

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

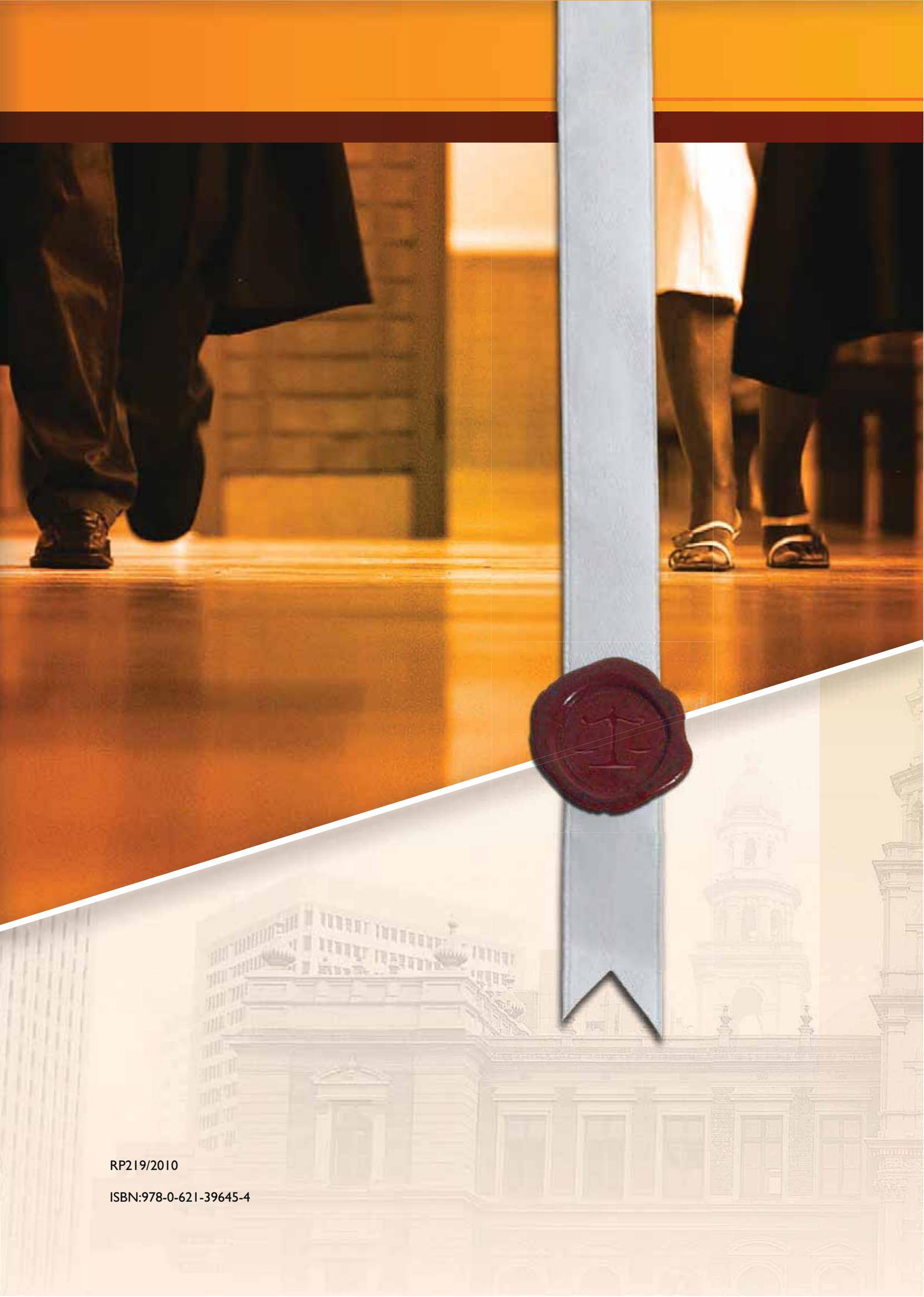
ANNUAL REPORT

2009/2010



the doj& cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



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FOREWORD

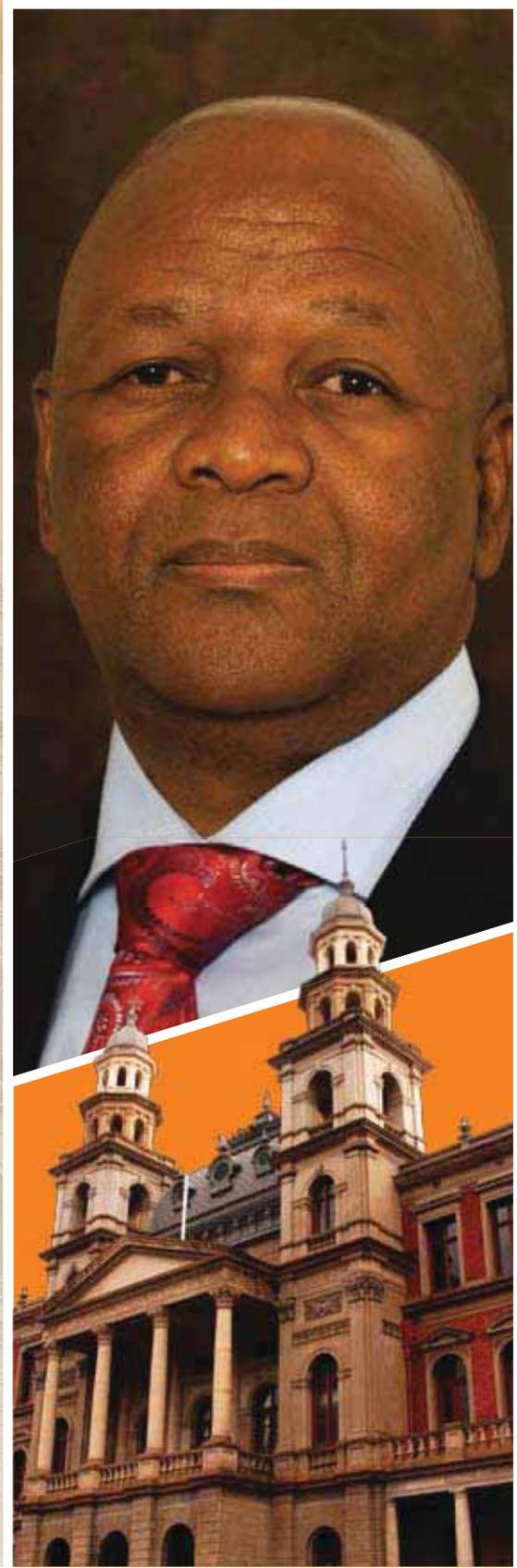
The promotion of constitutional democracy in South Africa arises as a consequence of the various social, political and economic conflicts leading to the 1994 democratic breakthrough. The pursuit of justice has obliged our government to be concerned, among others, about the deracialisation of society, promotion of equal gender relations, and implementing programmes to combat poverty, and to improve the socio-economic circumstances of the majority of South Africans.

The Department of Justice and Constitutional Development is playing a significant role in ensuring that all South Africans and others who are part of our country realise justice. It is for this reason that we deemed it essential that inequality, which was responsible for political conflicts before 1994, is eliminated through the creation of equality courts. Therefore, the designation of magistrates courts as equality courts, dedicated to ensuring that equality defines all socio-economic relations among our people, is a fitting tribute to all those who fought for a just society.

The department is currently finalising the enactment of the Superior Courts Bill in order to transform our court system and ensure, among others, that the Constitutional Court will be the Apex Court in the Republic, the Supreme Court of Appeal becomes the Appeal Court and the Chief Justice will be the head of the whole judiciary. The department will also ensure that an enabling environment is created for the judiciary to be empowered to develop the rules of court.

We have upgraded and converted the branch courts in the townships and rural areas into fully equipped courts to provide all court-related services. Four of these branch courts, namely Atteridgeville and Mamelodi in Gauteng, Ntuzuma in KwaZulu-Natal and Northam in Limpopo, have operated as full services courts with effect from 1 June 2010.

The legal profession is one of the pillars of the justice system and an indispensable element of access to justice. We have defined, in the Legal Practice Bill, the parameters for reform in the legal sector. The Bill provides various ways of reducing the costs of justice to ordinary citizens, and introduces the concept of legal community service in terms of which legal



FOREWORD BY THE MINISTER TO THE ANNUAL REPORT

practitioners would be required to render legal services for a certain minimum period on a pro bono basis for the benefit of the poor.

To address the unequal allocation of government legal work, we have set ourselves a target of 65% of the value of briefs to be allocated to historically disadvantaged individuals and/or firms by 2015. The department is also considering various ways of increasing its internal capacity in handling litigation work to reduce the huge costs expended on litigation against government.

The Office of the Master remains one of our key service delivery programmes as it impacts on the vulnerable members of society. We are providing appropriate skills to the staff in the Master's offices to improve turnaround times. With regard to the Guardian's Fund, we aim to ensure that 80% of the beneficiaries receive their entitlements within 40 days of submitting their applications.

We have made significant strides to turn the tide against crime and corruption.

Through the criminal justice system (CJS), we have adopted an integrated approach to ensure that the CJS is a holistic continuum that stretches from where a crime is committed, to the police, to the prosecutors, to the courts, to Social Development and Correctional Services, and to restoration and integration back into the communities. We have strengthened bail management and the use of information technology systems to provide an integrated management information system to the cluster departments and the Justice Crime Prevention and Security (JCPS) Cluster overall. We have also developed protocols to enhance the integration and effectiveness of the CJS, screening mechanisms and the trial readiness of cases, as well as a protocol on the taking and processing of forensic samples, and the Court Protocol on Legal Aid Cases.

Working with the National Prosecuting Authority, Legal Aid South Africa and the judiciary, we remain focused on our goal of reducing case backlogs.

Cabinet has approved the review of the civil justice system, which we will undertake with the judiciary. This

review will assist in overhauling old legislation and the cumbersome rules of courts that frustrate the prompt processing of civil disputes. This project, together with the Jurisdiction of Regional Courts Amendment Act of 2008 due to be promulgated soon, will go a long way in addressing the backlog of civil cases.

We ensured that swift justice was delivered during the recent 2010 FIFA World Cup. The department designated 56 court rooms within the vicinity of the host cities for the hearing of cases for the duration of the tournament. These courts were adequately resourced with prosecutors, magistrates and court staff. The courts dealt with 222 cases ranging from petty theft to culpable homicide. The number of people convicted were 138 and 12 acquitted. These courts will cease to operate at the end of July 2010.

Despite the progress mentioned above, there are still several challenges that deserve our attention. Race and gender transformation of the bench, for example, remains an important constitutional imperative. While the Judicial Service Commission continues to play an important role in establishing a judiciary which is representative of the South African society, and has now for the first time since its establishment in 1994 recommended the appointment of the first woman to the office of Judge-President, this still remains an area of much concern.

The Justice and Constitutional Development Ministry, working collectively in the JCPS Cluster, continued to strive to achieve outputs contained in the performance agreement which I signed with the President.

In addition, the department needs to improve its organisational efficiency to address performance-related challenges that led to the negative audit reports and non-compliance in the past. We also need to put measures in place to strengthen the capacity of our courts to deliver services.

I would like to take this opportunity to thank all our stakeholders and partners, both in and outside government, for their support and for holding us accountable to ensure we promote the concept of justice in a manner that enhances our constitutional

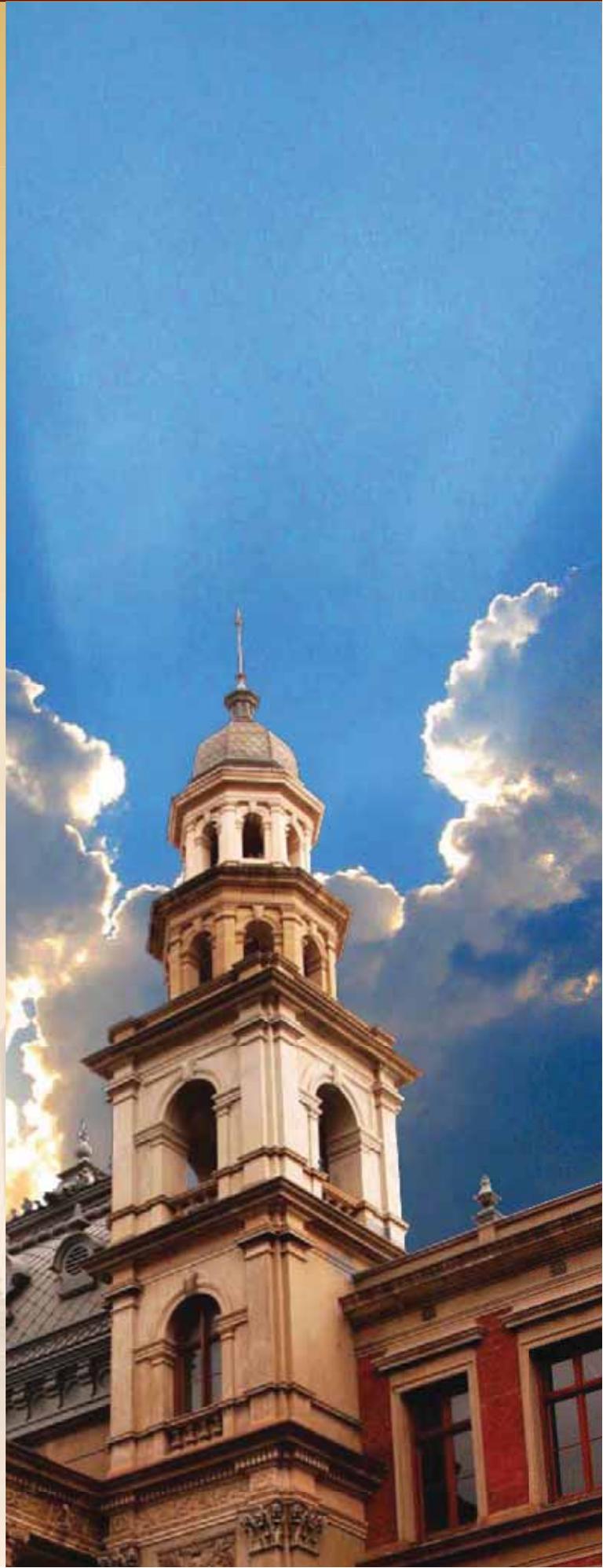
democracy, and improves the wellbeing of all our people.

I am confident that this report will be helpful towards giving insight into the work we are doing as a department, the challenges we face and the prospects for the future as we strive for justice for all!



J.T. RADEBE, MP

MINISTER OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT



ABBREVIATIONS AND ACRONYMS

ACCC	Anti-corruption Coordinating Committee
ACHPR	African Charter on Human and Peoples' Rights
ADR	alternative dispute resolution
ADRM	Alternative Dispute Resolution Mechanism
AFIS	Automated Fingerprinting System
AFU	Asset Forfeiture Unit
AJPCR	Access to Justice and Promotion of Constitutional Rights
ANC	African National Congress
BAS	Basic Accounting System
BI	Business Information
BIS	Business Information System
BLA	Black Lawyers Association
BNC	Binational Commission
CARA	Criminal Assets Recovery Account
CARC	Criminal Assets Recovery Committee
CAS	Case Administration System
CBO	community-based organisation
CCMA	Commission for Conciliation, Mediation and Arbitration
CCTV	closed-circuit television
CDW	community development worker
CFO	Chief Financial Officer
CGE	Commission on Gender Equality
CIPRO	Companies and Intellectual Property Registration Office
CJS	criminal justice system
CJS BIS	Criminal Justice System Business Information System
CJSR	Criminal Justice System Review
CLARA	Communal Land Rights Act
CLO	Chief Litigation Officer
COSATU	Congress of South African Trade Unions
CPA	Criminal Procedure Act, 1977 (Act No 51 of 1977)
CPF	Community Policing Forum
CSF	Community Safety Forum
CSP	Country Strategy Paper
CSO	civil society organisation

DBAC	Departmental Bid Allocation Committee
DCS	Department of Correctional Services
DEVCOMM	Development Committee
DFA	Department of Foreign Affairs
DG ISC	Directors-General Intersectoral Committee
DIRC	Department of International Relations and Cooperation
DPP	Directorate of Public Prosecutions
DPSA	Department of Public Service and Administration
DPW	Department of Public Works
DRC	Democratic Republic of Congo
DSD	Department of Social Development
ECMS	Electronic Case Management System
ECT	Electronic Communications and Transactions
EE	employment equity
EEP	Employment Equity Plan
EFT	electronic funds transfer
EHWP	Employee Health and Wellness Programme
ENE	Estimates of National Expenditure
ERC	Equality Review Committee
EU	European Union
EXCO	Executive Committee
FHR	Foundation for Human Rights
FIFA	Federation of International Football Associations
fifo	first in first out
GAAP	Generally Accepted Accounting Practice
GCB	General Council of the Bar
GCIS	Government Communication and Information Service
GIAMA	Government-wide Immovable Asset Management Act
GIS	Geographic information system
GOSS	Government of Southern Sudan
HANIS	Home Affairs National Identification System
HOR	Head of Region
HOS	Head of Section
HSRC	Human Sciences Research Council

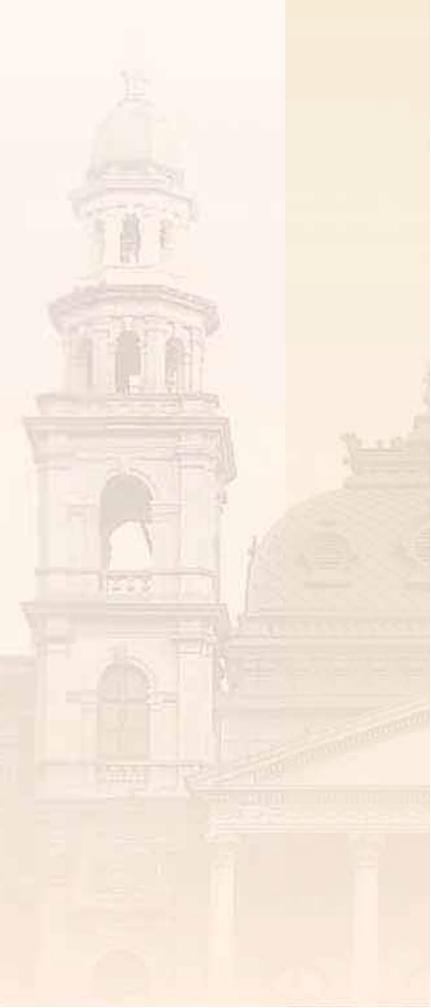
ABBREVIATIONS AND ACRONYMS

IAIR	International Association of Insolvency Regulators
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
ICMS	Integrated Case Management System
ICT	information communication technology
IDC	Interdepartmental Committee
IJS	integrated justice system
ILM	information lifecycle management
IMC	Interministerial Committee
IOC	Interdepartmental Operational Committee
IFP	Inkatha Freedom Party
IPS	intrusion prevention services
ISC	Intersectoral Committee
ISCCJ	Intersectoral Steering Committee on Child Justice
ISI	Integrated Security Infrastructure
ISM	Information and System Management
IT	information technology
ITAC	International Trade Administration Commission
JCPS	Justice, Crime Prevention and Security (Cluster)
JDAS	Justice Deposit Account System
JOINTS	Joint Operational Intelligence Structures
JMIS	Justice Management Information System
JSC	Judicial Service Commission
JYP	Justice Yellow Pages
KPI	key performance indicator
LAN	local area network
LASA	Legal Aid South Africa
LSSA	Law Society of South Africa
MACC	Minimum Anti-corruption Capacity
MMT PPP	Management of Monies in Trust Public Private Partnership
MPTT	Missing Persons Task Team
MTEF	Medium-term Expenditure Framework
MTSF	Medium-term Strategic Framework

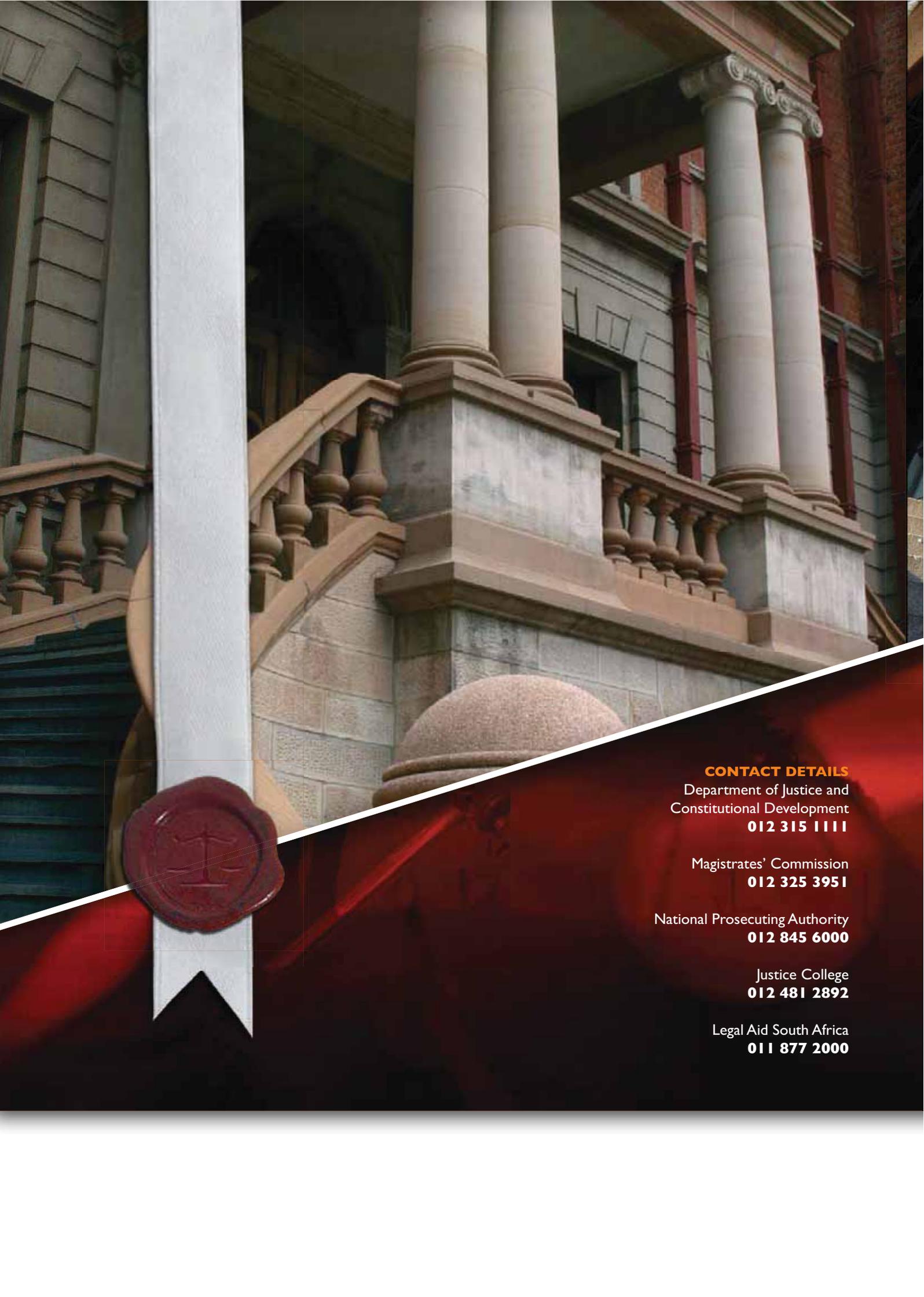
NACF	National Anti-corruption Forum
NATIS	National Traffic Information System
NATJOC	National Joint Operational Centre
NATJOINTS	National Joint Operational and Intelligence Structure
NAP	National Action Plan
NCOP	National Council of Provinces
NDPP	National Director of Public Prosecutions
NFAR	National Forum Against Racism
NGO	non-governmental organisation
NICRO	National Institute for Crime Prevention and the Reintegration of Offenders
NIP	National Indicative Plan
NOC	National Operations Centre
NPA	National Prosecuting Authority
NQF	National Qualifications Framework
MPRD	Mineral and Petroleum Resources Development Act
NRSO	National Register for Sex Offenders
OCJ	Office of the Chief Justice
OCJSR	Office for Criminal Justice System Reform
OCSLA	Office of the Chief State Law Advisor
ODG	Office of the Director-General
OISC	Operational Intersectoral Committee
OPP	Office of the Public Protector
OSD	Occupation Specific Dispensation
PAA	Public Audit Act
PAC	Pan African Congress
PAIA	Promotion of Access to Information Act
PAJA	Promotion of Administrative Justice Act
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
PFMA	Public Finance Management Act
PILLIR	Policy on Ill-health and Incapacity Retirements
PoA	Programme of Action
PPP	Public Private Partnership
PROVJOCS	Provincial Joint Operational Centres
PSCBC	Public Service Coordinating Bargaining Council

ABBREVIATIONS AND ACRONYMS

PSETA	Public Service Education and Training Authority
RAMP	Repair and Maintenance Programme
RDOMS	Remand Detention System
RIS	remote installation server
SABC	South African Broadcasting Cooperation
SABWIA	South African Blind Women in Action
SADC	Southern African Development Community
SAHRC	South African Human Rights Commission
SALRC	South African Law Reform Commission
SAPC	South African Pagan Council
SAPS	South African Police Service
SAQA	South African Qualifications Authority
SARS	South African Revenue Service
SASSETA	Safety and Security Sector Education and Training Authority
SAWLA	South African Women Lawyers Association
SCA	Supreme Court of Appeal
SCM	supply chain management
SCoA	Standard Chart of Accounts
SCOPA	Standing Committee on Public Accounts
SDIP	Service Delivery Improvement Programme
SGB	school governing body
SITA	State Information Technology Agency
SLA	service level agreement
SMS	Senior Management Service
SOP	standard operating procedure
SIU	Special Investigating Unit
TCC	Technical Coordinating Committee
THO	Traditional Healers Organisation
TPACS	Third Party Accounting System
TPF	Third Party Funds
TPF PPP	Third Party Funds Public Private Partnership
TRC	Truth and Reconciliation Commission
UAMP	User Asset Management Plan
UN	United Nations



UNIDROIT	International Institute for the Unification of Private Law
UNISA	University of South Africa
URS	user requirement specification
UPS	uninterrupted power supply
USAID	United States Agency for International Development
VEP	Victim Empowerment Programme
WAN	wide area network
WCAR	World Conference Against Racism
WSP	Workplace Skills Plan



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PART 5

HUMAN RESOURCE MANAGEMENT



PART 5: HUMAN RESOURCE MANAGEMENT

5.1 Service delivery

Table 1.1: Main services provided and standards

Main services	Actual customers	Potential customers	Standard of service	Actual achievement against standards
Value-added services	All branches	All branches	Provision of employee health and wellness services to 100% employees	Provision of health and wellness services to all employees: the appointment of an Employee Health and Wellness Programme (EHWP) service provider and establishment of a call centre dedicated to employees to allow 24-hour access to EHWP services. Provision of assistive devices to eight employees.
Customer Management Centre	All branches	All branches	Effective and efficient human resources (HR) administrative services	Reduction of vacancy rate from 13.58% to 10.73%. Enforcement of leave management, which resulted in a reduction of outstanding leave captured by 1.8%.

Table 1.2: Consultation arrangements with customers

Type of arrangement	Actual customers	Potential customers	Actual achievements
Partnership	All branches	Chapter 9 institutions	According to the needs identified.

Table 1.3: Service delivery access strategy

Access strategy	Actual achievements
Value-added services: Will offer efficient and consistent HR administration services that meet the time and quality requirements of the department's clients	Approved HR policies The annual adjusted departmental Human Resources Plan for the period 2009–2012 was approved and submitted to the Department of Public Service and Administration (DPSA) on 19 January 2010. The departmental Service Delivery Improvement Programme (SDIP) was developed and submitted to the DPSA on 3 November 2009. A Batho Pele Forum has been established to ensure the effective implementation of the SDIP.
Customer Management Centre: Will offer efficient and consistent HR administration services that meet the time and quality requirements of the department's clients	Improved turnaround time by filling vacancies within three months. Introduction of recruitment plans, which resulted in a reduction of the vacancy rate to 10.73%.

Table 1.4: Service information tool

Types of information tool	Actual achievements
DJINI intranet portal	HR policies, notices, circulars.

Table 1.5: Complaints mechanism

Complaints mechanism	Actual achievements
Open-door policy	High success rate
Regular meetings	High success rate

5.2 Expenditure

Departments budget in terms of clearly defined programmes. The following tables summarise final audited expenditure according to programme (Table 2.1) and according to salary band (Table 2.2). In particular, it provides an indication of the amount spent on personnel costs in terms of each of the programmes or salary bands in the department.

Table 2.1: Personnel costs by programme, 2009/2010

Programme	Total voted expenditure (R'000)	Compensation of employee expenditure (R'000)	Training expenditure (R'000)	Professional and special services (R'000)	Compensation of employees as a percentage of total expenditure	Average personnel cost per employee (R'000)
Administration	1 031 487	245 483	6 365	88 857	23.8	13
Auxiliary and Associated Services	1 847 289	107	0	90 499	0	0
Court Services	4 087 100	2 028 654	5 226	75 767	49.7	150
Direct Charges	1 774 874	1 716 148	0	0	96.7	8 250
State Legal Services	548 564	453 138	6 940	88 170	82.6	306
Total as on financial system (BAS)	9 289 314	4 443 530	18 531	343 293	47.8	247

Table 2.2: Personnel costs by salary bands, 2009/2010

Salary bands	Personnel expenditure (R'000)	Percentage of total personnel cost	Average personnel cost per employee (R'000)
Lower skilled (levels 1–2)	55 216	1.2	52 940
Skilled (levels 3–5)	909 542	19.7	101 625
Highly skilled production (levels 6–8)	779 641	16.9	187 144
Highly skilled supervision (levels 9–12)	1 417 330	30.7	466,074
Senior management (levels 13–16)	1 000 513	21.7	995 535
Contract (levels 1–2)	8 887	0.2	92 573
Contract (levels 3–5)	61 514	1.3	433 197
Contract (levels 6–8)	31 872	0.7	303 543
Contract (levels 9–12)	107 321	2.3	452 831
Contract (levels 13–16)	40 134	0.9	912 136
Periodical remuneration	10 033	0.2	28 183
Abnormal appointment	5 147	0.1	49 019
Total	4 427 150	95.8	229 505

PART 5: HUMAN RESOURCE MANAGEMENT

The following tables provide a summary per programme (Table 2.3) and salary band (Table 2.4) of expenditure incurred as a result of salaries, overtime, homeowner's allowance and medical assistance. In each case, the table provides an indication of the percentage of the personnel budget that was used for these items.

Table 2.3: Salaries, overtime, homeowner's allowance and medical assistance according to programme for 2009/10

Programme	Salaries		Overtime		Homeowner's allowance		Medical assistance	
	Amount (R'000)	Salaries as a percentage of personnel cost	Amount (R'000)	Overtime as a percentage of personnel cost	Amount (R'000)	Homeowner's allowance as a percentage of personnel cost	Amount (R'000)	Medical assistance as a percentage of personnel cost
Administration	1 69 920	69.2	832	0.33	4 854	1.9	8 478	3.4
Court Services	1 441 539	83.7	3 301	0.1	59 509	2.9	131 582	6.5
State Legal Services	318 987	70.3	13	0	7 936	1.7	17 269	3.8
Total	1 930 446	74.4	4 146	0.1	72 299	2.1	157 329	4.5

Table 2.4: Salaries, overtime, homeowner's allowance and medical assistance according to salary band for 2009/10

Salary band	Salaries		Overtime		Homeowner's allowance		Medical assistance	
	Amount (R'000)	Salaries as a percentage of personnel cost	Amount (R'000)	Overtime as a percentage of personnel cost	Amount (R'000)	Homeowner's allowance as a percentage of personnel cost	Amount (R'000)	Medical assistance as a percentage of personnel cost
Lower skilled (levels 1–2)	36 058	59.3	163	0.3	2 891	4.9	4 765	7.8
Skilled (levels 3–5)	418 590	70.4	1 563	0.2	35 033	4.2	59 305	9.5
Highly skilled production (levels 6–8)	439 835	71.6	1 809	0.2	16 649	2.5	47 989	6
Highly skilled supervision (levels 9–12)	48 207	80.1	377	0	11 977	1	33 650	2.3
Senior management (levels 13–16)	769 751	83.2	4	0	5 285	0.5	11 421	1
Contract (levels 1–2)	8 735	97.8	7	0.1	0	0.3	0	0
Contract (levels 3–5)	60 873	98	123	0.2	3	0	20	0
Contract (levels 6–8)	31 599	96.6	49	0.1	0	0	4	0
Contract (levels 9–12)	77 698	92.6	3	0	232	0.1	97	0.1
Contract (levels 13–16)	37 212	84.9	0	0	229	0.5	31	0.1
Periodical remuneration	0	0	0	0	0	0	0	0
Abnormal appointment	1 888	21.8	0	0	0	0	47	0.5
Total	1 930 446	74.4	4 098	0.1	72 296	2.1	157 329	4.5

5.3 Employment and vacancies

The following tables summarise the number of posts on the establishment, the number of employees, the vacancy rate, and whether there are any staff members that are additional to the establishment. This information is presented in terms of three key variables: programme (Table 3.1), salary band (Table 3.2) and per occupation (Table 3.3).

The vacancy rate reflects the percentage of posts that are not filled.

Table 3.1: *Employment and vacancies according to programme, as at 31 March 2010*

Programme	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Administration, permanent	3 260	2 494	23.50	40
Administration, temporary	283	283	0.00	0
Court Services, permanent	12 641	11 601	8.23	45
Court Services, temporary	281	281	0.00	0
State Legal Services, permanent	1 476	1 462	0.95	4
State Legal Services, temporary	18	18	0.00	7
Magistrates	1 944	1 650	15.12	0
Judges	257	208	19.07	0
Total	20 160	17 997	10.73	96

Table 3.2: *Employment and vacancies according to salary band, as at 31 March 2010*

Programme	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Lower skilled (levels 1–2), permanent	468	402	14.10	21
Skilled (levels 3–5), permanent	10 405	8 964	13.85	48
Highly skilled production (levels 6–8), permanent	4 174	4 159	0.36	12
Highly skilled supervision (levels 9–12), permanent	2 159	1 904	11.81	8
Senior management (levels 13–16), permanent	171	128	25.15	0
Magistrates	1 944	1 650	15.12	7
Judges	257	208	19.07	0
Interns	88	88	0.00	0
Contract (levels 1–2)	7	7	0.00	0
Contract (levels 3–5)	136	136	0.00	0
Contract (levels 6–8)	104	104	0.00	0
Contract (levels 9–12)	200	200	0.00	0
Contract (levels 13–16)	47	47	0.00	0
Total	20 160	17 997	10.73	96

PART 5: HUMAN RESOURCE MANAGEMENT

Table 3.3: Employment and vacancies according to occupation, as at 31 March 2010

Occupation	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Administrative-related, permanent	9 616	8 979	6.62	40
Administrative-related, contract	141	141	0.00	0
Advocates, permanent	125	73	41.60	0
Attorneys, permanent	234	176	24.79	2
Attorneys, contract	12	12	0.00	0
Building and other property caretakers, permanent	24	9	62.50	1
Bus and heavy/light vehicle drivers, permanent	29	28	3.45	1
Cleaners in offices, workshops hospitals, etc., permanent	231	178	22.94	11
Cleaners in offices, workshops, hospitals, etc., contract	1	1	0.00	0
Client information clerks (switchboard, reception, information clerks), permanent	163	137	15.95	3
Client information clerks (switchboard, reception, information clerks), contract	1	1	0.00	0
Communication and information-related, permanent	33	30	9.09	0
Communication and information-related, contract	2	2	0.00	0
Financial and related professionals, permanent	358	340	5.03	2
Financial and related professionals, contract	1	1	0.00	0
Financial clerks and credit controllers, permanent	282	276	2.13	4
Financial clerks and credit controllers, contract	10	10	0.00	0
Food services aids and waiters, permanent	27	23	14.81	0
Food services aids and waiters, contract	1	1	0.00	0
General legal administration and related professionals, permanent	1 273	886	30.46	6
General legal administration and related professionals, contract	56	56	0.00	0
Head of department/chief executive officer, permanent	1	1	0.00	0
Human resources and organisational development and related professions, permanent	191	166	13.09	0
Human resources clerks, permanent	203	201	0.99	2
Human resources clerks, contract	8	8	0.00	0
Information technology-related, permanent	31	31	0.00	0
Information technology-related, contract	1	1	0.00	0
Judges, permanent	257	208	19.07	0
Language practitioners, interpreters and other communication, permanent	1 982	1 822	8.07	0
Language practitioners, interpreters and other communication, contract	5	5	0.00	0
Librarians and related professionals, permanent	44	34	22.73	0
Library, mail and related clerks, permanent	319	284	10.97	3
Library, mail and related clerks, contract	4	4	0.00	0
Magistrates, permanent	1 944	1 650	15.02	7
Magistrates, contract	174	174	0.00	0
Material recording personnel, contract	2	2	0.00	0

Occupation	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Messengers porters and deliverers, permanent	390	382	2.05	5
Messengers porters and deliverers, contract	87	87	0.00	0
Risk management and security services, permanent	11	8	27.27	0
Secretaries and other keyboard-operating clerks, permanent	1 052	930	11.60	6
Secretaries and other keyboard-operating clerks, contract	67	67	0.00	0
Security officers, permanent	483	346	28.36	2
Security officers, contract	0	0	0.00	0
Senior managers, permanent	171	128	25.15	1
Senior managers, contract	8	8	0.00	0
Social work and related professionals, permanent	104	89	14.42	0
Social work and related professionals, contract	1	1	0.00	0
Total	20 160	17 997	10.73	96

The information in each case reflects the situation as at 31 March 2010. For an indication of changes in staffing patterns over the year under review, please refer to section 5 of this report.

5.4 Filling of Senior Management Service (SMS) posts

Table 4.1: SMS post information as at 31 March 2010

SMS level	Total number of funded SMS posts per level	Total number of SMS posts filled per level	Percentage of SMS posts filled per level	Total number of SMS posts vacant per level	Percentage of SMS posts vacant per level
Director-General/Head of Department	1	1	100.00	0	0.00
Salary level 16, but not Head of Department	1	1	100.00	0	0.00
Salary level 15	8	5	62.50	3	37.50
Salary level 14	47	29	61.70	18	38.30
Salary level 13	114	92	80.70	22	18.42
Total	171	128	74.85	43	25.17

Table 4.2: SMS post information as at 30 September 2009

SMS level	Total number of funded SMS posts per level	Total number of SMS posts filled per level	Percentage of SMS posts filled per level	Total number of SMS posts vacant per level	Percentage of SMS posts vacant per level
Director-General/Head of Department	1	1	100.00	0	0.00
Salary level 16, but not Head of Department	1	1	100.00	0	0.00
Salary level 15	8	5	62.50	3	37.50
Salary level 14	64	46	71.88	18	28.13
Salary level 13	215	154	71.63	61	28.37
Total	289	207	71.63	82	28.37

PART 5: HUMAN RESOURCE MANAGEMENT

Table 4.3: Advertising and filling of SMS posts as on 31 March 2010

SMS level	Advertising	Filling of posts	
	Number of vacancies per level advertised within six months of becoming vacant	Number of vacancies per level filled within six months after becoming vacant	Number of vacancies per level not filled within six months but filled within 12 months
Director-General/Head of Department	1	1	0
Salary level 16, but not Head of Department	0	0	0
Salary level 15	1	0	0
Salary level 14	4	1	1
Salary level 13	2	8	6
Total	8	10	7

Table 4.4: Reasons for not having complied with the filling of funded vacant SMS posts advertised within six months and filled within 12 months after becoming vacant

Reasons for vacancies not advertised within six months:
1. Restructuring
2. Posts not job evaluated
3. Moratorium
4. Acting appointments considered
5. Some posts were filled on a three-year fixed-term contract
Reasons for vacancies not filled within 12 months:
1. Restructuring
2. Posts not job evaluated
3. Moratorium
4. Delays between the closing date and commencement of selection process due to unavailability of committee members
5. Acting appointments considered
6. Some posts were filled on a three-year fixed-term contract

Table 4.5: Disciplinary steps taken for not complying with the prescribed time frames for filling SMS posts within 12 months

No disciplinary steps were taken against non-compliance.

Reasons for vacancies not advertised within six months:
1. Restructuring
2. Posts not job evaluated
3. Moratorium
4. Acting appointments considered

5.5 Job evaluation

The Public Service Regulations, 1999, introduced job evaluation as a way of ensuring that work of equal value is remunerated equally. Within a nationally determined framework, executing authorities may evaluate or re-evaluate any job in their organisation. In terms of the regulations, all vacancies on salary levels 9 and higher must be evaluated before they are filled.

The following table (Table 5.1) indicates the total number of posts on the establishment of the department as at 31 March 2010. During the period under review, no job evaluations were carried out in the lower and skilled levels 1–5. Reasons for this are, inter alia, that most of the job evaluations in this salary band were carried out in previous years, and that the majority of administrative clerk and secretary posts are transversal posts, the job descriptions and salary levels of which are uniformly determined by the DPSA. The number of posts that were job evaluated in the highly skilled production level (3) and supervision level (3-5) indicates additional capacity that was added to improve the operations of the department at service points. The table indicates that, during the period under review, no posts were either upgraded or downgraded.

The table also provides statistics on the number of posts that were upgraded or downgraded.

Table 5.1: Job evaluation from 1 April 2009 to 31 March 2010

Salary band	Number of posts	Number of posts evaluated	Percentage of posts evaluated by salary bands	Posts upgraded		Posts downgraded	
				Number	Percentage of posts evaluated	Number	Percentage of posts evaluated
Lower skilled (levels 1–2)	468	0	0.00	0	0.00	0	0
Skilled (levels 3–5)	10 405	0	0.00	0	0.00	0	0
Highly skilled production (levels 6–8)	4 174	3	0.07	0	0.00	0	0
Highly skilled supervision (levels 9–12)	2 159	35	16.21	0	0.00	0	0
Senior Management Service (levels 13–16)	171	1	0.58	0	0.00	0	0
Total	17 377	39	0.22	0	0.00	0	0

The following table provides a summary of the number of employees whose salary positions were upgraded due to the upgrading of posts. The difference between the number of posts and salary levels of employees upgraded is due to the fact that not all employees are automatically absorbed into the new posts due to not meeting the requirements to be upgraded, and some of the posts upgraded could also be vacant.

Table 5.2: Profile of employees whose salary positions were upgraded due to their posts being upgraded from 1 April 2009 to 31 March 2010

Beneficiaries	African	Asian	Coloured	White	Total
Female	157	6	23	26	212
Male	78	7	9	5	99
Total	235	13	32	31	311
Employees with disabilities					0

The following table summarises the number of cases where remuneration levels exceeded the grade determined by job evaluation. Reasons for the deviation are provided in each case.

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Table 5.3: Employees whose salary levels exceeded the grade determined by job evaluation from 1 April 2009 to 31 March 2010 (in terms of PSR I.V.C.3)

Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
Senior HR Officer (previously Chief Personnel Officer)	3	7	8	Post was previously on level 8 prior to job evaluation being done by the DPSA. The officials were appointed before the posts were evaluated by the DPSA.
HR Officer	11	5	6	Post was previously on level 6 prior to job evaluation being done by the DPSA. The officials were appointed before the posts were evaluated by the DPSA.
Deputy Director	1	11	12	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Administration Clerk	85	4	6	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Administration Clerk	23	4	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Secretary	1	5	8	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Secretary	5	5	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Typist	19	4	6	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Court Interpreter	2	5	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Labour Relations Officer	1	8	9	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Driver	2	2	3	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Personal Assistant	1	5	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Security Officer	2	1	2	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Court Manager (High Court)	1	11	12	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Court Manager (High Court)	4	9	10	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by job evaluation.
Total number of employees whose salaries exceeded the level determined by job evaluation in 2009/10				161
Percentage of total employment				0.89%

Table 5.4 summarises the beneficiaries of the above in terms of race, gender, and disability.

Table 5.4: Profile of employees whose salary levels exceeded the grade determined by job evaluation from 1 April 2009 to 31 March 2010 (in terms of PSR 1.V.C.3)

Beneficiaries	African	Asian	Coloured	White	Total
Female	92	0	1	32	125
Male	30	0	1	5	36
Total	122	0	2	37	161
Employees with disabilities					0
Total number of employees whose salaries exceeded the grades determined by job evaluation in 2009/10					161

5.6 Employment changes

This section provides information on changes in employment over the financial year.

Turnover rates provide an indication of trends in the employment profile of the department. The following tables provide a summary of turnover rates by salary band (Table 6.1) and by occupation (Table 6.2).

It should be noted that these tables do not take into account the upgrading/downgrading of posts/employees, the movement of employees between levels (promotion) and translation to another rank without a change in salary level.

A total of 401 employees were promoted to a higher salary level. The salary levels of 311 employees were upgraded and 114 employees were carried out of adjustment against another post due to regrading or translation to the occupation-specific dispensation (OSD). The personnel movement regarding appointments and terminations do not reflect the changes mentioned above.

Table 6.1: Annual turnover rates by salary band for the period 1 April 2009 to 31 March 2010

Salary band	Number of employees per band as at 1 April 2009	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Lower skilled (levels 1–2), permanent	541	87	36	6.65
Skilled (levels 3–5), permanent	9 424	938	296	3.14
Highly skilled production (levels 6–8), permanent	2 684	181	219	8.16
Highly skilled supervision (levels 9–12), permanent	1 746	95	102	5.84
Senior Management Service (level 13–16), permanent	1 954	16	67	3.43
Judges	205	20	18	8.78
Contract (levels 1–2)	246	77	182	73.98
Contract (levels 3–5)	854	579	1 019	71.11
Contract (levels 6–8)	213	190	242	60.05
Contract (levels 9–12)	112	492	522	86.42
Contract (levels 13–16)	202	18	24	11.88
Total	18 181	2 693	2 727	15.00

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Table 6.2: Annual turnover rates by occupation for the period 1 April 2009 to 31 March 2010

Occupation	Number of employees per occupation as on 1 April 2009	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Administrative-related, permanent	8 086	676	325	4.02
Administrative-related, contract	691	495	841	70.91
Advocates, permanent	92	7	4	4.35
Advocates, contract	4	0	1	25.00
Attorneys, permanent	186	9	6	3.23
Attorneys, contract	27	6	13	48.15
Authors, journalists, contract	2	0	0	0.00
Building and other property caretakers, permanent	12	0	3	25.00
Bus and heavy vehicle drivers, permanent	25	2	2	8.00
Bus and heavy vehicle drivers, contract	0	1	1	0.00
Cleaners in offices, workshops, hospitals etc., permanent	218	0	16	7.34
Cleaners in offices, workshops, hospitals, etc., contract	0	0	0	0.00
Client information clerks (switchboard, reception, information clerks), permanent	125	17	5	4.00
Client information clerks (switchboard, reception, information clerks), contract	0	1	0	0.00
Communication and information-related, permanent	22	3	3	13.64
Communication and information-related, contract	1	1	0	0.00
Finance and related professionals, permanent	351	13	15	4.27
Finance and related professionals, contract	11	0	10	90.91
Finance clerks and credit controllers, permanent	262	45	47	17.94
Finance clerks and credit controllers, contract	52	19	40	76.92
Food services aids and waiters, permanent	21	0	0	0.00
Food services aids and waiters, contract	5	1	4	80.00
General legal administration and related professionals, permanent	1 135	90	48	4.23
General legal administration and related professionals, contract	80	43	44	55.00
Head of department/chief executive officer; permanent	1	1	1	100.00
Human resources and organisational development and related professions, permanent	207	7	13	6.28
Human resources clerks, permanent	156	24	8	5.13
Human resources-related, contract	32	3	18	56.25
Information technology-related, permanent	9	6	3	33.33
Information technology-related, contract	2	0	1	50.00
Judges, permanent	205	20	18	8.78
Language practitioners, interpreters and other communication, permanent	1 740	132	74	4.25
Language practitioners, interpreters and other communication, contract	122	116	197	82.77

Occupation	Number of employees per occupation as on 1 April 2009	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Librarians and related professionals, permanent	34	3	4	11.76
Library, mail and related clerks, permanent	144	46	15	10.42
Library, mail and related clerks, contract	36	10	17	47.22
Magistrates, permanent	1 734	0	44	2.54
Magistrates, contract	196	478	495	73.44
Messengers, porters and deliverers, permanent	357	103	23	6.44
Messengers, porters and deliverers, contract	192	55	124	64.58
Risk management and security services, permanent	8	0	0	0.00
Secretaries and other keyboard-operating clerks, permanent	856	95	32	3.74
Secretaries and other keyboard-operating clerks, contract	136	123	164	63.32
Security officers, permanent	346	24	11	3.18
Security officers, contract	14	0	11	78.57
Senior managers, permanent	222	13	16	7.21
Senior managers, contract	21	3	5	23.81
Social work and related professionals, permanent	0	1	2	0.00
Social work and related professionals, contract	0	1	0	0.00
Statisticians and related personnel, contract	3	0	3	100.00
Total	18 181	2 693	2 727	15.00

Table 6.3 identifies the major reasons why staff left the department.

Table 6.3: Reasons why staff are leaving the department

Termination type	Number	Percentage of total resignations
Death, permanent	83	3.04
Resignation, permanent	259	9.50
Expiry of contract, permanent	2	0.07
Expiry of contract, temporary	1 989	72.94
Discharged due to ill health, permanent	13	0.48
Dismissal – misconduct, permanent	49	1.80
Dismissal – misconduct, temporary	0	0.00
Dismissal – incapacity, permanent	0	0.00
Retirement, permanent	130	4.77
Transfer, permanent	202	7.41
Total	2 727	100.00

Resignations as percentage of employment	15.00%
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Table 6.4: Promotions by occupation

Occupation	Employees as at 1 April 2009	Promotions to another salary level	Salary level promotions as a percentage of employees by occupation	Progressions to another notch within a salary level	Notch progressions as a percentage of employees by occupation
Administrative-related, permanent	8 086	208	2.57	3 985	49.47
Administrative-related, contract	691	0	0.00	15	2.17
Advocates, permanent	92	0	0.00	26	28.26
Advocates, contract	4	0	0.00	0	0.00
Attorneys, permanent	186	0	0.00	121	65.05
Attorneys, contract	27	0	0	0	0.00
Authors, journalists, contract	2	0	0.00	0	0.00
Building and other property caretakers, permanent	12	0	0.00	1	8.33
Bus and heavy vehicle drivers, permanent	25	0	0.00	21	84.00
Cleaners in offices, workshops, hospitals etc., permanent	218	0	0.00	60	27.52
Client information clerks (switchboard, reception, information clerks), permanent	125	0	0.00	70	56.00
Communication and information-related, permanent	22	4	18.18	8	36.36
Communication and information-related, contract	1	0	0.00	0	0.00
Finance and related professionals, contract	351	10	2.85	133	37.89
Finance and related professionals, permanent	11	0	0.00	0	0.00
Finance clerks and credit controllers, permanent	262	16	6.11	140	53.44
Finance clerks and credit controllers, contract	52	0	0.00	3	5.77
Food services aids and waiters, permanent	21	0	0.00	14	66.67
Food services aids and waiters, contract	5	0	0.00	1	20.00
General legal administration and related professionals, permanent	1 135	62	5.46	415	36.56
General legal administration and related professionals, contract	80	0	0.00	5	6.25
Head of department/chief executive officer, permanent	1	0	0.00	0	0.00
Human resources and organisational development and related professions, permanent	207	16	7.73	76	36.71
Human resources clerks, permanent	156	5	3.21	90	57.69
Human resources clerks, contract	32	0	0.00	1	3.13
Information technology-related, permanent	9	3	33.33	3	33.33

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Occupation	Employees as at 1 April 2009	Promotions to another salary level	Salary level promotions as a percentage of employees by occupation	Progressions to another notch within a salary level	Notch progressions as a percentage of employees by occupation
Information technology-related, permanent	2	0	0.00	0	0.00
Judges, permanent	205	10	4.88	0	0.00
Language practitioners, interpreters and other communication, permanent	1 740	24	1.38	1244	71.49
Language practitioners, interpreters and other communication, contract	122	0	0.00	2	1.64
Librarians and related professionals, permanent	34	2	5.88	11	32.35
Library, mail and related clerks, permanent	144	6	4.17	133	92.36
Library, mail and related clerks, contract	36	0	0.00	4	11.11
Magistrates, permanent	1 734	1	0.06	0	0.00
Magistrates, contract	196	0	0.00	0	0.00
Messengers, porters and deliverers, permanent	357	1	0.28	96	26.89
Messengers, porters and deliverers, contract	192	0	0.00	2	1.04
Risk management and security services, permanent	8	0	0.00	2	25.00
Secretaries and other keyboard-operating clerks, permanent	856	27	3.15	511	59.70
Secretaries and other keyboard-operating clerks, contract	136	0	0.00	0	0.00
Security officers, permanent	346	3	0.87	195	56.36
Security officers, contract	14	0	0.00	10	71.43
Senior managers, permanent	222	3	1.35	5	2.25
Senior managers, contract	21	0	0.00	1	4.76
Statisticians and related professionals, contract	3	0	0.00	0	0.00
Total	18 181	401	2.21	7404	40.72

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Table 6.5: Promotions by salary band

Salary band	Employees at 1 April 2009	Promotions to another salary level	Salary band promotions as a percentage of employees by salary level	Progressions to another notch within a salary level	Notch progressions as a percentage of employees by salary band
Lower skilled (levels 1–2), permanent	541	0	0	52	9.61
Skilled (levels 3–5), permanent	9 424	137	1.45	4 073	43.22
Highly skilled production (levels 6–8), permanent	2 684	118	4.40	2 184	81.37
Highly skilled supervision (levels 9–12), permanent	1 746	124	7.10	1 040	59.56
Senior management (levels 13–16), permanent	1 954	12	0.61	14	0.72
Judges	205	10	4.88	0	0.00
Interns	186	0	0	0	0.00
Contract (levels 1–2), permanent	60	0	0	1	1.67
Contract (levels 3–5), permanent	854	0	0	22	2.58
Contract (levels 6–8), permanent	213	0	0	9	4.23
Contract (levels 9–12), permanent	112	0	0	9	8.04
Contract (levels 13–16), permanent	202	0	0	0	0.00
Total	18 181	401	2.21	7 404	40.72

5.7 Employment equity

The tables in this section are based on the formats prescribed by the Employment Equity Act, 1998 (Act No 55 of 1998).

Table 7.1: Total number of employees (including employees with disabilities) in each of the following occupational categories as at 31 March 2010

Occupational category (SASCO)	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Judges	64	14	10	70	18	6	10	16	208
Legislators, senior officials and managers, permanent	46	7	7	17	32	3	5	5	122
Legislators, senior officials and managers, temporary	4	0	0	1	2	0	0	1	8
Professionals, permanent	1 322	116	85	650	906	128	171	437	3 815
Professionals, temporary	104	7	12	42	52	5	7	22	251
Clerks, permanent	3 024	309	109	150	5 163	873	231	1 155	11 014
Clerks, temporary	37	7	1	11	74	14	5	46	195
Service and sales workers, permanent	166	44	15	74	39	6	1	9	354
Service and sales workers, temporary	0	0	0	0	0	0	0	0	0
Plant and machine operators and assemblers, permanent	23	3	1	1	0	0	0	0	28
Labourers and related workers, permanent	271	34	4	13	250	19	4	12	607
Labourers and related workers, temporary	30	3	1	2	49	2	0	2	89
Technical and associated professions, permanent	475	42	20	52	435	48	21	174	1 267
Technical and associated professions, temporary	9	0	0	1	24	3	1	1	39
Total	5 575	586	265	1 084	7 044	1 107	456	1 880	17 997
Employees with disabilities	84	15	2	19	67	8	9	19	223

Table 7.2: Total number of employees (including employees with disabilities) in each of the following occupational bands as on 31 March 2010

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Judges	64	14	10	70	18	6	10	16	208
Top management, permanent	1	0	0	0	1	0	0	0	2
Senior management, permanent	497	83	67	517	267	51	92	250	1 824
Professionally qualified and experienced specialists and mid-management, permanent	699	50	33	171	536	66	80	222	1 857
Skilled technical and academically qualified workers, junior management, supervisors, foremen, permanent	1 322	86	38	135	1 440	181	75	882	4 159
Semi-skilled and discretionary decision-making, permanent	2 631	309	94	118	4 435	764	181	431	8 963
Unskilled and defined decision-making, permanent	177	27	9	16	146	15	5	7	402
Contract (top management), permanent	0	0	0	0	0	0	0	0	0
Contract (senior management)	17	1	3	20	2	0	2	2	47
Contract (professionally qualified)	86	6	9	21	46	4	6	22	200
Contract (skilled technical)	18	0	0	9	40	10	3	24	104
Contract (semi-skilled), permanent	28	6	1	4	65	8	2	22	136
Contract (unskilled)	3	2	0	1	1	0	0	0	7
Interns	32	2	1	2	47	2	0	2	88
Total	5 575	586	265	1 084	7 044	1 107	456	1 880	17 997

Table 7.3: Recruitment for the period 1 April 2009 to 31 March 2010

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	0	0	0	0	1	0	0	0	1
Judges	5	1	0	3	3	2	2	4	20
Senior management	10	0	1	0	4	0	0	0	15
Professionally qualified and experienced specialists and mid-management	46	4	2	2	29	2	5	5	95
Skilled technical and academically qualified workers, junior management, supervisors, foremen and superintendents	79	4	1	1	69	10	8	9	181
Semi-skilled and discretionary decision-making	346	27	4	10	430	80	19	22	938
Unskilled and defined decision-making	38	13	2	5	25	1	3	0	87
Contract (senior management)	5	1	0	11	0	0	1	0	18
Contract (professionally qualified)	136	27	39	132	66	14	9	69	492
Contract (skilled technical)	75	31	4	52	20	2	1	5	190
Contract (semi-skilled)	191	12	3	13	271	35	22	32	579
Contract (unskilled)	22	2	3	8	31	3	6	2	77
Total	953	122	59	237	949	149	76	148	2693
Employees with disabilities	3	0	0	0	3	2	0	0	8

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Table 7.4: Promotions for the period 1 April 2009 to 31 March 2010

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management, permanent	5	0	0	3	2	0	0	0	10
Senior management, permanent	4	0	1	1	3	0	2	1	12
Professionally qualified and experienced specialists and mid-management, permanent	57	1	0	15	36	3	8	4	124
Skilled technical and academically qualified workers, junior management, supervisors, foremen, permanent	54	1	0	1	49	3	2	8	118
Semi-skilled and discretionary decision-making, permanent	41	2	5	4	64	9	6	6	137
Unskilled and defined decision-making, permanent	0	0	0	0	0	0	0	0	0
Total	161	4	6	24	154	15	18	19	401
Employees with disabilities	2	0	0	0	0	0	1	0	3

Table 7.5: Terminations for the period 1 April 2009 to 31 March 2010

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management, permanent	3	0	0	12	1	0	2	0	18
Senior management, permanent	27	2	0	15	7	2	4	10	67
Professionally qualified and experienced specialists and mid-management, permanent	54	4	1	0	21	5	1	16	102
Skilled technical and academically qualified workers, junior management, supervisors, foremen, permanent	93	2	1	7	51	10	4	51	219
Semi-skilled and discretionary decision-making, permanent	110	18	2	6	106	30	6	18	296
Unskilled and defined decision-making, permanent	15	2	1	2	16	0	0	0	36
Contract (senior management)	6	0	0	12	3	0	2	1	24
Contract (professionally qualified)	131	27	39	145	77	14	12	77	522
Contract (skilled technical)	26	4	3	5	93	39	4	68	242
Contract (semi-skilled)	331	22	10	16	478	63	31	68	1 019
Contract (unskilled)	78	7	6	5	70	1	7	8	182
Total	874	88	63	225	923	164	73	317	2 727

Table 7.6: Disciplinary action for the period 1 April 2009 to 31 March 2010

	Male				Female				Total	
	African	Coloured	Indian	White	African	Coloured	Indian	White		Unknown*
Disciplinary action	88	10	4	6	52	8	2	10	1	181

* Suspect was unknown – case dismissed

Table 7.7: Skills development for the period 1 April 2009 to 31 March 2010

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	431	255	70	250	580	260	72	100	2 018
Professionals	512	124	62	412	557	114	111	301	2 193
Technicians and associate professionals	510	348	32	71	610	320	58	165	2 114
Clerks	2 075	369	68	224	3 216	578	135	678	7 343
Service and sales workers	321	185	35	69	171	59	5	15	860
Plant and machine operators and assemblers	80	5	0	0	30	0	0	0	115
Elementary occupations	195	56	9	12	111	37	2	9	431
Total	4 124	1 342	276	1 038	5 275	1 368	383	1 268	15 074
Employees with disabilities	13	8	1	3	7	2	1	2	37

5.8 Signing of performance agreements by SMS members

Table 8.1: Signing of performance agreements by SMS Members as on 31 July 2009

SMS level	Total number of funded SMS posts per level	Total number of SMS members per level	Total number of signed performance agreements per level	Signed performance agreements as percentage of total number of SMS members per level
Director-General/Head of Department	1	1	1	100.00
Salary level 16, but not Head of Department	1	1	0	0.00
Salary level 15	8	5	2	40.00
Salary level 14	70	48	15	31.25
Salary level 13	208	166	96	57.83
Total	288	221	114	51.58

Table 8.2: Reasons for not having concluded performance agreements for all SMS members as on 31 July 2009

1. New appointments/secondments or disputes, and non-compliance
2. Agreements signed but not submitted to Human Resources yet on 31 July 2009

Table 8.3: Disciplinary steps taken against SMS members for not having concluded performance agreements as on 31 July 2009

1. No formal disciplinary actions were taken, but the non-compliance was brought to their attention and they were warned about the consequences of their actions. This was regarded as adequate corrective action.

5.9 Performance rewards

To encourage good performance, the department granted performance rewards as indicated below during the year under review. The information is presented in terms of race, gender and disability (Table 9.1), salary band (Table 9.2) and critical occupation (Table 9.3).

Table 9.1: Performance rewards according to race, gender, and disability for 1 April 2009 to 31 March 2010

Gender	Beneficiary profile			Cost	
	Number of beneficiaries	Total number of employees in group	Percentage of total within group	Total cost (R'000)	Average cost per employee
African, female	975	6 977	13.97	9 793	10 044
African, male	697	5 491	12.69	7 430	10 656
Asian, female	93	447	20.81	1 221	13 129
Asian, male	40	263	15.21	392	9 800
Coloured, female	189	1 099	17.20	1 750	9 259
Coloured, male	77	571	13.49	757	9 831
White, female	502	1 861	26.97	6 736	13 418
White, male	119	1 065	11.17	2 370	19 916
Employees with disabilities	12	223	5.38	152	12 667
Total	2 704	17 997	15.02	30 601	11 317

Table 9.2: Performance rewards according to salary band for personnel below Senior Management Service from 1 April 2009 to 31 March 2010

Salary band	Beneficiary profile				
	Number of beneficiaries	Number of employees	Percentage of total within salary bands	Total cost (R'000)	Average cost per employee
Lower skilled (levels 1–2)	64	402	15.92	339	5 297
Skilled (levels 3–5)	1 195	8 964	13.33	7 966	6 666
Highly skilled production (levels 6–8)	1 076	4 159	25.87	13 135	12 207
Highly skilled supervision (levels 9–12)	330	1 857	17.77	8 028	24 327
Contract (levels 1–2)	0	7	0	0	0
Contract (levels 3–5)	8	136	5.88	33	4 125
Contract (levels 6–8)	2	104	1.92	24	12
Contract (levels 9–12)	1	200	0.50	18	18
Total	2 676	15 829	16.91	29 543	11 040

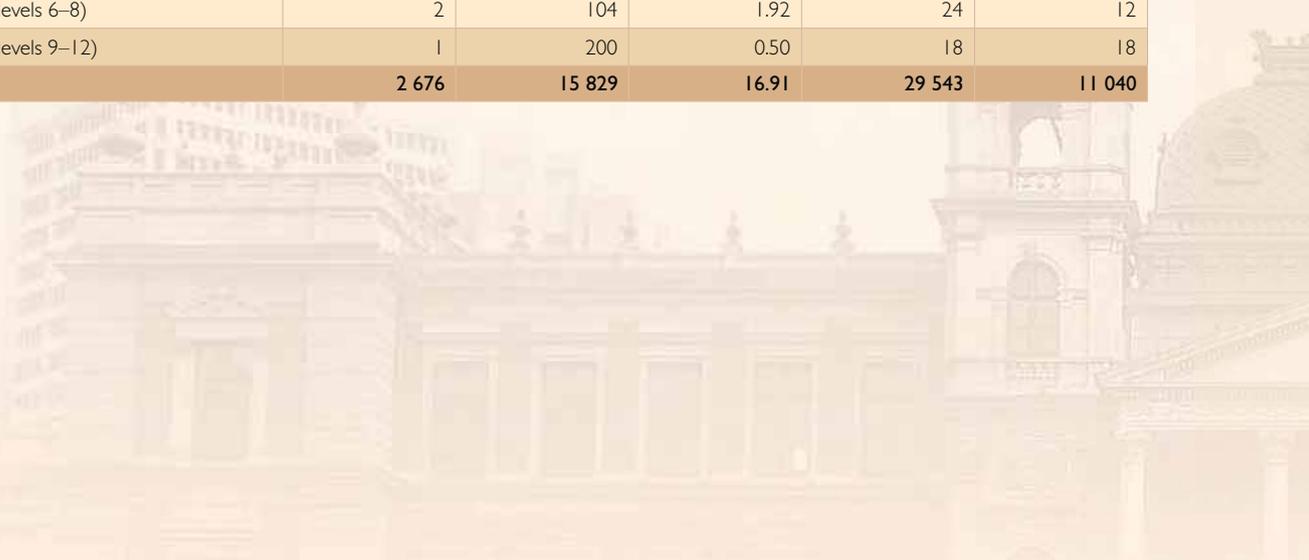


Table 9.3: Performance rewards by occupation for 1 April 2009 to 31 March 2010

Occupation	Beneficiary profile			Cost	
	Number of beneficiaries	Number of employees	Percentage of total within occupation	Total cost (R'000)	Average cost per employee
Administrative-related, permanent	1 601	89 79	17.83	15 721	9 819
Advocates, permanent	16	73	21.92	578	36 125
Attorneys, permanent	13	176	7.39	381	29 307
Building and other property caretakers, permanent	1	9	11.11	5	5 000
Bus and heavy vehicle drivers, permanent	8	28	28.57	44	5 500
Cleaners in offices, workshops, hospitals etc., permanent	22	178	12.36	120	5
Client information clerks (switchboard, reception, information clerks), permanent	14	137	10.22	121	8 643
Communication and information-related, permanent	6	30	20.00	121	2 017
Financial and related professionals, permanent	57	340	16.76	1 030	18 070
Financial clerks and credit controllers, permanent	41	276	14.86	388	9 463
Food services aids and waiters, permanent	9	23	39.13	45	5 000
General legal administration and related professionals, permanent	121	886	13.66	3 213	26 554
Head of department/chief executive officer, permanent	0	1	0.00	0	0
Human resources and organisational development and related professions, permanent	38	166	22.89	886	23 316
Human resources clerks, permanent	66	201	32.84	756	11 455
Information technology-related, permanent	2	31	6.45	34	17 000
Judges	0	208	0.00	0	0
Language practitioners, interpreters and other communication, permanent	212	1 822	11.64	2 266	10 689
Librarians and related professionals, permanent	6	34	17.65	90	15 000
Library, mail and related clerks, permanent	71	284	25.00	650	9 155
Magistrates, permanent	1	1 650	0.06	44	44 000
Messengers, porters and deliverers, permanent	58	382	15.18	280	4 828
Risk management and security services, permanent	3	8	37.50	37	12 333
Language practitioners, interpreters and other communication, permanent	231	930	24.84	2 478	10 727
Security officers, permanent	86	346	24.86	674	7 837
Senior managers, permanent	10	128	7.81	429	42 900
Social work and related professionals, permanent	11	89	12.36	210	19 091
Total	2 704	17 415	15.53	30 601	11 317

PART 5: HUMAN RESOURCE MANAGEMENT

Table 9.4: Performance-related rewards (cash bonus), according to salary band, for Senior Management Service

Salary band	Beneficiary profile			Total cost (R'000)	Average cost per employee	Total cost as a percentage of the total personnel expenditure
	Number of beneficiaries	Number of employees	Percentage of total within band			
Band A	13	92	14.13	422	32.462	0.01
Band B	2	29	6.90	67	33.50	0.00
Band C	1	5	20.00	128	128	0.00
Band D	1	2	50.00	61	61	0.00
Total	17	128	13.28	678	39.88	0.02

5.10 Foreign workers

The tables below summarise the employment of foreign nationals in the department in terms of salary band and by major occupation. The tables also summarise changes in the total number of foreign workers in each salary band and by each major occupation.

Table 10.1: Foreign workers from 1 April 2009 to 31 March 2010 according to salary band

Salary band	1 April 2009		31 March 2010		Change	
	Number	Percentage of total	Number	Percentage of total	Number	Percentage change
Abnormal appointment	0	0	16	17.02	16	100.00
Periodical appointment	48	72.73	55	58.51	7	14.58
Lower skilled (levels 1–2)	14	21.21	21	22.34	7	50.00
Skilled (levels 3–5)	0	0	0	0.00	0	0.00
Highly skilled production (levels 6–8)	0	0	0	0.00	0	0.00
Highly skilled supervision (levels 9–12)	3	4.55	1	1.06	-2	-33.33
Senior management (levels 13–16)	1	1.52	1	1.06	0	0.00
Total	66	100	94	100	28	42.42

Table 10.2: Foreign workers, 1 April 2009 to 31 March 2010, by major occupation

Major occupation	1 April 2009		31 March 2010		Change	
	Number	Percentage of total	Number	Percentage of total	Number	Percentage change
Administrative office workers	14	21.21	19	20.21	5	35.71
Other occupations	48	72.73	73	77.66	24	52.08
Professionals and managers	4	6.06	2	2.13	-2	-50.00
Total	66	100	94	100	28	42.42

5.11 Leave utilisation for the period 1 January 2009 to 31 December 2010

The Public Service Commission identified the need for careful monitoring of sick leave in the public service. The tables below provide an indication of the use of sick leave (Table 9.1) and disability leave (Table 9.2). In both cases, the estimated cost of the leave is also provided.

Table 11.1: Sick leave from 1 January 2009 to 31 December 2009

Salary band	Total days	Percentage days with medical certification	Number of employees using sick leave	Percentage of total employees using sick leave	Average days per employee	Estimated cost (R'000)
Lower skilled (levels 1–2)	1 838	85.5	248	1.9	7	368
Skilled (levels 3–5)	52 311	85.5	6 741	52.3	8	13 791
Highly skilled production (levels 6–8)	20 877	81.5	2 956	23	7	9 793
Highly skilled supervision (levels 9–12)	18 085	80.7	2 087	16.2	9	23 716
Senior management (levels 13–16)	3 837	81.3	427	3.3	9	7 980
Contract (levels 1–2)	188	75	53	0.4	4	28
Contract (levels 3–5)	11 805	76.3	272	2.1	4	302
Contract (levels 6–8)	209	81.8	53	0.4	4	97
Contract (levels 9–12)	273	82.8	47	0.4	6	331
Contract (levels 13–16)	10	100	3	0	3	25
Total	98 808.5	83.5	12 887	100	8	56 431

Table 11.2: Incapacity leave (temporary and permanent) from 1 January 2009 to 31 December 2009

Salary band	Total days taken	Percentage days with medical certification	Number of employees using disability leave	Percentage of total employees using disability leave	Average days per employee	Estimated cost (R'000)
Lower skilled (levels 1–2)	117	100	7	1.9	17	23
Skilled (levels 3–5)	2 503	100	168	46.4	15	672
Highly skilled production (levels 6–8)	2 325	100	130	35.9	18	1 088
Highly skilled supervision (levels 9–12)	1 051	100	47	13	22	1 076
Senior management (levels 13–16)	88	100	7	1.9	13	219
Contract (levels 1–2)	7	100	1	0.3	7	1
Contract (levels 3–5)	2	100	1	0.3	2	1
Contract (levels 9–12)	5	100	1	0.3	5	7
TOTAL	6 098	100	362	100	17	3 087

Table 11.3 summarises the utilisation of annual leave. The wage agreement concluded with trade unions in the Public Service Coordinating Bargaining Chamber (PSCBC) in 2000 requires the management of annual leave to prevent high levels of accrued leave being paid at the time of termination of service.

PART 5: HUMAN RESOURCE MANAGEMENT

Table 11.3: Annual leave from 1 January 2009 to 31 December 2009

Salary band	Total days taken	Average per employee	Number of employees who took leave
Lower skilled (levels 1–2)	9 103.92	22	419
Skilled (levels 3–5)	159 869.04	18	8 675
Highly skilled production (levels 6–8)	98 566.2	23	4 258
Highly skilled supervision (levels 9–12)	72 670.6	24	3 029
Senior management (levels 13–16)	17 353	26	677
Contract (levels 1–2)	772	7	117
Contract (levels 3–5)	3 845.68	9	433
Contract (levels 6–8)	988.92	9	115
Contract (levels 9–12)	1 050.92	11	95
Contract (levels 13–16)	69	10	7
Total	364 289.28	20	17 825

Table 11.4: Capped leave from 1 January 2009 to 31 December 2009

Salary band	Total days of capped leave taken	Average number of days taken per employee	Average capped leave per employee as at 31 December 2009	Number of employees who took capped leave	Total number of capped leave available as at 31 December 2009
Lower skilled (levels 1–2)	183	7	63	27	14 327
Skilled (levels 3–5)	768	6	44	124	64 620
Highly skilled production (levels 6–8)	2 503	7	80	355	241 730
Highly skilled supervision (levels 9–12)	621	8	66	79	50 228
Senior management (levels 13–16)	69	5	83	13	12 398
Contract (levels 9–12)	12	6	21	2	123
Total	4 156	7	68	600	383 426

Table 11.5: Leave payouts for the period 1 April 2009 to 31 March 2010

The following table summarises payments made to employees as a result of leave that was not taken.

Reason	Total amount (R'000)	Number of employees	Average payment per employee
Leave payout for 2009/10 due to non-utilisation of leave for the previous cycle	67	3	22 333
Capped leave payouts on termination of service for 2009/10	4 186	516	8 112
Current leave payout on termination of service for 2009/10	479	131	3 656
Total	4 732	650	7 280

5.12 HIV and AIDS and health promotion programmes

Table 12.1: Steps taken to reduce the risk of occupational exposure

Units/categories of employees identified to be at high risk of contracting HIV and related diseases (if any)	Key steps taken to reduce the risk
None	The HIV actuarial study had not been completed by the end of the 2009/10 financial year. Infection barrier actions like the provision of condoms and information dissemination target all employees in the absence of any identified high-risk groups. A total of 1 676 employees attended HIV and AIDS awareness sessions.

Table 12.2: Details of health promotion and HIV and AIDS programmes

Question	Yes	No	Details, if yes
1. Has the department designated a member of the SMS to implement the provisions contained in Part VI E of Chapter 1 of the Public Service Regulations, 2001? If so, provide her/his name and position.	Yes		Mr Donald Mpholo: Chief Director: Human Resource Management.
2. Does the department have a dedicated unit or has it designated specific staff members to promote the health and wellbeing of your employees? If so, indicate the number of employees who are involved in this task and the annual budget that is available for this purpose.	Yes		Deputy director and two assistant directors. Budget for 2009/10 financial year was R4 million.
3. Has the department introduced an employee assistance or health promotion programme for your employees? If so, indicate the key elements/services of this programme.	Yes		1. Psycho-social counselling 2. Health risk management 3. Health education 4. HIV and AIDS Workplace Programme
4. Has the department established (a) committee(s) as contemplated in Part VI E.5 (e) of Chapter 1 of the Public Service Regulations, 2001? If so, please provide the names of the members of the committee and the stakeholder(s) that they represent.	Yes		An Employee Advisory Committee has been established and it represents all business units or branches of the department as well as representatives from organised labour.
5. Has the department reviewed its employment policies and practices to ensure that these do not unfairly discriminate against employees on the basis of their HIV status? If so, list the employment policies/practices so reviewed.	Yes		Benchmarked the current HIV and AIDS policy against the recently introduced policy by the DPSA on the integrated management of TB and HIV/AIDS in the public sector.
6. Has the department introduced measures to protect HIV-positive employees or those perceived to be HIV positive from discrimination? If so, list the key elements of these measures.	Yes		Celebrated candlelight memorial and World AIDS Day as two major health calendar events to educate employees on HIV and AIDS, especially around the elimination of stigma and discrimination. This took place in May and December 2009. The department has trained peer educators in all regions. Some of the responsibilities of the peer educators are to monitor and report any actions or omissions in their work environments that might lead to discrimination against employees infected or affected by HIV and AIDS.
7. Does the department encourage its employees to undergo voluntary counselling and testing? If so, list the results that have been achieved.	Yes		Voluntary counselling and testing services were availed in all regions and a total of 456 employees were tested.
8. Has the department developed measures/indicators to monitor and evaluate the impact of its health promotion programme? If so, list these measures/indicators.	Yes		In addition to the submission of quarterly reports, two surveys were conducted in October and December. The first survey assessed the level of awareness and utilisation of the entire programme, while the second one assessed employees' level of knowledge, attitudes and practices on HIV and AIDS.

PART 5: HUMAN RESOURCE MANAGEMENT

5.13 Labour relations

The following collective agreements were entered into with trade unions in the department.

Table 13.1: Collective agreements from 1 April 2009 to 31 March 2010

Total collective agreements	0
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The following table summarises the outcome of disciplinary hearings conducted in the department for the year under review.

Table 13.2: Misconduct and disciplinary hearings finalised from 1 April 2009 to 31 March 2010

Outcomes of disciplinary hearings	Number	Percentage of total
Verbal warning	7	3.87%
Written warning	19	10.50%
Final written warning	35	19.34%
Suspension	18	9.94%
Demotion	1	0.55%
Dismissal	49	27.07%
Withdrawn	11	6.08%
Resigned	21	11.60%
Leave without pay	7	3.87%
Corrective counselling	1	0.55%
Not guilty	12	6.63%
Total	181	100%

Table 13.3: Types of misconduct addressed at disciplinary hearings

Type of misconduct	Number	Percentage of total
Fraud	23	12.7%
Theft	16	8.84%
Corruption	7	3.9%
Alcohol abuse	2	1.10%
Abuse of state property	16	8.84%
Unauthorised absence	23	12.7%
Negligence	13	7.18%
Loss of state money	26	14.36%
Insubordination	12	6.63%
Abscondment	13	7.18%
Other	30	16.57%
Total	181	100%

Table 13.4: Grievances lodged for the period 1 April 2009 to 31 March 2010

Number of grievances resolved	Number	Percentage of total
Number of grievances resolved	187	65.16%
Number of grievances not resolved	100	34.84%
Total number of grievances lodged	287	100%

Table 13.5: Disputes lodged with councils for the period 1 April 2009 to 31 March 2010

Number of disputes	Number	Percentage of total
Number of disputes upheld	40	54.8%
Number of disputes dismissed	33	45.2%
Total number of disputes lodged	73	100%

Table 13.6: Strike actions for the period 1 April 2009 to 31 March 2010

Total number of person working days lost	0
Total cost (R'000) of working days lost	0
Amount (R'000) recovered as a result of no work no pay	0

Table 13.7: Precautionary suspensions for the period 1 April 2009 to 31 March 2010

Number of people suspended	
Number of people suspended	18
Number of people whose suspension exceeded 30 days	18
Average number of days suspended	203.9
Cost (R'000) of suspensions	R3 302 987

5.14 Skills development

This section highlights the efforts of the department with regard to skills development.

Table 14.1: Training needs identified from 1 April 2009 to 31 March 2010

Occupational category	Gender	Number of employees as at 1 April 2009	Training provided in the reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials and managers	Male	273	0	1 141	60	1 201
	Female	92	0	1 218	70	1 288
Professionals	Male	2 094	100	1 805	98	2 003
	Female	1 546	100	800	100	1 000
Technicians and associate professionals	Male	539	10	1 058	122	1 190
	Female	622	22	1 900	200	2 122
Clerks	Male	3 391	100	3 223	400	3 723
	Female	6 994	190	3 500	587	4 277
Service and sales workers	Male	303	0	224	35	259
	Female	54	0	224	70	294
Plant and machine operators and assemblers	Male	28	0	160	30	190
	Female	0	0	196	43	239
Labourers and related workers	Male	313	0	145	347	492
	Female	295	0	185	350	535
Gender subtotals	Male	6 941	210	7 756	1 092	9 058
	Female	9 603	312	8 023	1 420	9 755
Total		16 544	522	15 779	2 512	18 813

PART 5: HUMAN RESOURCE MANAGEMENT

Table 14.2: Training provided from 1 April 2009 to 31 March 2010

Occupational category	Gender	Number of employees as at 1 April 2009	Training provided within the reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials and managers	Male	273	0	980	26	1 006
	Female	92	0	1 002	10	1 012
Professionals	Male	2 094	37	1 023	50	1 110
	Female	1 546	63	859	161	1 083
Technicians and associate professionals	Male	539	10	921	30	961
	Female	622	22	1 061	70	1 153
Clerks	Male	3 391	46	2 453	237	2 736
	Female	6 994	48	4 261	298	4 607
Service and sales workers	Male	303	0	604	6	610
	Female	54	0	250	0	250
Plant and machine operators and assemblers	Male	28	0	20	65	85
	Female	0	0	30	0	30
Labourers and related workers	Male	313	0	260	12	272
	Female	295	0	150	9	159
Gender subtotals	Male	6 941	93	6 261	426	6 780
	Female	9 603	133	7 613	548	8 294
Total		16 544	226	13 874	974	15 074

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5.15 Injury on duty

The following table provides basic information on injury on duty.

Table 15.1: Injury on duty, 1 April 2009 to 31 March 2010

Nature of injury on duty	Number	Percentage of total
Required basic medical attention only	18	47.37
Pending investigation	18	47.37
Temporary total disablement	0	0.00
Permanent disablement	0	0.00
Fatal	2	5.26
Total	38	100

5.16 Utilisation of consultants

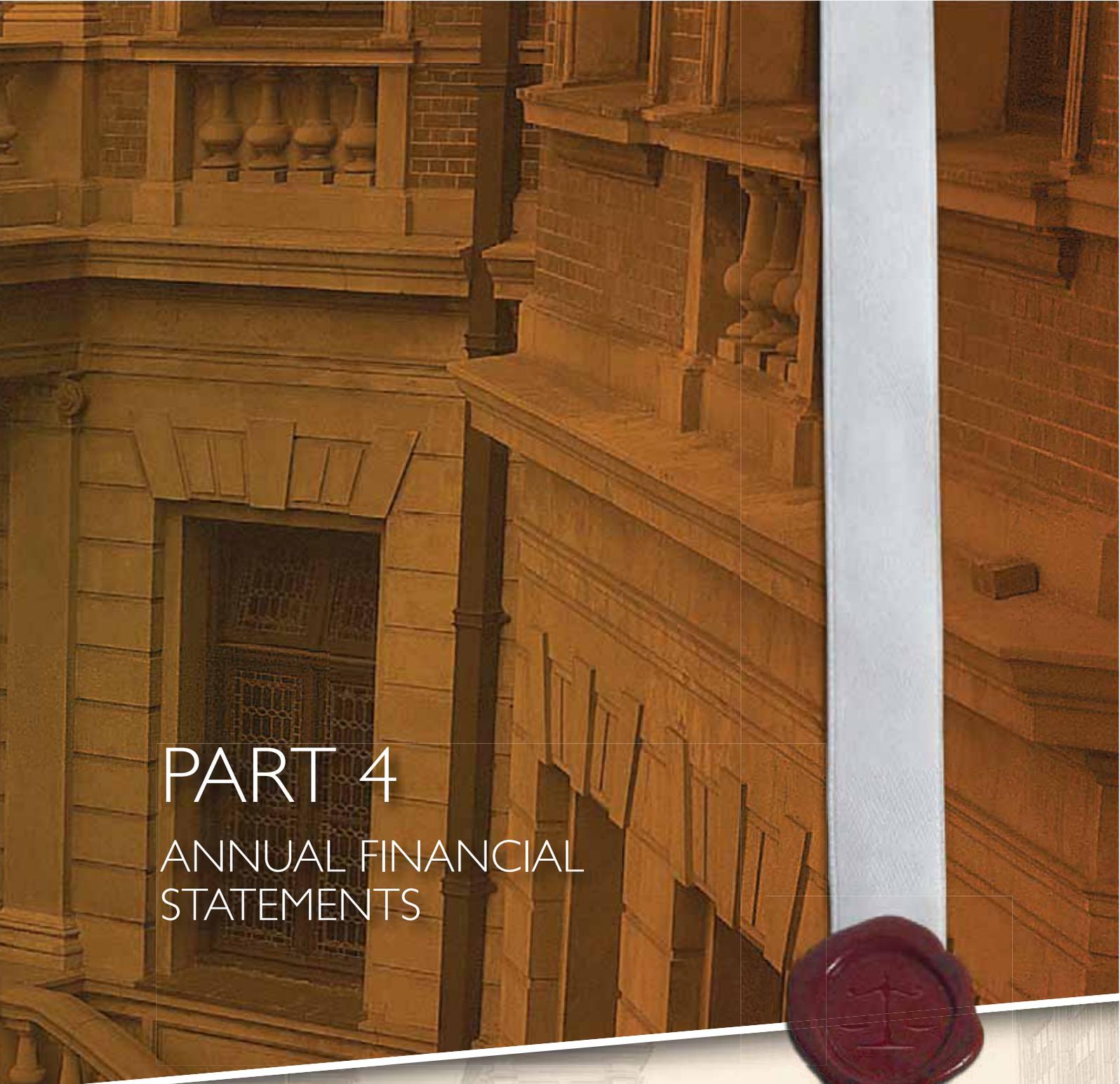
Table 16.1: Report on consultant appointments using appropriated funds

Project title	Total number of consultants that worked on the project	Duration of workdays	Contract value in rands
TSS IT plan	1	260	447 705.08
Management of Monies in Trust PPP Project	1	260	2 587 348.56
Human capital plan	Paid to firm	260	5 073 849.30
Capacity-building	Paid to firm	260	23 721.35
Forensic audit	Paid to firm	260	7 901 985.00
Guardian's Fund Master's Project	17	260	760 465.99
Remand detainee and offender case management and capacity-building	18	260	76 930 822.61
Resource substitutes	Paid to firm	260	15 434 039.79

Number and value of projects outsourced to consultants			
Total number of projects	Total individual consultants	Duration in workdays	Total contract value in rands
8	37	260	109 159 937.68

Table 16.2: Analysis of the value of services outsourced, consultants, contractors and agencies

Analysis of the value of services outsourced, consultants, contractors and agencies	Amount
Audit fees	264 179.11
Assessor/sheriff fees	25 328 320.83
Contractors	56 206 510.69
Operational	121 816 482.11
Legal costs	48 759 132.78
Medical services	42 909 858.04
Security services	44 514 828.91
IT solutions	5 996 852.39
Transcription services	31 115 161.67
Consultants as per table above	109 159 937.68
Total	486 071 264.21



PART 4
ANNUAL FINANCIAL
STATEMENTS





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PART 4: REPORT OF THE ACCOUNTING OFFICER

I. GENERAL REVIEW OF THE STATE OF FINANCIAL AFFAIRS

I.1 IMPORTANT POLICY DECISIONS AND STRATEGIC ISSUES FACING THE DEPARTMENT

The Department has three key strategic objectives, which are:

- promoting access to justice;
- improving organisational efficiency; and
- transforming justice, state and society.

