



Annual Report 2008/09

Department of Justice and Constitutional Development



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



Foreword by Minister Jeffrey T Radebe



The mandate of the Ministry of Justice and Constitutional Development is to uphold and protect the Constitution and the rule of law in the interest of a safer and more secure South Africa. The department does this through ensuring equitable access to justice services, improving the functioning of the courts, collaborating with its Justice, Crime Prevention and Security (JCPS) Cluster partners to implement the criminal justice system, protecting and promoting the rights of children, the aged, the disabled, vulnerable women and other vulnerable groups, developing legislation and promoting the Constitution, administering deceased and insolvent estates and the Guardian's Fund, providing prosecution and legal aid services, and providing legal advice.

In 2008/09, the Ministry made remarkable strides to improve access to justice for all, transform the justice system and enhance its organisational efficiency. The Review of the Criminal Justice System (the review) commenced with the implementation of the critical recommendations arising from the findings of the research conducted. In collaboration with our JCPS partners, the department developed the Seven-point Plan and the terms of reference to articulate and define the coordination of the review. The implementation of the identified interventions to improve the delivery of justice services is also being done.

During the year under review, we commenced with the use of indigenous languages in courts, with one court per province selected and designated as a court in

which proceedings are conducted in any of the official languages of that province. The department will extend this programme to all courts in consultation with the judiciary. When this programme is fully implemented, it will be possible to use all official languages in court proceedings.

In order to ensure access to courts, the department built two new courts, one at Daveyton (Magistrate's Office) and the other in Polokwane (Circuit High Court) in the year under review. Further, extension work on three courts in Richmond, Mitchell's Plain, and Augrabies was completed. The department is expecting to complete the construction of an additional five new courts in Tsakane, Enkangala, Galeshewe, Kagiso and Colesberg.

The department has also finalised the conversion and designation of 15 branch courts as main courts. These are part of 24 branch courts identified for conversion and designation as aforesaid. Most of these courts are located in townships and rural areas. The department has capacitated the 15 courts and made them ready for proclamation, after which they will have their own areas of jurisdiction as main courts. The remaining nine branch courts are being converted, and are expected to be ready for proclamation by the end of March 2009. In order to resolve the shortage of office space in some courts, 40 mobile structures were procured and placed at those courts across the country. A total of 40 circuit courts were upgraded to provide full justice services in order to meet the needs of the communities in which they are based. The department also acquired 10 sites on which it plans to build courts in the coming year.

The process of ensuring that all citizens of this country have access to justice received greater attention with the extension of civil jurisdiction to the regional courts. This will enable the regional courts to resolve family law disputes and other civil disputes for the first time in the history of this country. This will not only improve access to justice, but will also increase the availability of courts to the people and also contribute in reducing legal costs, as some matters will no longer need to go to the high courts. In order to complement this programme, the department is working to complete the redemarcation of magisterial districts. Once concluded, new jurisdictional boundaries for these magisterial districts will be determined. Furthermore, the department is in the final stages of the designation of all magisterial courts as equality courts. This will not only ensure that the department complies with its legislative requirement of designating all magisterial courts as equality courts, but will also demonstrate our commitment to eradicating



all forms of discrimination and to ensure equality for all citizens of this country.

In its endeavour to ensure the effective resolution of criminal and civil cases, the department saw improved conviction rates in both lower and higher courts, with the district courts achieving 88.1%, the regional courts 73.7% and the high courts 86.3%. In all regional courts dedicated to sexual offences, the department achieved an average conviction rate of 66.7%. The department also saw an improved reduction of backlog cases by 9% at regional courts.

In order to develop and promote legislation aimed at transforming and improving access to justice, 15 pieces of legislation were considered and passed in Parliament in the year under review. These are as follows:

- Repeal of the Black Administration Act, 2008 (Act No 7 of 2008)
- South African Judicial Education Institute Act, 2008 (Act No 14 of 2008)
- Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)
- Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008);
- Renaming of the High Courts Act, 2008 (Act No 30 of 2008)
- Regulation of Interception of Communications and Provision of Communication-related Information Amendment Act, 2008 (Act No 48 of 2008)
- Constitution Fourteenth Amendment Act of 2008
- Constitution Fifteenth Amendment Act of 2008
- General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Act, 2008 (Act No 55 of 2008)
- National Prosecuting Authority Amendment Act, 2008 (Act No 56 of 2008)
- Criminal Procedure Amendment Act, 2008 (Act No 65 of 2008)
- Judicial Matters Amendment Act, 2008 (Act No 66 of 2008)
- Child Justice Act, 2008 (Act No 75 of 2008)
- Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act No 11 of 2009)
- Constitution Sixteenth Amendment Act of 2009

In addition, the following seven bills will soon be introduced to Parliament in 2009:

- Constitution Amendment Bill and State Liability Amendment Bill
- Prevention and Combating of Trafficking in Persons Bill

- Prevention and Combating of Hate Speech, Racial Discrimination, Xenophobia and Related Intolerance Bill
- South African Human Rights Commission Amendment Bill and Commission on Gender Equality Amendment Bill
- Superior Courts Bill and Constitution Amendment Bill
- Legal Practice Bill
- Judicial Matters Amendment Bill

The introduction of these bills to Parliament underpins the department's commitment to transformation and to protecting the rights of the citizens of this country.

All these achievements, and many more as detailed in the different parts of this report, give me great confidence that we are on track to resolve the difficult challenges we face. I am positive that the department will continue to uphold its Constitutional mandate as it has always done.

I wish, in conclusion, to express my gratitude to my immediate predecessors – Minister Brigitte Mabandla and Minister Enver Surty, and the Deputy Minister, Advocate Johnny de Lange, for their decisive and determined political leadership. I am also much honoured to have worked with a hard-working, committed executive team – including the entire staff of the department – under the leadership of the Director-General. I thank them all for the sterling effort in making 2008/09 a success. I am very confident that together we can do more to provide accessible, fair, speedy, cost-effective and quality justice services to all the citizens of this country.



Jeffrey T Radebe, MP
Minister of Justice and Constitutional Development



Vision

Accessible and transformed justice services committed to the promotion of constitutional values for all.

Mission

Together we provide accessible, fair, speedy, cost-effective and quality justice for all.

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
- 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

Strategic goals

1. **Access to justice for all**, especially the poor and the vulnerable in townships and in rural areas
2. **Enhancing organisational efficiency** and integration of quality Justice services to make them simpler, faster and cost-effective
3. **Transforming justice, state and society** in line with the democratic values of the Constitution

Principles and values

Commitment to constitutional values and to a culture of human rights

We recognise the supremacy of the Constitution and the rule of law, and apply all law fairly and uniformly to ensure equal protection and access to justice for the people of the Republic of South Africa.

Batho Pele

We provide quality services to both our internal and external customers by always meeting and exceeding their needs and expectations.

Good governance

We adhere to the highest standards of ethical behaviour that are transparent and promote accountability, based on sound internal controls. We are committed to serve as effective and responsible stewards of the taxpayers' resources that are entrusted to us. We are results-driven and efficient in the way we do things. We measure and report on progress in pursuit of our goals.

Ubuntu

We uphold human dignity and ensure equal opportunities and fairness in our interactions, in order to engender a spirit of trust and unity. We promote tolerance and respect for the diversity of our employees and the peoples of this country and draw strength from such diversity.

Professionalism and continuous improvement

We recognise that people are our most important resource for accomplishing our mission. We are therefore committed to the professional development, self-actualisation and personal wellbeing of all employees. We recognise the need for continuous improvement and will reward all committed efforts to improve the quality of our services. We instil in all members of the Justice and Constitutional Development community the commitment to higher standards of professionalism.

Open communication

We communicate and share information openly and punctually with all relevant stakeholders in order to ensure participative and informed decision-making.





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General Information





1.1 Introduction by the head of the institution

I have the honour of submitting the 2008 annual report of the Department of Justice and Constitutional Development in terms of the Public Finance Management Act, 1999 (Act No 1 of 1999).

The annual report reflects the efforts made by all the branches and the regional offices of the department, which, through the dedication and persistency of their management and staff, sought opportunities and ways to enhance efficiency and improve the delivery of justice services in the country.

While the annual report highlights some of our successes, as you will see from several parts of this report, it also

acknowledges the challenges the department faced during the year under review. With immense and varied challenges coming with the current economic downturn in our country, I am conscious of the need to strengthen our resolve to provide effective, efficient, fair and speedy justice services to all, especially to the less fortunate in our communities. It is also essential to buttress judicial independence, support the legal fraternity, uphold and respect the Constitution and rule of law, and stay the course in our intentions to improve to transform and improve our criminal and civil justice systems.

Advocate Menzi Simelane
Director-General: Justice and Constitutional Development

1.2 Information on the Ministry

The function of the Ministry for 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 efficient, accessible, accountable, just, user-friendly and representative of the South African community.

The following bills were submitted to the legislature during the financial year:

- General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Bill
- Constitution Fourteenth Amendment Bill
- Constitution Fifteenth Amendment Bill
- Repeal of the Black Administration Act and Amendment of Certain Laws Amendment Bill
- Judicial Matters Amendment Bill
- Criminal Procedure Amendment Bill
- National Prosecuting Authority Amendment Bill
- Reform of Customary Law of Succession and Regulation of Related Matters Bill
- Renaming of High Courts Bill
- Criminal Law (Forensic Procedures) Amendment Bill
- Constitution Sixteenth Amendment Bill

1.3 Mission statement

Vision: Accessible and transformed justice services committed to the promotion of constitutional values for all.

Mission: Together we provide accessible, fair, speedy, cost-effective and quality justice for all.

1.4 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 have a fair, equitable and accessible system of justice. In addition, the department provides certain legal services to the 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.
- Facilitate the delivery of additional services linked to the administration of justice, including services delivered by constitutionally independent institutions.



Programme Performance





2.1 Voted funds (R'000)

Table 1: Voted funds for 2008/09

Appropriation	Main appropriation	Adjusted appropriation	Actual amount spent	Over-/under-expenditure
Amount appropriated	6 400 004	6 403 716	6 362 176	(41 540)
Statutory appropriation	1 588 014	1 588 014	1 601 091	13 077
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 (DoJ&CD) 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, programmes and achievements

2.3.1 Key measurable objectives

The department's key strategic objectives are capacitating and restructuring the courts, integrating the justice system, catering for the needs of vulnerable groups and improving the maintenance system to relieve the 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.

2.3.2 Programmes

Programme 1: Administration

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

Programme 2: Court Services

Purpose: Provide and manage court facilities, and facilitate the resolution of criminal, civil and family law matters in South Africa. The programme purpose is reflected in the organisation of its first five subprogrammes:

- Constitutional Court
- Supreme Court of Appeal
- High Courts
- Specialised Courts
- Lower Courts

There are five other subprogrammes:

- The Family Advocate makes recommendations to the court where there is litigation and mediation relating to children in family matters.
- The Magistrates Commission makes recommendations on the appointment of magistrates.
- Government Motor Transport funds vehicles for judges and departmental officials.
- Facilities Management funds the building and upgrading of court and justice service delivery points.
- Administration of Courts funds the management of courts' administration and performance evaluation functions.

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 subprogramme: State Law Advisors provides legal advisory services to the executive, all government departments, parastatals and government autonomous bodies.
- Litigation and Legal Services provides attorney, conveyancing and notary public services to the executive, all government departments, parastatals and other government bodies through the offices of the State Attorney, and provides legal support to the department and the ministry.
- Legislation and Constitutional Development prepares and promotes primary and secondary legislation, and conducts research.
- The Master of the High Court supervises the administration of deceased and insolvent estates, trusts, curatorships and the Guardian's Fund.

Programme 4: National Prosecuting Authority

Purpose: Provide a coordinated prosecuting service that protects certain witnesses, investigates serious organised unlawful conduct and removes the profit from crime.



- Public Prosecutions includes general prosecutions and several specialist prosecution units.
- The Witness Protection Programme provides protection, support and related services to vulnerable witnesses and related persons in judicial proceedings.
- The Directorate of Special Operations deals with complex and organised crime.
- The Asset Forfeiture Unit seizes criminal assets that are the proceeds of crime or have been involved in an offence either through a criminal or civil process.

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, the Public Protector, the Commission on Gender Equality, the Legal Aid Board, the Special Investigating Unit, the Represented Political Parties' Fund and the President's Fund.

- The Office for the Control of Interception and Monitoring of Communication authorises applications by law enforcement agencies for the interception and monitoring of communications in terms of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No 70 of 2002).
- The South African Human Rights Commission promotes and monitors the observance of human rights.
- The Commission on Gender Equality aims to create a society free from gender discrimination and any other forms of oppression.
- The Special Investigating 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.
- The Legal Aid Board provides legal aid to indigent people and provides 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 (NCPS) 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 gives effect to the reparations policy flowing from the findings of the Truth and Reconciliation Commission.
- The Represented Political Parties' Fund provides for the funding of political parties participating in Parliament and provincial legislatures.

2.3.3 Achievements

A summary of achievements is provided below in line with the department's core functions. These are to:

- 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;
- build, maintain and secure the department's capital infrastructure and court facilities;
- 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 on the department's programmes and their constitutional rights);
- supervise the administration of deceased and insolvent estates (including administering the Guardian's Fund); and
- provide legal advice services and protect all organs of state.

(i) Ensure equitable access to justice services for all

One of the main objectives of the department is to increase access to justice services for all, with special focus on communities previously discriminated against. This includes people living in townships and rural areas who had very limited access to courts owing to the historical inequalities in the distribution of courts and justice services. The priority in this objective is to build new courts in townships and rural areas, to provisionally 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 municipal boundaries. This objective has always presented the department with difficult challenges, not only because the current needs exceed the available resources, but also because of the complexity of implementing its multiple requirements, which often play against each other.

In the year under review, the department completed two new courts (Daveyton Magistrate's Office and Polokwane Circuit High Court) and undertook major extension work in three courts (Richmond Magistrate's Office, Mitchell's Plain Magistrate's Office and Augrabies Magistrate's Office). To expand services, and improve access for communities living in townships and rural areas, the department identified 24 branch courts that needed to be officially proclaimed as full



magisterial courts. Of the 24 identified branch courts, 15 were capacitated to become magisterial courts with their own area of jurisdiction. The department expects the official proclamation of these courts by the Minister to take place early in 2009. There are nine branch courts that are currently being redesignated, and that will be fully ready by the end of 2009. Thus, the following branch courts are now designated as main courts in their areas:

- Motherwell (Eastern Cape)
- Daveyton, Alexandra and Thembisa (Gauteng)
- Madadeni (KwaZulu-Natal)
- Tiyane (Limpopo)
- Enkangala (Mpumalanga)
- Groblershoop, Jan Kempdorp, Kakamas, Keimoes, Poffader and Kathu (Northern Cape)
- Atlantis and Khayelitsha (Western Cape)

The department also provided more than 40 mobile units to augment offices and courtrooms across the country. Forty branch courts (courts seating periodically) are also currently being upgraded to provide full justice services and others are being removed from police stations to ensure independence of judicial procedures from police procedures. With more than 10 sites acquired for the construction of new courts in various provinces, and an extra 10 new sites planned to be acquired next year, the department is determined to continuously expand spatial access to justice services for the disenfranchised communities.

(ii) Ensure effective and efficient management of the department and its resources

To ensure effective and efficient management of the department's finance, the department continued to improve its financial processes, and to address the weaknesses identified by the Auditor-General in the previous audits. To address the identified deficiencies in asset management, an Asset Management Turnaround Project was initiated, resulting in a purified asset register that complies with the National Treasury requirements. There are also significant improvements in supply chain management systems as the department is now utilising an improved document filing solution, contract performance measurement systems, and is re-engineering bid and other supply chain management systems. In addition, the project on the Management of Monies in Trust Public-Private Partnership (MMT PPP), aimed at improving the financial management of maintenance funds and expanding pay points across the country, is in its final stages, with completion expected in June 2009. However, the audit challenges in the Third Party Funds

remain unresolved due to the outstanding, formalised legal and accounting framework to be agreed between the department, the Accountant-General and the Auditor-General.

Regarding the management of its human resources, the department has slightly reduced its employee vacancy rate from 15% in the previous financial year to 14.5% this year. The number of placements in the department increased to 8 190 from 5 490 last year, resulting in 6.5% growth on the establishment. The department is formulating interventions that will see significant and continuous improvements in reducing its turnaround times to remain within a three-month cycle. In addition, the finalisation of a new delegation framework and the Human Resources Policy Plan are expected to improve efficiency across the structures of the department.

The department also recognises that effective and efficient delivery of justice services cannot be fully realised if its information and technology systems remain archaic and outdated. Thus, the department continued modernising its IT systems to ensure the efficient administration of justice in the country. More than 2 430 digital court recording systems were installed to replace the outdated analogue recording machines in the courts. A total of 4 721 employees in the department now have access to its flagship E-scheduler system, which tracks and evaluates case flow management on a daily basis in each court across the country.

The department is also continuing to roll out its video postponement systems aimed at fast-tracking case postponements without the accused person attending court. The system is currently rolled out to selected courts and correctional centres. The electronic funds transfer (EFT) system, aimed at improving efficiency at master's offices, is currently rolled out to offices in Polokwane, Bloemfontein, Kimberley, Cape Town, Pietermaritzburg and Grahamstown.

(iii) Facilitate resolution of criminal and civil cases

In the year under review (as statistics from the NPA show) the courts sat an average of 03:50 hours per day, and enrolled a total of 1 058 376 cases. Of these, 638 720 cases (60.3%) were removed from the roll. This figure includes cases withdrawn, transferred, struck from the roll and warrants issued. However, there has been a 6.2% decrease in the number of withdrawn cases.

Both the lower courts and high courts maintained high conviction rates, with district courts achieving 88.1%, regional courts 73.7% and high courts 86.3%.



The Constitutional Court enrolled 391 cases and finalised 69 (17%) – of which five cases had judgment handed down and 64 were dismissed. There are, however, 96 cases awaiting direction, and thus 322 (82.3%) cases are registered as still pending. The Supreme Court of Appeals had 3 189 cases enrolled, of which 111 (3.48%) were upheld, 44 (1.38%) were altered, 76 (2.38%) were dismissed, 69 (2.16%) were granted and 65 (2.04%) were referred back. The high courts had 31 712 civil trials, and 13 322 criminal trials enrolled. Of the civil cases enrolled, 25 339 (79.9%) of the cases are pending, with 6 373 (20%) finalised, and 2 532 (7.9%) withdrawn. Of the 13 322 criminal cases enrolled, 10 439 (78.3%) are registered as outstanding trials, 2 883 (21.6%) cases were finalised, and 1 563 (11.7%) were postponed. There were 176 (1.32%) cases struck off the roll.

A total of 50 regional courts dedicated to resolving sexual offences finalised 5 300 cases (with 4 925 finalised with a verdict). Of these cases, 134 involved young offenders. The department achieved a 66.7% conviction rate, of which 444 cases were finalised through alternative dispute resolution. The department also saw an improved reduction of backlog cases by 9% at regional courts, but saw an increase of 0.8% on all criminal court rolls.

The department is acutely aware of the shortcomings and challenges facing the criminal justice system (CJS). In the year under review, there were two parallel processes. The first looked at the capacity solutions attainable in the short term, while the second focused on long-term solutions that required in-depth research. Both processes have been completed and recommendations have been made.

The research and operational recommendations are integrated into seven points as follows:

1. Adopting a single vision and mission for the CJS, leading to a single set of objectives, priorities and performance measurement targets for the CJS.
2. Establishing, through legislation or by protocol, a new and realigned single CJS coordinating and management structure that flows in a seamless manner from the cabinet to each court, and appointing a person from the executive as head of the CJS structure with coordination and management functions and not executive powers.
3. Developing practical and short- and medium-term proposals to improve the performance of courts, initially focusing on regional courts, by focusing court work on trials and ancillary proceedings, like bail, and removing some of the administrative-like functions relating to postponements, etc.

4. Identifying key areas in the component parts of the CJS that contribute negatively to the overall systems performance and putting measures in place to correct shortcomings and remove constraints, inhibitors and dependencies, especially relating to policies that deal with capacity, and bringing all component parts to a point where they function together harmoniously.
5. Establishing an integrated and seamless national CJS information system (IT infrastructure and national database) with information and systems that are seamless and scientifically and technically robust and reliable, and that will facilitate more informed strategies, plans and decision-making.
6. Implementing a programme of modernisation of the CJS by applying technology solutions to more effectively manage day-to-day operations, reduce costs and eliminate waste and automate paper-intensive systems.
7. Involving the public at large in the fight against crime by introducing changes to the CPF regime, which is being dealt with by the SAPS, including expanding the role of the JCPS in the interaction with the community.

The implementation of the seven research and operational recommendations, referred to as the Seven-point Plan, has been prioritised in the department. The DoJ&CD-led CJS management and coordinating structure will be regulated by the draft protocol being completed for submission for authorisation.

The implementation of all operational and research recommendations that resolve the blockages in the CJS is taking place on an ongoing basis.

(iv) Build, maintain and secure the department's capital infrastructure and court facilities

(Also see 1 above, 2.9 below and report on Programme 1 below.)

In the year under review, a total of 535 courts were modified to improve access for people with physical disabilities. A further amount of R120 million was allocated to further implement the accessibility programme, resulting in 366 courts being provided with basic infrastructure such as toilets and ramps for people with disabilities. The department also continued with the Repair and Maintenance Programme (RAMP), and completed 33 maintenance projects out of 78 projects. Interdepartmental delays and financial constraints limited the department's success in these programmes.



(v) Protect and promote the rights of vulnerable groups

(Also see 2.7 and Director-General's report below.)

This objective forms one of the top priorities of the department. The department is responsible for developing legislation, policies and programmes protecting and promoting the rights of vulnerable groups (children, the aged, the disabled, women, the poor, and other such disadvantaged groups).

In the year under review, the department developed policies and frameworks that seek to guide its processes and procedures in implementing this objective.

The following policies are being developed:

- Interim National Protocol on the Management of Children Awaiting Trial
- Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007): National Draft Policy Framework document
- Draft Framework on Alignment of Programmes and Processes Between the DoJ&CD and the NPA's Sexual Offences and Community Affairs (SOCA) Unit
- Restorative Justice Strategy
- Small Claims Courts Policy Framework
- Draft National Policy Framework on the Child Justice Bill in terms of the Child Justice Bill No B49D of 2008, to be submitted by December 2009
- Management and prioritisation of children's matters in court, in terms of the Children's Act, 2005 (Act No 38 of 2005)
- Integration of sexual offences courts into the mainstream courts
- Mediation on maintenance matters

(vi) Legislation passed in 2008/09

During the year under review, the department increased its focus towards developing legislation to improve access to justice, enhance efficiency in the justice system and to transform the system to be in line with the country's Constitution. The department also fast-tracked bills that required urgent attention, such as the National Prosecution Authority Amendment Bill, the various Constitutional Amendment Bills and the Reform of Customary Law of Succession Bill. The following legislation was developed and passed by Parliament during 2008/09:

- Repeal of the Black Administration Act, 2008 (Act No 7 of 2008)
- South African Judicial Education Institute Act, 2008 (Act No 4 of 2008)

- Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)
- Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008)
- Renaming of the High Courts Act, 2008 (Act No 30 of 2008)
- Regulation of Interception of Communications and Provision of Communication-related Information Amendment Act, 2008 (Act No 48 of 2008)
- Constitution Fourteenth Amendment Act of 2008
- Constitution Fifteenth Amendment Act of 2008
- General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Act, 2008 (Act No 55 of 2008)
- National Prosecuting Authority Amendment Act, 2008 (Act No 56 of 2008)
- Criminal Procedure Amendment Act, 2008 (Act No 65 of 2008)
- Judicial Matters Amendment Act, 2008 (Act No 66 of 2008)
- Child Justice Act, 2008 (Act No 75 of 2008)
- Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act No 11 of 2009)
- Constitution Sixteenth Amendment Act of 2009

(vii) 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 sets of legislation, which aim to promote the guarantees made in the Constitution. These are the Promotion of Access to Information Act, 2000 (Act No 2 of 2000) (PAIA), the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000) (PAJA), and the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000) (PEPUDA).

Of the 70 requests received for access to information in the year under review, 61 were granted and nine refused (on the grounds that they failed to comply with PAIA).

To educate the public on their rights and to promote public understanding of the department's programmes and policies, more than 300 outreach workshops were conducted. The department also employed the media to disseminate information about its programmes and policies, with supplements placed in all national newspapers, such as *Pretoria News*, *The Star*, *Daily News*, *Cape Argus*, *Daily Sun* and *Sowetan*, with a total coverage of more than two million readers reached. Educational programmes were also flighted on air using



the *Justice Airwaves*, *Khaya Legal Talk* and *Law on Call* radio programmes, which reached over three million listeners across the country. Several justice-related materials were also published and translated into various African languages with the aim to improve access to information and to educate the public on their rights.

(viii) Supervise the administration of deceased and insolvent estates and the Guardian's Fund

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 of and access to the Guardian's Fund. In the year under review, the department received 117 656 new matters on estates, of which 81 477 were files on estates less than R125 000, and 36 179 were files on estates worth more than R125 000. The department issued 62 712 letters of authority to resolve files of estates less than R125 000, and 29 901 letters for estates more than R125 000. There were 77 000 of the 81 477 estates of less than R125 000 finalised, and 27 179 files of estates of more than R125 000 finalised. Thus, the department finalised 88.6% of all estates received during this year.

In addition, the department saw a considerable increase in the number of insolvent estates and liquidation matters this year. Figures for liquidations increased from 2 124 last year to 4 150 this year, and the number of individuals who were sequestrated soared from 1 864 to 5 221. In improving access to the Guardian's Fund, the department recorded 10 643 receipts for the Guardian's Fund at a total value of R576 432 957. The total volume of payments from the fund exceeded R618 million.

(ix) Provide legal advice services to and protect all organs of state

The department is responsible for providing legal advice to state organs and for protecting them against litigations. In the year under review, the department finalised 203 in 204 requests for legal opinions. 183 in 191 bills and 354 in 355 international agreements were finalised.

The department spent R273 925 219 on 6 628 briefs. A total of 64.6% (4 285 of 6 628) briefs were handed over to private advocates. The department received 2 359 requests for pardons, and 84.4% (1 992) of these were processed, with 367 currently outstanding. The department is confident it will be able to finalise these by mid-year 2009/10.

2.4 Overview of the service delivery environment for 2008/09

The department is responsible for the administration of justice in the country. However, it is not the only state organ responsible for the administration of justice. It shares its role with other departments such as the South African Police Service (SAPS), Correctional Services, Defence, Social Development, the National Intelligence Agency, the South African Secret Service and Home Affairs. Thus, the term 'administration of justice' is very broad and includes a wide variety of components that form part of the broad justice system in the country.

The department's constitutional mandate is to uphold and protect the Constitution, and the rule of law in the interest of a safer and more secure South Africa. The department does this through ensuring equitable access to justice services, improving the functioning of the courts, collaborating with its Justice, Crime Prevention and Security (JCPS) Cluster partners to integrate different objectives and mechanisms of the criminal justice system, protecting and promoting the rights of children, the aged, the disabled and other vulnerable groups, developing legislation and promoting the Constitution, administering deceased and insolvent estates, providing prosecution services, providing legal aid services, and providing legal advice to state organs and protecting them from any damaging litigation.

The main function of the department is to deliver effective and efficient justice services to the citizens of the country. Effective and efficient delivery of justice services in a young, developing democracy like South Africa is a challenge. The challenge is made even more complex by the fact that the country is experiencing a consistent growth in population, with its population having increased from 44 million people in 1994 to 48.7 million in 2008. The country is also a home to an estimated five million illegal immigrants. There are challenges brought about by the use of communal spaces largely driven by the economic migrations that compel vast numbers of people to set up large informal dwellings near cities and towns. All these translate into more pressure for expanding justice services to the communities who need them most.

Expanding access to justice services involves a series of activities, including the physical construction of courts (and other service delivery centres), expanding special courts (such as designating equality courts, community courts and traditional courts), expanding the quantity of services provided at courts (such as capacitating a court to also resolve civil and family-related conflicts),



enhancing the quality of services provided at courts (such as improving the speed of convictions), and redefining the jurisdictional boundaries of each court and its clusters. To do all of these, the department needs greater access to resources.

However, as in most developing countries, resource allocation is always complicated and difficult to balance. The department's budget rates as one of the smallest in the share of the national votes, and the smallest when compared with that of its JCPS Cluster members. This means that the department never has enough resources to fulfil all its functions and to effectively implement all its strategic initiatives. As a result, the department often has to revise its plans and scale down on some of its priorities. The frugal fiscal has a negative impact on the expansion of justice services, and also affects the department's ability to source and/or keep its human resources, to maintain court infrastructure, to improve security in courts, to modernise its information and technology systems, and to improve efficiency in implementing its programmes. Although the department's budget remains tight, the demand for more, and better, services from the public continues to rise.

Court effectiveness and efficiency are some of the main measures of the department's ability to administer justice. Although the Ministry is required to administer courts, the judiciary carries the responsibility for assigning and deciding which judge and/or magistrate adjudicates which case. Thus, achieving the desired rate and speed of case resolutions, decreasing case backlogs, and prioritising the resolution of certain cases serve as a typical yardstick of efficiency that requires a greater level of cooperation conducted under a deep appreciation of the independence of all role-players.

The department is a custodian of the Constitution. The Constitution makes specific provision for the separation of powers between the judiciary and the executive and legislative arms of the government. In terms of section 165 of the Constitution, no person or organ of state may interfere with the functioning of the courts and organs of state. Through legislative and other measures, the department must assist and protect the courts to ensure their independence, impartiality, dignity and effectiveness. The department recognises the essence of the separation of powers as provided in the Constitution. It is within this context that its objective to transform the racial and gender composition of the judiciary is often mistaken as an attempt to interfere with the independence of the judiciary. Section 174(2) of the Constitution specifically requires the appointment of the judges to reflect the racial and gender composition of

the broader population. Thus, the environment in which the department is required to deliver justice services is still contested with justice circumstances and perceptions defined by cultural, historical and social situations that provide a ready pretext for diverging points of view.

Other environmental factors that determine the effectiveness and efficiency of the justice system include the realisation that the country is regarded as having one of the highest rates of violent crimes in the world, causing most citizens to feel less safe, with a particular impact on women and children. There are various challenges regarding protecting the victims of crime, applying appropriate remedies and sentences, improving access to information on rights, and involving civil societies in empowering the public. All these have some impact towards the successful implementation of the department's strategic priorities and initiatives.

2.5 Overview of the organisational environment for 2008/09

During the year under review, the department confronted a number of challenges in the delivery of justice services in the country. The demand is outpacing the expansion of resources to supply more citizens with access to justice services. Existing infrastructure is in need of significant repair and maintenance, while there is also a need for new facilities, especially in the historically under-served areas.

The implementation of the agreement for Occupation Specific Dispensation (OSD) for Legally Qualified Personnel, signed in February 2008, placed the budget of the department under severe strain. However, the first phase of implementation of the OSD is all but complete with that of a limited number of officials, especially in the Chapter 9 institutions still to be served.

The department has drafted and implemented new policy priorities, notably the introduction of indigenous languages in courts and child justice legislation. There were high-profile prosecutions and related matters, and the publicity around the re-incorporation of the Priority Crimes Unit into the SAPS also created a complex environment in the administration of justice in the country.

Improved cooperation among the key role-players resulted in better management of cases through the judicial process, reducing the rate of growth of case backlogs. There was also an improvement in the support for the continued transformation of the justice system, as evidenced by general agreement on the processing of the regional courts and legal practice legislation.



The department has introduced measures to contain costs without unduly lowering the quality and scope of services.

2.6 Strategic overview and key policy developments for the 2008/09 financial year

The policies and strategic programmes below were developed in 2008/09.

2.6.1 Review of the Criminal Justice System

(Also see 2.3, Achievements, above.)

The review of the criminal justice system has been identified by the JCPS Cluster and the Cabinet Lekgotla as one of the most important and key priorities of government. The department was designated as the lead department in this process. The review entails two processes. The first process investigates long-term solutions through desktop research, and the second process focuses on short-term, medium-term and long-term initiatives to fight crime, remove blockages and improve court processes. The department, working in collaboration with its JCPS partners, has since developed specific focus areas referred to as the Seven-point Plan (see Achievements above). The department has also developed terms of reference to articulate the Seven-point Plan, and define how coordination will be done across the JCPS Cluster. An Interim Office for Criminal Justice System (CJS) Review was developed.

The office is working to develop an overarching vision and mission of the project.

2.6.2 Redesignation of identified 24 branch courts

(Also see 2.3, Achievements, above.)

The objective to improve access to justice for all is one of the department's priority programmes in the Medium-term Strategic Framework (MTSF). There are 366 main courts in each of the 366 magisterial districts in the country. Almost all the main courts are located in towns and cities, far from townships and rural areas where most African people live. There are 50 detached courts established to supplement the main courts. These are also located in small towns serving the subdistrict of the main city or town. The main courts and detached courts are supplemented by 90 branch courts, mainly located in townships and some in rural areas. They do not have their own jurisdiction, and most deal with criminal cases only. Thus, the communities where these branch courts are found often have to travel to the main courts in their nearest towns to resolve civil

and family-related cases. There are a further 230 so-called periodical courts, also known as circuit courts, sitting only on selected days of the week or month to hear criminal cases only. These too are located in townships and rural areas. Many of them are built on the police precinct site.

The department has identified 24 branch courts for conversion into main courts within their areas of jurisdiction. In the period under review, 15 of the 24 branch courts have been converted and capacitated to become main courts. They are currently awaiting the ministerial proclamation to be officially treated as magisterial courts. The remaining nine branch courts will require further capacity and preparation to convert them into main courts. The department has set itself a target of a year to finalise the process of their conversion.

2.6.3 Introduction of indigenous languages at one court in each province

This programme relates to the use and promotion of indigenous languages in courts. This project involves designating the most common, most dominant language that most users of the court speak as the official language to be used in that particular court. The aim is to ensure that court proceedings are conducted in the language that most court users will understand. The programme focuses on introducing indigenous languages in courts across the provinces, as until recently these languages were excluded from use in courts, following the apartheid policy, which recognised only Afrikaans and English as the official languages of courts. In the period under review, at least one court per province has been designated an indigenous language.

2.6.4 Report on the Implementation of the Recommendation of the Truth and Reconciliation Commission

The establishment of the unit dealing with the recommendation of the Truth and Reconciliation Commission (TRC) in the department has helped the department to resolve some of the outstanding matters that are becoming a growing challenge for the government. In the year under review, the department managed to produce a report that assesses how the government has managed to implement the recommendations made by the commission. The department has also significantly improved its performance on the number of exhumations and reburial of the remains of the victims of apartheid and past political conflicts. The exhumation policy is currently being translated into isiZulu and Sesotho languages. The TRC Unit in the department is currently also developing



a community rehabilitation model that will address recommendations made by the commission.

2.6.5 Political Pardon and Amnesties

The Political Pardons Project deals with the expungement of criminal records as recommended by the Amnesty Committee of the TRC, and as provided in section 84(2)(j) of the Constitution. While the Constitution grants the discretion for pardon to the President, the department prepares the documentation when an application for pardon has been made. In the period under review, the department received more than 2 359 applications requesting political pardon by the President. Of the 1 997 that were processed, 121 were recommended to the President for pardon.

Several policy initiatives relating to the administration of justice were undertaken by the Policy Coordination Unit during 2008/09.

2.6.6 Policy on the Judiciary and the Courts

The draft Policy Framework on the Administration of Justice, which includes key principles that will inform the content of the Superior Courts Bill, was finalised. The policy document seeks to consolidate transformative policy initiatives relating to the administration of justice, with specific reference to the courts and the judiciary. The process of transformation seeks to ensure that the judicial system is appropriately positioned to respond to the diverse needs of society and contributes to the building of a society envisaged by the Constitution.

2.6.7 Child Justice Act, 2008 (Act No 75 of 2008)

The Child Justice Act, 2008 (Act No 75 of 2008), was passed by Parliament during 2008, and signed into law by the President on 7 May 2009. The aims and objectives of this act are, inter alia, to establish a criminal justice system for children who are in conflict with the law, in accordance with the values underpinning our Constitution and our international obligations. This will be done through, among others, creating, as a central feature of the new criminal justice system for children, the possibility of diverting matters involving children who have committed offences away from the criminal justice system, in appropriate circumstances, while children whose matters are not diverted are to be dealt with in the criminal justice system in the children's courts.

The objectives are also to expand and entrench the principles of restorative justice in the criminal justice system for children who are in conflict with the law, while

ensuring their responsibility and accountability for the crimes committed.

The Child Justice Act, 2008 (Act No 75 of 2008) will be the first piece of legislation where operational systems and policies will be in place before the implementation of the act on 1 April 2010. This marks a radical and positive shift in the management and implementation of legislation. The introduction of this act will also help ensure the establishment of one-stop child justice centres for the purpose of handling children's cases quicker and more efficiently under one roof, so as to make the experience for the children less traumatising.

The National Policy Framework on Child Justice must be tabled in Parliament by June 2010 and the various departments have begun the processes of consultation in this regard. The outline of the national policy framework has been drafted and will be consulted upon extensively before finalisation by December 2009. The Policy Framework will ensure the coordinated prioritisation and implementation of the act, and monitor the impact of mainstreaming, prioritising and diverting the children as much as possible away from the criminal justice system, as well as legislate the close cooperation between the relevant government departments and non-governmental organisations (NGOs) in this regard.

2.6.8 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007)

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007), came into operation as from 16 December 2007. The aims and objectives of this act are to afford complainants of sexual offences the maximum protection that the law can provide, to introduce measures that seek to enable the relevant organs of state to give full effect to the provisions of this act, and to combat and ultimately eradicate the relatively high incidence of sexual offences committed in the Republic.

The introduction of this act will respond to the concerns of victims of sexual violence in order to address the secondary victimisation encountered in the criminal justice process. For the first time, the implementation of this legislation will have a major shift in policy and service delivery targets, and will oblige relevant departments involved in fighting the scourge of sexual offences to cooperate and coordinate their activities.

The major developments in terms of this act have been the establishment of the Intersectoral Committee on



Sexual Offences, chaired by the Director-General of Justice and Constitutional Development. This will be a coordinating structure, bringing together all the relevant stakeholders involved in addressing the challenge of sexual offences.

The Policy Coordination Unit monitored the implementation of key legislation relating to the transformation of the judiciary, including the facilitation of the development of policy guidelines for the effective implementation of the said legislation. The following acts, which were passed by Parliament and assented to by the President between October and December 2008, are critical to the attainment of a transformed judiciary: the Judicial Education Institute Act, 2008 (Act No 14 of 2008), the Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008) and the Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008).

The department is currently drafting a policy document focusing on how the justice system and the courts manage the issue of HIV/AIDS to ensure equality and non-discrimination in the provision of services. Those who have been affected and infected by HIV/AIDS will thus benefit immensely in this regard.

2.6.9 South African Judicial Education Institution Act, 2008 (Act No 4 of 2008)

The Judicial Education Institution provides a uniform training framework for both judges and magistrates with a view to improve the productivity of the courts, the quality of judgments, and further develop the South African jurisprudence. The act came into operation on 23 January 2009.

The members of the council have been appointed and a facility has been leased for two years at Eura House in Johannesburg to house the institute temporarily, pending the construction of a permanent facility at the Constitutional Court.

2.6.10 The Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008)

This act seeks to transform the regional courts, which, since their establishment in 1952, were conferred only with criminal jurisdiction. The costs associated with litigation at the High Court for civil disputes beyond the jurisdiction of district courts (R100 000) limit access to justice for ordinary citizens.

A further transformative outcome of this act is the integration of the divorce courts into the regional courts. The divorce courts, established in 1929, were exclusively for Africans. When these courts were deracialised in 1997, their areas of jurisdiction were not rationalised. The act rationalised the areas of jurisdiction of the divorce courts into the area of jurisdiction of regional courts, thereby redressing the fragmented and disjointed lower court judicial system inherited from the past.

The Judicial Service Commission, Magistrates Commission, heads of the courts, magistrates and the legal profession were consulted extensively regarding the appointment of places/seats of the regional courts for the hearing of civil disputes and the determination of amounts for causes of action listed in the act. The seats and the amounts of causes of action will be published in the Government Gazette soon. The act is envisaged to be put into operation during August 2009.

2.6.11 The Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)

This act, which is required by the Constitution (section 180(a)), provides for a complaint-handling mechanism for judicial officers. The act has been passed by Parliament and was assented into law by the President in December 2008. In terms of the act, regulations and a judicial code of conduct must be approved by Parliament. A judicial code of conduct and regulations will be submitted to Parliament during the first quarter of the 2009/10 financial year. The act is envisaged to be put into operation during August 2009.

2.6.12 The Domestic Violence Act, 1998 (Act No 116 of 1998)

The act provides speedy interim and final relief to victims of violence in the family environment. The department is currently reviewing the implementation of this act, with a view to ensuring further efficiency. The department is working with the magistrates to develop guidelines for the implementation of the Domestic Violence Act, 1998 (Act 116 of 1998) (DVA) for the magistrates in conjunction with the Family and Gender Service Delivery Committee of the Lower Court Management Committee (LCMC). These guidelines, which were developed by the magistracy, were launched in June 2008. The guidelines will impact on the standardisation of the implementation of the act and also on the effective management of domestic violence cases in the judiciary and courts.



2.6.13 Small Claims Courts

The small claims courts' services are regulated by the Small Claims Courts Act, 1984 (Act 61 of 1984), and its related enabling legislation. These courts provide speedy and cost-effective relief to minor civil disputes to the value of R7 000. In terms of this act, small claims courts must be designated if an advisory board and commissioners are appointed.

With the assistance of the legal profession, especially attorneys who provide their services voluntarily, as well as the general public, 188 small claims courts have been established countrywide, 113 advisory boards set up and 114 commissioners appointed. In further assisting access to justice, some of these courts are operational on Saturdays for administrative purposes to enable litigants to process their administrative processes.

The department conducted research on the legal framework/critique and a comparative study of the different models of the small claims courts. This research is used as a baseline study for the transformation of the small claims courts. The research will further assist with the amendment of the Small Claims Courts Act, 1984, (Act 61 of 1984).

2.6.14 Restorative Justice

The department has started the process for the development of a National Strategy and Policy on Restorative Justice to support departmental and JCPS Cluster initiatives in this regard, as well as to ensure the coordinated, holistic implementation of restorative justice obligations and clauses contained in pieces of legislation such as the Children's Act, 2005 (Act No 38 of 2005), and the Child Justice Bill, 2008. A Restorative Justice Task Team was established during 2007.

2.7 Departmental revenue, expenditure, and other specific topics

2.7.1 Collection of departmental revenue (R'000)

Table 2: Collection of departmental revenue

	2005/06 actual	2006/07 actual	2007/08 actual	2008/09 target	2008/09 actual	% deviation from target
Sales of goods and services produced by the department (excluding capital assets)	8 712	10 792	14 027	12 655	13 259	4.77%
Fines, penalties and forfeits	63 471	262 616	238 025	283 307	271 508	-4.16%
Interest, dividends and rent on land	24 963	13 394	48 700	54 303	44 872	-17.37%
Sales of capital assets (capital revenue)	987	-	-	-	-	-
Financial transactions (recovery of loans and advances)	28 751	32 708	11 682	48 139	22 872	-52.49%
Total departmental revenue	126 884	319 510	312 434	398 404	352 511	-11.52%

2.7.2 Departmental expenditure (R'000)

Table 3: Departmental expenditure

Programmes	Voted for 2008/09	Roll-overs and adjustments	Virement	Total voted	Actual expenditure	Variance
Programme 1	967 769	-	(32 907)	934 862	930 693	4 169
Programme 2	3 342 482	-	30 942	3 373 424	3 348 402	25 022
Programme 3	503 153	-	22 927	526 080	525 272	808
Programme 4	-	-	-	-	-	-
Programme 5	1 586 600	-	(17 250)	1 569 350	1 557 809	11 541
Total	6 400 004	-	3 712	6 403 716	6 362 176	41 540



2.8 Transfer payments (R'000)

Transfers were made to various institutions, as listed below. These institutions also receive an income from other sources.

Table 4: Transfer payments

Name of institution	Amount transferred	Estimated expenditure
South African Human Rights Commission	60 603	60 603
Commission on Gender Equality	46 193	46 193
Special Investigating Unit	116 297	116 297
Legal Aid Board	838 120	838 120
Public Protector	86 475	86 475
Represented Political Parties' Fund	88 187	88 187
Education, Training and Development Practices SETA	3 008	3 008
Total	1 238 883	1 238 883

2.9 Capital investment, maintenance and asset management plan

2.9.1 Capital investment

2.9.1.1 Major building projects completed in 2008/09

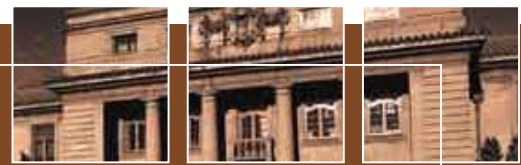
Table 5: Major building projects completed in 2008/09

No	Name	Province	Description	Completion date
1	Daveyton Court	Gauteng	New branch court	3 March 2008
2	Richmond Magistrate's Office	Northern Cape	Additional accommodation	5 August 2008
3	Mitchell's Plain Magistrate's Office	Western Cape	Additional accommodation	15 September 2008
4	Polokwane Circuit High Court	Limpopo	New circuit high court	7 November 2008
5	Augrabies Periodical Court	Northern Cape	Additional accommodation	10 July 2008

2.9.1.2 Major projects continuing from 2008/09

Table 6: Major projects continuing from 2008/09

No	Magistrate's office	Province
1	Colesberg Magistrate's Office	Northern Cape
2	Ekangala Magistrate's Office	Mpumalanga
3	Stanger Magistrate's Office	KwaZulu-Natal
4	Tsakane Magistrate's Office	Gauteng
5	Kagiso Magistrate's Office	Gauteng
6	Bredasdorp Magistrate's Office	Western Cape
7	Galeshewe Magistrate's Office	Northern Cape
8	Supreme Court of Appeal	Free State
9	Pietermaritzburg Master's Office	KwaZulu-Natal
10	Thembaletu Magistrate's Office	Western Cape
11	Ashton Periodical Court	Western Cape
12	Lutzville Periodical Court	Western Cape
13	Swellendam Magistrate's Office	Western Cape
14	Hankey Magistrate's Office	Eastern Cape



2.9.1.3 Major capital projects to go out on tender in 2009/10

Table 7: Major capital projects to go out on tender in 2009/10

No	Name	Province	Description	Initial date of expected tender	Revised tender date	Reasons
1	Katlehong Magistrate's Office	Gauteng	New magistrate's office	31 July 2008	27 April 2009	Delays with planning phase
2	Bityi Periodical Court	Eastern Cape	New magistrate's office	28 February 2008	20 April 2009	Delays due to changes in scope of work affecting the designs
3	Soshanguve Magistrate's Office	Gauteng	Additional accommodation	15 February 2008	17 April 2009	Delays with planning phase
4	Ntuzuma Magistrate's Office	KwaZulu-Natal	New magistrate's office	3 July 2008	29 May 2009	Delays with acquisition of additional bulk
5	Mpumalanga High Court	Mpumalanga	New high court	30 September 2008	29 May 2009	Project to be done a Built, Operate and Terminate (BOT) due to non-availability of site
6	Garies Magistrate's Office	Northern Cape	New magistrate's office	31 October 2008	29 May 2009	Delays with planning phase
7	Limpopo High Court	Limpopo	New high court	14 November 2008	26 June 2009	Delays with finalisation of site acquisition
8	Sundumbii	KwaZulu-Natal	New magistrate's office	20 March 2008		
9	Humansdorp Magistrate's Office	Eastern Cape	New magistrate's office	28 March 2008	26 June 2009	Delays on the design phase due to revised needs affecting the original design
10	Dimbaza Magistrate's Office	Eastern Cape	New magistrate's office	31 July 2008	29 May 2009	Delays in site acquisition
11	Mamelodi Magistrate's Office	Gauteng	New magistrate's office	30 May 2008	3 April 2009	Tender was advertised in December but was non-responsive. To be re-advertised through nominated tender
12	Lothair Periodical Court	Mpumalanga	New magistrate's office	31 May 2008	29 May 2009	
13	Ngome Periodical Court	KwaZulu-Natal	New magistrate's office	30 May 2008	To be determined	Delays with site acquisition
14	Riversdale Magistrate's Office	Mpumalanga	New magistrate's office	30 April 2008	29 April 2009	Awaiting approval of plans by Department of Public Works Committee



2.9.1.4 Sites acquired for major projects in 2008/09

Table 8: Sites acquired for major projects in 2008/09

No	Project name	Province	Description	Site clearance date
1	Grootvlei Periodical Court	Mpumalanga	New periodical court	30 June 2008
2	Richards Bay Magistrate's Office	KwaZulu-Natal	New magistrate's office	31 May 2008
3	Port Shepstone Magistrate's Office	KwaZulu-Natal	New magistrate's office	30 June 2008
4	Booyens Magistrate's Office	Gauteng	New magistrate's office	
5	Orlando Magistrate's Office	Gauteng	New magistrate's office	
6	Keimoes Magistrate's Office	Northern Cape	New magistrate's office	

2.9.1.5 Sites to be acquired for major projects in 2009/10

Table 9: Sites to be acquired for major projects in 2009/10

No	Project name	Province	Description	Initial acquisition date	Revised acquisition date
1	Vulindlela Magistrate's Office	KwaZulu-Natal	New magistrate's office	30 April 2008	30 April 2009
2	Chrissiesmeer Periodical Court	Mpumalanga	New periodical court	30 June 2008	30 June 2009
3	Davel Periodical Court	Mpumalanga	New periodical court	31 March 2008	29 May 2009
4	Dundee Magistrate's Office	KwaZulu-Natal	Additional accommodation	To be determined	
5	Gillead Periodical Court	Limpopo	New periodical court	30 June 2008	30 June 2009
6	Ladysmith Magistrate's Office	KwaZulu-Natal	Additional accommodation	30 June 2008	30 June 2009
7	Limpopo High Court	Limpopo	New high court	30 May 2008	29 May 2009
8	Plettenberg Bay Magistrate's Office	Western Cape	New magistrate's office	30 September 2008	
9	Springbok Magistrate's Office	Northern Cape	New magistrate's office	30 July 2008	30 June 2009
10	Hermanus Magistrate's Office	Western Cape	New magistrate's office	31 December 2008	31 December 2009
11	Justice College/ Judicial Education Institution	Gauteng	New building	To be determined	To be determined
12	Diepsloot Magistrate's Office	Gauteng	New magistrate's office	31 August 2008	31 August 2009
13	Simunye Magistrate's Office	Gauteng	New magistrate's office	31 August 2008	31 August 2009
14	Goodwood Magistrate's Office	Western Cape	New magistrate's office	30 June 2008	30 June 2009
15	Tsineng Periodical Court	North West	New periodical court	31 August 2008	31 August 2009
16	Vosman Magistrate's Office	Mpumalanga	New magistrate's office	31 August 2008	31 August 2009
17	Jan Kempdorp Magistrate's Office	Northern Cape	New magistrate's office	31 August 2008	31 August 2009
18	Lethabile Magistrate's Office	North West	New magistrate's office	To be determined	

The department experienced delays in the acquisition of sites for construction of new courts. This was due to delays on the part of the Department of Public Works (DPW) in issuing clearance certificates. In 2008/09, a total of 40 periodical courts that were operating from police stations and prisons were relocated. This was done in line with the department's objective of a separation of functions between the different departments. These periodical courts were relocated to mobile units. The courts were

not downgraded or closed down as they continued to operate in the same areas.

2.9.1.6 Maintenance backlog

In order to reduce the maintenance backlog, the department will be making a representation to National Treasury for an additional allocation of R150 million per annum for the next 10 years towards clearing



the maintenance backlog. Following the condition assessment report, a maintenance plan is in the process of being developed, which will be discussed and implemented by the DPW. The prioritisation will take into account the condition, as well as functionality, of the physical assets. It is important to note that the effectiveness of the improved maintenance programme will fully depend on the allocation of the funds requested from National Treasury. Should these funds not be made available, the assets will continue to deteriorate, increasing the amount of deferred maintenance and further endangering the lives of those working in them, as well as members of the public. A total of R21 million was allocated to the department for day-to-day maintenance. This was distributed to courts for use in breakdown maintenance. The department continued with the Repair and Maintenance Programme (RAMP) in 2008/09.

Due to the magnitude of the rehabilitation work required, the programme was funded through a capital works allocation. A total of 57 court buildings completed the follow-up maintenance cycle under the RAMP of the DPW. There are major challenges regarding poorly maintained facilities. This has been highlighted in the previous years. The constraints experienced by the department on budget allocations for capital works has led to incrementally deferred maintenance. (This has led to most of the court buildings failing to meet basic health and safety standards.) Until 2008/09, the department has been receiving an allocation for the RAMP. This allocation was towards the refurbishment of the existing court buildings. Through this allocation, a total of 55 court buildings were refurbished and put on a maintenance programme. The findings of the condition assessment conducted as part of the User Asset Management Plan (UAMP) indicates that a total of R2 407 433 920 is required to effectively refurbish and maintain the department's physical assets.

2.9.2 Maintenance Repair and Maintenance Programme report as at 31 March 2009

Table 10: Maintenance Repair and Maintenance Programme report as at 31 March 2009

Phase	Planned	Completed as at 31 March 2009
Status quo	187	58
Planning	8	7
Repair phase	5	5
Maintenance	82	57
Total	282	127

2.9.3 Asset Management

2.9.3.1 Compilation of a User Asset Management Plan

As required by the Government-wide Immovable Asset Management Act, 2007 (Act No 19 of 2007) (GIAMA), the department was required to compile a User Asset Management Plan (UAMP). The UAMP was compiled and forwarded to the DPW in November 2008. As part of the UAMP, a high-level condition assessment was conducted. The objective of assessing the condition of court buildings is to determine the extent of the refurbishment and configuration requirements, as well as the extent of deferred maintenance.

The Chief Directorate: Facilities Management is mainly responsible for the provision of adequate accommodation for the whole department. This involves building courts and office spaces. The management of physical assets is governed by GIAMA. In terms of GIAMA, the DPW is the custodian of all government-owned properties. All other departments only have user rights. As such, all user departments have to compile and manage their own UAMPs, which should detail their infrastructure requirements, strategies and physical asset management. The UAMP also details the physical asset management requirements and maintenance needs. This UAMP must be submitted to the DPW and National Treasury on an annual basis as part of the motivation for funding.

In the year under review, the department planned to undertake the following in its effort to provide effective and efficient infrastructure:

- Construction of new courts
- Additional accommodation to existing courts to improve asset usefulness
- Refurbishment and maintenance of existing buildings
- Provision of facilities for people with disabilities
- Compilation of UAMPs

2.9.3.2. Construction of new courts

Projects for building new courts are multiyear projects that last longer than two years. The department had five projects for building new courts that were carried over from 2007/08. The courts are the Tsakane Magistrate's Office, Ekangala Magistrate's Office, Galeshewe Magistrate's Office, Kagiso Magistrate's Office, and Colesberg Magistrate's Office. Of these, Tsakane, Ekangala and Colesberg were to be completed in 2008/09. These were not completed due to poor performance by the contractors and will only be completed in 2009/10. The department planned to go out on tender for 22 projects, but only managed to



go out on five projects (Pietermaritzburg Master's Office, Johannesburg High Court, Mamelodi, Ashton and Tabong magistrate's courts). The main reason for the delays is the slow processes by the DPW.

In the case of the two planned high courts in Mpumalanga and Limpopo, the department had some challenges securing the sites. A site for Limpopo has been secured, but not in Mpumalanga. DPW is in the process of going out on open tender for a Built, Operate and Terminate (BOT) for Mpumalanga. To complement the capacity problem experienced in DPW, the Independent Development Trust (IDT) was engaged to provide a project implementation function. This was done in the form of a duly signed memorandum of understanding (MoU). As a result of this, a number of projects were undertaken by the IDT, as well as the DPW. The projects that are in a planning phase through the IDT are the Limpopo High Court, Ntuzuma Magistrate's Office, Richards Bay Magistrate's Office and

Booyens Magistrate's Office. Due to accommodation shortages in the courts, a total of five projects for additional accommodation were continued from the previous year.

These projects are Stanger Magistrate's Office, Mitchell's Plain Magistrate's Office, Richmond Magistrate's Office, Bredasdorp Magistrate's Office and the Supreme Court of Appeal. Of these projects, Mitchell's Plain and Richmond have been completed. The remainder are the Supreme Court of Appeal, Stanger and Bredasdorp, which were delayed and scheduled for completion in 2009/10.

2.9.3.3 Refurbishment and maintenance of assets

The department continued with its programme on the refurbishment and maintenance of its physical assets. A total of 187 courts were planned for design and tender, but were not completed due to unavailability of funds.

Table 11: Refurbishment and maintenance of assets

Phase	Planned	Completed	Reasons for delays
Status quo	205	0	Funds unavailable
Planning (design and tender)	12	3	Funds unavailable and delays in DPW
Repair phase	5	5	
Maintenance follow-up	78	33	Maintenance backlog at the DPW and limited funds for planned maintenance

2.9.3.4 Provision of facilities for people with disabilities

In line with its effort to increase access to justice, the department continued with its accessibility programme to ensure that all court buildings are accessible for people with disabilities. In the year under review, a total of 535 court buildings were provided with ramps and ablution facilities for people with physical disabilities. In the year under review, an amount of R120 million was allocated to further implement the accessibility programme. A total of 366 sites were provided with basic infrastructure such as toilets and ramps for disabled people. These projects were done through the IDT.

In 2008/09, a total of 40 mobile units were procured. These were used as temporary accommodation in areas where there is no permanent physical infrastructure. Most of the mobile units procured during the year under review were used to accommodate the relocation of periodical courts that were operating in police stations. The project to develop the justice precinct, which will house the executive head office, was delayed due to non-availability of the site. The needs analysis and high-level site option analysis were completed. A suitable site was identified and the MoU on site acquisition is in the process of being signed with the Tshwane Metropolitan

Municipality, who is the owner. Progress was also made with the acquisition of land for the establishment of the judicial education institution. The land on Constitutional Hill was identified for this development and a draft sales agreement was finalised and awaits sign-off by the political principals.

2.10 Performance reports

2.10.1 Programme 1: Administration

Purpose

Manage the department, and develop strategies and policies for the efficient administration of justice. This programme contains reports from the Office of the Director-General (ODG), Corporate Services and the Justice College.

A REPORT ON THE OFFICE OF THE DIRECTOR-GENERAL

(i) Criminal Justice System Review

The Criminal Justice System Review (CJSR) (as part of the Programme of Action of Government and one of the Apex Priorities) has been identified by the JCPS Cluster



and Cabinet as one of the single most important national priorities. It is based on the Seven-point Plan that was approved by Cabinet on 7 November 2007 and consists of a package of interventions that must all be adopted and implemented in an integrated and holistic manner to achieve a new dynamic and coordinated criminal justice system.

The interventions have been grouped into 'strategic interventions in preparation of implementation of a long-term modernisation plan' and 'early operational interventions aimed at improving identified shortcomings and areas of dysfunction'. This will, over the medium to long term, lead to a full-scale CJS transformation and institutionalisation of protocols, processes and systems.

