November 2000. The Act aims to give effect to the constitutional imperative that national legislation must be enacted to give effect to the right to administrative action that is lawful, reasonable and fair, and to the right to be given written reasons for administrative action.

(k) Section 2 of the Magistrates' Courts Amendment Act, 1998 (Act 67 of 1998) was partially implemented on 20 April 2000 to address the problem where assessors cannot further attend part-heard trials.

(l) The Judicial Matters Amendment Act, 2000 (Act 62 of 2000), with the exception of section 35, commenced on 23 March 2001. The Act, *inter alia*, deals with minimum sentences and extends the period of operation of the provisions relating to minimum sentences from one year to two years.

2.22 Preparatory steps for the commencement of the following Acts of Parliament or parts thereof have been taken:

(a) Criminal Matters Amendment Act, 1998 (Act 68 of 1998), which deals with state patients.

(b) Sections 7 and 8 of the Judicial Matters Second Amendment Act, 1998 (Act 122 of 1998), which regulate the use of force during arrests.

(c) Cross-Border Insolvency Act, 2000 (Act 42 of 2000).

(d) The Special Investigating Units and Special Tribunals Amendment Act, 2001 (Act 2 of 2001), which is the result of a Constitutional Court case relating to the unconstitutionality of sections of the Act which dealt with the appointment of the Head of the Unit. (The Act came into operation on 31 July 2001.)

(e) The Magistrates' Courts Amendment Act, 1998 (Act 67 of 1998), which further regulates the appointment of lay assessors.

(f) Sections 4 and 10 of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000). Section 4 regulates administrative action which affects members of the public, whilst section 10 is the enabling provision for subordinate legislation to be promulgated.

(g) Sections 10,14,16 and 51 of the Promotion of Access to Information Act, 2000, which, *inter alia*, deals with a guide to be compiled by the Human Rights Commission and manuals to be published by public and private bodies. The guide and manuals will contain information assisting persons in exercising their rights.

(h) The further implementation of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000.

2.23 The following subordinate legislation was promulgated during the year under review:

(a) Under section 98A of the Insolvency Act, 1936 (Act 24 of 1936), as amended by section 2 of the Judicial Matters Amendment Act, 1998 (Act 122 of 1998), various amounts have been determined in accordance with section 98A(1)(a) and (b) of the Insolvency Act, 1936, to which an employee would be entitled in the case of insolvency by an employer. Under section 98A(6) of the Insolvency Act, 1936, directors of a company or members of the closed corporation, which is the insolvent, were excluded from the operation of section 98A of the Insolvency Act, 1936. This determination was published in the *Gazette* on 1 September 2000.

(b) Regulations under section 11 of the Recognition of Customary Marriages Act, 1998 (Act 120 of 1998), which, *inter alia*, provide for the -

- procedure for the registration of a customary marriage;
- procedure for an enquiry into the existence of a customary marriage;
- form of consent to a customary marriage by a commissioner of child welfare where the parties to such a marriage are minors and parental consent cannot be obtained;
- procedure for the determination of age of a minor;
- custody of records of customary marriages;
- reproduction of documents;
- verification, supplementation and rectification of particulars furnished to the Department of Home affairs in terms of the regulations;
- offences and penalties; and
- fees,

were published in the Gazette on 15 November 2000.

(c) An amendment to the determination of professional controlling bodies in terms of section 1 and designation of a body for purposes of section 5 of the Contingency Fees Act, 1997 (Act 66 of 1997), which was published in the *Gazette* on 3 November 2000.

(d) An amendment to the regulations regarding the Attorneys Fidelity Fund (the amendment of the form for the application for a Fidelity Fund certificate) was published on 19 January 2001.

(e) The period of operation of sections 51 and 52 of the Criminal Law Amendment Act, 1997 (Act 105 of 1997) was extended for one year with effect from 1 May 2000.

(f) Regulations relating to the Promotion of Access to Information Act, 2000 (Act 2 of 2000) were published and came into operation on 9 March 2001, to provide for various aspects required by the Act.

(g) The Prevention of Organised Crime Regulations, 1999, made under the Prevention of Organised Crime Act, 1998 (Act 121 of 1998), was amended on 1 September 2000 to include a prescribed form.

legislation research branch 26/09/2001 12:22 Page 12

(h) Regulations in terms of section 40 of the National Prosecuting Authority Act, 1998 (Act 32 of 1998) were published on 2 February 2001. The regulations are dealing with the conditions of service of the "Scorpions".

i) A notice for the determination of the salaries of deputy directors of public prosecutions and prosecutors for the purposes of the National Prosecuting Authority Act, 1998 (Act 32 of 1998) was published on 29 November 2000.

(j) A notice determining the legal qualifications of prosecutors envisaged in sections 16(3) and 25(2) of the Act was published in the *Gazette* on 18 May 2001.

2.24 Regulations in terms of the following Acts have been drafted during the year under review:

(a) Regulations facilitating the Magistrates' Courts Amendment Act, 1998 have been drafted. The regulations deal with the designation and appointment of lay assessors and matters incidental thereto. The regulations will be finalised on receipt of a recommendation regarding the incremental implementation of the Act.

(b) The determination of remuneration for a curator *ad litem* and the amendment of the regulations under the Criminal Procedure Act, 1977 (Act 51 of 1977) to facilitate the implementation of the Criminal Matters Amendment Act, 1998, dealing with state patients, have been drafted.

(c) Regulations to facilitate the implementation of section 2 of the Sheriffs Amendment Act, 1998, providing for the appointment of more than one sheriff for a particular area, have been drafted. (The regulations have already been submitted to the Minister for promulgation.)

(d) Draft regulations under the Witness Protection Act, 1998, have been compiled and consultation with stakeholders has taken place.

(e) Draft regulations under the Debt Collectors Act, 1998 (Act 114 of 1998) have been finalised. The regulations will be submitted to the Minister on receipt of a recommended date of commencement of the Act by the Debt Collectors Council.

(f) Draft regulations to facilitate the implementation of sections 10,15,16 and 51 of the Promotion of Access to Information Act, 2000, have been compiled.

(g) Regulations under the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, dealing with prevention of discrimination, are about to be finalised.

2.25 Various applications under the Special Investigating Units and Special Tribunals Act, 1996 (Act 74 of 1996), for possible referral of matters to a Special Investigating Unit were processed by the Subdirectorate.

2.26 A total of 28 tablings and submissions to Parliament were made during the year under review.

SUBDIRECTORATE: SECRETARIAT OF THE RULES BOARD FOR COURTS OF LAW

ESTABLISHMENT AND COMPOSITION OF THE RULES BOARD FOR COURTS OF LAW

2.27 The Rules Board for Courts of Law (hereinafter referred to as the Rules Board) is a statutory body established in terms of section 2 of the Rules Board for Courts of Law Act, 1985 (Act 107 0f 1985)(the Act) and is charged with the responsibility of making rules for the Supreme Court of Appeal, the High Courts and the Magistrates' Courts. The rules to be made by the Board cover a wide scope and make provision for, *inter alia*, the practice and procedure in connection with litigation, the service and execution of process and fees and costs of litigation.

2.28 The Board consists of 14 members who are appointed in terms of section 3(1) and (1A) of the Act. The present members of the Board are the following:

(a) The Honourable Mr Justice C M Somyalo, as the Vice-Chairperson in terms of section 3(1)(b) of the Act. He has also been the acting Chairperson of the Board since 31 March 2001.
(b) Mr N B Makabanyane from Lehurutshe as the magistrate in terms of section3(1)(c) of the Act.
(c) Advocates C D A Loxton SC from Johannesburg and J J Moses of Cape Town as the practising advocates in terms of section 3(1)(d) of the Act.
(d) Mr S S Gamede from Johannesburg as a practising attorney in terms of section 3(1)(e) of the Act. Mr P Horn from Kimberley, who was also appointed as a practising attorney in terms of section 3(1)(e), has, however, resigned from this position.
(e) Professor C Loots of the University of the Witwatersrand and at present also attached to the Policy Unit of the Department of Justice, as the lecturer in law in terms of section 3(1)(f) of the Act.
(f) Ms H C Botha, Director: Secondary Legislation in the National Office of the Department of Justice as the official of the Department of Justice in terms of section 3(1)(g) of the Act.
(g) Mr I M Ayob, attorney from Johannesburg, Ms P Tlakula, a member of the Human Rights Commission and Ms B Franks, the director of the Legal Aid Clinic at the University of the Western Cape, as the members in terms of section 3(1)(h) of the Act.
(h) Advocate D J Jacobs from Cape Town and Mr C M Sardiwalla, an attorney from Ladysmith, as the two alternate members in terms of section 3(1A) of the Act.

2.29 The Honourable Mr Justice S S Ngcobo stepped down as the Chairperson of the Board on 31 March 2001 due to the fact that the Act does not provide for a judge of the Constitutional Court to be the Chairperson or the Vice-Chairperson of the Board. The Minister instructed that the Act be amended to provide that a judge of the Constitutional Court is eligible for appointment as the Chairperson or the Vice-Chairperson of the Board. The amendment has been submitted to Parliament.

COMMITTEES OF THE BOARD

2.30 In the performance of its functions, the Board deals with specialised areas of practice such as the High Courts, the Magistrates' Courts, family matters, costs of litigation, admiralty proceedings, information technology and constitutional matters. In order to facilitate its work in these areas, the Board has established specialised committees that focus on these areas. The committees are chaired by members of the Board and consist of experts in a particular specialised area. Non-Board members of committees are appointed in terms of section 5(1) of the Act by the Minister. Apart from the various committees that are indicated below, there is also the Executive Committee, whose functions are, *inter alia*, to deal with urgent matters that require expedient attention in between meetings of the Board. The committees of the Board and the chairpersons are as follows:

The **Executive Committee** chaired by Mr Justice Somyalo.

(a) The **High Court Committee** chaired by advocate C D A Loxton SC.
(b) The **Magistrates' Courts Committee** chaired by Mr N B Makabanyane.
(c) The **Family Courts Committee** chaired by professor C Loots.
(d) The **Costs Committee** chaired by Mr C M Sardiwalla.
(e) The **Admiralty Proceedings Rules Committee** with no chairperson at present (Mr Justice Ngcobo was the Chairperson).
(f) The **Information Technology Committee** chaired by Mr C M Sardiwalla.
(g) The **Constitutional Matters Committee** chaired by Ms P Tlakula.
(h) The **Civil Justice Reform Committee**, with no chairperson at present. (Mr Justice Ngcobo was the Chairperson.) The work of this Committee has to a great extent been taken over by the Harmonisation Task Team, on which a report is made below.

ACTIVITIES OF THE BOARD

2.31(a) The Board receives representations from interested parties, such as judges, magistrates and legal practitioners in the form of proposals for repeal, amendment or insertion of rules. The Secretariat of the Board invites role-players to comment on the representations received. Upon receipt of the comments a working document is compiled and recommendations made. The working document is submitted to the relevant committee of the Board for consideration. The committee may either accept the recommendation of the Secretariat and submit the matter to the full Board for a decision or refer the matter back to the Secretariat for further investigation. The finalisation of the representation depends largely upon the availability of committee members and Board members who have to meet and take decisions.

(b) Due to the nature and extent of the projects in which the Board is involved, the Board decided at a meeting held on 7 December 2000, that as from January 2001, meetings will take place every second month, where matters requiring the attention of the Board can be dealt with.

(c) The Court Process Project of the Department of Justice and Constitutional Development, which envisages a computerised justice system, is one of the important developments which impacts on the activities of the Board. The Board has to draft rules for the implementation of a computerised system. Due to a lack of capacity in both the

Board and the Secretariat to handle a task of this magnitude, experts to assist the Board had to be found elsewhere. The Chief State Law Adviser has made two State Law Advisers available to assist the Board with the drafting of rules. Other experts in law and computers have been identified to do certain tasks. The Information Technology Committee, the State Law Advisers concerned and the other experts have met several times during the reporting period to finalise frameworks, discuss draft rules and other issues of concern.

(d) Another project that the Board has embarked upon, is the harmonisation and the limited revision of the rules of court. The first step in furthering this is the identification of rules of the High Courts and the Magistrates' Courts that are equivalent and those that are different, but which must inevitably remain different. The Board resolved that this project is a task well beyond the capacity of the Board and that practitioners acting on the instructions of the Board should be approached to undertake this task on a *pro bono* basis. Invitations to participate in the project were forwarded to all possible stakeholders and many positive responses were received. As a first step, a spread sheet containing similar provisions in both the Magistrates' Courts Rules and the High Court Rules and in both the Magistrates' Courts Act, 1944 and the Supreme Court Act, 1959, as well as provisions in the Magistrates' Courts Act, 1944 and the Magistrates' Courts Rules, with no equivalent provisions in the Supreme Court Act, 1959 and the High Court Rules and *vice versa*, were prepared by the Secretariat. The rules were thereafter classified in various categories by the Secretariat and submitted to various working groups for investigation and proposed amendments. One of the challenges facing the Board is the review of present rules to determine the extent to which they are consistent with the Constitution, which, among other things, guarantees the right of access to courts to everyone. In particular, its task is to determine the extent to which the present rules facilitate access to courts and to make the necessary adjustments. This aspect is also addressed in the harmonisation process.

(e) Rules under the Promotion of Access to Information Act, 2000 (Act 2 of 2000) and the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) are in an advanced stage and will be published shortly.

(f) During the period under review, the Board approved the repeal of rule 37A of the High Court Rules, which deals with pre-trial conferences in the Cape High Court, as the rule could not be applied effectively.

(g) The Board also approved an amendment of the High Court Rules to provide for a court fee for the authentication by registrars of documents executed within the Republic, for use outside the Republic. The preparation of the amendment is in an advanced stage and will be submitted to the Minister shortly.

(h) The Constitutional Court intends to amend rule 18 of the Constitutional Court Rules, which provides for appeals from courts other than the Supreme Court of Appeal, so as to do away with the required certificate in rule 18(6), since it has no effect on the right of an appellant to have the constitutional matter heard by the Constitutional Court. The nature of the amendment of rule 18 has the effect that rule 49 of the High Court Rules must also be amended. The Board has already approved an amendment of rule 49 which will be published simultaneously with the amendment of the Constitutional Court Rules.

(i) The Board was requested by the Department to consider the necessity to amend the High Court Rules and the Divorce Court Rules to facilitate applications under the Recognition of Customary Marriages Act, 1998 (Act 120 of 1998). The Board accepted the recommendations from the Family Courts Committee and the High Court Committee that no amendments were necessary.

(j) The Board also submitted amendments to the Magistrates' Courts Rules to provide for the recovering of costs in provisional sentences and tracing fees before judgment, to rectify the tariff for a warrant of execution and to increase the fees of counsel, to the Minister.

(k) The Magistrates' Courts Committee of the Board met during June 2000 and October 2000. The matters below were considered and recommendations made to the Board:

- Amendment of rule 51(4) of the Magistrates' Courts Rules, which deals with the requirement of security
- Amendment of rule 12 of the Magistrates' Courts Rules, which deals with default judgments
- Amendment of rule 46 of the Magistrates' Courts Rules, which deals with emolument attachment orders
- Amendment of rule 10 of the Magistrates' Courts Rules, which deals with the lapsing of a summons
- Rules to provide for proceedings in terms of the Prevention of Organised Crime Act, 1998 (Act 121 of 1998)
- The simplification of the Magistrates' Courts Tariffs for attorneys and the increase in their fees
- Eviction of unauthorised tenants
- Amendment of rule 49 of the Magistrates' Courts Rules, which deals with the rescission of judgments
- A resolution by the Portfolio Committee on Justice regarding a document to be handed to a person on whom a document is served
- Increase of remuneration of administrators under section 74L of the Magistrates' Courts Act, 1944
- Amendment of rule 6 of the Magistrates' Courts Rules, which provides, *inter alia*, for interest to be claimed
- Amendment of Table E to provide for copies of records and judgments

These matters were either finalised by the Board, referred to other committees for their recommendations or referred back to the Secretariat for further investigation.

(l) The Costs Committee of the Board met during August 2000. The following matters were considered:

- A representation regarding fees of counsel referred to the Board by the Minister.
- A simplified tariff structure of attorneys' fees in the Magistrates' Courts Rules and an increase in the fees.
- Amendment of rule 70 of the High Court Rules, which provides for attorneys' fees.
- Increase of remuneration for administrators under section 74L of the Magistrates' Courts Rules.

These matters have either been finalised by the Board or referred back to the Secretariat for further investigation or inputs from other committees.

(m) A combined meeting was held during March 2001 between the Costs Committee, the High Court Committee and the Magistrates' Courts Committee to formulate guidelines for use by the Board when cost related matters are considered by it. The proposed guidelines were approved by the Board and circulated for comments to all stakeholders.

(n) The Board resolved that the proceedings of meetings of the Board should be transcribed in order to be able to comply with the provisions of the Promotion of Access to Information Act, 2000 and the Promotion of Administrative Justice Act, 2000.

(o) In addition to the abovementioned, various other representations are being dealt with by the Board.

STRUCTURE OF THE BOARD

2.32 Because of its size, the Board has proved to be unmanageable and a request from the Board to amend the Act so as to provide for the restructuring of the Board in a similar structure as that of the S A Law Commission, has been forwarded to the relevant functionary. The Board has also decided that investigations on the structure and functions of rule-making bodies in other jurisdictions should be conducted, so as to enable the Board to give meaningful inputs. That investigation is under way.

THE SECRETARIAT OF THE BOARD

Composition

2.33(a) The Secretariat of the Board presently consists of the following posts:

(i) A senior legal administration officer.
(ii) Legal administration officer - two posts.
(iii) A senior administration clerk.

(b) Proposals have been made for a restructured Secretariat in the organogram of the newly established Business Unit.

Duties of the Secretariat

2.34 During the year under review, the Secretariat performed, among others, the following duties:

- Studying existing court rules and making representa-

tions for their amendment
- Making recommendations and drawing up draft rules
- Submitting draft rules and other documents to the Board
- Dealing with the general administration of the Board

2.35 The decision of the Board to meet on a two-monthly basis and the appointment of the various committees contributed extensively to the workload of the Secretariat. Meetings of the Board and its various committees must be arranged, minutes must be compiled, other correspondence must be dealt with and travel-and-subsistence claims and remuneration claims must be processed for payment.

2.36 The one post of legal administration officer was filled in October 2000 by an official who has extensive knowledge of court practices and rules. The Board instructed the official to coordinate the harmonisation process on a full-time basis. This task also includes the arrangement of meetings of the various working groups, forwarding documents to every individual in the working groups and reporting to and liaising with members of the Board.

Chapter Two
Legal Services Branch

CHIEF DIRECTORATE OF LEGAL ADMINISTRATION

2.37 This Branch is directly involved in the core functions of the Department in that it concerns itself with ensuring an efficient legal administration, overseeing the establishment and distribution of courts and other appropriate structures relating to the administration of justice, as well as ensuring that the administration of courts and community justice structures are sound and in line with the mission, values and vision of the Department.

2.38 The Branch comprises two Chief Directorates, namely that of Administration of Courts and Witness Protection and that of Legal Administration. (Witness Protection has resorted under the Office of the NDPP since the beginning of 2000. Their activities will be reflected in that Office's Annual Report.)

THE CHIEF DIRECTORATE OF LEGAL ADMINISTRATION

THE DIRECTORATE OF INTERNATIONAL AFFAIRS

2.39 The functions of the Directorate consist mainly of the identification and researching of legal questions that relate to matters pertaining to the administration of justice between South Africa and other states. The Directorate is involved in direct liaison and negotiations at administrative and functional official level with foreign states in an effort to promote international legal cooperation and for the possible conclusion of extradition and mutual legal assistance agreements. The Directorate also aims to establish greater uniformity between the legal systems of Southern African states, especially the Southern African Development Community (SADC), and thus promote and establish an efficient administration of justice in the Southern African region. The Directorate coordinates human rights issues under the auspices of the United Nations and Organisation of African Unity.

2.40 The current activities of the Directorate can be divided into seven broad categories:

(a) The establishment of regular liaison with Southern African states (SADC states). Matters relating to the administration of justice that demand the attention of SADC states and South Africa have been identified and are receiving attention.

(b) The coordination of all Commonwealth matters pertaining to the administration of justice.

(c) Interaction with other international bodies, such as the United Nations, The Hague Conference and UNIDROIT.

(d) Interaction with other foreign states outside SADC.

(e) Negotiation of extradition and mutual legal assistance agreements with countries.

(f) Preparation of Cabinet and Parliament documentation for ratification of human rights treaties, including report writing.

(g) The processing of requests for visits abroad.

INITIATIVES WITHIN SADC

2.41 The Directorate participated in the negotiation of and preparation for the establishment of the Legal Sector and the SADC Protocol on the Tribunal. Both Protocols were signed by Heads of State and Government during August 2000. The Protocols have been submitted to Parliament for approval to ratify.

2.42 The Directorate also participated in the negotiation on and the finalisation of the SADC Protocol Against Corruption. This Protocol will be submitted to the SADC Heads of State and Government Summit to be held in

Legal services branch 26/09/2001 12:23 Page 18

August 2001. The Protocol aims at combating corruption in both the public and private sectors.

UNITED NATIONS

Country Reports

2.43 The Directorate has prepared three human rights country reports for submission to the relevant UN Committees. The reports relate to the Convention Against Torture, the Convention on Racial Discrimination and the Covenant on Civil and Political Rights. In preparing the reports, the Directorate was assisted by the Interdepartmental Committee consisting of relevant departments that are members to the National Consultative Forum on Human Rights (the NCFHR). Furthermore, the Directorate had the opportunity of engaging NGOs such as the Centre for Human Rights, University of Pretoria and the Centre for Applied Legal Studies, Wits University.

Accession: First and Second Optional Protocols to the ICCP

2.44 The Directorate was responsible for promoting South Africa's accession to the First and Second Optional Protocols to the International Covenant on Civil and Political Rights (the ICCPR). The matter is currently before Parliament for ratification.

2.45 The First Optional Protocol to the ICCPR empowers the Human Rights Committee established in terms of the ICCPR, to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the ICCPR. A state party to the ICCPR that becomes a party to this Protocol recognises the competence of the Committee to receive and consider communications from individuals. Decisions of the Committee only have the moral force.

2.46 The Second Optional Protocol provides for the abolishment of the death penalty and requires state parties to this Protocol to take all necessary measures to abolish the death penalty within its jurisdiction. It is noted that the death penalty has already been outlawed by the Constitutional Court and Parliament has passed the necessary legislation in this regard.

Host: 31st Ordinary Session of African Commission

2.47 A proposal to host the 31st Ordinary Session of the African Commission on Human and Peoples' Rights in April 2002 was considered by the Cabinet Committee on Governance and Administration on 11 May 2000. Cabinet has approved the hosting of the Session and the Directorate is in the process of preparing for the event.

THE HAGUE CONFERENCE

2.48 After numerous calls that South Africa become a member of The Hague Conference on Private International Law, the Directorate prepared documents for Cabinet and Parliament for approval to ratify The Hague Statute, after which South Africa will become a member of the Conference. Following Cabinet's approval the matter is now before Parliament.

2.49 The Hague Conference seeks to foster cooperation between states on private law matters; and this is done by the elaboration of conventions and states are invited to become parties to these Conventions.

EXTRADITION AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS COMMITTEE

2.50 The abovementioned Committee was established to attend to all extradition and mutual legal assistance in criminal matters and to advise the matters. During the period under review the Committee accomplished the following:

- Extradition and Mutual Legal Assistance Treaties with Canada, USA and Australia have been ratified
- Extradition treaties were finalised with:
  - Hungary
  - Argentina
  - Algeria
  - Lesotho
  - Brazil
  - Egypt
  - Zambia

National Action Plan (NAP)

2.51 The Directorate is in the process of drafting an interim report on the National Action Plan for the promotion and protection of human rights pertaining to the Justice mandate. A departmental committee has been set up and inputs have been requested.

2.52 A memorandum to the Director-General regarding the appointment of a Project Director for the NAP has been prepared.

THE DIRECTORATE OF LEGAL PROCESS

2.53 The Directorate aims at maintaining functional, effective and fair legal processes and consists of the Subdirectorate: Administration of Legal Process and the Subdirectorate: Legal Planning.

SUBDIRECTORATE: ADMINISTRATION OF LEGAL PROCESS

2.54 This Subdirectorate deals with a variety of legal matters. The following is a brief review of the Subdirectorate's activities during the period under review:

REPRESENTATIONS ARISING FROM CRIMINAL AND CIVIL HEARINGS, INQUESTS AND THE ACTIVITIES OF MASTERS

2.55 In all, 721 representations were received in this regard and 39 memoranda on such matters were submitted to the President, the Minister, Deputy Minister and the Director-General.

2.56 This task, which constitutes the largest volume of work, involves contentious matters that have to be handled with great circumspection. A distinction may be drawn between representations regarding verdicts of the judiciary (judges, magistrates and commissioners of small claims courts), prosecutions by directors of public prosecutions and state prosecutors, and the conduct of other officers of the court, legal representatives and masters.

2.57 Information on such cases is obtained from the relevant parties and, if necessary, perspective on the matter is provided. As far as possible, efforts are made to provide the person making the representations with a satisfactory answer.

2.58 If it appears that there are grounds for a specific complaint, steps are taken to prevent a recurrence of the conduct concerned in the future. In this regard it has to be borne in mind that there may be no interference with a discretion conferred by law.

PARLIAMENTARY QUERIES WITH REGARD TO THE ADMINISTRATION OF JUSTICE

2.59 Numerous queries on the administration of justice are annually addressed to the Minister during parliamentary sessions. Many of the questions relate to statistics that are not kept by the Department. The desired information is obtained by the Subdirectorate from various sources, processed and submitted to the Minister for consideration. During the year under review five questions were received. Answers to these were prepared and submitted to the Minister for his consideration.

INFORMATION TO MAGISTRATES, DIRECTORS OF PUBLIC PROSECUTIONS, MASTERS, ETC

2.60 Matters relating to the administration of justice are regularly brought to the attention of magistrates, directors of public prosecutions and masters without interfering with the discretion granted to them by law.

REQUESTS FOR LEGAL OPINIONS FROM THE STATE LAW ADVISERS

2.61 Occasionally, an officer in the Department identifies a matter that requires research and, possibly, a legal opinion from the State Law Advisers. The Subdirectorate then drafts submissions on problems experienced in practice with the interpretation of certain laws and proclamations, and submits them to the State Law Advisers for legal opinions.

SUBDIRECTORATE: LEGAL PLANNING

2.62 During the year under review the Legal Planning Subdirectorate dealt with the following matters:

PARDON/REPRIEVE IN RESPECT OF CONVICTIONS

2.63 In terms of section 84(2)(j) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the President can pardon or reprieve offenders. He or she can furthermore remit fines, penalties or forfeitures.

2.64 During the year under review applications for pardon (to have convictions removed from a person's record) and reprieve (to commute or change a sentence) increased in number. Each case was considered on its merits and, where necessary, the President was advised accordingly. In all 635 applications were received. In 150 cases pardon was granted. There were no cases of reprieve.

EXEMPTION IN TERMS OF SECTION16C OF THE CRIMINAL LAW SECOND AMENDMENT ACT, 1992 (ACT 126 OF 1992)

2.65 Chapter 4A (sections 16A, 16B, 16C and 16D) of the Criminal Law Second Amendment Act, 1992, deals with offences relating to military, paramilitary or similar operations and weapons, ammunition, explosives or other explosive devices. Section 16C provides that an employer may apply for temporary exemption from the provisions of section 16A(1). The Minister of Justice may, in consultation with the Minister of Safety and Security, exempt an employer, employee or group of employees for such a period and on such conditions as he may deem fit.

2.66 Discussions were held with the South African Police Service and the Office of the National Director of Public Prosecutions with regard to the implementation of the Act. The Minister was advised comprehensively about possible policies that he will have to approve in concurrence with the Minister for Safety and Security. The Minister for Safety and Security was approached for his comment and suggestions regarding a proposed *modus operandi*. He agreed with the views expressed. Since the Chapter came into operation on 1 April 1999, 17 applications were received.

COORDINATION OF THE IMPLEMENTATION OF NEW AND AMENDED LEGISLATION

2.67 When an Act administered by the Department has to be put into operation and the matters governed by the relevant Act do not fall within the line function of a specific directorate or division in the Department, the Subdirectorate is responsible for coordination between the relevant directorates or divisions in the Department regarding their involvement in the implementation of the Act. However, if the provisions of an Act fall within the sphere of activities of a specific directorate or division, that directorate or division is responsible for taking the necessary steps regarding the implementation of the Act.

2.68 This task entails that each new piece of legislation as well as amended legislation that is administered by the Department, must be studied by the Subdirectorate.

2.69 During the period under review the Subdirectorate, *inter alia*, coordinated the implementation of the Promotion of Access to Information Act, 2000 (Act 2 of 2000) and the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000). Role-players were identified and meetings were coordinated to oversee the smooth implementation of these pieces of legislation.

THE DIRECTORATE OF LAW ENFORCEMENT

2.70 This Directorate, which has as its main objective to deal with law enforcement matters effectively, consists of the Subdirectorate: Legal Liability and the Subdirectorate: Diverse Legal Matters.

SUBDIRECTORATE: LEGAL LIABILITY

2.71 This Subdirectorate advises the Minister and/or the Director-General, as the case may be, on dealing with civil litigation on behalf of and against the Minister and/or the Director-General and/or his or her officers arising from the performance of official duties. During the year under review 197 (18% increase) new civil claims, 70 (233% increase) transport claims, 209 (14,8% increase) motion applications and 96 (static) *ad hoc* matters, which are connected to civil litigation, were received. All civil litigation matters are dealt with at national level.

2.72 In addition, the Subdirectorate is responsible for the collection of all departmental debt from the *in mora* stage until finalisation. During the year under review approximately 3 400 cases were dealt with. The causes of action are diverse and include breach of contract, salary overpayments and underrecovery of taxes. An amount of approximately R12 million is involved. During the year under review the amount of debt files have increased by 21,4%.

2.73 Dealing with losses of state funds and property forms a large part of the Subdirectorate's activities. Despite the fact that there is general compliance with instructions on the handling of state funds and property, losses do still occur.

2.74 The Department has established a Fraud Hotline as part of its own Anti-Corruption and Fraud Strategy, which in effect, is a Fraud Prevention Plan as required in terms of the Treasury Regulations.

2.75 During the year under review 392 losses of state funds and 204 losses of state property were dealt with by the National Office. All the loss files have been transferred back to the National Office following a decision during the previous year. It is only the Regional Office, KwaZulu-Natal who deal with their own loss files, as no problems were experienced in the handling of their files.

2.76 Losses which occurred through theft, fraud, robberies and burglaries, include:

- Magistrate, Zwelitsha R136 088-31
- Magistrate, Thaba 'Nchu R32 446-50
- Magistrate, Sasolburg R26 978-00
- Master's Office, Pretoria R72 567-66
- Magistrate, Eerstehoek R51 010-48
- Magistrate, Belfast R21 825-00
- Magistrate, Thabamoopo R171 597-36

2.77 With reference to the losses incurred as a result of burglary, it needs to be mentioned that there is no physical security at most magistrates' offices after hours. An investigation regarding the upgrading of security measures is being conducted at the moment.

2.78 Losses written off during 2000/2001 amount to R585 346-58, which is substantially lower than the previous year.

2.79 The following recoveries were, *inter alia*, effected in the year under review:

- Magistrate, Cofimvaba R786 466-78
- Magistrate, Odendaalsrus R12 170-00

2.80 During the year under review accountability assessments on losses were performed in terms of the Treasury Regulations, promulgated in terms of section 76 of the Public Finance Management Act, 1999 (Act 1 of 1999). Where applicable, officers have been held accountable. The writing off of irrecoverable legal costs, moneys owed in terms of contribution orders made under the Child Care Act, 1983 (Act 74 of 1983) and transport claims, are also dealt with.

SUBDIRECTORATE: DIVERSE LEGAL MATTERS

2.81 The Subdirectorate: Diverse Legal Matters deals with a diversity of matters. A brief summary of the activities of the Subdirectorate is given hereunder.

EXTRADITIONS

2.82 The Republic has extradition agreements and conventions with several countries. A request from such countries for the extradition of persons is usually made through diplomatic channels. The channels through which a request is made may depend on the extradition agreement in question.

2.83 The Extradition Act, 1962 (Act 67 of 1962), provides for extradition of offenders to three categories of countries, namely:

- where there exists an extradition agreement between the Republic of South Africa and the requesting state (section 3(1)); or
- no extradition agreement exists, but the President has consented to the surrender of such a person (section 3(2)); or
- the requesting country is a designated state. In terms of section 2(1) of the Act, the President may designate any foreign state for the purposes of section 3(3).

2.84 A total of 21 applications for extradition of persons by and to the Republic were received during the period under review.

INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

2.85 In terms of section 7 of the International Cooperation in Criminal Matters Act, 1996 (Act 75 of 1996), a request by a court or tribunal, exercising jurisdiction in a foreign state, for assistance in obtaining evidence in the Republic for use in such foreign state, shall be submitted to the Director-General of the Department of Justice and Constitutional Development and the Minister for Justice and Constitutional Development, for their consideration.

2.86 These requests are received when proceedings have been instituted in a court or tribunal exercising jurisdiction in the requesting state; or there are reasonable grounds for believing that an offence has been committed in the requesting state or that it is necessary to determine whether an offence has been so committed and that an investigation in respect thereof is being conducted in the requesting state.

2.87 After the Minister's approval, the documents pertaining to each request are forwarded to the magistrate within whose area of jurisdiction the witness resides.

2.88 A total of 30 applications for assistance in criminal matters were received during the year under review.

RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS

2.89 The Reciprocal Enforcement of Maintenance Orders Act, 1963 (Act 80 of 1963), provides for the proclamation of countries and territories in which, on a reciprocal basis with South Africa, final and provisional maintenance orders made in the one proclaimed country or area, may be enforceable after registration or confirmation of the order in the proclaimed country or territory.

2.90 This Subdirectorate has received 200 new cases of final and/or provisional maintenance orders for attention during the period under review.

ROGATORY COMMISSIONS

2.91 Rogatory Commissions are requested by foreign countries for the taking of evidence by way of Commission from a witness who is resident in South Africa. Effect is given to these requests in terms of section 33(1) of the Supreme Court Act, 1959 (Act 59 of 1959) without requiring the parties or their agents to make applications to the Court.

2.92 The papers are submitted before a judge for the

necessary order for the appointment of a commissioner to take the evidence of the witness.

2.93 A total number or 20 requests for Rogatory Commissions were received during the period under review.

PEACE OFFICERS

2.94 The Minister may, in terms of section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977) by notice in the *Government Gazette*, declare certain persons to be peace officers by virtue of their office. The Minister may determine the area within which they may act, the powers which they may exercise and the offences in respect of which they may exercise their powers. During the year under review one request was received.

ESTATES

2.95 Intestate estates of Black persons are administered in terms of section 23 of the Black Administration Act, 1927 (Act 38 of 1927), read with the Regulations for the Administration and Distribution of the Estates of Deceased Blacks, promulgated under Government Notice No. R.200 of 6 February 1987.

2.96 The Subdirectorate also deals with intestate estates of Black persons where there is a male successor, but where the Minister is of the opinion in terms of the said Regulations that the application of Black law and custom makes the inheritance of the whole or a part of the deceased's property inequitable or inappropriate.

2.97 Should a Black person die intestate having no male successor, his estate devolves, in terms of Black law and custom, upon the President as paramount chief of all Black persons in the Republic. In such cases the President is authorised to make donations to, for example, other family members of the deceased, and the Subdirectorate prepares the necessary submissions to be made to the President.

2.98 The Black Administration Act, as well as the Regulations, are currently being revisited in order to bring them up to date with the new developments in South Africa.

2.99 During the period under review 30 cases were dealt with.

PETITIONS IN TERMS OF SECTION 327 OF THE CRIMINAL PROCEDURE ACT, 1977

2.100 In terms of section 327 of the Criminal Procedure Act, 1977, a person who is convicted of an offence in a court and who has exhausted all the recognised legal procedures pertaining to appeal or review, may address the Minister by way of a petition, together with the relevant affidavits, if he claims that further evidence has since become available that materially affects his conviction. The Minister may then, if he considers that such further evidence, if true, might reasonably affect the conviction, direct that the petition and the relevant affidavits be referred back to the trial court. Six requests were received during the year under review.

APPOINTMENT OF A MAGISTRATE AND DESIGNATION OF A JUDGE OF AN INQUEST

2.101 The Minister or any person authorised thereto by him may, where he deems it expedient, or where it is uncertain whether death has occurred in or outside the Republic, designate any regional magistrate or magistrate in terms of section 6(c) of the Inquests Act, 1959 (Act 58 of 1959), to hold an inquest at a designated place. In terms of section 6(d) of the said Act, the Minister may also request a judge president of a Provincial Division of the High Court of South Africa to designate a judge of the High Court, notwithstanding anything to the contrary in any other law, to hold an inquest at any place, determined from time to time by such a judge.