In our view and based on the statistics in this annual report, we have improved the delivery of justice services to the people of South Africa. This view is supported by our expenditure patterns for the year and the fact that most expenditure was incurred in Programme 2 (Court Services) and Programme 4 (National Prosecuting Authority). However, in certain instances there are still challenges, particularly in relation to maintenance.

I.2 ACHIEVEMENTS

With regard to the abovementioned strategic objectives please refer to paragraph 2.2 page 16 for the achievements.

I.2.1 Key challenges

While much was achieved during the year under review, there were also challenges that the department is planning to overcome in the 2010/11 financial year. These include the following:

- Adapting our plans to accommodate the R1.4 billion budget cuts over the MTEF period.
- Implementing programmes to achieve an unqualified audit.

- Improving organisational efficiency in serving the department's key stakeholders.
- Finalising preparations relating to courts for the 2010 FIFA World Cup™.
- Implementing finalised legislation within the available budget.

I.3 SIGNIFICANT EVENTS THAT HAVE TAKEN PLACE DURING THE YEAR

I.3.1 Occupation-specific dispensation

The department completed the implementation of Phase One and Phase Two of the occupation-specific dispensation (OSD) relating to the recognition of post-qualification experience of the OSD in line with Resolution 3 of 2008 and the determination by the Minister for Public Service and Administration. The department strived to implement the OSD uniformly across the vote account and to this end re-allocated the budget with the concurrence of National Treasury. The bulk of the funding came from the underspending from vacancies not filled in part of the year and the rephrasing of projects in the budget. The National Prosecuting Authority (NPA) and Legal Aid South Africa (LASA) implemented the OSD in terms of the interim determination of the Minister of Justice and Constitutional Development. The concurrence of the Department of Public Service and Administration (DPSA) was obtained on the implementation of the OSD that is tailored to the requirements of the prosecutions profession, as it was not identified specifically in Resolution 3 of 2008 and the MPSA determination. LASA has not yet implemented Phase Two due to the absence of guarantees for all the carry-through costs. National Treasury gave a supplementary allocation to the vote to cover 40% of the OSD budget.

PART 4: REPORT OF THE ACCOUNTING OFFICER

1.3.2 Increases in the compensation of judges and magistrates

The increase in the compensation of judges and magistrates as in previous years was only finalised and implemented after the adjustments estimate. This resulted in overspending of R105 185 million. This amount will be recovered from the National Revenue Fund during the 2010/11 financial year.

1.4 SPENDING TRENDS

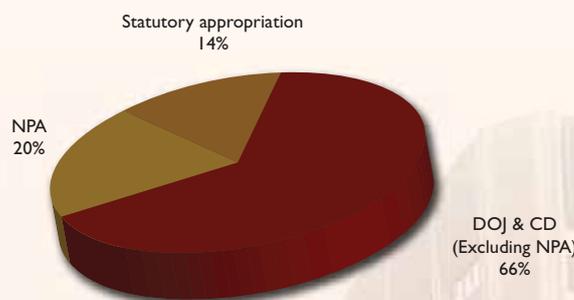
Voted funds received by the department.

The budget allocated to the department (excluding statutory appropriation) amounted to R9 658 billion. During the adjusted Estimates of National Expenditure (ENE), an additional amount of R112 125 million was allocated to the department increasing the appropriation to R9 770 billion. Although the adjusted appropriation indicates a budget totalling

R9 770 billion for the Vote the financial statements reflect R7 385 billion before final virement. The difference of R2 242 billion is the amount appropriated for the NPA, which is reported on in the financial statements of the NPA. Virement is applied on the vote as a whole and not to the NPA as a separate reporting responsibility.

The NPA assumed the separate reporting responsibility for all its own support services that were previously rendered by the department with effect from 1 April 2001. Since this date, the NPA has been responsible for its own accounting systems. Separate financial statements have, as was the case last year, been prepared for the NPA. The National Treasury, in a letter dated 30 April 2010, approved that the status quo remains for 2009/10, as Cabinet has not yet taken a final decision on the status of the NPA.

Analysis of total Budget (vote):



A comparison between the amounts appropriated, actual expenditure incurred and the net effect of virement for the department can be illustrated as follows:

	2009/10 R' 000	2008/09 R' 000
Total adjusted appropriation (excluding the NPA and statutory appropriation)	7 384 658	6 400 004
Amount received from NPA for virement	143 611	3 712
Final appropriation	7 528 269	6 403 716
Less: Expenditure	7 514 440	6 362 176
	13 829	41 540
Percentage underspend	0.2%	0.6%

PART 4: REPORT OF THE ACCOUNTING OFFICER

The expenditure incurred by the department was R7 514 billion against the adjusted appropriated amount for the year of R7 528 billion, leaving the department with an underspending of R13 829 million, which represents 0.2% of the final appropriation.

An amount of R143 611 million was shifted from the NPA to the other programmes in the Vote as part of the final virement. This amount comprises R111 596 million, which was an underspending on compensation of employees and R42 075 million on goods and services. The virement was applied to defray overspending in Programme 2 (Court Services) on operational expenditure and payments for security at the courts (R168 700 million) and the finalisation of more Repair and Maintenance Programme (RAMP) projects and new court buildings by the Department of Public Works to the value of R175 829 million. Underspending in the rest of the departmental programmes was as a result of funded vacancies (R67 783 million) that were not filled or became vacant during the financial year.

Virement

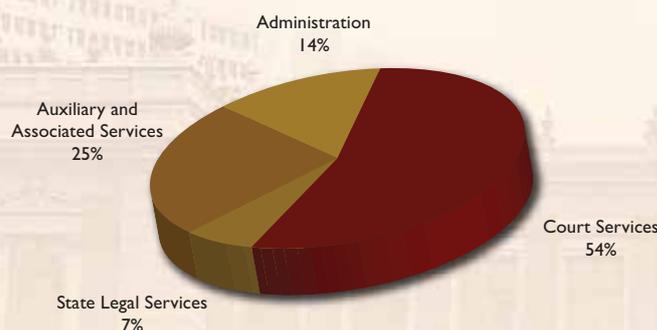
The following virements were approved between programmes:

- An amount of R90 816 million mainly underspent on compensation of employees and goods and services in Programme 1: Administration was utilised to increase the goods and services budget in other programmes by R82 175 million.
- An underspending on compensation of employees and goods and services of R46 510 million in Programme 3: State Legal Services was utilised to fund excess expenditure on buildings and fixed structures.
- The rest of the underspending, including the amount from the NPA, was utilised to fund the balance of excess expenditure on buildings and fixed structures after a fund shift of R47 230 million was effected to the same item from machinery and equipment in Programme 2.
- Increased transfers to Legal Aid South Africa (R69 million) and the International Criminal Court (R8 633 million) were also effected after National Treasury approval was obtained.

The final underspending of the Department after virement is on the following items:

Item	R' 000
Compensation of employees	12 550
Transfer to SASETA and NGO	1 234
Various other items	45
Total underspending	13 829

Expenditure per programme:



PART 4: REPORT OF THE ACCOUNTING OFFICER**Statutory appropriation (judges' and magistrates' salaries and allowances)**

	2009/10 R' 000	2008/09 R' 000
Total amount appropriated	1 669 689	1 389 329
Plus: Additional allocation	-	198 685
	-	1 588 014
Less: Expenditure	1 774 874	1 601 090
Underspend/(overspend)	(105 185)	(13 076)

Revenue

	2009/10 R' 000	2008/09 R' 000
Opening balance	23 131	14 426
Revenue received	371 615	352 511
Total revenue received	394 746	366 937
Less: Revenue paid to National Revenue Fund (NRF)	354 192	343 806
Surplus to be surrendered to Revenue	40 554	23 131

Eighty percent (2008/09: 77%) of the disclosed revenue constitutes money received in the Third Party Funds (TPF) bank accounts administered by the department (formerly referred to as Monies in Trust) and paid into the department's Paymaster-General account for transfer to the National Revenue Fund. (Please see paragraph 5.4.3 on the administration of the TPF in this regard.)

2. SERVICES RENDERED BY THE DEPARTMENT

2.1 TARIFF POLICY

The tariff policy remains the same, as the department's services and related charges are mostly fixed by law. The Chief Directorate: Legislative Development is responsible for the promulgation of certain subordinate legislation administered by the department in terms of which fees, charges, rates, scales or tariffs of fees are prescribed and reviewed on a regular basis.

As an ongoing effort to improve efficiency and simplify the tax system, thereby reducing the administrative burden on taxpayers, the use of revenue stamps on court documents and trust instruments was abolished with effect from

1 April 2009. This is in accordance with the Abolition of the Stamp Duty Act, 1968 (Act No. 77 of 1968), by the South African Revenue Services. The method of collecting had to be changed and receipts are currently being issued at courts to deal with collecting fees previously collected by means of revenue stamps. However, the fees collected are, in certain cases, minimal but require exorbitant administrative actions by additional personnel, which makes it uneconomical and requires more development.

Fees prescribed in the Regulations to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), are not affected and can in future be paid in cash at the department's offices nationwide.

2.2 SERVICES PROVIDED AT NO CHARGE TO THE PUBLIC

- Small Claims Court: The presiding officer is normally a lawyer or retired magistrate that renders these services pro bono (without being paid a stipend salary);
- The administration of Third Party Funds (monies in trust) is currently being done at no charge except

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for a 10% commission (to a maximum of R300 per collection) in respect of debt collected by the State Attorney on behalf of government departments, which is paid over to the National Revenue Fund. This commission is collected in terms of section 65J of the Magistrate's Court Act, 1944 (Act No. 32 of 1944), as amended;

- Law lecturers who render service at magistrates' courts at no charge;
- A number of services relating to activities in the Master's offices, include the following:
 - Estate Duty Taxation.
 - Administration Services.
 - Archive Services.
 - Inspection Services.
 - Guardian's Fund.
- Various legal services are rendered by the department on behalf of other government departments (all spheres of government) in terms of the cooperative requirements of the Constitution of the Republic of South Africa. The provision of legal services includes scrutiny of legislation, writing of legal opinions, and litigation services through the Office of the Chief Litigation Officer by state attorneys who represent the state in litigation matters.
- Transcription records are provided at no charge to litigants for purposes of challenging the outcome of cases.
- Legal advice, counselling and mediation services are offered at family courts by family advocates, family counsellors and maintenance investigators.
- The High Court: North Gauteng made an order indicating that all court processes in magistrate's courts and high courts shall, if not stamped, be issued without the payment of court fees.
- Legal aid services, including legal advice and assistance in courts in criminal and some civil matters, are provided by Legal Aid South Africa.
- Information desk services at courts as well as brochures and other information material on a large variety of aspects are provided free of charge to members of the public.

2.3 INVENTORIES

The Inventory Management Policy was reviewed during the previous financial year and resulted in a reduction in the number of stores in the department to only 11 formal stores. The inventory on hand at some of the regional offices and magistrate's offices are not material in quantity and/or value and are regarded as issued stock and therefore not regarded as formal stores.

Inventory on hand for the formal stores nationally (mainly stationery):

Formal stores (nationally)	Total R'000
National Office	472
Regional Office: Gauteng	203
Regional Office: Western Cape	206
Regional Office: KwaZulu-Natal	247
Regional Office: Free State	16
Regional Office: Limpopo	253
Regional Office: Mpumalanga	89
Regional Office: Northern Cape	143
Regional Office: Eastern Cape	147
Regional Office: North West	181
Constitutional Court	508
Total	2 466

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3. CAPACITY CONSTRAINTS

As reported in paragraph 1.2.2, the department has reduced its employee vacancy rate from last year's 13.58% to 10.73% this year. It is for this reason that the department is still utilising temporary staff, contractors and consultants for the continuation of some projects as well as the day-to-day operations.

4. UTILISATION OF DONOR FUNDS

Apart from voted funds, the department also receives donor funding to fund some of its projects. These funds are normally utilised for once-off projects or for projects that will eventually be funded through the budget allocation/baseline. The intention is to ensure that projects become sustainable after donor funding has been withdrawn or has come to an end.

Donor Funding	2009/10 R' 000	2008/09 R' 000
Assistance rolled over from previous year	12 821	14 514
Grants received during the financial year	-	1 100
Total amount received	12 821	15 614
Less: Expenditure	1 304	2 793
Paid back to National Treasury	10 566	-
Closing balance	951	12 821

Donor	Project	Project objectives and strategic support to the department	Fund utilisation and results
European Union (R10 566 856)	E-Justice Programme	Enhancing organisational efficiency by providing business solutions using IT as an enabler	All implementation plans of the E-Justice Programme were met and the project came to a close during March 2008. The EU was approached during the 2008/09 financial year for approval to utilise the unspent funds to continue supporting the modernisation initiatives of the department. During November 2008 the EU approved this request and the unspent amount (including accrued interest) will be utilised towards the following approved projects: <ul style="list-style-type: none"> • Replacement of out-of-warranty computers and servers • Court Records Management Project
Government of the Swiss Confederation (R2 253 690)	Re-engineering of small claims courts	The strategic objective of the project is to improve the accessibility of small claims courts with systems and procedures that are understandable to everyone, especially the vulnerable groups, through properly trained and professional staff and officials. This includes service-oriented small claims courts for all communities.	The Small Claims Court Project has been established to assist the Small Claims Court Directorate with the development of training manuals. The process of developing manuals for both clerks and commissioners has been completed. The manuals will be launched in May 2010 with the first training of commissioners.

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5. TRADING ENTITIES AND PUBLIC ENTITIES

5.1 TRADING ENTITIES

None

5.2 PUBLIC ENTITIES

5.2.1 Special Investigating Unit

The Special Investigating Unit (SIU) was established in terms of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), and investigates cases referred to it by the President. The unit provides professional forensic investigating and litigation services to all state institutions at national, provincial and local level to combat maladministration, corruption and fraud, and to protect state assets and public money.

5.2.2 Legal Aid South Africa

Legal Aid South Africa was established in terms of the Legal Aid Act, 1969 (Act No. 22 of 1969), to provide legal aid to indigent people and legal representation at state expense to people entitled to it in terms of the Constitution. Legal Aid South Africa provides services in all regional, district and high courts through its extended network. Its role is to provide legal aid in an independent manner, with the intention of enhancing justice and public confidence in the law and administration of justice.

5.3 CONSTITUTIONAL INSTITUTIONS

5.3.1 Commission on Gender Equality

The Commission on Gender Equality (CGE) is an independent statutory body established in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996. The powers and functions of the commission are further detailed in the Commission on Gender Equality Act, 1996 (Act No. 39 of 1996), and its specific mandate is to advance gender equality in all spheres of society and make recommendations on any legislation affecting the status of women.

The department was informed on 27 January 2010 that its Medium-term Expenditure Framework (MTEF) budget for 2010 had been revised to accommodate the decision taken for the transfer of the CGE to the Ministry for Women, Children, Youth and People with Disabilities with effect from 1 April 2010.

5.3.2 South African Human Rights Commission

The South African Human Rights Commission (SAHRC) is an independent statutory body established in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996. The powers and functions of the commission are further detailed in the Human Rights Commission Act, 1994 (Act No. 54 of 1994). The commission's specific mandate is to support constitutional democracy by promoting and protecting human rights. It raises awareness of human rights, monitors and assesses the observance of human rights, provides education and training on human rights, addresses human rights violations and seeks effective redress.

5.3.3 Public Protector

The Office of the Public Protector is an institution established in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996, to strengthen constitutional democracy. Its additional mandate is provided for in the Public Protector Act, 1994 (Act No. 43 of 1994), as amended. The core business of the Public Protector is to investigate any conduct in state affairs or in public administration in any sphere of government that is alleged or suspected to be improper or could result in impropriety or prejudice, and to mediate, negotiate, conciliate, report and recommend remedial action.

5.4 OTHER FUNDS

5.4.1 President's Fund

The President's Fund was established to compensate victims in terms of section 42 of

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the Promotion of National Unity Reconciliation Act, 1995 (Act No. 34 of 1995).

For the financial year under review, the following provides a high-level overview of activities as reported on in detail in the separate published set of financial statements:

Final reparation: Of the 16 837 applicants for reparation approved by the Truth and Reconciliation Commission (TRC), 15 956 have been paid the once-off individual grant totalling R479 million. There are 881 beneficiaries still to be paid, 420 of whom could not be traced by a professional tracing agency engaged to trace the unpaid beneficiaries. A total of 242 beneficiaries have not supplied the necessary regulatory requirements and 219 applicants who had received interim reparations passed away before the payment of final reparation.

Symbols and monuments: This aspect of the reparation measure is being undertaken by the Freedom Park Trust, the Department of Arts and Culture and the South African Heritage Resources Agency (SAHRA).

Medical and other forms of social assistance: Regulations to render financial assistance to the families of persons who went missing and whose remains were exhumed by a special task team of the NPA for reburial or symbolic burial were approved by the State President and published in the Government Gazette of 7 May 2010.

Community rehabilitation: A community rehabilitation model is in the process of being developed in consultation with the respective departments involved.

5.4.2 Guardian's Fund

The primary responsibility of the Guardian's Fund is to receive monies due on behalf of persons deemed legally incapable or lacking the capacity to manage their own affairs, as well as undetermined, unknown or absent heirs and untraceable persons in terms of Chapter V of the Administration of

Estates Act, 1965 (Act No. 66 of 1965).

For the financial year under review, the following provides a high-level overview of activities as reported on in detail in the separate published set of financial statements:

The Guardian's Fund has, with the Office of the Chief Master and the assistance of the Office of the Chief Financial Officer, comprehensively implemented controls and measures and continued to manage ongoing activities designed to address any challenges. Long-standing areas of concern in the administration of the fund and financial reporting have either been addressed or action plans have been put in place to solve these issues. A total amount of R1 049 billion in beneficiary receipts (24 006 receipts) and R754 million in beneficiary payments (52 766 payments) were successfully managed.

5.4.3 Third Party Funds (TPF)

Third Party Funds refer to monies administered by the department on behalf of the Judiciary for third parties, which include maintenance, bail, court fines and state attorney recoveries.

The nature and volume of transactions, as well as the distribution of service points (489 bank accounts), pose a challenge for the department, given the level of required sophistication of the technology systems and the skills of personnel.

The department has attempted to improve the management of these funds in the last five years. Starting with totally paper-based transaction processing, the department implemented the Justice Deposit Accounts System (JDAS). The objective was to improve the administration and service delivery of these monies, in particular maintenance monies. The system has been progressively enhanced over the last three years to the current version, JDAS4. The automation has also reduced the risk of fraud and theft of the monies. Like all systems, the risk of fraud has not been eliminated and the department continuously detects instances of fraud and theft in various courts. The policy of zero tolerance for

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financial misconduct is strictly applied in the department.

JDAS was designed as a case administration system with a functionality for recording payments and receipts, and not as a financial accounting system with prescribed accounting capabilities. The further reporting enhancement of JDAS, by means of the Justice Management Information System (JMIS), has improved the generation of management reports that assist in the compilation of financial management information.

Data integrity concerns regarding the completeness, accuracy and validity of information and system constraints led to a low level of reliance placed on the TPF's financial statements for the 2008/09 and 2009/10 financial years. It is for this reason that the department took the decision not to consolidate and/or submit these financial statements to the Auditor-General for audit purposes. The department will shortly issue a tender inviting interested parties to assist it in verifying all transactions in the Third Party Funds accounting environment.

In light of the aforementioned, the department sought and obtained the support of the National Treasury and Parliament for a public-private partnership to develop a new Third Party Funds financial management system.

Unfortunately, failings in the Third Party Funds arena have a negative effect on the rest of the department's financial report, as the fund's activities are directly linked to departmental revenue and other disclosure requirements included in the vote's financial statements.

An estimated R5.8 billion beneficiary receipts (12 million receipts) and R5.7 billion beneficiary payments (11.8 million payments) were managed at the department's 489 court and/or State Attorney offices.

In order to enhance service delivery during the 2009/10 financial year, the department made

a total of 1 756 million payments (2008/09: 1 168 million) to the amount of R965 million to maintenance beneficiaries through electronic funds transfer (EFT).

5.4.4 The Criminal Assets Recovery Account (CARA)

The Criminal Assets Recovery Account (CARA) is a separate account within the National Revenue Fund (NRF) into which monies and property are deposited following a judicial forfeiture or confiscation order. The confiscation and forfeiture processes, as well as the establishment of the CARA and Criminal Asset Recovery Committee (CARC), are legislated in terms of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998).

In pursuance of an unqualified audit report and to maintain a sound operating environment with supporting processes and systems, the 2009 CARA Project was initiated with an appointed multidisciplinary task team (focusing on legislation, finance and operations – processes and procedures). The CARA policies and procedures have been developed and will be presented to the CARC during the forthcoming meeting. The ECMS, as currently used by the Asset Forfeiture Unit (AFU), is now receiving informed inputs for its alignment with the approved integrated AFU-CARA-Master's process. A financial system is also under consideration to assist with the financial management, monitoring and reporting that CARA requires for the accrual accounting process, which is effective from 1 April 2010.

For the financial year under review, an amount of R51.2 million was deposited into CARA. As at 31 March 2010, an amount of R206.2 million is available for allocation to law enforcement agencies and organisations rendering support to victims of crime.

The allocation of CARA funds by Cabinet upon recommendation by the CARC will be made during the 2010/11 financial year.

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6. ORGANISATIONS TO WHOM TRANSFER PAYMENTS HAVE BEEN MADE

In terms of the Public Finance Management Act (PFMA) the accounting officer has certain responsibilities prior to the transfer of funds to a public entity:

- Section 38 (i) (j) requires a written assurance from the entity that effective, efficient and transparent financial management and internal controls are implemented prior to the transfer of funds.

Written assurance was obtained. The content of the assurance was verified against the 2008/09 internal and external audit results, as well as the interim internal audit findings for 2009/10:

- National Treasury Regulations 26.1 and 30.2.1 further require quarterly reporting by entities

Quarterly reporting was a prerequisite for the continued transfer of funds to the public entities:

- According to section 38(i)(j), the lack of assurance by public entities places a responsibility on the transferring department by introducing conditions to the transfer and following these conditions. If continuous non-compliance with conditions is identified, the transferring department has the remedy to withhold transfer payment.

The accounting officer's responsibilities were executed for the 2009/10 financial year and there was no need to withhold the transfer payment from the public entities.

The following amounts were transferred to the public entities under the control of the department:

Name of institution	2009/10 R' 000	2008/09 R'000
Special Investigating Unit	154 737	116 297
Legal Aid South Africa	917 408	838 120

Section 38(i)(j) is not applicable to the constitutional institutions, and therefore the controls by the department as per the PFMA and Treasury Regulations cannot be enforced.

These constitutional institutions obtained their independence from section 181(2) of the Constitution. In terms of section 181(5) of the Constitution, these constitutional institutions are accountable to the National Assembly.

The following amounts were transferred to the constitutional institutions:

Name of institution	2009/10 R' 000	2008/09 R' 000
Commission on Gender Equality	49 112*	46 193
South African Human Rights Commission	70 120	60 603
Public Protector	108 860	86 475
Represented Political Parties Fund (Independent Electoral Commission)	98 823	88 187

* On 27 January 2010, the department was informed that its MTEF budget for 2010 had been revised to accommodate the decision taken for the transfer of the Commission on Gender Equality to the Ministry for Women, Children, Youth and People with Disabilities with effect from 1 April 2010.

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7. PUBLIC PRIVATE PARTNERSHIP (PPP) TO MANAGE THIRD-PARTY FUNDS

In order to address the long-running challenges of coping with overwhelming transaction volumes and increasing complexity, the department reached out to the private sector to form a partnership to ensure to people of South Africa receive the service they deserve and that public accountability is maintained.

Such a partnership agreement between private business and the department, which took many thousands of hours to formulate and structure, has reached its final stages. It is envisaged that this process will be finalised in the 2010/11 financial year.

The Third Party Funds (TPF) PPP will remove most cash handling from courts, Master's offices and state attorneys, transferring the risk attached thereto to a private party (PP). The PP will in short, be responsible during the partnership period, for the financial management (receipts, payments, recordkeeping and financial reporting) and the provision of a front-end financial administration system, known as the Third Party Accounting System (TPACS), while the department will remain responsible for all administrative and legal duties attached to the management of the TPF.

8. CORPORATE GOVERNANCE ARRANGEMENTS

The principles of conducting the service delivery activities with integrity and according to sound governance practices are engrained in the department

The accounting officer has the responsibility for the preparation and fair presentation of the financial statements in accordance with the basis prescribed by National Treasury and as required by the PFMA. Furthermore, the accounting officer determines the internal control measures to enable the preparation of these financial statements.

The accounting officer is responsible for the good governance of the department. The governance structures are reviewed regularly to incorporate changes and developments in the department and in the public sector.

8.1 POWERS, ROLES AND RESPONSIBILITIES OF EXCO MEMBERS

The Chief Operations Officer, deputy directors-general and the Chief Financial Officer of the department are the members of an Executive Committee (EXCO) that is chaired by the accounting officer. The powers, roles and responsibilities of EXCO members are derived from the following:

- The PFMA, as amended by Act No. 29 of 1999 (PFMA), encompassing the National Treasury Regulations.
- The Public Service Act, 1994 (Act No. 103 of 1994).
- The Protocol on Corporate Governance in the Public Sector.
- The King III report on Corporate Governance.

The skills and experience of the EXCO members are appropriate to the strategic direction of the department and necessary to secure its sound performance.

8.1.1 Enterprise-wide Risk Management Strategy

The departmental EXCO takes cognisance of the fact that the control environment enhances the tone of risk management and provides the necessary discipline and structure for it. This control environment is the foundation for all other components of risk management and internal control in the department. In the department, this includes factors such as the delegation of authority and responsibility, ethical values, integrity, organisational structure and culture, management's philosophy and operating style, the development and competence of

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people, as well as the intention and direction provided by the EXCO.

The EXCO members are also responsible for the effective and efficient implementation of the risk management policy and strategy in the department at all levels. The department views enterprise-wide risk management as a management function, which is strategically employed to ensure that objectives set by the department are met. The EXCO has provided leadership to the department within a framework of prudent and effective controls, which enables risks to be assessed and managed. The internal and external assurance bodies regularly review the efficacy of enterprise-wide risk management. The department was assessed by the National Treasury to be at level 3 (control level) of risk maturity. This implies that the department has gone through level 1 and level 2, which are the start-up and development levels respectively.

Appropriate governance structures are necessary to facilitate the activities of enterprise-wide risk management. EXCO is accountable for the processes of risk management and the Audit Committee also fulfils the role of the Risk Management Committee. As part of systematic thinking, an integrated approach and corporate governance, the Chief Directorate: Risk Management is in the process of incorporating all the elements of quality, anti-fraud and corruption and risk management into one committee. Terms of reference for this committee have been drafted and submitted for approval by the Director-General. During the year under review, risk profiles for various units and regions were reviewed. In certain areas, the review of risk profiles was conducted to ensure that the risk plans that were developed were implemented and, where possible, to identify further risks and opportunities for continual improvement. The unit continues to work closely with management to identify inherent risks and improve the system of internal control.

Risk assessments for strategic projects like the 2010 FIFA World Cup™ were also conducted and are being reported on on a continuous basis at the 2010 FIFA World Cup™ Steering Committee meetings. In line with the PFMA, the processes of risk management also include the identification of fraud and corruption risks and risk-contributing factors, with a view to introducing proper mitigation strategies. Other activities that relate to the Chief Directorate: Risk Management have been outlined below and have been incorporated in the sections that deal with programme performance on the annual report.

8.1.2 Anti-Fraud and Corruption Strategy

Management is ultimately responsible, in terms of section 38 of the PFMA 1999, to ensure that proper controls are in place to prevent and detect fraudulent and irregular activities. The department has continued implementing the minimum anti-corruption capacity (MACC) requirements in the same way as in the 2008/09 financial year.

During the year under review, the Fraud Prevention Plan was reviewed and a proper consultation process on it took place in the department. The plan will be implemented in the 2010/11 financial year, after consultation with the Audit Committee, as well as obtaining approval from the Director-General. The revised Whistle-blowing Policy has not only included the provisions of the Protected Disclosures Act, but has, among others, included the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004).

In order to streamline better coordination of security vetting and personal suitability checks (prescreening), the Security Vetting Policy and the Personal Suitability Checks Policy have been revisited to ensure updates with the current developments. Consultations have also been concluded and the final policy will be implemented in the 2010/11 financial year.

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There has been improved coordination of financial disclosures for Senior Management Service (SMS) personnel since January 2009, when the function was transferred to Integrity Management.

Although the manual SMS financial disclosure submissions are still a challenge, 100% success was reached and the completed forms were submitted to the Public Service Commission after the Minister of Justice and Constitutional Development noted and signed off each disclosure, as required by the Public Service Regulations. International Anti-corruption Day, which is celebrated on 9 December every year, was well celebrated by again targeting officials in the department with messages of anti-corruption, including the distribution of pamphlets, and by senior officials of the department participating in national workshops throughout the country, such as the DPSA workshop in support of the fight against corruption.

The department is also actively involved in the national initiatives of fighting corruption through the National Anti-corruption Forum (NACF) and other structures such as the Anti-corruption Coordinating Committee (ACCC). The Deputy Minister of Justice and Constitutional Development is a member of the NACF in terms of coordinating the public sector anti-corruption measures to encourage the fight against corruption, together with other sectors such as business and civil society.

8.2 INTERNAL AUDIT AND AUDIT COMMITTEE

The department's Internal Audit Unit operates in accordance with the PFMA, Treasury Regulations and the Internal Audit Charter. The unit also conducts its operations in accordance with the internal standards for the professional practice of internal auditing, issued by the Institute of Internal Auditors, and under the direction of the Audit Committee. The NPA's Internal Audit Unit has also been integrated into the department's Internal Audit Unit and internal auditing activities are performed on an integrated basis.

The Internal Audit Unit focuses mainly on providing assurances and advice to management and the Audit Committee on matters pertaining to governance, risk management and control processes. Through its Chief Audit Executive, the unit reports functionally to the Audit Committee and administratively to the accounting officer.

The Audit Committee comprises members drawn from outside the public service and conducts its business in accordance with the PFMA, Treasury Regulations and the Audit Committee Charter. The Audit Committee met as required and has unrestricted access to information and personnel in the department.

8.3 NEW/PROPOSED ACTIVITIES

The capacitation of the Office of the Chief Justice (OCJ) was initiated during the year under review. An interim management team has been placed in the OCJ to establish the infrastructure and staffing required.

9. ASSET AND SUPPLY CHAIN MANAGEMENT

9.1 ASSET MANAGEMENT

Although the asset turnaround project was completed during the 2008/09 financial year, gaps still remained that led to an audit qualification. The department therefore continued to resolve these gaps in order to produce an acceptable and complete asset register.

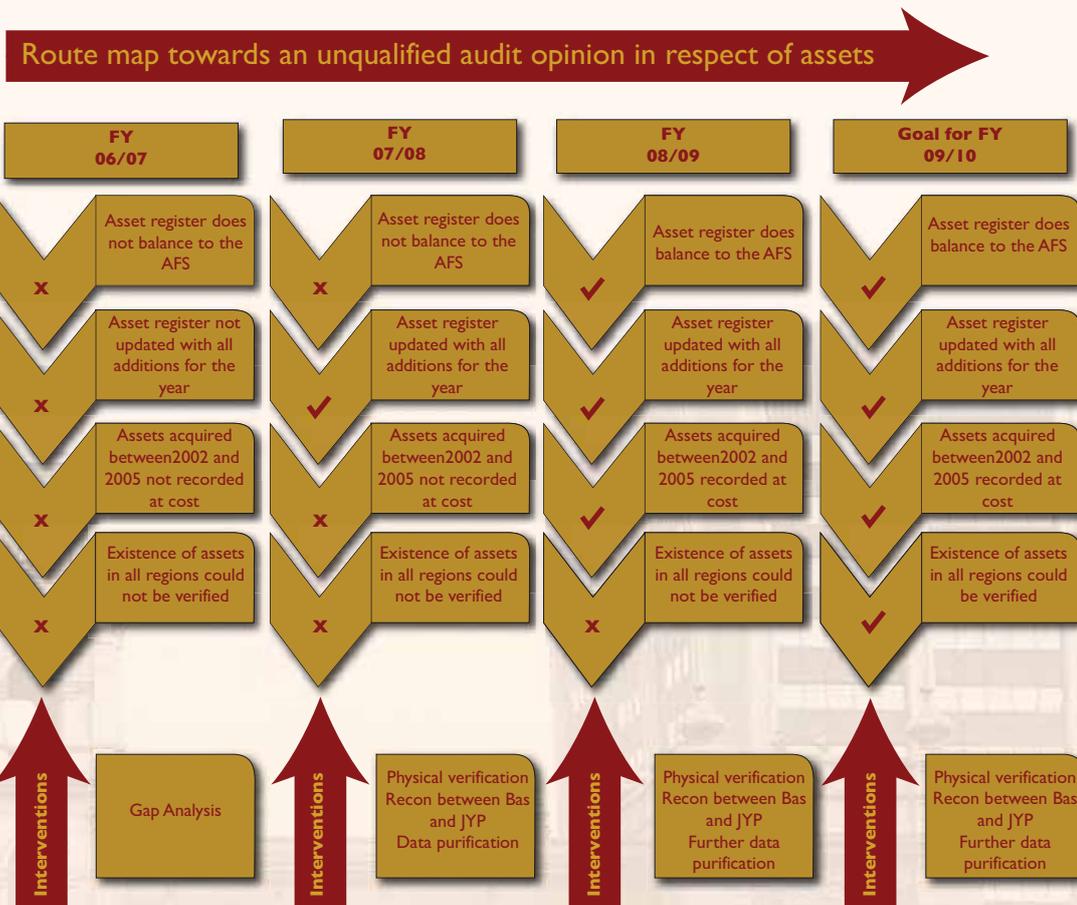
The challenge for the department is to cultivate a culture of asset management awareness to ensure that all asset movements, additions, disposals and replacements are tracked and recorded in an updated asset register, which requires daily attention and interventions. Delegating asset management ownership to users took some time, and the asset tracking capacity-related issues also impacted negatively on the internal asset verifications, as specified and required by published circulars and directives.

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Asset management for the department has the following four main objectives:

- Establish decentralised/user ownership for assets (court and regional responsibility).
- Ensure that all assets purchased, maintained, disposed of and/or replaced are accounted for in the schedules of assets.
- Ensure that the department's asset register is updated accordingly and reflects the actual status of assets in the department.
- Ensure that the department's asset register reconciles with the financial statements.

As seen in the diagram below, since 2006/07, the department has embarked on an asset management turnaround project. The project was regarded as a process that needs to be followed to attain an unqualified audit opinion. This project started with a gap analysis on the asset information for the 2006/07 financial year, and has provided a base of departure for effective asset management in the department. Asset management is a continual process, whereby not only the recording of the assets, but also the status updating and maintenance of records in terms of disposal and replacement, are done according to an asset management strategy and plan. The competence in managing assets effectively is thus a continual process of growth and increased maturity in asset management.



The above diagram shows the progress made over the last four years towards attaining an unqualified opinion in respect of assets, with an "X" showing non-compliance and "✓" indicating compliance.

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Assigned user ownership and decentralised control

The geographical landscape and widely dispersed assets of the department make the central verification, recording and tracking of assets a very difficult task, as experienced in previous years. Asset custodian responsibility needs to be assigned to the officials using the assets in the department, and the accountability for these assets' safeguarding, protection, access control, maintenance and status reporting needs to reside with the managers of these users/officials. Currently, the regions have indicated their acceptance of this asset management responsibility. It is also important that continuous asset verification training be given to provide the necessary skills to the regions to manage their assets effectively.

Independent asset verification

An independent verification of assets was conducted during this year to confirm the progress of the regions as reported per the audit action plans, in order to mitigate any audit qualification on assets.

Asset management accountability

The role of asset verification is already decentralised and active in the regions, which makes the regions accountable for the management and status reporting of assets. Each regional head signs off the certificates of compliance, which state that asset management is under control and complies with the necessary regulations and prescripts in their respective regions. Asset verification audits will be done from time to time to determine the status of assets, and non-compliance and violations will be addressed with disciplinary procedures and/or legal action.

9.2 SUPPLY CHAIN MANAGEMENT

Shortcomings in the supply chain management (SCM) arena have contributed to the irregular expenditure over the past financial years. The following are some of the remedial actions taken to address these shortcomings:

A comprehensive recovery plan for SCM is currently being implemented, spanning 2010 and 2011. Some of the project actions already implemented include the revision and alignment of SCM business processes, the appointment and commissioning of departmental bid committees and the appointment of the management structures required to deliver the recovery plan.

The remaining key issues that are being addressed include ineffective procurement, inefficiencies in the Procurement Division, human resource capacity constraints, skills deficiencies in the department and general non-compliance with legislation, policies and prescripts. Here it is important to keep in mind that SCM is a specialised and mostly human-driven process and its success will depend on the skills and competencies employed in the environment, as well as the extent to which compliance with prescripts can be achieved.

Improve effective procurement

The following steps are currently being taken to improve the effectiveness of procurement:

- Effective demand management: alignment of the procurement of goods and services to the department's strategic plan and creating a platform for effective collaboration between the SCM division and the rest of the department (especially in the regions). To address this need, a cross-functional team is currently being established for demand management.
- Standardisation of and categorisation of items: optimising the number of categories and items to make it more manageable to contract the supply of categories.

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- Rationalisation of the supplier base and purification of the database: reducing the number of suppliers and contracting these suppliers to provide a few categories or at least a category of items, rather than a supplier providing only a few items, creating an overload within the supplier management section of SCM.
- Improved supplier selection and contracting (SLAs): developing comprehensive specifications that enable supplier performance to be properly measured.
- Effective SCM committees: reviewing and reconstituting specification, evaluation and departmental bid adjudication committees with clearly defined terms of reference and fixed meeting schedules.
- Revised supplier database intelligence: to determine that suppliers are not registered more than once under different names, nor are they supplying through a “front” company.
- Improved supply quality management and contract administration: procedures and methods to evaluate supply quality and contract clauses to reprimand, apply remedies or terminate contracts of poor-performing and non-compliant suppliers.
- Improved supplier and contract efficiency: suppliers’ and contract performance is measured, reported and acted on.

Improve the efficiency of the SCM division

The implemented business processes have been used as a base to identify the work controls required to manage the work effectively. Performance contracts on management level are already aligned to these controls. However, these managers are currently aligning the performance agreements of their subordinates to these same delivery requirements and performance standards on the delivery level. Once completed and approved between the parties, this will form the structure within which work needs to be

done and managed according to the specified performance standards.

Address human resources capacity constraints and improve skills

Currently, a major staffing drive is managed jointly by SCM and Human Resources to staff the SCM division adequately according to the redefined organisational structure, with the correct allocation of roles and responsibilities as determined by the implemented business processes. Closely linked to the skills deficiencies is the current formalisation of a training plan for the division, as well as training for the whole department on SCM policies, processes and systems, which the Training and Standardisation Section is spearheading.

The staffing of the agreed structure, allocation of roles and responsibilities and initial training are scheduled for completion by November 2010. Thereafter, training will be provided on a continuous basis, according to an annual and quarterly training plan. These plans are currently being finalised.

Improving compliance with legislation, policies and prescripts

To address the non-adherence with delegations, deviation from procurement processes and general non-compliance with policy, a major drive is planned to significantly increase the availability of SCM policies in the regions and branches. Once this base has been established and the latest updated policies are available to all the relevant officials in the regions and branches (electronically or in hard copy format, as may be required), non-compliance and adherence will accurately and actively be measured and reported with the implementation of consequences for non-compliance in the form of disciplinary and/or legal action, as is appropriate. The updating and circulation of the current policies are scheduled for April 2010, with the full implementation of measurement of adherence scheduled for November 2010.

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10. EVENTS AFTER THE REPORTING DATE

Public private partnership (PPP) to manage Third Party Funds

The preferred bidder, in a letter dated 23 June 2010, indicated to the department that because of delays in finalising the process, it was decided to mothball their operations, as a huge amount of investment and resources have up to now been spent on the project and neither the private party nor the subcontractors can any longer commit these resources. However, the private party confirmed its commitment to the project, should the department decide to continue with it.

The information relating to the performance against predetermined objectives is subject to auditing by the Auditor-General in terms of section 20(2)(c) of the Public Audit Act, 2004 (Act No. 25 of 2004) (PAA). Section 13 of the PAA requires the Auditor-General to determine the standards to be applied in performing such audits. The Auditor-General has adopted a phased-in approach for compliance with the relevant section of the PAA until such time as the necessary standards have been determined and the environment promotes a state of readiness for providing assurance.

11. PERFORMANCE INFORMATION

Section 40(3)(a) of the PFMA requires the department to report on its performance against predetermined objectives.

To improve performance reporting and measurement, the Strategy Unit's activities have been documented to detail performance measurement cycles and quarterly reporting time frames.

A tool on the MTSF, key performance indicators (KPIs), has been developed in collaboration with branches. The tool is designed to monitor the progress on the implementation of the MTSF by analysing delivery against targets.

12. SCOPA RESOLUTIONS

The following progress was made in addressing the SCOPA resolutions on previous qualified audit reports:

Reference to previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>Twenty-second report of SCOPA adopted by the National Assembly on 21 November 2007:</p> <p>Paragraph 4.1 of the Report of the Auditor-General for 2005/06: SCOPA recommended that:</p> <ul style="list-style-type: none"> Adequate accounting and financial systems should be developed for the Monies in Trust accounts. The Monies in Trust Financial Management System should be improved to ensure that the Auditor-General will be able to verify the completeness and accuracy of receivables at year-end. 	Third Party Funds	<p>The department continued with its endeavours to resolve the uncertainties with regard to the accounting and legal framework governing the funds. The National Treasury, in a letter dated 13 May 2008, confirmed the principle of a separate entity by suggesting the establishment of a trust.</p> <p>A draft bill has been drawn up to establish the TPF as a separate entity. However, before submitting the bill for further consideration to Cabinet and Parliament, the department informally interacted with National Treasury, which suggested in meetings that the department should consider establishing a trading entity for the TPF instead of introducing legislation to establish a new entity. At the time of writing this report, the matter was still in progress.</p> <p>The implementation of the TPF PPP will reduce the volume of transactions (cash handling) of Third Party Funds in offices and will assist in stabilising transactions for the Third Party Funds. (See paragraph 7 on TPF PPP)</p>

PART 4: REPORT OF THE ACCOUNTING OFFICER

Reference to previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>Sixth report of SCOPA adopted by the National Assembly on 19 February 2008:</p> <ul style="list-style-type: none"> In paragraph 1 of the Report of the Auditor-General: SCOPA recommended that the issues on how to account for TPF monies, as indicated in the National Treasury letter of 15 August 2007, should be addressed as a matter of urgency. 	<p>Governance arrangements Third Party Funds</p>	<p>The implementation of the TPF PPP will reduce the volume of transactions (cash handling) of Third Party Funds in offices and will assist in stabilising transactions for the Third Party Funds. (See paragraph 7 on TPF PPP)</p>
<p>Sixth Report of SCOPA adopted by the National Assembly on 19 February 2008:</p> <ul style="list-style-type: none"> The Auditor-General reported that the vacancy rate in the Department increased from 20% in 2005/06 to 23% in 2006/07: SCOPA recommended that the Department ensure that critical positions are filled and disciplinary actions taken against employees whose negligence is proven. 	<p>Capacity or people-related issues</p>	<p>The department embarked on a vigorous recruitment process to fill all vacant posts. The turnaround time to fill positions has been reduced from four to six months to three months.</p> <p>In addition the audit of the establishment, the decentralisation of the recruitment process to Regional Offices and continuous monitoring and reporting on vacancies by the Human Resources contributed to the reduction in the vacancy rate to 10,7 % during the year under review.</p>
<p>Seventh report of SCOPA adopted by the National Assembly on 19 February 2008:</p> <ul style="list-style-type: none"> The Auditor-General reported that a lack of planning led to non-compliance with the Supply Chain Management Policy and Treasury Regulations: SCOPA recommended that the accounting officer ensures that tender procedures are followed well in advance, before the expiry of current contracts. The Auditor-General reported that there were inadequate internal controls to ensure that bid documents were factually correct, and as a result bids had to be cancelled: SCOPA recommended that bid documents be thoroughly checked for factual correctness by the relevant officials and that they comply with relevant legislation. The Auditor-General reported that the service providers in five provinces, that obtained the highest points were not appointed and no justifiable reason for this was recorded: SCOPA recommended that the accounting officer ensure that contracts are awarded to service providers as stipulated in legislation and policies. The Auditor-General reported that it could not be confirmed whether members of the Departmental Bid Committee had filed the declaration of interest forms: SCOPA recommended that the accounting officer ensure that members of the Departmental Bid Committee declare their interests as prescribed. 	<p>Supply Chain Management (Procurement)</p>	<p>Resolutions 1 to 4. To address the issues raised by the Auditor-General, the department initiated several corrective actions during 2009 to ensure the following:</p> <ul style="list-style-type: none"> Proactive management of supplier contracts Introduction of a revised bid process and updated policies to ensure accurate and compliant bid management Adherence to all relevant bid policies and appointment procedures of bid committees In addition, the department undertook a general improvement of the SCM business processes, realignment of organisational structure functions and performance contracts The SCM policy content was improved to incorporate all the necessary prescripts Staff requirements were determined in line with new organisational requirements and a formal staffing drive was initiated to fill the vacancies that exist in SCM Improving procurement effectiveness, which includes effective demand management, standardisation of and categorisation of items, rationalisation of the supplier base, improved supplier selection and contracting, effective SCM committees for evaluation (DBEC), and adjudication (DBAC), regional control committees (RCC) and disposal committees, contract management, record-keeping, reporting and performance measurement, as well as managing supply quality and contracts. <p>Resolution 5 of the report (conclusion)</p> <p>The issues raised by the Auditor-General are addressed within the corrective initiatives in the department's current business plan. Feedback on the progress with the business plan will be provided accordingly.</p>

PART 4: REPORT OF THE ACCOUNTING OFFICER

Reference to previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>In conclusion SCOPA further recommended that the department:</p> <ul style="list-style-type: none"> • Urgently address the problems highlighted by the Auditor-General. • Report back to Parliament within 60 days of the adoption of this resolution by the National Assembly on the progress made with the following issues: <ul style="list-style-type: none"> - The instruction to the Chief Financial Officer to address the SCM problems, as well as actions initiated against responsible staff and suppliers. - Disciplinary measures taken against officials who were charged or found guilty of misconduct for awarding contracts to service providers that did not qualify. - How the instances of fruitless and wasteful expenditure due to bids being cancelled have been dealt with. 	Supply Chain Management (Procurement)	<p>In addition to the response to items 1 to 4, the following information serves to address the specific questions.</p> <p>(i) Outcome of disciplinary processes (staff)</p> <p>The report was forwarded to the relevant officials on 27 August 2007 and they were granted the opportunity, in terms of the Rules of Administrative Justice, to comment on the negative remarks in the report and to provide reasons why formal misconduct steps should not be considered against them. The responses were evaluated and forwarded to the Section: Labour Relations for their input. The Department is of the opinion that inconsistencies were not as a result of any deliberate attempts to circumvent systems or regulations, but a result of genuine human errors.</p> <p>(ii) Restrictive horizontal practices</p> <p>The issue of restrictive horizontal practices was referred to the Competition Commission. The Commission informed the Department on 15 December 2009 that it had concluded its investigation and decided, on the basis of the information available, not to refer the matter to the Competition Tribunal for determination. The Commission further indicated that it was of the opinion that there was no contravention of the Competition Act. The department has, however, based on the report of the Commission, referred the matter for further forensic investigation.</p> <p>(iii) Fruitless and wasteful expenditure due to bids being cancelled</p> <p>The actual cost incurred relates to the notice in the Government Gazette that amounts to R79 and is not regarded as material. Wasteful and/or fruitless expenditure as a result of hours utilised (manpower) cannot be determined as time utilised on the task was not recorded separately.</p>

13. PRIOR MODIFICATIONS TO AUDIT REPORTS

As was the case in previous years, audit action plans were drawn up by the Office of the CFO for the national office and regions. These action plans are based on the template received from National Treasury and action steps were developed for all the findings raised by the Auditor-General. National office champions were appointed to drive the process. Progress with audit action plans was reported monthly by the CFO to the accounting officer and the Audit Committee.

PART 4: REPORT OF THE ACCOUNTING OFFICER

Nature of qualification	Financial year in which it first arose	Progress made in clearing the matter
Third Party Funds: Impact of the administration of the Third Party Funds (administered as a separate entity) on the vote account. The components (disclosure notes) revenue, receivables and contingent liabilities are affected. It is directly related to the absence of a legal and accounting framework.	2005/2006 financial year	A draft bill has been drawn up to establish the TPF as a separate entity. However, before submitting the bill for further consideration to Cabinet and Parliament, the Department informally interacted with National Treasury, who suggested in meetings that the department should consider establishing a trading entity for the TPF instead of introducing legislation to establish a new entity. At the time of writing this report, the matter was still in progress.
Employee benefits: The audit report was qualified due to the lack of control over the timely capturing of leave taken. The late capturing of leave impacts on the provision for leave entitlement as disclosed in the annual financial statement disclosure notes.	2008/09 financial year	<p>The following actions were taken to address the findings:</p> <ul style="list-style-type: none"> • Exception reports on the late capturing of leave are generated from PERSAL on a regular basis and actions are taken on the late capturing of leave. • Two workshops were held with Human Resources managers in the Department to raise awareness and refresh training on leave management and other compliance issues. • Various circulars on the capturing of leave and other related matters have been issued to ensure compliance. • The Department conducts monthly spot checks to ensure that leave forms are filed correctly and can be retrieved as required. • A procedure manual is in the process of being developed, which encapsulates all legislative requirements and additional prescripts relating to time lines for capturing, application, etc. The manual is to be finalised by 30 June 2010. • Heads of office are now required to maintain a register of all leave taken in their components and to check this against the monthly PERSAL reports to ensure that all leave is captured on time.
Finance lease commitments: The audit qualification relates to the non-availability of adequate supporting documentation requested by the auditors to verify the commitments disclosed in the disclosure notes for finance lease commitments.	2008/09 financial year	A comprehensive country-wide effort was mobilised via a special-purpose task team to address all the governance issues around leased devices. Missing or unavailable contract documentation for all current and recently expired assets was compiled/reconstructed and verified for compliance. Deviation from stipulations therein is being systematically addressed.
Irregular expenditure: The qualification on irregular expenditure condoned for lease expenditure refers to the availability documents as indicated under finance lease commitments. The auditors could therefore not examine all the underlying lease agreements to satisfy themselves that the amount disclosed in the disclosure note for irregular expenditure condoned for leases did indeed conform to the Treasury's guidelines.	2007/08 financial year	The corrective measures taken as indicated in the previous paragraph will address the source of this uncertainty in the future. In instances where leases were rolled over or extended beyond the original 36-month term, condonation will be sought from National Treasury in terms of the National Treasury Practice Note 4 of 2008.
Capital and minor assets: The audit report was qualified, as the Auditor-General indicated that errors relating to the completeness and existence of capital and minor assets were identified.	2006/07 financial year	Please see paragraph 9.1 on asset management in this report in this regard.

PART 4: REPORT OF THE ACCOUNTING OFFICER

Turnaround plan

Galvanised by guidance from the executive and interactions with advisory and oversight bodies, the department is currently engaged in sweeping changes in the way of doing business in the area of financial discipline and accountability.

To this end, a Financial Turnaround effort is underway, spearheaded by the Office of the CFO. Informed by a detailed internal analysis of root causes of audit qualifications in the Justice Department environment, the plan's overriding objective is to nurture a culture of compliance and adherence to prescripts.

The plan targets key failure points in governance, people management, methods and practices, as well as addressing the impact of changes in the wider operating environment.

On a detail level, specific action plans have been drawn up to address perennial hotspots such as supply chain management, asset management and management of Third Party Funds.

14. OTHER

Alleged supply chain management irregularities came to the attention of the accounting officer during the course of the financial year. These irregularities were referred for forensic investigation, and, at the time of compiling this report, the investigation was not finalised.



PART 4: REPORT OF THE ACCOUNTING OFFICER

15. 2010 FIFA WORLD CUP™ CLOTHING AND TICKETS

The following expenditure was incurred relating to 2010 FIFA World Cup™ clothing and tickets:

World Cup expenditure	2009/10	
	Quantity	R'000
Tickets acquired	-	-
Distribution of tickets	2009/10	
	Quantity	R'000
	-	-
Total	-	-
Travel costs	2009/10	
		-
	2009/10	
	Quantity	R'000
Golf shirts for volunteers	12	5
Drymacs for volunteers	12	2
Caps for volunteers	12	1
	18	2
	54	10
Total World Cup expenditure		10
Tickets acquired after year-end (30 June 2010)	Quantity	R'000
	-	-
Distribution of tickets acquired after year-end	Quantity	R'000
	-	-
Total	-	-

Approval

The annual financial statements set out on pages 239 to 292 have been approved by the accounting officer.



Ms N.T. Msomi

Accounting Officer

Department of Justice and Constitutional Development

29 July 2010

PART 4: REPORT OF THE AUDITOR-GENERAL

REPORT ON THE FINANCIAL STATEMENTS

Introduction

I have audited the accompanying financial statements of the Department of Justice and Constitutional Development, which comprise the appropriation statement, the statement of financial position as at 31 March 2010, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory information, as set out on pages 239 to 292.

Accounting officer's responsibility for the financial statements

The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the modified cash basis of accounting determined by National Treasury, as set out in Note 1 to the financial statements and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) of South Africa (PFMA). This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies, and making accounting estimates that are reasonable in the circumstances.

Auditor-General's responsibility

As required by section 188 of the Constitution of South Africa and section 4 of the Public Audit Act, 1994 (Act No. 103 of 1994) of South Africa, my responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with International Standards on Auditing and *General Notice 1570 of 2009 issued in Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures

in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the department's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

BASIS FOR QUALIFIED OPINION

Departmental revenue, receivables for departmental revenue and contingent liability

In the course of administering justice, the Department established the Third Party Funds (the Fund), which acts as a conduit for the receipt and payment of funds on behalf of other parties and the state (for example, bail, maintenance money, various types of fines, payments into court and legal costs) through court processes by virtue of its mandate. Whilst there is no defining legislation that governs the existence of the Fund, the department has consistently accounted for the Fund as a separate entity.

For the purpose of my audit I could not rely on the adequacy of the Fund's financial and control system and the system did not permit the application of alternative audit procedures to determine whether:

- the departmental revenue amounting to R296 million (2008/09: R272 million), as disclosed in Note 3.2 to the financial statement, had been properly collected and recorded by the Fund and surrendered to the department;
- the potential claims against the Fund as a result of fraud theft and loss to be paid by the department,

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amounting to R67 million (2008/09: R41 million) as disclosed in Note 21 to the financial statements are complete; and

- the money collected on behalf of the state and not yet paid to the department as at 31 March 2010, amounting to R74 million (2008/09: R41 million), as disclosed in Note 21.1 (unconfirmed interdepartmental balances) and Note 26 (receivables for departmental revenue) had been properly collected and recorded by the Fund.

Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness, accuracy and valuation of the above amounts as disclosed in the financial statements.

Irregular expenditure

Section 38(1)(a)(iii) of the PFMA requires the department to implement and maintain an appropriate procurement and provisioning system, which is fair, equitable, transparent, competitive and cost-effective. Payments in contravention with the Preferential Procurement Framework Act and regulations were identified relating to the current and previous financial years. The department did not revisit the population to identify the total amount of irregular expenditure incurred and the quantification of the total possible irregular expenditure is impracticable.

Consequently, I was unable to obtain sufficient appropriate audit evidence to satisfy myself as to the completeness of irregular expenditure amounting to R812 million (2008/09: R26 million) as disclosed in Note 27 to the financial statements.

Opinion

In my opinion, except for the effects of the matters described in the basis for qualified opinion paragraphs, the financial statements present fairly, in all material respects, the financial position of the Department of Justice and Constitutional Development as at 31 March 2010 and its financial performance and cash flows for the year then ended in accordance with the modified cash basis of accounting determined by National

Treasury, as set out in the accounting policy described in Note 1 and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Emphasis of matter

I draw attention to the matters below. My opinion is not modified in respect of these matters:

Basis of accounting

The department's policy is to prepare financial statements on the modified cash basis of accounting determined by National Treasury, as set out in the accounting policy Note 1.

Fruitless and wasteful expenditure

As disclosed in Note 28 to the financial statements, fruitless and wasteful expenditure amounting to R2 million was incurred that could have been avoided, had reasonable care been exercised.

Restatement of corresponding figures

As disclosed in the following notes to the financial statements, the corresponding figures for 31 March 2009 have been restated as a result of errors discovered during 2010 in the financial statement of the department at, and for the year ended, 31 March 2010:

- Note 25.1: operating lease commitments comparative restated with R1 495 million
- Note 21: contingent liabilities comparative restated with R414 million
- Note 24: employee benefits comparative restated with R352 million
- Note 31: other provisions comparative restated with R43 million
- Note 27: irregular expenditure's comparative restated with R20 million
- Note 26: receivables for departmental revenue comparative restated with R25 million
- Note 25.2: finance lease commitments comparative restated with R21 million

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Accruals

Accruals that exceed the payment terms of 30 days as detailed in Treasury Regulation 8.2.3 amount to R86 million as per Note 23 to the financial statements. This amount, in turn, exceeds the voted funds to be surrendered of R14 million as per Note 15 to the statement of financial performance by R61 million. The amount of R61 million would therefore have constituted unauthorised expenditure had the amounts due been paid in time.

Additional matters

I draw attention to the matter below. My opinion is not modified in respect of this matter:

Unaudited supplementary schedules

The supplementary annexures 1 to 6 as set out on pages 286 to 292 do not form part of the financial statements and are presented as additional information. I have not audited these schedules and, accordingly, I do not express an opinion thereon.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

In terms of the Public Audit Act (PAA) of South Africa and *General Notice 1570 of 2009*, issued in *Government Gazette No. 32758 of 27 November 2009*, I include below my findings on the report on predetermined objectives, compliance with the PFMA and financial management (internal control).

FINDINGS

Predetermined objectives

Non-compliance with regulatory requirements

Public Finance Management Act

- **Submission of strategic plan**

The accounting officer of the department did not provide Parliament or the relevant legislature with the strategic plan at least 10 days prior to the discussion of the department's budget vote, as required by Treasury Regulation 5.2.1 and 5.2.2.

- **Inadequate content of strategic plan**

The strategic plan of the department did not include the measurable objectives, expected outcomes, programme outputs, indicators and targets for all of the department's programmes, as required by Treasury Regulation 5.2.3(d).

- **Lack of effective, efficient and transparent systems and internal controls regarding performance management**

The accounting officer did not ensure that the department has and maintains an effective, efficient and transparent system and internal controls regarding performance management, which describe and represent how the institution's processes of performance planning, monitoring, measurement, review and reporting will be conducted, organised and managed, as required in terms of section 38(1)(a)(i) and (b) of the PFMA.

- **Inadequate quarterly reporting on performance information**

Inspection of the department's quarterly reports revealed the following shortcomings:

- Not all indicators were monitored quarterly;
- Inconsistency between the information reported in the quarterly reports and the information in the annual report.

Presentation of reported performance information

- **Inadequate presentation of reported information**

The reported performance information to be included in the annual report is not presented in a simple, accessible format, relevant and useful to the intended user, and in accordance with the requirements of Treasury Regulation 18 or 28.2 and the relevant guidance applicable to reporting for the financial year-end.

Usefulness of reported performance information

The following criteria were used to assess the usefulness of the planned and reported performance:

- Consistency: Has the department reported on its performance with regard to its objectives, indicators

PART 4: REPORT OF THE AUDITOR-GENERAL

and targets in its approved strategic plan, i.e. are the objectives indicators and targets consistent between planning and reporting documents?

- **Relevance:** Is there a clear and logical link between the objectives, outcomes, outputs, indicators and performance targets?
- **Measurability:** Are objectives made measurable by means of indicators and targets? Are indicators well defined and verifiable, and are targets specific, measurable, and time bound?

The following audit findings relate to the above criteria:

Planned and reported performance targets not specific, measurable

For the selected Programme 2:

- 22% of the targets were not specific in clearly identifying the nature and the required level of performance
- 36.5% of the targets were not measurable in identifying the required performance

Planned and reported indicators not well defined

For the selected programme Court Services, 29% of the planned and reported indicators were not clear, with an unambiguous definition to allow for data to be collected consistently.

Reliability of reported performance information

The following criteria were used to assess the usefulness of the planned and reported performance:

- **Validity:** Has the actual reported performance occurred and does it pertain to the entity, i.e. can the reported performance information be traced back to the source data or documentation?
- **Accuracy:** Amounts, numbers and other data relating to reported actual performance have been recorded and reported appropriately.
- **Completeness:** All actual results and events that should have been recorded have been included in the reported performance information.

The following audit findings relate to the above criteria:

Reported indicators not reliable as no supporting source information was provided

For the selected programme Court Services the validity, accuracy and completeness for 22% of the reported indicators could not be established as sufficient appropriate audit evidence and relevant source documentation could not be provided for audit purposes.

Compliance with laws and regulations

Non-adherence

Treasury Regulations of 2005 and Public Finance Management Act of South Africa

- Contrary to the requirements of Treasury Regulation (TR) 8.2.3 and section 38(1)(f) of the PFMA, not all invoices were paid within 30 days from receipt of the invoice.
- The department did not report irregular and fruitless and wasteful expenditure to National Treasury as required by TR 9.1.2.
- Contrary to the requirements of TR 3.2.11 and sections 38(1)(a) (i) and 76(4)(e) of the PFMA, the internal audit function did not assist the accounting officer in maintaining efficient and effective controls as it did not fulfil its responsibilities as set out in legislation and in accordance with accepted best practice and standards.

Public Service Regulations (PSR)

- Contrary to the requirements of PSR 4/III/BI, not all senior managers had entered into performance contracts.
- Contrary to the requirements of PSR 1/V/F(b), not all leave taken by officials was recorded timeously and accurately.

INTERNAL CONTROL

I considered internal control relevant to my audit of the financial statements and the report on predetermined objectives and compliance with the PFMA, but not for the purposes of expressing an opinion on the effectiveness of internal control. The matters reported below are limited to the deficiencies identified during the audit.

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- **Leadership**

The internal policies and procedures of the department pertaining to the planning and monitoring of performance information are not sufficient to ensure reliable reporting. Furthermore, the department did not have sufficient monitoring controls to ensure compliance with all applicable laws and regulations and internal control.

- **Governance**

Internal Audit did not fulfil its responsibilities as set out in legislation and in accordance with accepted best practice and standards. Furthermore, they did not assist the accounting officer by evaluating internal controls related to compliance with laws, regulations and controls, and by developing recommendations for their enhancement and improvement.

OTHER REPORTS

Investigations in progress

An investigation is being conducted into the procurement processes at the department. The investigation aims to establish procurement irregularities and possible fruitless and wasteful expenditure. The investigation was still ongoing at the reporting date.

Various other allegations of financial misconduct and irregularities are currently being investigated.

Auditor-General

Pretoria

30 July 2010



**AUDITOR - GENERAL
SOUTH AFRICA**

Auditing to build public confidence

PART 4: APPROPRIATION STATEMENT

Appropriation per programme									
2009/10								2008/09	
Appropriation statement	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
1. Programme 1 (Administration)									
Current payment	1 110 090	-	(97 692)	1 012 398	999 847	12 551	98.8%	911 841	911 838
Transfers and subsidies	9 470	-	8 692	18 162	17 824	338	98.1%	10 645	9 230
Payment for capital assets	15 643	-	(1 816)	13 827	13 816	11	99.9%	12 376	9 625
2. Programme 2 (Court Services)									
Current payment	3 302 178	-	75 237	3 377 415	3 377 408	7	100.0%	2 864 290	2 863 012
Transfers and subsidies	12 399	-	19 867	32 266	31 368	898	97.2%	9 970	9 919
Payment for capital assets	508 429	-	169 898	678 327	678 324	3	100.0%	499 164	457 471
3. Programme 3 (State Legal Services)									
Current payment	589 679	-	(49 186)	540 493	540 477	16	100.0%	520 277	520 276
Transfers and subsidies	1 575	-	959	2 534	2 533	1	100.0%	1 708	1 708
Payment for capital assets	3 839	-	1 717	5 556	5 554	2	100.0%	4 095	3 288
Subtotal	5 553 302	-	127 676	5 680 978	5 667 151	13 827	99.8%	4 834 366	4 804 367
4. Programme 5 (Auxiliary and Associated Services)									
Current payment	469 445	-	(27 808)	441 637	441 636	1	100.0%	322 274	312 027
Transfers and subsidies	1 324 061	-	69 000	1 393 061	1 393 060	1	100.0%	1 235 875	1 235 875
Payment for capital assets	37 850	-	(25 257)	12 593	12 593	-	100.0%	11 201	9 907
Subtotal	7 384 658	-	143 611	7 528 269	7 514 440	13 829	99.8%	6 403 716	6 362 176
Statutory Appropriation									
Current payment	1 595 500	-	-	1 595 500	1 716 145	-	-	1 537 185	1 550 262
Transfers and subsidies	74 189	-	-	74 189	58 726	-	-	50 829	50 829
TOTAL	9 054 347	-	143 611	9 197 958	9 289 311	13 829	101.0%	7 991 730	7 963 267

PART 4: DETAIL PER PROGRAMME

	2009/10		2008/09	
	Final appropriation	Actual expenditure	Final appropriation	Actual expenditure
TOTAL (brought forward)	9 197 958	9 289 311	7 991 730	7 963 267
Reconciliation with statement of financial performance				
ADD				
Departmental receipts	371 615		352 511	
Aid assistance	-		1 100	
Actual amounts per statement of financial performance (total revenue)	9 569 573		8 345 341	
ADD				
Aid assistance		11 870		2 793
Actual amounts per statement of financial performance (total expenditure)		9 301 181		7 966 060

Appropriation per economic classification									
	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Current payments									
Compensation of employees	2 906 233	-	(166 301)	2 739 932	2 727 382	12 550	99.5%	2 320 576	2 320 574
Goods and services	2 565 159	-	60 383	2 625 542	2 625 520	22	100.0%	2 291 013	2 280 764
Interest and rent on land	-	-	4 624	4 624	4 624	-	100.0%	3 672	3 672
Financial transactions in assets and liabilities	-	-	1 844	1 844	1 842	2	99.9%	3 421	3 420
Transfers and subsidies									
Provinces and municipalities	-	-	82	82	80	2	97.6%	4 426	3 012
Departmental agencies and accounts	1 328 671	-	69 000	1 397 671	1 397 334	337	100.0%	1 240 297	1 235 876
Foreign governments and international organisations	4 494	-	8 633	13 127	13 127	-	100.0%	5 086	5 085
Non-profit institutions	2 651	-	-	2 651	1 754	897	66.2%	-	-

PART 4: DETAIL PER PROGRAMME

Appropriation per economic classification									
	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Households	11 689	-	20 803	32 492	32 490	2	100.0%	12 761	12 760
Payments for capital assets									
Buildings and other fixed structures	445 844	-	175 829	621 673	621 672	1	100.0%	423 188	416 824
Machinery and equipment	119 742	-	(34 817)	84 925	84 924	1	100.0%	92 351	71 414
Software and other intangible assets	175	-	3 531	3 706	3 691	15	99.6%	146	146
Total	7 384 658	-	143 611	7 528 269	7 514 440	13 829	99.8%	6 396 937	6 353 547

Statutory appropriation									
	2009/10							2008/09	
Direct changes against the National Revenue Fund	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Judges' and magistrates' salaries	1 669 689	-	-	1 669 689	1 774 874	(105 185)	106.3%	1 588 014	1 601
Total	1 669 689	-	-	1 669 689	1 774 874	(105 185)	106.3%	1 588 014	1 601

PART 4: DETAIL PER PROGRAMME

Programme 1: Administration

Details per subprogramme:	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
I.1 Minister									
Current payment	1 709	-	741	2 450	2 450	-	100%	1 981	1 981
I.2 Deputy Minister									
Current payment	1 407	-	(27)	1 380	1 380	-	100%	1 307	1 307
I.3 Management									
Current payment	68 244	-	(13 727)	54 517	54 517	-	100%	51 247	51 247
Transfers and subsidies	4 976	-	(589)	4 387	4 387	-	100%	4 531	3 116
Payment for capital assets	4 068	-	(2 735)	1 333	1 333	-	100%	3 254	503
Subtotal	80 404	-	(16 337)	64 067	64 067	-	100%	62 320	58 154
I.4 Corporate Services									
Current payment	589 789	-	(84 679)	505 110	492 559	12 551	97.5%	463 664	463 661
Transfers and subsidies	4 494	-	9 281	13 775	13 437	338	97.5%	6 114	6 114
Payment for capital assets	11 575	-	919	12 494	12 483	11	99.9%	9 122	9 122
I.5 Office Accommodation									
Current payment	448 941	-	-	448 941	448 941	-	100%	393 642	393 642
Total	1 135 203	-	(90 816)	1 044 387	1 031 487	12 900	98.8%	934 862	930 693

Programme 1: per economic classification	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Current payments									
Compensation of employees	300 975	-	(42 943)	258 032	245 483	12 549	95.1%	209 937	209 936
Goods and services	809 115	-	(55 523)	753 592	753 592	0	100.0%	701 659	701 658

PART 4: DETAIL PER PROGRAMME

Programme 1: per economic classification	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Interest and rent on land	-	-	122	122	122	-	100.0%	-	-
Financial transactions in assets and liabilities	-	-	652	652	651	1	99.8%	245	244
Transfers and subsidies	-	-	30	30	29	1	96.7%	-	-
Provinces and municipalities									
Departmental agencies and accounts	4 610	-	-	4 610	4 274	336	92.7%	4 421	3 008
Foreign governments and international organisations	4 494	-	8 633	13 127	13 127	-	100.0%	5 086	5 085
Households	366	-	29	395	394	1	99.7%	1 138	1 137
Payment for capital assets									
Machinery and equipment	15 643	-	(5 028)	10 615	10 615	-	100.0%	12 376	9 625
Software and other intangible assets	-	-	3 212	3 212	3 200	12	99.7%	-	-
Total	1 135 203	-	(90 816)	1 044 387	1 031 487	12 900	98.8%	934 862	930 693

Programme 2: Court Services

Details per subprogramme: Programme 2: Court Services	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final Appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
2.1 Constitutional Court									
Current payment	67 869	-	1 468	69 337	69 337	-	100.0%	59 694	59 694
Transfers and subsidies	372	-	(279)	93	93	-	100.0%	66	15
Payment for capital assets	1 290	-	98	1 388	1 388	-	100.0%	2 096	2 095
2.2 Supreme Court of Appeal									
Current payment	14 019	-	2 618	16 637	16 637	-	100.0%	12 006	12 006

PART 4: DETAIL PER PROGRAMME

Details per subprogramme: Programme 2: Court Services	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final Appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Transfers and subsidies	41	-	3 886	3 927	3 927	-	100.0%	-	-
Payment for capital assets	300	-	(300)	-	-	-	-	300	46
2.3 High Courts									
Current payment	244 194	-	51 830	296 024	296 024	-	100.0%	244 874	244 874
Transfers and subsidies	1 357	-	11 307	12 664	12 664	-	100.0%	604	604
Payment for capital assets	1 375	-	86	1 461	1 461	-	100.0%	1 320	865
2.4 Specialised Courts									
Current payment	24 520	-	9 614	34 134	34 134	-	100.0%	26 584	26 584
Transfers and subsidies	158	-	22	180	180	-	100.0%	46	46
Payment for capital assets	-	-	168	168	168	-	100.0%	220	220
Subtotal	355 495	-	80 518	436 013	436 013	-	100.0%	347 810	347 049
2.5 Lower Courts									
Current payment	2 488 272	-	6 788	2 495 060	2 495 053	7	100.0%	2 062 414	2 061 138
Transfers and subsidies	8 945	-	4 807	13 752	12 854	898	93.5%	7 728	7 728
Payment for capital assets	17 529	-	82 129	99 658	99 655	3	100.0%	29 971	26 464
2.6 Family Advocate									
Current payment	90 919	-	9 032	99 951	99 951	-	100.0%	84 321	84 321
Transfers and subsidies	809	-	(800)	9	9	-	100.0%	120	120
Payment for capital assets	1 000	-	(183)	817	817	-	100.0%	1 000	771
2.7 Magistrate's Commission									
Current payment	8 899	-	940	9 839	9 839	-	100.0%	7 390	7 390
Transfers and subsidies	-	-	18	18	18	-	100.0%	32	32
Payment for capital assets	50	-	(50)	-	-	-	-	25	25
2.8 Government Motor Transport									
Current payment	-	-	30	30	30	-	100.0%	-	-

PART 4: DETAIL PER PROGRAMME

Details per subprogramme: Programme 2: Court Services	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final Appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Payment for capital assets	26 866	-	(8 385)	18 481	18 481	-	100.0%	31 821	17 271
Subtotal	2 998 784	-	174 844	3 173 628	3 172 720	908	99.7%	2 572 632	2 552 309
2.9 Facilities Management									
Current payment	67 200	-	(26 907)	40 293	40 293	-	100.0%	57 837	57 835
Payment for capital assets	448 344	-	101 488	549 832	549 832	-	100.0%	426 320	421 623
2.10 Administration of Courts									
Current payment	296 286	-	19 824	316 110	316 110	-	100.0%	309 170	309 170
Transfers and subsidies	717	-	906	1 623	1 623	-	100.0%	1 374	1 374
Payment for capital assets	11 675	-	(5 153)	6 522	6 522	-	100.0%	6 091	6 091
Total	3 823 006	-	265 002	4 088 008	4 087 100	908	99.9%	3 373 424	3 348 402

Programme 2 per economic classification	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Current payments									
Compensation of employees	2 109 912	-	(81 257)	2 028 655	2 028 654	1	100.0%	1 721 788	1 721 787
Goods and services	1 192 266	-	151 376	1 343 642	1 343 637	5	100.0%	1 135 719	1 135 719
Interest and rent on land	-	-	3 954	3 954	3 954	-	100.0%	3 672	3 672
Financial transactions in assets and liabilities	-	-	1 162	1 162	1 161	1	99.9%	3 111	3 111
Transfers and subsidies									
Provinces and municipalities	-	-	43	43	42	1	97.7%	5	4
Non-profit institutions	2 651	-	-	2 651	1 754	897	66.2%	-	-
Households	9 748	-	19 824	29 572	29 572	-	100.0%	9 915	9 915
Payments for capital assets									
Buildings and other fixed structures	445 844	-	175 829	621 673	621 672	1	100.0%	423 188	416 824

PART 4: DETAIL PER PROGRAMME

Programme 2 per economic classification	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Machinery and equipment	62 555	-	(5906)	56 649	56 649	-	100.0%	75 898	58 519
Software and other intangible assets	30	-	(23)	7	5	2	71.4%	128	128
Total	3 823 006	-	265 002	4 088 008	4 087 100	908	100.0%	3 373 424	3 349 679

Programme 3: State of Legal Services

Details per subprogramme: Programme 3: State Legal Services	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
3.1 Legislative development and reform									
Current payment	42 096	-	(5 919)	36 177	36 177	-	100.0%	29 571	29 571
Transfers and subsidies	-	-	52	52	52	-	100.0%	-	-
Payment for capital assets	600	-	(252)	348	348	-	100.0%	550	497
3.2 Litigation and Legal Services									
Current payment	206 254	-	8 038	214 292	214 292	-	100.0%	195 784	195 784
Transfers and subsidies	-	-	502	502	502	-	100.0%	766	766
Payment for capital assets	264	-	242	506	506	-	100.0%	1 551	1 551
3.3 Master of the High Court									
Current payment	306 894	-	(50 126)	256 768	256 752	16	100.0%	265 711	265 711
Transfers and subsidies	1 500	-	384	1 884	1 883	1	99.9%	596	596
Payment for capital assets	2 500	-	1 618	4 118	4 116	2	100.0%	1 198	901
3.4 State Law Advisors									
Current payment	34 435	-	(1 179)	33 256	33 256	-	100.0%	29 211	29 210
Transfers and subsidies	75	-	21	96	96	-	100.0%	346	346

PART 4: DETAIL PER PROGRAMME

Details per subprogramme: Programme 3: State Legal Services	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Payment for capital assets	475	-	109	584	584	-	100.0%	796	339
Total	595 093	-	(46 510)	548 583	548 564	19	100.0%	526 080	525 272

Programme 3: per economic classification	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Current payments									
Compensation of employees	494 859	-	(41 721)	453 138	453 138	-	100.0%	388 759	388 759
Goods and services	94 820	-	(8 042)	86 778	86 762	16	100.0%	131 453	131 452
Interest and rent on land	-	-	548	548	548	-	100.0%	-	-
Financial transactions in assets and liabilities	-	-	30	30	30	-	100.0%	65	65
Transfers and subsidies									
Provinces and municipalities	-	-	9	9	9	-	100.0%	-	-
Households	1 575	-	950	2 525	2 524	1	100.0%	1 708	1 708
Payments for capital assets									
Machinery and equipment	3 694	-	1 795	5 489	5 488	1	100.0%	4 077	3 270
Software and other intangible assets	145	-	(79)	66	65	1	98.5%	18	18
Total	595 093	-	(46 510)	548 583	548 564	19	100.0%	526 080	525 272

PART 4: DETAIL PER PROGRAMME

Programme 5: Auxiliary and Associated Services

Details per subprogramme: Programme 5: Auxiliary and Associated Services	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
5.1 Interception and Monitoring of Communication									
Current payment	593	-	(479)	114	114	-	100.0%	250	99
5.2 SA Human Rights Commission									
Transfers and subsidies	70 120	-	-	70 120	70 120	-	100.0%	60 603	60 603
5.3 Commission on Gender Equality									
Transfers and subsidies	49 112	-	-	49 112	49 112	-	100.0%	46 193	46 193
5.4 Special Investigating Unit									
Transfers and subsidies	154 737	-	-	154 737	154 737	-	100.0%	116 297	116 297
5.5 Legal Aid South Africa									
Transfers and subsidies	848 408	-	69 000	917 408	917 408	-	100.0%	838 120	838 120
5.6 Public Protector									
Transfers and subsidies	108 860	-	-	108 860	108 860	-	100.0%	86 475	86 475
Subtotal	1 351 655	-	68 521	1 300 351	1 300 351	-	100.0%	1 147 938	1 147 787
5.7 Justice Modernisation (NCPS)									
Current payment	468 852	-	(27 329)	441 523	441 522	1	100.0%	322 024	311 928
Payment for capital assets	37 850	-	(25 257)	12 593	12 593	-	100.0%	11 200	9 907
5.8 President's Fund									
Transfers and subsidies	1	-	-	1	-	1	-	1	-
5.9 Represented Political Parties Fund									
Transfers and subsidies	92 823	-	-	92 823	92 823	-	100.0%	88 187	88 187
Total	1 831 356	-	15 935	1 847 291	1 847 289	2	100.0%	1 569 350	1 557 809

PART 4: DETAIL PER PROGRAMME

Programme 5: per economic classification	2009/10							2008/09	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Current payments									
Compensation of employees	487	-	(380)	107	107	-	100.0%	92	92
Goods and services	468 958	-	(27 428)	441 530	441 529	1	100.0%	322 182	311 935
Transfers and subsidies to:									
Departmental agencies and accounts	1 324 061	-	69 000	1 393 061	1 393 060	1	100.0%	1 235 876	1 235 875
Payment for capital assets									
Machinery and equipment	37 850	-	(25 678)	12 172	12 172	-	100.0%	-	-
Software and other intangible assets	-	-	421	421	421	-	100.0%	-	-
Total	1 831 356	-	15 935	1 847 291	1 847 289	2	100.0%	1 558 150	1 547 902

PART 4: NOTES TO THE APPROPRIATION STATEMENT

1. DETAILS OF TRANSFERS AND SUBSIDIES AS PER APPROPRIATION ACT (AFTER VIREMENT)

Details of these transactions can be viewed in the note on transfers and subsidies, disclosure notes and Annexure I (A-H) to the annual financial statements..

2. DETAILS OF SPECIFICALLY AND EXCLUSIVELY APPROPRIATED AMOUNTS VOTED (AFTER VIREMENT)

Details of these transactions can be viewed in Note I (annual appropriation) to the annual financial statements

3. DETAILS ON FINANCIAL TRANSACTIONS IN ASSETS AND LIABILITIES

Details of these transactions per programme can be viewed in Note 8 on financial transactions in assets and liabilities to the annual financial statements.



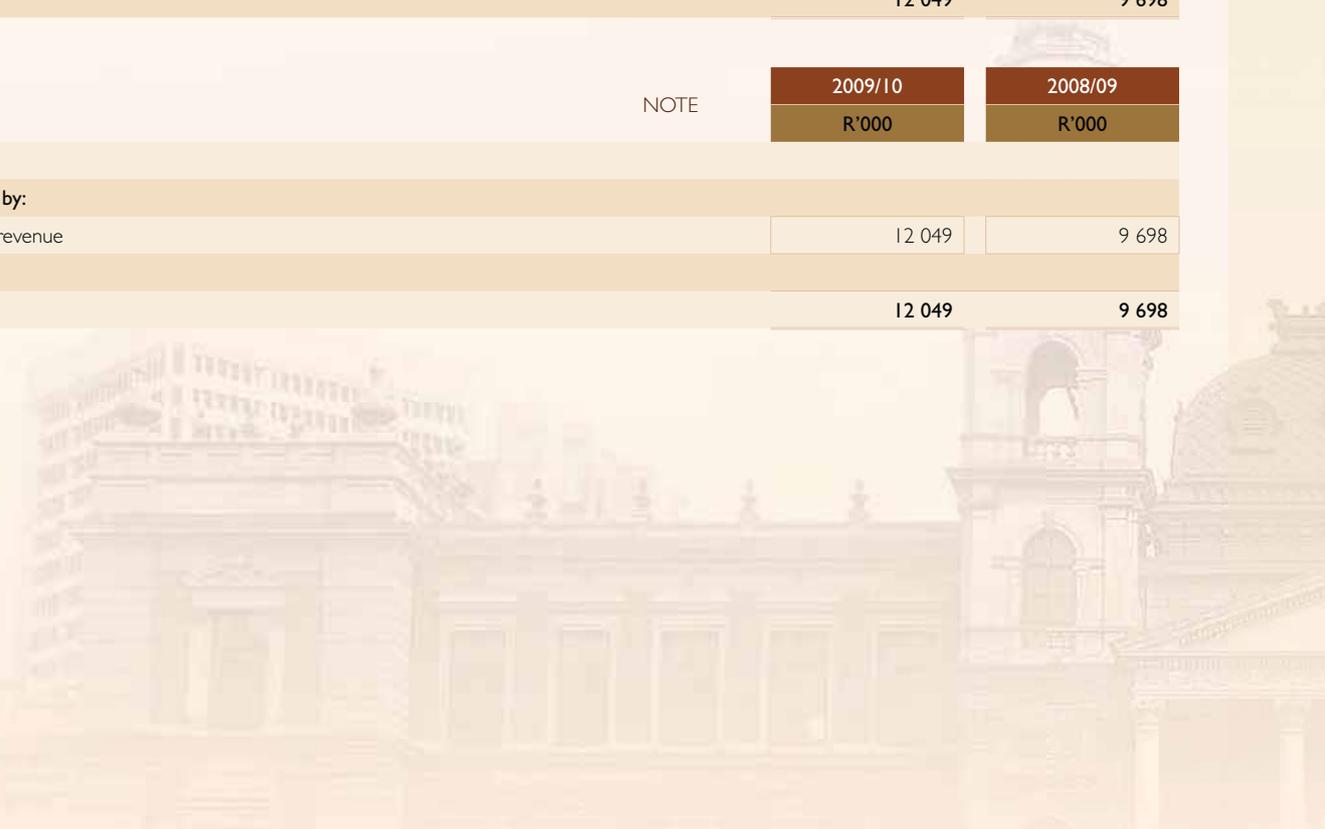
PART 4: STATEMENT OF FINANCIAL PERFORMANCE

	NOTE	2009/10 R'000	2008/09 R'000
REVENUE			
Annual appropriation	1	7 528 269	6 403 716
Statutory appropriation	2	1 669 689	1 588 014
Departmental revenue	3	371 615	352 511
Aid assistance	4	-	1 100
TOTAL REVENUE		9 569 573	8 345 341
EXPENDITURE			
Current expenditure			
Compensation of employees	5	4 443 529	3 870 837
Goods and services	6	2 625 519	2 279 488
Interest and rent on land	7	4 623	3 672
Financial transactions in assets and liabilities	8	1 842	3 420
Aid assistance	4	11 870	2 793
Total current expenditure		7 087 383	6 160 210
Transfers and subsidies	9	1 503 511	1 307 559
Expenditure for capital assets			
Tangible capital assets	10	706 601	496 716
Software and other intangible assets	10	3 686	1 575
Total expenditure for capital assets		710 287	498 291
TOTAL EXPENDITURE		9 301 181	7 966 060
SURPLUS/(DEFICIT) FOR THE YEAR		268 392	379 281
Reconciliation of net surplus/(deficit) for the year			
Voted funds		(91 353)	28 463
Departmental revenue	3	371 615	352 511
Aid assistance	4	(11 870)	(1 693)
SURPLUS/(DEFICIT) FOR THE YEAR		268 392	379 281

PART 4: STATEMENT OF FINANCIAL POSITION

	NOTE	2009/10 R'000	2008/09 R'000
ASSETS			
Current assets		534 100	356 649
Cash and cash equivalents	12	3 999	5 213
Prepayments and advances	13	2 124	2 424
Receivables	14	422 792	349 012
Voted funds still to be received from the Revenue Fund	15	105 185	-
TOTAL ASSETS		534 100	356 649
LIABILITIES			
Current liabilities		522 051	346 951
Voted funds to be surrendered to the Revenue Fund	15	13 832	28 463
Departmental revenue to be surrendered to the National Revenue Fund	16	40 554	23 131
Bank overdraft	17	464 020	281 224
Payables	18	2 694	1 312
Aid assistance unutilised	4	951	12 821
TOTAL LIABILITIES		522 051	346 951
NET ASSETS		12 049	9 698

	NOTE	2009/10 R'000	2008/09 R'000
Represented by:			
Recoverable revenue		12 049	9 698
TOTAL		12 049	9 698

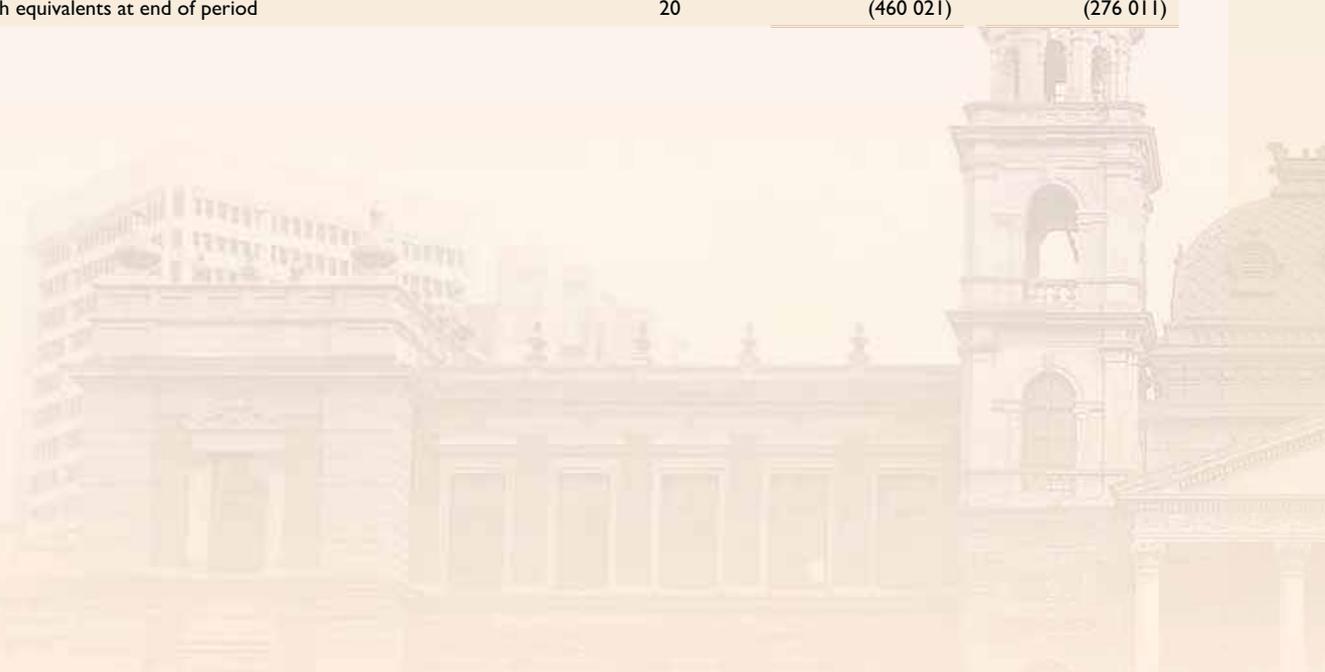


PART 4: STATEMENT OF CHANGES IN ASSETS

	NOTE	2009/10	2008/09
		R'000	R'000
Recoverable revenue			
Opening balance		9 698	9 606
Transfers:		2 351	92
Debts revised		(439)	(249)
Debts recovered (included in departmental receipts)		(2 870)	(2 784)
Debts raised		5 660	3 125
Closing balance		12 049	9 698

PART 4: CASH FLOW STATEMENT

	NOTE	2009/10 R'000	2008/09 R'000
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts		9 569 309	8 345 330
Annual appropriated funds received	1	7 528 269	6 403 716
Statutory appropriated funds received	2	1 669 689	1 588 014
Departmental revenue received	3	371 351	352 500
Aid assistance received	4	-	1 100
Net (increase)/decrease in working capital		(72 098)	(78 366)
Surrendered to the Revenue Fund		(382 655)	(589 701)
Current payments		(7 087 383)	(6 178 640)
Transfers and subsidies paid		(1 503 511)	(1 307 559)
Net cash flow available from operating activities	19	523 662	191 064
CASH FLOWS FROM INVESTING ACTIVITIES			
Payments for capital assets	10	(710 287)	(479 861)
Proceeds from sale of capital assets	3.4	264	11
Net cash flows from investing activities		(710 023)	(479 850)
CASH FLOWS FROM FINANCING ACTIVITIES			
Increase/(decrease) in net assets		2 351	92
Net cash flows from financing activities		2 351	92
Net increase/(decrease) in cash and cash equivalents		(184 010)	(288 694)
Cash and cash equivalents at beginning of period		(276 011)	12 683
Cash and cash equivalents at end of period	20	(460 021)	(276 011)



PART 4: ACCOUNTING POLICIES

The financial statements have been prepared in accordance with the following policies, which have been applied consistently in all material aspects, unless otherwise indicated. However, where appropriate and meaningful, additional information has been disclosed to enhance the usefulness of the financial statements and to comply with the statutory requirements of the Public Finance Management Act, 1999 (Act No. 1 of 1999) (as amended by Act No. 29 of 1999), and the Treasury Regulations issued in terms of the act and the Division of Revenue Act, 2006 (Act No. 2 of 2006).