Following Cabinet's approval, the CJSR has been operationalised through approved terms of reference that comprise immediate, short- and medium-term interventions that have been running concurrently. The initiatives have been carefully selected to form the foundation of the future CJS and is the precursor to systematically rolling out aligned and improved CJS structures, systems and technologies countrywide.

(a) Criminal Justice System Review background

The (previous) Deputy Minister of Justice and Constitutional Development was appointed as the coordinator of this review process and the activities arising from the review are coordinated through the Office of the Criminal Justice System Reform in the Office of the Deputy Minister, through an interim secretariat consisting of officials from JCPS cluster departments and business representatives.

There are two parallel CJS review processes: The first of these processes was initiated by Cabinet on 22 June 2005. The DoJ&CD leads this process, which entails research that will inform longer-term interventions.

The second of the two processes, the Office of Criminal Justice Systems Reform (OCJSR), focuses on a complete overhaul of the CJS by modernising and transforming it into an integrated, efficient and seamless system that will serve as an effective deterrent to crime. It entails strategic and operational interventions that involve short-, medium- and long-term pragmatic initiatives, including policy, structure, people, processes and business systems, as well as reliable and scientifically robust information and performance management and measurement systems. In a major deviation from similar previous initiatives, this programme also deals with capacity requirements in areas such as human resources, professional tools, laboratory equipment and machinery

through coordinated strategies, plans and budgets, including a CJS Business and Three-year Action Plan that will lead aligned and optimally performing inputs and capacities in all the component parts and throughout the entire CJS towards balanced and planned outcomes.

(b) Major achievements against the Seven-point Plan

Strategic alignment (change 1 of the Seven-point Plan)

Adopting a single vision and mission for the CJS leading to a single set of objectives, priorities and performance measurement targets for the CJS. To promote this initiative, high-level interactions were conducted with all JCPS department heads, senior management members and relevant stakeholders, including the judiciary, the Legal Aid Board (LAB) and NGOs, introducing the CJSR aims and objectives and obtaining buy-in and executive commitment, including the secondment of representatives in the OCJSR Secretariat.

Protocols

An overarching CJS protocol is being developed. A number of supporting protocols have been developed, with the involvement of functionaries representing all stakeholders.

The aim is the seamless alignment of the CJS. The CJS Protocol requires buy-in at the highest levels and good progress has been made in this regard:

- A Court Protocol is being finalised with stakeholders. The protocol focuses on the procedure to be followed in the case of criminal matters to be heard in regional courts. It deals with screening mechanisms regarding trial-ready matters through 10 top detectives and 10 top prosecutors placed at the 10 Regional Court President's seats, LAB courts and continuous rolls, and allows for subpoenas only when cases are certified trial-ready. Legislation introduced during 2008 pertaining to admission of guilt for minor offences will be aligned to these procedures.
- A pilot project on the role of LAB courts with continuous rolls is being considered.
- A Bail Protocol on the procedure to be followed in applying section 63A of the Criminal Procedure Act, 1977 (Act No 51 of 1977) (CPA), was approved and adopted by Cabinet on 3 December 2008. Section 63A of the CPA provides for a procedure in terms of which the court may, on application by a head of prison and if not opposed by the director of Public Prosecutions concerned, order the release of certain accused being held on lesser charges and who have been granted bail, on warning in lieu of bail, or order the amendment of the bail



conditions imposed by that court on the accused. The Bail Protocol has been signed by the relevant ministers and agency heads and will be coming into operation on 1 April 2009. Once in force, the implementation and monitoring of the application of the Bail Protocol will be the responsibility of the Operational War Room of the OCJSR.

- A Forensic Services Protocol setting out the procedures pertaining to the collection, transport and hand-over, analysis and reporting of blood and toxicology samples, as well as turnaround times, is receiving attention in conjunction with the Department of Health (DoH) and the SAPS.
- A Crime Scene Management and Crime Scene Investigation Manual and Crime Scene Protocol are being drafted. First drafts of these have been completed and stakeholders are being consulted on their content.
- A protocol following a study on deficiencies in the investigation and prosecution of rape cases is being drafted in conjunction with relevant role-players.
- A Legal Profession Protocol relating to the delays caused by double booking, misconduct and unethical conduct by private practitioners is receiving attention in conjunction with the organised legal profession.

The OCJSR is promoting joint operational and action planning that will eventually be incorporated into a three-year action plan and business plan. It has promoted cross-cutting and enabling legislation to address gaps and promote improved efficiency of the CJS. It has also identified as a priority the need to urgently strengthen pivotal aspects of the forensic crime-fighting capacity of the Ministry of Police and the Department of Health, especially at the crime scene, namely a coherent, all-encompassing and holistic legislative framework for the collection, storage and use of fingerprinting and DNA evidence. The Criminal Law (Forensic Procedures) Amendment Bill, 2009 (Bill 2 of 2009) was therefore drafted and approved by Cabinet on 3 December 2008 and introduced into Parliament on 13 January 2009. The bill deals, among others, with DNA, fingerprinting and biometric issues (including the sharing of 'person information' across government departmental boundaries). On 24 March 2008, the National Assembly adopted a report of the Ad Hoc Committee on the Criminal Law (Forensic Procedures) Amendment Bill, recommending that the legislation must stand over for consideration by the next Parliament. The report recommends that the bill should be processed on an urgent basis by the next Parliament. The bill is accompanied by an implementation plan. National Treasury, as well as the chief financial officers (CFOs) of the

relevant departments, support the implementation and has unequivocally confirmed that the implementation of the bill is a high-order national priority. In this regard, reprioritisation needs are in the process of being communicated to the CFO offices of all participating departments with the objective of establishing the extent of reprioritisation that can be effected in the departments. The next step will be to fund the additional requirements by requesting additional funding through the normal budget process. An initial allocation has already been made to the OCJSR and this money will be used to fund the first implementation activities.

A bill amending the Criminal Procedure Act, 1977 (Act No 51 of 1977), is being drafted to streamline the criminal justice process by addressing the following three issues:

- Trial in absentia – to provide for trials to take place in the absence of an accused in certain circumstances in order to address the current unacceptable situation whereby more than 14 000 warrants of arrest have to be issued per month.
- Right to remain silent – to provide that in certain circumstances adverse inferences can be drawn from an accused's silence.
- Docket information privilege – to limit prosecution disclosure of docket information in certain circumstances and to provide for defence disclosure in certain circumstances.
- Video evidence legislation will allow the state to use video evidence in the prosecution of criminal cases (research will be undertaken and the possibility of draft legislation will be investigated).

A Permanent Budget Review Team will be established under the chairmanship of National Treasury. The team will include the OCJSR and all related departmental CFOs to align and reprioritise budgets pertaining to the CJS and the activities of the Integrated Justice System (IJS) Board. In order to align the functioning and jurisdictional areas of the various CJS departments and agencies, research has been conducted and a draft National Footprint has been compiled, comprising maps and narrative descriptions of the CJS service points and jurisdictional areas, including organisational establishment information.

(c) CJS coordinating and management mechanisms (change 2 of the Seven-point Plan)

Establishing, through legislation or by protocol, a new and realigned single CJS coordinating and management structure that flows in a seamless manner from the Cabinet to each court, and appoint a person from the executive as head of the CJS structure with coordination and management functions and not executive powers.



The Deputy Minister, as coordinator of the interim OCJSR, is leading the transformation programme of the CJS, which is driven through protocols and interaction with the national, provincial and local governing structures.

An interim OCJSR and Secretariat has been established and the following interventions have been initiated:

- A programme and project management competency has been established.
- A CJS Statistics and Performance Centre has been established.

An Operational Centre (War Room) has been established. The centre is fully functional with coordinated activities such as the following:

- Maintenance of the CJS footprint
- Auditing of awaiting trial detainees (ATDs) and instituting interventions to reduce the overcrowding of detention centres
- Monitoring and support of the Gauteng Aggravated Robberies Project
- Implementation and monitoring of the Bail Protocol
- Coordinating and expediting xenophobia-related cases
- Development and implementation of a protocol aimed at coordinating and expediting serious criminal matters arising from the 2009 elections

(d) Improving court performance (change 3 of the Seven-point Plan)

Developing practical and short- and medium-term proposals to improve the performance of courts, initially focusing on regional courts, by focusing court work on trials and ancillary proceedings, like bail, and removing some of the administrative-like functions relating to postponements, etc.

A Court Protocol based on a revolutionary new approach to dealing with criminal matters in courts is presently being reviewed by all stakeholders, including the judiciary, prosecution, a SAPS investigation team, the LAB and the private sector legal profession. This protocol will, once reviewed and agreed to by the stakeholders, be submitted to Cabinet for consideration and approval and will be binding on all stakeholders and CJS participants. The protocol focuses on the procedure to be followed in criminal matters to be heard in regional courts. It deals with screening mechanisms in respect of trial-readiness of cases and introduces pre-trial quality reviews and certification by top investigation and prosecution specialists, as well as LAB courts, continuous court rolls and subpoenas of witnesses and victims only when cases are certified trial-ready.

To support the Court Protocol and to decrease the number of cases on the court rolls, legislation pertaining to admission of guilt for minor offences was introduced during 2008.

(e) Case backlog reduction project – regional courts

This project entails the provision of additional capacity through the acting appointment of magistrates, prosecutors, legal representatives and support staff to the regional court sites with the most backlog cases (longer than nine months on the court rolls). The project started as a court efficiency measure instituted by the JCPS Cluster as a priority in the Programme of Action of Government. This project has now been subsumed into the CJSR and the additional capacity is also being utilised to deal with the expediting of high-priority cases such as xenophobia and election matters. The good news is that there has been a very specific, steady and continuous decrease in the number of backlog cases at all of the backlog priority sites. If it was not for this project, another 12 000 long outstanding cases would still have been on the regional court rolls.

(f) Component part reviews (change 4 of the Seven-point Plan)

Identifying key areas in the component parts of the CJS that contribute negatively to the overall systems performance and putting measures in place to correct shortcomings and remove constraints, inhibitors and dependencies, especially relating to policies dealing with capacity, and bringing all component parts to a point where they function together harmoniously.

Component part reviews have received most of the CJS Review's attention to date, with much emphasis being placed on understanding capacity requirements across the value chain of the CJS, but more specifically in the CJS front-end where several of the present inefficiencies and ineffectiveness are spawned.

In order to align and balance the CJS resources, extensive and focused consultations were conducted at all levels and in all disciplines of the CJS. Processes, volumes, capacities, data and systems were analysed to gain a holistic picture of the way in which the CJS operates. This is being utilised to design a properly resourced and new streamlined CJS in terms of capacity, skills and tools.

It will include more efficient staff retention and performance management strategies and policies. Operational efficiencies will be further enhanced by the provision of step-by-step field guides and manuals,



covering the CJS comprehensively from complaint to finalisation stages.

(g) Information technology and CJS modernisation (changes 5 and 6 of the Seven-point Plan)

Establishing an integrated and seamless National CJS Information System (IT infrastructure and national database) with information and systems that are seamless and scientifically and technically robust and reliable, and that will facilitate more informed strategies, plans and decision-making.

Implementing a programme of modernisation of the CJS by applying technology solutions to more effectively manage day-to-day operations, reduce costs and eliminate waste, and automate paper-intensive systems.

To improve the current situation, where measurements and management across the CJS are based on a limited, after-the-fact statistical accounting and manual approach, a new system has been designed and is being implemented. This will entail the following:

- Availability of an extended and enhanced data template that consists of national CJS information owned, provided and authenticated by the relevant departments and agencies, including event recording and case flow milestone data (based on adapted and refined information systems in relevant departments/agencies)
- Electronically generated unique identifiers that will be used to link the relevant information entities such as dockets, persons, cases and exhibits to each other to ensure the establishment and maintenance of CJS business process relationships, traceability and measurability
- Fundamental changes in systems design philosophy in CJS departments, resulting in accurate and current information becoming part of daily operations
- Access to time-based performance improvement interventions that will be comparable to the best international CJS standards, such as the UK CJS
- Cluster-wide and department-specific performance measurement and management tools and instruments comprising key performance indicators (KPIs) to enable the monitoring of headline, operational and service performance indicators

The initiatives of the IJS Board that are aimed at modernising the CJS are being reviewed, realigned and reprioritised in line with the strategic requirements of the CJS. The associated budgets are being analysed and will be restated in conjunction with National Treasury and all relevant stakeholders.

A technical study is underway to determine how best to enable access to and connectivity between the major government-owned and managed fingerprint databases, which include the SAPS, HANIS (Home Affairs) and NATIS (Department of Transport (for driver's licences)).

(h) Involvement of the broader society in the CJS (change 7 of the Seven-point Plan)

Involving the population at large in the fight against crime by introducing changes to the Community Policing Forum (CPF) regime (which is being dealt with by the SAPS), including expanding the role to deal with all matters in the CJS, for example, policing, parole boards, etc, by providing financial and administrative infrastructure to give it 'teeth'.

Public awareness regarding the Seven-point Plan has been promoted through provincial visits by Joint Portfolio and Select Parliamentary Committees and representatives of the OCJSR Secretariat, and valuable input has been obtained from communities.

Further research is being conducted into the involvement of the broader CJS and covers matters such as community safety forums, parole boards and the re-integration of offenders. It is envisaged that the scoping of this component of the Seven-point Plan will be completed and a comprehensive position paper will be developed and submitted to Cabinet for consideration in the near future.

(i) Conclusion

The CJS programme has gained much traction and is one of government's most visible interventions thus far. It is important that momentum be maintained and stepped up after the elections of 2009.

(ii) Strategy Monitoring and Evaluation

One of the most intricate tasks of any department is to develop and implement a comprehensive strategy that will deliver quality justice services, help the department achieve focus, resolve internal and external confusion, and channel energy and effort towards better service development and delivery.

In line with the requirements as stated in paragraph 5.1 and 5.2 of the Public Finance Management Act, 1999 (Act No 1 of 1999), the department reviewed its Medium-term Strategic Framework (MTSF) for the period 2008 to 2011. The department also strengthened the alignment of the MTSF with the Medium-term Expenditure Framework



(MTEF) to ensure that financial resources are closely aligned to the strategic plan of the department. The department also aligned its MTSF to the priorities of the NPA and the LAB, including the Government Programme of Action.

The department also made significant improvements on its monitoring and evaluations systems. A new, improved performance measuring instrument was developed and employed to gather, analyse and interpret programme performance information across the branches and regional offices. The measuring instrument, commonly referred to as the Performance Indicator Metric (PIM), introduced service delivery impact monitoring methods, and results-oriented monitoring of performance across the department. A total of 180 PIMs were developed and updated on a quarterly basis.

The department, through its Strategy Unit, sought to innovate new forms of reporting that explicitly identify strategically focused initiatives by generating several standards and tools to measure, manage and report on the 'big picture'. This resulted in a greater emphasis on new materiality reporting, and introduced a report production approach that focuses on comprehensive data and information that stakeholders require. It is essential to point out that this approach is still in the developmental phase. The aim of the department is to improve the practices of report production to a level that ensures that reporting does not become just an end in itself, but facilitates change, and becomes the main domain of public disclosure to improve the department's transparency and responsiveness towards justice issues and management. The Strategy Unit is committed to seeing strategy reports become a tool for both improving management, while providing the department with clues about what it needs to do next. The unit is alert to the fact that reporting at this level carries real danger of turning it into an exercise of compliance, which contributes little to learning or innovation, but which often results in performance reports becoming 'thick data bumps'.

There is real progress in the department's reporting, which points towards the process of building a public reporting approach that will become the single most important driver of change. This approach combines financial and non-financial data, risk analyses, audit reports and other such organisational performance areas into one mainstream reporting activity that displays internal aspects of good governance to improve effectiveness, efficiency, transparency and accountability and to inform decision-making. In the year under review, three quarterly reports were produced, with more than 150

copies of the MTSF Report distributed to the executives, the heads of regions, the NPA, LAB and the JCPS Cluster departments, including the justice-related Chapter 9 institutions. In addition, more than 1 200 electronic copies of the report were distributed to the senior management staff in the department.

During the period under review, the Strategy Unit also achieved considerable success in its executive decision support programmes. The department saw a steady improvement of its well-coordinated and managed Executive Committee meetings, the Joint Executive Committee meetings, the Ministerial-Management meetings and the Senior Management Forum, including the Internal Policy Workshop and the Strategy and Budget Conference. As part of improving the decision-making process and systems in the department, the Strategy Unit produced the Planning and Reporting Cycle, Decision Tracking and Reporting Template, Performance Assessment Template for the Executive Committee, and improved databases and information management for executive committees. The department also saw an improved close collaboration with its justice entities (NPA and LAB) as it adopted a multidisciplinary approach to participative decision-making. The Secretariat of the executive received numerous commendations from the Minister, the Director-General, the members of the Executive Committee and senior management for its excellent and professional work regarding the coordination, management and production of minutes of the meetings.

Figure 1: Executive meetings held in the department during 2008/09:

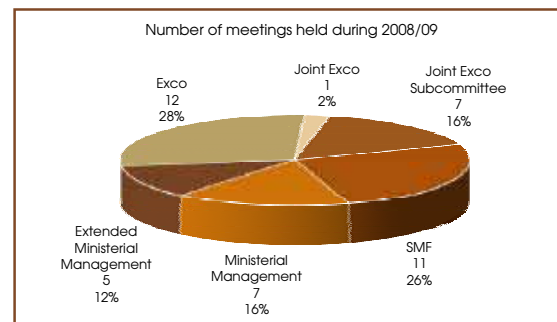


Table 12: The 10 most featured agenda items

Legislative matters	Policy matters	Strategic matters
Regional Courts Jurisdiction Bill	Litigation blueprint	MTSF Review
Legal Practice Bill	Indigenous languages in courts	MTSF quarterly reports
Sexual Offences Bill	Review of the Criminal Justice System	Budget and expenditure
Superior Courts Bill	Terms of reference for the review of the civil justice system	Human Resources Plan
State Liability Bill	TRC Recommendations Report	Filling of vacancies
Judicial Education Bill	Realignment of magisterial districts	Labour Relations
Trafficking in Persons Bill	Proclamation of 24 branch courts	Asset Management
Criminal Procedure Amendment Bill	Restorative Justice Framework	OSD for legal professionals
SAPS Amendment Bill and NPA Amendment Bill	PAJA Rules	Political pardons
Customary Law of Succession Bill	Policy Framework for the Prevention and Combating of Racism, Xenophobia, Hate Speech and Related Intolerance	Communication

(iii) Post-TRC dealing with TRC Recommendations

The Truth and Reconciliation Commission (TRC) Unit was established to audit, monitor and coordinate the implementation of the TRC Recommendations. The TRC Unit works closely with the President's Fund Office. The TRC Unit focuses on the following TRC Recommendations:

(a) Final reparations

This entails the once-off individual grant of R30 000 each to persons declared victims by the TRC. The services of a professional tracing agency were enlisted to expedite the tracing of beneficiaries for the once-off individual grant of R30 000. A total of R525 million was paid to 15 839 beneficiaries from the 2003/04 financial year until 2008/09. In this financial year, 229 beneficiaries were paid an amount of R6 870 000 for the once-off individual grant of R30 000.

(b) Symbols and monuments

This includes academic and formal records of history, culture and art forms, as well as erecting symbols and monuments to exalt the freedom struggle, including new geographic and place names.

(c) Medical benefits and other forms of social assistance

This category includes the provision of education, health and housing assistance, as well as other forms of social assistance to address the needs of TRC-identified victims. The department furthermore facilitated the

drafting of regulations on medical and educational assistance. These draft regulations were forwarded to the relevant departments for their comments. In the interim, the Department of Education has set aside R5 million of its own budget to assist TRC-identified victims. Consultations were also held with the relevant government departments to facilitate the drafting of regulations to enable access to the President's Fund in respect of other forms of social assistance, for example, housing, to individual TRC-identified victims, as well as reparation programmes aimed at community rehabilitation. This process is still ongoing.

(d) Community rehabilitation

Community rehabilitation means rehabilitating communities that were subjected to intense acts of violence and destruction between 1960 and 1994, and who are still in distress. A discussion paper in respect of a community rehabilitation model was developed and amended following inputs received from the relevant government departments. The paper was routed to the Minister in March 2009 with an accompanying Cabinet memorandum, to submit to Cabinet for approval in principle.

(e) Exhumations, handover and reburial of the disappeared

The Missing Persons Task Team (MPTT), located in the NPA, has to date conducted 54 exhumations in respect of persons reported as missing to the TRC. Of these, the TRC Unit handed 32 remains to the families for reburial. Other exhumed remains not yet handed over are still



subject to further forensic testing to determine their positive identification.

The department developed an Exhumation Policy in consultation with the relevant stakeholders to coordinate the abovementioned exhumation process. At the end of 2008/09, further consultations were envisaged before finalising the policy. The department also facilitated the drafting of regulations to enable access to the President’s Fund to assist the affected families with travelling and reburial costs. By the end of March 2009, these regulations had been published for public comment following Cabinet’s approval.

The department rendered assistance to the families of exhumed persons with, among others, applications for reparations and special pensions (where relevant), obtaining death certificates, arranging bereavement counselling for the affected families in conjunction with the departments of Social Development and Health, and assisting victims’ children born outside South Africa to reclaim their rightful citizenship.

(iv) International Legal Relations

In order to render speedy, quality and sustainable international legal services to the government of the Republic of South Africa, foreign governments, regional/ international organisations and the international community in general, the following functions were focused on:

- Interaction with international bodies, such as the United Nations (UN), the African Union (AU), Southern African Development Community (SADC) and the International Criminal Court

- Liaising with the Department of Foreign Affairs (and other government departments), as well as South African foreign missions, on international legal matters
- Handling of criminal and civil matters at bilateral and multilateral (international) levels, including the negotiation and conclusion of extradition and mutual legal assistance in criminal and civil matters treaties (also declarations and resolutions on criminal matters)
- Handling of human rights matters at bilateral and multilateral (international) levels, including the negotiation of human rights treaties, declarations and resolutions, as well as the writing of country reports on these instruments
- Handling of requests for extradition, mutual legal assistance in criminal and civil matters, service of process and rogatory commissions
- Coordination of technical assistance to foreign states and international and regional organisations
- Preparation of Cabinet memoranda, explanatory memoranda of Parliament and President’s Minutes for signing and ratification of treaties, as well as the processing of other related legal matters

The negotiation of extradition and mutual legal assistance treaties should be seen as a clear indication to criminals that South Africa will not be a safe haven for criminals and that all actions will be taken to fight transnational crime.

Table 13: Countries with which South Africa has extradition agreements

No	Country	Extradition agreements
1	Botswana	
2	Lesotho	Approval to ratify by Parliament on 7 November 2001 Entered into force on 23 December 2003 Notice published in Government Gazette No 26375 of 28 May 2004
3	Malawi	
4	Swaziland	
5	United States of America	Instruments of ratification exchanged on 25 June 2001 Approval to ratify on 9 November 2000 Notice in Government Gazette No 7100 of 29 June 2001
6	Canada	Approval to ratify by Parliament on 3 April 2001 Notice in Government Gazette No 7063 of 18 May 2001
7	Australia	Approval to ratify by Parliament on 9 November 2000 Notice in Government Gazette No 7132 of 1 August 2001
8	Israel	



No	Country	Extradition agreements
9	Egypt	Approval to ratify on 11 November 2002 Instruments of ratification exchanged on 16 September 2003 Entered into force on 16 September 2003 Notice in Government Gazette No 26497 of 2 July 2004
10	Algeria	Approval to ratify on 11 November 2002 Not yet in force
11	Nigeria	Approval to ratify on 11 November 2002 Not yet in force
12	China	Approval to ratify on 11 November 2002 Instruments of ratification exchanged on 18 October 2004 Entered into force on 17 November 2004
13	India	Approval to ratify on 9 November 2004 Instruments of ratification exchanged on 6 December 2005 Entered into force on 16 December 2005

Treaties have been negotiated with the following countries, but not yet signed:

- Zambia (Extradition and Mutual Legal Assistance Treaty)
- Hungary (Extradition) (Covered under Convention on Extradition (COE))
- Namibia (Extradition and Mutual Legal Assistance Treaty)
- Brazil (Mutual Legal Assistance Treaty)
- Republic of Korea (Extradition and Mutual Legal Assistance Treaty)

Extradition and Mutual Legal Assistance Treaties have been signed with the following countries, but not yet ratified:

- Iran: Signed on 31 August 2004, submitted to Parliament for ratification
- Argentina (Extradition and Mutual Legal Assistance Treaty): Signed on 28 February 2007
- Hong Kong (Extradition and Mutual Legal Assistance Treaty): Signed on 20 February 2009, to be submitted to Parliament for ratification

The Treaty with the Republic of China (Taiwan), signed on 30 December 1987, is deemed to be terminated in terms of the memorandum of understanding between the government of the Republic of South Africa (RSA) and the government of the People's Republic of China (PRC) on the establishment of diplomatic relations between the RSA and the PRC.

Table 14: Countries with which South Africa has Mutual Legal Assistance in Criminal Matters Treaties

No	Country	Ratified by Parliament	Entered into force	Progress
1	Canada	3 April 2001	5 May 2001	
2	USA	9 November 2000	25 June 2001	
3	Lesotho	7 November 2001	23 December 2003	
4	Egypt	11 November 2002	16 September 2003	
5	Algeria	11 November 2002	Not yet in force	
6	Nigeria	11 November 2002	Not yet in force	
7	France	11 November 2002	1 March 2004	Notice in Government Gazette No 27371 of 18 March 2005
8	China	21 October 2003		
9		Instruments of ratification exchanged on 18 October 2004	17 November 2004	
10	India	3 November 2004	6 December 2005	
		Instruments of ratification exchanged on 6 December 2005		



The department is currently busy setting up negotiations for the conclusion of Extradition and Mutual Legal Assistance Treaties with various countries, including the following:

- United Arab Emirates
- Peru
- Uruguay
- Tunisia
- Cuba
- Pakistan
- New Zealand
- Taiwan (Mutual Legal Assistance – MoU)
- Chile
- Kuwait

South Africa has also designated Ireland, Zimbabwe, Namibia and the United Kingdom in terms of section 3(2) of the Extradition Act, 1962 (Act No 67 of 1962). South Africa's accession to the Council of Europe's Convention on Extradition entered into force on 13 May 2003. A request was also directed to the Council of Europe that South Africa accede to the Convention on Mutual Legal Assistance (MLA). The Council of Ministers approved that South Africa accede to the MLA Convention. The necessary documentation is currently being prepared for Cabinet's approval. In terms of the Extradition Act, 1962 (Act No 67 of 1962) any arrangement made with any foreign state, which, by virtue of the provisions of the Extradition Acts, 1870 to 1906 of the Parliament of the United Kingdom, as applied in the Republic, was in force in respect of the Republic immediately prior to the date of commencement of the act, shall be deemed to be an agreement entered into and published on the said date by the President under the act.

(a) SADC Protocols on Extradition and Mutual Legal Assistance in criminal matters

These protocols were signed by the Summit on 3 October 2002 and ratified by Parliament on 14 April 2003. The Protocol on Extradition entered into force on 18 August 2006. The MLA Protocol still needs one ratification before it can enter into force.

(b) African Union Convention on Extradition

The African Union Convention on Extradition was finalised during a meeting of legal experts held in Ethiopia from 4 to 8 April 2001. The Department of Foreign Affairs was requested to determine the cause of the delay in this matter.

(c) Memoranda of Understanding

Memoranda of understanding on cooperation in the administration of justice with Benin, Russia and China are

currently considered and it is foreseen that they could soon be signed.

The department is also initiating the conclusion of memoranda of understanding on cooperation to combat trafficking in persons and assisting victims of trafficking with the following states:

- Thailand
- Nigeria
- Angola
- Mozambique
- Malaysia
- Indonesia
- Pakistan
- Brazil

(d) Human rights treaty obligations

The government of the Republic of South Africa has an obligation to prepare and present its reports arising from basic human rights treaties under the United Nations Human Rights System and African Union and Peoples' Rights System listed below:

- International Covenant on Civil and Political Rights (ICCPR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention Against Torture (CAT)
- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention on the Rights of Children
- African Charter on Human and Peoples' Rights

The department, as the lead department on human rights, is to ensure compliance with South Africa's human rights treaty obligations.

The DoJ&CD and the University of Pretoria (UP) have concluded an MoU with the objective of preparing outstanding country reports, and UP is to do this task. This will also entail the transfer of skills to officials in the department. UP has assisted in re-editing the ICCPR report and the department is seeking updated information from the other departments. In the course of 2009, UP will deliver reports on the African Charter, ICERD and CAT.

(e) Technical assistance

The department is currently rendering technical assistance to the DRC and building capacity in the Southern Sudan Ministries of Justice respectively. The department has forwarded a draft MoU concerning cooperation in the legal field to the DRC Ministry of Justice for consideration.



The department has been approached via the Donor Policy Coordination Unit in the department by National Treasury to submit concept papers with a view to forging trilateral cooperation with USAID regarding funding of projects that the department has with African states in the SADC region.

The department is finalising an agreement with the United Nations Institute for Training and Research (UNITAR). In terms of this agreement, the department will be hosting a training/fellowship programme with UNITAR in Pretoria during 2009. Proposed topics for the programme include the following:

- Introduction to public international law
- International humanitarian law
- International criminal law and mutual legal assistance
- Refugee law

The following concept papers were submitted to National Treasury:

- Rendering technical assistance to the DRC Ministry of Justice, in particular the training of DRC magistrates
- Capacity and institutional building project for Southern Sudan
- Gender justice in the SADC region

(v) Office of the Deputy Information Officer

The aims and objectives of the chief directorate are to maintain an effective and efficient service in respect of the Promotion of Access to Information (PAIA) Unit, the Office for Interception and Monitoring, Office Services (registry, messenger services and telephone and reception services), Archives and Library Services.

(a) Promotion of Access to Information (PAIA) Unit

Section 32 of the Constitution of South Africa determines that everyone has the right of access to any information held by the state and any information held by another person. The department is the overseer of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000) (PAIA) and as such the Chief Directorate: Access to Information and Records Management: PAIA is instrumental in overseeing that the act is effectively implemented across the board in the three spheres of government and that the act is effectively communicated to the public.

In the year under review, 70 requests for access to information were received in terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000), and dealt with. Of these, 61 were granted and nine were refused.

Thirty-five were processed within 30 days and 35 were processed within 60 days after extension was requested.

Four applications for exemptions from the provision of section 14(1), (2) and (3) of the PAIA were received from the Minister for Intelligence Services and were submitted to the Minister for Justice and Constitutional Development during the period under review. These were scrutinised and supporting memoranda were prepared for the Minister. The chief director facilitated the implementation of PAIA in the three spheres of government. Guidance is given on a continuous basis where necessary regarding the implementation of PAIA. In this regard, the PAIA manual was updated, and public and private bodies' automatically available information was published in the Government Gazette in terms of section 15 of PAIA. In this regard, the following tasks were performed: notices and memoranda were prepared and submitted to the Minister requesting approval to publish section 15 notices in the Government Gazette.

The Public Service Commission's Monitoring and Evaluation report of the Department of Justice and Constitutional Development, especially pertaining to compliance with PAIA, pointed out that the department had complied with all the set evaluation requirements and a 100% score was given in that regard. Fifteen training sessions were conducted with officials from national and provincial departments, as well as the municipalities. Six road shows were conducted (at Atteridgeville, Polokwane Show, Pretoria, Pretoria North, Durban and Kimberley) to raise awareness of PAIA. PAIA booklets and brochures were distributed during the shows and training.

(b) Office Services (registry, messengers, telephone management, reception)

Office Services is a support unit with the exclusive mandate to provide an effective and efficient service in the department with regard to a postal service, registry, messenger service, reception and telephone service.

Records management has been a serious challenge in the department. Some of the problems identified include the inappropriate level and authority of the department's records manager and insufficient storage space for the documents. A draft proposal for the revamping of a records management system for the department has already been submitted to the Director-General for consideration.

Regarding the records manager, a submission was sent to the Director-General requesting the creation of the position of a record manager at the level of director. It



is envisaged that an official appointed at this level will have the necessary skills, qualifications and experience, as well as authority, to be able to turn around the current state of records management. Regarding the storage of records, assistance was provided to offices where a lack of storage space was most acute. An ad hoc solution was to provide mobile shelves to the identified offices. In offices where mobile shelves were installed instead of the more traditional static shelves, storage space was increased by at least 40 to 60%. It is envisaged that the project will be rolled out to other courts/offices where an urgent need for additional storage space has been identified.

The following offices had mobile shelves installed during the period under review:

- Johannesburg Family Court
- Pretoria High Court
- Pretoria National Office
- Tsakane Branch Court
- Brakpan Magistrate's Court

Another quick-fix solution that has been piloted in conjunction with Facilities Management is the off-site court records storage project in terms of which records, especially dormant files, are stored in an off-site warehouse and can be retrieved when required.

(c) Archives and Library Services

Access to Information and Records Management: Library and Archives provides the departmental users of the library with a continuous virtual library service, in addition to an up-to-date legal library service, while the archives ensure an effective and efficient handling of archival material for the whole department. This includes magistrate's offices, master's offices and registrars. A major task and one that is enormous in magnitude is the resurrection of archival material (case records and files) generated at the various magistrate's offices, master's offices and registrars. Records marked for archives in the normal course of action would be transferred to the National Archives. Owing to the lack of space, National Archives could not accept records earmarked for archives and the Archives Unit embarked on the task to create archival space for those records.

In the year under review, requests for library material were attended to within 30 minutes from the time the request was received. To ensure constant availability of service, all subscriptions to service providers of loose-leaf periodicals, legal magazines, legal publications and the virtual library were paid in time. This resulted in the online library service being available to all library users all the time, except when the department's server was down, affecting only

the virtual library. To ensure that the libraries at sub-offices (magistrates) and the national office have the most recent publications, the purchase and delivery of books for all the sub-offices, as well as for the newly appointed State Counsel in the Civil Litigation Unit, are done on a continuous basis.

The creation of increased archive space, which was implemented in the offices mentioned above, is an ongoing project that would be concluded once sufficient archive space is created at the national office and sub-offices. The creation of space is achieved by the installation of mobile shelving in lieu of the conventional static shelving.

(d) Interception and monitoring

The appointment of the designated judge on a full-time basis at the Interception Office required that the office had to be well equipped. All logistical and administrative support was provided for the judge, for example, the judge's motor vehicle, office equipment and support staff. In this regard, officials were seconded to the office to provide administrative support. Since inception of the office, there has been no filing plan, resulting in files being opened haphazardly. Thus, during the period under review, a filing plan was developed and implemented for the Interception Office in compliance with the National Archives and Records Services of South Africa Act, 1996 (Act No 43 of 1996).

(e) Challenges

In dealing with access to information requests, the PAIA Unit is bound by the time frames expressly prescribed in the Promotion of Access to Information Act, 2000 (Act No 2 of 2000), for example, 30 calendar days. When issuing search instructions to directorates at the national office or to regional offices/sub-offices, a general lack of response is experienced, which causes the repeated issuing of reminders to such offices. This general lack in response subsequently results in the PAIA Unit having to issue 30-day extensions to requesters. The PAIA Unit also experiences a culture of no response when the requested records cannot be found, either because the record does not exist or it is not held at that specific office. This once again results in the PAIA Unit having to revert to crisis management as the time frames cannot be adhered to.

The lack of sufficient funding for the PAIA Unit resulted in the unit's inability to effectively promote the act to the general public. To effectively promote the act, the unit has to go to the public, as there are vast areas where the public has no electronic aids such as television or radio.



Table 15: Report in terms of section 32 of the Promotion of Access to Information Act, 2000

Details	No
PAIA requests received	70
Requests granted in full	61
Requests granted despite there being a ground for refusal, but granted in the public interest	0
Requests refused in full or refused partially	9
Times a provision of PAIA was relied on to refuse a request in full/partially	9
Instances where the 30-day period to deal with a request was extended	35
Internal appeals lodged with the relevant authority	1
Cases where requests were granted as a result of an internal appeal	1
Internal appeals lodged on account of a deemed refusal	0
Applications to court as a result of the relevant authority failing to give notice of its decision	0

(vi) Chief Directorate: Risk Management

The chief directorate assists with the facilitation and management of the risk management processes in the department. The risk management activities are conducted to mitigate risks and threats so as to minimise and/or prevent deficiencies of any nature. The unit has a mandate to implement risk management processes, to build a culture of risk management, to ensure that all major risks are identified, managed and reported on and to monitor the entire risk profile of the department. The department also needs to provide a safe and secure environment where all employees, the public and other stakeholders continuously behave ethically in their dealings with, or on behalf of the department.

All risk management processes are performed in terms of the Public Finance Management Act, 1999 (Act No 1 of 1999) (PFMA), National Treasury Regulations, Minimum Anti-Corruption Capacity Requirements, Minimum Information Security Standards, the Public Sector Anti-corruption Strategy, the National Vetting Strategy, the National Disaster Risk Management Framework, the Occupational Health and Safety Act, 1993 (Act No 85 of

1993), other regulatory frameworks and the Corporate Governance Guidelines. It is therefore imperative that the DoJ&CD as a government department practise risk management to comply with best practice and the relevant regulatory frameworks.

In line with the above and the departmental Medium-term Strategic Framework, as well as the departmental Risk Management Policy and Strategy, the following summarises the record of activities and achievements during the year under review:

(a) Enterprise-wide risk assessments

During the period under review, risk assessments were conducted and reviews performed for 35 sections, including regions, and emerging risks were identified. As a result, enterprise-wide risk management activities were supported by management. To date, about 715 officials attended various risk management workshops. The activities were designed to enunciate the culture of managing risks as required by National Treasury Regulations. In summary, the risk assessment workshops and/or reviews led to the development and update of high-level risk profiles.

Table 16: Units for which high-level risk profiles were undertaken in 2008/09

Office of the DG and COO	Province	Branches
Criminal Justice Review	Mpumalanga	Legislative Development
Cabinet Issues and Administration Support	Northern Cape	Corporate Services: Public Education and Communication
Truth and Reconciliation Unit	Western Cape	Corporate Services: Information Systems Management
Risk Management	Free State	Corporate Services: Office of the CFO
Programme Support and Administration	Limpopo	Office of the State Law Advisors
Office of the Deputy Information Officer	North West	Justice College
International Legal Relations	KwaZulu-Natal	Office of the Chief Litigation Officer



Emanating from the regional risk reviews and national office risk assessments, the 20 most common risks and/or risk-contributing factors were identified and reported to management and the Audit Committee. All the reports generated were used by internal and external auditors for the risk-based audit plans.

The unit was actively involved in the developments and the progress on the readiness of the department and the courts in relation to the 2010 project, and hence the development of risk registers for this strategic project. Regional visits were conducted with the 2010 Project Office to various dedicated courts. The risk profile was updated according to the developments and was presented to the Steering Committee, management and the Audit Committee.

Management is aware of the fact that it is ultimately responsible to ensure that proper controls are in place to prevent and detect fraudulent and irregular activities and is also responsible to take action where internal control weaknesses have been identified. Different managers have taken various initiatives to mitigate the identified risks or risk factors, for example, a number of key vacancies were filled, separate training sessions are ongoing, and a Supply Chain Management Policy was developed and approved. The risk management software is fully operational in the DoJ&CD environment and about eight staff members were trained on how to administer and manage the software. Enterprise-wide risk management activities were recognised by National Treasury and, as a result, the department received a rating of level 3 (control phase and satisfying legislative requirements) in terms of risk management maturity levels.

(b) Fraud and corruption prevention awareness programmes

In line with the Public Sector Anti-corruption Strategy, which was approved by Cabinet in 2002 and which emphasises the comprehensive fraud and corruption prevention measures as the first line of defence against corruption, the department continued to implement its approved fraud and corruption plan in its quest to prevent and detect acts of fraud, corruption and other irregularities. The department's main focus was on internal stakeholders, including all branches and regions, as well as some of the identified service providers. The human element in the regions and branches at national level was the major focus.

During the year under review, the department has ensured full compliance with the Minimum Anti-corruption Capacity (MACC) Requirements as approved by Cabinet

in September 2003. The MACC Requirements specifically direct that, in order to fight corruption in departments, as defined in the Public Service Act, 1994 (Act No 103 of 1994), and in public entities (as listed in Schedule 3 of the PFMA), each accounting officer must, for his or her department:

- specifically focus on and analyse corruption risk as part of the risk assessment required in terms of the PFMA;
- implement fraud plans required in terms of the PFMA, which fraud plans must specifically address the corruption risk; and
- verify the previous employment, qualifications, citizenship and criminal record of all persons before they are employed.

The following synopsis indicates the activities that were performed in order to address these risk management strategies:

Training and awareness

The Fraud and Corruption Prevention Subdirectorate in the Integrity Management Directorate has been established to ensure that all prevention mechanisms are put in place. The unit has compiled an internal fraud and corruption communication strategy, which was approved by the Director-General in May 2008. The communication strategy was fully implemented and is characterised by the following:

- Training and awareness campaigns on fraud and corruption (national office and all regions)
- Articles on fraud and corruption in the *Justice Today* newsletter
- Communication on DJINI (intranet)
- Distribution of pamphlets, posters, booklets, mouse pads, key rings etc to promote awareness among employees

During the 2008/09 financial year, 1 500 posters and 8 000 pamphlets were distributed in seven regions, and 2 462 officials attended the awareness sessions. The UN International Anti-corruption Day was celebrated at the national office and in the regions on 9 December 2008. The department has continued to popularise the National Anti-corruption Hotline (0800 701 701). The department saw an increase on the reporting of the fraud and corruption cases during this financial year.

Administration of financial disclosures

The financial disclosures for the SMS members reached 100% in the 2008/09 financial year. A concerted effort was made in this regard, as alignment in terms of the Minimum Anti-Corruption Capacity requirements were gradually and actively implemented in the department.



Fraud risk assessment

The PFMA requires that Fraud and Corruption Risk Assessments be conducted annually. The department has conducted its fraud and corruption risk review and assessment in October 2008. The assessment seeks to identify the fraud and corruption risk indicators across the department, with a view to introducing proper mitigation strategies. This assessment paved the way for the review of the Fraud and Corruption Plan in 2009/10.

(c) Roll-out of the National Vetting Strategy

As part of the roll-out of the National Vetting Strategy by the National Intelligence Agency (NIA), the department entered into a memorandum of understanding (MoU) with the NIA for the security vetting of the department's personnel. The MoU was signed by the Directors-General of NIA and the DoJ&CD. The Job Evaluation Guidelines by the Department of Public Service and Administration (DPSA) were adopted and approved by the Director-General.

The MoU sets the tone for the establishment of the Vetting Fieldwork Unit (VFU) and will serve as a NIA delegation of its vetting mandate to the department so as to reduce the vetting backlog. The three vacant vetting fieldwork positions were filled.

Security vetting awareness

The Project Kgaolo 2007/08, which was intended to ensure the education of employees on matters relating to security vetting and fraud and corruption prevention, was completed. The awareness project was characterised by the following:

- Presentations on the role of vetting in the fight against fraud and corruption
- The legal framework supporting the fight against fraud and corruption
- Encouraging employees to come forward and report any suspected incidences of fraud and corruption
- The completion of the vetting application forms

Seven regions and most offices in each regional responsibility were completed. A total of 2 462 officials were seen in the regions visited. The total number of officials who complied by submitting applications at these offices was 1 028 and the total number of applications was 2 566 at the end of the 2008/09 financial year.

Table 17: National vetting statistics (including learnerships, temporal and contracted employees)

Categories	Total 2007/08	Total 2008/09
Total employees – excluding magistrates and judges	15 430	17 857
Total of employees with valid security clearance	2 178	2 369
Total of employees without valid security clearance	13 474	12 191
Total vetting applications in process	3 353	4 381

Departmental security vetting policy

The Vetting and Personnel Suitability Check policies have been developed, and discussed with all stakeholders, circulated internally for inputs and are in the process of being approved. The personnel suitability check was developed for the DoJ&CD as part of the NIA Cabinet-approved National Vetting Strategy. The document was forwarded for approval by the chief operations officer and accounting officer. The Human Resources Recruitment Unit was involved in a discussion on the implementation of this pre-employment screening. This procedure is intended to proactively ensure that the department only employs people who are not susceptible to bribery and/or fraud and corruption.

(d) Securing of justice service delivery points

In line with the Minimum Information Security Standards, the department continues to monitor its environment and to improve its security control measures. The Departmental Security Policy was reviewed and approved during this annual financial year. In line with this policy, identification cards are being issued to staff members and the members of the judiciary. Some 7 451 identification cards were issued during the period under review.

The following synopsis indicates other activities in relation to security risk management:

Threat and risk assessments

The unit conducted threat and risk assessments for 20 sites, and other security risk assessments were conducted for 12 sites that are dedicated for the 2010 project and in the Ministry's office. Several recommendations were made regarding the vulnerabilities identified, but it is important to note that most of the recommendations require more funding in order to meet the minimum security requirements.



The department approved the provision of guarding services and cash-in-transit services countrywide for 431 sites and 512 sites respectively. There are about 19 sites that are covered on month-to-month contracts. The total amount that the department has incurred in security services, including accruals, commitments and other carry-through costs, is about R308 million. These services are provided in order to protect assets, including information and people, and to minimise vulnerabilities. The unit has also assisted in the provision of VIP protection for various members of the judiciary whose lives were threatened due to certain high-risk court cases. As a result, about 35 members of the judiciary were assisted with the installation of alarm systems and other security measures.

Firearm verification

During the year under review, 350 firearms were verified in terms of the Firearms Control Act, 2000 (Act No 60 of 2000). Out of this number, 15 firearms were surrendered to SAPS and 271 firearms at the end of the financial year were in the process of being surrendered to SAPS for disposal. There are another 383 firearms that need to be verified countrywide within the next financial year.

Integrated security infrastructure

Some 502 sites were surveyed and different specifications were developed. Some 127 sites were identified as high-risk sites and were prioritised for the integrated security infrastructure tender. The tender was awarded and Supply Chain Management, in collaboration with the Department of Public Works, is assisting with the finalisation of the service level agreement. Security specifications and security layout plans were reviewed and/or developed and were approved for 19 sites.

Table 18: Sites for which security specifications and security layout plans were approved

Province	Site
Gauteng	Katlehong, Mamelodi, Bronkhorstspuit, Soshanguve, Orlando, Booysens, Oberholtzer, Protea, Cullinan
Mpumalanga	Nelspruit
Limpopo	Polokwane
Eastern Cape	Dimbaza, Hankey, Whittlesea, Ezibeleni, Ventersdorp
KwaZulu-Natal	Port Shepstone
Western Cape	Calitzdorp, Tembalethu

The infrastructure specifications were also used to improve security measures like CCTVs, intruder alarms, walk-through metal detectors, etc in the Port Elizabeth Magistrate's Court, Constitutional Court and Bloemfontein regional office.

Other specific security improvements were provided for the Pongola Magistrate's Court, the Magistrates Commission building, the Rules Board building and the Ginwala Commission. Palisade fencing was upgraded and/or installed at eight sites: Marloth, Nsikazi, Cullinan, Jerico, Makgobistad, Ramatlabama, Pongola and Molopo magistrate's courts.

Special events

The unit has successfully assisted in the coordination of all security aspects, together with NIA, the SAPS and Metro Police, for the following events:

- World Conference on Constitutional Justice (held in Cape Town)
- Association of University Legal Aid Institution (held in Pretoria)
- Access to Justice and Promotion of Constitutional Rights programme – strengthening civil society participation (held in Orange Farm)
- Access to Justice and Promotion of Constitutional Rights programme (held in Pretoria)
- High-profile cases

This process included the vetting of various delegates from other countries through the NIA.

(e) Establishing and implementation of SHERQ programmes

The department continues to experience increasingly complex safety, health, environment and quality problems. Consideration must eventually be given to the advisability of developing a Safety, Health, Environment, Risk and Quality (SHERQ) Management programme complete with personnel and procedures designed to contribute to efficient safety, health and quality services. The Directorate: SHERQ is fairly new and the appointment of a senior manager and two deputy directors were completed during the 2008/09 financial year. Since the appointment of the incumbent, the following can be highlighted:

- A contingency management plan was drafted and circulated for comments and is to be discussed with other stakeholders, after which it will be submitted for approval in the following financial year, 2009/10. This plan is aligned to the National Disaster Risk Management Framework and will form part and parcel of the entire Business Continuity Management Programme.
- Safety risk inspections were conducted and reports were compiled for the following offices: Durban, Verulem, Rustenburg, Odendaal, Botshabelo/Kroonstad, Tlhabane and Polokwane magistrate's courts.



- In line with the Departmental Risk Management Policy and Strategy, National Disaster Risk Management Framework and Occupational Health and Safety Act, 1993 (Act No 85 of 1993), various awareness sessions were successfully organised during the year.
- A total of 97 health and safety representatives were appointed and trained in different offices by the national office team, in collaboration with other external stakeholders like the Tshwane Disaster Management Unit and the Department of Labour. The training sessions took place in places like Port Elizabeth, the national office, Grahamstown, Bloemfontein, Durban, the regional office in Gauteng, etc. Several information sessions were also conducted by the regional office teams in relation to occupational health and safety and emergency evacuation procedures.
- In order to ensure an integrated approach in safety and security risk management and for business continuity management, 35 staff members attended various courses such as the Business Continuity Management Course, the Safety Management Training Course (SAMTRAC), SHERQ Audit Course and National Examination Board of Occupational Safety and Health (NEBOSH) Course, which are internationally recognised courses.
- A safety, health and environmental awareness programme was conducted through health awareness day, during which a presentation was made focusing on sensitising employees on work-related hazards and risks, and the functions of the employer.
- In November 2008, the unit successfully conducted emergency evacuation drills for the South Tower building (national office), in collaboration with the Emergency Disaster Management team of the Tshwane Municipality. The unit has to improve on the recommendations in planning for other drills.

Although the chief directorate has conducted a number of activities as indicated in the sections above, it is also faced with number of challenges that may not necessarily be unique, but may hamper its performance in general. The challenges and areas of focus include the following:

- The absence of regional structures for enterprise-wide risk management and SHERQ makes it difficult to assist regional heads in the full implementation of risk management processes as required by the PFMA, Treasury Regulations, DPSA, the Occupational Health and Safety Act, etc.
- There is also an urgent need for the funding of posts for vetting fieldworkers in order to reduce the

vetting backlog and ensure efficiency in vetting processes. There are further funding requirements for security contracts, the upgrading of security infrastructure, the purchasing and maintenance of safety equipment, SHERQ awareness programmes and business continuity management programmes, including disaster recovery plans in collaboration with Information and System Management (ISM) and other units.

- Another area of focus is the improvement of the framework for financial disclosures and full implementation of the personnel suitability check, including the coordination of pre-employment screening and the Security Policy in collaboration with other relevant stakeholders.
- The automated case management system, incident tracking and the automation of risk profiles so as to enhance the efficiency of the chief directorate are other areas that need serious consideration. Furthermore, the unit has to ensure that there is proper coordination of anti-corruption activities in the department.
- The unit needs to focus on the effectiveness of the Anti-fraud, Risk and Quality Management Committee and the Safety and Security committees.

(vii) Donor Coordination

The Department of Justice and Constitutional Development has been a recipient of Official Development Assistance (ODA) since 1994. The degree of the assistance received is informed by the agreements that South Africa has entered into with the various countries as development partners on areas of justice.

The Directorate: Donor Coordination and Programme Management Support, which was established in 2007, is aimed at achieving the following goals and objectives:

- Effectively and efficiently manage ODA flowing into the DoJ&CD so that optimal impact is achieved.
- Achieve effective and efficient donor coordination in the department.
- Align the departmental ODA to the Medium-term Strategic Framework and the Medium-term Expenditure Framework.

Donor Coordination achieved the following during the period under review:

- The development and approval of a Donor Coordination Policy
- The establishment of the Donor Assistance Technical Forum, which held its first meeting in September 2008
- The submission of quarterly reports to the Director-General



- Regular one-on-one meetings with donors and project managers
- The development of a strategy for the implementation of the policy

(See donor-funded projects implemented during the period under review, Part 4, page 135.)

B REPORT ON CORPORATE SERVICES

(I) Office of the Chief Financial Officer (CFO)

The Public Finance Management Act, 1999 (Act No 1 of 1999) and the National Treasury Regulations define the role of the chief financial officer (CFO) to be one of assisting the accounting officer with the effective financial management of an institution, including:

- exercising sound budgeting and budgetary control practices;
- operation of internal controls; and
- timely production of financial reports.

The Office of the CFO endeavours to promote best practice public financial management and ensure effective processes to improve delivery. Ultimately, this office aims to ensure financial compliance with legislation and regulations, thereby securing no audit qualifications (a critical indicator of compliance) in all audit reports issued by the Auditor-General. The Office of the CFO comprises the following chief directorates:

- Financial Transaction Processing and Reporting Services
- Third Party Funds
- Guardian's Fund
- Budgets
- Supply Chain Management
- Costing

The following areas likely to have an impact on the Auditor-General's audit opinions were identified and action plans were implemented to address these matters in order to minimise risks and to enhance controls.

(a) Supply Chain Management, Including Asset Management

The objective of Supply Chain Management is to promote and implement a fair, equitable, transparent, accountable, competitive and cost-effective supply chain management system to combat corruption and fraudulent practices. Simultaneously, this office must also ensure efficient, effective and uniform planning for the procurement of all goods and services required for the proper functioning of the department, and ensure that sound asset management practices are applied.

The Auditor-General reported in previous reports on identified deficiencies relating to ineffective asset management practices, including the inability to confirm the completeness, existence and accuracy of the department's asset register. In response to these audit findings, this office embarked on an asset management turnaround project, which was work in progress during the previous financial year's audit. The project was completed during the year under review and all the department's locations were subjected to a physical asset verification process. The aforementioned, combined with monthly reconciliations between the payments and asset register, enabled the department to provide the Auditor-General with a purified asset register in accordance with National Treasury's requirements. Significant improvements to the supply chain management system and processes were initiated during the period concerned, many of which have already started to yield positive results. These include the following:

- Implementation of a document filing solution
- Implementation of a contract performance measurement system
- Re-engineering bid and other supply chain management business processes

Challenges for the year ahead include the filling of positions and retention of suitable talent required for this critical area in the department to fully integrate demand management with departmental planning and budget processes and to instil a culture of compliance with applicable supply chain management policies and procedures with the intention of delivering on the department's strategic objectives.

(b) Third Party Funds (Bail, Maintenance, Court Fines, Payments into Court, Estates, Guardian's Fund, etc)

The impact of the lack of a formalised legal and accounting framework governing these administered transactions on the vote account remains an unresolved matter between the department, the Accountant-General and the Auditor-General. The department still firmly believes that these administered transactions, including revenue to be paid to the National Revenue Fund, should not form part of the vote account financial statements. Separate financial statements are therefore prepared for these third party funds. The Public Finance Management Act, 1999 (Act No 1 of 1999) is silent on dealing with these administered transactions and the department therefore opted to research international practices and accounting standards on similar transactions. In addition, the department approached the Chief State Law Advisor for a legal opinion in this regard. The Chief State



Law Advisor subsequently confirmed the department's views on the matters at hand. The matter is viewed in a serious light and has been escalated to ministerial level for resolution and/or advice on a way forward.

The Management of Monies in Trust Public Private Partnership (MMT PPP) process has reached its final stages. The MMT PPP has as its major objective to utilise the services of a private party consortium to take responsibility for financial management that will interface with the banking systems for payments and receipts. This will enable the compilation of auditable, reliant and complete annual financial statements for the third party funds administered by the courts, master's offices and state attorney offices. This will drastically improve the turnaround time for maintenance payments and extend the payment and receipt footprint to more than 7 000 service points nationally, and simultaneously reduce the cash handling at cash halls. National Treasury granted TA2B approval on 29 January 2009, after which the preferred and reserve bidders were informed accordingly. Contract negotiations are currently underway and it is estimated to be finalised by 30 June 2009. TA3 approval will thereafter be sought from National Treasury.

(c) Budget Management

The department was obliged to implement the agreement concluded in the Bargaining Council providing for an Occupational Specific Dispensation (OSD) for legally qualified personnel during the year under review without an additional budget allocation from National Treasury. An amount of R305 million was required to implement Phase 1 of the OSD. This was done through internal budget reprioritisation and downscaling of existing programmes. Critical measures were implemented to prevent any overspending on the vote account, which resulted in certain obligations not being met before the financial year-end, obviously with a snowball effect and further strains on the 2009/10 budget allocations. A joint task team between the department and National Treasury was formed to advise on the budget concerns applicable to the department.

(d) Costing Legislation and Policy

This unit was largely not operational during the year under review due to the lack of a finalised staffing establishment. A service provider has been appointed to assist with the costing of legislation and policy as per the legislative programme in the interim. The head of the unit was seconded to the NPA from September 2008 to assist with financial management matters.

In conclusion, the Office of the CFO will continue to strive for and establish joint ownership and shared accountability for financial management in the department, as this is key to the achievement of the objectives of the department.

(ii) Human Resources Unit

The Human Resources Unit provides a policy framework, guidelines and strategies to enable the department to efficiently and effectively manage its human resources. The unit comprises three chief directorates.

(a) Chief Directorate: Value-added Services (VAS)

Provides value-adding services that ensure healthy employee relations, a healthy workforce through the provision of employee health and wellness, learning and development programmes encompassing the management of performance, as well as the development of a strategically relevant organisational structure.

(b) Chief Directorate: Customer Management Centre (CMC)

Provides administrative services for the operational side of human resources where salaries and service benefits are managed.

(c) Chief Directorate: Key Accounts

Provides strategic partnering with client branches to ensure delivery of human resources (HR) offerings. The focus for the 2008/09 financial year was on implementing strategies and programmes to achieve the following:

- Ensure the finalisation of HR policies
- Further reduce the vacancy rates by at least 60%
- Reduce the turnaround times on the handling of misconduct cases
- Ensure improved compliance with the Performance Management and Development System (PMDS), especially at Senior Management Service level
- Create access to health and wellness facilities for all employees
- Develop learnership/internship programmes that ensure the creation of capacity to cater for both current and future departmental needs through learnerships

Several challenges were encountered in delivering on these programmes, but the primary challenges were internal capacity and budget constraints. Five senior management positions remained vacant and could not



be filled due to the structure redesign process. However, through the appointment of a service provider during the last financial year to assist, some of the projects were shared with the service provider. The new delegation framework was also finalised and implemented in the 2008/09 financial year.

(d) General

During the period under review, there was a growth of 6.5% on the establishment, accompanied by a 5.5% growth in headcount. These figures reflect departmental growth only excluding judges. The overall vacancy rate went down slightly by 1.42%.

A fully consulted Human Resources Plan (HRP) was developed, approved and submitted to the Department of Public Service and Administration for the first time this year. Implementation measures are ongoing, particularly the short- to medium-term measures, and regular progress reports will be provided.

Twelve new HR policies were finalised and approved during this reporting period, compared to last year, when no new policies were finalised. The policies cover various areas of HR, including the Employee Assistance Programme (EAP), graduate placement, sexual harassment and people with disabilities.

(e) Vacancies and Terminations

The vacancy rate in the last financial year was 15%, with a total of 1.88% (3 088) staff members employed in a temporary capacity. The termination rate has been reduced from last year's 7.5% to 6.07% this year. While it was significantly high in salary band 6 to 8 last year, there are no significant differences across salary bands this year.