2.102 During the year under review 26 applications were received by this Subdirectorate.

ASSESSORS AT INQUESTS

2.103 Section 9(1) of the Inquests Act, 1959 provides that a judge may of his own accord, and a regional magistrate or a magistrate may, with the approval of the Minister or any person acting under the authority of the Minister, summon to his assistance any person who has, or any two persons who have, in his opinion, experience in the administration of justice or skill in any matter which may have to be considered at an inquest, to sit with him at an inquest as assessors. During the year under review four applications for the appointment of assessors were received.

INCREASED FEES OF ASSESSORS AND WITNESSES

Assessors

2.104 In terms of the provisions of the code: Accounts, Annexure H, expert assessors are currently being remunerated at R360-00 per day or part of a day of actual attendance in court or in chambers when directed by the presiding judge, and lay assessors at R20-00 per hour or part thereof with a maximum of R100-00 per day of actual attendance in court or in chambers on request by the presiding officer. These fees can be increased in exceptional circumstances, i.e. in cases of exceptional difficulty or of great volume, reasonable increments in fees are approved. During the year under review 13 requests for increased fees have been received.

Witnesses

2.105 In terms of the Regulations prescribing the tariff of Allowances payable to Witnesses in Criminal Proceedings (Government Notice No. R.2596 of 1 November 1991), the reasonable actual travel-and-subsistence expenditure may be remunerated to a witness. However, should a witness claim an amount which is more than R400-00 per day for income forfeited, the claim has to be submitted to the National Office for consideration.

2.106 A total of 13 requests for increased fees were receiving during the year under review.

ATTORNEYS FIDELITY FUND

2.107 In terms of section 46 of the Attorneys Act, 1979 (Act 53 of 1979) the Attorneys Fidelity Fund Board of Control may make certain grants from the Fidelity Fund (for, among other things, education or research in law and for the furtherance of the administration of justice), with the approval of the Minister.

2.108 During the period under review one request in this regard was received from the Attorneys Fidelity Fund Board of Control and was dealt with.

ESTREATED BAIL MONEY

2.109 In terms of section 66 and 67 of the Criminal Procedure Act, 1977 bail may be estreated to the state under certain circumstances. The authority to remit the whole or any part of the bail money was delegated to the magistrates to decide on the repayment of estreated bail. However, during the year under review this Subdirectorate dealt with seven applications for the remittance of estreated bail money.

THE CHIEF DIRECTORATE OF ADMINISTRATION OF COURTS AND WITNESS PROTECTION

THE DIRECTORATE OF ADMINISTRATION OF COURTS AND COMMUNITY JUSTICE

2.110 This Directorate is composed of the Subdirectorate: Court Management, which is responsible for managing the administration of the courts, and the Division of Statutory Appointments, which is concerned mainly with administrative duties incidental to statutory appointments in respect of the High Court and the lower courts.

SUBDIRECTORATE: COURT MANAGEMENT

THE EFFICIENCY OF COURTS

2.111 During the period under review the following initiatives, among others, were taken to improve the efficiency of courts:

(a) IJS initiatives, including e-Justice and in particular the Court Process Project (CPP) and general automation in the Department, have been progressing well and will improve efficiency and in the process also assist with workflow management and case management. A significant number of offices have already been automated.

(b) The Department, in cooperation with the NPA and other role-players, initiated very successfully Saturday and additional courts as an urgent intervention to deal with the unacceptably high level of case backlogs, particularly in the regional courts. Over the past years court personnel have improved their performance and in particular increased the number of hours spent in court. The statistics as on 9 April 2001 indicated that with regard to the Saturday court sessions, 81 courts finalised over a six-week period a total of 715 cases and sat on average 5h02 per court. This is an improvement of more than an hour per day on the national average. The best average court hours last year was obtained in August 2000, to wit, 4h04 for the regional courts and 3h51 for periodical regional Courts. From the statistics that were received, at least three courts sat as much as 6h30 actual court hours (Pretoria North, Benoni courts). Kempton Park and Ixopo, Pietermaritzburg and Scottburgh (2 courts) sat 6 hours each. This is a 100% improvement on their average for December 2000. Paarl sat as much as 8h00 on the first Saturday. Till 20 April 2001, the Saturday courts sat a total of 6938 hours, completing 985 cases.

(c) As far as the additional court project is concerned, 39 courts participated, sitting a total of 2775 hours (an average of 3h38 per day per court), and finalising a total of 1188 cases till 20 April 2001. The two projects have thus far (till 20 April 2001) finalised a total of 2173 cases, making a definite impact on the

Legal services branch 26/09/2001 12:24 Page 24

court rolls.

(d) The development of reception/channelisation courts in major centra is under way as part of the Court Process Project. Such courts are in place in Pretoria, Johannesburg, Empangeni and Durban, and act as fast-tracking courts with considerable success.

(e) Training programmes, in consultation with the various role-players, to improve the effectiveness and efficiency of all court functionaries, have received and are continuously receiving attention, with Justice College even going so far as to give decentralised and *ad hoc* urgent training at those centra identified as problem areas.

(f) In practice, magistrates have had to perform certain administrative tasks additional to their functions as a judicial officer. We are increasingly moving away from this situation by separating the administrative, prosecuting and judicial functions, and have made substantial progress in this regard.

IMPROVING COURT PERFORMANCE AND SERVICE DELIVERY

2.112 The Chief Directorate has launched an initiative that aims to assist magistrates' offices to improve service delivery and work performance at the court level. A number of factors led to this initiative, such as the Department's need to respond to the Quality Assessment Reports that are produced by the National Inspectorate as part of the inspection process at magistrates' offices.

2.113 Twenty sub-offices throughout the country have been prioritised to receive immediate assistance in addressing some of the problem areas that were identified in the Quality Assessment Reports. A team will be put together to visit the identified offices, in order to provide "hands on" training and assistance in line with the problems being experienced in the particular office.

2.114 The initiative also includes addressing and fast-tracking, where possible, the accommodation and equipment needs of the identified offices. Furthermore, the establishment will be examined to determine whether the recommended posts have been created, whether vacancies have been filled, and whether supernumeraries have been dealt with.

IJS COURT CENTRE PROJECT

2.115 Whereas the flagship court management project of the Integrated Justice System (IJS) is the Court Process Project, this project has a medium to long-term implementation time-frame. As an interim solution, a semi-automated court and case management system is being implemen-ted at a number of courts where case backlogs are unacceptably high. This initiative, termed the IJS Court Centre Project, aims to provide a single nodal point within the court from where the entire court process is managed. The overall objective is to reduce the average case cycle time.

2.116 An experienced public prosecutor, together with an SAPS official, receive all dockets two days prior to the date of the hearing, and ensure that dockets are ready for trial. A simple, computer-based data capturing and data management programme is used to store and manage the case information contained in each docket and in the charge sheet. The system also manages the court rolls, and tracks and controls the awaiting trial period of each detained accused. The project includes the establishment of a Reception Court, where all first appearances, remands, bail applications and guilty pleas are heard. This ensures that only trial-ready cases are dealt with in other courts.

2.117 The IJS Court Centre Project commenced at the Middelburg Magistrate's Court during December 2000. It has since been rolled out to seven other sites (Ermelo, Witbank, Bellville, Odi, Bloemfontein, Port Elizabeth and Empangeni), and will be operational at 40 sites throughout the country by August 2002. The focus will be on those courts that are experiencing greater than average case backlogs.

2.118 The experience in Middelburg has shown that over the period December 2000 to April 2001, the following successes were achieved:

- The average court hours per day increased from three hours 45 minutes to five hours
- The number of cases finalised increased from 101 in December to 216 in April
- The number of cases withdrawn due to dockets not being at court decreased from 20 to nil

2.119 The implementation and roll-out of the initiative is also being managed on a multi-sectoral basis: The IJS Project Office (supported by Business Against Crime) is assisting with the national and provincial coordination of the project, and is conducting presentations to provincial management structures and to stakeholders at each site; the Department of Justice and Constitutional Development is providing the computer hardware (computers and printers) and has made a team of data capturers available, who capture base line court data and all information relating to outstanding cases on the court roll at each site; and the National Prosecuting Authority is installing the computer hardware and software at each project site. Following data capture, training is given to the Court Centre officials and the project is handed over.

MANAGING THE AWAITING-TRIAL PRISONER POPULATION

2.120 To deal more effectively with the backlog relating to awaiting trial cases, the Integrated Justice System (IJS) Board approved the launching of an Awaiting-Trial Prisoners Project (ATP) during 1999. Pilot sites were established at Durban, Empangeni, Johannesburg, Pietermaritzburg, Port Elizabeth and Pretoria. ATP projects have since also been established at the following Magistrates' Offices: Middelburg, Wynberg (Western Cape), East London, Mdantsane, and Umtata.

2.121 The ATP project is being absorbed into the IJS Court Centre Project, at the sites where the Court Centres are being established.

2.122 The results flowing from the above initiatives can be summarised as follows:

- The average number of outstanding cases per court have been reduced
- Despite a substantial monthly increase in the number of cases, increased productivity still led to an average decrease of cases in the district courts and in the regional courts
- Court time has started to improve
- Cases finalised with a verdict have increased
- Outstanding dockets/inquests have decreased substantially, despite an increase in inquests per month.

OTHER IMPORTANT INITIATIVES

RE-DEMARCATION OF MAGISTERIAL DISTRICT BOUNDARIES

2.123 As part of the transformation process in government, the Department began examining its functional or service delivery boundaries in 1994. This process was placed on hold while the Municipal Demarcation Board completed its task of re-drawing municipal boundaries. With the gazetting of the new municipal areas, the Department was able to re-institute the process of the re-demarcation of magisterial boundaries.

2.124 This process involves the constitution of representative Regional Steering Committees, whose task it is to consult with all stakeholders and examine the boundaries of every magisterial district in each province, with a view to, wherever possible, aligning the boundaries to those of the new municipal areas. The principles according to which this process is being undertaken are the following:

- Access to courts
- The number of people being serviced in an area (i.e. population density)
- The prevalence of crime and civil litigation in the area
- Existing infrastructure (courts) in an area
- The need to provide cost-effective services.

2.125 Once Regional Steering Committees have completed their review and consultation process, a report containing their recommendations in respect of the boundaries of all magisterial districts in the province will be submitted to a National Steering Committee. The actual boundaries of all recommended magisterial districts will be described with the aid of the latest electronic mapping systems currently in use by the Office of the Surveyor-General. The National Steering Committee will then proceed with the necessary steps to ensure the declaration of the new magisterial districts, with the approval of the Minister for Justice and Constitutional Development.

2.126 The final reports relating four provinces (Gauteng, North West, Northern Province and Mpumalanga) have been received. These will be considered at a meeting of the National Steering Committee scheduled for 12 September 2001.

TRANSFORMATION OF THE SHERIFF'S PROFESSION

2.127 Under chairpersonship of the Deputy Minister, a National Action Plan aimed at the transformation of the sheriff's profession into a more representative, equitable, efficient and service-oriented profession is in the process of completion. A discussion paper on the National Action Plan has already been completed and circulated to all relevant stakeholders for comment.

LEGAL AID

2.128 The method of delivery of legal aid services has proved to be unacceptably expensive and cumbersome to administer. The system has been revamped and the judicare method of legal aid delivery, whereby legal professionals are briefed by the Legal Aid Board, has been scaled down and replaced with the delivery of services by salaried employees in legal aid clinics, advice offices and public defender offices.

Legal services branch 26/09/2001 12:24 Page 26

THE DIVISION: STATUTORY APPOINTMENTS

SMALL CLAIMS COURTS

2.129 Small claims courts are established in terms of section 2 of the Small Claims Courts Act, 1984 (Act 61 of 1984) in order to make justice more accessible to the people in the street. Any claim amounting R3 000 or less, can be referred to the small claims courts. Litigants do not need attorneys and can state their own case, which also makes the system much more affordable to the average man in the street. The presiding officers at these courts are admitted attorneys, admitted advocates, retired magistrates and law lecturers, who render their services free of charge and as a community service.

2.130 At present there are approximately 133 small claims courts operational in the Republic of South Africa. An effort is being made to establish more small claims courts, especially for the previously disadvantaged communities and rural communities. During the period under review, three small claims courts were established, namely Lehurutshe, Odi and Mankwe.

2.131 Because of several serious problems being experienced by commissioners for small claims countrywide, a Working Group has been established at the National Office to investigate these problems and recommend solutions to the Minister. Several practical problems have already been addressed. For example, the overtime remuneration of interpreters, security officers and clerks of the small claims courts has been addressed by allocating the necessary funds. The Department is awaiting response from National Treasury regarding a request to allocate funds for covering traveling expenses for commissioners for small claims.

SHERIFFS

2.132 Section 3(2)(b) of the Sheriffs Act, 1986, as amended by the Sheriffs Amendment Act, 1998, which will bring competition into the sheriff's profession, came into operation on 1 September 2000. This section empowers the Minister for Justice and Constitutional Development to appoint more than one sheriff in any one service area and the Minister will therefore be able to appoint more representative sheriffs. The Department is still awaiting the finalisation of the Regulations in this regard.

COMMISSIONERS OF OATHS

2.133 During November 2000 the Minister designated all duly appointed traditional leaders as *ex officio* commissioners of oaths in terms of section 6 of the Justices of the Peace and Commissioners of Oaths Act, Act 16 of 1963. The subsequent training of traditional leaders in respect of their duties took place during:

- November 2000 in the Northern Province;
- March 2001 in the North West Province; and
- June 2001 in the Western Cape to members of the Provincial Parliament (the ANC Caucus Group).

STATISTICS

2.134 The appointment statistics for the year 1 July 2000 to 30 June 2001, are as follows:

(The codes are as follows: **W**=White; **M**=Male; **B**=Black; **F**=Female; **C**=Coloured; **I**=Indian.)

	White		Black		Coloured		Indian		Total
	M	F	M	F	M	F	M	F	
A. SHERIFFS - HIGH COURT:									
(a) Applications considered:	16	3	5	1	1	1	15	4	46
(b) Appointed:	4	1	1	0	1	1	1	2	11
B. SHERIFFS - MAGISTRATES' COURTS:									
(a) Applications considered:	11	1	23	1	1	3	1	0	41
(b) Appointed:	3	0	6	0	0	0	0	0	9
C. SHERIFFS - HIGH AND MAG. COURTS:									
(a) Applications considered:	8	2	4	0	0	0	0	0	14
(b) Appointed:	5	1	0	0	0	0	0	0	6
C. SHERIFFS - HIGH AND MAG. COURTS:									
Acting Appointments: Superior Courts	7	0	1	0	0	0	0	0	8
Acting Appointments: Lower Courts	4	2	4	0	0	0	0	0	10
Acting Appointments: Superior and Lower Courts	4	0	5	0	0	0	0	0	9
E. COMMISSIONERS OF OATHS:									
(a) Applications considered:	364	94	23	5	23	7	22	14	552
(b) Appointed:	354	87	23	5	23	7	22	14	535
F. JUSTICES OF THE PEACE:									
(a) Appointed:	21	3	4	3	2	-	3	-	36
(b) Withdrawn:	13	3	-	-	-	-	-	1	17
G. SMALL CLAIMS COURTS:									
(a) Courts established:									
(i) By Minister									3
(ii) *Ad hoc* by magistrates									3
(b) Commissioners appointed	45	7	18	2	2	-	5	-	79
(c) Number of Advisory Board members appointed	8	2	18	2	-	-	-	-	30
H. CONFERMENT OF CIVIL AND CRIMINAL JURISDICTION UPON TRADITIONAL LEADERS:	-	-	49	6	-	-	-	-	55

	White		Black		Coloured		Indian		Total
	M	F	M	F	M	F	M	F	
Appraisers									
(a) Applications for appointment considered	129	5	18	0	1	0	2	0	155
(b) Appointed	124	5	9	0	1	0	2	0	141
(c) Appointments withdrawn	3	0	0	0	0	0	0	0	3
(d) Deceased or resigned	36	2	0	0	0	0	0	0	38
(e) Extension of appointments after reaching the age of 70 years	74	0	0	0	2	0	0	0	76
Advocates									
(a) Placed on the Roll	141	77	77	27	8	1	10	4	345
(b) Removed from the Roll	12	8	2	1	0	0	0	0	23

Legal services branch 26/09/2001 12:24 Page 28

	White		Black		Coloured		Indian		Total
	M	F	M	F	M	F	M	F	
Advocates									
(c) Certificates in terms of section 8(3) of the Admission of Advocates Act, 1964	16	5	3	0	0	0	0	0	24
(d) Senior counsel appointed	25	0	0	0	0	0	0	0	25

2.135 The composition of the Bench (judges) reflected the following statistics on the same date:

- WM - 124
- WF - 12
- BM - 32
- BF - 7
- CM - 7
- CF - 1
- IM - 10
- IF - 2

TOTAL - 195

2.136 During the year under review 27 permanent appointments of judges were made. During the same period 415 appointments of acting judges were made in terms of section 10 of the Supreme Court Act, 1959 (Act 59 of 1959) and section 104(1) of the Constitution. Thirty-five motor vehicles were ordered for newly appointed judges and for the replacements of motor vehicles that had been withdrawn from the scheme.

2.137 The administrative duties connected with the following permanent appointments of judges of the High Court, made by the President of the Republic of South Africa in terms of section 104(1) of the Constitution, were performed:

Name	Race	Capacity Division	Division	With effect from	Reason for Appointment
V E M Tshabalala	BM	Judge President	Natal High Court	1.12.2000	Vacancy
N J Coetzee	WM	Judge	Tvl High Court	1.12.2000	Vacancy
N J Motata	BM	Judge	Tvl High Court	1.12.2000	Vacancy
S S V Khampepe	BF	Judge	Tvl High Court	1.12.2000	Vacancy
I G Farlam	WM	Judge of Appeal	Appeal Court	9.12.2000	Vacancy
E Cameron	WM	Judge of Appeal	Appeal Court	9.12.2000	Vacancy
M S Navsa	WM	Judge of Appeal	Appeal Court	9.12.2000	Vacancy
L Mpati	BM	Judge of Appeal	Appeal Court	9.12.2000	Vacancy
A M de Vos	WF	Judge	Tvl High Court	22.1.2001	Vacancy
D A Basson	WM	Judge	Tvl High Court	29.1.2001	Vacancy
J B Shongwe	BM	Judge	Tvl High Court	29.1.2001	Vacancy
G Webster	CM	Judge	Tvl High Court	29.1.2001	Vacancy
J H M Traverso	WF	Deputy Judge President	Cape of Good Hope High Court	29.1.2001	Vacancy
L O Basielo	BM	Judge	Tvl High Court	29.1.2001	Vacancy
N C Erasmus	WM	Judge	Cape of Good Hope High Court	29.1.2001	Vacancy
T L Skweyiya	BM	Judge	Natal High Court	1.2.2001	Vacancy
S Gyanda	BM	Judge	Natal High Court	1.2.2001	Vacancy
T S B Jali	BM	Judge	Natal High Court	1.4.2001	Vacancy
J P Malherbe	WM	Judge President	FS High Court	23.4.2001	Vacancy
B Galgut	WM	Deputy Judge President	Natal High Court	1.5.2001	Vacancy
C P Rabie	WM	Judge	Tvl High Court	23.4.2001	Vacancy
A Cachalia	IM	Judge	Tvl High Court	23.4.2001	Vacancy
M H Rampai	BM	Judge	FS High Court	1.5.2001	Vacancy
J P Horn	WM	Judge	Tvl High Court	1.5.2001	Vacancy
K K Mthiyane	BM	Appeal Judge	Appeal Court	1.5.2001	Vacancy
V M Ponnan	IM	Judge	Tvl High Court	1.6.2001	Vacancy
B Sandi	BM	Judge	EC High Court	30.06.2001	Vacancy

2.138 The administrative duties concerned with the recording of 415 appointments for acting judges, made in terms of section 10 of the High Court Act, 1959 (Act 59 of 1959), and section 104(1) of the Constitution, in the following Divisions of the High Court, were performed:

DIVISION	ADDITIONAL	IN AN EXISTING VACANCY	IN THE PLACE OF A JUDGE ABSENT, ON VACATION OR SICK LEAVE, OR ACTING IN ANOTHER DIVISION
Supreme Court of Appeal	5	6	6
Transvaal Provincial Division	82	17	49

DIVISION	ADDITIONAL	IN AN EXISTING VACANCY	IN THE PLACE OF A JUDGE ABSENT, ON VACATION OR SICK LEAVE, OR ACTING IN ANOTHER DIVISION
Natal Provincial Division	17	6	10
Eastern Cape Provincial Division	3	3	26
Cape of Good Hope Provincial Division	19	2	17
Free State Provincial Division	5	11	9
Northern Cape Provincial Division	2	-	2
Transkei High Court	10	1	16
Ciskei High Court	4	-	3
Bophuthatswana High Court	-	-	-
Venda High Court	4	-	-
Constitutional Court	1	-	4
Labour and Labour Appeal Court	20	48	2
Land Claims Court	-	5	-

2.139 Particulars of serving judges and retired judges acting in other offices:

NAME	RACE	DIVISION	PERIOD
G Gordon	WM	Transvaal High Court	1.7.2000 - 30.06.2001
H E Mall	WM	Natal High Court	1.7.2000 - 30.9.2000
H J O van Heerden	WM	Appeal Court	1.7.2000 - 21.12.2001
J J F Hefer	WM	Appeal Court	1.7.2000 - 3.12.2000
B Wunsh	WM	Appeal Court	9.10.2000 - 30.6.2001
D Chetty	IM	Appeal Court	1.10.2000 - 30.6.2001
F D J Brand	WM	Appeal Court	1.10.2000 - 15.12.2001
M R Madlanga	BM	Constitutional Court	15.8.2000 - 20.11.2000 05.02.2001 - 31.05.2001
M J Hlophe	BM	Labour Court	14.8.200 - 9.12.2000
A Gildenhuys	WM	Land Claims Court	11.8.2000 - 10.8.2001
J B Moloto	BM	Land Claims Court	11.8.2000 - 10.8.2001
Y S Meer	WF	Land Claims Court	11.8.2000 - 10.8.2001
F C Bam	WM	Land Claims Court	11.8.2000 - 10.8.2001
G A ALexander	WM	Natal High Court	1.8.2000 - 28.2.2001
D van Zyl	WM	Transkei High Court	15.8.2000 - 28.01.2001
J P Malherbe	WM	Free State High Court	1.8.2000 - 22.04.2001
D Davis	WM	Labourt Court	1.10.2000 - 20.04.2001
A J du P Buys	WM	Natal High Court	9.10.2000 - 10.12.2000
A J du P Buys	WM	Free State High Court	23.10.2000 Only
L S Melunsky	WM	Appeal Court	1.12.2000 - 31.3.2001
R W Nugent	WM	Appeal Court	16.12.2000 - 31.3.2001
K K Mthiyane	BM	Appeal Court	1.12.2000 - 31.3.2001
P J Schabort	WM	Transvaal High Court	9.10.2000 -5.11..2000
A S Botha	WM	Ciskei High Court	27.11.2000 - 1.12.2000
G M Makhanya	BM	Venda High Court	15.11.2000 - 15.12.2000 29.01.2001 - 31.03.2001
J W Smalberger	WM	Appeal Court	1.1.2000 - 30.6.2001
B Nkabinde	BF	Labour Court	28.1.2001 - 30.3.2001
S M Miller	WM	Transkei High Court	29.1.2001 - 31.5.2001
C M Somyalo	BM	Constitutional Court	15.2.2001 - 31.3.2001 01.05.2001 - 31.05.2001
J F J van Rensburg	WM	EC High Court	15.2.2001 - 31.3.2001
B M Ngoepe	BM	Venda High Court	29.1.2001 - 31.7.2001
K van Dijhorst	WM	Transvaal High Court	19.3.2001 - 30.3.2001
R W Nugent	WM	Appeal Court	1.4.2001 - 15.12.2001
K K Mthiyane	BM	Appeal Court	1.4.2001 - 30.6.2001
M Maya	BM	Labour Court	30.7.2001 - 30.9.2001
R G Comrie	WM	Labour Court	17.4.2001 - 30.6.2001
K van Dijkhorst	WM	Labour Court	17.4.2001 - 6.5.2001 12.6.2001 - 30.6.2001

Legal services branch 26/09/2001 12:24 Page 32

NAME	RACE	DIVISION	PERIOD
B R du Plessis	WM	Labour Court	31.3.2001 - 20.4.2001
J F J Rensburg	WM	EC High Court	1.5.2001 - 31.5.2001
H C J Flemming	WM	Transvaal High Court	14.5.2001 - 8.6.2001
C N Jafta	BM	Transkei High Court	1.6.2001 - 30.9.2001
D J Lombard	WM	Free State High Court	23.4.2001 - 11.5.2001
M H Rampai	WM	Free State High Court	7.4.2001 - 30.4.2001
J P Horn	WM	EC High Court	7.4.2001 - 30.4.2001
F C Bam	WM	Free State High Court	14.5.2001 - 22.6.2001
D Mlambo	BM	Labour Court	16.7.2001 - 30.9.2001
W Vivier	WM	Appeal Court	1.7.2001 - 15.12.2001
J H Conradie	WM	Appeal Court	1.6.2001 - 15.12.2001
J C Froneman	WM	Appeal Court	1.6.2001 - 15.12.2001
T D Cloete	WM	Appeal Court	1.6.2001 - 15.12.2001
T L Skweyiya	BM	Free State High Court	15.8.2001 - 30.11.2001

2.140 Discharge from active service in terms of the applicable sections of the Judges' Remuneration and Conditions of Employment Act, 1989 (Act 88 of 1989):

NAME	RACE	DISCHARGE FROM ACTIVE SERVICES WITH EFFECT FROM/ DECEASED	SECTION OF ACT
K van Dijkhorst	WM	31.07.2000	3(1)(b)
D A Kotze	WM	14.09.2000	Deceased
F C Bam	BM	11.08.2000	Expiry of 5 year fixed term
A Gildenhuys	WM	11.08.2000	Expiry of 5 year fixed term
J B M Moloto	BM	11.08.2000	Expiry of 5 year fixed term
Y S Meer	IF	11.08.2000	Expiry of 5 year fixed term
A C Dodson	WM	11.08.2000	Expiry of 5 year fixed term
C Plewman	WM	29.12.2000	3(1)(a)

NAME	RACE	DISCHARGE FROM ACTIVE SERVICES WITH EFFECT FROM/ DECEASED	SECTION OF ACT
H J O van Heerden	WM	01.01.2001	3(1)(b)
F H Grosskopf	WM	01.02.2001	3(1)(b)
J A M Khumalo	BM	31.03.2001	3(1)(a)
M R Madlanga	BM	01.06.2001	Resigned
W H Heath	WM	30.06.2001	Resigned

2.141 A judge who has been discharged from active service, except a judge who has been discharged from active service in terms of section 3(1) (b), (c) or (d) of the Judges' Remuneration and Conditions of Employment Act, 1989, has to be available until he or she attains the age of 75 years to perform service for a period or periods which, in the aggregate, amount to three months a year:

NAME	RACE	DIVISION	PERIOD
D J Curlewis	WM	Transvaal High Court	1.1.2000 - 31.3.2000
H P van Dyk	WM	Transvaal High Court	1.1.2000 - 31.12.2000
F C Kirk-Cohen	WM	Transvaal High Court	1.1.2000 - 31.12.2000 1.2.2001 - 28.5.2001
D J le Roux	WM	Transvaal High Court	1.1.2000 - 31.3.2000
P J van der Walt	WM	Transvaal High Court	16.2000 - 30.12.2000 1.2.2001 - 28.5.2001
J J Basson	WM	Natal High Court	16.6.2000 - 30.7.200

2.142 As part of the administrative duties connected with the judges, judges discharged from active service, widows of deceased judges and acting judges, their personal information had to be placed on Persal to effect payment of salaries, pensions, etc.

TYPE	NUMBER OF PERSONS PLACED ON PERSAL
Permanent Judges	195
Widows/ Judges discharged from active service	87
Acting Judges	112

Legal services branch 26/09/2001 12:24 Page 34

THE DIRECTORATE OF CHILDREN AND YOUTH AFFAIRS

2.143 This Directorate is responsible for facilitating the implementation of Section 28 of the Constitution, the Convention on the Rights of the Child, African Charter on the Rights and Welfare of the Child and all other relevant human rights instruments and legislation pertaining to children in the justice sector. The Department is also one of the key components of the National Programme of Action Steering Committee for Children (NPASC) chaired by the Presidency in South Africa. The Directorate represents the Department at the NPASC, which seeks to create and build an environment where children are nurtured and can grow up to be the best they can be; and to develop a new culture where children can be given the priority they deserve in all walks of life: at home, at school and in the community.

INITIATIVES AND ACTIVITIES

CHILD JUSTICE BILL

2.144 The Directorate has embarked on a carefully developed process to ensure that the Bill, due for enactment during 2002, is properly supported. The focus is on implementation planning and budgeting. The Directorate is assisted in this regard by the Child Justice Project, a United Nations technical assistance project for the government of South Africa, the objective of which is to assist with capacity development for the implementation of the new Child Justice system. The Directorate is also assisted in this regard by the SIDA project on Children and Justice.

2.145 In terms of implementation planning, the Directorate has coordinated an Intersectoral Forum dealing with Child Justice Issues, called the Intersectoral Committee for Child Justice. A draft framework for an Implementation Strategy has already been drafted and distributed to members of the committee.

2.146 The Child Justice Project in the Department of Justice and Constitutional Development liaised with Department of Finance during April 2001 with regard to the Medium Term Expenditure Framework (MTEF) in order to ensure that all departments were submitting submissions with regard to the Child Justice Bill. The Director-General of Justice and Constitutional Development also consulted with his counterparts in other relevant departments and agencies, in respect of, among others, implementation and resource planning and support for the proposed legislation.

2.147 The Child Justice Project has set about the task of enhancing the capacity and use of programmes for diversion and appropriate sentencing for children in the following ways:

- Through building strategic partnerships with relevant government and non-governmental organisations offering services in this field
- Through identifying and developing a data base of programmes which are used for diversion/sentencing or have the potential of being so used
- Through hosting a National Forum in June 2001 to build partnerships between government and civil society

2.148 The Project has also worked on issues of policy and research in this area

- Policy development
  On 15 September 2000 the Project, together with the Office of the National Director of Public Prosecutions, hosted a workshop on prosecutorial policy for diversion. The workshop raised important questions and considerations, which have been factored into the redrafting of the policy by the Office of the Director of Public Prosecutions.

- Research
  Restorative justice is an important aspect of preparing the ground for diversion and appropriate sentencing. The new model proposes more involvement of victims and community members and research has been commissioned in this regard.

LEGAL REPRESENTATION FOR CHILDREN

2.149 The Department of Justice and Constitutional Development has established a partnership with the Legal Aid Board to ensure improved legal representation for children. The Department of Justice and Constitutional Development (Directorate: Children and Youth Affairs) has hosted a workshop on how to identify cases where the child requires legal assistance and on a policy on legal representation for children. The aim was to assist the Board in the decision-making on how to prioritise children. The Board has identified specialised training for the attorneys and candidate attorneys at the Justice Centres as a priority. A Training Workshop on Legal Representation for Children was held for 49 practitioners from the 24 Justice Centres in the country, and a second one is to take place in 2002. A manual on legal representation for children is in the process of being developed.

ONE-STOP CHILD JUSTICE CENTRES

2.150 The Child Justice Bill empowers the Minister for Justice and Constitutional Development, in consultation with other relevant Ministers, to establish and maintain One-Stop Child Justice Centres. The Department has commenced with the process of holding discussions with all the relevant stakeholders in the field regarding the development of a policy on One-Stop Centres.

ALTERNATIVES TO IMPRISONMENT

2.151 The Directorate holds monthly intersectoral meetings with the Interdepartmental Children Awaiting Trial Team to monitor the issue of children in custody and assess progress regarding the recommendations made during last year's investigation into children awaiting trial in prison. The Directorate has been liaising with the Department of Social Development on the issue of secure care facilities for children awaiting trial. With regard to children who are sentenced, the Directorate has entered into discussions with the Education Department, and the Child Justice Project plans to undertake a situational analysis of existing Reform Schools and Schools of Industry before the end of 2001, with a view to making recommendations regarding the availability of appropriate facilities for sentenced children.

CHILD PROTECTION WEEK (28 MAY - 3 JUNE 2001)

2.152 The Directorate undertook the following activities during Child Protection Week:

Workshop on Legal Representation for Children

2.153 One of the goals of the SIDA Project in the Directorate is to support efforts made by the Department of Justice and Constitutional Development and the Legal Aid Board Transformation Team, in ensuring that children receive legal representation or assistance. This Team (funded by the Swedish SIDA) has now completed its work. The Legal Aid Board has specifically identified children as a vulnerable group that must receive legal assistance. The Directorate: Children and Youth Affairs established a partnership with the Legal Aid Board to ensure improved legal representation for children through the SIDA Project.

2.154 Together with the Legal Aid Board the following needs have been identified:

- To train the attorneys and candidate attorneys
- To define and develop guidelines or a policy, including prioritisation of cases
- To develop a manual

2.155 The Directorate, assisted by the SIDA Project Adviser and in partnership with the Legal Aid Board, hosted a training workshop for the legal practioners. The University of Cape Town's Legal Aid Clinic facilitated the workshop. The workshop was a huge success and inspired the Directorate to continue to work with the Legal Aid Board.

Simplified Version of the Convention on the Rights of the Child

2.156 The Directorate: Children and Youth Affairs, assisted by Community Services, Communications and the Sexual Offences and Community Affairs Unit in the NDPP, produced a simplified version of the Convention on the Rights of the Child. This book was launched by the Deputy Minister for Justice and Constitutional Development on 1 June 2001 (International Day of the Child) at a Special Session of the National Assembly convened by the Presidency.

National Interim Protocol For The Management Of Children Awaiting Trial

2.157 The Minister for Justice and Constitutional Development launched the National Interim Protocol for Children Awaiting Trial on 1 June 2001 at Parliament. This document emanated from the investigation of the situation of children in prison. It provides guidance about how children accused of crimes should be dealt with from now until the Bill is enacted and implemented. The idea is that the good practice required by the Protocol will ensure that criminal justice personnel are accustomed to what will be expected of them in terms of the new legislation. The Directorate, together with the other departments, will ensure that copies of the protocol are widely distributed. Plans are under way to attend provincial forums to talk about the Protocol.

OTHER INITIATIVES

NATIONAL NGOs' CONSULTATIVE CONFERENCE

2.158 The Directorate: Children and Youth Affairs participated in the National Consultative Conference which was convened by the Department of Justice and Constitutional Development and the NDPP, and held on 19 to 21 August 2001. The purpose of said conference was to set up a strategic partnership in order to ensure, *inter alia*, that our service delivery to women and children comply with the principles of Batho Pele. This initiative entailed the drafting of a Memorandum of Understanding between the Department and the National NGOs that provide services to the public on the Department's line function activities in the areas of domestic violence, sexual offences, maintenance

Legal services branch 26/09/2001 12:24 Page 36

and Child Justice. The Directorate also contributed to the conference by providing a budget for some of the expenses incurred for the conference.

MAINTENANCE

2.159 The Maintenance Act, 1998 (Act 99 of 1998) has introduced some fundamental changes to the maintenance system. The Directorate has been requested to facilitate implementation of this Act, as well as monitoring and evaluating the Act. This is done by the Directorate's compilation of maintenance statistics received from all the magistrates' courts countrywide. It has also recently taken over the function of attending to complaints received from persons seeking maintenance, and who have experienced difficulties with the tracing of maintenance defaulters, as well as the enforcement of maintenance orders.

2.160 The Directorate is inundated with maintenance complaints from the public countrywide and the Public Protector. These complaints necessitate liaising with the Magistracy and National Prosecution Authority in order to resolve the maintenance complaints.

2.161 The Directorate is also assisting the Task Team on Maintenance to finalise the National Action Plan focusing on the Redesign and Transformation of the current maintenance system, in an effort to give practical and meaningful effect to the contents of the new Maintenance Act.

2.162 The document essentially aims to address all problems (such as the appointment of Maintenance Officers and investigators, the possible out or co-sourcing of one or more of the maintenance functions) presently experienced in respect of the implementation of the Maintenance Act and seek to provide practical and effective solutions to these problem areas. The National Action Plan has subsequently also been developed to align with the gradual phasing in of the Family Court Centre Blue Print.

NATIONAL STRATEGY FOR CHILD ABUSE AND NEGLECT

2.163 The Directorate continues to participate in the National Committee on Child Abuse and Neglect chaired by the Department of Social Development, whose main objective is to finalise the Child Protection Policy and set up effective and efficient monitoring and evaluation mechanisms at national, provincial and local levels.

NATIONAL AIDS AND CHILDREN TASK TEAM

2.164 The Directorate is a member of the National Task Team on HIV/AIDS chaired by the Department of Social Development. The Directorate plays a very important role in this Task Team in that it renders advice on the role of the courts in children's court enquires. It has been agreed at these meetings that the Directorate will facilitate a seminar on the impact of HIV/AIDS on the courts for Commissioners of Child Welfare. Donor funding will be sought for this seminar.