1. PRESENTATION OF THE FINANCIAL STATEMENTS**1.1 Basis of preparation**

The financial statements have been prepared on a modified cash basis of accounting, except where stated otherwise. The modified cash basis constitutes the cash basis of accounting supplemented with additional disclosure items. Under the cash basis of accounting, transactions and other events are recognised when cash is received or paid.

1.2 Presentation currency

All amounts have been presented in the currency of the South African rand (R), which is also the functional currency of the department.

1.3 Rounding

Unless otherwise stated, all financial figures have been rounded to the nearest one thousand rand (R'000).

1.4 Comparative figures

Comparative information of the prior period has been presented in the current year's financial statements. Where necessary, figures included in the prior period's financial statements have been reclassified to ensure that the format in which the information is presented is consistent with the format of the current year's financial statements.

1.5 Comparative figures - appropriation statement

A comparison between actual amounts and final appropriation per major classification of expenditure is included in the appropriation statement.

2. REVENUE**2.1 Appropriated funds**

Appropriated funds comprise departmental allocations as well as direct charges against the Revenue Fund (i.e. statutory appropriation).

Appropriated funds are recognised in the financial records on the date the appropriation becomes effective. Adjustments made in terms of the adjustment budget process are recognised in the financial records on the date the adjustments become effective.

The total appropriated funds received during the year are presented in the statement of financial performance.

Unexpended appropriated funds are surrendered to the National/Provincial Revenue Fund. Any amounts owing to the National/Provincial Revenue Fund at the end of the financial year are recognised as payable in the statement of financial position.

2.2 Departmental revenue

All departmental revenue is recognised in the statement of financial performance when received and is subsequently paid into the National/Provincial Revenue Fund, unless stated otherwise.

Any amount owing to the National/Provincial Revenue Fund is recognised as a payable in the statement of financial position.

No accrual is made for the amount receivable from the last receipt date to the end of the reporting period. These amounts are, however, disclosed in the disclosure note to the annual financial statements.

2.3 Direct exchequer receipts/payments

All direct exchequer receipts are recognised in the statement of financial performance when the cash is received and subsequently paid into the National/Provincial Revenue Fund, unless otherwise stated.

All direct exchequer payments are recognised in the statement of financial performance when final authorisation for payment is effected on the system (by no later than 31 March of each year).

PART 4: ACCOUNTING POLICIES

Any amount owing to the National/Provincial Revenue Fund at the end of the financial year is recognised as a payable in the statement of financial position.

2.4 Aid assistance

Aid assistance is recognised as revenue when received.

All in-kind aid assistance is disclosed at fair value on the date of receipt in the annexures to the annual financial statements.

The cash payments made during the year relating to aid assistance projects are recognised as expenditure in the statement of financial performance when final authorisation for payments is effected on the system (by no later than 31 March of each year).

The value of the assistance expensed prior to the receipt of funds is recognised as a receivable in the statement of financial position.

Inappropriately expensed amounts using aid assistance and any unutilised amounts are recognised as payables in the statement of financial position.

All Criminal Assets Recovery Account (CARA) funds received must be recorded as revenue when funds are received. The cash payments made during the year relating to CARA-earmarked projects are recognised as expenditure in the statement of financial performance when final authorisation for payments are effected on the system (by no later than 31 March of each year).

Inappropriately expensed amounts using CARA funds are recognised as payables in the statement of financial position. Any unutilised amounts are transferred to retained funds as they are not surrendered to the Revenue Fund.

3. EXPENDITURE

3.1 Compensation of employees

3.1.1 Short-term employee benefits

The costs of short-term employee benefits are expensed in the statement of financial performance when financial authorisation for payment is effected on the system (by no later than 31 March each year).

Short-term employee benefits that give rise to a present legal or constructive obligation are disclosed in the disclosure notes to the financial statements. These amounts must not be recognised in the statement of financial performance or position.

Employee costs are capitalised to the cost of a capital project when an employee spends more than 50% of his/her time on the project. These payments form part of expenditure for capital assets in the statement of financial performance.

3.1.2 Post-retirement benefits

Employer contributions (i.e. social contributions) are expensed in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March each year).

No provision is made for retirement benefits in the financial statements of the department. Any potential liabilities are disclosed in the financial statements of the National Revenue Fund and not in the financial statements of the employer department.

Social contributions (such as medical benefits) made by the department for certain of its ex-employees are classified as transfers to households in the statement of financial performance.

3.1.3 Termination benefits

Termination benefits, such as severance packages, are recognised as an expense in the statement of financial performance as a transfer (to households) when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

3.1.4 Other long-term employee benefits

Other long-term employee benefits (such as capped leave) are recognised as an expense in the statement of financial performance as a transfer (to households) when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

Long-term employee benefits that give rise to a present legal or constructive obligation are disclosed in the disclosure notes to the financial statements.

PART 4: ACCOUNTING POLICIES**3.2 Goods and services**

Payments made for goods and/or services are recognised as an expense in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

The expense is classified as capital if the goods and/or services were acquired for a capital project or if the total purchase price exceeds the capitalisation threshold (currently R5 000). All other expenditure is classified as current.

3.3 Interest and rent on land

Interest and rental payments are recognised as an expense in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March of each year). This item excludes rental for the use of buildings or other fixed structures. If it is not possible to distinguish between payment for the use of land and the fixed structures on it, the whole amount should be recorded under goods and services.

3.4 Financial transactions in assets and liabilities

Debts are written off when identified as irrecoverable. Debts written off are limited to the amount of savings and/or underspending of appropriated funds. The write-off occurs at year-end or when funds are available. No provision is made for irrecoverable amounts, but an estimate is included in the disclosure notes to the financial statement amounts.

All other losses are recognised when authorisation has been granted for the recognition thereof.

3.5 Transfers and subsidies

Transfers and subsidies are recognised as an expense when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

3.6 Unauthorised expenditure

When confirmed, unauthorised expenditure is recognised as an asset in the statement of financial position until such time as the expenditure is either

approved by the relevant authority, recovered from the responsible person or written off as irrecoverable in the statement of financial performance.

Unauthorised expenditure approved with funding is derecognised from the statement of financial position when the unauthorised expenditure is approved and the related funds are received.

Where the amount is approved without funding, it is recognised as expenditure in the statement of financial performance on the date of approval.

3.7 Fruitless and wasteful expenditure

Fruitless and wasteful expenditure is recognised as expenditure in the statement of financial performance according to the nature of the payment and not as a separate line item on the face of the statement. If the expenditure is recoverable, it is treated as an asset until it is recovered from the responsible person or written off as irrecoverable in the statement of financial performance.

3.8 Irregular expenditure

Irregular expenditure is recognised as expenditure in the statement of financial performance. If the expenditure is not condoned by the relevant authority, it is treated as an asset until it is recovered or written off as irrecoverable.

4. ASSETS**4.1 Cash and cash equivalents**

Cash and cash equivalents are carried in the statement of financial position at cost.

Bank overdrafts are shown separately on the face of the statement of financial position.

For the purposes of the cash flow statement, cash and cash equivalents comprise cash-on-hand, deposits held, other short-term highly liquid investments and bank overdrafts.

PART 4: ACCOUNTING POLICIES

4.2 Other financial assets

Other financial assets are carried in the statement of financial position at cost.

4.3 Prepayments and advances

Amounts prepaid or advanced are recognised in the statement of financial position when the payments are made and where the goods and services have not been received by year-end.

Prepayments and advances outstanding at the end of the year are carried in the statement of financial position at cost.

4.4 Receivables

Receivables included in the statement of financial position arise from cash payments made that are recoverable from another party or from the sale of goods/rendering of services.

Receivables outstanding at year-end are carried in the statement of financial position at cost plus any accrued interest. Amounts that are potentially irrecoverable are included in the disclosure notes.

4.5 Investments

Capitalised investments are shown at cost in the statement of financial position.

Investments are tested for an impairment loss whenever events or changes in circumstances indicate that the investment may be impaired. Any impairment loss is included in the disclosure notes.

4.6 Loans

Loans are recognised in the statement of financial position when the cash is paid to the beneficiary. Loans that are outstanding at year-end are carried in the statement of financial position at cost plus accrued interest.

Amounts that are potentially irrecoverable are included in the disclosure notes.

4.7 Inventory

Inventories that qualify for recognition must be initially reflected at cost. Where inventories are acquired at no cost, or for nominal consideration, their cost shall be their fair value at the date of acquisition.

All inventory items at year-end are reflected using the weighted average cost or first-in-first-out (FIFO) cost formula.

4.8 Capital assets

4.8.1 Movable assets

Initial recognition

A capital asset is recorded on receipt of the item at cost. Cost of an asset is defined as the total cost of acquisition. Where the cost cannot be determined accurately, the movable capital asset is stated at fair value. Where fair value cannot be determined, the capital asset is included in the asset register at R1.

All assets acquired prior to 1 April 2002 are included in the register at R1.

Subsequent recognition

Subsequent expenditure of a capital nature is recorded in the statement of financial performance as "*expenditure for capital asset*" and is capitalised in the asset register of the department on completion of the project.

Repairs and maintenance are expensed as current "*goods and services*" in the statement of financial performance.

4.8.2 Immovable assets

Initial recognition

A capital asset is recorded on receipt of the item at cost. Cost of an asset is defined as the total cost of acquisition. Where the cost cannot be determined accurately, the immovable capital asset is stated at R1, unless the fair value for the asset has been reliably estimated.

PART 4: ACCOUNTING POLICIES**Subsequent recognition**

Work in progress of a capital nature is recorded in the statement of financial performance as “*expenditure for capital asset*”. On completion, the total cost of the project is included in the asset register of the department that legally owns the asset or the provincial/national Department of Public Works.

Repairs and maintenance are expensed as current “*goods and services*” in the statement of financial performance.

5. LIABILITIES**5.1 Payables**

Recognised payables mainly comprise amounts owing to other governmental entities. These payables are carried at cost in the statement of financial position.

5.2 Contingent liabilities

Contingent liabilities are included in the disclosure notes to the financial statements when it is possible that economic benefits will flow from the department, or when an outflow of economic benefits or service potential is probable, but cannot be measured reliably.

5.3 Contingent assets

Contingent assets are included in the disclosure notes to the financial statements when it is possible that an inflow of economic benefits will flow to the entity.

5.4 Commitments

Commitments are not recognised in the statement of financial position as a liability or as expenditure in the statement of financial performance, but are included in the disclosure notes.

5.5 Accruals

Accruals are not recognised in the statement of financial position as a liability or as expenditure in the statement of financial performance, but are included in the disclosure notes.

5.6 Employee benefits

Short-term employee benefits that give rise to a present legal or constructive obligation are disclosed in the disclosure notes to the financial statements. These amounts are not recognised in the statement of financial performance or the statement of financial position.

5.7 Lease commitments**Finance lease**

Finance leases are not recognised as assets and liabilities in the statement of financial position. Finance lease payments are recognised as an expense in the statement of financial performance and are apportioned between the capital and interest portions. The finance lease liability is disclosed in the disclosure notes to the financial statements.

Operating lease

Operating lease payments are recognised as an expense in the statement of financial performance. The operating lease commitments are disclosed in the disclosure notes to the financial statements.

5.8 Provisions

Provisions are disclosed when there is a present legal or constructive obligation to forfeit economic benefits as a result of events in the past and it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation and a reliable estimate of the obligation can be made.

6. RECEIVABLES FOR DEPARTMENTAL REVENUE

Receivables for departmental revenue are disclosed in the disclosure notes to the annual financial statements.

PART 4: ACCOUNTING POLICIES

7. NET ASSETS

7.1 Capitalisation reserve

The capitalisation reserve comprises financial assets and/or liabilities originating in a prior reporting period, but which are recognised in the statement of financial position for the first time in the current reporting period. Amounts are recognised in the capitalisation reserves when identified in the current period and are transferred to the National/Provincial Revenue Fund when the underlying asset is disposed of and the related funds are received.

7.2 Recoverable revenue

Amounts are recognised as recoverable revenue when a payment made in a previous financial year becomes recoverable from a debtor in the current financial year. Amounts are either transferred to the National/Provincial Revenue Fund when recovered or are transferred to the statement of financial performance when written off.

8. RELATED PARTY TRANSACTIONS

Specific information with regard to related party transactions is included in the disclosure notes.

9. KEY MANAGEMENT PERSONNEL

Compensation paid to key management personnel, including their family members where relevant, is included in the disclosure notes.

10. PUBLIC PRIVATE PARTNERSHIPS

A description of the Public Private Partnership (PPP) arrangement, the contract fees and current and capital expenditure relating to the PPP arrangement is included in the disclosure notes.



PART 4: NOTES TO THE ANNUAL Financial Statements

1. ANNUAL APPROPRIATION

Included are funds appropriated in terms of the Appropriation Act (and the Adjustments Appropriation Act) for national departments (voted funds) and provincial departments:

	Final appropriation	Actual funds received	Funds not requested/ not received	Appropriation received 2008/09
	R'000	R'000	R'000	R'000
Administration	1 044 387	1 044 387	-	934 862
Court Services	4 088 008	4 088 008	-	3 373 424
State Legal Services	548 583	548 583	-	526 080
Auxiliary and Associated Services	1 847 291	1 847 291	-	1 569 350
Total	7 528 269	7 528 269	-	6 403 716

2. STATUTORY APPROPRIATION

	2009/10	2008/09
	R'000	R'000
Judge's and magistrates' salaries	1 669 689	1 588 014
Total	1 669 689	1 588 014
Actual statutory appropriation received	1 669 689	1 588 014

3. DEPARTMENTAL REVENUE

	NOTE	2009/10	2008/09
		R'000	R'000
Sales of goods and services other than capital assets	3.1	43 659	13 248
Fines penalties and forfeits	3.2	296 410	271 508
Interest dividends and rent on land	3.3	16 821	44 872
Financial transactions in assets and liabilities	3.5	14 050	22 872
Transfer received	3.6	411	-
		371 351	352 500
Sales of capital assets	3.4	264	11
Departmental revenue collected		371 615	352 511

3.1 Sales of goods and services other than capital assets

	NOTE	2009/10	2008/09
		R'000	R'000
Sales of goods and services produced by the department		43 642	13 215
Sales by market establishment			3 560
Other sales		43 642	9 655
Sales of scrap, waste and other used current goods		17	33
Total	3	43 659	13 248

PART 4: NOTES TO THE ANNUAL Financial Statements

3.2 Fines, penalties and forfeits

	NOTE	2009/10 R'000	2008/09 R'000
Fines		242 629	227 846
Penalties		2 177	3 569
Forfeits		51 604	40 093
Total	3	296 410	271 508

3.3 Interest, dividends and rent on land

	NOTE	2009/10 R'000	2008/09 R'000
Interest		16 821	44 872
Total	3	16 821	44 872

3.4 Sale of capital assets

	NOTE	2009/10 R'000	2008/09 R'000
Tangible capital assets		264	11
Machinery and equipment		264	11
Total	3	264	11

3.5 Financial transactions in assets and liabilities

	NOTE	2009/10 R'000	2008/09 R'000
Loans and advances		-	26
Receivables		1 974	1 358
Stale cheques written back		220	228
Other receipts, including recoverable revenue		11 856	21 260
Total	3	14 050	22 872

3.6 Transfers received

	NOTE	2009/10 R'000	2008/09 R'000
Public corporations and private enterprises		411	-
Total	3	411	-

PART 4: NOTES TO THE ANNUAL Financial Statements

4. AID ASSISTANCE

4.1 Aid assistance received in cash from RDP

	NOTE	2009/10 R'000	2008/09 R'000
Foreign			
Opening balance		12 821	14 514
Revenue		-	1 100
Expenditure		(11 870)	(2 793)
Current		(11 870)	(2 793)
Closing balance		951	12 821

	NOTE	2009/10 R'000	2008/09 R'000
Analysis of balance			
Aid assistance unutilised		951	12 821
RDP		951	12 821
Closing balance		951	12 821

5. COMPENSATION OF EMPLOYEES

5.1 Salaries and wages

	NOTE	2009/10 R'000	2008/09 R'000
Basic salary		3 012 531	2 640 141
Performance awards		31 718	29 838
Service-based		9 248	6 847
Compensative/circumstantial		24 097	19 695
Periodic payments		18 427	13 042
Other non-pensionable allowances		838 857	762 920
Total		3 934 878	3 472 483

PART 4: NOTES TO THE ANNUAL Financial Statements

5.2 Social contributions

	NOTE	2009/10	2008/09
		R'000	R'000
Employer contributions			
Pension		325 807	271 051
Medical		182 225	126 796
UIF		72	32
Bargaining council		547	475
Total		508 651	398 354
Total compensation of employees			
		4 443 529	3 870 837
Average number of employees		19 896	19 827

6. GOODS AND SERVICES

	NOTE	2009/10	2008/09
		R'000	R'000
Administrative fees		3 236	3 918
Advertising		19 083	29 806
Assets less than R5 000	6.1	22 483	37 153
Bursaries (employees)		2 806	2 962
Catering		5 887	13 046
Communication		140 015	124 844
Computer services	6.2	468 529	261 480
Consultants, contractors and agency/outsourced services	6.3	486 674	486 644
Entertainment		202	746
Audit cost – external	6.4	25 021	26 350
Government motor transport		34	-
Inventory	6.5	87 348	88 748
Operating leases		356 150	305 517
Owned and leasehold property expenditure	6.6	427 406	371 443
Transport provided as part of departmental activities		71	142
Travel and subsistence	6.7	456 945	392 300
Venues and facilities		6 580	11 293
Training and staff development		12 660	22 245
Other operating expenditure	6.8	104 389	100 851
Total		2 625 519	2 279 488

PART 4: NOTES TO THE ANNUAL Financial Statements

6.1 Assets less than R5 000

	NOTE	2009/10 R'000	2008/09 R'000
Tangible assets		22 482	37 098
Buildings and other fixed structures		58	-
Machinery and equipment		22 424	37 098
Intangible assets		1	55
Total	6	22 483	37 153

6.2 Computer services

	NOTE	2009/10 R'000	2008/09 R'000
SITA computer services		102 192	63 485
External computer service providers		366 337	197 995
Total	6	468 529	261 480

6.3 Consultants contractors and agency/outsourced services

	NOTE	2009/10 R'000	2008/09 R'000
Business and advisory services		62 269	99 280
Laboratory services		767	559
Legal costs		48 758	46 418
Contractors		56 811	79 042
Agency and support/outsourced services		318 069	261 345
Total	6	486 674	486 644

6.4 Audit cost – external

	NOTE	2009/10 R'000	2008/09 R'000
Regularity audits		25 021	24 945
Performance audits		-	1 210
Investigations		-	195
Total	6	25 021	26 350

PART 4: NOTES TO THE ANNUAL Financial Statements

6.5 Inventory

	NOTE	2009/10 R'000	2008/09 R'000
Learning and teaching support material		158	38
Food and food supplies		135	68
Fuel, oil and gas		132	168
Other consumable materials		1 867	2 783
Maintenance material		868	1 319
Stationery and printing		84 022	84 282
Medical supplies		166	90
Total	6	87 348	88 748

6.6 Owned and leasehold property expenditure

	NOTE	2009/10 R'000	2008/09 R'000
Municipal services		111 515	94 783
Property management fees		16 019	18 068
Other		299 872	258 592
Total	6	427 406	371 443

6.7 Travel and subsistence

	NOTE	2009/10 R'000	2008/09 R'000
Local		448 330	383 049
Foreign		8 615	9 251
Total	6	456 945	392 300

6.8 Other operating expenditure

	NOTE	2009/10 R'000	2008/09 R'000
Professional bodies, membership and subscription fees		434	396
Resettlement costs		11 329	12 390
Other		92 626	88 065
Total	6	104 389	100 851

PART 4: NOTES TO THE ANNUAL Financial Statements

7. INTEREST AND RENT ON LAND

	NOTE	2009/10 R'000	2008/09 R'000
Interest paid		4 623	3 672
Total		4 623	3 672

8. FINANCIAL TRANSACTIONS IN ASSETS AND LIABILITIES

	NOTE	2009/10 R'000	2008/09 R'000
Material losses through criminal conduct		1 091	3 038
Theft	8.4	1 091	550
Other material losses	8.1	-	2 488
Other material losses written off	8.2	105	150
Debts written off	8.3	646	232
Total		1 842	3 420

8.1 Other material losses

	NOTE	2009/10 R'000	2008/09 R'000
Nature of other material losses			
Incident	Disciplinary steps taken/ criminal proceedings		
Cheque fraud	Guardian's Fund cheques were fraudulently deposited and cashed. Loss was investigated by SAPS.	-	2 488
Total	8	-	2 488

8.2 Other material losses written off

	NOTE	2009/10 R'000	2008/09 R'000
Nature of losses			
Irrecoverable losses		48	70
Civil actions		51	50
Damages to vehicles		6	30
Total	8	105	150

PART 4: NOTES TO THE ANNUAL Financial Statements

8.3 Debts written off

	NOTE	2009/10 R'000	2008/09 R'000
Nature of debts written off			
Staff debts		646	232
Total	8	646	232

8.4 Details of theft

	NOTE	2009/10 R'000	2008/09 R'000
Nature of theft			
Burglaries		16	458
Theft		1 075	92
Total	8	1 091	550

9. TRANSFERS AND SUBSIDIES

	NOTE	2009/10 R'000	2008/09 R'000
Provinces and municipalities	<i>Annex 1A</i>	80	4
Departmental agencies and accounts	<i>Annex 1B</i>	1 397 334	1 238 883
Foreign governments and international organisations	<i>Annex 1C</i>	13 127	5 084
Non-profit institutions	<i>Annex 1D</i>	1 754	-
Households	<i>Annex 1E</i>	91 216	63 588
Total		1 503 511	1 307 559

10. EXPENDITURE FOR CAPITAL ASSETS

	NOTE	2009/10 R'000	2008/09 R'000
Tangible assets			
Buildings and other fixed structures	33	621 717	416 823
Machinery and equipment	31	84 884	79 893*
Software and other intangible assets			
Other intangibles	32	3 686	1 575
Total		710 287	498 291

* Comparative figure for machinery and equipment was restated by adding an amount of R18 million, which was previously disclosed under goods and services current expenditure (operating leases).

PART 4: NOTES TO THE ANNUAL Financial Statements

10.1 Analysis of funds utilised to acquire capital assets – 2009/10

	Voted funds R'000	Total R'000
Tangible assets	706 601	706 601
Buildings and other fixed structures	621 717	621 717
Machinery and equipment	84 884	84 884
Software and other intangible assets	3 686	3 686
Other intangibles	3 686	3 686
Total	710 287	710 287

10.2 Analysis of funds utilised to acquire capital assets – 2008/09

	Voted funds R'000	Total R'000
Tangible assets	496 716	496 716
Buildings and other fixed structures	416 823	416 823
Machinery and equipment	79 893	79 893
Software and other intangible assets	1 575	1 575
Capitalised development costs	1 430	1 430
Computer software	145	145
Total	498 291	498 291

11. UNAUTHORISED EXPENDITURE

11.1 Reconciliation of unauthorised expenditure

NOTE	2009/10 R'000	2008/09 R'000
Unauthorised expenditure – discovered in current year	-	139 052
Less: Amounts approved by Parliament/legislature without funding and written off in the statement of financial performance	-	(139 052)
	-	-

12. CASH AND CASH EQUIVALENTS

NOTE	2009/10 R'000	2008/09 R'000
Cash receipts	(234)	1 279
Disbursements	4	14
Cash on hand	4 229	3 920
Total	3 999	5 213

PART 4: NOTES TO THE ANNUAL Financial Statements

13. PREPAYMENTS AND ADVANCES

	NOTE	2009/10	2008/09
		R'000	R'000
Travel and subsistence		2 067	2 284
Advances paid to other entities		57	140
Total		2 124	2 424

14. RECEIVABLE

	NOTE	2009/10			2008/09	
		R'000	R'000	R'000	R'000	R'000
		Less than one year	One to three years	Older than three years	Total	Total
Claims recoverable	14.1 Annex 4	214 483	40 329	16 854	271 666	193 882
Trade receivables	14.2	74	-	-	74	-
Recoverable expenditure	14.3	-	-	-	-	109 967
Staff debt	14.4	2 947	5 930	14 895	23 772	21 006
Other debtors	14.5	127 280	-	-	127 280	24 157
Total		344 784	46 259	31 749	422 792	349 012

14.1 Claims recoverable

	NOTE	2009/10	2008/09
		R'000	R'000
National departments		166 474	113 427
Provincial departments		105 192	80 455
Total	14	271 666	193 882

14.2 Trade receivables

	NOTE	2009/10	2008/09
		R'000	R'000
Trade receivables		74	-
Total	14	74	-

14.3 Recoverable expenditure (disallowance accounts)

	NOTE	2009/10	2008/09
		R'000	R'000
Recoverable expenditure		-	109 967
Total	14	-	109 967

PART 4: NOTES TO THE ANNUAL Financial Statements

14.4 Staff debt

	NOTE	2009/10 R'000	2008/09 R'000
In-service debt		4 800	5 605
Out-of-service debt		18 972	15 401
Total	14	23 772	21 006

14.5 Other debtors

	NOTE	2009/10 R'000	2008/09 R'000
Disallowance accounts		19 513	17 892
Salary suspense account		156	2 553
Funds due to DoJ&CD by NPA (virement)		107 611	3 712
Total	14	127 280	24 157

15. VOTED FUNDS STILL TO BE RECEIVED FROM THE REVENUE FUND

	NOTE	2009/10 R'000	2008/09 R'000
Opening balance		28 463	245 895
Voted funds still to be received from the Revenue Fund		(105 185)	-
Voted funds to be surrendered to the Revenue Fund		13 832	28 463
Paid during the year		(28 463)	(245 895)
Closing balance		(91 353)	28 463

16. DEPARTMENTAL REVENUE TO BE SURRENDERED TO THE REVENUE FUND

	NOTE	2009/10 R'000	2008/09 R'000
Opening balance		23 131	14 426
Transfer from Statement of Financial Performance		371 615	352 511
Paid during the year		(354 192)	(343 806)
Closing balance		40 554	23 131

17. BANK OVERDRAFT

	NOTE	2009/10 R'000	2008/09 R'000
Consolidated Paymaster-General account		464 020	281 224
Total		464 020	281 224

PART 4: NOTES TO THE ANNUAL Financial Statements

18. PAYABLES – CURRENT

	NOTE	2009/10 Total	2008/09 Total
Advances received	18.1	-	665
Clearing accounts	18.2	1 839	647
Other payables	18.3	855	-
Total		2 694	1 312

18.1 Advances received

	NOTE	2009/10 R'000	2008/09 R'000
Western Cape Agency Services		-	665
Total	18	-	665

18.2 Clearing accounts

	NOTE	2009/10 R'000	2008/09 R'000
Salary control accounts		1 839	586
Overseas maintenance		-	61
Total	18	1 839	647

18.3 Other payables

	NOTE	2009/10 R'000	2008/09 R'000
Competition Commission		192	-
Trade and Industry		237	-
Cultural Affairs – Western Cape		1	-
Premier – Free State		312	-
Social Development		1	-
Salaries recoverable		112	-
Total	18	855	-

PART 4: NOTES TO THE ANNUAL Financial Statements

19. NET CASH FLOW AVAILABLE FROM OPERATING ACTIVITIES

	NOTE	2009/10	2008/09
		R'000	R'000
Net surplus/(deficit) as per statement of financial performance		268 392	379 281
Add back non-cash/cash movements not deemed operating activities		255 270	(188 217)
(Increase)/decrease in receivables – current		(73 780)	(188 294)
(Increase)/decrease in prepayments and advances		300	57
(Increase)/decrease in other current assets		-	139 052
Increase/(decrease) in payables – current		1382	(29 181)
Proceeds from sale of capital assets		(264)	(11)
Expenditure on capital assets		710 287	479 861
Surrenders to Revenue Fund		(382 655)	(589 701)
Net cash flow generated by operating activities		523 662	191 064

20. RECONCILIATION OF CASH AND CASH EQUIVALENTS FOR CASH FLOW PURPOSES

	NOTE	2009/10	2008/09
		R'000	R'000
Consolidated Paymaster-General account		(464 020)	(281 224)
Cash receipts		(234)	1 279
Disbursements		4	14
Cash on hand		4 229	3 920
Total		(460 021)	(276 011)

These amounts are not recognised in the annual financial statements and are disclosed to enhance the usefulness of the annual financial statements.

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

21. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

21.1 Contingent liabilities

Liable to	Nature	Note	2009/10	2008/09
			R'000	R'000
Motor vehicle guarantees	Employees	Annex 3A	40	129
Housing loan guarantees	Employees	Annex 3A	8 227	12 213
Claims against the department		Annex 3B	1 533 188	3 858 205*
Other departments (interdepartmental unconfirmed balance)		Annex 5	194 761	51 357**
Other: Third-party fraud, losses, theft and dishonoured cheques		Annex 3B	67 215	41 141***
Total			1 803 431	3 963 045

* Comparative figure for claims against the department was restated due to an incorrect calculation used during the previous financial year.

** Comparative figure for other departments (interdepartmental unconfirmed balance) was restated due to TPF/NRF payable being moved from a confirmed balance to an unconfirmed balance in Annexure 5.

*** Comparative figure for other: third-party fraud, losses, theft and dishonoured cheques was restated due to more information available in the current year.

22. COMMITMENTS

	NOTE	2009/10	2008/09
		R'000	R'000
Current expenditure			
Approved and contracted		70 025	518 129
Approved but not yet contracted		31 871	7 519
		101 896	525 648
Capital expenditure			
Approved and contracted		532 746	608 785
Approved but not yet contracted		2 741	15 026
		535 487	623 811
Total commitments		637 383	1 149 459



PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

23. ACCRUALS

	2009/10			2008/09
			R'000	R'000
Listed by economic classification				
	30 days	30+ days	Total	Total
Goods and services	45 056	65 522	110 578	216 359
Buildings and other fixed structures	50 621	20 400	71 021	47 188
Machinery and equipment	2 280	-	2 280	457
Total	97 957	85 922	183 879**	264 004

	NOTE	2009/10	2008/09
		R'000	R'000
Listed by programme level			
Programme 1: Administration		47 529	132 035
Programme 2: Court Services		101 004	95 438
Programme 3: State Legal Services		24 126	11 043
Programme 4: Auxiliary and Associated Services		11 220	41 990
Statutory Appropriation: Judges and Magistrates		-	40 337
Less: Compensation of employees		-	(56 839)
Total		183 879	264 004

	NOTE	2009/10	2008/09
		R'000	R'000
Confirmed balances with other departments	Annex 5	88 351	63 828
Confirmed balances with other government entities	Annex 5	-	-*
Total		88 351	63 828

* Comparative figure for confirmed balances with other government entities was restated due to TPF/NRF payable being moved from a confirmed balance to an unconfirmed balance in Annexure 5.

** Included in the total amount of accruals, there is an amount of R8 million that could not be split into 30 days and/or 30+ days.

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

24. EMPLOYEE BENEFITS

	NOTE	2009/10	2008/09
		R'000	R'000
Leave entitlement		416 324 ***	397 277
Service bonus (thirteenth cheque)		105 495	93 967
Performance awards		38 995	34 226*
Capped leave commitments		232 532 **	214 224
Other employee benefits		300 463	322 892*
Total		1 093 809	1 062 586

* Comparative figure for performance awards was restated due to an incorrect calculation used in the previous financial year.

** Included in capped leave commitments, is an amount of R288 958.43 representing negative capped leave balances.

*** Included in leave entitlement is an amount of R7 731 059.68, representing negative leave balances.

25. LEASE COMMITMENTS

25.1 Operating leases expenditure

2009/10	Land	Buildings and other fixed structures	Machinery and equipment	Total
Not later than one year	-	181 846 201	589	181 846 790
Later than one year and not later than five years	-	582 233 328	1 545	582 234 873
Later than five years	-	543 036 085	-	543 036 085
Total lease commitments	-	1 307 115 614	2 134	1 307 117 748

2008/09	Land	Buildings and other fixed structures*	Machinery and equipment	Total
Not later than one year	-	190 892 969	-	190 892 969
Later than one year and not later than five years	-	636 396 829	2 687	636 399 516
Later than five years	-	668 507 515	-	668 507 515
Total lease commitments	-	1 495 797 313	2 687	1 495 800 000

* Comparative figures were restated due to an additional disclosure requirement during the 2009/10 financial year.

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

25.2 Finance lease expenditure

2009/10	Land	Buildings and other fixed structures	Machinery and equipment	Total
Not later than one year	-	-	19 810	19 810
Later than one year and not later than five years	-	-	17 793	17 793
Total lease commitments	-	-	37 603	37 603
LESS: Finance costs	-	-	3 839	3 839
Total present value of lease liabilities	-	-	33 764	33 764

2008/09	Land	Buildings and other fixed structures	Machinery and equipment	Total *
Not later than one year	-	-	21 623	21 623
Later than one year and not later than five years	-	-	24 875	24 875
Later than five years	-	-	-	-
Total lease commitments	-	-	46 498	46 498
Less: Finance costs	-	-	4 415	4 415
Total present value of lease liabilities	-	-	42 083	42 083

* Comparative figures were restated due to incorrect calculations used in previous financial year

26. RECEIVABLES FOR DEPARTMENTAL REVENUE

	NOTE	2009/10 R'000	2008/09 R'000
Fines penalties and forfeits		74 355	40 504*
Interest dividends and rent on land		372	381
Other		21 797	8 634
Total		96 524	49 519

* Comparative figure was restated due to more information being available in the current year

26.1 Analysis of receivables for departmental revenue

	NOTE	2009/10 R'000	2008/09 R'000
Opening balance		49 519	9 005
Add: Amounts recognised		47 005	40 514*
Closing balance		96 524	49 519

* Comparative figure was restated due to more information being available in the current year.

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

27. IRREGULAR EXPENDITURE

27.1 Reconciliation of irregular expenditure

	NOTE	2009/10	2008/09
		R'000	R'000
Opening balance		26 179	94 671
Add: Irregular expenditure – relating to prior year		368 999	25 495
Add: Irregular expenditure – relating to current year		436 387	33 295*
Less: Amounts condoned		(15 338)	(86 964)**
Less: Amounts not recoverable (not condoned)		(3 853)	(40 318)
Irregular expenditure awaiting condonation		812 374***	26 179
Analysis of awaiting condonation per age classification			
Current year		424 103	20 792
Prior years		388 271	5 387
Total		812 374	26 179

* An amount of R69 000 was erroneously and included as irregular expenditure during the previous financial year relating to current year and has been corrected. An amount of R34 615 000 previously disclosed as irregular expenditure (current year) in respect of finance leases has now been restated as R32 976 000 as a result of the Lease Project.

** An amount of R34 615 000 reflected as condoned in the previous year has been restated to R12 503 000. The amount was incorrectly classified as condoned in terms of finance leases entered into in respect of RT3 and in terms of Practice Note 5 of 2008/09.

*** Irregular expenditure amounting to R681 913 000 identified as a result of the audit is included in the above amount. Included in the amount of R681 913 000 is an amount of R680 454 000 that relates to the erroneous application of the Broad Based Black Economic Empowerment Code of Good Practice in stead of the Preferential Procurement Framework Regulations. The bids included the sample of the auditors arriving to their conclusion cover bids that were awarded in the period 2004 to 2008.

27.2 Details of irregular expenditure condoned

Incident	Condoned by (condoning authority)	2009/10
		R'000
Supply chain management procedures not adhered to for training venues (Justice College)	Condoned by the Departmental Bid Adjudication Committee	3 054
Finance leases entered into in terms of transversal State Tender Board contract (RT3). Non-compliance with Treasury Regulation 13.2.5	Condoned by National Treasury	12 284
Total		15 338

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

27.3 Details of irregular expenditure not recoverable (not condoned)

Incident	2009/10
	R'000
Competitive procurement process not followed – quotations not invited	2 495
Prior approval for procurement not obtained from the Departmental Bid Adjudication Committee	866
Competitive bid process not followed	492
Total	3 853

27.4 Details of irregular expenditure under investigation

Incident	2009/10
	R'000
2008/2009	
Procurement process not followed	165
2009/2010	
Procurement process not followed	67
No prior approval obtained for procurement	30
Delegations exceeded	274
Total	536

28. FRUITLESS AND WASTEFUL EXPENDITURE

28.1 Reconciliation of fruitless and wasteful expenditure

	NOTE	2009/10	2008/09
		R'000	R'000
Opening balance		-	-
Fruitless and wasteful expenditure – relating to prior year		222	-
Fruitless and wasteful expenditure – relating to current year		2 039	-
Less: Amounts condoned		(61)	-
Fruitless and wasteful expenditure awaiting condonation		2 200	-
Analysis of awaiting condonation per economic classification			
Current		510	
Capital		1 690	
Total		2 200	

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

Analysis of current year's fruitless and wasteful expenditure

Incident	2009/10
	R'000
Fee charged in respect of officials not boarding flights or not using reserved accommodation	346
Interest paid on late payment	1
Fee charged for reserved lecturing facility not used	2
Lease agreements – option not exercised to pay lower rates after initial lease period lapsed	1 690
Total	2 039

29. RELATED PARTY TRANSACTIONS

The funds mentioned under paragraph 5 and 6 of the report of the accounting officer are related parties.

30. KEY MANAGEMENT PERSONNEL

	NO OF INDIVIDUALS	2009/10	2008/09
		R'000	R'000
Officials:			
Level 15 to 16	14	12 481	12 364
Level 14	20	25 316	145 859
Family members of key management personnel	4	347	-
Total		38 144	158 223

31. PROVISIONS

	NOTE	2009/10	2008/09
		R'000	R'000
Potential irrecoverable debts			
Staff debtors		12 579	8 101
Other debtors		13 251	12 340
Subtotal		25 830	20 441
Provisions			
Provision for non-recoverable loans		-	394
Guardian's Fund – TBVC losses		45 822	42 546*
Subtotal		45 822	42 940
Total		71 652	63 381

* Comparative figure for Guardian's Fund – TBVC losses was restated, as it was not included in the previous financial year.

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

32. MOVABLE TANGIBLE CAPITAL ASSETS

MOVEMENT IN MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2010					
	Opening balance	Current year adjustments to prior year balances	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000	R'000
MACHINERY AND EQUIPMENT	585 052	28 073	48 772	3 954	657 943
Transport assets	72 656	1 464	13 885	1 881	86 124
Computer equipment	148 964	9 987	12 094	897	170 148
Furniture and office equipment	170 224	(5 713)	9 374	833	173 052
Other machinery and equipment	193 208	22 335	13 419	343	228 618
TOTAL MOVABLE TANGIBLE CAPITAL ASSETS	585 052	28 073	48 772	3 954	657 943

32.1 Additions

ADDITIONS TO MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2010					
	Cash	Non-cash	(Capital work in progress current costs and finance lease payments)	Received current not paid (Paid current year received prior year)	Total
	R'000	R'000	R'000	R'000	R'000
MACHINERY AND EQUIPMENT	84 884	(8 527)	(21 792)	(5 793)	48 772
Transport assets	21 155	(8 333)	-	1 063	13 885
Computer equipment	14 298	(9)	-	(2 195)	12 094
Furniture and office equipment	10 195	(43)	-	(778)	9 374
Other machinery and equipment	39 236	(142)	(21 792)	(3 883)	13 419
TOTAL ADDITIONS TO MOVABLE TANGIBLE ASSETS	84 884	(8 527)	(21 792)	(5 793)	48 772

32.2 Disposals

	Sold for cash	Transfer out or destroyed or scrapped	Total disposals	Cash received actual
	R'000	R'000	R'000	R'000
MACHINERY AND EQUIPMENT	1 777	2 177	3 954	264
Transport assets	1 585	296	1 881	264
Computer equipment	62	835	897	-
Furniture and office equipment	73	760	833	-
Other machinery and equipment	58	286	343	-
TOTAL DISPOSAL OF MOVABLE TANGIBLE CAPITAL ASSETS	1 777	2 177	3 954	264

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

32.3 Movement for 2008/09

MOVEMENT IN MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009				
	Opening balance	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000
MACHINERY AND EQUIPMENT	525 204	60 507	659	585 052
Transport assets	66 252	6 404	-	72 656
Computer equipment	128 459	20 650	145	148 964
Furniture and office equipment	147 216	23 219	211	170 224
Other machinery and equipment	183 277	10 234	303	193 208
TOTAL MOVABLE TANGIBLE ASSETS	525 204	60 507	659	585 052

32.4 Minor assets

MINOR ASSETS OF THE DEPARTMENT AS AT 31 MARCH 2010					
	Intangible assets	Heritage assets	Machinery and equipment	Biological assets	Total
	R'000	R'000	R'000	R'000	R'000
Minor assets	81	-	596 307	-	596 388
TOTAL	81	-	596 307	-	596 388

	Intangible assets	Heritage assets	Machinery and equipment	Biological assets	Total
Number of minor assets at cost	25	-	419 609	-	419 634
TOTAL NUMBER OF MINOR ASSETS	25	-	419 609	-	419 634

MINOR ASSETS OF THE DEPARTMENT AS AT 31 MARCH 2009					
	Intangible assets	Heritage assets	Machinery and equipment	Biological assets	Total
	R'000	R'000	R'000	R'000	R'000
Minor assets	171	-	554 073	-	554 244
TOTAL	171	-	554 073	-	554 244

	Intangible assets	Heritage assets	Machinery and equipment	Biological assets	Total
Number of RI minor assets	44	-	391 313	-	391 357
TOTAL NUMBER OF MINOR ASSETS	44	-	391 313	-	391 357

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

33. INTANGIBLE CAPITAL ASSETS

MOVEMENT IN INTANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2010					
	Opening balance	Current year adjustments to prior year balances	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000	R'000
Capitalised Development Costs	6 155	1 389	2 934	-	10 478
Computer Software	29 988	(1 389)	107	-	28 706
TOTAL INTANGIBLE CAPITAL ASSETS	36 143	-	3 041	-	39 184

33.1 Additions

ADDITIONS TO INTANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2010					
	Cash	Non-cash	(Development work in progress – current costs)	Received current year not paid (Paid current year received prior year)	Total
	R'000	R'000	R'000	R'000	R'000
Capitalised development costs	3 579	-	(645)	-	2 934
Computer software	107	-	-	-	107
TOTAL ADDITIONS TO INTANGIBLE CAPITAL ASSETS	3 686	-	(645)	-	3 041

33.2 Movement for 2008/09

MOVEMENT IN INTANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009				
	Opening balance	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000
Capitalised development costs	4 725	1 430	-	6 155
Computer software	29 863	125	-	29 988
TOTAL INTANGIBLE CAPITAL ASSETS	34 588	1 555	-	36 143

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

34. IMMOVABLE TANGIBLE CAPITAL ASSETS

MOVEMENT IN IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2010					
	Opening balance	Current year adjustments to prior year balances	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000	R'000
BUILDINGS AND OTHER FIXED STRUCTURES	4 851	(32)	468 011	461 465	11 365
Non-residential buildings	-	-	461 465	461 465	-
Other fixed structures	4 851	(32)	6 546	-	11 365
TOTAL IMMOVABLE TANGIBLE CAPITAL ASSETS	4 851	(32)	468 011	461 465	11 365

34.1 Additions

ADDITIONS TO IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2010					
	Cash	Non-cash	(Capital work in progress current costs and finance lease payments)	Received current not paid (Paid current year, received prior year)	Total
	R'000	R'000	R'000	R'000	R'000
BUILDING AND OTHER FIXED STRUCTURES	621 717	451 509	(603 412)	(803)	468 011
Non-residential buildings	614 368	450 509	(603 412)	-	461 465
Other fixed structures	7 349	-	-	(803)	6 546
TOTAL ADDITIONS TO IMMOVABLE TANGIBLE CAPITAL ASSETS	621 717	450 509	(603 412)	(803)	(468 011)

34.2 Disposals

DISPOSALS OF IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2010				
	Sold for cash	Transferred out or destroyed or scrapped	Total disposals	Actual cash received
	R'000	R'000	R'000	R'000
BUILDINGS AND OTHER FIXED STRUCTURES	-	461 465	461 465	-
Non-residential buildings	-	461 465	461 465	-
TOTAL DISPOSALS OF IMMOVABLE TANGIBLE CAPITAL ASSETS	-	461 465	461 465	-

PART 4: DISCLOSURE NOTES TO THE ANNUAL Financial Statements

34.3 Movement for 2008/09

MOVEMENT IN IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009				
	Opening balance	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000
BUILDINGS AND OTHER FIXED STRUCTURES		417 785	412 934	4 851
Non-residential buildings	-	412 934	412 934	-
Other fixed structures	-	4 851	-	4 851
TOTAL IMMOVABLE TANGIBLE ASSETS	-	417 785	412 934	4 851

PART 4: ANNEXURES TO THE ANNUAL Financial Statements

ANNEXURE IA

STATEMENT OF UNCONDITIONAL GRANTS AND TRANSFERS TO MUNICIPALITIES

NAME OF MUNICIPALITY	GRANT ALLOCATION				TRANSFER		SPENT			2008/09
	Amount	Roll overs	Adjustments	Total available	Actual transfer	Percentage of available funds transferred	Amount received by municipality	Amount spent by municipality	Percentage of available funds spent by municipality	Total available
	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000	%	R'000
PD: Vehicles, fines and penalties	80			80	80	100%	-	-	-	4
Total	80			80	80	100%	-	-	-	4

ANNEXURE IB

STATEMENT OF TRANSFERS TO DEPARTMENTAL AGENCIES AND ACCOUNTS

DEPARTMENT/ AGENCY/ ACCOUNT	TRANSFER ALLOCATION				TRANSFER		2008/09
	Adjusted appropriation	Roll overs	adjustments	Total available	Actual transfer	Percentage of available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Human Rights Commission	70 120	-	-	70 120	70 120	100%	60 603
Legal Aid South Africa	917 408	-	-	917 408	917 408	100%	842 120
Special Investigating Unit	154 737	-	-	154 737	154 737	100%	116 297
Commission on Gender Equality	49 112	-	-	49 112	49 112	100%	46 193
Public Protector	108 860	-	-	108 860	108 860	100%	86 475
Representative Political Parties' Fund	92 823	-	-	92 823	92 823	100%	88 187
President's Fund	1	-	-	1	-	-	1
Education, Training and Development Practice Sectoral Authority	4 274	-	-	4 274	4 274	100%	4 421
Total	1 397 335	-	-	1 397 335	1 397 334		1 244 297

PART 4: ANNEXURES TO THE ANNUAL Financial Statements

ANNEXURE IC

STATEMENT OF TRANSFERS TO FOREIGN GOVERNMENT AND INTERNATIONAL ORGANISATIONS

FOREIGN GOVERNMENT/ INTERNATIONAL ORGANISATION	TRANSFER ALLOCATION				EXPENDITURE		2008/09
	Adjusted Appropriation Act	Roll-overs	Adjustments	Total available	Actual transfer	Percentage of available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Transfers							
Subscription fees: International Criminal Court	13 127	-	-	13 127	13 127	100%	4 240
Total	13 127	-	-	13 127	13 127	100%	4 240

ANNEXURE ID

STATEMENT OF TRANSFERS TO NON-PROFIT INSTITUTIONS

NON-PROFIT INSTITUTIONS	TRANSFER ALLOCATION				EXPENDITURE		2008/09
	Adjusted Appropriation Act	Roll overs	Adjustments	Total available	Actual transfer	Percentage of available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Transfers							
Non-profit organisations	2 651	-	-	2 651	1 754	66%	-
Total	2 651	-	-	2 651	1 754	66%	-

ANNEXURE IE

STATEMENT OF TRANSFERS TO HOUSEHOLDS

HOUSEHOLDS	TRANSFER ALLOCATION				EXPENDITURE		2008/09
	Adjusted Appropriation Act	Roll overs	Adjustments	Total available	Actual transfer	Percentage of available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Transfers							
Household: Employee social benefits	88 339	-	-	88 339	88 339	100%	81 738
Household: Claims against the state	2 796	-	-	2 796	2 796	100%	327
Household: Ex gratia payments	74	-	-	74	74	100%	30
Household: Donations and gifts	7	-	-	7	7	100%	-
Total	91 216	-	-	91 216	91 216	100%	82 095

PART 4: ANNEXURES TO THE ANNUAL Financial Statements

ANNEXURE IF

STATEMENT OF GIFTS DONATIONS AND SPONSORSHIPS RECEIVED

NAME OF ORGANISATION	NATURE OF GIFT DONATION OR SPONSORSHIP	2009/10	2008/09
		R'000	R'000
Received in cash			
Law Society	Improving library facilities	-	5
Law Society	Donation	-	5
Subtotal		-	10
Received in kind			
Mosaiek Church	Upgrading of children's intermediary, awaiting and interrogation room	-	12
Patch	Magistrate Strand – TV and DVD player	-	3
Parsons Home Appliances	Magistrate Kimberley – DVD player	-	1
CN Business KBY	Magistrate Colesberg – DVD player	-	25
Fidelity Security	Catering of golf day event	-	3
Amar Africa	Catering of golf day event	-	1
Musukalingwa Municipality	Stand 113 Sheepmortality	30	-
Mbombela Attorneys Association	250 filing boxes	2	-
Mosaik Church	Painting and decoration	11	-
J Roberts	DVD player, VCR machine and TV	5	-
Snyman Attorneys	Diaries 2010	2	-
Total		50	45

ANNEXURE IG

STATEMENT OF AID ASSISTANCE RECEIVED

NAME OF DONOR	PURPOSE	OPENING BALANCE	REVENUE	EXPENDITURE	CLOSING BALANCE
		R'000	R'000	R'000	R'000
Received in cash					
European Union	e-Justice Programme - Sectoral Budget Support : Information Technology Transformation in the department	10 567	-	10 567	-
Swiss Fund	Improving the accessibility of small claims courts	2 254	-	1 303	951
Total		12 821	-	11 870	951

PART 4: ANNEXURES TO THE ANNUAL Financial Statements

ANNEXURE 1H

STATEMENT OF GIFTS, DONATIONS AND SPONSORSHIPS MADE AND REMISSIONS REFUNDS AND PAYMENTS MADE AS AN ACT OF GRACE

NATURE OF GIFT DONATION OR SPONSORSHIP	2009/10	2008/09
	R'000	R'000
Made in kind		
Western Cape - Judge Howie farewell gift	-	3
Western Cape - Chief Magistrate HAJ Swart farewell gift	-	1
Farewell gift to retiring magistrate	1	-
Prizes for the winners of the Provincial School Essay Competition on Constitutional Rights and the Victim's Charter – digital cameras, MP3 players, notebook trolley bag, organiser carry bags and cell phone	9	-
Total	10	4

ANNEXURE 3A

STATEMENT OF FINANCIAL GUARANTEES ISSUED AS AT 31 MARCH 2010 – LOCAL

Guarantor institution	Guarantee in respect of	Opening balance 1 April 2009	Guarantees issued during the year	Guarantees repayments/ cancelled/ reduced/ released during the year	Revaluations	Closing balance 31 March 2010	Guaranteed interest for year ended 31 March 2010	Realised losses not recoverable i.e. claims paid out
		R'000	R'000	R'000	R'000	R'000	R'000	R'000
	Motor vehicles							
	Stanic	129	-	89	-	40	-	-
	Subtotal	129	-	89	-	40	-	-
	Housing							
	Standard Bank	2 372	-	1 027	-	1 345	-	-
	Nedbank Limited	2 055	-	481	-	1 574	-	-
	Firstrand Bank	1 152	-	187	-	965	-	-
	ABSA	3 549	-	1 050	-	2 499	-	-
	Peoples Bank	402	-	195	-	207	-	-
	FNB	539	-	539	-	-	-	-
	Old Mutual Bank	1 316	-	466	-	850	-	-
	Other	828	-	73	-	755	-	-
	Bank Limited	-	-	-	32	32	-	-
	Total	12 213	-	4 018	32	8 227	-	-

PART 4: ANNEXURES TO THE ANNUAL Financial Statements

ANNEXURE 3B

STATEMENT OF CONTINGENT LIABILITIES AS AT 31 MARCH 2010

NATURE OF LIABILITY	Opening balance 1 April 2009	Liabilities incurred during the year	Liabilities paid/ cancelled/ reduced during the year	Liabilities recoverable (details provided below) R'000	Closing balance 31 March 2010
	R'000	R'000	R'000	R'000	R'000
Claims against the department					
Summons	3 858 205	440 369	2 766 538*	-	1 533 188
Subtotal	3 858 205	440 369	2 765 386	-	1 533 188
Other					
Third Party Funds fraud, theft, losses and dishonoured cheques	41 141	26 074	-	-	-
Subtotal	41 141	26 074	-	-	67 215
Total	3 899 346	466 443	2 765 386	-	1 600 403

* In the amount of liabilities paid/cancelled/reduced, there is an amount of R93 million that was adjusted due to the exchange rate difference between the previous and the current financial year-ends.

ANNEXURE 4

CLAIMS RECOVERABLE

GOVERNMENT ENTITY	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31/03/2010	31/03/2009	31/03/2010	31/03/2009	31/03/2010	31/03/2009
	R'000	R'000	R'000	R'000	R'000	R'000
National department	154 233	107 855	11 565	5 572	164 629	113 427
Eastern Cape	37 160	30 559	3 048	142	40 208	30 701
Free State	10 172	4 223	1 969	50	12 141	4 273
Gauteng	17 802	12 041	3 933	271	21 735	12 312
KwaZulu-Natal	3 172	2 239	952	60	4 124	2 299
Mpumalanga	4 468	3 329	591	2 110	5 059	5 439
Northern Cape	2 037	1 444	384	275	2 421	1 719
Limpopo	5 774	12 891	2 971	979	8 745	13 870
North West	7 198	6 787	1 007	183	8 205	6 970
Western Cape	701	1 643	892	412	1 593	2 055
Agency Services Control Account	-	-	291	38	291	38
Pace	-	-	6	-	6	-
Salary: recoverable	346	480	994	299	1 340	779
Total	243 063	183 491	28 603	10 391	271 666	193 882

PART 4: ANNEXURES TO THE ANNUAL Financial Statements

ANNEXURE 5

INTER-GOVERNMENT PAYABLES

GOVERNMENT ENTITY	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31/03/2010	31/03/2009	31/03/2010	31/03/2009	31/03/2010	31/03/2009
	R'000	R'000	R'000	R'000	R'000	R'000
DEPARTMENTS						
Current						
National Prosecuting Authority	63	-	25	-	88	-
Eastern Cape: Department of Health	-	-	43	38	43	38
Eastern Cape: Department of Education	7	13	-	-	7	13
Eastern Cape: Provincial Treasury	-	-	13	-	13	-
Gauteng: Public Roads and Works	-	15 163	-	121	-	15 284
The Presidency	29	-	-	-	29	-
Western Cape: Education Department	8	-	-	-	8	-
Free State: Department of Education	-	13	13	-	13	13
Free State: Department of Social Development	-	-	-	22	-	22
Free State: Sport, Arts, Culture and Technology	-	-	-	26	-	26
National Department of Public Works	76 724	46 478	108 709	-	185 433	46 478
National Department of Health	-	12	-	-	-	12
Eastern Cape: Sport, Arts and Culture	4	-	-	-	4	-
Department of Land Affairs	-	-	3	-	3	-
National Department of Foreign Affairs	-	742	-	2 006	-	2 748
Parliament of South Africa	-	57	-	-	-	57
National Department of Water Affairs and Forestry	-	46	-	-	-	46
National Department of Agriculture	-	2	-	40	-	42
North West Provincial Administration	-	21	-	-	-	21
South African Police Service	227	5	-	76	227	81
National Department of Public Service and Administration	-	5	-	-	-	5
Transport (GG) Western Cape	63	1 252	10 991	8 344	11 054	9 596
National Department of Arts, Culture, Science and Technology	-	13	-	-	-	13
Office of the Premier	-	-	-	4	-	4
Department of Social Development	-	6	-	-	-	6
Department of Human Settlement	14	-	-	-	14	-
Department of Labour	-	-	41	-	41	-
Free State: Public Works, Roads and Transport	-	-	-	6	-	6
Public Administration, Leadership and Management Academy	465	-	40	-	505	-
Gauteng: Public Roads and Works (G-Fleet)	10 489	-	196	-	10 685	-
Government Printing Works	258	-	332	-	590	-
Subtotal	88 351	63 828	120 406	10 683	208 757	74 511

PART 4: ANNEXURES TO THE ANNUAL Financial Statements

GOVERNMENT ENTITY	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31/03/2010	31/03/2009	31/03/2010	31/03/2009	31/03/2010	31/03/2009
	R'000	R'000	R'000	R'000	R'000	R'000
OTHER GOVERNMENT ENTITY						
Current						
National Revenue Fund (TPF)	-	-	74 355	40 674	74 355	40 674
Subtotal	-	-	74 355	40 674	74 355	40 674
Total	88 351	63 828	194 761	51 357	283 112	115 185

ANNEXURE 6

INVENTORY

Inventory	NOTE	Quantity	2009/10
			R'000
Opening balance		64 292	2 866
Add: Additions/purchases – cash		97 243	3 411
Add/(Less): Adjustments		(90 298)	(3 811)
Closing balance		71 237	2 466



PART 3

REPORT OF THE AUDIT COMMITTEE



DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT AUDIT COMMITTEE REPORT

Report of the Audit Committee

I. REPORT OF THE AUDIT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2010.

I.1 AUDIT COMMITTEE MEMBERS AND ATTENDANCE

The Audit Committee consists of the members listed below and is required to meet at least four times per annum as per its approved terms of reference. During the current year six meetings were held.

Name of member	Number of meetings attended	Status
Mr Stewart Patterson (Chairperson)	5	Retired 31 August 2010
Ms Catharina Sevillano-Barredo	4	Retired 31 August 2010
Mr Cedric Boltman	5	Reappointed 15 December 2009
Ms Ntombi Langa-Royds	3	Retired 31 August 2010
Mr Motsamai Karedi	6	Reappointed 15 December 2009
Ms Bajabulile Luthuli	2	Appointed 15 December 2009
Ms Matshego Ramagaga	2	Appointed 15 December 2009
Ms Zodwa Manase	2	Appointed 15 December 2009
Mr Wilson Ramabulana	2	Appointed 15 December 2009

I.2 AUDIT COMMITTEE RESPONSIBILITY

We report that we have adopted appropriate formal terms of reference in our charter in line with the requirements of section 38(1)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) and Treasury Regulation 3.1. We further report that we conducted our affairs in compliance with the charter except that due to a change of the accounting officer during the year, there was a delay in the appointment of Audit Committee members, resulting in a meeting not taking place during the third quarter of the year.

I.3 THE EFFECTIVENESS OF INTERNAL CONTROL

The system of internal control was not entirely effective for the year under review. During the year under review, several deficiencies in the system of internal control were reported by the internal auditors and the Auditor-General South Africa. Management resolved audit qualifications on repeat audit findings, although in certain

instances, the matters reported previously have not been fully and satisfactorily addressed. While some deficiencies in internal control were reported, the Audit Committee is satisfied that key controls remained in place throughout the year under review and where deficiencies in internal controls were identified, management has undertaken to address them.

The Audit Committee will monitor, support and guide management to ensure that the control environment continuously improve and that the improvements are sustainable.

I.4 INTERNAL AUDIT

Although many Internal Audit projects were completed during the year, the unit continued to experience challenges regarding the completion of the 2009/10 plan. This was largely due to projects on the 2008/09 plan being rolled over to the current audit cycle and shortage of key personnel. However, audit reviews were conducted on the plan and findings and

recommendations were communicated to management.

The accounting officer and the Audit Committee are being actively involved in ensuring that adequate capacity exists at all times within Internal Audit for providing reasonable assurance on the areas within the internal audit scope.

During the year, the risk management process was not optimal and this has an impact in the operation of Internal Audit in ensuring that limited resources are used effectively and efficiently. The accounting officer has already undertaken measures to address the risk management shortcomings.

1.5 AUDITOR-GENERAL SOUTH AFRICA

We have met with the Auditor-General South Africa to ensure that there are no unresolved issues.

1.5.1 The quality of in-year management and monthly/quarterly reports submitted in terms of the PFMA

We are satisfied with the content and quality of monthly and quarterly reports prepared and issued by the accounting officer of the department during the year under review. However, we have noted the Auditor-General's concerns relating to the department's reporting on performance information in terms of the required auditing standards.

Management has undertaken to effect the recommended improvements and the Audit Committee will monitor the progress to ensure that the department is adequately prepared for an audit on performance information.

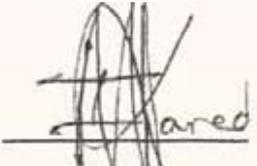
1.5.2 Evaluation of financial statements

We have done the following:

- Reviewed and discussed the audited annual financial statements to be included in the annual report with the Auditor-General South Africa and the accounting officer;

- Reviewed the Auditor-General South Africa's management letter and management's response to it;
- Reviewed the department's compliance with legal and regulatory provisions; and
- Reviewed significant adjustments resulting from the audit.

We concur and accept the conclusions of the Auditor-General South Africa's report on the annual financial statements and are of the opinion that the audited annual financial statements should be accepted, read together with the report of the Auditor-General South Africa.



M Kareedi

Chairperson of the Audit Committee

05 August 2010

PART 2

PROGRAMME
PERFORMANCE



VOTE 21

2.1 VOTED FUNDS (R'000)

Table 1: Voted funds for 2009/10 (excluding the NPA)

Appropriation	Main appropriation	Adjusted appropriation	Actual amount spent	Over-/under-expenditure
Amount appropriated	7 384 658	7 528 269	7 514 440	13 829
Statutory appropriation	1 669 689	1 669 689	1 774 874	(105 185)
Responsible minister	Minister of Justice and Constitutional Development			
Administering department	Justice and Constitutional Development			
Accounting officer	Director-General of Justice and Constitutional Development			

2.2 AIM OF VOTE

The aim of the Department of Justice and Constitutional Development (the department) is to uphold and protect the Constitution and the rule of law and to render accessible, fair, speedy and cost-effective administration of justice in the interests of a safer and more secure South Africa.

2.3 KEY MEASURABLE OBJECTIVES

The department's key strategic objectives are as follows:

- Capacitating and restructuring the courts, integrating the justice system
- Catering for the needs of vulnerable groups
- Improving the maintenance system to relieve pressure at the courts, thereby improving the standard of service delivery
- Broadening access to justice and improving the efficiency of the National Prosecuting Authority (NPA) and its specialised units and programmes

2.4 ESTIMATES OF NATIONAL EXPENDITURE PROGRAMMES

Programme 1: Administration

Purpose: Manage the department, develop policies and strategies for the efficient administration of justice, and provide centralised support services.

Programme 2: Court Services

Purpose: Facilitate the resolution of criminal, civil and family law disputes by providing accessible, efficient and quality administrative support to the courts, and manage court facilities.

- The Constitutional Court subprogramme funds the activities and operations of the Constitutional Court, which has jurisdiction over constitutional matters only;
- The Supreme Court of Appeal subprogramme funds the activities and operations of the Supreme Court of Appeal, which adjudicates appeals and questions of law from the high courts;
- The High Courts subprogramme funds the activities and operations of the various high court divisions, which have jurisdiction over the defined geographical areas in which they are located;

- The Specialised Courts subprogramme funds the activities and operations of the labour and labour appeal courts, the land claims court, the special tribunal and the family courts;
- The Lower Courts subprogramme funds the activities and operations of various regional and district courts;
- The Regional Courts subprogramme adjudicates serious criminal matters;
- The District Courts subprogramme adjudicates civil cases and less serious criminal cases;
- The Family Advocate subprogramme funds the Family Advocate offices, which make recommendations to the court where there is litigation and mediation relating to children in family matters;
- The Magistrate's Commission subprogramme funds the Magistrate's Commission, which makes recommendations on the appointment and tenure of magistrates;
- The Government Motor Transport subprogramme funds vehicles for judges and departmental officials;
- Facilities Management funds the building and upgrading of court and justice service delivery points; and
- Administration of Courts funds the management of courts' administration and performance evaluation functions.

Funding for Government Motor Transport depends on the number of new appointees expected each year and the planned replacement of existing vehicles. Funding for Facilities Management is distributed based on personnel composition and historical expenditure patterns. Once-off operational requirements are also taken into account.

Programme 3: State Legal Services

Purpose: Provide legal and legislative services to government, supervise the administration of deceased and insolvent estates and the Guardian's Fund, prepare and promote legislation, facilitate constitutional development and undertake research in support of this.

- The State Law Advisors subprogramme provides legal advisory services to the executive, all state departments, parastatals and autonomous government bodies;
- Litigation and Legal Services provides attorney, conveyancing and notary public services to the executive, all state departments, parastatals and other government bodies through the offices of the State Attorney, and provides legal support to the department and the ministry;
- Legislative Development and the South African Law Reform Commission prepare and promote legislation, conduct research, promote, maintain and develop the Constitution and its values, and assist and protect independent institutions supporting constitutional democracy to ensure their independence, impartiality, dignity and effectiveness. The name of this subprogramme has been changed to better describe the services it provides; and
- The Master of the High Court funds the Master's offices, which supervise the administration of deceased and insolvent estates, trusts, curatorships and the Guardian's Fund.

Funding for these subprogrammes is distributed based on personal composition and historical expenditure patterns. Once-off operational requirements are also taken into account.

Programme 4: National Prosecuting Authority

Purpose: Provide a coordinated prosecuting service that ensures that justice is delivered to the victims of crime through general and specialised prosecutions, protect certain witnesses and remove the profit from crime.

- Public Prosecutions provides for general prosecutions and several specialist prosecution units, such as those for priority crimes litigation, sexual offences and community affairs, and specialised commercial crime;
- The Witness Protection Programme provides protection, support and related services to vulnerable witnesses and related people in judicial proceedings;
- The Asset Forfeiture Unit seizes assets that are the proceeds of crime or have been part of an offence through a criminal or civil process;
- Support Services funds corporate support services to the NPA. This subprogramme was established to properly account for the corporate services component of the NPA;

Funding for these subprogrammes is distributed based on personnel composition and historical expenditure patterns. Operational requirements are also taken into account.

Programme 5: Auxiliary and Associated Services

Purpose: Provide a variety of auxiliary services associated with the department's aim and fund transfer payments to the South African Human Rights Commission (SAHRC), the Public Protector, the Commission on Gender Equality (CGE), the Legal Aid Board, the Special Investigating Unit (SIU), the Represented Political Parties' Fund and the President's Fund.

- The Office for the Control of Interception and Monitoring of Communication funds this office, which authorises applications by

law enforcement agencies for intercepting and monitoring communications in terms of the relevant legislation;

- The SAHRC promotes and monitors the observance of human rights in South Africa;
- The CGE aims to create a society free from gender discrimination and any other form of gender oppression;
- The SIU provides professional forensic investigating and litigation services to all state institutions at national, provincial and local level;
- The Legal Aid Board provides legal aid to indigent people and legal representation at the state's expense, as set out in the Constitution;
- The Public Protector investigates any conduct in state affairs, public administration, or any sphere of government that is alleged to be improper; or which results in any impropriety or prejudice;
- Justice Modernisation designs and implements IT infrastructure and networks to re-engineer business processes for the administration of civil and criminal justice in the integrated justice system;
- The President's Fund provides funding to give effect to the reparations policy flowing from the findings of the Truth and Reconciliation Commission (TRC); and
- The Represented Political Parties' Fund provides for the funding of political parties participating in Parliament and provincial legislatures.

2.5. ACHIEVEMENTS

A summary of achievements covers the following core functions of the department:

- Ensure equitable access to justice services for all;

- Ensure effective and efficient management of the department and its resources;
- Facilitate the resolution of criminal and civil cases;
- Protect and promote the rights of vulnerable groups (including the rights of children, the elderly, women, people with physical and mental disabilities and the poor);
- Develop legislation (including conducting research and improving court rules);
- Develop and promote the Constitution (including educating the public about their constitutional rights);
- Supervise the administration of deceased and insolvent estates (including administering the Guardian's Fund); and
- Provide legal advisory services and protect all organs of state.

1. Ensure equitable access to justice services for all

One of the main functions of the department is to expand justice and improve access to justice services. In doing so, special focus is given to people living in townships and rural areas who, owing to the historical inequalities in the distribution of courts and justice services, had very limited access to courts. The objective is to build new courts in townships and rural areas, to augment identified infrastructure shortages with mobile courts, to expand services in the existing courts, to improve the quality of services provided, and to redefine magisterial jurisdictions and align them with the new municipality boundaries.

In the year under review, the department undertook nine capital projects aimed at the construction of new courts and additional offices at existing courts. Of these, three new courts were completed (in Colesberg, Galeshewe and Lutzville). An additional three courts are still under construction (at Katilehong, the Polokwane High Court and Ntuzuma). Six

projects have been undertaken to expand office space (in Stanger, Thembalethu, Swellendam, Riverdale, Bredasdorp and at the Supreme Court of Appeal in Bloemfontein).

A further 15 branch courts, which were prepared last year to be redesignated as magisterial courts with their own areas of jurisdiction, were officially proclaimed. These are the branch courts at Motherwell, Daveyton, Alexandra, Thembisa, Madadeni, Tiyane, Enkangala, Groblershoop, Jan Kempdorp, Kakamas, Keimoes, Pofadder, Kathu, Atlantis and Khayelitsha. The remaining nine branch courts are currently being capacitated to also become magisterial courts with their own areas of jurisdiction.

A detailed breakdown of all other capital work undertaken during the period under review, including major projects still on course, projects to go on tender during the next financial year, projects ready to be finalised, sites acquired for major building projects, sites to be acquired and other day-to-day maintenance of justice infrastructure can be found in paragraph 2.12 below.

2. Ensure effective and efficient management of the department and its resources

The department recognises that the sound management of its resources is fundamental to the satisfactory achievement of its strategic objectives to expand and deliver justice services, to improve the effectiveness and efficiency of the civil and criminal justice system, and to uphold its mandate as required by its stakeholders.

In the period under review, the department sustained its programmes to improve processes and systems of financial and asset control. A remarkable spending rate of 98% of the R7.5 billion (adjusted) voted funds was achieved with only 0.2% registered as underexpenditure in the year under review. The operational costs, delayed payments for security at courts

and the delayed finalisation of renovation and maintenance projects by the Department of Public Works (DPW) contributed to the underspending trends. Significant funds were spent on improving the management of courts (54.4%). A total of 13.7% was spent on the overall strategic and operational administration activities. Some 7.3% was spent on legal services and legislative development programmes and 24.6% was spent on auxiliary services.

The department now has an asset register (the Fixed Asset Register) based on physical verifications covering all locations. The total number of assets registered stands at 459 044, with a value of approximately R1.3 billion. The challenge for the department is to continue to instill a culture of sound asset management in all its employees to ensure the timely updating and registration of assets in offices.

The department has set, as one of its priorities, the objective to improve internal control systems to achieve unqualified audit reports in all of its financial, non-financial and human resource management areas.

In the management of its human resources, the department has slightly reduced its employee vacancy rate from 13.58% in 2008/09 to 10.73% in 2009/10. A total of 1 738 vacant posts were filled, increasing the total number of permanent posts filled in the department's structure from 16 349 to 17 207 (excluding 582 contract posts and 208 judicial posts filled). A total of 5 613 employees received training on 192 training courses provided through the Justice College. To resolve disputes in the department, 177 of the 226 registered disciplinary cases were finalised and 187 of the 220 grievances lodged were finalised. The department also provided employee wellness programmes to increase its commitment and productivity levels. A total of 688 staff members are currently receiving support through the programme.

In addition, experienced professionals were appointed in key positions of the justice entities

during the period under review. This includes the appointment of a new Chief Justice, Sandile Ngcobo, who is already actively strengthening his office and improving the functioning of courts, a new Director-General of Justice and Constitutional Development, Ms Nonkululeko Msomi, a new National Director of Public Prosecutions, Adv Menzi Simelane, a new Public Protector, Adv Thulisile Madonsela, and a new Chairperson of the South African Human Rights Commission, Adv Lawrence Mushwana.

The department continued to modernise and integrate its information and technology systems to ensure effective and efficient administration of justice in the country. In the year under review, the department developed the Integrated Case Management System (ICMS) to improve and align case management processes and systems across all areas in the department. This project is already reaping significant results. A total of 11 773 896 case and business transactions were conducted through the ICMS during the period under review.

The department is also continuing to roll out its video postponement system, which is aimed at fast-tracking case postponements without the accused person attending court. During the period under review, the system was rolled out to 45 magistrates' courts and two correctional facilities.

3. Facilitate the resolution of criminal and civil cases

In the year under review, the NPA's court performance data indicated that the courts sat an average of 03:46 hours a day, enrolled 1 044 346 new cases and disposed of 1 065 269 cases, which resulted in a positive clearance ratio of 2%. Both the lower courts and high courts maintained high conviction rates, with district courts achieving 90.5%, regional courts 74% and high courts 87.7% in terms of the trial cases that were dealt with in the courts.

The Constitutional Court received 122 new applications, 134 cases awaited directions (old and new applications), 84 cases were dismissed and 35 judgments were given. The Supreme Court of Appeals had 39 new criminal appeals enrolled. Of the total case load of 431 (392 old cases plus 39 new cases), 42 appeals were finalised (9.7%), seven were withdrawn, 16 were upheld (3.7%) and 18 were dismissed (4.1%).

In terms of criminal matters, the high court divisions managed a positive clearance ratio during the period under review. The high courts received 1 252 new cases and disposed of 1 363 cases. A total of 1 235 cases were finalised and only 128 cases were removed from the roll.

The outstanding criminal cases are indicated in Table 2.

Table 2: Outstanding criminal cases

Courts	Outstanding cases	Backlog cases	Percentage of backlog cases
District courts	178 461	22 238	12.5%
Regional courts	50 708	16 054	31.7%
High courts	1308	271	20.7%
Total	230 477	38 563	16.7%

A total of 43 304 sexual offence cases were enrolled, 3 648 were finalised with a verdict (22.3%) and 12 722 were removed from the roll (77.7%). In the dedicated sexual offence courts, 7 356 cases were enrolled and 3 706 were finalised, with a conviction rate of 67.7%.

In civil matters, the high courts had 24 412 civil trials enrolled, 10 574 cases were finalised (which included old and new cases), 2 070 were postponed, 3 565 were withdrawn and 7 009 were settled. The lower courts had 331 112 civil trials enrolled, of which 118 328 summons were issued. A total of 43 304 sexual offences were enrolled, 3 648 were finalised with a verdict (22.3%) and 12 722 (77.7%) were removed from the roll. In the dedicated sexual offence courts, 9 213 cases were enrolled, 6 383 were

The regional courts enrolled 81 873 new cases during the period under review and disposed of 87 389 cases, resulting in a positive clearance ratio. A total of 40 962 cases were finalised, which comprised 38 852 verdict cases and 2 110 Alternative Dispute Resolution Mechanism (ADRM) cases. This represents a finalisation rate of 0.6 cases per court per day. The district courts enrolled 961 243 new cases during the period under review and disposed of 976 517 cases. They therefore also managed to uphold a positive clearance ratio. A total of 427 344 cases were finalised. This number comprises 310 823 verdict cases (72.7%) and 116 521 ADRM cases (27.3%) and represents a finalisation rate of 2.4 cases per court per day.

removed from the roll (which included old and new cases) and 4 796 were finalised.

4. Protect and promote the rights of vulnerable groups

The department works with other Justice, Crime Prevention and Security (JCPS) Cluster departments to promote and protect the rights of vulnerable groups. The main role of the department is to develop legislation, policies and programmes that are aimed at protecting and promoting the rights of children, the aged, the disabled, women, the poor and other such disadvantaged groups. In the period under review, 32 288 new cases were registered where the prime accused was a child. A total of 319 cases were diverted, resulting in 9.9% of the diversion.

Although the Child Justice Act, 2008 (Act No. 75 of 2008), is coming into effect in April 2010, the department, working in collaboration with other relevant role-players, managed to reduce the number of children awaiting trial in correctional facilities and prisons by 50% during the period under review. There has been a steady increase in children awaiting trial in secure care facilities and home-based supervisions. Currently, 71% of children's cases are resolved within three months.

To facilitate the legal enforcement of maintenance for children, the department has seen improvements in the maintenance services at courts. In addition to the established civil enforcement of maintenance orders such as emoluments, attachment orders, warrants of execution and/or attachments of debt, the courts have also started enforcing the attachment of the defaulter's pension monies. The department has drafted maintenance guidelines for the judiciary and provided training to maintenance investigators and maintenance officers. In the period under review, 189 988 maintenance applications were received. Of these, the department issued 9 420 orders by default (5%), 24 494 section 31 orders by default (13%), 34 165 emolument orders (18%) and 2 978 warrants of execution (1.3%), and made 2 049 attachments of debt.

During the period under review, the department set out to strengthen its coordination and management of sexual offences and related matters through its Interdepartmental Operational Committee (IOC). The aim is to develop integrated plans to improve the implementation of the Sexual Offences Amendment Act, 2007. The committee has identified 164 clinical forensic facilities for the provision of specialised medical treatment to victims of sexual violence. The committee is also finalising a draft discussion document on specialised services for the victims of sexual offences. The department is strengthening the capacity of the courts dedicated to sexual offences. In the period under review, 91 intermediaries were appointed and 106 intermediaries received training on child witness

processes. With regard to domestic violence, 291 546 applications were enrolled in the courts. Of these, 141 159 orders were granted (48.4%), 31 154 were set aside (11%), 49 366 were struck from the roll (17%) and 14 948 warrants were issued for breach of court orders (5.1%).

5. Develop legislation

During the year under review, the following bills were introduced into Parliament:

- i) The Traditional Courts Bill
- ii) The Criminal Law (Forensic Procedure) Amendment Bill
- iii) The Constitution Seventeenth Amendment Bill (Municipal Functions)
- iv) The Protection of Personal Information Bill
- v) The Protection from Harassment Bill
- vi) The Prevention and Combating of Trafficking in Persons Bill

The following bills were on the department's legislative programme for the year under review:

- i) The Recognition of Muslim Marriages Bill
- ii) The Legal Practice Bill
- iii) The Judicial Matters Amendment Bill
- iv) The State Liability Bill
- v) The Prevention and Combating of Hate Speech, Racial Discrimination, Xenophobia and Related Intolerance Bill
- vi) The South African Human Rights Commission Amendment Bill
- vii) The Constitution Amendment Bill (Financial Matters)
- viii) The Constitution Amendment Bill (Removal from Office of Members of Chapter 9 Institutions, Financial Provisions and Name Change of 'Defence Force')

During the period under review, the department prepared 12 separate subordinate laws and 10 rules of courts.

6. *Develop and promote the Constitution*

Sections 32 and 33 of the Constitution determine that every citizen has the right to access information and to just administrative action to ensure non-discrimination. The department oversees the promotion of three pieces of legislation that promote the guarantees made in the Constitution. These are the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA), Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) (PAJA) and Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) (PEPUDA).

In the period under review, the department designated all magistrate's courts as equality courts. This has improved access to equality courts as the public can now lodge complaints of unfair discrimination at the magistrate's court nearest to their community. Consequently, the department has seen an increase in cases enrolled at these courts from 447 in 2008/09 to 508 in 2009/10. Of the 508 cases enrolled, 145 were finalised and 363 are still pending.

During the period under review, the department increased its programmes aimed at educating the public on justice and constitutional matters. A total of 420 episodes aired on different radio stations, 166 schools were visited to educate children on matters of justice and over 38 justice exhibitions and events were conducted.

The department, in partnership with the European Union (EU) and the Foundation for Human Rights (FHR), has initiated a programme to promote and strengthen participatory democracy by providing support to civil society to protect and promote a human rights culture. This three-year programme is continuing as planned. Further details on the work done can be found in Programme 3, under Strategic Objective 27 below.

7. *Supervise the administration of deceased and insolvent estates*

The department is constitutionally mandated to supervise the administration of the deceased and insolvent estates of individuals and juristic persons, trusts and curators, and to improve the management and access to the Guardian's Fund. In the period under review, the department experienced an increase of 10% in estate matters received. There were 130 635 new matters on estates, of which 88 551 were files on estates less than R125 000 and 42 084 were files on estates worth more than R125 000. Of the 88 551 estates less than R125 000 enrolled, a total of 81 122 were finalised (92%), and of the 42 084 estates worth more than R125 000, 29 092 were finalised (69%). The department issued 37 989 letters of execution to proceed with the administration of the estates. A total of 63 057 letters of appointment were issued during the period under review.

To improve access to the Guardian's Fund, the department is integrating the Guardian's Fund system with the ICMS, which will see Guardian's Fund services delivered in 480 magistrates' courts across the country.

8. *Provide legal advice services and protect all organs of state*

The department is responsible for providing legal advice to state organs and protecting them against litigation. In the period under review, the department expanded the establishment of the State Attorney by 209 posts, with 24 advocates appointed to deal with 648 high court matters.

During the period under review, 5 804 briefs were issued, with 3 728 briefs (74%) worth R261 941 million being given to black practitioners. In total, the department paid R307 635 million to counsel. The department won 14% of the cases, lost 6%, 18% were settled out of court, 7% are awaiting judgement and 55% were postponed.

The department saw a remarkable improvement in the provision of advice and certification of international agreements and legislation. The department received 286 requests for legal opinion. Of these, 250 were finalised and 36 were still pending. There were 294 requests for the certification of international agreements, 285 were finalised and nine were pending. A total of 187 requests for the certification of bills and regulations were received, with 155 finalised and 33 pending.

2.6. OVERVIEW OF THE SERVICE DELIVERY ENVIRONMENT

The mandate of the department is to uphold and protect the Constitution and the Rule of Law. The department is responsible for overseeing the administration of justice in the country. Its core functions are to ensure equitable access to justice services, protect and promote the rights of children, women, the aged and people with (physical and mental) disabilities, improve the efficiency of the courts, develop legislation and promote the Constitution, administer deceased and insolvent estates and the Guardian's Fund, provide prosecution and legal aid services, provide legal advisory services and protect organs of the state from damaging litigation.