There was a significant increase in the number of recruitment projects undertaken with successful placement. The number increased from 5 490 in the previous year to 8 190. This is reflective of the improved turnaround times that followed interventions introduced to reduce cycle times to three months. Although this has not been achieved for all recruitment projects, interventions will continue in the new year.

(f) Discipline

A high number of misconduct cases were reported during the last reporting period. On analysis of the cases, it came to light that there were a high number of cases that were carried over from the previous years – some cases even older than three years. A project was initiated to ensure all

backlogs were dealt with. This project led to a decrease in the number of cases, as evidenced in this report, from 484 in the last period that were finalised to a total 298 reported, of which 178 were finalised. It can be extrapolated that the resolution of outstanding disciplinary cases send a message that discipline was taken seriously and dropped the overall level of misconduct. Grievances, on the other hand, decreased from 667 in the last year to 421, with no significant changes to the number resolved.

There was no industrial action for the period under review in comparison to last year, when almost a month of working days was lost due to strike actions. A total of 135 disputes were lodged, of which 41% were dismissed by the council, compared to 58% of dismissals last year. It should be noted that the number of disputes in the last financial year was more than three times the number for this year.

(g) Performance Management

Interventions were put in place to improve compliance with the Performance Management and Development System. In addition to a policy being approved, the 98% success rate achieved for senior managers who signed performance agreements was repeated this year. The outstanding 2% can be attributed to new members who are still within the three months grace period before signing and those affected by internal reorganisations. Despite the increase in agreements signed, the awards paid did not exceed the mandatory 1.5% of personnel expenditure.

(h) Employment Equity

The approved employment equity target for the department is 50% women at senior management level and 2% for people with disabilities across all levels by 2010. The current status, which is exclusive of magistrates and judges, reflects only 36% women at senior management level and 1.01% people with disabilities. With just one year to reach the planned employment equity targets, the picture is less than satisfactory. It is hoped that with more targeted interventions planned for the 2009/10 financial year, there will be significant improvements to this picture.

(i) Employee Wellness

A service provider was appointed to provide health and wellness services. For the period October 2008 to March 2009, a total of 2 500 employees accessed the service, primarily for psychosocial services. A growth in the utilisation of the service is anticipated, as more aggressive marketing continues in the new year.



(i) Learning and Development

The National Youth Service Programme (NYSP) continued this year with a new intake of learners. The new learners were primarily for the Master's Branch and candidate attorneys. Learners from the previous intake who completed their articles continued working in the department, and were placed in temporary positions for a further period of two years to enable them to gain more workplace experience. Partnerships were entered into with university law clinics for the training of candidate attorneys. Two private law firms, Bowman Gilfillan Attorneys and Webber Wentzel, also partnered with the department for legal training.

More in-depth reports and statistical information are contained in Part 5 of this report and reflect all the work done by Human Resources during this financial year. The greatest area of improvement has been in the management of discipline. This reflects positively on a number of other areas of HR, such as performance management and recruitment, where most grievances and disputes emanate.

Plans are in place to reorganise the unit to ensure client branches are optimally serviced. As previously indicated, one of the main challenges contended with was budgetary constraints. HR will be mobilising resources in this financial year and embarking on a number of projects.

The following Human Resources projects are planned for the next year:

- Reorganisation of the HR units with a view to implement a new and more client-responsive structure
- Continuation of the NYSP projects with over 200 new learners who will primarily cover court services, para-legal and legal secretaries
- Implementation of the Graduate Placement Programme, where serving officials who are legally qualified are assisted in getting admitted
- A targeted programme to deal with turnaround times on disciplinary and misconduct cases
- Across-the-board qualification verification for serving officials employed before 2007 when qualification verification was introduced as part of the recruitment process

It has been a challenging year. However, the appointment of the Deputy Director-General: Corporate Services brought a point of coordination and leadership for the HR Unit.

(iii) Public Education and Communication

The core function of the Chief Directorate: Public Education and Communication is to fulfil the communication needs of the department by providing effective and efficient communication through media and educational services. This is to ensure a mutual understanding and learning between the department and its stakeholders.

The Public Education and Communication Unit consists of four directorates: Media Research and Liaison, Public Education and Liaison, Internal Communication and Language Services, and Printed Publications.

During the period under review, the department has used various types of media to communicate and educate the public on the progress of key justice programmes, including the transformation of the judiciary, the Victim's Charter and victim empowerment, the review of the criminal justice system, case flow management, redesignation of branch courts, equality and small claims courts, indigenous language usage in courts, the criminal justice system process, the capacity-building programme, constitutional education and high-impact legislation like sexual offences and child justice.

The department produced four newspaper supplements to communicate its programmes. The access to justice supplement was developed and placed in all Independent Newspapers – *Pretoria News*, *The Star*, *Daily News*, *Cape Argus* and *Diamond Fields Advertiser (DFA)* – with a total readership of 2 055 000. Another supplement on the review of the criminal justice system was developed and placed in the *Sowetan*, *Beeld*, *Star*, *DFA* and *City Press*, with a total readership of 6 152 000. The third supplement on victim empowerment was placed in all Independent Newspapers and the last one on progress made by the department was inserted in *City Press*, with a readership of 2 329 000. Copies amounting to 800 000 of the Bill of Rights posters were produced to educate the public on their rights, and were inserted into the *Sowetan* and *Daily Sun*, with a total readership of 7 624 000.

Articles on key programmes and their progress were published in the corporate bimonthly newsletter, *Justice Today*, the electronic internal newsletter (*Tsala ya Molao*) and the intranet (DJINI). *Justice Today* is a corporate newsletter with a readership of 35 000, and targets the legal fraternity, law faculties, NGOs, the private sector, government departments, staff and ordinary South Africans. Six issues were produced during the period under review. The electronic internal newsletter (*Tsala*) and the intranet (DJINI) target 19 000 employees of the department.



Educational programmes on the radio were also broadcast on the public broadcaster and community radio stations. *Justice on the Airwaves* is a partnership with SABC Education (public broadcaster) to educate the public on how to access justice services in all 11 official languages. A pilot project was run across all SABC radio stations where 13 episodes were produced and packaged for broadcast. A roll-out of the project in 26 episodes was done on 13 SABC radio stations with a total listenership of 3 367 000, and 13 episodes were flighted during the period under review.

Law on Call, a programme on community radio stations, was commissioned. A total of 26 episodes were produced and packaged for broadcast, covering all provinces on 17 community radio stations, with a total listenership of 3.3 million.

Kaya Legal Talk, a partnership with the Johannesburg-based radio station, Kaya fm, with a listenership of 1.2 million, flighted 26 episodes on justice-related matters over a period of three months. The department has realised its objective of access to justice for all by translating many of its documents from English into the other ten official languages. The documents that were translated include the Constitution booklets (amendments), pieces of legislation that include the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000) (PEPUDA), Courts for Short Process and Mediation in Certain Civil Cases Act, 1991 (Act No 103 of 1991) and The Maintenance Act, 1998 (Act No 99 of 1998), forms on the Promotion of Access to Information Act, 2000 (Act No 2 of 2000) (PAIA), the Criminal Procedure Act, 1977 (Act No 51 of 1977) the Child Justice Act, 2008 (Act No 75 of 2008), the Maintenance Act, 1998 (Act No 99 of 1998) and the Domestic Violence Act, 1998 (Act No 116 of 1998). To reach out to the blind community, the Department produced the annual report and the Occupation Specific Dispensation booklet in Braille.

Layout and design services were rendered for various departmental initiatives, such as the departmental newsletter, media advertisements, induction manuals, booklets, policy documents and conference material for various projects throughout the department.

The chief directorate printed annual reports for the department, the South African Law Reform Commission, the Guardian's Fund and the President's Fund. It also printed various corporate materials like business cards for management, identity name badges for staff and departmental calendars.

The department successfully coordinated and hosted two international judges' conferences with different

stakeholders from around the world – the Commonwealth Judges' Association (CWJA) and the World Conference on Constitutional Justice (WCCJ), as well as a service fair in Gauteng where members of the community were given an opportunity to access services on site. In addition, during the 2009 Human Rights Day, held in Kimberley and with former President Kgalema Motlanthe as guest speaker, 142 community members of the 2 000 people who attended were assisted on the day. The department also participated at the following national exhibitions: the Royal Zulu Show in KwaZulu-Natal, where 3 143 people visited the department's stand for information, MACUFE in the Free State, where 2 466 people visited the stand, Polokwane Show in Limpopo, with 2 893 people who visited the stand, and the Soweto Career Show in Gauteng, where 1 447 children visited the stand.

The department has trained various sectors of the public, non-governmental organisations, community-based organisations, community development workers, schools, clinics and traditional leaders on maintenance, domestic violence, estates, the Guardian's Fund, wills, PAJA, PAIA, pardons, bail, small claims courts, equality courts, children's rights, the Victim's Charter, recognition of customary marriages, sexual offences and the Bill of Rights. The following table indicates the number of workshops, clinics and school visits, as well as exhibitions undertaken and provinces visited.

Table 19: Workshops, izimbizo, information sessions, awareness campaigns, clinics and school visits

Province	No of communication activities: Workshops, izimbizo, information sessions, awareness campaigns, school visits, clinic visits
Mpumalanga	152
Limpopo	75
Northern Cape	71
Western Cape	42
North West	40
Gauteng	38
Eastern Cape	34
Free State	10
KwaZulu-Natal	4
Total	466

The department has revamped its website for easy access and updating. The overview for website visits during the period under review is as follows:



(a) Traffic Sources Overview

All traffic sources sent a total of 41 636 visits, which were made up as follows: 37.43% direct traffic, 28.92% referring sites and 33.64% search engines.

(b) Map Overlay

Some 41 636 website visits came from 115 countries/territories. The following are the 10 countries that made the most visits to the website:

Table 20: Visits to the website per country

Country/territory	No of visits
South Africa	39 335
United States of America	540
United Kingdom	387
Norway	134
Australia	132
Canada	87
Germany	85
India	67
Lesotho	65
Sweden	65

Educational and promotional material was distributed to various parts of the country. The table below indicates the type of material and the quantity distributed.

Table 21: Type and quantity of material distributed

Type of material	Quantity
Constitution booklets	68 042
Small claims courts	30 965
Sexual offences	1 300
<i>Law Talk for Children</i>	23 530
Victim's Charter	7 680
Maintenance	51 660
Domestic violence	42 670
<i>Busi Goes to Court</i>	8 450
Careers in law	2 700
Equality	21 700
<i>Know your Rights</i>	6 781
<i>I Have to Testify</i>	8 400
Master's Frequently Asked Questions	34 370
<i>Justice Today</i>	210 000

(iv) Information and Systems Management

The Chief Directorate: System Management and Optimisation is responsible for the management and optimisation of the development business systems, the maintenance of IT operation and development of relevant information technology (IT)/information systems (IS) policies in the department. The functions of the System Management and Optimisation Chief Directorate encompass the following three directorates:

- Digital Communications and Records Systems – management of the ICT operational infrastructure and communication systems
- Financial Systems – management of the development of systems
- Business Systems – management of the deployment and maintenance of developed systems

The Chief Directorate: Strategic Management and Planning is responsible for the development of the Departmental IT Plan and its monitoring, the development of architectural standards, frameworks and processes and the execution of the IJS IT Strategy within the JCPS Cluster. The functions encompass the following directorates:

- Programme Management and Support Services
- Masters Systems Planning (Architecture)
- The IJS Programme Office

(a) Achievements

The department has embraced all the basic concepts of working in an e-world and have approximately 17 500 users connected to its network. The basic connectivity offers many opportunities to justice officials. Users have e-mail access, which improves internal communications, Internet connectivity to improve legal research, file and print services, office operating packages such as Word, Excel, PowerPoint, MS Project and a host of standard software applications that are aimed at improving productivity and communications in the department. The establishment of a Portal Collaboration Strategy has increased communication coverage in the department on a real-time basis. The department has also introduced video-conferencing, and specific business applications are deployed in the department to improve service delivery.

(b) Integrated Case Management Systems

The main function of the courts is to provide fair and effective dispute resolution machinery for the enforcement of court decisions. These areas of legal operations of the courts have several potential applications handling various types of cases, from



criminal and civil, to deceased estates. The department will develop and roll out integrated case management systems (ICMS) solutions on an ongoing basis, targeting the functional users in the department and South African citizens requiring justice services. This service is aimed at modernising and enhancing organisational efficiency for court environments that include, but are not limited to, criminal courts, civil courts, small claims courts, family courts, and master's offices for district, regional and high courts.

To further modernise and enhance organisational efficiency, the department has, through the Integrated Justice System Programme, identified departmental systems to be integrated. This integration will allow for the electronic flow of data and case information between the cluster departments. Systems from the cluster departments will integrate with the department's case management system, exchanging information that includes scheduling, notifications, postponement dates, docket information, bail payments and sentence information.

(c) Financial Administration Systems

The financial administration systems (FAS), or the financial layer of the integrated case management systems, are tasked with automating and administering the trust accounts in the magistrate's courts, the State Attorney's offices, and the Guardian's Fund in the master's offices. Among the benefits of the system will be reduced time spent in queues, reduced human error in calculations, and reduced risk of files getting lost, as well as greater citizen convenience. It is aimed at consolidating all financial administration components of the case management systems.

The Justice Deposit Accounting System (JDAS), and more particularly the Maintenance Module, is aimed at lifestyle improvement for the poorest of the poor, and more particularly that of women and children. JDAS provides an automated, real-time information flow to promote operational efficiency, efficient and effective collaboration, competitive advantage in terms of managing operations and automated business processes – effective controls to allow for proactive management by the department. Integrated Case Management System (ICMS) payment, which forms part of this system, draws on the benefits of operational efficiency within the JDAS application, especially around payments made for bail and maintenance at any magistrate's court.

(d) Video Postponement Project

The department has launched the Video Postponement Solution at two pilot sites: Durban Magistrate's Court in 2005 and Port Elizabeth Magistrate's Court in 2008. This solution will lower the risk and cost of moving prisoners between correctional facilities and courts by enabling courts to execute remands/postponements and consideration of bail. Some 47 courts and 22 correctional centres were identified for the implementation of the Video Remand Solution.

(e) Disaster Recovery and Information Life Cycle Management

Due to the increasing volume of data and electronic information, the department, in alignment with its IT strategy, has undertaken to implement this project to enable it to continue normal business operations in the event of a disaster. The assurance of continued service delivery is supporting the goal and objective of integrated support management (ISM).

(f) Integrated Call Centre Relocation

The Integrated Support Centre (ISC) is the department's ICT help desk. It is a very important service support delivery organ of the department that requires close monitoring, management and control in the interest of the public being served by the department. Therefore, its relocation to the national office will improve its supervision for better service delivery to the public.

(g) Public Key Infrastructure Project

The department initiated this project to implement a public key infrastructure. The main aim of this project is to improve the level of trust in the department by implementing secure technologies and digital signatures in a manner that can withstand legal requirements. As part of the proof of concept, the department is required to roll out this infrastructure to a total of 20 users, inclusive of change management and training.

(h) Desktop and Printer Renewal Project

During the DNS1 project, a large number of the departmental offices were supplied with brand new desktop computers and printers that had a three-year onsite warranty. A substantial number of desktop computers and printers have now reached the end of their warranty periods and have had to be replaced. The replacement of these accessories will ensure



business continuity and service delivery to the public and the department.

(i) 3Com Switch Renewal Project

The department has standardised on 3Com switches and has, over the past years, deployed a variety of 3Com switches on its sites. Some of the switches have now become obsolete and, as a result, will have to be replaced. The department has installed 3Com 3300/4400 switches to a vast majority of its sites distributed around the country. The 3Com 3300/4400 switches have now reached obsolescence through the vendor and will therefore have to be replaced with current 3Com 5500G and 5500EI Power over Ethernet (PoE) switches. The project commenced in October 2008 and 881 switches have been renewed.

C REPORT ON THE JUSTICE COLLEGE

The Justice College is the official training arm of the Department of Justice and Constitutional Development. The Justice College provides training for the department, National Prosecuting Authority and lower court judiciary and, as such, is responsible for the training of all officials.

Table 22: Training delivered

Trainees	No of courses conducted	No of delegates
Magistrates	58	1 373
Traditional leaders	2	62
Prosecutors	48	1 739
Interpreters	12	340
Masters	12	389
Clerks of the court – civil	15	478
Registrars of the High Court	2	44
Family law clerks	24	655
Maintenance investigators	3	73
Maintenance prosecutors	3	74
Courses	No of courses conducted	No of delegates
Legislative Drafting	12	141
Total Quality Management	1	17
Basic Foundational Management	9	200
Advanced Management	4	99
Service Excellence	3	73
Total	208	5 757

The annual training programme of the Justice College depicts all training projects for the year. Other projects in which the Justice College is engaged are as follows:

- Accreditation of Justice College as a service provider
- Conversion of training material into outcomes-based material and pitching it at the relevant South African Qualifications Authority (SAQA) level where appropriate
- Initiating the design and development of training material for PAJA and PAIA, which will be converted into an e-learning format in the next financial year
- Submission of a position paper on the transformation and restructuring of the Justice College

(a) Service delivery environment

The training programmes of the Justice College are designed on the basis of the identified training needs of its customers. These include magistrates, prosecutors, master's office personnel, interpreters, legislative drafters (in all three spheres of government), court and office managers, clerks and other occupational groups in the department. In addition, training material and programmes have been designed for sheriffs and commissioners of the small claims court. Implementation will commence in the new financial year. During the 2008/09 financial year, 208 courses were presented by the Justice College. These courses, in conjunction with ad hoc training provided, reached 5 757 people.

To complement training, subject matter experts render a telephone advisory service to a number of occupational groups in the department, including (but not limited to) magistrates, prosecutors, officials from master's offices, clerks of the court and court interpreters. This office also provides extradepartmental training in response to requests received from other government departments, and a number of SADC governments. No costs are incurred by the department in this regard, as these extradepartmental and cooperative training activities are financed by the relevant departments and governments.

Although adequate funds have been allocated to meet the travel, accommodation and subsistence costs of all delegates attending Justice College courses during the 2008/09 financial year, it is clear that there is an ever-increasing demand for training. The continued successful utilisation of the Justice College as the official training institute of the department depends entirely on the budgetary support received from the department. Requests for more training interventions, inter alia due to the passing of new legislation, can successfully be addressed if the Justice College continues to receive adequate financial support from the department.



(b) Impact of the programme

All courses planned for the 2008/09 financial year were successfully presented and ad hoc training interventions were presented due to the demand for training. Training was also presented on new legislation. Course participants assessed training content and facilitators favourably. Needs assessments that were conducted have ensured that training is translated into improved performance in the workplace.

Leadership management and administrative training interventions were increased, thus ensuring that more officials are equipped with generic skills. The Legislative Drafting Unit provided training in legislative drafting to officers working with legislation in the various government departments, including national, provincial and local government levels. The unit also provided training to the Office of the Attorney-General in Botswana.

The Justice College attained full accreditation status and will be embarking on the conversion of its training material to outcomes-based credit-bearing courses.

The Justice College has initiated the design and development of training material for PAJA and PAIA, which will be converted into an e-learning format in the next financial year. This training will be directed at all government departments. The Justice College is assisting in the design and development of accredited training material for commissioners of the small claims court. This training will be implemented in the next financial year. The Justice College conducted training needs assessments for the government of Southern Sudan and the Democratic Republic of the Congo (DRC).

(c) Training assistance in foreign countries

The department provided training for legal and administrative officers in the master's office of the high court in Namibia. The department has also embarked on a programme to assist the DRC in improving its court systems.

The programme intends to provide training to DRC magistrates and legal officers. The Justice College forged partnerships with the Ecole Nationale de la Magistrature (France) with regard to the training of DRC magistrates and legal officers. Legislative drafting training was

conducted in Botswana. Court interpreters from Botswana and Lesotho benefited from Justice College training. The college also assisted Zambia in developing a Small Claims Court Framework.

2.10.2 Programme 2: Court Services

Purpose

Provide and manage efficient court facilities, and facilitate the resolution of criminal, civil and family law matters in South Africa.

The programme purpose is reflected in the organisation of its first five subprogrammes:

- Constitutional Court
- Supreme Court of Appeal
- High Courts
- Specialised Courts
- Lower Courts

There are five other subprogrammes:

- Family Advocate makes recommendations to the court where there is litigation and mediation relating to children in family matters.
- The Magistrates Commission makes recommendations on the appointment of magistrates.
- Government Motor Transport funds vehicles for judges and departmental officials.
- Facilities Management funds the building and upgrading of court and justice service delivery points.
- Administration of Courts funds the management of courts' administration and performance evaluation functions.

Measurable objective

Ensure that justice proceedings are prompt by:

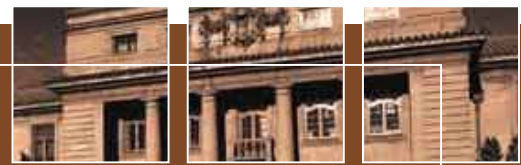
- reducing the case backlog in district courts by 25% from 16 480 in 2006/07 to 12 360 in 2009/10;
- reducing the case cycle time of criminal and civil cases involving children by 10% a year from the current 18 months to 16 months in 2008/09;
- finalising 50% of all cases handled by the family advocate within six months;
- securing all justice service delivery points with perimeter fencing by the end of 2009/10; and
- replacing 20% of the current 80 periodical courts and 246 branch courts with full court services by the end of 2008/09.



Service delivery achievements

Table 23: Service delivery achievements

Sub-programmes	Outputs	Output performance measures/service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Court Performance	Reducing the case backlog in district courts by 25% from 16 480 in 2006/07 to 12 360 in 2009/10	Case backlog	12 360 (25%)	15 767 (30%)	Backlog reduction is currently only performed at regional courts.
Children	Reducing the case cycle time of criminal and civil cases involving children by 10% a year from the current 18 months to 16 months in 2008/09	Case cycle time	16 months	No report	
Family Advocates	Finalising 50% of all cases handled by the Family Advocate within six months	Case cycle time	50% in six months	(47%) 5 600 out of 11 894 finalised within six months	The target could not be attained due to the promulgation of the 22 sections of the Children's Act, 2005 (Act No 38 of 2005). The act introduces compulsory mediation for which the Family Advocate received no additional resources.
Risk Management – Security	Securing all justice service delivery points with perimeter fencing by the end of 2009/10	150 service delivery points to have perimeter fencing	75 in the first year (2008/09)	502 service delivery points were surveyed and different specifications were developed for various sites. Threats and risks were prioritised, depending on the assessment of the impact severity.	As a compensatory control and to mitigate other risk factors, the department approved tenders for the provision of guarding services and cash-in-transit services for 431 and 512 sites countrywide respectively.



Sub-programmes	Outputs	Output performance measures/service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Risk Management – Security (continued)	Securing all justice service delivery points with perimeter fencing by the end of 2009/10	150 service delivery points to have perimeter fencing	75 in the first year (2008/09)	Specific security measures were installed and/or improved for 35 members of the judiciary, at the Constitutional Court, Port Elizabeth Magistrate’s Court, Pongola Magistrate’s Court, the Magistrates Commission building, Rules Board, Ginwala Commission and Bloemfontein regional office. Palisade fencing was also upgraded and/or installed at eight sites: Marloth, Nsikazi, Cullinan, Jericho, Makgobistad, Ramatlabama, Pongola and Molopo magistrate’s courts.	Budget constraints normally lead to the reprioritisation of activities or projects and have an impact on performance in other areas, hence the original estimated target of 150 that was set in 2006/07 may not necessarily be met by 2009/10. At the end of the financial year, there were about 77 offices that required security fencing and about 118 that needed to be upgraded.
Redemarcation	Replacing 20% of the current 80 periodical courts and 246 branch courts with full court services by the end of 2008/09.	Periodical courts	16	15	Availability of funds
		Branch courts	48	40	



Court Services delivers its mandate of the Constitution (section 165), which is to ensure integrated court services to the people of South Africa, by:

- the establishment and maintenance of court facilities;
- promoting cost-effective quality court services;
- facilitating effective management of case flow through the court system;
- ensuring the provision of appropriate human resources to staff and court services, including judicial, prosecutorial and administrative staff;
- promoting participation in the integrated justice system within the cluster system of government; and
- promoting engagement with stakeholders and communities.

This branch, in conjunction with the regional offices, is responsible for the development, monitoring and implementation of operational policies and strategies in relation to courts, the coordination of stakeholder forums, the development of performance standards for courts, including monitoring of court performance, the development and monitoring of special programmes to promote the rights of vulnerable groups, the provision and management of adequate, secured and user-friendly justice service delivery points, and the rendering of family advocate services. One of the main objectives of Court Services is to ensure speedy justice proceedings by maintaining the court system in a way that leads to a reduction in backlogs.

A COURT STATISTICS

(i) Higher Courts

(a) Constitutional Court

The Constitutional Court has eleven judges, and a minimum of eight judges at a time (section 167 of the Constitution, 1996) must hear a case with the Chief/Deputy Justice presiding. In terms of Part I, Rule 2 of the Constitutional Court Rules, this court has four terms and recess periods as follows:

Table 24: Constitutional Court terms

Term No	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
		5.5 months		6.5 months

The table below provides a summary of the Constitutional Court statistics for the period under review.

Table 25: Constitutional Court statistics

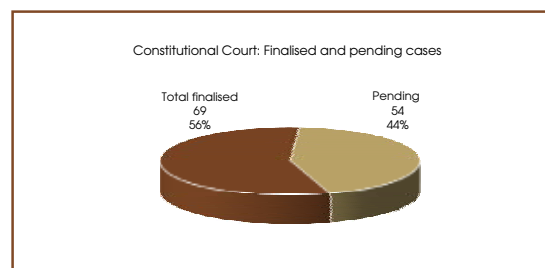
Month	Old cases	New cases	Total case load	Await direction	Dismissed	Judgment handed down	Total finalised	Pending
April 2008	1	10	11	4	7	0	7	4
May 2008	4	5	9	4	5	0	5	4
June 2008	4	19	23	10	12	1	13	10
July 2008	10	6	16	11	5	0	5	11
August 2008	11	14	25	14	11	0	11	14
September 2008	14	10	24	21	3	0	3	21
October 2008	21	13	34	13	0	0	0	34
November 2008	34	3	37	3	0	0	0	37



Month	Old cases	New cases	Total case load	Await direction	Dismissed	Judgment handed down	Total finalised	Pending
December 2008	37	16	53	5	11	0	11	42
January 2009	42	3	45	1	1	1	2	43
February 2009	43	12	55	4	4	3	7	48
March 2009	48	11	59	6	5	0	5	54
Total	1	122	123	54	64	5	69	54

This court handled a case load of 123 cases in the period under review, of which 69 (56%) were finalised. Only 54 (44%) cases remained pending, as they were still awaiting direction. On average, the court finalised six cases per month. Figure 2 shows a graphical representation of cases finalised and cases pending from April 2008 to March 2009. The data shows that the court could deal with the pending cases for the period April to June 2008. However, since July 2008 there has been an increase in the number of pending/outstanding cases, as well as a decrease in the number of cases finalised, which resulted in an increase of the total case load. There has been an increase in the case load, finalised cases and outstanding cases. Although there has been an increase in the variables, the court performed better in 2007/08 (65% cases finalised) than in 2008/09 (56% cases finalised).

Figure 2: Constitutional Court cases



(b) Supreme Court of Appeal

The Supreme Court of Appeal has 21 judges, including the President and Deputy 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 26: Supreme Court of Appeal terms

Term No	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
		5.5 months		6.5 months

Criminal Appeals

Table 27 provides a summary of the criminal appeal statistics in the Supreme Court of Appeal for the period under review.

Table 27: Criminal appeal statistics

Month	Old cases	New cases	Total case load	With-drawn	Upheld	Refused	Referred back	Total finalised	Pending
April 2008	29	6	35	1	2	0	0	3	32
May 2008	32	4	36	0	3	0	0	3	33
June 2008	33	0	33	0	1	1	0	2	31
July 2008	31	2	33	0	0	0	0	0	33
August 2008	33	4	37	0	0	0	0	0	37



Part 2: Performance Information

Month	Old cases	New cases	Total case load	With-drawn	Upheld	Refused	Referred back	Total finalised	Pending
September 2008	37	6	43	0	9	2	0	11	32
October 2008	32	0	32	0	0	0	0	0	32
November 2008	32	0	32	0	0	0	0	0	32
December 2008	32	0	32	0	0	0	0	0	32
January 2009	32	1	33	0	0	0	0	0	33
February 2009	33	2	35	0	0	0	0	0	35
March 2009	35	4	39	0	0	0	1	1	38
Total	29	29	58	1	15	3	1	20	38

This court had a case load of 58 cases, of which 20 (34%) were finalised and a total of 38 (66%) cases are pending.

The graphs below show the trend analysis for criminal appeals.

Figure 3: Case load

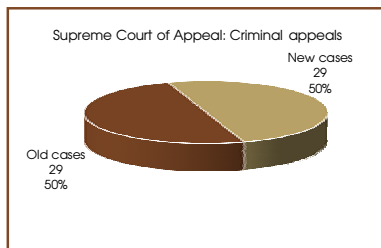


Figure 4: Case handling

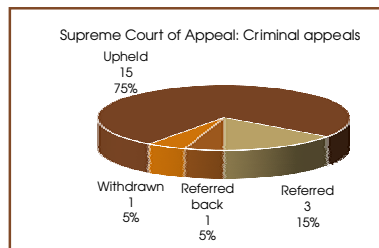
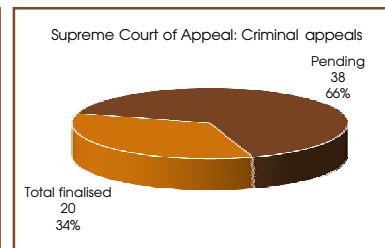


Figure 5: Finalised and pending appeal



Overview of Criminal Petitions

Table 28 provides a summary of the criminal petition statistics in the Supreme Court of Appeal for the period under review.

Table 28: Criminal petition statistics

Month	Old cases	New cases	Total case load	With-drawn	Granted	Refused	Referred back	Total finalised	Pending
April 2008	32	7	39	0	3	5	0	8	31
May 2008	31	24	55	0	5	11	0	16	39
June 2008	39	19	58	0	2	14	0	16	42
July 2008	42	0	42	0	0	0	0	42	42
August 2008	42	18	60	1	2	11	0	14	46
September 2008	46	22	68	0	2	17	0	19	49
October 2008	49	0	49	0	0	0	0	0	49
November 2008	49	0	49	0	0	0	0	0	49
December 2008	49	0	49	0	0	0	0	0	49
January 2009	49	15	64	0	4	14	0	18	46
February 2009	46	13	59	0	2	12	0	14	45
March 2009	45	19	64	0	6	16	0	22	42
Total	32	137	169	1	26	100	0	127	42

Based on the information above, this court carried over 32 (23%) petitions from March 2008 and received 137 new petitions in the period under review, making a total of 169. However, the court finalised 127 (75%) petitions and 42 (25%) remained pending.



Civil Appeals

Table 29 provides a summary of the civil appeal statistics for the period under review.

Table 29: Civil appeal statistics

Month	Old cases	New cases	Total case load	With-drawn	Upheld	Refused	Referred	Total finalised	Pending
April 2008	140	15	155	5	0	0	0	5	150
May 2008	150	23	173	4	15	16	0	35	138
June 2008	138	15	153	0	0	0	0	0	153
July 2008	153	0	153	0	0	0	0	0	153
August 2008	153	7	160	2	0	0	0	2	158
September 2008	158	15	173	1	18	16	0	35	138
October 2008	138	0	138	0	0	0	0	0	138
November 2008	138	0	138	0	0	0	0	0	138
December 2008	138	0	138	0	0	0	0	0	138
January 2009	138	10	148	0	1	0	0	1	147
February 2009	147	13	160	10	1	2	0	13	147
March 2009	147	15	162	6	12	22	0	40	122
Total	140	113	253	28	47	56	0	131	122

This court carried over 140 (55%) cases from March 2008 and received 113 new cases in the period under review, making a total case load of 253, of which about 131 (52%) of the cases were finalised and 122 (48%) cases remained pending/outstanding. The trend analysis reveals that most cases were finalised during the months of May and September 2008 and March 2009, and the pending cases decreased accordingly for these months.

Table 29 indicates that the case load decreased by 223 (47%) cases in the period under review. Similarly, the total number of cases finalised decreased by 31 (19%) and the total number of outstanding cases decreased by 192 (61%). The court’s performance improved with 18% in 2008/09.

The graphs below show the trend analysis for civil appeals.

Figure 6: Case load

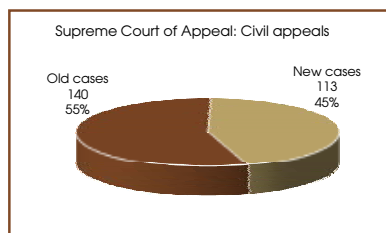


Figure 7: Case handling

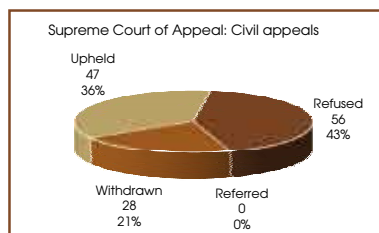
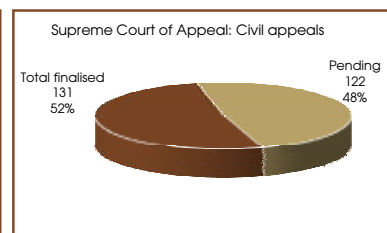


Figure 8: Finalised and pending appeals



Civil Petitions

Table 30 provides a summary of the civil petition statistics for the period under review.

Table 30: Civil petition statistics

Month	Old cases	New cases	Total case load	Granted	Refused	Withdrawn	Total finalised	Pending
April 2008	82	35	117	12	27	0	39	78
May 2008	78	22	100	8	32	2	42	58
June 2008	58	28	86	3	22	0	25	61
July 2008	61	0	61	0	0	0	0	61
August 2008	61	15	76	11	23	0	34	42



Month	Old cases	New cases	Total case load	Granted	Refused	Withdrawn	Total finalised	Pending
September 2008	42	25	67	11	20	0	31	36
October 2008	36	0	36	0	0	0	0	36
November 2008	36	0	36	0	0	0	0	36
December 2008	36	0	36	0	0	0	0	36
January 2009	36	16	52	2	18	0	20	32
February 2009	32	17	49	6	18	0	24	25
March 2009	45	40	65	15	35	0	50	15
Total	82	198	280	68	195	2	265	15

The table above shows that 82 cases were carried over from March 2008 and the court received 198 new cases, adding up to a total case load of 280, of which 265 (95%) of the cases were finalised and 15 (5%) cases remained pending.

(ii) High Courts

In terms of the Uniform Rules of the Supreme Courts, High Courts has the following four terms and recess periods:

Table 31: High Court terms and recess periods

Division	Term No	Term period	Months	Recess	Days/months
Transvaal Provincial Division and Venda	1	26 March to 9 April	2.5 months	10 to 19 April	10 days
	2	20 April to 19 June	2 months	20 June to 26 July	1 month, 6 days
	3	27 July to 27 September	2 months	28 September to 4 October	5 days
	4	5 October to 4 December	2 months	5 December to 25 March	1 month, 20 days
			8.5 months		3.5 months
Witwatersrand Local Division	1	26 March to 9 April	2.5 months	10 to 19 April	10 days
	2	20 April to 19 June	2 months	20 June to 26 July	1 month, 6 days
	3	28 July to 19 September	2 months	28 September to 4 October	5 days
	4	6 October to 5 December	2 months	5 December to 25 March	1 month, 20 days
			8.5 months		3.5 months
Natal Provincial Division and Durban	1	1 February to 31 March	2 months	1 to 14 April	13 days
	2	15 April to 30 June	2.5 months	1 to 31 July	1 month
	3	1 August to 30 September	2 months	1 to 14 October	13 days
	4	15 October to 15 December	2 months	16 December to 31 March	1.5 months
			8.5 months		3.5 months
Northern Cape Province, Bophuthatswana Provincial Division/ Mmabatho	1	4 February to 28 March	1.8 months	29 March to 13 April	15 days
	2	14 April to 27 June	2.5 months	28 June to 3 August	1 month, 6 days
	3	4 August to 26 September	1.8 months	27 September to 12 October	15 days
	4	13 October to 12 December	2 months	13 December to 3 February	1 month, 21 days
			7.1 months		4.9 months
Cape Provincial Division	1	1 February to 31 March	2 months	1 to 8 April	10 days
	2	9 April to 23 June	2.5 months	24 June to 31 July	1 month 7 days
	3	1 August to 30 September	2 months	1 to 14 October	13 days
	4	15 October to 15 December	2 months	16 December to 31 March	1 month 18 days
			8.5 months		3.5 months



Division	Term No	Term period	Months	Recess	Days/months
Eastern Cape Provincial Division/Ciskei/Transkei	1	21 March to 28 March	2.1 months	29 March to 13 April	15 days
	2	14 April to 20 June	2.2 months	21 June to 20 July	1 month
	3	21 July to 19 September	2 months	20 September to 5 October	24 days
	4	6 October to 12 December	2 months	13 December to 20 March	1.4 days
			8.3 months		3.7 months

(iii) High Court Divisions

(a) Criminal courts

High Court Criminal Trials

Table 32 provides a summary of the High Court criminal trial statistics per division for the period under review.

Table 32: High Court criminal trial statistics

Divisions	Total case load			Total removed		Trials finalised		Total trials finalised	Outstanding trial roll	Number of cases older than 12 months	Backlog %	Finalised %
	Old cases	New trial cases	Case load	Warrants issued	Case withdrawn	Guilty	Acquitted					
Bophuthatswana	57	62	119	0	1	73	6	79	34	0	0.0	66.4
Cape Provincial Division	63	48	111	0	1	50	11	61	98	14	14.3	55.0
Eastern Cape Division	61	174	235	0	14	149	13	162	105	8	7.6	68.9
Free State Division	24	60	84	2	1	42	6	48	33	0	0.0	57.1
Northern Cape Division	25	63	88	0	3	48	9	57	26	0	0.0	64.8
Natal Provincial Division	172	259	431	1	10	195	28	223	244	52	21.3	51.7
Transvaal Provincial Division	191	353	544	4	24	228	36	264	225	101	44.9	48.5
Transkei	143	165	308	8	7	114	26	140	168	12	7.1	45.5
Witwatersrand Local Division	224	101	325	0	19	102	25	127	209	36	17.2	39.1
TOTAL p/a	960	1 285	2 245	15	80	1 001	160	1 161	1 142	223	19.5	51.7

The division with the highest case load is the Transvaal Provincial Division (544), followed by the Natal Provincial Division with a case load of 431 and Transkei with 308. The national average for finalised cases is 52% for the period under review. A comparison of the finalisation rate for these three divisions shows the Transvaal Provincial Division at 49%, the Natal Provincial Division at 52% and Transkei at 46%.

The Transvaal Provincial Division has the highest case load in comparison with the other divisions. The Transvaal Provincial Division, however, covers Gauteng,

Mpumalanga and some areas of Limpopo not falling under the Thohoyandou/Venda division. The division with the highest case backlog is the Transvaal Provincial Division with 44.9%, followed by the Natal Provincial Division with 21.3% and the Cape Provincial Division with 14.3%.

The data portrays that the case load increased by 19 cases in the period under review. Similarly, the total number of cases finalised increased by 80 and the total number of outstanding/pending cases increased by 124. Based on the number of cases finalised, the court's performance improved by 4% in 2008/09.



Figure 9: Case load

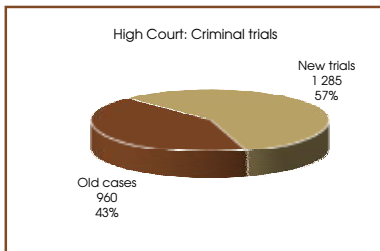


Figure 10: Case handling

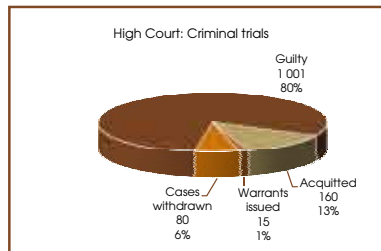
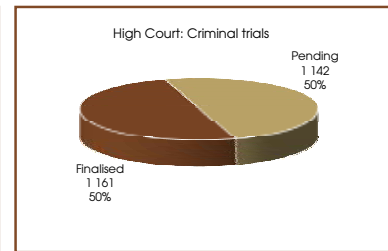


Figure 11: Finalised and pending appeals



High Court Criminal Trials: Section 52s

Table 33 provides a summary of the High Court criminal trials, Section 52s, statistics for the period under review.

Table 33: High Court criminal trials: Section 52s

Divisions	Old cases	New Section 52 cases	Total case load	Total Section 52 cases finalised	Outstanding Section 52 roll	Total outstanding cases
Bophuthatswana	30	39	69	49	9	43
Cape Provincial Division	66	32	98	101	6	104
Eastern Cape Division	4	1	5	6	1	106
Free State Division	14	5	19	26	0	33
Northern Cape Division	3	0	3	3	0	26
Natal Provincial Division	66	5	71	70	0	244
Transvaal Provincial Division	76	182	258	217	26	251
Transkei	3	1	4	7	3	171
Witwatersrand Local Division	45	27	72	72	5	214
National average	307	292	599	551	50	1 192

The table shows that the division with the highest case load is the Transvaal Provincial Division (258 cases), followed by the Cape Provincial Division (98 cases). About 92% of the cases were finalised nationally. There has been a decrease in the case load by 56%. The total finalised cases decreased by 47% and outstanding cases decreased by 84% in the same period. The overall performance of the divisions improved by 16%.

Criminal Reviews

Table 34 provides a summary of the automatic review statistics dealt with by the various high courts in the provinces for the period under review.

Table 34: Automatic review statistics

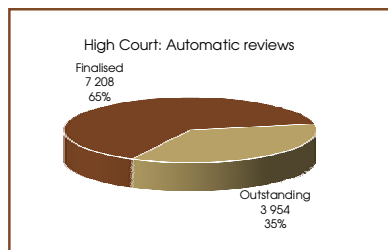
High Court	Old cases	New cases	Case load	Confirmed	Set aside	Referred back	Finalised	Outstanding
Bisho	11	93	104	67	19	18	104	0
Grahamstown	38	452	490	351	7	3	361	129
Mthatha	75	673	748	363	20	2	385	363
Port Elizabeth	38	299	337	247	13	39	299	38
Bloemfontein	247	265	512	262	1	83	346	166
Johannesburg	34	108	142	57	5	3	65	77
Pretoria	2 339	1 851	4 190	1 783	308	62	2 153	2 037
Durban	120	188	308	153	0	24	177	131
Pietermaritzburg	57	744	801	425	56	48	529	272
Thohoyandou	30	134	164	111	21	0	132	32
Mmabatho	0	449	449	292	0	157	449	0
Kimberley	154	46	200	43	5	27	75	125
Cape Town	472	2 245	2 717	1 775	276	82	2 133	584
Total	3 615	7 547	11 162	5 929	731	548	7 208	3 954



The table shows that the High Court with the highest case load is Pretoria, with 4 190 cases. The court managed to finalise 2 153 (51.4%) of the cases. This was followed by Cape Town with 2 717 cases and a finalisation of 2 133 (78.5%). Bisho and Mmabatho high courts are the only courts that managed to finalise their entire case loads for the period under review, leaving outstanding/pending cases at 0. The case load increased by 2 825 (33.9%), finalised cases decreased by 727 (9%) cases, while outstanding cases increased by 3 552.

During the previous period, 95.2% of the cases were finalised, compared to 64.6% during the current reporting period. The overall performance for the divisions decreased by 31%.

Figure 12: Finalised and pending reviews



High Court Criminal Petitions

Table 35 provides a summary of the High Court criminal petition statistics for the period under review.

Table 35: High Court criminal petition statistics

High court	Old petitions	New petitions	Total case load	Petitions granted	Petitions refused	Finalised petitions	Outstanding petitions
Bisho	0	10	10	0	0	0	10
Grahamstown	24	61	85	1	5	6	79
Mthatha	0	5	5	1	2	3	2
Port Elizabeth	0	0	0	0	0	0	0
Bloemfontein	37	8	45	22	4	26	19
Johannesburg	50	76	126	9	25	34	92
Pretoria	639	287	926	159	133	292	634
Durban	30	0	30	0	0	0	30
Pietermaritzburg	14	47	61	8	18	26	35
Thohoyandou	4	4	8	5	3	8	0
Mmabatho	20	21	41	15	5	20	21
Kimberley	10	16	26	3	13	16	10
Cape Town	80	301	381	204	70	274	107
	908	836	1 744	427	278	705	1 039

Table 35 shows that the High Court with the highest case load is Pretoria, with 926 cases. The court managed to finalise 292 (31.5%) of the cases. It was followed by Cape Town, with 301 cases and a finalisation of 274 (91%). The data shows that out of 1 744 cases, only 705 (40%) were finalised and 1 039 (60%) remained outstanding in the period under review.

(b) Civil Courts

High Court Civil Trials

Table 36 provides a summary of High Court civil trial statistics for the period under review.

Table 36: High Court civil trial statistics

High Court	Old cases	New cases	Case load	Postponed	Withdrawn	Altered	Settled	Finalised	Pending
Bisho	1	120	121	24	30	4	30	88	33
Grahamstown	28	316	344	9	39	22	42	112	232
Mthatha	6	325	331	56	60	4	77	197	134
Port Elizabeth	0	666	666	95	258	17	57	427	239



Part 2: Performance Information

High Court	Old cases	New cases	Case load	Postponed	Withdrawn	Altered	Settled	Finalised	Pending
Bloemfontein	0	167	167	10	26	4	47	87	80
Johannesburg	0	1 924	1 924	77	680	0	565	1 322	602
Pretoria	15 560	7 813	23 373	294	344	0	600	1 238	22 135
Durban	0	433	433	67	144	0	51	262	171
Pietermaritzburg	0	491	491	14	68	2	122	206	285
Thohoyandou	27	227	254	64	21	11	134	230	24
Mmabatho	19	243	262	53	49	24	11	137	125
Kimberley	0	163	163	1	17	0	142	160	3
Cape Town	254	2 762	3 016	495	770	175	380	1 820	1 196
	15 895	15 650	31 545	1 259	2 506	263	2 258	6 286	25 259

The table above should be read with the following percentage distribution table. There was a total case load of 31 545 cases. Of these, 6 286 (19.9%) were finalised and 25 259 (80.1%) are outstanding cases. The percentage distribution for High Court civil trial statistics for the period under review is as follows:

Figure 13: Case load

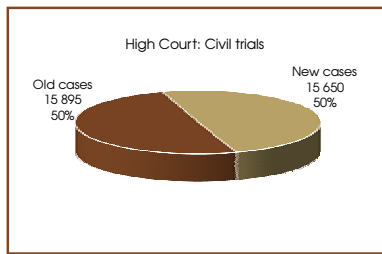


Figure 14: Case handling

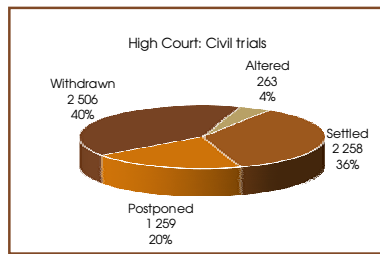
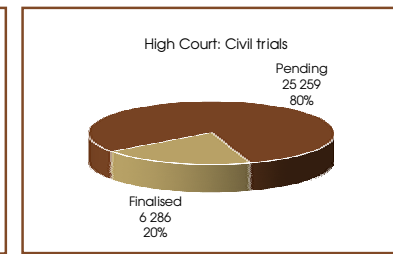


Figure 15: Finalised and pending appeals



The High Court with the highest case load is Pretoria (74.1%), followed by Cape Town (9.6%) and Johannesburg (6.1%). The national average for finalised cases is 19.9% for the period under review. Out of the 74.1% case load in Pretoria, only 5.3% of the cases were finalised and 94.7% are pending cases. This shows that Pretoria is performing way below average in comparison to the other courts. The table above further indicates that most courts with lower case loads manage to perform above average, for example, Bisho and Kimberley. Bisho has a total case load of 121 cases and finalised 88 (72.7%) cases. Kimberley has a total case load of 163 cases and finalised 160 (98.2%) cases. The case load increased significantly by 4 279 and finalised cases decreased enormously by 17 945 cases, which resulted in an increase of 22 224 outstanding cases.

Motion Applications

Table 37 provides a summary of the motion application statistics for the period under review.

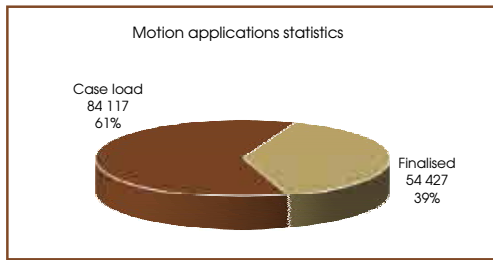
Table 37: Motion application statistics

High Court	Old cases	New cases	Case load	Struck off the roll	Set aside	Granted	Refused	Finalised
Bisho	0	433	433	24	55	320	34	433
Bloemfontein	115	998	1 113	62	177	685	34	958
Cape Town	1 229	9 936	11 165	92	1 263	6 973	841	9 169
Durban	240	1 388	1 628	60	236	541	58	895
Grahamstown	237	845	1 082	21	39	780	20	860
Johannesburg	0	6 806	6 806	1 271	1 128	2 565	942	5 906
Kimberley	0	515	515	0	0	0	0	0
Mmabatho	491	2 131	2 622	152	865	1 443	117	2 577
Mthatha	2 370	1 865	4 235	101	480	868	450	1 899
Pietermaritzburg	3 792	4 900	8 692	129	501	2 162	18	2 810
Port Elizabeth	0	1 827	1 827	168	683	963	13	1 827
Pretoria	15 835	27 703	43 538	891	1 654	23 682	283	26 510
Thohoyandou	86	375	461	43	150	324	66	583
Total	24 395	59 722	84 117	3 014	7 231	41 306	2 876	54 427

The table above should be read with the following percentage distribution table.



Figure 16: Case load and finalised cases: Motion applications



The percentage distributions for the motion application statistics for the period under review are as follows:

Table 38: Motion application statistics

Office	Case load	% case load	Finalised	% finalised
Bisho	433	0.5%	433	100.0%
Bloemfontein	1 113	1.3%	958	86.1%
Cape Town	11 165	13.3%	9 169	82.1%
Durban	1 628	1.9%	895	55.0%
Grahamstown	1 082	1.3%	860	79.5%
Johannesburg	6 806	8.1%	5 906	86.8%
Kimberley	515	0.6%	0	0.0%
Mmabatho	2 622	3.1%	2 577	98.3%
Mthatha	4 235	5.0%	1 899	44.8%
Pietermaritzburg	8 692	10.3%	2 810	32.3%
Port Elizabeth	1 827	2.2%	1 827	100.0%
Pretoria	43 538	51.8%	26 510	60.9%
Thohoyandou	461	0.5%	583	126.5%
Total	84 117	100.0%	54 427	64.7%

The table above illustrates that the court with the highest case load is Pretoria, with 43 538, of which 26 510 (60.9%) cases were finalised, followed by Cape Town with 11 165, of which 9 169 (82.1%) cases were finalised, Pietermaritzburg with 8 692, of which 2 810 (32.3%) cases were finalised, and Johannesburg with 6 806, of which 5 906 (86.8%) cases were finalised. The national average for finalised cases is 64.7%. Bisho and Port Elizabeth are the only courts that have finalised 100% of their cases. Kimberley has 0% finalised cases. There is a decrease in the case load of High Court motions (10 201) and finalised cases (19 930). The outstanding cases have, however, increased by (9 729).

Default Judgment

Table 39 provides the national overview for default judgment for the period under review.

Table 39: National overview for default judgment

High Court	Total default judgments	Finalised	Outstanding
Bisho	93	52	41
Bloemfontein	806	501	305
Cape Town	6 956	5 246	1 710
Durban	1 425	1 421	4
Grahamstown	322	273	49
Johannesburg	4 115	2 120	1 995
Kimberley	298	279	19
Mmabatho	469	430	39
Mthatha	216	129	87
Pietermaritzburg	779	758	21
Port Elizabeth	1 164	1 011	153
Pretoria	29 811	13 912	15 899
Thohoyandou	31	30	1
Total	46 485	26 162	20 325



Part 2: Performance Information

The table illustrates that the High Court with the highest case load is Pretoria with 29 811. Of this case load, 13 912 (47%) were finalised, followed by Cape Town with 6 956 cases, of which 5 246 (75%) were finalised, and Johannesburg with 4 115, of which 2 120 (51%) cases were finalised. Durban, Thohoyandou and Pietermaritzburg finalised almost all their default judgments. From April 2008 to March 2009, there was a total case load of 46 485 nationally. Of this case load, 26 162 (56%) cases were finalised and 20 323 (44%) are outstanding.

Civil Appeals

Table 40 provides a summary of the civil appeal statistics for the period under review.

Table 40: Civil appeal statistics

High Court	Old cases	New cases	Total case load	Referred back	Granted	Dismissed	Altered	Upheld	Finalised
Bisho	9	14	23	0	3	2	0	8	13
Grahamstown	42	22	64	2	9	0	8	12	31
Mthatha	15	30	45	5	9	10	2	16	42
Bloemfontein	58	22	80	0	2	2	0	6	10
Johannesburg	109	30	139	1	4	6	1	13	25
Pretoria	2 358	192	2 550	22	22	22	15	5	86
Pietermaritzburg	5	14	19	3	7	2	0	4	16
Thohoyandou	3	7	10	0	0	3	1	8	12
Mmabatho	6	13	19	8	0	0	0	1	9
Kimberley	59	8	67	0	0	9	7	9	25
Cape Town	78	95	173	24	13	20	10	29	96
Total	2 742	447	3 189	65	69	76	44	111	365

The table above illustrates that Pretoria had the highest case load of 2 550 cases in comparison to all the other courts. Of the total case load of 2 550 cases, only 86 (3.4%) were finalised.

Table 41 provides a summary of the civil appeal statistics per month for the period under review.

Table 41: Civil appeal statistics per month

Month	Old cases	New cases	Total case load	Referred back	Granted	Dismissed	Altered	Upheld	Total finalised	Pending cases
April 2008	30	31	61	2	4	8	6	8	28	33
May 2008	33	14	47	6	4	0	1	9	20	27
June 2008	27	36	63	7	5	10	1	8	31	32
July 2008	32	30	62	3	2	1	1	4	11	51
August 2008	51	50	101	9	4	3	0	10	26	75
September 2008	75	30	105	1	6	9	6	7	29	76
October 2008	76	48	124	11	5	7	4	5	32	92
November 2008	92	68	160	3	12	11	9	17	52	108
December 2008	108	42	150	3	7	8	4	11	33	117
January 2009	117	29	146	2	1	0	1	2	6	140
February 2009	140	33	173	11	10	19	11	12	63	110
March 2009	110	36	146	7	9	0	0	18	34	112
Total	30	447	477	65	69	76	44	111	365	112

The month of May had the lowest case load in comparison to all the other months. In June, the case load increased significantly. August had the highest case load in comparison to all the months. The case load decreased in September. In February, the most appeals were finalised in comparison to all the months. The total case load increased by 1 305 cases during the period under review. Finalised cases were much higher in comparison to the previous year, and decreased by 468 during the period under review. Outstanding cases increased by 1 773. Overall, the performance decreased by 33%.



Figure 17: Case load

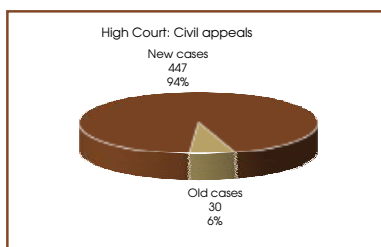


Figure 18: Case handling

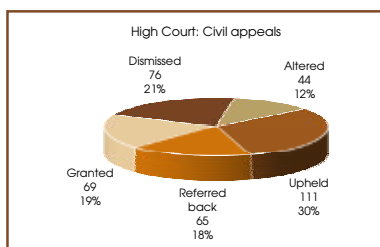
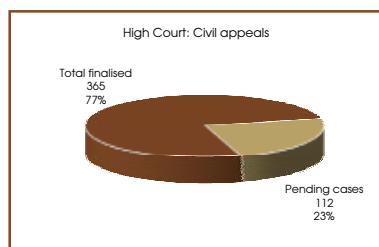


Figure 19: Finalised and pending appeals



Civil High Court – Taxation

Table 42 provides a summary of the High Court taxation statistics for the period under review.

Table 42: High Court taxation statistics

Region	Old cases	New cases	Total case load	Settled	Removed	Taxed	Postponed	Finalised	Pending
Eastern Cape	29	1 554	1 583	489	116	858	64	1 527	56
Free State	24	233	257	7	10	214	14	245	12
Gauteng	50 948	15 889	66 837	4 135	362	12 384	655	17 536	49 301
KwaZulu-Natal	0	1 486	1 486	858	72	528	28	1 486	0
Limpopo	0	216	216	48	1	164	4	217	-1
North West	36	493	529	10	39	395	85	529	0
Northern Cape	0	219	219	2	0	217	31	250	-31
Western Cape	31	1 631	1 662	460	487	690	19	1 656	6
Total	51 068	2 1721	72 789	6 009	1 087	15 450	900	23 446	49 343

The table illustrates that there are more cases pending (67.8%) than finalised (32.2%).

(c) Labour and Labour Appeal Court

Table 43 provides a summary of the Labour Court statistics from October 2008 to March 2009.

Table 43: Labour Court statistics

Month	Appeals	Applications from CCMA and BC issued in terms of section 143	Normal applications	Petitions	Referrals from CCMA and BC	Total cases opened
October 2008	2	333	515	2	87	939
November 2008	0	284	459	0	115	743
December 2008	0	218	398	0	83	699
January 2009	3	136	409	0	64	612
February 2009	3	233	440	4	95	775
March 2009	4	439	489	6	101	1 039
Total	12	1 643	2 710	12	545	4 807

The table above indicates that 4 807 cases were opened in the Labour Court from October 2008 to March 2009. Normal applications were the highest at 2 710.



Table 44 shows the cases that appeared before court from October 2008 to March 2009. Of these, 346 were urgent applications.

Table 44: Cases that appeared before court from October 2008 to March 2009

Cases before court	Appeals	Defaults	Normal applications	Opposed	Petitions	Trials	Unopposed	Urgent applications
October 2008	0	35	0	39	0	24	89	75
November 2008	0	32	0	61	0	22	270	75
December 2008	0	31	0	55	0	0	175	40
January 2009	0	24	0	15	0	0	77	23
February 2009	3	63	0	124	0	2	260	67
March 2009	8	55	0	40	14	42	143	66
Total	11	240	0	334	14	90	1 014	346

Table 45 provides a summary of the Labour Court taxation statistics from October 2008 to March 2009. Of these, 335 cases were taxed.