UNITED NATIONS SPECIAL SESSION FOR CHILDREN

2.165 Within the NPA Steering Committee, the Directorate was invited to be part of a delegation led by the Presidency for the Preparatory Sessions of the United Nations Special Session for Children. The purpose of the Special Session is to assess progress made in achieving the goals of the 1990 World Summit and to set new world goals for the next decade. The preparatory document is entitled "A World Fit for Children" and Heads of State from all over the world, including President Mbeki, will converge on the United Nations in New York on 19-21 September to adopt the world goals.

CONTINUING CHALLENGES FACING THE DIRECTORATE

2.166 The Directorate is a key role-player in the Department's transformation process of the legal system. To this end we must ensure that policy and legislation such as the Maintenance Act, 1998 and the envisaged Child Justice Act are actually implemented through appropriate budgeting and allocation of human resources, so that children can feel the difference in their lives.

2.167 In addition, we remain committed to deal forcefully with violence against women. In this regard the following need to be highlighted:

(a) The implementation of the Domestic Violence Act incorporates monitoring and review as well as public awareness and training of service providers.

(b) The roll-out of sexual offences courts throughout the country and the rolling out of one-stop centres to deal with victims of sexual offences, continue to ensure that trials are conducted in a speedy manner.

(c) A National Action Plan has been drafted to help address all key problem areas identified by the Department in respect of maintenance pay-outs, and particular attention has been given to the appointment of maintenance officers and investigators. The document has also been developed to align with the gradual phasing in of the Family Service Centre Blueprint, which will form an integral subcomponent of the Model Court Blueprint already endorsed by the Department. The Maintenance Task Team has completed a discussion paper on the National Action Plan, which will shortly be released to all relevant stakeholders for comment.

THE DIRECTORATE OF COMMUNITY SERVICES

2.168 The purpose of this Directorate is to coordinate the Department's services that are specifically directed at facilitating access to justice for communities. The Directorate has adopted the vision of implementing outreach programmes to promote communities that are well-informed about their rights, obligations and responsibilities to participate in the administration of justice.

2169 The Directorate has the following objectives:

- Developing a positive relationship with communities
- Making communities more aware of the Department's services and how to make use of them
- Educating communities about their human rights, their rights in the legal system and the new values and policies of the Department
- Obtaining the cooperation of witnesses and other users of the Department's services.

2.170 A hands-on strategy is followed and contact is established with members of organisations that render legal advice and counseling services to the community at large. Workshops are scheduled where training is offered with regard to domestic violence, maintenance, legislation pertaining to customary marriages, legal aid and other issues.

2.171 Schools are visited and the children are informed of the procedures to follow in domestic violence cases and they are educated as to how the maintenance system functions.

2.172 We interface with NGOs, CBOs and Paralegals, as this provides the man in the street an opportunity to voice their concerns and give inputs in the formulation of departmental policies on access to justice.

2.173 Various communication channels are utilised on an ongoing basis, including:

(a) We are actively seeking to form relationships with all organisations that work with the community. This is a difficult process as there is not one all- encompassing National structure. The Advice and Legal education avenues have been explored and to expand our service base we have contacted 10 000 social workers.

(b) A database for purposes of a mailing list has been established in respect of organisations with which we are in constant contact. They are also provided with the latest pamphlets and posters developed by the Department. They are kept informed of a wide variety of issues in many official languages through the "Justice News" publication, which is compiled in conjunction with Publications.

(c) Video productions on maintenance and human rights have been developed and distributed for use within the communities they serve. The latest production relating to domestic violence, voiced over into English, Tswana, Zulu and Afrikaans, is being distributed.

(d) Road shows were conducted, with specific emphasis on maintenance and domestic violence and legislation reform in these fields. Attention is also given to explaining the working of legal aid and consumer issues. Feedback channels are established so that corruptive practices experienced at delivery points can be reported and investigated. Departments such as SAPS, Health, Education and Social Development, as well as NGOs, formed a panel giving information on the role played by each department in the implementation of the Acts.

(e) Open Court Days were held in commemoration of National and International days.

(f) Legal information is collated by us and transformed into easy to understand language. Use is made of all eleven official languages, wherever possible. The use of new forms and procedures is adapted into presentations to enable advice offices operating in rural areas to follow a procedure and not waste unnecessary transport costs traveling to the courts and back to collect forms. They are also empowered to explain to those they assist how to most effectively use procedures when applying for maintenance and domestic violence orders. The support in the form of printed material and information resources the Department provides for these offices, which most often consist of volunteers, enhances the visibility of the Department and also creates credibility for the organisation the community uses.

Legal services branch 26/09/2001 12:24 Page 38

(g) Another important publication that has been sent out to communities is the "People's Law" booklets, which deals with most legal issues relevant to the man in the street in layman's terms. This publication has been donated to the Department by Adv Badul and sponsored by Caltex SA.

LIAISON WITH LEGAL AID BOARD

2.174 Ongoing liaison has been taking place with the Legal Aid Board with regard to amendments to their legislation, as well as complaints received from the public. Views and suggestions from all the role-players relating to legal representation in courts for children were collated and submitted to the Minister.

IRELAND AID: DONOR FUNDED CITIZENS' ADVICE DESKS

2.175 In the process of transforming our courts, donor funding from Ireland Aid has been channeled through this Directorate for the purpose of establishing Citizens' Advice Desks at Pretoria, Johannesburg and Durban Magistrates' Offices. The primary aim of these desks is to be a first point of contact for the public and a place where legal information can be obtained. The sites are installed and fully functional to such an extent that they are an indispensable part of the services offered at these courts. Arrangements have been made for the roll-out of infrastructure to another ten smaller sites nationally within the existing funding. In addition, a request for recurrent funding from the year 2002 to further roll out this concept of an information desk to ten large centres that cater for sexual offences courts, has been submitted to the donors.

2.176 The voluntary involvement of our sub-offices in the expansion of the concept of "info desks" is noticeable and this initiative has spread throughout the entire Department. To support the concept and to create a user-friendly image, a logo has been designed in the colours of the National flag. This identity is carried out nationally and all participating offices advertise their info service with the same image.

2.177 Commitment to the upliftment of disadvantaged communities remains the driving force behind this Directorate .

THE DIVISION OF THE NATIONAL INSPECTORATE

2.178 The purpose of this Division is to promote efficient work performance and service delivery in the Department by means of regular and coordinated quality assurance assessments.

2.179 In order to achieve this objective, the following functions are being performed:

(a) The execution of physical work performance quality assurance assessments at National Office, regional offices and sub-offices on an *ad hoc* basis.
(b) The conducting of judicial quality assurance assessments at court houses in the clusters.
(c) The coordination of quality assurance assessments and assurance assessment reports of the regional quality assurance officers.
(d) The handling of miscellaneous legal tasks.
(e) The rendering of training and guidance to regional quality assurance officers in respect of organisation and establishment requirements of magistrates' offices.
(f) The coordination of the reports and recommendations of regional quality assurance officers in respect of organisation and establishment requirements of magistrates' offices.
(g) The examining of clerical, administrative and professional activities in order to determine whether the work is being done according to the prescriptions and whether it is up to date/standard.
(h) The identification and coordinating of judicial training needs and provisioning of training.
(i) The identification of training needs and the functional and task-oriented training of staff to enable officers to provide an efficient service. During quality assurance assessments advice and guidance are given regarding better work procedures and methods, the elimination of shortcomings and cumbersome and unnecessary work, the effective performance of control, supervisory and management functions, cost-effective management, the training and development of staff and the effective utilisation of staff and other resources. To promote the efficient utilisation of staff, high priority is given to the exercise of control and to supervisory skills. Heads of divisions are given advice and guidance in this respect. Supervisory officers are encouraged to attend to the training and development of their staff in their respective specialised set-ups.
(j) The emphasising of cost-effective management at all offices and the verification of control over expenditure and compliance with financial instructions.
(k) The execution of misconduct investigations and reporting thereon.
(l) The analysis of and reporting on procedures, methods and fair, equitable, transparent, competitive, effective and efficient systems.
(m) The reporting to management about changed circumstances and conditions in National Office, the regional offices and sub-offices.

2.180 The year under review was once again characterised by comprehensive and time-consuming investigations into functioning problems at various offices, misconduct, irregularities, unauthorised, irregular, fruitless and wasteful expenditure and crime. Although these *ad hoc* tasks were time-consuming, this Division was still able to attend to some of its line functions. The following serve as examples:

- Investigations into misconduct and crime in which the institution of criminal and misconduct proceedings and suspensions were recommended
- Investigations into deficiencies, losses and damage for the Department caused by irregularities, fraud, theft, willful damage, negligence, delays, omissions and unauthorised, irregular, fruitless and wasteful expenditure on the part of employees amounting to R60 726 662,56
- Rendering of training and guidance to regional quality assurance officers regarding the conducting of work performance quality assurance assessments, reporting thereon and a*d hoc* tasks
- The investigations into deficiencies, losses and damage caused by irregularities, fraud, theft, willful damage, negligence, delays and omissions on the part of employees led to quality assurance officers testifying in criminal and misconduct proceedings resulting in a time loss to attend to their line functions

2.181 Officials of the Division also serve on various task teams and committees on a continuous basis and are often required to assist in various meetings at all levels of management. Officials are involved in court management and court management structures in order to assist the National Steering Committee on Court Management, the Magistrates' Courts Management Committee and other role-players to ensure an efficient, effective and affordable court management system.

2.182 Officials of the Division are members of the Anti-Corruption and Fraud Operational Committee as part of the Anti-Corruption and Fraud Strategy for the Department and further assisted the Department of Public Service and Administration in compiling an Anti-Corruption and Fraud Strategy for the Public Service. A Fraud Hotline was established with effect from 18 June 2001. The Division is also responsible for coordinating and investigating all corruption and fraud-related matters reported via the hotline.

2.183 Statistical Figures:

Task	2000/2001
• National Office: Directorates assessed	2
• Regional offices assessed	2
• Sub-offices assessed on behalf of regional offices	6
• Quality Assurance Assessment reports of Regional Quality Assurance Officers evaluated and processed	66
• Organisation and establishment investigations	34
• Organisation and establishment reports of Regional Quality Assurance Officers evaluated and processed	27
• *Ad hoc* investigations carried out (Criminal activities, maladministration, etc.)	54
• *Ad hoc* tasks finalised	601
• Legal opinions and advice to the Department	224
• Distance traveled (kilometres)	131 047
• Unremunerated overtime performed (hours)	1 982

Chapter Two
Human Resources Branch

HUMAN RESOURCES ESTABLISHMENT

2.184 During the period under review the Directorate: Human Resource Planning and Work Performance were faced with huge establishment needs that could not be satisfied due to a lack of funds for the expansion of the establishment. This situation was aggravated due to the introduction of new legislation such as the implementation of the Family Violence and Maintenance Acts.

2.185 To ensure maximum utilisation of human resources, the provisioning of posts is done on the basis of scientifically determined norms that are regularly revised to adapt to changing circumstances. Applying these norms to work already delivered, there is a need for the creation of 1810 posts of different grades, the financial implication of which amounts to R220 million. The backlog in the creation of posts is ever growing and further delays in creating posts, especially those related to the core function of the Department, might cause catastrophic consequences for the administration of justice. In this regard the following are relevant:

(a) Magistrates have insufficient time available to perform their professional work and to manage their courts.

(b) The court rolls, especially in the regional rourts are out of control, overloaded and not manageable. The average caseload in the district courts is also high and needs to be addressed.

(c) There are many awaiting trial prisoners, which is cost-intensive.

(d) The current deplorable situation regarding the creation of posts gives rise to the fact that -

- court services do not meet the requirements of the Constitution;
- people take the law into their own hands; and
- people do not have confidence in the courts.

(e) Officials are forced to work overtime in order to compensate for the unavailability of posts. This situation can lead to fruitless expenditure.

(f) It is common knowledge that maintenance matters, as well as domestic violence, are continuously under severe spotlight from the media, the public and parties involved in such cases. Due to the shortage of staff the system falls short of the Republic's international obligations in terms of the Convention of the Rights of the Child and other related legislation. Maintenance matters require high priority by the Constitution. The Department of Justice and Constitutional Development is lawfully responsible to provide sufficient staff to build a more dedicated and experienced pool of trained and specialised maintenance officers.

(g) Due to a shortage of staff, cases are unreasonably delayed and postponed for lengthy periods - in the regional courts in some instances for more than eight months. In this regard section 342A of the Criminal Procedure Act, 1977 (Act 51 of 1977) determines that a court before which criminal proceedings are pending, shall investigate any delay in the completion of proceedings which appears to the court to be unreasonable and which could cause substantial prejudice for the prosecution, the accused or his or her legal adviser, the state or a witness, in which instance if the court finds that an unreasonable delay was caused by an officer employed by the state, the court may issue an order that the state shall pay the accused wasted costs incurred by him or her.

2.186 Despite the aforementioned the Department has, in an effort to address the most critical needs, succeeded to redeploy posts to those areas were the biggest needs exist. Most of the posts (1810) have been identified for creation in the Gauteng and Western Cape regions. To partly

address these needs, 67 posts have been abolished on the establishment of the Eastern Cape region and created in Gauteng (52); Western Cape (5); Northern Cape (5) and Free State (5). Apart from this, 256 other posts were redeployed within the various regions. This is an ongoing process, which is pursued on a daily basis in order to ensure that limited human resources are utilised to its full capacity and to render accountability.

2.187 The separation of judicial and administration functions is currently receiving attention. This will result in magistrates, who have been utilised for office management and other administrative functions, to be fully utilised for judicial functions. This action will definitely lighten pressure on courts. On the other hand more pressure will be exerted on the administrative components. Office managers have to be appointed to take over managerial duties, in which area the Department is facing a shortage. Be that as it may, this is a step in the right direction.

HUMAN RESOURCES PLANNING AND WORK PERFORMANCE

New Performance Management System

2.188 According to the new Public Service Regulations that came into effect on 1 July 1999, an Executive Authority must develop a Performance Management System, to be implemented with effect from 1 April 2001. The Department is in the process of finalising a performance management policy and is in negotiations with the unions on this issue. A draft performance management policy was forwarded to the Minister, which was approved by him on 5 May 2001. A manual was also drafted to serve as a handbook for the policy, but can only be finalised once the policy has been agreed upon in its totality.

SUBDIRECTORATE: TRAINING ADMINISTRATION AND RESEARCH UNIT

2.189 The following matters were dealth with during the period under review:

OUTPUTS	PROGRESS TO DATE
Swedish and Danish Project Management	The Swedish Project Management course was finalised during 11-19 November 1999. There are plans to design a training programme for implementation throughout the Department, which will be finalised before the end of 2001. There is a group of 20 officials who attended a Project Management course in Denmark. The outputs of these two Project Management courses will be integrated.
Internship Policy for the Department of Justice	The Draft Policy will be amended before it can be circulated in the Departmental Chamber and be forwarded for approval by the DG and the Minister. The amendment of the programme will be based on the guidelines from the Skills Development Act, and in particular, learnerships.
Demarcation for a SETA for Justice, Police and Prisons	The POSLEC SETA has been formed and its constitution, as well as the sector skills plan as required by the Skills Development Act, was submitted to the Department of Labour. A workplace skills plan of the DOJ&CD was submitted for the year 2000. A proper skills audit was not done; it (WSP) was issued as a result of questionnaires, which were circulated. Thus it is imperative that a comprehensive skills audit is done for the 2001 so that a proper workplace skills plan that captures all the training required in the Department, is drawn. Currently we are busy with the completion of an annual report, which should in turn capture what training has taken place following the submission of the WSP. Since the issue of the skills audit is still pending, we have also decided to revise the current WSP and resubmit it to POSLEC. The SDF, Nick Nkuna, is busy with the reformation and re-organisation of regional committees so that their composition complies with the SDA, with the assistance of POSLEC. The North West and Western Cape must still be done.
Bursary Administration	1049 bursaries were granted in the following lines of study: - 6 **LLB** - 7 **MBA** - 8 **NDPA** - 9 **B ADMIN** - 10 **B IURIS**, etc
Job Profiling, Skills Audit, Competency Profile	Job profiles have been done in the Ministry in Cape Town and Pretoria Offices. The Skills Audit Project has been piloted in the Eastern

Human resourses Branch 26/09/2001 12:27 Page 43

OUTPUTS	PROGRESS TO DATE
	Cape and thereafter will be conducted in the rest of the Department. The Job Profiling Project commenced with the training of 40 officials .A policy regarding Job Profiling has been developed. There are plans to start with the actual Job Profiling.
Allocation for the Training budgets in the regions	Although arrangements were made with Finance that a separate budget allocation be made at the regional level, as well as at National Office, to capture all expenditure relating to training, the regions are still faced with the same problems. This matter has not yet been finalised and has been discussed with the Chief Director.
Purchasing of material for the HRD Resource Centre	The library is constantly being updated and has videos and books.
Membership to professional bodies	Membership to these professional bodies will be renewed during this current year. 1. IPM 2. ASTD 3. PROJECTPRO 4. MANAGEMENT TODAY
Costing of the Training, Education and Development programme	This is a continuous process whereby programmes that have been run by the Department, as well as outside providers, are determined with regard to their value in terms of money.
Designing of Evaluation Tools / Instruments	Evaluation instruments to determine the impact of HRD-provided training on the workplace have been designed and implemented for: - Women Leadership - HIV/AIDS - Computer Training.
Survey Tracker Instrument	Three additional officials were trained in survey tracking. There is a dire need for the purchase of an additional license for the survey tracker, for the research unit to function at its optimum.

OUTPUTS	PROGRESS TO DATE
Evaluation of ABET	This year (2001) ABET could not continue because there was no response for the request for donor funds; instead we were told to look at the bursary policy and make some modifications so that it covers ABET learners. That was done, but we have not yet received a directive as to whether we should go ahead or not. In the meantime we have conducted an investigation to determine whether any other departments use bursary funds for ABET. None was found. Nevertheless, besides the ratification of the changes made in the bursary policy, we do not think there are any other serious obstacles.
Audit for the Bursaries Administration section by Internal Audit Directorate	The Internal Audit Directorate has audited the Bursary Administration. The report indicates the areas that need to be rectified by the Subdirectorate. Understaffing of the Subdirectorate has also been highlighted as an impediment to the Section: Optimum Performance.
DPSA Questionnaire	A report has been issued by the HSRC and has been distributed to all Directorates / Departments that participated in the investigation.
Workplace Skills Plan	The Department was required to submit its WSP to POSLEC SETA. An instrument was designed and implemented. Information was collated and a successful submission made timely. We are busy revising last year's(2000) WSP, since a skills audit has not yet been done.

SUBDIRECTORATE: TRAINING

2.190 The following programmes have been conducted or managed by the Subdirectorate: Training:

PROGRAMME	OUTCOMES
Orientation in Windows 98	• Explain the potential of computers in executing their duties • Name the various components of the com-

PROGRAMME	OUTCOMES
	puter and explain their purpose, namely computer case, the monitor, the keyboard, the mouse and other hardware components • Explain the difference between a C-drive, A-drive and CD Rom • Know the layout of a keyboard • Switch a computer on and off independently • Explain the function of the Start-button • Operate the mouse independently • Select and move items with the mouse by clicking, double-clicking and dragging-and-dropping • Create and Save a drawing in the Paint-programme • Set a created drawing as wallpaper on personal computer • Adjust the date and time of personal computer • Add wallpaper on personal computer • Change the appearance of the screen of PC • Change the overall theme of personal computer
Corel WordPerfect Basic	• Open the Corel WordPerfect programme • Explain the layout of the WordPerfect window • Explain the terminology associated with the WordPerfect window • Select a word, sentence and paragraph by using the mouse • Create a new document • Open a document • Save a document in a specific location • Change the page set-up of a document • Print a document • Undo and redo changes in a document • Cut, copy and paste text in a document • Zoom in and out on documents • Number the pages of a document • Insert symbols into text • Change the font of documents • Change the alignment of documents • Insert a bulleted list into a document • Inset a numbered list into a document • Change text to bold or italics

PROGRAMME	OUTCOMES
	• Underline text • Add page borders to documents • Change the type case of text • Type over existing text • Insert new text into existing text
Corel WordPerfect Intermediate	• Shrink a document to certain number of pages • Print selected areas of documents • Print all the odd and all the even pages of a document • Print unopened documents • Find and replace text in a document • Created and edit Headers and Footers in a document • Create Watermarks • Insert Page breaks • Insert the date and time into a document • Insert AutoText • Insert pictures into a document • Insert AutoShape • Insert WordArt into a document • Change character spacing • Change line spacing • Add borders to pages of documents • Shade text in a document; • Insert Drop Caps into a document; • Change the background colour of a document • Use the Format Painter • Use the Thesaurus • Create, edit and format Tables • Create new folders and sub-folders
*Intro to PCs	• Identify hardware and software • Benefits of using PCs • Define the phrase “computer network” • Benefits of working on a network • Starting Windows • Identify components of the Windows 98 environment • Orientation to the keyboard • Point to and select objects on the screen by using the mouse pointer • Access other areas of Windows by using the

PROGRAMMES	OUTCOMES
	taskbar's Start button • Work with windows by using various buttons and dragging techniques • Change the mouse double-click speed by using the Control *Panel • Using Help function • Shutting down Windows
*Intro to Word	• Learn about the basic concepts of word processing in Word 2000 • Identify the components of the application window • Entering text in the text area • Use the Tab key, Backspace key and word wrap feature • Saving and naming a document by using the File -Save As menu choice • Opening an existing document and change it by using basic editing techniques • Save changes to an existing document by using the Save button • Basic character formatting techniques • Printing a document
*Intro to Outlook	• Identify the steps necessary to send, to receive, and to act on mail messages • Create and send messages by using the New message form • Change the appearance of messages by using formatting techniques • Responding to a message by using the Reply and Forward buttons • Saving an attachment • Using the Global Address Book and the Personal Address Book to address mail messages • Delete and replace a message by using the Recall feature • Printing options such as Print Preview dialogue box
*Intro to Internet	• Overview of the Internet and the World Wide Web • Understanding the hardware and software needed to access the Internet and the World

PROGRAMME	OUTCOMES
	Wide Web • Connecting to the Internet • Explain the layout of the Internet Explorer home page • Using the "Explorer bar"; "forwarded" and "back" buttons and the "History list" to visit previous sites
*MS Word	• **Navigating in a document:** Using scrolling and Searching • **Editing techniques** Using AutoCorrect Selecting text Moving and copying text Basic and advance Character formatting • **Paragraph formatting** Working with indents, numbered lists and bulleted lists Line breaks and line spacing • **Introduction to tabs and tables** Using tabs Creating a table Enhancing a table Interactive Wrap-up • **Controlling page appearance** Headers and footers Margins Page breaks • **Tools and Printing** Using proofing tools Printing a document Envelopes and labels
MS Word Basic	• Open the MS Word programme • Explain the layout of the WordPerfect window • Explain the terminology associated with the MS Word window • Select a word, sentence and paragraph by using the mouse • Create a new document • Open a document • Save a document in a specific location • Change the page set-up of a document • Print a document • Undo and redo changes in a document

PROGRAMME	OUTCOMES
	• Cut, copy and paste text in a document • Zoom in and out on documents • Number the pages of a document • Insert symbols into text • Change the font of documents • Change the alignment of documents • Insert a bulleted list into a document • Inset a numbered list into a document • Change text to bold or italics • Underline text • Add page borders to documents • Change the type case of text • Type over existing text • Insert new text into existing text
MS Word Intermediate	• Change Shrink a document to certain number of pages • Change Print selected areas of documents • Change Print all the odd and all the even pages of a document • Change Print unopened documents • Change Find and replace text in a document • Change Created and edit Headers and Footers in a document • Change Create Watermarks • Change Insert Page breaks • Change Insert the date and time into a document • Change Insert AutoText • Change Insert pictures into a document • Change Insert AutoShape • Change Insert WordArt into a document • Change Change character spacing • Change Change line spacing • Change Add borders to pages of documents • Change Shade text in a document • Change Insert Drop Caps into a document • Change Change the background colour of a document • Change Use the Format Painter • Change Use the Thesaurus • Change Create, edit and format Tables • Change Create new folders and sub-folders

PROGRAMME	OUTCOMES
*MS Excel	• The paper spreadsheet • The Excel programme • The workbook environment • Entering and correcting data • Saving a file • Using formulas • Opening a second file • Navigating and moving techniques • Working with ranges • Working with functions • Editing cell contents • Inserting rows and ranges • Moving data • Copy data • Absolute references • Using the Fill Series feature • Formatting a worksheet • Number formats and text alignment • Copying and pasting formats • Special and custom formatting • Checking spelling • Using the print preview command • Printing a large worksheet • Additional printing option • Using a multiple-sheet workbook • Creating a chart • Outlining • Spreadsheet solutions
*MS Outlook	• **Using mail** Creating and sending messages Acting on messages Working with address book Recalling and Printing • **Handling messages** Message handling options Inserting text into a message Creating Signatures • **Managing folders** Creating and using personal folders Using the Organise page • **Working with appointments and events** Scheduling appointments Assigning categories Editing appointments Inserting events

PROGRAMME	OUTCOMES
	• **Scheduling and managing meetings** Creating and sending meeting requests Working with meeting requests Managing meeting responses • **Using the task and contact manager** Managing tasks Adding and editing contacts
MS Outlook	• Create e-mail messages • Edit e-mail messages • Send and receive e-mail messages • Attach files to e-mail messages • Maintain a personal calendar of appointments, events and meetings, • Schedule meetings with co-workers • Store information about business contacts
Train-the-trainer: MS Word	• Facilitate computer literacy training
HIV/AIDS	• Aids awareness campaign
Operations and Project Management for Middle Managers	• Demonstrate management principles in a work set-up • Motivate employees • Show leadership qualities in work environment • Restructure the operational process to fit organisational goals • Compile process flow charts • Compile operational plans • Compile project plans • Compile networks schedules • Conduct project and operations meetings
Basic Orientation	Orientated in • Values of Justice Vision 2000 • Service Benefits • Conduct proceedings • Grievances
Service Excellence	• Understand the principles, practices and importance of service delivery • Produce professional and departmentally correct written communication

PROGRAMME	OUTCOMES
	• Communicate verbally in a professional manner • Understand and apply the principles of office etiquette • Improved interpersonal skills to render a friendly and professional service • Deal with conflict situations • Manage stress • Manage self and time
Presentation Skills	• Understand what causes stage fright and how to deal with it successfully • Apply the didactic principles in a learning situation • Compile a presentation • Apply communication principles • Use training media correctly • Deal with questions • Deliver a powerful presentation
Train-the-trainer: Commissioner of Oaths	• All the outcomes listed in Presentations Skills • Apply the procedure to be followed to be appointed as a Commissioner of Oaths • Apply the procedure for certifying documents • Apply the procedure for administering an oath or affirmation
Anti-Corruption Awareness Sessions	• Define Corruption • Identify corruptive acts • Understand the Code of Ethics and Business Conduct • Understand the Anti-Corruption Policy • Define acts of misconduct in terms of Resolution 2 of 1999 • Apply disciplinary measures in cases of less serious conduct
Secretarial Development Programme	• Define the concept 'Secretary' • Understand the role of a secretary • Understand what managers expect of secretaries • Identify personal strengths and weaknesses • Understand impact of strengths and weaknesses on performance and work relationship • Understand the effect of positive and nega-

PROGRAMME	OUTCOMES
	tive self-talk • Understand basic concepts of Emotional Intelligence • Explain role as service provider • Define the concept 'telephone etiquette' • Apply the ASAP techniques • Define the concept 'office-etiquette' • Distinguish between assertive, non-assertive and aggressive behaviours • Know the causes of difficult behaviour • Identify personal conflict management style • Assert self in conflict situations • Coordinate diaries • Assist and introduce direct visitors
Brain Ergonomics	• Humanise the workplace to increase performance
Internship Programme	• Receive and process CVs and applications for Internship • Screen applications • Design internship programme • Design schedule • Undergo experiential training • Write reports

**The E-Justice Project funded these programmes.*

THE CHIEF DIRECTORATE OF TRANSFORMATION AND CORPORATE STRATEGY

THE DIRECTORATE OF TRANSFORMATION & CORPORATE STRATEGY

EMPLOYMENT EQUITY (EE)

2.191 An evaluation of the Employment Equity plans for the period 1 June 2000 to 31 May 2001 reveals that most of the objectives set have been achieved. However, due to the moratorium placed on the filling of vacancies, equitable representation as envisaged in the plans had to be put on hold in some instances and has been carried forward to the second Employment Equity plan.

2.192 Due to the restructuring of the Department, it was decided that the new Employment Equity plan will cover a one-year period only. Thus, a consolidated Employment Equity plan for the period 1 June 2001 to 31 May 2002 has been developed. The monitoring and evaluation of the plans will be facilitated by the submission of quarterly progress reports.

2.193 A summary of the Employment Equity Report for the period 01/01/99 to 31/12/99 is tabled below. Preparation for the next reporting period is under way and will be submitted to the Department of Labour on 30 September 2001.

SUMMARY OF THE EE REPORT

2.194 Workforce profile: As at 01/01/99 to 31/12/99

(a) Total number of employees (including employees with disabilities)

	African		Coloured		Indian		White		Total
	M	F	M	F	M	F	M	F	
TOTAL PERMANENT	3 499	2 496	337	442	120	261	1 141	2 072	10 368

(b) Total number of employees with disabilities

Occupational Levels	African		Coloured		Indian		White		Total
	M	F	M	F	M	F	M	F	
TOTAL PERMANENT	23	7	5	3	3	0	15	16	72

(c) Recruitment

	African		Coloured		Indian		White		Total
	M	F	M	F	M	F	M	F	
TOTAL	226	161	27	57	11	25	27	71	605

(d) Promotion

	African		Coloured		Indian		White		Total
	M	F	M	F	M	F	M	F	
TOTAL	225	229	21	20	12	18	87	202	814

(e) Termination

	African		Coloured		Indian		White		Total
	M	F	M	F	M	F	M	F	
TOTAL	86	32	7	5	4	3	68	115	320

(f) Disciplinary action

	African		Coloured		Indian		White	
	M	F	M	F	M	F	M	F
Disciplinary Action	176	85	32	11	2	0	26	16

(g) Skills Development Training

Occupational Categories	African		Coloured		Indian		White		Total
	M	F	M	F	M	F	M	F	
TOTAL	902	650	89	135	37	69	462	656	3000

EMPLOYEE ASSISTANCE PROGRAMME (EAP)

2.195 The sub-unit was established during 2000, but due to the restructuring process the filling of established posts were not filled. It is anticipated that once the restructuring process is over, the component will be fully staffed.

2.196 The main purpose of the Employee Assistance Programme is to promote the well-being of employees in the Department. In this regard the EAP assisted employees with personal and work-related problems. The EAP sub-unit has a draft policy and is in the consultation process. A Wellness Newsletter has been produced and should be distributed soon.

2.197 The EAP is also in a process of identifying regional coordinators to assist with identification of troubled employees in the regions. A few offices have been identified to be pilot sites for regular group debriefing by specialists in this field. Due to a lack of human resources and the vast number of specialised services needed by troubled employees, an external database of service providers has been established.

HIV/AIDS

2.198 The Department's efforts to raise awareness of and fight against the HIV/AIDS pandemic have been accelerated. Training on basic information on HIV/AIDS continues to be conducted. The focus of the HIV/AIDS programme has also been shifted towards the establishment of care and support structures within the Department for infected and affected employees. A total of 19 focal persons of the Justice AIDS team received intensive training in lay AIDS counseling. They are now tasked to establish care and support structures within their respective regions.

2.199 The installation of condom dispensers in the bathrooms and distribution of condoms continued. Drama groups and people living with HIV/AIDS have been invited to the Department so as to sensitise staff members about the reality of the disease. The existing HIV/AIDS Policy is in a final draft after being reviewed according to latest Code of Good Practice on Managing HIV/AIDS.

SMOKING

2.200 The Department of Justice and Constitutional Development has a policy on smoking. The policy has been in effect from 01 March 2001 and follows on the enactment of the Tobacco Products Control Amendment Act, Act 1999 (Act 12 of 1999).

2.201 The departmental policy stipulates that smoking is prohibited in all buildings of the department. Given the fact that the Department has approximately 600 offices throughout the country, alterations to meet the legislative requirements will cost at least R2 million, and these funds are not currently available.

2.202 The Department has purchased 950 "No Smoking" signs and distributed them to all regional offices to be distributed to their sub-offices within their respective regions.

SERVICE DELIVERY/BATHO PELE

2.203 The Department is committed to the transformation of Public Service Delivery for its customers and it is also committed to the Batho Pele policy framework. In this regard the Department has embarked upon a strategy to revive the Batho Pele campaigns in all its offices. The first step in the direction will be the training of frontline personnel in customer service and the recognition of our "unsung heroes and heroines".

DISABILITY

2.204 In 2000 the Department conducted a survey to determine the number of people with disabilities on its payroll. This has given us a fair sense of the type and nature of the disability, the race and gender of the employees, as well as their work location. Such information is used by the Department to cater for the needs of people with disabilities. A facilities audit has also been conducted to try and remove barriers that may negatively affect people with disabilities.

2.205 Training aimed at sensitising and making employees aware of the needs of people with disabilities continues to be provided. Regional Focal Persons have been identified and trained to champion the cause for people with disabilities in the regions and the courts.

2.206 Regional offices have also been provided with a database of service providers that can assist our courts when dealing with, for example, people requiring the services of translators. The Department has also developed a policy, which is in an advanced stage of finalisation, for addressing the needs of people with disabilities.

THE DIRECTORATE OF GENDER ISSUES

2.207 The Gender Directorate is the Gender Focal Point in terms of the National Gender Machinery. It is essentially not an implementing structure, but a management resource agency within the Department.

2.208 The major functions of the Gender Directorate are to:

- ensure the ongoing development of the Gender Policy;
- facilitate the integration of gender concerns into mainstream policy development;
- monitor and facilitate implementation of the Gender Policy;
- drive a gender budgeting process within the Department;
- facilitate the establishment of regional gender substructures;
- facilitate the relationships between the Department and other government departments and constitutional bodies within the national gender machinery; and
- facilitate the relationship between the Department and civil society, including NGOs and CBOs.

2.209 The Gender Directorate has the responsibility to assist the Department to mainstream gender in its entire business, and the guiding principle is the Gender Policy Statement (GPS) and other International Human Right Instruments.

2.210 The Gender Policy Statement has three pillars:

- Chapter 3: focuses on policy interventions, which are primarily directed at the Department as a service provider.
- Chapter 4: focuses on changes to be introduced within the Department in its role as an employer and in its decision-making systems and practices.
- Chapter 5: focuses on institutional changes aimed at entrenching gender equality analysis and creating a conducive climate for successful policy implementation. It includes monitoring and review.

POLICY INTERVENTIONS PRIMARILY DIRECTED AT THE DEPARTMENT AS A SERVICE PROVIDER

2.211 There are five critical areas of concern:

- Violence Against Women
- Victim Support and Empowerment
- Family Law (including the Administration of Estates)
- Access to Justice
- Working with the civil society

DOMESTIC VIOLENCE MONITORING & REVIEW

Statistics relating to Domestic Violence

2.212 At present the Gender Directorate is compiling statistics on domestic violence, with specific reference to protection orders issued in domestic violence cases. These statistics aid in monitoring the implementation of the new Domestic Violence Act 1998, (Act 116 of 1998). Statistics

Human resourses Branch 26/09/2001 12:28 Page 57

are also being gathered on maintenance cases, seeing that domestic violence forms part of many maintenance cases.

Training of service providers on the Domestic Violence Act

2.213 The Gender Directorate and the National Prosecuting Authority led the development of a manual for a multi -disciplinary project. The Multi-disciplinary Training Team consist of the following Departments in Government: Department of Justice, Safety and Security (SAPS and ICD), Health, Social Development, Correctional Services, Justice College, Office of the National Director of Prosecutions, the SOCA Unit and various NGOs like Soul City, Nisaa, Tshwaranang, National Network on Violence Against Women (NNVAW), Men for Change, etc.

2.214 The purpose and objective of the Multi-disciplinary Training Task Team has been to develop a comprehensive manual on domestic violence for the training of all key service providers dealing with domestic violence. The purpose is to do away with the many training manuals from different departments that only deal with single and isolated aspects. The multi-disciplinary manual is meant to challenge domestic violence from all the different aspects and disciplines, e.g Legal, Policing, Welfare, Health, etc.

2.215 After the development of this manual almost all members of the Departments dealing with domestic violence will be trained in units. This includes the training in dealing with domestic violence and application of protection orders in terms of the Domestic Violence Act. Again it covers training on cases of common law offences arising from domestic abuse, and these cover the prosecutions for murder, attempted murder, assault, grievous bodily harm and assault, malicious injury to property, rape, incest, attempted rape, etc.