The department does this through collaboration with the JCPS Cluster. Thus, the department is a partner in the fight against crime. It does not directly perform all law enforcement functions, but works with different national departments and other agencies to uphold and protect the Constitution, promote the rule of law, administer justice, guard against human rights abuses, mediate differences among citizens and organisations, fight crime and antisocial behaviour, prosecute offenders, protect vulnerable groups, and provide other justice-related services. The following JCPS Cluster partners and justice organs work with the department:

- The South African Police Service prevents, detects and arrests offenders' and criminals;
- The National Prosecuting Authority prosecutes offenders, seizes offenders' assets and protects witnesses;
- Legal Aid South Africa provides legal assistance to the indigent;
- The judiciary adjudicates cases;
- The Department of Correctional Services controls the incarcerated; and
- Other cluster constituents (the South African National Defence Force, the National Intelligence Agency, the Department of Home Affairs, National Treasury, the Presidency, the Department of Social Development and the Government Communication and Information System) collaborate to work in one way or another to maintain security in the country, and ensure the safety of the citizens.

The department operates in a complex environment in which it is struggling to extend the quantity and quality of justice services previously only available to the white minority, while at the same time dramatically increasing its capacity and improving employment opportunities to all citizens. Its major challenges concern eradicating apartheid legacies, building a society founded on a constitutional democracy that realises human rights, protecting citizens from violence and intimidation, and ensuring that everyone, in particular the vulnerable groups, have equal access to justice.

In the case of South Africa, the justice system has to contend with the fact that many poor people, in particular those living in townships, rural areas and informal settlements, are often trapped in prolonged periods of unemployment. They are more exposed to human rights abuses, and are more likely to experience and be affected by high levels of crime. All these factors impact severely on the quality of their lives, and in many cases tend to push these people even deeper into poverty. Criminality and violence often result

in the loss of scarce resources, hospitalisation and/or loss of productivity, which, in turn, can easily result in significant repercussions for those who rely on the victims for support. Thus, a functioning justice system constitutes an important foundation for the department on which to build a prosperous, stable society, based on just and democratic principles.

The challenge is often complicated by the lack of resources and the daunting socio-economic problems facing the previously disadvantaged groups. As in many developing democracies, resource allocation is often complex and difficult to balance. The department's budget of R7.4 billion still rates as one of the smallest in the share of the national vote. This means that the department never has enough resources to fulfil all its functions and to effectively implement all its strategic objectives. This has a negative impact on the expansion of its justice services, the capacitation of its organisational structure, the training of its employees, the maintenance of its capital infrastructure, the enhancement of its internal controls, the modernisation of its information technology, the delivery of justice services to the public and the quality of the implementation of its critical programmes.

The diverse stakeholders often raise concerns relating to the quality of service delivery. Parliamentary committees point to the unsatisfactory lack of sound management and poor controls in the department. The labour union often believes that the state is slow and hesitant to address the plight of public service workers. Media coverage sometimes projects a state in serious difficulties, with dissatisfied citizens always ready to protest, inadequate citizen-focused approaches and poor service delivery. Opposing political parties often argue that the levels of corruption and fraud are high in the public sector and that employees are rather ill-experienced and selectively chosen to satisfy the ruling party.

The department's strategic plan provides an attempt to deal with all these environmental challenges. Although the department's budget was further cut in the period under review, as a result of the credit crisis that stalked many countries in the world, there have been remarkable improvements in the effectiveness and efficiency in case flow management in courts and Master's offices. The judiciary and the prosecution work tirelessly to resolve cases quickly, reduce case backlogs, prosecute offenders and convict criminals. The legislation passed has started protecting vulnerable groups, with a particular emphasis on women and children, and there is an increased collaboration of efforts from all JCPS Cluster partners and other organisations to ensure even better protection of these groups and other victims of crime. The department is also working with other entities to ensure improved participatory democracy in the country.

2.7 OVERVIEW OF THE ORGANISATIONAL ENVIRONMENT FOR 2009/10

During the period under review, the department developed recruitment strategies to accelerate the reduction of the vacancy rate. The recruitment plan was developed to monitor adherence to the turnaround time. The vacancy rate was reduced from 13.58% in 2008/09 to 10.73% in 2009/10.

The department is committed to ensuring that its workforce profile reflects the demographics of the country. During the period under review, the department succeeded in boosting its employment equity (EE) target with the appointment of a female to the position of Director-General. The Employment Equity Plan (EEP) has been developed to accelerate the achievement of EE targets.

The management of human resources contributed significantly to dealing with issues of culture and diversity in the workplace. The department acknowledges that diversity

management plays an important role in the achievement of its goals through the recognition of individual strengths and uniqueness.

The Heritage Day commemoration created a platform where officials of the department could celebrate their shared cultures. This acknowledgement of diversity is a building block towards embracing an environment of common understanding and better communication among officials. Among the highlights of the event were employees who showcased their traditional attire, song and dances, and shared traditional meals. The national office's Heritage Day event was celebrated on 2 October 2009 at the National Botanical Gardens in Pretoria. The respective regions also held celebrations.

The department's main goal is to continuously take advantage of this event to enhance service delivery by acknowledging the valuable contribution of diverse cultures. During the period under review, the annual adjusted Human Resource Plan for the period 2009–2012 was approved and submitted to the Department of Public Service and Administration (DPSA). The departmental Service Delivery Improvement Plan was also approved and submitted to the DPSA. The department has implemented plans to reduce the turnaround time for the handling of misconduct cases and the resolution of grievances and disputes. Thus far, the situation has improved, and current cases are being dealt with timeously in the stipulated time frames.

2.8 STRATEGIC OVERVIEW AND KEY POLICY DEVELOPMENTS FOR 2009/10

2.8.1 The department's leadership role in the JCPS and the Government Programme of Action

One of the major changes introduced after the 2009 general elections at the macro-policy level, particularly in relation to the constitutional mandate of the department, is the leadership role of the department in the JCPS Cluster, as it was reconstituted under the fourth administration since the advent of democracy. The Government

Programme of Action (PoA), adopted by the JCPS cluster in July 2009, reinforced the JCPS Cluster strategy to fight crime and corruption, which is one of the five priorities adopted by government in its five-year plan.

During the period under review, the JCPS Cluster has been able to achieve a greater degree of integration and coordination of the work of its constituent departments. This is evident from the significant strides made with regard to the enactment of the Child Justice Act, 2008 (Act No. 75 of 2008), which will come into operation during April 2010, and the review of the criminal justice system (CJS), which was completed during the same year. The Child Justice Act enjoins the Minister of Justice and Constitutional Development, acting in conjunction with the ministers of Police, Correctional Services, Social Development, Education and Health, to adopt a national policy framework relating to, among others, a uniform, coordinated and cooperative approach by all government departments, organs of state and institutions in dealing with matters relating to child justice. The Intersectoral Steering Committee on Child Justice (ISCCJ), consisting of the directors-general of the departments of the abovementioned ministries and coordinated by the Director-General of the Department of Justice and Constitutional Development, has commenced its work to develop the required national policy framework in anticipation of the promulgation of the act in the 2010/11 financial year. The implementation of the outcomes of the review of the CJS has commenced and will continue into the 2010/11 financial year. The implementation is guided by the Seven-point Plan that has been approved by Cabinet. This plan covers the following: the alignment of the strategies of the JCPS Cluster; establishing the Criminal Justice System Coordinating Unit, improving court performance, implementing the Case Backlog Reduction Strategy, modernising IT systems, mobilising the public to get involved in the fight against crime and harmonising the rules of court. The work under the Seven-point Plan is discussed in detail elsewhere in this report.

2.8.2 Synergy between policy and law-making

Internally, the department continues to explore the most effective ways of achieving greater synergy between formulating policy on the one hand and drafting legislation on the other. Provision for this is made under separate functionaries. This functional disjuncture has been identified as a contributing factor to the delays experienced in the finalisation of the legislation aimed at accelerating the transformation of the judiciary and the legal profession. The Superior Courts Bill and the Legal Practice Bill, both of which have been in the drafting stages for more than a decade, are some of the manifestations of this structural challenge. It is undeniable that any legislation on any key transformational goal that is mandated by the Constitution would sustain any fierce scrutiny if it is preceded by a research-based policy development process that is undertaken in the different stages of policy-making.

During the period under review, there has been close cooperation between the policy-orientated components and law drafters, which resulted in the finalisation of some of the critical laws and bills.

The department is reviewing the structural configuration to streamline its capacity to execute its constitutional mandate effectively and efficiently.

2.8.3 Transformation of the judiciary

In the South African context, the transformation of the state and society, including that of the judiciary, is mandated and guided by the Constitution. The quest is to create a united, non-racial, non-sexist, democratic and prosperous South Africa. The build-up to what would become the defining moment for judicial reform in South Africa started in earnest in July 2009 when President Jacob Zuma, addressing the Judges' Conference, reassured judges of government's firm commitment to the independence of the judiciary and the rule of law. The President's

sentiments were echoed by the Minister at the same conference when, addressing the guests at the gala dinner, he reiterated that he would not pursue any constitutional amendment to place court administration under the Minister of Justice and Constitutional Development, nor would he insist on enacting legislation that would assign the power to make the rules of court solely to the Minister of Justice and Constitutional Development. Both the President's and the Minister's assurances came to fruition during October 2009, when the Minister presented the revised Constitution Amendment Bill and the Superior Courts Bill to the heads of court for their input. The following are the key provisions of the bills:

2.8.3.1 *The Constitution Amendment Bill*

- i) Section 166(5): Provides that the Chief Justice is the head of the judiciary and exercises responsibility over the establishment and monitoring of norms and standards for the exercising of the judicial functions of all courts. The proposed provision seeks to confer on the Chief Justice constitutional powers to enable the Chief Justice to exercise his or her judicial leadership role.
- ii) Section 166(e): Provides for the substitution of the magistrates' courts by the lower courts.
- iii) Section 168: Provides for the affirmation of the Constitutional Court as the Apex Court in the Republic of South Africa.
- iv) Section 169: Provides for the establishment of a single High Court of South Africa and the conversion of the different high courts into general divisions of the High Court.
- v) Section 174: Makes provision for the appointment of an acting Deputy Chief Justice, acting President of the Supreme Court of Appeal (SCA) and acting Deputy President of the SCA.

- vi) Section 176: Amends the term of office of judges of the Constitutional Court to be consistent with that of the other superior courts.
- vii) Section 178: Provides for the integration of the Magistrate's Commission into the Judicial Service Commission (JSC) to establish a uniform appointment mechanism for judicial officers in pursuit of a single judiciary.

2.8.3.2 The Superior Courts Bill

- i) Section 7: Provides for the establishment of a single High Court of South Africa and the general divisions of the High Court.
- ii) Section 8: Provides for the establishment of the different specialist divisions of the High Court of South Africa, including the Labour Matters Special Division.
- iii) Section 11: Empowers the Chief Justice, as head of the judiciary, to develop norms and standards for all courts and to convene a forum of heads of courts to assist him or her in the judicial leadership role.
- iv) Section 12: Establishes the Office of the Chief Justice, comprising an executive director appointed by the Minister with the concurrence of the Chief Justice. This is a transition to the establishment of a separate court administration for the judiciary as a separate branch of government.
- v) Sections 13: Provides for the functions of the Office of the Chief Justice. The major shift from the previous draft is that the executive director and the staff in the Office of the Chief Justice will function under the direction of the Chief Justice. This reflects a major shift from the previous drafts, which provided that the executive secretary would function under the direction and control of the Minister of Justice and Constitutional Development. The judiciary perceived the position in the previous draft as subverting the judiciary under the executive.
- vi) Section 14: Provides for recess periods for the superior courts. The recess periods have been included in the legislation to provide legal certainty and uniformity, as this impacts on access to justice. Under the current position, recess periods are determined by each Judge-President, by way of rules of court. The provision in the previous draft assigned the power to determine recess periods to the Minister, after consultation with the Chief Justice. There was fierce opposition to the proposal from the judicial sector, as this was perceived to imply that the Minister controls the courts. The present draft assigns the power to determine recess periods to the Chief Justice, but provides for concurrency with the Minister (in consultation with the Minister) in order to maintain the element of access to justice.
- vii) Section 15: Relates to the budget of the courts. In terms of the proposed provision, the budget is determined by the Chief Justice in consultation with the heads of courts. The Minister is entrusted with the responsibility of processing the budget requests through the normal budgetary channels and processes prescribed by the Public Finance Management Act, 1999 (Act No. 1 of 1999). The Director-General is charged with the responsibility of accounting for the budget of the courts.
- viii) Section 16: Relates to the appointment of staff at the superior courts. The change that is sought to be introduced by the bill will radically change the current executive-controlled court administration. The executive director in the Office of the

Chief Justice will be assigned the powers to appoint staff at the superior courts and manage their performance. Currently these powers belong to the Director-General. During March 2010, the Chief Justice submitted a comprehensive report containing detailed comments on the heads of courts, the different superior courts and the lower court judiciary on the Constitution Amendment Bill and the Superior Courts Bill for consideration by the Minister. The Minister would consider the comments and give appropriate directives regarding the further processing of the bills.

2.8.4 Initiatives underway to strengthen the Office of the Chief Justice

During January 2010, the department seconded some of its senior personnel from Court Services to assist in the establishment of the Office of the Chief Justice as a transition to the establishment of a separate court administration for the judiciary as a separate branch of government. The Minister also approved the terms of reference for the development of a comprehensive policy framework that will form the basis for the establishment of the envisaged court administration agency to support the judiciary in enhancing its institutional independence. The policy framework and the draft bill, in the form of the Judicial Authority Bill, are expected to be finalised and submitted to Cabinet during the 2010/11 financial year.

2.8.5 The Legal Practice Bill

The Minister and the department continued to engage with the organised legal profession, including the General Council of the Bar (GCB) and the Law Society of South Africa (LSSA), in an attempt to reach consensus on the key principles underpinning the transformation of the legal profession. Although the discussion could not yield a general consensus on the form and composition of a single governance

structure for attorneys and advocates and aspects of a disciplinary mechanism, there was nonetheless general agreement on a range of principles, including the need for legal community service as part of vocational training for new entrants to the profession. The Legal Practice Bill is ready for submission to Cabinet for introduction into Parliament to facilitate the transformation of one of the key institutions that is vital for access to justice. Another important aspect of policy that received attention during the period under review is the need to redress the imbalances of the past with regard to the allocation of legal work to legal practitioners by government. The government is the largest consumer of legal services in the country and has the constitutional responsibility to ensure the achievement of equality, as well as equity in the country. A blueprint that targets the attainment of a 65% allocation of legal work to previously disadvantaged practitioners and legal firms by 2014 has been developed and will be finalised in the 2010/11 financial year.

2.8.6 Other key bills

The following are some of the important bills that are geared to enhancing access to justice:

- The Prevention and Combating of Trafficking in Persons Bill, which has already been introduced into Parliament, is intended to promote access to justice for and protect victims of trafficking, who are mostly women and children;
- The Protection from Harassment Bill, which has been introduced into Parliament, seeks to provide a remedy to persons, with particular reference to women, who are often more vulnerable and who are or feel unsafe as a result of harassment or 'stalking conduct', as it is sometimes called; and
- The State Liability Bill, which seeks to deal with compliance by government departments of court orders.

2.8.7 Realignment of magisterial districts with municipal districts

The department continues to implement the programme that seeks to correct the old magisterial districts, which are informed by the racial and geopolitical boundaries of the defunct self-governing and independent states (homelands) and the previous Republic of South Africa territory. The two-legged programme seeks, on the one hand, to refurbish the branch courts in the former black areas and rural villages and confer upon them adequate jurisdiction to function as fully fledged courts. On the other hand, it ensures the alignment of the magisterial districts with the municipal boundaries established under the new constitutional dispensation. Fifteen of the 90 branch courts were converted into full service courts in August 2009, while another four branch courts are earmarked for conversion during the 2010/11 financial year. The significance of the conversion of the branch courts into full service courts is the elimination of the current fragmented system in terms of which communities in the traditional black areas and rural villages only have access to services relating to the adjudication of criminal cases in the local courts in their vicinity and must commute to remote cities and towns to access services relating to civil matters, including maintenance, small claims courts and deceased estates. This programme will continue until all the branch courts have been upgraded to provide full court-related services. A draft report regarding the alignment of the magisterial districts with municipal boundaries has been completed and will be published for comment during 2010 before it is finalised.

2.8.8 Small claims courts

An additional 13 new small claims courts were established during the 2009/10 financial year to bring the number of these courts to 202. The aimed target is to establish a small claims court for each of the 384 magisterial districts by 2014. The reason for the slow pace in the establishment

of these courts is the lack of an adequate number of legal practitioners with appropriate experience who are willing to be appointed as commissioners. Ongoing discussions with Legal Aid South Africa (LASA) are taking place to avail the legal aid officers for this purpose to address the shortage of commissioners. Through these interventions, it is hoped that the immediate challenges that confront these important courts, which are geared to ensure that the poor and the indigent have equal access to justice, will be resolved.

2.8.9 Language policy for the courts

To ensure real understanding of judicial processes by the masses that make up our multilingual society, the department continues to implement the Indigenous Language Pilot Project in 27 district courts countrywide. Through this project, the department promotes the use of indigenous languages as languages of record. The project has the potential to enhance the status and dignity of the previously marginalised African languages and provides lessons on how to move into the future. Since its inception in April 2009, 890 cases have been conducted by these courts in languages other than English.

The pilot project is being evaluated and the outcomes will feed into the policy framework for language use in the courts. It is envisaged to be completed before the end of this year. The aim is to promote the use of indigenous languages at the district court level and in respect of less serious cases that are not likely to be escalated to the higher courts through either appeal or review. The policy framework will also enable the department to address the challenges relating to the quality of court interpretation, which is an essential element of access to justice.

2.9 DEPARTMENTAL REVENUE (R'000)

2.9.1 Collection of departmental revenue (R'000)

Table 3: Collection of departmental revenue

	2006/07 actual	2007/08 actual	2008/09 actual	2009/10 target	2009/10 actual	Percentage deviation from target
Tax revenue						
Fines, penalties and forfeits	262 616	238 025	271 508	296 273	296 410	100.04 %
Non-tax revenue						
Interest, dividends and rent on land	13 394	48 700	44 872	27 043	16 821	62.20 %
Sale of goods and services other than capital assets	10 786	14 027	13 248	16 541	43 659	260.25 %
Transfers received	-	-	-	800	411	51.37 %
Sales of capital assets (capital revenue)	-	-	11	135	264	195.55 %
Financial transactions (recovery of loans and advances)	32 708	11 682	22 872	18 096	14 050	77.64 %
Total departmental receipts	319 510	312 434	352 511	358 888	371 615	103.38 %

2.10 DEPARTMENTAL EXPENDITURE (R'000)

Table 4: Departmental expenditure

Programmes	Voted for 2009/10	Roll- overs and adjustments	Virement	Total voted	Actual expenditure	Variance
Programme 1	1 038 614	96 589	(90 816)	1 044 387	1 031 487	12 900
Programme 2	3 911 104	(88 098)	265 002	4 088 008	4 087 100	908
Programme 3	569 918	25 175	(46 510)	548 583	548 564	19
Programme 4	2 480 084	(94 611)	(143 611)	2 241 862	2 228 715	13 147
Programme 5	1 658 286	173 070	15 935	1 847 291	1 847 289	2
Total	9 658 006	112 125	-	9 770 131	9 743 155	26 976

2.11 TRANSFER PAYMENTS (R'000)

Table 5: Transfer payments

Name of institution	Amount transferred	Estimated expenditure
South African Human Rights Commission	70 120	70 120
Commission on Gender Equality	49 112	49 112
Special Investigating Unit	154 737	154 737
Legal Aid South Africa	917 408	917 408
Public Protector	108 860	108 860
Represented Political Parties' Fund	92 823	92 823
Education, Training and Development Practices SETA	4 274	4 274
President's Fund	-	1
Total	1 397 335	1 397 334

2.12 CAPITAL INVESTMENT

2.12.1 Major building projects completed in 2009/10

Table 6: Major building projects completed in 2009/10

No	Name	Province	Description	Completion date
1	Colesberg Magistrate's Office	Northern Cape	New magistrate's office	10 July 2009
2	Galeshewe Magistrate's Office	Northern Cape	New magistrate's office	25 January 2010
3	Lutzville Periodical Court	Western Cape	New periodical court	19 January 2010

2.12.2 Major projects continuing from 2009/10

Table 7: Major projects continuing from 2009/10

No	Magistrate's office	Province
1	Tsakane Branch Court	Gauteng
2	Kagiso Magistrate's Office	Gauteng
3	Ekangala Magistrate's Office	Mpumalanga
4	Ashton Periodical Court	Western Cape
5	Stanger Magistrate's Office	KwaZulu-Natal
6	Danielskuil Periodical Court	Northern Cape
7	Supreme Court of Appeal	Free State
8	Thembaletu Magistrate's Office	Western Cape
9	Swellendam Magistrate's Office	Western Cape
10	Hankey Magistrate's Office	Eastern Cape
11	Katlehong Magistrate's Office	Gauteng
12	Riverdale Magistrate's Office	Western Cape
13	Ntuzuma Magistrate's Office	KwaZulu-Natal
14	Polokwane High Court	Limpopo
15	Bredasdorp Magistrate's Office	Western Cape
16	Pietermaritzburg Master's Office	KwaZulu-Natal

2.12.3 Major capital projects to go out on tender in 2010/11

Fourteen capital projects were anticipated to go out on tender in 2009/10, of which three (Katlehong, Polokwane High Court and Ntuzuma) were successful. Their construction will continue in 2010/11. The construction of the other capital projects that were anticipated to go out on tender could no longer proceed due to budgetary constraints. It is, however, anticipated that only one capital project (Nelspruit High Court) will go out on tender in 2010/11, while the planning of the other projects will be finalised during the course of 2010/11. Tendering will only be considered as and when the budgetary situation improves.

Table 8: Major capital projects to go out on tender in 2010/11

Name	Province	Description	Initial date of expected tender	Revised tender date	Reasons
Nelspruit High Court	Mpumalanga	New high court	29 May 2009	3 December 2010	Delays with the acquisition of the appropriate site

The planning of the following major capital projects will be finalised during the course of 2010/11, but tendering will not proceed until the budgetary situation improves:

Table 9: Project planning to be finalised in 2010/11

Name	Province	Description
Soshanguve Magistrate's Office	Gauteng	Additional accommodation
Bityi Periodical Court	Eastern Cape	New periodical court
Garies Magistrate's Office	Northern Cape	New magistrate's office
Sundumbili Magistrate's Office	KwaZulu-Natal	New magistrate's office
Humansdorp Magistrate's Office	Western Cape	Additional accommodation
Dimbaza Magistrate's Office	Eastern Cape	New magistrate's office
Lothair Periodical Court	Mpumalanga	New periodical court
Ngome Periodical Court	KwaZulu-Natal	New periodical court
Orlando Magistrate's Office	Gauteng	New magistrate's office
Plettenberg Bay Magistrate's Office	Western Cape	New magistrate's office
Richard's Bay Magistrate's Office	KwaZulu-Natal	New magistrate's office

2.12.4 Sites acquired for major projects in 2009/10

Table 10: Sites acquired for major projects in 2009/10

Name	Province	Site clearance date
Bedford Magistrate's Office	Eastern Cape	8 July 2009
Elliot Magistrate's Office	Eastern Cape	8 July 2009
Rouxville Magistrate's Office	Free State	8 July 2009
Virginia Magistrate's Office	Free State	8 July 2009
Mqanduli Magistrate's Office	Eastern Cape	4 August 2009
Plettenberg Bay Magistrate's Office	Western Cape	28 August 2009
Bultfontein Magistrate's Office	Free State	23 September 2009
Odendaalsrus Magistrate's Office	Free State	23 September 2009

2.12.5 Sites to be acquired for major projects in 2010/11

Table 11: Sites to be acquired for major projects in 2010/11

Name	Province	Description	Initial acquisition date	Revised acquisition date
Vulindlela Magistrate's Office	KwaZulu-Natal	New magistrate's office	30 April 2009	30 June 2010
Chrissiesmeer Periodical Court	Mpumalanga	New periodical court	30 June 2009	30 June 2010

Name	Province	Description	Initial acquisition date	Revised acquisition date
Davel Periodical Court	Mpumalanga	New periodical court	29 May 2009	30 July 2010
Gilead Periodical Court	Limpopo	New periodical court	30 June 2009	30 July 2010
Ladysmith Magistrate's Office	KwaZulu-Natal	Additional accommodation	30 June 2009	30 July 2010
Nelspruit High Court	Mpumalanga	New high court	30 April 2009	31 May 2010
Polokwane High Court	Limpopo	New high court	29 May 2009	30 June 2010
Springbok Magistrate's Office	Northern Cape	New magistrate's office	30 June 2009	30 June 2010
Hermanus Magistrate's Office	Western Cape	New magistrate's office	31 December 2009	31 December 2010
Diepsloot Magistrate's Office	Gauteng	New magistrate's office	31 August 2009	31 August 2010
Simunye Magistrate's Office	Gauteng	New magistrate's office	31 August 2009	31 October 2010
Goodwood Magistrate's Office	Western Cape	New magistrate's office	30 June 2009	To be determined
Tsineng Periodical Court	North West	New periodical court	31 August 2009	30 June 2010
Vosman Magistrate's Office	Mpumalanga	New magistrate's office	31 August 2009	30 June 2010

2.13 MAINTENANCE

As one of the interventions made by the department to reduce and clear the maintenance backlog, a presentation for an additional allocation per annum for the next 10 years was made to National Treasury. However, the requested funds were not made available to the department as additions to capital works funds in the 2009/10 financial year. This meant that all capital projects (construction and rehabilitation) were funded in the allocated capital works budget received at the beginning of each financial year. The constraints experienced by the department on the budget allocations for capital works have led to incrementally deferring maintenance.

2.14 ASSET MANAGEMENT

As required by the Government-wide Immovable Asset Management Act, 2007 (Act No. 19 of 2007) (GIAMA), the department compiled a User Asset Management Plan (UAMP) and submitted it to the DPW in 2008. It is expected to be updated on an annual basis. A copy will be submitted to the Department of Public Works (DPW) and National Treasury as part of the motivation for funding. In terms of the GIAMA, the DPW is the custodian of all government-owned properties, while all other departments only have user rights. In the year under review, the department planned to undertake the following

projects in its effort to provide effective and efficient infrastructure:

- The construction of new courts and additional accommodation to existing courts
- The refurbishment and maintenance of existing court buildings
- The provision of basic accessibility to persons with disabilities

2.14.1 The construction of new courts and additional accommodation to existing courts

The new court building projects are multi-year projects that last for an average of 24 to 36 months. The department had nine projects that were carried over from 2008/09. These are Colesberg (Northern Cape), Ekangala (Mpumalanga), Tsakane (Gauteng), Kagiso (Gauteng), Galeshewe (Northern Cape), the Pietermaritzburg Master's Office (KwaZulu-Natal), Ashton (Western Cape), Lutzville (Western Cape) and Hankey (Eastern Cape). Of these, three courts (Colesberg, Galeshewe and Lutzville) were completed in 2009/10 as indicated in Table 5. The bulk of the projects that were not completed as planned in 2009/10 were not completed due poor performance and poor

workmanship by the contractors, which resulted in further delays, thus impacting negatively on the completion dates.

The department planned to invite tenders for the 14 capital projects planned to start in 2009/10. However, due to financial constraints, only three projects were agreed on. These are in Katlehong, the Polokwane High Court and in Ntuzuma. It is anticipated that the project to construct the Nelspruit High Court will go out on tender in 2010/11 and the rest of the projects will be considered depending on the availability of funds.

Due to accommodation shortages in the courts, six projects for additional accommodation were continued from the previous year. These include Stanger (KwaZulu-Natal), the Supreme Court of Appeal (Free State), Thembalethu (Western Cape), Swellendam (Western Cape), Riverdale (Western Cape) and Bredasdorp (Western Cape).

2.14.2 Refurbishment and maintenance of existing court buildings

Eighty court buildings have completed the 36-month cycle of the Repair and Maintenance Programme (RAMP) with an additional two court buildings that were in the repair phase and nine court buildings that were in the maintenance phases at the end of March 2010. Another two court buildings were in advanced stages of the design phase. An additional 190 court buildings for which status quo reports were compiled in March 2007 are to be refurbished in the next phase of the RAMP. The department could not continue with these projects due to the unavailability of additional funds on the capital works budget earmarked for this purpose. An application in this regard have been made to National Treasury but until such time as earmarked funds are made available, these court buildings cannot be prioritised for the second intake of the RAMP.

Table 12: Refurbishment and maintenance of existing court buildings

Phase	Planned	Completed	Reasons for delays
Status quo	190	0	Unavailability of additional funds
Planning (design phase)	2	0	Unavailability of additional funds
Repair phases	11	0	Unavailability of additional funds

2.14.3 Provision of basic accessibility for persons with disabilities

In the period under review, 348 court buildings have been provided with the basic means of accessibility for persons with disabilities. These include ramps to the entrance of buildings designated parking bays, designated toilet facilities and access to at least one courtroom at ground-floor level. In addition, 16 court buildings were at practical completion phase, while nine court buildings were in the construction phase and 11 were in the design phase. It is anticipated that they will be completed during the course of 2010/11.

2.15 PROGRAMME PERFORMANCE

The activities of the Department of Justice and Constitutional Development are organised according to the five programmes below. This annual report contains performance information in relation to the first three programmes. The performance information under Programme 4 is presented in the annual report of the National Prosecuting Authority (NPA) and that under Programme 5 is presented in the annual reports of the relevant institutions, such as the Legal Aid Board, the Public Protector, the South African Human Rights Commission (SAHRC) and the Commission on Gender Equality (CGE).

- Programme 1: Administration
- Programme 2: Court Services
- Programme 3: State Legal Services
- Programme 4: National Prosecuting Authority
- Programme 5: Auxiliary and Associated Services

2.15.1 Programme 1: Administration

The purpose of this programme is to manage the department, develop policies and strategies for the efficient administration of justice, and provide centralised support services. The performance reports of the Office of the Director-General (ODG), Corporate Services and the Justice College are contained in this programme in line with the performance measures and targets as presented in the 2009/2011 Medium-term Strategic Framework (MTSF) of the department.

STRATEGIC OBJECTIVE 1: HUMAN CAPITAL MANAGEMENT

The availability of qualified, skilled and motivated employees is critical to the success of delivering judicial services in the country. The quantity and quality of the services that are required and expected place pressure on the department's

human capital management systems. More citizens, requiring all sorts of justice-related services, visit the department's service delivery points. The workforce profile is changing continuously, with new skills being required of current and new staff. Quality skills are required at both the production and management levels. These take time to develop. Less experienced officials are taking up new posts at a high rate. Just as high levels of performance and integrity are demanded from officials, management also has to learn to afford officials their rights in terms of legislation. The department is grappling with these challenges, as is reflected in the report below on the performance according to the department's various key performance indicators (KPIs).

KPI 1.1: Reduce the vacancy rate by filling 1 371 of 2 742 vacancies by March 2010

The attraction, selection and appointment of the right people in the right positions is fundamental to achieving the departmental priorities and plans set out in the MTSF. The department's Human Resources Management Strategy seeks to significantly impact on capacitating the department. A total of 3 094 officials were appointed during the period under review, bringing the vacancy rate down from 13.58% (2 858) in the previous period to 10.73% (2 163) in 2009/10.

Table 13: Permanent vacant posts filled in 2010/11

Permanent vacant posts filled	2009/10
Appointments in vacant permanent posts	1 337
Promotions to vacant permanent posts	401
Contract appointments	1 356
Total of vacant posts filled	3 094

Figure 1: Total number of posts filled in 2009/10

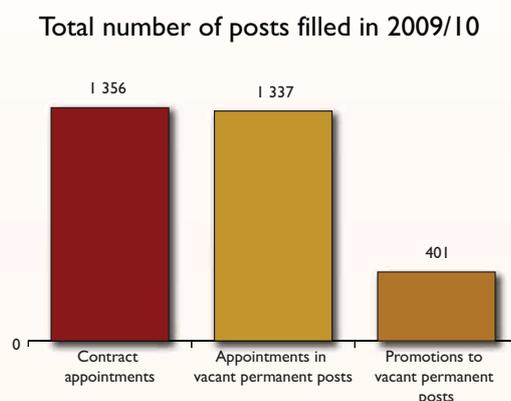


Table 14 illustrates the categories of all posts filled during the period under review.

Table 14: Categories of posts filled in 2009/10

Post level	Total appointments	Permanent posts filled		Contract posts
		Appointments	Promotions	
Judges	30 (0.96% of total posts filled)	20	10	0
Senior management appointments	46 (1.49% of total posts filled)	16	12	18 (1.3% of total contract posts filled)
Middle management appointments (levels 11 and 12)	560 (18% of total posts filled)	32	56	472 (34.81% of total contract posts filled)
Supervisory staff (levels 9 and 10)	151 (4.89% of total posts filled)	63	68	20 (1.47% of total contract posts filled)
Levels 1 to 8	2 307 (74.56% of total posts filled)	1 206	255	846 (62.39% of total contract posts filled)
Grand total	3 094	1 337	401	1 356

Table 15 shows the categories of permanent posts filled (appointment and promotions) during the period under review according to race and gender (excluding contract appointments).

Table 15: Categories of permanent posts filled in 2009/10

Post level	African		Coloured		Indian		White		Total appointments
	Male	Female	Male	Female	Male	Female	Male	Female	
Judges	10	5	1	2	0	2	6	4	30
Senior management appointments	14	8	1	0	1	2	1	1	28

PART 2: PROGRAMME PERFORMANCE

Post level	African		Coloured		Indian		White		Total appointments
	Male	Female	Male	Female	Male	Female	Male	Female	
Middle management appointments (levels 11 and 12)	37	24	1	3	1	5	13	4	88
Supervisory staff (levels 9 and 10)	66	41	4	2	1	8	4	5	131
Levels 1 to 8	558	637	47	103	12	38	21	45	1 461
Grand total	685	715	54	110	15	55	45	59	1 738

Figure 2 shows that 81% of the appointments were of African, 9% of coloured, 4% of Indian and 6% of white employees.

Figure 2: Overall appointments according to race in 2009/10

Overall appointment per race

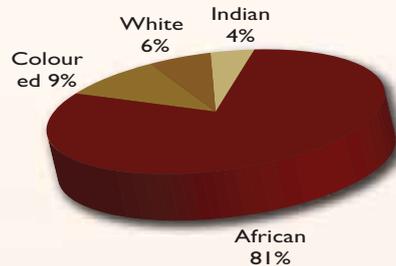


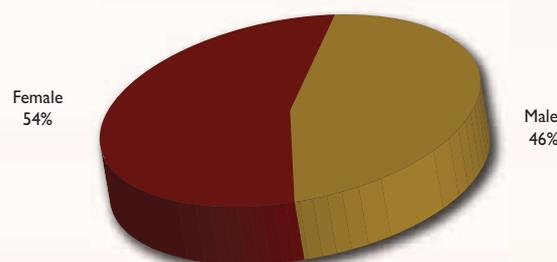
Table 16 reflects the appointments made according gender.

Table 16: Appointments according to gender in 2009/10

Post level	Male		Female	
	Number	Percentage	Number	Percentage
Judges	17	56.67	13	43.33
Senior management appointments	17	62.07	11	37.93
Middle management appointments (levels 11 and 12)	52	59.09	36	40.91
Supervisory staff (levels 9 and 10)	75	57.25	56	42.75
Levels 1 to 8	638	43.70	823	56.30
Grand total	799	46.03	939	53.97

Figure 3: Overall appointments according to gender in 2009/10

Overall appointment per gender



The total percentage of women employed in the department is 53.9%. Of this figure, 43.3% are employed as judges and 37.93% are employed at the senior management levels. These figures indicate that the department is still below achieving its target in terms of key and critical senior positions. However, the overall picture shows that the set targets have been exceeded.

The overall number of paid staff members (head count) in the department during the period under review, in comparison to 2008/09, is shown in Table 17.

Table 17: Head count of staff in 2009/10

Head count	2008/09	2009/10
Permanent posts filled	16 349	17 207
Contract posts	1 627	582
Judges	205	208
Total	18 181	17 997

The statistics shown in Table 17 reveal a reduction in contract appointments in the department by 1 045 in the period under review. This table also reflects the increasing trend in filling permanent positions.

Table 18: Vacancy rate in 2009/10

Vacancy rate	As on 31 March 2009	As on 31 March 2010
Including judges and magistrates	13.58%	10.73%
Departmental staff (excluding judges and magistrates)	12%	11%

During the year under review, 43 (25.15%) of the senior management posts were registered as vacant. In order to ensure effective and efficient service delivery, 26 employees were appointed to act in these vacant senior management posts. Table 19 indicates the branches in which the vacant posts are located.

Table 19: Vacant posts in senior management positions per branch as on 31 March 2010

Branch	Post level	Number
Court Services	13	11
Court Services	14	1
Office of the Director-General, Chief Operating Officer and Office of the Minister	13	7
Office of the Director-General, Chief Operating Officer and Office of the Minister	14	3
Corporate Services	13	10
Corporate Services	14	8
Chief Litigation Officer (CLO)	14	3
Total		43

KPI 1.2: Adherence to employment equity (EE) targets to achieve the target of 50% in women at senior management levels and 2% in people with disabilities at all levels

The recruitment process plays a key role in accelerating the realisation of EE targets. Through this process, a workforce analysis is regularly conducted and vacant positions are identified and earmarked in an attempt to address levels that are underrepresented. An examination of the previous year's workforce profile in comparison to that of the current year shows some positive improvement from 48% in 2009 to 51% in 2010, with specific reference to black people at senior management and middle management levels. There is also a slight change in the figures of women at top management and senior management levels, as well as in the figures of people with disabilities. Table 20 shows the percentages for women and people with disabilities for the current financial year in comparison to those for the previous financial year.

Table 20: Percentage of positions filled by women and people with disabilities in 2009/10 in comparison to the previous financial year

2008/09				2009/10			
Excluding judges and magistrates		Including judges and magistrates		Excluding judges and magistrates		Including judges and magistrates	
Women	People with disabilities						
40%	1.1%	29.3%	0.22%	40%	1.25%	30%	0.44%

Although Table 20 indicates no remarkable progress in the achievement of EE targets during the year under review, the department has put measures in place to ensure adherence to and the achievement of the set targets. The measures include the identification of specific targeted posts and holding management accountable for non-achievement or any deviation from the targets. In addition, the department has embarked on raising the awareness of management on issues of disability support, including the commemoration of Casual Day and International Day of Persons with Disabilities.

KPI 1.3: Achieve 70% of all skills development initiatives against 12 481 planned beneficiaries for the year, as projected in the Workplace Skills Plan

The department is committed to the development of its workforce. This is reflected in its annual Workplace Skills Plan (WSP), which was submitted to the Public Service Education and Training Authority (PSETA) and the Safety and Security Sector Education and Training Authority (SASSETA) respectively.

During the year under review, 15 074 employees and 360 interns were trained. The departmental WSP focuses on generic and core training courses in order to capacitate employees with relevant skills and competencies to render the required professional and efficient service. The targeted officials include junior staff members at levels 2 to 6, practitioners at levels 7 and 8, line supervisors at levels 9 and 10, and middle managers at levels 11 and 12.

KPI 1.4: Finalise 242 outstanding disciplinary cases and 287 outstanding grievances within six months

The department aims to encourage best labour practices and labour peace and equality in the workplace. During the year under review, 187 outstanding grievance cases (65%) and 181 disciplinary cases (75%) were finalised.

One of the identified problems that caused a delay in finalising grievances is the lack of trained and skilled managers. In an attempt to address the identified problem, the department is prioritising a training programme to capacitate line managers to conduct grievance procedures and implement disciplinary hearings. The training for managers on grievances and procedures has been scheduled and training is taking place.

Table 21: Disciplinary cases in 2009/10

Disciplinary cases	Total
Carried over from 2008/09	242
Received in 2009/10	220
Case load	462
Finalised in 2009/10	181
Outstanding by the end of 2009/10	281

Figure 4: Disciplinary statistics for 2009/10

Disciplinary statistics

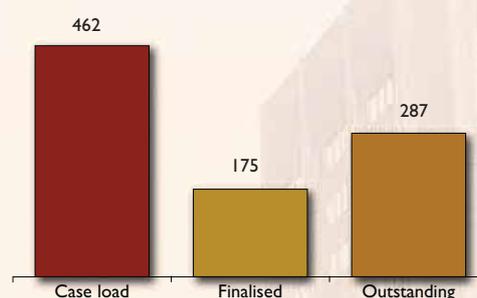
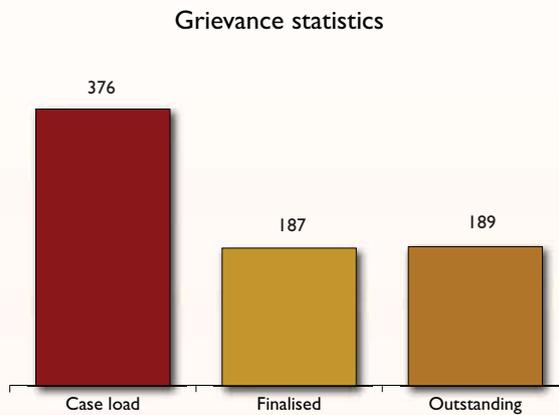


Table 22: Grievance cases in 2009/10

Grievance cases	Total
Carried over from 2008/09	287
Received in 2009/10	89
Case load	376
Finalised in 2009/2010	187
Outstanding by the end of 2009/10	189

Figure 5: Grievance statistics for 2009/10

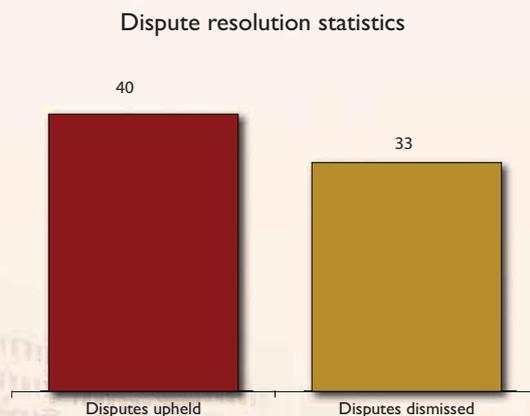


The most grievances lodged were related to performance (92) and salary matters (53). The other 142 grievances lodged related to other cases, such as unfair treatment, gossip, insults, sexual harassment, abuse by a supervisor, acting allowance and appeals related to the Policy on Ill-health and Incapacity Retirements (PILLIR).

Table 23: Disputes lodged in 2009/10

Disputes lodged	Total
Disputes upheld	40
Disputes dismissed	33
Total lodged	73

Figure 6: Dispute resolution statistics for 2009/10

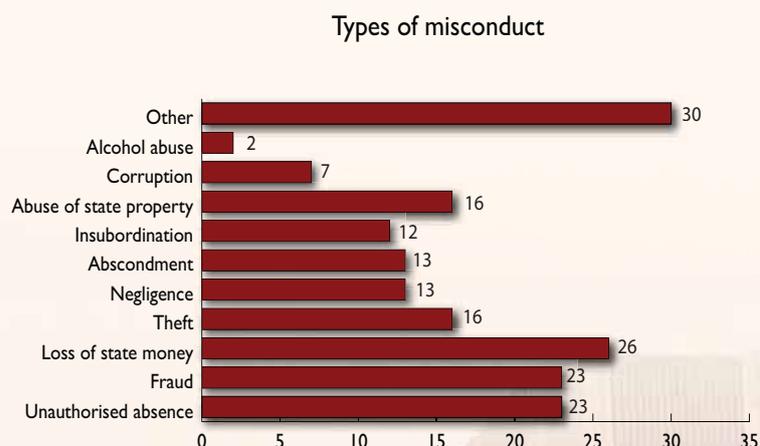


The most common disputes lodged in the period under review related to unfair dismissal (27) and unfair labour practices (46). Table 24 provides typical categories of misconduct cases in the department during the period under review.

Table 24: Types of misconduct addressed in 2009/10

Types of misconduct cases	Total
Unauthorised absence	23
Fraud	23
Loss of state money	26
Theft	16
Negligence	13
Abscondment	13
Insubordination	12
Abuse of state property	16
Corruption	7
Alcohol abuse	2
Other	30
Total	181

Figure 7: Types of misconduct addressed



The 30 other misconduct cases referred to in Table 24 include charges such as nepotism, political activities during working hours, conspiracy to commit theft, refusing to carry out instructions, bringing the department into disrepute, unauthorised expenditure and loss of an estate file. A total of 45% (79) of the misconduct cases involve action taken against officials in breach of regulations relating to the management of state assets.

The department follows a zero-tolerance approach in such matters. Some 21% of the cases relate to unauthorised absence, alcohol abuse and abscondment. While it is mindful of

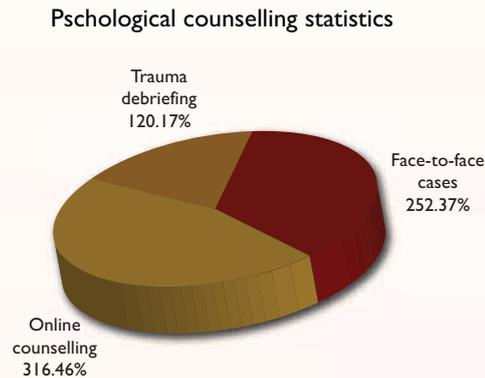
illness-related absenteeism, the department requires officials to account for absenteeism and takes corrective action where necessary.

KPI 1.5: Provide Employee Health and Wellness Programme (EHWP) management services to 100% of referred cases

The department recognises that its employees are its most important assets. For this reason, it aims to provide an environment in which employees can work productively and effectively to deliver services to the public. The provision of EHWP services demonstrates the department's commitment to enhancing health and wellness in the workplace.

Psychosocial counselling services

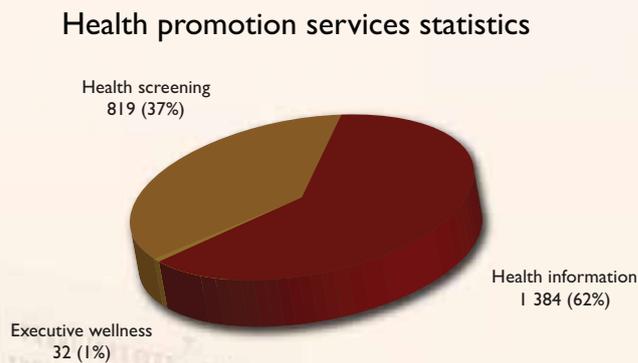
Figure 8: Psychological counselling statistics in 2009/10



Psychosocial counselling is divided into three categories: face-to-face support, online counselling and trauma debriefing. These services are provided to employees in distress who need immediate help. According to Figure 8, more employees utilised the online counselling service as opposed to face-to-face counselling. Online counselling offers a variety of services that ranges from therapeutic counselling to medical, legal and financial advice, hence the high utilisation rate.

Health promotion services

Figure 9: Health promotion services statistics in 2009/10



Health promotion services are focused on capacitating employees with the necessary skills and information for personal wellbeing and encouraging health-seeking behaviour. Figure 9 shows that 819 employees were screened nationally to check their blood sugar levels, cholesterol, blood pressure and body mass index. In many cases, health information sessions were facilitated by experts from a variety of fields. The information session covered matters of personal and financial wellness, cancer management, alcohol and other substance abuse, epilepsy management and swine flu management.

The department also provided the Executive Lifestyle Management Programme exclusively to senior managers.

The objectives of the programme are as follows:

- Maintain the working ability of senior managers.
- Promote healthy and balanced lifestyles.
- Transform senior managers into role models in the department.
- Maximise management potential and performance.

HIV and AIDS Programme

Table 25: Support provided by the HIV and AIDS Programme in 2009/10

Prevention	Care and support	Monitoring and evaluation
Voluntary counselling and testing: 528 employees	Training of peer educators: 22 employees	Surveying employees in all regions on knowledge, attitude and practices on HIV and AIDS: 2 165 employees
Awareness sessions: 786 employees		Actuarial study conducted

In the period under review, World AIDS Day events were coordinated in seven regions, where 786 employees were reached. Information that was disseminated included the prevention of stigma and discrimination. World AIDS Day was commemorated in the department under the theme *Together let us make noise and blow AIDS away*.

STRATEGIC OBJECTIVE 2: PROVIDE TRAINING TO ALL LEGALLY QUALIFIED STAFF THROUGH THE JUSTICE COLLEGE

The Justice College is the department's official training arm. It provides training to employees of the department, including the NPA and the lower court judiciary. As such, it is responsible for the training of all officials. The training seeks to ensure improved service delivery to the community and affected parties, as well as ensuring competency among staff to ably demonstrate necessary and appropriate skills and knowledge in their individual work environments.

KPI 2.1: Implement the policy framework to ensure that the Justice College provides training as required

In the period under review, a position paper was developed that explored the role and future of the

Justice College. The paper aimed to foster a new direction for the college. The paper enabled the college to give effect to implementing capacity-building aspects and the commitments of bilateral and multilateral agreements that are in existence. It defined a policy on how to ensure that the legal practitioners are trained by the college. The paper also ensured that a governance structure was established for the college to ensure its relevance and compliance with legislation. The Policy on the Repositioning of the Justice College was developed after a consultative process.

KPI 2.2: Provide training to at least 50% of the department's staff in identified priority areas

The Justice College's work programme is published annually. The programme is partly the result of needs assessments conducted and emanating from various forums, and of a determination by some stakeholders, for example, the Aspirant Magistrates' Programme. The programme specifies quantities per course that are required. The planned quantities in terms of the programme presently amount to approximately 40% of the department's staff. The percentage will be increased to 50% by 2012.

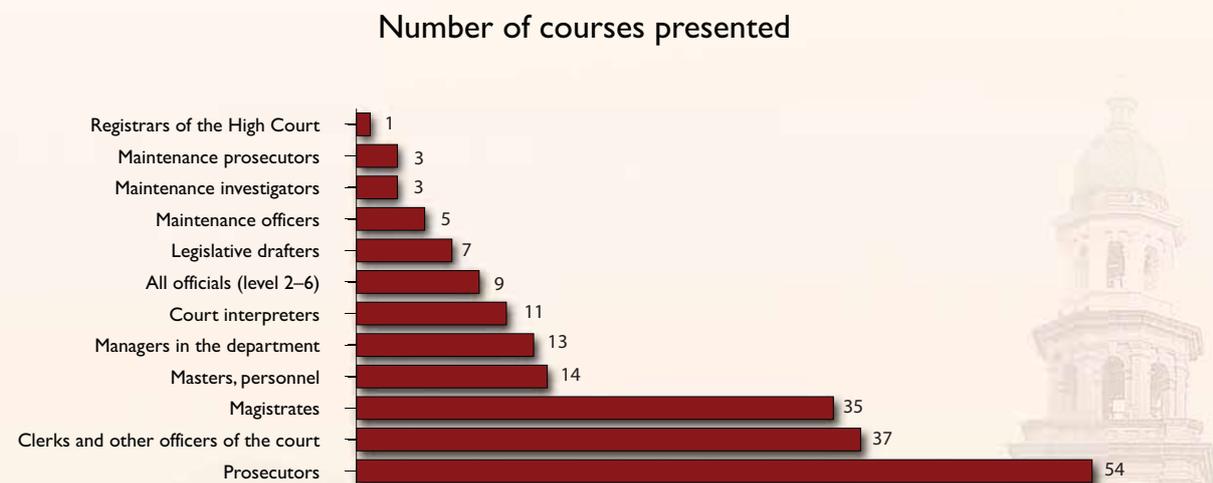
PART 2: PROGRAMME PERFORMANCE

During the period under review, 192 training courses were presented and 5 613 officials were trained. This amounted to approximately 39% of the staff complement. The statistics for this period are reflected in Table 26.

Table 26: Training provided by the Justice College in 2009/10

Trainees	No of courses presented	Total delegates trained
Magistrates	35	1 668
Clerks and other officers of the court	37	926
Registrars of the High Court	1	10
Maintenance officers	5	99
Maintenance investigators	3	73
Maintenance prosecutors	3	61
Court interpreters	11	322
Masters' personnel	14	371
Prosecutors	54	1 452
Managers in the department	13	313
All officials (levels 2 to 8)	9	230
Legislative drafters	7	88
Total	192	5 613

Figure 10: Number of courses presented by the Justice College in 2009/10



The Justice College has developed a unit standard (Applying the Promotion of Administrative Justice Act, 2000, (Act No. 3 of 2000), which was registered with the South African Qualifications Authority (SAQA)

on 16 March 2010. Outcomes-based training material has been developed and aligned to this unit standard. Roll-out of this training should commence in the next financial year.

STRATEGIC OBJECTIVE 3: ENSURE UNQUALIFIED AUDIT REPORTS ON FINANCIAL STATEMENTS

KPI 3.1: Produce monthly financial noncompliance review and reporting to management by 2009/10

The department aims to promote best public financial management practice and wants to ensure effective processes and service delivery improvement. The Office of the Chief Financial Officer (CFO) comprises the following chief directorates:

- Financial Transaction Processing and Reporting Services
- Third Party Funds
- Guardian's Fund
- Budgets
- Supply Chain Management
- Costing Services

Monthly financial statements

The department operates on a decentralised financial management model, where the CFO defines the minimum financial standards to be complied with. Financial instructions, such as Departmental Financial Instructions and a Supply Chain Management Policy and Procedure Manual, were designed and are utilised to ensure effective financial management throughout the department. There are currently 537 points from which data is collected through the National Operations Centre that directly impacts on the information disclosed in the financial statements. It is the objective of the department to compile statements on a monthly basis in order to derive the maximum benefit from the process.

However, efforts to compile financial statements on a monthly basis have not been successful, as the department struggled to gather information required for the accrual accounting financial statement disclosure notes.

In order to address these issues, a task team visited the regions to provide essential training on the principles

of accrual accounting. Furthermore, templates were designed to facilitate the capturing of information required for the disclosure notes. In order to further enhance the quality of the information submitted at year-end, a dedicated official from the Office of the CFO was deployed in each of the regions during March and April to assist with capacity and skills and to do physical verification and quality control to ensure the accuracy and completeness of the information submitted.

Budgets and expenditure overviews and analysis

Budget expenditure status reports are compiled on a monthly basis and submitted to the Executive Committee (EXCO) and National Treasury as required by the Public Finance Management Act (PFMA). The reports to EXCO sensitise the committee to over- and underexpenditure and encourage them to take decisions on a timely basis in order to redirect funds.

It is anticipated that the expenditure for the financial year will amount to not less than 99% of the budget. It is envisaged that the way forward will be for branches to submit business plans in order to monitor expenditure against allocated budgets.

Progress reports on audit action plans

Audit action plans were compiled, based on the audit findings of the previous years. In order to efficiently drive the process, action plans were divided into financial statement components and national office champions were appointed to deal with each component. The aim with this approach was to ensure that the actions taken and progress made supported the efforts to ultimately eliminate the audit findings on the financial statements of the department. The progress by regions and branches was reflected on the monthly action plan submissions and consolidated by the champions for reporting to the EXCO, the Audit Committee and other stakeholders. In order to get assurance, national office champions were required to verify the effectiveness of the corrective measures on a sample basis.

The impact of the Third Party Funds on the vote account

The qualification for the previous year refers to the impact of the financial administration of the Third Party Funds (TPF) on the departmental revenue, contingent liability and receivables for departmental revenue reflected in the department's vote account. The process to introduce the necessary legislation to regulate the accounting and legal framework and establish the TPF as a separate entity is well on its way. It is envisaged that this will be finalised during the latter part of 2010.

Employee benefits

The audit report for the previous year was qualified due to a lack of control over the timely capturing of leave taken. Leave credits of officials are used as the basis for the calculation of the provision for employee benefits and the late capturing of leave impacted negatively on the calculation of the provision of leave entitlement. Actions indicated on the action plans, inter alia, include the following:

- Exception reports on the late capturing of leave are generated from PERSAL on a regular basis and actions are taken on the late capturing of leave;
- The management of leave for certain offices and national office branches has been centralised;
- Regional offices are visited on a regular basis and spot checks are performed to ensure compliance;
- Workshops are held on various human resources matters, including leave;
- Disciplinary action is taken against office managers who do not comply with the requirements;
- Various circulars on the capturing of leave and other related matters have been issued to ensure compliance; and

- The department enhanced controls to ensure that leave forms are correctly filed.

Finance lease commitments

The qualification for the previous year refers to the issue of inadequate supporting documents, filing and retrieval, and the consequent failure to rely on the department's calculation in the absence of requested agreements. To address the issue of the control of lease hire equipment, a task team compiled a database of all lease commitments through an exercise where all leased equipment was identified and matched to documentation on hand. For all leases for which documentation could not be readily located, assistance in the replacement and location of copy agreement documents from leased asset suppliers has been sought. In some instances, it was necessary to redraft documentation to capture salient agreed details on commitments with suppliers and thus establish a retrospective rectification for commitments without documentation.

Irregular expenditure condoned

Finance leases are prohibited by National Treasury Regulations for all departments. However, a global National Treasury acceptance exists for all lease equipment conforming to certain criteria. The compilation of a complete database for all lease equipment will assure full compliance with the criteria for both past and future acquisitions.

Capital and minor assets

The crux of an efficient asset administration system is quarterly asset verification processes. Various circulars have been issued to ensure that the verification process (manual and electronic by means of scanners) is done accurately and timeously. A national office team verifies compliance in this regard on a sample basis at regional offices and larger courts.

Further actions include the following:

- Continuous reconciliation between the Basic Accounting System (BAS) and the Justice Yellow Pages (JYP) to ensure that all newly acquired assets appear on the asset register and that the expenditure on the BAS is correctly classified in terms of the Standard Charter of Accounts (SCoA);
- Ensuring that adjustments to the annual financial statements are supported by proper documentation and that the audit trails in the asset register are reviewed on a continuous basis by making use of computer-assisted audit techniques;
- Ensuring that the implementation of a distribution management store at the national office receives urgent attention. Once implemented, it will ensure that all assets are delivered at a central point at the national office to exercise control over the bar-coding and accounting of assets in the asset register;
- Reviewing documentation on disposal files monthly to ensure that all disposals are removed from the system;
- Checking assets disposed on the system against the disposal files to see if all disposals are substantiated with the necessary documentation; and
- Reviewing disposal processes and procedures to determine if they are adequate to ensure that the necessary documentation exists and is available at the national office for audit purposes.

Key governance responsibilities

The filing of the relevant documentation for employee files remains an ongoing problem. Registers have been introduced to keep track of the flow of documentation. It is envisaged that this will, to a large extent, assist with the

tracking of files and documentation. Biweekly communication between Human Resources and the Registry has been introduced to identify and address problems. Furthermore, Human Resources is performing spot checks to ensure that documents are filed. Non-compliance is escalated and the necessary action is taken.

The financial statements from the previous year were subjected to material amendments resulting from the audit. As highlighted in previous paragraphs, financial information generated from the BAS is not qualified. However, the functionality of the BAS is inadequate in so far as disclosures are concerned, as it was developed for a cash accounting environment and not for an accrual environment. The amendments that were effected on the financial statements can be directly linked to the process of gathering information. This issue will be addressed by the task team that was established to provide essential training, as well as the dedicated officials from the Office of the CFO who were deployed in the regions to assist with capacity.

Training

The training of officials to capacitate them with the required financial skills was done on an ongoing basis. Training initiatives included the following:

- The Office of the CFO, as a support service, capacitated 1 345 employees through a SCoA training initiative to ensure the correct allocation of recorded expenditure and revenue transactions.
- National workshops, attended by 778 officials, were held detailing the financial process and procedures that must be applied to comply with departmental prescriptions.
- Regional training was provided through video-conferencing on assets and open orders to enhance JYP skills and ensure compliance.

KPI 3.2: Ensure full compliance with all prescripts on supply chain management by 2009/10

The CFO initiated a structured plan to review and improve the department's supply chain management (SCM) operations. This commitment was intensified during 2009 through a formal assessment programme leading to the current recovery plan being executed in the department.

During the financial year, the department engaged in an in-depth assessment of its operations to identify the key service drivers and construct a road map towards improvement. In the assessment process, a number of deficiencies were recognised in the SCM division.

Following this assessment, the department formalised a structured programme aimed at addressing the challenges. Since the inception in mid-2009, a number of activities have already been implemented, creating a platform for the formal improvement plan scheduled for 2010 and 2011. Some of these achievements included the revision and alignment of SCM business processes, the appointment and commissioning of departmental bid committees, and the appointment of the management structures required to deliver the recovery plan.

The revision of business processes resulted in an amended organisational structure, which is being staffed with the appropriate skills. Recognising the specific skills required, a new chief director and director were appointed from within the government environment to lead the transformation process. New delegations have been initiated to empower the new structure to fulfil their duties, aligned to updated policies and regulations.

Implementation of the derived road map will continue into the following financial term to address the remaining key issues. All the department's locations were subjected to a physical asset verification process. Directives by

means of circulars were issued and distributed to all offices in the department to strengthen their internal controls. Verification processes, as well as annual stocktaking, were executed under the supervision of a project leader and verification teams. During the period under review, regional heads successfully reported on the asset verification for their respective regions.

STRATEGIC OBJECTIVE 4: ENSURE SOUND MANAGEMENT OF THE THIRD PARTY FUNDS

KPI 4.1: Complete roll-out of the Management of Monies in Trust Public Private Partnership (MMT PPP) by 2010/11

Third Party Funds refer to monies administered by the department on behalf of the judiciary for third parties. This includes maintenance, bail, court fines and state attorney recoveries.

The nature and volume of transactions, as well as the distribution of service points (489 bank accounts), pose a challenge for the department, given the level of required sophistication of the technology systems and the skills of personnel.

The department has attempted to improve the management of these funds over the last five years. Starting with totally paper-based transaction processing, the department implemented the Justice Deposit Account System (JDAS). The objective was to improve the administration and service delivery of these monies, in particular maintenance monies. The system has been progressively enhanced over the last three years to the current version, JDAS4. The automation has also reduced the risk of fraud and theft. Like all systems, the risk of fraud has not been eliminated and the department continuously detects instances of fraud and theft in various courts. The policy of zero tolerance for financial misconduct is strictly applied in the department.

JDAS was designed as a case administration system, with a functionality of recording payments and receipts, and not as a financial accounting system with prescribed accounting capabilities. The further reporting enhancement of JDAS, by means of the Justice Management Information System (JMIS), has improved the generation of management reports that assist in the compilation of financial management information.

Data integrity concerns regarding completeness, accuracy and validity of information and systems constraints led to a low level of reliance placed on the TPF financial statements for the 2008/09 and 2009/10 financial years. It is for this reason that the department took the decision not to consolidate and/or submit these financial statements to the Auditor-General for auditing purposes. The department will shortly issue a tender inviting interested parties to assist the department in verifying all transactions in the TPF accounting environment.

In light of the aforementioned, the department sought and obtained the support of National Treasury and Parliament for the Public Private Partnership to develop a new TPF Financial Management System.

Unfortunately, shortcomings in the TPF area have a negative effect on the rest of the department's financial report, as the fund's activities are directly linked to departmental revenue and other disclosure requirements included in the vote financial statements.

An estimated R5.8 billion beneficiary receipts (12 million receipts) and R5.7 billion beneficiary payments (11.8 million payments) were managed at 489 courts and/or State Attorney's offices.

In order to enhance service delivery during the 2009/10 financial year, the department made 1 756 million payments (2008/09: 1.168 million) to maintenance beneficiaries through electronic funds transfer (EFT) to the amount of R965 million (2008/09: R623 million).

In order to address the long-running challenges of coping with the overwhelming transaction volumes and increasing complexity, the department has reached out to the private sector to form a partnership that can ensure that the people of South Africa receive the service they deserve and that public accountability is maintained.

This partnership between private business and the department, which required many hours to formulate and structure an agreement, has reached its final stages. It is envisaged that this process will be finalised in the 2010/11 financial year.

The TPF PPP will remove most cash handling from courts, Master's offices and state attorneys, transferring the risk to a private party (PP). The PP will, in short, be responsible for the financial management (receipts, payments, record-keeping and financial reporting) and the provision of a front-end financial administration system – the Third Party Accounting System (TPACS) – for the partnership period, while the department will remain responsible for all the administrative and legal duties attached to the management of Third Party Funds.

STRATEGIC OBJECTIVE 5: IMPROVE PERFORMANCE MANAGEMENT AND REPORTING

KPI 5.1: Ensure integrated reporting systems on financial and non-financial performance information

During the period under review, the department aligned the Medium-term Expenditure Framework (MTEF) to the Medium-term Strategic Framework (MTSF). The alignment of these two planning documents ensures that the reporting of financial and non-financial information is integrated to ensure that the EXCO and other decision-making forums understand the critical successes and challenges of the department.

The department's quarterly reports and annual report contained integrated reporting of both financial and non-financial reports. Managers were also encouraged to undertake integrated planning across their programmes. The integrative reporting also ensured that quarterly reviews were successfully conducted on both reports. In addition, the department's MTSF now projects targets set in the Estimates of National Expenditure (ENE) and those set in the JCPS Cluster Programme of Action. This allows for a robust reporting and a better materialistic report on the performance of the department.

KPI 5.2: Improve National Operations Centre capacity at regional offices

The department aims to improve performance management and reporting by improving National Operations Centre (NOC) capacity at the regional offices. The function of the NOC is to gather operational data throughout the department. It provides business information on the management of financial resources, human resources, court and case flow management, probation services and other service delivery programmes. A major focus of the NOC is to provide a framework for measuring performance that will reflect the systems adopted in each of

the critical areas mentioned above as a system of closely interlinked processes and tasks in the integrated justice system. During the year under review, no posts were created and filled due to financial constraints. However, job evaluation of the identified positions was conducted and finalised.

KPI 5.3: Develop and implement the departmental planning cycle to be aligned to the government planning cycle by 2009/10

The department aims to ensure sound governance, accountability and compliance regimes by providing executive support and effective monitoring and evaluation services. This involves the development and implementation of a strategic planning cycle that is aligned to the government planning cycle.

The strategic planning cycle was developed and approved by the EXCO and senior management. Changes regarding time lines on budgeting and performance contract matters were made to meet the reporting requirements of National Treasury and the Department of Public Service and Administration (DPSA). Table 27 shows the schedules of planning times in the department during the year under review.

Table 27: Schedules of planning times in 2009/10

Activity	Time line	Responsibility
Establish planning parameters	February	Minister, Deputy Minister and Chief Operating Officer
Establish plan scope	February	Director-General, Chief Operating Officer; deputy directors-general, Chief Financial Officer and HoS
Conduct scenario analysis	March	Director-General, Chief Operating Officer; deputy directors-general, Chief Financial Officer; chief directors and HoS
Define vision, mission and principles	April	Director-General, Chief Operating Officer; deputy directors-general, Chief Financial Officer; chief directors and HoS
Define brand and values	April	Director-General, Chief Operating Officer; deputy directors-general, Chief Financial Officer; chief directors and HoS
Detail resource needs (MTEF)	May	Director-General, Chief Operating Officer; deputy directors-general, Chief Financial Officer; chief directors and HoS
Develop strategies (MTSF)	May	Chief Operating Officer; deputy directors-general, Chief Financial Officer; chief directors, directors and HoS
Set strategic priorities and allocate resources	June	Director-General, Chief Operating Officer; deputy directors-general, Chief Financial Officer and HoS

Activity	Time line	Responsibility
Submit expenditure estimates to National Treasury	July	Director-General, Chief Operating Officer; deputy directors-general, Chief Financial Officer and HoS
Set corporate targets and indicators	September	Director-General, Chief Operating Officer; deputy directors-general, Chief Financial Officer and HoS
Develop corporate service plans	October	Director-General, Chief Operating Officer; Deputy Director-General: Corporate Services, Chief Financial Officer; chief directors, directors and HoS
Consult stakeholders	October	Director-General, Chief Operating Officer; deputy directors-general, Chief Financial Officer; chief directors and HoS
Develop branch business plans	November	Deputy directors-general, chief directors, directors, Chief Financial Officer; Chief Director: Corporate Services and HoS
Develop regional and unit plans	December to January	HoR, directors, Chief Financial Officer and HoS
Sign individual performance contracts	March	All members of the Senior Management Service

The changes in the executive leadership of the department in the second term of the year under review presented the department with an opportunity to review its strategic direction and to refocus the department towards the new national priority outcomes. During the period under review, the Minister convened an Annual Strategic Review Conference to define the new vision and priorities of the department. The conference resolved to achieve the following:

- Elevate and strengthen the role of constitutional development;
- Strengthen and capacitate the Office of the Chief Justice;
- Develop policy and legislative framework for the establishment of the Court Administration Agency;
- Improve internal control systems to achieve unqualified audit reports in financial and human resources;
- Strengthen governance and entity oversight;
- Provide sound leadership of the JCPS Cluster;
- Implement the Seven-point Plan of the Criminal Justice System Review;
- Improve the delivery of services by the Master of the High Court;

- Improve the department's monitoring and evaluation system;
- Implement the recommendation of the Truth and Reconciliation Committee; and
- Ensure readiness for the 2010 FIFA World Cup™.

Most of these priorities had far-reaching policy shifts. During the period under review, the department also became the leading agency for the JCPS Cluster and thus took over the cluster's approved outcome, "To make the public feel and be safe", as part of its strategic direction. In line with the outcomes-based model approved by Cabinet in January 2010, it became necessary for the department to adopt an outcomes-based strategy that provides the best prospects for the future success of the department and its role as the lead department in the JCPS Cluster:

STRATEGIC OBJECTIVE 6: IMPROVE BUSINESS PRODUCTIVITY THROUGH INFORMATION TECHNOLOGY

The department aims to improve business productivity across all its programmes and service delivery initiatives by modernising its information technology (IT). The Information and System Management Unit focuses on the delivery of the following:

- Strategic management and planning to establish and maintain information communication technology (ICT) planning, IT strategy and architecture, programme management and ICT procurement, including the coordination, monitoring and evaluation of the Integrated Justice System (IJS) Board activities and systems integration across the criminal justice cluster; and
- Systems management and optimisation to manage the service providers responsible for the development and enhancement of application systems and the maintenance and support of the IT infrastructure environment (LAN) environment, the wide area network (WAN) environment and the general IT operations.

To achieve these objectives, the department planned to do the following:

- Automate the manual processes;
- Roll out the solution to all sites countrywide;

- Install a functionality to archive information;
- Provide the Justice Management Information System (JMIS) and statistical reports extracted from the system to assist managers;
- Ensure access to systems and the availability of information to users; and
- Integrate solutions to improve on the quality of data, statistics and capture time.

KPI 6.1: Provide 95% uptime of network and applications to authorised users

During the year under review, uninterrupted power supply (UPS) solutions were deployed to the identified sites. The intrusion prevention and performance monitoring tools were procured and are currently being configured according to departmental needs. The department faced challenges with the replacement of the remote installation server (RIS) due to procurement delays. The project is expected to begin in the next financial year.

Table 28 illustrates the progress made on each project.

Table 28: Progress with IT projects in 2009/10

Project	Status
UPS roll-out	All units were delivered and invoices finalised. The project is 95% completed.
RISs out of warranty	There was a problem with the service provider recommended by the State Information Technology Agency (SITA) due to certification. The Departmental Bid Allocation Committee (DBAC) advised the department to withdraw the submission. The implications are huge, due to the impact of the out-of-warranty RISs.
End-to-end performance management tool	Project implementation is underway. The project is 43% completed.
Intrusion prevention services (IPSs)	Project implementation is underway. The project is 80% completed.

KPI 6.2: Roll-out archival solutions and information lifecycle management (ILM)

The procurement of this solution did not materialise during the 2009/10 financial year, due

to tender and procurement delays. However, the DBAC indicated that funds are available for this purpose and therefore the tender is expected to be finalised in the new financial year.

KPI 6.3: Produce a report on the development and roll-out of identified Department of Justice and Constitutional Development ICMS modules to respective branches

During the period under review, one of the major projects aimed at improving business productivity was the development and roll-out of the Integrated Case Management System (ICMS) that spans all disciplines of cases administered in the justice environment. ICMS is a business solution that integrates a number of business modules to perform information warehousing, case numbering and document scanning. The specific functionality for each court and office is then built around these foundations. The following offices have already started to experience the benefits of improved processing times and system-driven management of their cases through the ICMS:

- Master's offices
- National Register for Sex Offenders and Certificate Issuance System

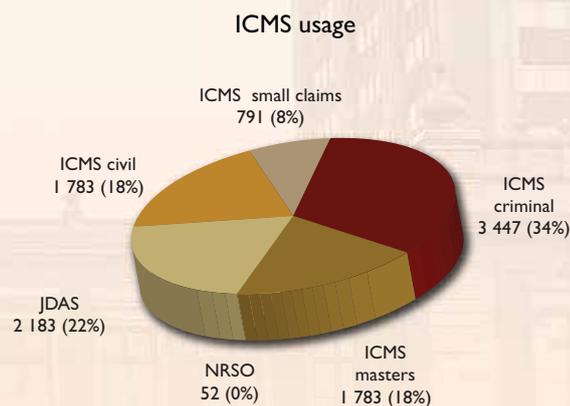
- Criminal lower courts (Justice Deposit Account System included)
- Civil lower courts
- Civil high courts
- Small claims courts
- Financial Disclosures System
- ICMS Integration with the Case Administration System (CAS) of the South African Police Service (SAPS)

Some IT solutions, such as the Financial Disclosures System and the ICMS Integration with the CAS of the SAPS, are currently in the pilot phase. Once fully tested and approved, they will be fully deployed to all identified offices. These solutions are also very important in enhancing the department's organisational efficiency. Table 29 and Figure 11 illustrate how these pilot solutions are being utilised.

Table 29: Utilisation of IT solutions in 2009/10

ICMS usage	Users	Transactions
ICMS civil courts	1 783	41 498
ICMS small claims courts	791	45 187
ICMS criminal courts	3 447	277 694
ICMS Master's offices	1 783	81 292
National Register for Sex Offenders	52	225
Justice Deposit Account System	2 183	11 328 000

Figure 11: ICMS usage in 2009/10



In addition, the JMIS, which was developed and rolled out in the previous years, is now fully functional. The system harvests data from all the ICMS modules to provide the department with real-time management information and statistics on case management on a national level down to courtroom level.

KPI 6.4: Ensure approval of user requirement specifications and design specifications for the national criminal justice system information system

During the period under review, the user requirement specification (URS) for each participating integrated justice system (IJS) was approved. The implementation is expected to begin soon in the new financial year. Nine of the 28 key performance indicators approved by Cabinet will be made available through the IJS GIS/BI (Business Information) portal.

KPI 6.5: Video-conferencing rolled out at 12 courts and six correctional facilities

During the period under review, video-conferencing solutions were installed in 47 magistrate's courts and two correctional facilities. Of the 47 courts, seven have been linked to the two correctional facilities and the remaining 40 courts will be linked to the 20 planned correctional facilities by August 2010. The delay has been caused by the outstanding refurbishment projects at the 20 identified correctional facilities. This project is being conducted by the Department of Public Works (DPW). However, 13 Correctional Services sites due for refurbishments are at 90 to 98% completion. The linking of the solution between the Pretoria magistrate's courts, Pretoria North, Temba and Ga-Rankuwa, and the Pretoria Correctional Facility has been effected, as well as between the St. Alban's Correctional Facility and the Port Elizabeth Magistrate's Court. In addition, video remand equipment has been deployed to 46 of the 47 court sites, including the Pretoria Correctional Facility.

STRATEGIC OBJECTIVE 7: IDENTIFY AND MANAGE CORPORATE RISKS AND IMPROVE CORPORATE COMPLIANCE AND ACCOUNTABILITY

KPI 7.1: Identify corporate risks and implement the Corporate Risk Management Framework by 2009/10

During the period under review, National Treasury evaluated the strength of the department's enterprise-wide risk management and gave the department a level 3 rating. This means that the department is at a control phase and thus satisfies the legislative requirements. The department has taken various initiatives to mitigate the identified risks, including filling key vacancies, providing training and developing processes to manage the supply chain.

KPI 7.2: Monitor the implementation of measures to prevent and combat fraud and corruption by 2009/10

The department continued with the implementation of the 2006 Fraud and Corruption Prevention Plan, which includes the implementation of the Fraud and Corruption Prevention Communication. This is in line with the Public Service Anti-corruption Strategy as well as the Minimum Anti-corruption Capacity (MACC) requirement guidelines for the public service. In terms of preventative measures, the focus was on targeting compliance in the Senior Management Service (SMS) Financial Disclosure Framework, the ongoing process of ensuring the security competence of employees regarding security clearances, reviewing the current Fraud and Corruption Prevention Plan, and reviewing the Whistle-blowing Policy and the Security Vetting Policy.

KPI 7.3: Secure 127 justice service delivery points with integrated security infrastructure

In line with minimum information security standards, minimum physical security standards

and other relevant legislative requirements, the department continues to monitor and improve its security controls by installing Integrated Security Infrastructure.

Integrated Security Infrastructure (ISI) aims to install and upgrade security systems at court buildings. ISI includes installing perimeter fences, closed-circuit television (CCTV), access control, alarm systems, secured cash offices, secured records rooms, secured trial-awaiting detainees' acceptance routes, secured individual courtrooms, as well as judges', magistrates' and prosecutors' chambers and office areas and on-site operational control rooms where all the subsystems of security infrastructure will be monitored. This system is supported by 24-hour guarding and cash-in-transit services.

During the period under review, the department identified courts that are in high-risk areas. Forty rapid security assessments were conducted to identify security risks and other vulnerabilities at a high level per site. Project definition reports have been completed and approved for 10 sites. These documents depict a full breakdown of each site, the material and infrastructure requirements that are needed to ensure full configuration and the commissioning of all systems. These ten sites are in Bloemfontein, Johannesburg, Kempton Park, Kimberley, Nelspruit, Nsikazi, Polokwane, Port Elizabeth, Pretoria and at the Pretoria North Magistrate's Court. Furthermore, other subsystems of the ISI were installed as follows:

Table 30: Installation of subsystems of the ISI

CCTV	Perimeter fences	Access control	Burglar proofing	On-site control rooms	Security lighting
11 court buildings	10 court buildings	26 court buildings	9 court buildings	3 court buildings	3 court buildings

In addition, during the period under review, 2 604 identification cards were issued to departmental officials, including members of the judiciary, to strengthen access control at court buildings. Twenty-four-hour guarding and cash-in-transit services were approved countrywide. Some 257 firearms were audited and are ready for destruction. The department also coordinated and provided security services in consultation with other security agencies at all departmental events, including transit security support to VIPs.

During the period under review, an additional 23 courts dedicated to the 2010 FIFA World Cup™ were identified and given priority. Project definition reports have been completed and approved for piloting at 10 sites. These documents depict a full breakdown of each site and what the material and infrastructure requirements are in order to ensure full

configuration and commissioning in line with the service level agreement. The 10 sites are in Bloemfontein, Johannesburg, Kempton Park, Kimberley, Nelspruit, Nsikazi, Polokwane, Port Elizabeth, Pretoria and at the Pretoria North Magistrates' Court. Currently, the above mentioned security measures are being installed at these ten sites. They will be completed by October 2010.

KPI 7.4: Roll-out of CCTV at all Thuthuzela care centres

In the last two financial years, the department has provided 282 CCTV systems to capacitate the courts to provide better protection to vulnerable victims who can give evidence in a different room to the one holding the complainant. No CCTV systems were provided at Thuthuzela care centres, due to financial constraints.

KPI 7.5: Conduct and finalise 240 departmental and 60 NPA audit projects as approved by the Audit Committee by 2009/10

The department has committed itself to providing assurance and advisory services regarding the adequacy, efficiency, economy and effectiveness of the risk management, internal controls and governance processes as designed and implemented by management to ensure that the objectives are achieved.

The department is therefore required to conduct risk-based audits. The audit projects that were conducted were identified, taking the following factors into account:

- Risk assessments that were conducted by both the Internal Audit and Risk Management units
- Previous Internal Audit and Auditor-General reports
- Emerging issues
- Concerns raised by the Audit Committee, management and the Standing Committee on Public Accounts (SCOPA)

During the period under review, the department conducted and finalised 193 of the 240 identified auditing projects and 50 of the 60 identified audit projects for the NPA.

The department also conducted ad hoc auditing projects (51 departmental projects and 27 for the NPA), which were added to the Audit Plan, as well as the NPA audits at court level (47 reports were issued). The reported findings and identified common causes have been reported to management, which has undertaken to institute corrective measures. Significant findings with audit recommendations that have been reported to management cover the following areas:

- Management of Third Party Funds
- Leave management
- Asset management
- Performance management
- Financial management
- Stationery management
- Library
- Government vehicles
- Telephone management

A total of 23 departmental and three NPA audits were still in progress, while 24 departmental and seven NPA audits were outstanding. The outstanding audits will be rolled over to the next auditing cycle and will be in line with the auditing priorities of the new financial year.

In addition, the period under review saw improved governance, risk and controls in the audit environment, as reflected in the Internal Audit recommendations.

Figure 12: Departmental audit projects in 2009/10

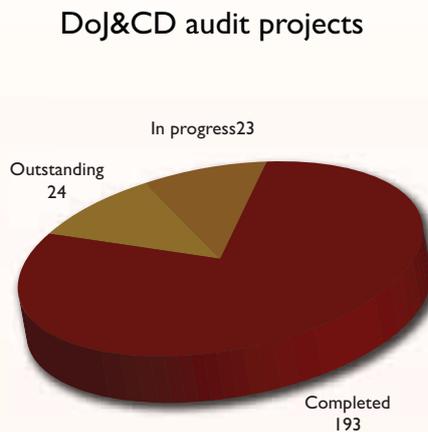
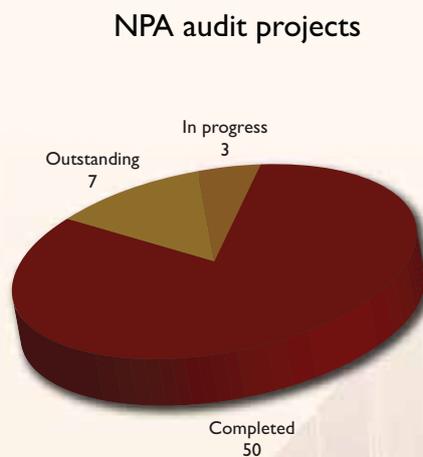


Figure 13: NPA audit projects in 2009/10



STRATEGIC OBJECTIVE 8: COMBAT FRAUD AND CORRUPTION IN THE DEPARTMENT

KPI 8.1: Ensure the development and approval of the department's Corruption and Fraud Prevention Plan

The current Fraud Prevention Plan was reviewed and consultations took place in the department. The plan is expected to be fully implemented in 2010/11 after approval by the Audit Committee and the Director-General. The revised Whistle-blowing Policy not only includes the Protected

Disclosures Act, but includes, among others, the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004). In order to streamline better coordination of security vetting and personal suitability checks (prescreening), the Security Vetting Policy has been revisited to ensure its relevance to current developments.

KPI 8.2: Develop and ensure that risk mitigation plans for all high and medium risks relating to fraud and corruption are approved

During the period under review, fraud risk assessments were conducted as part of the

operational risk assessment and reviews. Mitigation plans were also developed. Continuous awareness campaigns were conducted in accordance with the approved Fraud and Corruption Communication Strategy. The department also developed and reviewed its Fraud and Corruption Prevention Plan.

KPI 8.3: Ensure a decrease in incidents of corrupt practices by improving detection procedures

The coordination of financial disclosures for SMS personnel started in January 2009 after the function was transferred to Integrity Management. Pamphlets were distributed to the Senior Management Forum and awareness created through the use of the intranet (DJINI) and e-mail. A project on financial disclosure, in terms of creating a system that will ensure optimal coordination, has been embarked on with the assistance of Information and System Management (ISM). The coordination of financial disclosure proved to be a success, since a 100% target was reached and the completed forms were submitted to the Public Service Commission after the Minister of Justice and Constitutional Development noted and signed off each disclosure as required by the Public Service Regulations. International Anti-corruption Day, which is celebrated on 9 December each year, was well organised by once again targeting officials in the department with messages of anti-corruption, including the distribution of pamphlets. Senior officials of the department attended national workshops in support of the fight against corruption. The department is also actively involved in national initiatives of fighting corruption through the National Anti-corruption Forum (NACF) and other structures such as the Anti-corruption Coordinating Committee (ACCC). The Deputy Minister of Justice and Constitutional Development is a member of the NACF in terms of coordinating measures to encourage the fight against corruption together with other sectors such as business and civil society.

The Forensic Audit function was performed in accordance with best-practice organisational design, as well as the MACC requirements regarding reporting and operational structures in leading risk management environments. As authorised and according to the regulatory framework, the Directorate: Forensic Audit will remain, together with its responsibilities of investigating fraud and corruption, under the custodianship of the Chief Directorate: Risk Management.

STRATEGIC OBJECTIVE 9: PROMOTE AND PROTECT THE PUBLIC IMAGE OF THE DEPARTMENT

The department aims to provide effective and efficient communication through various internal and external platforms. This is to ensure an understanding of departmental programmes and how to access departmental services. The Public Education and Communication Unit consists of three directorates: Media Research and Liaison, Public Education and Liaison, and Internal Communication and Language Services.

During the period under review, the department developed and implemented programmes to educate the public on the affairs of justice, constitutional matters and access to justice, and justice services at courts. The programmes included school visits, talk shows on community radio, justice information sessions, the production of newsletters, booklets and pamphlets, as well as electronic publications.

KPI 9.1: Increase media coverage of the department's programmes and services

Transparency in the administration of justice is essential for building public confidence in the criminal justice system and enabling effective stakeholder relations. An overview of the media coverage for the period under review shows that the department was one of the top 10 most visible departments in the media for the period. An analysis revealed that the overall media

rating was more balanced during this period, compared with previous years. This was mainly due to the active and positive engagement with media houses, which resulted in a 3% increased share of voice. During the period under review, the department issued 21 media statements and coordinated seven press conferences on departmental programmes and services. The department also dealt with 94 media enquiries and 15 public enquiries.

Radio programmes

To improve its communication with citizens on matters of accessing justice, the department developed two educational radio programmes: *Justice on the Airwaves* and *Law on Call*.

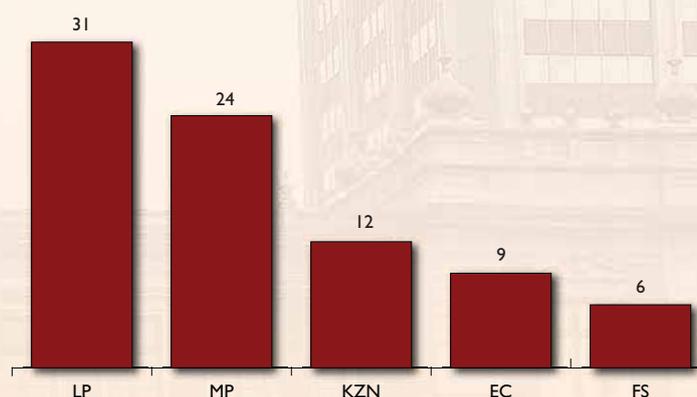
Justice on the Airwaves was produced as a result of a partnership between the department and the SABC to educate the public about the values contained in the Constitution and the process of accessing justice services. As indicated in Table 31, 82 episodes were broadcast on eight public service radio stations of the SABC during the period under review. Of the participating radio stations, Ukhozi FM registered the highest number of listeners at 378 000. After a survey was conducted, four popular topics were identified. These included the Constitution, wills and estates, the Small Claims Court, and maintenance. Table 32 and Figure 15 illustrate how this programme fared.