Table 45: Labour Court taxation statistics

Month	Opposed	Posponed	Removed from roll	Settled out of court	Struck from roll	Total (taxation)	Unopposed
October 2008	9	2	5	5	8	58	29
November 2008	8	1	1	9	3	49	27
December 2008	5	3	2	4	4	28	10
January 2009	2	1	0	4	0	22	15
February 2009	8	10	3	13	2	88	52
March 2009	9	31	8	6	4	90	32
Total	41	48	19	41	21	335	165

(d) 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 specifically land reform-related cases. 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 must investigate the claim in terms of section 11 of the act to determine its validity. This court therefore allows for the use of alternative dispute resolution (ADR) mechanisms in the settlement of disputes. The court may send matters for facilitation, as well as use mediation mechanisms for resolving disputes.

Restitution Cases

Table 46 provides a summary of the restitution case statistics dealt with in the Land Claims Court for the period under review.

Table 46: Restitution case statistics

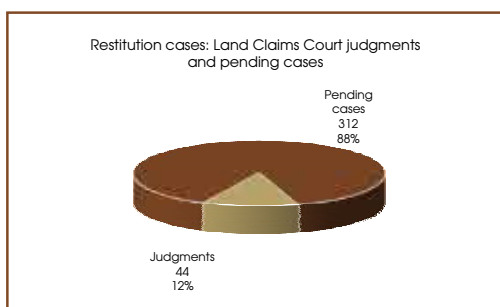
Months	Input			Output	
	Old cases	New cases	Total case load	Judgments	Pending cases
April 2008	246	14	260	1	259
May 2008	259	13	272	1	271
June 2008	271	16	287	5	282
July 2008	282	4	286	1	285
August 2008	285	17	302	0	302
September 2008	302	8	310	1	309
October 2008	309	11	320	14	306



Months	Input			Output	
	Old cases	New cases	Total case load	Judgments	Pending cases
November 2008	306	10	316	6	310
December 2008	310	8	318	5	313
January 2009	313	0	313	0	313
February 2009	313	5	318	4	314
March 2009	314	4	318	6	312
Total	246	110	356	44	312

Figure 20 provides a summary of the land reform statistics for the period under review.

Figure 20: Land reform statistics



Extension of Security

Table 47 provides a summary of the Extension of Security of Tenure Act, 1997 (Act No 62 of 1997), statistics for the period under review.

Table 47: Extension of Security of Tenure Act, 1997 (Act No 62 of 1997), statistics

Months	Input			Output	
	Old cases	New cases	Total case load	Total finalised	Total pending cases
April 2008	277	14	291	2	289
May 2008	289	2	291	0	291
June 2008	291	4	295	0	295
July 2008	295	8	303	15	288
August 2008	288	4	292	1	291
September 2008	291	6	297	17	280
October 2008	280	8	288	16	272
November 2008	272	3	275	9	266
December 2008	266	4	270	8	262
January 2009	262	0	262	0	262
February 2009	262	4	266	35	231
March 2009	231	6	237	40	197
Total	277	63	340	143	197

A total of 277 (81%) cases were carried over from the previous year and only 63 (19%) new cases were received in the period under review. The court managed to finalise 143 (42%) cases during the period under review. About 197 (58%) cases remained outstanding.



Figure 21: Extension of Security of Tenure Act, 1997 (Act No 62 of 1997), finalised and pending cases

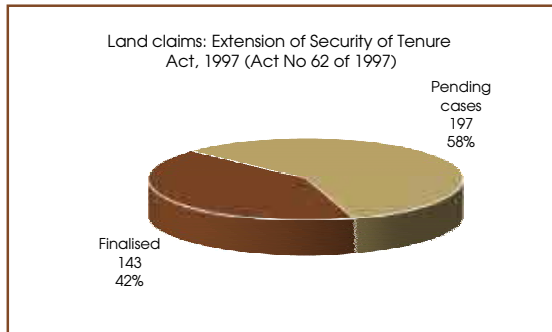
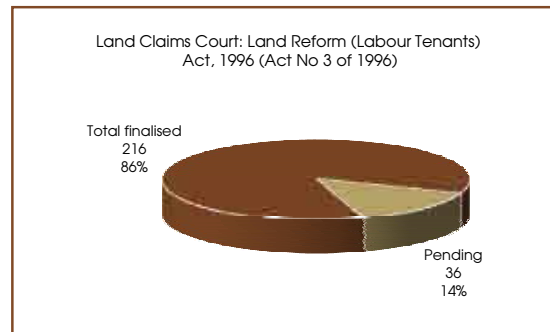


Figure 22: Land Reform (Labour Tenants) Act, 1996 (Act No 3 of 1996), finalised and pending cases



Land Reform (Labour Tenant)

Table 48 provides a summary of the Land Reform (Labour Tenant) Act, 1996 (Act 3 of 1996), statistics for the period under review.

Table 48: Land Reform (Labour Tenant) Act, 1996 (Act 3 of 1996), statistics

Months	Input			Output	
	Old cases	New cases	Total case load	Total finalised	Pending
April 2008	158	0	158	13	145
May 2008	145	1	146	13	133
June 2008	133	3	136	18	118
July 2008	118	2	120	26	94
August 2008	94	0	94	20	74
September 2008	74	3	77	23	54
October 2008	54	3	57	26	31
November 2008	31	3	34	34	0
December 2008	0	1	1	1	0
January 2009	0	0	0	0	0
February 2009	0	77	77	0	77
March 2009	77	1	78	42	36
Total	158	94	252	216	36

A total of 158 (63%) cases were carried over from the previous year and only 94 (37%) new cases were received, bringing the total case load to 252 cases, of which 216 (86%) cases were finalised and only 36 (14%) cases remained pending.

The case load increased by 105 (42%) cases during the period under review. Similarly, the number of cases finalised increased by 39 during the period under review and the number of outstanding cases increased by 66 (27%). Overall, the performance increased by 10%.

The total number of cases increased by 48 (14%) cases during the period under review. Similarly, the number of cases finalised increased by 128 and the number of outstanding cases decreased by 80 (29%). Overall, the performance increased by 37%. The case load increased by 95 (38%) cases during the period under review. Similarly, the number of cases finalised increased by 215 and the number of outstanding cases decreased by 120 (78%). Overall, the performance increased by 86%.



(iv) Lower Courts

(a) Criminal Courts

Regional Court Division

Table 49 provides a summary of the regional court statistics for the period under review (NPA data).

Table 49: Regional court statistics

Province	Average hours	Case load		Removed cases				Finalised cases				Out-standing cases	No of cases older than nine months
		Old cases	New cases	Withdrawals	Warrants issued	Cases transferred externally	Struck off roll	Guilty and sentenced	Not guilty and stopping	ADR	Section 57A admission of guilt		
		b	c	d	e	f	g	h	i	j	k	l	m
Eastern Cape	03:31	6 395	6 168	1 907	1 842	258	935	2 911	1 266	101	5	6 629	2 458
Free State	04:00	4 479	5 941	1 934	787	439	361	1 956	758	86	8	3 921	1 287
Gauteng	04:10	13 290	25 149	7 353	2 920	542	2 961	7 893	2 717	319	61	13 848	3 903
KwaZulu-Natal	03:29	8 988	15 478	4 480	1 956	1 044	789	5 476	1 784	75	15	9 679	3 625
Limpopo	03:54	1 928	6 221	1 490	731	65	726	1 953	656	195	2	2 796	414
Mpumalanga	03:47	2 839	5 244	1 807	948	285	519	1 611	629	353	4	2 619	736
North West	03:28	4 479	6 071	2 879	1 262	65	579	1 973	610	42	5	4 582	1 399
Northern Cape	03:50	1 308	3 063	770	377	60	305	712	411	5	0	1 613	439
Western Cape	03:46	6 394	11 146	3 076	1 560	775	649	4 734	1 614	155	38	6 115	1 506
Total	03:48	50 100	84 481	25 696	12 383	3 533	7 824	29 219	10 445	1 331	138	51 802	15 767

The data in Table 49 shows a national case load of 134 581, of which 49 436 (37 %) cases were removed from the roll, 41 133 (31%) cases were finalised and 51 802 (39%) were outstanding.

Table 50 shows the distribution of the case load per province, together with the performance scores, based on withdrawal, finalisation and clearance rates (NPA data).

Table 50: Distribution of the case load per province

Province	Case load	% of national case load	Withdrawal ratio per case load	Withdrawal rate	Finalisation ratio	Finalisation rate	Clearance ratio	Clearance rate	Overall
Eastern Cape	12 563	9.3	0.15	4	0.34	3	1.50	5	4.26
Free State	10 420	7.7	0.19	3	0.27	2	1.07	5	3.70
Gauteng	38 439	28.6	0.19	3	0.29	2	0.98	5	3.70
KwaZulu-Natal	24 466	18.2	0.18	3	0.30	3	1.01	5	3.88
Limpopo	8 149	6.1	0.18	3	0.34	3	0.94	5	3.88
Mpumalanga	8 083	6.0	0.22	2	0.32	3	1.17	5	3.50
North West	10 550	7.8	0.27	1	0.25	2	1.22	5	2.94
Northern Cape	4 371	3.2	0.18	3	0.26	2	0.86	5	3.70
Western Cape	17 540	13.0	0.18	3	0.37	4	1.13	5	4.06
Total	134 581	100.0	0.19	3	0.31	3	1.07	5	3.88



Part 2: Performance Information

The province with the highest case load is Gauteng (28.6%), followed by KwaZulu-Natal (18.2%) and the Western Cape (13%). The national performance of the regional courts is average, with an overall score of 3.88. The North West is performing below average with an overall score of 3, whereas the Eastern Cape (4.26) and Western Cape (4.06) are performing well above average. The table above indicates that the number of new cases increased by 1.7%, the total number of cases removed from the roll decreased by 1.9%, cases finalised increased by 14.5% and the outstanding cases on the court roll increased by 2.6% for the current period, when compared to the previous year.

Figure 23: Case load: Regional criminal courts

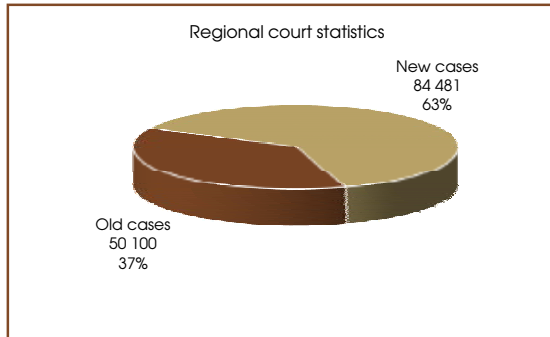


Figure 24: Removed cases: Regional criminal courts

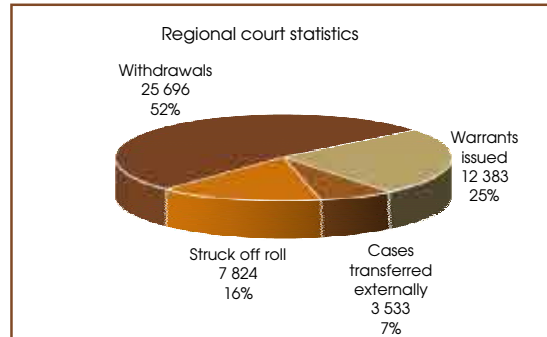


Figure 25: Finalised cases: Regional criminal courts

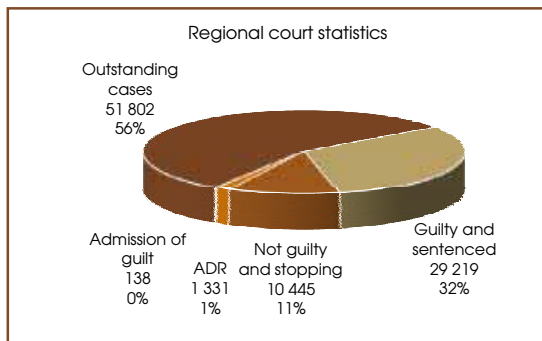
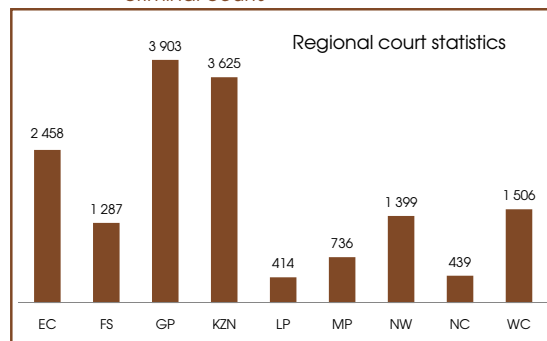


Figure 26: Cases older than nine months: Regional criminal courts

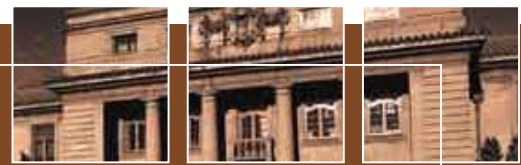


District Court

Table 51 provides a summary of the district court statistics for the period under review.

Table 51: District court statistics

Province	Average hours	Case load		Removed cases				Finalised cases			Outstanding cases	No of cases older than six months
		Old cases	New cases	Withdrawals	Warrant's issued	Cases transferred externally	Struck off roll	Guilty and sentenced	Not guilty and stopping	ADR		
	C	D	E	F	G	H	I	J	K	L	M	N
Eastern Cape	03:31	32 122	119 078	36 675	24 416	9 296	11 504	30 740	3 736	6 552	35 842	8 573
Free State	04:03	10 719	63 565	14 702	10 024	4 297	6 686	15 890	2 573	6 974	10 018	1 033
Gauteng	04:19	22 741	186 437	37 497	23 946	5 177	23 249	45 448	7 376	20 092	23 861	2 030
KwaZulu-Natal	03:35	26 952	141 953	34 261	25 035	8 910	12 297	36 256	4 857	16 851	24 454	3 101
Limpopo	03:48	11 044	72 619	16 835	19 074	4 415	7 581	15 623	3 394	1 725	10 248	1 061
Mpumalanga	03:58	12 899	57 907	13 536	9 954	4 457	6 129	12 442	2 214	7 030	12 173	1 446



Province	Average hours	Case load		Removed cases				Finalised cases			Outstanding cases	No of cases older than six months
		Old cases	New cases	Withdrawals	Warrants issued	Cases transferred externally	Struck off roll	Guilty and sentenced	Not guilty and stopping	ADR		
North West	03:48	12 095	58 670	19 399	11 191	3 170	4 711	12 043	1 714	2 343	12 452	1 935
Northern Cape	03:16	7 110	44 005	12 460	13 016	1 414	5 936	7 917	997	1 217	6 665	646
Western Cape	04:13	44 104	229 424	75 639	51 371	7 436	14 464	62 020	5 245	17 644	45 554	6 551
Total	03:52	179 786	973 658	261 004	188 027	48 572	92 557	23 8379	32 106	80 428	181 267	26 376

Table 52 shows the distribution of the case load for the district courts per province for the period under review, together with the performance scores based on withdrawal, finalisation and clearance rates.

Table 52: Distribution of case load for district courts per province

Province	Case load	Withdrawal ratio per case load	Withdrawn rate	Finalisation ratio	Finalisation rate	Clearance ratio	Clearance rate	Overall
Eastern Cape	151 200	0.24	2	0.28	2	1.05	4	3
Free State	74 284	0.20	3	0.38	3	1.00	3	3
Gauteng	209 178	0.18	4	0.38	3	0.91	1	3
KwaZulu-Natal	168 905	0.20	3	0.38	3	1.02	3	3
Limpopo	83 663	0.20	3	0.32	2	1.02	3	3
Mpumalanga	70 806	0.19	3	0.37	3	1.04	3	3
North West	70 765	0.27	2	0.29	2	1.00	3	2
Northern Cape	51 115	0.24	2	0.22	1	1.00	3	2
Western Cape	273 528	0.28	2	0.33	2	1.04	3	2
Total	1 153 444	0.23	3	0.34	2	1.01	3	3

The national performance of the district courts is average with an overall score of 3. The North West, Northern Cape and Western Cape are performing below average, with ratings of 2. The other provinces are performing average, with ratings of 3. The number of new cases increased by 2.3%, the total number of cases removed from the roll decreased by 2.4%, the cases finalised increased by 11% and the outstanding cases on the court roll increased by 0.3% for the current period when compared to the previous year.



Programme Performance





2.1 Voted funds (R'000)

Table 1: Voted funds for 2008/09

Appropriation	Main appropriation	Adjusted appropriation	Actual amount spent	Over-/under-expenditure
Amount appropriated	6 400 004	6 403 716	6 362 176	(41 540)
Statutory appropriation	1 588 014	1 588 014	1 601 091	13 077
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 (DoJ&CD) 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, programmes and achievements

2.3.1 Key measurable objectives

The department's key strategic objectives are capacitating and restructuring the courts, integrating the justice system, catering for the needs of vulnerable groups and improving the maintenance system to relieve the 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.

2.3.2 Programmes

Programme 1: Administration

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

Programme 2: Court Services

Purpose: Provide and manage court facilities, and facilitate the resolution of criminal, civil and family law matters in South Africa. The programme purpose is reflected in the organisation of its first five subprogrammes:

- Constitutional Court
- Supreme Court of Appeal
- High Courts
- Specialised Courts
- Lower Courts

There are five other subprogrammes:

- The Family Advocate makes recommendations to the court where there is litigation and mediation relating to children in family matters.
- The Magistrates Commission makes recommendations on the appointment of magistrates.
- Government Motor Transport funds vehicles for judges and departmental officials.
- Facilities Management funds the building and upgrading of court and justice service delivery points.
- Administration of Courts funds the management of courts' administration and performance evaluation functions.

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 subprogramme: State Law Advisors provides legal advisory services to the executive, all government departments, parastatals and government autonomous bodies.
- Litigation and Legal Services provides attorney, conveyancing and notary public services to the executive, all government departments, parastatals and other government bodies through the offices of the State Attorney, and provides legal support to the department and the ministry.
- Legislation and Constitutional Development prepares and promotes primary and secondary legislation, and conducts research.
- The Master of the High Court supervises the administration of deceased and insolvent estates, trusts, curatorships and the Guardian's Fund.

Programme 4: National Prosecuting Authority

Purpose: Provide a coordinated prosecuting service that protects certain witnesses, investigates serious organised unlawful conduct and removes the profit from crime.



- Public Prosecutions includes general prosecutions and several specialist prosecution units.
- The Witness Protection Programme provides protection, support and related services to vulnerable witnesses and related persons in judicial proceedings.
- The Directorate of Special Operations deals with complex and organised crime.
- The Asset Forfeiture Unit seizes criminal assets that are the proceeds of crime or have been involved in an offence either through a criminal or civil process.

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, the Public Protector, the Commission on Gender Equality, the Legal Aid Board, the Special Investigating Unit, the Represented Political Parties' Fund and the President's Fund.

- The Office for the Control of Interception and Monitoring of Communication authorises applications by law enforcement agencies for the interception and monitoring of communications in terms of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No 70 of 2002).
- The South African Human Rights Commission promotes and monitors the observance of human rights.
- The Commission on Gender Equality aims to create a society free from gender discrimination and any other forms of oppression.
- The Special Investigating 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.
- The Legal Aid Board provides legal aid to indigent people and provides 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 (NCPS) 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 gives effect to the reparations policy flowing from the findings of the Truth and Reconciliation Commission.
- The Represented Political Parties' Fund provides for the funding of political parties participating in Parliament and provincial legislatures.

2.3.3 Achievements

A summary of achievements is provided below in line with the department's core functions. These are to:

- 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;
- build, maintain and secure the department's capital infrastructure and court facilities;
- 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 on the department's programmes and their constitutional rights);
- supervise the administration of deceased and insolvent estates (including administering the Guardian's Fund); and
- provide legal advice services and protect all organs of state.

(i) Ensure equitable access to justice services for all

One of the main objectives of the department is to increase access to justice services for all, with special focus on communities previously discriminated against. This includes people living in townships and rural areas who had very limited access to courts owing to the historical inequalities in the distribution of courts and justice services. The priority in this objective is to build new courts in townships and rural areas, to provisionally 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 municipal boundaries. This objective has always presented the department with difficult challenges, not only because the current needs exceed the available resources, but also because of the complexity of implementing its multiple requirements, which often play against each other.

In the year under review, the department completed two new courts (Daveyton Magistrate's Office and Polokwane Circuit High Court) and undertook major extension work in three courts (Richmond Magistrate's Office, Mitchell's Plain Magistrate's Office and Augrabies Magistrate's Office). To expand services, and improve access for communities living in townships and rural areas, the department identified 24 branch courts that needed to be officially proclaimed as full



magisterial courts. Of the 24 identified branch courts, 15 were capacitated to become magisterial courts with their own area of jurisdiction. The department expects the official proclamation of these courts by the Minister to take place early in 2009. There are nine branch courts that are currently being redesignated, and that will be fully ready by the end of 2009. Thus, the following branch courts are now designated as main courts in their areas:

- Motherwell (Eastern Cape)
- Daveyton, Alexandra and Thembisa (Gauteng)
- Madadeni (KwaZulu-Natal)
- Tiyane (Limpopo)
- Enkangala (Mpumalanga)
- Groblershoop, Jan Kempdorp, Kakamas, Keimoes, Poffader and Kathu (Northern Cape)
- Atlantis and Khayelitsha (Western Cape)

The department also provided more than 40 mobile units to augment offices and courtrooms across the country. Forty branch courts (courts seating periodically) are also currently being upgraded to provide full justice services and others are being removed from police stations to ensure independence of judicial procedures from police procedures. With more than 10 sites acquired for the construction of new courts in various provinces, and an extra 10 new sites planned to be acquired next year, the department is determined to continuously expand spatial access to justice services for the disenfranchised communities.

(ii) Ensure effective and efficient management of the department and its resources

To ensure effective and efficient management of the department's finance, the department continued to improve its financial processes, and to address the weaknesses identified by the Auditor-General in the previous audits. To address the identified deficiencies in asset management, an Asset Management Turnaround Project was initiated, resulting in a purified asset register that complies with the National Treasury requirements. There are also significant improvements in supply chain management systems as the department is now utilising an improved document filing solution, contract performance measurement systems, and is re-engineering bid and other supply chain management systems. In addition, the project on the Management of Monies in Trust Public-Private Partnership (MMT PPP), aimed at improving the financial management of maintenance funds and expanding pay points across the country, is in its final stages, with completion expected in June 2009. However, the audit challenges in the Third Party Funds

remain unresolved due to the outstanding, formalised legal and accounting framework to be agreed between the department, the Accountant-General and the Auditor-General.

Regarding the management of its human resources, the department has slightly reduced its employee vacancy rate from 15% in the previous financial year to 14.5% this year. The number of placements in the department increased to 8 190 from 5 490 last year, resulting in 6.5% growth on the establishment. The department is formulating interventions that will see significant and continuous improvements in reducing its turnaround times to remain within a three-month cycle. In addition, the finalisation of a new delegation framework and the Human Resources Policy Plan are expected to improve efficiency across the structures of the department.

The department also recognises that effective and efficient delivery of justice services cannot be fully realised if its information and technology systems remain archaic and outdated. Thus, the department continued modernising its IT systems to ensure the efficient administration of justice in the country. More than 2 430 digital court recording systems were installed to replace the outdated analogue recording machines in the courts. A total of 4 721 employees in the department now have access to its flagship E-scheduler system, which tracks and evaluates case flow management on a daily basis in each court across the country.

The department is also continuing to roll out its video postponement systems aimed at fast-tracking case postponements without the accused person attending court. The system is currently rolled out to selected courts and correctional centres. The electronic funds transfer (EFT) system, aimed at improving efficiency at master's offices, is currently rolled out to offices in Polokwane, Bloemfontein, Kimberley, Cape Town, Pietermaritzburg and Grahamstown.

(iii) Facilitate resolution of criminal and civil cases

In the year under review (as statistics from the NPA show) the courts sat an average of 03:50 hours per day, and enrolled a total of 1 058 376 cases. Of these, 638 720 cases (60.3%) were removed from the roll. This figure includes cases withdrawn, transferred, struck from the roll and warrants issued. However, there has been a 6.2% decrease in the number of withdrawn cases.

Both the lower courts and high courts maintained high conviction rates, with district courts achieving 88.1%, regional courts 73.7% and high courts 86.3%.



The Constitutional Court enrolled 391 cases and finalised 69 (17%) – of which five cases had judgment handed down and 64 were dismissed. There are, however, 96 cases awaiting direction, and thus 322 (82.3%) cases are registered as still pending. The Supreme Court of Appeals had 3 189 cases enrolled, of which 111 (3.48%) were upheld, 44 (1.38%) were altered, 76 (2.38%) were dismissed, 69 (2.16%) were granted and 65 (2.04%) were referred back. The high courts had 31 712 civil trials, and 13 322 criminal trials enrolled. Of the civil cases enrolled, 25 339 (79.9%) of the cases are pending, with 6 373 (20%) finalised, and 2 532 (7.9%) withdrawn. Of the 13 322 criminal cases enrolled, 10 439 (78.3%) are registered as outstanding trials, 2 883 (21.6%) cases were finalised, and 1 563 (11.7%) were postponed. There were 176 (1.32%) cases struck off the roll.

A total of 50 regional courts dedicated to resolving sexual offences finalised 5 300 cases (with 4 925 finalised with a verdict). Of these cases, 134 involved young offenders. The department achieved a 66.7% conviction rate, of which 444 cases were finalised through alternative dispute resolution. The department also saw an improved reduction of backlog cases by 9% at regional courts, but saw an increase of 0.8% on all criminal court rolls.

The department is acutely aware of the shortcomings and challenges facing the criminal justice system (CJS). In the year under review, there were two parallel processes. The first looked at the capacity solutions attainable in the short term, while the second focused on long-term solutions that required in-depth research. Both processes have been completed and recommendations have been made.

The research and operational recommendations are integrated into seven points as follows:

1. Adopting a single vision and mission for the CJS, leading to a single set of objectives, priorities and performance measurement targets for the CJS.
2. Establishing, through legislation or by protocol, a new and realigned single CJS coordinating and management structure that flows in a seamless manner from the cabinet to each court, and appointing a person from the executive as head of the CJS structure with coordination and management functions and not executive powers.
3. Developing practical and short- and medium-term proposals to improve the performance of courts, initially focusing on regional courts, by focusing court work on trials and ancillary proceedings, like bail, and removing some of the administrative-like functions relating to postponements, etc.

4. Identifying key areas in the component parts of the CJS that contribute negatively to the overall systems performance and putting measures in place to correct shortcomings and remove constraints, inhibitors and dependencies, especially relating to policies that deal with capacity, and bringing all component parts to a point where they function together harmoniously.
5. Establishing an integrated and seamless national CJS information system (IT infrastructure and national database) with information and systems that are seamless and scientifically and technically robust and reliable, and that will facilitate more informed strategies, plans and decision-making.
6. Implementing a programme of modernisation of the CJS by applying technology solutions to more effectively manage day-to-day operations, reduce costs and eliminate waste and automate paper-intensive systems.
7. Involving the public at large in the fight against crime by introducing changes to the CPF regime, which is being dealt with by the SAPS, including expanding the role of the JCPS in the interaction with the community.

The implementation of the seven research and operational recommendations, referred to as the Seven-point Plan, has been prioritised in the department. The DoJ&CD-led CJS management and coordinating structure will be regulated by the draft protocol being completed for submission for authorisation.

The implementation of all operational and research recommendations that resolve the blockages in the CJS is taking place on an ongoing basis.

(iv) Build, maintain and secure the department's capital infrastructure and court facilities

(Also see 1 above, 2.9 below and report on Programme 1 below.)

In the year under review, a total of 535 courts were modified to improve access for people with physical disabilities. A further amount of R120 million was allocated to further implement the accessibility programme, resulting in 366 courts being provided with basic infrastructure such as toilets and ramps for people with disabilities. The department also continued with the Repair and Maintenance Programme (RAMP), and completed 33 maintenance projects out of 78 projects. Interdepartmental delays and financial constraints limited the department's success in these programmes.



(v) Protect and promote the rights of vulnerable groups

(Also see 2.7 and Director-General's report below.)

This objective forms one of the top priorities of the department. The department is responsible for developing legislation, policies and programmes protecting and promoting the rights of vulnerable groups (children, the aged, the disabled, women, the poor, and other such disadvantaged groups).

In the year under review, the department developed policies and frameworks that seek to guide its processes and procedures in implementing this objective.

The following policies are being developed:

- Interim National Protocol on the Management of Children Awaiting Trial
- Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007): National Draft Policy Framework document
- Draft Framework on Alignment of Programmes and Processes Between the DoJ&CD and the NPA's Sexual Offences and Community Affairs (SOCA) Unit
- Restorative Justice Strategy
- Small Claims Courts Policy Framework
- Draft National Policy Framework on the Child Justice Bill in terms of the Child Justice Bill No B49D of 2008, to be submitted by December 2009
- Management and prioritisation of children's matters in court, in terms of the Children's Act, 2005 (Act No 38 of 2005)
- Integration of sexual offences courts into the mainstream courts
- Mediation on maintenance matters

(vi) Legislation passed in 2008/09

During the year under review, the department increased its focus towards developing legislation to improve access to justice, enhance efficiency in the justice system and to transform the system to be in line with the country's Constitution. The department also fast-tracked bills that required urgent attention, such as the National Prosecution Authority Amendment Bill, the various Constitutional Amendment Bills and the Reform of Customary Law of Succession Bill. The following legislation was developed and passed by Parliament during 2008/09:

- Repeal of the Black Administration Act, 2008 (Act No 7 of 2008)
- South African Judicial Education Institute Act, 2008 (Act No 4 of 2008)

- Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)
- Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008)
- Renaming of the High Courts Act, 2008 (Act No 30 of 2008)
- Regulation of Interception of Communications and Provision of Communication-related Information Amendment Act, 2008 (Act No 48 of 2008)
- Constitution Fourteenth Amendment Act of 2008
- Constitution Fifteenth Amendment Act of 2008
- General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Act, 2008 (Act No 55 of 2008)
- National Prosecuting Authority Amendment Act, 2008 (Act No 56 of 2008)
- Criminal Procedure Amendment Act, 2008 (Act No 65 of 2008)
- Judicial Matters Amendment Act, 2008 (Act No 66 of 2008)
- Child Justice Act, 2008 (Act No 75 of 2008)
- Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act No 11 of 2009)
- Constitution Sixteenth Amendment Act of 2009

(vii) 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 sets of legislation, which aim to promote the guarantees made in the Constitution. These are the Promotion of Access to Information Act, 2000 (Act No 2 of 2000) (PAIA), the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000) (PAJA), and the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000) (PEPUDA).

Of the 70 requests received for access to information in the year under review, 61 were granted and nine refused (on the grounds that they failed to comply with PAIA).

To educate the public on their rights and to promote public understanding of the department's programmes and policies, more than 300 outreach workshops were conducted. The department also employed the media to disseminate information about its programmes and policies, with supplements placed in all national newspapers, such as *Pretoria News*, *The Star*, *Daily News*, *Cape Argus*, *Daily Sun* and *Sowetan*, with a total coverage of more than two million readers reached. Educational programmes were also flighted on air using



the *Justice Airwaves*, *Khaya Legal Talk* and *Law on Call* radio programmes, which reached over three million listeners across the country. Several justice-related materials were also published and translated into various African languages with the aim to improve access to information and to educate the public on their rights.

(viii) Supervise the administration of deceased and insolvent estates and the Guardian's Fund

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 of and access to the Guardian's Fund. In the year under review, the department received 117 656 new matters on estates, of which 81 477 were files on estates less than R125 000, and 36 179 were files on estates worth more than R125 000. The department issued 62 712 letters of authority to resolve files of estates less than R125 000, and 29 901 letters for estates more than R125 000. There were 77 000 of the 81 477 estates of less than R125 000 finalised, and 27 179 files of estates of more than R125 000 finalised. Thus, the department finalised 88.6% of all estates received during this year.

In addition, the department saw a considerable increase in the number of insolvent estates and liquidation matters this year. Figures for liquidations increased from 2 124 last year to 4 150 this year, and the number of individuals who were sequestrated soared from 1 864 to 5 221. In improving access to the Guardian's Fund, the department recorded 10 643 receipts for the Guardian's Fund at a total value of R576 432 957. The total volume of payments from the fund exceeded R618 million.

(ix) Provide legal advice services to and protect all organs of state

The department is responsible for providing legal advice to state organs and for protecting them against litigations. In the year under review, the department finalised 203 in 204 requests for legal opinions. 183 in 191 bills and 354 in 355 international agreements were finalised.

The department spent R273 925 219 on 6 628 briefs. A total of 64.6% (4 285 of 6 628) briefs were handed over to private advocates. The department received 2 359 requests for pardons, and 84.4% (1 992) of these were processed, with 367 currently outstanding. The department is confident it will be able to finalise these by mid-year 2009/10.

2.4 Overview of the service delivery environment for 2008/09

The department is responsible for the administration of justice in the country. However, it is not the only state organ responsible for the administration of justice. It shares its role with other departments such as the South African Police Service (SAPS), Correctional Services, Defence, Social Development, the National Intelligence Agency, the South African Secret Service and Home Affairs. Thus, the term 'administration of justice' is very broad and includes a wide variety of components that form part of the broad justice system in the country.

The department's constitutional mandate is to uphold and protect the Constitution, and the rule of law in the interest of a safer and more secure South Africa. The department does this through ensuring equitable access to justice services, improving the functioning of the courts, collaborating with its Justice, Crime Prevention and Security (JCPS) Cluster partners to integrate different objectives and mechanisms of the criminal justice system, protecting and promoting the rights of children, the aged, the disabled and other vulnerable groups, developing legislation and promoting the Constitution, administering deceased and insolvent estates, providing prosecution services, providing legal aid services, and providing legal advice to state organs and protecting them from any damaging litigation.

The main function of the department is to deliver effective and efficient justice services to the citizens of the country. Effective and efficient delivery of justice services in a young, developing democracy like South Africa is a challenge. The challenge is made even more complex by the fact that the country is experiencing a consistent growth in population, with its population having increased from 44 million people in 1994 to 48.7 million in 2008. The country is also a home to an estimated five million illegal immigrants. There are challenges brought about by the use of communal spaces largely driven by the economic migrations that compel vast numbers of people to set up large informal dwellings near cities and towns. All these translate into more pressure for expanding justice services to the communities who need them most.

Expanding access to justice services involves a series of activities, including the physical construction of courts (and other service delivery centres), expanding special courts (such as designating equality courts, community courts and traditional courts), expanding the quantity of services provided at courts (such as capacitating a court to also resolve civil and family-related conflicts),



enhancing the quality of services provided at courts (such as improving the speed of convictions), and redefining the jurisdictional boundaries of each court and its clusters. To do all of these, the department needs greater access to resources.

However, as in most developing countries, resource allocation is always complicated and difficult to balance. The department's budget rates as one of the smallest in the share of the national votes, and the smallest when compared with that of its JCPS Cluster members. This means that the department never has enough resources to fulfil all its functions and to effectively implement all its strategic initiatives. As a result, the department often has to revise its plans and scale down on some of its priorities. The frugal fiscal has a negative impact on the expansion of justice services, and also affects the department's ability to source and/or keep its human resources, to maintain court infrastructure, to improve security in courts, to modernise its information and technology systems, and to improve efficiency in implementing its programmes. Although the department's budget remains tight, the demand for more, and better, services from the public continues to rise.

Court effectiveness and efficiency are some of the main measures of the department's ability to administer justice. Although the Ministry is required to administer courts, the judiciary carries the responsibility for assigning and deciding which judge and/or magistrate adjudicates which case. Thus, achieving the desired rate and speed of case resolutions, decreasing case backlogs, and prioritising the resolution of certain cases serve as a typical yardstick of efficiency that requires a greater level of cooperation conducted under a deep appreciation of the independence of all role-players.

The department is a custodian of the Constitution. The Constitution makes specific provision for the separation of powers between the judiciary and the executive and legislative arms of the government. In terms of section 165 of the Constitution, no person or organ of state may interfere with the functioning of the courts and organs of state. Through legislative and other measures, the department must assist and protect the courts to ensure their independence, impartiality, dignity and effectiveness. The department recognises the essence of the separation of powers as provided in the Constitution. It is within this context that its objective to transform the racial and gender composition of the judiciary is often mistaken as an attempt to interfere with the independence of the judiciary. Section 174(2) of the Constitution specifically requires the appointment of the judges to reflect the racial and gender composition of

the broader population. Thus, the environment in which the department is required to deliver justice services is still contested with justice circumstances and perceptions defined by cultural, historical and social situations that provide a ready pretext for diverging points of view.

Other environmental factors that determine the effectiveness and efficiency of the justice system include the realisation that the country is regarded as having one of the highest rates of violent crimes in the world, causing most citizens to feel less safe, with a particular impact on women and children. There are various challenges regarding protecting the victims of crime, applying appropriate remedies and sentences, improving access to information on rights, and involving civil societies in empowering the public. All these have some impact towards the successful implementation of the department's strategic priorities and initiatives.

2.5 Overview of the organisational environment for 2008/09

During the year under review, the department confronted a number of challenges in the delivery of justice services in the country. The demand is outpacing the expansion of resources to supply more citizens with access to justice services. Existing infrastructure is in need of significant repair and maintenance, while there is also a need for new facilities, especially in the historically under-served areas.

The implementation of the agreement for Occupation Specific Dispensation (OSD) for Legally Qualified Personnel, signed in February 2008, placed the budget of the department under severe strain. However, the first phase of implementation of the OSD is all but complete with that of a limited number of officials, especially in the Chapter 9 institutions still to be served.

The department has drafted and implemented new policy priorities, notably the introduction of indigenous languages in courts and child justice legislation. There were high-profile prosecutions and related matters, and the publicity around the re-incorporation of the Priority Crimes Unit into the SAPS also created a complex environment in the administration of justice in the country.

Improved cooperation among the key role-players resulted in better management of cases through the judicial process, reducing the rate of growth of case backlogs. There was also an improvement in the support for the continued transformation of the justice system, as evidenced by general agreement on the processing of the regional courts and legal practice legislation.



The department has introduced measures to contain costs without unduly lowering the quality and scope of services.

2.6 Strategic overview and key policy developments for the 2008/09 financial year

The policies and strategic programmes below were developed in 2008/09.

2.6.1 Review of the Criminal Justice System

(Also see 2.3, Achievements, above.)

The review of the criminal justice system has been identified by the JCPS Cluster and the Cabinet Lekgotla as one of the most important and key priorities of government. The department was designated as the lead department in this process. The review entails two processes. The first process investigates long-term solutions through desktop research, and the second process focuses on short-term, medium-term and long-term initiatives to fight crime, remove blockages and improve court processes. The department, working in collaboration with its JCPS partners, has since developed specific focus areas referred to as the Seven-point Plan (see Achievements above). The department has also developed terms of reference to articulate the Seven-point Plan, and define how coordination will be done across the JCPS Cluster. An Interim Office for Criminal Justice System (CJS) Review was developed.

The office is working to develop an overarching vision and mission of the project.

2.6.2 Redesignation of identified 24 branch courts

(Also see 2.3, Achievements, above.)

The objective to improve access to justice for all is one of the department's priority programmes in the Medium-term Strategic Framework (MTSF). There are 366 main courts in each of the 366 magisterial districts in the country. Almost all the main courts are located in towns and cities, far from townships and rural areas where most African people live. There are 50 detached courts established to supplement the main courts. These are also located in small towns serving the subdistrict of the main city or town. The main courts and detached courts are supplemented by 90 branch courts, mainly located in townships and some in rural areas. They do not have their own jurisdiction, and most deal with criminal cases only. Thus, the communities where these branch courts are found often have to travel to the main courts in their nearest towns to resolve civil

and family-related cases. There are a further 230 so-called periodical courts, also known as circuit courts, sitting only on selected days of the week or month to hear criminal cases only. These too are located in townships and rural areas. Many of them are built on the police precinct site.

The department has identified 24 branch courts for conversion into main courts within their areas of jurisdiction. In the period under review, 15 of the 24 branch courts have been converted and capacitated to become main courts. They are currently awaiting the ministerial proclamation to be officially treated as magisterial courts. The remaining nine branch courts will require further capacity and preparation to convert them into main courts. The department has set itself a target of a year to finalise the process of their conversion.

2.6.3 Introduction of indigenous languages at one court in each province

This programme relates to the use and promotion of indigenous languages in courts. This project involves designating the most common, most dominant language that most users of the court speak as the official language to be used in that particular court. The aim is to ensure that court proceedings are conducted in the language that most court users will understand. The programme focuses on introducing indigenous languages in courts across the provinces, as until recently these languages were excluded from use in courts, following the apartheid policy, which recognised only Afrikaans and English as the official languages of courts. In the period under review, at least one court per province has been designated an indigenous language.

2.6.4 Report on the Implementation of the Recommendation of the Truth and Reconciliation Commission

The establishment of the unit dealing with the recommendation of the Truth and Reconciliation Commission (TRC) in the department has helped the department to resolve some of the outstanding matters that are becoming a growing challenge for the government. In the year under review, the department managed to produce a report that assesses how the government has managed to implement the recommendations made by the commission. The department has also significantly improved its performance on the number of exhumations and reburial of the remains of the victims of apartheid and past political conflicts. The exhumation policy is currently being translated into isiZulu and Sesotho languages. The TRC Unit in the department is currently also developing



a community rehabilitation model that will address recommendations made by the commission.

2.6.5 Political Pardon and Amnesties

The Political Pardons Project deals with the expungement of criminal records as recommended by the Amnesty Committee of the TRC, and as provided in section 84(2)(j) of the Constitution. While the Constitution grants the discretion for pardon to the President, the department prepares the documentation when an application for pardon has been made. In the period under review, the department received more than 2 359 applications requesting political pardon by the President. Of the 1 997 that were processed, 121 were recommended to the President for pardon.

Several policy initiatives relating to the administration of justice were undertaken by the Policy Coordination Unit during 2008/09.

2.6.6 Policy on the Judiciary and the Courts

The draft Policy Framework on the Administration of Justice, which includes key principles that will inform the content of the Superior Courts Bill, was finalised. The policy document seeks to consolidate transformative policy initiatives relating to the administration of justice, with specific reference to the courts and the judiciary. The process of transformation seeks to ensure that the judicial system is appropriately positioned to respond to the diverse needs of society and contributes to the building of a society envisaged by the Constitution.

2.6.7 Child Justice Act, 2008 (Act No 75 of 2008)

The Child Justice Act, 2008 (Act No 75 of 2008), was passed by Parliament during 2008, and signed into law by the President on 7 May 2009. The aims and objectives of this act are, inter alia, to establish a criminal justice system for children who are in conflict with the law, in accordance with the values underpinning our Constitution and our international obligations. This will be done through, among others, creating, as a central feature of the new criminal justice system for children, the possibility of diverting matters involving children who have committed offences away from the criminal justice system, in appropriate circumstances, while children whose matters are not diverted are to be dealt with in the criminal justice system in the children's courts.

The objectives are also to expand and entrench the principles of restorative justice in the criminal justice system for children who are in conflict with the law, while

ensuring their responsibility and accountability for the crimes committed.

The Child Justice Act, 2008 (Act No 75 of 2008) will be the first piece of legislation where operational systems and policies will be in place before the implementation of the act on 1 April 2010. This marks a radical and positive shift in the management and implementation of legislation. The introduction of this act will also help ensure the establishment of one-stop child justice centres for the purpose of handling children's cases quicker and more efficiently under one roof, so as to make the experience for the children less traumatising.

The National Policy Framework on Child Justice must be tabled in Parliament by June 2010 and the various departments have begun the processes of consultation in this regard. The outline of the national policy framework has been drafted and will be consulted upon extensively before finalisation by December 2009. The Policy Framework will ensure the coordinated prioritisation and implementation of the act, and monitor the impact of mainstreaming, prioritising and diverting the children as much as possible away from the criminal justice system, as well as legislate the close cooperation between the relevant government departments and non-governmental organisations (NGOs) in this regard.

2.6.8 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007)

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007), came into operation as from 16 December 2007. The aims and objectives of this act are to afford complainants of sexual offences the maximum protection that the law can provide, to introduce measures that seek to enable the relevant organs of state to give full effect to the provisions of this act, and to combat and ultimately eradicate the relatively high incidence of sexual offences committed in the Republic.

The introduction of this act will respond to the concerns of victims of sexual violence in order to address the secondary victimisation encountered in the criminal justice process. For the first time, the implementation of this legislation will have a major shift in policy and service delivery targets, and will oblige relevant departments involved in fighting the scourge of sexual offences to cooperate and coordinate their activities.

The major developments in terms of this act have been the establishment of the Intersectoral Committee on



Sexual Offences, chaired by the Director-General of Justice and Constitutional Development. This will be a coordinating structure, bringing together all the relevant stakeholders involved in addressing the challenge of sexual offences.

The Policy Coordination Unit monitored the implementation of key legislation relating to the transformation of the judiciary, including the facilitation of the development of policy guidelines for the effective implementation of the said legislation. The following acts, which were passed by Parliament and assented to by the President between October and December 2008, are critical to the attainment of a transformed judiciary: the Judicial Education Institute Act, 2008 (Act No 14 of 2008), the Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008) and the Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008).

The department is currently drafting a policy document focusing on how the justice system and the courts manage the issue of HIV/AIDS to ensure equality and non-discrimination in the provision of services. Those who have been affected and infected by HIV/AIDS will thus benefit immensely in this regard.

2.6.9 South African Judicial Education Institution Act, 2008 (Act No 4 of 2008)

The Judicial Education Institution provides a uniform training framework for both judges and magistrates with a view to improve the productivity of the courts, the quality of judgments, and further develop the South African jurisprudence. The act came into operation on 23 January 2009.

The members of the council have been appointed and a facility has been leased for two years at Eura House in Johannesburg to house the institute temporarily, pending the construction of a permanent facility at the Constitutional Court.

2.6.10 The Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008)

This act seeks to transform the regional courts, which, since their establishment in 1952, were conferred only with criminal jurisdiction. The costs associated with litigation at the High Court for civil disputes beyond the jurisdiction of district courts (R100 000) limit access to justice for ordinary citizens.

A further transformative outcome of this act is the integration of the divorce courts into the regional courts. The divorce courts, established in 1929, were exclusively for Africans. When these courts were deracialised in 1997, their areas of jurisdiction were not rationalised. The act rationalised the areas of jurisdiction of the divorce courts into the area of jurisdiction of regional courts, thereby redressing the fragmented and disjointed lower court judicial system inherited from the past.

The Judicial Service Commission, Magistrates Commission, heads of the courts, magistrates and the legal profession were consulted extensively regarding the appointment of places/seats of the regional courts for the hearing of civil disputes and the determination of amounts for causes of action listed in the act. The seats and the amounts of causes of action will be published in the Government Gazette soon. The act is envisaged to be put into operation during August 2009.

2.6.11 The Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)

This act, which is required by the Constitution (section 180(a)), provides for a complaint-handling mechanism for judicial officers. The act has been passed by Parliament and was assented into law by the President in December 2008. In terms of the act, regulations and a judicial code of conduct must be approved by Parliament. A judicial code of conduct and regulations will be submitted to Parliament during the first quarter of the 2009/10 financial year. The act is envisaged to be put into operation during August 2009.

2.6.12 The Domestic Violence Act, 1998 (Act No 116 of 1998)

The act provides speedy interim and final relief to victims of violence in the family environment. The department is currently reviewing the implementation of this act, with a view to ensuring further efficiency. The department is working with the magistrates to develop guidelines for the implementation of the Domestic Violence Act, 1998 (Act 116 of 1998) (DVA) for the magistrates in conjunction with the Family and Gender Service Delivery Committee of the Lower Court Management Committee (LCMC). These guidelines, which were developed by the magistracy, were launched in June 2008. The guidelines will impact on the standardisation of the implementation of the act and also on the effective management of domestic violence cases in the judiciary and courts.



2.6.13 Small Claims Courts

The small claims courts' services are regulated by the Small Claims Courts Act, 1984 (Act 61 of 1984), and its related enabling legislation. These courts provide speedy and cost-effective relief to minor civil disputes to the value of R7 000. In terms of this act, small claims courts must be designated if an advisory board and commissioners are appointed.

With the assistance of the legal profession, especially attorneys who provide their services voluntarily, as well as the general public, 188 small claims courts have been established countrywide, 113 advisory boards set up and 114 commissioners appointed. In further assisting access to justice, some of these courts are operational on Saturdays for administrative purposes to enable litigants to process their administrative processes.

The department conducted research on the legal framework/critique and a comparative study of the different models of the small claims courts. This research is used as a baseline study for the transformation of the small claims courts. The research will further assist with the amendment of the Small Claims Courts Act, 1984, (Act 61 of 1984).

2.6.14 Restorative Justice

The department has started the process for the development of a National Strategy and Policy on Restorative Justice to support departmental and JCPS Cluster initiatives in this regard, as well as to ensure the coordinated, holistic implementation of restorative justice obligations and clauses contained in pieces of legislation such as the Children's Act, 2005 (Act No 38 of 2005), and the Child Justice Bill, 2008. A Restorative Justice Task Team was established during 2007.

2.7 Departmental revenue, expenditure, and other specific topics

2.7.1 Collection of departmental revenue (R'000)

Table 2: Collection of departmental revenue

	2005/06 actual	2006/07 actual	2007/08 actual	2008/09 target	2008/09 actual	% deviation from target
Sales of goods and services produced by the department (excluding capital assets)	8 712	10 792	14 027	12 655	13 259	4.77%
Fines, penalties and forfeits	63 471	262 616	238 025	283 307	271 508	-4.16%
Interest, dividends and rent on land	24 963	13 394	48 700	54 303	44 872	-17.37%
Sales of capital assets (capital revenue)	987	-	-	-	-	-
Financial transactions (recovery of loans and advances)	28 751	32 708	11 682	48 139	22 872	-52.49%
Total departmental revenue	126 884	319 510	312 434	398 404	352 511	-11.52%

2.7.2 Departmental expenditure (R'000)

Table 3: Departmental expenditure

Programmes	Voted for 2008/09	Roll-overs and adjustments	Virement	Total voted	Actual expenditure	Variance
Programme 1	967 769	-	(32 907)	934 862	930 693	4 169
Programme 2	3 342 482	-	30 942	3 373 424	3 348 402	25 022
Programme 3	503 153	-	22 927	526 080	525 272	808
Programme 4	-	-	-	-	-	-
Programme 5	1 586 600	-	(17 250)	1 569 350	1 557 809	11 541
Total	6 400 004	-	3 712	6 403 716	6 362 176	41 540



2.8 Transfer payments (R'000)

Transfers were made to various institutions, as listed below. These institutions also receive an income from other sources.

Table 4: Transfer payments

Name of institution	Amount transferred	Estimated expenditure
South African Human Rights Commission	60 603	60 603
Commission on Gender Equality	46 193	46 193
Special Investigating Unit	116 297	116 297
Legal Aid Board	838 120	838 120
Public Protector	86 475	86 475
Represented Political Parties' Fund	88 187	88 187
Education, Training and Development Practices SETA	3 008	3 008
Total	1 238 883	1 238 883

2.9 Capital investment, maintenance and asset management plan

2.9.1 Capital investment

2.9.1.1 Major building projects completed in 2008/09

Table 5: Major building projects completed in 2008/09

No	Name	Province	Description	Completion date
1	Daveyton Court	Gauteng	New branch court	3 March 2008
2	Richmond Magistrate's Office	Northern Cape	Additional accommodation	5 August 2008
3	Mitchell's Plain Magistrate's Office	Western Cape	Additional accommodation	15 September 2008
4	Polokwane Circuit High Court	Limpopo	New circuit high court	7 November 2008
5	Augrabies Periodical Court	Northern Cape	Additional accommodation	10 July 2008

2.9.1.2 Major projects continuing from 2008/09

Table 6: Major projects continuing from 2008/09

No	Magistrate's office	Province
1	Colesberg Magistrate's Office	Northern Cape
2	Ekangala Magistrate's Office	Mpumalanga
3	Stanger Magistrate's Office	KwaZulu-Natal
4	Tsakane Magistrate's Office	Gauteng
5	Kagiso Magistrate's Office	Gauteng
6	Bredasdorp Magistrate's Office	Western Cape
7	Galeshewe Magistrate's Office	Northern Cape
8	Supreme Court of Appeal	Free State
9	Pietermaritzburg Master's Office	KwaZulu-Natal
10	Thembaletu Magistrate's Office	Western Cape
11	Ashton Periodical Court	Western Cape
12	Lutzville Periodical Court	Western Cape
13	Swellendam Magistrate's Office	Western Cape
14	Hankey Magistrate's Office	Eastern Cape



2.9.1.3 Major capital projects to go out on tender in 2009/10

Table 7: Major capital projects to go out on tender in 2009/10

No	Name	Province	Description	Initial date of expected tender	Revised tender date	Reasons
1	Katlehong Magistrate's Office	Gauteng	New magistrate's office	31 July 2008	27 April 2009	Delays with planning phase
2	Bityi Periodical Court	Eastern Cape	New magistrate's office	28 February 2008	20 April 2009	Delays due to changes in scope of work affecting the designs
3	Soshanguve Magistrate's Office	Gauteng	Additional accommodation	15 February 2008	17 April 2009	Delays with planning phase
4	Ntuzuma Magistrate's Office	KwaZulu-Natal	New magistrate's office	3 July 2008	29 May 2009	Delays with acquisition of additional bulk
5	Mpumalanga High Court	Mpumalanga	New high court	30 September 2008	29 May 2009	Project to be done a Built, Operate and Terminate (BOT) due to non-availability of site
6	Garies Magistrate's Office	Northern Cape	New magistrate's office	31 October 2008	29 May 2009	Delays with planning phase
7	Limpopo High Court	Limpopo	New high court	14 November 2008	26 June 2009	Delays with finalisation of site acquisition
8	Sundumbii	KwaZulu-Natal	New magistrate's office	20 March 2008		
9	Humansdorp Magistrate's Office	Eastern Cape	New magistrate's office	28 March 2008	26 June 2009	Delays on the design phase due to revised needs affecting the original design
10	Dimbaza Magistrate's Office	Eastern Cape	New magistrate's office	31 July 2008	29 May 2009	Delays in site acquisition
11	Mamelodi Magistrate's Office	Gauteng	New magistrate's office	30 May 2008	3 April 2009	Tender was advertised in December but was non-responsive. To be re-advertised through nominated tender
12	Lothair Periodical Court	Mpumalanga	New magistrate's office	31 May 2008	29 May 2009	
13	Ngome Periodical Court	KwaZulu-Natal	New magistrate's office	30 May 2008	To be determined	Delays with site acquisition
14	Riversdale Magistrate's Office	Mpumalanga	New magistrate's office	30 April 2008	29 April 2009	Awaiting approval of plans by Department of Public Works Committee



2.9.1.4 Sites acquired for major projects in 2008/09

Table 8: Sites acquired for major projects in 2008/09

No	Project name	Province	Description	Site clearance date
1	Grootvlei Periodical Court	Mpumalanga	New periodical court	30 June 2008
2	Richards Bay Magistrate's Office	KwaZulu-Natal	New magistrate's office	31 May 2008
3	Port Shepstone Magistrate's Office	KwaZulu-Natal	New magistrate's office	30 June 2008
4	Booyens Magistrate's Office	Gauteng	New magistrate's office	
5	Orlando Magistrate's Office	Gauteng	New magistrate's office	
6	Keimoes Magistrate's Office	Northern Cape	New magistrate's office	

2.9.1.5 Sites to be acquired for major projects in 2009/10

Table 9: Sites to be acquired for major projects in 2009/10

No	Project name	Province	Description	Initial acquisition date	Revised acquisition date
1	Vulindlela Magistrate's Office	KwaZulu-Natal	New magistrate's office	30 April 2008	30 April 2009
2	Chrissiesmeer Periodical Court	Mpumalanga	New periodical court	30 June 2008	30 June 2009
3	Davel Periodical Court	Mpumalanga	New periodical court	31 March 2008	29 May 2009
4	Dundee Magistrate's Office	KwaZulu-Natal	Additional accommodation	To be determined	
5	Gillead Periodical Court	Limpopo	New periodical court	30 June 2008	30 June 2009
6	Ladysmith Magistrate's Office	KwaZulu-Natal	Additional accommodation	30 June 2008	30 June 2009
7	Limpopo High Court	Limpopo	New high court	30 May 2008	29 May 2009
8	Plettenberg Bay Magistrate's Office	Western Cape	New magistrate's office	30 September 2008	
9	Springbok Magistrate's Office	Northern Cape	New magistrate's office	30 July 2008	30 June 2009
10	Hermanus Magistrate's Office	Western Cape	New magistrate's office	31 December 2008	31 December 2009
11	Justice College/ Judicial Education Institution	Gauteng	New building	To be determined	To be determined
12	Diepsloot Magistrate's Office	Gauteng	New magistrate's office	31 August 2008	31 August 2009
13	Simunye Magistrate's Office	Gauteng	New magistrate's office	31 August 2008	31 August 2009
14	Goodwood Magistrate's Office	Western Cape	New magistrate's office	30 June 2008	30 June 2009
15	Tsineng Periodical Court	North West	New periodical court	31 August 2008	31 August 2009
16	Vosman Magistrate's Office	Mpumalanga	New magistrate's office	31 August 2008	31 August 2009
17	Jan Kempdorp Magistrate's Office	Northern Cape	New magistrate's office	31 August 2008	31 August 2009
18	Lethabile Magistrate's Office	North West	New magistrate's office	To be determined	

The department experienced delays in the acquisition of sites for construction of new courts. This was due to delays on the part of the Department of Public Works (DPW) in issuing clearance certificates. In 2008/09, a total of 40 periodical courts that were operating from police stations and prisons were relocated. This was done in line with the department's objective of a separation of functions between the different departments. These periodical courts were relocated to mobile units. The courts were

not downgraded or closed down as they continued to operate in the same areas.

2.9.1.6 Maintenance backlog

In order to reduce the maintenance backlog, the department will be making a representation to National Treasury for an additional allocation of R150 million per annum for the next 10 years towards clearing



the maintenance backlog. Following the condition assessment report, a maintenance plan is in the process of being developed, which will be discussed and implemented by the DPW. The prioritisation will take into account the condition, as well as functionality, of the physical assets. It is important to note that the effectiveness of the improved maintenance programme will fully depend on the allocation of the funds requested from National Treasury. Should these funds not be made available, the assets will continue to deteriorate, increasing the amount of deferred maintenance and further endangering the lives of those working in them, as well as members of the public. A total of R21 million was allocated to the department for day-to-day maintenance. This was distributed to courts for use in breakdown maintenance. The department continued with the Repair and Maintenance Programme (RAMP) in 2008/09.

Due to the magnitude of the rehabilitation work required, the programme was funded through a capital works allocation. A total of 57 court buildings completed the follow-up maintenance cycle under the RAMP of the DPW. There are major challenges regarding poorly maintained facilities. This has been highlighted in the previous years. The constraints experienced by the department on budget allocations for capital works has led to incrementally deferred maintenance. (This has led to most of the court buildings failing to meet basic health and safety standards.) Until 2008/09, the department has been receiving an allocation for the RAMP. This allocation was towards the refurbishment of the existing court buildings. Through this allocation, a total of 55 court buildings were refurbished and put on a maintenance programme. The findings of the condition assessment conducted as part of the User Asset Management Plan (UAMP) indicates that a total of R2 407 433 920 is required to effectively refurbish and maintain the department's physical assets.