DOMESTIC VIOLENCE

Rehabilitation Programmes for Perpetrators

2.216 The Department of Justice, through the Gender Directorate, forms part of a multi-disciplinary team (formulated in March 2000) which is looking at the development of rehabilitation programmes for perpetrators. This project was born out of issues arising from the implementation of the Domestic Violence Act. It aims to develop guidelines for rehabilitation programmes with specific focus on perpetrators of domestic violence.

Shelters for Victims of Domestic Violence Abuse

2.217 In response to the duties laid down by the Domestic Violence Act, 1998, a task team was formulated during March 2000 by the Department of Social Development, to address the issue of insufficient number of shelters for abused women in the country. The reason why this issue arose from the Act, is that it stipulates that the police must assist an abused person (in domestic violence cases) to find accommodation at a shelter.

2.218 The Department of Justice's role through the Gender Directorate entails cooperating in the development of minimum standards for the establishment of a shelter and assisting in successful establishment and running of these shelters, through ensuring that the necessary services relating to our line function (such as assistance in dealing with divorce or maintenance matters, legal advice, etc.) are delivered to the persons staying at a shelter.

16 Days of Activism on No Violence against Women and Children.

2.219 The 16 Days of Activism seeks to highlight the issue of violence against women, while underscoring an integrated response by government at all levels, including local government and civil society. The activities are organised under the National Action Plan on Human Rights (NAP) as part of the national activities to commemorate the Universal Declaration on Human Rights.

2.220 The 16 Days has been celebrated annually since 1998. The year 2000 celebration of 16 Days of Activism on Violence Against Women focused on raising awareness on the Domestic Violence Act, Maintenance Act and Recognition of the Customary Marriages Act (RCMA). The RCMA was highlighted as it came into force in November 2000.

DEVELOPMENT OF A SOUTH AFRICAN VICTIMS' CHARTER

2.221 In 1998 a draft Victims' Charter was developed and submitted to the Minister for approval. He indicated then that more research and consultation should be conducted before the draft is approved and circulated for comment to stakeholders. After extensive consultation with the relevant role-players such as SAPS, the Departments of Social Development, Health, Correctional Services, the NDPP and the SALC, a draft Charter has been developed for consultation with the public, NGOs and the academic sector. This consultation process will take the form of a 3-day workshop to be held in September 2001.

2.222 The Draft Charter, as it stands at the moment, is based on basic principles regarding victims' rights that are internationally acknowledged. Ultimately, the draft is as far as possible based on addressing the needs and experiences of South African victims/survivors of crime. The Charter contains the following victims' rights (that have been declared by most countries as representing the core or basic rights):

- The right to be treated with fairness and with respect for your dignity and privacy
- The right to offer information
- The right to receive information
- The right to protection
- The right to compensation
- The right to restitution
- The right to assistance

2.223 This Charter is divided into four parts. The first part outlines the rights and standard of services to which a victim is entitled to. The second part briefly explains the processes in the criminal justice system and what will happen to a victim if he or she has fallen prey to a crime. Part three lists the rights and gives an outline of the treatment and standard of services a victim can expect from the various role players in the criminal justice system. Part four outlines the complaint procedures and also includes an address list of the relevant service providers.

ENGENDERING e-JUSTICE

2.224 Ensuring access to justice for all South Africans has been identified as a key priority by the Department of Justice and Constitutional Development. This challenge is being taken up by means of a broad range of interventions, some focusing on legislative reform, while others are geared towards building organisational capacity and improving service delivery. Two important initiatives in this regard are the Gender Policy Statement (GPS), launched in 1999, and the e-Justice Programme, initiated in 2000.

2.225 While addressing the issue of access to justice from different perspectives, these two initiatives are both designed to make substantial contributions to the transformation of justice service delivery. At a policy level, both are rooted in the common purpose of bringing about equity and efficiency in the justice system. However, at an implementation level, it has been difficult to establish synergy between the interventions and activities of the e-Justice Programme and the Gender Directorate, which is tasked with the implementation of the GPS. This difficulty stems from the general challenges inherent to intradepartmental cooperation and is further augmented by the divergence between information technology and gender, as disciplines. So while these initiatives are poised to address a common set of problems, they generally do so from diverse paradigms and adopt very different vocabularies in the analysis, planning and implementation of project strategies.

2.226 The e-Justice/Gender Project Proposals contained in this document have been developed to diminish the obstacles described above, and to initiate a process of co-ordination and synergy between the work of the Gender Directorate and the e-Justice Programme.

2.227 The Engendering the e-Justice Programme has 22 project proposals, which have been clustered around 8 strategic intervention points. The area of family law was chosen as a plausible arena to focus these interventions. This choice resonates with the priorities identified in the GPS, and as one of the core functions of the Department, it falls within the broad operational scope of the e-Justice Programme. The selected strategies represent eight feasible responses to the question: How can information technology be used to improve the delivery of family law-related services in the justice system?

(a) Project 1, the e-Justice/Gender Coordination Project, lies at the core of this intervention. This project will seek to establish and maintain continuous cooperation and synergy between the Gender Directorate and the e-Justice Programme. It will also include the over-arching management and leadership of all of the other projects undertaken as part of the e-Justice/Gender initiative. As such, this project represents the central hanger around which all the other projects will be hooked.

(b) Project Cluster 2, the Sectoral Communication Projects, focuses on the information exchange needs of family law service providers both within the Department and with external role-players. It contains four subprojects, which seek to ensure and/or establish appropriate systems links for the delivery of maintenance, divorce, domestic violence and services to children in need.

(c) Project Cluster 3, the Workflows Projects, builds on existing initiatives with the e-Justice Programme by providing some of the essential groundwork needed for the future automation of family law service delivery. This project cluster contains three subprojects, and works towards the standardisation of work procedures and forms in the provision of maintenance, divorce and domestic violence services.

(d) Project Cluster 4, the IT Capacity Building Projects, aims to ensure that family law service providers in the justice system have the skills and confidence needed to make optimal use of the information technology they have at their disposal. A set of status reports are produced pertain-

ing to computer literacy and work culture in family law-related services. The three subprojects in this cluster also undertake change management workshops, staff training and the development of performance management systems.

(e) In Project Cluster 5, the User Education Projects, web-driven resources are developed to provide user-friendly and accurate information about family law-related rights, policies and procedures. Secure information kiosks in various courts provide access to the information, as well as links to other service providers. The project cluster also includes a focused youth education programme on family law, making use of interactive multi-media educational resources.

(f) Project Cluster 6, the Targeted User Support Projects, addresses the problems relating to the primary information exchange between family law service providers and disadvantaged or functionally illiterate citizens approaching the justice system for assistance. The three subprojects in this cluster result in a set of dynamic and uniquely South African solutions to guide primary information exchange in maintenance, divorce and domestic violence matters.

(g) Project Cluster 7, the Rural Services Projects, commences with an undertaking of vital field research on the status of family law service delivery in rural magisterial districts of seven provinces in South Africa. This examination focuses on the use of customary and or civil law remedies in these areas. The three subprojects in this cluster each produces a set of well-considered recommendations regarding the role of information technology in improving family law service delivery in rural areas.

(h) Finally, Project 8, the Tracing Project, aims to facilitate access to crucial information that will assist decision-making in maintenance matters. It will offer digital tracing and economic profiling services to all maintenance courts in the country for one year. At the end of this period, a thorough evaluation report will be produced, as well as a financial proposal for the sustainable management of the services over the long term.

2.228 Changes to be introduced within the Department in its role as an employer and in its decision-making systems and practices:

- Emloyment equity
- Sexual harassment
- Responsive Dispute Resolution Mechanism
- Equitable distribution of state contracts
- Involving Women in Decision-Making

2.229 The Gender Directorate is currently conducting research on the position and work-related needs of women. However, the questionnaires have been sent to both men and women in order to be able to do a comparative analysis. The research entails head counting, profiling of women and soliciting their views on interventions that could empower them. A qualitative research will follow. The analysis of the research report will assist the Gender Directorate to advise the Department accordingly on gender equity.

Institutional changes aimed at entrenching gender equality analysis and creating a climate conducive to successful policy implementation.

2.230 These changes, which include monitoring and review, are:

- Entrenching of Gender Equality Analysis
- The Gender budget
- The Judiciary and the judicial system
- International and intersectoral cooperation

EQUALISING OPPORTUNITIES WITHIN THE JUDICIARY

2.231 The Gender Directorate, with the assistance of the European Union Foundation for Human Rights, will be conducting research into the nature of current obstacles to women's participation in the judiciary. This will involve identifying discriminatory policies and practices, whether direct or indirect, and drawing up a policy framework on measures to be adopted to remove such obstacles or discriminatory practices. These measures will also aim to accelerate the achievement of equitable representation of women and other historically excluded groups in the judiciary, as required by the Constitution.

ENTRENCHING GENDER EQUALITY ANALYSIS

2.232 The Gender Directorate has entered into a partnership with Technikon South Africa for the purposes of conducting research on gender and justice in order to be able to advise the Department on mainstreaming gender.

2.233 Finally, the Department of Justice is highly regarded by NGOs and Academia, due to the Gender Directorate's involvement of civil society in the Gender Directorate's projects, the partnerships in research and facilitation of access to information within the Department.

THE DIRECTORATE OF PERSONNEL UTILISATION

2.234 The Directorate of Personnel Utilisation is instrumental and vital in the process of transformation.

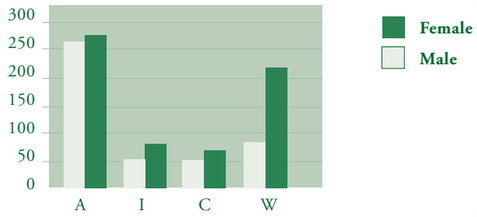
2.235 New policies, strategies and practices have been developed in accordance with the Public Service Management Framework. The new framework is about changing the way we work in order to provide better services to our customers, both within and outside the Department. The focus is on delivering services.

2.236 The Department actively joined in with the DPSA's National Minimum Information Requirements project and compiled a questionnaire, which was circulated to all offices in the Department for completion by all employees. The purpose of this exercise was to update the PERSAL system in an attempt to improve the quality of the information the government has on its employees and to develop a well functioning Personnel Information Management System.

SUBDIRECTORATE: PROMOTIONS AND RECRUITMENT

2.237 Resolution 7 of 2000 indicated that the old pay progression system would expire on 30 June 2001. Negotiations on a new system formed part of the 2001 Improvement in conditions of service discussions. Departments have a period of four years to update all promotions under the old system. During the previous financial year all qualifying cases up until 30 June 2001 were identified and during this year Personnel Assessment Questionnaires were requested for qualifying cases on a monthly basis. A letter requesting Heads of Office to identify all employees in all ranks whom they view as possibly out of turn- or preferentially promotable, as this could result in a promotion date before 1 July 2001, was also circulated. Offices responded in a positive way and many cases have been finalised.

2.238 Promotions finalised during this year: 995
Promotions: 1/6/2000 - 31/7/2001



2.239 A total of 154 promotion posts on various levels were advertised for which about 15 800 applications were received.

SUBDIRECTORATE: APPOINTMENTS AND MOBILITY

2.240 The Minister for Public Service and Administration has determined that the salaries of senior managers and senior professionals on salary levels 13 to 16 be adjusted to the all-inclusive flexible remuneration package. All senior managers and senior professionals in the Department were translated to the Senior Management System with effect from 1 January 2001.

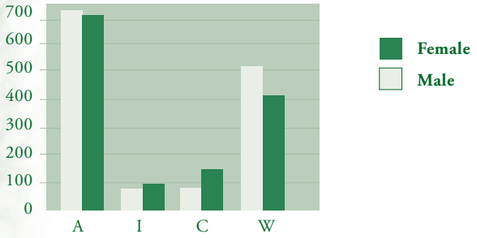
2.241 The Subdirectorate assisted the offices of the National Director of Public Prosecutions and the Public Protector in becoming independent in as far as their personnel functions are concerned.

2.242 A task team has been appointed to investigate a better salary dispensation for all legal personnel.

2.243 Appointment statistics: 1 July 2000 to 30 June 2001

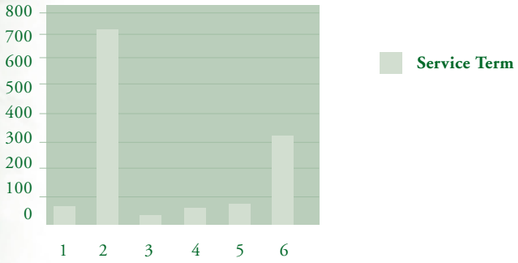
African		Indian		Coloured		White		Total	
M	F	M	F	M	F	M	F	M	F
698	687	70	51	69	165	512	319	1349	1222

Appointment statistics: 1 July 2000 to 30 June 2001



SUBDIRECTORATE: SERVICE BENEFITS
2.244

Death (1)	Resignation (2)	Transfer (3)	Retirement (4)	Discharge (5)	Other (6)	Total
79	705	8	49	65	341	1247



2.245 The Minister for Public Service and Administration approved a new leave system for the Public Service, which was implemented with effect from 1 July 2000. The latter resulted in the auditing of all employees' leave records.

THE DIRECTORATE OF EMPLOYEE RELATIONS

2.246 The Directorate: Employee Relations has two subdirectorates, *viz* labour relations and conduct.

2.247 The aim of the Directorate is to promote sound labour relations and manage matters relating to the maintenance of discipline.

2.248 The Directorate has undertaken a number of activities which can be reported as follows:

(a) Following the introduction of the new dispute resolution procedure for the Public Service during the period reported upon, the need arose for the holding of a workshop in this regard. Approximately 20 labour relations officers attended the workshop on the new dispute resolution procedures.

(b) During the period under review there was no industrial action in the Department.

(c) The Departmental Bargaining Council has finalised a number of matters during the period under review, *viz*:

- Non-provision of uniforms: Female Security Officers: Office of the Registrar of the High Court of South Africa
- Anti-corruption strategy
- Establishment of a task team dealing with interpreters' matters

(d) Grievances/representations are as follows:

TYPE OF GRIEVANCE/REPRESENTATIONS	PERIOD 1/7/1999-30/6/2000	PERIOD 1/7/2000-30/6/2001
Number of grievances dealt with in terms of the rules for dealing with complaints and grievances of officials in the Public Service	72	23
Number of representations in terms of section 18 (1) of the repealed Public Service Labour Relations Act, 1994, read with item 15(l) of schedule 7 of the Labour Relations Act,	115	10

CONDUCT

2.249 Various activities were carried out during the year under review, *viz*:

- Project on the finalisation of outstanding misconduct matters ended during the year reported (i.e 2000/07/28).
- Thirteen training sessions countrywide on anti-corruption and fraud policy, code of ethics and business conduct as well as managerial responsibility i.r.o misconduct were held.

2.250 The following statistics are noteworthy:

	99/00	00/01
1. Number of cases from previous years (i.e cases brought forward)	392	385
2. Number of new cases (i.e committed and recorded during current year)	440	294
Total number of cases i.r.o 1 and 2 above	832	679
Number of cases finalised		
Dismissals:		
• Due to corruption-related cases, e.g fraud, misappropriation, embezzlement, etc		
• Due to other forms of misconduct	29	68
Other sanctions i.t.o Public Service Act, 1994 (PSA, 1994) and New Disciplinary Code (Resolution 2 of 1999)		
• Caution or reprimand (written and final written warnings)	148	118
• Transfer or employment additional to establishment	0	0
• Reduction of salary or grade or both	2	4
• Fine	11	12
• Resignation (as directed/to avoid disciplinary action)	29	26
• Postponement of decision	0	0
• Suspension without pay (sanction i.t.o Res.2)	3	10
• Cases withdrawn	101	149
• Counselling	5	7

	99/00	00/01
• Combination of sanctions	1	0
3. Total finalised (*) * Transfer to year column	329*	436*
4. Number of outstanding cases - 3 minus 4 above	503	243
SUSPENSIONS (PRECAUTIONARY)		
1. Number from previous years	87	
2. Number during current year:		
• With payment of full emoluments	22	76
• With payment of partial emoluments	0	0
• Without payment of emoluments	17	15
• Transfer to year column		
3. Number lifted during current year i.r.o 1 and 2 above		
1. Number of suspensions as at end of current year (1+2 and 3 above)		
ABSCONDMENTS AND RE-INSTATEMENTS		
1. Number of employees who absconded during current year	14	22
2. Number of employees re-instated (of those in 1 above)	0	6
3. Number of employees re-instated i.r.o abscondments during previous years	0	0
COMMENDATORY REMARKS		
2 Commendatory letters (complimenting employees for good performance/conduct)	28	10

THE CHIEF DIRECTORATE OF JUSTICE COLLEGE

2.251 The primary task of Justice College is practice-oriented functional, legal training of magistrates, prosecutors and other officials in the employ of the Department. Classroom tuition is further presented to officials attached to Deed Registries and enrolled with the Technikon SA for the National Diploma in the Registration of Deeds. The College also provides legal training in a variety of legal subjects to officials of other government departments.

FINANCIAL REPORT FOR THE 2000/2001 FINANCIAL YEAR

Justice College Operational Budget

2.252 Justice College's initial operational budget allocation for the 2000/2001 financial year amounted to only R 11,857,505. This allocation represented a 41% reduction on this Office's required input for that financial year, and a 40% reduction on this Office's operational budget allocation for the 1999/2000 financial year.

2.253 As result of this budget cut, and particularly budget cuts under the Minor Accounts Subsistence Expenditure and Public Transport, this Office would have been obliged to cancel most of its Work Programmes, which would have in turn resulted in the suspension of most functional judicial training in the Department for the period 1 June 2000 to 31 March 2000.

2.254 An additional amount of R2 million was, however, subsequently transferred from the budget of the Magistrates Commission to the Justice College budget, facilitating not only the continuation of this Office's annual Work Programme, but also the maintenance of day-to-day operations at Justice College. Justice College fully utilised its budget of R 13,857,505 for the 2000/2001 financial year.

Training of the Judiciary (Top-Sliced Budget)

2.255 Due to the discontinuation of NCPS funding and the fact that the annual Justice College operational budget does not provide for the funding of additional training programmes, this Office indicated during the MTEF process that funds would be needed to continue with the training of aspirant magistrates and aspirant prosecutors.

2.256 An amount of R6 million was subsequently top-sliced in the departmental budget for the 2000/2001 financial year for "Training of the Judiciary", including the training of aspirant magistrates and aspirant prosecutors.

2.257 These programmes proved to be a resounding success and Justice College fully utilised the additional R6 million top-sliced in the departmental budget.

Material Losses and Unauthorised Expenditure

2.258 During May 2000 three hard-disk drives to the value of R3000-00 were stolen from computers at Justice College. The incident was reported to the National Office, which has yet to decide if material losses in this regard are to be recovered or written off.

FUNCTIONAL TRAINING

Seminars for aspirant regional magistrates

2.259 It was expected of aspirant regional magistrates to attend a seminar at Justice College before their suitability for appointment as regional magistrates were determined. Due to a change of policy pertaining to appointment criteria, the presentation of such seminar was suspended.

.

Seminars for aspirant magistrates

2.260 In terms of regulation three of the Regulations for Judicial Officers in the Lower Courts, 1993, published in terms of section 16 of the Magistrates Act, 1993 (Act 90 of 1993) in Government Notice No R361 of 11 March 1994, no person shall be appointed as a magistrate unless he or she has, *inter alia*, successfully completed an applicable course at Justice College.

2.261 During the period under review two courses of eight weeks' duration, of which four weeks of each seminar was devoted to criminal court training, were presented to 111 aspirant magistrates.

Seminars for criminal court magistrates

2.262 During the period under review eight seminars were presented to a total of 165 magistrates on a decentralised basis. *Capita selecta* of Criminal Law, Law of Evidence, Criminal Procedure, Constitutional Law and Criminal Law were presented.

Seminars for regional court magistrates

2.263 Forty Regional Court Magistrates from all over the Republic attended a refresher seminar.

Social Context Seminars

2.264 All lecturers of Justice College have undergone training in social context. The training took the form of a two-week long seminar presented by the Law, Race and Gender Unit of UCT. This was followed up with a 4-day workshop and examination. Social context training is incorporated in all training currently presented by lecturers of the College.

Medico-Legal training for magistrates

2.265 A module on medico-legal aspects was introduced into selected seminars for magistrates, and lectures were presented during a number of seminars for magistrates.

Introductory civil court magistrates seminar

2.266 One such seminar was hosted during the period under review. A total audience of 17 magistrates was reached. These seminars are presented to duly appointed magistrates seeking refresher courses. The emphasis is on substantial and procedural law, evidence and human rights.

Intermediate civil magistrate's seminar

2.267 One such seminar was hosted during the period under review. A total audience of 31 magistrates was reached. This seminar is presented to duly appointed magistrates seeking refresher courses. The emphasis is on substantive and procedural law, evidence and human rights. The duration of the course is four weeks.

Seminars for aspirant civil court magistrates

2.268 Four seminars of four weeks' duration each were presented. These were attended by 115 candidates. The training is of an introductory nature. Civil procedure and evidence are accentuated far more than substantive law. The intention is that candidates having successfully completed the course should be able to deal with the day-to-day functioning of a civil court. The complexities pertaining to a civil court are reserved for the advanced courses.

Training for taxing masters

2.269 Advanced Taxation Course - Magistrates' Courts: The course is intended for clerks of the civil court who are

experienced taxing masters and have already attended the basic clerks of the court course. One course was presented for one week and 23 officials attended.

Courses for Registrars of the High Court

2.270 Two courses were presented: one in default judgments and one in the taxation of bills of costs in the High Courts. The former two courses lasted for a week each; the taxation course lasted for three weeks and culminated in an examination which candidates are required to pass to receive a certificate of successful completion. The first-mentioned course was attended by 23 candidates. Nine officials attended the last-mentioned course.

Training of maintenance clerks and officers

2.271 Seven decentralised courses and seminars were presented to maintenance clerks and officers throughout the Republic. A total of 175 officials attended these courses. The aim of these courses is not only to equip the officers/clerks to efficiently deal with maintenance matters, but also to sensitise them to the needs of the public in order to render a more "user-friendly" service to the public.

Seminars for state advocates

2.272 One seminar for state advocates was presented during the period under review. Twenty advocates attended this seminar. The aim of this seminar was to train advocates in all aspects of the criminal justice process with special reference to their working environment and to fundamental rights.

Prosecutors courses

2.273 The following courses were presented to prosecutors:

(1) Fifteen one-week courses were presented to a total of 363 prosecutors on a decentralised basis at various centres throughout the Republic.
(2) One one-week course was presented to a total of 50 prosecutors on an advanced level.
(3) Five one-week Trial Advocacy Workshops were presented by Justice College to a total of 72 prosecutors.
(4) One one-week course on Administrative Justice was presented to a total of 20 state advocates.

Courses for Master's Office personnel

2.274 Attendance of the appointment, securities and accounts course (ASA course)/junior estate controller's course, senior estate controller's course and the course for aspirant assistant masters are compulsory for promotion purposes. During the period under review one appointment, securities and accounts (ASA\ junior estate controller's course, two courses for clerks in the Master's Office, two senior estate controller's courses and one aspirant master's course were presented.

2.275 Decentralised training was also presented to officials of the Masters' Offices in Pietermaritzburg, Kimberley, Cape Town, Bloemfontein and Pretoria.

Courses for clerks of the civil court

2.276 One course of two weeks' duration was presented. It attracted an audience of 43 officials. The course deals with the duties and functions of a clerk of the civil court. Legal aspects such as default judgments, taxations of costs, grant of warrants, etc. are dealt with.

Courses for clerks of the criminal courts

2.277 The aim of these courses was to train clerks of the criminal courts in all their administrative tasks. During the period under review seven one-week courses were presented to 130 clerks of the criminal court.

Training of court interpreters

2.278 Aspirant court interpreters are required to pass a language proficiency test taken down by a chief court interpreter, in consultation with an inspector of court interpreters. After having passed the test, the candidate is appointed temporarily to do interpreting work in court under the supervision of a chief court interpreter. A further test is taken down by an inspector of court interpreters and, after having passed that test, the candidate is appointed on probation for twelve months. Within this period, the candidate must attend a course at Justice College.

2.279 During the period under review the College presented two five-week courses to inexperienced interpreters. During the first three weeks of these courses, classroom tuition is presented on certain legal subjects, on the meaning and interpretation of terminology peculiar to court interpretation and on proficiency in the various official languages. Upon completion of the classroom tuition, the candidate receives two weeks' practical training in court under supervision of an inspector of court interpreters. Thereafter the interpreter resumes duty at his or her station and is visited by an inspector of interpreters on a regular basis during inspection tours. During these visits, individual in-service training is given. A total of fifty-seven interpreters attended these courses.

2.280 During the period under review, two courses on an advanced level were presented to 53 interpreters. These courses lasted for two weeks each.

2.281 During 1999 three of the trainers of interpreters were suspended due to allegations of fraud. To continue with the training of interpreters countrywide, we decided to train a number of chief interpreters from various offices as trainers to help with the presentation of interpreter's courses . These emergency measures paid off and we currently have a group of sixteen chief interpreters who underwent training as trainers who are currently being utilised as trainers in their respective provinces.

Training in human rights

2.282 Training in human rights is included in all courses presented at or by Justice College.

2.283 During the period under review six three-day courses on basic human rights were presented to a total of 99 clerks, interpreters and paralegals on a decentralised basis. Since 1999 this course has also been included in the training for disciplinary hearings at both local and decentralised level.

Courses for the Extension of Security of Tenure Act

2.284 A seminar in the Prevention of Illegal Evictions Act and the Extension of Security of Tenure Act was presented. The intention is to apprise all attendees of the contents of the Act and to sensitise them in the administration hereof. One such course was presented, reaching an audience of 28.

Training of Commissioners of Child Welfare

2.285 Three decentralised courses were presented to commissioners of child welfare throughout the Republic. A total of 47 magistrates attended these courses. The aim of the courses is not only to equip the Commissioners to effectively deal with matters pertaining to the Child Care Act, but also to sensitise them to the needs of children. Three decentralised courses were cancelled due to budgetary constraints experienced by offices.

Courses for Clerks of the Family Courts

2.286 Two courses of one week's duration each were presented and reached an audience of 20 officials.

Course for Clerks of the Small Claims Court

2.287 The aim of these courses is to train the clerks of the small claims court in all their administrative tasks, as well as the procedure they should follow prescribed by the relevant Act. During the period under review three one-week courses were presented to 58 clerks.

State Attorney's Course

2.288 Two courses were presented for state attorneys during this period. The first was a national course attended by 37 officials. This represents the first ever formally arranged and structured training for state attorneys by Justice College. The results were overwhelmingly favourable. A second general training course was presented on a decentralised basis in Durban. An audience of 17 attorneys was reached. In addition, two courses in Administrative Justice and Access to Information were presented for state attorneys, reaching 30 and 14 attorneys respectively. The courses were each of a week's duration.

Mediation Training

2.289 Two lecturers attended a diploma course in Mediation and Arbitration skills through the Arbitration Foundation of South Africa (AFSA) and the University of Pretoria. Justice College is currently seeking donor funding and hopes to commence presentation of lectures in alternative dispute resolution during the 2002 training year.

International Child Abduction Conference

2.290 Based upon The Hague Child Abduction Convention, of which the Republic of South Africa is a signatory, a practical training course was presented during January 2001 for a period of three days. The audience, which included judges, magistrates, attorneys, advocates, prosecutors, academics, etc., numbered 170 delegates hailing from virtually all African countries and several European countries.

Training to officials of other departments

2.291 The lecturers of the Subdirectorate: Deeds Training, attached to the Office of the Chief Registrar of Deeds, are for practical reasons housed at Justice College to cater for the training needs of deeds' office personnel and also to assist Justice College in their specialised field of the law.

2.292 During the period under review the Subdirectorate presented the following functional courses:

(1) One Deeds Controller Course to 9 officers attached to the Deeds' Registry of Botswana.
(2) Two Deeds Registration Course Level IV courses to 35 attendants
(3) Eight decentralised Access to Information courses were presented to officials of Deeds Offices and a total of 64 officials attended these courses.

2.293 Over and above the functional courses, the Subdirectorate also presented finishing courses for the First, Second and Third Year students enrolled for the National Diploma in Registration of Deeds. A total of 87 students attended the finishing courses.

2.294 Justice College lecturers are regularly involved in presenting courses or lectures at the request of other gov-

ernment departments or bodies. Examples of such training presented during the period under review are, *inter alia*, the following:

(a) Due to an increased demand for basic legal training of officials of other departments who act as prosecutors and presiding officers at disciplinary hearings, various courses to meet this demand were presented by Justice College in Pretoria and on a decentralised basis. In this regard lectures have been presented to officials of various government departments. A total of 23 such courses were presented to a total of 920 officials.
(b) Courses were also presented to probation officers and intermediary officers of the Department of Welfare.
(c) Lectures were presented to persons attending the Youth Offender School organised by the Department of Welfare.
(d) Lectures were presented to various Branches of the South African Police Services on a variety of legal issues.
(e) Five courses were presented to the Special Investigative Fraud Unit of the South African Revenue Services(SARS). The purpose of the course is to train the members of the Unit with regards investigations and preparation of cases for trial. One hundred and twenty officials attended these courses.

Fast-tracking of training of prospective prosecutors

2.295 During 1997 Justice College facilitated the fast-track training of a prospective prosecutors programme. This involved the election and appointment of a number of aspirant prosecutors on a contractual basis to undergo an intensive in-service training programme of 12 months' duration under the supervision of 12 monitoring tutors at various magistrates' offices. The training programme was compiled by Justice College. After completion of the programme, the candidates are evaluated and if found to be suitable, permanently appointed as prosecutors in the Department. This was a special project financed by the NCPS.

2.296 During the period under review the College continued with this programme and 120 aspirant prosecutors partook in this programme.

Legislative Drafting

2.297 Justice College presented decentralised training in legislative drafting during November/ December 2000 for the Cape Town Parliamentary drafters. The course lasted for one week. It was attended by 17 legislative drafters. A further five courses were presented to 98 officials of various other Departments who sought training in this field. Compare also the comments in paragraph 2.304(e) in this regard.

Training on Administrative Justice and other related Legislation

2.298 Training has been offered by the College on legislation relating to equality, administrative justice and access to information. During the period under review 17 courses, on both national and decentralised basis, have been presented by this institution to 272 attendants, being judges, magistrates, state attorneys, clerks, prosecutors and other departmental jurists.

Blitz on Domestic Violence

2.299 Justice College presented decentralised training in this regard in 13 different locations throughout South Africa and a total of 352 officials attended. These numbers comprise magistrates, prosecutors and clerks of the court. The aim was to appraise all attendants of the sweeping legislative changes hereanent and to render them *au fait* with the mechanics of this very controversial aspect of criminality.

Damelin Train-the-Trainer

2.300 A one-week course was presented at Justice College and attended by 23 lecturers. It culminated in an assignment and written examination. The aim of this training was to build capacity amongst the ranks of lecturers and to expose them to new teaching methodology.

Rules Board for Courts of Law

2.301 Justice College was approached by Constitutional Judge Ngcobo to assist with the harmonisation of the Magistrates' and High Court Rules of Court. The work is pending.

ACADEMIC TRAINING

National Diploma in the Registration of Deeds

2.302 The National Diploma in the Registration of Deeds is a three-year legal qualification, which may be enrolled for on a correspondence basis at the Technikon SA. Courses of one month's duration in respect of each of the three years are presented at Justice College for officers in the employ of Deeds Registries in South Africa.

SPECIAL PROJECTS

2.303 Justice College, with the assistance of foreign organisations and governments, is involved with a number of initiatives with a view to capacity building. The following lists of special projects which involve training in one form or the other, were facilitated by Justice College during the period under review, with the aid of the mentioned organisations and governments.

2.304 Projects funded by Donors and assisted by other Institutions:

(a) Appointment of tutors for the training of magistrates and prosecutors (USAID).
(b) Training on the prohibition of illegal evictions and security of tenure (EU, assisted by CALS).
(c) Medico-Legal Training (EU, assisted by the Independent Medico-Legal Unit, University of Natal, Durban).
(d) Mediation Training (Netherlands).
(e) Training on Legislative Drafting (Commonwealth Secretariat). The programme is aimed at capacity building at Justice College in terms of providing training in legislative drafting. At the beginning of December 2000, Ms Tsitsi Chitsiku was seconded to Justice College for a two-year period. She is currently busy tutoring 8 selected lecturers in legislative drafting. Ms. Chitsiku has also accompanied the Chief State Law Adviser in visiting all the various government departments and assessing their legislative drafting components and determining training needs.
(f) Training on Violence Against Women (Danish). The following NGOs have been involved: ADAPT, CSVR, NICRO, NIPILAR and NISAA.
(g) Training on The Hague Convention on International Child Abduction (British).
(h) Appointment of tutors for the training of prosecutors (British High Commission).

2.305 Projects funded by the Canada-South Africa Justice Linkage Project:

- Report on the Education of Judicial Officers in South Africa
- Constitutional and HR Law
- Judgment Preparation
- Judicial Ethics, Independence, Accountability
- Mentoring Programme for Magistrates
- Bench book for Civil Court Magistrates
- Bench book for Criminal Court Magistrates
- Manual for Prosecutors
- Prosecutors' Handy Hints Manual
- Interpreters' Code of Conduct
- Legal Excellence Course for members of previously disadvantaged Groups (NADEL and BLA)
- Intensive Social Context Training for Magistrates
- Intensive Social Context Training for Prosecutors
- Intensive Social Context Training for Interpreters
- Training on Child Law
- Magistrates Training - ARMSA Annual Meeting
- Magistrates Training - JOASA Annual Meeting
- Train-the-Trainers

2.306 Projects funded and supported by the United Nations Office of the High Commissioner for Human Rights: Human Rights Institutional Strengthening Projects:

- Social context issues in judicial training: The integration of a social context approach with substantive course content
- Social context issues in judicial decision-making: Panelist for intensive courses
- National School for Judges and Prosecutors (France)
- Design of an impact assessment tool for Justice College
- Appointment criteria for magistrates
- Promotion of Administrative Justice Act, Promotion of Access to Information Act, and Promotion of Equality and Prevention of Unfair Discrimination Act
- Mission by the UN Special Rapporteur on the Independence of Judges and Lawyers, May 2000
- Human Rights in the Lower Courts: Development of note and joint certification course with the Centre for Human Rights, UP

Project funded by the United Nations Drug Control Programme (UNDCP)

2.307 An agreement has been signed with the UNDCP and the Judicial College of Zimbabwe to put into place an effective structure for legal functional training for judges, magistrates, prosecutors and investigators in the subregion to familiarise participants with international and regional issues associated with the specialised legal concerns of drug control. In terms of this agreement courses will be presented to officials from 14 SADC countries. One course was presented to investigating officers and prosecutors during the period under review and a total of 65 officials from various countries attended the seminar.

National School for Judges and Prosecutors, (Bordeaux, France)

2.308 An exchange programme has been established between Justice College and the National School for Judges and Prosecutors. In terms of this programme, which is funded by the French Embassy, managers and educators from the two institutions visit each other's institutions to exchange ideas on the principles which determine the design of the pre- and post appointment *curricula*, selection of students, the use of the most effective teaching methods

Human resourses Branch 26/09/2001 12:28 Page 69

for professional learning, impact assessment tools and law reform issues.

2.309 The French Embassy is also funding study visits for leading South African prosecutors and judges concerned with training to the National School for Judges and Prosecutors in Bordeaux. Two such study tours have already taken place. This is an ongoing project.

2.310 Flowing from the initial cooperation agreement, the French Embassy indicated their willingness to fund certain training activities initiated by Justice College and the National Director of Public Prosecutions. These will be implemented during the last quarter of 2001.

USAID: Criminal Justice Institutional Strengthening Project

2.311 Justice College has submitted a business plan to USAID for the appointment of tutors for magistrates and prosecutors who are operating without any training. They are predominantly based in small rural courts in the former TBVC-states. Funding has been received and four tutors for prosecutors and four tutors for magistrates have been appointed. Training commenced in terms of this project on 1 April 2001 and will be of six months' duration.

British High Commission Training Programme

2.312 Justice College has submitted a business plan to the British High Commission for the appointment of tutors for prosecutors who are operating without any training. They are predominantly based in small rural courts in the former TBVC-states. Funding has been received and seven tutors have been appointed. Training commenced in terms of this project on 1 April 2001 and will be of twelve months' duration.