Table 31: *Justice on the Airwaves*

Station	Episodes	Province
Umhlobo Wenene	9	Eastern Cape
Thobela	11	Limpopo
Phalaphala	7	Limpopo
Monghana Lonene	13	Limpopo
Ukhozi	12	KwaZulu-Natal
Lesedi	6	Free State
Ligwalagwala	11	Mpumalanga
Ikwewezi	13	Mpumalanga
Total	82	

Figure 14: *Justice on the Airwaves*

Justice on the Airwaves: overall number of episodes



PART 2: PROGRAMME PERFORMANCE

Law on Call aimed to communicate, educate and provide relevant information to the public about departmental services, mainly through community radio stations.

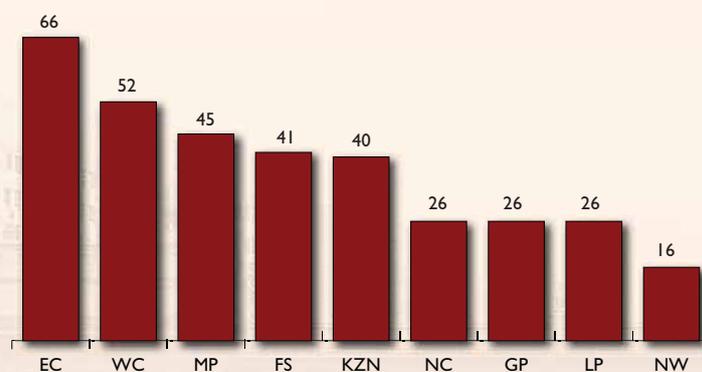
In the period under review, 338 episodes were aired on 15 community radio stations countrywide. Jozi FM recorded the highest number of listeners, followed by Mosupatsela in the Free State, Radio Riverside in the Northern Cape and Radio Zibonele in the Western Cape.

Table 32: *Law on Call*

Province	Episodes	Station
Western Cape	26	Zibonele Community Radio
	26	Bush Radio
Northern Cape	26	Radio Riverside
Gauteng	26	Jozi FM
Free State	15	Mosupatsela Community Radio 6
	26	QwaQwa Community Radio
Limpopo	26	Univen Community Radio
Eastern Cape	22	Unitra Community Radio
	22	Vukani Community Radio
	22	Nkqubela Community Radio
Mpumalanga	26	Barberton Community Radio
	19	Moutse Community Radio
KwaZulu-Natal	14	Durban Youth Radio
	26	Newcastle Community Radio
North West	16	Radio Mafisa
Total	338	

Figure 15: *Law on Call*

Law on Call statistics: overall number of episodes



KPI 9.2: Develop and implement internal communication programmes in response to identified needs

Internal communication assists staff to develop a better understanding of departmental and government issues. An internal communication plan was developed and implemented during the period under review. The plan was informed by an internal communication survey that had been conducted previously. Internal communication platforms that were utilised during the implementation included face-to-face meetings, leadership addresses, newsletters, the intranet, Internet, e-mail, lift-holders and the celebration of national days. The department produced two newsletters, *Justice Today* and *Tsala ya Molao* (Friend of the Law). *Justice Today* is the bimonthly corporate newsletter that targets both internal and external audiences. It is an educational and marketing tool for the department. It focuses mainly on strategic and policy issues, achievements and progress on departmental projects, as well as new initiatives. It also highlights profiles of key stakeholders in the department. Six issues of *Justice Today*, with a circulation of 35 000 copies per issue, were produced. *Tsala ya Molao* is a monthly internal online publication that targets internal staff only. It focuses more on personnel issues, strategic issues, as well as progress and achievements on departmental projects. This newsletter is uploaded on the intranet (DJINI) and distributed

through the departmental e-mail (DoJComms) on a monthly basis.

In addition, the department launched a communication campaign to raise awareness on justice issues during the 2010 FIFA World Cup™. Several advertorials were placed in four in-flight magazines, explaining the role of the department, as well as the state of readiness for the 2010 FIFA World Cup™. These magazines included *Sawubona*, distributed through South African Airways, *Juice*, distributed through Mango Airlines, *Horizon*, distributed through British Airways, and *Khuluma*, distributed through Kulula Airlines. An internal organised campaign was launched, creating awareness and pledging support for such a significant occasion.

The department conducted frequent internal communication through the intranet (DJINI). The intranet underwent a revamp during the period under review and has become a more user-friendly system. DJINI also contains a range of valuable information on various branches in the department, as well as strategic documents and policies on various issues. The department reaches out to the public through its widely visited website. It also manages various Internet pages for the South African Law Reform Commission and the Supreme Court of Appeal. During the period under review, management and maintenance of the Internet were undertaken. Table 33 reflects a statistical overview of the website.

Table 33: Visitors' overview

Visitors	Number of visits
Justice	476 332
South African Law Reform Commission (SALRC)	8 070
Supreme Court of Appeal (SCA)	66 070
Labour courts	552
Justice College	1 955
Victim's Charter	107
Master's Office	7 750
Truth and Reconciliation Commission (TRC)	4 551

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Table 34: Overview of the traffic sources on the department's website

Sources	Average
Direct traffic	21.80%
Referring sites	39.23%
Search engines	38.95%

Table 35: Top traffic sources (directing traffic to the department's sites)

Sources	Total visits	Justice	SALRC	SCA	Labour courts	Justice College	Victim's Charter	TRC	Master's Office
Google Organic	214 617	167 422	3 740	34 898	464	220	65	3 110	4 968
Direct	127 555	103 838	1 706	18 806	102	1219	9	595	1 280
Info.gov.za (referral)	65 984	64 800	185	525	41	115	6	19	293
doj.gov.za	96 012	91 261	480	3 863	9	103	3	9	284
Bing (organic)	12 645	10 706	145	1436	11	40	8	70	229
DJINI (referral)	1 677	186	234	987	68	186	0	3	13

Table 36: Map overlay

Country	Visits	Justice	SALRC	SCA	Labour courts	Justice College	Victim's Charter	TRC	Master's Office
No of countries	605	184	92	147	12	8	6	103	53
From South Africa	509 309	433 464	6 197	58 603	531	1 929	98	1 183	7 304

KPI 9.3: Develop and implement programmes to educate the public on justice services by 2009/10

The department continuously engages in community outreach programmes with the purpose of building public confidence in the administration of justice by educating the public on their constitutional rights and the department's justice-related services. These programmes aim at reaching and impacting on all citizens, in particular those in rural areas, schoolchildren, non-governmental organisations (NGOs), community development workers (CDWs), women and children, youth and farm workers, by conducting developmental communication focusing on topics such as the administration of

deceased estates, equality courts, the Guardian's Fund, wills, human trafficking, children's rights, domestic violence, maintenance, the Promotion of Administrative Justice Act (PAJA), the Family Advocate, the Promotion of Access of Information Act (PAIA), sexual offences, small claims courts, the recognition of customary marriages and the Victim's Charter.

Educational programmes

This programme includes school visits that are conducted to educate learners about their rights and responsibilities. There is also a specific focus on the pieces of legislation that affect children, such as sexual offences, domestic violence, maintenance and child justice.

Table 37: School visits statistics

Province	Number of schools	Number of learners
Gauteng	18	5 465
Limpopo	24	7 280
Free State	38	21 397
Mpumalanga	36	20 233
North West	9	4 200
Western Cape	16	2 254
Northern Cape	7	748
Eastern Cape	6	3 788
KwaZulu-Natal	12	6 051
Total	166	71 406

Industrial theatre

The department developed a drama script on the Sexual Offences Act that was performed in outreach events. This has proved to be a powerful tool to use in addressing social ills, as well as educating the public. It was staged at five separate events in Albert Park, Umlazi, Maphumulo, George Campbell and Madadeni. In creating awareness on issues related to the abuse of women and children, a Men's March campaign was held in Limpopo and a Men's Dialogue Conference was held in Mpumalanga. Table 38 shows the information sessions conducted in the period under review.

Table 38: Information sessions held in 2009/10

Province	Number of sessions held
Gauteng	7
Limpopo	15
Free State	1
Mpumalanga	11
North West	4
Eastern Cape	2
KwaZulu-Natal	11
Total	49

In summary, the department conducted over 30 additional exhibitions and marketing events aimed at promoting justice issues and justice services to the public. The marketing events and exhibitions were conducted at the meeting of the Southern African Development Community (SADC) justice ministers, the meeting of the Judges' Conference, the Mpumalanga Services Fair, the department's budget vote, Women's Day, the opening of equality courts, the Legal Interpreting learnership graduation and International Human

Rights Day. The department also coordinated the Human Rights Day event and participated in Public Service Week, the Human Trafficking Conference, the Spar Ladies Walk, Africa Public Service Day, the Pretoria Show, the NPA Youth Day, the Polokwane Show, Evaton Service Fair, the Royal Show (KwaZulu-Natal), three service fairs in Khumbula Village, Ngwenyeni and Sihlangu in the Tonga area, Mpumalanga, the SABC Careers Fair, an event at Church Square, the Careers Fair in Madadeni, as well as events

at the Tramshed and the Modimolle taxi rank and shopping mall, the Public Service Trainers' Conference, the launch of the Victim's Charter in Gauteng, the 16 Days of Activism event in KwaZulu-Natal, the International Human Rights Day event at Freedom Park, the SAPS exhibition, the Daveyton Awareness Campaign, Access to Justice and Constitutional Rights workshops and case flow management workshops.

STRATEGIC OBJECTIVE 10: PROMOTE INTERNATIONAL COOPERATION AND ENSURE COMPLIANCE WITH INTERNATIONAL OBLIGATIONS

The department is responsible for developing and maintaining relations with other countries throughout the world in so far as legal matters are concerned. In this regard, the department negotiates and enters into agreements on behalf of the country. These agreements are for cooperation on legal matters either bilaterally or on a multilateral level. Often other departments seek advice and/or inputs from the department on international agreements. The department is responsible for managing legal requests that emanate from other countries. These requests cover a wide range of issues pertaining, inter alia, to civil, criminal and commercial matters. During the period under review, 162 requests were received and processed. The department also makes periodic pecuniary contributions to and participates in a number of multilateral bodies throughout the world, with a view to positively influencing policy and other decisions in line with the government's broader foreign and domestic policies. The department also participates in the Hague Conference, the International Criminal Court (ICC) and the International Institute for the Unification of Private Law (UNIDROIT). Other forums in which the department is represented include the SADC ministers of justice meetings, the St'Egidio Forum, encouraging the abolition of the death penalty, and the Commonwealth meetings fighting corruption.

KPI 10.1: Produce reports on the International Covenant on Civil and Political Rights and on the African Charter on Human and People's Rights

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966 and has been in force since 23 March 1976. It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and the right to due process and a fair trial. As of October 2009, the ICCPR had 72 signatories and 165 parties. The ICCPR is monitored by the Human Rights Committee with permanent standing to consider periodic reports submitted by member states on their compliance with the treaty. The African Charter on Human and Peoples' Rights (ACHPR) is an international human rights instrument that is intended to promote and protect human rights and basic freedoms on the African continent. As of 15 June 2009, 53 countries have ratified the charter. The oversight and interpretation of the ACHPR is the task of the African Commission on Human and Peoples' Rights.

Since the majority of government departments are involved as custodians of the identified human rights, the fullest cooperation of all these departments is necessary to ensure South Africa's compliance with these obligations. Currently, the main challenge facing the drafting process is the slow response by government departments to provide up-to-date and relevant information in respect of the relevant sections of the draft reports on which they ought to comment.

In the period under review, the department collaborated with the University of Pretoria to produce draft reports on the ICCPR and ACHPR. The department is currently improving the drafts to address areas that require further inputs from other departments. Although both reports are at an advanced stage of drafting, it

will be some time before they will be ready for submission. This is mainly due to the processes that still have to be undertaken with other stakeholders to seek further inputs. However, the relevant bodies require these reports every alternate year.

KPI 10.2: Provide technical assistance to the Democratic Republic of the Congo and Southern Sudan Democratic Republic of the Congo

Due to the prolonged civil war in the Democratic Republic of the Congo (DRC), a number of critical structures of government have either collapsed or need to be revamped. The justice system is one of those. In order for it to function more effectively, a number of preliminary assessments have been done to determine the needs that will help address these challenges. The envisaged intervention involves the actual training of personnel in the justice system; that is, members of the judiciary, prosecution and other support staff in the system.

The department's long-term goal is to assist, improve and reform the legal system of the DRC under the auspices of the Binational Commission (BNC) between South Africa and the DRC, which was established on 14 January 2004 after the signing of the general cooperation agreement to promote political, economic and social cooperation in the DRC. Furthermore, it made provision for an annual forum for exchange and dialogue. Four sectoral commissions were established under this agreement: Politics and Governance, Defence and Security, Economy, Finance and Infrastructure, and Social and Humanitarian Affairs. These commissions were established to rebuild and reconstruct the DRC. The department became involved after the state visit of President Kabila to South Africa in June 2006.

In the year under review, the department donated 20 computers to the DRC's Ministry of Justice as part of developing the necessary technical assistance for a better working

environment. The department is part of the Joint Justice Committee in the DRC, which comprises international donor countries. The main function of this committee is to improve and reform the legal system of the DRC. The Minister has approved that the Congolese travel to South Africa to embark on a study tour in the Department of Justice and Constitutional Development. The study tour will assist the department in finalising a project document to be implemented in the DRC's Ministry of Justice with a view to assisting the Congolese in the abovementioned areas.

Southern Sudan

Capacity-building for the Southern Sudan judiciary and its Legal Affairs officials involves training on criminal law and criminal procedures, civil law and civil procedures, law of evidence, the interpretation of statutes, specific crimes, social context training, trial advocacy, family law, legislative drafting, and human rights.

This will assist judges and Legal Affairs officials to acquire the necessary skills that will enable them to manage the Southern Sudan judicial system and participate equitably and effectively in the Government of National Unity for the whole Sudan. It will also fast-track the move towards a human rights culture that is lacking in Southern Sudan due to the protracted wars. Training on legislative drafting will result in good and sound bills being drafted by parliamentary advisors and will help fast-track the passing of legislation.

Southern Sudan has been involved in a war for many years and officials have subsequently sacrificed their education for the struggle. Those who have training in the legal field were trained in the north, where the legal system is Sharia-based and the language is Arabic. Southern Sudan uses the English common law system and English is the working language of the courts. These people are expected to establish institutions and structures of governance for Southern Sudan in terms of the Comprehensive

Peace Agreement, but have no experience in managing government.

In March 2008, the Department of International Relations and Cooperation (DIRC) requested the department to participate in the Department of Foreign Affairs (DFA)-Government of Southern Sudan (GOSS)-University of South Africa (UNISA) Capacity- and Institutional Building Project for Southern Sudan. Pursuant to this, a fact-finding mission was conducted in Southern Sudan. During the mission, several areas of assistance were identified, in particular the training of judges and legal counsellors on the following topics:

- Criminal law and procedure
- Civil law and procedure
- Law of evidence
- Human rights and constitutional matters
- Land and land registration law
- Social context training
- Legislative drafting
- The prosecution of specific crimes

As agreed with the government of Southern Sudan, a group of 40 legal counsels (the group was a mixture of judges, magistrates, prosecutors and other legally trained personnel) from that country visited South Africa for training from 23 February to 22 May 2009. They were exposed to a number of interventions during a six-hour day for the entire duration of their stay.

During the period under review, the legal counsels received theoretical training from UNISA, training on trial advocacy from the department in collaboration with the Black Lawyers Association (BLA), and practical training at the Justice College, where the theoretical knowledge gained at UNISA was applied and linked to practical problems. Training on legislative drafting was provided by the Office

of the Chief State Law Advisor. Members of the NPA also presented lectures on combating organised and serious crimes. From 11 to 15 May 2009, the legal counsels were divided into two groups and visited the offices of the Directorate of Public Prosecutions (DPP) in Mafikeng and Pietermaritzburg for experiential learning on prosecution.

An assessment of the effectiveness of the training interventions was done and the outcome was that the training had a positive impact on the work of the judges and legal counsels. In July 2009, the DIRC convened a review session, which included four ministers from the government of Southern Sudan. The conclusion reached was that the current interventions needed realignment. The ministers from Southern Sudan felt that there was a need to move away from the theoretical approach to a more practical one, which would focus on assistance in policy development and implementation capacities. It was also felt that, as far as possible, training and mentoring should be conducted in Southern Sudan.

With the abovementioned developments, the department considered strategic and integrated interventions in Southern Sudan. The interventions will not deviate from the areas identified during the March 2008 fact-finding mission, but will focus on specific areas, for example, the independence of the judiciary, as well as a component on the doctrine of separation of powers, prosecutions and legislative drafting. In this regard, a draft paper for funding was submitted to the United States Agency for International Development (USAID) through National Treasury on 13 March 2009. The draft paper was approved and the project proposal submitted to National Treasury on 22 May 2009. It was approved by USAID. Funding allocated to this project will be utilised for transporting presenters and lecturers to Southern Sudan, accommodation, training venues, training equipment and transporting delegates from Sudan, where necessary. The Project

Implementation Plan has been signed and the first tranche of funds was released by USAID. A departmental task team has been established to oversee the implementation of this project.

2.15.2 Programme 2: Court Services

Purpose

Facilitate the resolution of criminal, civil and family law disputes by providing accessible, efficient and quality administrative support to the courts, and manage court facilities.

- The Constitutional Court subprogramme funds the activities and operations of the Constitutional Court, which has jurisdiction over constitutional matters only;
- The Supreme Court of Appeal subprogramme funds the activities and operations of the Supreme Court of Appeal, which adjudicates appeals and questions of law from the high courts;
- The High Courts subprogramme funds the activities and operations of the various high court divisions, which have jurisdiction over the defined geographical areas in which they are located;
- The Specialised Courts subprogramme funds the activities and operations of the labour and labour appeal courts, the land claims courts, the special tribunal and the family courts;
- The Lower Courts subprogramme funds the activities and operations of the various regional and district courts. The regional courts adjudicate serious criminal matters. District courts adjudicate civil cases and less serious criminal cases;
- The Family Advocate subprogramme funds the Family Advocate offices, which make recommendations to the court where litigation and mediation relating to children in family matters is necessary;

- The Magistrate's Commission subprogramme funds the Magistrate's Commission, which makes recommendations on the appointment and tenure of magistrates;
- The Government Motor Transport subprogramme funds vehicles for judges and departmental officials;
- Facilities Management funds the building and upgrading of court and justice service delivery points; and
- Administration of Courts funds the management of courts' administration and performance evaluation functions.

Measurable objectives

Ensure that justice proceedings are prompt by doing the following:

- Reducing the case backlog in regional courts by between 25 and 30% per annum, from 20 452 cases in 2006/07 to 15 400 in 2009/10, through 37 dedicated case backlog courts.
- Reducing the case cycle time for criminal cases involving children by 11% per annum, from the current 18 months to 16 months in 2009/10, by implementing the provisions of the Child Justice Bill.
- Reducing the number of cases on court rolls by increasing matters dealt with by admission of guilt fines (assaults, theft, crimen injuria), from 30 115 in 2007/08 to 10 000 in 2010/11.
- Securing 150 justice service delivery points with integrated security infrastructure through contracted service providers by the end of 2009/10.
- Replacing 20% of current branch courts (46) with full court services by the end of 2010/11 by redesignating the identified branch courts.

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- Providing adequate family law service litigation and family mediation by finalising 50% of all cases handled by the Family Advocate in six months in 2009/10.

Service delivery achievements

Table 39: Service delivery achievements

Subprogrammes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Court Performance	Reducing the case backlog in regional courts by between 25 and 30% per annum, from 20 452 cases in 2006/07 to 15 400 in 2009/10, through 37 dedicated case backlog courts.	Case backlog	15 400 (between 25 and 30%)	Although the number of backlog cases in the regional courts was 16 054 (31%), the total number of cases removed from the backlog court rolls at 48 hot spot areas was 19 942, representing a 42% reduction on the initial outstanding roll of 47 343.	<p>The number of backlog cases has decreased at all hot spot areas by 21.5% from 20 452 to 16 054. The number of outstanding cases countrywide increased by 7.1% from 47 343 to 50 708.</p> <p>Court performance is dictated by role-players such as the judiciary, the NPA, LASA, private practitioners and the SAPS.</p>
Children	Reducing the case cycle time for criminal cases involving children by 11% per annum, from the current 18 months to 16 months in 2009/10, by implementing the provisions of the Child Justice Bill.	Case cycle time	16 months	Statistics reveal a rate of 29% for children awaiting trial in prisons and correctional facilities for longer than three months, thus the target of 16 months has been reduced to between three and six months.	<ul style="list-style-type: none"> • For children appearing in district courts: three to six months. • For children appearing in regional courts: six to nine months. • For children appearing in high courts: nine to 12 months.
Court Performance	Reducing the number of cases on court rolls by increasing matters dealt with by admission of guilt fines (assaults, theft, crimen injuria), from 30 115 in 2007/08 to 10 000 in 2010/11.	Case backlog	10 000	Admission of guilt fines were increased by 2% (686 153) during 2009/10, compared to 675 554 in 2008/09.	

Subprogrammes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Family Advocates	Providing adequate family law service litigation and family mediation by finalising 50% of all cases handled by the Family Advocate in six months in 2009/10.	Case cycle time	50% in six months	66%	Some 9431 cases were received and 8 267 finalised at an average percentage of 65.7% of cases finalised in six months. This is 15.7% over the set target of 50%.
Risk Management: Security	Securing 150 justice service delivery points with integrated security infrastructure through contracted service providers by the end of 2009/10.	A total of 150 service delivery points with integrated security infrastructure	127	Some 23 courts have been identified and given priority for the purpose of the 2010 FIFA World Cup™. Currently, the security measures are installed at 10 sites. They will be completed by October 2010.	
Redemarcation	Replacing 46 of the 230 branch courts with full court services by the end of 2010/11 by redesignating the identified branch courts.	Branch courts	46	15	Four branch courts to be converted this financial year.

STRATEGIC OBJECTIVE 11: BRINGING JUSTICE SERVICES CLOSER TO ALL

The department aims to bring justice services closer to all communities by building courts in previously marginalised areas, such as rural areas and townships. Although there is an urgent need to make provision for new courts in many communities, the process for delivering this aim usually requires more time, as different stakeholders and factors come into play. The establishment of a new court takes an average of 36 months, taking into consideration that 12 months are

needed for planning and designing the courts and 24 months for the actual construction. This is one of the reasons why new court facilities cannot be planned and constructed within one financial year.

KPI 11.1: Build 11 new courts by 2011/12

During the year under review, three new magisterial courts were completed (in Colesberg, Galeshewe and Lutzville). These courts are currently operational. Table 40 details the progress made on other construction projects in the year under review.

Table 40: Progress with construction projects in 2009/10

Facility description	Progress to date (as at 31 March 2010)
Kagiso Magistrate's Office: New magistrate's office	<ul style="list-style-type: none"> Contract terminated on 11 March 2010 New procurement strategy approved for invitation of new bids to complete the outstanding work
Tsakane Magistrate's Office: New branch court	<ul style="list-style-type: none"> Contract terminated Outstanding work remeasured and quantified Tender advertised and new contractor appointed
Galeshewe Magistrate's Office: New magistrate's office	<ul style="list-style-type: none"> Project completed and handed over Court operational with effect from 31 January 2010
Ekgangala Magistrate's Office: New magistrate's office	<ul style="list-style-type: none"> Superstructure of the main court building completed Rework on the undercover parking in progress Superstructure of the cafeteria completed
Colesberg Magistrate's Office: New magistrate's office	<ul style="list-style-type: none"> Project completed and handed over Court operational with effect from mid-July 2009
Ashton Magistrate's Office: New periodical court	<ul style="list-style-type: none"> Construction completed
Lutzville Magistrate's Office: New periodical court	<ul style="list-style-type: none"> Project completed and practically handed over Court operational with effect from 31 January 2010
Hankey Magistrate's Office: New magistrate's office	<ul style="list-style-type: none"> Roof construction started mid-February 2010
Ntuzuma Magistrate's Office: New magistrate's office	<ul style="list-style-type: none"> Site establishment completed Basement retaining walls in progress
Katlehong Magistrate's Office: New magistrate's office	<ul style="list-style-type: none"> Services (for example, sewer lines) completed Piling completed Substructure (foundations) in progress
Polokwane High Court: New high court	<ul style="list-style-type: none"> Site establishment completed Excavations for the substructure (foundations) in progress

An overall reflection of the project reveals that although strides have been made to ensure faster delivery of new court facilities, this is dependent on a number of factors outside the management of the department, and thus impacted adversely on the effective achievement of this objective. There is a great likelihood that, with the limited budget available for capital projects, priority will be given to those projects that are already under construction.

KPI 11.2: Redesignate nine branch courts as main courts by 2011/12

The main focus of redesignating branch courts as full-service (magisterial) courts with their own area of jurisdiction is to address the historical inequalities regarding the distribution of justice services, particularly

to people living in marginalised areas such as rural areas and township communities. The department continues to implement the programme to correct the old magisterial districts that were informed by racial and geopolitical boundaries. The programme aims to address two main challenges: on the one hand, to refurbish branch courts in township or rural areas and confer upon them adequate jurisdiction to make them function as fully fledged courts, and on the other hand, to ensure the alignment of magisterial districts with municipal boundaries as established under the new constitutional dispensation. Fifteen of the 90 branch courts were converted into full-service courts in the year under review, while another four were ready to be proclaimed at the beginning of the 2010/11 financial year.

The significance of the conversion of the branch courts into full-service courts is the elimination of the current fragmented system in terms of which communities in the traditionally black areas and rural villages only have access to services relating to the adjudication of criminal cases in the local courts in their vicinity. To access services relating to civil matters, including maintenance, small claims courts and deceased estates, the citizens must commute to remote cities and towns. This programme will continue until all branch courts have been upgraded to provide full court-related services.

A draft report regarding the alignment of the magisterial districts with municipal boundaries has been completed and will be published during April 2010 for comments before being finalised.

KPI 11.3: Finalise the alignment of magisterial districts with municipal districts by 2010

As part of the transformation of justice services, the department has embarked on the rationalisation of the areas under the jurisdiction of the lower courts. Access to justice, particularly by citizens residing in rural areas and townships, has historically been hampered by magisterial boundaries that were based on the apartheid policies of the past. The rationalisation of the areas under the jurisdiction of the lower courts seeks to improve access to justice by examining each and every magisterial district, as well as the location of the courts in districts, and redefining the boundaries in such a way that the majority of citizens can access the courts as easily as possible. The transport means and routes available to the public were considered during this process, as were the particular types of justice services required by particular communities.

During the period under review, the department concluded an audit of the 366 magisterial districts and 65 subdistricts to confirm the areas that are aligned with the municipal areas to finalise the project on the realignment of magisterial district boundaries with the municipal boundaries by October 2009. The audit culminated in a report for consultation with the JCPS Cluster departments. Proposed maps aligning the areas of misalignment

with the municipal areas were also finalised by the Municipal Demarcation Board for the purposes of the consultations during November 2009.

The verification of the maps of the nine provinces was finalised by the department. A separate report outlining the provincial recommendations and the proposed recommendation, based on the maps received from the Municipal Demarcation Board, has been completed for three provinces to initiate the final validation processes on the alignment of magisterial district boundaries with the municipal boundaries. Consultations with stakeholders in the justice sector at provincial level for purposes of the validation of the areas identified for alignment with municipal areas was finalised in February 2010.

A draft policy framework on the rationalisation of the areas of jurisdiction was finalised in March 2010. A report outlining the recommendations made by key stakeholders on the proposed rationalisation has been finalised for submission to the Minister for approval. The recommendations are being captured onto maps by the Municipal Demarcation Board and the geographic information system (GIS) specialists of the Human Sciences Research Council (HSRC). The maps will soon be finalised. The report will then be submitted to the Minister for approval.

KPI 11.4: Complete the rationalisation of the areas of jurisdiction of the high courts in accordance with the provincial dispensation under the Constitution

The department aims to increase the proximity of high courts by rationalising their jurisdiction to cover communities living in townships and rural areas, while ensuring that the jurisdiction of the 13 high courts is consistent with the provincial dispensation.

Research on areas affected by the Constitution Twelfth Amendment Act (Odi, Moretele and the cross-boundary challenges in the Eastern Cape) has been completed. The draft reports are mainly on the extent to which the service delivery is negatively affected by the cross-provincial magisterial

districts. Other areas where service delivery is not affected will be dealt with by the overall realignment of magisterial district boundaries with municipal boundaries, for example, the magisterial district of Odi and Moretele in Gauteng and North West, and the magisterial districts of Umzimkulu and Mount Currie in the Eastern Cape and KwaZulu-Natal. Research, analysis, policy report-writing and consultations with the relevant internal and external stakeholders are taking place on a regular basis. The rationalisation will be implemented after the enactment of the Superior Courts Bill.

KPI 11.5: Replace 46 of 230 circuit courts to ensure that they provide full court services by 2010/11

Due to the vast distances between the magistrate's offices and some of the communities they serve, circuit courts were established in various areas to bring justice services closer to the people. However, due to the limited infrastructure capacity provision, not all the circuit courts could be provided with stand-alone buildings, and in most cases they were housed in police stations. Where circuit courts are housed in police stations, an office is identified and used on dedicated days for justice matters, while other offices are used for police-related activities.

Over the years, the increasing public demand for justice services has resulted in most of these circuit courts sitting on a daily basis. Yet, in the same vein, the police services saw increased public demands. It was as a result of these pressures that the department had to look for alternatives where circuit courts could be provided at separate structures outside the facilities of the SAPS or Department of Correctional Services.

During the year under review, 15 circuit courts were provided in structures separate from SAPS buildings. These are in Winterton, Chatsworth, Mtubatuba, Mpumalanga and uMhlali in KwaZulu-Natal, Hazyview in Mpumalanga, and Patensie, Bholotwa, Paterson, Kenton-on-Sea, Cookhouse, Alicedale, Addo, Klipplaat and Kei Mount in the Eastern Cape.

A large number of circuit courts are, however, housed in facilities of the SAPS and the Department

of Correctional Services. The department has identified various regions where a need exists for alternative accommodation for the circuit courts, but due to the cumbersome processes of providing permanent accommodation, other short- to medium-term options have been explored. It is on this basis that, where no readily available building can be identified, park homes or mobile units are provided. Another challenge that was experienced, especially where park homes have been identified as alternative options, was the availability of alternative sites on which to place the park homes. Most of the SAPS's premises are already overburdened and in 50% of the cases no additional space is available at existing circuit court premises. In such cases the national Department of Public Works is assisting the department to identify alternative sites closer to the existing circuit court sites.

The provision of circuit courts in the various communities has yielded positive results, as the distance that the community members used to travel to the main courts has been reduced by having courts in or near their communities. The increasing need for justice services closer to the people requires the department to continue relocating a further number of circuit courts from the facilities of the SAPS and/or the Department of Correctional Services to stand-alone facilities in the next financial year to provide more justice services than are currently provided.

KPI 11.6: Ensure the readiness of courts to provide justice services during the 2009 FIFA Confederations Cup and the 2010 FIFA World Cup™

The department signed a guarantee with the Federation of International Football Associations (FIFA) in July 2003, promising to provide all requirements for the hosting of the FIFA 2009 Confederations Cup and the 2010 FIFA World Cup™ events. The 2010 FIFA World Cup™ Administration of Justice Project was initiated to determine the roles of the various Integrated Justice System (IJS) stakeholders, in particular the Department of Justice and Constitutional

Development, the National Prosecuting Authority, Legal Aid South Africa and the judiciary, in ensuring the effective administration of justice during the FIFA 2009 Confederations Cup and the 2010 FIFA World Cup™ events.

The Safety and Security Project was initiated as a subproject of the overall 2009 and 2010 FIFA events. The Administration of Justice Project was allocated to Project 15, with the view of adopting an integrated approach to the Safety and Security Project. This process was implemented to ensure the alignment of plans and prevent duplication of activities and efforts. The primary objectives of the Administration of Justice Project are to fast-track all criminal matters emanating from the 2009 and 2010 events and to deal with these cases in a fast and efficient way, especially where foreigners are involved, either as complainants and witnesses or accused. The department developed a comprehensive Administration of Justice scope of work, project plan and project governance in order to achieve these objectives.

During the 2009 FIFA™ Confederations Cup in June 2009, the after-hour courts were not operational. However, the designated courts were on full alert to prioritise cases emanating from the event. The Administration of Justice Project formed part the National Joint Operational Centre (NATJOC) and the Provincial Joint Operational Centres (PROVJOCS) established in the Gauteng, North West and Free State regions. The number of cases reported was largely dealt with by the SAPS. Although the original plan developed for the 2009 FIFA Confederations Cup was not implemented, the execution of administration of justice services was successfully implemented.

During the period under review, 56 courtrooms were identified as dedicated courts in nine host cities. Of these dedicated courts, 37 are district courts and 19 are regional courts. The number of court officials appointed include 110 magistrates, 260 prosecutors, 110 Legal Aid attorneys, 93 foreign language interpreters, 110 local language interpreters, 1140 court

officials and 327 court orderlies. The operation period for the dedicated courts and resources will commence two weeks before the kick-off of the 2010 FIFA World Cup™ in June 2010, during the event and for two weeks afterwards, from 28 May 2010 to 25 July 2010. These courts will operate seven days a week from 07:45 until 23:00. Other major activities associated with the event include the following:

- The approval and allocation of the budget to support the Administration of Justice operations during the 2010 FIFA World Cup™;
- The integration of departmental plans with Safety and Security Cluster plans through the National Joint Operational and Intelligence Structure (NATJOINTS);
- The recruitment of foreign language interpreters;
- The establishment of the accreditation process for foreign language interpreters;
- The training of foreign language interpreters in court processes and procedures, where required. This responsibility is accommodated in the Justice College Plan, which forms part of the overall project plan that was developed;
- The recruitment of staff to ensure fewer disruptions of normal day-to-day operations during the 2010 FIFA World Cup™;
- The successful implementation of trial run exercises in eight of the nine host cities (all the cities excluding Mpumalanga). A report was compiled on the lessons learnt and solutions will be implemented during the 2010 FIFA World Cup™ event; and
- The submission of regular status and progress reports to Cabinet, the Interministerial Committee (IMC), Technical Coordinating Committee (TCC) and the EXCO. The final State of Readiness Report will be submitted to the Minister by 27 May 2010.

PART 2: PROGRAMME PERFORMANCE

The impact that the department has made on hosting the 2010 FIFA World Cup™ includes, among others, the following:

- The establishment of integration and synergy between all justice stakeholders;
- Building confidence in South Africa's criminal justice system, locally and internationally, with a view to encouraging tourists to visit South Africa beyond the 2010 FIFA World Cup™;
- The special Administration of Justice Project developed for the 2010 FIFA World Cup™ may be used to address some operational issues currently experienced in courts;
- Almost 160 unemployed youth were trained to assist at the 56 dedicated courts all over South Africa. They all received a Customer Service Management (NQF Level 4) qualification with eight credits. Beyond 2010, the department will look for opportunities to utilise these volunteers in the department, for example through internships;
- The 56 dedicated courts, as well as the dedicated human resources to support these courts, will ensure that all criminal matters emanating from the event are dealt with in a fast and efficient way; and
- Facility and security upgrades at the dedicated courts.

Table 41: List of dedicated courts for the 2010 FIFA World Cup™

Province	Host city	Name of court
KwaZulu-Natal	Durban	Durban Magistrates' Court
		Verulam Magistrates' Court
Western Cape	Cape Town	Cape Town Magistrates' Court
		Athlone Magistrates' Court
		Belville Magistrates' Court
Free State	Bloemfontein	Bloemfontein Magistrates' Court
Limpopo	Polokwane	Polokwane Magistrates' Court
		Phalaborwa Magistrates' Court
		Musina Magistrates' Court
Mpumalanga	Nelspruit	Nsikazi Magistrates' Court
		Nelspruit Magistrates' Court
North West	Rustenburg	Bafokeng Magistrates' Court
		Rustenburg Magistrates' Court
		Mogwase Magistrates' Court
Eastern Cape	Port Elizabeth	Port Elizabeth Magistrates' Court
Gauteng	Pretoria	Pretoria Magistrates' Court
		Atteridgeville Magistrates' Court
	Johannesburg	Johannesburg Magistrates' Court
		Protea Magistrates' Court
		Randburg Magistrates' Court
		Jeppe Magistrates' Court
Northern Cape	Kimberley	Kimberley Magistrates' Court

KPI 11.7: Finalise the Policy on the Traditional Justice System for the enactment of the Traditional Courts Bill and the regulations envisaged in the proposed legislation to ensure the alignment of the traditional justice system with the Constitution

The policy framework and the draft Traditional Courts Bill were approved by Cabinet in March 2008. Subsequently, the Traditional Courts Bill was introduced in Parliament during 2008. The Justice Portfolio Committee, under the previous (third) Parliament, conducted public hearings on the bill.

A task team, made up of representatives of the Portfolio Committee, the National House of Traditional Leaders, the Commission on Gender Equality, the Congress of South African Trade Unions (COSATU) and the Legal Resources Centre, was established to address the above concerns. In its handover report, the previous administration recommended that Parliamentary hearings should be held in all provinces, conducted jointly by the National Assembly and the National Council of Provinces (NCOP), and that the hearings should be preceded by awareness campaigns to empower the local communities for the purpose of making submissions during the hearings. The task team was tasked to produce draft public awareness material to be considered by Parliament for purposes of the hearings, an exercise that was in progress when the term of the previous government expired in May 2009. The statutory deadline for the saved provisions of the repealed Black Administration Act was 31 December 2009. The Portfolio Committee has commenced with the drafting of legislation to extend the statutory deadline to 31 December 2010.

During the period under review, a task team, comprising officials of the Department of Justice and Constitutional Development, the Department of Cooperative Governance and Traditional Affairs and the National House of

Traditional Leaders, was established to draft the regulations. Consultations on the draft regulations have commenced. The training course for traditional leaders and officers of the traditional courts will be drafted after the regulations have been finalised. The regulations will inform the content of the training course.

KPI 11.8: Finalise the policy framework for the establishment of community courts in urban centres for the resolution of less serious offences and disputes to increase access to justice

The department aims to increase the proximity of the department's services to all, especially in townships and rural areas, by developing a policy and legislative framework for the establishment of community courts in urban centres for the resolution of less serious offences and disputes to increase access to justice.

The finalisation of a policy and legislative framework for the community courts is interdependent on finalising the Policy on the Traditional Justice System. The principles that applied to the drafting of the policy and legislative framework on the traditional justice system and their outcomes are awaited and will assist in finalising the policy and legislative framework for the establishment of community courts. Therefore, the finalisation of this policy and legislative framework is targeted for August 2010.

KPI 11.9: Extend the pilot project for using indigenous languages to at least two courts per province by 2009/10

During the period under review, 31 courts were identified in Gauteng, North West, KwaZulu-Natal, Mpumalanga, Limpopo and the Northern Cape for using indigenous languages. All the provinces are well on track with the requirements of this project. A pilot of the impact assessment for the utilisation of indigenous languages in court was conducted in Limpopo at the identified pilot sites. This approach was approved by the

Steering Committee, as Limpopo is a diverse province with more than three indigenous languages and cultures. A total of 982 cases were recorded in all nine provinces as at December 2009.

Table 42: Indigenous language courts in 2009/10

Province	Court	Dominant language
KwaZulu-Natal	Msinga	isiZulu
	Hlabisa	isiZulu
	Impendle	isiZulu
	Nongoma	isiZulu
Free State	Thaba Nchu	Sesotho and Setswana
North West	Lehurutshe	Setswana
	Ganyesa	Setswana
	Mankwe	Setswana
Western Cape	Khayelitsha	isiXhosa
Eastern Cape	Zwelitsha	isiXhosa
Northern Cape	Kimberley	Setswana
	Calvinia	
	Keimoes	
	Prieska	
	Colesberg	
Limpopo	Malamulele	Xitsonga/Shangaan
	Dzanani	Tshivenda
	Sekhukhune	Sepedi
	Giyane	Xitsonga
	Mutale	Tshivenda
	Masisi Periodical Court	Tshivenda
	Mankeng	Sepedi
Mpumalanga	Mdutjana	isiNdebele,
	Lydenburg	siSwati
	Eerstehoek	siSwati
Gauteng	Atteridgeville	Setswana
	Pretoria	isiZulu
	Pretoria North	Sepedi and Setswana
	Sebokeng	Sesotho and Setswana
	Johannesburg	All indigenous languages
	Soshanguve	Setswana, Sepedi, Xitsonga and Nguni Languages (isiZulu, siSwati, isiZulu)
Total	31	9

**STRATEGIC OBJECTIVE 12:
ACCELERATE THE TRANSFORMATION
OF THE JUDICIAL SYSTEM**

KPI 12.1: Revise the Superior Courts Bill based on the approved Policy Framework on the Administration of Justice

During the year under review, the Constitutional Nineteenth Amendment Bill and the Superior

Courts Bill were revised in accordance with the policy directives of the Minister. Both bills were submitted to the Chief Justice and heads of courts by the Minister at their meeting of 18 October 2009. During the meeting, the Minister also presented the terms of reference for the development of a Court Administration Model that would enhance judicial institutional independence and thereby accord the judiciary

a greater role in court administration, which is necessary to enhance the independence of the judiciary.

The heads of courts expressed their appreciation of the bills and terms of reference and undertook to engage the Minister after considering their contents. It was agreed at the meeting that the Chief Justice would submit his draft proposals of the Court Administration Model, which would be submitted to the Minister in due course as input on the judiciary, to the heads of courts.

The Chief Justice circulated the Constitutional Nineteenth Amendment Bill and Superior Courts Bill to all judges and magistrates and invited their input on the bills. These bills have since been approved by Cabinet and will now be submitted to Parliament.

Parallel to the judicial reform initiatives that are underway, there is also a need to enhance the capacity of the Office of the Chief Justice (OCJ) to provide efficient administrative support to the Chief Justice in his dual court-related and judicial leadership constitutional mandates. The current establishment is inadequate to provide for the additional functions that emanate from the new legislation in the form of the Judicial Service Commission Amendment Act, 2008 (Act No. 20 of 2008) (the JSC Amendment Act) and the South African Judicial Education Institute Act, 2008 (Act No. 14 of 2008). The Minister has announced the secondment of Adv Jiyane to the OCJ with effect from January 2010 to provide capacity to the OCJ.

**STRATEGIC OBJECTIVE 13:
ACCELERATE THE TRANSFORMATION
OF THE LEGAL PROFESSION**

KPI 13.1: Revise the Legal Practice Bill based on the approved Policy Framework on the Transformation of the Legal Profession

The submission of a draft revised framework to the Legislative Development Unit was finalised by the end of June 2009.

The following research was completed during the period under review:

- Raw data portfolio was compiled.
- Further research was conducted and policy proposals canvassed during June 2009.

Drafting phase

- The Policy Unit had a round-table discussion on a revised draft policy on 23 June 2009.
- A draft policy framework was submitted to Legislative Development for input during the period under review. It contains relevant policy positions in relation to the transformation of the legal profession.
- A report was compiled on the recommendations derived from the stakeholder consultative process.
- Integrated input was obtained from stakeholders to revise the policy framework.
- The draft policy was revised to provide the framework for drafting the Legal Practice Bill and submitted for departmental approval.
- A departmental stakeholder consultative process on the policy framework is to be undertaken.

The policy document is currently being finally revised. It will then be taken to the head of department and Ministry for sign-off. A final stakeholder consultative meeting will be held on the policy document, reflecting the final policy provisions. Based on a policy document, a bill has been drafted and revised. It will then be submitted to Cabinet for approval and submitted to Parliament. The Legal Practice Bill has since been approved by Cabinet and will now be submitted to Parliament.

STRATEGIC OBJECTIVE 14: PROMOTE AND PROTECT THE RIGHTS OF CHILDREN

The Chief Directorate: Promotion of the Rights of Vulnerable Persons has been established with the purpose of facilitating the prioritisation of all matters relating to vulnerable groups in the courts and the justice system. This includes the promotion and protection of such rights, especially for children, women, the elderly and other victims. The attention of the chief directorate is focused on the implementation of the relevant legislation and policies to ensure that the most vulnerable people in courts and the justice system receive the holistic, focused and empathetic attention required.

KPI 14.1: Coordinate the implementation of Chapter 4 of the Children's Act

The department aims to facilitate the preparation for the implementation of the Children's Act, 2005 (Act No. 38 of 2005), in children's courts. This will assist in protecting and promoting the rights of children in courts. The protection and promotion of the rights of children through the implementation of the department's responsibilities in terms of the Children's Act, 2005, is dependent on the vision and action of all the relevant departments working together with civil society. The Children's Act Working Group, chaired by the Chief Directorate: Promotion of the Rights of Vulnerable Groups, coordinated the planning and preparation for the implementation of chapter 4 of the Children's Act, 2005. The Children's Act, 2005, will come into effect on 1 April 2010. The act provides a comprehensive approach to children who are in need of care and protection. The department collaborates with the national Department of Social Development as the lead department in respect of this act.

Some of the preparations for the implementation of chapter 4 of the Children's Act, 2005, includes the appointment of additional dedicated children's court clerks in children's courts and training the

children's court clerks for the implementation of the new act. In the period under review, 161 children's court clerks were appointed, bringing the total number of these clerks to 286. The department aims to have 384 magisterial courts capacitated with court clerks. The department also appointed additional family advocates and family counsellors to implement chapter 3, relating to parental rights and responsibilities.

In collaboration with SITA, the department has produced electronic forms to improve the tracking and filling of files. Regulations and forms on the Children's Act, 2005, from the department have been formulated, circulated and are available electronically on the website.

Through the Children's Act, 2005, officials in children's courts will now be able to monitor whether court orders are implemented and will be able to follow up if the child continues to be abused, neglected or exploited. Furthermore, the act also provides the opportunity for the various departments to work more closely with one another regarding child protection issues and to liaise more closely with civil society in this regard.

A summary of all the matters managed in children's courts in terms of the Child Care Act, 1983 (Act No. 74 of 1983), is shown in Table 43.

In terms of children's court processes, when a children's court inquiry is held, the magistrate may declare a child to be in need of care and protection and can thereafter place the child in foster care, in a children's home, in a school of industry or back into the parents' or guardians' care, under the supervision of a social worker. If a child is not found in need of care and protection, the child will be placed back into his or her parents' care, which may be done with or without the supervision of a social worker. Orphaned and abandoned children may also be adopted, which is a separate order that the children's court can make. If the children cannot be placed for adoption in South Africa, the court may order an intercountry adoption, where the child is adopted outside the country. Table 43 shows the children's court matters for the period under review.

Table 43: Children's matters dealt with in children's courts

Lower court: Children's matters in children's courts: 2009/10 statistics:				
Region	Adoptions	Intercountry adoptions	Children in need of care	Children placed in foster care
Eastern Cape	1 508	60	17 785	21 106
Free State	304	27	4 022	4 435
Gauteng	1 366	167	9 483	10 399
KwaZulu-Natal	1 300	277	31 897	32 258
Limpopo	137	150	8 454	8 716
Mpumalanga	116	8	4 439	5 700
North West	378	100	5 262	6 514
Northern Cape	103	2	1 170	1 541
Western Cape	641	54	6 107	4 209
Total	5 853	845	88 619	94 878

Figure 16: Children in need of care

Children in need of care



Figure 17: Children placed in foster care

Children placed in foster care



KPI 14.2: Draft a National Policy Framework on Child Justice and avail it for comments

The importance of the national policy framework in terms of the Child Justice Act, 2008 (Act No. 75 of 2008), relates to the fact that such a policy framework will ensure the coordinated, holistic implementation and prioritisation of the matters contained in the Child Justice Act, 2008, which will come into operation on 1 April 2010. Consequently, children in conflict with the law will be provided with the services and assistance that all departments, as well as civil society, have agreed upon.

The National Policy Framework on Child Justice was drafted by the Intersectoral Steering Committee on Child Justice (ISCCJ), chaired by the Department of Justice and Constitutional Development. It is in the final stages of consultation with departments and NGOs before it will be tabled in Parliament in June 2010, as provided for by the Child Justice Act, 2008.

The Child Justice Act, 2008 (Act No. 75 of 2008)

This act will establish a criminal justice system for children who are in conflict with the law in accordance with the values and rights of children enshrined in the Constitution and in the line with the obligations undertaken by the country as a United Nations (UN) member state and signatory to the Convention on the Rights of the Child, as well as the African Charter on the Rights and Welfare of the Child.

The act provides for the following:

- A mechanism for dealing with children who lack criminal capacity outside the criminal justice system;
- Special provisions for securing the attendance at court of children;
- The release or detention and placement of children with detention in secure care

facilities and prisons as a measure of last resort and only for the most appropriate and shortest period of time;

- The assessment of all children;
- The holding of a preliminary inquiry in child justice matters instead of a first court appearance;
- The incorporation, as a central feature, of the possibility of diverting matters away from the formal criminal justice system in appropriate circumstances;
- Child justice courts to hear all trials of children whose matters are not diverted;
- An extension of the sentencing options available in respect of children who have been convicted;
- Entrenchment of the notion of restorative justice in the criminal justice system in respect of children who are in conflict with the law; and
- Measuring trends on the numbers of children who are diverted from the formal justice system.

Even though the Child Justice Act, 2008, was not implemented during the financial year under review, the impact of the coordinated and sustained focus on the prioritisation of matters related to children in conflict with the law has, during the past few years and especially during the last financial year, led to a 50% reduction in the number of children awaiting trial in correctional facilities and prisons. It has also led to an increase in the number of children awaiting trial in secure care facilities or home-based supervision. Children's cases have also been fast-tracked through the criminal justice system, resulting in 71% of children's cases being diverted within three months, and 29% of children awaiting trial being dealt with in over three months.

KPI 14.3: Increase the number of children diverted from the formal justice system by 10%

The diversion programme gives children a chance not to go through the criminal courts, which are often not sensitive to their rights. Research has shown that 85% of children who have attended diversion programmes do not commit offences again. This is, therefore, an important tool to promote crime prevention and improve the quality of life of the children, their families and the communities at large.

The department's objective is to ensure that the number of children diverted from the criminal justice system is increased. In order to achieve this objective, the department works closely with all relevant players to monitor and report on the trends of children in conflict with the law. It also works with the Department of Social Development, which holds the legislative responsibility to develop the National Diversion Accreditation Policy Framework (including the accreditation of service providers and programmes), which is expected to be finalised during the next financial year.

The ISCCJ remains integral to the collaborative approach on child justice. Another feature to the intersectoral approach is the convening of the first directors-general meeting on 11 March 2010 in terms of section 94 of the Child Justice Act, 2008. The meeting agreed on a common approach to child justice-related matters and to consultations among the sectors on formal documentation, as well as the consolidated implementation plan.

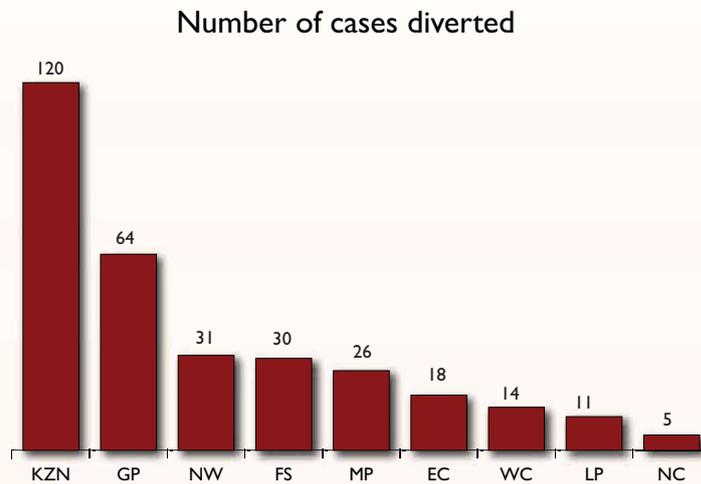
This is important, as the work needed to improve the number of children diverted is an intersectoral and intercluster responsibility, where the NPA and the magistracy will make decisions regarding the diversion of children from criminal cases and the national Department of Social Development will ensure the availability and accreditation of the necessary diversion programmes, as well as funding of the diversion service providers concerned.

Table 44 indicates all new cases registered in the period under review. It shows that 32 288 cases were registered, with 319 of them being diverted. Thus, the department has increased the number of children diverted from the formal justice system by 10%. It should be noted that these statistics refer to cases where the child is the prime accused.

Table 44: Number of cases diverted

Province	Total of cases	Cases diverted	Percentage of diversions
Eastern Cape	4 438	18	0.41%
Free State	1 965	30	1.53%
Gauteng	5 258	64	1.22%
KwaZulu-Natal	5 970	120	2.01%
Limpopo	2 100	11	0.52%
Mpumalanga	1 483	26	1.75%
North West	1 783	31	1.74%
Northern Cape	1 378	5	0.36%
Western Cape	7 913	14	0.18%
Total	32 288	319	9.9%

Figure 18: Number of cases diverted



KPI 14.4: Improve child maintenance services through the Isondlo Campaign by 10% from the current standards

The main objective of the Maintenance Act, 1998 (Act No. 99 of 1998), is to secure maintenance monies from parents and/or other persons legally required to support the child. To facilitate the legal enforcement of maintenance for children, the Maintenance Act, 1998, also strives to facilitate the improvement of maintenance services in the maintenance courts. The Maintenance Act, 1998, and maintenance courts provide support to obtain maintenance monies for children by ways of the civil enforcement of maintenance orders, which can be obtained by ways of an emolument attachment order, a warrant of execution and/or a warrant of attachment of a debt owed by the maintenance defaulter. Recently, the courts have also started enforcing the attachment of a maintenance defaulter’s pension money to ensure that maintenance monies are paid before the maintenance defaulter can disappear with his or her pension and leave the children stranded.

During the period under review, the department initiated the following key programmes to improve the delivery of maintenance services at courts:

- Training of maintenance officers and maintenance investigators on civil execution;
- Production of information leaflets on access to and processes regarding maintenance services;
- Radio talk shows to inform the public on matters of child maintenance; and
- The design and implementation of electronic funds transfer (EFT) transactions through the department’s financial systems to reduce long queues and improve the safety of applicants, who no longer have to receive cash in their hands.

Table 45 and Figure 19 show maintenance cases handled during the period under review.

Table 45: Maintenance statistics for 2009/10

Region	New applications received	Enquiries received	Orders by default	Section 31	Emolument attachment orders	Attachments of debt	Warrants of execution
Eastern Cape	22 835	36 103	1 356	2 635	3 137	173	757
Free State	17 738	17 323	1 141	953	1 928	187	440
Gauteng	29 241	45 450	832	3 482	5 617	180	501
KwaZulu-Natal	19 396	67 737	1 434	2 190	3 939	712	297
Limpopo	16 741	22 126	750	2 672	3 628	191	249
Mpumalanga	14 013	17 104	863	2 184	3 458	124	128
North West	48 747	18 872	1 189	706	4 477	211	107
Northern Cape	4 891	7 764	189	979	675	6	55
Western Cape	27 184	48 364	732	6 061	3 616	132	203
Total	200 786	280 843	8 486	21 862	30 475	1 916	2 737

Figure 19: Overall maintenance statistics

Overall maintenance statistics



Figure 20: Maintenance applications received

Maintenance applications received



Compared to the maintenance statistics for 2008/09, the amount of work and orders handled by these courts in 2009/10 increased by 50%. These orders are made by the maintenance courts, on request and application by a maintenance applicant.

STRATEGIC OBJECTIVE 15: RESTORATIVE JUSTICE

KPI 15.1: Ensure that the draft Restorative Justice Strategy is available for comment to ensure effective management

Alternative dispute resolution (ADR) is defined as "...the disposal of disputes outside of the formal court proceedings. The processes and mechanisms may or may not include the restorative justice approach." Restorative justice in the criminal justice system aims to heal the harm caused by a crime or offence in order to ultimately rebuild broken relationships and encourage social justice and social dialogue.

The department aims to ensure that a draft Restorative Justice Strategy is developed, so that all JCPS Cluster partners can work together to align programmes and processes, and coordinate reporting. During the period under review, the JCPS Restorative Justice Task Team drafted the Restorative Justice Strategy.

KPI 15.2: Draft progress reports on the implementation of the Victim Empowerment Programme

The aim of the department is to provide a report on the implementation of the Victim Empowerment Programme (VEP) in line with the National Policy Guidelines for Victim Empowerment, 2008, which forms the basis of government's victim empowerment programme. All government departments in the JCPS Cluster should develop operational plans on how they will implement victim empowerment.

The department will continue to lead the implementation of the Victim's Charter through the JCPS Interdepartmental Committee (IDC) on the Victim's Charter. The IDC will report to the VEP unit of the Department of Social Development (DSD) as the lead department for submission of reports to the Development Committee (DEVCOMM). The Department of Justice and Constitutional Development will be responsible for the coordination of the implementation of the plan developed by the IDC for the JCPS during 2010/11.

KPI 15.3: Coordinate the development of restorative justice and programmes in the civil and criminal stream

The aim of the department is to align and coordinate the implementation of the Restorative Justice Strategy and ensure that there are restorative justice programmes in both the civil and criminal justice systems. This will have a social impact on the management of conflict in a less adversarial and more therapeutic and supportive manner.

During the year under review, the department finalised the Non-custodial Sanctions Pilot Programme developed by the National Institute for Crime Prevention and the Reintegration of Offenders (NICRO), as a service provider in five magisterial districts. This was rolled out to 18 magisterial districts. The department further supported the plans and work of the Foundation for Human Rights (FHR) to develop restorative justice processes and programmes among NGOs, community-based organisations (CBOs) and the paralegal movement. The department also convened a mediation workshop to discuss the way forward on regulation. The restorative justice processes, as contained in the Child Justice Act, 2008, and the Children's Act, 2005, were further mapped out for easy training and circulation purposes.

STRATEGIC OBJECTIVE 16: PROVIDE EFFECTIVE SMALL CLAIMS COURT SERVICES

KPI 16.1: Designate 180 small claims courts by 2010

The aim of the department is to improve public access to small claims courts, with a particular emphasis on the vulnerable and previously marginalised groups. Small claims courts are a powerful mechanism to provide access to justice, especially for the poor. These courts are based on speed, simplicity and cost-effectiveness. These courts are developed to eliminate time-consuming adversarial procedures before and during the trial. No legal representatives are required or allowed to appear on behalf of the

litigants in these courts. They are important mechanisms, which provide a forum for the resolution of civil disputes of up to R7 000. The aim is to have at least one functioning and active small claims court in each of South Africa's 384 magisterial districts.

During the period under review, 13 small claims courts were established to bring the total number of these courts to 202. Fifty-four advisory board members were appointed, five inactive advisory boards were re-established, 112 commissioners were appointed and 94 clerks were trained. The department is currently setting up advisory boards and developing guidelines for the clerks and commissioners of the small claims courts. Table 46 indicates the statistics for the resuscitation of inactive advisory boards.

Table 46: Resuscitation of inactive advisory boards

Province	Area	Inactive advisory boards resuscitated	Advisory board members appointed	Gender and race
Limpopo	Bochum	1	4	Four African males
	Mhala	1	1	One African male
Mpumalanga	Thulamahashe	1	1	One African male
KwaZulu-Natal	Pinetown	1	2	One white male
Western Cape	Tygerberg	1	2	Two white males
Total		5	10	

During the period under review, the department improved the delivery of services in the small claims courts. Table 47 only accounts for courts that sat on small claims cases. It provides information pertaining to action arising from liquid documents for the period under review.

Table 47: Action arising from liquid document cases for 2009/10

Province	New cases	Letters of demand issued	Summonses issued	Trials	Remanded	Judgments granted	Cases dismissed	Cases struck off roll	Litigants referred for legal assistance	Out-of-court settlement	Withdrawn	Finalised cases
Eastern Cape	128	282	147	167	37	75	28	28	104	5	0	240
Free State	25	35	4	6	1	5	0	1	21	14	3	44
Gauteng	534	835	456	418	160	164	62	106	18	45	128	523
KwaZulu-Natal	144	208	115	103	30	66	20	27	47	2	14	176
Limpopo	66	95	32	24	0	11	9	6	2	12	3	43
Mpumalanga	207	272	42	37	14	24	3	15	0	55	0	97

PART 2: PROGRAMME PERFORMANCE

Province	New cases	Letters of demand issued	Summonses issued	Trials	Remanded	Judgments granted	Cases dismissed	Cases struck off roll	Litigants referred for legal assistance	Out-of-court settlement	Withdrawn	Finalised cases
North West	536	714	214	75	43	70	10	37	8	84	17	226
Northern Cape	3	3	0	0	0	0	0	0	0	2	0	2
Western Cape	16	90	35	14	4	13	3	2	4	0	1	23
Total	1 659	2 534	1 045	844	289	428	135	222	204	219	166	1 374

Table 47 reveals that the highest number of new cases registered pertaining to action arising from liquidation occurred in North West (537), followed by Gauteng (534).

Table 48 provides information pertaining to action against occupier cases for the period under review.

Table 48: Action against occupier cases for 2009/10

Province	New cases	Letters of demand issued	Summonses issued	Trials	Remanded	Judgments granted	Cases dismissed	Cases struck off roll	Litigants referred for legal assistance	Out-of-court settlement	Matters withdrawn	Finalised cases
Eastern Cape	39	39	24	16	0	7	3	2	0	1	2	15
Free State	6	6	0	0	0	0	0	0	1	2	0	3
Gauteng	24	283	131	113	14	7	3	12	2	4	2	30
KwaZulu-Natal	22	57	24	27	5	8	2	18	22	0	1	51
Limpopo	10	12	3	3	3	1	0	1	0	2	0	4
Mpumalanga	117	100	45	41	6	13	1	17	7	7	2	47
North West	19	15	9	5	0	5	1	1	0	1	0	8
Northern Cape	4	4	4	2	0	1	1	0	0	0	0	2
Western Cape	40	142	56	61	9	36	8	12	1	1	1	59
Total	281	658	296	268	37	78	19	63	33	18	8	219

Table 48 reveals that the highest number of new cases registered pertaining to action against occupier occurred in Mpumalanga (117).

Table 49 provides information pertaining to credit agreements for the period under review.

Table 49: Credit agreement statistics for 2009/10

Province	New cases	Letters of demand issued	Summonses issued	Trials	Remanded	Judgments granted	Cases dismissed	Struck off roll	Litigants referred for legal assistance	Out-of-court settlement	Matters withdrawn	Finalised cases
Eastern Cape	696	738	317	267	90	196	35	59	165	75	4	534
Free State	88	74	8	9	49	19	2	2	16	32	8	79

Province	New cases	Letters of demand issued	Summonses issued	Trials	Remanded	Judgments granted	Cases dismissed	Struck off roll	Litigants referred for legal assistance	Out-of-court settlement	Matters withdrawn	Finalised cases
Gauteng	860	1 433	727	540	206	323	141	155	60	65	85	829
KwaZulu-Natal	1 168	1 144	851	582	119	316	66	118	90	39	259	888
Limpopo	742	1 090	360	279	72	168	29	56	115	116	7	491
Mpumalanga	230	471	125	71	31	163	12	55	38	7	4	279
North West	1 406	1 130	530	252	75	209	31	111	2	174	16	543
Northern Cape	29	39	13	1	0	8	0	0	0	3	0	11
Western Cape	494	911	298	226	71	233	20	54	50	38	17	412
Grand total	5 713	7 030	3 229	2 227	713	1 635	336	610	536	549	400	4 066

Table 49 reveals that the highest number of new cases registered pertaining to credit agreements occurred in North West (1 406).

Table 50 provides information pertaining to damage to properties for the period under review.

Table 50: Damage to properties for 2009/10

Province	New cases	Letters of demand issued	Summonses issued	Trials	Remanded	Judgments granted	Cases dismissed	Cases struck off roll	Litigants referred for legal assistance	Out-of-court settlement	Matters withdrawn	Finalised cases
Eastern Cape	362	521	290	364	102	174	39	41	138	26	10	428
Free State	103	37	7	4	17	15	1	0	7	43	4	70
Gauteng	1 258	2 181	1 017	581	218	402	143	157	198	83	85	1 068
KwaZulu-Natal	349	589	312	216	87	109	28	91	103	8	15	354
Limpopo	388	623	211	147	33	115	20	20	66	66	9	296
Mpumalanga	809	890	375	365	102	170	22	164	220	39	12	627
North West	914	937	434	241	117	167	30	98	7	104	13	419
Northern Cape	14	12	7	5	1	4	1	1	0	0	0	6
Western Cape	646	1 068	549	369	97	281	38	120	76	26	18	559
Total	4 843	6 858	3 202	2 292	774	1 437	322	692	815	395	166	3 827

Table 50 reveals that the highest number of new cases registered pertaining to damage to properties occurred in Gauteng (1 258).

PART 2: PROGRAMME PERFORMANCE

Table 51 provides information pertaining to monies lent for the period under review.

Table 51: Monies lent for 2009/10

Province	New cases	Letters of demand issued	Summonses issued	Trials	Remanded	Judgments granted	Cases dismissed	Cases struck off roll	Litigants referred for legal assistance	Out-of-court settlement	Matters withdrawn	Finalised cases
Eastern Cape	2 069	2 629	961	793	461	553	66	163	327	332	39	1 480
Free State	690	913	195	165	101	101	6	26	66	194	13	406
Gauteng	3 854	8 041	3 137	2 657	696	1 931	610	604	684	117	453	4 399
KwaZulu-Natal	1 810	3 846	1 047	866	310	575	120	339	215	161	165	1 575
Limpopo	2 370	4 245	1 168	880	317	627	110	185	263	378	63	1 626
Mpumalanga	1 428	2 289	665	512	149	327	101	212	179	129	15	963
North West	2 518	2 241	1 058	664	133	513	235	140	41	279	19	1 227
Northern Cape	391	308	332	165	28	214	9	23	5	15	0	266
Western Cape	1 283	3 049	1 076	842	156	640	68	234	101	64	30	1 137
Total	16 413	27 561	9 639	7 544	2 351	5 481	1 325	1 926	1 881	1 669	797	13 079

Table 51 reveals that the highest number of new cases registered pertaining to monies lent occurred in Gauteng (3 854).

Table 52 provides information pertaining to other causes for the period under review.

Table 52: Other causes for 2009/10

Province	New cases	Letters of demand issued	Summonses issued	Trials	Remanded	Judgments granted	Cases dismissed	Cases struck off roll	Litigants referred for legal assistance	Out-of-court settlement	Matters withdrawn	Finalised cases
Eastern Cape	957	1 760	415	535	91	308	56	83	472	60	16	995
Free State	390	411	95	39	39	92	7	14	61	80	27	281
Gauteng	1 882	3 997	1 218	924	365	785	201	307	221	69	65	1 648
KwaZulu-Natal	1 458	2 100	1 065	886	216	468	112	258	284	43	120	1 285
Limpopo	537	884	336	405	136	271	34	114	34	66	6	525
Mpumalanga	900	1 080	460	391	82	160	34	114	81	111	17	517
North West	1 605	1 285	652	393	116	274	43	98	40	266	21	742
Northern Cape	124	124	65	80	19	41	0	18	0	7	0	66
Western Cape	1 233	2 094	1 009	993	275	551	108	242	126	64	28	1 119
Total	9 086	13 735	5 315	4 646	1 339	2 950	595	1 248	1 319	766	300	7 178

Table 52 reveals that the highest number of new cases registered pertaining to other causes occurred in Gauteng (1 882).

Table 53 provides information pertaining to services rendered during the period under review.

Table 53: Services rendered for 2009/10

Province	New cases	Letters of demand issued	Summonses issued	Trials	Remanded	Judgments granted	Cases dismissed	Cases struck off roll	Litigants referred for legal assistance	Out-of-court settlement	Matters withdrawn	Finalised cases
Eastern Cape	778	1 243	510	484	180	241	52	86	242	133	27	781
Free State	111	207	27	10	10	19	2	3	8	33	3	68
Gauteng	2 416	4 940	2 230	1 715	463	1 507	342	382	439	104	182	2 956
KwaZulu-Natal	1 343	1 690	971	629	211	380	133	213	158	58	65	1 007
Limpopo	1 763	3 094	919	733	254	512	98	160	194	213	58	1 235
Mpumalanga	969	1 544	481	420	91	245	28	160	239	54	18	744
North West	1 518	1 320	644	414	88	259	49	103	59	189	112	771
Northern Cape	96	105	82	97	28	55	4	12	6	4	0	81
Western Cape	963	2 112	811	573	114	410	64	182	107	65	16	844
Total	9 957	16 255	6 675	5 075	1 439	3 628	772	1 301	1 452	853	481	8 487

Table 53 reveals that the highest number of new cases registered pertaining to services rendered occurred in Gauteng (2 416).

STRATEGIC OBJECTIVE 17: MANAGE SEXUAL OFFENCES, DOMESTIC VIOLENCE AND MAINTENANCE CASES

KPI 17.1: Coordinate the implementation of the sexual offences legislation

The department aims to effectively coordinate the implementation of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) (the Sexual Offences Amendment Act).

The Sexual Offences Amendment Act, 2007, provides for the establishment of an intersectoral committee, consisting of the JCPS Cluster departments and the Department of Health. The Directors-General Intersectoral Committee (DG ISC) consists of the directors-general

of the JCPS Cluster, the Director-General of the Department of Health and the National Director of Public Prosecutions (NDPP). An interdepartmental Operational Intersectoral Committee (OISC) was established to support the DG ISC. During the period under review, the OISC developed the Interdepartmental Implementation Plan of the Sexual Offences Amendment Act. The plan will define areas of sectoral implementation and collaboration. This will also facilitate management of the implementation of the Sexual Offences Amendment Act, 2007, by the Intersectoral Committee, chaired by the Director-General of the department.

The department, together with the NPA, has presented proposed amendments to certain

provisions of the Sexual Offences Amendment Act, 2007, the National Register for Sex Offenders and other subsidiary legislation. The department is also studying the proposed amendments before they are presented to the Development Committee for finalisation.

In compliance with the requirements of the Sexual Offences Amendment Act, 2007, a progressive, incremental three-year plan to increase the intermediary services in courts has been developed and is being implemented. The role of the intermediary is to explain the general purpose of the question posed to the child and to explain the questions in a manner that the child understands. This support service is critical in cases involving children who are victims of sexual violence and mentally disabled persons. The complexity of the process often leads children and mentally disabled persons to provide inaccurate accounts of events, a situation that jeopardises chances for convictions in such cases.

The lack of information management to document the work volume and time cycles was identified as a serious challenge as the current information management system only caters for the identification of children in the criminal justice system as offenders rather than victims. As a result, a monitoring tool was developed for

intermediaries to document their work volumes and time cycles relating to their work. This will enable a clear identification of the number of cases that the intermediary services are able to reach and also to identify the challenges related to the number of cases handled by intermediaries.

The Sexual Offences Amendment Act, 2007, introduced new provisions for processing cases. This necessitated the development of uniform data on sexual offences for inclusion in the current system that manages information relating to sexual offences, that is, the e-scheduler. The lists were coordinated and incorporated to facilitate the concurrent documentation of charges in terms of both the old and the new list of charges. This will enable the determination of progress made with disposing of cases that are still on the court roll, based on old charges, against the cases on the roll based on the new Sexual Offences Amendment Act, 2007.

During the period under review, a revised tool for the collection of data was developed in conjunction with the SAPS and the NPA. The tool links the gathering of statistics between the three role-players to enable a more accurate analysis of trends regarding the management of sexual offences at courts.

Table 54 shows the statistics in respect of sexual offences and related matters.

Table 54: Cases disposed of in 2009/10

Main charge	Finalised with verdict			Removed without verdict			Total cases disposed of
	Between 14 and 17 years	18 years and older	Total finalised	Between 14 and 17 years	18 years and older	Total removed	
Eastern Cape	3	126	130	59	727	798	928
Free State	1	81	83	43	509	561	644
Gauteng	2	157	159	37	558	602	761
KwaZulu-Natal	22	244	282	106	1 088	1 253	1 535
Limpopo	11	132	145	41	453	504	649
Mpumalanga	3	76	80	26	310	341	421
Northern Cape	2	19	21	13	123	139	160

Main charge	Finalised with verdict			Removed without verdict			Total cases disposed of
	Between 14 and 17 years	18 years and older	Total finalised	Between 14 and 17 years	18 years and older	Total removed	
North West	7	85	92	33	538	576	668
Western Cape	10	140	151	65	865	946	1 097
Total	61	1 060	1 143	423	5 171	5720	6 863

In 2009, KwaZulu-Natal had the highest number of disposed cases (1 535), but this was a slight reduction for the province compared to 2007, when the number stood at 1 612. In 2009, the Western Cape showed the second-highest number (1 097) of disposed cases, followed by the Eastern Cape (928). The Northern Cape still exhibits the least number of disposed cases (160). This reflects a reduction, compared to 485 cases in 2008.

This data shows more than a 50% reduction (325) in sexual offences. In almost all provinces, there are more cases disposed of without a verdict compared to those disposed of with a verdict, which continues unabated. The same applies to the bulk of cases disposed of with and without a verdict belonging to the category of children who are 18 years and older. Overall, there has been a decrease in the number of cases disposed of from 9 530 in 2008 to 6 863 in 2009. This shows a total reduction of 2 667 for the period under review.

Figure 21: Finalised with a verdict

Finalised with verdict

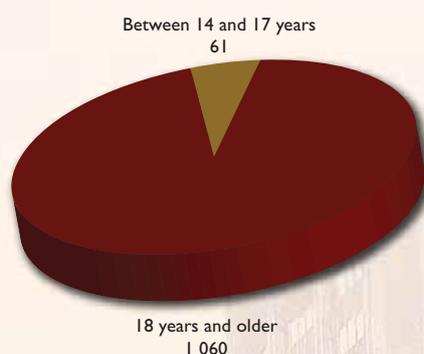


Figure 22: Finalised without a verdict

Finalised without verdict

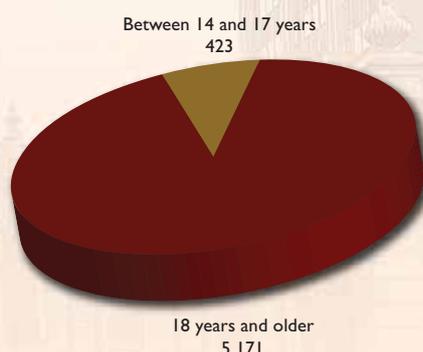


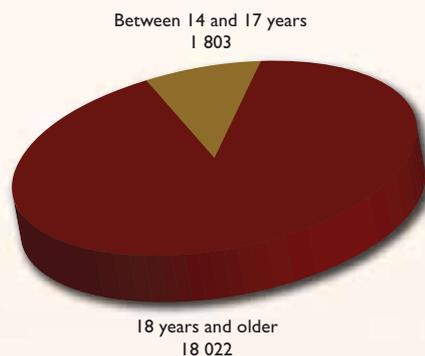
Table 55 provides for outstanding cases as at 31 December 2009, categorised in the year of enrolment, in respect of the different age categories.

Table 55: National statistics for outstanding cases on 31 December 2009 for sexual offences according to the year of enrolment

Different age groups	2006	2007	2008	2009	Total
Between 14 and 17 years	43	119	332	1 309	1 803
18 years and older	311	1 120	3 431	13 160	18 022
Total	359	1 245	3 791	14 571	19 976

Figure 23: Outstanding sexual offence cases

Outstanding sexual offence cases



Coordination of the OISC

The coordination of the OISC resulted in the achievement of a number of outcomes aimed at ensuring the effective implementation of the Sexual Offences Amendment Act. These include the following, among others:

- The designation of facilities for the provision of specialised treatment to victims of sexual violence, including medical treatment and the provision of post-exposure prophylaxis. To this end, the Department of Health has identified approximately 164 clinical forensic facilities;
- The development of a draft discussion document on specialised services. This discussion document provides the framework for an appropriate integrated specialised service provision, which can be adopted in the criminal justice system. The rationale is to improve services for victims of sexual violence. Further consultations are necessary before the document can be adopted as part of the norms and standards that will give effect to the Sexual Offences National Policy Framework;
- Facilitating the development of the Draft Discussion Policy Framework and Guidelines on Intermediaries in alignment with the prevalent Constitutional Court order of *S v Phaswane*;
- The training and development of court officials rendering services in sexual offence courts;
- The establishment of the Child Witness

Training Programme to train approximately 106 intermediaries during June, July and December 2009 in Gauteng, the Eastern Cape and KwaZulu-Natal, including the 91 contract intermediaries who were appointed during 2008/09; and

- The establishment of the Sexual Offences Amendment Act Training Material Reference Group and the development of a training manual for clerks and the judiciary.

KPI 17.2: Improve service on domestic violence matters by 10% from current standards

The department is committed to supporting and promoting the rights of victims of domestic violence, especially women, children and the elderly, through the courts and criminal justice processes, and to ensure that victims of such crimes are assisted through the Victim Empowerment Programme. The aim of the department is to provide support to courts to ensure an improvement of service delivery in domestic violence courts, and to protect and promote the rights of abused women,

children and elderly persons in this regard.

During the year under review, the department finalised a review of the implementation of the Domestic Violence Act, 1998, and submitted the findings to the JCPS Development Committee. The draft document is in its initial consultation phases and will be finalised during the next financial year.

The department also provided training to the traditional leaders and clerks of the court on domestic violence matters. The department has conducted research to study the work done in the past 10 years in this area. The 10-year Domestic Violence Macro Review aimed at taking stock of all initiatives and projects in courts and the criminal justice system to address the reduction and prevention of domestic violence. Recently, electronic forms and systems have been developed and approved to be piloted at two magistrates' courts, after which it will be rolled out to all magistrates' court service points to improve the handling of domestic violence cases.

Table 56: Domestic violence statistics for 2009/10

Province	Old applications	New applications	Total applications	Orders granted	Made final	Set aside	Withdrawn/ struck off the roll	Warrant issued for breach
Eastern Cape	6 410	34 852	41 262	17 346	10 655	1 573	6 729	1 523
Free State	5 551	15 297	20 848	8 440	5 152	2 302	2 053	1 431
Gauteng	10 646	39 965	50 611	29 435	15 269	6 622	10 708	2 511
KwaZulu-Natal	15 979	43 592	59 571	28 870	14 409	11 762	9 032	2 954
Limpopo	6 533	15 874	22 407	11 783	8 110	2 101	2 092	635
Mpumalanga	3 273	14 354	17 627	10 096	5 294	2 116	3 105	1 123
North West	4 318	13 058	17 376	8 006	3 461	696	2 521	1 303
Northern Cape	3 580	7 924	11 504	4 426	1 989	705	2 102	282
Western Cape	10 024	40 316	50 340	22 757	12 839	3 277	11 024	3 186
Total	66 314	225 232	291 546	141 159	77 178	31 154	49 366	14 948

Figure 24: Domestic violence applications

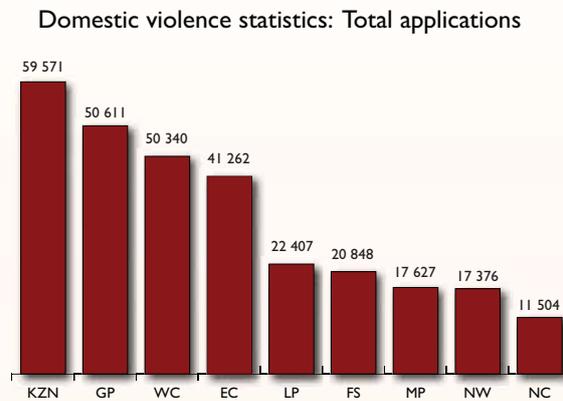
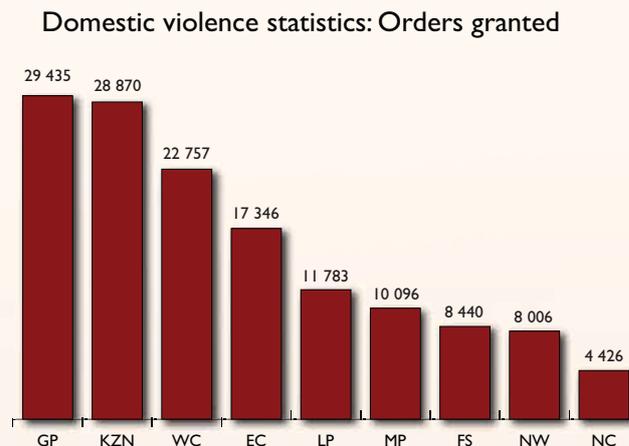


Figure 25: Domestic violence orders granted



When compared to the previous financial year, there was a decrease in matters going to court during the period under review, a decrease in the granting of interim protection orders, as well as a decrease in the number of orders finalised. However, the data also shows that there has been a decrease in the number of cases withdrawn and the number of cases involving breaches of protection orders. This can only mean that the system is working better.

KPI 17.3: Develop a policy and implementation framework for the Victim’s Charter

The department aims to develop a policy to guide the implementation of victim empowerment

programmes and to improve court processes in order to protect the rights of victims. The department is responsible for the coordination of the Interdepartmental Committee (IDC) on the Victim’s Charter. The IDC meetings are held on a quarterly basis and require all participating departments to submit progress reports to show progress with the implementation of the Victim’s Charter.

During the period under review, the department held a policy development workshop with regional coordinators and court managers to develop court implementation guidelines. Furthermore, the department provided training to 40 SAPS officials. To promote the public’s

appreciation of the Victim's Charter; a website was launched. The department also convened a workshop on the monitoring and evaluation of the Victims' Charter in September 2008, with over 200 participants from government departments and civil society organisations.

KPI 17.4: Develop a policy and coordinate implementation of the framework for the Human Trafficking Bill

The department aims to develop a policy that will provide guidelines on the implementation of the Human Trafficking Bill. During the period under review, the department developed the Discussion Paper on Human Trafficking in South Africa and the SADC subregion. The paper will be used as a basis for the development of cross-border trafficking interventions and submissions to the International Relations Unit on the steps to be taken to facilitate the effective management of prosecutions and the repatriation of victims of trafficking, as well as the development of SADC-based interventions on trafficking in persons. Furthermore, it will enable the formulation of the strategy and the National Policy Framework on Trafficking in Persons.

The department also developed a summary of protocols and conventions on trafficking. This will be used in the development of the National Policy Framework on Trafficking in Persons once the bill is passed as law. The project provided comments on the SALRC report on the Trafficking in Persons Bill to enhance the refinement of the bill, as well as general comments provided to the Legislative Development Unit. Further comments will be provided, as the bill is considered in the various stages of its adoption.

KPI 17.5: Draft policy on integrating sexual offence courts into the mainstream courts

During the year under review, a draft policy was developed to integrate sexual offence courts into the mainstream courts. The aim of this draft

policy is to strengthen and roll out the specialised services to mainstream courts in provinces. The department drafted the discussion document on integrating sexual offence courts into mainstream courts and consulted with the JCPS Cluster departments and regions. The discussion document will form part of the Sexual Offences National Policy Framework.

KPI 17.6: Implement the National Policy Framework on Sexual Offences

The Sexual Offences National Policy Framework was developed in terms of section 62 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) (the Sexual Offences Amendment Act). The Sexual Offences National Policy Framework was developed in conjunction with the JCPS Cluster departments, comprising the Department of Health, the SAPS, the NPA, the Department of Social Development and the Department of Correctional Services. The Sexual Offences National Policy Framework will guide the role-players to effectively manage the implementation of the Sexual Offences Amendment Act, 2007.

The framework still needs to be tabled to the Intersectoral Committee chaired by the Director-General of the department before it is presented to Parliament through the Minister of Justice and Constitutional Development in consultation with the ministers of the other role-player departments. A request for the extension of the time frame for the adoption of the Sexual Offences National Policy Framework will be tabled through the Judicial Matters Amendment Bill to be submitted to Parliament. This delay may pose challenges in new areas of work, such as the National Register of Sex Offenders, as there are no prior existing models.

During the period under review, the draft policy was presented to the DEVCOMM and the JCPS Cluster, but the inputs could not be finalised due to the unavailability of inputs from other

departments. The work will continue in the first quarter of 2010/2011 in order to finalise the National Policy Framework. It will be submitted to the Director-General for approval for tabling to the DG-ISC and then to the Minister for adoption in consultation with the other JCPS Cluster ministers.

Furthermore, a draft monitoring and evaluation tool on the management of sexual offences was developed in consultation with departments who participate in the Intersectoral Committee. Once finalised, this tool will form an integral part of the Sexual Offences National Policy Framework and will enable the DG ISC to ensure the effective management of sexual offence cases by the departments.

KPI 17.7: Support the establishment and management of the National Register for Sex Offenders

The Sexual Offences Amendment Act, 2007, requires the establishment of a National Register for Sex Offenders (NRSO). The aim is for the NRSO to list convicted sex offenders or persons alleged to have committed sexual offences against children and mentally disabled persons. Furthermore, the NRSO will be employed to certify whether or not a person seeking a job involving children or mentally disabled persons is fit to hold such a job.

During the period under review, the Integrated Case Management System NRSO Phase I system was piloted in regions and has been rolled out nationally. This phase requires clerks of the court and registrars of the High Court to capture five court orders of persons convicted of committing sexual offences against children and mentally disabled persons. These are submitted electronically to the interim office of the National Registrar for Sexual Offences and the original forms are posted or facsimiled to the office of the National Registrar for checking and capturing.

An evaluation mechanism for monitoring the efficiency of this phase has been conducted to test the efficiency of the system. A total of 450 convictions of sexual offences against children and mentally disabled persons were reported by the regions between June 2009 and March 2010.

The Minister designated the interim National Registrar for Sexual Offences, as required in terms of section 42(2) of the Sexual Offences Amendment Act and the regulations. The interim national registrar commenced duty in September 2009. This will facilitate the process of ensuring that while internal processes to establish the Office of the National Registrar are being finalised, the functions and responsibilities of the national registrar are carried out. To support regions with the effective implementation of the NRSO, the department provided training to 440 clerks of the court, including registrars of the high court.

In addition, a general notice was published in three official languages in the Government Gazette to notify the public of the suspension of the requirement for the certificate to determine whether the particulars of a person applying for employment to work with children or mentally disabled persons is in the NRSO until Phase 2 is implemented in full. Thus, the children's courts can continue to consider applications without this requirement hindering its processes.