2.9.2 Maintenance Repair and Maintenance Programme report as at 31 March 2009

Table 10: Maintenance Repair and Maintenance Programme report as at 31 March 2009

Phase	Planned	Completed as at 31 March 2009
Status quo	187	58
Planning	8	7
Repair phase	5	5
Maintenance	82	57
Total	282	127

2.9.3 Asset Management

2.9.3.1 Compilation of a User Asset Management Plan

As required by the Government-wide Immovable Asset Management Act, 2007 (Act No 19 of 2007) (GIAMA), the department was required to compile a User Asset Management Plan (UAMP). The UAMP was compiled and forwarded to the DPW in November 2008. As part of the UAMP, a high-level condition assessment was conducted. The objective of assessing the condition of court buildings is to determine the extent of the refurbishment and configuration requirements, as well as the extent of deferred maintenance.

The Chief Directorate: Facilities Management is mainly responsible for the provision of adequate accommodation for the whole department. This involves building courts and office spaces. The management of physical assets is governed by GIAMA. In terms of GIAMA, the DPW is the custodian of all government-owned properties. All other departments only have user rights. As such, all user departments have to compile and manage their own UAMPs, which should detail their infrastructure requirements, strategies and physical asset management. The UAMP also details the physical asset management requirements and maintenance needs. This UAMP must be submitted to the DPW and National Treasury on an annual basis as part of the motivation for funding.

In the year under review, the department planned to undertake the following in its effort to provide effective and efficient infrastructure:

- Construction of new courts
- Additional accommodation to existing courts to improve asset usefulness
- Refurbishment and maintenance of existing buildings
- Provision of facilities for people with disabilities
- Compilation of UAMPs

2.9.3.2. Construction of new courts

Projects for building new courts are multiyear projects that last longer than two years. The department had five projects for building new courts that were carried over from 2007/08. The courts are the Tsakane Magistrate's Office, Ekangala Magistrate's Office, Galeshewe Magistrate's Office, Kagiso Magistrate's Office, and Colesberg Magistrate's Office. Of these, Tsakane, Ekangala and Colesberg were to be completed in 2008/09. These were not completed due to poor performance by the contractors and will only be completed in 2009/10. The department planned to go out on tender for 22 projects, but only managed to



go out on five projects (Pietermaritzburg Master's Office, Johannesburg High Court, Mamelodi, Ashton and Tabong magistrate's courts). The main reason for the delays is the slow processes by the DPW.

In the case of the two planned high courts in Mpumalanga and Limpopo, the department had some challenges securing the sites. A site for Limpopo has been secured, but not in Mpumalanga. DPW is in the process of going out on open tender for a Built, Operate and Terminate (BOT) for Mpumalanga. To complement the capacity problem experienced in DPW, the Independent Development Trust (IDT) was engaged to provide a project implementation function. This was done in the form of a duly signed memorandum of understanding (MoU). As a result of this, a number of projects were undertaken by the IDT, as well as the DPW. The projects that are in a planning phase through the IDT are the Limpopo High Court, Ntuzuma Magistrate's Office, Richards Bay Magistrate's Office and

Booyens Magistrate's Office. Due to accommodation shortages in the courts, a total of five projects for additional accommodation were continued from the previous year.

These projects are Stanger Magistrate's Office, Mitchell's Plain Magistrate's Office, Richmond Magistrate's Office, Bredasdorp Magistrate's Office and the Supreme Court of Appeal. Of these projects, Mitchell's Plain and Richmond have been completed. The remainder are the Supreme Court of Appeal, Stanger and Bredasdorp, which were delayed and scheduled for completion in 2009/10.

2.9.3.3 Refurbishment and maintenance of assets

The department continued with its programme on the refurbishment and maintenance of its physical assets. A total of 187 courts were planned for design and tender, but were not completed due to unavailability of funds.

Table 11: Refurbishment and maintenance of assets

Phase	Planned	Completed	Reasons for delays
Status quo	205	0	Funds unavailable
Planning (design and tender)	12	3	Funds unavailable and delays in DPW
Repair phase	5	5	
Maintenance follow-up	78	33	Maintenance backlog at the DPW and limited funds for planned maintenance

2.9.3.4 Provision of facilities for people with disabilities

In line with its effort to increase access to justice, the department continued with its accessibility programme to ensure that all court buildings are accessible for people with disabilities. In the year under review, a total of 535 court buildings were provided with ramps and ablution facilities for people with physical disabilities. In the year under review, an amount of R120 million was allocated to further implement the accessibility programme. A total of 366 sites were provided with basic infrastructure such as toilets and ramps for disabled people. These projects were done through the IDT.

In 2008/09, a total of 40 mobile units were procured. These were used as temporary accommodation in areas where there is no permanent physical infrastructure. Most of the mobile units procured during the year under review were used to accommodate the relocation of periodical courts that were operating in police stations. The project to develop the justice precinct, which will house the executive head office, was delayed due to non-availability of the site. The needs analysis and high-level site option analysis were completed. A suitable site was identified and the MoU on site acquisition is in the process of being signed with the Tshwane Metropolitan

Municipality, who is the owner. Progress was also made with the acquisition of land for the establishment of the judicial education institution. The land on Constitutional Hill was identified for this development and a draft sales agreement was finalised and awaits sign-off by the political principals.

2.10 Performance reports

2.10.1 Programme 1: Administration

Purpose

Manage the department, and develop strategies and policies for the efficient administration of justice. This programme contains reports from the Office of the Director-General (ODG), Corporate Services and the Justice College.

A REPORT ON THE OFFICE OF THE DIRECTOR-GENERAL

(i) Criminal Justice System Review

The Criminal Justice System Review (CJSR) (as part of the Programme of Action of Government and one of the Apex Priorities) has been identified by the JCPS Cluster



and Cabinet as one of the single most important national priorities. It is based on the Seven-point Plan that was approved by Cabinet on 7 November 2007 and consists of a package of interventions that must all be adopted and implemented in an integrated and holistic manner to achieve a new dynamic and coordinated criminal justice system.

The interventions have been grouped into 'strategic interventions in preparation of implementation of a long-term modernisation plan' and 'early operational interventions aimed at improving identified shortcomings and areas of dysfunction'. This will, over the medium to long term, lead to a full-scale CJS transformation and institutionalisation of protocols, processes and systems.

Following Cabinet's approval, the CJSR has been operationalised through approved terms of reference that comprise immediate, short- and medium-term interventions that have been running concurrently. The initiatives have been carefully selected to form the foundation of the future CJS and is the precursor to systematically rolling out aligned and improved CJS structures, systems and technologies countrywide.

(a) Criminal Justice System Review background

The (previous) Deputy Minister of Justice and Constitutional Development was appointed as the coordinator of this review process and the activities arising from the review are coordinated through the Office of the Criminal Justice System Reform in the Office of the Deputy Minister, through an interim secretariat consisting of officials from JCPS cluster departments and business representatives.

There are two parallel CJS review processes: The first of these processes was initiated by Cabinet on 22 June 2005. The DoJ&CD leads this process, which entails research that will inform longer-term interventions.

The second of the two processes, the Office of Criminal Justice Systems Reform (OCJSR), focuses on a complete overhaul of the CJS by modernising and transforming it into an integrated, efficient and seamless system that will serve as an effective deterrent to crime. It entails strategic and operational interventions that involve short-, medium- and long-term pragmatic initiatives, including policy, structure, people, processes and business systems, as well as reliable and scientifically robust information and performance management and measurement systems. In a major deviation from similar previous initiatives, this programme also deals with capacity requirements in areas such as human resources, professional tools, laboratory equipment and machinery

through coordinated strategies, plans and budgets, including a CJS Business and Three-year Action Plan that will lead aligned and optimally performing inputs and capacities in all the component parts and throughout the entire CJS towards balanced and planned outcomes.

(b) Major achievements against the Seven-point Plan

Strategic alignment (change 1 of the Seven-point Plan)

Adopting a single vision and mission for the CJS leading to a single set of objectives, priorities and performance measurement targets for the CJS. To promote this initiative, high-level interactions were conducted with all JCPS department heads, senior management members and relevant stakeholders, including the judiciary, the Legal Aid Board (LAB) and NGOs, introducing the CJSR aims and objectives and obtaining buy-in and executive commitment, including the secondment of representatives in the OCJSR Secretariat.

Protocols

An overarching CJS protocol is being developed. A number of supporting protocols have been developed, with the involvement of functionaries representing all stakeholders.

The aim is the seamless alignment of the CJS. The CJS Protocol requires buy-in at the highest levels and good progress has been made in this regard:

- A Court Protocol is being finalised with stakeholders. The protocol focuses on the procedure to be followed in the case of criminal matters to be heard in regional courts. It deals with screening mechanisms regarding trial-ready matters through 10 top detectives and 10 top prosecutors placed at the 10 Regional Court President's seats, LAB courts and continuous rolls, and allows for subpoenas only when cases are certified trial-ready. Legislation introduced during 2008 pertaining to admission of guilt for minor offences will be aligned to these procedures.
- A pilot project on the role of LAB courts with continuous rolls is being considered.
- A Bail Protocol on the procedure to be followed in applying section 63A of the Criminal Procedure Act, 1977 (Act No 51 of 1977) (CPA), was approved and adopted by Cabinet on 3 December 2008. Section 63A of the CPA provides for a procedure in terms of which the court may, on application by a head of prison and if not opposed by the director of Public Prosecutions concerned, order the release of certain accused being held on lesser charges and who have been granted bail, on warning in lieu of bail, or order the amendment of the bail



conditions imposed by that court on the accused. The Bail Protocol has been signed by the relevant ministers and agency heads and will be coming into operation on 1 April 2009. Once in force, the implementation and monitoring of the application of the Bail Protocol will be the responsibility of the Operational War Room of the OCJSR.

- A Forensic Services Protocol setting out the procedures pertaining to the collection, transport and hand-over, analysis and reporting of blood and toxicology samples, as well as turnaround times, is receiving attention in conjunction with the Department of Health (DoH) and the SAPS.
- A Crime Scene Management and Crime Scene Investigation Manual and Crime Scene Protocol are being drafted. First drafts of these have been completed and stakeholders are being consulted on their content.
- A protocol following a study on deficiencies in the investigation and prosecution of rape cases is being drafted in conjunction with relevant role-players.
- A Legal Profession Protocol relating to the delays caused by double booking, misconduct and unethical conduct by private practitioners is receiving attention in conjunction with the organised legal profession.

The OCJSR is promoting joint operational and action planning that will eventually be incorporated into a three-year action plan and business plan. It has promoted cross-cutting and enabling legislation to address gaps and promote improved efficiency of the CJS. It has also identified as a priority the need to urgently strengthen pivotal aspects of the forensic crime-fighting capacity of the Ministry of Police and the Department of Health, especially at the crime scene, namely a coherent, all-encompassing and holistic legislative framework for the collection, storage and use of fingerprinting and DNA evidence. The Criminal Law (Forensic Procedures) Amendment Bill, 2009 (Bill 2 of 2009) was therefore drafted and approved by Cabinet on 3 December 2008 and introduced into Parliament on 13 January 2009. The bill deals, among others, with DNA, fingerprinting and biometric issues (including the sharing of 'person information' across government departmental boundaries). On 24 March 2008, the National Assembly adopted a report of the Ad Hoc Committee on the Criminal Law (Forensic Procedures) Amendment Bill, recommending that the legislation must stand over for consideration by the next Parliament. The report recommends that the bill should be processed on an urgent basis by the next Parliament. The bill is accompanied by an implementation plan. National Treasury, as well as the chief financial officers (CFOs) of the

relevant departments, support the implementation and has unequivocally confirmed that the implementation of the bill is a high-order national priority. In this regard, reprioritisation needs are in the process of being communicated to the CFO offices of all participating departments with the objective of establishing the extent of reprioritisation that can be effected in the departments. The next step will be to fund the additional requirements by requesting additional funding through the normal budget process. An initial allocation has already been made to the OCJSR and this money will be used to fund the first implementation activities.

A bill amending the Criminal Procedure Act, 1977 (Act No 51 of 1977), is being drafted to streamline the criminal justice process by addressing the following three issues:

- Trial in absentia – to provide for trials to take place in the absence of an accused in certain circumstances in order to address the current unacceptable situation whereby more than 14 000 warrants of arrest have to be issued per month.
- Right to remain silent – to provide that in certain circumstances adverse inferences can be drawn from an accused's silence.
- Docket information privilege – to limit prosecution disclosure of docket information in certain circumstances and to provide for defence disclosure in certain circumstances.
- Video evidence legislation will allow the state to use video evidence in the prosecution of criminal cases (research will be undertaken and the possibility of draft legislation will be investigated).

A Permanent Budget Review Team will be established under the chairmanship of National Treasury. The team will include the OCJSR and all related departmental CFOs to align and reprioritise budgets pertaining to the CJS and the activities of the Integrated Justice System (IJS) Board. In order to align the functioning and jurisdictional areas of the various CJS departments and agencies, research has been conducted and a draft National Footprint has been compiled, comprising maps and narrative descriptions of the CJS service points and jurisdictional areas, including organisational establishment information.

(c) CJS coordinating and management mechanisms (change 2 of the Seven-point Plan)

Establishing, through legislation or by protocol, a new and realigned single CJS coordinating and management structure that flows in a seamless manner from the Cabinet to each court, and appoint a person from the executive as head of the CJS structure with coordination and management functions and not executive powers.



The Deputy Minister, as coordinator of the interim OCJSR, is leading the transformation programme of the CJS, which is driven through protocols and interaction with the national, provincial and local governing structures.

An interim OCJSR and Secretariat has been established and the following interventions have been initiated:

- A programme and project management competency has been established.
- A CJS Statistics and Performance Centre has been established.

An Operational Centre (War Room) has been established. The centre is fully functional with coordinated activities such as the following:

- Maintenance of the CJS footprint
- Auditing of awaiting trial detainees (ATDs) and instituting interventions to reduce the overcrowding of detention centres
- Monitoring and support of the Gauteng Aggravated Robberies Project
- Implementation and monitoring of the Bail Protocol
- Coordinating and expediting xenophobia-related cases
- Development and implementation of a protocol aimed at coordinating and expediting serious criminal matters arising from the 2009 elections

(d) Improving court performance (change 3 of the Seven-point Plan)

Developing practical and short- and medium-term proposals to improve the performance of courts, initially focusing on regional courts, by focusing court work on trials and ancillary proceedings, like bail, and removing some of the administrative-like functions relating to postponements, etc.

A Court Protocol based on a revolutionary new approach to dealing with criminal matters in courts is presently being reviewed by all stakeholders, including the judiciary, prosecution, a SAPS investigation team, the LAB and the private sector legal profession. This protocol will, once reviewed and agreed to by the stakeholders, be submitted to Cabinet for consideration and approval and will be binding on all stakeholders and CJS participants. The protocol focuses on the procedure to be followed in criminal matters to be heard in regional courts. It deals with screening mechanisms in respect of trial-readiness of cases and introduces pre-trial quality reviews and certification by top investigation and prosecution specialists, as well as LAB courts, continuous court rolls and subpoenas of witnesses and victims only when cases are certified trial-ready.

To support the Court Protocol and to decrease the number of cases on the court rolls, legislation pertaining to admission of guilt for minor offences was introduced during 2008.

(e) Case backlog reduction project – regional courts

This project entails the provision of additional capacity through the acting appointment of magistrates, prosecutors, legal representatives and support staff to the regional court sites with the most backlog cases (longer than nine months on the court rolls). The project started as a court efficiency measure instituted by the JCPS Cluster as a priority in the Programme of Action of Government. This project has now been subsumed into the CJSR and the additional capacity is also being utilised to deal with the expediting of high-priority cases such as xenophobia and election matters. The good news is that there has been a very specific, steady and continuous decrease in the number of backlog cases at all of the backlog priority sites. If it was not for this project, another 12 000 long outstanding cases would still have been on the regional court rolls.

(f) Component part reviews (change 4 of the Seven-point Plan)

Identifying key areas in the component parts of the CJS that contribute negatively to the overall systems performance and putting measures in place to correct shortcomings and remove constraints, inhibitors and dependencies, especially relating to policies dealing with capacity, and bringing all component parts to a point where they function together harmoniously.

Component part reviews have received most of the CJS Review’s attention to date, with much emphasis being placed on understanding capacity requirements across the value chain of the CJS, but more specifically in the CJS front-end where several of the present inefficiencies and ineffectiveness are spawned.

In order to align and balance the CJS resources, extensive and focused consultations were conducted at all levels and in all disciplines of the CJS. Processes, volumes, capacities, data and systems were analysed to gain a holistic picture of the way in which the CJS operates. This is being utilised to design a properly resourced and new streamlined CJS in terms of capacity, skills and tools.

It will include more efficient staff retention and performance management strategies and policies. Operational efficiencies will be further enhanced by the provision of step-by-step field guides and manuals,



covering the CJS comprehensively from complaint to finalisation stages.

(g) Information technology and CJS modernisation (changes 5 and 6 of the Seven-point Plan)

Establishing an integrated and seamless National CJS Information System (IT infrastructure and national database) with information and systems that are seamless and scientifically and technically robust and reliable, and that will facilitate more informed strategies, plans and decision-making.

Implementing a programme of modernisation of the CJS by applying technology solutions to more effectively manage day-to-day operations, reduce costs and eliminate waste, and automate paper-intensive systems.

To improve the current situation, where measurements and management across the CJS are based on a limited, after-the-fact statistical accounting and manual approach, a new system has been designed and is being implemented. This will entail the following:

- Availability of an extended and enhanced data template that consists of national CJS information owned, provided and authenticated by the relevant departments and agencies, including event recording and case flow milestone data (based on adapted and refined information systems in relevant departments/agencies)
- Electronically generated unique identifiers that will be used to link the relevant information entities such as dockets, persons, cases and exhibits to each other to ensure the establishment and maintenance of CJS business process relationships, traceability and measurability
- Fundamental changes in systems design philosophy in CJS departments, resulting in accurate and current information becoming part of daily operations
- Access to time-based performance improvement interventions that will be comparable to the best international CJS standards, such as the UK CJS
- Cluster-wide and department-specific performance measurement and management tools and instruments comprising key performance indicators (KPIs) to enable the monitoring of headline, operational and service performance indicators

The initiatives of the IJS Board that are aimed at modernising the CJS are being reviewed, realigned and reprioritised in line with the strategic requirements of the CJS. The associated budgets are being analysed and will be restated in conjunction with National Treasury and all relevant stakeholders.

A technical study is underway to determine how best to enable access to and connectivity between the major government-owned and managed fingerprint databases, which include the SAPS, HANIS (Home Affairs) and NATIS (Department of Transport (for driver's licences)).

(h) Involvement of the broader society in the CJS (change 7 of the Seven-point Plan)

Involving the population at large in the fight against crime by introducing changes to the Community Policing Forum (CPF) regime (which is being dealt with by the SAPS), including expanding the role to deal with all matters in the CJS, for example, policing, parole boards, etc, by providing financial and administrative infrastructure to give it 'teeth'.

Public awareness regarding the Seven-point Plan has been promoted through provincial visits by Joint Portfolio and Select Parliamentary Committees and representatives of the OCJSR Secretariat, and valuable input has been obtained from communities.

Further research is being conducted into the involvement of the broader CJS and covers matters such as community safety forums, parole boards and the re-integration of offenders. It is envisaged that the scoping of this component of the Seven-point Plan will be completed and a comprehensive position paper will be developed and submitted to Cabinet for consideration in the near future.

(i) Conclusion

The CJS programme has gained much traction and is one of government's most visible interventions thus far. It is important that momentum be maintained and stepped up after the elections of 2009.

(ii) Strategy Monitoring and Evaluation

One of the most intricate tasks of any department is to develop and implement a comprehensive strategy that will deliver quality justice services, help the department achieve focus, resolve internal and external confusion, and channel energy and effort towards better service development and delivery.

In line with the requirements as stated in paragraph 5.1 and 5.2 of the Public Finance Management Act, 1999 (Act No 1 of 1999), the department reviewed its Medium-term Strategic Framework (MTSF) for the period 2008 to 2011. The department also strengthened the alignment of the MTSF with the Medium-term Expenditure Framework



(MTEF) to ensure that financial resources are closely aligned to the strategic plan of the department. The department also aligned its MTSF to the priorities of the NPA and the LAB, including the Government Programme of Action.

The department also made significant improvements on its monitoring and evaluations systems. A new, improved performance measuring instrument was developed and employed to gather, analyse and interpret programme performance information across the branches and regional offices. The measuring instrument, commonly referred to as the Performance Indicator Metric (PIM), introduced service delivery impact monitoring methods, and results-oriented monitoring of performance across the department. A total of 180 PIMs were developed and updated on a quarterly basis.

The department, through its Strategy Unit, sought to innovate new forms of reporting that explicitly identify strategically focused initiatives by generating several standards and tools to measure, manage and report on the 'big picture'. This resulted in a greater emphasis on new materiality reporting, and introduced a report production approach that focuses on comprehensive data and information that stakeholders require. It is essential to point out that this approach is still in the developmental phase. The aim of the department is to improve the practices of report production to a level that ensures that reporting does not become just an end in itself, but facilitates change, and becomes the main domain of public disclosure to improve the department's transparency and responsiveness towards justice issues and management. The Strategy Unit is committed to seeing strategy reports become a tool for both improving management, while providing the department with clues about what it needs to do next. The unit is alert to the fact that reporting at this level carries real danger of turning it into an exercise of compliance, which contributes little to learning or innovation, but which often results in performance reports becoming 'thick data bumps'.

There is real progress in the department's reporting, which points towards the process of building a public reporting approach that will become the single most important driver of change. This approach combines financial and non-financial data, risk analyses, audit reports and other such organisational performance areas into one mainstream reporting activity that displays internal aspects of good governance to improve effectiveness, efficiency, transparency and accountability and to inform decision-making. In the year under review, three quarterly reports were produced, with more than 150

copies of the MTSF Report distributed to the executives, the heads of regions, the NPA, LAB and the JCPS Cluster departments, including the justice-related Chapter 9 institutions. In addition, more than 1 200 electronic copies of the report were distributed to the senior management staff in the department.

During the period under review, the Strategy Unit also achieved considerable success in its executive decision support programmes. The department saw a steady improvement of its well-coordinated and managed Executive Committee meetings, the Joint Executive Committee meetings, the Ministerial-Management meetings and the Senior Management Forum, including the Internal Policy Workshop and the Strategy and Budget Conference. As part of improving the decision-making process and systems in the department, the Strategy Unit produced the Planning and Reporting Cycle, Decision Tracking and Reporting Template, Performance Assessment Template for the Executive Committee, and improved databases and information management for executive committees. The department also saw an improved close collaboration with its justice entities (NPA and LAB) as it adopted a multidisciplinary approach to participative decision-making. The Secretariat of the executive received numerous commendations from the Minister, the Director-General, the members of the Executive Committee and senior management for its excellent and professional work regarding the coordination, management and production of minutes of the meetings.

Figure 1: Executive meetings held in the department during 2008/09:

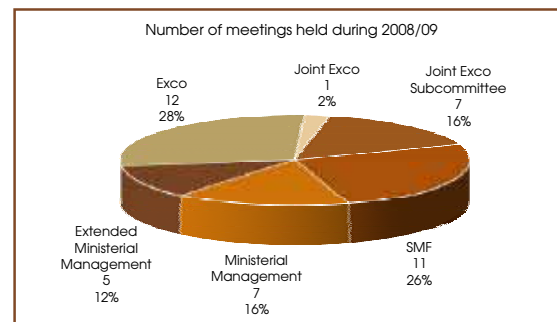


Table 12: The 10 most featured agenda items

Legislative matters	Policy matters	Strategic matters
Regional Courts Jurisdiction Bill	Litigation blueprint	MTSF Review
Legal Practice Bill	Indigenous languages in courts	MTSF quarterly reports
Sexual Offences Bill	Review of the Criminal Justice System	Budget and expenditure
Superior Courts Bill	Terms of reference for the review of the civil justice system	Human Resources Plan
State Liability Bill	TRC Recommendations Report	Filling of vacancies
Judicial Education Bill	Realignment of magisterial districts	Labour Relations
Trafficking in Persons Bill	Proclamation of 24 branch courts	Asset Management
Criminal Procedure Amendment Bill	Restorative Justice Framework	OSD for legal professionals
SAPS Amendment Bill and NPA Amendment Bill	PAJA Rules	Political pardons
Customary Law of Succession Bill	Policy Framework for the Prevention and Combating of Racism, Xenophobia, Hate Speech and Related Intolerance	Communication

(iii) Post-TRC dealing with TRC Recommendations

The Truth and Reconciliation Commission (TRC) Unit was established to audit, monitor and coordinate the implementation of the TRC Recommendations. The TRC Unit works closely with the President's Fund Office. The TRC Unit focuses on the following TRC Recommendations:

(a) Final reparations

This entails the once-off individual grant of R30 000 each to persons declared victims by the TRC. The services of a professional tracing agency were enlisted to expedite the tracing of beneficiaries for the once-off individual grant of R30 000. A total of R525 million was paid to 15 839 beneficiaries from the 2003/04 financial year until 2008/09. In this financial year, 229 beneficiaries were paid an amount of R6 870 000 for the once-off individual grant of R30 000.

(b) Symbols and monuments

This includes academic and formal records of history, culture and art forms, as well as erecting symbols and monuments to exalt the freedom struggle, including new geographic and place names.

(c) Medical benefits and other forms of social assistance

This category includes the provision of education, health and housing assistance, as well as other forms of social assistance to address the needs of TRC-identified victims. The department furthermore facilitated the

drafting of regulations on medical and educational assistance. These draft regulations were forwarded to the relevant departments for their comments. In the interim, the Department of Education has set aside R5 million of its own budget to assist TRC-identified victims. Consultations were also held with the relevant government departments to facilitate the drafting of regulations to enable access to the President's Fund in respect of other forms of social assistance, for example, housing, to individual TRC-identified victims, as well as reparation programmes aimed at community rehabilitation. This process is still ongoing.

(d) Community rehabilitation

Community rehabilitation means rehabilitating communities that were subjected to intense acts of violence and destruction between 1960 and 1994, and who are still in distress. A discussion paper in respect of a community rehabilitation model was developed and amended following inputs received from the relevant government departments. The paper was routed to the Minister in March 2009 with an accompanying Cabinet memorandum, to submit to Cabinet for approval in principle.

(e) Exhumations, handover and reburial of the disappeared

The Missing Persons Task Team (MPTT), located in the NPA, has to date conducted 54 exhumations in respect of persons reported as missing to the TRC. Of these, the TRC Unit handed 32 remains to the families for reburial. Other exhumed remains not yet handed over are still



subject to further forensic testing to determine their positive identification.

The department developed an Exhumation Policy in consultation with the relevant stakeholders to coordinate the abovementioned exhumation process. At the end of 2008/09, further consultations were envisaged before finalising the policy. The department also facilitated the drafting of regulations to enable access to the President’s Fund to assist the affected families with travelling and reburial costs. By the end of March 2009, these regulations had been published for public comment following Cabinet’s approval.

The department rendered assistance to the families of exhumed persons with, among others, applications for reparations and special pensions (where relevant), obtaining death certificates, arranging bereavement counselling for the affected families in conjunction with the departments of Social Development and Health, and assisting victims’ children born outside South Africa to reclaim their rightful citizenship.

(iv) International Legal Relations

In order to render speedy, quality and sustainable international legal services to the government of the Republic of South Africa, foreign governments, regional/ international organisations and the international community in general, the following functions were focused on:

- Interaction with international bodies, such as the United Nations (UN), the African Union (AU), Southern African Development Community (SADC) and the International Criminal Court

- Liaising with the Department of Foreign Affairs (and other government departments), as well as South African foreign missions, on international legal matters
- Handling of criminal and civil matters at bilateral and multilateral (international) levels, including the negotiation and conclusion of extradition and mutual legal assistance in criminal and civil matters treaties (also declarations and resolutions on criminal matters)
- Handling of human rights matters at bilateral and multilateral (international) levels, including the negotiation of human rights treaties, declarations and resolutions, as well as the writing of country reports on these instruments
- Handling of requests for extradition, mutual legal assistance in criminal and civil matters, service of process and rogatory commissions
- Coordination of technical assistance to foreign states and international and regional organisations
- Preparation of Cabinet memoranda, explanatory memoranda of Parliament and President’s Minutes for signing and ratification of treaties, as well as the processing of other related legal matters

The negotiation of extradition and mutual legal assistance treaties should be seen as a clear indication to criminals that South Africa will not be a safe haven for criminals and that all actions will be taken to fight transnational crime.

Table 13: Countries with which South Africa has extradition agreements

No	Country	Extradition agreements
1	Botswana	
2	Lesotho	Approval to ratify by Parliament on 7 November 2001 Entered into force on 23 December 2003 Notice published in Government Gazette No 26375 of 28 May 2004
3	Malawi	
4	Swaziland	
5	United States of America	Instruments of ratification exchanged on 25 June 2001 Approval to ratify on 9 November 2000 Notice in Government Gazette No 7100 of 29 June 2001
6	Canada	Approval to ratify by Parliament on 3 April 2001 Notice in Government Gazette No 7063 of 18 May 2001
7	Australia	Approval to ratify by Parliament on 9 November 2000 Notice in Government Gazette No 7132 of 1 August 2001
8	Israel	



No	Country	Extradition agreements
9	Egypt	Approval to ratify on 11 November 2002 Instruments of ratification exchanged on 16 September 2003 Entered into force on 16 September 2003 Notice in Government Gazette No 26497 of 2 July 2004
10	Algeria	Approval to ratify on 11 November 2002 Not yet in force
11	Nigeria	Approval to ratify on 11 November 2002 Not yet in force
12	China	Approval to ratify on 11 November 2002 Instruments of ratification exchanged on 18 October 2004 Entered into force on 17 November 2004
13	India	Approval to ratify on 9 November 2004 Instruments of ratification exchanged on 6 December 2005 Entered into force on 16 December 2005

Treaties have been negotiated with the following countries, but not yet signed:

- Zambia (Extradition and Mutual Legal Assistance Treaty)
- Hungary (Extradition) (Covered under Convention on Extradition (COE))
- Namibia (Extradition and Mutual Legal Assistance Treaty)
- Brazil (Mutual Legal Assistance Treaty)
- Republic of Korea (Extradition and Mutual Legal Assistance Treaty)

Extradition and Mutual Legal Assistance Treaties have been signed with the following countries, but not yet ratified:

- Iran: Signed on 31 August 2004, submitted to Parliament for ratification
- Argentina (Extradition and Mutual Legal Assistance Treaty): Signed on 28 February 2007
- Hong Kong (Extradition and Mutual Legal Assistance Treaty): Signed on 20 February 2009, to be submitted to Parliament for ratification

The Treaty with the Republic of China (Taiwan), signed on 30 December 1987, is deemed to be terminated in terms of the memorandum of understanding between the government of the Republic of South Africa (RSA) and the government of the People's Republic of China (PRC) on the establishment of diplomatic relations between the RSA and the PRC.

Table 14: Countries with which South Africa has Mutual Legal Assistance in Criminal Matters Treaties

No	Country	Ratified by Parliament	Entered into force	Progress
1	Canada	3 April 2001	5 May 2001	
2	USA	9 November 2000	25 June 2001	
3	Lesotho	7 November 2001	23 December 2003	
4	Egypt	11 November 2002	16 September 2003	
5	Algeria	11 November 2002	Not yet in force	
6	Nigeria	11 November 2002	Not yet in force	
7	France	11 November 2002	1 March 2004	Notice in Government Gazette No 27371 of 18 March 2005
8	China	21 October 2003		
9		Instruments of ratification exchanged on 18 October 2004	17 November 2004	
10	India	3 November 2004	6 December 2005	
		Instruments of ratification exchanged on 6 December 2005		



The department is currently busy setting up negotiations for the conclusion of Extradition and Mutual Legal Assistance Treaties with various countries, including the following:

- United Arab Emirates
- Peru
- Uruguay
- Tunisia
- Cuba
- Pakistan
- New Zealand
- Taiwan (Mutual Legal Assistance – MoU)
- Chile
- Kuwait

South Africa has also designated Ireland, Zimbabwe, Namibia and the United Kingdom in terms of section 3(2) of the Extradition Act, 1962 (Act No 67 of 1962). South Africa's accession to the Council of Europe's Convention on Extradition entered into force on 13 May 2003. A request was also directed to the Council of Europe that South Africa accede to the Convention on Mutual Legal Assistance (MLA). The Council of Ministers approved that South Africa accede to the MLA Convention. The necessary documentation is currently being prepared for Cabinet's approval. In terms of the Extradition Act, 1962 (Act No 67 of 1962) any arrangement made with any foreign state, which, by virtue of the provisions of the Extradition Acts, 1870 to 1906 of the Parliament of the United Kingdom, as applied in the Republic, was in force in respect of the Republic immediately prior to the date of commencement of the act, shall be deemed to be an agreement entered into and published on the said date by the President under the act.

(a) SADC Protocols on Extradition and Mutual Legal Assistance in criminal matters

These protocols were signed by the Summit on 3 October 2002 and ratified by Parliament on 14 April 2003. The Protocol on Extradition entered into force on 18 August 2006. The MLA Protocol still needs one ratification before it can enter into force.

(b) African Union Convention on Extradition

The African Union Convention on Extradition was finalised during a meeting of legal experts held in Ethiopia from 4 to 8 April 2001. The Department of Foreign Affairs was requested to determine the cause of the delay in this matter.

(c) Memoranda of Understanding

Memoranda of understanding on cooperation in the administration of justice with Benin, Russia and China are

currently considered and it is foreseen that they could soon be signed.

The department is also initiating the conclusion of memoranda of understanding on cooperation to combat trafficking in persons and assisting victims of trafficking with the following states:

- Thailand
- Nigeria
- Angola
- Mozambique
- Malaysia
- Indonesia
- Pakistan
- Brazil

(d) Human rights treaty obligations

The government of the Republic of South Africa has an obligation to prepare and present its reports arising from basic human rights treaties under the United Nations Human Rights System and African Union and Peoples' Rights System listed below:

- International Covenant on Civil and Political Rights (ICCPR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention Against Torture (CAT)
- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention on the Rights of Children
- African Charter on Human and Peoples' Rights

The department, as the lead department on human rights, is to ensure compliance with South Africa's human rights treaty obligations.

The DoJ&CD and the University of Pretoria (UP) have concluded an MoU with the objective of preparing outstanding country reports, and UP is to do this task. This will also entail the transfer of skills to officials in the department. UP has assisted in re-editing the ICCPR report and the department is seeking updated information from the other departments. In the course of 2009, UP will deliver reports on the African Charter, ICERD and CAT.

(e) Technical assistance

The department is currently rendering technical assistance to the DRC and building capacity in the Southern Sudan Ministries of Justice respectively. The department has forwarded a draft MoU concerning cooperation in the legal field to the DRC Ministry of Justice for consideration.



The department has been approached via the Donor Policy Coordination Unit in the department by National Treasury to submit concept papers with a view to forging trilateral cooperation with USAID regarding funding of projects that the department has with African states in the SADC region.

The department is finalising an agreement with the United Nations Institute for Training and Research (UNITAR). In terms of this agreement, the department will be hosting a training/fellowship programme with UNITAR in Pretoria during 2009. Proposed topics for the programme include the following:

- Introduction to public international law
- International humanitarian law
- International criminal law and mutual legal assistance
- Refugee law

The following concept papers were submitted to National Treasury:

- Rendering technical assistance to the DRC Ministry of Justice, in particular the training of DRC magistrates
- Capacity and institutional building project for Southern Sudan
- Gender justice in the SADC region

(v) Office of the Deputy Information Officer

The aims and objectives of the chief directorate are to maintain an effective and efficient service in respect of the Promotion of Access to Information (PAIA) Unit, the Office for Interception and Monitoring, Office Services (registry, messenger services and telephone and reception services), Archives and Library Services.

(a) Promotion of Access to Information (PAIA) Unit

Section 32 of the Constitution of South Africa determines that everyone has the right of access to any information held by the state and any information held by another person. The department is the overseer of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000) (PAIA) and as such the Chief Directorate: Access to Information and Records Management: PAIA is instrumental in overseeing that the act is effectively implemented across the board in the three spheres of government and that the act is effectively communicated to the public.

In the year under review, 70 requests for access to information were received in terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000), and dealt with. Of these, 61 were granted and nine were refused.

Thirty-five were processed within 30 days and 35 were processed within 60 days after extension was requested.

Four applications for exemptions from the provision of section 14(1), (2) and (3) of the PAIA were received from the Minister for Intelligence Services and were submitted to the Minister for Justice and Constitutional Development during the period under review. These were scrutinised and supporting memoranda were prepared for the Minister. The chief director facilitated the implementation of PAIA in the three spheres of government. Guidance is given on a continuous basis where necessary regarding the implementation of PAIA. In this regard, the PAIA manual was updated, and public and private bodies' automatically available information was published in the Government Gazette in terms of section 15 of PAIA. In this regard, the following tasks were performed: notices and memoranda were prepared and submitted to the Minister requesting approval to publish section 15 notices in the Government Gazette.

The Public Service Commission's Monitoring and Evaluation report of the Department of Justice and Constitutional Development, especially pertaining to compliance with PAIA, pointed out that the department had complied with all the set evaluation requirements and a 100% score was given in that regard. Fifteen training sessions were conducted with officials from national and provincial departments, as well as the municipalities. Six road shows were conducted (at Atteridgeville, Polokwane Show, Pretoria, Pretoria North, Durban and Kimberley) to raise awareness of PAIA. PAIA booklets and brochures were distributed during the shows and training.

(b) Office Services (registry, messengers, telephone management, reception)

Office Services is a support unit with the exclusive mandate to provide an effective and efficient service in the department with regard to a postal service, registry, messenger service, reception and telephone service.

Records management has been a serious challenge in the department. Some of the problems identified include the inappropriate level and authority of the department's records manager and insufficient storage space for the documents. A draft proposal for the revamping of a records management system for the department has already been submitted to the Director-General for consideration.

Regarding the records manager, a submission was sent to the Director-General requesting the creation of the position of a record manager at the level of director. It



is envisaged that an official appointed at this level will have the necessary skills, qualifications and experience, as well as authority, to be able to turn around the current state of records management. Regarding the storage of records, assistance was provided to offices where a lack of storage space was most acute. An ad hoc solution was to provide mobile shelves to the identified offices. In offices where mobile shelves were installed instead of the more traditional static shelves, storage space was increased by at least 40 to 60%. It is envisaged that the project will be rolled out to other courts/offices where an urgent need for additional storage space has been identified.

The following offices had mobile shelves installed during the period under review:

- Johannesburg Family Court
- Pretoria High Court
- Pretoria National Office
- Tsakane Branch Court
- Brakpan Magistrate's Court

Another quick-fix solution that has been piloted in conjunction with Facilities Management is the off-site court records storage project in terms of which records, especially dormant files, are stored in an off-site warehouse and can be retrieved when required.

(c) Archives and Library Services

Access to Information and Records Management: Library and Archives provides the departmental users of the library with a continuous virtual library service, in addition to an up-to-date legal library service, while the archives ensure an effective and efficient handling of archival material for the whole department. This includes magistrate's offices, master's offices and registrars. A major task and one that is enormous in magnitude is the resurrection of archival material (case records and files) generated at the various magistrate's offices, master's offices and registrars. Records marked for archives in the normal course of action would be transferred to the National Archives. Owing to the lack of space, National Archives could not accept records earmarked for archives and the Archives Unit embarked on the task to create archival space for those records.

In the year under review, requests for library material were attended to within 30 minutes from the time the request was received. To ensure constant availability of service, all subscriptions to service providers of loose-leaf periodicals, legal magazines, legal publications and the virtual library were paid in time. This resulted in the online library service being available to all library users all the time, except when the department's server was down, affecting only

the virtual library. To ensure that the libraries at sub-offices (magistrates) and the national office have the most recent publications, the purchase and delivery of books for all the sub-offices, as well as for the newly appointed State Counsel in the Civil Litigation Unit, are done on a continuous basis.

The creation of increased archive space, which was implemented in the offices mentioned above, is an ongoing project that would be concluded once sufficient archive space is created at the national office and sub-offices. The creation of space is achieved by the installation of mobile shelving in lieu of the conventional static shelving.

(d) Interception and monitoring

The appointment of the designated judge on a full-time basis at the Interception Office required that the office had to be well equipped. All logistical and administrative support was provided for the judge, for example, the judge's motor vehicle, office equipment and support staff. In this regard, officials were seconded to the office to provide administrative support. Since inception of the office, there has been no filing plan, resulting in files being opened haphazardly. Thus, during the period under review, a filing plan was developed and implemented for the Interception Office in compliance with the National Archives and Records Services of South Africa Act, 1996 (Act No 43 of 1996).

(e) Challenges

In dealing with access to information requests, the PAIA Unit is bound by the time frames expressly prescribed in the Promotion of Access to Information Act, 2000 (Act No 2 of 2000), for example, 30 calendar days. When issuing search instructions to directorates at the national office or to regional offices/sub-offices, a general lack of response is experienced, which causes the repeated issuing of reminders to such offices. This general lack in response subsequently results in the PAIA Unit having to issue 30-day extensions to requesters. The PAIA Unit also experiences a culture of no response when the requested records cannot be found, either because the record does not exist or it is not held at that specific office. This once again results in the PAIA Unit having to revert to crisis management as the time frames cannot be adhered to.

The lack of sufficient funding for the PAIA Unit resulted in the unit's inability to effectively promote the act to the general public. To effectively promote the act, the unit has to go to the public, as there are vast areas where the public has no electronic aids such as television or radio.



Table 15: Report in terms of section 32 of the Promotion of Access to Information Act, 2000

Details	No
PAIA requests received	70
Requests granted in full	61
Requests granted despite there being a ground for refusal, but granted in the public interest	0
Requests refused in full or refused partially	9
Times a provision of PAIA was relied on to refuse a request in full/partially	9
Instances where the 30-day period to deal with a request was extended	35
Internal appeals lodged with the relevant authority	1
Cases where requests were granted as a result of an internal appeal	1
Internal appeals lodged on account of a deemed refusal	0
Applications to court as a result of the relevant authority failing to give notice of its decision	0

(vi) Chief Directorate: Risk Management

The chief directorate assists with the facilitation and management of the risk management processes in the department. The risk management activities are conducted to mitigate risks and threats so as to minimise and/or prevent deficiencies of any nature. The unit has a mandate to implement risk management processes, to build a culture of risk management, to ensure that all major risks are identified, managed and reported on and to monitor the entire risk profile of the department. The department also needs to provide a safe and secure environment where all employees, the public and other stakeholders continuously behave ethically in their dealings with, or on behalf of the department.

All risk management processes are performed in terms of the Public Finance Management Act, 1999 (Act No 1 of 1999) (PFMA), National Treasury Regulations, Minimum Anti-Corruption Capacity Requirements, Minimum Information Security Standards, the Public Sector Anti-corruption Strategy, the National Vetting Strategy, the National Disaster Risk Management Framework, the Occupational Health and Safety Act, 1993 (Act No 85 of

1993), other regulatory frameworks and the Corporate Governance Guidelines. It is therefore imperative that the DoJ&CD as a government department practise risk management to comply with best practice and the relevant regulatory frameworks.

In line with the above and the departmental Medium-term Strategic Framework, as well as the departmental Risk Management Policy and Strategy, the following summarises the record of activities and achievements during the year under review:

(a) Enterprise-wide risk assessments

During the period under review, risk assessments were conducted and reviews performed for 35 sections, including regions, and emerging risks were identified. As a result, enterprise-wide risk management activities were supported by management. To date, about 715 officials attended various risk management workshops. The activities were designed to enunciate the culture of managing risks as required by National Treasury Regulations. In summary, the risk assessment workshops and/or reviews led to the development and update of high-level risk profiles.

Table 16: Units for which high-level risk profiles were undertaken in 2008/09

Office of the DG and COO	Province	Branches
Criminal Justice Review	Mpumalanga	Legislative Development
Cabinet Issues and Administration Support	Northern Cape	Corporate Services: Public Education and Communication
Truth and Reconciliation Unit	Western Cape	Corporate Services: Information Systems Management
Risk Management	Free State	Corporate Services: Office of the CFO
Programme Support and Administration	Limpopo	Office of the State Law Advisors
Office of the Deputy Information Officer	North West	Justice College
International Legal Relations	KwaZulu-Natal	Office of the Chief Litigation Officer



Emanating from the regional risk reviews and national office risk assessments, the 20 most common risks and/or risk-contributing factors were identified and reported to management and the Audit Committee. All the reports generated were used by internal and external auditors for the risk-based audit plans.

The unit was actively involved in the developments and the progress on the readiness of the department and the courts in relation to the 2010 project, and hence the development of risk registers for this strategic project. Regional visits were conducted with the 2010 Project Office to various dedicated courts. The risk profile was updated according to the developments and was presented to the Steering Committee, management and the Audit Committee.

Management is aware of the fact that it is ultimately responsible to ensure that proper controls are in place to prevent and detect fraudulent and irregular activities and is also responsible to take action where internal control weaknesses have been identified. Different managers have taken various initiatives to mitigate the identified risks or risk factors, for example, a number of key vacancies were filled, separate training sessions are ongoing, and a Supply Chain Management Policy was developed and approved. The risk management software is fully operational in the DoJ&CD environment and about eight staff members were trained on how to administer and manage the software. Enterprise-wide risk management activities were recognised by National Treasury and, as a result, the department received a rating of level 3 (control phase and satisfying legislative requirements) in terms of risk management maturity levels.

(b) Fraud and corruption prevention awareness programmes

In line with the Public Sector Anti-corruption Strategy, which was approved by Cabinet in 2002 and which emphasises the comprehensive fraud and corruption prevention measures as the first line of defence against corruption, the department continued to implement its approved fraud and corruption plan in its quest to prevent and detect acts of fraud, corruption and other irregularities. The department's main focus was on internal stakeholders, including all branches and regions, as well as some of the identified service providers. The human element in the regions and branches at national level was the major focus.

During the year under review, the department has ensured full compliance with the Minimum Anti-corruption Capacity (MACC) Requirements as approved by Cabinet

in September 2003. The MACC Requirements specifically direct that, in order to fight corruption in departments, as defined in the Public Service Act, 1994 (Act No 103 of 1994), and in public entities (as listed in Schedule 3 of the PFMA), each accounting officer must, for his or her department:

- specifically focus on and analyse corruption risk as part of the risk assessment required in terms of the PFMA;
- implement fraud plans required in terms of the PFMA, which fraud plans must specifically address the corruption risk; and
- verify the previous employment, qualifications, citizenship and criminal record of all persons before they are employed.

The following synopsis indicates the activities that were performed in order to address these risk management strategies:

Training and awareness

The Fraud and Corruption Prevention Subdirectorate in the Integrity Management Directorate has been established to ensure that all prevention mechanisms are put in place. The unit has compiled an internal fraud and corruption communication strategy, which was approved by the Director-General in May 2008. The communication strategy was fully implemented and is characterised by the following:

- Training and awareness campaigns on fraud and corruption (national office and all regions)
- Articles on fraud and corruption in the *Justice Today* newsletter
- Communication on DJINI (intranet)
- Distribution of pamphlets, posters, booklets, mouse pads, key rings etc to promote awareness among employees

During the 2008/09 financial year, 1 500 posters and 8 000 pamphlets were distributed in seven regions, and 2 462 officials attended the awareness sessions. The UN International Anti-corruption Day was celebrated at the national office and in the regions on 9 December 2008. The department has continued to popularise the National Anti-corruption Hotline (0800 701 701). The department saw an increase on the reporting of the fraud and corruption cases during this financial year.

Administration of financial disclosures

The financial disclosures for the SMS members reached 100% in the 2008/09 financial year. A concerted effort was made in this regard, as alignment in terms of the Minimum Anti-Corruption Capacity requirements were gradually and actively implemented in the department.



Fraud risk assessment

The PFMA requires that Fraud and Corruption Risk Assessments be conducted annually. The department has conducted its fraud and corruption risk review and assessment in October 2008. The assessment seeks to identify the fraud and corruption risk indicators across the department, with a view to introducing proper mitigation strategies. This assessment paved the way for the review of the Fraud and Corruption Plan in 2009/10.

(c) Roll-out of the National Vetting Strategy

As part of the roll-out of the National Vetting Strategy by the National Intelligence Agency (NIA), the department entered into a memorandum of understanding (MoU) with the NIA for the security vetting of the department's personnel. The MoU was signed by the Directors-General of NIA and the DoJ&CD. The Job Evaluation Guidelines by the Department of Public Service and Administration (DPSA) were adopted and approved by the Director-General.

The MoU sets the tone for the establishment of the Vetting Fieldwork Unit (VFU) and will serve as a NIA delegation of its vetting mandate to the department so as to reduce the vetting backlog. The three vacant vetting fieldwork positions were filled.

Security vetting awareness

The Project Kgaolo 2007/08, which was intended to ensure the education of employees on matters relating to security vetting and fraud and corruption prevention, was completed. The awareness project was characterised by the following:

- Presentations on the role of vetting in the fight against fraud and corruption
- The legal framework supporting the fight against fraud and corruption
- Encouraging employees to come forward and report any suspected incidences of fraud and corruption
- The completion of the vetting application forms

Seven regions and most offices in each regional responsibility were completed. A total of 2 462 officials were seen in the regions visited. The total number of officials who complied by submitting applications at these offices was 1 028 and the total number of applications was 2 566 at the end of the 2008/09 financial year.

Table 17: National vetting statistics (including learnerships, temporal and contracted employees)

Categories	Total 2007/08	Total 2008/09
Total employees – excluding magistrates and judges	15 430	17 857
Total of employees with valid security clearance	2 178	2 369
Total of employees without valid security clearance	13 474	12 191
Total vetting applications in process	3 353	4 381

Departmental security vetting policy

The Vetting and Personnel Suitability Check policies have been developed, and discussed with all stakeholders, circulated internally for inputs and are in the process of being approved. The personnel suitability check was developed for the DoJ&CD as part of the NIA Cabinet-approved National Vetting Strategy. The document was forwarded for approval by the chief operations officer and accounting officer. The Human Resources Recruitment Unit was involved in a discussion on the implementation of this pre-employment screening. This procedure is intended to proactively ensure that the department only employs people who are not susceptible to bribery and/or fraud and corruption.

(d) Securing of justice service delivery points

In line with the Minimum Information Security Standards, the department continues to monitor its environment and to improve its security control measures. The Departmental Security Policy was reviewed and approved during this annual financial year. In line with this policy, identification cards are being issued to staff members and the members of the judiciary. Some 7 451 identification cards were issued during the period under review.

The following synopsis indicates other activities in relation to security risk management:

Threat and risk assessments

The unit conducted threat and risk assessments for 20 sites, and other security risk assessments were conducted for 12 sites that are dedicated for the 2010 project and in the Ministry's office. Several recommendations were made regarding the vulnerabilities identified, but it is important to note that most of the recommendations require more funding in order to meet the minimum security requirements.



The department approved the provision of guarding services and cash-in-transit services countrywide for 431 sites and 512 sites respectively. There are about 19 sites that are covered on month-to-month contracts. The total amount that the department has incurred in security services, including accruals, commitments and other carry-through costs, is about R308 million. These services are provided in order to protect assets, including information and people, and to minimise vulnerabilities. The unit has also assisted in the provision of VIP protection for various members of the judiciary whose lives were threatened due to certain high-risk court cases. As a result, about 35 members of the judiciary were assisted with the installation of alarm systems and other security measures.

Firearm verification

During the year under review, 350 firearms were verified in terms of the Firearms Control Act, 2000 (Act No 60 of 2000). Out of this number, 15 firearms were surrendered to SAPS and 271 firearms at the end of the financial year were in the process of being surrendered to SAPS for disposal. There are another 383 firearms that need to be verified countrywide within the next financial year.

Integrated security infrastructure

Some 502 sites were surveyed and different specifications were developed. Some 127 sites were identified as high-risk sites and were prioritised for the integrated security infrastructure tender. The tender was awarded and Supply Chain Management, in collaboration with the Department of Public Works, is assisting with the finalisation of the service level agreement. Security specifications and security layout plans were reviewed and/or developed and were approved for 19 sites.

Table 18: Sites for which security specifications and security layout plans were approved

Province	Site
Gauteng	Katlehong, Mamelodi, Bronkhorstspuit, Soshanguve, Orlando, Booysens, Oberholtzer, Protea, Cullinan
Mpumalanga	Nelspruit
Limpopo	Polokwane
Eastern Cape	Dimbaza, Hankey, Whittlesea, Ezibeleni, Ventersdorp
KwaZulu-Natal	Port Shepstone
Western Cape	Calitzdorp, Tembalethu

The infrastructure specifications were also used to improve security measures like CCTVs, intruder alarms, walk-through metal detectors, etc in the Port Elizabeth Magistrate’s Court, Constitutional Court and Bloemfontein regional office.

Other specific security improvements were provided for the Pongola Magistrate’s Court, the Magistrates Commission building, the Rules Board building and the Ginwala Commission. Palisade fencing was upgraded and/or installed at eight sites: Marloth, Nsikazi, Cullinan, Jerico, Makgobistad, Ramatlabama, Pongola and Molopo magistrate’s courts.

Special events

The unit has successfully assisted in the coordination of all security aspects, together with NIA, the SAPS and Metro Police, for the following events:

- World Conference on Constitutional Justice (held in Cape Town)
- Association of University Legal Aid Institution (held in Pretoria)
- Access to Justice and Promotion of Constitutional Rights programme – strengthening civil society participation (held in Orange Farm)
- Access to Justice and Promotion of Constitutional Rights programme (held in Pretoria)
- High-profile cases

This process included the vetting of various delegates from other countries through the NIA.

(e) Establishing and implementation of SHERQ programmes

The department continues to experience increasingly complex safety, health, environment and quality problems. Consideration must eventually be given to the advisability of developing a Safety, Health, Environment, Risk and Quality (SHERQ) Management programme complete with personnel and procedures designed to contribute to efficient safety, health and quality services. The Directorate: SHERQ is fairly new and the appointment of a senior manager and two deputy directors were completed during the 2008/09 financial year. Since the appointment of the incumbent, the following can be highlighted:

- A contingency management plan was drafted and circulated for comments and is to be discussed with other stakeholders, after which it will be submitted for approval in the following financial year, 2009/10. This plan is aligned to the National Disaster Risk Management Framework and will form part and parcel of the entire Business Continuity Management Programme.
- Safety risk inspections were conducted and reports were compiled for the following offices: Durban, Verulem, Rustenburg, Odendaal, Botshabelo/Kroonstad, Tlhabane and Polokwane magistrate’s courts.



- In line with the Departmental Risk Management Policy and Strategy, National Disaster Risk Management Framework and Occupational Health and Safety Act, 1993 (Act No 85 of 1993), various awareness sessions were successfully organised during the year.
- A total of 97 health and safety representatives were appointed and trained in different offices by the national office team, in collaboration with other external stakeholders like the Tshwane Disaster Management Unit and the Department of Labour. The training sessions took place in places like Port Elizabeth, the national office, Grahamstown, Bloemfontein, Durban, the regional office in Gauteng, etc. Several information sessions were also conducted by the regional office teams in relation to occupational health and safety and emergency evacuation procedures.
- In order to ensure an integrated approach in safety and security risk management and for business continuity management, 35 staff members attended various courses such as the Business Continuity Management Course, the Safety Management Training Course (SAMTRAC), SHERQ Audit Course and National Examination Board of Occupational Safety and Health (NEBOSH) Course, which are internationally recognised courses.
- A safety, health and environmental awareness programme was conducted through health awareness day, during which a presentation was made focusing on sensitising employees on work-related hazards and risks, and the functions of the employer.
- In November 2008, the unit successfully conducted emergency evacuation drills for the South Tower building (national office), in collaboration with the Emergency Disaster Management team of the Tshwane Municipality. The unit has to improve on the recommendations in planning for other drills.

Although the chief directorate has conducted a number of activities as indicated in the sections above, it is also faced with number of challenges that may not necessarily be unique, but may hamper its performance in general. The challenges and areas of focus include the following:

- The absence of regional structures for enterprise-wide risk management and SHERQ makes it difficult to assist regional heads in the full implementation of risk management processes as required by the PFMA, Treasury Regulations, DPSA, the Occupational Health and Safety Act, etc.
- There is also an urgent need for the funding of posts for vetting fieldworkers in order to reduce the

vetting backlog and ensure efficiency in vetting processes. There are further funding requirements for security contracts, the upgrading of security infrastructure, the purchasing and maintenance of safety equipment, SHERQ awareness programmes and business continuity management programmes, including disaster recovery plans in collaboration with Information and System Management (ISM) and other units.

- Another area of focus is the improvement of the framework for financial disclosures and full implementation of the personnel suitability check, including the coordination of pre-employment screening and the Security Policy in collaboration with other relevant stakeholders.
- The automated case management system, incident tracking and the automation of risk profiles so as to enhance the efficiency of the chief directorate are other areas that need serious consideration. Furthermore, the unit has to ensure that there is proper coordination of anti-corruption activities in the department.
- The unit needs to focus on the effectiveness of the Anti-fraud, Risk and Quality Management Committee and the Safety and Security committees.

(vii) Donor Coordination

The Department of Justice and Constitutional Development has been a recipient of Official Development Assistance (ODA) since 1994. The degree of the assistance received is informed by the agreements that South Africa has entered into with the various countries as development partners on areas of justice.

The Directorate: Donor Coordination and Programme Management Support, which was established in 2007, is aimed at achieving the following goals and objectives:

- Effectively and efficiently manage ODA flowing into the DoJ&CD so that optimal impact is achieved.
- Achieve effective and efficient donor coordination in the department.
- Align the departmental ODA to the Medium-term Strategic Framework and the Medium-term Expenditure Framework.

Donor Coordination achieved the following during the period under review:

- The development and approval of a Donor Coordination Policy
- The establishment of the Donor Assistance Technical Forum, which held its first meeting in September 2008
- The submission of quarterly reports to the Director-General



- Regular one-on-one meetings with donors and project managers
- The development of a strategy for the implementation of the policy

(See donor-funded projects implemented during the period under review, Part 4, page 135.)

B REPORT ON CORPORATE SERVICES

(I) Office of the Chief Financial Officer (CFO)

The Public Finance Management Act, 1999 (Act No 1 of 1999) and the National Treasury Regulations define the role of the chief financial officer (CFO) to be one of assisting the accounting officer with the effective financial management of an institution, including:

- exercising sound budgeting and budgetary control practices;
- operation of internal controls; and
- timely production of financial reports.

The Office of the CFO endeavours to promote best practice public financial management and ensure effective processes to improve delivery. Ultimately, this office aims to ensure financial compliance with legislation and regulations, thereby securing no audit qualifications (a critical indicator of compliance) in all audit reports issued by the Auditor-General. The Office of the CFO comprises the following chief directorates:

- Financial Transaction Processing and Reporting Services
- Third Party Funds
- Guardian's Fund
- Budgets
- Supply Chain Management
- Costing

The following areas likely to have an impact on the Auditor-General's audit opinions were identified and action plans were implemented to address these matters in order to minimise risks and to enhance controls.