SUMMARY OF STATISTICS

2.313

Functional Training	1999-2000	2000-2001
Regional Court Magistrates		
- Aspirant regional court magistrates	-	-
- Officers	-	-
- Refresher Course	1	1
	35	40
Magistrates (Criminal Court)		
- Aspirant magistrates	2	2
- Officers	137	111
- Ordinary magistrates courses	1	-
- Officers	9	-
- Decentralised magistrates courses	9	8
- Officers	129	165
- Magistrates: Maintenance courses	9	-
- Officers	190	-
Magistrates (Civil Court)		
- Aspirant magistrates	4	4
- Officers	127	115
- Advanced civil magistrates course	1	-
- Officers	38	-
- Introductory civil magistrates course	-	1
- Officers	-	17

Functional Training	1999-2000	2001
- Intermediate civil magistrates course	1	1
- Officers	61	31
Prosecutors		
- Ordinary courses	3	-
- Officers	140	-
- Decentralised courses	8	15
- Officers	226	363
- Advanced courses	1	1
- Officers	77	50
- Seminar for state advocates	1	1
- Officers	46	20
- Trial Advocacy courses	1	5
- Officers	23	72
- Administrative Justice Workshops	1	1
- Officers	22	20
Clerks of the Court (Civil)		
- Courses	2	1
- Officials	85	43
Clerks of the Family Court		
- Courses	3	2
- Officials	43	20
Clerks of the Criminal Court		
- Courses	4	7
- Officials	90	130
Commissioner of Child Welfare		
- Courses	3	3
- Officers	42	47
Courses for officers in the Master's Branch		
- Courses for junior estate controllers	2	1
- Officials	28	22
- Courses for aspirant assistant masters	1	1
- Officials	10	16
- Courses for senior estate controllers	1	2
- Officials	15	29
- Courses for clerks of the Masters Office	1	2
- Officials	11	26
Decentralised training for staff of Masters Office		
- Courses	7	5
- Officials	41	55
Taxing Masters Training		
- Courses	1	1

Human resourses Branch 26/09/2001 12:29 Page 71

Functional Training	1999-2000	2001
- Officials	23	23
Courses for registrars of the High Court		
- Taxation course	1	1
- Officials	25	9
- Default judgments	2	1
- Officials	50	23
Course for maintenance clerks and officers		
- Courses	20	7
- Officials	486	175
Courses for court interpreters		
- Courses	7	6
- Officials	77	126
Training of clerks, interpreters and paralegals in human rights		
- Course	9	6
- Officials	384	99
Courses for the Extension of Security of Tenure Act		
- Courses	9	1
- Officials	280	28
Courses for clerks of the small claims court		
- Courses	1	3
- Officials	25	58
State Attorney's Course		
- Courses	2	2
- Officials	24	54
Administrative Justice for State Attorneys		
- Courses	-	2
- Officials	-	44
International Child Abduction Conference		
- Courses	-	1
- Officials	-	170
Courses for outside institutions		
Deeds Registries		
Deeds Registration Course		
- Level VI	3	2
- Officers	33	35
Deeds Controllers Course		
- Botswana Deeds Personnel	1	1
- Officers	11	9

Functional Training	1999-2000	2001
Access to Information Course		
- Decentralised	-	8
- Officers		
-	64	
Academic Training		
National Diploma in Deeds Registration Law		
- 1st Year	1	2
- Officers	23	51
- 2nd Year	1	1
- Officers	17	15
- 3rd Year	1	1
- Officers	37	21
Courses on misconduct for various departments		
- Courses	7	23
- Officials	241	920
Probation Officers Courses		
- Courses	1	2
- Officials	23	50
Courses for Youth Offender School		
- Courses	10	9
- Attenders	120	113
Intermediary courses for Dept. Welfare		
- Courses	2	2
- Officials	78	90
Courses for SAPS: Detective Academy		
- Courses	23	9
- Officials	500	216
Courses for SARS		
- Courses	5	5
- Officials	253	120
Legislative Drafting		
- Courses	3	6
- Officials	37	115
Aspirant Prosecutors' Courses		
- Courses	2	2
- Officials	120	120
Administrative Justice Training		
- Courses	1	17
- Officials	104	206
Domestic Violence Training		
- Courses	15	13
- Officials	732	352

Functional Training	1999-2000	2001
United Nations Drug Control Programme		
- Courses	-	1
- Officials	-	65

2.314 A total of 2794 officials of the Department of Justice and Constitutional Development attended training initiatives of the College during the period under review. During the said period 1969 officials of other departments and officials of foreign countries attended seminars/courses presented at or by Justice College. In total Justice College presented training to 4763 persons during the period under review.

Chapter Two
Regional Coordination Branch

COMPOSITION

2.315 This Branch consists of the Deputy Director-General: Regional Coordination, a director, a secretary and nine regional heads. Four officials are borrowed from the Personnel Division to serve as supporting staff to Regional Coordination at national level. The nine Regional Offices are situated in the following centres:

- Bloemfontein — Mr KR Makola
- Cape Town — Mr HM Mohamed
- Durban — Mr MJ Langenhoven
- East London — Ms NP Cetywayo
- Johannesburg — Ms BR Simelane
- Kimberley — Mr RD Isaacs
- Mmabatho — Mr SM Bokaba
- Nelspruit — Mr MD Mhlanga
- Pietersburg — Ms WK Sonti

MISSION

2.316 The mission of the Branch is to "endeavour to manage the translation of the Department's policies into actions as well as monitoring and evaluating the implementation thereof by sharing information, resources and experiences; to formulate and implement strategies to discharge our responsibilities to the regions in a coordinated manner to ensure an efficient and effective administration of justice."

KEY FUNCTIONAL AREAS

2.317 The key role of the Branch: Regional Coordination is supportive and facilitative in nature with regard to the implementation of the programmes of all the branches of the Department that have a bearing on regional and sub-offices. It is an execution agency with the purpose of facilitation and actualisation of the programmes of the Department, through the creation of the necessary infrastructure and the enabling environment for the realisation of the branches' objectives.

HUMAN RESOURCES

2.318 The Human Resources Directorate at regional level seeks to develop a service corps that is service and output-oriented, equipped to identify and address needs and aligned to the objectives of the Department. The core functions are as follows:

- To do research regarding staff provisioning and utilisation
- To appoint and utilise personnel
- To implement and maintain conditions of service
- To exercise misconduct and disciplinary measures
- To render relief services to the regional and other offices of the Department
- To sustain and promote sound labour relations

2.319 This Directorate is also responsible for the coordination of all training that takes place in the regions.

LEGAL SERVICES

2.320 This Directorate attends to legal matters, including:

- The disposal of representations originating from the legal functions of magistrates and prosecutors
- The guidance of magistrates and prosecutors with reference to court judgments and legal interpretation
- Replies to criticism against judgments
- The handling of miscellaneous legal tasks
- The handling of representations in respect of estreated bail
- Appointment of assessors in inquests
- Appointment of magistrates and regional court magistrates in inquests
- The determining of responsibility in respect of losses of state money and goods
- The administration in respect of the collection of departmental debts and the writing off of debts
- Court Management
- Rendering Secretarial and Support Services to the Provincial Integrated Justice System Forum

Regional Coordination branch 26/09/2001 12:34 Page 75

CORPORATE SERVICES

2.321 This Directorate attend to finance matters, including:

- Remuneration of personnel
- Implementation of salary deductions
- Handling of miscellaneous payments
- Processing of EFT payments
- Collection of debts owing to the state
- Checking of vouchers
- Pre-checking of allocations before the capturing thereof
- Checking and verification of agency service accounts
- The collections and submission of budgetary reports
- Compilation of reports regarding monthly expenditure and projections for the remainder of the financial year
- Budgetary planning and expenditure control
- Assisting with the follow-up of amounts outstanding on suspense accounts
- Administration of the moneys in Trust Account
- Data capturing
- Assisting in *ad hoc* investigations where maladministration of finances is suspected

2.322 This Directorate also attends to auxiliary matters, including:

- Application of safeguarding measures
- Formulation and management of emergency plans
- Submission of relevant information to National Office
- Training of security clearance of officials
- Management of security clearance of officials
- Attending to enquiries
- Disposal of archives
- Recovery of archives
- Issuing and distribution of departmental instructions to all district offices
- Rendering of library services
- Rendering of typing services
- Rendering of communication services
- Identification of needs in respect of office accommodation
- Requisitioning of stationery, forms, office equipment and furniture
- Assisting offices with procurement functions
- Allocation of residential accommodation

REGIONAL HEAD

2.323 A Regional Head is responsible for the following functions:

- Oversee the abovementioned functions
- Coordinate court administration on the regional level, which include the following:
  i) Liaise with top management of all sub-offices in the region to wit:
     -Judges
     -Director of Prosecutions
     -Registrar of the Supreme Court
     -Magistrates
     -Regional Court President
     -Family Advocate
     -Masters
     -State Attorneys
  ii) The proper distribution of courts.
  iii) The establishment of new court structures such as small claims courts, alternative dispute resolution forums, etc.
  iv) Ensure that proper personnel and infrastructures are in place at sub-offices.
- Liaise with statutory bodies operating in the province
- The promotion of the assessor system in the province
- Interacting and liaising with the Premier and other senior officials of the provincial administration and its departments with regard to the rendering of agency functions
- Oversee the implementation of policy decisions within the region
- Liaise with senior SAPS and Correctional Services personnel regarding the criminal justice system and court administration in particular
- The implementation of crime prevention strategies and the representation of the Department at crime prevention forums in the region
- Capacity-building within communities
- Coordination of community outreach programmes such as information desks and advice bureaus in courts
- Liaison/negotiation with various employee organisations
- Ensure the coherent administration of justice in the region

OVERVIEW

2.324 During the year under review the regional offices were faced with a variety of challenges. Although some shifts in emphasis occurred regarding policy, transformation of the justice system and access to justice remained the Department's main focus areas.

2.325 Various initiatives and legislative changes and developments in justice-related matters have been planned and/or implemented, e.g. the new Maintenance Act, Domestic Violence Act, Customary Marriages Act and bail legislation.

2.326 Training of personnel received top priority. Staff were encouraged to attend workshops, courses and conferences. Intersectoral involvement includes participation in the activities of the Provincial IJS Board, Provincial Gender Forum and the Provincial HIV/AIDS Action Unit.

2.327 Tighter security measures were implemented, including securing 24-hour guarding services from private security firms, the installation of X-ray machines and burglar bars, etc.

2.328 Various courts were opened and old court buildings were repaired and renovated in order to improve the image of the Department.

2.329 Various programmes were embarked upon, such as:

- Child Protection Week/Month
- International Children's Day
- Youth Day
- International Day Against Drug Abuse and Illicit Trafficking
- Debriefing sessions for domestic violence clerks
- Child Justice Workshop

2.330 Some regional offices were visited by the Portfolio Committee and some sub-offices were visited by the Regional Heads.

2.331 Inspections were carried out by Regional Inspectors at various sub-offices.

2.332 To make the justice system more accessible to the public, the Regional Offices held Open Court Days coinciding with, for instance, Human Rights Week, National Women's Month and Sixteen Days of Activism against Gender Violence. Various press releases were distributed to all media, including community newspapers and radio stations.

2.333 Various relationships have been established or were strengthened with relevant role-players, where a forum was formed to address problems and jointly come up with solutions via strategies and plans.

ACHIEVEMENTS

2.334 Achievements during the period under review include the following:

- Various pilot projects were launched in the regions, e.g. the Family Court Pilot Project in Johannesburg (in which a number of NGOs are involved)
- The launch of the Awaiting-Trial Prisoners Pilot Project, of which the main objective is to analyse new cases with a view of fast-tracking detained accused persons through the legal system
- The launch of the Courts Process Project
- Agency services were still performed by regional offices, although tighter measures were put into place to ensure debt collection from other departments, resulting in a decrease of the amount of debt outstanding.

Chapter Two
Corporate Services Branch

THE CHIEF DIRECTORATE OF ADMINISTRATION

2.335 This Chief Directorate is responsible for rendering support services and is composed of the Directorates: Provisioning Administration, Auxiliary Services, Efficiency and Advisory Services and Information Technology.

THE DIRECTORATE OF PROVISIONING ADMINISTRATION

2.336 Within the broader framework of the Branch: Corporate Services having as one of its key objectives the provision of infrastructure to the Department's offices, the core function of the Subdirectorate: Accommodation is to promote and oversee the provision of suitable accommodation to the Department's offices.

2.337 The judicial system must be accessible to all and this can partly be achieved through the provision of adequate infrastructure, of which the construction of functional court buildings is most essential.

2.338 The promotion of these services with the Department of Public Works (DPW) entails the preparation and certification of needs assessments, planning of the services and managing the execution thereof throughout all the various stages until the final product is delivered.

2.339 In terms of the Department's Policy Guidelines on Accommodation, preference for new services is given to offices in the previously disadvantaged areas.

NATIONAL PROJECTS AND BUSINESS PLANS

2.340 These included the following:

(a) An ongoing programme which has not run its course yet, is that for the enlargement and extension of all court benches so as to give effect to the successful implementation of the lay assessors system. Notable progress has been made.

(b) In an effort to embrace the basic principles of an effective human rights culture, the delivery of facilities for the physically disabled at all court centres where these amenities do not exist as yet, has been receiving attention. It is standard procedure to include these facilities (access ramps, special ablution units, etc) in all new building projects, which comprise either repair and renovation services, the provision of additional accommodation, or the erection of new court buildings.

(c) A Repair and Maintenance Programme (RAMP) has been embarked upon in collaboration with the Department of Public Works. Due to the unavailability of sufficient funds and neglect over many years, the buildings in which the Department's offices are accommodated, especially the magistrates' offices, have not been maintained properly, with the result that the majority of them have degraded to conditions of disrepair and even dilapidation. The purpose of this programme is to systematically attend to identified buildings, effecting all repairs which would once again bring such a building to the point of full functionality, and thereafter to properly maintain it.

The following buildings have been identified - the services for the first seven are already in planning, whilst *status quo* reports in respect of the rest have to be compiled:

1. Durban High Court building.
2. Klerksdorp Magistrate's Office building.
3. Potchefstroom Magistrate's Office building.
4. Ongoye Magistrate's Office building.
5. Mahlabatini Magistrate's Office building.
6. Pretoria Justice College building.
7. Msinga Magistrate's Office building.
8. Orlando Magistrate's Office building (District

Johannesburg).
9. Ezibeleni Magistrate's Office building.
10. Fort Beaufort Magistrate's Office building.
11. Idutywa Magistrate's Office building.
12. Whittlesea Magistrate's Office building.
13. Lehurutse Magistrate's Office building.
14. Thabamoopo Magistrate's Office building.
15. Tsineng Magistrate's Office building.
16. Ditsobotla Magistrate's Office building.
17. Mothibistadt Magistrate's Office building.
18. Tseseng Magistrate's Office building.
19. Praktiseer Magistrate's Office building.
20. Malamulele Magistrate's Office building.
21. Giyani Magistrate's Office building.
22. Naphuno Magistrate's Office building.
23. Sekhukune Magistrate's Office building.
24. Motetema Magistrate's Office building.
25. Saselemane Magistrate's Office building.
26. Molebogo Magistrate's Office building.
27. Umzimkulu Magistrate's Office building.
28. Cala Magistrate's Office building.
29. Zwelitsha Magistrate's Office building.
30. Elliot Magistrate's Office building.
31. Hankey Magistrate's Office building.
32. Madikwe Magistrate's Office building.
33. Nzikazi Magistrate's Office building.
34. Eerstehoek Magistrate's Office building.
35. Mbibana Magistrate's Office building.
36. Kwamhlanga Magistrate's Office building.
37. Moutse Magistrate's Office building.
38. Inkanyezi Magistrate's Office building.
39. Nongoma Magistrate's Office building.
40. Mapumulo Magistrate's Office building.
41. Emnambithi Magistrate's Office building.
42. Ubombo Magistrate's Office building.
43. Dukuza Magistrate's Office building.
44. KwaMsana Magistrate's Office building.
45. Impendle Magistrate's Office building.
46. Kwa Thema Magistrate's Office building.
47. Kakamas Magistrate's Office building.
48. Soekmekaar Magistrate's Office building.

MAJOR WORKS BUILDING PROGRAMME

(i.e. capital works in excess of R5 million each and managed by the Department of Public Works and Department of Justice and Constitutional Development Head Offices).

2.341 During the year under review the construction of the following major works have been completed:

PROJECT	COST OF PROJECT	DATE COMPLETED
1. WATERVAL New building for Magistrate: Hlanganani.	R13 million	May 2000
2. ALEXANDRA Branch Court of Magistrate: Randburg. Complete upgrading and refurbishment, including provision of more courtrooms.	R10 million (Donated by Vodacom)	May 2000
3. NYANGA Branch Court of Wynberg Conversion and renovation of old building as a branch court.	Donor funding	
4. PAARL Magistrate's Office Accommodation for 3 Regional Courts.	R2 million	October 2000
5. QUEENSTOWN Magistrate's Office Additional accommodation.	R13,6 million	September 2000
6. GAMALAKHE (MARGATE) Conversion of building as a branch court of Port Shepstone.	R500 000	April 2000
7. UPINGTON New Magistrate's Office building.	R16 million	March 2001
8. BOTSHABELO New Magistrate's Office building.	R10 million	April 2001

2.342 The buildings in construction during the year under review have been:

TOWN	OFFICE	NATURE OF SERVICE
Kroonstad	Magistrate's Office	Additional accommodation
Khayelitsha	District Mitchells Plain	New magistrate's office building
Blue Downs	District Kuils River	New magistrate's office building
Sasolburg	Magistrate's Office	Additional accommodation: 2 courtrooms, offices and cells
De Aar	Magistrate's Office	Additional accommodation: 2 courtrooms, offices and cells
Atteridgeville	Branch court of Pretoria	New building
Bloemfontein	Magistrate's Office	Additional accommodation
Melmoth	Magistrate's Office	Additional accommodation
Pretoria	Palace of Justice	Refurbishment and renovation for High Court and Family Advocate

2.343 The planning of the following new services has been completed or has reached an advanced stage of completion:

TOWN	OFFICE	NATURE OF SERVICE
Peddie	Magistrate's Office	Repair of fire-damage to existing building
Middeldrift	Magistrate's Office	New building (existing destroyed by fire)
Bothithong	Periodical Court (Magistrate, Kudumane)	New building
Atamelang	Magistrate's Office	Repair fire damage to existing building
Port Elizabeth	Magistrate's Office	Additional accommodation
Benoni	Magistrate's Office	Refurbishment of existing and additional accommodation
Tembisa	Magistrate's Office	New building
Randburg	Magistrate's Office	New building
Scottburgh	Magistrate's Office	Additional accommodation and complete repair and renovation of existing building
Malmesbury	Magistrate's Office	Additional accommodation
Citrusdal	Periodical Court (Magistrate, Clanwilliam)	New periodical court building
Stanger	Magistrate's Office	Additional accommodation
Braamfontein, Johannesburg	Constitutional Court	New Constitutional Court building
Zonkezizwe	(District of Heidelberg, Gauteng)	New building
Madadeni	Magistrate's Office	New building
Sebokeng	Branch Court of Vanderbijlpark	Refurbishment and renovation of building - four courtrooms and offices
Pretoria North	Magistrate's Office	Additional accommodation
Umzimkulu	Magistrate's Office	Renovations and additional accommodation

2.344 Building projects having been prioritised for planning are the following:

TOWN	OFFICE	NATURE OF SERVICE
Tsakane (District Brakpan)	Branch Court	New building
Kagiso (District Krugersdorp)	Branch Court	New building
Kathlehong (District Alberton)	Branch Court	New building
Ekangala	Magistrate's Office	New building
Ntuzuma	Branch Court of Verulam	New building
Johannesburg	High Court	Air-conditioning
Ingwavuma	Magistrate's Office	Additional accommodation
Kuils River	Magistrate's Office	Additional accommodation
Muizenberg (District of Simons Town)	Periodical Court	Additional accommodation

2.345 The Department has also identified the following top priority new capital works:

Johannesburg: Constitutional Court: New building - delivery through partnership

2.346 The Department has found it difficult to accommodate the cost of the new building for the Constitutional Court, currently estimated at RM142, on its budget for capital works over the next three years. Consequently there have been negotiations recently between the Gauteng Provincial Government (through its Strategic Economic Infrastructure Investment Programme (SEIIP)), the Johannesburg City Council, the Department of Public Works (DPW) and the Department of Justice and Constitutional Development (JCD) concerning the delivery of the Constitutional Court and the Constitutional Hill Precinct through a partnership.

2.347 An agreement with the Johannesburg Development Agency (JDA) has been reached, of which the main points are as follows:

- The concerns of all the partners are to ensure a coordinated precinct development that will maximise on the court as an anchor tenant and make a significant impact in terms of economic development on the area. To this end the JDA, which is a company jointly set up by the Gauteng Provincial Government and the City of Johannesburg, will manage the development of the entire precinct.
- The JDA will therefore be responsible for:
  - Project coordination
  - Project management
  - Construction management - including tendering and all appointments (in line with Government's procurement policy in order to promote transparency, affirmative procurement and SME development)
  - Management of the completed precinct
- To give effect to this the DPW has ceded its rights and obligations in respect of the construction of the court to the JDA.
- The key hindrance to the delivery of the court since the design competition was run in late 1997 has been the lack of sufficient funds on the part of the Department of Justice and Constitutional Development and the Johannesburg City Council.
- The Gauteng Provincial Government has earmarked the Constitution Hill Precinct as one of ten key eco-

nomic infrastructure projects in the province to be funded through the Strategic Economic Infrastructure Investment Programme (SEIIP). SEIIP has allocated a budget of RM357 for the delivery of the entire precinct, which will be channeled through JDA, along with the Johannesburg City Council's allocation of RM35. In order to deliver on the full precinct development, costed at RM446, the Department of Justice and Constitutional Development's capital allocation of RM54 is required.

- The Department of Justice and Constitutional Development obtained Treasury approval for the acceptance by the Department of a donation of RM88 in the form of the Constitutional Court.
- The Department will obtain Treasury approval for the suspension of the RM54 allocated to the Department's capital budget for the Constitutional Court to the Gauteng Provincial Government (VOTE 11, SEIIP) in financial year 2001/ 2002.
- The JDA undertakes to deliver the Constitutional Hill Precinct and the Constitutional Court on behalf of the Department. On completion of construction, the JDA will donate the court to the Department.
- NOTE: RM21 of the RM54 referred to above will be transferred during the 2001/2002 financial year, and the balance of RM33 during the 2002/2003 financial year.
- Adopting this process will allow for bulk services and earthworks to commence within 3 months, and construction of the court to commence in the third quarter of 2001. This would significantly reduce the construction period and result in substantial savings that would otherwise arise from escalation.

2.348 In addition to the abovementioned project, the following top priority new capital works services have been put into planning by the Department of Public Works:

NO.	TOWN	OFFICE	NATURE OF SERVICE
1.	Tembisa	Magistrate's Office	New building
2.	Bothithong	Periodical Court (Magistrate, Kudumane)	New building
3.	Peddie	Magistrate's Office	Repair of fire damage to existing building and additional accommodation
4.	Atamelang	Magistrate's Office	Repair of fire damage to existing building
5.	Middeldrift	Magistrate's Office	New building (existing building destroyed by fire)
6.	Madadeni	Magistrate's Office	New building
7.	Ntuzuma	Branch Court (Magistrate, Verulam)	New building
8.	Kathlehong	Branch Court (Magistrate, Alberton)	New building
9.	Tsineng	Periodical Court (Magistrate, Kudumane)	Repair of vandalised building
10.	Zonkezizwe	Branch Court (Magistrate, Heidelberg (G))	New building
11.	Tsakane	Branch Court (Magistrate, Brakpan)	New building
12.	Johannesburg	High Court	New air-conditioning system
13.	Benoni	Magistrate's Office	Refurbishment of existing building and additional accommodation
14.	Ekangala	Magistrate's Office	New building
15.	Ingwavuma	Magistrate's Office	Additional accommodation
16.	Randburg	Magistrate Office	New building
17.	Port Elizabeth	Magistrate's Office	Additional accommodation

USAID-TRANSKEI INITIATIVE

2.349 One of the most tangible achievements of the Department, as previously reported, has been the upgrading of courts and infrastructure in the former Transkei area. This initiative by the United States Agency for International Development (USAID), which had as its primary goal the rejuvenation and upgrading of nineteen magistrates' offices in the former Transkei, and which was funded collectively by USAID and the Department of Justice and Constitutional Development, has been implemented by means of the Rapid Procurement Delivery System, which has resulted in the expeditious planning of individual projects, appointment of architects, etc. Utilising this system has enabled and facilitated the completion of the planning phase within a much shorter time than usually for any form of building service. The services have been for additional accommodation and extensive upgrading. USAID has paid over an amount of R8,3 million for this project to the Department. The programme has been wrapped up with the completion of the following services:

1.	**NQAMAKWE** Magistrate's Office: Repairs to damaged pre-fabricated building, including electrical work, fencing and burglar bars and construction of additional accommodation	R4,7 million	1 August 2000
2.	TSOMO Magistrate's Office Additions to existing Magistrate's Office	R4 612 807-00	26 July 2000
3.	MALUTI Repairs and renovations of the Magistrate's		

	Office, upgrading of toilets and security	R1 557 143-00	13 September 2000
4.	LADY FRERE Additions to existing Magistrate's Office	R4 409 734-00	14 July 2000
5.	BIZANA Additions to existing Magistrate's Office	R6 770 292-00	26 August 2000
6.	STERKSPRUIT Additions to existing Magistrate's Office	R6 359 312-00	24 July 2000
7.	UMTATA Additions to existing Magistrate's Office	R6,1 million	1 August 2000
8.	FLAGSTAFF Additions to existing Magistrate's Office	R2 312 761-00	24 September 2000
9.	MQANDULI Additions to existing Magistrate's Office	R2,4 million	1 August 2000
10.	MOUNT FRERE Additions to existing Magistrate's Office	R2 135 996-00	21 June 2001
11.	NGQELENI Magistrate's Office Upgrading and additional accommodation.	R2,1 million	August 2000

COMMUNITY SAFETY CENTRE PROGRAMME

2.350 The National Community Safety Centre Programme involves the four core Departments within the criminal justice system, namely the South Africa Police Service, Department of Justice and Constitutional Development, Department of Correctional Services and the Department of Welfare, as well as the Department of Health. It aims to bring services rendered by these Departments to communities where these services either do not exist or are not easily accessible, especially in rural areas, in an integrated way.

2.351 The following significant progress has been made:

Centre	Progress
Leboeng (Praktiseer, Northern Province)	In construction - expected completion September 2001
Tshidilamolomo (Molopo, North West)	In construction - expected completion June 2002
Galeshewe (Kimberley, Northern Cape)	Tender should be awarded by December 2001
Thembalethu (George, Western Cape)	Project completed - officially opened on 18 October 2000.
Centane (Eastern Cape)	In construction - expected completion May 2002
Nsimbini (Umbumbulu, KwaZulu/Natal)	In construction - expected completion July 2001
Thabong (Welkom, Free State)	Site clearance delayed
Khutsong (Oberholzer/ Carletonville, Gauteng)	In construction - expected completion November 2001
Augrabies (Kakamas, Northern Cape)	Site clearance delayed

2.352 Other building services in construction are the following:

TOWN	OFFICE	NATURE OF SERVICE
Matatiele	Magistrate's Office	Construction of cells and physical security measures
Lamberts Bay	Periodical Court	Construction of cell
White River	Magistrate's Office	Physical security measures
Nigel	Magistrate's Office	Physical security measures
Nsikazi	Magistrate's Office	Physical security measures
Namakgale	Magistrate's Office	Physical security measures
Izingolweni	Magistrate's Office	Physical security measures
Fort Beaufort	Magistrate's Office	Restoration and construction of two cells
Port Nolloth	Magistrate's Office	Installation of burglar bars
Taung	Magistrate's Office	Physical security measures
Johannesburg	Magistrate's Office	Physical security measures
Durban	Magistrate's Office	Replacement of air-conditioning system

OFFICIAL HOUSING

2.353 The total number of official residences is approximately 1400 units, which consists of a varied number of houses, single quarters and flats, which are largely located in the rural areas. As is the case with the provision of adequate office accommodation at all centres, it is also the Subdirectorate's responsibility to oversee the provision of official housing to all incumbents of qualifying posts. It is official policy that only magistrates, public prosecutors and interpreters qualify for official housing. However, the situation in many of the former regions is that official housing is and has been occupied over a long period of time by offi-

cials not qualifying in terms of the official policy for a variety of reasons. The unraveling and rectifying of this enormous problem is an ongoing and cumbersome exercise, which has to be conducted with compassion. Repairs and renovations to official residences have received attention on a continuous basis.

2.354 The official housing function is delegated to the respective regional offices. During the year under review all files have been transferred to the regional offices, with the exception of Eastern Cape, whose files were still being audited and Gauteng, which was experiencing capacity problems.

POLICY MATTERS

Delegation in respect of urgent repairs and day-to-day maintenance

2.355 The delegation to heads of office to effect urgent repairs and day-to-day maintenance services at their offices without prior authorisation from the Department of Public Works (DPW), which delegation was withdrawn in October 1998 due to widespread abuse thereof, has been re-instituted with effect from 30 May 2000. However, this time only the nine Regional Heads and the Director: Provisioning Administration and Deputy Director: Accommodation in Head Office have been delegated by the Director-General/ Accounting Officer. The limit is R3 000 per service/case. Further specific guidelines and control measures have been included in the Departmental Code: Office Accommodation.

SUBDIRECTORATE: PROCUREMENT ADMINISTRATION

2.356 This Subdirectorate is responsible for the procurement of services and equipment for the Ministries and National Office, policy in respect of procurement and transport submissions to the State Tender Board for invitation of tenders and the Department's asset register.

DELEGATION OF POWERS TO REGIONAL OFFICES

2.357 Until recently all approvals for purchasing of equipment and requests for services in respect of regional and sub-offices have been dealt with by the National Office. These powers and functions have, however, been delegated by the Director-General to Regional Control Committees in regional offices. Training in respect of the procedures to be followed when applications for furniture, equipment etc. are received from sub-offices for consideration by the functionaries of the Regional Control Committees, was conducted and the latter committees are operational.

EQUIPMENT FOR NEW BUILDINGS

2.358 Funds for the purchase of equipment and furniture for new buildings and additions to buildings for the 2000/2001 financial year have been allocated as follows:

2.359 UPGRADING OF INFRASTRUCTURE

	OFFICE / PROJECT	AMOUNT APPROVED	BALANCE R30 000 000-00
1.	Transcription Services - High Courts	R10 000 000-00	R20 000 000-00
2.	Franking Machines - Sub-offices	R3 717 000-00	R16 283 000-00
3.	Maintenance Transcription Machines	R497 000-00	R15 786 000-00
4.	Magistrate, Umtata (Furniture)	R15 000-00	R15 771 000-00
5.	Magistrate, Rustenburg (Court Recording Equipment)	R62 000-00	R15 709 000-00
6.	Y2K-Upgrading (Telephone Systems)	R423 000-00	R15 286 000-00
7.	Registrar, Pretoria - Five new judges (Furniture)	R305 000-00	R14 981 000-00
8.	Registrar, Johannesburg - Four new judges (Furniture)	R364 000-00	R14 617 000-00
9.	Registrar, Umtata (Publications)	R135 000-00	R14 482 000-00
10.	Regional Head, Gauteng (Chairs)	R115 000-00	R14 367 000-00
11.	Registrar, Umtata (Vehicles)	R273 000-00	R14 094 000-00
12.	Regional Head, Cape Town (Court recording equipment)	R142 000-00	R13 952 000-00
13.	Magistrate, Johannesburg (Court recording equipment)	R252 000-00	R13 700 000-00
14.	Magistrate, Vanderbijlpark (Summons issuing machine)	R 3 400-00	R13 696 600-00
15.	Magistrate, Johannesburg (Child Court System)	R 60 000-00	R13 636 600-00
16.	Magistrate, Moretele (Court recording equipment)	R 47 000-00	R13 589 600-00
17.	Magistrate, Port Elizabeth (Fax and copying machine)	R157 000-00	R13 432 600-00
18.	Magistrate, Sterkspruit (Telephones)	R 12 000-00	R13 420 600-00
19.	Magistrate, Vereeniging (Court recording machine)	R25 000-00	R13 395 600-00
20.	Regional Head, East London = Zwelitsha, Middledrift and King William's Town (Furniture)	R303 000-00	R13 092 600-00
21.	Regional Head, Durban = Magistrate, Durban and Umlazi (Child Court Systems)	R70 000-00	R13 022 600-00
22.	Magistrate, Vanderbijlpark = Sebokeng (Furniture and Equipment)	R87 000-00	R12 935 600-00
23.	Magistrate, Umtata (Child Court System)	R9000-00	R12 926 600-00
24.	Regional Heads (Service: Recording equipment)	R1 199 000-00	R11 727 600-00

	OFFICE / PROJECT	AMOUNT APPROVED	BALANCE R30 000 000-00
25.	Child Court Systems for: Mitchells Plain, Sebokeng, Taung, Vosloorus, Odi, Mmabatho and High Court, Mmabatho and Botshabelo	R216 000-00	R11 511 600-00
26.	Registrar, Thohoyandou (Publications) Request by J P Ngoepe	R539 000-00	R10 972 600-00
27.	Magistrate, Nelspruit (Court recording equipment)	R70 000-00	R10 902 600-00
28.	Magistrate, Madadeni (Furniture and equipment)	R68 000-00	R10 834 600-00
29.	High Court, Umtata (Furniture)	R152 000-00	R10 682 600-00
30.	Magistrate, Middledrift (Furniture and equipment)	R407 000-00	R10 275 600-00
31.	Procurement Administration: National Office (Stationery)	R500 000-00	R9 775 600-00
32.	Magistrate, Botshabelo (Furniture/Equipment and Telephone)	R518 000-00	R9 257 600-00
33.	Security Uniform: Various Offices	R36 000-00	R9 221 600-00
34.	Transcription Machines	R530 721-68	R8 690 878-32

TRANSCRIPTION SERVICES (HIGH COURTS)

2.360 A request for the invitation of tenders for the recording and transcription services at the High Courts was forwarded to the State Tender Board. The contract for these services at the High Court was subsequently awarded for a period of five years to the company Sneller Digital. The commencement date of the contract was 1 August 2000 and the company's implementation date after installation of the new system was 9 October 2000. It is trusted that the problems of poor recordings that were experienced with the audio system will be eliminated with the implementation of the digital system.

LOGIS SYSTEM

2.361 The Procurement Administrative System known as "Logis" has been implemented at the National Office. In order to prepare for the implementation of the system at regional offices, assessments by officials of the Department of State Expenditure at the regional offices were finalised. After consultation between the two Departments in this regard, a decision was made that the Regional Offices must first implement the Manual PAS System. Two officials from the National Office visited the nine regional offices for training and implementation of the Manual System. The implementation team for Logis of the Department of State Expenditure visited the Regional Offices, North West, Free State, Northern Cape, Western Cape, Northern Province, Eastern Cape and Gauteng in order to attend to the implementation phase. During the reporting period the Logis System have been fully implemented at the Regional Offices, North West, KwaZulu-Natal, Free State and Northern Cape.

THE DIRECTORATE OF AUXILIARY SERVICES

SUBDIRECTORATE: OFFICE SERVICES

2.362 This Subdirectorate consists of the following divisions and sections:

- Registry Services
- Archives
- Prescripts
- Typing Services
- Telephone Management and Administration
- Reproduction Services
- Messenger Services
- Statistics
- Library Services
- Switchboard Services

2.363 This Subdirectorate has 94 posts on its establishment and is the largest subdirectorate in the National Office. Vacant posts are not being filled as it is the aim of this Subdirectorate to restructure the component and to transfer the vacant posts, especially the typing posts, to other divisions where necessary.

2.364 The Section: Prescriptions is constantly providing offices with prescribed Codified instructions as contained in the Justice Codes, as well as the Circulars, General Minutes, etc. dating as far back as 1962. This section is currently in the process of converting all of the abovementioned codes electronically.

2.365 Through use of the computerised telephone management and administration system, this Subdirectorate has updated all outstanding accounts and has established a comprehensive database.

2.366 The function of the Division: Statistics is to gather annual returns and statistics from the regional and magistrates' offices. These returns and statistics are compiled into a consolidated report. Specific surveys and projects were also carried out and the results of findings and projections were made available for use. The Division's current establishment consists of two officials, *viz* an Assistant Director and a Survey Statistician as the post of administration clerk is lend to the Directorate: Information Technology. For the purposes of access to accurate and reliable information (data) in future, the Directorate is intending to review this unit with the purpose of realigning its operations and business.

2.367 The Subdirectorate: Registry Services has been decentralised to regional offices and files were moved to the respective regions. This Subdirectorate is also playing a pivotal role in providing the necessary training to offices where Registry Services has been decentralised.

2.368 The Library of National Office has the following publications in stock, namely:

- Law textbooks
- Law reports
- Statutes
- Government Gazettes
- Legal Opinions
- Old Authorities (AA Roberts Collection).

2.369 Electronic media available are the Internet, Sabinet, Jutastat and Butterworths Folio Product Range.

2.370 The Principal Librarian assisted in the assessing of the library of the High Court Thohoyandou as well as the library of the Umtata DPP's Office. Training was also given to the officials concerned.

2.371 Following an inspection of offices by the Records Manager, a need for training in respect of the following sections was established:

- Library
- Registry
- Prescripts
- Archives as well as other administrative functions

SUBDIRECTORATE: SECURITY SERVICES

2.372 The Subdirectorate's primary responsibility is to ensure the safety of its personnel, information and members of public in our courts and offices countrywide. The frequency of theft, robberies, vandalism and destruction of government assets has resulted in the Department initiating an extensive campaign to provide and install effective safety and security measures in an attempt to prevent and counteract these negative acts.