STRATEGIC OBJECTIVE 18: PROVIDE ADEQUATE FAMILY LAW SERVICES TO PROTECT THE INTERESTS OF CHILDREN

KPI 18.1: Finalise 50% of all cases handled by the Family Advocate within six months

The Office of the Family Advocate's core function is aligned with section 28(2) of the Constitution of South Africa: "the child's best interests are of paramount importance in every matter concerning the child". The core function of the Family Advocate is to promote and protect the

best interests of the child in accordance with relevant legislation.

The department aims to safeguard the best interests of minor and dependent children from the harmful effects of parental litigation and disputes over parental rights and responsibilities. This is done through intervention in litigation or the mediation of settlement agreements. During the period under review, the department received

9 162 cases, of which 8 105 were finalised. A total of 3 957 cases were not finalised during the period under review. This translates into an average of 66% achievement of all cases handled by the Family Advocate within six months. The total number of the pending cases includes those cases that have been carried over from the previous financial year.

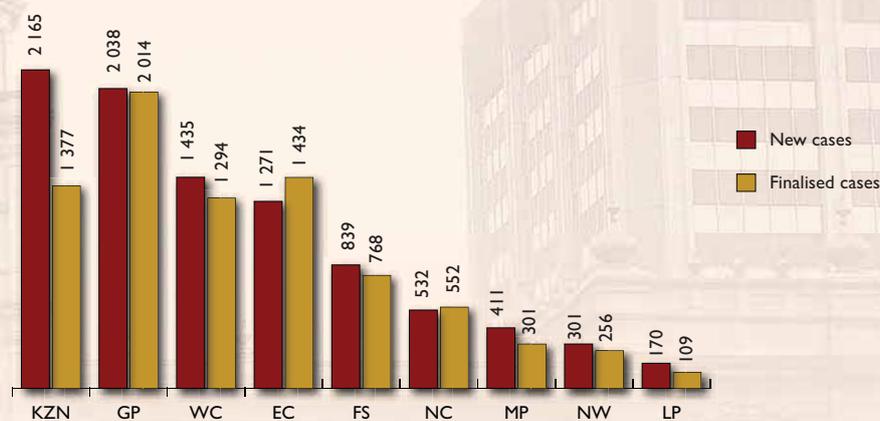
Table 57 provides detailed statistics of the cases dealt with during the period under review.

Table 57: Family Advocate case statistics

Province	New cases	Finalised cases	Pending cases
Free State	839	768	171
Northern Cape	532	552	115
Eastern Cape	1 271	1 434	283
Western Cape	1 435	1 294	1 682
Limpopo	170	109	38
Mpumalanga	411	301	99
Gauteng	2 038	2 014	1 032
North West	301	256	53
KwaZulu-Natal	2 165	1 377	484
Total	9 162	8 105	3 957

Figure 26: Family Advocate cases

Family Advocate cases



STRATEGIC OBJECTIVE 19: REVIEW OF THE CIVIL JUSTICE SYSTEM

KPI 19.1: Ensure terms of reference for the review of the civil system are approved by Cabinet

The draft terms of reference for the review of the civil justice system were developed in the period under review, and have been submitted to Cabinet. Cabinet approved the review.

The terms of reference focused on the following, among others:

- a) The effectiveness of the courts, their jurisdiction and capacity to deal with civil disputes. This includes the review of the jurisdiction and capacity of all courts, including the small claims courts, in resolving civil disputes fairly and equitably, balancing the rights and obligations of the state and individuals, and between individuals, in accordance with legislation, common law and existing social standards
- b) Affordability and cost-effectiveness. This assesses the impact of the costs associated with litigation on access to justice, including all court fees and legal fees required in pursuance of a legal remedy and contingency fees (the cost of justice). This assessment is to include the role and mandate of Legal Aid South Africa in relation to civil adjudication.
- c) Integration of the alternative dispute resolution (ADR) mechanisms and a mandatory referral system. This considers the institutionalisation of early ADR, including the mandatory mediation for all civil disputes.
- d) Simplification of court procedures and processes. This investigates measures for the simplification of rules to make justice easily and equally accessible to all citizens, including the discovery procedures that are cumbersome, time-consuming and costly.
- e) Modernisation: The implementation of IT initiatives for the civil justice system. Such initiatives are to include the electronic filing of court documents and electronic service of court processes (fax, e-mail, etc.).
- f) Effective case management. The implementation of effective case management to ensure that judicial officers dictate the pace of litigation instead of the parties.
- g) Harmonisation of rules. The harmonisation of the rules of the superior courts and the lower courts.
- h) Efficiency. Expediency is one of the key elements of access to justice. Cases that take a long time to be completed and delayed judgments are tantamount to denial of justice (justice delayed is justice denied).

KPI 19.2: Implement the extension of civil jurisdiction to regional courts

The Jurisdiction of Regional Courts Amendment Act, 2008 (Act No. 31 of 2008), extends civil and divorce jurisdiction to the regional courts. During the year under review, the department conducted research on the establishment of courts, places of sitting and proposed jurisdictional amounts for certain cause of action and designation of courts. The department initiated consultation with stakeholders. The submissions by stakeholders were received and evaluated. Draft Government Notice in terms of section 2 and 7 of the Jurisdiction of Regional Courts was submitted to the Minister for approval during January 2010 and will be published afterwards.

Coordinate the monitoring process relating to the drafting of rules

During the period under review, the progress of the Rules Board for Courts of Law (Rules Board), which was in the process of compiling the rules of the courts of the regional divisions, was monitored. Research was conducted on the aspects of the Jurisdiction of Regional Courts Amendment Act, 2008 (Act No. 31 of 2008), which warrants inclusion in the rules. The

comments were submitted to the Rules Board for Courts of Law for purposes of amending and adding new rules pertinent to Magistrates' Court Rules.

Facilitate the integration of the divorce courts into the structure of the regional courts

During the period under review, the integration was made regarding the places of sitting of the divorce courts into courts of the regional divisions by designating them as such in a government notice that was submitted to the Minister for approval. The integration of the resources of the divorce courts into the regional divisions will take place during 2010.

Facilitate the creation of human resource capacity for the implementation of the act

During the period under review, the department created 21 posts of magistrates, nine posts of registrars and 49 posts of administrative clerks. The 21 posts of magistrates will be filled through acting appointments in the first 12 months from the effective date of the act.

The Magistrates' Court Act, 1944 (Act No. 32 of 1944)

Table 58: Magistrates' Court Act to be amended

Current section	Proposed amendment
Section 14(7), which assigns the responsibility for receiving court processes for services by the sheriffs.	To provide for the inclusion under section 14(7) the following: "A sheriff, or an enforcement officer/clerk of court/court process officer receiving..."
Section 15, which relates to the service of process by the police.	To include a new section to replace section 15, which will provide for "service of process by state officials..."

KPI 19.3: Implement policy on transforming the sheriffs

The following policy initiatives are necessary to transform areas relating to the service of court processes and the execution of civil judgment.

Policy relating to the institution of sheriffs

The institution of sheriffs should not have a monopoly of serving court processes and enforcing civil judgments. State employees should be eligible to serve court processes. This will address the challenges of providing services in underprivileged areas that are not attractive for any person to pursue a sheriff's business. The alternative of combining two or more non-economically viable offices to establish a viable office may be considered.

The board should retain the primary role of the management of the Fidelity Fund. However, its composition should be reviewed to establish a representative and balanced membership to eliminate risks of over-self-regulation.

The following acts need to be amended to give effect to the abovementioned policy proposals.

The Supreme Court Act, 1959 (Act No. 39 of 1959)

Table 59: Supreme Court Act to be amended

Current section	Proposed amendment
Section 36, which relates to the execution of a court process by a sheriff or deputy sheriff.	To include under section 36 the categories of state officials who are authorised to execute processes.
Section 39, which regulates the seizure of property by the sheriff or deputy sheriff.	To extend the provision of section 39 to state officials.
Section 40, which criminalises certain conduct relating to the execution by the sheriff or deputy sheriff.	To extend the categories of offences to state officials eligible to execute court processes.

Service-of-court processes by state attorneys

Attorneys were appointed to act as deputy sheriffs for the High Court. This principle originated at the time when attorneys did not have the right of audience in the High Court. Under the present circumstances, this practice will lead to conflict of interest, since attorneys have the right of audience in the High Court. It is necessary for sheriffs who practice as attorneys to relinquish either of the positions. A mechanism needs to be devised to realise this objective.

Need for all-encompassing legislation to regulate the service-of-court processes, including fees payable

There is a need to develop uniform legislation to provide for the regulation of service and execution of court processes by sheriffs and state employees. The legislation should address aspects relating to the Fidelity Fund eligibility and the determination of fees payable for the service of processes.

**STRATEGIC OBJECTIVE 20:
INCREASING THE EFFICIENCY AND
EFFECTIVENESS OF THE CRIMINAL
JUSTICE SYSTEM**

KPI 20.1: Ensure that proposals on research are submitted to the JCPS Cluster and Cabinet for consideration and implementation of the department’s proposals

The Criminal Justice System Review – two processes interlinked

The Cabinet mandated two interlinked Criminal Justice System Review (CJSR) interventions that ran concurrently. The one intervention was a research-based review and the other an operational review of the CJS. The CJS research process has now largely been concluded and its output has been evaluated. It is currently being incorporated into the implementation processes as the implementation of the Seven-point Plan unfolds.

The CJSR research aspects

The research was focused on specific aspects identified as challenges impacting on the effectiveness of the CJS. The department was the responsible line function department that led this process. The CJS Research Review Project had five main focus areas that were dealt with by the following work streams:

- Legal and Policy
- Governance
- Performance Evaluation
- Capacity
- Public Consultation on Blockages

It is important to note that in order to ensure alignment between the implementation of the research findings and the Seven-point Plan, the findings and recommendations set out in the research reports – many of which are currently receiving attention in the various departments in practice – form part of and inform the

implementation processes of the Seven-point Plan, as will be indicated later. The Minister and the JCPS Cluster were informed of the research findings and how they will be dealt with.

The CJSR Seven-point Plan

The operational CJSR developed a Seven-point Plan that was approved for implementation by government in 2008. Its work includes the establishment of sound governance through the development of protocols, joint business and operational plans and improved coordinating mechanisms. The Seven-point Plan has been widely communicated and is focused on a complete overhaul of the criminal justice system.

The CJSR encompasses all the components, processes, volumes, capacities, data and systems, as well as the relationships that constitute the CJS systems environment. The work of the Seven-point Plan embraces the following actions and objectives:

- The formulation and implementation of a coherent set of objectives, priorities and performance measurement targets for all components of the CJS that will be incorporated into an overall CJS business plan;
- The establishment of a new and realigned single CJS coordinating and management structure, including a permanent Office for Criminal Justice Reform;
- The continuous formulation and implementation of practical short- and medium-term programmes to improve the efficiency and effectiveness of the CJS processes;
- The modernisation of the CJS through the application of technology solutions in order to effectively manage routine operations, reduce costs, eliminate waste and automate paper-intensive systems;
- Enhancing the skills and balancing the capacities of investigators, forensic experts, active duty

police personnel, prosecutors, legal aid lawyers and the judiciary; and

- Mobilising the population in the fight against crime.

The JCPS Cluster has endorsed the approach and activities of the CJSR and the Seven-point Plan's implementation, and various activities in this regard have received continuous attention in the past year.

Various draft protocols, standard operating procedures (SOPs), manuals and policies have been developed. This is in response to the fact that key areas were identified in the CJS (through the CJS Research Review Project), which contribute negatively to the overall performance of the system. The protocols are being developed to correct the shortcomings and remove constraints, inhibitors and dependencies.

The following issues received attention during the period under review:

- The improved management of remand detainees is critical to the Department of Correctional Services (DCS), and the establishment of a branch in this department that deals specifically with remand detainees is receiving attention. An Intersectional Management of Remand Detainees Task Team, at deputy director-general level, has been appointed to fast-track initiatives regarding improving the awaiting trial detainee situation;
- More attention will be given to other CJS processes during 2010, such as improving the processes relating to parole (with greater participation by role-players such as the NPA and the SAPS) and improving offender rehabilitation in conjunction with civil society; and
- The video postponement system that was developed between courts and correctional facilities continues to be rolled out.

By 31 December 2009, the solution had been implemented at 45 magistrates' courts and certain correctional facilities. The roll-out of the solution to 47 magistrates' courts and 22 correctional facilities is currently underway. The other courts will be linked to the associated correctional facilities as and when the refurbishments required have been completed and the system implemented at these facilities.

Modernisation initiatives that received attention are the following:

- An Electronic Case Management System (ECMS) was developed to assist the NPA with case information aspects;
- Electronic aspects relating to the Child Protection Register were completed and roll-out is underway;
- Integration of the SAPS's Crime Administration System with the department's ICMS is underway;
- Integration between the SAPS's Crime Administration System and the systems of Legal Aid South Africa (LASA) to notify LASA immediately of requests for legal aid by persons arrested is underway with pilot testing;
- The E-docket solution is being implemented at 244 police stations and roll-out is continuing;
- The SAPS's IT network infrastructure is receiving attention with 2 205 sites still to be upgraded;
- The Exhibit Management System (to manage all crime exhibits) is receiving attention and is being customised to cater for the Forensic Science Laboratory requirements as the first module is to be delivered by March 2010;
- The tender for the Detention Management System (to manage detainees) is being republished;
- Integration of the Automated Fingerprinting System (AFIS), Home Affairs National Identification System (HANIS) and National Traffic Information System (NATIS) fingerprint systems are receiving attention;
- The development of a Remand Detention System (RDOMS) solution for the DCS and the interface between the RDOMS and the SAPS's Remand Detainees System is underway. Finalisation of the contract for the development of the system is in progress. It is envisaged that development will commence in the next financial year; and
- The SAPS has reprioritised a Community Safety Forum (CSF) Policy to focus on a much broader partnership policy. Attention to the current Community Policing Forum (CPF), as well as the integration with partnerships such as street and ward committees, will continue.

While the focus of the CJSR initially focused on improving the front-end processes of the CJS (those relating to the police and courts) during 2010, more attention will be given to the following CJS processes:

- Improving the processes relating to parole (with greater participation by role-players such as the department, the NPA and the SAPS); and
- Improving offender rehabilitation in conjunction with civil society.

The JCPS ministers endorsed the above approach at their meeting on 13 January 2010. Further engagement with the DCS in this regard is continuing. The drafting of protocols to ensure greater multisectoral assistance and coordination is receiving attention. Participation by the department and the NPA in parole boards will receive focused attention during 2010. A report was submitted to the Minister for endorsement before circulation. A letter to resuscitate bilateral discussions with the Director-General on the

department's participation in parole sittings was submitted by the acting National Commissioner during January 2010 and is receiving attention. Rehabilitation aspects will also receive attention.

KPI 20.2: Develop and implement bail protocols (Section 63A of the Criminal Procedure Act (minor offences))

To address the challenges relating to bail, the JCPS directors-general approved that bail management should be improved through the implementation in the various departments of practical measures such as training and the issuing of directives, standing orders, instructions and guidelines to assist prosecutors and SAPS members. This information is receiving attention.

A protocol was developed on procedures to be followed in applying section 63A (the bail protocol) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) (CPA). All relevant JCPS ministers signed the bail protocol and it has been implemented. The various directors-general are responsible for institutionalising the protocol in their relevant departments.

A revision of the approved and implemented bail protocol, as well as its institutionalisation into departmental directives and regulations, is receiving attention. Implementation of the bail protocol that was approved by Cabinet was found to have limited application, as it only addresses a relatively small number of remand detainees. However, it was decided to continue with implementation, as there were decided benefits. It was agreed to review the provisions of the bail protocol in order to develop improvements, as well as plans for institutionalisation. The departments must take ownership and ensure that the provisions of the protocol, as it stands, are included in directives and regulations. Progress and success rates have to be measured. The NPA has included these provisions in its new policy directives.

Possible legislative amendments to the CPA with regard to bail are receiving attention and are being considered. A proposal regarding the amendment of section 60 of the CPA was developed. This amendment aims to make it more difficult for an accused already out on bail for a serious offence to get bail for a further serious offence. Various proposals were submitted to the JCPS directors-general for consideration. Among these are a possible three-strike bail rule, that entails that an adult already out on bail for an alleged serious crime (a schedule 5 or schedule 6 offence), cannot be granted bail if he or she is arrested again for further alleged serious schedule 5 or schedule 6 offences.

A proposed amendment to section 59A of the CPA is also receiving attention. This will promote greater efficiency regarding the scheduling of cases and bringing an accused before court through prosecutor-set bail and, in particular, will enable a date to be determined by a prosecutor for the appearance of a person who has been granted bail by a prosecutor; and delete references to the Attorney-General and replace these with references to the Director of Public Prosecutions (DPP) and the National Director of Public Prosecutions (NDPP), where appropriate.

Should the provision be amended to allow for a date for the first appearance to be decided on by the prosecutor; it would be possible to specify a future court appearance date for the person granted bail that is appropriate for the finalisation of the investigation and would not burden the court and participants in the criminal justice system with cases that are not yet trialready and that would just have to be postponed.

The following other protocols and guidelines that will improve the performance of courts have been developed and are being finalised:

- A regional court screening protocol that specifically deals with screening mechanisms and the trialreadiness of cases, including pre-trial quality reviews and certification by top

investigation and prosecution specialists. This has been developed and will be ready for sign-off in April 2010;

- A regional court protocol is being developed in conjunction with the Regional Court Presidents' Forum and will specifically deal with improving the efficiencies during the trial phase, such as limiting dispute issues and improving case scheduling; and
- A court protocol for legal aid cases, dealing with improved pre-trial and coordination aspects between the NPA and LASA, will be ready for sign-off in April 2010.

In conjunction with case flow management interventions in the cluster, revised intersectoral case flow management guidelines were promoted and are currently being printed. Furthermore, regulations for the implementation of the amendments applicable to admission of guilt for minor offences (the Judiciary Matters Amendment Act, 2008) have received attention. Further legislative amendments in this regard are receiving attention.

KPI 20:3: Review and determine human capital requirements for specific occupational categories (SAPS, prosecutors, legal aid representatives) and monitor progress

The NPA, SAPS (crime scene investigators, forensic laboratories and detectives) and LASA are continuously increasing their capacity and improving their skills base in a structured and planned way. The focus so far has mainly been on the front-end of the CJS impacting, in particular, on increasing capacity as follows:

- The SAPS has increased the number of crime scene detectives;
- The SAPS has increased the number of forensic analysts;
- The SAPS has allocated 14 977 new constables to the detective services after training in 2009/10;

- The NPA has increased the number of prosecutors by 83;
- LASA has increased the number of legal aid representatives by 82;
- More magistrates were appointed – on contract appointments – to relieve specific pressure points;
- Occupation-specific dispensation was implemented to retain skilled persons in the department, the NPA, LASA and the DCS;
- Operational efficiencies are being further enhanced by the provision of step-by-step field guides and manuals, covering the CJS comprehensively from the complaint to the finalisation stages. At present, a crime scene management and investigation manual and a protocol are being drafted in conjunction with the Detective Services of the SAPS and the NPA; and
- The Department of Health's severe budgetary and capacity constraints to deal with the severe backlog in blood analysis (impacting on cases of drunk driving) are receiving attention. The backlog in this regard ranges from eight weeks to three years. Increased human resource capacity will also assist with the severe toxicology backlogs of four to eight years. The filling of vacancies and the payment of overtime needs to be addressed at a high level. Despite a consistent annual increase in the number of blood samples, all three the laboratories of the Department of Health have acute staff shortages. These challenges are now receiving attention in the CJSR.

The Department of Health provides certain forensic services to the CJS, specifically in the disciplines of blood alcohol testing and toxicology. This service represents a very small part of the overall services provided by the Department of Health. There are no agreed service levels for the

services that are provided by the Department of Health. The present situation is unhealthy as large backlogs – some running into years – have built up over time with severely negative consequences on the criminal justice system.

An operational protocol is being put in place. It is, however, of importance that the Department of Health be contracted to provide services to the criminal justice system within pre-approved service level agreements that stipulate turnaround times for the processing of forensic samples within pre-agreed quality and costing parameters.

A protocol for the taking and processing of forensic samples and the utilisation of the forensic chemistry laboratories of the Department of Health in criminal investigations and trials will soon be finalised. Interaction between the NPA, the SAPS and the Department of Health is receiving attention in the protocol.

KPI 20.4: Draft and submit proposals on the processes related to accused persons who are mentally ill

During the period under review, discussions were promoted between the Department of Health, the NPA, the DCS and the Department of Justice and Constitutional Development to ensure more effective processes relating to the transportation, custody and assessment of mentally ill persons or persons who need to be sent for observation. Following these discussions, draft guidelines to increase efficiency in the referral of an accused for mental observation have been drafted and submitted to the various departments for consideration and comment. The guidelines will be contained in a protocol that will be dealt with by the JCPS Cluster once the necessary feedback has been obtained from the respective departments.

KPI 20.5 Establish a new and realigned single criminal justice system co-coordinating and management structure (through legislation or by protocol)

The creation of a permanent criminal justice system co-coordinating and management structure is being researched, defined and documented. A draft protocol will be prepared. The Minister currently drives the coordination of the CJSR. Policy decisions and guidance are awaited.

An interim Office for Criminal Justice System Reform (OCJSR) is operating in the department. The secretariat comprises seconded staff from the various JCPS departments on an ad hoc basis and their activities are aimed at the implementation of the CJSR. During June 2009, the department also created a Chief Directorate: Policy Development (with the CJSR as a focus area) in the Branch: Court Services to help facilitate the implementation of the CJSR and render support in this regard to the OCJSR, the Director-General, the Ministry and the JCPS Cluster. The JCPS Cluster has endorsed that all departments should prioritise the activities of the CJSR, place the CJSR on its Executive Committee agendas and nominate CJSR sponsors and appropriate task team representatives.

A Framework for CJS Performance Measurement has been developed and is presently being refined by the JCPS departments with the objective of ensuring an integrated CJS based on agreed key performance indicators and targets for the CJS as an entity. This framework is linked to a connected and integrated system – the CJS Business Information System (BIS), which will provide accurate data that supports congruent business objectives and targets and can be measured across the entire CJS value chain that is being developed. The development of the CJS BIS is accompanied by the work relating to the modernisation and improvement of IT systems in general across the JCPS Cluster under the auspices of the IJS Board.

A protocol (for overall governance) that comprehensively deals with the alignment of the CJS through new coordinating and management structures is being developed. The current JCPS structures, such as the Joint Operational Intelligence Structures (JOINTS) and the Development Committee, are being engaged in order to avoid duplication of structures and to optimise coordination at all levels, including provincial and local structures. The continuation of the OCJSR, as the transversal co-coordinating mechanism for the CJSR, has been approved under the guidance of the Director-General and ultimately the Minister of Justice and Constitutional Development as the Cabinet-approved coordinator.

KPI 20.6: Propose legislation and policies on witness statements in preferred language, examination of rape victims by general health practitioners

Although these two issues are receiving attention at present, the focus of the CJSR has moved in various directions and includes, at present, not only the two mentioned areas in this KPI.

In the 2010/11 financial year, the involvement of the population at large in the fight against crime will receive dedicated attention. The development of a CSF Policy has been reprioritised by the SAPS to focus on a much broader partnership policy. Attention to current CPFs, as well as the integration with partnerships such as street and ward committees will continue. The OCJSR is conducting research into the involvement of the broader community in the CJS. A position paper will be developed for consideration by the JCPS Cluster. The use of non-custodial sentences and ADR mechanisms, including the greater use of diversion for appropriate cases in conjunction with civil society, are being promoted.

STRATEGIC OBJECTIVE 21: EFFECTIVE AND EFFICIENT INTEGRATED CJS WITH ALL ROLE-PLAYERS WORKING TO INTENSIFY THE FIGHT AGAINST CRIME

KPI 21.1: Ensure approved CJS business plan, including overall three-year integrated action plan by 31 December 2009

An integrated joint vision, mission and objectives statement was developed for the CJS, promoted in the JCPS Cluster; approved by the JCPS directors-general and ministers, and endorsed at the Cabinet Lekgotla during the year under review. Cluster departments' strategies are now being aligned with this vision, mission and objectives statement. The vision and mission is being internalised in the cluster departments and aligned with the current Estimates of National Expenditure and Programme of Action.

A draft CJS business plan and three-year integrated action plan has also been developed and is being finalised. The vision, mission and objectives are being integrated into the CJS and departmental strategic plans and actions.

The agreed upon CJS objectives will be unpacked in the business plan, with a view to ensuring that the objectives are adequately covered by CJS interventions, where applicable, and that ownership at all levels is assigned. A transversal work team is being established that will be empowered to deal with strategic items at a transversal, as well as a departmental level.

During the period under review, a departmental three-year action plan was developed. The plan deals with the following:

- The vision, mission and objectives of the CJSR
- A management framework, including KPIs and targets
- The establishment of a realigned CJS coordinating and management structure that

flows from Cabinet to local level to improve coordination across the CJS in the cluster

- The various protocols
- Intersectoral case flow management guidelines
- Legislation
- Issues relating to the Department of Correctional Services
- Capacity issues
- The drafting of manuals and guidelines
- IT modernisation and BIS
- Community safety forums
- A communication strategy

A segment of the CJS business plan will be devoted to the Department of Health's Forensic Services (the Department of Health Service Delivery Plan). The aim is to ensure alignment from a CJS requirements' point of view with the capacity and performance of the Department of Health.

KPI 21.2: Compile quarterly reports indicating prosecution, convictions, plea bargains, the collection of relevant evidence for trial purposes, an increase in the number of trials set down, intelligence in criminal trials used, an increase in the attendance at court by witnesses and the implementation of approved coordination structures

As part of the CJSR, the statistics are monitored on an ongoing basis. An updated statistical report with regard to the matters relevant to the review is being prepared by the National Operations Centre in Court Performance.

Statistical data is currently being processed for the 2008/09 financial year. The range of the existing data bank extends from that year back to 2004/05. A centre for CJS statistics

and performance management is also in the process of being established in the OCJSR in the department to collate the relevant information. An interim system, based on existing automated and manual systems, will form the basis for CJS performance measurement and management until the automated CJS BIS is functional. A challenge that should be borne in mind, however, is that many of the review outcomes can only be dealt with over a period of time and have cross-cutting implications that need to be considered in terms of aligned budgets and strategic planning processes. This work is continuing and includes the establishment of sound governance through the continued development of protocols, joint business and operational plans, and improved co-coordinating mechanisms.

A connected and integrated system (CJS BIS) is being developed with current and accurate data that supports congruent business objectives and targets, and that can be measured across the entire CJS value chain. The development of the CJS BIS is accompanied by the work relating to the modernisation and improvement of IT systems in general across the JCPS Cluster under the auspices of the IJS Board.

Development of the system has commenced and is being managed by the IJS Board under the Development Committee as part of a greater portfolio of ICT Programmes and Projects aimed at the integration and modernisation of the JCPS IT systems. A phased implementation approach is being followed. While good progress has been made, much work still has to be done.

The following macro-activities have been completed or are in process:

- Complete the business requirement specifications (BIS)
- Undertake a data gap analysis
- Complete a definition of related departmental IT requirements. Work has been initiated

by departments, but some time frames are uncertain and require executive intervention.

- Schedule related IT development by departments into future systems development plans. Work has been initiated by departments, but some time frames are uncertain and require executive intervention.
- Complete and introduce the CJS BIS portal.
- Establish mechanisms for collecting CJS data in the interim from the relevant departmental sources.

An electronic case management system was developed to assist the National Prosecutions Service with case information aspects. Integration between the SAPS's Crime Administration System and LASA's systems to notify LASA immediately of requests for legal aid by persons arrested is underway, with pilot testing to be completed by the end of March 2010.

STRATEGIC OBJECTIVE 22: CASE FLOW MANAGEMENT

KPI 22.1: Reduce the current number of regional court backlogs by 2%

Table 60: Backlog and outstanding cases as at 31 March 2010

	Outstanding cases	Backlog cases	Percentage of backlog cases	Backlog cases finalised in the Backlog Project
District courts	178 461	22 238	12.5%	0
Regional courts	50 708	16 054	31.7%	(April 2009 to March 2010): 4 587
High courts	1 308	271	20.7%	0
Total	230 477	38 563	16.7%	13 441

During the period under review, the 46 regional backlog courts sat for an average of 03:37 hours per day. These courts received 8 173 cases and finalised 4 587 (56.1%) of these cases as follows:

- Guilty: 3 248 (71%), of which 53 were as a result of plea bargains and eight in terms of admissions of guilt
- Not guilty: 1 250
- Diversions: 89

The department aims to reduce case backlogs in all courts. To do this effectively, it identified critical areas requiring urgent attention. The strategy was to identify project sites on which it can ensure that the inflow of new cases is balanced by matters concluded, as well as greater court efficiency and effectiveness across the greater IJS value chain. Thus, in November 2006, the department established the Case Backlog Reduction Project, which identified 46 regional courts across the country at which it could initiate and sustain the project.

This part of the report will focus on the performance of the project. However, it is essential to include in this report the successes the department made in reducing backlogs across the entire court system.

It should be noted that different levels of courts define case backlogs differently. In the case of district (magistrates') courts, backlog cases are those cases that have been on the court roll for longer than six months. In regional courts, backlogs are those cases that have been on the court roll for longer than nine months, while the high courts define backlogs as cases that have been on the court roll for longer than 12 months. Table 60 shows the statistics of backlog cases per court level.

A total of 2 060 cases were removed from the court roll at these court centres through rescreening and withdrawals, while 183 cases were transferred to the high courts. This brings the total number of cases removed from the regional court rolls as a result of the backlog courts to 6 830 during the period under

review. In total, 19 942 cases have been removed since the project was conceived. Table 61 illustrates how the department implemented the project from 2006/07 until 2009/10.

Table 61: National overview: all regional courts

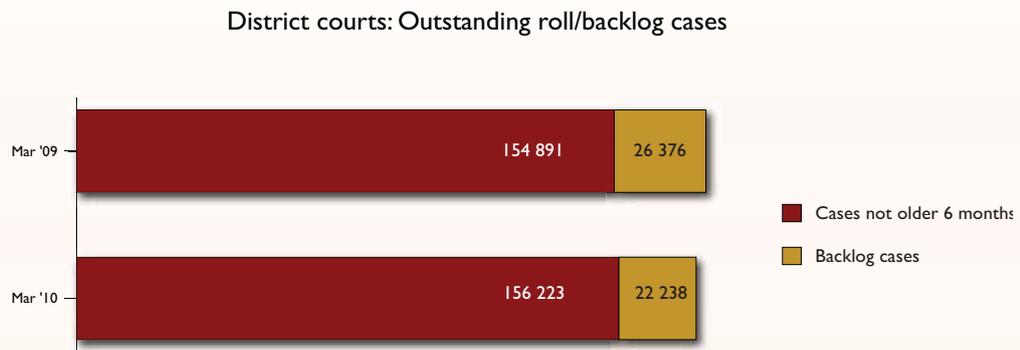
Case backlogs in all regional courts	Percentage backlog	Backlog	Outstanding roll
Baseline:			
30 June 2006 (6 months)	43%	20 452	47 343
31 March 2007 (9 months)	42%	19 481	46 418
31 March 2008 (9 months)	34%	17 333	50 483
31 March 2009(9 months)	31%	16 083	51 796
30 April 2009(9 months)	31%	16 159	52 089
31 May 2009(9 months)	32%	16 335	50 449
30 June 2009(9 months)	32%	16 034	49 786
30 July 2009(9 months)	32%	16 108	49 296
31 August 2009(9 months)	31%	15 966	50 267
30 September 2009(9 months)	31%	15 763	50 510
30 October 2009(9 months)	30%	14 815	49 158
30 November 2009(9 months)	30%	14 875	49 151
31 December 2009(9 months)	29%	14 125	48 320
31 January 2010(9 months)	31%	15 545	49 865
28 February 2010(9 months)	31%	15 845	50 266
31 March 2010(9 months)	31%	16 054	50 708
		(21.5% decrease from 20 452 to 16 054)	(7.1% increase from 47 343 to 50 708)

The information in Table 61 indicates a steady decrease in the number of regional court backlog cases (cases on the regional court roll for longer than nine months) from 20 452 backlog cases (43%) on an outstanding roll of 47 343 in 2006 to 16 054 backlog cases (31%) on an outstanding roll of 50 708 at the end of March 2010. This was accompanied by a 7.1% increase in the number of outstanding cases from 47 343 to 50 708.

In summary, during the financial year, the backlog cases were reduced by 0.18%. However, the department achieved a positive reduction in the general number of outstanding cases for the same period. The outstanding cases were reduced by 2.10% (from 51 796 to 50 708).

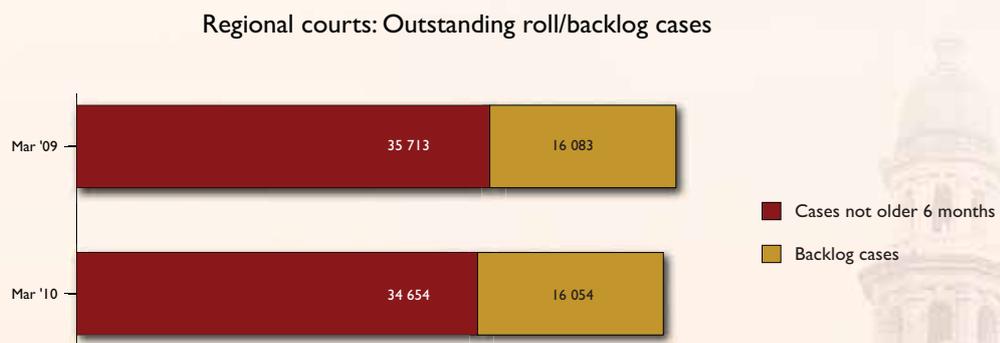
The NPA's statistics show that the district courts registered a total of 22 238 (12.5%) cases out of a total of 178 461 cases that had been on the roll for more than six months. During the period under review, the number of backlog cases in the district courts was reduced by 15.7%, compared to the 26 376 backlog cases at the end of 2008/09. A marginal reduction of 1.5% was achieved in the total outstanding cases, compared to the total of 181 267 cases recorded at the end of the previous financial year.

Figure 27: Outstanding cases in district courts



In the case of regional courts (including the 46 courts identified for the Case Backlog Reduction Project), the statistics show that 16 054 (31.7%) out of 50 708 cases had been on the roll for more than nine months. A positive trend is noted in the backlog cases compared to the previous year: A decline, although marginal, of 0.2% has been achieved in the number of backlog cases and the outstanding roll has been reduced by 2.1% compared to the 51 796 recorded at the end of the previous financial year. This positive trend can be ascribed to the additional assistance received from the backlog project.

Figure 28: Outstanding cases in regional courts



Requests for additional backlog courts at the 10 high-priority sites indicated in Table 62 were received from the provinces indicated.

Table 62: Requests for additional backlog courts

KwaZulu-Natal	North West
Stanger	Taung
Limpopo	Free State
Modimolle	Sasolburg
Sekhukune	Gauteng
Tzaneen	Randburg
Phalaborwa	Tembisa
Polokwane	

With regard to the need for additional district courts, the NPA submitted substantial motivation for an investigation into the improvement of district courts. The 21 high-priority sites indicated in Table 63 were identified and approved, and will start during the 2010/11 financial year.

Table 63: Additional district courts

Western Cape	KwaZulu-Natal	Eastern Cape	Mpumalanga
Hermanus	Kokstad	Uitenhage	Witbank
Simonstown	Verulam	Port Elizabeth	Delmas
Wynberg	Ntuzuma	Mdantsane	
Bluedowns	Chatsworth		
Khayelitsha	Gauteng	North West	Northern Cape
Mitchells Plain	Kempton Park	Klerksdorp	Springbok
Strand	Free State	Limpopo	
	Bloemfontein	Musina	

In terms of interventions such as the election courts and xenophobia matters, capacity constraints regarding detectives and prosecutors are hampering the speedy finalisation of matters. Backlogs at forensic science laboratories are hampering police investigations and delaying court cases. The work load of the courts against capacity remains a concern. The additional increase in new cases and the increasing work load that goes with it continue to exert pressure on court performance. There is a need to establish additional capacity in some areas, but accommodation remains an acute challenge at the sites required.

KPI 22.2: Reduce time from the start of a case to its finalisation, with the number of finalised cases increased by 2%

During the period under review, all lower and high courts managed a positive clearance ratio of 2%. A total of 1 044 346 new cases were received and 1 065 269 cases were disposed of, resulting in 20 923 more cases being disposed of than were received. Compared to the 1.2% positive clearance ratio achieved during 2008/09, an increase of 0.8% is noted.

Through improved performance, the courts have ensured the attainment of the strategic objectives determined for the 2009/10 financial year: An increased use of delivering justice by means of alternative means was achieved by increasing the cases finalised through alternative dispute resolution mechanisms with 31.1%, from 81 757 cases finalised during 2008/09 to 118 631 finalised during 2009/10. The disposal rate of the courts is also indicative of their improved performance.

During 2008/09, 1 070 435 cases were disposed of, of which 59.7% were removed from the roll by means of withdrawal, issuing of a warrant, transfer, mental referral or struck off the roll, and 40.3% were finalised with a verdict or ADR method. During 2009/10, fewer cases were removed from the roll and more were finalised. A total of 1 065 269 cases were disposed of, of which 55.9% were removed from the roll and 44.1% were finalised.

Figure 29: New cases removed and finalised: all courts

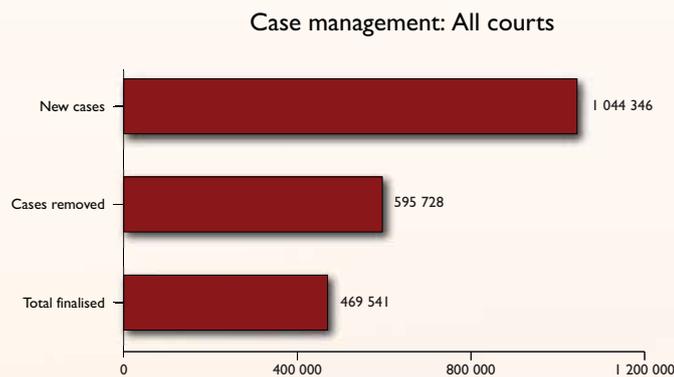
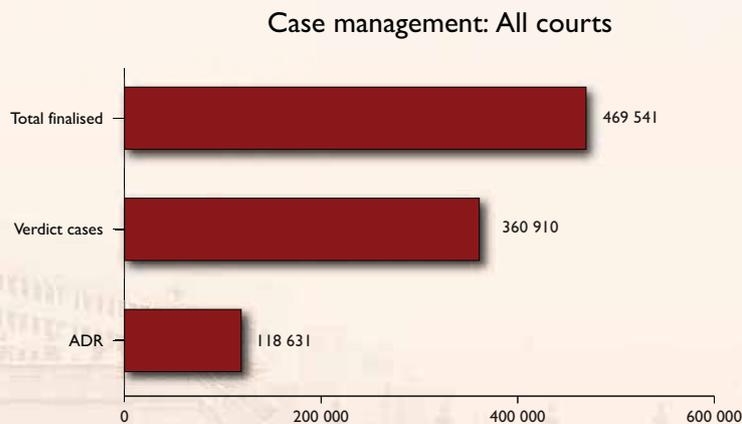


Figure 30: Finalised cases: all courts



Court rate: Higher courts

During the period under review, the high courts achieved a positive clearance ratio. This could be ascribed to the 36% decrease in new cases received (from 1 952 cases in 2008/09 to 1 252 in 2009/10). Figure 31 illustrates the performance achieved by the high court divisions.

Figure 31: Performance of high courts in 2009/10

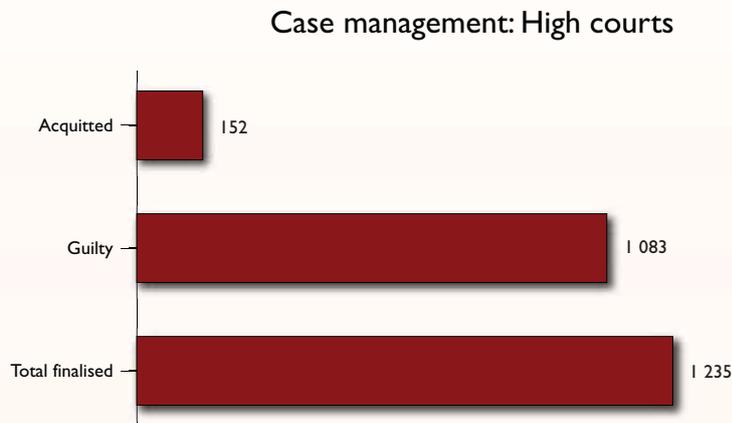


Figure 32 shows that the number of new cases decreased slightly from 1 577 in the previous financial year to 1 252 during the period under review. The decrease can be attributed to the increase in the penal jurisdiction of the regional courts (see NPA annual report). The number of outstanding cases on the high court rolls had decreased slightly over the past years, while the number of cases on the roll for longer than 12 months increased, as projected in Figure 32.

Figure 32: High court cases for 2009/10

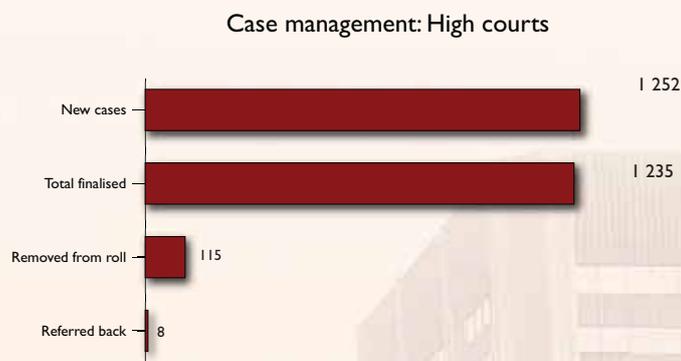
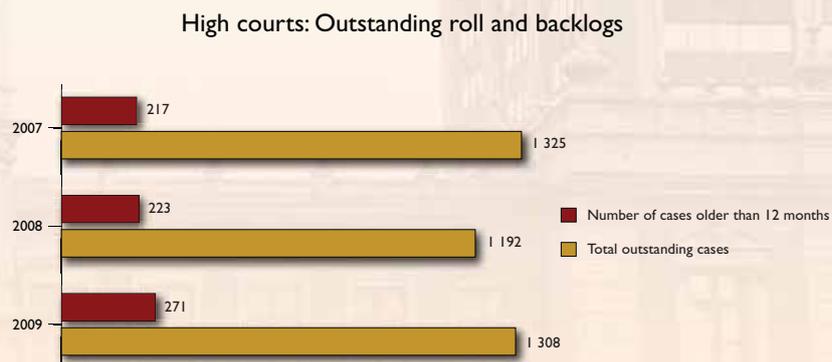
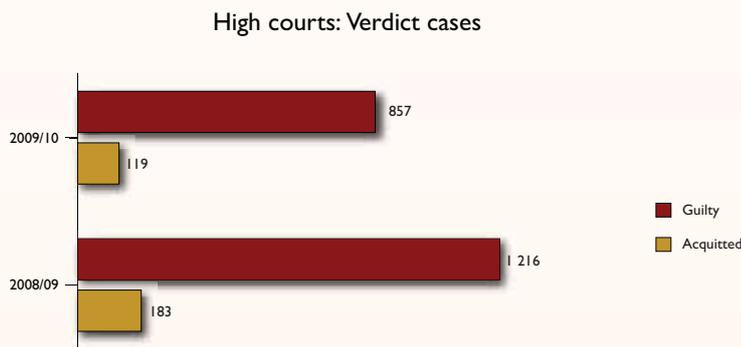


Figure 33: Outstanding rolls and backlogs



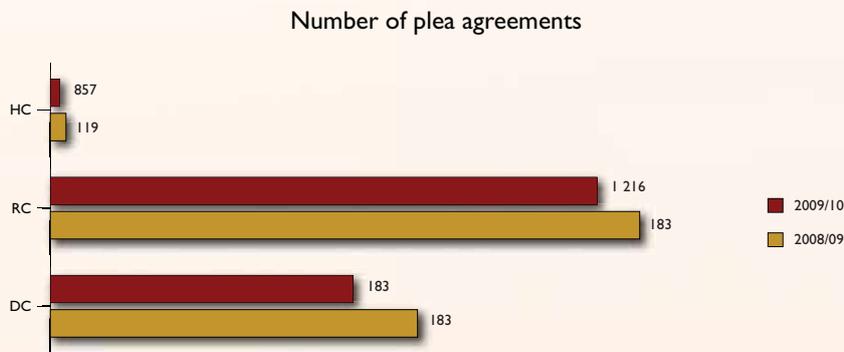
During the period under review, the high courts could not finalise as many cases as they had during the previous financial year, probably due to fewer minimum sentence cases. The conviction rates in the high courts increased from 86% to 88%. Both the number of convictions and the number of acquittals decreased, as shown in Figure 34.

Figure 34: High court cases in 2009/10



The national number of plea and sentence agreements in terms of section 105A of Act 51 of 1977 has been reduced from 1 080 in the previous year to 990 agreements during the 2009/10 financial year. The decrease in the number of plea agreements according to the various court levels can be seen in Figure 35.

Figure 35: Plea agreements in 2009/10



The number of plea agreements conducted amounts to a mere 0.3% of all verdict cases finalised. Noteworthy is the fact that the number of matters in which direct imprisonment was agreed to constituted 34% of all plea agreement matters. Figure 36 illustrates the sentences agreed to during the plea agreements concluded.

Figure 36: Plea agreements according to punishment

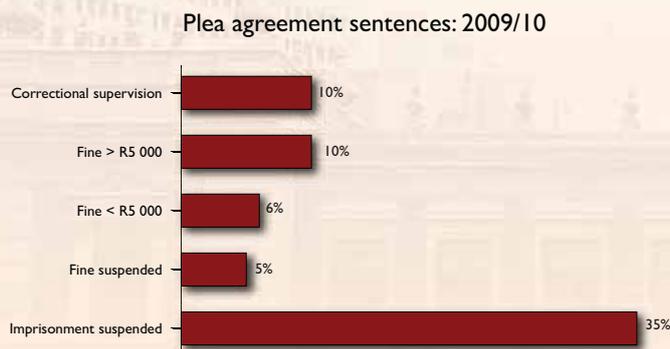
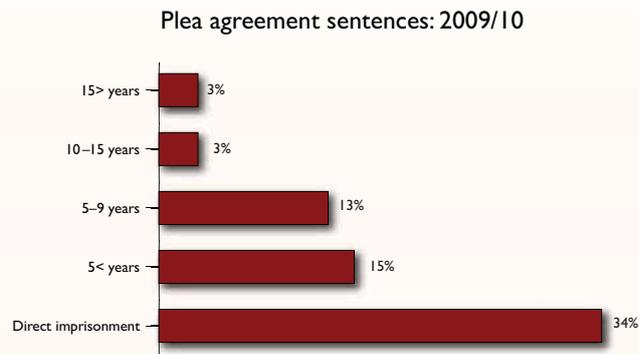


Figure 37: Plea agreements according to sentences



Finalisation rate: Lower courts

During the period under review, a positive clearance ratio of 2% was managed by the lower courts. A total of 1 043 116 new cases were received and 1 063 906 cases were disposed of, resulting in 20 790 more cases disposed of than received. Compared to the positive clearance ratio of 1.2% achieved during the previous financial year, a marginal improvement of 0.8% is noted.

The lower courts achieved an increase in the number of cases finalised by 8.9%, from 429 947 during 2008/09 to 468 306 during 2009/10 and therefore exceeded the initial 2% target they set for themselves. The lower courts are commended for their improved performance.

Figure 38: New cases removed and finalised: lower courts

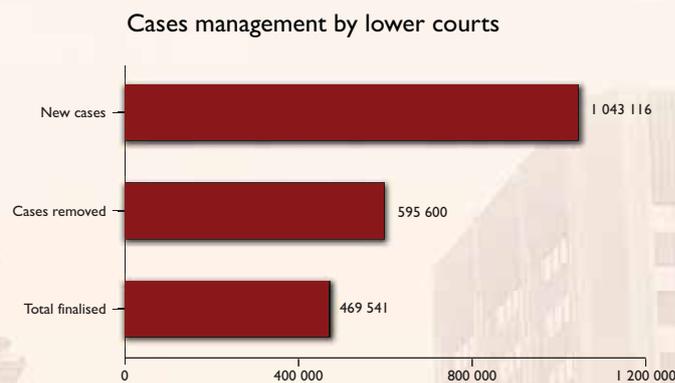
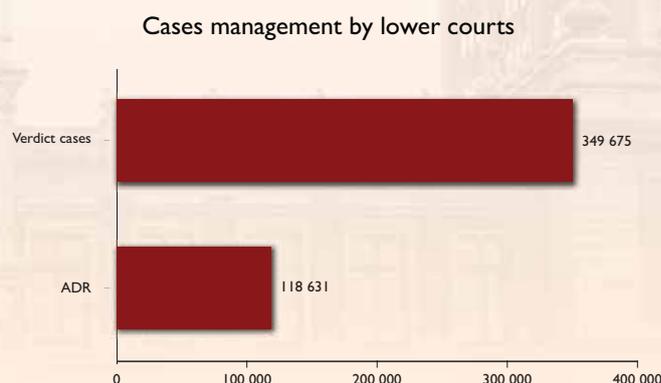
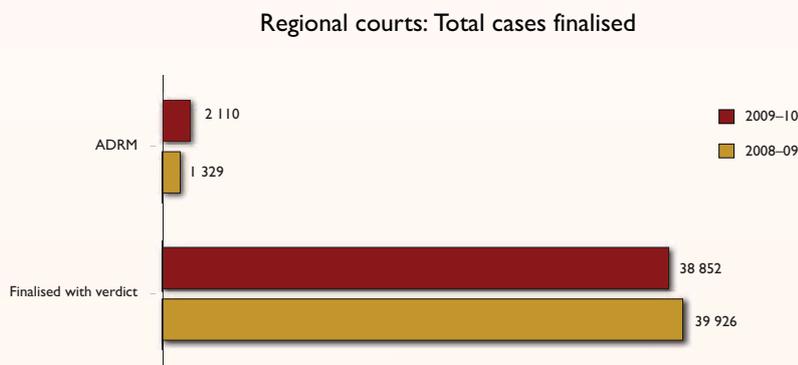


Figure 39: Finalised cases: lower courts



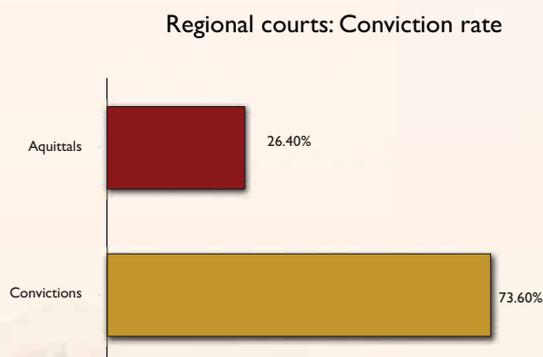
On national level, the regional courts finalised 40 962 cases, comprising 38 852 verdict cases and 2 110 ADR cases. This represents a finalisation rate of 0.6 cases per court per day. The regional courts have shown a marginal reduction of 0.7% in the number of cases finalised, compared to the 41 255 cases finalised during the previous financial year. Although the regional courts managed to increase the use of alternative means of delivering justice with 58.8% (781 more cases were finalised by means of ADRM processes), the total number of verdict cases was reduced by 2.7% (1 074 fewer cases were finalised).

Figure 40: Regional court cases



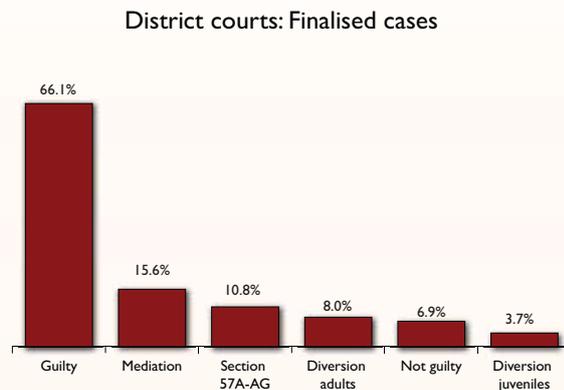
A total of 28 394 cases were convicted in all the regional courts from the total of 38 852 verdict cases, constituting a conviction rate of 73.6%. The target was therefore not achieved, although a marginal difference of only 0.4% is noted. During the period under review, the regional courts reduced the conviction rate marginally with 0.1%, from 73.7% during the previous financial year to 73.6% during 2009/10.

Figure 41: Conviction rate in regional courts



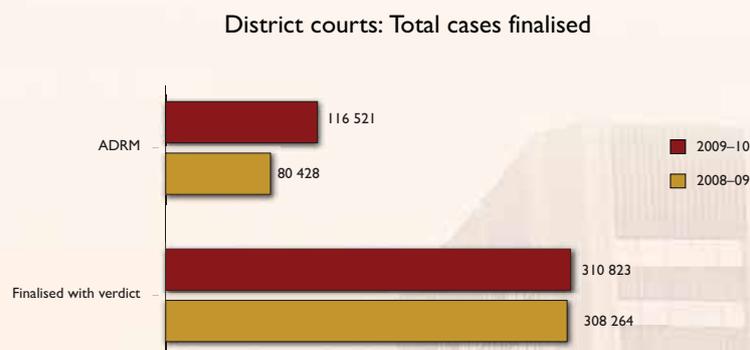
On national level, the district courts finalised 427 344 cases, comprising 310 823 verdict cases (72.7%) and 116 521 ADR cases (27.3%) during the 2009/10 financial year. This represents a finalisation rate of 2.4 cases per court per day.

Figure 42: Analysis of district court cases



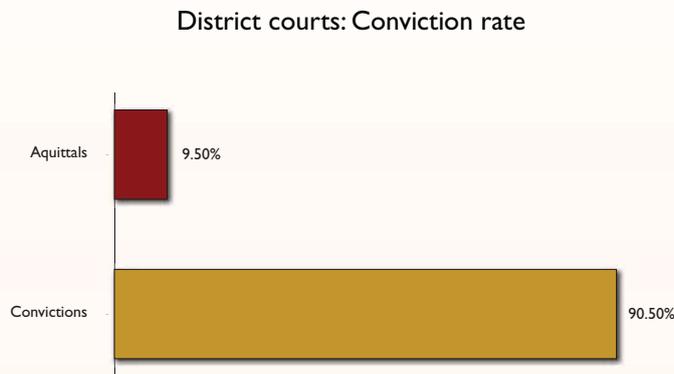
The district courts finalised 9.9% (38 652) more cases than the total of 388 692 cases during the 2008/09 financial year. The total number of cases finalised comprised a cumulative figure for both cases finalised with a verdict and cases finalised through ADR methods. In both categories, the district courts managed to improve their performance. The district courts increased the number of cases finalised with a verdict marginally with 0.8% (from 308 264 during 2008/09 to 310 823 in 2009/10). They also managed to increase the use of alternative ways of delivering justice with 44.9% (from 116 521 during 2008/09 to 80 428 in 2009/10).

Figure 43: Finalised district court cases



During 2009/10, 281 290 cases were convicted in all the district courts from the total of 310 823 verdict cases, constituting a conviction rate of 90.5%. The target was therefore exceeded in the district courts. The conviction rate achieved during 2009/10 has shown an increase of 2.7% compared to the 88.1% conviction rate achieved during the previous financial year. The increased conviction rate can be ascribed to the section 57A admission of guilt cases, which have also been regarded as convictions since April 2009.

Figure 44: Conviction rate in district courts



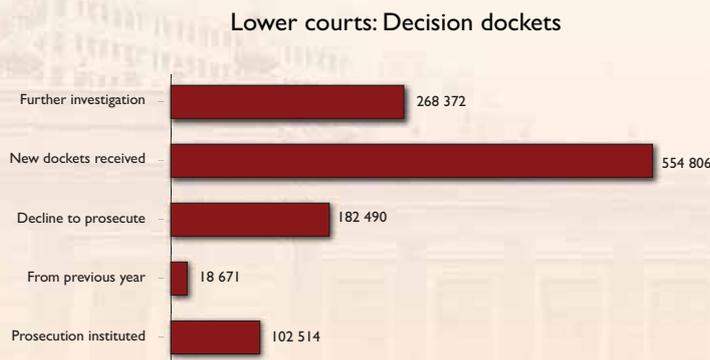
During the period under review, all regional courts managed a withdrawal rate of only 3.5%. A total of 23 585 cases were withdrawn by the regional courts. The target was therefore attained. The regional courts managed a positive reduction of 8.4% in the total cases withdrawn during the 2009/10 financial year, compared with the 25 737 cases withdrawn during the previous financial year:

The district courts withdrew 218 430 cases during 2009/10. This represents a withdrawal rate of 7.3%. The target was therefore attained. A significant reduction of 16.3% is noted in the total number of cases withdrawn, compared to the 261 035 cases withdrawn during the corresponding period in the previous financial year:

The lower courts managed a negative clearance ratio of 2.8% in the finalisation of their decision

dockets. A total of 15 841 dockets were carried forward to the 2010/11 financial year. In conclusion, during the period under review, 554 806 cases were received for decision in the lower courts and 18 671 dockets were carried over from the previous financial year. A total of 557 636 were finalised or referred back for further investigation. Compared to the previous year, an overall improvement in the management of decision dockets is noted. A total of 65 716 more dockets were received, representing an increase of 13.4%. Prosecution was instituted in 6.2% more dockets and the dockets referred for further investigation increased with 73.5%, which clearly indicates the lack of proper investigation when dockets are referred to court. The number of dockets in which prosecution was declined has been reduced by 23.6%. It is also inspiring to note that fewer dockets were carried forward to the next financial year:

Figure 45: Lower courts: decision dockets



OTHER COURT STATISTICS

Constitutional Court

The Constitutional Court has 11 judges, and a minimum of eight judges (section 167 of the Constitution Act, 1996) must hear a case at a time with the Chief Justice or Deputy Chief Justice presiding. In terms of Part I, Rule 2 of the Constitutional Court Rules, this court has four terms and four recess periods that are categorised as follows:

Table 64: Constitutional Court terms

Term	Period	Months	Recess	Months
1	15 February to 31 March	1.5 months	1 to 31 April	1 month
2	1 to 31 May	1 month	1 June to 31 July	2 months
3	1 August to 30 September	2 months	1 to 31 October	1 month
4	1 to 30 November	1 month	1 December to 14 February	2.5 months
Total		5.5 months		6.5 months

Table 65 illustrates the Constitutional Court statistics for the period under review. The statistics indicate that the court received 122 new cases, with 134 cases on the register awaiting directions. The court dismissed 84 cases and issued judgment on 35 cases.

Table 65: Constitutional Court statistics

Quarter	Cases lodged	Awaiting directions	Court roll	Dismissed cases	Judgments	Taxations	Cases withdrawn
1	38	54	19	16	10	3	0
2	18	17	18	24	8	3	0
3	39	42	14	18	9	5	1
4	27	21	17	26	8	5	0
Total	122	134	68	84	35	16	1

Supreme Court of Appeal

The Supreme Court of Appeal has 21 judges, including the President and Deputy President of the Supreme Court of Appeal. A minimum of three and/or five judges sit per case at a time. In terms of Rule 2 of the Supreme Court of Appeal Rules, this court has four terms and recess periods as follows:

Table 66: Supreme Court of Appeal terms

Term	Period	Months	Recess	Months
1	15 February to 31 March	1.5 months	1 to 31 April	1 month
2	1 to 31 May	1 month	1 June to 31 July	2 months
3	1 August to 30 September	2 months	1 to 31 October	1 month
4	1 to 30 November	1 month	1 December to 14 February	2.5 months
Total		5.5 months		1.1 months

Supreme Court of Appeal: Criminal appeals

The Court of Criminal Appeal is the highest state court for criminal appeals and is generally composed of a presiding judge and eight judges. Decisions of the Court of Appeal may be appealed by petition for discretionary review, filed either by the state or the defendant or both. In addition, the court may review the decision on its own motion.

Table 67 provides a summary on the Supreme Court of Appeal statistics for the period under review.

Table 67: Criminal appeal statistics

Quarter	Old cases	New cases	Total case load	Withdrawn	Upheld	Refused	Referred back	Finalised	Pending
1	99	5	104	3	4	2	0	9	95
2	90	18	108	1	4	7	0	12	96
3	95	10	105	1	3	3	0	7	98
4	108	6	114	2	5	6	1	14	100
Total	392	39	431	7	16	18	1	42	389

Table 67 reveals that there is no significant increase or decrease with regard to the case load per quarter; or with regard to the finalisation of cases.

Figure 46: Criminal appeal cases

Supreme Court of Appeal: Criminal appeal cases

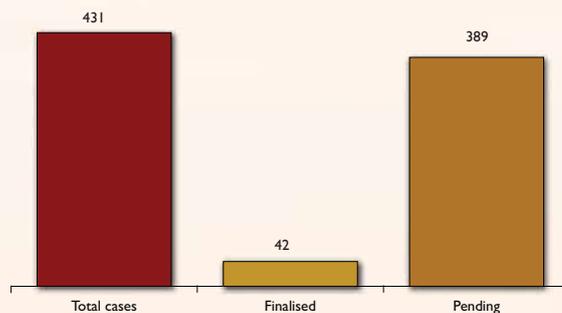
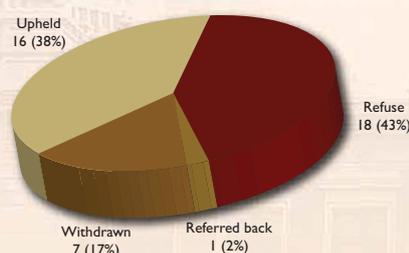


Figure 47: Criminal appeals case handling

Supreme Court of Appeal: Criminal appeals case handling



Supreme Court of Appeal: Criminal petitions

Generally, for criminal cases, there are a few circumstances that require a petition. Unlike the civil courts, the criminal courts do not require a petition to begin a criminal case against a defendant. Rather, the prosecution gathers sufficient preliminary facts to indict the defendant for specific criminal offences. After a trial, however, if the defendant is dissatisfied with the outcome, he or she has the right to petition a higher court. By petitioning a higher court, the defendant asks the Appeals Court to review and reverse a decision made in the lower court. Criminal defendants may also petition the courts when they wish to expunge their convictions from their records.

Table 68 provides a summary of the criminal petitions for the period under review.

Table 68: Criminal petition statistics

Quarter	Old cases	New cases	Total case load	Withdrawn	Granted	Refused	Finalised	Pending
1	92	57	149	0	10	40	50	99
2	91	48	139	0	15	41	56	83
3	73	51	124	0	17	34	51	73
4	98	51	149	2	8	29	39	110
Total	354	207	561	2	50	144	196	365

Table 68 reveals that no increase or decrease of the total case load occurred from quarter 1 to quarter 4. However, a decrease of cases finalised is observed from quarter 1 to quarter 4.

Supreme Court of Appeal: Civil appeals

Table 69 provides a summary of civil appeals for the period under review.

Table 69: Civil appeal statistics

Quarter	Old cases	New cases	Total input	Withdrawn	Upheld	Refused	Referred back	Finalised
1	476	37	513	10	20	12	0	42
2	487	47	534	9	24	18	0	51
3	441	35	476	5	8	30	0	43
4	473	67	540	6	12	22	4	44
Total	1 877	186	2 063	30	64	82	4	180

Table 69 reveals that the court managed to finalise 8.7% of all civil appeals during the period under review. The statistics reveal that the case load increased with 27 cases in quarter 4.

Figure 48: Civil appeal cases

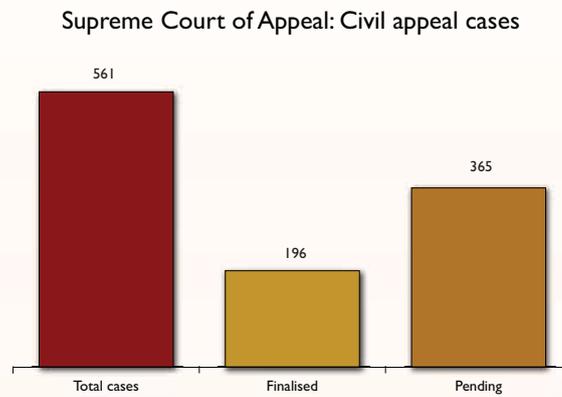
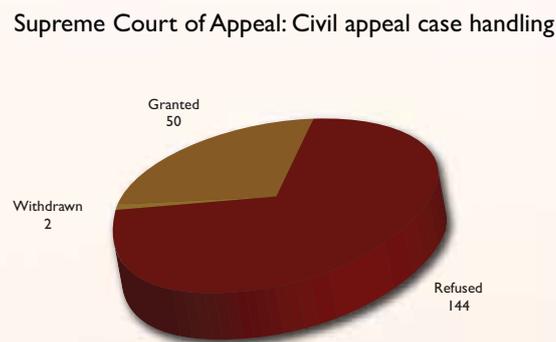


Figure 49: Civil appeal case handling



Supreme Court of Appeal: Civil petitions

A petition in a civil case sets out the preliminary facts and legal claims (causes of action) in the legal case. Once a petition is filed, the defendant is served with this complaint and has the opportunity to respond. In practice, most attorneys use a predrafted petition that is modified to become relevant to the legal matters at hand.

Table 70 provides a summary of civil petitions for the period under review.

Table 70: Civil petition statistics

Quarter	Old cases	New cases	Total case load	Withdrawn	Granted	Refused	Total finalised
1	209	71	280	1	20	50	71
2	173	74	247	1	24	60	85
3	170	91	261	4	20	42	66
4	218	76	294	1	29	43	73
Total	770	312	1 082	7	93	195	295

Table 70 reveals that 27.2% of civil petitions were finalised during the period under review. The statistics reveal that the case load increased by 14 cases from quarter 1 to quarter 4.

High court divisions

The High Court has jurisdiction in any constitutional matter not falling within the exclusive jurisdiction of the Constitutional Court or assigned to another court of a status similar to a high court (section 169(a) of the Constitution). It has jurisdiction in any other matter not assigned to another court by an act of Parliament (section 169(b) of the Constitution). It has general jurisdiction, including the determination of appeals from and review of the proceedings of inferior courts (section 19 of the Supreme Court Act, 1959 (Act No. 59 of 1959)).

Table 71 provides for the Labour and Labour Appeal Court statistics in terms of cases enrolled and how matters were dealt with during the period under review.

Table 71: Labour Appeal Court statistics

Quarter	Appeals	Applications from CCMA and BC issued in terms of section 143	Normal applications	Petitions	Referrals from CCMA and BC	Total cases opened
1	7	1 257	1 441	15	334	3 053
2	13	1 955	1 966	18	433	4 386
3	16	1 468	1 545	15	309	3 354
4	5	960	1 482	8	317	2 791
Total	41	5 640	6 434	56	1 393	13 584

Table 71 reveals that 13 584 cases were received during the period under review, of which 47% related to normal applications and 41.5% related to applications received from the Commission for Conciliation, Mediation and Arbitration (CCMA). The table further reveals a drop of new cases during quarter 4 (8.5%).

Table 72 provides for the Labour Appeal Court taxation statistics for the period under review.

Table 72: Labour Appeal Court taxation statistics

Quarter	Total (taxation)	Opposed	Postponed	Struck from the roll	Settled out of court	Unopposed
1	142	21	15	33	11	62
2	173	19	41	15	18	80
3	152	20	18	15	39	60
4	109	25	8	7	14	55
Total	576	85	82	70	82	257

Table 72 reveals that 14.7% of the total case load for taxation cases was opposed and 44.6% was unopposed.

Land Claims Court

The Land Claims Court was established as a result of the promulgation of the Restitution of Land Rights Act, 1996 (Act No. 22 of 1996). It has jurisdiction to hear land reform-related cases more specifically. The decisions of the court are appealable in the Supreme Court of Appeal. It should be noted that before the parties can commence the negotiations, the officials of the Land Claims Commission have to investigate the claim in terms of section 11 of the act to determine its validity. This court therefore allows for the use of ADRMs in the settlement of disputes. The court may send matters for facilitation, as well as apply mediation mechanisms to resolve disputes.

Table 73 provides a summary of restitution case statistics dealt with in the Land Claims Court for the period under review.

Table 73: Restitution case statistics

Quarter	Input			Output	
	Old cases	New cases	Total case load	Judgments	Pending cases
1	277	35	312	214	98
2	246	31	277	178	99
3	195	34	229	138	91
4	113	49	162	117	45
Total	831	149	980	647	333

Table 73 indicates that 66% of all cases received were dealt with and 34% are still outstanding.

Figure 50: Restitution case statistics

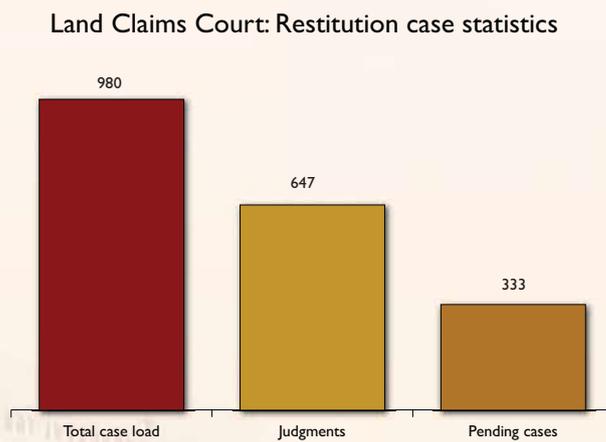


Table 74 provides a summary of the Land Claims Court statistics with regard to the extension of security of tenure for the period under review.

Table 74: Land Claims Court: Extension of security of tenure

Quarter	Input			Output	
	Old cases	New cases	Total case load	Total finalised	Pending
1	198	39	237	140	97
2	179	29	208	191	17
3	153	17	170	156	14
4	118	16	134	125	9
Total	648	101	749	612	137

Table 74 reveals that 81.7% of the cases received were dealt with.

Figure 51: Extension of security of tenure statistics

Land Claims Court: Extension of security of tenure statistics

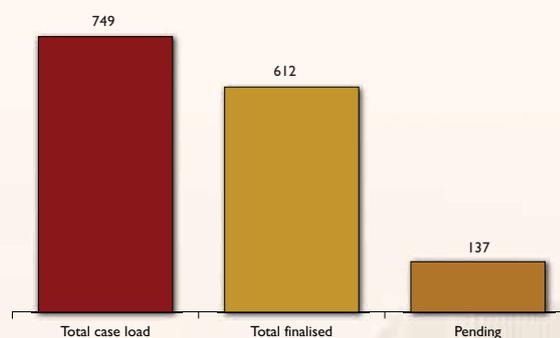


Table 74 provides a summary of the Land Reform Act, 1996 (Act No. 3 of 1996), statistics for the period under review.

Table 75: Land Reform (Labour Tenant) Act statistics

Quarter	Input			Output	
	Old cases	New cases	Total case load	Total finalised	Pending
1	232	11	243	151	92
2	247	13	260	251	9
3	245	6	251	244	7
4	228	3	231	151	80
Total	952	33	985	797	188

Table 75 reveals that 80.1% of all cases were finalised.

Figure 52: Labour tenant statistics

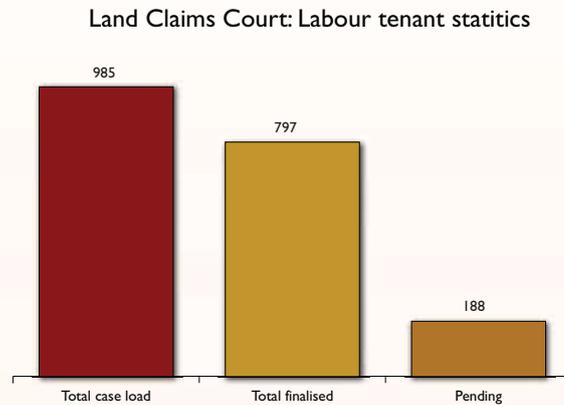


Table 76 indicates the automatic reviews dealt with by the high court divisions in the various provinces.

Table 76: Automatic review statistics

High court	Old cases	New cases	Total case load	Confirmed	Set aside	Referred back	Finalised	Outstanding
Bisho	16	64	80	65	4	11	80	0
Grahamstown	60	334	394	229	4	34	267	127
Mthatha	9	573	582	436	6	46	488	94
Port Elizabeth	60	281	341	232	9	74	315	26
Bloemfontein	644	552	1 196	497	30	374	901	295
Durban	1 011	862	1 873	836	0	89	925	948
Pietermaritzburg	4	1 745	1 749	1 322	129	195	1 646	103
Thohoyandou	46	86	132	71	5	13	89	43
Pretoria	3 003	1 706	4 709	1 435	251	249	1 935	2 774
Mafikeng	51	270	321	188	0	82	270	51
Kimberley	203	70	273	57	11	1	69	204
Johannesburg	39	193	232	101	28	19	148	84
Cape Town	1 360	1 866	3 226	1 595	48	136	1 779	1 447
Total	6 506	8 603	15 108	7 064	525	1 323	8 912	6 196

Table 76 reveals that the high court divisions had 6 506 reviews outstanding from March 2009, 3 353 new reviews were received, 25.8% of the total reviews were confirmed, 168 were set aside and 313 were referred back to the lower courts.

Figure 53: Automatic review statistics

High court divisions: Automatic review statistics

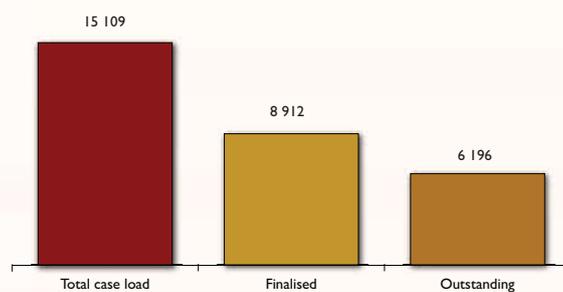
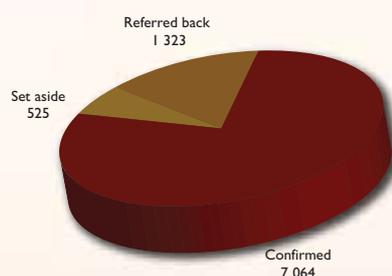


Figure 54: Automatic review case handling statistics

High court divisions: Automatic review case handling statistics



High court: Civil matters

Table 77 provides for a summary of civil matters dealt with by the high courts in the various high court divisions for the period under review.

Table 77: High court civil trial statistics

High court	New cases	Postponed	Withdrawn	Settled
Bisho	153	24	47	31
Grahamstown	447	35	82	20
Mthatha	274	50	36	63
Port Elizabeth	476	51	152	46
Bloemfontein	588	60	94	332
Durban	1 806	324	653	89
Pietermaritzburg	952	78	208	126
Thohoyandou	409	174	61	120
Pretoria	14 023	706	858	4 775
Mafikeng	199	41	26	28
Kimberley	186	20	3	158
Johannesburg	2 433	78	751	247
Cape Town	2 466	429	594	974
Total	24 412	2 070	3 565	7 009

PART 2: PROGRAMME PERFORMANCE

Table 77 reveals that the North Gauteng High Court in Pretoria dealt with the highest volume of civil trials (57.4%), followed by the Western Cape High Court in Cape Town (10.1%) and the South Gauteng High Court in Johannesburg (9.9%).

Table 78 shows the motion application matters dealt with by the high courts in the various high court divisions for the period under review.

Table 78: Motion application statistics

High court	New motions	Granted	Refused	Set aside
Bisho	494	403	24	47
Grahamstown	1 397	840	129	56
Mthatha	2 596	1 214	598	199
Port Elizabeth	2 302	1 363	41	182
Bloemfontein	3 622	2 257	209	124
Durban	7 670	3 393	738	250
Pietermaritzburg	5 961	3 782	2	252
Thohoyandou	467	152	3	130
Pretoria	32 066	21 926	992	6 059
Mafikeng	2 031	1 515	29	173
Kimberley	411	322	0	0
Johannesburg	9 323	4 461	1 183	512
Cape Town	12 888	6 407	1 748	757
Total	81 228	48 035	5 696	8 741

Table 78 reveals that the North Gauteng High Court in Pretoria dealt with the highest volume of motion applications (39.4%), followed by the Western Cape High Court in Cape Town (15.8%) and the South Gauteng High Court in Johannesburg (11.4%).

Table 79 shows the default judgments dealt with by the high court divisions in the various provinces during the period under review.

Table 79: Default judgment statistics

High court	New cases	Granted	Postponed	Refused
Bisho	138	106	27	3
Grahamstown	513	354	44	0
Mthatha	241	169	57	2
Port Elizabeth	1 426	1 301	162	0
Bloemfontein	1 963	1 552	292	1
Durban	5 899	5 869	198	5
Pietermaritzburg	2 356	2 130	226	0
Thohoyandou	21	23	5	0
Pretoria	26 424	17 292	5 586	846
Mafikeng	678	649	108	6
Kimberley	722	632	117	103

High court	New cases	Granted	Postponed	Refused
Johannesburg	5 853	2 860	957	0
Cape Town	10 223	6 678	3 071	0
Total	56 457	39 615	10 850	966

Table 79 reveals that the North Gauteng High Court in Pretoria dealt with the highest volume of default judgments (46.8%), followed by the Western Cape High Court in Cape Town (18.1%) and the KwaZulu-Natal High Court in Durban (10.4%).

Table 80 provides a summary of the civil appeals dealt with by the high court divisions in the various provinces during the period under review.

Table 80: Civil appeal statistics

High court	New cases	Upheld	Altered	Referred back	Dismissed	Granted	Finalised
Bisho	1	0	0	0	0	0	0
Grahamstown	25	2	2	0	7	0	11
Mthatha	24	6	0	1	6	1	14
Port Elizabeth	0	0	0	0	0	0	0
Bloemfontein	56	13	7	2	10	4	36
Port Elizabeth	0	0	0	0	0	0	0
Durban	0	0	0	0	0	0	0
Pietermaritzburg	49	4	0	1	4	1	10
Thohoyandou	1	5	0	1	0	1	7
Pretoria	193	24	9	12	19	9	73
Mafikeng	5	0	0	0	0	0	0
Mmabatho	4	0	0	1	0	0	1
Kimberley	11	2	0	1	5	0	8
Johannesburg	68	23	7	2	14	13	59
Cape Town	58	8	0	7	15	3	33
Total	495	87	25	28	80	32	252

Figure 55: Civil appeal statistics

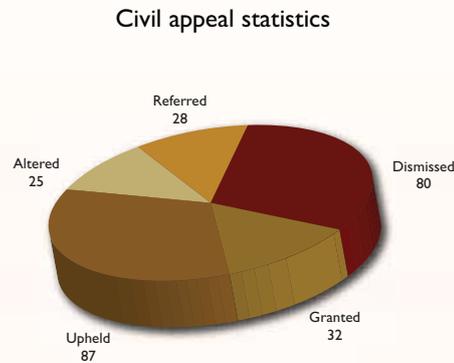


Table 81 indicates the appeals that originated from the regional courts during the period under review.

Table 81: Criminal appeal statistics

Province	Old cases	New cases	Total case load	Overturned	Upheld	Altered	Total cases dealt with	Pending
Eastern Cape	58	72	130	16	9	10	35	95
Free State	185	74	259	1	38	0	39	220
Gauteng	181	220	401	88	87	47	222	179
KwaZulu-Natal	212	141	353	15	43	5	63	290
Limpopo	25	28	53	4	4	5	13	40
Mpumalanga	49	63	112	14	10	11	35	77
North West	69	25	94	5	12	2	19	75
Northern Cape	84	17	101	12	8	2	22	79
Western Cape	243	151	394	97	72	48	217	177
Total	1 106	791	1 897	252	283	130	665	1 232

Table 81 reveals that 13.2% of the appeals dealt with were overturned and 15% were upheld.

Figure 56: Old and new cases

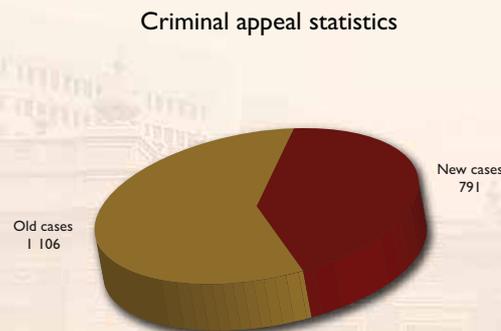


Figure 57: Overturned, upheld and altered cases

Criminal appeal statistics

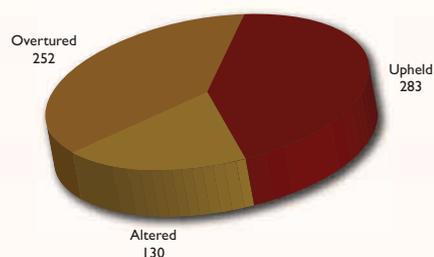


Figure 58: Total cases

Criminal appeal statistics

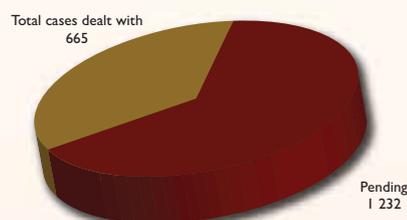


Table 82 indicates the reviews that originated from the regional courts during the period under review. It reveals that 83.9% of the reviews dealt with were confirmed.

Table 82: Criminal review statistics

Province	Old cases	New cases	Total case load	Set aside	Confirmed	Altered	Amended	Total cases dealt with
Eastern Cape	37	119	156	1	77	0	2	80
Free State	2	26	28	0	18	0	4	22
Gauteng	5	17	22	3	19	3	1	26
KwaZulu-Natal	3	146	149	5	24	2	2	33
Limpopo	7	8	15	0	8	0	0	8
Mpumalanga	1	32	33	0	27	0	0	27
North West	7	35	42	0	3	0	0	3
Northern Cape	6	58	64	6	12	8	0	26
Western Cape	7	45	52	1	9	0	0	10
Total	75	486	561	16	197	13	9	235

Lower court: Civil matters

District courts

Table 83 indicates the appeals that originated from the district courts during the period under review.

Table 83: Criminal appeal statistics

Province	Old cases	New cases	Total case load	Overtaken	Upheld	Altered	Total cases dealt with	Pending
Eastern Cape	28	59	87	15	12	4	31	56
Free State	28	27	55	1	2	0	3	52
Gauteng	33	54	87	19	34	12	65	22
KwaZulu-Natal	69	59	128	6	6	8	20	108
Limpopo	7	22	29	6	11	0	17	12
Mpumalanga	7	33	40	7	6	2	15	25
North West	19	18	37	2	9	0	11	26
Northern Cape	65	9	74	3	2	1	6	68
Western Cape	112	54	166	14	24	3	41	125
Total	368	335	703	73	106	30	209	494

Table 83 reveals that 50.7% of the appeals dealt with were upheld and 34.9% were overturned.

Figure 59: Old and new cases

District courts: Criminal appeal statistics

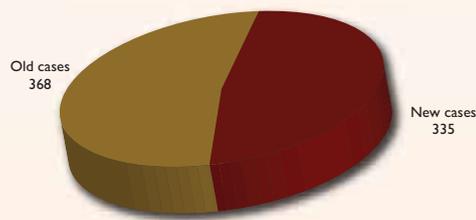


Figure 60: Overturned, upheld and altered cases

District courts: Criminal appeal statistics

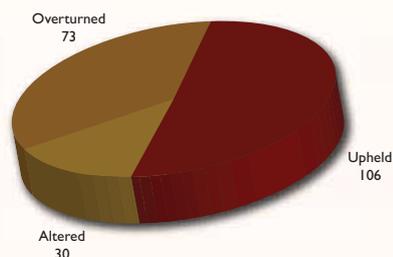


Figure 61: Total cases

District courts: Criminal appeal statistics

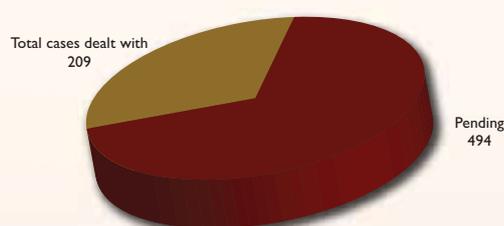


Table 84 indicates the reviews that originated from the district courts during the period under review.

Table 84: Criminal review statistics

Province	Old cases	New cases	Total case load	Set aside	Confirmed	Altered	Amended	Total cases dealt with
Eastern Cape	324	1 959	2 283	13	562	18	15	608
Free State	28	436	464	35	309	3	2	349
Gauteng	30	170	200	13	155	4	7	179
KwaZulu-Natal	137	1 757	1 894	36	1 379	17	14	1 446
Limpopo	40	352	392	7	205	7	2	221
Mpumalanga	24	515	539	3	227	1	1	232
North West	49	363	412	15	208	9	14	246
Northern Cape	26	718	744	183	72	0	0	255
Western Cape	99	915	1 014	10	789	20	12	831
Total	757	7 185	7 942	315	3 906	79	67	4 367

Table 84 reveals that 89.4% of the reviews dealt with in the period under review were confirmed.

PART 2: PROGRAMME PERFORMANCE

Table 85 reveals the number of cases finalised with a verdict in the lower courts during the period under review.

Table 85: Civil trial statistics

Province	New cases	Trials	Motion	Judgments
Eastern Cape	39 803	6 728	34 842	11 862
Free State	28 994	3 048	27 467	6 225
Gauteng	71 469	13 611	59 373	36 914
KwaZulu-Natal	44 657	6 951	36 347	10 421
Limpopo	22 970	4 006	19 522	4 117
Mpumalanga	24 461	4 451	25 092	7 525
North West	26 313	1 811	31 158	5 417
Northern Cape	13 262	1 063	12 932	2 228
Western Cape	59 183	8 468	59 657	11 999
Total	331 112	50 137	306 390	96 708

Table 85 reveals that the provinces with the highest number of cases with regard to judgments are Gauteng (36 914) and the Western Cape (11 999).

Default judgments result from actions instituted either against private individuals or businesses based on default in the payment of monies due to applicants or other non-monetary-related actions. Applications for default judgments are processed by both clerks of the court and magistrates. The distinction between default judgments processed by magistrates, as opposed to

those processed by clerks of the court lies in the cause of the action or nature of the dispute. In general, clerks of the court, process default judgements where the nature of the claim is based on liquidated damages or, in simple terms, actions where the nature of the claim is such that the amount claimed may be easily determined without the requirement to lead evidence to prove the value of the claim. Subject to a prior consent of the parties to the jurisdiction of the magistrates' court, the monetary jurisdiction of the magistrates' court may not exceed R100 000.

Table 86 shows the default judgments issued by the magistrate with regard to individuals and businesses in the various provinces during the period under review.