(a) Supply Chain Management, Including Asset Management

The objective of Supply Chain Management is to promote and implement a fair, equitable, transparent, accountable, competitive and cost-effective supply chain management system to combat corruption and fraudulent practices. Simultaneously, this office must also ensure efficient, effective and uniform planning for the procurement of all goods and services required for the proper functioning of the department, and ensure that sound asset management practices are applied.

The Auditor-General reported in previous reports on identified deficiencies relating to ineffective asset management practices, including the inability to confirm the completeness, existence and accuracy of the department's asset register. In response to these audit findings, this office embarked on an asset management turnaround project, which was work in progress during the previous financial year's audit. The project was completed during the year under review and all the department's locations were subjected to a physical asset verification process. The aforementioned, combined with monthly reconciliations between the payments and asset register, enabled the department to provide the Auditor-General with a purified asset register in accordance with National Treasury's requirements. Significant improvements to the supply chain management system and processes were initiated during the period concerned, many of which have already started to yield positive results. These include the following:

- Implementation of a document filing solution
- Implementation of a contract performance measurement system
- Re-engineering bid and other supply chain management business processes

Challenges for the year ahead include the filling of positions and retention of suitable talent required for this critical area in the department to fully integrate demand management with departmental planning and budget processes and to instil a culture of compliance with applicable supply chain management policies and procedures with the intention of delivering on the department's strategic objectives.

(b) Third Party Funds (Bail, Maintenance, Court Fines, Payments into Court, Estates, Guardian's Fund, etc)

The impact of the lack of a formalised legal and accounting framework governing these administered transactions on the vote account remains an unresolved matter between the department, the Accountant-General and the Auditor-General. The department still firmly believes that these administered transactions, including revenue to be paid to the National Revenue Fund, should not form part of the vote account financial statements. Separate financial statements are therefore prepared for these third party funds. The Public Finance Management Act, 1999 (Act No 1 of 1999) is silent on dealing with these administered transactions and the department therefore opted to research international practices and accounting standards on similar transactions. In addition, the department approached the Chief State Law Advisor for a legal opinion in this regard. The Chief State



Law Advisor subsequently confirmed the department's views on the matters at hand. The matter is viewed in a serious light and has been escalated to ministerial level for resolution and/or advice on a way forward.

The Management of Monies in Trust Public Private Partnership (MMT PPP) process has reached its final stages. The MMT PPP has as its major objective to utilise the services of a private party consortium to take responsibility for financial management that will interface with the banking systems for payments and receipts. This will enable the compilation of auditable, reliant and complete annual financial statements for the third party funds administered by the courts, master's offices and state attorney offices. This will drastically improve the turnaround time for maintenance payments and extend the payment and receipt footprint to more than 7 000 service points nationally, and simultaneously reduce the cash handling at cash halls. National Treasury granted TA2B approval on 29 January 2009, after which the preferred and reserve bidders were informed accordingly. Contract negotiations are currently underway and it is estimated to be finalised by 30 June 2009. TA3 approval will thereafter be sought from National Treasury.

(c) Budget Management

The department was obliged to implement the agreement concluded in the Bargaining Council providing for an Occupational Specific Dispensation (OSD) for legally qualified personnel during the year under review without an additional budget allocation from National Treasury. An amount of R305 million was required to implement Phase 1 of the OSD. This was done through internal budget reprioritisation and downscaling of existing programmes. Critical measures were implemented to prevent any overspending on the vote account, which resulted in certain obligations not being met before the financial year-end, obviously with a snowball effect and further strains on the 2009/10 budget allocations. A joint task team between the department and National Treasury was formed to advise on the budget concerns applicable to the department.

(d) Costing Legislation and Policy

This unit was largely not operational during the year under review due to the lack of a finalised staffing establishment. A service provider has been appointed to assist with the costing of legislation and policy as per the legislative programme in the interim. The head of the unit was seconded to the NPA from September 2008 to assist with financial management matters.

In conclusion, the Office of the CFO will continue to strive for and establish joint ownership and shared accountability for financial management in the department, as this is key to the achievement of the objectives of the department.

(ii) Human Resources Unit

The Human Resources Unit provides a policy framework, guidelines and strategies to enable the department to efficiently and effectively manage its human resources. The unit comprises three chief directorates.

(a) Chief Directorate: Value-added Services (VAS)

Provides value-adding services that ensure healthy employee relations, a healthy workforce through the provision of employee health and wellness, learning and development programmes encompassing the management of performance, as well as the development of a strategically relevant organisational structure.

(b) Chief Directorate: Customer Management Centre (CMC)

Provides administrative services for the operational side of human resources where salaries and service benefits are managed.

(c) Chief Directorate: Key Accounts

Provides strategic partnering with client branches to ensure delivery of human resources (HR) offerings. The focus for the 2008/09 financial year was on implementing strategies and programmes to achieve the following:

- Ensure the finalisation of HR policies
- Further reduce the vacancy rates by at least 60%
- Reduce the turnaround times on the handling of misconduct cases
- Ensure improved compliance with the Performance Management and Development System (PMDS), especially at Senior Management Service level
- Create access to health and wellness facilities for all employees
- Develop learnership/internship programmes that ensure the creation of capacity to cater for both current and future departmental needs through learnerships

Several challenges were encountered in delivering on these programmes, but the primary challenges were internal capacity and budget constraints. Five senior management positions remained vacant and could not



be filled due to the structure redesign process. However, through the appointment of a service provider during the last financial year to assist, some of the projects were shared with the service provider. The new delegation framework was also finalised and implemented in the 2008/09 financial year.

(d) General

During the period under review, there was a growth of 6.5% on the establishment, accompanied by a 5.5% growth in headcount. These figures reflect departmental growth only excluding judges. The overall vacancy rate went down slightly by 1.42%.

A fully consulted Human Resources Plan (HRP) was developed, approved and submitted to the Department of Public Service and Administration for the first time this year. Implementation measures are ongoing, particularly the short- to medium-term measures, and regular progress reports will be provided.

Twelve new HR policies were finalised and approved during this reporting period, compared to last year, when no new policies were finalised. The policies cover various areas of HR, including the Employee Assistance Programme (EAP), graduate placement, sexual harassment and people with disabilities.

(e) Vacancies and Terminations

The vacancy rate in the last financial year was 15%, with a total of 1.88% (3 088) staff members employed in a temporary capacity. The termination rate has been reduced from last year's 7.5% to 6.07% this year. While it was significantly high in salary band 6 to 8 last year, there are no significant differences across salary bands this year.

There was a significant increase in the number of recruitment projects undertaken with successful placement. The number increased from 5 490 in the previous year to 8 190. This is reflective of the improved turnaround times that followed interventions introduced to reduce cycle times to three months. Although this has not been achieved for all recruitment projects, interventions will continue in the new year.

(f) Discipline

A high number of misconduct cases were reported during the last reporting period. On analysis of the cases, it came to light that there were a high number of cases that were carried over from the previous years – some cases even older than three years. A project was initiated to ensure all

backlogs were dealt with. This project led to a decrease in the number of cases, as evidenced in this report, from 484 in the last period that were finalised to a total 298 reported, of which 178 were finalised. It can be extrapolated that the resolution of outstanding disciplinary cases send a message that discipline was taken seriously and dropped the overall level of misconduct. Grievances, on the other hand, decreased from 667 in the last year to 421, with no significant changes to the number resolved.

There was no industrial action for the period under review in comparison to last year, when almost a month of working days was lost due to strike actions. A total of 135 disputes were lodged, of which 41% were dismissed by the council, compared to 58% of dismissals last year. It should be noted that the number of disputes in the last financial year was more than three times the number for this year.

(g) Performance Management

Interventions were put in place to improve compliance with the Performance Management and Development System. In addition to a policy being approved, the 98% success rate achieved for senior managers who signed performance agreements was repeated this year. The outstanding 2% can be attributed to new members who are still within the three months grace period before signing and those affected by internal reorganisations. Despite the increase in agreements signed, the awards paid did not exceed the mandatory 1.5% of personnel expenditure.

(h) Employment Equity

The approved employment equity target for the department is 50% women at senior management level and 2% for people with disabilities across all levels by 2010. The current status, which is exclusive of magistrates and judges, reflects only 36% women at senior management level and 1.01% people with disabilities. With just one year to reach the planned employment equity targets, the picture is less than satisfactory. It is hoped that with more targeted interventions planned for the 2009/10 financial year, there will be significant improvements to this picture.

(i) Employee Wellness

A service provider was appointed to provide health and wellness services. For the period October 2008 to March 2009, a total of 2 500 employees accessed the service, primarily for psychosocial services. A growth in the utilisation of the service is anticipated, as more aggressive marketing continues in the new year.



(i) Learning and Development

The National Youth Service Programme (NYSP) continued this year with a new intake of learners. The new learners were primarily for the Master's Branch and candidate attorneys. Learners from the previous intake who completed their articles continued working in the department, and were placed in temporary positions for a further period of two years to enable them to gain more workplace experience. Partnerships were entered into with university law clinics for the training of candidate attorneys. Two private law firms, Bowman Gilfillan Attorneys and Webber Wentzel, also partnered with the department for legal training.

More in-depth reports and statistical information are contained in Part 5 of this report and reflect all the work done by Human Resources during this financial year. The greatest area of improvement has been in the management of discipline. This reflects positively on a number of other areas of HR, such as performance management and recruitment, where most grievances and disputes emanate.

Plans are in place to reorganise the unit to ensure client branches are optimally serviced. As previously indicated, one of the main challenges contended with was budgetary constraints. HR will be mobilising resources in this financial year and embarking on a number of projects.

The following Human Resources projects are planned for the next year:

- Reorganisation of the HR units with a view to implement a new and more client-responsive structure
- Continuation of the NYSP projects with over 200 new learners who will primarily cover court services, para-legal and legal secretaries
- Implementation of the Graduate Placement Programme, where serving officials who are legally qualified are assisted in getting admitted
- A targeted programme to deal with turnaround times on disciplinary and misconduct cases
- Across-the-board qualification verification for serving officials employed before 2007 when qualification verification was introduced as part of the recruitment process

It has been a challenging year. However, the appointment of the Deputy Director-General: Corporate Services brought a point of coordination and leadership for the HR Unit.

(iii) Public Education and Communication

The core function of the Chief Directorate: Public Education and Communication is to fulfil the communication needs of the department by providing effective and efficient communication through media and educational services. This is to ensure a mutual understanding and learning between the department and its stakeholders.

The Public Education and Communication Unit consists of four directorates: Media Research and Liaison, Public Education and Liaison, Internal Communication and Language Services, and Printed Publications.

During the period under review, the department has used various types of media to communicate and educate the public on the progress of key justice programmes, including the transformation of the judiciary, the Victim's Charter and victim empowerment, the review of the criminal justice system, case flow management, redesignation of branch courts, equality and small claims courts, indigenous language usage in courts, the criminal justice system process, the capacity-building programme, constitutional education and high-impact legislation like sexual offences and child justice.

The department produced four newspaper supplements to communicate its programmes. The access to justice supplement was developed and placed in all Independent Newspapers – *Pretoria News*, *The Star*, *Daily News*, *Cape Argus* and *Diamond Fields Advertiser (DFA)* – with a total readership of 2 055 000. Another supplement on the review of the criminal justice system was developed and placed in the *Sowetan*, *Beeld*, *Star*, *DFA* and *City Press*, with a total readership of 6 152 000. The third supplement on victim empowerment was placed in all Independent Newspapers and the last one on progress made by the department was inserted in *City Press*, with a readership of 2 329 000. Copies amounting to 800 000 of the Bill of Rights posters were produced to educate the public on their rights, and were inserted into the *Sowetan* and *Daily Sun*, with a total readership of 7 624 000.

Articles on key programmes and their progress were published in the corporate bimonthly newsletter, *Justice Today*, the electronic internal newsletter (*Tsala ya Molao*) and the intranet (DJINI). *Justice Today* is a corporate newsletter with a readership of 35 000, and targets the legal fraternity, law faculties, NGOs, the private sector, government departments, staff and ordinary South Africans. Six issues were produced during the period under review. The electronic internal newsletter (*Tsala*) and the intranet (DJINI) target 19 000 employees of the department.



Educational programmes on the radio were also broadcast on the public broadcaster and community radio stations. *Justice on the Airwaves* is a partnership with SABC Education (public broadcaster) to educate the public on how to access justice services in all 11 official languages. A pilot project was run across all SABC radio stations where 13 episodes were produced and packaged for broadcast. A roll-out of the project in 26 episodes was done on 13 SABC radio stations with a total listenership of 3 367 000, and 13 episodes were flighted during the period under review.

Law on Call, a programme on community radio stations, was commissioned. A total of 26 episodes were produced and packaged for broadcast, covering all provinces on 17 community radio stations, with a total listenership of 3.3 million.

Kaya Legal Talk, a partnership with the Johannesburg-based radio station, Kaya fm, with a listenership of 1.2 million, flighted 26 episodes on justice-related matters over a period of three months. The department has realised its objective of access to justice for all by translating many of its documents from English into the other ten official languages. The documents that were translated include the Constitution booklets (amendments), pieces of legislation that include the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000) (PEPUDA), Courts for Short Process and Mediation in Certain Civil Cases Act, 1991 (Act No 103 of 1991) and The Maintenance Act, 1998 (Act No 99 of 1998), forms on the Promotion of Access to Information Act, 2000 (Act No 2 of 2000) (PAIA), the Criminal Procedure Act, 1977 (Act No 51 of 1977) the Child Justice Act, 2008 (Act No 75 of 2008), the Maintenance Act, 1998 (Act No 99 of 1998) and the Domestic Violence Act, 1998 (Act No 116 of 1998). To reach out to the blind community, the Department produced the annual report and the Occupation Specific Dispensation booklet in Braille.

Layout and design services were rendered for various departmental initiatives, such as the departmental newsletter, media advertisements, induction manuals, booklets, policy documents and conference material for various projects throughout the department.

The chief directorate printed annual reports for the department, the South African Law Reform Commission, the Guardian's Fund and the President's Fund. It also printed various corporate materials like business cards for management, identity name badges for staff and departmental calendars.

The department successfully coordinated and hosted two international judges' conferences with different

stakeholders from around the world – the Commonwealth Judges' Association (CWJA) and the World Conference on Constitutional Justice (WCCJ), as well as a service fair in Gauteng where members of the community were given an opportunity to access services on site. In addition, during the 2009 Human Rights Day, held in Kimberley and with former President Kgalema Motlanthe as guest speaker, 142 community members of the 2 000 people who attended were assisted on the day. The department also participated at the following national exhibitions: the Royal Zulu Show in KwaZulu-Natal, where 3 143 people visited the department's stand for information, MACUFE in the Free State, where 2 466 people visited the stand, Polokwane Show in Limpopo, with 2 893 people who visited the stand, and the Soweto Career Show in Gauteng, where 1 447 children visited the stand.

The department has trained various sectors of the public, non-governmental organisations, community-based organisations, community development workers, schools, clinics and traditional leaders on maintenance, domestic violence, estates, the Guardian's Fund, wills, PAJA, PAIA, pardons, bail, small claims courts, equality courts, children's rights, the Victim's Charter, recognition of customary marriages, sexual offences and the Bill of Rights. The following table indicates the number of workshops, clinics and school visits, as well as exhibitions undertaken and provinces visited.

Table 19: Workshops, izimbizo, information sessions, awareness campaigns, clinics and school visits

Province	No of communication activities: Workshops, izimbizo, information sessions, awareness campaigns, school visits, clinic visits
Mpumalanga	152
Limpopo	75
Northern Cape	71
Western Cape	42
North West	40
Gauteng	38
Eastern Cape	34
Free State	10
KwaZulu-Natal	4
Total	466

The department has revamped its website for easy access and updating. The overview for website visits during the period under review is as follows:



(a) Traffic Sources Overview

All traffic sources sent a total of 41 636 visits, which were made up as follows: 37.43% direct traffic, 28.92% referring sites and 33.64% search engines.

(b) Map Overlay

Some 41 636 website visits came from 115 countries/territories. The following are the 10 countries that made the most visits to the website:

Table 20: Visits to the website per country

Country/territory	No of visits
South Africa	39 335
United States of America	540
United Kingdom	387
Norway	134
Australia	132
Canada	87
Germany	85
India	67
Lesotho	65
Sweden	65

Educational and promotional material was distributed to various parts of the country. The table below indicates the type of material and the quantity distributed.

Table 21: Type and quantity of material distributed

Type of material	Quantity
Constitution booklets	68 042
Small claims courts	30 965
Sexual offences	1 300
<i>Law Talk for Children</i>	23 530
Victim's Charter	7 680
Maintenance	51 660
Domestic violence	42 670
<i>Busi Goes to Court</i>	8 450
Careers in law	2 700
Equality	21 700
<i>Know your Rights</i>	6 781
<i>I Have to Testify</i>	8 400
Master's Frequently Asked Questions	34 370
<i>Justice Today</i>	210 000

(iv) Information and Systems Management

The Chief Directorate: System Management and Optimisation is responsible for the management and optimisation of the development business systems, the maintenance of IT operation and development of relevant information technology (IT)/information systems (IS) policies in the department. The functions of the System Management and Optimisation Chief Directorate encompass the following three directorates:

- Digital Communications and Records Systems – management of the ICT operational infrastructure and communication systems
- Financial Systems – management of the development of systems
- Business Systems – management of the deployment and maintenance of developed systems

The Chief Directorate: Strategic Management and Planning is responsible for the development of the Departmental IT Plan and its monitoring, the development of architectural standards, frameworks and processes and the execution of the IJS IT Strategy within the JCPS Cluster. The functions encompass the following directorates:

- Programme Management and Support Services
- Masters Systems Planning (Architecture)
- The IJS Programme Office

(a) Achievements

The department has embraced all the basic concepts of working in an e-world and have approximately 17 500 users connected to its network. The basic connectivity offers many opportunities to justice officials. Users have e-mail access, which improves internal communications, Internet connectivity to improve legal research, file and print services, office operating packages such as Word, Excel, PowerPoint, MS Project and a host of standard software applications that are aimed at improving productivity and communications in the department. The establishment of a Portal Collaboration Strategy has increased communication coverage in the department on a real-time basis. The department has also introduced video-conferencing, and specific business applications are deployed in the department to improve service delivery.

(b) Integrated Case Management Systems

The main function of the courts is to provide fair and effective dispute resolution machinery for the enforcement of court decisions. These areas of legal operations of the courts have several potential applications handling various types of cases, from



criminal and civil, to deceased estates. The department will develop and roll out integrated case management systems (ICMS) solutions on an ongoing basis, targeting the functional users in the department and South African citizens requiring justice services. This service is aimed at modernising and enhancing organisational efficiency for court environments that include, but are not limited to, criminal courts, civil courts, small claims courts, family courts, and master's offices for district, regional and high courts.

To further modernise and enhance organisational efficiency, the department has, through the Integrated Justice System Programme, identified departmental systems to be integrated. This integration will allow for the electronic flow of data and case information between the cluster departments. Systems from the cluster departments will integrate with the department's case management system, exchanging information that includes scheduling, notifications, postponement dates, docket information, bail payments and sentence information.

(c) Financial Administration Systems

The financial administration systems (FAS), or the financial layer of the integrated case management systems, are tasked with automating and administering the trust accounts in the magistrate's courts, the State Attorney's offices, and the Guardian's Fund in the master's offices. Among the benefits of the system will be reduced time spent in queues, reduced human error in calculations, and reduced risk of files getting lost, as well as greater citizen convenience. It is aimed at consolidating all financial administration components of the case management systems.

The Justice Deposit Accounting System (JDAS), and more particularly the Maintenance Module, is aimed at lifestyle improvement for the poorest of the poor, and more particularly that of women and children. JDAS provides an automated, real-time information flow to promote operational efficiency, efficient and effective collaboration, competitive advantage in terms of managing operations and automated business processes – effective controls to allow for proactive management by the department. Integrated Case Management System (ICMS) payment, which forms part of this system, draws on the benefits of operational efficiency within the JDAS application, especially around payments made for bail and maintenance at any magistrate's court.

(d) Video Postponement Project

The department has launched the Video Postponement Solution at two pilot sites: Durban Magistrate's Court in 2005 and Port Elizabeth Magistrate's Court in 2008. This solution will lower the risk and cost of moving prisoners between correctional facilities and courts by enabling courts to execute remands/postponements and consideration of bail. Some 47 courts and 22 correctional centres were identified for the implementation of the Video Remand Solution.

(e) Disaster Recovery and Information Life Cycle Management

Due to the increasing volume of data and electronic information, the department, in alignment with its IT strategy, has undertaken to implement this project to enable it to continue normal business operations in the event of a disaster. The assurance of continued service delivery is supporting the goal and objective of integrated support management (ISM).

(f) Integrated Call Centre Relocation

The Integrated Support Centre (ISC) is the department's ICT help desk. It is a very important service support delivery organ of the department that requires close monitoring, management and control in the interest of the public being served by the department. Therefore, its relocation to the national office will improve its supervision for better service delivery to the public.

(g) Public Key Infrastructure Project

The department initiated this project to implement a public key infrastructure. The main aim of this project is to improve the level of trust in the department by implementing secure technologies and digital signatures in a manner that can withstand legal requirements. As part of the proof of concept, the department is required to roll out this infrastructure to a total of 20 users, inclusive of change management and training.

(h) Desktop and Printer Renewal Project

During the DNS1 project, a large number of the departmental offices were supplied with brand new desktop computers and printers that had a three-year onsite warranty. A substantial number of desktop computers and printers have now reached the end of their warranty periods and have had to be replaced. The replacement of these accessories will ensure



business continuity and service delivery to the public and the department.

(i) 3Com Switch Renewal Project

The department has standardised on 3Com switches and has, over the past years, deployed a variety of 3Com switches on its sites. Some of the switches have now become obsolete and, as a result, will have to be replaced. The department has installed 3Com 3300/4400 switches to a vast majority of its sites distributed around the country. The 3Com 3300/4400 switches have now reached obsolescence through the vendor and will therefore have to be replaced with current 3Com 5500G and 5500EI Power over Ethernet (PoE) switches. The project commenced in October 2008 and 881 switches have been renewed.

C REPORT ON THE JUSTICE COLLEGE

The Justice College is the official training arm of the Department of Justice and Constitutional Development. The Justice College provides training for the department, National Prosecuting Authority and lower court judiciary and, as such, is responsible for the training of all officials.

Table 22: Training delivered

Trainees	No of courses conducted	No of delegates
Magistrates	58	1 373
Traditional leaders	2	62
Prosecutors	48	1 739
Interpreters	12	340
Masters	12	389
Clerks of the court – civil	15	478
Registrars of the High Court	2	44
Family law clerks	24	655
Maintenance investigators	3	73
Maintenance prosecutors	3	74
Courses	No of courses conducted	No of delegates
Legislative Drafting	12	141
Total Quality Management	1	17
Basic Foundational Management	9	200
Advanced Management	4	99
Service Excellence	3	73
Total	208	5 757

The annual training programme of the Justice College depicts all training projects for the year. Other projects in which the Justice College is engaged are as follows:

- Accreditation of Justice College as a service provider
- Conversion of training material into outcomes-based material and pitching it at the relevant South African Qualifications Authority (SAQA) level where appropriate
- Initiating the design and development of training material for PAJA and PAIA, which will be converted into an e-learning format in the next financial year
- Submission of a position paper on the transformation and restructuring of the Justice College

(a) Service delivery environment

The training programmes of the Justice College are designed on the basis of the identified training needs of its customers. These include magistrates, prosecutors, master's office personnel, interpreters, legislative drafters (in all three spheres of government), court and office managers, clerks and other occupational groups in the department. In addition, training material and programmes have been designed for sheriffs and commissioners of the small claims court. Implementation will commence in the new financial year. During the 2008/09 financial year, 208 courses were presented by the Justice College. These courses, in conjunction with ad hoc training provided, reached 5 757 people.

To complement training, subject matter experts render a telephone advisory service to a number of occupational groups in the department, including (but not limited to) magistrates, prosecutors, officials from master's offices, clerks of the court and court interpreters. This office also provides extradepartmental training in response to requests received from other government departments, and a number of SADC governments. No costs are incurred by the department in this regard, as these extradepartmental and cooperative training activities are financed by the relevant departments and governments.

Although adequate funds have been allocated to meet the travel, accommodation and subsistence costs of all delegates attending Justice College courses during the 2008/09 financial year, it is clear that there is an ever-increasing demand for training. The continued successful utilisation of the Justice College as the official training institute of the department depends entirely on the budgetary support received from the department. Requests for more training interventions, inter alia due to the passing of new legislation, can successfully be addressed if the Justice College continues to receive adequate financial support from the department.



(b) Impact of the programme

All courses planned for the 2008/09 financial year were successfully presented and ad hoc training interventions were presented due to the demand for training. Training was also presented on new legislation. Course participants assessed training content and facilitators favourably. Needs assessments that were conducted have ensured that training is translated into improved performance in the workplace.

Leadership management and administrative training interventions were increased, thus ensuring that more officials are equipped with generic skills. The Legislative Drafting Unit provided training in legislative drafting to officers working with legislation in the various government departments, including national, provincial and local government levels. The unit also provided training to the Office of the Attorney-General in Botswana.

The Justice College attained full accreditation status and will be embarking on the conversion of its training material to outcomes-based credit-bearing courses.

The Justice College has initiated the design and development of training material for PAJA and PAIA, which will be converted into an e-learning format in the next financial year. This training will be directed at all government departments. The Justice College is assisting in the design and development of accredited training material for commissioners of the small claims court. This training will be implemented in the next financial year. The Justice College conducted training needs assessments for the government of Southern Sudan and the Democratic Republic of the Congo (DRC).

(c) Training assistance in foreign countries

The department provided training for legal and administrative officers in the master's office of the high court in Namibia. The department has also embarked on a programme to assist the DRC in improving its court systems.

The programme intends to provide training to DRC magistrates and legal officers. The Justice College forged partnerships with the Ecole Nationale de la Magistrature (France) with regard to the training of DRC magistrates and legal officers. Legislative drafting training was

conducted in Botswana. Court interpreters from Botswana and Lesotho benefited from Justice College training. The college also assisted Zambia in developing a Small Claims Court Framework.

2.10.2 Programme 2: Court Services

Purpose

Provide and manage efficient court facilities, and facilitate the resolution of criminal, civil and family law matters in South Africa.

The programme purpose is reflected in the organisation of its first five subprogrammes:

- Constitutional Court
- Supreme Court of Appeal
- High Courts
- Specialised Courts
- Lower Courts

There are five other subprogrammes:

- Family Advocate makes recommendations to the court where there is litigation and mediation relating to children in family matters.
- The Magistrates Commission makes recommendations on the appointment of magistrates.
- Government Motor Transport funds vehicles for judges and departmental officials.
- Facilities Management funds the building and upgrading of court and justice service delivery points.
- Administration of Courts funds the management of courts' administration and performance evaluation functions.

Measurable objective

Ensure that justice proceedings are prompt by:

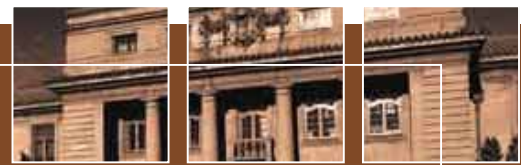
- reducing the case backlog in district courts by 25% from 16 480 in 2006/07 to 12 360 in 2009/10;
- reducing the case cycle time of criminal and civil cases involving children by 10% a year from the current 18 months to 16 months in 2008/09;
- finalising 50% of all cases handled by the family advocate within six months;
- securing all justice service delivery points with perimeter fencing by the end of 2009/10; and
- replacing 20% of the current 80 periodical courts and 246 branch courts with full court services by the end of 2008/09.



Service delivery achievements

Table 23: Service delivery achievements

Sub-programmes	Outputs	Output performance measures/service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Court Performance	Reducing the case backlog in district courts by 25% from 16 480 in 2006/07 to 12 360 in 2009/10	Case backlog	12 360 (25%)	15 767 (30%)	Backlog reduction is currently only performed at regional courts.
Children	Reducing the case cycle time of criminal and civil cases involving children by 10% a year from the current 18 months to 16 months in 2008/09	Case cycle time	16 months	No report	
Family Advocates	Finalising 50% of all cases handled by the Family Advocate within six months	Case cycle time	50% in six months	(47%) 5 600 out of 11 894 finalised within six months	The target could not be attained due to the promulgation of the 22 sections of the Children's Act, 2005 (Act No 38 of 2005). The act introduces compulsory mediation for which the Family Advocate received no additional resources.
Risk Management – Security	Securing all justice service delivery points with perimeter fencing by the end of 2009/10	150 service delivery points to have perimeter fencing	75 in the first year (2008/09)	502 service delivery points were surveyed and different specifications were developed for various sites. Threats and risks were prioritised, depending on the assessment of the impact severity.	As a compensatory control and to mitigate other risk factors, the department approved tenders for the provision of guarding services and cash-in-transit services for 431 and 512 sites countrywide respectively.



Sub-programmes	Outputs	Output performance measures/service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Risk Management – Security (continued)	Securing all justice service delivery points with perimeter fencing by the end of 2009/10	150 service delivery points to have perimeter fencing	75 in the first year (2008/09)	Specific security measures were installed and/or improved for 35 members of the judiciary, at the Constitutional Court, Port Elizabeth Magistrate’s Court, Pongola Magistrate’s Court, the Magistrates Commission building, Rules Board, Ginwala Commission and Bloemfontein regional office. Palisade fencing was also upgraded and/or installed at eight sites: Marloth, Nsikazi, Cullinan, Jericho, Makgobistad, Ramatlabama, Pongola and Molopo magistrate’s courts.	Budget constraints normally lead to the reprioritisation of activities or projects and have an impact on performance in other areas, hence the original estimated target of 150 that was set in 2006/07 may not necessarily be met by 2009/10. At the end of the financial year, there were about 77 offices that required security fencing and about 118 that needed to be upgraded.
Redemarcation	Replacing 20% of the current 80 periodical courts and 246 branch courts with full court services by the end of 2008/09.	Periodical courts	16	15	Availability of funds
		Branch courts	48	40	



Court Services delivers its mandate of the Constitution (section 165), which is to ensure integrated court services to the people of South Africa, by:

- the establishment and maintenance of court facilities;
- promoting cost-effective quality court services;
- facilitating effective management of case flow through the court system;
- ensuring the provision of appropriate human resources to staff and court services, including judicial, prosecutorial and administrative staff;
- promoting participation in the integrated justice system within the cluster system of government; and
- promoting engagement with stakeholders and communities.

This branch, in conjunction with the regional offices, is responsible for the development, monitoring and implementation of operational policies and strategies in relation to courts, the coordination of stakeholder forums, the development of performance standards for courts, including monitoring of court performance, the development and monitoring of special programmes to promote the rights of vulnerable groups, the provision and management of adequate, secured and user-friendly justice service delivery points, and the rendering of family advocate services. One of the main objectives of Court Services is to ensure speedy justice proceedings by maintaining the court system in a way that leads to a reduction in backlogs.

A COURT STATISTICS

(i) Higher Courts

(a) Constitutional Court

The Constitutional Court has eleven judges, and a minimum of eight judges at a time (section 167 of the Constitution, 1996) must hear a case with the Chief/Deputy Justice presiding. In terms of Part I, Rule 2 of the Constitutional Court Rules, this court has four terms and recess periods as follows:

Table 24: Constitutional Court terms

Term No	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
		5.5 months		6.5 months

The table below provides a summary of the Constitutional Court statistics for the period under review.

Table 25: Constitutional Court statistics

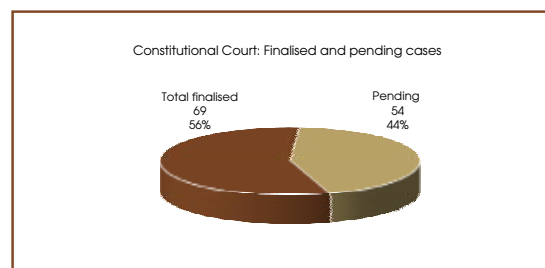
Month	Old cases	New cases	Total case load	Await direction	Dismissed	Judgment handed down	Total finalised	Pending
April 2008	1	10	11	4	7	0	7	4
May 2008	4	5	9	4	5	0	5	4
June 2008	4	19	23	10	12	1	13	10
July 2008	10	6	16	11	5	0	5	11
August 2008	11	14	25	14	11	0	11	14
September 2008	14	10	24	21	3	0	3	21
October 2008	21	13	34	13	0	0	0	34
November 2008	34	3	37	3	0	0	0	37



Month	Old cases	New cases	Total case load	Await direction	Dismissed	Judgment handed down	Total finalised	Pending
December 2008	37	16	53	5	11	0	11	42
January 2009	42	3	45	1	1	1	2	43
February 2009	43	12	55	4	4	3	7	48
March 2009	48	11	59	6	5	0	5	54
Total	1	122	123	54	64	5	69	54

This court handled a case load of 123 cases in the period under review, of which 69 (56%) were finalised. Only 54 (44%) cases remained pending, as they were still awaiting direction. On average, the court finalised six cases per month. Figure 2 shows a graphical representation of cases finalised and cases pending from April 2008 to March 2009. The data shows that the court could deal with the pending cases for the period April to June 2008. However, since July 2008 there has been an increase in the number of pending/outstanding cases, as well as a decrease in the number of cases finalised, which resulted in an increase of the total case load. There has been an increase in the case load, finalised cases and outstanding cases. Although there has been an increase in the variables, the court performed better in 2007/08 (65% cases finalised) than in 2008/09 (56% cases finalised).

Figure 2: Constitutional Court cases



(b) Supreme Court of Appeal

The Supreme Court of Appeal has 21 judges, including the President and Deputy 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 26: Supreme Court of Appeal terms

Term No	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
		5.5 months		6.5 months

Criminal Appeals

Table 27 provides a summary of the criminal appeal statistics in the Supreme Court of Appeal for the period under review.

Table 27: Criminal appeal statistics

Month	Old cases	New cases	Total case load	With-drawn	Upheld	Refused	Referred back	Total finalised	Pending
April 2008	29	6	35	1	2	0	0	3	32
May 2008	32	4	36	0	3	0	0	3	33
June 2008	33	0	33	0	1	1	0	2	31
July 2008	31	2	33	0	0	0	0	0	33
August 2008	33	4	37	0	0	0	0	0	37



Part 2: Performance Information

Month	Old cases	New cases	Total case load	With-drawn	Upheld	Refused	Referred back	Total finalised	Pending
September 2008	37	6	43	0	9	2	0	11	32
October 2008	32	0	32	0	0	0	0	0	32
November 2008	32	0	32	0	0	0	0	0	32
December 2008	32	0	32	0	0	0	0	0	32
January 2009	32	1	33	0	0	0	0	0	33
February 2009	33	2	35	0	0	0	0	0	35
March 2009	35	4	39	0	0	0	1	1	38
Total	29	29	58	1	15	3	1	20	38

This court had a case load of 58 cases, of which 20 (34%) were finalised and a total of 38 (66%) cases are pending.

The graphs below show the trend analysis for criminal appeals.

Figure 3: Case load

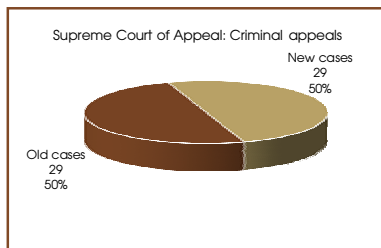


Figure 4: Case handling

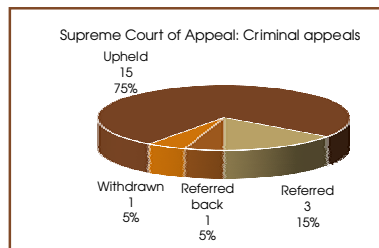
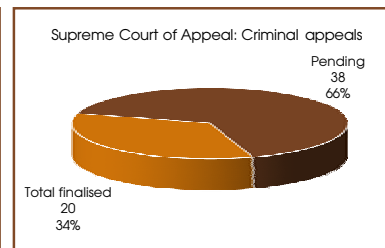


Figure 5: Finalised and pending appeal



Overview of Criminal Petitions

Table 28 provides a summary of the criminal petition statistics in the Supreme Court of Appeal for the period under review.

Table 28: Criminal petition statistics

Month	Old cases	New cases	Total case load	With-drawn	Granted	Refused	Referred back	Total finalised	Pending
April 2008	32	7	39	0	3	5	0	8	31
May 2008	31	24	55	0	5	11	0	16	39
June 2008	39	19	58	0	2	14	0	16	42
July 2008	42	0	42	0	0	0	0	42	42
August 2008	42	18	60	1	2	11	0	14	46
September 2008	46	22	68	0	2	17	0	19	49
October 2008	49	0	49	0	0	0	0	0	49
November 2008	49	0	49	0	0	0	0	0	49
December 2008	49	0	49	0	0	0	0	0	49
January 2009	49	15	64	0	4	14	0	18	46
February 2009	46	13	59	0	2	12	0	14	45
March 2009	45	19	64	0	6	16	0	22	42
Total	32	137	169	1	26	100	0	127	42

Based on the information above, this court carried over 32 (23%) petitions from March 2008 and received 137 new petitions in the period under review, making a total of 169. However, the court finalised 127 (75%) petitions and 42 (25%) remained pending.



Civil Appeals

Table 29 provides a summary of the civil appeal statistics for the period under review.

Table 29: Civil appeal statistics

Month	Old cases	New cases	Total case load	With-drawn	Upheld	Refused	Referred	Total finalised	Pending
April 2008	140	15	155	5	0	0	0	5	150
May 2008	150	23	173	4	15	16	0	35	138
June 2008	138	15	153	0	0	0	0	0	153
July 2008	153	0	153	0	0	0	0	0	153
August 2008	153	7	160	2	0	0	0	2	158
September 2008	158	15	173	1	18	16	0	35	138
October 2008	138	0	138	0	0	0	0	0	138
November 2008	138	0	138	0	0	0	0	0	138
December 2008	138	0	138	0	0	0	0	0	138
January 2009	138	10	148	0	1	0	0	1	147
February 2009	147	13	160	10	1	2	0	13	147
March 2009	147	15	162	6	12	22	0	40	122
Total	140	113	253	28	47	56	0	131	122

This court carried over 140 (55%) cases from March 2008 and received 113 new cases in the period under review, making a total case load of 253, of which about 131 (52%) of the cases were finalised and 122 (48%) cases remained pending/outstanding. The trend analysis reveals that most cases were finalised during the months of May and September 2008 and March 2009, and the pending cases decreased accordingly for these months.

Table 29 indicates that the case load decreased by 223 (47%) cases in the period under review. Similarly, the total number of cases finalised decreased by 31 (19%) and the total number of outstanding cases decreased by 192 (61%). The court’s performance improved with 18% in 2008/09.

The graphs below show the trend analysis for civil appeals.

Figure 6: Case load

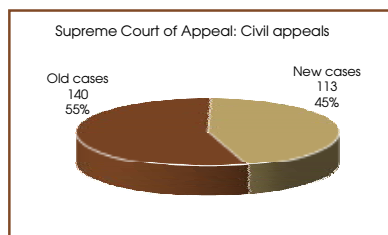


Figure 7: Case handling

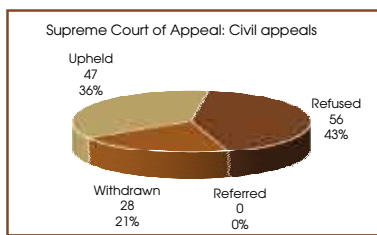
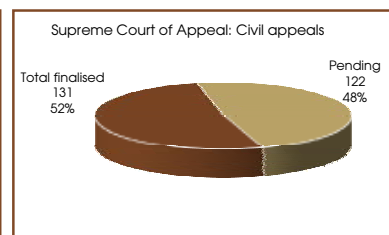


Figure 8: Finalised and pending appeals



Civil Petitions

Table 30 provides a summary of the civil petition statistics for the period under review.

Table 30: Civil petition statistics

Month	Old cases	New cases	Total case load	Granted	Refused	Withdrawn	Total finalised	Pending
April 2008	82	35	117	12	27	0	39	78
May 2008	78	22	100	8	32	2	42	58
June 2008	58	28	86	3	22	0	25	61
July 2008	61	0	61	0	0	0	0	61
August 2008	61	15	76	11	23	0	34	42



Month	Old cases	New cases	Total case load	Granted	Refused	Withdrawn	Total finalised	Pending
September 2008	42	25	67	11	20	0	31	36
October 2008	36	0	36	0	0	0	0	36
November 2008	36	0	36	0	0	0	0	36
December 2008	36	0	36	0	0	0	0	36
January 2009	36	16	52	2	18	0	20	32
February 2009	32	17	49	6	18	0	24	25
March 2009	45	40	65	15	35	0	50	15
Total	82	198	280	68	195	2	265	15

The table above shows that 82 cases were carried over from March 2008 and the court received 198 new cases, adding up to a total case load of 280, of which 265 (95%) of the cases were finalised and 15 (5%) cases remained pending.

(ii) High Courts

In terms of the Uniform Rules of the Supreme Courts, High Courts has the following four terms and recess periods:

Table 31: High Court terms and recess periods

Division	Term No	Term period	Months	Recess	Days/months
Transvaal Provincial Division and Venda	1	26 March to 9 April	2.5 months	10 to 19 April	10 days
	2	20 April to 19 June	2 months	20 June to 26 July	1 month, 6 days
	3	27 July to 27 September	2 months	28 September to 4 October	5 days
	4	5 October to 4 December	2 months	5 December to 25 March	1 month, 20 days
			8.5 months		3.5 months
Witwatersrand Local Division	1	26 March to 9 April	2.5 months	10 to 19 April	10 days
	2	20 April to 19 June	2 months	20 June to 26 July	1 month, 6 days
	3	28 July to 19 September	2 months	28 September to 4 October	5 days
	4	6 October to 5 December	2 months	5 December to 25 March	1 month, 20 days
			8.5 months		3.5 months
Natal Provincial Division and Durban	1	1 February to 31 March	2 months	1 to 14 April	13 days
	2	15 April to 30 June	2.5 months	1 to 31 July	1 month
	3	1 August to 30 September	2 months	1 to 14 October	13 days
	4	15 October to 15 December	2 months	16 December to 31 March	1.5 months
			8.5 months		3.5 months
Northern Cape Province, Bophuthatswana Provincial Division/ Mmabatho	1	4 February to 28 March	1.8 months	29 March to 13 April	15 days
	2	14 April to 27 June	2.5 months	28 June to 3 August	1 month, 6 days
	3	4 August to 26 September	1.8 months	27 September to 12 October	15 days
	4	13 October to 12 December	2 months	13 December to 3 February	1 month, 21 days
			7.1 months		4.9 months
Cape Provincial Division	1	1 February to 31 March	2 months	1 to 8 April	10 days
	2	9 April to 23 June	2.5 months	24 June to 31 July	1 month 7 days
	3	1 August to 30 September	2 months	1 to 14 October	13 days
	4	15 October to 15 December	2 months	16 December to 31 March	1 month 18 days
			8.5 months		3.5 months



Division	Term No	Term period	Months	Recess	Days/months
Eastern Cape Provincial Division/Ciskei/Transkei	1	21 March to 28 March	2.1 months	29 March to 13 April	15 days
	2	14 April to 20 June	2.2 months	21 June to 20 July	1 month
	3	21 July to 19 September	2 months	20 September to 5 October	24 days
	4	6 October to 12 December	2 months	13 December to 20 March	1.4 days
			8.3 months		3.7 months

(iii) High Court Divisions

(a) Criminal courts

High Court Criminal Trials

Table 32 provides a summary of the High Court criminal trial statistics per division for the period under review.

Table 32: High Court criminal trial statistics

Divisions	Total case load			Total removed		Trials finalised		Total trials finalised	Outstanding trial roll	Number of cases older than 12 months	Backlog %	Finalised %
	Old cases	New trial cases	Case load	Warrants issued	Case withdrawn	Guilty	Acquitted					
Bophuthatswana	57	62	119	0	1	73	6	79	34	0	0.0	66.4
Cape Provincial Division	63	48	111	0	1	50	11	61	98	14	14.3	55.0
Eastern Cape Division	61	174	235	0	14	149	13	162	105	8	7.6	68.9
Free State Division	24	60	84	2	1	42	6	48	33	0	0.0	57.1
Northern Cape Division	25	63	88	0	3	48	9	57	26	0	0.0	64.8
Natal Provincial Division	172	259	431	1	10	195	28	223	244	52	21.3	51.7
Transvaal Provincial Division	191	353	544	4	24	228	36	264	225	101	44.9	48.5
Transkei	143	165	308	8	7	114	26	140	168	12	7.1	45.5
Witwatersrand Local Division	224	101	325	0	19	102	25	127	209	36	17.2	39.1
TOTAL p/a	960	1 285	2 245	15	80	1 001	160	1 161	1 142	223	19.5	51.7

The division with the highest case load is the Transvaal Provincial Division (544), followed by the Natal Provincial Division with a case load of 431 and Transkei with 308. The national average for finalised cases is 52% for the period under review. A comparison of the finalisation rate for these three divisions shows the Transvaal Provincial Division at 49%, the Natal Provincial Division at 52% and Transkei at 46%.

The Transvaal Provincial Division has the highest case load in comparison with the other divisions. The Transvaal Provincial Division, however, covers Gauteng,

Mpumalanga and some areas of Limpopo not falling under the Thohoyandou/Venda division. The division with the highest case backlog is the Transvaal Provincial Division with 44.9%, followed by the Natal Provincial Division with 21.3% and the Cape Provincial Division with 14.3%.

The data portrays that the case load increased by 19 cases in the period under review. Similarly, the total number of cases finalised increased by 80 and the total number of outstanding/pending cases increased by 124. Based on the number of cases finalised, the court's performance improved by 4% in 2008/09.



Figure 9: Case load

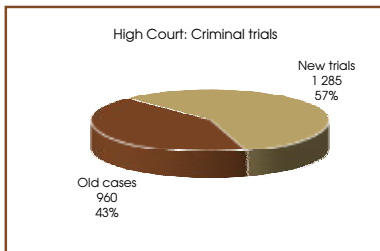


Figure 10: Case handling

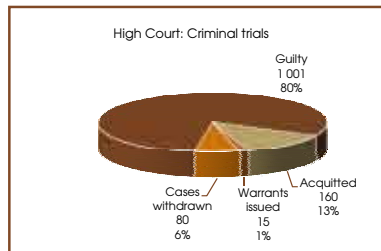
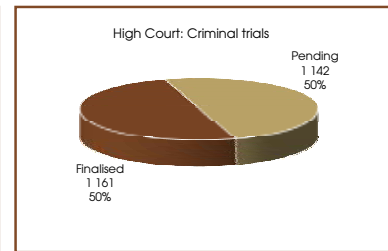


Figure 11: Finalised and pending appeals



High Court Criminal Trials: Section 52s

Table 33 provides a summary of the High Court criminal trials, Section 52s, statistics for the period under review.

Table 33: High Court criminal trials: Section 52s

Divisions	Old cases	New Section 52 cases	Total case load	Total Section 52 cases finalised	Outstanding Section 52 roll	Total outstanding cases
Bophuthatswana	30	39	69	49	9	43
Cape Provincial Division	66	32	98	101	6	104
Eastern Cape Division	4	1	5	6	1	106
Free State Division	14	5	19	26	0	33
Northern Cape Division	3	0	3	3	0	26
Natal Provincial Division	66	5	71	70	0	244
Transvaal Provincial Division	76	182	258	217	26	251
Transkei	3	1	4	7	3	171
Witwatersrand Local Division	45	27	72	72	5	214
National average	307	292	599	551	50	1 192

The table shows that the division with the highest case load is the Transvaal Provincial Division (258 cases), followed by the Cape Provincial Division (98 cases). About 92% of the cases were finalised nationally. There has been a decrease in the case load by 56%. The total finalised cases decreased by 47% and outstanding cases decreased by 84% in the same period. The overall performance of the divisions improved by 16%.

Criminal Reviews

Table 34 provides a summary of the automatic review statistics dealt with by the various high courts in the provinces for the period under review.

Table 34: Automatic review statistics

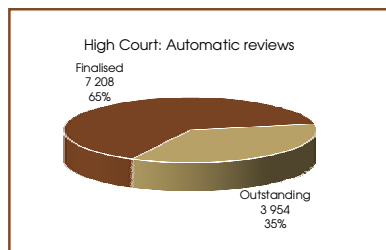
High Court	Old cases	New cases	Case load	Confirmed	Set aside	Referred back	Finalised	Outstanding
Bisho	11	93	104	67	19	18	104	0
Grahamstown	38	452	490	351	7	3	361	129
Mthatha	75	673	748	363	20	2	385	363
Port Elizabeth	38	299	337	247	13	39	299	38
Bloemfontein	247	265	512	262	1	83	346	166
Johannesburg	34	108	142	57	5	3	65	77
Pretoria	2 339	1 851	4 190	1 783	308	62	2 153	2 037
Durban	120	188	308	153	0	24	177	131
Pietermaritzburg	57	744	801	425	56	48	529	272
Thohoyandou	30	134	164	111	21	0	132	32
Mmabatho	0	449	449	292	0	157	449	0
Kimberley	154	46	200	43	5	27	75	125
Cape Town	472	2 245	2 717	1 775	276	82	2 133	584
	3 615	7 547	11 162	5 929	731	548	7 208	3 954



The table shows that the High Court with the highest case load is Pretoria, with 4 190 cases. The court managed to finalise 2 153 (51.4%) of the cases. This was followed by Cape Town with 2 717 cases and a finalisation of 2 133 (78.5%). Bisho and Mmabatho high courts are the only courts that managed to finalise their entire case loads for the period under review, leaving outstanding/pending cases at 0. The case load increased by 2 825 (33.9%), finalised cases decreased by 727 (9%) cases, while outstanding cases increased by 3 552.

During the previous period, 95.2% of the cases were finalised, compared to 64.6% during the current reporting period. The overall performance for the divisions decreased by 31%.

Figure 12: Finalised and pending reviews



High Court Criminal Petitions

Table 35 provides a summary of the High Court criminal petition statistics for the period under review.

Table 35: High Court criminal petition statistics

High court	Old petitions	New petitions	Total case load	Petitions granted	Petitions refused	Finalised petitions	Outstanding petitions
Bisho	0	10	10	0	0	0	10
Grahamstown	24	61	85	1	5	6	79
Mthatha	0	5	5	1	2	3	2
Port Elizabeth	0	0	0	0	0	0	0
Bloemfontein	37	8	45	22	4	26	19
Johannesburg	50	76	126	9	25	34	92
Pretoria	639	287	926	159	133	292	634
Durban	30	0	30	0	0	0	30
Pietermaritzburg	14	47	61	8	18	26	35
Thohoyandou	4	4	8	5	3	8	0
Mmabatho	20	21	41	15	5	20	21
Kimberley	10	16	26	3	13	16	10
Cape Town	80	301	381	204	70	274	107
	908	836	1 744	427	278	705	1 039

Table 35 shows that the High Court with the highest case load is Pretoria, with 926 cases. The court managed to finalise 292 (31.5%) of the cases. It was followed by Cape Town, with 301 cases and a finalisation of 274 (91%). The data shows that out of 1 744 cases, only 705 (40%) were finalised and 1 039 (60%) remained outstanding in the period under review.

(b) Civil Courts

High Court Civil Trials

Table 36 provides a summary of High Court civil trial statistics for the period under review.

Table 36: High Court civil trial statistics

High Court	Old cases	New cases	Case load	Postponed	Withdrawn	Altered	Settled	Finalised	Pending
Bisho	1	120	121	24	30	4	30	88	33
Grahamstown	28	316	344	9	39	22	42	112	232
Mthatha	6	325	331	56	60	4	77	197	134
Port Elizabeth	0	666	666	95	258	17	57	427	239



Part 2: Performance Information

High Court	Old cases	New cases	Case load	Postponed	Withdrawn	Altered	Settled	Finalised	Pending
Bloemfontein	0	167	167	10	26	4	47	87	80
Johannesburg	0	1 924	1 924	77	680	0	565	1 322	602
Pretoria	15 560	7 813	23 373	294	344	0	600	1 238	22 135
Durban	0	433	433	67	144	0	51	262	171
Pietermaritzburg	0	491	491	14	68	2	122	206	285
Thohoyandou	27	227	254	64	21	11	134	230	24
Mmabatho	19	243	262	53	49	24	11	137	125
Kimberley	0	163	163	1	17	0	142	160	3
Cape Town	254	2 762	3 016	495	770	175	380	1 820	1 196
	15 895	15 650	31 545	1 259	2 506	263	2 258	6 286	25 259

The table above should be read with the following percentage distribution table. There was a total case load of 31 545 cases. Of these, 6 286 (19.9%) were finalised and 25 259 (80.1%) are outstanding cases. The percentage distribution for High Court civil trial statistics for the period under review is as follows:

Figure 13: Case load

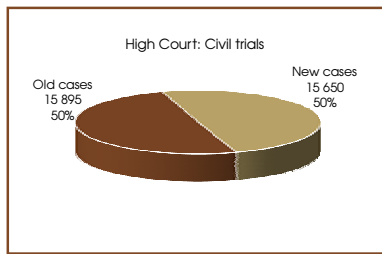


Figure 14: Case handling

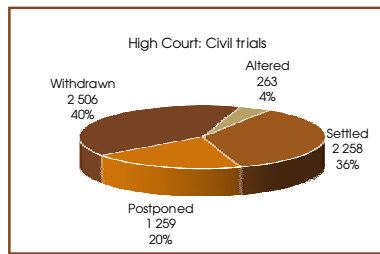
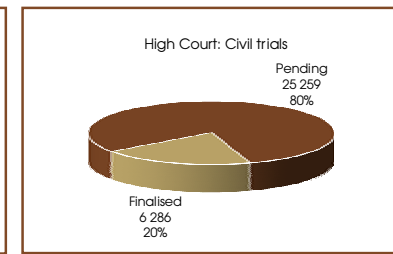


Figure 15: Finalised and pending appeals



The High Court with the highest case load is Pretoria (74.1%), followed by Cape Town (9.6%) and Johannesburg (6.1%). The national average for finalised cases is 19.9% for the period under review. Out of the 74.1% case load in Pretoria, only 5.3% of the cases were finalised and 94.7% are pending cases. This shows that Pretoria is performing way below average in comparison to the other courts. The table above further indicates that most courts with lower case loads manage to perform above average, for example, Bisho and Kimberley. Bisho has a total case load of 121 cases and finalised 88 (72.7%) cases. Kimberley has a total case load of 163 cases and finalised 160 (98.2%) cases. The case load increased significantly by 4 279 and finalised cases decreased enormously by 17 945 cases, which resulted in an increase of 22 224 outstanding cases.

Motion Applications

Table 37 provides a summary of the motion application statistics for the period under review.

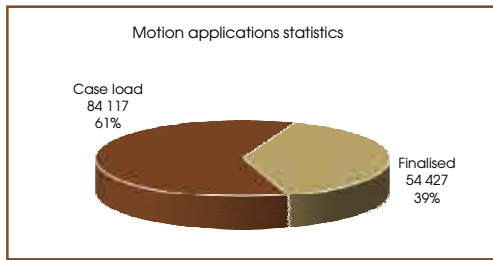
Table 37: Motion application statistics

High Court	Old cases	New cases	Case load	Struck off the roll	Set aside	Granted	Refused	Finalised
Bisho	0	433	433	24	55	320	34	433
Bloemfontein	115	998	1 113	62	177	685	34	958
Cape Town	1 229	9 936	11 165	92	1 263	6 973	841	9 169
Durban	240	1 388	1 628	60	236	541	58	895
Grahamstown	237	845	1 082	21	39	780	20	860
Johannesburg	0	6 806	6 806	1 271	1 128	2 565	942	5 906
Kimberley	0	515	515	0	0	0	0	0
Mmabatho	491	2 131	2 622	152	865	1 443	117	2 577
Mthatha	2 370	1 865	4 235	101	480	868	450	1 899
Pietermaritzburg	3 792	4 900	8 692	129	501	2 162	18	2 810
Port Elizabeth	0	1 827	1 827	168	683	963	13	1 827
Pretoria	15 835	27 703	43 538	891	1 654	23 682	283	26 510
Thohoyandou	86	375	461	43	150	324	66	583
Total	24 395	59 722	84 117	3 014	7 231	41 306	2 876	54 427

The table above should be read with the following percentage distribution table.



Figure 16: Case load and finalised cases: Motion applications



The percentage distributions for the motion application statistics for the period under review are as follows:

Table 38: Motion application statistics

Office	Case load	% case load	Finalised	% finalised
Bisho	433	0.5%	433	100.0%
Bloemfontein	1 113	1.3%	958	86.1%
Cape Town	11 165	13.3%	9 169	82.1%
Durban	1 628	1.9%	895	55.0%
Grahamstown	1 082	1.3%	860	79.5%
Johannesburg	6 806	8.1%	5 906	86.8%
Kimberley	515	0.6%	0	0.0%
Mmabatho	2 622	3.1%	2 577	98.3%
Mthatha	4 235	5.0%	1 899	44.8%
Pietermaritzburg	8 692	10.3%	2 810	32.3%
Port Elizabeth	1 827	2.2%	1 827	100.0%
Pretoria	43 538	51.8%	26 510	60.9%
Thohoyandou	461	0.5%	583	126.5%
Total	84 117	100.0%	54 427	64.7%

The table above illustrates that the court with the highest case load is Pretoria, with 43 538, of which 26 510 (60.9%) cases were finalised, followed by Cape Town with 11 165, of which 9 169 (82.1%) cases were finalised, Pietermaritzburg with 8 692, of which 2 810 (32.3%) cases were finalised, and Johannesburg with 6 806, of which 5 906 (86.8%) cases were finalised. The national average for finalised cases is 64.7%. Bisho and Port Elizabeth are the only courts that have finalised 100% of their cases. Kimberley has 0% finalised cases. There is a decrease in the case load of High Court motions (10 201) and finalised cases (19 930). The outstanding cases have, however, increased by (9 729).

Default Judgment

Table 39 provides the national overview for default judgment for the period under review.

Table 39: National overview for default judgment

High Court	Total default judgments	Finalised	Outstanding
Bisho	93	52	41
Bloemfontein	806	501	305
Cape Town	6 956	5 246	1 710
Durban	1 425	1 421	4
Grahamstown	322	273	49
Johannesburg	4 115	2 120	1 995
Kimberley	298	279	19
Mmabatho	469	430	39
Mthatha	216	129	87
Pietermaritzburg	779	758	21
Port Elizabeth	1 164	1 011	153
Pretoria	29 811	13 912	15 899
Thohoyandou	31	30	1
Total	46 485	26 162	20 325



Part 2: Performance Information

The table illustrates that the High Court with the highest case load is Pretoria with 29 811. Of this case load, 13 912 (47%) were finalised, followed by Cape Town with 6 956 cases, of which 5 246 (75%) were finalised, and Johannesburg with 4 115, of which 2 120 (51%) cases were finalised. Durban, Thohoyandou and Pietermaritzburg finalised almost all their default judgments. From April 2008 to March 2009, there was a total case load of 46 485 nationally. Of this case load, 26 162 (56%) cases were finalised and 20 323 (44%) are outstanding.

Civil Appeals

Table 40 provides a summary of the civil appeal statistics for the period under review.