INFORMATION - AND PERSONNEL SECURITY

2.373 The Departmental Security Policy and Prescripts has been issued and distributed under cover of Confidential Circular 2 of 1999. However, due to insufficient staff in respect of Information- and Personnel Security countrywide), a Security Awareness Programme could not be drafted as yet.

GUARDING SERVICES

2.374 One hundred and three offices are being guarded by security personnel. Twenty-four hour guarding services is

rendered in 25 sub-offices and 78 offices during office hours.

2.375 The Department has 595 security officers on the permanent establishment in all offices countrywide as indicated below:

- Gauteng and National Office 206
- KwaZulu-Natal 85
- Western Cape 82
- Northern Province 70
- Eastern Cape 6
- Free State 35
- Northern Cape 22
- North West Province 18
- Mpumalanga 15

(N.B. All courts in Mpumalanga are being guarded by security officers from the Provincial Safety and Security personnel; negotiations are taking place to transfer them to the Department of Justice and Constitutional Development and CD).

2.376 An additional ± 4000 Security Officer posts are required to execute the guarding services tasks in the Department, but these posts could not be created due to non-availability of funds and the approach of the down-sizing of the Public Service.

2.377 The Provincial Administration, Free State has indicated that 55 Security Officers posts, together with the budget for these posts, must be transferred to this Department. The matter is being investigated.

AGGRESSION REPORT

2.378 During the year under review the following incidents occurred at various offices:

- Burglaries: 26
- Armed robberies: 1
- Bomb threats: 4

OUTSOURCING OF SECURITY SERVICES: TRANSIT OF STATE MONEY, GUARDING SERVICES, INSTALLATION OF ALARM SYSTEMS AND THE MONITORING THEREOF

2.379 An amount of R14 million was made available for the outsourcing of the abovementioned Security Services countrywide during the year under review. Tenders were invited for the Guarding and Cash-In-Transit Services for various offices countrywide. A total of 85 tenders was received and dealt with by this Subdirectorate. Continuous monitoring of Alarm System Services was kept intact with the assistance of the regional offices. The amounts allocated for these various security measures were distributed as follows:

- Cash-in-Transit R3 488 203.00
- Guarding Services R7 239 208.00
- Armed response alarm system R 68 298.00

2.380 The abovementioned Security Services are being provided in the following offices:

KwaZulu-Natal Province:

Type of service:	**Number of offices:**
Transit of State money	29 offices
Guarding Services	8 offices (full-time)
	5 offices (part-time
Alarm Systems	19 offices

Eastern Cape Province:

Type of service:	**Number of offices:**
Transit of state money	27 offices
Guarding services	7 office (full-time)
	5 offices (part-time)
Alarm Systems	15 offices

Gauteng Province:

Type of service:	**Number of offices:**
Transit of State money	29 offices
Guarding Services	27 offices (full-time)
	11 offices (part-time)
Alarm Systems	3 offices

Western Cape:

Type of service:	**Number of offices:**
Transit of State money	16 offices
Guarding services	4 offices (full-time)
	5 offices (part-time)
Alarm Systems	16 offices

Northern Province:

Type of service:	**Number of offices:**
Transit of State money	17 offices
Guarding services	5 offices (full-time)
	2 offices (part-time)
Alarm Systems	11 offices

North West Province:

Type of service:	**Number of offices:**
Transit of State money	10 offices
Guarding service	2 offices (full-time)
Alarm System	2 offices

Mpumalanga Province:

Type of service:	**Number of offices:**
Transit of State money	11 offices
Guarding services	1 office (full-time) 2 (part-time)
Alarm Systems	3 offices

Free State Province:

Type of service:	**Number of offices:**
Transit of State money	17 offices
Guarding services	5 offices (full-time) 2 (part-time)
Alarm Systems	11 offices

Northern Cape Province:

Type of service:	**Number of offices:**
Transit of State money	16 offices
Guarding services	4 office (part-time)
Alarm Systems	16 offices

SECURITY TRAINING

2.381 During the year under review instructors from this Subdirectorate presented four courses as indicated below. The training programme included orientation of security officers, discipline, policy with regard to access control, firearm training, PERSAL course, first aid and fire lighting, etc.

Period:	**Centre:**	**No. of officials attended**
10-28 April 2000	Pretoria	50
7-11 August 2000	Pretoria	50
14-18 August 2000	Pretoria	29
29 August 2000	Pretoria	38

PROTECTION OF MEMBERS OF THE JUDICIARY AND PROSECUTORS IN THE WESTERN CAPE

2.382 After the assassination of a regional court magistrate, it became clear that additional protection measures had to be put in place for members of the judiciary and prosecutors involved in high profile cases in the Western Cape. In other instances, alternative accommodation was provided.

PHYSICAL SECURITY PLANNING

2.383 The planning of physical security at various office buildings, which are to be equipped with security measures, has reached an advanced stage. Offices where security needs have been identified, will be provided with the following security measures:

- A mash fence around the building
- Lights to illuminate the building and fence at night
- Access and exit control
- Secured/protected cash hall
- Upgraded and secured off-loading zones and holding cells
- Solid wooden doors equipped with security locks
- Fire-fighting equipment
- Off-ramps for disabled persons
- Walk-through metal detector
- X-Ray machines
- CCTV Cameras

2.384 Physical security measures have been addressed at the following offices during the year under review:
Magistrates' Offices: Heilbron, Roodepoort (repairing of x-ray machine), Witbank, Mankwe, Pretoria (securing of the cash hall), Hartwater, Brandfort, Ermelo, Ficksburg, Harrismith, Moutse, Seshego, Vrede, Wesselsbron, Randburg, Branch Court, Wynberg (VODACOM Project), Ndwedwe, Bolobedu, Sekhukhune, Amersfoort, Meyerton: Branch Court, Kliprivier, Namakgale, Kriel, Potgietersrus, Vryheid, Bethulie, Upington (Additional requirements: provisioning of x-ray machine and walk-through metal detector), Khayelitsha (additional requirements: provisioning of x-ray machine and walk-through metal detector), Pretoria (provisioning of walk-through metal detectors) Ndwedwe and National Office, Pretoria (provisioning of an x-ray machine).

DNS PROJECT

2.385 Fifty four offices were identified and provided with the minimum security measures by installing the alarm systems:

- Gauteng Province 16
- Eastern Cape 8
- KwaZulu-Natal 7
- North West 6
- Free State 4
- Western Cape 4
- Mpumalanga 4
- Northern Cape 3
- Northern Province 2

2.386 Staff establishment - Population demographics and gender as at 30 June 2000 (N.O)

	African		White		Coloured		Indian		Total	
	M	F	M	F	M	F	M	F	M	F
Director	1								1	
Deputy Director	1								1	
Assistant Director			1						1	
Senior Admin Officer				1						1
Admin. Officer	2		2						4	
Senior Registration Clerk				1						1
Registry Clerk				1						1
Messenger	1								1	
Chief Security Officer			1						1	
Security Officers	14	2	13	2					27	4
Total	19	2	17	5					36	7

THE DIRECTORATE OF INFORMATION TECHNOLOGY

2.387 The Information Technology Directorate has primarily focused on the e-Justice Programme this fiscal. This programme is a four-year Departmental programme (April 2000 to March 2004) designed to support fundamental reforms necessary to establish a more fair, accessible and efficient system of justice in the country as whole. This objective is secured by building capacity in the Department of Justice and Constitutional Development and in courts; re-engineering work processes and utilising appropriate enabling technology. The programme comprises four major projects, which run parallel with the Human Resource development programme. Other activities included the maintenance of the existing technology infrastructure in the Department and related offices. The total estimated budget cost for these processes were approximately R145 million in the 2000/2001 financial year. Of this amount approximately R42 million was rolled over due to contractual slippages and future commitments. Future budgets will run concurrently with departmental budget cycles for the period of four years for varying amounts. This IT Directorate - Information Systems Management (ISM) under the new structure - is also subsidised by donor funding.

2.388 One aspect that was not resolved during this reporting period was that of the IT staff being integrated with SITA. This process was not completed due to problems in respect of the contracting mechanism.

2.389 The IT Directorate has a staff complement of 22 with an equity ratio of 60:40 (60% are PDI's).

PROGRAMME FEEDBACK

Digital Nervous System (DNS)

Aim

2.390 The purpose of the Digital Nervous System is to establish a total interconnectivity for the Department of Justice and Constitutional Development. This will encompass the development, design and implementation of an information technology infrastructure, complete with hardware and networks for the Department.

Current Status

2.391 South Africa's 550 courts (of which 40% are located in the rural and previously disadvantaged areas) are not electronically connected to share case information and enable legal research. Hence, the key activities of the DNS Project are to develop, design and implement the Information Technology Infrastructure for the Department, to provide training for all judicial officers in the new technology and facilitate the development of electronic communications in the Department, as well as to safeguard computerised information systems from unauthorised access, alteration, theft and physical damage.

2.392 In order to address the computerised infrastructure problems and speed up information flow, the Department has put up an estimated tender of RM250 to roll out the local and wide area networks (LAN/WAN's) in 500 offices countrywide. This process should be completed by the end of April 2002.

2.393 At this time and in order to pre-empt the tender, approximately 7000 PCs have been redeployed. Of these there are some 5000 new PCs and the balance were upgrades to existing technology.

Financial Management System

Aim

2.394 The Financial Administration Systems Project was initiated to re-engineer the financial computer systems within the Department, due to the inefficiencies present in and the lack of control and management experienced on the current system.

Current Status

2.395 The administration of the Guardian's Fund (taking care of minor children), the State Attorneys and the maintenance systems (for the benefit of mainly poor women) is automated and rationalised so that the beneficiaries can access these funds in a swift and cost-effective way. The key activities are the implementation of the automation system in the Department, the training of users in the new system, and marketing of the new system to beneficiaries. It will also involve the financial institutions and other financial intermediaries. Tremendous progress has already been made in this project, namely eight of the State Attorneys' Offices are currently fully automated countrywide, offices have been supplied with a new computerised deposit trust account system, connected to the wide area network (WAN) and provided with electronic mail facilities and Jutastat. For the maintenance and Guardian's Fund computerised solution system, the work is currently in progress. Hopefully by the end of April 2002, the roll-out of these system to all magistrates' and masters' offices will be completed. Enhancements to the existing JDAS system is being undertaken by SITA and these enhancements should be completed by April 2001. Implementation will follow thereafter with completion date April 2002.

Courts Process Pilot (CPP)

Aim

2.396 The aim of this project is to test the feasibility of a national roll-out on the concepts tested within the CPP. These concepts address, *inter alia*, case files, dockets, administration around these files, court rolls and scheduling and have as ultimate aim the improvement of effectiveness and efficiency of the integrated courts process.

Status Report

2.397 The CPP will provide courts with a case management system designed to address the backlog in the processing of cases and make the operation of our courts more effective. It deals with various administrative issues such as case registration and documentation, courts' roll and hearing scheduling, case files administration and notification and adjudication, as well as improvement of prisoners' admissions and releases. The key activities are to develop, design and implement pilot projects to test the court processes and develop a solution that will enable the greater Integrated Justice Community (SAPS, Department of Justice and Constitutional Development, Correctional Services and Welfare) to electronically manage, interact and control criminal cases. Once the option has been fully tested it will then be rolled out to all courts countrywide. Tremendous progress have already been made in this project: the two pilot sites (Durban and Johannesburg Magistrates' Offices) are currently fully automated, supplied with electronic mail facilities and Jutastat, and also connected to the wide area network. The tender for analysis and development of the computerised solution system have already been awarded to the Phambili Consortium and the work is in progress.

2.398 Development and pilot testing are at this time approximately 30 days behind schedule, with no more foreseen delays. Beta testing for criminal cases (Durban) should commence during May 2001. Beta testing for civil cases (Johannesburg) should commence June 2001. Final acceptance testing is scheduled for August 2001.

Management Information Services

Aim

2.399 This project will ultimately be a service in that it will result in a management service being rendered at senior and transactional level. This implies that in order to establish a totally integrated management information service aspect such as records, knowledge and transactional information will need to be pooled, disseminated and presented in various management ways for the attainment of this result area.

Status

2.400 Managers in the Department involved in the Integrated Justice System are enabled to operate a single integrated management information tool, helping to provide the information necessary to manage and measure performance in the sector and information linked to budgeting, planning, monitoring and reporting. Overall it constitutes an attempt to increase cost efficiency and improve decision-making. The key activities are to design and develop a management information system, to implement the system, to train management in the use of the system, and to maintain the system. This project will be piloted by means of the CPP, but will be aimed at records management, knowledge management and management information at management level.

Master Systems Plan (MSP)

2.401 SITA was commissioned to start with the Master Systems Plan for the Department of Justice and Constitutional Development. This should be finalised during 2002. This will guide the Department with regard to various IT decisions. The MSP contains the following type of information:

- The indication of the system requirements
- A data flow diagram displaying the data dependency between different systems
- A technology plan that will identify and describe the technology infrastructure requirements for the Department (i.e. development languages, technical platforms, communication requirements)
- A manpower plan that will describe the manpower requirements related to the development, implementation and maintenance of the identified information system and technology requirements
- A financial plan that will describe the costs per system
- System security requirements
- A disaster recovery plan

Conclusion

2.402 The e-Justice Project is a critical element in the computerisation process of the Department and it is essential that the required infrastructure (technology and resources) be identified and deployed as soon as possible.

2.403 The Department does not have all the required in-house skills and/or resources to undertake a project of this size and it is therefore recommended that external skills/resources be appointed to assist in the development and implementation of the project.

2.404 System development activities will have to conform to the principles of an open system design process. The technical infrastructure will have to support the business and system requirements of the Department. A modular system development approach will have to be applied.

THE DIRECTORATE OF EFFICIENCY ADVISORY SERVICES

2.405 The Directorate of Efficiency Advisory Services renders advice for effective management. The work study techniques, among other things, are used with the investigation of all aspects regarding human labour, and leads to the systematic research of the various resources and factors which affect the efficiency and economics of a specific situation with a view to improvement thereof.

2.406 Because of the various techniques this Directorate is able to employ, it has to be involved, by way of giving advice, at various stages in the life cycle of the Department.

2.407 During the planning stage, for example, work study provides important information on procedures, methods and time standards. This information is analysed further during the organising stage, and involves mainly the determining of work contents of jobs, job evaluation and determining ways and means that are necessary to complete activities. As was propounded by various speakers at the International Conference for the Southern Africa Institute of Management Services (SAIMAS) held on 23rd and 24th August 2001, many organisations have unfortunately until now failed to engage Work Study functionaries at implementation stages, which could be the cause for many work study recommendations failing to yield the desired effects as a result of, *inter alia*, not implementing according to specifications.

2.408 In the Department the Directorate of Efficiency Advisory Services performs the following functions:

a) The rendering of advice to management, on request, on any subject pertaining to the efficiency of the Department.

b) The rendering of advice to management regarding the following specific matters:

   i) Organisational structures of the Department.
   ii) The determining of the organisational and establishment requirements of all offices in the Department in instances where the post provisioning norms cannot be applied or where no norms exist.
   iii) Procedures and methods.
   iv) Viability of office mechanisation.
   v) Productivity improvement.

c) The determining of post provisioning norms.
d) The designing of forms, amending existing ones or abolishment of unnecessary ones.
e) Job Evaluation.
f) Job Profiling.

2.409 Investigations performed by the Directorate are reflected in the statistical information below:

(As at 30 June 2001)	1999/2000	2000/2001
Organisation and establishment investigations finalised (Including job evaluation and job profiling)	53	132
Procedures and methods investigations finalised	4	3
Work measurement investigations	0	0
Mechanisation investigations finalised	2	0
Ad hoc investigations finalised	17	12
Form design and control investigations finalised	516	147
TOTAL	592	294

2.410 The following are examples of investigations conducted by the Directorate during the period under review:

- Investigation into the creation of a post of Chief Financial Officer
- Investigation into detachment of Wynberg Magistrate's Court from Randburg Magistrate's Court
- Investigation into the creation of posts for the purpose of the transfer of functions of constitutional development
- Investigation into the upgrading of posts of Judge's Secretary
- Investigation into the establishment of a Secretariat to the Rules Board for Courts of law
- Creation of posts for administrative support to the Judicial Service Commission
- Job evaluation of various posts on the fixed establishment of the Department
- Drawing of job profiles for posts on the establishment of the Ministry and the Business Unit: Information and Systems Management

2.411 The Directorate embarked on the Job Evaluation process as provided for by the Public Service Regulations, 2001, Regulation III.1(c). From 1 July 2000 to 30 June 2001various posts were subjected to job evaluation.

INVESTIGATIONS RECEIVING ATTENTION

2.412 With the process of restructuring still under way in the other Business Units approved in terms of the Department's strategic objective and the possible abolition of regional offices, many jobs attached to various posts may have to be redefined and then the posts have to be subjected to job evaluation.

2.413 In this regard the Directorate embarked on a Job Profiling process out of which should flow a profile of each and every job in the Department indicating, among other things:

- The main objectives of the post
- The inherent requirements of the job
- The output profile
- The requirements for promotion or progression to the next salary range in accordance with a relevant career path.

2.414 The Directorate has also been tasked to draw competency profiles that would be generic to the Senior Management Services (SMS) jobs in the Department and

drafts thereof have been sent to everybody in senior management in the Department for inputs and/or comments. Feedback is still awaited.

2.415 There are 56 other investigations that are currently being conducted by this component, requests for which have been received during the period under review, and 21 of which involve traveling.

2.416 With the restructuring of the Department into eight self-contained Business Units, it has been decided to centralise the functions of the Efficiency Advisory Services and that they should service the other Business Units from the Business Unit: Human Resources. This arrangement will, among other things, uphold the principle of objectivity and ensure a coordinated approach in its dealings.

THE CHIEF DIRECTORATE OF COMMUNICATION SERVICES

2.417 The Chief Directorate of Communication Services is structured into two Directorates, namely the Directorate of Liaison and Information Services and the Directorate of Publications and Language Services. The Chief Directorate provides communication services with a view to actively promote the image of the Department and the administration of justice, both internally and externally. This service includes the promotion of the justice system through the broad media and information services to internal clients and other state departments, as well as members of the public.

2.418 The Directorate of Liaison and Information Services comprises the Subdirectorate: Media Services and the Subdirectorate: Information and Liaison Services. At present the Directorate: Publication and Language Services comprises the Subdirectorate: Publications.

2.419 The Subdirectorate: Media Services forms the link between the Department and the media. It disseminates information through the printed and electronic media to the public. It also deals with enquiries from the media, and is responsible to maintain good relationships with this sector. It is also responsible for enhancing the image of the Department and the justice system as a whole. The Subdirectorate also provides a media monitoring service and advises management on contentious issues in the media. It also offers specialised public relations/media services to the Ministry, including arrangements for radio and television interviews.

2.420 The Subdirectorate: Liaison Services is responsible to disseminate legal information to the public at large through various means, such as road shows, exhibitions, radio and television programmes, information sessions, the distribution of brochures, posters, etc. This Subdirectorate is also responsible for the logistics pertaining to the Access to Information Act, and deals with all enquiries in this regard. It also handles telephonic enquiries of a legal nature from the public. This Subdirectorate also supplies a speech writing service to the Ministry and senior officials.

2.421 The Directorate: Publications and Language Services oversees the development of publications, be it in printed or electronic format. The Directorate facilitates all departmental publications/materials from the planning stages through to copywriting, editing layout and printing. Distribution of material is handled by the Directorate: Information and Liaison Services. The Publications Directorate is also responsible for the administration and content of the departmental website, and acts as Web Master.

The Budget

2.422 The total budget for the Chief Directorate for the book year amounted to approximately R7 million. Of this amount, 80% was earmarked for personnel related expenditure, whereas an amount of R2 million was top-sliced and earmarked for outreach projects, such as radio and television programmes, newspaper columns and local community visits. Am amount to the value of R2m was also top-sliced for the development of the departmental corporate identity. The remainder of the communication budget was earmarked for administrative expenditure.

ACTIVITIES

2.423 During the period under review the Chief Directorate dealt with, initiated or was involved in, among others, the following activities:

1. **Electronic communication:** The website was re-designed and all departmental policy documents, media statements, legislation and calendar of events were placed therein for ease of reference and access. The website is maintained by Communication and Information Services, assisted by Government Communication and Information Services (GCIS).

2 **Television and Radio drama series**: The "Justice For All 2" television series was researched and prepared, together with an appointed script writer. The Department's legal experts also reviewed each episode before it was aired. Funding was obtained from the Norwegian government. The television script was adapted for radio and broadcast in nine languages in various regions. This was paid for by the Department.

3. **Radio talk shows:** Information was disseminated about the Department and the administration of justice in general, through talk shows on SABC Radio and various community radio stations. A member of the Directorate and other justice officials, including magistrates, participated in 52 talk shows. The "Justice 2000" radio series, which was produced in 1999, is still being aired on various radio stations. Our focus was on all community radio stations. To date the series has been aired approximately four times per week throughout the year. The Department has slots on various radio stations and is thus regularly on air four times a week throughout the year.

4. **Listening sessions:** Imbizos: We organised successful imbizos in four areas at regional level. These were held at Phuthaditjhaba, Thaba 'Nchu, KwaMhlanga and Nzikazi in Mpumalanga. The general public attended these and were addressed by the Deputy Minister of Justice.

5. **Exhibitions:** Twenty-seven justice related exhibitions were held countrywide, at regional and magistrates' offices, focusing on domestic violence, maintenance and customary marriages. This serves as a vital link towards informing the public about the Department's initiatives. Some of these were coordinated by GCIS. Large quantities of literature are disseminated to the general public through these exhibitions.

6. **School visits:** One hundred and eight schools were visited at various regions by our local communication officers, who addressed students on various legal topics, sexual abuse, children's rights, what does the constitution say? etc.

7. Various **projects aimed at the youth** were embarked upon, including:

   - The development of the simplified Convention on the Rights of the Child
   - Publicity material to promote Children's Rights, including bookmarks
   - The production of the Interim National Protocol for the management of Children Awaiting Trial
   - Conference material for the Legal Representation Workshop for Children.

8. **Events coordination:** Various events and conferences were organised and/or managed, including the Justice Colloquium, the Legal Representation Workshop for Children, various launches including the "Let's make a song and dance about Children's rights" CD, The Family Court Lekgotla etc. We were also involved in preparations for the official openings of new courts countrywide. Approximately 43 events were coordinated, including workshops and seminars.

9. **Conferences attended:** The Chief Director participated in a Language Policy Conference organised by the University of the Orange Free State and delivered a paper in that regard. We attended several other conferences without submitting discussion papers.

10. **Dealing with the general media (print and electronic):** A total of 1512 media enquiries were received and dealt with, while approximately 320 media releases were issued and/or drafted on behalf of the Department, the Ministry, the Judicial Service Commission and the South African Law Commission. Articles on various justice-related matters were written and furnished to the print media for publication. These included articles on new legislation, such as Access to Information Act, Maintenance Act, Domestic violence Act, Administrative Justice Act. Media campaigns were conducted on, among others, the following issues:

    a. Customary marriages
    b. The Access to information Act pullout
    c. A Women's Day advertisement
    d. An Administrative Justice pull-out
    e. The equality legislation pull-out
    f. Progressive courts (status of our courts and programme of building new courts and highlighting furnished ones), moving towards model courts.

11. **Media Breakfasts:** Four media breakfasts were organised to market the Department's initiatives to the general media. The media were introduced to new initiatives and developments, and questions were taken to convey the Department's position in a positive way.

12. **Parliamentary press briefings:** Three parliamentary press briefings were coordinated in conjunction with GCIS, in which the Minister participated and relevant information about the Department was distributed .

13. **Television and radio interviews** were organised for the Minister, members of senior management and members of the judiciary on various topics such as language policy, sentences, strikes, new legislation, etc. We also initiated two shows (maintenance, child abuse) which were dealt with in "two-way" television shows.

14. A **daily newspaper clipping service** was rendered to the Ministry and members of senior management. Its aim is to monitor the media on justice-related issues to keep management abreast of trends and views in the media.

15. **Speech writing service:** A speech writing service was provided to the Ministry and other senior officials - 47 draft speeches and notes were researched and compiled for the Ministry and senior officials of the Department.

16 **Publications:** The Annual Reports of the Department, as well as that of the S A Law Commission and the Judicial Service Commission were compiled and produced and an editorial service rendered to its editors. ***Law Reform Piece by Piece*** was produced to track the developments in terms of changes to the legal system. One issue of ***Nuntius*** was put together for publication and distribution. (Nuntius is an annual Justice Society magazine.)

17. **Internal Newsletters:** ***Hearsay:*** *Hearsay*, were researched, compiled, produced and distributed internally. The ***Daily Review*** was distributed on *ad hoc* basis to inform the Ministry and senior management, on an urgent basis, of events and occurrences within the Department.

18. **External newsletter:** ***Justice News:*** *Justice News* is a newspaper aimed at external audiences (ordinary citizens). Its objective is to educate and inform them about new developments in the legal system as a whole. Four editions of *Justice News* were compiled, produced and distributed to the general public.

19. **Printed Material** such as brochures, posters, banners etc. were developed with a view to distribution. The issues dealt with included domestic violence, maintenance and the Promotion of Customary Marriages Act. These were produced in at least nine languages to cater for various groups. Other publications produced include: How to testify? and NAP documents. A number of publications aimed at informing staff about organisational change was also produced and distributed.

20. **Various *ad hoc* publications** were dealt with, such as the conference material for the Colloquium, Family Court Centres, the National Seminar for Equality Judicial Educators and publicity material for the Anti-Corruption and Fraud Policy, Internal Audit and material for the Court Process Project, including posters, pamphlets, newsletters, banners, a screensaver for computers, etc. Publicity material for the e-Justice projects, including the DNS and FAS projects were developed, including posters, pamphlets, information booklets, training manuals, t-shirts and mouse pads. Reprints of various publications were also done, including the Gender Policy Statement, HIV Policy brochure of the Department, and the simplified version of the Constitution of South Africa. Business cards and new departmental stationery in accordance with the new Coat of Arms were developed and are being phased in. We also produced the Practice Manual for Legislative Drafting for the State Law Advisers. Christmas cards were also developed for the Department, Minister and Deputy Minister. A Departmental Bulletin Board System was developed.

TRAINING

2.424 During the period under review officials received training in the following, among others:

a. Protocol and Etiquette
b. Website design and information management
c. Writing for the media
d. Media Management
e. Events coordination
f. Building the image of the organisation
g. Management at higher level
h. Provisioning
i. Business English
j. Speech writing, speechmaking; English pronunciation
k. Executive secretary training
l. Journalism
m. Financial management
n. Marketing: local and International
o. Management of Information system

PARTICIPATION IN GOVERNMENT INFORMATION SYSTEMS (GCIS)

2.425 The Chief Director participated in all forums of communication organised and coordinated by GCIS such as cluster meetings, Pre-cabinet meetings, Government Communications Forum and other structures where communication strategies for government were formulated. The Chief Director formulated the communication strategy for the Department and this was forwarded to GCIS for monitoring.

GENERAL MANAGEMENT MEETINGS

2.426 The Chief Directorate participated in all senior management meetings of the Department in a meaningful way, adding value and influencing communication.

THE CHIEF DIRECTORATES OF FINANCIAL ADMINISTRATION AND FINANCIAL MANAGEMENT

2.427 The financial division of the Department has gone through both exciting and difficult times during the financial year. On the positive side it has managed to deal with most problems arising from the report of the Auditor-General and the Parliamentary Committees such as the Standing committee on Public Accounts (SCOPA) and the Justice Portfolio Committee. On the negative side it has found it difficult to deal with the escalating problems of non-compliance with the financial prescripts, both at national and regional level. The problem of non-compliance has largely contributed to the disclaimer of opinions expressed by the Auditor-General on financial statements. (See Annexures following Chapter 6.)

2.428 It is essential to note that at the time of compilation of this report the whole financial division is going through the re-engineering process aimed at dealing with shortcomings and gaps leading to the bad image portrayed about the financial management of the Department as a whole. The fruits of the restructuring process will be reported in our next financial year (2002/2003) financial Year.

STRUCTURE

National Office

2.429 The finance section of the Department operated with the same structure as the previous financial year. There were no new positions created.

2.430 The Chief Directorate: Financial Administration has the following two Directorates:

- The Directorate: Budgets deals with all budgetary matters ranging from liaison with National Treasury to source funding for the Department, reporting on the financial performance to the National Treasury, and coordination of budget inputs from the line functions of the Department.
- The Directorate: Financial Operations deals with the compilation of the financial statements, bookkeeping, and administration of remuneration for the National Office and the Western Cape Region. Other regions administer their own remuneration functions.

2.431 The Chief Directorate: Financial Management deals with all functions relating to financial management such as rendering advice to the Accounting Officer (Director-General of the Department), analysis of the financial performance of the Department and coaching managers of line functions in dealing with the financial resources, and coordination and monitoring of donor-funded projects. The Chief Directorate has no directorate and is supported by one deputy directorate. The Chief Directorate: Financial Management was relocated to the Office of the Director-General to fulfill its role of advising him on all financial matters of the Department.

Regional Offices

2.432 The financial administration is decentralised in line with the government policy requirement that services must be available closer to the clients. The Batho Pele policy require that service delivery to the public must be improved and services must be brought closer to the people. The financial component of the Department is entrusted with the support function to line managers and has to ensure that it avails its services to the core business of the Department. The core business of the Department is carried out in courts located at various provinces throughout the country. Decentralisation of financial management and overall financial administration was therefore inevitable.

2.433 The regions of the Department are staffed with the finance personnel headed by Directors and Deputy Directors, depending on the size and complexity of each region. These heads of finance report to the Regional Head. This arrangement is being reviewed in line with the restructuring process of the Department to improve economy, efficiency and effectiveness in line with the provisions of the Public Finance Management Act 1 of 1999 (as amended by Act 29 of 1999). Further down the hierarchy the Justice Offices are staffed with financial components handling all financial matters of the office.

Justice Offices cover the following:

- High Courts
- Constitutional Courts
- Lower Courts
- Specialised Courts
- State Attorneys
- Masters
- National Prosecuting Authority

2.434 In the process of learning from the past failures, the Chief Directorate: Financial Administration has gone through a serious effort to improve financial management of the Department. This had to be achieved by strengthened links and improved communication with the line functionary, regions and courts. The link between financial

structures at the national and regional level had to be strengthened by the establishment of the Finance Forum, constituted by the nine heads of finance in regions, Director: Financial Operations and Director: Budgets at the National Office. This Forum was pioneered and chaired by the Chief Director: Financial Administration. This is the heart of joint problem-solving, integration and joint planning of finance work. Common problems and sharing of skills across regions is centred within the Forum.

BUDGET HIGHLIGHTS

2.435 The table highlights the budget and expenditure position of the Department for the 2000/2001 Financial Year with the previous year's comparative expenditure.

Classification according to Programmes	Voted 2000/2001 R'000	Expenditure 2000/2001 R'000	Variance R'000	Comparative expenditure 1999/2000 R'000
1.Administration	296 008	253 315	42 693	232 299
2.Administration of Courts	1 518 760	1 479 039	39 721	1 341 398
3. State Legal Services	158 790	141 989	16 801	135 500
4. National Prosecuting Authority	318 872	253 523	65 349	156 204
5. Auxiliary and Associated Services	467 364	439 120	28 244	626 121
Special Functions	-	311	(311)	1 717
Judges' Salaries	136 141	149 624	(13 482)	138 083
Total	2 895 935	2 716 921	179 015	2 631 322

2.436 It is evident from the figures provided above that the Department was allocated a final budget of R2 895 935 000 (originally R2 705 732 000 at the beginning of the financial year). The figure includes judges' salaries. The adjustment resulted from an additional allocation of R190 203 000 earmarked for unforeseen and unavoidable expenditure, which realised during the financial year. Expenditure amounted to R2 716 921 000, which resulted in a savings of R179 015 000, including judges' salaries. In line with the disclosure requirement prescribed by the National Treasury, the Department is required to disclose and surrender the surplus to the National Revenue Fund for re-allocation to other government priorities. The savings of the Department were theoretical in the sense that they resulted from commitments, which could not be paid for before the end of the financial year. This excludes the surplus realised on judges' salaries, which was surrendered to Revenue as a normal requirement. These funds have been rolled over to the 2001/2002 Financial Year to meet the already committed expenditure such as Information Technology (IT) projects, staffing of the newly established Directorate of Special Operations ("Scorpions"), and other capital projects. It is worth mentioning that the tendering process has contributed to failure to spend the allocated budget on IT and other capital projects.

ACHIEVEMENTS

2.437 The financial component of the Department has gone through a serious effort to improve financial management of the Department and to deal with weaknesses pointed out by the Auditor-General, Internal Audit and Inspectorate. The following notable achievements are listed below:

(a) The Chief Financial Officer has been seconded for one year from Business Against Crime to re-engineer the financial activities of the Department.

(b) Agency services functions have been handed over to relevant departments to relieve our offices from the administrative work-load. Only essential agency services such as the State Attorney service is still rendered by the Department. The Department is currently receiving advances from departments who ask for the service. The financial status of the account as at 31 March 2001 is indicated below.

Amount claimed for the year	Payments received	Advances Received	Out-standing payments
R156 661 344	R178 709 902	R13 214 246	R317 204 711

(c) It is important to note that the 1999/2000 financial year's outstanding balance of R381 258 486 included R251 896 364, which was in relation to the cumulative amount outstanding for previous years from the Eastern Cape Province. We have entered into negotiations with the Provincial Treasury of the Eastern Cape to recover this outstanding amount in installments. There is improvement in the collection process in the sense that R143 220 800 of the total outstanding balance of R317 204 711 for the 2000/2001 financial year is for the Eastern Cape. This reflects a reduction of R108 675 564 of the outstanding balance of the Eastern Cape, reflected in the 1999/2000 financial year (R251 896 364). This is a great improvement in the debt collection process.

(d) The Chief Directorate has been able to deal with the problem of taking over the balances from the former Self-Governing Territories and TBVC States.

(e) The balances of all the previous states as stated above, except for the Eastern Cape, have been taken over and written-off through the normal National Treasury directives. The balances of the Eastern Cape will be dealt with once they have completed their project of determining accurate balances. They promised to revert back to us once the project is complete.

(f) Structures have been put in place to ensure that the Department complies with the provisions of the Public Finance Management Act (PFMA) requirements and deadlines. These compliance aspects are listed below:

- Appointment of the Audit Committee
- Establishment of the Internal Audit Unit
- Submission of monthly budget performance reports to the National Treasury
- Putting risk management strategy in place and ensuring that risks are properly dealt with
- Meeting deadlines in terms of the submission of the budget input to National Treasury
- Orientation of line managers on the compliance provisions of the PFMA

(g) The budgeting process has been decentralised to regions and we have noted an improvement in the awareness, transparency and joint financial planning. Line managers are gradually appreciating the fact that planning for activities should inform budgeting. Programme managers have been appointed to locate budgetary control and financial management to the core business of the Department.

(h) The co-sourcing tender targeted at training financial, procurement and office services staff has been awarded to the Delloite and Touch Consortium to improve skills in these areas.

(i) In order to achieve the human resources requirement to develop staff, the following courses have been attended by the finance staff:

- Twelve officials attended an induction course in the Public Finance Management Act.
- Eleven officials attended a course in general principals on FMS 1.
- Five officials attended a course in Logis.
- Two officials attended the Metanet course.
- Nine officials attended Vulindlela, which covered the early warning system, management information and personnel functions to cope with the new budgetary process prescribed by the National Treasury.
- Two officials attended the Systems Controller FMS 1 course.
- Six officials attended the Performance Management Development course.
- Seven pupil accounts have been taken through the induction course to prepare them for absorption to accountants positions. The programme is progressing well.

(j) The risks of fraudulent negotiation of warrant vouchers (government cheques) and cash-in-transit have been

mitigated by the following actions:

- Electronic funds Transfer (EFT) method of payment to our clients.
- Opening of commercial bank accounts for money in trust accounts (Deposit Account and Guardians Fund) to reduce unused warrant voucher inventory at our offices. This has eliminated the incidents of cheque books getting lost in transit.
- Most offices' cash is collected by the contracted security companies and thus securing our employees from robbery.

(k) In line with the Public Finance Management Act Departmental Instructions have been prepared for circulation.

IMPEDIMENTS/SHORTCOMINGS

2.438 The Financial component of the Department has gone through difficult moments despite the achievements stated above. The following shortcomings played a role in derailing achievement of goals:

(a) Staff turn-over, which resulted in the Chief Directorate: Financial Administration and Chief Director: Financial Management losing committed and experienced personnel. All in all the financial year ended with the vacancy rate of 27 essential positions. These included 1 Chief Director, 1 Director, 4 Deputy Directors, 8 Assistant Directors, 8 State Accountants, 1 Chief Accounting Clerk, 1 Senior Accounting Clerk and 3 Accounting Clerk positions.