Table 86: Civil trial statistics

Province	Individuals		Businesses	
	Volume	Value	Volume	Value
Eastern Cape	1 467 896	R144 052 881	2 360 432	R24 150 350
Free State	87 381	R60 281 425	204 133	R28 571 224
Gauteng	52 969	R353 025 911	69 771	R192 255 233
KwaZulu-Natal	800 312	R192 737 949	9 507 603	R67 863 277
Limpopo	4 416	R184 258 137	62 004 308	R264 493 743
Mpumalanga	9 863	R264 183 497	1 417	R53 682 972
North West	5 858	R145 059 222	1 439	R37 236 442
Northern Cape	444 232	R33 749 329	200	R5 334 528
Western Cape	231 913	R1 041 023 826	158 0069	R1 10 990 859
Total	3 104 840	R2 418 372 180	75 729 372	R784 578 633

Table 86 reveals that the provinces with the highest values on default judgments relating to individuals are the Western Cape and Gauteng. The highest values for default judgments relating to businesses are Limpopo and Gauteng.

Table 87: Lower courts: Default judgements statistics: Clerk of the Civil Court

Province	Individuals		Businesses	
	Volume	Value	Volume	Value
Eastern Cape	25 905	R233 545 118	4 537 002	R54 588 366
Free State	252 457	R330 739 573	5 555	R42 370 055
Gauteng	4 586 414	R348 789 790	2 027 887	R79 776 549
KwaZulu-Natal	1 164 517	R937 606 104	778 690	R223 064 440
Limpopo	766 706	R68 058 653	2 855 511	R48 096 038
Mpumalanga	14 247	R159 827 924	1 180	R51 462 048
North West	14 523	R277 001 516	1 292	R29 370 914
Northern Cape	7 366 266	R58 728 001	26 875	R14 042 185
Western Cape	50 058	R449 099 029	69 775	R96 302 524
Total	14 241 093	R2 863 395 712	10 303 767	R639 073 123

Table 87 reveals that the provinces with the highest values for individual matters are KwaZulu-Natal and the Western Cape. The highest values for business matters are also KwaZulu-Natal and the Western Cape.

Table 88 shows the civil reviews dealt with in the lower courts in the various provinces during the period under review.

Table 88: Civil review statistics

Provinces	New cases	Noted	Set aside	Confirmed	Amended
Eastern Cape	218	78	12	23	3
Free State	107	138	9	71	12
Gauteng	120	182	52	43	9
KwaZulu-Natal	113	53	2	17	5
Limpopo	123	17	0	2	1
Mpumalanga	295	503	137	329	42
North West	81	16	6	18	6
Northern Cape	42	42	1	3	0
Western Cape	460	54	2	16	0
Total	1 559	1 083	221	522	78

Table 88 reveals that the Western Cape and Mpumalanga had the highest civil reviews for the period under review.

Family court divisions: divorce courts

Table 89 shows the distribution of cases in the three divorce court divisions for the period under review.

Table 89: Divorce court statistics

Divorce courts	Applications dealt with	Marriages declared null and void	Number of cases put on the roll	Number of cases postponed	Number of divorces granted	Number of settlements	Number of summonses issued	Trial cases disposed	Refused, lapsed or dismissed	Withdrawn or struck off the roll	Finalised	Pending
South	768	1	9 612	1 685	5 266	1 334	6 629	9	0	1 949	3 292	1 974
Central	3 147	3	15 183	2 615	10 876	2 761	15 482	40	0	1 348	4 149	6 727
North Eastern	0	5	8 905	1 937	5 120	0	11 133	0	95	1 393	1 393	3 727
Total	3 915	9	33 700	6 237	21 262	4 095	33 244	49	95	4 690	8 834	12 428

Figure 62: Divorce court cases

Divorce court statistics

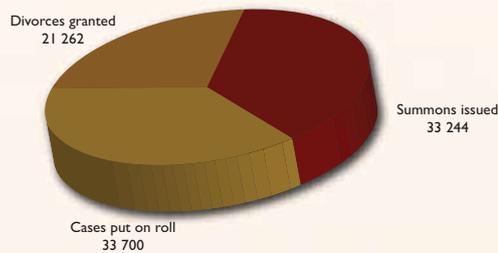


Figure 63: Divorce court statistics

Divorce court statistics

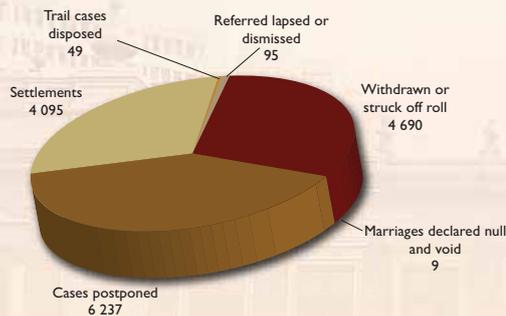
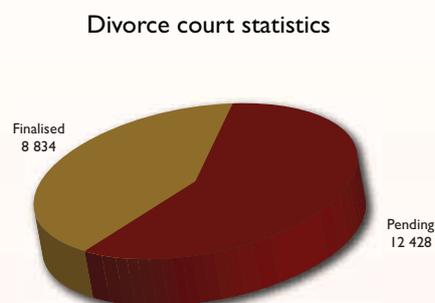


Figure 64: Cases pending and finalised



KPI 22.3: Number of cases remanded for further investigation reduced

The total number of cases postponed for further investigation decreased by 8.4% between quarter 1 and quarter 2 and further decreased by 15.9% between quarter 2 and quarter 3, resulting in a total decrease of 23% between quarter 1 and quarter 3 during the period under review.

2.15.3 Programme 3: State Legal Services

Purpose

Provide legal and legislative services to government, supervise the administration of deceased and insolvent estates and the Guardian's Fund, and prepare and promote legislation and undertake research in support of this:

- The State Law Advisors subprogramme provides legal advisory services to the executive, all state departments, parastatals and autonomous government bodies;
- Litigation and Legal Services provides attorney, conveyancing and notary public services to the executive, all state departments, parastatals and other government bodies through the offices of the state attorney, and provides legal support to the department and the ministry;
- Legislative Development, Law Reform Commission and Rules Boards for Courts

of Law prepare and promote legislation, conduct research, and administer the Constitution; and

- Master of the High Court funds the Master's offices, which supervise the administration of deceased and insolvent estates, trusts, curatorships and the Guardian's Fund.

Measurable objectives

- Improve the legal system by preparing at least 12 bills and subordinate legislative instruments (regulations and rules) for submission to the Ministry of Justice and Constitutional Development by 2010/11;
- Facilitate law reform by submitting at least 11 research publications to the South African Law Reform Commission (SALRC) for consideration and approval in 2010/11;
- Improve legal services provided to government by expanding capacity and reducing government departments' reliance on private sector legal advisory services from 70% in 2007/08 to 30% by the end of 2010/11; and
- Improve the administration of deceased estates by completing registered estates cases worth R125 000 or less in four months and providing beneficiaries of estates with access to assets within 60 days of application.

PART 2: PROGRAMME PERFORMANCE

Service delivery objectives and indicators

Table 90: Service delivery achievements

Subprogrammes	Outputs	Output performance measures/service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Legislative Development	Submit at least 11 research publications to the SALRC for consideration and approval.	Research publications	11	10	Significant progress has been made in this regard. About 10 research publications were submitted to the SALRC for consideration and approval. However, the target of 11 research publications has not been fully achieved.
	Prepare at least 12 bills and 14 subordinate legislative instruments by 2010/11.	Draft bills	12	16	The department has exceeded its target for bills.
		Subordinate legislative instruments (regulations and rules)	14	14	The 14 sets of subordinate legislation were prepared and are at different stages of development. Some are still subject to internal processes. In this regard, the target has been fully achieved.
	Prepare at least 10 rules by 2010/11.	Rules	10	12	The department has exceeded its target set in respect of the preparation of the rules.
State Litigation	Improve legal services provided to government.	Expanding capacity and reducing government departments' reliance on private legal advisory services from 70% to 30% by 2010/11.	30%	Not achieved	Capacity has not yet been expanded. A new structure has been approved, but could not be implemented due to budgetary constraints. The reliance on private legal advisory services could not be reduced due to the increase in litigation against the state, as well as the complexity of the litigation. The number of cases referred to the department's offices increases each year; but the staff complement stayed the same.
Master of the High Court	Improve the administration of deceased estates.	Completing registered estate cases worth R125 000 or less in four months.	In four months	Some 63 057 estates were finalised within the four-month target.	Of the 63 057 matters finalised in four months, 53 553 were done at the 450 magistrate's offices declared service points for probate services.
		Providing beneficiaries of estates access to assets within 60 days of application.	Within days of application	The estimated turnaround time for payments has been in the region of 60 days.	When a person applies for the first time, his or her identity is verified with the Department of Home Affairs. The delay in payments is caused by bottlenecks during the verification process.

STRATEGIC OBJECTIVE 23: DEVELOP LEGISLATION TO TRANSFORM JUSTICE, STATE AND SOCIETY

The Legislative Development branch consists of the Chief Directorate: Legislative Development and the Chief Directorate: Law Reform, which include the Rules Board for Courts of Law and the South African Law Reform Commission. These chief directorates have the following mandates:

- Investigation, preparation and promotion of primary and subordinate legislation relating to the line functions of the department;
- Administration of the Constitution, which includes the investigation, preparation and promotion of amendments to the Constitution;
- Research in respect of all branches of the law of South Africa in order to formulate recommendations for the development, improvement, modernisation or reform of these; and
- Provision of a secretarial and research function to the Rules Board for Courts of Law, which was established to review the rules of court and to make, amend and repeal the rules, subject to approval by the Minister of Justice and Constitutional Development.

KPI 23.1: Submit at least 11 research publications to the SALRC for consideration and approval by 2010/11

The SALRC is an advisory body established by the South African Law Reform Commission Act, 1973 (Act No. 19 of 1973), the aim of which is the renewal and improvement of the law of South Africa on a continuous basis. The members of the SALRC are appointed by the President and the SALRC is assisted in its task by a full-time secretariat, consisting of officials of the department. The SALRC has to investigate

the matters appearing on its programme as approved by the Minister. The SALRC prepares draft legislation if it is of the opinion that legislation ought to be enacted with regard to the matter investigated. In the course of its activities, the SALRC publishes the following research documents for general information and comment: consultation papers, issue papers and discussion papers. Final reports are submitted to the Minister for consideration. These draft research documents are prepared by the secretariat and submitted to the commission for consideration and approval. Internal proposal papers that contain recommendations for the inclusion of matters in the SALRC's programme are also prepared for its consideration.

In the 2008/09 financial year, the department achieved its target of submitting at least 10 research publications to the SALRC for consideration and approval. During the 2009/10 financial year, the following ten research publications were submitted to the SALRC for consideration and approval:

Proposal Paper on the Inclusion of an Investigation into the Review of the Witchcraft Suppression Act, 1957 (Act No. 3 of 1957), and the Mpumalanga Witchcraft Suppression Bill, 2007

The SALRC received a submission from the South African Pagan Council (SAPC) and a submission from the Traditional Healers Organisation (THO), both requesting the inclusion of the investigation in the SALRC's programme. After applying the SALRC's criteria to determine whether a pre-investigation is justified, a pre-investigation was conducted and a proposal paper drafted with a view to making a recommendation to the SALRC on whether the investigation should be included in its research programme. The research encompassed the current South African legal position, reference to other African jurisdictions, an overview of existing attempts and suggestions for law reform in South Africa and a discussion on the

draft policy on African Traditional Medicine of July 2008. The SALRC agreed that the Minister should be approached to approve the inclusion of the investigation in the SALRC's programme. Once approved by the Minister, the project will be assigned to a researcher for the ultimate development of a final report.

Proposal Paper on the Inclusion of an Investigation into the Expungement of Certain Criminal Records

The Minister of Justice and Constitutional Development requested the SALRC to include a new investigation in its programme dealing with the expungement of certain criminal records. The request follows the enactment of the Criminal Procedure Amendment Bill, which was approved by Parliament in 2008 and assented to by the President during February 2009. The bill (now Act 65 of 2009) deals with, among other things, the expungement of certain minor criminal records. During the deliberations on the bill, a number of stakeholders submitted inputs to the Portfolio Committee on a wide range of matters related to the expungement of criminal records. The Portfolio Committee concluded that the expungement of criminal records is a complex matter that requires a balance between the rights of citizens to be protected against criminals and the recognition that having a criminal record can cause undue hardship for an individual. The Portfolio Committee adopted a resolution in respect of which certain actions are required. A pre-investigation was conducted and a proposal paper was submitted to the SALRC. The SALRC agreed that the Minister should be approached to formally approve the inclusion of the investigation in the SALRC's programme. Once approved by the Minister, the project will be assigned to a researcher for the ultimate development of a final report.

Proposal Paper on the Inclusion of an Investigation into the Unconstitutionality of Provincial Legislation Governing Funding of Political Parties

The Centre for Constitutional Rights of the FW de Klerk Foundation submitted a law reform proposal to the SALRC suggesting the inclusion of an investigation into the constitutionality of provincial legislation that was passed in some provinces to regulate the funding of political parties. A cursory search of media reports published during March 2009 indicated that the media covered the issue and that National Treasury had already been involved in attempts to resolve the issue early in 2009. The SALRC conducted a pre-investigation and a proposal paper submitted to the SALRC recommended that the foundation's proposal to include an investigation into the possible unconstitutionality of provincial legislation on the governing funding of political parties in the SALRC's law reform programme should not be approved by the SALRC. The SALRC accepted this recommendation.

Project 25: Statutory Law Revision

The focus of Project 25 is the constitutionality of legislation and repeal of redundant and obsolete provisions. Unconstitutional, redundant and obsolete provisions on the statute book are identified. Consultation papers with repeal and amendment proposals are then developed and submitted to relevant state departments for consideration and comment. The following consultation papers were approved in the year under review:

- Consultation Paper on Legislation Administered by the Department of Cooperative Governance and Traditional Affairs
- Consultation Paper on Legislation Administered by the Department of Energy
- Consultation Paper on Legislation Administered by the Department of Labour

- Consultation Paper on Legislation Administered by the Department of Mineral Resources
- Consultation Paper on Legislation Administered by the Department of Rural Development and Land Reform

The purpose of the consultation papers is to consult with the departments concerned on the preliminary findings and proposals contained in the consultation papers and for those departments to confirm that they have no objection to the provisionally proposed repeals and amendments. The SALRC has liaised with the relevant departments in the phases of the investigation leading to the development of the consultation papers. The SALRC is in the process of developing discussion papers incorporating the comments received from the departments.

Report on Legislation Administered by the Department of Transport

This final report has been submitted to the Minister of Justice and Constitutional Development with the recommendation that he refer the report to the Minister of Transport for consideration.

Project 126: Law of Evidence: Draft Issue Paper on Electronic Evidence in Criminal and Civil Proceedings: Admissibility and Related Issues

The SALRC approved the publication of an issue paper on electronic evidence for public comment. The issue paper attempts to draw attention to issues for law reform with regard to matters relating to the admissibility of electronic evidence in criminal and civil proceedings. In relation to the longer-term objectives of the project, shortcomings in the evidential provisions of the Electronic Communications and Transactions (ECT) Act, 2002 (Act No. 25 of 2002), are identified and a possible scope for further investigation is defined. The issue paper raises a number of issues concerning the ECT Act and formulates a number of questions on specific areas for reform to stimulate debate. The

closing date for comment on this issue paper is 30 June 2010, after which a discussion paper will be developed.

Good progress has been made in respect of the SALRC's comprehensive Statutory Law Revision Project, which has been sanctioned by Cabinet. In addition to the finalised consultation papers referred to above, consultation papers in respect of legislation administered by the following departments are being finalised: Agriculture, Forestry and Fisheries, Arts and Culture, Basic Education, Communications, Defence and Military Veterans, Health, Higher Education and Training, International Relations and Cooperation, Justice and Constitutional Development, National Treasury, Tourism, Trade and Industry, and Water and Environmental Affairs.

Discussion papers for general information and comment are being developed in respect of legislation administered by the following departments: Cooperative Governance and Traditional Affairs, Energy, Labour, Mineral Resources, Public Works, and Rural Development and Land Reform.

The legislation administered by the following departments will also receive attention: Correctional Services, Police, Public Enterprises, Public Service and Administration, Science and Technology, Social Development, Sport and Recreation, State Security, and Women, Youth, Children and People with Disabilities.

A Cabinet memorandum containing a progress report on the Statutory Law Revision Project has been submitted to Cabinet.

STRATEGIC OBJECTIVE 24: DEVELOP LEGISLATION TO PROMOTE ACCESS TO JUSTICE FOR ALL

KPI 24.1: Prepare at least 12 bills and 14 subordinate legislative instruments by 2010/11

The department is responsible for the investigation, preparation and promotion of new

and amending primary legislation in Parliament, as well as subordinate legislation required by the legislation. It is also responsible for any amendments to the Constitution. At the end of each year, the Deputy President requests the Minister to submit a legislative programme for the year ahead, setting out the bills that are scheduled to be presented to Parliament for consideration. This programme is developed in consultation with the Minister. To a large extent, it determines the priority legislation in that particular year, especially in the case of primary legislation. It also sets out the strategic focus of each bill, the impact of the bill on target groups, and time frames for the submission of the bills to Cabinet and Parliament.

New priorities often emerge in the course of the year that require immediate attention. These have not necessarily been planned, and have an impact on performance. The promotion of legislation in Parliament is also dependent on the parliamentary programme and time set aside by Parliament's programme planning team to consider draft legislation. This is often limited, particularly during an election year, which was the case during the period under review. Parliament was dissolved some time before the elections in April 2009 and the new Parliament was inaugurated some time after that date. The new administration required time to establish itself. This all had an impact on the promotion of legislation, as it does every election year. Once a bill is introduced into Parliament, the department has no control over its passage.

The information reported on below is in respect of bills referred to in the legislative programme for the period under review, as well as other legislation, which received the attention of the department.

Bills introduced into Parliament

Traditional Courts Bill

The bill is intended to regulate anew the role and functions of traditional leaders in the administration of justice in accordance with constitutional imperatives. It was introduced into Parliament before the April 2009 elections and lapsed when Parliament was dissolved for the elections. The new Parliament, after the elections, revived the bill by way of resolution. The Traditional Court Bill introduced into Parliament provides that it comes into operation on 29 June 2008 or on such earlier date determined by the President by proclamation in the Government Gazette. The Portfolio Committee on Justice and Constitutional Development, however, presented a Committee Bill, namely the Repeal of the Black Administration Act and Amendment of Certain Laws Amendment Act, 2008, which extended the statutory deadline for the repeal of the provisions in the Black Administration Act, 1927, dealing with the role and functions of traditional leaders in the administration of justice, from 30 June 2008 to 31 December 2009. In October 2009, the Portfolio Committee again introduced a Committee Bill similar to the 2008 bill, extending the above statutory deadline from 31 December 2009 to 31 December 2010. In September 2009, the department briefed the new Portfolio Committee on the bill, providing background information and the history of the bill. The committee resolved to take the process forward with its counterpart, the Select Committee on Security and Constitutional Development. During November 2009, the Chief Directorate briefed the KwaZulu-Natal House of Traditional Leaders on the bill. The bill, when approved by Parliament and implemented, will protect the rights of vulnerable groups, particularly women and children who, at present, have limited locus standi in traditional courts. It will also promote access to justice.

Criminal Law (Forensic Procedures) Amendment Bill

The bill is intended to strengthen the criminal forensic investigation powers of the police by broadening the fingerprint database of the SAPS and establishing a DNA database. It was introduced into Parliament before the April 2009 elections and lapsed when Parliament was dissolved for the elections. The new Parliament, after the elections, revived the bill by way of resolution. The bill is an important measure in the review of the criminal justice system and served before an ad hoc committee of the previous Parliament. The ad hoc committee was unable to finalise the bill, but, in its report to the National Assembly, recommended that the bill be dealt with urgently by the new (fourth) Parliament. After the April 2009 elections, the bill was referred to the Portfolio Committee on Police, which is deliberating on it. The Portfolio Committee on Police decided to split the bill into two separate bills, one dealing with fingerprints and the other dealing with the DNA database. The Portfolio Committee on Police finalised the bill dealing with fingerprints in March 2010. The department participated in the deliberations of the Portfolio Committee and assisted with the drafting of the numerous amendments proposed by the Portfolio Committee. The legislation, once enacted and implemented, will contribute to the fight against crime and will play a positive role in the speedy resolution of trials.

Superior Courts Bill and Constitution Amendment Bill

The Superior Courts Bill seeks to rationalise the structure and functioning of South Africa's superior courts (the Constitutional Court, the Supreme Court of Appeal and the High Court). The Constitution Amendment Bill, among others, provides for a single high court of South Africa and provides that the Constitutional Court be the Apex Court. There have been many developments since the initial introduction of

the Superior Courts Bill in 2003. During the year under review, the department engaged with the Judiciary on both bills, which were redrafted in line with directions received from the Minister.

Constitution Seventeenth Amendment Bill (Municipal Functions)

The proposed amendment of the Constitution is intended to vest the national government with new powers of intervention at local government level when it is necessary to achieve regional efficiencies and economies of scale in respect of municipal functions. This will empower the national government to further regulate the exercise by municipalities of their executive authority in certain circumstances. The proposed amendment is designed to facilitate, not only the restructuring of the electricity distribution industry, but also the regionalisation of other municipal functions, when necessary. During the year under review, the bill was prepared, submitted to Cabinet and the State Law Advisors and introduced into Parliament in August 2009. It has been referred to the Portfolio Committee on Justice and Constitutional Development for consideration.

Protection of Personal Information Bill

The bill emanates from the SALRC's Report on Privacy and Data Protection. The bill is intended to promote the protection of personal information processed by public and private bodies by, among others, introducing information protection principles so as to establish minimum requirements for the processing of personal information. The bill also aims to establish an Information Protection Regulator who will, among other things, be responsible for issuing codes of conduct. The bill finally aims to regulate the rights of persons regarding unsolicited electronic communications and automated decision-making and to regulate the flow of personal information across the borders of the Republic of South Africa. During the year under review, the bill of the SALRC was

evaluated. It was finalised, submitted to Cabinet and the State Law Advisors and introduced into Parliament in August 2009. The department briefed the Portfolio Committee on Justice and Constitutional Development on the bill's contents and participated in the deliberations of the committee. This bill was not originally on the legislative programme of the department for 2009/10 and had to be fast-tracked. The bill is aimed at giving effect to the constitutional right to privacy, subject to justifiable limitations that are aimed at balancing the right to privacy against other rights, particularly the right of access to information and protecting interests, such as the free flow of information. The bill also introduces certain restrictions as far as the processing of personal information of children is concerned.

Protection from Harassment Bill

The bill aims to give effect to the SALRC's recommendations relating to stalking behaviour. According to the SALRC, the existing civil law framework, namely an interdict, and the existing criminal law framework, namely the punishing of stalking conduct as a crime or the prohibition thereof by means of a binding over of a person to keep the peace in terms of section 384 of the Criminal Procedure Act, 1955, may not provide adequate recourse to victims of stalking who are not in a domestic relationship. The bill provides primarily for the granting of a protection order against harassment. During the year under review, the bill of the SALRC was evaluated and made available for public comment. Comments received were evaluated and accommodated, where appropriate. The bill was finalised, submitted to Cabinet and the State Law Advisors and introduced into Parliament in February 2010. It has been referred to the Portfolio Committee on Justice and Constitutional Development for consideration. The bill is intended to protect the rights of vulnerable groups, namely the victims of harassment, who are often women and children.

Prevention and Combating of Trafficking in Persons Bill

The Republic of South Africa is a signatory to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000, and, by virtue of this, is required to pass domestic legislation that deals with trafficking in persons in order to fulfil its international obligations. Trafficking in persons is a worldwide problem and is one of the most lucrative criminal businesses globally. People are mainly trafficked for sexual exploitation and forced labour. Victims of trafficking are subjected to numerous ordeals, such as physical and emotional damage, health problems, drug and alcohol abuse and post-traumatic stress disorder. The bill emanates from a report of the SALRC. The bill aims to give effect to the United Nations Protocol and to provide for the prosecution of persons involved in trafficking and for appropriate sentences, for the prevention of trafficking and the protection and assistance of victims of trafficking, for effective enforcement measures, and generally to combat trafficking in persons. After receiving the report of the commission, the department evaluated the commission's bill, adapted it where appropriate and published it in the Government Gazette for comment in May 2009. The comments received were evaluated and, where appropriate, incorporated into the bill. Cabinet was approached in August 2009 for approval to introduce it into Parliament, whereafter it was submitted to the State Law Advisors for certification. The bill was introduced into Parliament in March 2010. The department briefed the Portfolio Committee on Justice and Constitutional Development on the bill in March 2010. The bill is intended to promote access to justice and protect victims of trafficking, who are mostly women and children.

Bills on the department's legislative programme for 2010/11

Recognition of Muslim Marriages Bill

The bill emanates from an investigation by the SALRC and is intended to provide for the statutory recognition of Muslim marriages in order to redress inequities and hardships arising from the non-recognition of these marriages. The bill was submitted to Cabinet before the April 2009 elections for approval to publish it for comment. Cabinet requested a comprehensive briefing on the issues relating to the bill. As requested by Cabinet, a Cabinet memorandum, together with a briefing document for submission to Cabinet and a revised bill, has been prepared and submitted to the Ministry. The bill is intended to protect the rights of vulnerable groups, particularly women and children in the Muslim community, and enhance access to justice.

Legal Practice Bill

The bill is intended to rationalise the legislation regulating the legal profession. The legal profession is still regulated by different outdated statutes that are in operation in various parts of the country. The process of preparing the bill has a long history that has spanned the different administrations post-1994. During the period under review, the department engaged in a consultative process with the representatives of the legal profession. A draft bill was prepared for purposes of a consultative meeting with the legal profession. A meeting between representatives of the department and the legal profession was held in September 2009 to discuss the bill. A revised bill was prepared, based on the consultative meeting. The bill will not only enhance access to the legal profession for aspiring lawyers, but will also enhance access to legal services, impacting positively on access to justice in general.

Judicial Matters Amendment Bill

The bill aims to amend various acts of Parliament administered by the department in order to address challenges identified in practice. A bill was prepared and submitted to the Minister for approval to make it available for public comment. The bill was published for general comment and made available to specific stakeholders. The deadline for comment was the end of March 2010.

State Liability Bill

The State Liability Bill is intended to ensure that organs of state comply with court orders made against them, particularly court orders sounding in money. A bill was prepared to revise the existing act in its entirety, setting out procedures to be followed by organs of state when executing court orders against them. The bill was published for public comment in the Government Gazette in June 2009. The bill is also intended to give effect to the Constitutional Court judgment in the Nyathi case. The Constitutional Court has given the department until August 2011 to enact substitute legislation. The comments received have been summarised and evaluated. The comments indicate that there is considerable opposition to the bill in its present form and numerous suggestions have been made for its revision. The Minister has been approached by way of a memorandum for guidance on the way forward. The bill will assist successful litigants in cases against the state to obtain the relief they seek, many of whom could be individuals from vulnerable groups, especially in matters where the litigation revolves around issues relating to socio-economic rights.

Prevention and Combating of Hate Speech, Racial Discrimination, Xenophobia and Related Intolerance Bill

The bill, apart from giving effect to South Africa's international obligations as a party to the Convention against all Forms of Racial

Discrimination, aims to criminalise conduct that constitutes hate speech, racial discrimination or racism, xenophobia and related intolerance that is based on race, gender, sex, ethnic or social origin, colour, nationality, sexual orientation, disability, culture, religion, conscience, belief, language and birth. A bill has been prepared and has been submitted to internal stakeholders for comment. The bill is intended to assist victims of crime, with particular reference to foreigners who are subject to xenophobic attacks.

South African Human Rights Commission Amendment Bill

The bill seeks to bring the principal act (the Human Rights Commission Act, 1994 (Act No. 54 of 1994)) in line with the Constitution and to further regulate various matters relating, among others, to the composition, powers, functions, functioning and position of support staff of the SAHRC. A bill prepared during the previous financial year was submitted to the previous chairperson of the commission, requesting the commission's comments. Comments were received and are being evaluated. It was, however, decided that the bill should be submitted to the chairperson of the newly appointed commission for comment. Comments are awaited.

Constitution Amendment Bill (Financial Matters)

The bill is intended to address various financial matters. A bill has been prepared in conjunction with National Treasury. National Treasury, however, indicated that it wants to effect certain changes to and include further amendments in the bill. The matter is receiving the attention of National Treasury.

Constitution Amendment Bill (removal from office of members of Chapter 9 institutions, financial provisions and name change of the Defence Force)

The bill is intended to further regulate the removal from office of the Public Protector, the

Auditor-General or a member of a commission established by Chapter 9 of the Constitution and to substitute outdated references. The bill is also intended to clarify certain legal uncertainties concerning national legislation regulating rates on property, surcharges on fees and other taxes, levies or duties that may be imposed by a municipality. A bill was prepared during the previous financial year and made available to National Treasury for comment.

Subordinate legislation

Regulations under the Child Justice Act, 2008

The Child Justice Act, 2008, requires the Minister to make regulations on numerous aspects mentioned in the act. These regulations must be made after consultation with the ministers of Social Development, Police, Education, Correctional Services and Health. A comprehensive set of regulations was prepared in conjunction with the role-playing departments and submitted to the Minister in December 2009. They were tabled in Parliament in February 2010 and were approved by the National Assembly and National Council of Provinces in March 2010. The department played a significant role in the finalisation of the directives required to be issued by the National Director of Public Prosecutions under the Child Justice Act by providing comments on the initial directives that were submitted to the Minister. In a similar vein, the department provided comments on the initial draft national instructions that are required to be issued by the National Commissioner of Police under the act. The implementation of the Child Justice Act and the regulations made thereunder will contribute to the realisation of children's rights, as set out in the Constitution and the United Nations Convention on the Rights of the Child, to which South Africa is a signatory.

Regulations under Chapters 4 and 17 of the Children's Act, 2005

The Children's Act, 2005, requires the Minister to make regulations in terms of chapters 4 and 17 of that act, relating to children's courts and international child abduction, respectively. Regulations were prepared in conjunction with the relevant role-players and published in March 2010.

Implementation of the Regulation of Interception of Communications and Provision of Communication-related Information Amendment Act, 2008

This amendment act deals with the electronic registration of cellphones and SIM cards and, during the Parliamentary process, was the subject of protracted and intense deliberations, trying to balance opposing interests, namely the need to prevent and detect serious crimes and the need to promote access to communication. The amendment act was put into operation in July 2009, with the exception of one provision, dealing with penalties, which was put into operation in August 2009. The implementation of this amendment act was preceded by sensitive negotiations between the department, mobile cellular phone operators and law enforcement agencies. The implementation of the amendment act will contribute to the fight against serious crime.

Publication of directives under the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002, relating to forms of assistance and compensation

This act requires the Minister, after consultation with the ministers of Communications, Finance and Public Enterprises, to publish, by notice in the Government Gazette, the forms of assistance for which a postal service provider or telecommunication service provider must be compensated in the execution of an interception

direction authorised by a judge under the act. The notice must also prescribe reasonable tariffs of compensation payable by the law enforcement agencies to postal service providers and telecommunication service providers for such assistance. During the year under review, notices were published by the Minister after the required consultation, in respect of both postal service providers and telecommunication service providers, setting out the forms of assistance and tariffs. This was preceded by protracted negotiations between the department, the service providers and the law enforcement agencies.

Regulations under the Reform of Customary Law of Succession and Regulation of Certain Matters Act, 2009

Section 5 of the Reform of Customary Law of Succession and Regulation of Certain Matters Act, 2009, deals with disputes or uncertainties that may arise regarding the status of or any claim by any person in relation to a person whose estate must devolve in terms of the Intestate Succession Act, 1987, regarding the nature or content of any asset in such estate or regarding the devolution of family property involved in such estate. In such an event, the Master of the High Court may make a determination as to what may be just and equitable in order to resolve the dispute or remove the uncertainty. The Master may, however, before making such a determination, direct an inquiry to be held into the matter by a magistrate or a traditional leader, who may then make a recommendation to the Master. The Cabinet member responsible for the administration of justice may make regulations regarding any aspect of the inquiry referred to. A set of draft regulations to give effect to this was prepared and submitted to the Office of the Chief Master for comment. Because the act gives the Minister the discretion to make these regulations and since comments received indicate that it might not be necessary to make regulations, the regulations might not be proceeded with.

Regulations on Exhumations and Reburials under the Promotion of National Unity and Reconciliation Act, 1995

The Promotion of National Unity and Reconciliation Act, 1995, provides that the President must make regulations implementing the decisions of Parliament relating to the reparation of victims of gross human rights violations. Regulations relating to exhumations and reburials in respect of deceased Truth and Reconciliation Commission victims were finalised and approved by Cabinet and submitted to the President for promulgation.

Regulations on Educational Assistance to Victims of Gross Human Rights Violations under the Promotion of National Unity and Reconciliation Act, 1995

The Promotion of National Unity and Reconciliation Act, 1995, provides that the President must make regulations implementing the decisions of Parliament relating to the reparation of victims of gross human rights violations. Regulations relating to educational assistance for Truth and Reconciliation Commission victims were prepared in the previous financial year. The draft regulations were submitted to the Minister of Finance as required by the act. A task team comprising officials of the Department of Justice and Constitutional Development, National Treasury and the Department of Education was established to discuss the comments of National Treasury. The task team met and subsequent meetings between the Department of Justice and Constitutional Development and the Department of Education were held to discuss, among others, the implications of restructuring the Department of Education for the regulations. A new set of regulations was prepared and submitted to the Department of Education. This department furnished comments, which are being evaluated.

Regulations on Medical Assistance to victims of Gross Human Rights Violations under the Promotion of National Unity and Reconciliation Act, 1995

The Promotion of National Unity and Reconciliation Act, 1995, provides that the President must make regulations implementing the decisions of Parliament relating to the reparation of victims of gross human rights violations. Regulations relating to medical assistance were prepared during the previous financial year. Discussions with the Department of Health on these regulations took place during the year under review. The finalisation of these regulations requires a number of policy decisions. It was agreed that Cabinet be approached for this purpose. Documentation for submission to Cabinet is being prepared.

Regulations under the Criminal Procedure Amendment Act, 2008, relating to audio-visual postponements of certain criminal proceedings

The Criminal Procedure Amendment Act, 2008, inserted sections 159A, 159B, 159C and 159D in the Criminal Procedure Act, 1977. These new sections make provision for the postponement of certain criminal proceedings by means of an audiovisual link (similar to video-conferencing). The Cabinet member responsible for the administration of justice may make regulations necessary to give effect to the technical requirements for the use of audiovisual links. During the year under review and because of the technical nature of the subject matter to be prescribed, numerous sets of draft regulations were prepared and adapted pursuant to the consultation process required to be undertaken with internal stakeholders, among others, the Information and Systems Management component of the department and the Branch: Court Services. The regulations are in the process of being finalised.

Regulations under the Criminal Procedure Amendment Act, 2008, relating to the expungement of certain criminal records

The Criminal Procedure Amendment Act, 2008, dealing with the expungement of certain criminal records, requires the Cabinet member responsible for the administration of justice to make regulations regarding the form on which a person's written application for the expungement of his or her criminal record must be made, the certificate of expungement to be issued by the Director-General: Justice and Constitutional Development, or the Minister; and the manner in which the Director-General must submit the certificates of expungement that have been issued to the Criminal Record Centre of the SAPS for execution. The required regulations that were prepared during the previous financial year were finalised at the beginning of the year under review and made by the Minister in May 2009. The implementation of this legislation has been very successful in the short time it has been in operation. It has contributed significantly to promoting access to justice and enhancing organisational efficiency. The creation of the mechanism in the legislation in terms of which members of the public can rid themselves of minor misdemeanours committed years ago without having to approach the President for a pardon is being used to its full potential.

Administration of the Special Investigating Units and Special Tribunals Act, 1996 (referral of matters to the President)

Section 2 of this act provides that the President may refer allegations of serious malpractices or maladministration in connection with the administration of state institutions, state assets and public money to a Special Investigating Unit, established by the act, for investigation. The department fulfils a facilitating role when matters are referred by the President to a Special Investigating Unit, motivating the referral and preparing the required documentation

for the President's signature. During the year under review, three matters were prepared for submission to the President for referral to the Special Investigating Unit (SIU).

Regulations under the Judicial Service Commission Amendment Act, 2008

In terms of the Judicial Service Commission Amendment Act, 2008, the Minister of Justice and Constitutional Development is required to make regulations relating to the Register of Judges' Registrable Interests, for instance, the form of the register; the kinds of interests that are to be declared, the manner and the instances in which, and the time limits within which, interests must be disclosed and a procedure providing for public access to the public part of the register; among others. During the year under review, a set of draft regulations was prepared and submitted to the Office of the Chief Justice for comment. The implementation of the Judicial Service Commission Amendment Act and the regulations will facilitate the transformation of the judiciary.

Publishing a Code of Good Administrative Conduct under the Promotion of Administrative Justice Act, 2000

The Promotion of Administrative Justice Act, 2000, requires the Cabinet member responsible for the administration of justice to publish a code of good administrative conduct in order to provide administrators with practical guidelines and information aimed at the promotion of an efficient administration and the achievement of the objects of this act. Before publication, the code must, in terms of the act, be approved by Cabinet and Parliament. Cabinet's approval was obtained during a previous financial year and the code was tabled in Parliament. Because of the April 2009 elections, the tabling of the code lapsed. The code was retabled in Parliament during the period under review. The department was requested to brief the Portfolio Committee on Justice and Constitutional Development in

November 2009. The committee requested the department to revisit some provisions of the code with a view to incorporating the rules made under the act in the code as well. This is receiving attention.

Determination of tariff of compensation in terms of section 62A of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002

Section 62A of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002, provides that the Minister may, in consultation with the Cabinet member responsible for communications, at the request of any electronic communication service provider, determine uniform tariffs of compensation payable by these service providers to persons employed to record and store the information referred to in sections 40 and 62(6) of the act, that is particulars of the customers of the service providers and particulars of their cellphones and SIM cards. This provision was inserted in the act by the 2008 amendment act referred to above, at the request of the service providers, to avoid a situation where the various service providers remunerate agents they employ for purposes of registering the information at different rates. After consultation between the various service providers, a tariff was agreed on and a determination was made in November 2009 by means of a notice in the Government Gazette.

Regulations under the Attorneys Act, 1979, relating to the investment of monies of the Attorneys Fidelity Fund

Section 81(2) of the Attorneys Act, 1979, provides that the Minister of Justice and Constitutional Development may, with the concurrence of the Chief Justice of South Africa and after consultation with the presidents of the various law societies, make regulations relating to the investment of the money in the Attorneys Fidelity Fund that is not

immediately required for the purpose for which the fund was established, namely to reimburse persons who may suffer pecuniary loss as a result of theft committed by an attorney. The board of the fund requested that the existing regulations be amended to take into account new international investment opportunities. Regulations were prepared during a previous financial year. However, because of the current global economic situation, the department was requested to revisit the proposed regulations and obtain the comments of the Financial Services Board and the Public Investment Commission. After receiving comments, the board of the fund was approached for its views on the revised proposals. The revised proposals were submitted to the Chief Justice and the provincial law societies for comment as required by the act. The comments are awaited.

While there has been progress in most of the projects mentioned above, there are some projects where there has been little or even no progress. This can be ascribed, in most instances, to the fact that the legislation in question is with Parliament and over which the department has no control, or the legislation has been submitted to stakeholders for comment or guidance on the way forward. Examples of these projects are the Traditional Courts Bill, the South African Human Rights Commission Amendment Bill, the two Constitution Amendment bills referred to above and the Code of Good Administrative Conduct.

The following are the other projects that received the department's attention during the period under review:

Criminal Procedure Amendment Bill

A bill was prepared, in conjunction with the SAPS, to amend section 49 of the Criminal Procedure Act, 1977, to bring it in line with a Constitutional Court judgment relating to the use of force when an arrest is made. A proposed

amendment was submitted to the Minister for consideration, whereafter it was made available for public comment.

Legal Aid Amendment Bill

A task team, consisting of representatives of the department and the Legal Aid Board, was appointed to revise the Legal Aid Act, 1969. Research has been conducted and a draft bill was prepared. The Legal Aid Board submitted comments on the bill. The task team met in February 2010 to consider the comments of the board and proposals for adapting the bill.

Criminal Procedures Amendment Bill (out-of-court settlements)

A bill, emanating from a report of the SALRC that was aimed at introducing out-of-court settlements in criminal cases, was prepared after the report of the commission was evaluated. A submission to the Minister is in the process of being finalised. Out-of-court settlements will enable accused persons to undertake that they will comply with certain conditions set by the prosecutor in exchange for the prosecution being discontinued.

Protected Disclosure Amendment Bill

The bill is intended to give effect to SALRC's legislative recommendations aimed at extending the ambit of the Protected Disclosures Act, 2000, to include persons who do not fall within the conventional meaning of "employee". The report and recommendations of the SALRC have been evaluated, a bill has been prepared and a submission to the Minister is being finalised.

Regulations under the Insolvency Act, 1936, Administration of Estates Act, 1965, the Companies Act, 1973, and the Trust Property Control Act, 1988

The Stamp Duties Act, 1968, was repealed by section 103 of the Revenue Laws Amendment Act, 2008, with effect from April 2009. The

repeal of the 1968 act resulted in the phasing out of revenue stamps. The Minister of Finance extended the validity of revenue stamps in March 2009, to November 2009. Revenue stamps have been used as a method of collecting revenue for the payment of certain fees that are prescribed in the regulations made under the Insolvency Act, 1936, the Administration of Estates Act, 1965, the Companies Act, 1973, and the Trust Property Control Act, 1988, for certain services rendered by the 14 Master's offices throughout the country. In addition to collecting revenue by means of revenue stamps, certain other fees for services rendered by the Master's offices are payable at South African Revenue Service (SARS) cash halls. The amount and method of payment of these particular fees are also prescribed in the regulations made under the Insolvency Act, 1936, the Administration of Estates Act, 1965, the Companies Act, 1973, and the Trust Property Control Act, 1988. With the repeal of the legislation in question and the demonetisation of revenue stamps, it became necessary to determine alternative methods of collecting these fees, which was done by amendments to the regulations made under the above four acts. In short, the amendments made provision for the payment of these fees at magistrate's courts.

A major challenge when promoting legislation is to indicate to Cabinet and Parliament the financial implications of implementing the legislation in question, especially during the year under review when the department's budget allocation had been severely cut as a result of the global economic situation. The eventual implementation of the legislation is not undertaken by the department, but by other functionaries and components in the department and indeed even by other departments and institutions. The department is therefore often dependent on the costing of the proposed legislation being done elsewhere, the funds being made available for the legislation and how the funds are to be used.

Compared to the previous year (2008/09), when the department set itself a target of 12 legislative instruments (bills, regulations and rules), the target for this year was 12 bills and 14 subordinate legislative instruments. As indicated above, although there was not movement in respect of every project, good progress was made in respect of most projects.

KPI 24.2: Prepare at least 10 rules by 2010/11

The Rules Board for Courts of Law is a statutory body that was established by the Rules Board for Courts of Law Act, 1968 (Act No. 107 of 1985), to review the rules of court and to make, amend or repeal rules, subject to the approval of the Minister of Justice and Constitutional Development. The members of the Rules Board are appointed by the Minister. The board is assisted by a full-time secretariat consisting of officials of the department.

The Rules Board receives representations for amendments to the Rules of Court from users of the rules, ranging from judges, attorneys, advocates and magistrates to litigants. The objective is to review the rules to enhance efficiency in the manner in which court proceedings are conducted. The clients are the users of the courts. The users make representations to the Rules Board to amend rules that they find to be problematic. As a first step in the process, the board considers the merits of all representations received and decides whether to proceed with investigations or not. Should the board decide that a representation lacks the necessary merit, the person or organisation that made such representation is informed accordingly and reasons for the decision are furnished. If a representation is found to have merit, the board refers it to one of its three committees: the High Court Committee, the Magistrates' Courts Committee and the Costs Committee. The nature of the matter determines which committee such matter is referred to. Research is then conducted by researchers in the secretariat and extensive consultation with

role-players follows. Based on the outcome of the research and the comments received from role-players, the committee decides whether to proceed with an amendment or not. Once a draft amendment is approved by the committee, the decision is referred to the board for ratification. On ratification, the draft amendment is sent to the State Law Advisors, who scrutinise the amendment for constitutionality and technical correctness. Finally, the draft amendment is sent to the Minister for approval and it is published in the Government Gazette. The amended rule comes into operation one month after publication in the Gazette. It is endeavoured to resolve representations within two years of receipt.

The Rules Board has prepared more than the target of 10 rules per year. None of the representations received in the 2009/10 financial year were found by the board to lack merit. All representations received were investigated.

During the 2009/10 financial year, the following rules were approved by the Minister. These rules were gazetted and have come into operation:

Amendment of Rule 10A of the Uniform Rules (notification to the Rules Board of challenge to rule)

The constitutional validity of a number of rules has been challenged in court recently. In most cases, the Rules Board has received very late notification or no notification at all of such proceedings. The board noted that it required an opportunity to become involved in such cases, even if just to assist the court with relevant background information on the rule and the possible impact of a declaration of invalidity. In order to facilitate this, the board approved the amendment of Rule 10A to provide that the Rules Board should be informed of legal challenges to rules. The proposed amendment was approved by the Minister, published in the Government Gazette in February 2010, and came into operation in March 2010.

Amendment of Rule 50 of the Uniform Rules (notice of set down of appeals)

Rule 50(5)(b) required the registrar to give the applicant written notice of the date of the hearing of an appeal. The applicant was required to deliver a notice of set down. It often happened that the applicant did not deliver such a notice. This resulted in the registrar not knowing whether or when to submit the file to the judges to read and the magistrate was not given a notice of set down, resulting in the appeal having to be adjourned. It was proposed that in order to avoid this problem, the registrar, instead of the applicant, should give notice to all interested parties. This would also be in line with rule 49(7)(c), which provides that the registrar shall give the parties written notice of the date assigned for the hearing. The amendment was approved by the Minister, published in the Government Gazette in February 2010 and came into operation in March 2010.

Amendment of Rule 58 of the Uniform Rules (provision of address by claimant in interpleader proceedings)

Rule 58 was amended by the insertion of a subrule to provide that a claimant in interpleader proceedings should specify an address for service. The amendment was approved by the Minister, published in the Government Gazette in February 2010, and came into operation in March 2010.

Amendment of Rule 63 of the Uniform Rules (authentication of foreign documents)

South Africa became a signatory to The Hague Convention Abolishing the Requirement of Legalisation for Foreign Legal Documents in April 1995. Rule 63, which deals with the authentication of foreign documents, made no reference to documents that emanated from countries that are parties to the convention. The rule contained a blanket provision in respect of any place outside the Republic and no distinction was drawn between countries that are parties

to the convention and those that are not. This created the incorrect impression that the requirements in Rule 63 applied equally to all foreign documents. The High Court Committee decided that there was a need for clarity in this regard. After extensive consultation with role-players, the committee decided that a subrule should be inserted into the rule to provide that where a document emanates from a country that is party to the convention, the relevant provisions of the convention shall apply. This decision was ratified by the board. The amendment was approved by the Minister, published in the Government Gazette in February 2010, and came into operation in March 2010.

Amendment of Rule 70 of the Uniform Rules (introduction of new taxation procedure)

The amendment regulates the set down of bills for taxation. Firstly, it provides that, subject to a few specified exceptions, taxation may only proceed if the taxing master is satisfied that the party liable to pay the bill has received notice of the taxation. Secondly, the amendment streamlines the taxation procedure, thereby saving time. The new procedure requires parties to specify in advance the items that they would be disputing, thereby making it possible for the taxation to be set down for an appropriate time period. The amendment was approved by the Minister, published in the Government Gazette in February 2010 and came into operation in March 2010.

The rules below were approved by the Board and have been submitted to the Minister. After approval by the Minister, the rules will be gazetted and will come into operation one month thereafter.

Revision of Rules of the Supreme Court of Appeal

The Rules Board received a representation from Judge LTC Harms motivating for the revision of the Supreme Court of Appeal Rules in its entirety. The proposed amendments were intended

to make the rules more understandable and accessible, and to expedite court proceedings. After extensive consultation with role-players, most of the rules were amended as suggested. Proposed amendments that suggested the shortening of time periods were not approved by the High Court Committee or the board because of an anticipated adverse effect on access to justice. The amended rules were submitted to the Minister for approval in March 2010.

Amendment of Rule 66 of the Uniform Rules (superannuation)

Rule 66 provided that after three years from the date of judgment, no writ of execution could be issued unless the debtor consented to it or the judgment was revived by the court on notice to the debtor. A court decision criticising this rule was brought to the attention of the board. The rule was found to be in conflict with the Prescription Act, 1943, which provides that the period of extinctive prescription in such cases is 30 years. The High Court Committee decided that the rule should be amended so as to align it to the Prescription Act, 1943. The board ratified the decision of the High Court Committee. The amendment was submitted to the Minister for approval in March 2010.

The following rule has been approved by the Board:

Rules for Regional Courts (extension of civil jurisdiction to regional courts)

Section 9(6)(a) of the Jurisdiction of Regional Courts Amendment Act, 2008 (Act No. 31 of 2008), requires the Rules Board for Courts of Law to enact rules of procedure that will enable the regional courts to exercise the civil jurisdiction given to them in terms of the act. The act also confers jurisdiction on the regional courts to hear divorce matters and requires the Rules Board to make rules of procedure to deal with this. The Regional Court Task Team drafted rules to completely review the magistrates'

courts' rules and to make provision for civil jurisdiction at regional court level after extensive consultation with role-players. The draft rules were approved by the board and have been sent to the State Law Advisors for scrutiny. Subsequently, the rules will be submitted to the Minister for approval.

The following draft amendments have been approved by the relevant committees of the board:

Rules in terms of section 10(8) of the Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002)

Section 10(8) requires the Rules Board to make rules of procedure to provide for the expeditious and urgent finalisation of appeals contemplated in the section. The High Court Committee approved the draft rules in March 2010. The rules will be submitted to role-players for comment. The comments will be considered by the committee at its next meeting. The board will then be requested to ratify the decision of the committee.

Review of Rule 43 of the Uniform Rules (interim maintenance and custody in divorce)

Rule 43 provides for interim relief in divorce matters. It is intended that applications in terms of this rule should be dealt with as inexpensively and speedily as possible. The rule therefore limits the fees that may be charged by counsel. The board received a representation requesting an increase in the fees, as counsel no longer receives adequate compensation for appearing in Rule 43 applications. The Costs Committee recommended an increase and the appropriate draft amendment was circulated to role-players for comment in December 2009. The comments will be considered by the committee at its next meeting. The board will then be requested to ratify the decision of the committee.

Increase in assessors' fees

The Rules Board received a representation requesting that the rules be amended to increase fees payable to assessors and to ensure parity between assessors appearing in civil and criminal courts. It was pointed out that the current situation is not conducive to service delivery and Batho Pele principles. The necessary amendments were approved by the Costs Committee and were submitted to role-players for comment in December 2009. The comments will be considered by the Costs Committee at its next meeting. The board will then be requested to ratify the decision of the committee.

Amendment to Rule 17(3) of the Uniform Rules (8 km rule and methods of service)

The board received notification of a constitutional challenge to Rule 17(3), which provides that parties have to provide an address for service within 8 km of the court. In March 2010, the committee approved the draft amendment to Rule 17(3). The draft will be circulated to role-players for comment. Once comments are received, these will be considered by the committee at its next meeting. The board will then be requested to ratify the decision of the committee.

The Rules Board committees are currently dealing with matters below. These matters will be investigated by conducting the necessary research and consulting with role-players. They will be resolved by the drafting of the necessary amendments and rules.

- Rules for Children's Courts
- Amendment of High Court tariff to provide for counsel's fees
- Amendment of Rule 70 of the Uniform Rules (taxation of bill of costs)
- Expert witness fees
- Interim payments

- Amendment of Rule 33(13) of the Magistrates' Court Rules (claims in reconvention)
- Implementation of PAIA rules
- Implementation of PAJA rules
- Constitutional challenges to a number of rules
- Setting reserve price for sales in execution
- Request to allow auctioneers to conduct sales in execution in the high courts
- Revision of sheriffs' fee structure
- Increase in sheriffs' fees
- Increase in attorneys' fees

The Rules Board has exceeded its original target of preparing 10 rules per year. This target has, however, been met with difficulty due to the constraints of an inadequate organisational structure. This is being attended to.

KPI 24.3: Ensure the department's contribution to the development of a cybersecurity policy and implementation plan

The development of a cybersecurity policy and implementation plan is driven by the Department of Communication. It is, however, in view of its linkages to the JCPS Cluster outcome, deliverables and outputs, also dealt with by the cluster in question. In the period under review, the department contributed to the development of a cybersecurity policy and implementation plan by sourcing and collating input from various branches of the department, such as Legislation, Court Services and the SALRC. The department also tabled the matter on the agenda of the Development Committee of the JCPS Cluster for discussion, and the input arising from the discussions was provided to the Department of Communication. The JCPS Cluster will continue to monitor the work relating to the cybersecurity policy and implementation plan and provide further input as required.

STRATEGIC OBJECTIVE 25: DEVELOP AND IMPLEMENT PROGRAMMES THAT GIVE EFFECT TO THE CONSTITUTION AND ITS VALUES

The purpose of the Chief Directorate: Constitutional Development is to develop, promote and implement the Constitution and its values. The unit is also responsible for coordinating assistance to and protecting the relevant Chapter 9 institutions to ensure their independence, impartiality, dignity and effectiveness. One of the main focus areas of this unit is to oversee the implementation of constitutionally mandated legislation such as the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) (PEPUDA), as well as the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) (PAJA). PAJA is an act of Parliament passed to give effect to the right to just administrative action entrenched in section 33 of the Constitution, to ensure that government is democratic, accountable, open and transparent.

KPI 25.1: Develop and implement programmes aimed at promoting PAJA

The department strives to develop and establish measures and possibly systems with the objective of contributing to the development of a vibrant, participative, human rights-conscious citizenship geared towards the realisation of good governance in government. Further, it strives for the realisation of people-centred governance.

The department targeted 20 sessions on the training of organs of state, which would bring about knowledge, skills and possibly improved behaviour and a more positive attitude by public service officials in the exercising of public power and the performance of public services to members of the public. It further presented four direct presentations to members' of the public and five radio talk shows aimed at imparting knowledge of public members' rights and about actions that need to be taken, should members

of the public not be satisfied with the service or the manner in which decisions are taken by public service officials, and to have magistrates' courts designated to attend to and hear disputes arising from administrative decisions, as defined in the PAJA. This has the effect of promoting and realising the objective of bringing access to justice and judicial services closer to people. This would make the resolution of relevant disputes a little less costly in various ways for public members.

In the period under review, the department coordinated and facilitated about 39 training sessions focused on organs of state, reaching about 931 officials across a number of departments. The department conducted a workflow analysis for the Department of Rural Development and Land Reform at the KwaZulu-Natal Commission on Restitution of Land Rights to help identify areas of non-compliance with the PAJA in the process of handling claims on the restitution of land rights. This was in response to a number of the Land Claims Court's decisions against the Department of Rural Development and Land Reform. It was followed by targeted, specialised training on the PAJA to at least eight regional offices of the Commission on Restitution of Land Rights with a view to addressing the shortcomings identified through the workflow analysis and coming up with measures to prevent non-compliance from recurring.

The department conducted a briefing session on the work flow analysis tool to the Gauteng Provincial Government. This was focused on all the Gauteng provincial departments and sought to empower the departments to conduct the workflow analyses themselves, whereas the department would provide technical advice and assistance throughout the workflow analysis process, producing the report up to the presentation of the report to the senior management of the departments concerned, including the implementation of the recommendations.



From 1 to 4 December 2009, about 57 magistrates attended refresher training on the PAJA, regulations and new Rules of Procedure for Judicial Review issued under the PAJA in preparation for the designation of the magistrates' courts. Furthermore, on 10 and 11 December 2009, about 60 clerks of the magistrate's courts were trained on the PAJA in preparation for the designation of the magistrate's courts. Following this, the magistrate's courts were supposed to be designated. However, the designation did not take place, due to time constraints and a pending recent challenge in the High Court on the constitutionality of the Rules of Procedure for Judicial Review of Administrative Actions.

Four direct presentations on the subject of the PAJA were made and at least five radio talk shows were conducted, reaching about 20 million listeners on five SABC radio stations: Motsweding FM, Thobela FM, Ikwewezi FM, Ligwalagwala FM and Umhlobo Wenene FM.

The department, through the GTZ Technical Cooperation, enlisted the services of external service providers. Most of these targets were exceeded, except the designation of the magistrates' courts, which will have to take place in the next financial year.

The numerous challenges that were encountered included the following:

- Lack of awareness, skills and knowledge, buy-in and support of senior managers
- The non-institutionalisation of a human rights culture in the public service and government
- Lack of awareness, skills and knowledge by members of the public
- Lack of resources for public members, for example, accessible courts and the high financial costs associated with litigation in the high courts to pursue and enforce human rights

KPI 25.2: Develop and implement a programme aimed at promoting PEPUDA

The department aims to vigorously promote the Equality Act and ensure that the equality courts are fully utilised. Furthermore, the subdirector in the Chief Directorate: Constitutional Development serves as a secretariat to the Equality Review Committee (ERC), thereby rendering administrative support to the ERC.

Promotion and accessibility are strategic measures that need to be undertaken to ensure that the objectives under this KPI are met, namely increased awareness of the Equality Act by the public, effective use of the equality courts, effective redress for the victims of perpetrated actions that are inconsistent with the Equality Act, and the attainment of formal and substantive equality for all.

The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) (the Equality Act) was enacted pursuant to section 9(4) of the Constitution, 1996, which required national legislation to prevent or prohibit unfair discrimination. Item 23(1) of Schedule 6 of the Constitution provides that the legislation must be enacted within three years of the commencement of the Constitution, that is, by 3 February 2000. Parliament duly passed the legislation, which was assented to by the President on 2 February 2000.

The purpose of the Equality Act is to promote equality and prohibit unfair discrimination, harassment and hate speech. The Equality Act makes provision for, among others, the establishment and designation of equality courts. These courts are aimed at eradicating the legacy of inequality. It was enacted following the realisation that the deeply ingrained and institutionalised inequalities, even when confronted by progressive legislation and policies, will not disappear of their own accord. The act also makes provision for the establishment of an Equality Review Committee with the responsibilities, among others, to advise the

Minister about the operation of the Equality Act, advise the Minister about the laws that impact on equality, and submit regular reports to the Minister on the operation of the Equality Act, indicating whether the objectives of the Equality Act have been met and making the necessary recommendations.

During the 2009/10 financial year, the designation of the remaining magisterial districts as equality courts was finalised, with few being places of sitting. The designation process had encountered many challenges in the previous years, but in 2009/10, with commitment and support from the Director-General and Minister, the department ensured that all lower courts were designated as equality courts. This process had a positive effect on the accessibility of equality courts, hence the public is able to approach any lower court to lodge complaints of unfair discrimination as contemplated in the Equality Act.

Awareness programmes and the training of Equality Court personnel were intensified. In previous years, awareness programmes focused on a single audience: members of the public. The awareness programmes were also extended to the legal fraternity, legal resources centres, advice offices and civil society organisations, and a presentation was prepared for the SAPS Head Office. Radio programmes and the print media were used to strengthen physical contact programmes.

An audit of trained Equality Court personnel was conducted at all lower courts. The findings indicated gaps in certain courts in respect of trained clerks and presiding officers (a legislative imperative), thus leading to urgent interventions

being put in place, such as the partnership of the department with the Justice College to ensure that at least one presiding officer and Equality Court clerk are trained per court. In order to ensure the participation of all stakeholders, the unit has commenced with the process of establishing a working group to monitor the trends and patterns in the equality courts and provide support where necessary. The Equality Working Group has been established and comprises representatives of the department, the SAHRC, the CGE and LASA. Civil society representation is awaited.

During the period under review, the department embarked on a provincial Equality Izindaba in various provinces to determine the challenges in the department's service delivery points. The main purpose is to determine challenges and implement recommendations to make equality courts more efficient. Reports on the Izindaba are in the process of being finalised. The unit painstakingly reviewed the outreach material and produced updated material on the Equality Act and the equality courts, including a user-friendly chart outlining a step-by-step process of lodging a complaint in the Equality Court.

KPI 25.3: Improve access to equality courts

The department aims to increase the proximity of services to all, especially in township and rural areas by improving service delivery in equality courts. There has been a slight increase in the uptake of equality cases in comparison to the 2008/09 financial year. In 2008/09, 447 cases were reported through the National Operations Centre, while 508 cases were reported during the period under review.

Table 91 provides the Equality Court statistics for 2009/10.

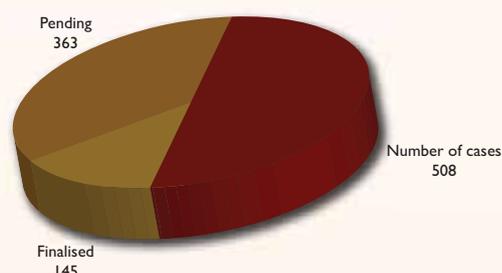
Table 91: Equality Court statistics

Province	Number of cases	Finalised	Pending
Eastern Cape	21	6	15

Province	Number of cases	Finalised	Pending
Free State	4	3	1
Gauteng	86	15	71
KwaZulu-Natal	103	50	53
Limpopo	12	0	12
Mpumalanga	190	54	136
North West	23	15	8
Northern Cape	2	0	2
Western Cape	67	2	65
Total	508	145	363

Figure 65: Equality Court cases

Equality Court cases



In terms of the Access to Justice and Promotion of Constitutional Rights (AJPCR) Programme, the Foundation for Human Rights (FHR) has developed an implementation plan for the key performance indicator that relates to the promotion of equality and the prevention of unfair discrimination. A call for proposals has been launched, targeting civil society. Provincial roll-outs of the AJPCR Programme have been taking place in all provinces. The purpose of the provincial roll-outs is to inform provincial stakeholders, particularly civil society organisations, about the programme and to equip them with the necessary skills to apply for grants from the FHR.

The reports for the Equality Izindaba are in the process of being finalised, which will assist the FHR and the department in developing enhancing strategic initiatives aimed at improving the effectiveness of the equality courts. Negotiation

with the SAPS Training Institute is underway to include equality training in the SAPS's training curriculum. No other training was provided during this financial year.

The process for the reconstitution and revitalisation of the ERC has not been finalised yet. It is still ongoing and envisaged for finalisation by the 2010/11 financial year.

KPI 25.4: Ensure access to information on administration in 30 days to comply with Promotion of Access to Information Act (PAIA)

Section 32 of the Constitution provides that everyone has the right of access to "any information held by the state" and "any information held by another person and that is required for the exercise or protection of any rights". The Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA) was therefore enacted to respond to

this constitutional imperative and to engender a culture of transparency and accountability in the conduct of government business.

The role of the Chief Directorate: Access to Information is twofold. The first service delivery objective of this KPI is in relation to the department and ensuring that applications for access to information in the custody of the department are provided to all persons or institutions within the shortest period of time. However, such period should not exceed the 60 days prescribed by the PAIA.

The second service delivery objective of the KPI is in relation to other public bodies and ensuring that such bodies are assisted by the department through training and other relevant interventions, so that they are able to process applications for access to information in their custody from all persons or institutions within the prescribed time frames.

There has been a marked increase in the number of requests received during the 2009/10 financial year. A total of 203 requests in terms of PAIA were received and 133 were granted in full. No requests were granted in the public interest, despite there being grounds for refusal. Eleven requests were refused in full or partially, while a provision of PAIA was relied on six times to refuse a request in full or partially. The 30-day period to deal with a request was extended in 65 instances. This indicates that the time periods for supplying the requested information in terms of PAIA was, to a large extent, adhered to, except in the 65 instances where an extension was requested. Eight internal appeals were lodged with the relevant authority, while there was one case where requests were granted as a result of an internal appeal. No appeals were lodged on account of a deemed refusal.

In meeting the objective of the second service delivery objective of the KPI, 20 training sessions on PAIA were conducted with deputy information officers of public bodies, national government

departments, provincial departments and municipalities. Deputy information officers from the Department of Water Affairs and Forestry, the Department of Agriculture and the provincial administrations of Limpopo, KwaZulu-Natal, North West, the Northern Cape and the Eastern Cape and 150 municipalities were also trained during the period under review.

Furthermore, three awareness sessions were conducted through the SABC radio stations of Motsweding FM, Phalaphala FM and Ikwekwezi FM. Public awareness sessions were also conducted at the Pretoria Show, the Polokwane Show and the Rand Easter Show.

Due to the receipt of more requests for access to information, there appears to be an indication that more people are utilising PAIA to access information that they were unable to obtain through other avenues. It is regrettable that people requesting information in the custody of a public body, such as the department, are not required by PAIA to state the reason for making their requests. Had they been required to do so, it would have been possible to track what they were using the information for and thus ascertain whether they were benefiting from using PAIA.

A number of major problems and challenges were encountered during the period under review, and include the following:

- The people requesting information (prisoners) do not provide sufficient and correct details regarding the requested records and this leads to requests not being attended to immediately, but being referred back to obtain more or correct details. Incorrect details also lead to fruitless searches and further delays through requests to the requester for correct details;
- People requesting information (prisoners) need records that have different custodians, thus not all records are available at the same time. Therefore, there cannot be full

compliance with the request and not in the prescribed time frame;

- Managers do not seem to understand their role vis-à-vis that of the deputy information officer. That is, when records are requested from them, they do not release them, but rather write a memorandum stating reasons for not releasing them. The fact is that it is only the deputy information officer who is delegated to decide on requests made in terms of PAIA. However, such a memorandum must accompany the requested records. The memorandum is useful in that it assists the deputy information officer in taking into account factors that he or she is not privy to, thus ensuring that he or she makes an informed decision about whether or not to grant access to the requested records; and
- Where the requested records cannot be found or do not exist, managers are reluctant to confirm this in writing. This results in the deputy information officer being unable to respond to the request on time, and such failure to respond is in breach of PAIA.

KPI 25.5: Promote awareness of constitutional rights by reaching 20 000 people

The Constitutional and Human Rights Education Programme seeks to impart knowledge on the Constitution and human rights, to reinforce the skills of professional groups and to sensitise people by reinforcing positive attitudes and behaviour. This will, therefore, empower members of our society to cherish and appreciate our constitutional democracy. The broad aims of this programme are as follows:

- Promoting dialogue in our society about the values of our Constitution;
- Encouraging people's networks for justice and democracy;
- Intensifying our efforts to promote and protect human rights;
- Improving the quality of all citizens and developing the potential of each person;
- Entrenching a culture of human rights, incorporating knowledge, skills and behaviour; based on the constitutional principles of social justice, the rule of law and non-discrimination; and
- Establishing a society based on democratic values, social justice and fundamental human rights.

In the period under review, three information sessions on constitutional rights and equality courts were held in Pinetown (KwaZulu-Natal) for NGOs and caregivers. They were attended by 136 people. This was followed by a workshop on constitutional rights and the rights of people living with disabilities, held in Pretoria (Gauteng). Fifty members of South African Blind Women in Action (SABWIA) attended. A presentation on constitutional rights, equality and equality courts was conducted at Pearston (Eastern Cape) for 600 community members who are farmdwellers. On the same day, a presentation on the Constitution and uKuthwala custom was conducted in Mqanduli (Eastern Cape) for 250 community members, including traditional leaders. Three information sessions were held at Ndwedwe, Port Shepstone and KwaMashu (KwaZulu-Natal) on constitutional rights, PAJA and equality courts. Three hundred people attended. The audience was made up of community development workers, traditional leaders, members of NGOs, and municipal officials. As part of these information sessions, the department conducted an interview on Vibe FM on constitutional rights and 20 000 listeners were reached. These were followed by sessions at Zungwini, Lunnerberg and Gluckstadt (KwaZulu-Natal) for 600 farmdwellers.

A seminar on the Constitutional Court decisions of Bhe and Shilubana matters was held in Nelspruit (Mpumalanga) for 20 members of the Mpumalanga Provincial House of Traditional

Leaders. Workshops on constitutional rights, equality and equality courts in relation to diversity management were conducted at the University of the Free State for 100 departmental officials. Information sessions on constitutional rights were held in the rural areas of Vryheid (Zungwini, Nkonkotho, Lunnerberg and Gluckstadt) and 600 farmdwellers were reached. Information sessions for community advice offices, NGOs, the Rhodes University Law Clinic, the Black Sash and Legal Aid South Africa were held in Grahamstown and Queenstown. About 110 attendees benefited from the event.

Information-sharing sessions on constitutional rights were held for the coordinators of community development workers representing the local municipalities of Dihlabeng, Maluti a Phofung, Phumelela, Mafube, Moqhaka, Ngwathe and Metsimaholu. Eighty people attended. An article on children's rights and responsibilities was published in the March issue of *MiniMag*. Due to the fact that *MiniMag* reaches about 812 schools countrywide, it is envisaged that the department's article will reach these schools. Furthermore, about 20 000 copies of the magazine go to retail shelving subscribers (children and community libraries), schools, sponsored schools and promotions each month.

STRATEGIC OBJECTIVE 26: COMPLY WITH SECTION 181(3) OF THE CONSTITUTION BY ASSISTING AND PROTECTING CHAPTER 9 INSTITUTIONS TO ENSURE THEIR INDEPENDENCE, DIGNITY AND EFFECTIVENESS

KPI 26.1: Develop a programme to assist and enhance collaboration with the Chapter 9 institutions by 2008/09

The department aims to provide strategic assistance to the SAHRC, the Office of the Public Protector (OPP) and other constitutional bodies as required in terms of section 181(3) of the Constitution.

Section 181(3) of the Constitution stipulates that organs of state, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions. The services include the following:

- Processing the approval of the annual adjustment of the remuneration levels of the SAHRC;
- Assisting in the filling of vacancies and the appointment of commissioners;
- Providing assistance to the Justice Portfolio Committee and other parliamentary committees on issues involving the SAHRC and OPP; and
- Reviewing the disparities in remuneration and conditions of service of public office-bearers at the Chapter 9 institutions.

In 2009, the President appointed Adv Thuli Madonsela as the new Public Protector with effect from 15 October 2009. He also appointed the five members of the SAHRC.

On 26 August 2009, Cabinet approved the revised remuneration to office bearers of the SAHRC with effect from 1 April 2009.

On 8 July 2009, the Chief Directorate was invited to a Portfolio Committee meeting. The purpose of the meeting was to interact with the SAHRC on its current and planned activities and their implications for Parliament.

The investigation of possible remuneration disparities among Chapter 9 institutions is a task in progress. The chief directorate, despite constant enquiries, has thus far not received any names of officials or even an acknowledgment of the Director-General's letter. The task seems to be far from complete. It is imperative that the departments cooperate with the chief directorate.

In most instances, the chief directorate becomes aware of National Treasury's Circular on the Minister of Finance's approval of the adjustment of salary packages long after the circular has been issued. This results in a delay in the finalisation of the tedious process of getting approval from the Minister, Cabinet and the President.

On the review of remuneration disparities among the Chapter 9 institutions, the chief directorate experienced a lack of cooperation by other departments. In November 2009 and January 2010, the Minister and the Director-General wrote letters to the respective ministers and directors-general, informing them about the Cabinet decision requesting them to nominate an official to serve on the envisaged interdepartmental task team. It is sad to report that, despite constant telephonic enquiries, the chief directorate has received no response or even acknowledgement of the letters.

In 2007, the Parliamentary ad hoc committee on the Review of Chapter 9 and Associated Institutions published a report on the review of Chapter 9 and associated institutions. Comprehensive recommendations were made on the structure, functions, budgetary arrangements, governance issues, community outreach and several other matters. To date, the way forward in terms of these recommendations remains unclear. Cabinet had mandated the Minister of Justice and Constitutional Development to determine a way forward and advise Cabinet accordingly. However, the department was informed through the Governance and Administration Cluster that the Presidency was dealing with this matter.

To assist the department in addressing the impediments to establishing the task team on the investigation into the disparities in remuneration and conditions of service, a full report was submitted to the Director-General. Guidance has been provided by the Director-General in trying to expedite the matter.

The Director-General also issued an instruction to prepare and submit a Cabinet Memorandum to the Minister for submission to Cabinet to inform Cabinet about the developments with its decision to investigate the possible remuneration disparities among Chapter 9 institutions. The Cabinet Memorandum was prepared and submitted to the Ministry on 12 March 2010.

STRATEGIC OBJECTIVE 27: PROMOTE AND STRENGTHEN PARTICIPATORY DEMOCRACY BY PROVIDING SUPPORT TO CIVIL SOCIETY TO PROTECT AND PROMOTE THE HUMAN RIGHTS CULTURE

KPI 27.1: Monitor the establishment of 15 new community advice offices by the Foundation for Human Rights in rural and township areas.

This KPI emanates from the Access to Justice and Promotion of Constitutional Rights (AJPCR) Programme, which was developed under the framework of the joint European Union (EU)/ South Africa Country Strategy Paper (CSP) and National Indicative Plan (NIP), which sets out South Africa's development strategy for the period 2007–2013 and identifies the focal and non-focal areas to be funded by the EU.

Since 1996, the South African government has committed itself to ensuring that a percentage of all development aid received is used to fund and strengthen civil society organisations. This programme is funded by the EU under Sector Budget Support. Sector Budget Support is a funding mechanism that makes provision for funds to be channelled directly from one government to another to support government policy and development. In 2005, the Paris Declaration on Aid Effectiveness stated that development aid should be directed at funding the recipient government's policy priorities. The department, having acknowledged the role of civil society in building good governance and democracy, began the process of developing a policy framework to engage civil society premised on the notion of "building a better life for all" in 2007.

The Civil Society Framework makes provision for the following:

- Strengthening civil society organisations that promote, protect and advance human rights, particularly those giving special attention to the needs of the most vulnerable and marginalised; and
- Transforming the department's approach to justice, crime prevention and security by adopting a restorative justice approach that involves civil society. The department's commitment to supporting civil society finds concrete expression in this new programme.

This programme was launched in Orange Farm in December 2008 and a memorandum of agreement was signed by the department and the FHR in March 2009. The programme makes provision for regular consultations between the department and civil society in the form of national and provincial stakeholder forums.

During the period under review, provincial roll-out workshops, intended to brief civil society about the new programme and the progress made, were held in other provinces, including Gauteng, the Eastern Cape, the Free State, Limpopo, KwaZulu-Natal, Mpumalanga and the Northern Cape, but have not yet been held in the Western Cape and North West. A total of 15 new advice offices will be established in rural and township areas by the end of Year 2. The FHR has issued calls for grant proposals for the establishment of advice offices.

This will ensure that vulnerable groups have access to justice, especially in rural and urban poor areas. Advice offices render essential services to the communities and this call is intended to provide support for the increased establishment of these structures.

The programme could not start at the time that was initially set, due to unforeseen delays in terms of receiving funds from the EU. It is therefore

possible that it will not be finished when planned and an extension of time may be requested if the EU consents. The mode of communication with civil society organisations (CSOs), especially those in deep rural areas, was a great challenge experienced during the roll-out events. However, the FHR learnt that the use of community radio in the deep rural areas is one of the best ways to communicate with CSOs operating in those areas. These CSOs also lack resources and that makes them have a negligible effect in terms of serving the communities. Some of these CSOs have not been operating for some time, due to a lack of funding. They have old accounting reports or certificates, which might raise problems in terms of compliance, but the FHR will look at this issue.

KPI 27.2: Facilitate and monitor 20 service level agreements aimed at improving the capacity of partner community advice offices

The project could not commence on time because of the delay with the payment of the first tranche from the EU. After receipt of the first tranche, the department issued calls for expressions of interest to service providers, including interested CSOs, to apply.

KPI 27.3: Ensure that 10 000 people classified as refugees, asylum seekers and undocumented migrants benefit from community support services

The department seeks to promote and protect the rights of refugees, undocumented migrants and asylum seekers in accordance with the Constitution.

The project could not commence on time during the period under review because of the delay with the payment of the first tranche from the EU. After receipt of the first tranche, the department issued calls for expressions of interest to service providers, including interested CSOs, to apply.

The FHR issued calls inviting applications from organisations who work in the field of access to justice and whose mandate includes the following:

- Promoting and protecting the rights of refugees, undocumented migrants and asylum seekers in accordance with the Constitution;
- Conducting applied research that advances the rights of this vulnerable group; and
- Presenting education and awareness programmes, as well as advocacy initiatives, that advance the rights of these vulnerable groups.

The same procedure as is envisaged in the last paragraph of KPI 27.1 (B) will be followed after the receipt of applications.

Although the actual work has not been done, it is envisaged that by the end of the Year 2, the respect, protection, promotion and advancement of the rights of 10 000 persons classified as refugees, asylum seekers and undocumented migrants would have been enhanced.

KPI 27.4: Facilitate and monitor 60 service level agreements with civil society organisations to implement constitutional rights awareness programmes

The department seeks to promote programmes aimed at promoting and facilitating events and campaigns that promote an awareness of the rights set out in the Constitution. It aims to reach one million new audiences and to enhance a human rights culture, as well as the knowledge and skills that citizens could use to protect their constitutional rights.

The project could not commence on time during the period under review because of the delay with the payment of the first tranche from the EU. After receipt of the first tranche, the department issued calls for expressions of interest to service providers, including interested CSOs, to apply.

The calls for proposals were issued for civil society organisations to respond by means of applications that must include projects that support and promote an awareness of human rights relating to the following:

- Rights relevant to communities in rural areas and poor urban areas, as well as members of vulnerable groups;
- The eradication of xenophobia in our communities and the promotion of a deeper understanding of African culture and identity;
- The protection of women who experience gender-based violence; and
- Proposals for public events and human rights celebrations linked to key human rights days, as outlined in the guidelines and terms of reference of this call.

Although the actual work has not been done, it is envisaged that one million new people will be reached. This will assist the department in terms of enhancing a human rights culture, as well as the knowledge and skills that will be used by citizens to protect their constitutional rights. It is also envisaged that the achievements of this KPI will enable people to know and understand their constitutional rights so that they can protect themselves by using the Constitution as a tool.

KPI 27.5: Develop a national programme aimed at promoting the Equality Act

The department seeks to develop a national programme to promote the Equality Act. The programme will be implemented in partnership with civil society organisations. The target is for the programme to be developed by Year 2.

The project could not commence on time during the period under review because of the delay with the payment of the first tranche from the EU. After receipt of the first tranche, the department managed to get an expert to

review the equality jurisprudence as part of an endeavour to develop this programme.

The programme might not be finalised by the time envisaged, due to delays by the European Union in terms of releasing funds.

Although the actual work was not done during the period under review, the department still envisages that the programme will contribute to raising awareness and knowledge of the Equality Act, while increasing the utilisation of equality courts, achieving the constitutional value of equality, and creating a non-racial and non-sexist society.

KPI 27.6: Promote awareness of constitutional rights by reaching one million people

The department aims to promote and raise awareness of constitutional rights, as set out in the Constitution, and to impart the knowledge and skills necessary for citizens to be aware of and know their constitutional rights and responsibilities.

The project could not commence on time during the period under review because of the delay with the payment of the first tranche from the EU. After receipt of the first tranche, the department issued calls for expressions of interest to service providers, including interested CSOs, to apply.

These proposals must include projects that support and promote an awareness of human rights relating to the following:

- Rights relevant to communities in rural areas and poor urban areas, as well as members of vulnerable groups;
- The eradication of xenophobia in our communities and the promotion of a deeper understanding of African culture and identity;
- The protection of women who experience gender-based violence; and
- Proposals for public events and human rights celebrations linked to key human rights days, as outlined in the guidelines and terms of reference of this call.

STRATEGIC OBJECTIVE 28: COMBATING RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

KPI 28.1: Develop final National Action Plan on racism, racial discrimination, xenophobia and related intolerance

The National Forum Against Racism (NFAR) was established by Cabinet in 2003. Its primary objective is to develop and implement the National Action Plan (NAP) to combat racism, racial discrimination, xenophobia and related intolerance, which serves as a response to the call made by the UN World Conference Against Racism (WCAR), held in Durban in 2001. Once the NAP has been finalised, it will be submitted to the United Nations.

In the period under review, a steering committee was established to facilitate the development and finalisation of the NAP. The establishment of this committee will ensure that the process of developing the NAP is more consultative and inclusive, and strengthens the partnership with civil society and the Chapter 9 institutions, as envisaged in the Durban Declaration and Programme of Action.

Five drafts were developed by the steering committee with input from the members of the Social Cohesion Cluster. Draft 5 was submitted to the former Minister of Justice and Constitutional Development, Minister Surty, who in turn submitted it to Cabinet for consideration. Cabinet decided to establish an Interministerial Committee (IMC) to consider the draft. In March 2009, the IMC considered the draft and decided that it should be refined in accordance with its deliberations, and then presented to the Cabinet Committee on the Social Sector;

as well as Cabinet, for approval so that it could be forwarded to all government departments, organs of state and civil society organisations for input and comment.

The Committee held a meeting in June 2009 to deliberate on the draft NAP and concurred with the IMC's view that Draft 5 of the plan did not reflect an action plan and had to be reviewed. Furthermore, the draft could be utilised as a discussion document that would form the basis for drafting the NAP. Thus, the committee established a task team to lead the process of revising the draft plan and report back to the committee.

A road map for the development and finalisation of the plan was developed. In terms of the road map, Cabinet's approval will be sought to reconstitute the IMC, subject to the Minister's approval and guidance in this regard. Furthermore, the final plan will be submitted to the United Nations on 21 March 2010, which is the International Day to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, given that the deadline of 10 December 2009 has proved to be unrealistic. A communication strategy has been developed in consultation with the Government Communication and Information Service (GCIS) and will be implemented immediately after Cabinet has approved bilateral consultations.

A subcommittee of the task team was established to fast-track the finalisation of the draft Plan of Action and report back to the task team, which would, in turn, report to the Steering Committee. Draft 7 was presented to the Steering Committee in October 2009 and was subsequently endorsed with the recommendation that it be submitted to the Minister for consideration and approval to consult with all government departments and stakeholders outside government. A memorandum has been drafted containing all the recommendations above, seeking a briefing with the Minister to discuss the NAP process

and a way forward. The Director-General has requested that the final draft be presented to EXCO prior to ministerial briefing.

KPI 28.2: Develop final country report on the International Convention on the Elimination of all Forms of Racial Discrimination to be submitted to the United Nations

In 1963, the international community declared that racism and racial discrimination, especially apartheid, constituted a violation of fundamental human rights and a threat to international peace and security. This was followed by the adoption of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) in 1965. This convention singled out apartheid as an aggravated form of racism and racial discrimination.

The convention requires a state to take appropriate measures against racial discrimination rooted in society, including the propagation of racial ideas advocated by groups and organisations. Finally, it establishes as a basic right an effective remedy, whether through the courts or other institutions, against acts of racial discrimination. Part II of the convention requires all state parties to report regularly to the ICERD Committee on the Elimination of Racial Discrimination, established to monitor the implementation of the treaty's substantial provisions.

South Africa submitted its initial country report in 2001, thereby documenting the legacy it inherited and its commitments since 1994 to lay the foundation of a society based on human rights and appreciation of the equal worth of all human beings, regardless of difference, and to proclaim that never again shall South Africans allow racism and racial discrimination to dominate our society. South Africa's periodic report is long overdue, hence the department is in the process of drafting this report, taking into consideration the recommendations made by the ICERD Committee on its initial report. The

department is expected to submit a report on the further measures South Africa has taken to implement this treaty from 2001/02 to date.

Since the first draft of the ICERD country report was finalised, there was, however, a little progress in finalising the report during the period under review as the process of drafting a report of this nature is quite consultative in that it requires the participation of all relevant stakeholders such as government departments. The consultations have been conducted with relevant departments and questionnaires were forwarded to various departments for their response and input, but only five of them have forwarded their input and comment. Follow-ups have also been made in this regard, but have yielded no results.

Information ought to be sourced from the department's annual reports and its website. After this, a one-on-one bilateral meeting will be held with the respective departments to verify the information contained in the report. In this way, the department will be working towards the finalisation of the country report that will be submitted to the UN.

As a state party to this treaty, the department should see the process of preparing its periodic reports not only as the fulfilment of an international obligation, but also as an opportunity to take stock of the state of human rights, in particular racial discrimination in all its forms and manifestations in our country, for the purpose of policy planning and implementation. The process of preparing these reports offers our country an opportunity to conduct a comprehensive review of the measures taken as a country to harmonise national law and policy with the ICERD, monitor progress made in combating and eliminating this scourge, identify problems and shortcomings in our approach to the implementation of the treaty, assess future needs and goals for more effective implementation, and plan and develop appropriate policies to achieve these goals. Finally, this process will assist the development of a non-racial, democratic country.

KPI 28.3: Four consultations between civil society organisations and government on human rights issues

The department aims to improve collaborations and networks between civil society organisations, civil society organisation networks and government on human rights issues in order to enhance participatory democracy through public policy dialogue. The intention is to create four of these forums in different provinces by Year 2. The provinces have not been identified yet.

The department was not able to do anything concrete in this regard in the period under review. However, this is part of the plan of action. Meetings with relevant stakeholders will be set for further discussions on this matter, including how they will be shaped. The aim is to create more platforms that can be utilised by civil society organisations to protect and advance individual rights.

The programme could not start at the time that was initially set due to delays in receiving funds from the EU. This programme will therefore probably not be finished as planned, and an extension of time may be requested if the EU consents.

Although the department has not been able to commence with this programme, it envisages that the creation of these forums will assist civil society organisations in having a united voice in terms of issues relating to human rights. Government will benefit from the process as, through collaborating with civil society organisations, it will get a clear idea of issues pertaining to human rights that need immediate attention. This will also speed up service delivery, for instance, in terms of socio-economic rights.

KPI 28.4: 1 200 civil society organisations' staff having benefited from capacity-building actions

The department seeks to encourage partnerships between civil society organisations. This will help the smaller ones to obtain more knowledge, experience and expertise, which will assist them

in sustaining their daily operations and competing with large civil society organisations in terms of knowledge, experience and expertise. That will, in turn, help their clients (community members) in terms of getting all the assistance they need.

The project could not commence on time during the period under review because of the delay with the payment of the first tranche from the European Union. After receipt of the first tranche, the department issued calls for expressions of interest to service providers, including interested CSOs, to apply.

These calls seek to support partnership projects in which well-established civil society organisations with a successful track record in the human rights field will partner with civil society organisations based in rural and disadvantaged urban areas to implement capacity-building programmes that share experiences, knowledge and skills. Initiatives that concretely advance women's equality are encouraged, as are initiatives that concretely tackle the race and class dimensions of vulnerability and marginalisation. Preference will be given to interventions that target and capacitate the largest possible number of civil society organisations' staff and members in the most cost-effective and beneficial way possible.

KPI 28.5: Eighty targeted civil society organisations having participated in public policy dialogue

The quality of participation by vulnerable communities in policy-making and the implementation, monitoring and evaluation of such policies are essential for the realisation of participatory democracy. Vulnerable groups are not adequately represented in policy dialogue in all levels of government. This leads to frustration with the existing participation mechanisms made available through the Constitution.