Table 40: Civil appeal statistics

High Court	Old cases	New cases	Total case load	Referred back	Granted	Dismissed	Altered	Upheld	Finalised
Bisho	9	14	23	0	3	2	0	8	13
Grahamstown	42	22	64	2	9	0	8	12	31
Mthatha	15	30	45	5	9	10	2	16	42
Bloemfontein	58	22	80	0	2	2	0	6	10
Johannesburg	109	30	139	1	4	6	1	13	25
Pretoria	2 358	192	2 550	22	22	22	15	5	86
Pietermaritzburg	5	14	19	3	7	2	0	4	16
Thohoyandou	3	7	10	0	0	3	1	8	12
Mmabatho	6	13	19	8	0	0	0	1	9
Kimberley	59	8	67	0	0	9	7	9	25
Cape Town	78	95	173	24	13	20	10	29	96
Total	2 742	447	3 189	65	69	76	44	111	365

The table above illustrates that Pretoria had the highest case load of 2 550 cases in comparison to all the other courts. Of the total case load of 2 550 cases, only 86 (3.4%) were finalised.

Table 41 provides a summary of the civil appeal statistics per month for the period under review.

Table 41: Civil appeal statistics per month

Month	Old cases	New cases	Total case load	Referred back	Granted	Dismissed	Altered	Upheld	Total finalised	Pending cases
April 2008	30	31	61	2	4	8	6	8	28	33
May 2008	33	14	47	6	4	0	1	9	20	27
June 2008	27	36	63	7	5	10	1	8	31	32
July 2008	32	30	62	3	2	1	1	4	11	51
August 2008	51	50	101	9	4	3	0	10	26	75
September 2008	75	30	105	1	6	9	6	7	29	76
October 2008	76	48	124	11	5	7	4	5	32	92
November 2008	92	68	160	3	12	11	9	17	52	108
December 2008	108	42	150	3	7	8	4	11	33	117
January 2009	117	29	146	2	1	0	1	2	6	140
February 2009	140	33	173	11	10	19	11	12	63	110
March 2009	110	36	146	7	9	0	0	18	34	112
Total	30	447	477	65	69	76	44	111	365	112

The month of May had the lowest case load in comparison to all the other months. In June, the case load increased significantly. August had the highest case load in comparison to all the months. The case load decreased in September. In February, the most appeals were finalised in comparison to all the months. The total case load increased by 1 305 cases during the period under review. Finalised cases were much higher in comparison to the previous year, and decreased by 468 during the period under review. Outstanding cases increased by 1 773. Overall, the performance decreased by 33%.



Figure 17: Case load

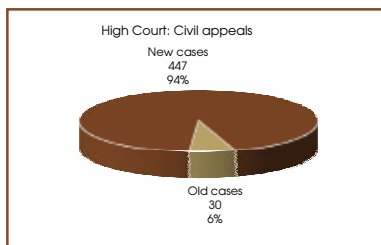


Figure 18: Case handling

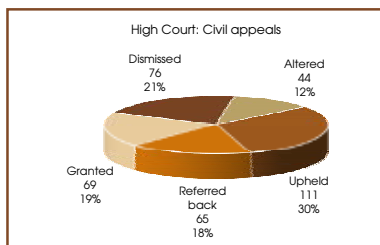
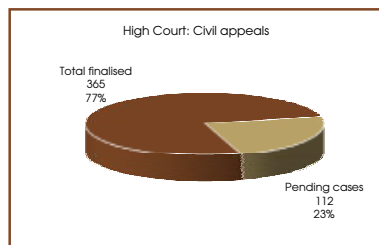


Figure 19: Finalised and pending appeals



Civil High Court – Taxation

Table 42 provides a summary of the High Court taxation statistics for the period under review.

Table 42: High Court taxation statistics

Region	Old cases	New cases	Total case load	Settled	Removed	Taxed	Postponed	Finalised	Pending
Eastern Cape	29	1 554	1 583	489	116	858	64	1 527	56
Free State	24	233	257	7	10	214	14	245	12
Gauteng	50 948	15 889	66 837	4 135	362	12 384	655	17 536	49 301
KwaZulu-Natal	0	1 486	1 486	858	72	528	28	1 486	0
Limpopo	0	216	216	48	1	164	4	217	-1
North West	36	493	529	10	39	395	85	529	0
Northern Cape	0	219	219	2	0	217	31	250	-31
Western Cape	31	1 631	1 662	460	487	690	19	1 656	6
Total	51 068	2 1721	72 789	6 009	1 087	15 450	900	23 446	49 343

The table illustrates that there are more cases pending (67.8%) than finalised (32.2%).

(c) Labour and Labour Appeal Court

Table 43 provides a summary of the Labour Court statistics from October 2008 to March 2009.

Table 43: Labour Court statistics

Month	Appeals	Applications from CCMA and BC issued in terms of section 143	Normal applications	Petitions	Referrals from CCMA and BC	Total cases opened
October 2008	2	333	515	2	87	939
November 2008	0	284	459	0	115	743
December 2008	0	218	398	0	83	699
January 2009	3	136	409	0	64	612
February 2009	3	233	440	4	95	775
March 2009	4	439	489	6	101	1 039
Total	12	1 643	2 710	12	545	4 807

The table above indicates that 4 807 cases were opened in the Labour Court from October 2008 to March 2009. Normal applications were the highest at 2 710.



Table 44 shows the cases that appeared before court from October 2008 to March 2009. Of these, 346 were urgent applications.

Table 44: Cases that appeared before court from October 2008 to March 2009

Cases before court	Appeals	Defaults	Normal applications	Opposed	Petitions	Trials	Unopposed	Urgent applications
October 2008	0	35	0	39	0	24	89	75
November 2008	0	32	0	61	0	22	270	75
December 2008	0	31	0	55	0	0	175	40
January 2009	0	24	0	15	0	0	77	23
February 2009	3	63	0	124	0	2	260	67
March 2009	8	55	0	40	14	42	143	66
Total	11	240	0	334	14	90	1 014	346

Table 45 provides a summary of the Labour Court taxation statistics from October 2008 to March 2009. Of these, 335 cases were taxed.

Table 45: Labour Court taxation statistics

Month	Opposed	Posponed	Removed from roll	Settled out of court	Struck from roll	Total (taxation)	Unopposed
October 2008	9	2	5	5	8	58	29
November 2008	8	1	1	9	3	49	27
December 2008	5	3	2	4	4	28	10
January 2009	2	1	0	4	0	22	15
February 2009	8	10	3	13	2	88	52
March 2009	9	31	8	6	4	90	32
Total	41	48	19	41	21	335	165

(d) 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 specifically land reform-related cases. 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 must investigate the claim in terms of section 11 of the act to determine its validity. This court therefore allows for the use of alternative dispute resolution (ADR) mechanisms in the settlement of disputes. The court may send matters for facilitation, as well as use mediation mechanisms for resolving disputes.

Restitution Cases

Table 46 provides a summary of the restitution case statistics dealt with in the Land Claims Court for the period under review.

Table 46: Restitution case statistics

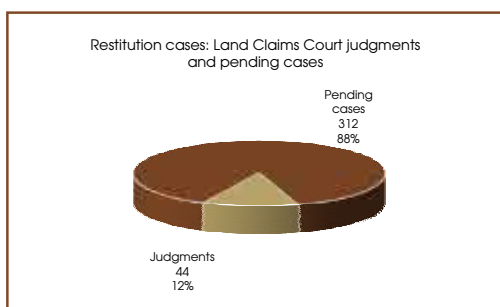
Months	Input			Output	
	Old cases	New cases	Total case load	Judgments	Pending cases
April 2008	246	14	260	1	259
May 2008	259	13	272	1	271
June 2008	271	16	287	5	282
July 2008	282	4	286	1	285
August 2008	285	17	302	0	302
September 2008	302	8	310	1	309
October 2008	309	11	320	14	306



Months	Input			Output	
	Old cases	New cases	Total case load	Judgments	Pending cases
November 2008	306	10	316	6	310
December 2008	310	8	318	5	313
January 2009	313	0	313	0	313
February 2009	313	5	318	4	314
March 2009	314	4	318	6	312
Total	246	110	356	44	312

Figure 20 provides a summary of the land reform statistics for the period under review.

Figure 20: Land reform statistics



Extension of Security

Table 47 provides a summary of the Extension of Security of Tenure Act, 1997 (Act No 62 of 1997), statistics for the period under review.

Table 47: Extension of Security of Tenure Act, 1997 (Act No 62 of 1997), statistics

Months	Input			Output	
	Old cases	New cases	Total case load	Total finalised	Total pending cases
April 2008	277	14	291	2	289
May 2008	289	2	291	0	291
June 2008	291	4	295	0	295
July 2008	295	8	303	15	288
August 2008	288	4	292	1	291
September 2008	291	6	297	17	280
October 2008	280	8	288	16	272
November 2008	272	3	275	9	266
December 2008	266	4	270	8	262
January 2009	262	0	262	0	262
February 2009	262	4	266	35	231
March 2009	231	6	237	40	197
Total	277	63	340	143	197

A total of 277 (81%) cases were carried over from the previous year and only 63 (19%) new cases were received in the period under review. The court managed to finalise 143 (42%) cases during the period under review. About 197 (58%) cases remained outstanding.



Figure 21: Extension of Security of Tenure Act, 1997 (Act No 62 of 1997), finalised and pending cases

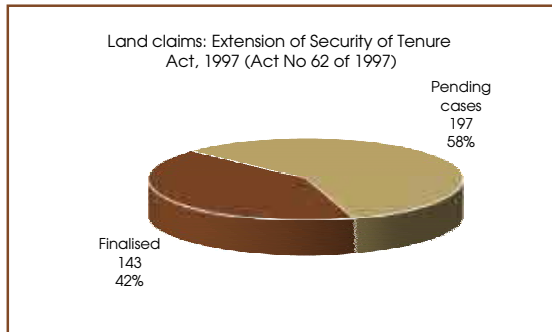
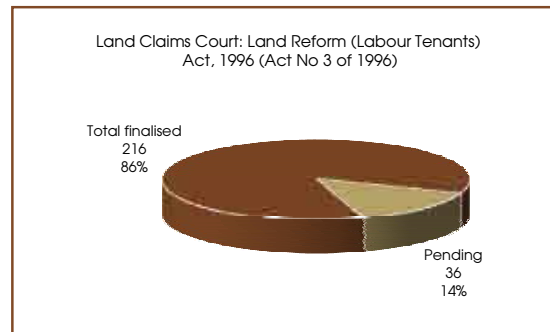


Figure 22: Land Reform (Labour Tenants) Act, 1996 (Act No 3 of 1996), finalised and pending cases



Land Reform (Labour Tenant)

Table 48 provides a summary of the Land Reform (Labour Tenant) Act, 1996 (Act 3 of 1996), statistics for the period under review.

Table 48: Land Reform (Labour Tenant) Act, 1996 (Act 3 of 1996), statistics

Months	Input			Output	
	Old cases	New cases	Total case load	Total finalised	Pending
April 2008	158	0	158	13	145
May 2008	145	1	146	13	133
June 2008	133	3	136	18	118
July 2008	118	2	120	26	94
August 2008	94	0	94	20	74
September 2008	74	3	77	23	54
October 2008	54	3	57	26	31
November 2008	31	3	34	34	0
December 2008	0	1	1	1	0
January 2009	0	0	0	0	0
February 2009	0	77	77	0	77
March 2009	77	1	78	42	36
Total	158	94	252	216	36

A total of 158 (63%) cases were carried over from the previous year and only 94 (37%) new cases were received, bringing the total case load to 252 cases, of which 216 (86%) cases were finalised and only 36 (14%) cases remained pending.

The case load increased by 105 (42%) cases during the period under review. Similarly, the number of cases finalised increased by 39 during the period under review and the number of outstanding cases increased by 66 (27%). Overall, the performance increased by 10%.

The total number of cases increased by 48 (14%) cases during the period under review. Similarly, the number of cases finalised increased by 128 and the number of outstanding cases decreased by 80 (29%). Overall, the performance increased by 37%. The case load increased by 95 (38%) cases during the period under review. Similarly, the number of cases finalised increased by 215 and the number of outstanding cases decreased by 120 (78%). Overall, the performance increased by 86%.



(iv) Lower Courts

(a) Criminal Courts

Regional Court Division

Table 49 provides a summary of the regional court statistics for the period under review (NPA data).

Table 49: Regional court statistics

Province	Average hours	Case load		Removed cases				Finalised cases				Out-standing cases	No of cases older than nine months
		Old cases	New cases	Withdrawals	Warrants issued	Cases transferred externally	Struck off roll	Guilty and sentenced	Not guilty and stopping	ADR	Section 57A admission of guilt		
		b	c	d	e	f	g	h	i	j	k	l	m
Eastern Cape	03:31	6 395	6 168	1 907	1 842	258	935	2 911	1 266	101	5	6 629	2 458
Free State	04:00	4 479	5 941	1 934	787	439	361	1 956	758	86	8	3 921	1 287
Gauteng	04:10	13 290	25 149	7 353	2 920	542	2 961	7 893	2 717	319	61	13 848	3 903
KwaZulu-Natal	03:29	8 988	15 478	4 480	1 956	1 044	789	5 476	1 784	75	15	9 679	3 625
Limpopo	03:54	1 928	6 221	1 490	731	65	726	1 953	656	195	2	2 796	414
Mpumalanga	03:47	2 839	5 244	1 807	948	285	519	1 611	629	353	4	2 619	736
North West	03:28	4 479	6 071	2 879	1 262	65	579	1 973	610	42	5	4 582	1 399
Northern Cape	03:50	1 308	3 063	770	377	60	305	712	411	5	0	1 613	439
Western Cape	03:46	6 394	11 146	3 076	1 560	775	649	4 734	1 614	155	38	6 115	1 506
Total	03:48	50 100	84 481	25 696	12 383	3 533	7 824	29 219	10 445	1 331	138	51 802	15 767

The data in Table 49 shows a national case load of 134 581, of which 49 436 (37 %) cases were removed from the roll, 41 133 (31%) cases were finalised and 51 802 (39%) were outstanding.

Table 50 shows the distribution of the case load per province, together with the performance scores, based on withdrawal, finalisation and clearance rates (NPA data).

Table 50: Distribution of the case load per province

Province	Case load	% of national case load	Withdrawal ratio per case load	Withdrawal rate	Finalisation ratio	Finalisation rate	Clearance ratio	Clearance rate	Overall
Eastern Cape	12 563	9.3	0.15	4	0.34	3	1.50	5	4.26
Free State	10 420	7.7	0.19	3	0.27	2	1.07	5	3.70
Gauteng	38 439	28.6	0.19	3	0.29	2	0.98	5	3.70
KwaZulu-Natal	24 466	18.2	0.18	3	0.30	3	1.01	5	3.88
Limpopo	8 149	6.1	0.18	3	0.34	3	0.94	5	3.88
Mpumalanga	8 083	6.0	0.22	2	0.32	3	1.17	5	3.50
North West	10 550	7.8	0.27	1	0.25	2	1.22	5	2.94
Northern Cape	4 371	3.2	0.18	3	0.26	2	0.86	5	3.70
Western Cape	17 540	13.0	0.18	3	0.37	4	1.13	5	4.06
Total	134 581	100.0	0.19	3	0.31	3	1.07	5	3.88



Part 2: Performance Information

The province with the highest case load is Gauteng (28.6%), followed by KwaZulu-Natal (18.2%) and the Western Cape (13%). The national performance of the regional courts is average, with an overall score of 3.88. The North West is performing below average with an overall score of 3, whereas the Eastern Cape (4.26) and Western Cape (4.06) are performing well above average. The table above indicates that the number of new cases increased by 1.7%, the total number of cases removed from the roll decreased by 1.9%, cases finalised increased by 14.5% and the outstanding cases on the court roll increased by 2.6% for the current period, when compared to the previous year.

Figure 23: Case load: Regional criminal courts

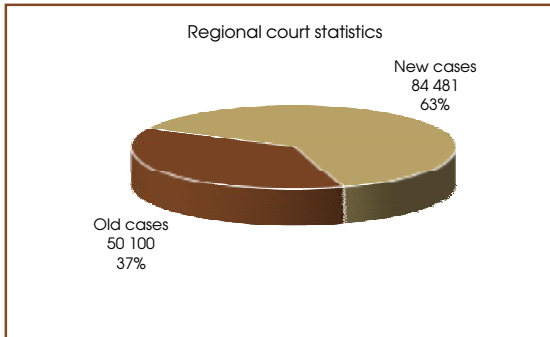


Figure 24: Removed cases: Regional criminal courts

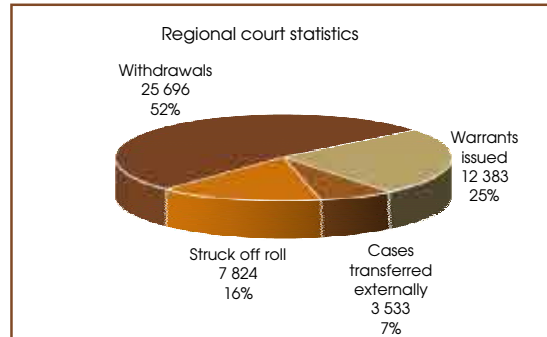


Figure 25: Finalised cases: Regional criminal courts

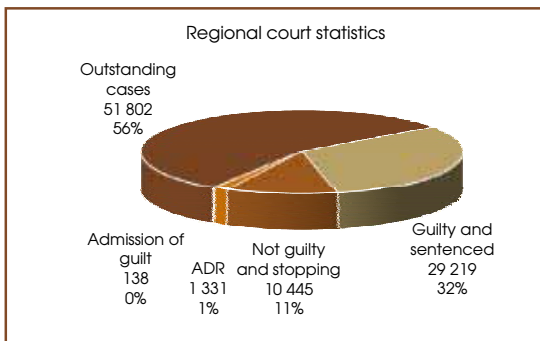
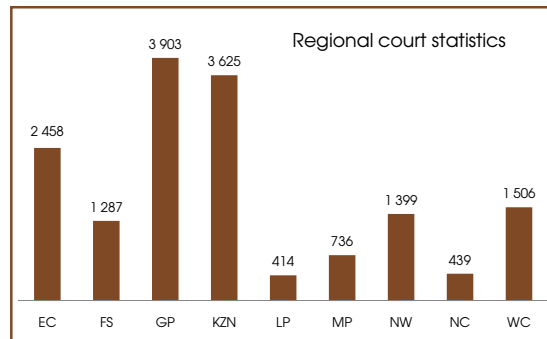


Figure 26: Cases older than nine months: Regional criminal courts

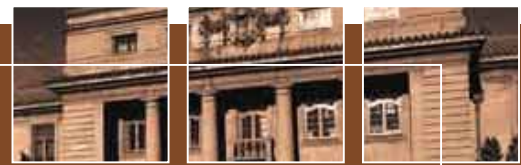


District Court

Table 51 provides a summary of the district court statistics for the period under review.

Table 51: District court statistics

Province	Average hours	Case load		Removed cases				Finalised cases			Outstanding cases	No of cases older than six months
		Old cases	New cases	Withdrawals	Warrant's issued	Cases transferred externally	Struck off roll	Guilty and sentenced	Not guilty and stopping	ADR		
	C	D	E	F	G	H	I	J	K	L	M	N
Eastern Cape	03:31	32 122	119 078	36 675	24 416	9 296	11 504	30 740	3 736	6 552	35 842	8 573
Free State	04:03	10 719	63 565	14 702	10 024	4 297	6 686	15 890	2 573	6 974	10 018	1 033
Gauteng	04:19	22 741	186 437	37 497	23 946	5 177	23 249	45 448	7 376	20 092	23 861	2 030
KwaZulu-Natal	03:35	26 952	141 953	34 261	25 035	8 910	12 297	36 256	4 857	16 851	24 454	3 101
Limpopo	03:48	11 044	72 619	16 835	19 074	4 415	7 581	15 623	3 394	1 725	10 248	1 061
Mpumalanga	03:58	12 899	57 907	13 536	9 954	4 457	6 129	12 442	2 214	7 030	12 173	1 446



Province	Average hours	Case load		Removed cases				Finalised cases			Outstanding cases	No of cases older than six months
		Old cases	New cases	Withdrawals	Warrants issued	Cases transferred externally	Struck off roll	Guilty and sentenced	Not guilty and stopping	ADR		
North West	03:48	12 095	58 670	19 399	11 191	3 170	4 711	12 043	1 714	2 343	12 452	1 935
Northern Cape	03:16	7 110	44 005	12 460	13 016	1 414	5 936	7 917	997	1 217	6 665	646
Western Cape	04:13	44 104	229 424	75 639	51 371	7 436	14 464	62 020	5 245	17 644	45 554	6 551
Total	03:52	179 786	973 658	261 004	188 027	48 572	92 557	23 8379	32 106	80 428	181 267	26 376

Table 52 shows the distribution of the case load for the district courts per province for the period under review, together with the performance scores based on withdrawal, finalisation and clearance rates.

Table 52: Distribution of case load for district courts per province

Province	Case load	Withdrawal ratio per case load	Withdrawn rate	Finalisation ratio	Finalisation rate	Clearance ratio	Clearance rate	Overall
Eastern Cape	151 200	0.24	2	0.28	2	1.05	4	3
Free State	74 284	0.20	3	0.38	3	1.00	3	3
Gauteng	209 178	0.18	4	0.38	3	0.91	1	3
KwaZulu-Natal	168 905	0.20	3	0.38	3	1.02	3	3
Limpopo	83 663	0.20	3	0.32	2	1.02	3	3
Mpumalanga	70 806	0.19	3	0.37	3	1.04	3	3
North West	70 765	0.27	2	0.29	2	1.00	3	2
Northern Cape	51 115	0.24	2	0.22	1	1.00	3	2
Western Cape	273 528	0.28	2	0.33	2	1.04	3	2
Total	1 153 444	0.23	3	0.34	2	1.01	3	3

The national performance of the district courts is average with an overall score of 3. The North West, Northern Cape and Western Cape are performing below average, with ratings of 2. The other provinces are performing average, with ratings of 3. The number of new cases increased by 2.3%, the total number of cases removed from the roll decreased by 2.4%, the cases finalised increased by 11% and the outstanding cases on the court roll increased by 0.3% for the current period when compared to the previous year.



(c) Civil courts

Trials

Table 60 shows the provincial distribution of cases relating to civil matters per province during the period under review.

Table 60: Provincial distribution of cases relating to civil matters per province

Province	Old cases	New cases	Total case load	Trials	Motion	Judgments	Finalised	Pending
Eastern Cape	42 318	76 223	118 541	11 607	26 576	11 589	49 772	68 769
Free State	26 488	87 997	114 485	7 393	29 449	11 182	48 024	66 461
Gauteng	72 255	131 902	204 157	36 679	43 423	25 249	105 351	98 806
KwaZulu-Natal	53 680	93 418	147 098	12 220	35 042	16 757	64 019	83 079
Limpopo	6 098	47 542	53 640	7 750	17 591	11 544	36 885	16 755
Mpumalanga	4 845	47 360	52 205	5 824	19 531	11 761	37 116	15 089
North West	4 394	41 551	45 945	3 245	24 701	5 205	33 151	12 794
Northern Cape	1 579	22 037	23 616	1 424	10 613	2 674	14 711	8 905
Western Cape	81 027	145 881	226 908	7 846	56 176	23 609	87 631	139 277
Total	292 684	693 911	986 595	93 988	263 102	119 570	476 660	509 935

Table 61 shows the percentage distributions for civil trials per province during the period under review.

Table 61: Percentage distributions for civil trials per province

Province	Total case load	Case load %	Finalised	Finalised %	Pending	Pending %
Eastern Cape	118 541	12.0	49 772	42.0	68 769	58.0
Free State	114 485	11.6	48 024	41.9	66 461	58.1
Gauteng	204 157	20.7	105 351	51.6	98 806	48.4
KwaZulu-Natal	147 098	14.9	64 019	43.5	83 079	56.5
Limpopo	53 640	5.4	36 885	68.8	16 755	31.2
Mpumalanga	52 205	5.3	37 116	71.1	15 089	28.9
North West	45 945	4.7	33 151	72.2	12 794	27.8
Northern Cape	23 616	2.4	14 711	62.3	8 905	37.7
Western Cape	226 908	23.0	87 631	38.6	139 277	61.4
Total	986 595		476 660		509 935	

The Western Cape has the highest case load percentage (23%), followed by Gauteng (20%) and KwaZulu-Natal (14.9%). North West has the highest finalisation percentage (72.2%), followed by Mpumalanga (71.1%) and Limpopo (68.8%). The Western Cape has the highest percentage of pending cases (61.4%), followed by the Free State and Eastern Cape respectively (58%).



Civil Reviews

Table 62 provides the civil review statistics for the period under review.

Table 62: Civil review statistics

Province	Old cases	New cases	Case load	Noted	Confirmed	Set aside	Amended	Finalised	Pending
Eastern Cape	2 105	853	2 958	7	217	34	116	374	2 584
Free State	691	424	1 115	2	66	19	33	120	995
Gauteng	1 652	96	1 748	73	17	661	798	1 549	199
KwaZulu-Natal	755	158	913	15	110	94	126	345	568
Limpopo	1 292	308	1 600	16	13	15	36	80	1 520
Mpumalanga	6 014	1 205	7 219	119	78	2 493	3 840	6 530	689
North West	653	50	703	25	21	20	61	127	576
Northern Cape	71	62	133	0	78	0	1	79	54
Western Cape	296	89	385	67	81	53	165	366	19
Total	13 529	3 245	16 774	324	681	3 389	5 176	9 570	7 204

The percentage distribution of civil reviews per province for the period under review is as follows:

Table 63: Percentage distribution of civil reviews per province

Province	Case load	Case load %	Finalised	Finalised %	Pending	Pending %
Eastern Cape	2 958	17.6	374	12.6	2 584	87.4
Free State	1 115	6.6	120	10.8	995	89.2
Gauteng	1 748	10.4	1 549	88.6	199	11.4
KwaZulu-Natal	913	5.4	345	37.8	568	62.2
Limpopo	1 600	9.5	80	5.0	1 520	95.0
Mpumalanga	7 219	43.0	6 530	90.5	689	9.5
North West	703	4.2	127	18.1	576	81.9
Northern Cape	133	0.8	79	59.4	54	40.6
Western Cape	385	2.3	366	95.1	19	4.9
Total	16 774		9 570		7 204	

Mpumalanga has the highest case load percentage (43%), followed by the Eastern Cape (17.6%) and Gauteng (10.4%). The Western Cape has the highest finalisation percentage (95.1%), followed by Mpumalanga (90.5%) and Gauteng (88.6%). Limpopo has the highest percentage of pending cases (95%), followed by the Free State (89.2%) and the Eastern Cape (87.4%).

Figure 43: Case load: Civil reviews

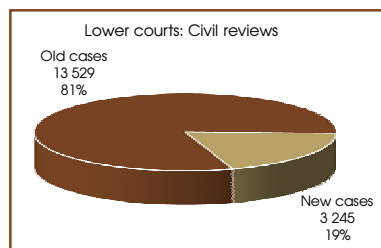


Figure 44: Case handling: Civil reviews

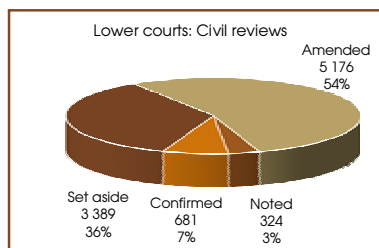
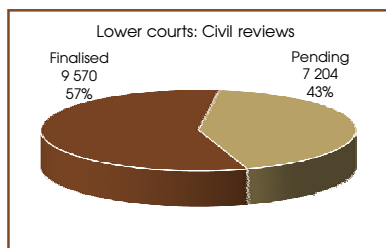


Figure 45: Finalised and pending reviews: Civil reviews



(d) Small Claims Courts

Table 64 provides the small claims court statistics per province for the period under review.

Table 64: Small claims court statistics per province

Province	Old cases	New cases	Case load	With-drawn	Struck off roll	Dis-missed	Granted	Out-of-court settlement	Finalised	Pend-ing
Eastern Cape	10 993	9 468	20 461	150	665	234	1 369	1 605	4 023	16 438
Free State	727	3 065	3 792	74	141	212	560	216	1 203	2 589
Gauteng	17 262	22 910	40 172	2 020	3 870	908	3 297	2 239	12 334	27 838
KwaZulu-Natal	4 215	7 981	12 196	71	1 314	266	1 967	833	4 451	7 745
Limpopo	3 057	7 522	10 579	175	629	227	1 097	1 430	3 558	7 021
Mpumalanga	2 028	5 262	7 290	225	891	210	1 111	1 075	3 512	3 778
North West	3 734	8 720	12 454	215	585	326	1 093	660	2 879	9 575
Northern Cape	231	902	1 133	126	221	58	490	103	998	135
Western Cape	4 114	10 499	14 613	218	1 053	395	2 005	597	4 268	10 345
Total	46 361	76 329	122 690	3 274	9 369	2 836	12 989	8 758	37 226	85 464

Gauteng has the highest case load (40 172), followed by the Eastern Cape (20 461) and the Western Cape (14 613). Gauteng has finalised the most cases (12 334), followed by KwaZulu-Natal (4 451) and the Western Cape (4 268). Gauteng has the highest number of pending cases (27 838), followed by the Eastern Cape (16 438) and the Western Cape (10 345). There was a total case load of 122 690 nationally. Of this case load, 37 226 (30.3%) were finalised and 85 464 (69.7%) are pending cases.

Figure 46: Case load: Small claims courts

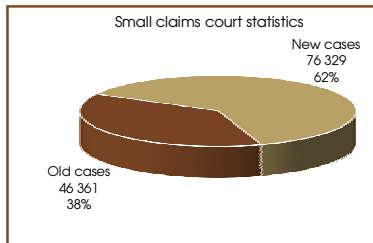


Figure 47: Case handling: Small claims courts

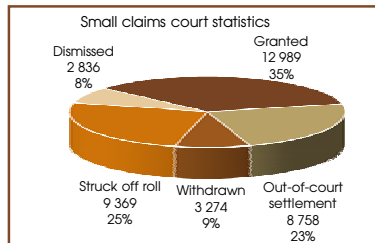
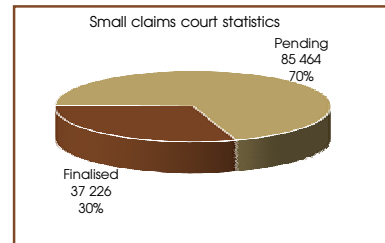


Figure 48: Finalised and pending cases: Small claims courts



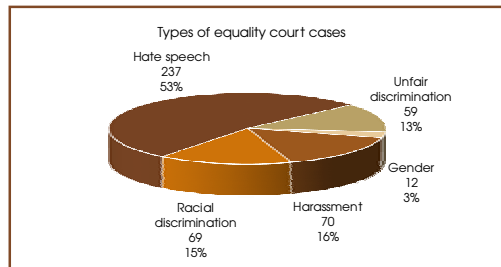
(e) Equality Courts

Table 65 provides the equality court statistics per province for the period under review.

Table 65: Equality court statistics per province

Types of cases	Total
Racial discrimination	69
Hate speech	237
Unfair discrimination	59
Gender	12
Harassment	70
Total	447

Figure 49: Equality court cases





(f) Family Court Divisions

Divorce Courts

Table 66 provides the divorce court statistics for the period under review.

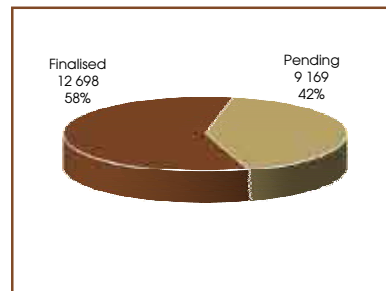
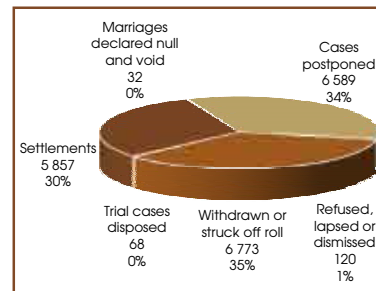
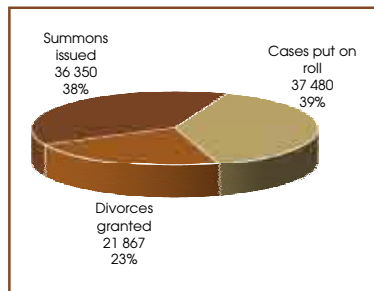
Table 66: Divorce court statistics

Divorce courts	Divorces granted	Summons issued	Number of cases put on roll	Trial cases disposed	Settlements	Marriages declared null and void	Cases postponed	Refused, lapsed or dismissed	Withdrawn or struck off roll	Finalised	Pending
Central	11 511	18 642	18 468	27	3 375	28	3 041	0	3 103	6 505	5 006
Southern	4 916	6 150	8 862	0	1 134	0	1 383	0	1 889	3 023	1 893
Northeastern	5 440	11 558	10 150	41	1 348	4	2 165	120	1 781	3 170	2 270
Total	21 867	36 350	37 480	68	5 857	32	6 589	120	6 773	12 698	9 169

Figure 50: Cases on roll: Divorce courts

Figure 51: Case handling: Divorce courts

Figure 52: Finalised and pending cases: Divorce courts



Children's Courts

Table 67 provides the children's court statistics per province for the period under review.

Table 67: Children's court statistics

Province	Adoptions	Intercountry adoptions	Children in need of care	Children placed in foster care
Eastern Cape	441	51	8 693	11 393
Free State	405	126	3 398	3 493
Gauteng	1 288	160	7 349	8 065
KwaZulu-Natal	1 617	214	21 257	21 475
Limpopo	139	25	5 861	6 125
Mpumalanga	312	27	3 339	4 081
North West	364	291	4 643	4 760
Northern Cape	60	0	994	1 166
Western Cape	591	109	4 517	3 678
Total	5 217	1 003	60 051	64 236

The number of children in need of care is the highest in KwaZulu-Natal (21 257), followed by the Eastern Cape (8 693) and Gauteng (7 349). The same trend is visible in respect of children placed in foster care.



Figure 53: Adoptions

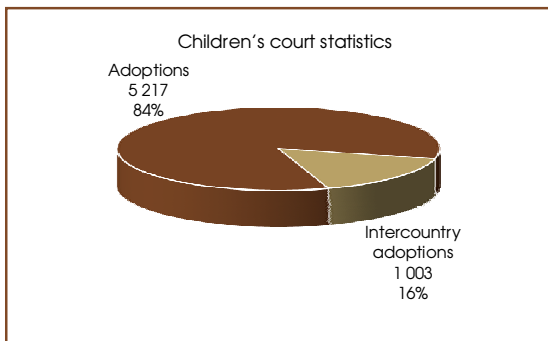
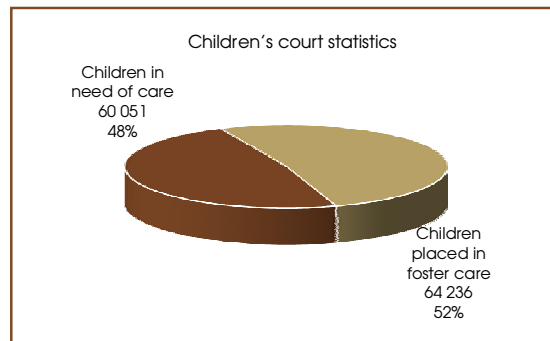


Figure 54: Children in need of care



Maintenance

Table 68 provides the maintenance statistics per province during the period under review.

Table 68: Maintenance statistics per province

Province and month	Maintenance enquiries received	Maintenance applications received	Maintenance orders by default	Section 31 cases finalised	Emolument orders	Warrants of execution	Attachments of debt
Eastern Cape	20 541	16 499	918	1 753	2 252	975	549
September 2008	2 229	1 807	140	243	315	92	40
October 2008	2 874	2 518	198	261	281	140	158
November 2008	3 166	2 626	113	301	390	166	14
December 2008	2 645	1 519	99	189	241	179	110
January 2009	2 595	2 587	100	173	374	148	48
February 2009	2 984	2 495	116	319	326	105	88
March 2009	4 048	2 947	152	267	325	145	91
Free State	11 610	11 875	537	732	1 551	268	78
September 2008	1 223	1 505	42	104	287	34	0
October 2008	4 139	1 894	108	131	283	55	15
November 2008	760	1 254	58	100	194	32	16
December 2008	743	1 218	48	68	113	26	5
January 2009	1 968	1 831	61	97	170	44	11
February 2009	1 098	1 872	106	100	276	36	9
March 2009	1 679	2 301	114	132	228	41	22
Gauteng	21 121	17 374	566	2 444	2 839	515	252
September 2008	2 734	2 041	76	171	404	19	11
October 2008	3 521	2 422	93	208	404	25	10
November 2008	2 247	1 991	69	419	367	144	34
December 2008	1 796	1 648	52	447	310	184	10
January 2009	3 246	3 040	84	304	360	40	24
February 2009	3 119	2 860	88	394	419	71	31
March 2009	4 458	3 372	104	501	575	32	132
KwaZulu-Natal	30 684	11 396	780	1 224	1 982	135	229
September 2008	2 158	1 072	68	179	138	5	9
October 2008	4 966	1 548	111	172	291	16	28
November 2008	4 507	1 646	85	212	276	27	56
December 2008	3 026	1 177	101	118	220	13	41
January 2009	4 005	1 694	116	167	331	11	32
February 2009	4 624	1 810	91	109	300	15	17
March 2009	7 398	2 449	208	267	426	48	46
Limpopo	8 927	8 466	331	1 071	1 736	121	55
September 2008	767	433	31	34	87	0	2
October 2008	933	1 142	32	186	389	12	22

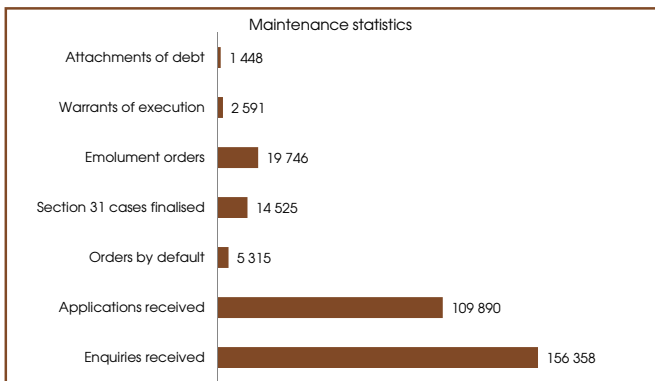


Province and month	Maintenance enquiries received	Maintenance applications received	Maintenance orders by default	Section 31 cases finalised	Emolument orders	Warrants of execution	Attachments of debt
November 2008	1 147	1 187	64	151	256	26	1
December 2008	849	1 010	25	175	109	37	7
January 2009	1 710	1 702	56	167	179	10	4
February 2009	1 951	1 526	50	193	327	9	13
March 2009	1 570	1 466	73	165	389	27	6
Mpumalanga	13 055	9 205	576	1 564	2 886	174	60
September 2008	1 249	1 293	101	147	426	17	0
October 2008	3 534	1 616	91	189	334	20	3
November 2008	2 539	1 345	86	252	421	12	43
December 2008	1 454	962	87	249	425	13	5
January 2009	1 557	1 466	55	208	502	73	3
February 2009	1 190	930	57	178	374	25	0
March 2009	1 532	1 593	99	341	404	14	6
North West	10 511	8 540	685	399	2 960	222	148
September 2008	1 566	1 092	110	52	407	7	15
October 2008	1 651	1 698	142	112	611	61	19
November 2008	2 012	1 283	96	72	502	57	29
December 2008	1 061	771	79	32	333	38	15
January 2009	1 484	1 316	77	41	375	26	22
February 2009	1 276	1 194	72	44	319	12	16
March 2009	1 461	1 186	109	46	413	21	32
Northern Cape	5 191	3 680	116	738	501	33	3
September 2008	488	491	7	118	49	6	0
October 2008	732	577	23	88	77	0	1
November 2008	465	458	14	101	65	0	0
December 2008	785	355	15	176	115	5	1
January 2009	770	640	26	83	78	7	1
February 2009	887	624	23	102	48	4	0
March 2009	1 064	535	8	70	69	11	0
Western Cape	34 718	22 855	806	4 600	3 039	148	74
August 2008	4 714	2 921	112	654	477	38	4
September 2008	4 131	2 620	93	564	353	25	4
October 2008	3 757	2 578	85	550	448	12	10
November 2008	4 396	3 200	133	572	465	33	6
December 2008	3 569	2 265	85	591	330	2	15
January 2009	4 709	3 286	87	524	286	20	12
February 2009	5 281	3 090	83	480	340	8	11
March 2009	4 161	2 895	128	665	340	10	12
Total	156 358	109 890	5 315	14 525	19 746	2 591	1 448

The Western Cape received the highest number of enquiries at 34 718, followed by KwaZulu-Natal at 30 684 and Gauteng at 21 121. The highest number of applications received was in the Western Cape at 22 855, followed by Gauteng at 17 374 and the Eastern Cape at 16 499. The highest number of attachment of debts was dealt with by the Eastern Cape (549), followed by Gauteng (252) and KwaZulu-Natal (229).



Figure 55: Maintenance statistics



Maintenance enquiries increased by 144 779, orders by default decreased by 23% and warrants of arrest decreased by 88%.

Domestic Violence

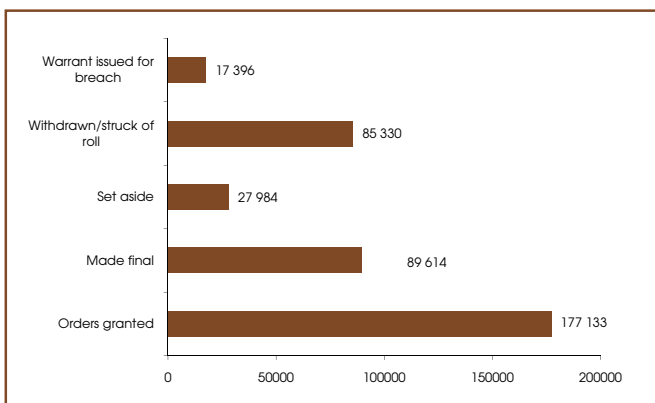
Table 69 provides the domestic violence statistics in all provinces for the period under review.

Table 69: Domestic violence statistics

Province	Old applications	New applications	Total applications	Orders granted	Made final	Set aside	Withdrawn/struck of the roll	Warrant issued for breach
Eastern Cape	10 549	29 071	39 620	19 623	9 915	1 272	8 453	1 202
Free State	5 772	12 522	18 294	10 053	6 014	2 028	4 124	1 270
Gauteng	16 455	32 341	48 796	31 158	12 498	5 837	18 168	2 216
KwaZulu-Natal	17 516	36 578	54 094	29 747	14 613	9 194	12 767	2 311
Limpopo	6 590	14 961	21 551	11 061	7 550	1 532	4 101	948
Mpumalanga	4 294	10 841	15 135	8 834	4 093	1 082	4 131	965
North West	4 547	12 967	17 514	10 268	4 575	932	3 850	1 804
Northern Cape	3 677	6 223	9 900	4 743	1 924	897	2 330	539
Western Cape	44 245	67 415	111 660	51 646	28 432	5 210	27 406	6 141
Total	113 645	222 919	336 564	177 133	89 614	27 984	85 330	17 396

Figure 44 shows that the total number of domestic violence applications increased by 169 217 in the period under review. The total number of warrants issued also increased by 8 473, withdrawn cases increased by 66 542 and the total number of orders granted increased by 99 023.

Figure 56: Domestic violence applications





(g) Default Judgments

Table 70 provides the default judgment statistics for all provinces for the clerks of the civil courts and magistrate's courts during the period under review.

Table 70: Default judgment statistics

Province	Clerks of civil courts		Magistrates	
	Volume	Value	Volume	Value
Eastern Cape	28 487	R126 294 704	5 554	R93 115 714
Free State	22 849	R61 404 145	5 773	R51 757 758
Gauteng	21 551	R594 957 329	17 313	R871 279 103
KwaZulu-Natal	104 406	R142 862 446	11 473	R79 158 570
Limpopo	16 908	R98 878 316	3 888	R23 958 319
Mpumalanga	11 991	R336 049 213	7 905	R71 537 498
North West	11 154	R61 532 086	4 578	R36 731 540
Northern Cape	11 408	R38 295 365	2 754	R35 508 017
Western Cape	147 253	R286 532 054	13 752	R227 548 020
Total	376 007	R1 746 805 661	72 990	R1 490 594 544

The table above reflects that the clerks of court in the Western Cape dealt with the most civil judgments at 147 253, followed by KwaZulu-Natal at 104 406 and the Eastern Cape at 28 487. The magistrates in Gauteng dealt with the most civil judgments at 17 313, followed by the Western Cape at 13 752 and KwaZulu-Natal at 11 473.

Table 71 provides the default judgment statistics in terms of businesses dealt with by the clerks of the court and magistrates for all provinces during the period under review.

Table 71: Default judgment statistics in terms of businesses dealt with by clerks of the court and magistrates

Province	Clerks of courts		Magistrates	
	Volume	Value	Volume	Value
Eastern Cape	1 678	R10 980 146	3 307	R9 658 031
Free State	1 053	R18 289 301	3 529	R20 126 139
Gauteng	4 408	R70 472 681	2 706	R45 435 323
KwaZulu-Natal	2 181	R32 910 288	3 047	R35 464 671
Limpopo	1 307	R17 245 801	7 389	R42 846 453
Mpumalanga	2 862	R32 765 332	1 640	R30 711 167
North West	1 239	R23 914 615	895	R9 422 088
Northern Cape	167	R4 154 889	1 012	R12 255 503
Western Cape	3 812	R67 199 111	8 336	R100 851 045
Total	18 707	R277 932 167	31 861	R306 770 425

The table above reflects that the clerks of court in Gauteng dealt with the most civil judgments at 4 408, followed by the Western Cape at 3 812 and Mpumalanga at 2 862. The magistrates in the Western Cape dealt with the most civil judgments at 8 336, followed by Limpopo at 7 389 and the Free State at 3 529.



B CASE BACKLOG

The Case Backlog Reduction Project assisted regional court centres where the demand exceeded the supply in such a way that the court rolls became hot spots and priority areas required focused attention. The project has at heart the provision of additional capacity to the regional court backlog priority sites (those sites where the cases on the outstanding roll are too many to be dealt with on a monthly basis and where a large number of cases have been on the roll for longer than nine months). The Case Backlog Reduction Project has focused on the regional court priority areas since November 2006. The project started with five sites and has expanded to the current 38 regional court sites.

This is an integrated project between the Department of Justice and Constitutional Development (DoJ&CD), the National Prosecuting Authority (NPA), the Legal Aid Board (LAB), the South African Police Service (SAPS) and the regional court presidents, coordinated by the DoJ&CD. Through additional funding received from National Treasury, specific interventions, such as additional capacity, are put in place. The aim is improved case flow management, screening and effective use of court hours. To deal with this, the goal is to have at least two prosecutors and two legal aid representatives per backlog court to deal with the backlog matters more effectively.

The Case Backlog Reduction Project has been integrated into the Criminal Justice System Review process. This entails that where required, in terms of interventions on an urgent basis – for example, the prioritisation of xenophobia matters, inquest backlogs and election criminal matters – the backlog courts are also used. The monitoring of the backlog rolls includes an analysis of all outstanding regional court cases at that site and promoting the rescreening and reprioritisation of these cases. It includes the promotion at provincial and local levels of holistic operational plans, liaison with the relevant regional court president, Director of Public Prosecutors (DPP), SAPS and the regional heads of the DoJ&CD, as well as the strengthening of governance and monitoring aspects pertaining to these interventions and the backlog courts in general.

The Case Backlog Reduction Project has thus far helped to stabilise the rolls in the regional courts and has also helped to increase the performance in those regional court centres where they were established as a focus area. Although the number of outstanding cases on the court rolls countrywide has generally increased in the lower courts, as well as the regional courts, the number

of backlog cases (those that have been on the regional court roll for longer than nine months) has decreased as a result of the functioning of the backlog reduction sites.

Since the Case Backlog Reduction Project was initiated in 2006 as a specific intervention to deal with the large number of backlog cases in the regional courts, there has been a very positive reduction in the backlog percentage in the regional courts. Statistics indicate a steady decrease in the number of backlog cases in all regional courts countrywide (and not only at the 38 backlog sites):

- The backlog was initially 20 452 cases (representing a 43% backlog) on an outstanding roll of 47 343 in November 2006.
- At the end of March 2007, the situation reflected 18 619 backlog cases (representing a 39% backlog) on an outstanding roll of 47 926.
- At the end of March 2008, the situation reflected 17 333 backlog cases (representing a 34% backlog) on an outstanding roll of 50 483.
- At the end of March 2009, the situation reflected 15 767 (representing a 30% backlog) on an outstanding roll of 51 802.

This reflects a steady continuous reduction in backlog cases. It also shows a reduction of 9% in the countrywide backlog cases of all regional courts for the past financial year.

The current 38 case reduction backlog courts have sat for an average of 03:34 hours per day since 1 November 2006 until the end of March 2009. They received 11 978 cases in total and finalised 8 855 of these cases (73.9%) as follows:

- Guilty: 6 581 (75.7%), of which 371 were as a result of plea bargains
- Not guilty: 2 114
- Diversions: 69
- Admissions of guilt: 91

A total of 3 649 cases were removed at these case reduction backlog sites through rescreening and withdrawals, while 609 cases were also transferred externally to other courts (for example, to higher courts for sentencing in terms of minimum sentences previously issued).

A total of 13 113 cases (comprising 8 855 cases that were finalised, 3 649 that were withdrawn after rescreening of regional cases at backlog sites and 609 that were transferred) were permanently removed from the regional court rolls as a result of the backlog courts from November 2006 until the end of March 2009. At the end of April 2009, the number of cases finalised had increased to 9 229.



The reduction in the backlog cases by 4 685 countrywide (comprising the 20 452 cases that represent the backlog in November 2006 less the 15 767 cases that represent the backlog in March 2009) on the regional court rolls is, in fact, a 22.9% reduction from the initial number of backlog cases (20 452) when the project started in November 2006 – this notwithstanding the fact that there was an increase in the number of new cases in the regional courts and a 9.4% increase (4 459 cases) in the number of outstanding cases (from 47 343 in 2006 to 51 802 at the end of March 2009). If one takes into account the number of cases removed as a result of the backlog courts (13 113), then the impact is a 64% reduction in cases on the roll. The positive impact on what the rolls would have been without the backlog courts is significant.

(i) National overview

The regional case backlogs per province since April 2008 are as follows:

- At the end of March 2008, the countrywide situation reflected 17 333 backlog cases (representing a 34% backlog) on an outstanding roll of 50 483 regional court cases.
- At the end of March 2009, there were 15 767 cases (representing a 30% backlog) on an outstanding roll of 51 802.

(ii) Backlog cases: All lower courts

Table 72: Backlog cases: all lower courts

Lower courts	2008/09	2007/08	Progress
District courts	26 505	22 186	19.5%
Regional courts	15 767	17 333	-9.0%
Total	42 272	39 519	7.0%

This indicates a growth in the backlogs in the district courts and will be a focus area for the current year.

(iii) Regional court situation per province

Table 73: Backlog cases: regional courts

Province	Month	Total backlog	Total outstanding roll	% backlog cases
Eastern Cape	April 2008	2 509	5 926	42.3
	March 2009	2 241	6 378	35.1
	Eastern Cape regional courts managed to reduce their backlogs by 268 cases (10.7%) in the past year.			
North West	April 2008	1 629	4 892	33.3
	March 2009	1 399	4 582	30.5
	North West regional courts managed to reduce their backlogs by 230 cases (14%) in the past year.			
Free State	April 2008	1 851	4 391	42.2
	March 2009	1 287	3 921	32.8
	Free State regional courts managed to reduce their backlogs by 564 cases (30%) in the past year.			
KwaZulu-Natal	April 2008	4 285	9 713	44.1
	March 2009	3 842	9 930	38.7
	KwaZulu-Natal regional courts managed to reduce their backlogs by 443 cases (10%) in the past year.			



Province	Month	Total backlog	Total outstanding roll	% backlog cases
Western Cape	April 2008	2 159	6 310	34.2
	March 2009	1 506	6 115	24.6
	Western Cape regional courts managed to reduce their backlogs by 653 cases (30%) in the past year.			
Gauteng	April 2008	4 140	13 121	31.6
	March 2009	3 903	13 848	28.2
	Gauteng regional courts managed to reduce their backlogs by 237 cases (5.7%) in the past year.			
Mpumalanga	April 2008	887	2 909	30.5
	March 2009	736	2 619	28.1
	Mpumalanga regional courts managed to reduce their backlogs by 151 cases (17%) in the past year.			
Northern Cape	April 2008	328	1 276	25.7
	March 2009	439	1 613	27.2
	Northern Cape regional courts increased their backlogs by 111 cases (33%) in the past year.			
Limpopo	April 2008	359	1 944	18.5
	March 2009	414	2 796	14.8
	Limpopo regional courts increased their backlogs by 55 cases (15%) in the past year.			
National total		15 767	51 802	30

(iv) New sites

Requests for additional backlog courts at the following 15 high-priority sites were received from the provinces and are being assessed. At present, all partly heard matters in the backlog courts are being analysed before new sites will be considered.

The number of partly heard matters has come down and the average conviction rates for all the backlog courts are satisfactory (approximately 77% against the average of all regional courts of 73%). Most backlog courts have double the finalisation rate per month than normal regional courts (the backlog courts finalised more than 10 cases a month on average).

Places with channelisation courts to prevent the regional courts just becoming bail/remand courts have also shown increased productivity. For example, in Pretoria, a channelisation court was established to help deal with all the postponements and bail applications for the regional courts, and now, for the first time in two years, the regional courts' outstanding rolls for Pretoria have come down to below 200 per court.

Table 74: new sites

Province	Court sites
KwaZulu-Natal	Inkanyezi
	Port Shepstone
	Scottburgh
	Pinetown
	Secunda
Gauteng	Randburg
	Tembisa
	Johannesburg Bail Court
	Vereeniging
Free State	Welkom
	Kroonstad
Mpumalanga	Secunda
Northern Cape	Kimberley (Warrenton, Jan Kempdorp, Hartswater)
North West	Ga-Rankuwa (Odi)
Limpopo	Thoyandou
	Polokwane



Additional prosecutors and legal representatives have been the key success factor of backlog courts. In addition to extra prosecutors for these courts, the LAB has appointed additional legal representatives where required for the backlog and other regional courts, and has also ensured that consultations are improved before the trials with their clients in order to improve court productivity.

More cases are finalised by the prosecutors in view of better court preparation and better consultation with the witnesses, because the backlog rolls consist of only trial-ready cases. Improved screening of the cases indicated where further investigation was required that could quickly be followed up. Where there was no further prospects of success (for example, witnesses could not be traced, etc) the cases could be withdrawn quicker. This has assisted in ensuring less wastage of court time (for example, cases having to stand down or the court having to adjourn repeatedly).

Case cycle times at these sites have improved in general and, as a result of the closer scrutiny of the court rolls by the regional court presidents and the coordinators of the court rolls, better workload spread is being implemented across the various normal regional courts. The focus has also been to bring the oldest outstanding cases forward for speedier finalisation.

A big positive factor is the existence of a good working relationship between key role-players in the provinces, for example, the Director of Public Prosecutions and his staff members – deputy directors of Public Prosecutions (DDPPs), chief prosecutors and senior public prosecutors – the judiciary (Regional Court President and the chief magistrates), the Regional Head of Justice, the Head of Detectives (SAPS), heads of the LAB and other role-players form the members of the provincial case flow management team and interact on a regular basis to plan activities and resolve challenges. They also promote the establishment and monitoring of the backlog court sites.

The cases are finalised much more speedily if a continuous roll is used, as is the case in the backlog courts. In addition to countrywide case flow management meetings held with all role-players to improve the effectiveness of the courts, a National Intersectoral Case Backlog Reduction Workshop was held on 14 and 15 May 2008 to obtain more buy-in for the backlog project and find consensus on operationalising the project more efficiently.

(v) Challenges

The project includes an analysis of all outstanding regional court cases at the various sites, and the rescreening and reprioritisation of these, which include liaison with the relevant regional court president. From this analysis, the following has become clear:

- There is a need to establish additional capacity in some areas, for example, North West, but accommodation is an acute challenge at the sites. Mobile courts are now being planned, as well as possible other options.
- There are challenges in dealing with certain district court matters that are creating backlogs. In this regard, inquests are problematic in the Western Cape and assistance will be provided to deal with this.
- Additional traffic courts for the Western Cape and Gauteng have also been requested, as the workload has increased substantially in that regard. This is being considered in conjunction with the move towards dealing with these matters in an administrative manner.
- A major challenge is currently being experienced in the district courts and a policy decision will be sought to also include the backlogs of the district courts under the Case Backlog Reduction Project. At present, the focus is only the regional courts.

The department aims to implement an operational plan for 2009/10 that will entail the following:

- Further additional backlog courts at all priority regional court sites countrywide
- Reduction of backlogs at both regional and district court level
- Improved case flow management and efficiency at court level
- Improved finalisation rates in all cases
- Improved use of restorative justice and ADR
- Further alignment with the CJS Review and implementation of good practices at other courts
- Strengthening of governance and monitoring aspects

C JUDICIAL POLICIES

(i) Policy on the Judiciary and the Courts

The draft Policy Framework on the Administration of Justice, which includes key principles that will inform the content of the Superior Courts Bill, was finalised. The policy document seeks to consolidate transformative policy initiatives relating to the administration of justice, with specific reference to the courts and the judiciary. The process of transformation seeks to ensure that the judicial system is appropriately positioned to respond



to the diverse needs of society and contributes to the building of a society envisaged by the Constitution.

A transformed judicial system would, among others, be able to:

- contribute to the consolidation of democracy, the pursuit of sustainable development and the realisation of the African Renaissance and a better world where basic human rights and freedoms are enjoyed by all;
- exhibit a culture and values that are aligned with the transformative vision underpinning the Constitution, and embrace the aspirations of all South Africans; and
- provide an environment where the judiciary is able to work constructively with other state institutions in the quest to transform South Africa into a society where the human dignity of all persons is equally respected and protected regardless of race, gender, socio-economic status or any other ground of discrimination.

The draft policy document will address the following transformational goals:

- The rationalisation of the courts to establish a judicial system suited to the requirements of the Constitution and bringing the areas of jurisdiction of the courts in line with the provincial and municipal dispensation under the Constitution. The objectives intended through the rationalisation of the courts are as follows:
 - The establishment of the Constitutional Court as the apex court and the reconstitution of the Supreme Court of Appeal (SCA) as the intermediate court of appeal between the Constitutional Court and the High Court
 - The abolishment of the full bench appeal and provision for appeals against the decisions of the High Court to tie in with the SCA, and the establishment of circuit appeal courts of the SCA to enhance access to justice
 - The conversion of various existing high courts into a single High Court of South Africa, comprising general and special divisions
 - The conversion of the special courts at the level of the high courts (competition appeals, land claims, electoral and income tax courts) into special divisions of the High Court of South Africa and the integration of the Labour Appeal Court and the Labour Court into the SCA and the High Court respectively
- The establishment of a framework for the establishment of a unified, single judiciary, which is based on uniform norms and standards for judges and magistrates, while recognising the hierarchy with the judiciary

- The establishment of a framework for court administration that is consistent with the model of separation of powers under the Constitution
- The rationalisation of rule-making structures and the harmonisation of the rules for courts of law to increase access to justice

The policy framework and a revised Superior Courts Bill based on the policy positions adopted in the policy framework document will be published soon for public comment before it is submitted to Cabinet and Parliament.