(b) Reasons for the high vacancy rate range from retirement, promotions, horizontal transfer and better paying jobs in the private sector. Reasons for staff turnover are both controllable and uncontrollable.

(c) The Chief Directorate: Financial Management was staffed with three incumbents, which two positions were vacant. This meant that the Chief Directorate: Financial Management functions had to be carried out by the Chief Directorate: Financial Administration after the termination of services of the Chief Director: Financial Management.

(d) Qualified opinion by the Auditor-General on ground of non compliance with prescripts and disclaimer of opinion on the financial statements of the Department. Although this reflects badly on the financial management of the whole Department, it is worth mentioning that it is a management issue that will be resolved through the restructuring process.

(e) Skills levels are still low and are contributing to shortcomings pointed out by the Auditor-General.

(f) The level of overdraft of the Department, which is affected by outstanding agency services, amounts to R317 204 711.

2.439 These shortcomings will be addressed through the Performance Enhancement Programme, spearheaded by the Chief Financial Officer seconded from Business Against Crime.

CONCLUSION

2.440 It is essential to acknowledge the fact that financial management of the Department has to improve, taking into account the size of the budget allocated and the service to the Public. This can only be achieved through a joint effort of all stakeholders. Re-engineering will produce positive results if all parties are taken along and the global picture is properly painted in a respectable, consultative and transparent manner of doing things. Service delivery to the public will come first in our continued efforts to better our support to the core business of the Department.

THE DIRECTORATE OF INTERNAL AUDIT AND THE AUDIT COMMITTEE

INTERNAL AUDIT

2.441 Internal Audit has been in operation since September 1999 and has an independent form of reporting structure, since the Head of Internal Audit reports administratively to the Director-General and functionally to an independent Audit Committee. At present the Directorate has an approved organisational structure consisting of 24 officials of which 23 posts have been filled and one is vacant.

2.442 In terms of an approved internal audit charter, which is reviewed on an annual basis, the following audits are performed by the Directorate:

- Computer audits
- Regularity Audits
- Performance Audits
- Ethics and forensic investigations
- Special Projects audits
- Risk assessment
- Compliance audits

2.443 One hundred and three audits have been carried out in accordance with the approved three-year strategic plan, as well as the operational plan that is based on risk assessment process. These audits were conducted by the Department of Justice and Constitutional Internal Auditors in conjunction with the Custodiet Consortium which was awarded a co-sourcing internal audit agreement.

AUDIT COMMITTEE

2.444 An independent Audit Committee has been established and is chaired by Judge Mervin King. It comprises four members. The Audit Committee fulfilled its responsibilities as an oversight committee on internal control, monitoring internal audit function and risk management discussions with management.

2.445 The Audit Committee met on a regular basis in terms of the PFMA to assess the state of the financial affairs of the Department. In the process we had regular contact with Internal Audit, the Auditor-General and the Department.

2.446 The Audit Committee also addressed various matters raised by SCOPA.

2.447 The Department has the necessary controls, as well as detailed procedure manuals. The main concern has been that these very clear prescripts are not being complied with in many respects. What is alarming, however, is the fact that non-compliance with the prescripts is a regular occurrence.

ACCOMPLISHMENTS

2.448 Recent major accomplishments include the following:

- The appointment of a Chief Financial Officer
- Various audits conducted by the Custodiet Consortium in conjunction with the Department of Justice and Constitutional Development Internal Auditors
- The risk assessment process
- The introduction of an Anti-Corruption and Fraud Prevention Strategy incorporating the hotline
- The training of management on the public Finance Management Act

2.449 The new Chief Financial Officer, seconded from Business Against Crime (BAC), immediately tackled the financial problem head-on and has made various positive suggestions, which will bring about short-term solutions. However, some of the problems will only be solved over a period of time. The general view is that there will be a great improvement in the Department's financial control in the future.

chapt3 26/09/2001 12:37 Page 104

Chapter Three
State Law Adviser's Branch

chapt3 26/09/2001 12:37 Page 105

3.1 The State Law Advisers have two offices, one in Pretoria and one in Cape Town. The core functions of the State Law Advisers are -

- the writing of opinions for all national government institutions;
- the scrutiny of international agreements, including extradition agreements;
- the scrutiny of draft subordinate legislation;
- the scrutiny and certification of draft bills as regards the language, drafting form and style, as well as the constitutionality thereof;
- the rendering of legal advice on bills during the parliamentary process;
- the attending of Parliamentary Portfolio Committees as legal adviser to those committees;
- the scrutiny and certification of amendments to bills adopted by Parliamentary Committees; and
- the attendance of meetings of government institutions.

3.2 In addition to our core functions, legal advice is also often rendered to provinces and municipalities. The Chief State Law Adviser is also responsible for the furnishing of opinions with regard to guarantees given by the Government in connection with the raising of state loans. The involvement of the State Law Advisers in the rendering of the abovementioned services brings about considerable saving in legal costs and costs of consultants for the relevant departments.

PERSONNEL COMPOSITION

3.3 The current personnel composition is as follows:

- A Chief State Law Adviser
- Four Deputy Chief State Law Advisers
- Fourteen Principal State Law Advisers
- Eight Senior State Law Advisers
- One State Law Adviser
- Three Secretaries
- One Administrative Officer
- One Senior Administrative clerk
- One Senior Typist
- One Messenger

3.4 At present one Principal State Law Adviser is still seconded to Namibia to assist their Department of Justice with the drafting of legislation. The Branch is currently in the process of filling the 11 vacant State Law Adviser posts for the purpose of staffing the Legislative Drafting Unit to be established in Cape Town.

THE POSITION OF THE CHIEF STATE LAW ADVISER

3.5 The Branch is headed by Mr Enver Daniels, the Chief State Law Adviser. Control over the State Attorneys has been delegated to Mr Daniels by the Minister for Justice and Constitutional Development. Mr Daniels chairs the Extradition Committee on which two other State Law Advisers also serve. During August 2000 a State Law Adviser accompanied an official of the Office of the National Director of Public Prosecutions to negotiate an Extradition Treaty with the People's Republic of Algeria during the Binational Commission meeting between the RSA and Algeria. It is expected that the Extradition Treaty and a Treaty on Mutual Legal Assistance in Criminal Matters will be finalised during the second Binational Commission to be held in South Africa during October 2001.During the year under review negotiations on Extradition Treaties and Treaties on Mutual Legal Assistance in Criminal Matters were finalised with France and Egypt. Parliament has also ratified Extradition Treaties and Treaties on Mutual Legal Assistance in Criminal Matters between:

- South Africa and Canada;
- South Africa and the United States of America; and
- South Africa and Australia.

3.6 In April 2001 Mr Daniels attended a meeting in Addis Ababa in respect of extradition.

FUNCTIONS OF THE BRANCH

3.7 In the year under review the Branch had to deal with many complicated opinions, especially on the interpretation of the Constitution, opinions that have major impact on the rights of persons, as well as financial implications for the state. The Branch has extended its services to also include assistance to departments in respect of matters pertaining to labour relations. In July 2000 a State Law Adviser was requested to assist the Department of Housing with misconduct proceedings. The Office of the NDPP was also assisted with its investigations into cases pertaining to taxi violence at, *inter alia*, Mitchells Plain and Gugulethu. A State Law Adviser was seconded to the Department of Tourism and Environmental Affairs for the months of March and April 2001, to investigate 438 appeals for fishing licenses. Two State Law Advisers were involved with negotiations with regard to international agreements, including grant and loan agreements. In this regard various meetings were held with members of the World Bank who visited South Africa. In view of the large number of bills introduced into Parliament, the State Law Advisers stationed in Pretoria also assisted with the work-load in order to finalise all the bills.

3.8 The following table represents the work performed by the State Law Advisers:

Work performed	2000/2001
• Parliamentary Bills	104
• Written legal opinions and regulations	366
• International agreements	253

3.9 Quality of work is never compromised for quantity. A system of quality control has been put in place. Independent checkers are responsible for scrutinising all work before it leaves the Branch. Our team work system also ensures products of the highest quality. In addition to our daily work, we sit as members in various committees, both in the Department and externally, representing the Branch or Department and being of assistance wherever required.

OTHER WORK PERFOMED

3.10 In addition to their core functions, the State Law Advisers are involved in many other diverse matters, including:

(a) The Branch is represented and actively involved in the workings of the POSLEC SETA. POSLEC SETA is the Sectoral Educational and Training Authority for the Police, Private Security, Legal, Correctional Services and Justice sectors in the country. Some of SETA's functions are to quality assure all education and training delivered in the sector and to promote and register learnerships.

(b) A number of the State Law Advisers attended a Business Risk Identification workshop held at PricewaterhouseCoopers in October 2000.

(c) A State Law Adviser attends the quarterly meetings with regard to Legal Terminology in African Languages, which mainly involves the translation of legal concepts into the indigenous languages, the goal being to compile a dictionary to be used in the courts.

(d) Some State Law Advisers are assisting the Inspector-General with the establishment of his office.

(e) Two State Law Advisers attended a conference at the Holiday Inn in Pretoria from 6 until 10 November 2000 concerning the Establishment of the African Union and the Pan-African Parliament.

(f) During the year under review four State Law Advisers assisted the Minister for Justice and Constitutional Development and the Minister for Provincial and Local Government Affairs with legal issues relating to the powers and functions of traditional leaders.

(g) One State Law Adviser attended a seminar from 8 until 12 January 2001 at Dikhololo Game Lodge on the Rationalisation of Legislation pertaining to Traditional Leadership and Institutions. A follow-up seminar on the same subject was held on 23 and 24 January 2001.

(h) Two State Law Advisers attended a seminar at Hunters Rest from 7 until 11 May 2001 concerning the Land Rights Bill.

STRATEGIC PLANNING SESSION

3.11 In August 2000 a Strategic Plan and Team Effective Workshop was conducted for the managers of the Branch at Valley Lodge in the Magaliesberg. The workshop was facilitated by Mr David Dyer. The objectives of the workshop were to, among others, identify the impediments to our performances, identify weaknesses and build on strengths, develop short-term and long-term goals, understand outsiders' perceptions, establish clear plans to ensure excellence in our products and services, identify areas where training is needed and develop professionalism. Some of our weaknesses that were highlighted, included lack of technical know-how, indecisiveness with regard to the Cape Town premises and infrastructure, no long-term or short-term strategic documents and not enough cooperation from clients. Steps to counteract these weaknesses are currently in the pipeline.

EXECUTIVE BOARD

3.12 At the strategic planning session in the Magaliesburg, the idea of appointing an Executive Board to oversee the operations of the Branch was discussed. As there appeared to be merit in appointing such a board, the Executive Board was appointed shortly after the completion of the strategic planning session. The Executive Board tries to meet once a month to consider the smooth and efficient management of the Branch. The Board looks at obstacles to efficiency and

makes recommendations. Each Board member has specific responsibilities. The Board compiled a code of conduct for the Branch. High on the Board's priorities is training. The Board consistently reviews new training programmes that will add value to the services provided by the Branch.

COMMITTEES

3.13 The Branch continues to utilise the following committees, formalised by it in the previous year, to make the management thereof more effective and to implement the decisions of the Executive Board:

- Accommodation, IT and Telephone Committee
- Budget and Finance Committee
- Constitutional Development Committee
- Employment Equity Committee
- Flexi-time and Entertainment Committee
- Human Resources Management Committee
- Strategic Planning Committee
- Training Committee

TRAINING

3.14 On 26 July 2000 the State Law Advisers attended a seminar on the procedure and legal status of agreements reached in the different Bargaining Chambers of the Public Service and the effect of such agreements on the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994). A UNISA conference on The Constitutional Right of Access to Information was attended at the St George's Hotel on 4 September 2000. The State Law Advisers also attended most of the computer training courses offered by the Department.

OVERSEAS VISITS

3.15 The search within the Branch for modern, innovative and efficacious ways to improve our structure and service delivery has been an ongoing process. Studies of and comparisons made with other legal systems are being used to identify problem areas within our legal system and to create and implement programmes for development purposes. For this reason four State Law Advisers visited Canada in October 2000. The objectives of the visit were:

- to learn how Canada has over the years organised and restructured their legal services, since our Government is engaged in the process of transformation and restructuring of government departments;

- to learn about the role of legal advisers in the Canadian justice system and generally their relationship with other organs of government;

- to analyse and compare approaches to training regarding legislative drafting, including specialised drafting in areas such as constitutional matters; and

- to learn more about the Canadian approach regarding agreements, treaties and memoranda of understanding.

3.16 Of particular interest to the team was the manner in which legislative drafting is conducted. All drafting services are centralised under one department, ensuring that the drafting services are standardised, thereby promoting consistency and uniformity in style and format of legislation. The resources are channeled at one point, hence state-of-the-art equipment is utilised. Planning of all matters relating to legislation is developed at one point, eliminating delays in finalising legislation. The quality of legislation is improved. A system of co-drafting is used whereby drafting in both their official languages is done simultaneously. The modern drafting computer system also allows sponsoring departments to participate simultaneously in the drafting process.

3.17 Arising from the Canadian report, assistance is being sought to send another team to Tasmania to study that state's computerised legislative drafting systems, which the Canadian Government is also examining.

3.18 Mr Daniels accompanied the Minister on a visit to Cuba from 10 to 18 November 2000 to attend the World Jurist Association Conference in Havana and to discuss cooperation on judicial matters between their respective Justice Departments.

3.19 Mr Daniels attended the 46th Plenary Meeting of the European Commission for Democracy through the Law on 9 and 10 March 2001 in Venice, Italy with a view to discussing the possibility of establishing a Southern African Commission for Democracy through Law.

3.20 Two State Law Advisers were selected to attend the American and International Law Seminars held in Dallas, Texas from 2 June to 13 July 2001. The seminar was hosted by the South West Legal Foundation and attended by 104 delegates from 42 countries. Participants were required to actively participate in discussions about their legal systems and draw comparisons. The seminars proved extremely valuable with regard to specific subjects still new to the South African legal system, such as e-commerce and the electronic signature.

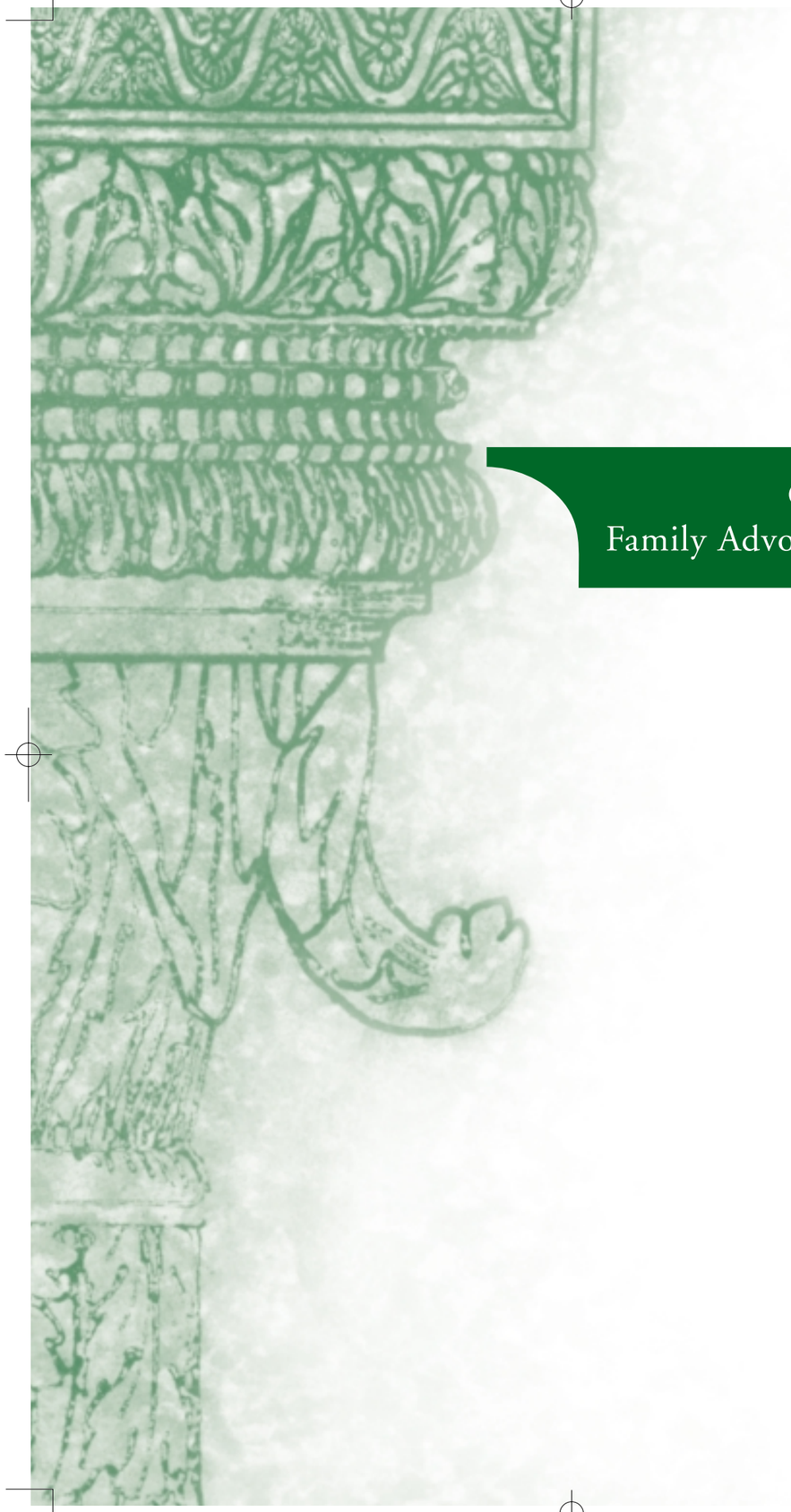
RESTRUCTURING

3.21 A Strategic Planning Meeting was held in Durban on 22 and 23 March 2001 to devise strategies as to how the Business Unit: Legal Advisory Services should be restructured.

CONCLUSION

3.22 During the period under review the Branch played a meaningful role in transformation generally and in the Department specifically. The State Law Advisers have performed well, often under tremendous pressure, for which they deserve great appreciation. As for the future the Branch is looking forward with anticipation to participating in the restructuring of the Department into Business Units.

chapt4 26/09/2001 12:44 Page 109



Chapter Four
Family Advocate's Branch

4.1 The Family Advocate functions in terms of the Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987), with the following specific duties:

- Monitoring all settlement agreements and court documentation involving minor and or dependent children, in order to determine whether the arrangements contained in the documents are *prima facie* in the best interests of the children.
- Mediation, in order to reach a viable solution in a dispute concerning minor children, where the parties are actively involved and accepts responsibility for implementing the solution.
- Evaluation of parents and children, in order to make a meaningful recommendation to the court as to the best interests of the minor children involved.

4.2 Inquiries are made at the request of the court, one or both parties to the litigation or on the initiative of the Family Advocate, in which case the authorisation of the court must be obtained.

4.3 In the execution of the above functions, the Family Advocate is assisted by a Family Counsellor, in practice usually a registered social worker of the Department of Welfare or private agencies. During the year under review the Branch experienced severe pressure on the social work component, mainly owing to the restructuring and rationalisation of the Provincial Departments of Social Development (Welfare) and cuts in the subsidies of registered private welfare organisations.

4.4 At present the staff component countrywide is as follows:

• Chief Family Advocate	1
• Family Advocates	25
• Full-time Family Counsellors	16
• Administrative component	38

4.5 At present there are Family Advocates` Offices in Pretoria, Johannesburg, Bloemfontein, Durban, Port Elizabeth, Cape Town, Bisho, Umtata, Mafikeng and Pietersburg. As in the past, the Family Advocate still relies heavily on the services of social workers from private welfare organisations, especially in the remote rural areas.

4.6 The statistics furnished above show a marked increase in the workload in comparison to previous years. The increased workload has, however, been adversely influenced by a shortage of Family Counsellors, as indicated above. As in the past the severe lack of in-house counsellors seems to be the most important stumbling block in rendering a more effective service. The Office has consequently had to rely heavily on the services of non-governmental organisations to render those services that the Department of Social Development could not assist with.

4.7 Although the Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987) still forms the principle Act under which the Office operates, a number of new Acts have been put into operation during the past year (or shortly before) and this requires the extension of the services beyond what is provided for in terms of the principle Act. These Acts are:

- The Hague Convention on the Civil Aspects of International Child Abduction Act, 1996 (Act 72 of 1996), in operation since 1 October 1997
- The Natural Fathers of Children Born out of Wedlock, 1997 (Act 86 of 1997), in operation since 4 September 1998
- The Divorce Court Amendment Act, 1997 (Act 65 of 1997), in operation since 6 April 1998
- The Recognition of Customary Marriages Act,1998 (Act 120 of 1998), in operation since 15 November 2000

4.8 In terms of The Hague Convention on the Civil Aspects of International Child Abduction Act, 1996 (Act 72 of 1996), a large number of incoming and outgoing applications have been received. The Chief Family Advocate has been designated as Central Authority in terms of the Act and a good interdepartmental network with the Branch International Social Services (Department of Social Development) and Interpol (Police) has been established. In one matter the Central Authority argued the case about and accompanied a child from Australia. A number of abduction cases received coverage in the international media.

4.9 The Office of the Family Advocate has also been designated to provide support services to Family Court Pilot Projects in Port Elizabeth, Cape Town, Durban, Johannesburg and Lebowakgomo. The family advocates played a pivotal role in practice to promote the preservation of children's rights. In this regard special emphasis should be placed on the issue of Discussion Paper 94 of the Law Commission on community and traditional courts.

4.10 The various offices have also been involved in the provincial initiatives concerning the National Plan of Action for Children. In this regard it is envisaged that the Family Advocate should be involved in all family related matters to properly represent the interests of children.

4.11 The Office of the Family Advocate has assisted with the various launches of Family Court Centres countrywide. In this regard the community outreach projects of family advocates in the various centres should be acknowledged. The various family advocates have assisted not only in the divorce courts, but also in the children's courts, and have mediated domestic violence issues and assisted in training at maintenance courts. From a recent national survey conducted by Business Against Crime it appears that the recommendations of the Office of the Family Advocate are in almost all instances accepted by the Courts and that judges in all the Divisions of the High Court rely strongly on the support of the Family Advocates' Offices.

4.12 The Family Advocate's Office also renders a free legal advice service regarding all matters concerning the rights of children nationally and internationally. The Department of Foreign Affairs, as well as International Social Services and Central Authorities from all over the world, have regularly consulted the Office. This service has proven to be of great value in promoting a children's rights culture in South Africa. In all respects the Office is regarded as fostering children's rights countrywide and internationally.

4.13 The Chief Family Advocate attended the Fourth Special Commission on Civil Aspects of International Child Abduction in The Hague, Netherlands on 22-28 March 2001 and was elected to form part of a special executive committee to promote the signing of the Convention and the promotion of cooperation between the 65 signatory countries.

Chapter Five
Registrar's Branch

chapt5 26/09/2001 12:46 Page 113

5.1 Amendments and/or the lack thereof to the Criminal Procedure Act have significantly impacted on the statistics of the year under review.

5.2 During the year under review this Office had an increased work-load because of the petition procedure resulting from Section 309(17)(B) + (C). This meant that the office which normally dealt with criminal appeals had to take on as an extra work-load the petitions to the Judge President for leave to appeal. In about 98% of the matters received, the magistrates' reasons were not attached. These petitions had to be returned and received again at a later stage.

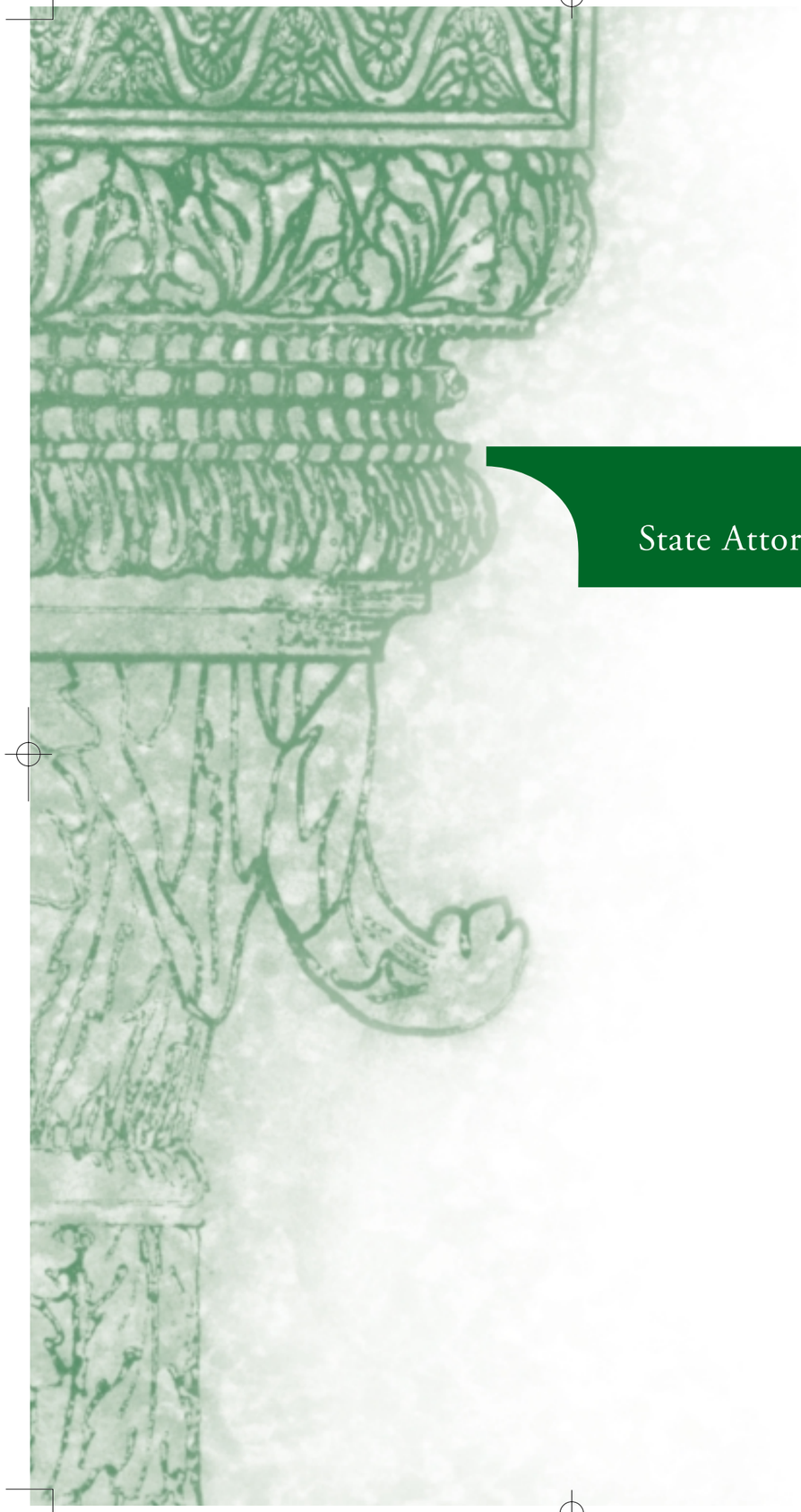
5.3 The restoration process of the Palace of Justice is almost completed and the Department of Public Works has advised this Office that they are ready to give the building over. This will happen on 25 September 2001. This Office is currently in the process of procuring furniture, curtains, etc. to utilise in the new building. The Judge President has inspected the building and expressed his satisfaction with the restoration.

5.4 There are 3 courtrooms in the Palace that will be utilised for criminal and civil appeals as well as criminal trials. The structure has been changed to the effect that all three courts can now be reached by way of stairs from the cells in the basement.

5.5 Apart from the petitions to the Judge President, the work-load has remained more or less the same. Motion court matters have declined from 17739 in 2000 to 14590 in 2001. There was a slight increase in criminal appeals, namely from 355 in 2000 to 416 in 2001. Appeals from the Regional Courts have dropped from 633 in 2000 to 545 in 2001. Petitions to the Judge President showed the largest increase, namely from 108 in 2000 to 421 in 2001. Automatic reviews also increased from 4579 in 2000 to 8166 in 2001. There was also an increase in respect of the number of criminal matters. This increased entailed 345 in 2000 to 560 in 2001.

5.6 Circuit courts maintained their busy schedule. The Judge President sends out circuit courts to every region of this court's jurisdiction. There are normally 8 circuit courts being sent out per quarter, with a full roll of cases.

chapt6 26/09/2001 12:48 Page 114



Chapter Six
State Attorney's Branch

chapt6 26/09/2001 12:48 Page 115

STATE ATTORNEY'S BRANCH

6.1 In terms of section 1(1) of the State Attorney's Act, 1957 (Act 55 of 1957), the State Attorney's Office is established in Pretoria under the control of the Minister for Justice and Constitutional Development. Branches of the State Attorney's Office are situated in Cape Town, Port Elizabeth, Johannesbrug, Bloemfontein, Durban, King Williams Town, Mmabatho and Thohoyandou. The Minister has delegated his functions in terms of the Act to the Chief State Law Adviser during the first part of 2000.

6.2 A valuable Strategy and Team Effectiveness Workshop was held, which enabled the Branch to build a solid foundation which can be utilised to transform the Branch and to ensure excellent service delivery to client-departments.

6.3 A decision was taken at the Strategy and Team Effectiveness Workshop to restructure the Branch. An Executive Board consisting of all the heads of the various offices under the chairmanship of the State Law Adviser was created. The Executive Board meets once a month at a different State Attorney's Office. The Executive Board directs the operations of the Branch in a coherent way and in accordance with the State Attorney Act, the Rules and Regulations of the Law Societies and all Public Service prescripts. It is also responsible for formulating and implementing policies that will apply uniformly throughout the country. The Board, which has specific terms of reference, provides the forum to deal with matters in a consultative manner. It also facilitates the monitoring of goals and objectives set by the Branch.

6.4 The Branch has formulated its mission as a costumer-driven organisation, committed to uphold and defend the Constitution by providing a comprehensive, efficient and cost-effective legal service to the National Government. Provincial Governments, other state funded bodies and their employees.

6.5 The state is involved in virtually every facet of society in one way or another and therefore needs the services of good attorneys.

6.6 Apart from the State Attorney's Act, the practice and function of the State Attorney's Office is also regulated by the Public Finance Management Act of 1999 and the Treasury Regulations promulgated in terms of the said Act.

6.7 As a result of the vital functions rendered by it, the State Attorney's Office presently renders the following services to the state and its various organs, which include, *inter alia*:

(a) Diverse types of civil litigation in the High Courts and the Magistrates' Courts, as well as appeals from these courts, including appeals to the Supreme Court of Appeal.
(b) Labour matters including litigation in the CCMA and the Labour Courts.
(c) Land Claims including litigation in Land Claims Courts.
(d) State defence of officials in various forums including criminal cases and inquests.
(e) The drafting and/or settling of all types of agreements, both simple and complex, on behalf of various client-departments.
(f) The rendering of various opinions for the benefit of client-departments.
(g) Comprehensive tax services including litigation in the various courts and tax tribunals.
(h) Liquidations and insolvency inquiries.
(i) Constitutional issues including litigation in the Constitutional Court.
(j) All forms of arbitration including interdepartmental arbitrations.
(k) Appearances in other tribunals, for example, Townships Appeal Board and Publications Appeal Board.
(l) Conveyancing and Notarial Services.
(m) Registration of trusts and companies.
(n) Generally any other legal services which may be ancillary to the above.

6.8 It is important to draw attention to the following:

- Since there exists a State Attorney's Office which renders free and comprehensive legal services for the state, it is imperative that all client-departments ensure that full and proper use is made of this Office before carrying out their respective functions which may potentially have legal consequences
- In view of the heavy responsibilities placed upon state officials, it is vital that such officials carry out their duties only after consulting with the State Attorney's Office where circumstances warrant same
- Furthermore, in light of the provisions of the present Public Finance Management Act of 1999, officials who fail to take such prior legal advice may be held personally liable for their acts with dire legal and financial consequences for themselves.

6.9 The state's involvement in practically all spheres of life attracts the attention of an increasing number of litigations. (The Bill of Rights and labour litigation are prime examples.) The scope and intensity of litigation against the state has increased dramatically during the past year and it can safely be argued that the trend will continue. The state requires quality legal services to safeguard its interests. The state is at present the biggest consumer of legal services.

6.10 The new constitutional dispensation which came into operation during 1994 necessitated the amalgamation and rationalisation of the eleven former Departments of Justice. The amalgamation process has already taken place. The former Minister of Justice has appointed an Interim Committee to advise him on the rationalisation of the state Attorney's Branch with special reference to the creation of offices in the provinces that do not have the services of a State Attorney situated within their provincial boundaries. The matter is still being investigated in an effort to rationalise the State Attorney's Branch.

6.11 The 1999/2000 year was once again characterised by a considerable drain in terms of experience and expertise. In an attempt to lessen the burden on existing personnel a number of candidate attorneys in the USAID/BLA Scheme have been appointed on a temporary basis.

6.12 The work-load of the State Attorney and the intensity of litigation against the state has increased in general.

6.13 Government needs advice in litigation and other matters which are conducted outside of South Africa's borders or where foreign matters need attention or intervention. The pending litigation against some mining and manufacturing companies in Britain are examples. (The asbestos matters from the Northern Cape Province and Northern Province as well as the mercury poisoning matter in KwaZulu-Natal can be sited as examples.)

6.14 Commissions of Inquiry created situations where the state's interest should be protected. It is the State Attorney's role to act in the state's or public's interest during such inquiries. (Mining disasters and inquiries by the Public Protector are examples.)

6.15 Conflict in labour relations is a fast growing field of litigation against the state.

6.16 Land Restitution is a new field which need some innovative actions in trying to negotiate/mediate a fair settlement with individuals and communities.

6.17 Litigants have found that the Bill of Rights has created a fertile field for litigation against the state. Constitutional litigation is necessary to interpret the Constitution and to ensure that all acts/policies are not in conflict with it. (Examples are the following: The death penalty; corporal punishment; gay and lesbian rights; adoption of children; marriage and medical benefits.)

6.18 State Attorneys now have fully operational separate collections sections that are staffed by administration clerks under the guidance of an attorney. As a result of this, the State Attorneys spent considerably less time on this time-consuming task and were able to direct their attention to more important matters.

6.19 The State Attorney's Branch has worked 369,216 hours during the year of which 18 985 hours were spent, without remuneration, after hours. Such heavy work-loads would have necessitated an establishment of 224 attorneys and candidate attorneys.

6.20 An illustration of time spent on the different categories is summarised hereunder:

TIME	BFT	CTN	DBN	JHB	MmB	PE	PTA	TOTAL
COLLECTIONS	3458	617	14786	16841	848	530	15991	53071
DEEDS	1250	4957	2004	4458	1	80	3373	16123
CRIMINAL	2855	2064	1145	1838	736	1240	5166	15044
CONTRACTS	987	1170	716	838	148	454	4620	8933
HIGH COURT	3625	6697	9858	18141	437	5105	25940	69803
MAG COURT	8519	9326	17874	31944	5393	5821	49145	128022
W/OPINIONS	2698	3770	7368	11483	1215	2597	17097	46228
O/OPINIONS	327	1073	790	93	180	316	1893	4672
TRIBUNALS	50	461	537	453	10	0	2596	4107
OTHER	2030	3919	603	2815	259	1721	6749	18096
TRAVEL	552	890	519	394	782	471	1509	5117
OVERTIME:	1442	2034	3153	2915	800	887	7754	18985
OVERTIME:	561	334	3108	167	300	452	2583	7505
TOTAL	**26351**	**34944**	**56200**	**89298**	**10009**	**18335**	**134079**	**369216**

6.21 The efforts, initiated by the former Minister, to ensure that Departments and Provincial Administrations recommend to the State Attorney that lawyers be briefed who had not been afforded the necessary opportunities in the past, are continuing. State Attorneys, as agents for the client-departments, are bound to carry out the instructions of their clients in this regard. The services of the aforementioned lawyers are, in cooperation with client-departments, being used at an increasing rate where and whenever possible.

FINAL report a 26/09/2001 12:51 Page 1

Annexures

Annexure
Report of the Auditor-General
Part A

REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF VOTE 18 - JUSTICE AND CONSTITUTIONAL DEVELOPMENT FOR THE YEAR ENDED 31 MARCH 2001

1. AUDIT ASSIGNMENT

The financial statements as set out on pages 8 to 24 (of the Financial Statements Annexure), for the year ended 31 March 2001 have been audited in terms of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No.108 of 1996), read with sections 3 and 5 of the Auditor-General Act, 1995 (Act No.12 of 1995). These financial statements, the maintenance of effective control measures and compliance with relevant laws and regulations are the responsibility of the accounting officer. My responsibility is to express an opinion on these financial statements and the compliance with relevant laws and regulations, applicable to financial matters, based on the audit.