To have a serious impact on policy dialogue, civil society organisations' submissions need

to demonstrate evidence-based advocacy. The presentation of evidence needs to make a credible case, and include clear proposals, if policy is to be influenced in a meaningful way.

The project could not commence on time during the period under review because of the delay with the payment of the first tranche from the EU. After receipt of the first tranche, the department issued calls for proposals from CSOs to respond on activities that should demonstrate how public policy dialogues may be initiated and influenced and, more specifically, how the target groups may be involved at all levels of project implementation. The application needs to specify as far as possible which areas of public policy are to be engaged with and should include the following:

- Advocacy and lobbying activities by civil society organisations to influence policy;
- Community campaigns to enhance participation in public policy dialogues;
- Research activities aimed at supporting effective means and models of engagement with government and stakeholders to ensure rights-based policy-making;
- Activities that seek to enhance public policy dialogue between government and civil society, as well as public policy debates and discussions in civil society;
- Activities to promote meaningful engagement with parliamentary processes such as participation in public hearings by vulnerable groups and civil society organisations;
- Civil society organisations and community participation in local and/or provincial government planning, implementation, monitoring and impact assessment; and
- Innovative ways to enhance the participation of vulnerable communities and people in public policy dialogue.

Although there have been no major achievements in this regard, it is envisaged that the department's mission of enhancing public participation in policy decisions, thereby transforming the state and society, will be achieved through this effort. Moreover, the civil society organisations and citizens will also be able to participate in a South African democratic dispensation, and in running the country.

STRATEGIC OBJECTIVE 29: ENHANCING THE POSITION OF WOMEN IN LAW AND IN JUSTICE

KPI 29.1: Conduct training in writing and publishing accredited journals for women in the legal profession

The Legal Research and Writing Programme aims to capacitate women in legal careers and law students to research, write and publish, and to inculcate the culture of writing on the intersection of the law, race, gender and other factors.

The project involves training aimed at legal research and writing capacity-building for women lawyers from diverse backgrounds and fields in the South African legal profession. Women lawyers are not adequately represented in legal publications, particularly scholarly works and policy dialogues. This undermines their career development. In addition, their voices are not adequately heard in the discipline or in the profession in general.

It is a partnership between the Department of Justice and Constitutional Development, the Walter Sisulu University, the University of Limpopo, the South African Women Lawyers Association (SAWLA), the University of Cape Town, the City University of New York, Harvard University Law School and Juta Publishing.

The purpose of this project is to ensure the following:

- Mainstream gender perspectives in legal writing;
 - Encourage and enhance a culture of writing among women, especially black women in the legal profession;
 - Enhance the publishing capacity of women lawyers and historically disadvantaged institutions so that they can contribute to the development of legal knowledge and discourse;
 - Share international experiences and best practices in legal writing;
 - Increase the number of accredited publications by South African women lawyers in national and international journals;
 - Produce a law and gender journal; and
 - Assist women at the bar with skills in effective writing for litigation purposes, which will also assist women lawyers with skills in policy research and making submissions in national policy dialogues.
- Although women's formal exclusion from practising law was ended by the enactment of the Women Legal Practitioner's Act of 1923, the gender bias that had accompanied the legal exclusion for years did not disappear instantly. It is now 86 years since women's formal exclusion from legal practice was abolished. However, women are still:
- grossly underrepresented in legal careers, particular the traditional legal profession (attorneys, advocates and the judiciary);
 - faced with barriers in terms of entry to the profession, accessing work, earning an income and sustaining their participation in legal practice;
 - not adequately represented in decision-making structures, for example, big law firms and the governance structures of the legal profession; and
 - not adequately represented in legal writings.

This also impacts on women's contribution to the development of legal knowledge and discourse. For example, women are underrepresented in scholarly writing and policy dialogues in the legal field. In the academic field, the problem is exacerbated by the fact that failure to publish in accredited journals undermines women's advancement in their careers. As a result, women are grossly underrepresented among law professors. Black women's writing has not yet been recognised as authoritative or prescribed for tertiary institutions' syllabi.

The project targets women lawyers from various professional fields and backgrounds, such as students and academics, women in legal practice, women in the public service, and members of the SAWLA.

During the year under review, a draft training manual was developed. Furthermore, a consultative workshop on the manual was held on 25 and 26 February 2010. This project was approved, but not allocated a budget and other resources such as personnel. The training was initially scheduled for May 2009. It was later scheduled for September 2009 and then for March 2010. However, due to the lack of a budget, the training has not been conducted. For the 2010/11 financial year, the training is envisaged to take place in May or June, depending on budget allocations. This training will empower South African women lawyers to participate effectively in thought leadership processes in the legal profession and other national policy dialogues, and will include the voice of women, especially black women, in legal journals.

STRATEGIC OBJECTIVE 30: REDUCE STATE LIABILITY

The office of the Chief Litigation Officer was established to provide litigation services to the government and its organs. It represents the state and its organs in all matters of litigation against the state. The core function of the branch is executed by the State Attorney's offices, which

are located in the provinces, within an 8 km radius of the high courts. Besides the State Attorney's offices, the Chief Directorate: Legal Services serves as a legal advisor to the Department of Justice and Constitutional Development.

The focus point of the branch was the reduction of state liability. State liability arises when a government or its organ breaches the law and a citizen suffers a loss as a result. The effect of state liability is that damages may be recoverable in respect of the loss suffered. This objective is divided into two parts: reduction of cases against the state and reduction of litigation costs by reducing reliance on private practitioners.

KPI 30.1 Sign service level agreements between state attorneys and identified client departments

This key performance indicator was created to address the absence of a comprehensive policy to guide the management of state litigation, to ensure that the approach to court challenges supports government policy, is cost-effective and advances government's procurement imperatives.

In the period under review, the branch was unable to sign service level agreements (SLAs) with the client departments, because of the absence of a comprehensive policy to guide the management of state litigation. The policy to manage state litigation was finalised and submitted to the Minister for Cabinet approval and endorsement. This policy will serve to coordinate and regulate state litigation, promote uniformity, and ensure consistency and the efficient and cost-effective management of state litigation.

KPI 30.2 Improve provision provided to government by expanding capacity and reducing departments' reliance on private legal advisory services from 70% to 30% by 2010/11

Expansion of the organisational structure for the State Attorney offices

The new organisational structure for State Attorney offices was developed and approved. It increased establishments of the State Attorney offices by 209 posts. Although the new structure was approved, the posts could not be filled due to budgetary constraints. The department appointed 24 advocates on its establishment to deal with high court matters. A total of 648 cases, which could otherwise have been referred to private practitioners, was handled by the branch's advocates.

The branch re-opened the State Attorney office in Mthatha, which started functioning on 1 June 2009.

Briefing patterns

A total of 5 804 briefs were issued during the 2009/10 financial year, which is 654 briefs less than the number issued to private practitioners during the past financial year. This reduction can be attributed to the appointment of state advocates.

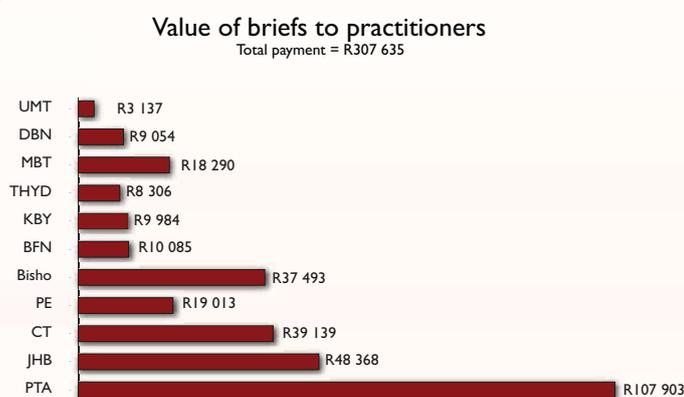
The branch is concentrating on making sure that in cases whereby briefs are issued, the branch complies with the procurement policies of the department. Out of 5 804 briefs, 3 728 (74%) went to black practitioners, as opposed to the 26% that were given to white practitioners. Male practitioners, irrespective of race, received 75% of the briefs issued to private practitioners.

Table: 92: Briefing pattern

State litigation: Total briefs according to gender and race					
Office	Number of briefs	Black males	Black females	White males	White females
Bisho	400	264	10	123	3
Bloemfontein	270	137	23	91	19
Cape Town	347	118	85	64	80
Durban	314	171	130	4	9
Johannesburg	664	308	169	117	70
Kimberley	137	70	10	38	19
Mmabatho	242	143	65	28	6
Port Elizabeth	835	380	94	326	35
Pretoria	2 461	1 146	281	812	222
Thohoyandou	37	22	10	5	0
Mthatha	97	84	8	5	0
Total	5 804	2 843	885	1 613	463



Figure 66: Value of briefs



R307 635 million was paid out to counsel during the period under review, which is R40 291 million more than the amount paid in the previous financial year. The increase is attributed to a general escalation of legal fees payable. R261 941 million (68%) was paid to black practitioners and R99 230 million (32%) was paid to white practitioners. Males received 85% of the value of the briefs, while females received only 15%.

Table 93: Value of briefs

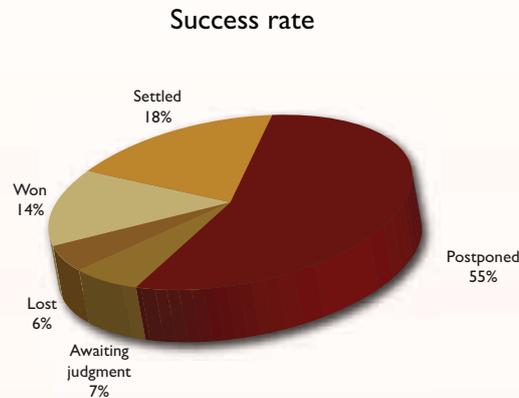
Office	White males R'000	Black males R'000	White females R'000	Black females R'000	Total R'000
Bisho	9 732	25 566	68	2 127	37 493
Bloemfontein	3 488	6 035	262	300	10 085
Cape Town	10 390	20 727	2 501	5 521	39 139
Durban	661	6 138	130	2 125	9 054
Johannesburg	13 424	6 766	1 483	6 695	48 368
Kimberley	3 021	5 003	676	1 284	9 984
Mmabatho	1 129	14 100	97	2 964	18 290
Port Elizabeth	10 042	6 221	585	2 165	19 013
Pretoria	34 061	58 008	5 623	10 211	107 903
Thohoyandou	1 595	5 834	262	615	8 306
Mthatha	92	2 917	-	128	3 137
Total	87 543	174 398	11 687	34 007	307 635

NB: Payments to counsel were made according to how the matter progressed, and therefore these values include payments on briefs issued during the previous financial years.

Cases finalisation

During the period under review, a total of 6 384 cases were enrolled. A total of 14% of these cases were won and only 6% were lost. A total of 315 (18%) cases were settled.

Figure 67: Success rate



Cases enrolled vs cases finalised outputs

During the period under review, 339 cases were finalised in court. A total of 239 (71%) cases were won and 100 cases (29%) were lost. The department therefore exceeded the target for this period.

High-profile cases dealt with by the Office of the Chief Litigation Officer

Minister of Safety and Security v PST Slabbert

The plaintiff had been arrested for being drunk and disorderly. The court found that he had been lawfully arrested, but that the plaintiff should have been released into the care of his wife after she had arrived at the police station and requested his release. On appeal, the SCA reversed the decision of the High Court and found that the detention was not unlawful. The Appeal Court rejected the argument that the plaintiff should have been released into his wife’s custody even if he was drunk. This judgment was of great value to the client in that it removed the uncertainty that had arisen following the High Court’s decision. The plaintiff applied to the Constitutional Court for leave to appeal (Case No. CCT 117/09), but leave to appeal was not granted.

Offit Enterprises (Pty) Ltd v Coega Development Corporation (Pty) Ltd and others

In this matter, a landowner in the Coega Industrial

Development Zone sought an order declaring any future expropriation of its properties invalid, and, alternatively, compelling the state to expropriate the properties. The SCA rejected both contentions on appeal. The matter was taken on appeal to the Constitutional Court, which allowed the appeal only on the question of whether there had been a deprivation of the owner’s property rights. That appeal is still pending. The judgment of the SCA is important in that it confirms that an expropriation cannot be held to be invalid in advance and that an expropriating authority can also not be compelled to expropriate.

International Trade Administration Commission (ITAC) v SCAW South Africa (Pty) (Ltd)

On 9 March 2010, the Constitutional Court delivered judgment in this matter. The case concerns the duration of a procedure for reviewing anti-dumping duties. These are measures that are imposed by the state to counteract the harmful practice of introducing goods into the economy of a country or its common customs area for a price less than the production costs or market value of those goods.

In 2002, the Minister of Trade and Industry imposed anti-dumping duties on the stranded wire, rope and cable of iron or steel products originating in or imported from foreign countries, in particular on the products of Bridon International Ltd (Bridon UK). In October 2008,

the ITAC made a recommendation to the Minister that the existing anti-dumping duties in respect of Bridon UK's products should be terminated.

SCAW was unhappy with the recommendation and launched an urgent application to the North Gauteng High Court, seeking an interdict against ITAC to prevent it from forwarding its recommendation to the Minister, pending the final determination of SCAW's application to review ITAC's recommendation. SCAW also sought an order preventing the Minister and the Minister of Finance from performing their respective duties in the implementation of a recommendation made by the ITAC. The High Court granted both orders.

The ITAC sought leave to appeal against the High Court order and the court held that the interests of justice dictated that the interim interdict be appealable and that leave to appeal should be granted, as it implicated questions of separation of powers and South Africa's international trade obligations, issues that are not the subject of SCAW's pending review application. It had been inappropriate for the High Court to grant the interdict because it improperly breached the doctrine of separation of powers.

In the result, the court granted an application for leave to appeal, set aside the order of the High Court and ordered SCAW to pay the costs of ITAC and of Bridon UK.

Forest and others v RSA, International Arbitration in the Netherlands

This was an international arbitration before the International Centre for Settlement of Investment Disputes, where investors in the granite mining industry contested that the introduction of the Mineral and Petroleum Resources Development Act (MPRD) and the Mining Charter were unfair and discriminatory and were seen to be tantamount to the expropriation of their investment in South Africa. They were

therefore claiming R2.207 billion, which they claimed was the value of their investment, as compensation for their investment.

The tribunal heard the matter at The Hague and judgment is being awaited.

SS Tongoane v Minister of Land Affairs and others

The applicants approached the Constitutional Court so that it could confirm the High Court decision to declare the Communal Land Rights Act (CLARA) invalid. In addition, they sought leave to appeal against the High Court's refusal to declare CLARA invalid for failing to enact it in accordance with the correct procedure and applied for direct access to challenge the validity of CLARA on the basis that Parliament had failed to comply with its constitutional obligations to facilitate public involvement in the legislative process. The Constitutional Court held that the conclusion of CLARA was invalid in its entirety and rendered it unnecessary to consider whether its provisions were consistent with the Constitution. The leave to appeal was granted and the appeal was upheld with costs.

Ermelo Hoërskool v MEC of Education: Mpu-malanga, Constitutional Court

This was an application challenging the decision of the head of department in withdrawing certain functions of the school governing body (SGB). The questions that the court was to resolve were whether the head of department could withdraw any function of the SGB and whether the head of department had acted reasonably in this matter. The court held that the head of department can withdraw any function of the SGB, but in this case, by appointing a committee, it was unreasonable on his part and that he should have done the job of the committee himself. The head of department withdrew the policy that it was an Afrikaans-medium school and appointed a committee to determine that it should be a parallel-medium school.

Tshavhungwa v NDPP

The matter was purely a labour matter. It was dismissed by the Constitutional Court.

Poverty Alleviation and others v the President of the RSA and others (Case No. CCT 86/08[2010] ZACC 5)

This matter dealt with the transfer of the administration of Matatiele from KwaZulu-Natal to the Eastern Cape. The applicants challenged the constitutional validity of an amendment to the Constitution (the Constitution Thirteenth Amendment Act), which had the effect of changing the boundary of the Eastern Cape and KwaZulu-Natal. A related attack was levelled at the validity of the Cross-boundary Municipalities Repeal and Related Matters Amendment Act to the extent that it regulates the transfer of the Matatiele Local Municipality from KwaZulu-Natal to the Eastern Cape. The statutes are challenged, mainly on the grounds that the lawmaking processes did not measure up to the constitutional benchmark of facilitating public involvement, as required in terms of sections 59(1)(a), 72(1)(a) and 118(1)(a) of the Constitution, and that the lawmakers exercised their legislative powers to amend the Constitution under section 745 in a manner that was irrational. The Constitutional Court found, in a unanimous judgment delivered by J Nkabinde, that the legislation complained about was rationally connected to a legitimate governmental end and was consequently not irrational. The application was dismissed with each party to pay its own costs. This effectively brought an end to a long and dragged-out court battle, which had commenced in 2006, after the Constitutional Court has set aside the legislation and ordered government to follow due process.

Ethekwini Municipality v Yusuf Goolam and others

There were two applications before the High Court in Durban. In the first application (Case No. 9845/2006) (the condonation application),

the municipality sought the eviction of the occupiers of certain immovable property. The property had been expropriated by the municipality. In the second application (Case No. 7098/2008) (the constitutional application), the trustees of the YGM Family Trust claimed that certain provisions of the Expropriation Act, 1975 (Act No. 63 of 1975), were inconsistent with the Constitution and ought to be declared invalid. The Minister of Public Works and the Premier of KwaZulu-Natal had no interest in the eviction application. They had an interest in the constitutional application to the extent that the trustees sought constitutional relief designed to declare certain provisions of the Expropriation Act unconstitutional and invalid. The trustees also applied for both applications to be consolidated and heard together. The trustees, in resisting the eviction application, challenged the validity and lawfulness of the Expropriation Act on various grounds. In the constitutional application, the trustees asserted that certain provisions of the Expropriation Act unjustifiably violated their rights to property, administrative justice and equality, and were therefore liable to being struck down as invalid. The court found that the grounds relied upon by the trustees to challenge the validity of the Expropriation Act had no substance. Furthermore, the court found that the trustees' arguments that certain provisions of the Expropriation Act were inconsistent with the Constitution and their rights to administrative action were violated had been misconceived and were devoid of any substance respectively. The court accordingly dismissed both applications. The court directed the trust to vacate the immovable property and granted costs against the trust in respect of the eviction application. An application for leave to appeal against the whole of the judgment has been made by the trust. A notice has been issued to oppose the application on behalf of the Minister of Public Works. The other respondents have also filed a notice to oppose. A date for the hearing of the application for leave to appeal

is awaited. This matter may eventually end up in the Constitutional Court.

Moodley v Minister of Justice and Constitutional Development

The applicant in this matter, Vaidalu Moodley, seeks to challenge the constitutional validity of section 20(7)(a) of the Supreme Court Act, 1959 (Act No. 59 of 1959), on the basis that it is a final order with no right of appeal. Pursuant to a Rule 43 application, an order for maintenance *pendente lite* was granted in favour of Logambal Moodley (the spouse of the applicant). The applicant wishes to appeal against the order, but has no right of appeal. At this stage, the applicant has merely served notice of his intention to join the Minister of Justice and Constitutional Development.

DH Nyathi v Minister of Justice and Constitutional Development and others

The applicant instituted a claim against the MEC for Health (Gauteng) for medical negligence. The court granted judgment in favour of the applicant in the amount of R1 496 000. Prior to the hearing for the determination of the amount, the applicant sought an interim payment of R317 700 to cover his medical and legal expenses. The Pretoria High Court granted him an order for this amount. The MEC, however, failed to comply with the interim order. Mr Nyathi then approached the High Court for an order declaring section 3 of the State Liability Act unconstitutional and directing the MEC to comply with the interim order. The High Court found that the blanket ban on execution, attachment and like processes constituted an unjustifiable limitation on the rights to equality and access to courts. It found too, that sections 165(5) and 195(1)(f) had been infringed. It declared, therefore, that section 3 of the State Liability Act was unconstitutional. Consequently, the matter was referred to the Constitutional Court for confirmation of the order. J Madala, writing for the majority, found that the section unjustifiably limited the

right to equal protection of the law contained in section 9(1) of the Constitution and was inconsistent with the constitutional protection of dignity and the right of access to courts. The court held too, that section 3 violated the principles of judicial authority, and the principle that the public administration be accountable. The court, therefore, upheld the declaration of constitutional invalidity, but suspended the order for 12 months in order to allow Parliament to pass legislation that provides for an effective means of enforcement of money judgments against the state. This period was subsequently extended by the court to 31 August 2011.

Minister of Justice and Constitutional Development v Chonco M and 383 others

Mr Chonco was convicted of murder in the late 1980s. He was sentenced to death, a sentence later commuted to life imprisonment when the death penalty was suspended and subsequently found to be unconstitutional in South Africa. Early in 2003, he applied to be pardoned for his crime, a power accorded to the President as head of state in terms of section 84(2)(j) of the Constitution. He claimed that the murder for which he had been convicted had been committed for a political motive. He had not participated in the Truth and Reconciliation Commission (TRC) amnesty proceedings, since the political party of which he was a member, the Inkatha Freedom Party (IFP), did not participate in the proceedings and had instructed him not to apply for amnesty. In the course of 2003, he was joined by 383 other applicants seeking pardon on the same grounds. The Minister of Justice and Constitutional Development, the applicant in this matter, received the applications for pardon. Some years passed, and yet no decision was made by the President. After raising the matter in various public forums, Mr Chonco eventually resorted to litigation against the Minister in the North Gauteng High Court. Mr Chonco successfully sought an order declaring that the Minister, as the assignee or delegated member

of the national executive, had failed to exercise her constitutional obligation to process, without delay, the applications for pardon, and thus enable the President to consider and decide upon the applications in terms of section 84(2)(j) of the Constitution. On appeal, the Supreme Court of Appeal agreed that the assistance of the Minister had been sought by the President in order to process and recommend conclusions on the applications for pardon. It held that these 'preliminary executive functions' fell within the scope of normal executive functions conferred by the Constitution on the Minister. The Minister has appealed to the Constitutional Court, arguing that the effect of the judgment of the Supreme Court of Appeal is to fuse the obligations of the President as head of state with the obligations of the President as head of the national executive. This court is accordingly called upon to determine whether the pardon process operates only under the pardoning power granted by section 84(2)(j) of the Constitution, leaving all constitutional obligations with the President, or whether the Minister's act of processing the applications for pardon is an exercise of public power in terms of section 85(2)(e) of the Constitution, so creating new and distinctive constitutional obligations for the Minister. In a subsequent development, Mr Chonco has applied for direct access to the court to amend the original notice of motion in the High Court, which sought relief only against the Minister. Mr Chonco now seeks, in the alternative, relief against the President to the effect that the President failed to exercise, with diligence and without undue delay, his constitutional obligations, and that he is required to make a decision on the matter within three months. The Minister and the President oppose the application for direct access, and submit that the President had merely sought advice from the Minister and had not sought to confer an authority on her which was his and his alone. In conclusion, the court held that the appeal succeeds. The court held that Mr Chonco, although litigating for reasons to which

the court is sympathetic, had sued the wrong party to obtain the legal relief he sought.

Director of Public Prosecutions, Transvaal v Minister of Justice and Constitutional Development and others

The Director of Public Prosecutions sought confirmation of orders of constitutional invalidity made by the North Gauteng High Court, Pretoria, in relation to certain provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), which deal with the testimony of child victims and child witnesses in sexual offence cases. The constitutional validity of these provisions was raised by the High Court on its own initiative. The High Court then declared a number of sections to be unconstitutional. Broadly, the sections deal with the discretion of a court to appoint intermediaries to assist children in testifying, children giving evidence in open court, the requirement that courts give reasons for the refusal to allow a child complainant below the age of 14 years to give evidence in closed or non-public proceedings, and the requirement that courts admonish children to speak the truth, so that their evidence is admissible, if they are found not to understand the nature and import of taking an oath or affirmation. The matter came before the High Court for confirmation of the convictions and sentencing in two regional magistrates' courts of Messrs Phaswane and Mokoena for the rape of a 13-year-old and an 11-year-old girl, respectively. J Ngcobo, writing for the majority of the court, held that a high court is entitled to raise, of its own accord, a constitutional issue if the issue stemmed from the facts of the case, and a decision on the constitutional issue was necessary to decide the case. With regard to Mr Mokoena, the constitutional issues raised by the court did not arise from the facts. In the case of Mr Phaswane, the only issue that the High Court could have validly raised on the facts was the constitutional validity of sections dealing with the provision of intermediaries. Nevertheless, it was in the



interests of justice for the Constitutional Court to consider the constitutional validity of all the provisions declared unconstitutional by the High Court. The question was whether the provisions were compatible with section 28(2) of the Constitution, which requires that, in all matters concerning a child, a child's best interests should be paramount. In relation to the requirement of an intermediary, he held that a child complainant who relates in open court in graphic detail the abusive acts perpetrated upon him or her, in the presence of the alleged perpetrator, will in most cases experience undue stress or suffering. This experience will be exacerbated when the child is subjected to intensive and at times protracted and aggressive cross-examination by the alleged perpetrator or legal representative. Cumulatively, these experiences will often be as traumatic and as damaging to the emotional and psychological wellbeing of the child complainant as the original abusive act was. Yet, properly interpreted and applied, there was nothing to prevent all of the provisions from being applied in a manner that properly protected the interests of the child. The problem lay not with the terms of the provisions, but with the lack of means to ensure proper implementation. To deal with these inadequacies, the High Court had made declaratory, supervisory and mandatory orders. It had not been entitled to do so. Nevertheless, there was evidence of great insufficiency in the regional courts of intermediaries, as well as of facilities to protect child witnesses. He accordingly ordered the Department of Justice and Constitutional Development to provide the court with a report setting out relevant details in respect of facilities available at the regional courts.

Ryan Albutt v the Centre for the Study of Violence and Reconciliation and others

On 23 February 2010, the Constitutional Court handed down judgment in a case concerning a special dispensation process established by former President Mbeki in November 2007 to deal with pardon applications from persons convicted for offences they claim were politically motivated, but who did not participate in the Truth and Reconciliation Commission (TRC). Having failed to secure the participation of victims in the pardons process through political channels, the Centre for the Study of Violence and Reconciliation and other non-governmental organisations (NGOs) brought an urgent application in the North Gauteng High Court, Pretoria, to prevent the President from issuing pardons under the special dispensation pending the final determination of the rights of victims in the main application. The High Court found that victims of offences in respect of which pardon was sought under the special dispensation are entitled to make representations prior to the President's decision to grant pardon. It reasoned that the exercise of the pardon power under section 84(2)(j) of the Constitution constitutes administrative action and is subject to the procedural fairness requirements set out in the Promotion of Administrative Justice Act, 2000 (PAJA). The High Court accordingly granted an interdict preventing the President from considering any application for pardon under the special dispensation pending finalisation of the main application. Mr Ryan Albutt, who brought a pardon application under the special dispensation process, asked the Constitutional Court for leave to appeal against the order of the High Court. In addition, he brought an application for direct access challenging the constitutionality of section 1 of PAJA, should the court conclude that PAJA defines the exercising of the power to grant pardon as administrative action. The President and the Minister for Justice and Constitutional Development, who were

the respondents in the High Court, supported Mr Albutt's applications. In this court, they argued that the victims of the offences in respect of which pardon was sought are not entitled to make representations before a decision to grant pardon is made. They submitted that the decision whether to grant pardon constitutes executive action and is therefore not subject to the procedural requirements in PAJA. In the alternative, they argued that if PAJA defines administrative action to include the exercising of the power to grant pardon, it is unconstitutional. The NGOs contended that the High Court was correct to find that the exercising of the pardon power constitutes administrative action, and that this power is therefore subject to the procedural safeguards in PAJA. In addition, they maintained that the very nature of the special dispensation process requires the President to give the victims an opportunity to make representations. They submitted that, like the amnesty process of the TRC, the objectives of the special dispensation are to promote national unity and national reconciliation, which cannot be achieved without the participation of victims. Accordingly, they contended that the failure to give victims an opportunity to make representations was not rationally related to the achievement of the objectives of the special dispensation. In a unanimous judgment, CJ Ngcobo found that the exercising of the power to grant pardon must be rationally related to the purpose sought to be achieved by it. CJ Ngcobo observed that when former President Mbeki announced the special dispensation process, he outlined its objectives, which were national unity and national reconciliation, and stated that he would be guided by the criteria, principles and spirit that underpinned the TRC amnesty process. CJ Ngcobo held that, given our history, victim participation in accordance with the principles of the TRC was the only rational means to contribute to national reconciliation and national unity. CJ Ngcobo further found that, based on the context-specific features of

the special dispensation process, victims must be given the opportunity to be heard in order to determine the facts on which pardons are based, namely, whether the offence was committed with a political motive. Accordingly, CJ Ngcobo held that victims are entitled to an opportunity to be heard before the President makes a decision to grant a pardon under the special dispensation. In making this finding, CJ Ngcobo emphasised that it applies only to applications for pardon that have been brought under the special dispensation, and not to other categories of applications for pardon. CJ Ngcobo found it unnecessary to consider whether PAJA defines administrative action to include the exercising of the pardon power, and therefore declined to consider the direct access application. In the result, CJ Ngcobo granted leave to appeal, and dismissed the appeal.

SC *Brummer v Minister of Justice and Constitutional Development and others*

The matter relates to an application for confirmation of a declaration of constitutional invalidity of section 78(2) of the Promotion of Access to Information Act, 2000 (PAIA) made by the Western Cape High Court. The applicant claimed that section 78 of PAIA amounts to an unreasonable time-limited ouster clause to the extent that the applicant would effectively be ousted from seeking relief from the High Court irrespective of the principles of justice. The applicant further claimed that the time period provided for in section 78 of PAIA is unreasonable, irrational and contrary to the rule of law, and unconstitutional in that an ordinary litigant may very well not have the knowledge, financial means or the ability to launch a court application within 30 days. On 13 August 2009, in a unanimous judgment delivered by J Ngcobo, the Constitutional Court confirmed the High Court order declaring section 78(2) unconstitutional. J Ngcobo found that before a litigant can launch an application to court, the litigant must go through certain steps, including considering the reasons

for the refusal of access to information and seeking legal advice on whether an application to court will be successful. Raising funds for litigation may also contribute to the delay in launching an application to court. He held, therefore, that the 30-day period limits the right of access to court, as well as the right of access to information. He held that this limitation was not reasonable and justifiable in an open and democratic society, and accordingly concluded that the 30-day limit prescribed by section 78(2) was unconstitutional and inconsistent with sections 32 and 34 of the Constitution. J Ngcobo further ordered that the invalidity of section 78(2) be suspended for a period of 18 months from the date of the order to enable Parliament to enact legislation that prescribes a time limit that is consistent with the Constitution, bearing in mind the right of access to court, as well as the right of access to information. He ordered that, pending the enactment of this legislation by Parliament or the expiry of the period of 18 months, whichever occurs first, a person who wishes to challenge the refusal of access to information must lodge an application to court within 180 days of being notified of a decision of an internal appeal refusing access to information. He added that this period of 180 days should be flexible in the sense that courts should be empowered to condone non-compliance with the 180-day time limit where the interest of justice requires it.

- High Court matters;
- Dr Ntshona v Health;
- DD Ndema v the Minister of Safety and Security;
- Mvuzo Mbebe v SABC and the Minister of Communications;
- Mpofo v SABC and the Minister of Communications;
- Department of Rural Development v

M Qacha;

- Department of Labour v Comair;
- Department of Education v Chiloane;
- Phaswane v the Minister of Justice;
- Johncom Media v the Minister of Justice and Constitutional Development;
- Nokotyana v the Department of Housing;
- Moutse Demarcation Forum and others v the President of the RSA and others;
- City of Johannesburg Metropolitan Municipality v the Gauteng Development Tribunal;
- Gauteng Department of Education v the South African Democratic Teachers' Union (SADTU);
- State v Jackie Selebi, South Gauteng High Court;
- Advocate Vusi Pikoli v President of the RSA, North Gauteng High Court;
- Democratic Alliance v NPA and others, North Gauteng High Court;
- Democratic Alliance v President of the RSA and others, North Gauteng High Court;
- Cash Pay Master Services v the South African Social Security Agency (SASSA) and the Minister of Social Development, North Gauteng High Court;
- Public Servants Association v Premier of the Free State Province and three others;
- Free State Agriculture and four others v President of the RSA and 13 others;
- K Springate and others v the Minister of Basic Education and others in the Pietermaritzburg High Court;

- J M Eastman and another v R Mitchell and the MEC for Transport, KwaZulu-Natal;
- Lourens v the President of the RSA and others; and
- Lawyers for Human Rights v the Rules Board for Courts of Law and the Minister of Justice and Constitutional Development.

Pardons and expungements of previous convictions

The effect of a pardon for a conviction is that the criminal conviction is removed from the offender’s criminal record (it is expunged). The decision to pardon, or not, is a decision of the President. However, in terms of a long-standing arrangement, officials in the Directorate: Legal Process conduct a desktop evaluation of an application for a pardon and prepare the necessary documentation to enable the Minister to advise the President regarding a

pardon. Such applications increased dramatically over the past years and the process started to become unmanageable. To reduce the workload regarding pardons (which involves officials in the department, officials in the offices of the Minister and the Deputy Minister, the Minister and the Deputy Minister; officials in the office of the President and the President), legislation was enacted to provide for convictions to be expunged without the intervention of the President (the long pardon process referred to above). In terms of this legislation, certain minor convictions are expunged from a criminal record after a period of 10 years has lapsed in terms of a much simpler process. Convicted persons who will qualify for an expungement after a period of 10 years has lapsed since their convictions try to circumvent the expungement process by applying for pardon before the required period of 10 years has lapsed. This may lead to a huge influx of pardon applications that may make the pardon process unmanageable again.

Figure 68 illustrates the position with regard to expungements and pardons for the year under review.

Figure 68: Expungement applications

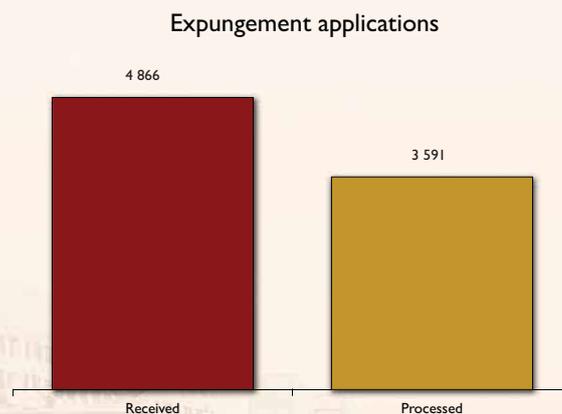
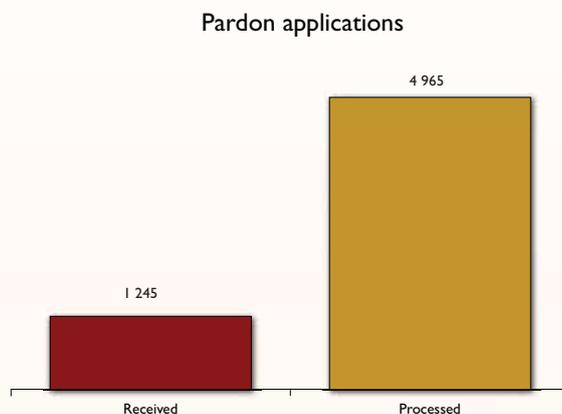


Figure 69: Pardon applications



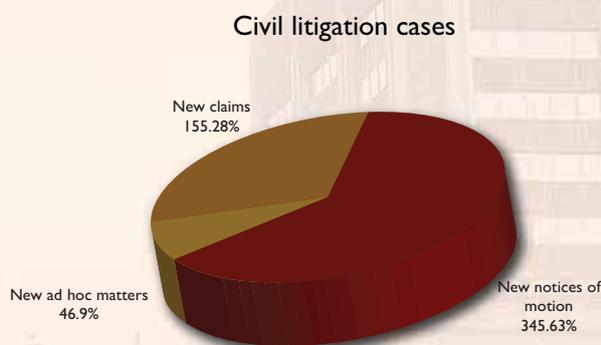
Civil litigation

During the period under review, 155 new civil actions and 345 new notices of motion were instituted against the department, while 46 new ad hoc matters (matters closely related to civil litigation) were dealt with by the department. In the vast majority of these matters, briefs were given to the department’s in-house counsel, thereby significantly contributing to reducing the department’s reliance on private legal advisory services.

Table 94: Civil litigation cases

Civil litigation cases	Total
New claims	155
New notices of motion	345
New ad hoc matters	46
Total	546

Figure 70: Civil litigation cases



There are 392 pending civil action matters involving an amount of R1 250 584 102 42 (R1.2 billion). A total of R1 417 829 38 (R1.4 million) was paid towards settlements and ex gratia payments.

Loss control

Loss control matters are dealt with in terms of Treasury Regulations 11 and 12, in conjunction with the department’s financial instructions and other standing instructions. The liability or otherwise of the responsible officials is determined in terms of the aforesaid prescripts.

Table 95: Losses recovered

Loss	Amount recovered
Money	R17 085 29
Property	R4 407 24
Out-of-service debt	R687 487 11
Total	R70 897 964

Table 96: Losses written off

Loss	Amount written off
Money	R237 099 26
Property	R65 308 13
Out-of-service debt	R384 491 09
Total	R68 689 848

Losses of state money and property are written off in terms of the Treasury Regulations, read together with the department’s financial instructions.

STRATEGIC OBJECTIVE 31: FACILITATE ACCESSIBLE SERVICES IN RESPECT OF DECEASED AND INSOLVENT ESTATES, CURATORSHIPS AND TRUSTS

The Master’s Branch provides statutory services to the public in terms of a number of acts of Parliament, most notably the Administration of Estates Act of 1965, the Insolvency Act of 1936, Chapter XIV of the Companies Act of 1973 (regulating the winding up of companies), the Close Corporations Act of 1984, and the Trust Property Control Act of 1998. In summary, the mandate of the Master of the High Court is to supervise the administration of deceased and insolvent estates of individuals and juristic persons, trusts and curators, and to improve access to the Guardian’s Fund. Section 2 of the Administration of Estates Act of 1965 provides for the appointment of masters of the high courts by the Minister of Justice and Constitutional

Development. In terms of this section, the Minister must appoint a Chief Master of the High Courts and a master for every high court in the country. The Minister may, depending on the need, also appoint one or more deputy masters and assistant masters at every Master’s office who may, subject to the control, direction and supervision of the master in question, do anything that the master may lawfully do.

The Chief Master is subject to the control, direction and supervision of the Minister. The Chief Master is the executive officer of the Master’s offices and exercises control, direction and supervision over all masters. There are 14 Master’s offices in the country, in Johannesburg, Pretoria, Durban, Pietermaritzburg, Mafikeng, Mthatha, Grahamstown, Bisho, Port Elizabeth, Bloemfontein, Polokwane, Thohoyandou, Cape Town and Kimberley. Mention needs to be made of the act that there were no Master’s

offices in Port Elizabeth, Durban, Johannesburg and Polokwane before 1994. These offices were only established after 2000 in an effort to enhance access to justice. Section 2A of the Administration of Estates Act of 1965, however, empowers the Minister to designate places within the area of jurisdiction of a master as service points. This section was inserted into the act in order to facilitate the availability of masters' services at centres other than at the Master's offices themselves. All magistrate's offices have been designated as service points for this purpose.

There is a growing utilisation of masters' services throughout the country, as members of the public become progressively more aware of these services. This increased demand can be attributed to the growing number of South Africans who are constantly becoming homeowners and employees with various property rights.

During the implementation of its 2009/10 performance targets, the Master of the High Court encountered numerous challenges and opportunities in some of the offices. These include the following:

- The need for additional accommodation in order to render the full spectrum of services as highlighted by the Master of the High Court for Port Elizabeth; and
- Easy access to the filing area by members of the public, which results in the loss of files. This was highlighted by the Master of the South Gauteng High Court. The office intends to close the filing area and to put access control measures in place.

In respect of the roll-out of the ICMS, the office has highlighted the need for the training of staff at magistrates' courts. The rotation of staff at the magistrates' courts is, however, still a challenge.

In respect of insolvencies, the office highlighted the need for the Minister's policy guidelines.

With regard to the introduction of the Guardian's Fund services to the office, the office highlights the need for furniture, computer equipment, printers and fax machines. The appointment of officials to do this work is also of critical importance. A section of the office will have to be refurbished and access control measures will have to be put in place.

KPI 31.1: Provide beneficiaries of the Guardian's Fund with access to assets within 60 days of application after all necessary documentation has been received

The Guardian's Fund is a statutory fund that mainly receives money to be kept safely until the beneficiary is able to receive the benefit. The vast majority of money is received from pension funds that pay benefits allocated to minor beneficiaries into the Guardian's Fund for safekeeping until maturity. Amounts are also received for unknown beneficiaries in deceased estates. Other receipts into the Guardian's Fund include dividends from bankruptcy matters where the whereabouts of creditors have become unknown and money is kept safely for people who cannot manage their own affairs.

The main activity in the Guardian's Fund is the payment of regular amounts to caretakers of the beneficiaries during the time of their minority and the final inheritance payments, once they are due.

The Guardian's Fund renders an extremely important service to minors who are dependent on this fund for their monies. This service is currently only rendered by six offices of the Master of the High Court. The payments during minority are to assist with the maintenance needs of the beneficiary. These payments are often the only means of support orphans and child-headed households have. In those cases, there is close cooperation between the masters and the Department of Social Development who, through its social workers, assists with the determination of needs in a given situation.

During the period under review, a total of 44 184 payments were made to beneficiaries. About 34 852 applications were received for monies in the Guardian's Fund and a total of 39 957 applications were processed. These include those applications for which work was in progress at the beginning of the year. The process involves assessing the application, ensuring that the payments are effected in terms of the act and updating those cards and records in the process. One of the key constraints in the payment is the verification of beneficiaries' identity. The Department of Home Affairs assists

with the verification of beneficiaries' submitted identity documents and fingerprints.

Of the 38 706 applications received, 7 453 applications remain outstanding. These applications remain outstanding for various reasons, ranging from incomplete information supplied to pending fingerprint verification.

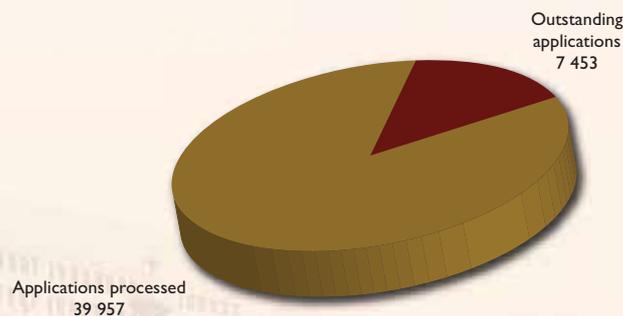
As a rule, the 44 184 payments were done in the intended 60-day turnaround objective. With automation and improved processes, the delivery times will improve substantially.

Table 97: Guardian's Fund applications

Office	Number of applications received for monies	Number of applications processed	Outstanding applications	Payments made to beneficiaries
Bloemfontein	6 309	6 677	337	6 844
Kimberley	4 283	3 354	300	4 318
Grahamstown	8 821	9 012	277	9 339
Cape Town	2 808	3 013	306	3 537
Pietermaritzburg	9 965	9 774	3 601	13 494
Pretoria	6 520	8 127	2 632	6 652
Total	38 706	39 957	7 453	44 184

Figure 71: Access to the Guardian's Fund

Access to the Guardian's Fund



KPI 31.2: Complete registered deceased estates worth R125 000 and more and those less than R125 000 within specified time frames

There are two different processes of administering deceased estates. Where the assets are less than R125 000, a member of the family is appointed to collect the deceased

assets and, after payment of all debt, hand over the remainder to the beneficiaries. No form of account or advertisement is to be given by the appointee (done in terms of the provisions of section 18(3) of the Administration of Deceased Estates Act, 1965 (Act No. 66 of 1965).

Where the assets exceed R125 000, an executor is appointed who places various advertisements and files a liquidation and distribution account with the Master of the High Court. The stated objectives of the department are to finalise small estates within four months and larger estates within 12 months. The target turnaround time for the finalisation of all estates has been achieved. In the period under review, a total of 130 635 deceased estates were reported: 88 551 estates with assets worth less than R125 000 (the average asset value of estates in this category is less than R25 000) and 42 084 estates with assets worth more than R125 000.

A total of 53 553 files were received from the service points in the period under review. These

are the files where estates have been reported to the magistrates' court and where letters of appointments have been issued in terms of the jurisdiction granted to the magistrates' court. After a period of three months, the magistrates' court falling under the jurisdiction of the Master of the High Court forwards all such files to the relevant master. Masters are expected to conduct quality checks on all these matters.

Table 98 gives an indication of the number of estates with assets exceeding R125 000 and those below R125 000 that were finalised in the period under review. Of the 88 551 estates with assets of less than R125 000 reported, a total of 81 122 were finalised.

Table 98: Estates reported at Master's offices during 2009/10

Office	More than R125 000	Less than R125 000
Bloemfontein	2 105	14 603
Kimberley	818	1 556
Port Elizabeth	1 340	4 715
Grahamstown	2 872	3 132
Mthatha	431	4 290
Bisho	156	1 316
Cape Town	9 945	8 885
Durban	3 087	8 661
Pietermaritzburg	3 774	4 622
Pretoria	7 247	12 063
Mafikeng	542	1 893
Polokwane	727	2 978
Thohoyandou	162	1 446
Johannesburg	8 878	18 391
Total	42 084	88 551

In the same period, a total of 42 084 estates in excess of R125 000 were reported to the various Master's offices, of which a total of 29 093 estates were finalised. Less than 10% of the estates reported to the various Master's offices have therefore not been finalised, nationally.

Figure 72: Registered deceased estates

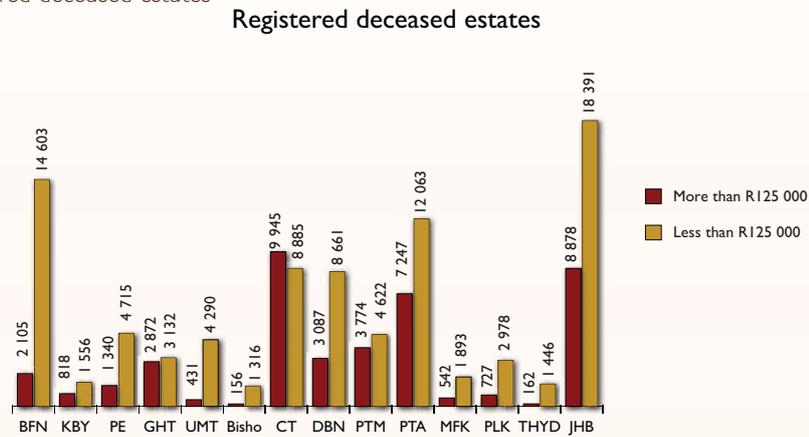
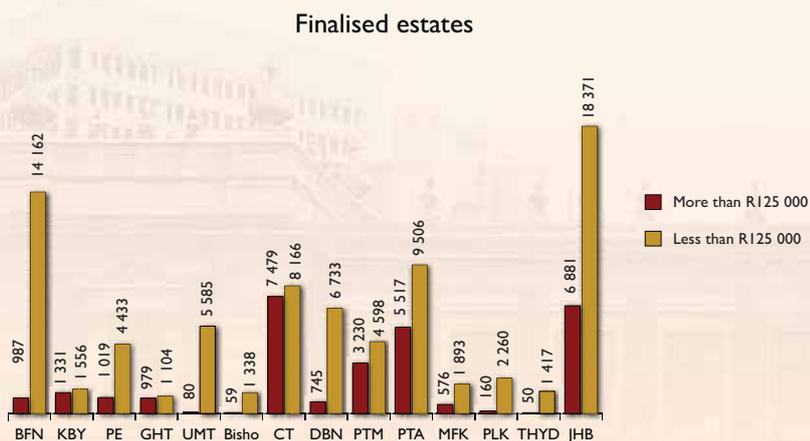


Table 99: Estates finalised during 2009/10

Office	Finalised estates of more than R125 000	Finalised estates of less than R125 000
Bloemfontein	987	14 162
Kimberley	1 331	1 556
Port Elizabeth	1 019	4 433
Grahamstown	979	1 104
Mthatha	80	5 585
Bisho	59	1 338
Cape Town	7 479	8 166
Durban	745	6 733
Pietermaritzburg	3 230	4 598
Pretoria	5 517	9 506
Mafikeng	576	1 893
Polokwane	160	2 260
Thohoyandou	50	1 417
Johannesburg	6 881	18 371
Total	29 093	81 122

Figure 73: Finalised estates



During the period 1 April 2009 to 31 March 2010, masters of the high court issued 37 986 letters of executorship. The issuing of letters of executorship allows for the administration of estates to proceed. It also allows for monies in estates to enter the economic

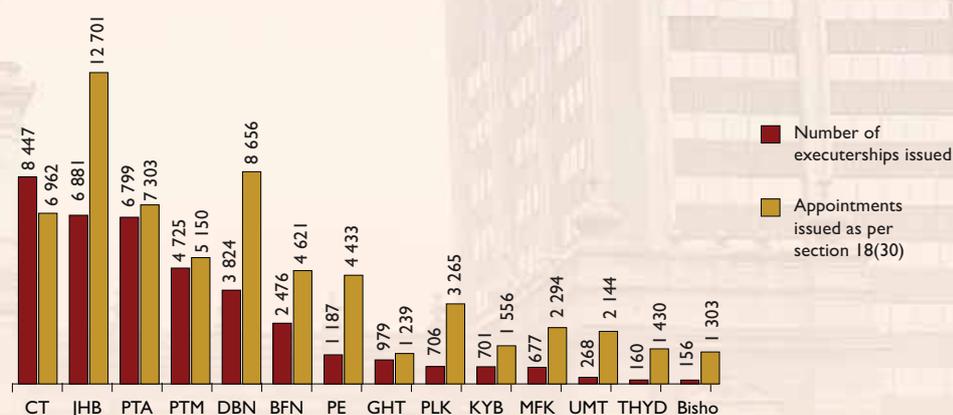
cycle. Table 100 reveals that the largest number of letters of executorship issued was in Cape Town, followed by Johannesburg and Pretoria. A total of 63 057 letters of appointment were issued during the period under review.

Table 100: Executorships issued during 2009/10

Office	Number of executorships issued	Appointment issued as per section 18(30)
Bloemfontein	2 476	4 621
Kimberley	701	1 556
Port Elizabeth	1 187	4 433
Grahamstown	979	1 239
Mthatha	268	2 144
Bisho	156	1 303
Cape Town	8 447	6 962
Durban	3 824	8 656
Pietermaritzburg	4 725	5 150
Pretoria	6 799	7 303
Mafikeng	677	2 294
Polokwane	706	3 265
Thohoyandou	160	1 430
Johannesburg	6 881	12 701
Total	37 986	63 057

Figure 74: Executorships and appointments issued

Deceased estates: Number of executorship and appointments issued



KPI 31.3: Deploy Integrated Case Management System Masters to all service points within their areas

The Integrated Case Management System (ICMS) Masters is a modernisation IT solution that is intended to assist in the registration and administration of all matters dealt with by the Master's offices. It will also assist with providing more accurate information for purposes of reporting on these matters. The department plans to roll out this system to all service points (magistrates' offices) by the end of the current MTSF cycle. This will go a long way in making more masters' services available to members of the public close to where they live rather than them having to travel to the Master's offices to access services.

In the period under review, the ICMS was rolled out to the entire magistrates' court in the jurisdiction of the Master's offices in Bloemfontein, Kimberley, Port Elizabeth, Mafikeng, Durban and Polokwane.

In the Western Cape, the ICMS roll-out has only taken place at the George Magistrates' Court. The ICMS roll-out for the rest of the Eastern Cape is still underway.

The system has been developed with the financial assistance of the Irish Government and interaction with the donor is taking place on an ongoing basis. The aim is to enable the master to exercise real-time supervision over activities at service points. This will enable masters to effectively provide protection of the rights of vulnerable people. The department will have to move from a paper-driven process to an electronic process. It anticipates major change management needs in the implementation of the final solution.

KPI 31.4: Finalise regulatory framework in insolvencies

The Master's Branch has been working on a regulatory framework for the insolvency industry.

The process has reached the stage where there are draft proposals for the Minister's approval to consult. There are other legislative amendments that may be required and which will be done in synchrony with the regulatory framework. South Africa hosted a very successful annual general meeting of the International Association of Insolvency Regulators (IAIR) and has gained valuable input from the international insolvency regulators attending the event.

KPI 31.5: Extend Guardian's Fund services to all Master's offices

The Guardian's Fund services have not been expanded to all Master's offices. Some of the data in the Pretoria Master's office still has to be verified. With the rapid expansion of the staff complement in the department's offices, serious accommodation challenges in offices were encountered during the period under review. A complete electronic system with an accounting capability that would be Generally Accepted Accounting Practice (GAAP)-compliant is not yet available.

No audit qualification on the Master's financial statements for 2008/09 has been received. The reason the deployment of the Guardian's Fund to other Master's offices has been slow is that it has the opportunity to integrate the Guardian's Fund system with the ICMS that is being deployed to all magistrates' offices. That will not just take the service to a further eight places, but to all 480 service points.

KPI 31.6: Appoint curators bonis within 14 days of court order and examine annual accounts

The department appoints curators bonis in terms of a number of statutes and also in terms of the common law. They are appointed by the courts and are mandated to look after the affairs of a person who is incapable of managing his or her own affairs.

During the period under review, 1 783 persons were placed under curatorship in South Africa. The largest number of appointments occurred in Pretoria (1 334), followed by Cape Town (200) and Pietermaritzburg (59). Statistics show that Gauteng has the highest number of curatorship

appointments (1 412), followed by the Western Cape (200) and KwaZulu-Natal (69). Compared to the statistics reflected for the previous financial year, the total number of curatorships dealt with increased from 1 097 to 1 783.

Figure 75: Executorships and appointments issued

Number of curators appointed

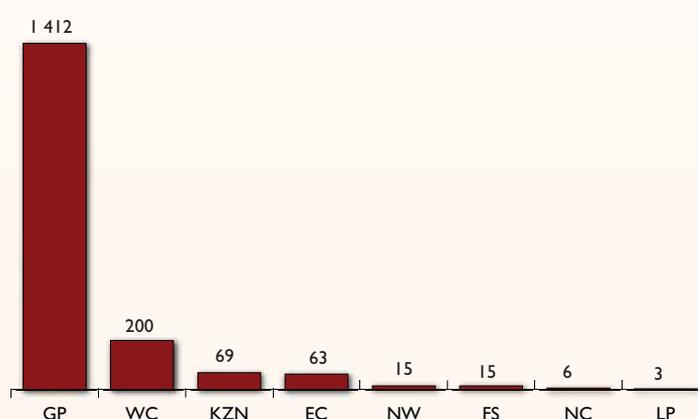


Table 101: Executorships issued during 2009/10

Province	Office	Number of curators appointed
Gauteng	Johannesburg	78
	Pretoria	1334
		1412
KwaZulu-Natal	Pietermaritzburg	59
	Durban	10
		69
North West	Mafikeng	15
		15
Eastern Cape	Mthatha	7
	Grahamstown	33
	Bisho	2
	Port Elizabeth	21
Free State		63
	Bloemfontein	15
Limpopo		15
	Polokwane	0
	Thohoyandou	3
Western Cape		3
	Cape Town	200

Province	Office	Number of curators appointed
		200
Northern Cape	Kimberley	6
		6
Total		1 783

KPI 31.7: Appoint trustees within 12 days of receipt of all required documentation

In terms of section 4 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), a trustee must, before he or she assumes control of the trust property in question, upon payment of the prescribed fee, lodge with the Master of the High Court that has jurisdiction, the trust instrument in terms of which the trust property is to be administered or disposed of by him or her. In terms of section 6 of this act, any person who is appointed as a trustee may only act in that capacity if he or she has been authorised to do so in writing by the Master. The Master has set itself a target of 14 days within which to appoint and authorise trustees to act, after receiving all the documentation required by law for appointment as a trustee.

Figure 76: Trusts registered

Trusts registered

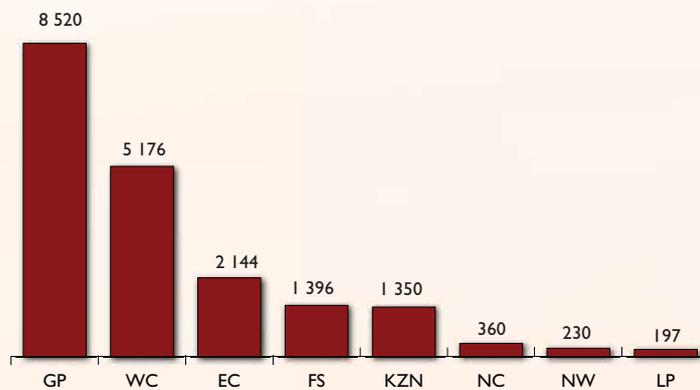


Table 102: Trusts registered

Province	Office	Number of trusts registered and trustees appointed
Gauteng	Johannesburg	3 865
	Pretoria	4 655
Subtotal		8 520
KwaZulu-Natal	Pietermaritzburg	1 343
	Durban	7
Subtotal		1 350
North West	Mafikeng	230
Subtotal		230

Province	Office	Number of trusts registered and trustees appointed
Eastern Cape	Mthatha	21
	Grahamstown	1 600
	Port Elizabeth	515
	Bisho	8
Subtotal		2 144
Free State	Bloemfontein	1 396
Subtotal		1 396
Limpopo	Polokwane	147
	Thohoyandou	50
Subtotal		197
Western Cape	Cape Town	5 176
Subtotal		5 176
Northern Cape	Kimberley	360
Subtotal		360
Total		19 373

STRATEGIC OBJECTIVE 32: TO PROVIDE LEGAL ADVISORY SERVICES TO ORGANS OF STATE

The Office of the Chief State Law Advisor provides legal advice, representation and legislative drafting services to the Executive Committee, all state departments at both national and provincial levels, municipalities, parastatals and independent or autonomous bodies that may refer work to it. It supports the government in achieving its objectives of transforming South African society and redressing past imbalances by providing efficient and cost-effective legal advice, legislative drafting and translation services of a high quality.

The core functions of the office include the following:

- Drafting and certification of legislation
- Translation of legislation
- Writing of legal opinions
- Scrutiny and certification of all international agreements including extradition agreements

- Scrutiny and certification of draft subordinate legislation
- Review and certification of municipal by-laws
- Serving as consultants to organs of state
- Performing any other function referred to it by the Executive Committee

The state law advisors are tasked with the solemn responsibility of ensuring that the state is able to deliver on its obligations, to promote the rule of law and to give effect to the values enshrined in the Constitution. The state law advisors do this by providing legal advice and guidance to the state on its proposals, legislation and international agreements and by ensuring that potential litigation against the state, on constitutional and other legal grounds, is considerably reduced. The state law advisors scrutinise, develop, draft and certify all primary legislation before it is introduced into Parliament. It is the responsibility of the state law advisors to ensure that it is compatible with the Constitution and other legal instruments and that it will withstand constitutional muster. In this way, the state law advisors make a

significant contribution to the development of our constitutional jurisprudence.

KPI 32.1: Certify international agreements and legislation

International agreements

In terms of paragraph 5.20(a) of the Manual on Executive Acts of the President of the Republic of South Africa, the Office of the Chief State Law Advisor (OCSLA) is mandated to scrutinise all international agreements to ascertain whether they conform with the South African domestic law and to bring them in line with the accepted drafting form and style of international agreements.

The OCSLA received 294 requests for the certification of international agreements. Some 14% (40 requests) were received from the Department of International Relations and Cooperation, followed by the Department of Defence with 10% (28 requests) and the Department of Trade and Industry with 70% (20 requests).

Sixteen departments did not submit any requests for the certification of international agreements to the OCSLA. One of the reasons for this may be that they did not deal with international agreements, due to the nature of their business. It is also assumed that the departments that did not submit requests did not enter into any international agreements, because departments are obliged to submit these to the department for scrutiny in terms of the Manual on Executive Acts.

Bills

The OCSLA provides legislative drafting services to the Executive Committee, all state departments (national departments and, when required, to provincial and local government), Parliament, parastatals and independent bodies.

The state law advisors perform the following legislative drafting and certification functions:

- Scrutinising draft legislation to ensure that the bills are aligned with government policy;
- Advising Cabinet on the constitutionality of the draft bill and giving advice on whether the bill is properly drafted in a form and style that conform to legislative practice;
- Issuing a preliminary certification opinion in respect of the draft bill that contains advice on the constitutionality of the bill and drafting style for consideration by Cabinet;
- Receiving the bill approved by Cabinet from the department, scrutinising it, and, where required, making proposals in respect of draft bills;
- Submission of draft bills and suggestions thereon to the relevant department;
- Certifying legislation in terms of Rule 243 (1A) of the Rules of the National Assembly;
- Advising parliamentary committees;
- Drafting amendments in parliamentary committees; and
- Furnishing opinions to Parliament, government departments and other organs of state.

The OCSLA plays an important role in the formulation, discussion and implementation of legislation and assists the Executive Committee, all state departments (national departments and, when required, provincial and local government), Parliament, parastatals and independent bodies in passing laws to improve the quality of life of all the people in South Africa and build a united and democratic South Africa.

The OCSLA certified 15 (23%) of the 78 bills received. The department submitted 15 bills (23%) and National Treasury submitted 14%, while 22% of bills were received from other national departments. The department was required to

provide Cabinet with a non-binding opinion on the constitutionality of all bills. Only after Cabinet has approved the bill submitted to the OCSLA, will a department submit a bill for certification purposes. Most of the bills are currently in this process.

Given the lengthy process of certifying the bills as indicated above, only the following 15 bills were certified in the period under review:

Table 103: Bills certified in 2009/10

Department	Subject	Date received	Date finalised	Date certified
Justice and Constitutional Development	Constitutional 17 Draft Bill	23 June 2009	12 August 2009	12 August 2009
Trade and Industry	Intellectual Property Amendment Act, 1996	8 May 2008	22 May 2009	22 May 2009.
Justice and Constitutional Development	Protection of Personal Information Bill	23 June 2009	14 August 2009	22 August 2009
Justice and Constitutional Development	Prevention and Combating of Trafficking in Persons Bill	27 July 2009	25 November 2009	16 February 2010
Justice and Constitutional Development	Translation of Constitution 17th Amendment Bill into Afrikaans	9 July 2009	9 August 2009	13 August 2009 [W8-2009]
National Treasury	Taxation Laws Amendment Bill	7 July 2009	9 August 2009	25 August 2009
South African Revenue Service	Taxation Laws Second Amendment Bill	7 July 2009	9 August 2009	18 August 2009
Justice and Constitutional Development	Protection of Personal Information Bill	23 July 2009	12 August 2009	14 August 2009
Communications	Post Bank Bill	27 July 2009	28 October 2009	28 October 2009 [B14-2009]
Justice and Constitutional Development	Prevention and Combating of Trafficking in Persons Bill	27 July 2009 23 November 2009	26 October 2009 25 November 2009	16 February 2010 [B7-2010]
State Security	Protection of Information	4 August 2009 3 February 2010 10 February 2010	2 December 2009 15 February 2010	15 February 2010 [B6-2010]
Justice and Constitutional Development	Criminal Forensic Procedures Amendment Bill (DNA) [B2-2009]	11 September 2009	Finalised	[B2-2009]
Social Development	Social Assistance Bill	2 October 2009	5 October 2009	15 February 2010 [B5-2010]
National Treasury	Adjustment Appropriation Bill	20 October 2009	22 October 2009	22 October 2009 [B13-2009]
Communications	South African Post Office Bill	29 October 2009	18 November 2009	24 December 2009 [B2-2010]

Regulations

Regulations are subordinate legislation because they are passed on the basis of principal acts. Currently, departments are not obliged to submit their regulations to the OCSLA for scrutiny.

When regulations are submitted to the OCSLA, they are scrutinised for the following:

- Drafting form and style
- Validity with reference to the principal act

- Possible conflict with other laws
- Constitutionality

The advantage of having subordinate legislation scrutinised by the state law advisors is that the likelihood of provisions being found invalid by the courts decreases significantly.

In total, the OCSLA received 109 requests for scrutiny of regulations. The majority of requests (27) were from the department itself, and therefore accounts for 25% of the work received. This was followed by the Department of Transport with 16 requests (15%), and the Department of Home Affairs with 12 requests (11%).

Municipal by-laws

Municipal by-laws are legislation that is passed by municipalities in their capacity as a sphere of government. Municipalities are not obliged to submit their by-laws to the OCSLA for scrutiny.

Only five by-laws were submitted to the OCSLA for scrutiny. To date, its services with regard to the municipal by-laws have been under-utilised by the municipalities. The municipalities have utilised some of their other legal services. Plans have been put in place to continue promoting the services of the OCSLA through its customer relations project that will be embarked on during the next financial year. Table 103 provides a list of by-laws dealt with by the OCSLA in the period under review.

Table 104: By-laws

Date received	Client department	Title	Date finalised
2 June 2009	Stellenbosch Municipality	By-law relating to streets	9 November 2009
5 January 2010	Victor Khanye Local Municipality	Request to review by-laws: environmental waste management by-laws	16 March 2010
5 January 2010	Victor Khanye Local Municipality	Request to review by-laws: emergency services by-laws	16 March 2010
5 January 2010	Victor Khanye Local Municipality	Request to review by-laws: fire services by-laws	16 March 2010
5 January 2010	Victor Khanye Local Municipality	Request to review by-laws: public health by-laws	16 March 2010
2 February 2010	Department of Cooperative Governance and Traditional Affairs	Request for development of by-laws	5 February 2010

Translation of legislation

Having recognised the historically diminished use and status of the indigenous languages of our people and the obligation of the state to take practical and positive measures to elevate the status and advance the use of these languages, the OCSLA has established a translation services unit. This unit translates bills introduced into Parliament into the official languages of the Republic of South Africa. During the period under review, the OCSLA translated legislation into only

two official languages: isiZulu and isiXhosa. The OCSLA was able to translate 11 bills on request out of the 15 received. The four outstanding bills are receiving the urgent attention of the legislative language practitioners. The Translation Unit will be fully established in the next financial year with all 11 official languages catered for in line with Cabinet's decision. Client departments will be made aware of the translation services offered by the OCSLA.

KPI 32.2: Finalise all requests for opinions within 30 days of request

The OCSLA provides legal advice on various matters to the Executive Committee, all state departments at both national and provincial levels, municipalities, parastatals and other organs of state.

The OCSLA received 286 requests for opinions. The department requested 65 opinions. This constitutes 26% of the work done for national departments and 22% of the total work done for its clients (all organs of state).

The other national departments that utilised the service of OCSLA include the following:

- Department of Agriculture, which accounts for 9% (27 requests) of the total number of requests;

- Department of Human Settlement, which accounts for 7% (19 requests) of the total number of requests; and
- Department of Communications, which accounts for 5% (14 requests) of the total number of requests.

The remaining 33 requests (12%) were received from other organs of state such as provincial departments, municipalities, the Companies and Intellectual Property Registration Office (CIPRO) and the South African Weather Service.

Outstanding work

The most of the outstanding work was received towards the end of the end of the fourth quarter; and could not be finalised before the end of the financial year under review. The work has been transferred to the next financial year and is receiving the attention of the OCSLA.

Table 105: Statistics on overall legal services provided in 2009/10

	Received	Finalised	Not finalised	Certified
International agreements	294	285	9	
Bills	78	51	27	15
Regulations	109	104	5	-
Municipal by-laws	5	5	0	-
Bills translated	15	11	4	-
Legal opinions	286	250	36	-

Figure 77: International agreements

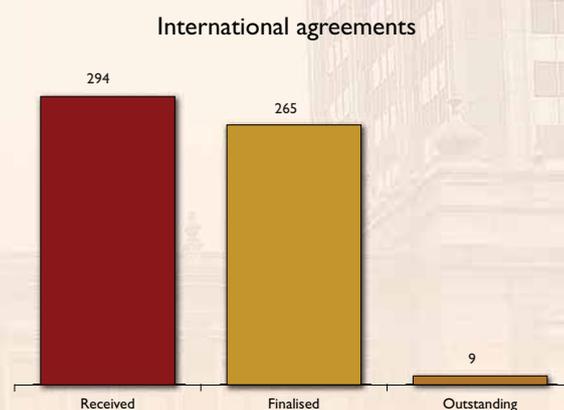


Figure 78: Regulations

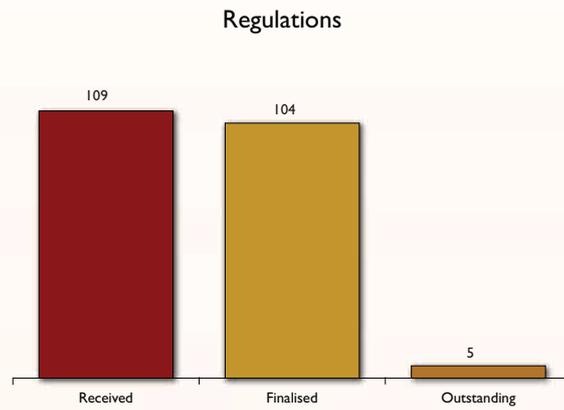


Figure 79: Bills

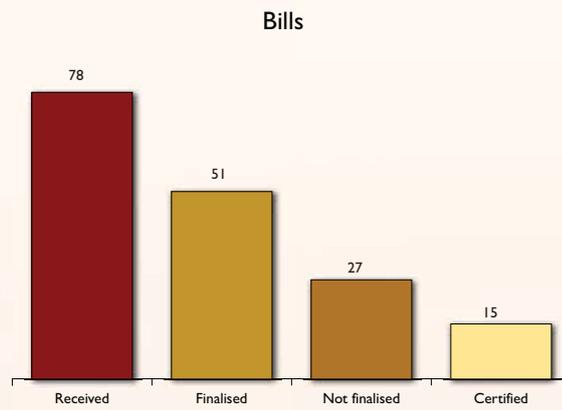


Figure 80: Bills translated

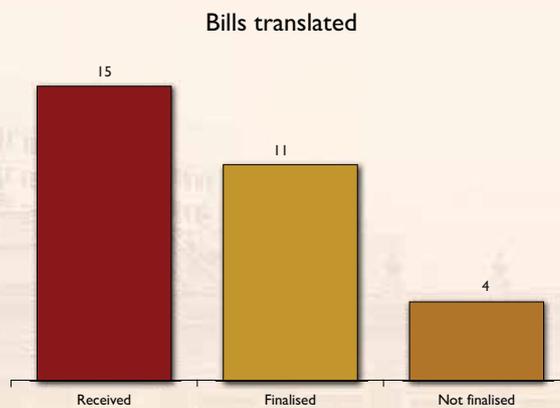


Figure 81: Municipal by-laws

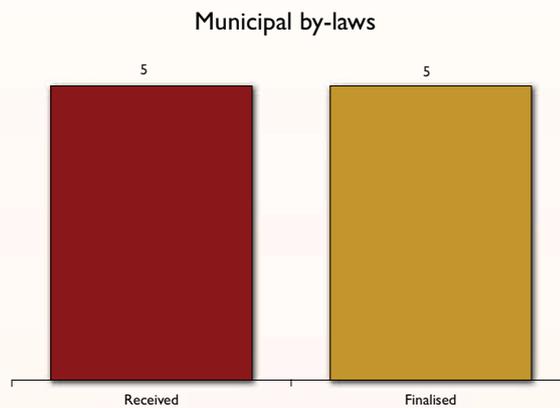
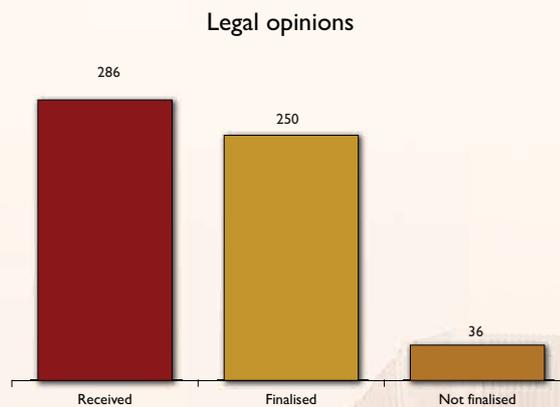


Figure 82: Legal opinions



In terms of the statistics above, most of the national departments have utilised the services of the OCSLA, although not to a satisfactory extent. Provincial departments and municipalities hardly ever utilised the services. The challenge is to determine whether the departments who did not use the department's services used their own legal services, units or private law firms, or just did not have legal work to be dealt with. The following programmes have been developed to address these challenges:

Customer Relations Management to help the OCSLA get feedback from its customers on services that it renders to them;

Performance management to ensure that the OCSLA maintains high performance standards in terms of the quality of its work;

Staff retention to ensure that the OCSLA does not lose experienced staff members; and

Information Communication Technology to improve its efficiency in rendering services to its clients.

STRATEGIC OBJECTIVE 33: COORDINATE THE IMPLEMENTATION OF THE TRUTH AND RECONCILIATION COMMISSION RECOMMENDATIONS

The Truth and Reconciliation Commission (TRC) Unit was established in September 2005 with a view to auditing, monitoring and coordinating the implementation of the TRC recommendations and supporting the Minister to report to Cabinet and Parliament. The TRC Unit utilises the President's Fund to provide services to victims identified by the TRC.

The President's Fund was established in terms section 42 of the Promotion of National Unity and Reconciliation Act (TRC Act). Subsection 42(2) states: "there shall be paid from the Fund all amounts payable to victims by way of reparation in terms of regulations made by the President."

Following the TRC's recommendations to the President and the President's subsequent recommendations to Parliament, an Ad Hoc Joint Committee on Reparations of both the Houses of Parliament was established to consider the President's recommendations. On 26 June 2003, Parliament approved four key recommendations of the committee, grouped into the following categories:

- Final reparations, which entails the provision of a once-off individual grant of R30 000 to individual TRC-identified victims;
- Symbols and monuments, which includes academic and formal records of history, cultural and art forms, as well as erecting symbols and monuments to exalt the freedom struggle, including new geographic and place names;
- Medical benefits and other forms of social assistance, which includes educational assistance, the provision of housing and other forms of social assistance to address the needs of TRC-identified victims; and
- Community rehabilitation, which means rehabilitating whole communities that were subjected to intense acts of violence and destruction, and which are still in distress.

KPI 33.1: Ensure the development and implementation of regulations to enable disbursement of the monies in the President's Fund for reparation purposes

Various regulations have to be developed in accordance with the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995) in order to ensure the implementation of the abovementioned categories, excluding symbols and monuments. For instance, some of these regulations enable money to be paid from the President's Fund in respect of the following:

- Urgent interim reparations ranging between R200 000 and R700 000;
- Payment of once-off individual grants of R30 000;
- Exhumation of the deceased victims who were reported to the TRC;
- Medical benefits and other forms of social assistance; and
- Community rehabilitation measures.

Despite several challenges experienced during the current financial year, measures were taken to develop relevant regulations. Significant progress was recorded in respect of drafting regulations on exhumation and educational assistance. On the other hand, delays were experienced in respect of drafting regulations relating to health assistance, the provision of housing and skills development.

Although the exhumation policy is not part of the regulations, it was approved by Cabinet and will be implemented following work sessions with the relevant stakeholders. However, the policy has a bearing on the regulations because one of its objectives is to provide an all-

encompassing, inclusive framework within which the exhumation process must take place.

Despite the process of drafting the abovementioned regulations, 39 TRC-identified victims have been paid R30 000 in once-off individual grants totalling R1 170 000. This money was paid from the President's Fund in line with the regulations that were drafted and approved in 2003.

KPI 33.2: Implement community reparations

Community rehabilitation means rehabilitating whole communities that were subjected to intense acts of violence and destruction, and are still in distress. Relevant rehabilitation measures may include infrastructural development such as rebuilding destroyed houses, schools and clinics, among others. A number of communities were identified by the TRC as having suffered intense acts of violence and destruction during the conflicts of the past.

In addition to these identified communities, there may also be other communities that suffered the same fate, but were not brought to the attention of the TRC. These communities must be identified by conducting research.

During the year under review, a draft discussion paper was developed on the development of a community rehabilitation model. Following a consultative process, the inputs of relevant role-playing departments were incorporated. Consultation is ongoing.

KPI 33.3: Attend to the needs of the identified TRC victims and their specific needs

According to the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995), victims are defined as:

- persons who, individually or together with one or more persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial

impairment of human rights as a result of a gross violation of human rights or as a result of an act associated with a political objective for which amnesty has been granted; and

- persons who, individually or together with one or more persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial impairment of human rights, as a result of such person intervening to assist persons contemplated in the above paragraph who were in distress or to prevent victimisation of such persons and such relatives.

More than 20 000 victims appeared before the TRC in respect of the suffering they were subjected to by the apartheid regime between 1960 and 1994. Some of these victims have already applied to receive once-off individual reparation grants of R30 000 per individual victim and have been paid accordingly after meeting the relevant regulatory requirements.

The TRC Unit continued to receive more general requests from the TRC-identified victims in respect of being assisted in line with one of the TRC recommendations, which was approved for implementation, namely medical benefits and other forms of social assistance. This covers assistance in the form of medical treatment, education and counselling, among others.

The TRC Unit received and attended to only three TRC-related queries through the Presidential hotline during the year under review. These queries were about once-off individual grants of R30 000 and possible additional reparation measures.

On April 2003, the President tabled the final report at the joint sitting of Parliament, stating, among others, that the department would monitor the implementation of the TRC recommendations, including the exhumation process in respect of missing person cases

reported to the TRC. The Missing Persons Task Team (MPTT) in the NPA has been conducting investigations and exhumations.

Families of exhumed victims are assisted on an ad hoc basis relating to their needs. This includes the unit's involvement in arrangements pertaining to handover and reburial ceremonies, as well as facilitating trauma and bereavement counselling. Other assistance includes obtaining death certificates, as well as applications for once-off individual grants and/or special pensions benefits, where the qualifying criteria are met.

Pending the finalisation of the regulations, identified victims are assisted to receive assistance under the usual, non-TRC-related government programmes, through liaison with the relevant government departments.

Other ongoing projects include reporting to Parliament on government's progress on the implementation of the TRC recommendations. The first such report was developed with a view to tabling in Parliament.

The TRC Unit worked with the Missing Persons Task Team in line with the TRC recommendations to exhume the remains of the people who were reported to the commission as missing. The remains of the Post Chalmers Group (the PEBCO 3 and COSAS 2) were handed over to their families in a ceremony in Port Elizabeth in the Eastern Cape in September 2009. These remains were excavated at the Post Chalmers farm near Cradock. They were subsequently buried in October by the family members. The President and the Minister of Justice and Constitutional Development attended these ceremonies.

Six Pan-African Congress (PAC) activists who were executed on death row at the Pretoria Central Prison by the apartheid regime and given a pauper's burial during the late 1960s were exhumed at the Rebecca Street Cemetery on February 2010. Exhumation of a former African National Congress (ANC)-affiliated member,

Zinto Albert Cele, took place in Durban in March 2010. The TRC Unit coordinated all the relevant processes, liaised with relevant stakeholders and ensured that the family members received relevant counselling services, as well as medical benefits and other forms of social assistance in line with the approved recommendations.

Assisted individual victims and families benefited in the following manner:

- Some of the applicants were enabled to continue and finish their studies in line with the implementation of the TRC recommendations;
- Families managed to bury their loved ones with dignity after they had been exhumed;
- Affected family members received counselling from the Department of Social Development;
- Some individual TRC-identified victims received ongoing medical treatment; and
- Others received identity documents and death certificates as a form of symbolic reparation.

The major challenge faced by department in reaching its goals relating to the TRC recommendations is the fact that since the TRC Unit's inception in September 2005, the political leadership has changed twice. In this case, three different political principals directed the process at various times. This caused delays in the approval process for projects and initiatives. Obtaining cooperation from other relevant government departments poses yet another major challenge. Political intervention is often necessary.

PART I

GENERAL INFORMATION



1.1 INTRODUCTION BY THE HEAD OF THE DEPARTMENT

The Department of Justice and Constitutional Development has the critical mandate of ensuring that justice is realised by all in South Africa in our constitutional democracy. In pursuit of this goal, the department has set the following goals for itself:

- Access to justice;
- Enhancing organisational efficiency; and
- Transforming justice, state and society.

With respect to access to justice, the department facilitated the resolution of criminal, civil and family law disputes by providing administrative support to the courts. During the year under review, 15 branch courts were redesignated and proclaimed as magisterial courts. These are Motherwell, Daveyton, Alexandra, Thembisa, Madadeni, Tiyane, Ekangala, Groblershoop, Jan Kempdorp, Kakamas, Keimoes, Pofadder, Kathu, Atlantis and Khayelitsha. The redesignation resulted in more people having access to court services in close proximity to where they reside.

The initiative of designating dedicated courts for the 2010 FIFA World Cup made it possible for the department to deliver justice in cases associated with the World Cup within a short period of time, without compromising on the principle of fairness. This ensured that those whose matters needed resolution before the end the tournament received justice. The success of this project will enable the department to implement similar strategies to improve the delivery of justice for the benefit of society.

In enhancing organisational efficiency, the focus has been and will continue to be on addressing governance and accountability. Strategies, policies

and procedures are in place and the focus is now on implementation to ensure efficient administration.

The performance of the department has been characterised by organisational weaknesses in terms of human capacity, ageing IT systems, shortages in physical infrastructure and budget constraints. Of critical concern has been a consistent qualified audit opinion on the financial statements of the department. The source of the department's qualification has been a lack of systems to administer third-party funds. Our efforts are dedicated to addressing the issuing of third-party funds providing accounting systems to address the qualification and improve accessibility of these funds to the beneficiaries. While some progress has been made in resolving audit qualifications in areas of asset and leave management, more work still needs to be done in addressing the remaining qualifications. The Criminal Assets Recovery Account, the President's Fund and the Guardian's Fund remain unqualified.

The department has also commenced with its organisational restructuring process in order to strengthen its capacity. It will continue to invest in the capacity development of its employees as a critical enabler of service delivery.

With respect to the goal of transforming justice, state and society, the department continues to provide legal and legislative services to the beneficiaries. The highlight of this is the operationalisation of the Child Justice Act of 2008. This act provides for a criminal justice system designed to serve children in conflict with the law. The department continues to work with other stakeholders to make South Africa safer for all. It is implementing the Seven-point Plan, borne out of the review of the criminal justice system. It has finalised the bail protocol, the regional courts protocol and the protocol for legal aid cases, and

has rolled out the case backlogs project in district courts.

I would like to thank the executive management and employees of the department for their hard work and unwavering commitment to service delivery. My tribute goes to my predecessor, Adv Menzi Simelane, for his contribution to the department. My sincere gratitude goes to the honourable Minister Mr JT Radebe, MP, and the Deputy Minister, Mr A Nel, MP, for their leadership, guidance, support and commitment to building a strong department poised to provide improved services to all in South Africa.

I would like to hand over the annual report for the 2009/10 financial year to the executive authority.



MS N.T. MSOMI
DIRECTOR-GENERAL

I.2 INFORMATION ON THE MINISTRY

The function of the Ministry of Justice and Constitutional Development is to execute the powers and perform the functions assigned to it by the President and the various acts of Parliament. In short, the function of the Ministry is to establish and maintain, in the spirit of the Constitution and through a democratic process of transformation, a legitimate administration of justice that is sufficient, accessible, accountable, user-friendly and representative of the South African community.

The following bills were submitted to the legislature during the financial year:

- (i) Constitution Seventeenth Amendment Bill
- (ii) Protection of Personal Information Bill
- (iii) Protection from Harassment Bill
- (iv) Prevention and Combating of Trafficking in Persons Bill

The following bill was approved by Parliament during the financial year:

- (i) Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act No 11 of 2009)

These bills and other bills dealt with during the financial year are dealt with in detail under key performance area (KPI) 24.1 below.

I.3 VISION STATEMENT

Accessible and transformed justice services committed to the promotion of constitutional values.

I.4 MISSION STATEMENT

Together we provide accessible, fair, speedy, cost-effective and quality justice for all.

I.5 LEGISLATIVE MANDATE

The core function of the Department of Justice and Constitutional Development is to give effect to the constitutionally mandated requirement that South Africa has a fair, equitable and accessible system of justice. In addition, the department provides certain legal services to government.

This mandate has been translated into five organisational objectives:

- Maintain, improve and streamline a system of courts in which legal proceedings of a criminal, civil, family and administrative nature are processed efficiently and effectively;
- Investigate certain crimes and prosecute all criminal offenders;
- Provide legal services to government and represent it in legal proceedings;
- Research, draft and promote legislation; and
- Facilitate the delivery of additional services linked to the administration of justice, including services delivered by constitutionally independent institutions.

Core functions

- The facilitation of the adjudication of criminal matters and the resolution of civil disputes;
- The prosecution of criminal offences in all criminal courts and the investigation of certain offences;
- The delivery of legal and advocacy services to the community to promote access to justice;
- The provision and management of court facilities;
- The delivery of legal advisory services to and representation of the state;
- Constitutional development, including the education of the public and government officials with regard to constitutional rights

and obligations, and monitoring the implementation of the Constitution;

- The development of legislation; and
- The facilitation of the administration of deceased and insolvent estates, curatorship and tutorship, the liquidation of companies and close corporations, the registration of trusts and the management of the Guardian's Fund.

1.6 STRATEGIC GOALS

- **Access to justice for all**, especially the poor and the vulnerable in townships and in rural areas;
- **Enhancing organisational efficiency** and integration of quality justice services to make them simpler, faster and cost-effective; and
- **Transforming justice, state and society** in line with the democratic values of the Constitution.

1.7 PRINCIPLES AND VALUES

Commitment to constitutional values and to a culture of human rights

The department recognises the supremacy of the Constitution and the Rule of Law, and applies all legislation fairly and uniformly to ensure equal protection and access to justice for the people of the Republic of South Africa.

Batho Pele

The department provides quality services to both its internal and external customers by always meeting and exceeding their needs and expectations.

Good governance

The department adheres to the highest standard of ethical behaviour that is transparent and promotes accountability, based on sound internal controls. It is committed to serve as effective and responsible steward of the taxpayers' resources

that are entrusted to it. It is results-driven and efficient in the way it does things. It measures and reports on progress in pursuit of its goals.

Ubuntu

The department upholds human dignity and ensures equal opportunities and fairness in its interactions, in order to engender a spirit of trust and unity. It promotes tolerance and respect for the diversity of its employees and the people of this country and draws strength from such diversity.

Professionalism and continuous improvement

The department recognises that people are its most important resource for accomplishing its mission. It is therefore committed to the professional development, self-actualisation and personal wellbeing of all employees. It recognises the need for continuous improvement and will reward all committed efforts to improve the quality of its services. It instills in all members of the justice and constitutional development community the commitment to higher standards of professionalism.

Open communication

The department communicates and shares information openly and punctually with all the relevant stakeholders in order to ensure participatory and informed decision-making.