2. REGULARITY AUDIT

2.1 Nature and scope

2.1.1 Financial audit

The audit was conducted in accordance with generally accepted government auditing standards which incorporate generally accepted auditing standards. These standards require the audit to be planned and performed to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements,
- assessing the accounting principles used and significant estimates made by management, and
- evaluating the overall financial statement presentation.

Due to the nature of the prescribed accounting practice, the audit was performed within a financial reporting framework which does not at this stage necessarily result in a fair presentation of the results of operations, financial position and cash flows for any financial period.

I believe that the audit provides a reasonable basis for my opinion.

2.1.2 Compliance audit

Furthermore an audit includes an examination, on a test basis, of evidence supporting compliance in all material respects with the relevant laws and regulations which came to my attention and are applicable to financial matters.

I believe that the audit provides a reasonable basis for my opinion.

2.2 QUALIFICATION

2.2.1 Financial audit

a) Expenditure

Expenditure incurred by the department for the year under review amounted to R2,7 billion as per the annual financial statements.

Due to the material extent to which adequate supporting documentation could not be provided for auditing purposes, it was not possible to verify the relevant expenditure. In view of this limitation on the scope of the audit work, I was thus unable to express an opinion as to whether the financial statements fairly reflect the results of the operations for the year under review. The audit for the year under review also revealed uncertainties and similar shortcomings to those reported on in my previous report [RP 129/2000].

Details in the above-mentioned regard include the following:

- Adequate supporting documentation to obtain

FINAL report a 26/09/2001 12:51 Page 3

assurance regarding the validity of expenditure amounting to R7 million could not be submitted for audit purposes. In addition to this amount, substantiation of transactions relating to hundred and sixteen batches and/or salary files, which could not be quantified, could also not be obtained. This resulted in the expenditure not being verifiable.

- There was a two-month average capturing backlog of batches on the Financial Management System (FMS). Uncertainty therefore exists regarding the accuracy and completeness of amounts included in the income statement and balance sheet.
- Expenditure amounting to R298 000 was not recorded in the current financial year, due to misallocations between the prior and subsequent financial years.
- Expenditure was overstated by R1,7 million, due to misallocations of R310 000, excess salary and allowance payments of R906 000, double payments of R318 000, and excess payments of RSC levies amounting to R133 000.
- Separate accountability was established for the Directorate Special Operations (DSO) with the proclamation of the National Prosecuting Authority (NPA) Amendment Act (Act No.61 of 2000) on 11 December 2000. Separate annual financial statements were prepared for the period 1 December 2000 to 31 March 2001, and a separate audit report will therefore be issued for the DSO. According to information received from the department, a split as from 11 December 2000 was not possible. Due to the separate accountability of the DSO, the transactions for the NPA and DSO could not be identified separately, from the effective date. This resulted in uncertainty regarding the completeness and accuracy of expenditure relating to the NPA as disclosed under programme 4 in the income statement, and the amounts included in the financial statements of the DSO.

Detailed below are other significant audit findings that were identified during the audit of the major standard items of the department:

(i) Personnel Expenditure

For the year under review, the department spent R1,6 billion (64 % of its budget) on personnel expenditure.

- Various unexplained differences between items in the Personnel and Salary Administration System (PERSAL) and the Financial Management System (FMS) were identified. As no reconciliation of the total difference of R39,4 million was performed, the completeness and accuracy of the amount disclosed as personnel expenditure could not be verified.
- For the year under review the following unsatisfactory matters relating to leave credits, some of which placed a limitation on the scope of my audit as certain procedures could not be performed, were again identified:
  - Various situations were noted where leave captured on PERSAL did not agree with the leave forms. In specific cases leave taken had not been captured on the PERSAL system.
  - Leave was not appropriately approved in various instances.
  - Leave applications were not filed on personnel files.
  - Non-compliance with directives regarding leave taken by judges' secretaries.
  - No leave credit report could be obtained for the year under review.

(ii) Professional and special services

For the year under review the department spent R 164 million (7 % of its budget) on professional and special services.

- Seven payments totalling R67 000 were incurred without obtaining quotations. This is in contravention of the State Tender Board regulations, thus rendering this expenditure irregular. Also refer to paragraph 3.2(b) infra.

b) Revenue

An audit performed on departmental income revealed the following deficiencies which resulted in my office not being able to verify the completeness of this item:

(i) Income in general

- Uncashed/stale warrant vouchers to the value of R607 000 were not written back to revenue, resulting in an understatement of revenue.
- The amount reflected as revenue generated on the FMS was R563 000 less than the amount collected and reflected in the South African Revenue Services statements. A reconciliation of the difference could not be produced.
- Receipts and deposit slips amounting to R284 000 were not adequately completed, resulting in this office not being able to confirm correct recording.
- Unexplained differences in amounts outstanding in the State Revenue Fund in respect of subsidised transport advances, resulted in the income statements/returns being understated.

(ii) State attorney's offices debt collection on behalf of client departments

- Differences in opening and closing balances relating to 1994 have still not been corrected to date.
- Income returns submitted by two state attorney's offices incorrectly reflected nil balances even though these offices performed debt collection.

c) Foreign aid assistance / Donor funding

An audit of foreign aid assistance for the year under review revealed differences in the amounts disclosed as foreign aid assistance in the financial records. Moreover, expenditure was not accounted for in the period in which it was incurred and shortcomings were identified. The following matters deserve mentioning:

- The donor suspense account of R30 million could not be reconciled with the total expenditure of R36,7 million as recorded in the financial statements. This could inter alia be attributed to the donor suspense account not having been analysed and followed up on a continuous basis.
- Project managers were not always available and certain critical information could not be confirmed.
- Project managers as required by the donor agreement had not been appointed in writing by the accounting officer.
- Expenditure of R5,5 million relating to the previous financial years was accounted for in the year under review.
- Salaries of R551 000 paid to the project managers were not accounted for and disclosed as expenditure against foreign aid assistance.
- In the case of payments totalling R514 000 it could not be verified whether Tender Board directives had been complied with.
- Journal entries totalling R443 000 were not substantiated by documentation and the validity of entries could therefore not be verified.
- The department did not include a textual report in the Statement of Foreign Aid Assistance, outlining the performance information on the use of assistance as required in terms of paragraph 7.2 of the Guide for the Preparation of the 2001 Annual Financial Statements of Departments and Constitutional Institutions issued by the Accountant-General.
- The NPA received donor funds amounting to R3,2 million. These funds were not administered in terms of the prescribed procedures, and were not accounted for in the department's records.

The shortcomings could be attributed to inadequate overall project management and a lack of internal guidelines for the handling of foreign aid assistance.

As reported in paragraph 3.2(a) of my previous report [RP 129/2000], owing to changes in the legislative provisions, not all donations were necessarily subject to the budget process, and no formal policy existed in respect of the accounting for the donations. Vague interim accounting procedures with regard to the exact accounting procedure to be followed were obtained from the former Department of State Expenditure. The National Treasury, in a letter dated 20 July 2001, mentioned that the specific details regarding the financial accounting processes were incorporated in the Policy Framework and Procedural Guidelines for the Management of Official Development Assistance. This document is to be submitted to cabinet for approval by the division responsible for international development co-operation. These guidelines require separate fund structures to be opened for RDP and related projects and programmes within the accounting system of the department against which cost/expenditure is allocated. This process is expected to be finalised by 30 September 2001. For the year under review, it was thus not possible to verify whether these funds were treated in accordance with a formal and authorised policy.

d) Suspense and disallowance accounts

In paragraph 2.2.4(a) of my report for the 1998-1999 year of review [RP 145/1999], and in paragraph 2.2.1 (d) of my previous report [RP 129/2000], it was reported that an action plan for the analysis and follow-up of suspense and disallowance accounts was handed to this office. According to the plan, accounts were to be analysed on a continuous basis. However, the analysis that was done by the department to prepare the balance sheet, confirmed that there were still long outstanding transactions in these accounts.

It was also ascertained that transactions relating to the Directorate of Special Operations (Scorpions) and the Public Protector are included in these accounts. The effect thereof could, however, not be determined. (Also refer to paragraphs 3.8 and 3.9 *infra*).

Uncertainty therefore exists with regard to the validity and accuracy of the debtors and creditors reflected in the Balance Sheet.

In a letter to the accounting officer, it was recommended that a task team be appointed as a matter of urgency to clear all balances in suspense and disallowance accounts.

(e) Contingent liabilities

(i) Housing guarantees

As disclosed in note 7 to the Balance Sheet, housing guarantees totalling R22,5 million are included in contingent liabilities. As reported previously, an audit of housing guarantees revealed differences between reports generated by the PERSAL system, the guarantee register (kept manually) and information on the files. During the audit, files were also identified with no or insufficient documentation relating to guarantees as well as guarantees that were not appropriately approved.

The department indicated that a task team was busy doing an investigation and the anticipated finalisation date was given as the end of August 2001.

(ii) Pending lawsuits

As disclosed in note 7 to the Balance Sheet, pending lawsuits totalling R237,2 million are included in contingent liabilities. Confirmation for pending lawsuits was requested from the various state attorney's offices. Five out of nine confirmations/returns were received at the date of compiling this report, and the differences accumulated to R2,2 million. An opinion on the reasonableness of the amount disclosed can therefore not be expressed.

f) Unauthorised expenditure: National Prosecuting Authority

Unauthorised expenditure amounting to R523 000 was incurred by the National Directorate of Public Prosecutions. See details in paragraph 3.8 infra. This expenditure has not been disclosed in the financial statements of the department in terms of the requirements of the Public Finance Management Act and the Treasury Regulations.

g) Internal checking and control

The following significant shortcomings in the department's internal control system, which have a fundamental impact on the completeness and accuracy of the financial statements, have been identified during the year under review:

- Expenditure was not always properly authorised or charged against voted funds during the year in which the relevant payments were made.
- Expenditure was not correctly allocated, leading to the overstatement of certain standard items and the understatement of others.
- Expenditure was not supported by substantive documentation in various instances. As a result, the validity of expenditure could not be confirmed. Also refer to paragraphs 2.2.1 (a) to 2.2.1 (e) supra.
- Irregular expenditure was incurred, due to non-compliance with acts, regulations and other prescripts.
- Expenditure vouchers were not always cancelled (stamped as being "paid"), which could and did result in payments being made more than once.
- Suspense accounts were not followed up and cleared as required by the Treasury regulations, with the result that amounts in these accounts were outstanding for long periods.

2.2.2 Compliance audit

Non-compliance with the Public Finance Management Act

The implementation of the Public Finance Management Act, 1999 (Act No.1 of 1999) is acknowledged as a key element in a set of reforms to the management of public finances, which represent major challenges to all officials in the public sector. The National Treasury has developed regulations in terms of the PFMA to help improve financial management, but the process of implementation will take some time to complete. The following instances of non-compliance were identified during the audit for the year under review:

- In terms of section 38(1)(a)(i) of the PFMA, the accounting officer must ensure that the department has and maintains effective, efficient and transparent systems of financial and risk management and internal control. To this end the Director-General issued departmental circulars 60/2000 dated 31 August 2000 and 21/1999 dated 27 August 1999 as instruction that all former instructions and regulations that had been in force prior to the application of the Public Service Regulations and the Treasury Regulations (issued in terms of the PFMA) be deemed instructions and regulations issued by the department. However, as indicated in paragraph 2.2.1 supra, the audit for the year under review revealed various weaknesses in the system of financial and risk management and internal control.
- Notwithstanding the aforementioned, the audit also revealed the following non-compliance with prescripts:
  - On various occasions there were accounts which were not settled within 30 days as required by the Treasury Regulations.
  - Expenditure was not always certified as prescribed in terms of the departmental instructions.
  - Payments exceeding the prescribed limit of R 10 000 were not made via electronic funds transfer as instructed by the National Treasury.
  - Various debits had been raised against Revenue without these being appropriately approved in terms of departmental policy.
  - All appointments in the Gauteng Region during the year under review that were tested, were made without the vacancies being advertised as prescribed by the Public Service Regulations.
- The accounting officer did not obtain written assurances, before transferring any funds to an entity, that effective, efficient and transparent financial management and internal control systems had been implemented. If such written assurances could not be obtained, the accounting officer did not render the transfer of funds, subject to conditions and remedial measures requiring the entity to establish and implement the above-mentioned controls. This is in contradiction with section 38(1)(j) of the PFMA. However, written assurances were obtained for the 2001-2002 financial year.

2.3 Audit opinion

2.3.1 Financial audit: Disclaimer of opinion

Because of the significance of the matters mentioned in paragraph 2.2.1, I do not express an opinion on the financial statements of the Department of Justice and Constitutional Development for the year ended 31 March 2001.

2.3.2 Compliance audit: Qualified opinion

Based on the audit work performed, except for the matters mentioned in paragraph 2.2.2, nothing has come to my attention that causes me to believe that material non-compliance with laws and regulations, applicable to financial matters, has occurred.

3. EMPHASIS OF MATTER

Without further qualifying the audit opinion expressed above, attention is drawn to the following matters:

3.1 Theft and losses

Losses written off amounted to. R650 000 (1999-2000: R2 900 000), and included losses in respect of Monies in Trust administered by the department. Unsatisfactory aspects were identified regarding losses, that resulted in uncertainty as to the extent to which the authorised losses disclosed in note 7 to the Income Statement are over- and/or understated. The following are details of these unsatisfactory aspects identified during the audit for the year under review:

a) Uncertainty regarding the correct accounting treatment of losses relating to the department.
b) No annual stocktaking of inventory and equipment was done, leaving shortages unaccounted for.
c) Inconsistencies in case reference numbers, resulting in difficulty to trace losses and to prevent the possibility of duplication of losses.
d) Losses relating to assets incorrectly accounted for, overstating expenditure included in the Income Statement.
e) Duplication of losses, totalling R38 000.
f) Incompleteness of irrecoverable legal costs written off.
g) Backlogs on requests to write off legal costs.
h) Inadequate loss-control register.

3.2 Unauthorised and immaterial irregular, fruitless and wasteful expenditure

a) Unauthorised expenditure

As disclosed in note 1.2 of the notes to the Balance Sheet, the department has unauthorised expenditure totalling R116 million relating to the excess expenditures of prior years, which has been disallowed but not yet approved by the National Treasury.

b) Irregular expenditure

- Expenditure on the Witness Protection Programme that did not comply with the State Tender Board directives for procurement, was identified as irregular expenditure in terms of the PFMA. This expenditure has not been quantified as it also relates to previous years. Details of this expenditure are included in paragraph 3.3 infra.
- Expenditure amounting to R67 000 was incurred for professional and special services, and is regarded as irregular as a result of non-compliance with State Tender Board directives. Details of this expenditure are included in paragraph 2.2.1(a)(ii) *supra*.

c) Fruitless and wasteful expenditure

Fruitless rental expenditure amounting to R197 000

FINAL report a 26/09/2001 12:52 Page 7

was incurred on the Witness Protection Programme in respect of accommodation for witnesses. This expenditure is regarded as fruitless as it was incurred on accommodation not utilised. Details of this expenditure are included in paragraph 3.3 infra.

3.3 Witness Protection Programme

Due to the inherent nature of the Witness Protection Programme and its required level of secrecy, it is recommended that alternative measures should be in place as it is not always possible to follow the standard procurement and acquisition procedures and prescripts. However, in the absence of such alternative measures, those applicable under normal circumstances prevail and therefore the audit conducted on the Witness Protection Programme revealed the following deficiencies:

- Fruitless and wasteful expenditure amounting to R197 000 was identified during the audit where rent was paid for accommodation that was not fully utilised by the Witness Protection Unit In KwaZulu-Natal. Also refer to paragraph 3.2(c) supra.
- Thirty payments totalling R54 000 for goods and services were not certified in terms of the requirements of the Treasury Instructions.
- Payments made for expenditure incurred amounting to R36 000 were not appropriately approved.
- No reconciliation was performed between the accounting records and bank account at the end of each month.
- Agreements/contracts entered into for inter alia the rental of properties were not referred to the State Attorney for his evaluation and consent as prescribed. The validity and completeness of several rental agreements could not be confirmed as certain critical information was omitted and the parties concerned did not duly sign some agreements.
- Four cases were identified where witnesses were admitted to the programme without the appropriate approval by the Attorney-General/Director: Public Prosecutions.
- Services regarding expenditure in excess of R30 000 should be obtained by inviting tenders. Instances were identified where tenders were not invited although the costs for accommodation per contract exceeded this amount. The Tender Board indicated in a response to the departments letter dated 21 August 2000, in which the department requested exemption from the prescripts, that further sufficient reasons had to be furnished. As this matter had not yet been resolved, the expenditure incurred for obtaining accommodation in excess of R30 000 for the year under review will be regarded as irregular expenditure in terms of the PFMA. Also refer to paragraph 3.2(b) *supra*.

3.4 Control over assets (inventory and equipment)

Shortcomings in the control over assets were reported on in my previous audit reports. The following matters were also revealed in the year under review and resulted in an inability to always verify the existence and completeness of stock, furniture and equipment:

a) Delays in processing of asset disposal transactions resulted in equipment disposals not being captured on LOGIS timely. The value of assets on LOGIS, at year-end, was overstated.
b) Asset and inventory registers have not been updated to reflect disposals, transfers, purchases, damaged assets and obsolete inventory items.
c) Inventory held in stores was not in a separate area which restricted access.
d) Prescribed provisioning administration forms, records and cards for the manual system were not used at some sub-offices.
e) Asset registers were not maintained at various sub-offices.
f) No stocktaking was performed on inventory and equipment.
g) Adequate segregation of duties between ordering, receiving and record-keeping functions in sub-offices was not always prevalent.

3.5 Unresolved matters previously reported

a) A follow-up on issues reported on in previous years' reports revealed that no progress had been made in the following cases:

- Alleged abuse of day-to-day maintenance benefits (reported since 1997 -1998).
- Payments made by the State Attorney of Umtata (reported since 1997 -1998).
- A commission of inquiry into the prevention of public violence and intimidation (reported since 1994-1995).
- Application of policies with regard to the awarding of notch increments by delegated officials (reported since 1998-1999).
- Opening balances on summaries of income generated by the state attorney's offices did not agree with the closing balances of the previous period. Differences in balances relating to 1994 had been identified during the previous audits and have still not been corrected to date.
- Summaries of income generated by State Attorney's Offices in Mmabatho and Bisho reflected nil balances even though they were using manual systems.

b) The following progress was made on previously reported issues:

- On the amalgamation of the departments of the former TBVC countries and self-governing territories with the national department, it was reported in paragraph 3.1 of my previous report [RP 129/2000] that the accounting officer could, in consultation with the National Treasury, approve outstanding balances, which could not be recovered, to be written off. In a letter dated 18 April 20011 the department requested the National Treasury's recommendation to write off the balances supplied by the Provincial Treasuries (with the exception of the Eastern Cape), totalling R7 million. In its response dated 7 June 2001, the National Treasury concurred that the balances should be written off, and that a similar exercise would have to be followed with regard to the Eastern Cape after the process of compiling/re-compiling their books had been finalised, for the periods in question.
- The problems experienced and progress made with the implementation of the findings of the Judge White Commission were previously reported on. Details thereof have appeared in the reports of the Auditor-General since the 1996-1997 financial year. At a meeting held with officials of the department on 6 August 2001, this office was made aware that on 28 June 2001 judgement was given whereby the findings of the Commission in respect of the Yalezo court case (hearing number 191) were set aside. The department also indicated that they had referred the judgement to the Legal Division for recommendations on the way forward with the matter. No further details were available at the time of finalising the report.

3.6 Financial management

Details on the developments regarding the financial management of the department were included in paragraph 3.5(a) of the previous audit report [RP 129/2000]. The following developments have taken place since the aforesaid report was signed on 20 April 2001:

a) The post of Chief Financial Officer (CFO) and other posts relating to financial management were advertised with the closing date of 13 July 2001.
b) The department launched its Performance Enhancement Programme (PEP) during February 2001. The overall aim of this programme is to transform the office of the CFO to a support service centre of excellence. During May 2001 an interim report was released detailing the progress made. The final report is expected at the end of August 2001.
c) Other significant developments that took place entail the following:
   - Finance staff at sub-offices and regional offices now report to the acting CFO via the regional finance directors.
   - Monthly management reports are now being drawn up which could not be done previously.

3.7 Internal audit and audit committee

In paragraph 3.5(b) of my previous report [RP 129/2000], it was reported that a tender was awarded on 18 April 2000 to a consortium of firms, to assist with the establishment of an internal audit section.

The areas addressed by the internal audit function during the year under review were based on a risk assessment process and as such the high-level risks identified were addressed by internal audit. This process was started in June 2000 and as such limited reliance could be placed on the work done by internal audit.

In a progress report on internal audit, dated 20 July 2001, the department highlighted the following achievements/progress made for the period ending 31 March 2001:

a) Audits were carried out at 102 offices out of a total of 516 offices, representing 20% of the population.
b) Transfer of skills as one of the deliverables of the successful tenderers was still taking place since all staff of the internal audit department were involved in carrying out the audits.
c) Internal audit work had revealed significant weaknesses as well as a number of medium and low-priority issues. Based on an analysis of the findings, it was found that 90% of the audit findings were due to non-compliance with policies and procedures.
d) Reports regarding results of the risk assessment workshops held during October/November 2000 had been prepared and discussed with management and thereafter distributed to all the participants.
e) There was a significant improvement in obtaining management comments as a direct result of continued communication with management, including the Director-General.

f) An approved Anti-Corruption and Fraud Prevention Strategy was in place and the implementation thereof was under way. An anti-fraud and corruption hotline had also been implemented.

A resolution was taken at an audit committee meeting held on 1 December 2000 that the internal audit co-sourcing agreement be extended by one year. The Tender Board, however, only extended the contract for six months ending June 2001. The department subsequently requested further extension until the end of December 2001. No further details were available at the time of finalising this report.

The audit committee met quarterly during the year under review.

3.8 National Directorate of Public Prosecutions: Unresolved matters relating to the 1999-2000 financial year

In paragraph 3.6 of my previous report [RP 129/2000], it was indicated that the audit of the National Directorate of Public Prosecutions (NDPP) could not be finalised due to unresolved matters and a separate audit report on those accounts would therefore be issued as soon as the audit is finalised. However, due to the timeous completion of this audit, the results can now be included in this report. In this regard the following findings relating to the 1999-2000 financial year deserve mentioning:

- Unauthorised expenditure amounting to R523 000 due to the non-compliance with state tender board procedures was identified and is regarded as unauthorised in terms of section 33(1)(c) of the Exchequer Act, 1975 (Act No.66 of 1975). Also refer to paragraph 2.2.1(f) supra. In addition to this amount, possible further unauthorised expenditure amounting to R5,9 million was also revealed by the departmental inspectorate. This expenditure relates to the procurement of services, equipment and accommodation, which were not done in terms of state tender board procedures. These could, however, not be confirmed at the date of finalising this report.
- Supporting documentation to obtain assurance regarding the validity and completeness of expenditure amounting to R117 000 could not be submitted for audit purposes. This resulted in the expenditure not being verifiable.
- Donor funds received amounting to R3,9 million were not administered in terms of the prescribed procedures, and were not accounted for in the department's records. See paragraph 2.2.1 (c) supra with regard to the 2000-2001 financial year.

3.9 Public Protector

The Public Protector is a constitutional institution and an independent body in terms of the Constitution of the Republic of South Africa. The department has, as was the case during the previous year, rendered certain administrative and accounting functions on behalf of the Public Protector as a result of a lack of the necessary capacity at the Office of the Public Protector.

Expenditure incurred for the Public Protector has again been accounted for as transfer payments in the financial statements of the department.

The audit of the accounts of the Public Protector covering the 1999-2000 and 2000-2001 financial years is anticipated to be finalised by the end of August 2001. A separate audit report on the Public Protector will therefore be issued for the last two financial years.

3.10 Judges' salaries

The audit of judges' salaries and allowances revealed the following shortcomings:

a) The taxable fringe benefit relating to judges' vehicles was not correctly calculated in certain instances.
b) During inspections of the judges' IRP5's, it was noted that relevant information with regard to non-taxable earnings was not completed adequately in all instances.
c) The SITE-portion of the tax for judges working less than 12 months was incorrectly calculated.
d) Expenses totalling R309 844 were charged to the department instead of forming part of the fixed statutory amount (direct charge to the National Revenue Fund), resulting in the understatement of judges' salaries and the overstatement of personnel expenditure of the department.

3.11 Late submission of annual financial statements

Section 40(1)(c)(i) of the PFMA requires financial statements to be submitted to the Auditor-General within two months {by 31 May) after the end of the financial year. The financial statements were presented to the Justice Board and approved on 18 May 2001 and were signed by the accounting officer on 7 June 2001, and submitted for audit purposes on 11 June 2001 which is not in compliance with the requirements of the PFMA.

3.12 Budget process

An audit performed on the budgetary process revealed the following weaknesses:

a) Service delivery was affected due to insufficient funds and inadequate communication of strategic objectives to regions and magistrate's offices.
b) Minutes of the budget committee (BAARC) meetings were not always complete and approved, resulting in. an inability to confirm important decisions relating to the budgetary process.
c) Weaknesses relating to budget control and monitoring included the following:

    - Programme managers were not aware of their responsibilities and were thus neither monitoring their programmes, nor reporting to the departmental accountant.
    - Programme managers delegated responsibilities which were specifically prohibited from delegation.
    - Ineffective budget control and monitoring exists at a regional level.
    - Timely and accurate FMS reports were unavailable which is hampering financial control and monitoring in the magistrate's offices, especially since the final approved budget did not agree with the budget on FMS.
    - Time was wasted unnecessarily in the reworking of budget inputs, due to staff in the regions and magistrates' offices not having the necessary background, training and guidance for compiling and monitoring budgets.

In reply to the management letter dated June 2001, the department indicated that steps would be taken to correct the current situation regarding budget control.

3.13 Computer audit of the network security

The above audit was completed during March 2001 and the findings were brought to the attention of the accounting officer.

The computerised information systems environment of the department consists of 70 regional networks supporting 3 500 users and a further 2 000 workstations, with wide area network connectivity provided by the State Information Technology Agency (SITA). The department uses the FMS, PERSAL and LOGIS transversal systems, which are hosted at SITA. Multiple Windows NT servers are utilised as application servers. The Justice Monies in Trust System (previously Deposit Account System) and the State Attorney System applications in the regions are hosted on the Unix operating system, and are centrally administered.

The findings of the audit indicated that although some controls were in place over the network security, significant control weaknesses existed in the network control environment as a whole. In his comments dated 20 April 2001, the accounting officer referred to various corrective steps taken or envisaged to address the control weaknesses identified. The effectiveness of these steps and actions will be evaluated in due course.

3.13 Monies in Trust

The department is responsible for Monies in Trust (previously known as the Deposit Account), where monies are received, kept and disbursed on behalf of third parties. As a result of the revised reporting, a separate audit opinion on Monies in Trust will be expressed. Refer to part B of this report for the audit opinion expressed on Monies in Trust.

4. APPRECIATION

The assistance rendered by the staff of the Department of Justice and Constitutional Development during the audit is sincerely appreciated.

SA Fakie
Auditor-General

Pretoria
21/08/2001

report b 26/09/2001 13:01 Page 1

Annexure
Report of the Auditor-General
Part B

REPORT OF THE AUDITOR-GENERAL ON THE STATEMENT OF MONIES IN TRUST (FORMER DEPOSIT ACCOUNT) ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT FOR THE YEAR ENDED 31 MARCH 2001

1. Audit Assignment

The statement of Monies in Trust as set out on page 24 of the Financial Statement Annexure, for the year ended 31 March 2001, has been audited in terms of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No.108 of 1996), read with sections 3 and 5 of the Auditor-General Act, 1995 (Act No.12 of 1995). This financial statement, .the maintenance of effective control measures and compliance with relevant laws and regulations are the responsibility of the accounting officer. My responsibility is to express an opinion on this statement and the compliance with relevant laws and regulations, applicable to financial matters, based on the audit.

2. REGULARITY AUDIT

2.1 Nature and scope

2.1.1 Financial audit

The audit was conducted in accordance with generally accepted government auditing standards which incorporate generally accepted auditing standards. These standards require the audit to be planned and performed to obtain reasonable assurance that the statement is free of material misstatement. An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures,
- assessing the accounting principles used and significant estimates made by management, and
- evaluating the overall presentation.

I believe that the audit provides a reasonable basis for my opinion.

2.1.2 Compliance audit

Furthermore, an audit includes an examination, on a test basis, of evidence supporting compliance in all material respects with the relevant laws and regulations which came to my attention and are applicable to financial matters.

I believe that the audit provides a reasonable basis for my opinion.

2.2 Qualification

a) Financial accounting system and accounting records

(i) As reported in my previous report [RP 196/1999], the last statements received for the Monies in Trust (previously known as the Deposit Account) were for the year ended 31 March 1994. The Standing Committee on Public Accounts initiated a special review to be conducted, by the Auditor-General, on this account. The preliminary findings of this review can be summarised as follows:

- The current systems, prescripts and method of work will not enable the production of financial information that are reliable and auditable.
- The correctness of the opening balances cannot be determined before the cash book balances at 31 March 2000 have been verified and all related reconciliations have been completed and verified.
- The commercialisation of the Monies in Trust had a significant negative effect on the accounting and reporting process.
- There is a very clear and substantial risk of fraud and other irregularities, which is currently not being addressed appropriately.

The first mentioned finding above was further con-

report b 26/09/2001 13:01 Page 2

firmed by the regularity audit. The audit revealed that an office had not submitted its monthly returns to the regional office for capturing on the financial system. In four other offices it was noted that the cash book balance did not agree with the Financial Management System (FMS) balances (differences of R27 million).

(ii) The Monies in Trust statement was reviewed and it was noted that trust accounts to the amount of R14 million are reflected as debit balances. A misallocation of funds between the various accounts had also occurred. Due to the lack of guidance from National Treasury, the statement compiled for the Monies in Trust is not in accordance with any prescribed/recognised format.

b) Bank reconciliations

The performance of a bank reconciliation is a key control element in ensuring the validity, completeness and accuracy of transactions. In all nine regions visited, numerous instances were noted where the bank reconciliations had not been performed, or not compiled properly and reconciling items were not cleared on a timely basis. In other instances it was noted that the bank reconciliation was force-balanced as the RD cheques had not been included as a reconciling item. The non-performance of timeous and accurate bank reconciliations also resulted in non-compliance with departmental prescripts, policies and procedures.

It was also revealed that at certain magistrate's offices visited, a list of RD cheques was not maintained. Redeposits of RD cheques were not receipted, which resulted in non-compliance with the manual for Monies in Trust.

Discussions with staff members at magistrate's offices revealed that the bank reconciliations were not being performed due to a lack of knowledge.

c) Cash count and banking procedures

Daily cash reconciliations had either not been performed or could not be presented at eight magistrate's offices visited. As a result it was noted that some receipt numbers had not been included, or were inaccurately reflected on the daily transaction list and had therefore not been included in the amount deposited. At one of the offices visited, the actual bank transactions were R300 000 less than the cash book transactions for the year under review. It was also noted that a payment to the representative of a deceased estate was not recorded in the cash book.

Some receipts and payments were often recorded a day after the transaction had occurred and at one of the magistrate's offices the receipt book available only reflected transactions for a portion of the year under review.

At the Johannesburg magistrate's office cash received was banked on a, monthly basis instead of a daily basis, which increased the risk of theft and misappropriation of funds. In another instance it was noted that while the checking officer had been on leave, nobody had assumed responsibility for depositing the cash on a daily basis. Cash counts had been performed in some of the offices and the cash did not agree with the daily reconciliation. Included in the cash on hand were expired postal orders. Not all cash received by some of the magistrate's offices had been deposited as it had been used to defray other expenditure. These instances indicate a lack of compliance with departmental prescripts, policies and procedures.

Matters of concern at some magistrate's offices included the following:

- Cash counts were performed in an unsafe environment where the public can view the cash count process.
- Cash counts were often interrupted.
- Cash was left unattended.
- A cashier was also not present when the controlling officer counted the daily cash received by that cashier.

Furthermore, a magistrate's office had cash shortages, which were neither recorded nor reported as per required regulation. Follow-up procedures were non-existent and on further investigation it was revealed that these shortages had not been reported, based on an instruction from the controlling officer.

d) Internal checking and control

(i) Charge sheets

The result of a court case is recorded on the charge sheet, which is therefore considered to be an important source document in order to determine the completeness and accuracy of the amounts received in the Monies in Trust.

Several charge sheets requested could not be presented for audit purposes. This problem was encountered in six of the nine regions. Copies of the receipts were not attached to the charge sheets and information as recorded on the charge sheet did not agree with the information on the receipt. Furthermore, it was noted at one office that no charge sheet register was maintained, as the responsibility for the safeguarding of charge sheets had not been assigned to a specific official.

(ii) Maintenance

A maintenance card is opened for every maintenance file. These cards are used to ensure that maintenance payments are accurate and valid.

It was noted that maintenance payments made did not agree with the amount indicated on the maintenance card, which also did not agree with information on the maintenance file. In other instances, maintenance payments were made where the signatories on the maintenance cards did not agree with the payment documentation, and maintenance payments were often made without requesting proof of identity. These problems were encountered in four of the nine regions.

It was also noted at a magistrate's office visited that several maintenance receipts had not been recorded on the transaction list that was used for recording the transactions on the transversal accounting system.

In three of the regions, maintenance cards and maintenance files could not be furnished for audit purposes, which placed a limitation on the scope of the audit work.

The weak controls surrounding the validity of maintenance payments increased the risk of fraud as was indicated by the discovery of a maintenance card that had not been signed since it was opened in 1998. The identity number did not appear on the card and money was received and paid out in respect of that card I without the essential information appearing on the card.

The general lack of compliance with departmental prescripts, policies and procedures may result in fraudulent transactions.

(iii) Deferred fines

A lack of controls over deferred fines was identified in five of the regions. Deferred fines were not regularly followed up and were long overdue. An instance was noted where deferred fines had not been recorded from the charge sheets, with the result that not all offences were recorded. At one of the magistrate's offices receipts for deferred fines could not be presented for audit purposes to ensure the completeness and accuracy thereof.

(iv) Estates

Estate files requested could not be presented for audit purposes and in some instances the estate receipts had not been recorded on the estate file or attached to the estate file. Other essential information, such as the death certificate, had not been attached to the estate file.

These instances of non-compliance with departmental prescripts, policies and procedures, regarding the maintenance of estate files, occurred in almost all the regions.

(v) Bail

On inspection of the bail payments, the signatories thereon did not correspond to the bail receipts (twenty-four out of thirty-six items selected). Furthermore it was noted that the ID-numbers on the bail payments were incomplete or not documented.

Persons claiming bail were not positively verified before payment was made and bail payments made to individuals could not be matched to the bail receipts. It was also noted that a bail register had not been used during the year under review at a specific magistrate's office. In another instance the bail register was incomplete as pages from the register were missing. Instances of non-compliance with departmental prescripts, policies and procedures were identified in seven of the regions.

Bail receipts totalling R88 323 as well as bail payments amounting to R24 180 could not be presented for audit purposes.

(vi) Inadequate staffing and segregation of duties

Several offices appeared to be understaffed, resulting in inadequate segregation of duties. It was noted that at two magistrate's offices, there was no checking officer for the year under review, which resulted in the accounting records not being examined.

At a state attorney's office it was noted that one official was responsible for the entire cash control function and that she had no supervision. The risk was further increased by the fact that she had no bookkeeping experience.

It was also noted in several instances that .the maintenance cards, bail register, forfeited bail register, post-dated cheque register, cash-up sheets and bank reconciliations had not been signed as having been reviewed by a responsible senior official. This problem was identified in five of the regions.

Inadequate staffing also resulted in bail receipts not being banked for a period of four weeks since the responsible official was on leave.

2.3 AUDIT OPINION

2.3.1 Financial audit: Disclaimer of opinion

Because of the significance of the matters referred to in paragraph 2.2, I do not express an opinion on the statement of Monies in Trust.

2.3.2 Compliance audit: Disclaimer of opinion

Because of the significant effects of the matters referred to in paragraph 2.2, I do not express an opinion on the compliance with laws and regulations, applicable to financial matters.

3. EMPHASIS OF MATTER

Without further qualifying the audit opinion expressed above, attention is drawn to the following matters:

3.1 Face value forms

There appeared to be inadequate control over the use of face value forms. Some of the problems encountered were the following:

- Receipt books had not been issued in sequence and specific receipt books were not used for their specific purpose, as cases of admission of guilt, deferred fines and maintenance were all receipted from one receipt book.
- Deposit books were not bound or pre-numbered and at one of the magistrate's offices visited, several cheque deposit books could not be furnished for audit purposes.
- Counter cash books were not maintained by some of the magistrate's offices.

3.2 Payments to South African Revenue Services(SARS)

During the audit it was noted in one region that monies due to SARS and local councils from bails forfeited and fines were not paid over, and at some magistrate's offices it had not been paid over since July 1999.

4. APPRECIATION

The assistance rendered by the staff of the Department of Justice and Constitutional Development during the audit is sincerely appreciated.

SA FAKIE
Auditor -General

Pretoria
21/08/2001