(ii) **Child Justice Act 2008 (Act No 75 of 2008)**

The Child Justice Act, 2008 (Act 75 of 2008), was passed by Parliament during 2008, and signed into law by the President on 7 May 2009. The aims and objectives of this act are, inter alia, to establish a criminal justice system for children who are in conflict with the law, in accordance with the values underpinning our Constitution and our international obligations through, among others, creating, as a central feature of this new criminal justice system for children, the possibility of diverting matters involving children who have committed offences away from the criminal justice system, in appropriate circumstances, while children whose matters are not diverted, are to be dealt with in the criminal justice system in the children's courts.

The objectives are also to expand and entrench the principles of restorative justice in the criminal justice system for children who are in conflict with the law, while ensuring their responsibility and accountability for the crimes committed.

The Child Justice Act, 2008 (Act No 75 of 2008) will be the first piece of legislation where operational systems and policies will be in place before the implementation of the act on 1 April 2010. This marks a radical and positive shift in the management and implementation of legislation. The introduction of this act will also help ensure the establishment of one-stop child justice centres for the purpose of handling children's cases quicker and more efficiently under one roof, so as to make the experience for the children less traumatising.

The National Policy Framework on Child Justice must be tabled in Parliament by June 2010 and the various departments have begun the processes of consultation in this regard. The outline of the national policy framework has been drafted and will be consulted upon extensively before finalisation by December 2009. The policy framework will ensure the coordinated



prioritisation and implementation, and monitoring of the impact of mainstreaming, prioritising and diverting the children as much as possible away from the criminal justice system, and will legislate the close cooperation between the relevant government departments and non-governmental organisations in this regard.

(iii) Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007)

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007), came into operation as from 16 December 2007. The aims and objectives of this act are to afford complainants of sexual offences the maximum protection that the law can provide, to introduce measures that seek to enable the relevant organs of state to give full effect to the provisions of this act, and to combat and ultimately eradicate the relatively high incidence of sexual offences committed in the Republic.

The introduction of this act will respond to the concerns of victims of sexual violence in order to address the secondary victimisation encountered in the criminal justice process. For the first time, the implementation of this legislation will have a major shift in policy and service delivery targets, and will oblige the departments involved in fighting the scourge of sexual offences to cooperate and coordinate their activities.

The major developments in terms of this act have been the establishment of the Intersectoral Committee on Sexual Offences, chaired by the Director-General of Justice and Constitutional Development. This will be a coordinating structure, bringing together all the relevant stakeholders involved in addressing the challenge of sexual offences.

(iv) Policy Coordination Unit

The Policy Coordination Unit monitored the implementation of key legislation relating to the transformation of the judiciary, including the facilitation of the development of policy guidelines for the effective implementation of the said legislation. The following acts, which were passed by Parliament and assented to by the President between October and December 2008, are critical to the attainment of a transformed judiciary: the Judicial Education Institute Act, 2008 (Act No 14 of 2008), the Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008) and the Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008).

The department is currently drafting a policy document focusing on how the justice system and the courts manage the issue of HIV/AIDS to ensure equality and non-discrimination in the provision of services. Those who have been affected and infected by HIV/AIDS will thus benefit immensely in this regard.

(a) Judicial Education Institution Act, 2008 (Act No 14 of 2008)

The Judicial Education Institution provides a uniform training framework for both judges and magistrates with a view to improve the productivity of the courts, the quality of judgments, and further develop the South African jurisprudence. The act came into operation on 23 January 2009.

The members of the council have been appointed and a facility has been leased for two years at Edura House in Johannesburg to house the institute temporarily, pending the construction of a permanent facility at the Constitutional Court.

(b) The Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 20 of 2008)

This act seeks to transform the regional courts, which, since their establishment in 1952, were conferred only with criminal jurisdiction. The costs associated with litigation at the High Court for civil disputes beyond the jurisdiction of district courts (R100 000) limit access to justice for ordinary citizens.

A further transformative outcome of this act is the integration of the divorce courts into the regional courts. The divorce courts, established in 1929, were exclusively for Africans. When these courts were deracialised in 1997, their areas of jurisdiction were not rationalised. The act rationalised the areas of jurisdiction of the divorce courts into the area of jurisdiction of regional courts, thereby redressing the fragmented and disjointed lower court judicial system inherited from the past.

The Judicial Service Commission, Magistrates Commission, heads of the courts, magistrates and the legal profession were consulted extensively regarding the appointment of places/seats in the regional courts for the hearing of civil disputes and the determination of amounts for causes of action listed in the act. The seats and the amounts of causes of action will be published in the Government Gazette soon. The act is envisaged to be put into operation during August 2009.



(c) **The Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)**

This act, which is required by the Constitution (section 180(a)), provides for a complaint-handling mechanism for judicial officers. The act has been passed by Parliament and was assented into law by the President in December 2008. In terms of the act, regulations and a judicial code of conduct must be approved by Parliament. A judicial code of conduct and regulations will be submitted to Parliament during the first quarter of the 2009/10 financial year. The act is envisaged to be put into operation during August 2009.

D CONSTITUTIONAL DEVELOPMENT

The purpose of this chief directorate is to develop, promote and implement the Constitution and its values. The unit is also responsible for coordinating assistance to and protecting 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.

In terms of PEPUDA, the department is required to establish equality courts in every magisterial district and to increase proximity of services to all, especially in townships and rural areas, by improving service delivery. The department aims to increase proximity of services to all, especially in townships and rural areas, by collaborating with the relevant stakeholders to improve access to equality courts.

In promoting the Constitution and its values, information sessions were conducted in Middelburg and Hazyview with community development workers (CDWs) on constitutional and human rights education, which included information sessions on the Equality Act and equality courts. About 251 CDWs attended the sessions. The department further conducted workshops on constitutional education with CDWs from Vhembe, the Sekhukhune district and Capricorn district in Limpopo. The workshops dealt with, among others, the Constitution, human rights, equality and equality courts. The workshop in Vhembe was attended by about 115 CDWs. The CDWs will, in turn, use their knowledge to

educate members of the public. Regional officials of the department assisted with training on maintenance and domestic violence.

A public awareness session on equality was conducted in Plet Retief, Mpumalanga, during the period under review. The event was attended by about 600 people from the farming community in the area. Outreach programmes aimed at popularising PEPUDA and equality courts were held in the Mqanduli district, attended by 500 people, Eldorado Park, attended by 250 people, and Bizana, attended by 1 000 people. In order to ensure awareness of the Equality Act by members of the public, the unit has also translated the Equality Act into all eleven official languages and has developed a simplified equality booklet, posters and leaflets.

Information sessions and seminars were conducted with the National House of Traditional Leaders, as well as the Free State Provincial House of Traditional Leaders, to educate traditional leaders about the implications of Constitutional Court judgments on customary law, as well as rights in general.

Although PAJA was promulgated in 2000, awareness of this important piece of legislation is still a challenge for both administrators and the public at large. In order to improve compliance with PAJA, the department conducted a number of activities during the period under review, such as road shows with CDWs in Limpopo, the Free State and North West. The road shows were attended by 425 CDWs in Limpopo, 245 in the Free State and 253 in North West to ensure the effective implementation of PAJA. The unit further conducted work flow evaluations to determine whether the government and its agencies are complying with PAJA. This is aimed at ensuring that government and agency processes are in line with the provisions of PAJA. During the period under review, the unit conducted work flow evaluations of the processes in three local municipalities, Randfontein, Westonaria and Mogale City. The PAJA project team scrutinised and commented to the South African Social Security Agency (SASSA) on the Draft Social Assistance Regulations 27062008.doc in relation to PAJA compliance. The project team further commented on and adapted 39 letters for SASSA to be compliant with PAJA. The department also presented a paper for PAJA and the challenges facing the legislation at an international administrative law conference held in Windhoek, Namibia, from 18 to 21 August 2008. The conference was attended by over 60 delegates from SADC countries. It was aimed at sharing experiences on the implementation of administrative legislation.



With regard to assistance to the relevant Chapter 9 institutions, the department prepared a Cabinet memorandum seeking approval for the adjustment of the remuneration of the members of the South African Human Rights Commission (SAHRC) and the Commission on Gender Equality (CGE). The adjustment has been approved by Cabinet and signed by the President. Several meetings were held with the Chapter 9 institutions to assist with matters relevant to their various mandates. The department facilitated the launch of the Constitutional and Human Rights Programme launched by the Minister at an Imbizo in Klipfontein, Soweto. The launch featured some of the educational material, such as the booklet on the Bill of Rights, entitled *Know Your Rights*, PAJA in all official languages, the three human rights acts (PEPUDA, PAIA and PAJA) in four languages, a PAJA leaflet in eleven languages, and the PAJA booklet in eleven languages. The Imbizo was attended by more than 1 000 people.

The department further facilitated the launch of a partnership with the European Union on the Access to Justice and Promotion of Constitutional Rights Programme in Orange Farm on 10 December 2008. The programme's objective is to contribute to the strengthening of democracy by improving access to justice and promoting constitutional rights for the most vulnerable, in partnership with civil society organisations. The event was attended by 500 community members and the official launch was done by the then Deputy President of the Republic of South Africa, Ms Baleka Mbete. The programme was later launched by the former Minister for Justice and Constitutional Development, Mr Enver Surty, on 11 March 2009, after which a memorandum of agreement was signed with the Foundation for Human Rights as the implementing agency. In commemorating Human Rights Day, the unit facilitated a Human Rights Day event, which was held in Kimberley under the theme *Celebrating 15 Years of Freedom and Human Rights*. The keynote speaker was the then President of the Republic of South Africa, Mr Kgalema Motlanthe. This event was attended by 2 000 people.

During the period under review, the department developed a draft Policy Framework on the Prevention and Combating of Racism, Xenophobia and Related Intolerance, as well as a draft National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance. An interministerial committee was established by Cabinet to oversee the finalisation of the national action plan.

E PROMOTION AND PROTECTION OF THE RIGHTS OF VULNERABLE GROUPS

The Chief Directorate: Promotion of the Rights of Vulnerable Groups consists of two directorates, Child Justice and Family Law, and Victim Support and Specialised Services. The mandate of the chief directorate is to develop policies to support the implementation of legislation and programmes to protect and promote the rights of the vulnerable in courts, to coordinate efficient and effective service delivery, to monitor and evaluate the impact of legislation and policies on courts and the justice system, and to develop effective and efficient information management systems. During the period under review, the following areas were prioritised:

- Children, including children in the criminal and civil stream
- Domestic violence
- Mental health
- Small claims courts
- Maintenance
- Sexual offences

(i) Children (Child Justice)

In the year under review, an effort was made to support the passing of the Child Justice Bill through the various stages of Parliament. The Child Justice Bill, 2008 (No B49B of 2008), was passed by Parliament during November 2008. It incorporates many of the practical strategies developed to divert children out of the criminal justice system. The Child Justice Bill is the first piece of legislation where operational systems and policies are expected to be in place before the implementation of the act on 1 April 2010. This marks a radical and positive shift in the management and implementation of the legislation. The Child Justice Bill was signed by the President on 7 May 2009 as the Child Justice Act, 2008 (Act 75 of 2008).

Other activities relating to child justice for which the chief directorate is responsible include the convening of the Intersectoral Child Justice Steering Committee (ISCCJ) at national level, supported by the same structure in each of the nine provinces. This committee reports to the JCPS Cluster on its activities. This forum, convened by the relevant government departments, meets on a regular basis and includes members of the relevant NGOs and other civil society partners, as well as the institutions protecting democracy, such as the South African Human Rights Commission and the Office of the Public Protector.



One of the major successes of this forum is the reduction of children awaiting trial by 50% during the past five years. Changing the system from an adversarial to a more restorative system has contributed greatly to this reduction. Although accurate statistics from the various government departments concerned are difficult to obtain, between 9 000 and 13 000 children are arrested by the South African Police Service on a monthly basis.

This number is reduced by half within the first 48 hours when children are released into their parents' or guardians' care, released on warning or without charge, are found to have given wrong ages and are processed as adults through the courts, when the cases are withdrawn by the NPA, or when the cases are converted into Children's Court enquiries.

This means that approximately 4 500 to 5 000 cases a month are converted into Children's Court enquiries in terms of the Child Care Act, 1983 (Act No 74 of 1983), especially for younger children and children who have, for example, committed theft or other socio-economic crimes. These children are then declared in need of care and protection and are handled outside the criminal justice system.

Of the remaining number of children in the criminal justice system, between 3 000 and 5 500 children go through the courts on a monthly basis. On average, 1 900 children are diverted from the mainstream criminal justice system on a monthly basis. This means that where children acknowledge wrongdoing, the prosecutor provisionally withdraws the charges against them, on condition that they attend diversion programmes such as life skills and anger management programmes. If the programmes are completed successfully, the charges are withdrawn by the NPA, but if not, the trials can proceed. Diversion was not an option in the criminal justice system before 2003/04 and has increased by 20% each year. Approximately 48% of children who appear in court are diverted from the mainstream criminal justice system.

Of the children who await trial and appear in court, fewer than 1 000 children between the ages of 14 and 17 await trial in correctional facilities (prisons) on a monthly basis, usually for serious and violent crimes. Approximately 3 000 children await trial in detention in secure care facilities, places of safety and home-based supervision run by the Department of Social Development. Of the number of children originally arrested and charged, approximately 1% are sentenced to direct imprisonment, while approximately 20% are sentenced to non-custodial sanctions, including correctional and parole supervision, community service and/or non-custodial programmes

similar to the diversion programmes. Such programmes will be tailor-made to each individual child offender and could include life skills programmes, substance abuse programmes, anger management programmes, and restorative justice programmes such as victim-offender mediation or family group conferencing. These last options will only be done after consultation and approval by the victim of the crime and/or family members.

Approximately 5% of sentenced children are sentenced to reform schools at present being run by the Department of Education, which is also a custodial sanction. The facilities of the reform schools (sentenced children) and schools of industry (children in need of care and younger sentenced children) will be transferred to the Department of Social Development within the next two years, in terms of Chapter 13 of the Children's Amendment Act, 2007 (Act No 41 of 2007). The reform schools and schools of industry were established in terms of the Child Care Act, 1983, and its predecessors, to enable residential placement and schooling of children who may have behavioural challenges.

An increase in diversion and a reduction in the number of children awaiting trial may be attributed to the number of services and programmes of diversion. Some of the diversion programmes include home-based supervision. The preliminary inquiry is further being piloted at the Mangaung One-stop Child Justice Centre in Bloemfontein, which seems to indicate, preliminarily, that only 7 to 21% of the children going through preliminary inquiries go through a full-blown criminal trial. This means that even though more emphasis will be placed on the preliminary inquiry, fewer children will go through full trials, and more children will need to go through diversion programmes and be assisted by the Department of Social Development's aftercare programmes. This centre also received the UN Certificate of Recognition for Excellence in Urban Safety, Crime Prevention and Youth in September 2008.

The department is planning to train personnel in the criminal justice system. The manual is currently being tested. Roll-out for training will commence shortly after that. Prior to the passing of the Child Justice Bill, the department, as part of its campaign to reduce the number of children in detention, created an enabling project by providing alternatives to detention with the support of the National Institute for Crime Prevention and Reintegration of Offenders (NICRO). In conjunction with the rest of the JCPS Cluster member departments, a pilot project was launched in five magisterial districts in 2008, Odi (North West), Kimberley (Northern Cape), East London (Eastern Cape), Bellville (Western Cape) and Randburg (Gauteng). The following figure indicates



the number of referrals, placements and successful completion of the programmes concerned. The Non-custodial Sanctions (NCS) pilot project was launched

in five magisterial districts between February 2008 and March 2009.

Table 75: NCS programme statistics

Number of cases referred for assessment	Number of cases recommended to programmes	Number of offenders placed on NCS programmes	Number of offenders who have successfully completed NCS programmes
292	184	107	15

Source: Project statistics received from NICRO

While the outcome of the project may seem to indicate low numbers, they must be seen within the more holistic perspective of transformation. The social ripple effect of 15 people being given a second chance in the community, as opposed to being imprisoned, is valuable. In preliminarily assessing the low numbers further, it was concluded that managing from an adversarial and punitive justice system to a restorative, therapeutic system needs intensification, both with personnel in the justice system, as well as the general public. Operational systems in and between departments needed further rigorous attention, and general communication in the national and provincial levels of government needed further improvement. The reporting time period in which matters were finalised was rather short for effective sentencing. A more intensive and expansive assessment is currently underway. Nonetheless, these results provide invaluable information in the setting up of the system in view of the implementation of the Child Justice Act, 2008 (Act No 75 of 2008).

The Child Justice Act, 2008 (Act No 75 of 2008) is dependent on the recently enacted Children's Act, 2005 (Act No 38 of 2005), creating a natural link between these two pieces of legislation. Preparation for the implementation of both pieces of legislation is currently underway and will be more comprehensively reported on during the next cycle. The Children's Act, 2005 (Act No 38 of 2005), places a great deal of emphasis on protecting children, including child-headed households predominantly created as a result of the AIDS pandemic. These special categories of vulnerable children are specifically catered for, as well as children that are trafficked among the provisions that relate to neglected, abused, exploited or vulnerable children in society. The department is responsible for implementing Chapter 4 of this act, which manages child-related matters as they are processed through the courts, and forms part of the implementation task team convened by the Department of Social Development as the lead department responsible for the implementation of this act.

A victim impact statement (VIS) is a statement made by a victim of crime, expressing what the impact of crime has been upon his/her life. The VIS should be understood within the context of restorative justice, which seeks to empower victims to be involved in the justice process. Accordingly, the VIS provides an opportunity for the victim of crime to address both the court and the offender on the impact the crime has had on his/her life.

The purpose of a VIS is to provide the victim with an opportunity to play a greater role in the court process. Concerns have been raised that the South African Constitution sets out clearly the rights of the offender, but neglects those of the victim. The inclusion of the VIS is thus important in creating a victim-centred approach to the legal process. The Child Justice Bill, 2008 (No B49D of 2008), which will come into operation on 1 April 2010, now expressly makes provision for prosecutors to supply VISs to courts where child offenders are being considered for diversion and/or non-custodial sanctions.

(II) Domestic Violence

The Domestic Violence Act, 1998 (Act No 116 of 1998) (DVA), provides speedy interim and final relief to victims of violence in the family environment. The department is currently reviewing the implementation of this act, with a view to ensuring further efficiency. The department cooperated with the magistrates to develop guidelines for the implementation of the DVA for the magistrates in conjunction with the Family and Gender Service Delivery Committee of the Lower Court Management Committee (LCMC). These guidelines, which were developed by the magistracy, were launched in June 2008. The guidelines will impact on the standardisation of the implementation of the act and also on the effective management of domestic violence cases in the judiciary and courts.

The Ndabezitha Training Project, which was initiated by the SOCA Unit of the NPA in collaboration with the department and the National House of Traditional



Leaders, focuses on training traditional leaders and domestic violence clerks on the DVA and the utilisation of ADR and restorative justice processed in domestic violence cases by traditional leaders. Thus, 81 traditional leaders underwent the course offered.

A policy document was drafted to address the enhancement and review the process of service delivery to victims of domestic violence and the prosecution of offenders in a holistic, programmatic way.

(iii) Mental Health

During 2008/09, the department identified the need for evidence-based best practice development in the assessment, treatment and care of mentally ill persons in courts and the justice system. To this end, various collaborative processes between the relevant government departments commenced during 2008/09, based on the Forensic Mental Health Seminar that was facilitated by the departments of Health, together with the DoJ&CD, in July 2008.

This initiative was prompted by challenges with regard to the implementation of the Criminal Procedure Act, 1977 (Act 51 of 1977), the Mental Health Care Act, 2002 (Act 17 of 2002), the Criminal Law Amendment (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), and the Victim's Service Charter, relating to the forensic psychiatric evaluation, care, treatment and rehabilitation of awaiting trial prisoners, victims of crime and violence, state patients and mentally ill prisoners. A comprehensive strategy and plan to address the various shortcomings were still underway at the time of reporting.

Although this formed part of the CJS Review, the amendment below has assisted in fast-tracking cases. Section 79 of the Criminal Procedure Act, 1977 (Act No 51 of 1977) (CPA) was amended by the Judicial Matters Amendment Act, 2008 (Act No 48 of 2008), section 1 of section 79 inserted by subsection 13 to section 79. It was legally required that in serious matters, observations must be done by a panel of psychiatrists. There were not enough private psychiatrists willing to do this type of work. To put panels together was problematic and these observations took much longer.

There was no updated list of private psychiatrists to be used for observation purposes, as required in terms of section 79(9) of the CPA, for various reasons. Consequently, there was artificial compliance with the requirements of the CPA. Private psychiatrists were substituted by psychiatrists in full-time service of the state doing a certain number of hours overtime as private psychiatrists. Currently, this has been amended in the Judicial Matters Amendment Act, 2008 (Act No 48 of 2008), to read that two psychiatrists can attend to these panels, one of which does not have to be a private practitioner.

(iv) Maintenance

The department supported the Parliamentary hearings on the Extension of Civil Regional Jurisdiction Bill, 2008, which aims to improve access to justice for persons requiring family law services, including access to divorce courts. The regional courts will now be able to hear civil and criminal matters. Policy proposals were made and supported, and the department developed a phased implementation plan, together with budgets and the necessary resources, during which the Chief Directorate: Promotion of the Rights of Vulnerable Groups will manage the transitional arrangements between the present divorce courts and the new regional courts enabled to hear divorce cases.

As part of the Restorative Justice Programme, court clerks reported the intensification of family disputes as a result of unpaid maintenance monies. A pilot project was undertaken within the current legislative framework to provide mediation in resolving maintenance disputes. As a result, maintenance personnel in the Johannesburg Family Court and the Pretoria Magistrate's Court were provided with basic training on mediation skills. Subsequent to an external assessment of this project, it has been noted that the utilisation of mediation skills by the court clerks assisted in alleviating the acrimony involved in resolving maintenance disputes. As a result, the department will roll out this training for all maintenance clerks. Capacity for managing maintenance, in terms of the number of maintenance officers and investigators appointed countrywide, is depicted in the following table.

Table 76: Summary of capacity in maintenance courts from August 2008 to March 2009

Maintenance officers	Maintenance investigators	Administrative clerks in Family Law sections	Legal interns	Maintenance prosecutors	Senior maintenance prosecutors
171	200	855	43	118	10



(v) Sexual Offences

The Criminal Law Amendment Act (Sexual Offences and Related Matters), 2007 (Act 32 of 2007), attempts to provide services to certain victims of sexual offences and strives to eliminate secondary victimisation. This forms part of the achievements made through public participation in drafting legislation that is responsive to sexual crimes in South Africa. The act expands on constitutional guarantees of rights to privacy, dignity, freedom and security of the person, as well as the right to be free from all forms of public and private sources of violence.

The act includes new categories of sexual crimes, such as compelled rape, which is defined as a third party forcing a person to engage in sexual acts with someone. Other forms of crime include child prostitution, engaging sexual services of persons of 18 years or older for financial reward (adult prostitution), incest, bestiality, statutory rape and child pornography. The act also seeks to address one of the dire consequences of rape, exposure to HIV/AIDS. The act makes provision for the right to apply for the HIV testing of an alleged sexual offender, thus affording victims an appropriate legal response to the crime of sexual violence. With an expanded definition of sexual violence, the act has placed a significant degree of responsibility on government departments to deliver services, based on human rights, responsive to the challenges of the socio-economic conditions of beneficiaries and in an integrated and coordinated approach to service delivery.

This act promotes collaboration among the intersectoral services to resolve fragmented services. This framework is based on the principles of the rights-based approach, whereby all policies and programmes must be aligned with a view to developing effective monitoring and evaluation systems for measuring progress. Displaying its commitment to prioritising the plight of vulnerable groups, specifically women and children, and in view of the scourge of gender-based violence, the act requires that the policy framework be presented to Parliament on approval of Cabinet, after consideration by the most senior government officials, namely the relevant directors-general.

In the year under review, the department noted the challenges surrounding the availability of intermediaries, as shown in the judgment of Bertelsmann J in *S v Mokoena, Phaswane* (Case no CC7/07 and CC 192/07). The department has awarded full-time contractual employment to 30 intermediaries to ensure the availability of these services. Training of the intermediaries was conducted in 2007. The department has also rationalised the position of intermediaries across government and

has developed a governance framework within which the intermediaries would be appointed.

All intermediaries appointed by the department have undergone initial intensive training for five days. New recruits and those appointed by other departments will be progressively assimilated into the department by appointments and will undergo similar training. The aim of the training is to provide intermediaries with the knowledge and skills necessary to perform their functions in terms of section 170A of the Criminal Procedure Act, 1977 (Act 51 of 1977). The training includes, among others, the following topics:

- Understanding the adversarial approach to child development
- The effects of disclosure and trauma, child language and communicating with children, and techniques for interviewing children and the use of anatomically detailed dolls, as well as applicable legal concepts

The introduction of the Criminal Law Amendment Act, 1991 (Act 135 of 1991), inserted section 170A into the Criminal Procedure Act, saw intermediaries as an essential feature of the courts. Intermediaries are required in terms of legislation to act as 'interpreters' for children and not as experts. These intermediaries are used in children's courts in terms of the Children's Act, 2005 (Act No 38 of 2005), and the introduction of the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007, which has extended the use of intermediaries to mentally disabled persons. Intermediaries have thus become a permanent addition to many courts.

(vi) Children's Act, 2005 (Act No 38 of 2005)

Another piece of legislation that was implemented during the financial year relates to 47 sections of the Children's Act, 2005 (Act No 38 of 2005), which were put into operation in July 2007. The major policy and service delivery implications of this act relate to the children's courts and the Chief Family Advocate's Office. This act is mainly focused on protecting children, including child-headed households predominantly created as a result of the AIDS pandemic. The operative section of the act has substantially expanded the mandate of the Family Advocate without any increase in resources.

The department is responsible for implementing Chapter 4 of this act, which manages child-related matters as they are processed through the courts.

The act also mandates the Chief Family Advocate's Office to mediate disputes between parents regarding the children, as well as assisting with the drafting of parenting



plans and plans for parental rights and responsibilities. Sections 14 and 15 of the Children's Act, 2005 (Act No 38 of 2005) guarantee that children have the right to access any court for assistance, and all parties, including the state, must help them to access the courts concerned. This places an obligation on the state to develop policies and ensure the necessary resources in the courts and with the Family Advocate's offices, to be able to prioritise and fast-track the children's matters concerned.

A major risk in this regard is that the department has not received much additional funding for the implementation of the Children's Act, 2005 (Act No 38 of 2005), which will have a negative impact on service delivery once the rest of the act is implemented during the latter part of 2009.

(vii) Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007)

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007), came into operation as from 16 December 2007. The aims and objectives of this act are to afford complainants of sexual offences the maximum protection that the law can provide, to introduce measures that seek to enable the relevant organs of state to give full effect to the provisions of this act, and to combat and ultimately eradicate the relatively high incidence of sexual offences committed in the Republic.

The introduction of this act will respond to the concerns of victims of sexual violence in order to address the secondary victimisation encountered in the criminal justice process. For the first time, the implementation of this legislation will have a major shift in policy and service delivery targets, and will oblige departments involved in fighting the scourge of sexual offences to cooperate and coordinate their activities. The major developments in terms of this act have been the establishment of the Intersectoral Committee on Sexual Offences, chaired by the Director-General of Justice and Constitutional Development. This will be a coordinating structure, bringing together all the relevant stakeholders involved in addressing the challenge of sexual offences.

(viii) National Policy Framework for the Management of Sexual Offences

Section 62(1) of the Criminal Law Amendment (Sexual Offences and Related Matters) Act, 2007 (Act No 32 of 2007) mandates the Minister for Justice and Constitutional Development, in consultation with the ministers of Safety

and Security, Correctional Services, Social Development and Health, to adopt a national policy framework (NPF) for the effective implementation of the act.

The NPF must be located within the broad objectives of the act, which are to afford complainants of sexual offences the maximum and least traumatising protection, to introduce measures that seek to enable the relevant organs of state to give full effect to the provisions of this act and to combat and, ultimately, eradicate the relatively high incidence of sexual offences committed in the Republic.

The NPF has been developed to coordinate, align, prioritise and monitor the impact of the various policies and strategies to address prevention, prosecution, adjudication and support services to victims of sexual offences in a holistic and coordinated manner.

(ix) Governance on National Register for Sexual Offenders

In compliance with section 53 of the act, the department coordinated numerous bilateral meetings with the SAPS, the Department of Health (DoH), Department of Social Development (DSD), Department of Correctional Services (DCS) and the NPA to facilitate the establishment and management of the National Register for Sex Offenders (NRSO) (the register). The objects of the register are to protect children and persons who are mentally disabled against sexual offenders by establishing and maintaining a record of persons who have been convicted of sexual offences against children or persons who are mentally disabled, or who are alleged to have committed sexual offences against children or persons who are mentally disabled.

In summary, the act places a prohibition on certain types of employment being held by persons who have committed sexual offences against children and persons who are mentally disabled. Persons who have committed offences against children are prohibited, among other things, from being employed to work with children in any circumstances and may not hold any position that places them in a position of authority, supervision or care of children or where they may gain access to children (section 41(1)). Persons who have committed offences against persons who are mentally disabled are prohibited, among other things, from being employed to work with persons who are mentally disabled in any circumstances and they may not hold any position that places them in a position of authority, supervision or care of persons who are mentally disabled (section 41(2)).



Two business proposals were developed to enhance the effective management of the register, namely the SAPS fingerprint vetting process and the process of the enhancement of the DoJ&CD's current system to cater for the information required in the register. As a result of the department not having these records readily available, the actual fingerprint vetting process is conducted at the SAPS Criminal Record Centres (CRCs), utilising the SAPS's Automated Fingerprint Identification System (AFIS). An electronic version of the register has already been developed and should be operational by June 2009.

(x) Maintenance and Extension of Civil Jurisdiction to Regional Courts Bill, 2008

This piece of legislation was passed by Parliament during 2008/09, and will enable regional courts to hear civil matters, as well as divorce cases. This will enhance access to justice. Parties involved in divorce proceedings will greatly benefit from this legislative development, as their divorce can be settled at their nearest regional court. The services of the Family Advocate, including family mediation, will be extended to all regional courts designated/proclaimed under this act.

A test project was undertaken within the current legislative framework to provide mediation in resolving maintenance disputes. As a result, maintenance personnel in the Johannesburg Family Court and the Pretoria Magistrate's Court were provided with basic training on mediation skills. Subsequent to an external assessment of this project, it has been noted that the utilisation of mediation skills by the court clerks assisted in alleviating the acrimony involved in resolving maintenance disputes. As a result, the department will roll out this training for all maintenance clerks.

A document on future maintenance will advise on the need to ensure that future maintenance for children is ensured by making various options available, such as attaching part of parents' pension. It will enable the department to administer the lump-sum payments of maintenance on an interim basis for beneficiaries as a third party fund.

A document on mediation on maintenance matters will advise on the need to ensure that mediation takes place in court by maintenance officers, before the matter comes to court, in order for the court to hear only the matters that the parties cannot agree upon, and to lessen the backlogs in maintenance cases. It will also reduce the acrimony between the various parties concerned. Pilot projects have been launched in the

Pretoria and Johannesburg magistrate's courts.

(xi) Small Claims Courts

The small claims court services are regulated by the Small Claims Court Act, 1984 (Act No 61 of 1984), and its related enabling legislation. These courts provide speedy and cost-effective relief to minor civil disputes to the value of R7 000. In terms of this act, small claims courts must be designated if an Advisory Board and commissioners are appointed. With the assistance of the legal profession, especially attorneys who provide their services voluntarily, as well as the general public, 188 small claims courts have been established countrywide, 113 advisory boards set up and 114 commissioners appointed. In further assisting access to justice, some of these courts are operational on Saturdays for administrative purposes to enable litigants to process their administrative processes.

The department conducted research on the legal framework/critique and a comparative study of the different models of the small claims courts. This research is used as a baseline study for the transformation of the small claims courts. The research will further assist with the amendment of the Small Claims Courts Act, 1984 (Act No 61 of 1984).

(xii) Restorative Justice

The department has started the process for the development of a National Strategy and Policy on Restorative Justice to support departmental and JCPS Cluster initiatives in this regard, as well as to ensure the coordinated, holistic implementation of restorative justice obligations and clauses contained in pieces of legislation such as the Children's Act, 2005 (Act No 30 of 2005), and the Child Justice Bill, 2008. A Restorative Justice Task Team was established during 2007.



F OFFICE OF THE FAMILY ADVOCATE

The purpose of the Office of the Family Advocate is to promote and protect the best interests of minor and dependent children in matters relating to parental responsibility and rights disputes.

The professional component of the office comprises family advocates (lawyers) and family counsellors (social workers). The Family Advocate renders legal, as well as family mediation services, through multidisciplinary teams made up of lawyers and social workers so as to ensure a holistic and qualitative approach to serve the best interest of the child throughout the dispute resolution or adjudication process. Currently, there are 16 service delivery points situated in the provinces, 55 family advocates, 10 senior family advocates and 76 family counsellors on the establishment.

The mandate of the Family Advocate accords with section 28(2) of the Constitution, namely that "a child's best interests are of paramount importance in every matter concerning the child". The powers and duties of the Family Advocate are set out in section 4 of the Mediation in Certain Divorce Matters Act, 1990 (Act No 24 of 1990), as follows:

- To institute an enquiry so as to be able to furnish the court with a report and recommendation on any matter concerning the welfare of a minor/dependent child
- To appear at the trial of any divorce action or the hearing of a related application
- To adduce any available evidence relevant to the action or application
- To cross-examine witnesses giving evidence at such trial or hearing of application

Such powers and duties were subsequently extended to six other pieces of legislation, thus extending the mandate of the Family Advocate from High Court work to include special divorce court matters, disputes arising from customary and religious marriages, as well as matters related to children born out of wedlock.

In terms of amendments to the Domestic Violence Act and the Maintenance Act, 1998 (Act No 116 of 1998) presiding officers hearing maintenance and domestic violence cases can obtain Family Advocate reports regarding the best interests of the child prior to making orders. The clients of the Family Advocate are consequently members of the public, children, as well as the courts hearing such matters. The primary need of the clients is the speedy resolution of disputes, as well

as the availability of family advocates in court to ensure the efficient completion of hearings. Children need to be served in a child-favourable, non-intimidating environment, which is sensitive to and responds to their developmental needs. The best interests of the child require disputes to be resolved in the most non-conflictual manner as possible.

The most prominent challenge facing the Family Advocate is staff shortages, as well as limited accessibility. Clients travel long distances to obtain the services. Courts often postpone matters, sometimes at parties' costs, due to delays in obtaining reports or the availability of family advocates to appear in court. Such delays compromise the welfare of the child.

During the 2008/09 year, the Office of the Family Advocate has received 8 957 cases, of which 8 005 were finalised. These figures exclude the backlog of 2 937 cases accumulated over the past years.

(i) International Child Abduction

The Chief Family Advocate is the designated central authority for South Africa in terms of the Hague Convention on the Civil Aspect of International Child Abduction, which was ratified by South Africa in 1996. The main function of the central authority is to ensure the speedy return of children abducted to and from South Africa through the judicial process, as well as to ensure that the child's right to contact with both parents is not jeopardised unduly. This convention is enforceable between South Africa and 47 countries.

(ii) Mediation Services

The new Children's Act, 2005 (Act No 38 of 2005) (22 sections only) came into operation on 1 July 2007. The act has expanded the duties of the Family Advocate extensively. A rights-based approach is propagated by the act when dealing with children's matters. Most notable is the introduction of compulsory mediation in section 21 (disputes over parental rights and the responsibilities of fathers of children born out of wedlock). Family advocates and family counsellors provide the service through the co-mediation model. Eighty members of the professional staff have been trained in mediation techniques focusing on family mediation.

During 2008/09, 3 014 requests for mediations were received, 1 491 were completed by the personnel of the office and 1 523 were finalised with the assistance of NGOs that specialise in family mediation.



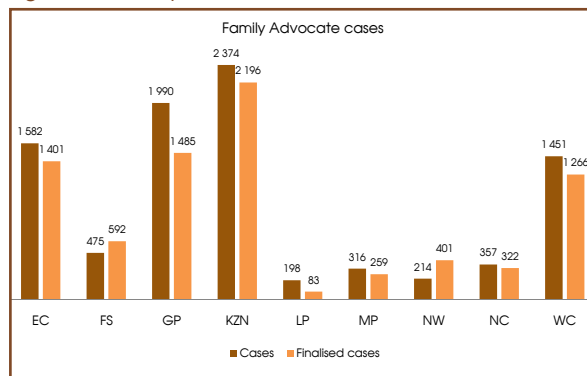
(iii) Conclusion

The Office of the Family Advocate has rendered over 120 parental education workshops in the different provinces, whereby parents were educated about their rights and responsibilities over their children, promoting the new Children’s Act, 2005 (Act No 38 of 2005), as well as mediation as an effective dispute resolution method. It is anticipated that as more people get to know and understand their rights, the demand for the services that are available under the new legislation will increase significantly.

Table 77: Cases received and finalised

Province	Received	Finalised
Eastern Cape	1 582	1 401
Free State	475	592
Gauteng	1 990	1 485
KwaZulu-Natal	2 374	2 196
Limpopo	198	83
Mpumalanga	316	259
North West	214	401
Northern Cape	357	322
Western Cape	1 451	1 266
Total	8 957	8 005

Figure 57: Family advocate cases



G 2010 WORLD CUP

A draft 2010 process mapping document has been completed and submitted to all stakeholders for their input. An unfunded priority project request has been forwarded to National Treasury for funding of the Programme for Foreign Interpreters. All provinces have been briefed about monthly progress reporting and the reporting template. The Prosecution Plan, Programme for Interpreters, Communication Plan and the Risk Plan has been distributed to all stakeholders. Gauteng is currently reviewing its 2010 dedicated courts. Musina and Phalaborwa have been added to the project, as these are two main points of entry in Limpopo.

The economic crunch facing the department has forced the review of the department’s approach in dealing with cases emanating from the FIFA events. The approach of dedicated resources and additional courtrooms, which has a huge budgetary implication, will be revised to accommodate all event-related cases in the normal courts with jurisdiction. Engagements with all relevant stakeholders are currently in place to review options and adopt an approach that will be cost-effective. The Chief Financial Officer has set aside R35 million for the provision of language service requirements, with R5 million for the Confederation Cup this year and the balance towards the 2010 FIFA World Cup.

H COURT MODERNISATION PROGRAMME

One of the major projects of the department is to modernise justice services by providing a speedy business productivity solution using information technology as an enabler.

(i) E-scheduler

E-scheduler is a web-based case management system that allows for access by all court users in the department. The user requirements of the various court types necessitated evolving the E-scheduler into the Integrated Case Management System (ICMS), which provides for a common case registration and case management system related to criminal and civil matters in the Lower and High Court environments, together with the incorporation of a scanning module that provides for the electronic capturing, storage and retrieval of documents related to cases. Currently, the ICMS is being developed in phases and tested prior to roll-out. The table below provides a summary of E-scheduler per region.

Table 78: Summary of E-scheduler per region

Region	Courts
Eastern Cape	85
Free State	66
Gauteng	46
KwaZulu-Natal	77
Limpopo	38
Mpumalanga	36
Northern Cape	35
North West	34
Western Cape	56
Total	473



(ii) Video Postponement

The table below provides a summary of the total cases for the utilisation of the video remand concept for 2008 and 2009.

Table 79: Utilisation of the video remand concept for 2008 and 2009

Year	Durban	Pinetown	Total
2008	714	454	1 168
2009	36	106	142
Total	750	560	1 310

The table below provides a summary of the total cases for the utilisation of the video remand concept since 2005.

Table 80: Utilisation of the video remand concept since 2005

Year	Durban	Pinetown	Port Elizabeth (Operational from 1 August 2008)	New Brighton (Operational from 1 August 2008)	Total
2005 (from October 2005)	713	113			826
2006	2 343	1 560			3 903
2007	788	128			916
2008	714	454	46	55	1 269
January 2009	14	55	5	4	78
February 2009	22	51	4	6	83
Total	4 594	2 361	55	65	7 075

The table below provides a summary of ICMS sites deployed.

Table 81: Summary of ICMS sites deployed

Province	ICMS civil installed	Scanner
Eastern Cape	59	120
Free State	26	55
Gauteng	8	19
KwaZulu-Natal	32	70
Limpopo	5	8
Mpumalanga	16	30
North West	16	34
Northern Cape	23	49
Western Cape	11	26
Total	196	411

(iii) Digital Court Recording System

Summary of the Digital Court Recording System (DCRS) roll-out.

Table 82: Digital Court Recording System roll-out

Area	Headphone system	Data backup system	Sexual offences court/CCTV
Eastern Cape	287	287	47
Free State	169	169	24
Gauteng	363	363	50
KwaZulu-Natal	308	308	29
Limpopo	128	128	36
Mpumalanga	114	114	15



Area	Headphone system	Data backup system	Sexual offences court/CCTV
North West	113	113	26
Northern Cape	89	89	22
Western Cape	265	265	34
High Court	178	0	0
Mobile Units	75	0	0
Total	2 089	1 836	283

The table below provides a summary of the deployment of DCRS court recording machines.

Table 83: Deployment of DCRS court recording machines

Recorders	Number
Recorders installed/deployed	2 089
Deployed to regions for training purposes	120
Recorders still outstanding/stored/backup	221
Total recorders procured	2 430

(iv) Scanning Solution

This system is no longer an independent system, as it has been incorporated into the ICMS development. Scanners have already been procured and deployed to most courts.

(v) Case Flow Management

The department is engaged in the development of an enhanced version of the case flow management (CFM) framework for implementation by involving all stakeholders. In the process, participants from other partner organisations will make meaningful contributions on the issues and blockages affecting the proper implementation of CFM in the court environment. Efforts to eradicate such blockages will be proposed by adopting workable solutions. These include the following:

- Continuous cooperation of stakeholders to implement and maintain CFM at all courts
- Establishing judicial leadership and CFM buy-in processes in the lower and higher courts in the form of CFM forums
- Facilitating and monitoring the creation of CFM governance structures to sustain productivity in the court environment
- Maintaining the CFM concept (guidelines, plans, governance, reporting and systems)

In this regard, CFM judicial empowerment workshops have been conducted in most provinces, in which a total of 366 (of a total of 1 516) district courts and 190 (of a total of 337) regional court magistrates have participated. Endeavours are currently in place to provide for four additional workshops to provinces that still require CFM empowerment and to train coordinators

to manage the process in provinces/clusters in order to empower all remaining magistrates. The enhanced version of the CFM guidelines has been completed through the interaction of most stakeholders and the guidelines are in the process of publication.

2.10.3 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, prepare and promote legislation, facilitate constitutional development and undertake research in support of this.

- The State Law Advisors provides legal advisory services to the executive, all government departments, parastatals and government autonomous bodies.
- Litigation and Legal Services provides attorney, conveyancing and notary public services to the executive, all government departments, parastatals and other government bodies through the offices of the State Attorney, and provides legal support to the department and the Ministry.
- Legislation and Constitutional Development prepares and promotes primary and secondary legislation, and conducts research.
- The Master of the High Court supervises 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 draft bills and regulations and rules for submission to the Ministry for Justice and Constitutional Development in 2008/09.



- Facilitate law reform by submitting at least 10 research publications to the South African Law Reform Commission for consideration and approval in 2008/09.
- Improve legal services provided to government by reducing government departments' reliance on private sector legal advisory services from 70% in 2007/08 to 30% by the end of 2010/11.
- Improve the administration of deceased estates by completing registered estate cases worth R50 000 or less within four months and providing beneficiaries of estates access to assets within 60 days of application.

Table 84: Service delivery achievements

Sub-programmes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Legislative Development	Preparing at least 12 draft bills and regulations and rules for submission to Ministry	Draft bills and regulations and rules	12	29 (11 bills, 8 regulations and 10 rules)	The target actually comprised 12 legislative instruments (bills, regulations and rules).
	Submitting at least 10 research publications to the South African Law Reform Commission for consideration and approval	Research publications	10	10	Achieved.
State Litigation	Improve legal services provided to government	Reducing government departments' reliance on private sector legal advisory services from 70% in 2007/08 to 30% by the end of 2010/11	30%	Not achieved	The use of private legal service providers in providing legal services to client departments will always be a necessity. In cases of conflict of interest in respect of the State Attorney's office, whether due to conflicting instructions between various clients in the same matter or because of prior services rendered by the particular State Attorney's office, the use of correspondent attorneys becomes imperative and therefore unavoidable.



Sub-programmes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
State Litigation (continued)	Improve legal services provided to government (continued)	Reducing government departments' reliance on private sector legal advisory services from 70% in 2007/08 to 30% by the end of 2010/11 (continued)			<p>Further, the use of advocates is also imperative because of the specialist services they render and in the absence of internal capacity or in cases of limited internal capacity.</p> <p>Statistics for the reporting period are based on payments made to private legal services providers during the reporting period. This is not necessarily reflective of the work outsourced for that period, because claims are often made outside the outsourcing period. The increase in the payments made in the reporting period are therefore impacted upon by the outsourcing in previous reporting periods.</p> <p>The lateness, lack of or poor quality of instructions given by clients results in losses of cases and attracts costs against the state. This is a matter not entirely within the control of the branch, because the capacity (whether human or professional) available in the client departments' legal services has a direct bearing on the ability to provide adequate and timeous instructions. The department also does not control the behaviour of public servants, managers, heads of department, MECs and ministers. More specifically, it cannot change the behaviour of policemen, nurses, doctors, teachers, etc, which consequently result in litigation.</p> <p>Finally, there has been an increase in litigation in the past year, and payments to be made in the coming quarter will be influenced largely by that increase.</p>



Sub-programmes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
State Litigation (continued)	Improve legal services provided to government (continued)	Reducing government departments' reliance on private sector legal advisory services from 70% in 2007/08 to 30% by the end of 2010/11 (continued)			<p>Further, the judgment of the Constitutional Court on 2 June 2008 has put pressure on government departments to pay all outstanding judgments, and to provide a report on this by 31 July 2008.</p> <p>The compliance with the judgment has resulted in increased spending on payments of both costs and capital, the bulk of which related to old matters. The continuous and dedicated focus on the settlement of costs since the judgment has resulted in the acceleration of the taxation and payment of costs carried over from previous periods, and the spillover from those activities in the previous quarter will be filtered through in this and subsequent quarters.</p>
Master of the High Court	Improve the administration of deceased estates	Completing registered estate cases worth R50 000 or less within four months	Within four months	Virtually all deceased estates less than R50 000 are finalised within the four-month target	<p>The Master's Branch has committed itself to finalise all small deceased estates, that is those less than R125 000 in value, within four months of their registration, and not only estates of R50 000 or less. While virtually all deceased estates of less than R50 000 that are registered at service points are finalised within the four-month target, approximately 80% to 90% of deceased estates between R50 000 and R125 000 that are dealt with at the master's offices themselves are finalised within the four-month target.</p>



Sub-programmes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Master of the High Court (continued)	Improve the administration of deceased estates (continued)	Providing beneficiaries of estates access to assets within 60 days of application	60 days of application	The time taken to process applications differs from office to office. In some offices, particularly the smaller offices, the turnaround time is as little as three or four days, while in others it is 14 days. In some instances, it is longer and could exceed the 60-day target. Reasons are set out in the last column.	Some claims take some time, for instance, in cases where applicants are applying for money from the fund for the first time and where applicants are applying for final payments on reaching maturity. In these instances, the particulars of the applicants must be verified, for instance their fingerprints must be verified with the Department of Home Affairs, which can delay payments from the fund.

A MASTER OF THE HIGH COURT

The Master’s Branch is a service-driven branch, providing statutory services to the public in terms of a number of acts of Parliament, most notably the Administration of Estates Act, 1965 (Act No 66 of 1965), the Insolvency Act, 1936 (Act 24 of 1936), Chapter XIV of the Companies Act, 1973 (Act No 61 of 1973) (regulating the winding up of companies), the Close Corporations Act, 1984 (Act No 69 of 1984), and the Trust Property Control Act, 1998 (Act No 57 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, 1965 (Act No 66 of 1965) provides for the appointment of masters of the high courts by the Minister for Justice and Constitutional Development. In terms of this section, the Minister must appoint a Chief Master of the High Court 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 which 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 throughout 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 fact 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, 1965 (Act No 66 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. The accompanying tables set out the statistics for each of the 14 master’s offices in respect of the different types of estates administered, as well as the registration of trusts and the appointment of trustees and curators bonis.

(i) Deceased Estates

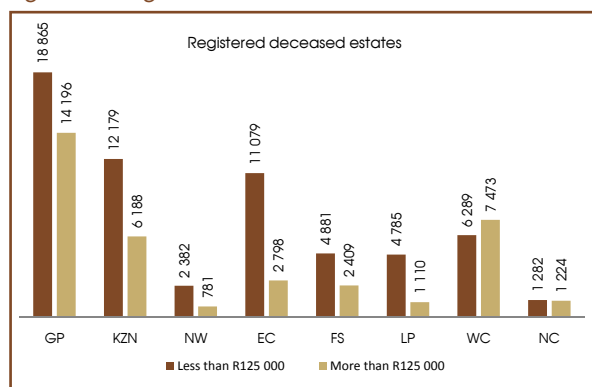
The supervision of the administration of deceased estates constitutes more than 80% of the work carried out in the various master’s offices. The Administration of Estates Act



of 1965 regulates the administration of deceased estates. In terms of section 18(3) of this act, if the value of any estate does not exceed the amount determined by the Minister by notice in the Government Gazette (R125 000), the master may dispense with the appointment of an executor and give directions as to the manner in which any such estate shall be liquidated and distributed.

The graph below depicts the number of deceased estates registered at the various master's offices during 2008/09:

Figure 58: Registered deceased estates



* There is no master's office in Mpumalanga

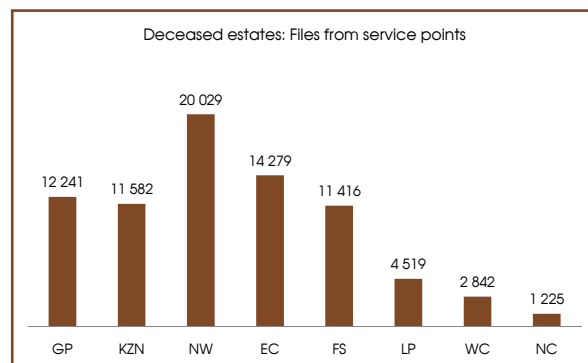
The following are the statistics in respect of deceased estates below R125 000 and deceased estates of R125 000 and more that were registered at the 14 master's offices during 2008/09. The last column indicates the number of files that were received by the master's offices from the various service points that have been designated in terms of section 2A of the Administration of Estates Act, 1965 (Act No 66 of 1965). The figures in the last column are, however, not included in the figures for the number of deceased estates of less than R125 000 in the second column.

Table 85: Estates registered at the various master's offices during 2008/09

Province	Less than R125 000	More than R125 000	Files received from service points
Gauteng	18 865	14 196	12 241
KwaZulu-Natal	12 179	6 188	11 582
North West	2 382	781	3 897
Eastern Cape	11 079	2 798	14 279
Free State	4 881	2 409	11 416
Limpopo	4 785	1 110	4 519
Western Cape	6 289	7 473	2 842
Northern Cape	1 282	1 224	1 225
Total	61 742	36 179	62 001

The graph below depicts the number of files of deceased estates from service points during 2008/09:

Figure 59: Deceased estates: Files from service points



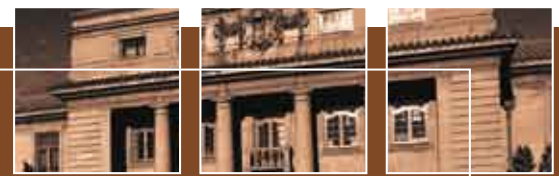
The figures reflecting the number of estates of less than R125 000 in value (those dealt with in terms of section 18(3) of the Administration of Estates Act, 1965 (Act No 66 of 1965), where the appointment of executors is not required) and those of more than R125 000 in value, which were registered at the 14 master's offices during the year under review, are intended to indicate the volumes that are required to be processed by these offices throughout the country. This gives a figure of 97 921 new matters (61 742 estates of less than R125 000 and 36 179 estates of more than R125 000), but excludes the matters received by the master's offices from designated service points.

What is particularly noteworthy, is the fact that the relatively newly established master's offices in Port Elizabeth, Durban and Johannesburg have almost exceeded or have, in fact, exceeded the number of estates registered at the master's offices where these estates would have had to be registered, namely Grahamstown, Pietermaritzburg and Pretoria, had the three new offices not been established. A continuation of this trend might require a re-evaluation of staff establishments in the respective offices in order to accommodate changing needs.

The number of letters of authority issued in respect of estates less than R125 000 in value, section 18(3) of the Administration of Estates Act, 1965 (Act No 66 of 1965), and the number of letters of executorship issued in respect of estates more than R125 000 in value during 2008/09 are as follows:

Table 86: Letters of authority and executorship issued

Province	Number of letters of authority issued in respect of estates less than R125 000	Number of letters of executorship issued in respect of estates more than R125 000
Gauteng	22 427	7 676
KwaZulu-Natal	13 295	7 088
North West	2 382	781
Eastern Cape	8 615	2 856
Free State	4 881	2 409
Limpopo	4 250	830



Province	Number of letters of authority issued in respect of estates less than R125 000	Number of letters of executorship issued in respect of estates more than R125 000
Western Cape	5 603	7 473
Northern Cape	1 260	788
Total	62 713	29 901

In the annual report of the previous year, the number of letters of authority issued in respect of estates less than R125 000 in value was 63 894, compared to 62 713 during the year under discussion, representing a decrease of approximately 1 000. In respect of estates of more than R125 000 in value, there has also been a decrease compared to the previous year, namely from 32 039 in 2007/08 to 29 901 in the year under review, a decrease of approximately 2 000 matters. Again, the statistics in respect of the new offices in Port Elizabeth, Durban and Johannesburg indicate that they are in the process of becoming centres where services are required more than in Grahamstown, Pietermaritzburg and Pretoria, which previously provided the services in question.

The number of estates of less than R125 000 in value and the number of estates of more than R125 000 in value finalised during 2008/09 are as follows:

Table 87: Estates finalised during 2008/09

Province	Number of estates of less than R125 000 finalised	Number of estates of more than R125 000 finalised
Gauteng	25 695	11 579
KwaZulu-Natal	11 847	3 424
North West	1 866	429
Eastern Cape	12 646	3 116
Free State	14 493	1 510
Limpopo	4 840	285
Western Cape	4 576	5 642
Northern Cape	1 046	1 194
Total	77 009	27 179

The above figures give an indication of the number of small and big estates (those of less than R125 000 and those of more than R125 000, respectively), which were finalised during the year under review.

These statistics have not been reflected in the annual reports of the past two years. They will form the basis for a comparison in the next annual report. In total, 104 188 estates (small and big) were finalised this year. Although 103 288 new deceased estates (small and big) were registered in the year under review and 104 188 were finalised during the

same period, it is accepted that many of the estates finalised this year also include some of those that were registered during the previous financial year and not finalised then.

Again, cognisance must be taken of the statistics in respect of the newly established offices in Port Elizabeth, Durban and Johannesburg, which are beginning to overshadow their counterparts in Grahamstown, Pietermaritzburg and Pretoria.

(ii) **Insolvencies/liquidations**

What is striking from the statistics below, is the considerable increase in the number of insolvencies/liquidations dealt with in many of the master's offices when compared with the statistics provided in the annual report for the period 2007/08. This can only be ascribed to the current global economic crisis. The Insolvency Act, 1936 (Act No 24 of 1936), regulates the administration of insolvent estates in the case of individuals, and Chapter XIV of the Companies Act, 1973 (Act No 61 of 1973), and the Close Corporations Act, 1984 (Act No 69 of 1984), regulate the winding up of insolvent companies and close corporations, respectively. The Insolvency Act, 1936 (Act No 24 of 1936), and Chapter XIV of the Companies Act, 1973 (Act No 61 of 1973), are particularly in need of urgent revision in order to bring them in line with best international practices and to address challenges being experienced.

Statistics in respect of companies and close corporations placed in liquidation and in respect of individuals who were sequestrated during 2008/09 are as follows:

Figure 60: Companies and close corporations placed under liquidation

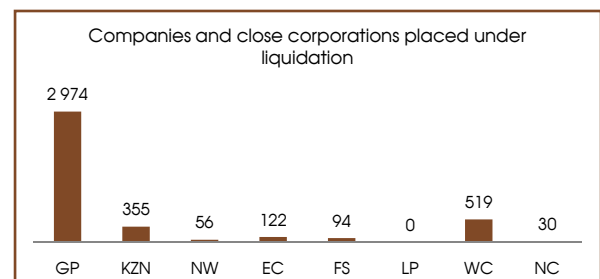


Figure 61: Number of individuals sequestrated

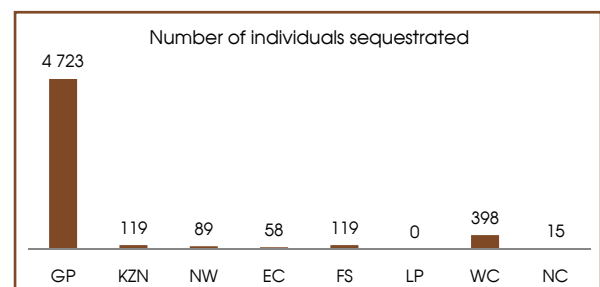


Table 88: Liquidations and sequestrations

Province	Number of companies and close corporations placed under liquidation	Number of individuals who were sequestrated
Gauteng	2 974	4 723
KwaZulu-Natal	355	119
North West	56	89
Eastern Cape	122	58
Free State	94	119
Limpopo	0	0
Western Cape	519	398
Northern Cape	30	15
Total	4 150	5 221

Most liquidations occurred in Gauteng, the economic hub of the country. Compared to the statistics reflected for the previous financial year, the total number of liquidations has increased from 2 124 to 4 150, nearly double the previous statistics in this regard. Again, cognisance must be taken of the statistics in respect of the newly established offices in Port Elizabeth, Durban and Johannesburg, which are beginning to overshadow their counterparts in Grahamstown and Pietermaritzburg. Pretoria still exceeds Johannesburg in this respect, however.

Most sequestrations occurred in Gauteng, the economic hub of the country. Compared to the statistics reflected for the previous financial year, the total number of sequestrations has increased from 1 864 to 5 221, more than double the previous statistics in this regard. Again, cognisance must be taken of the statistics in respect of the newly established offices in Port Elizabeth and Durban, which are beginning to overshadow their counterparts in Grahamstown and Pietermaritzburg. Pretoria still exceeds Johannesburg in this respect.

Figure 62: Letters of authority and executorship issued on deceased estates

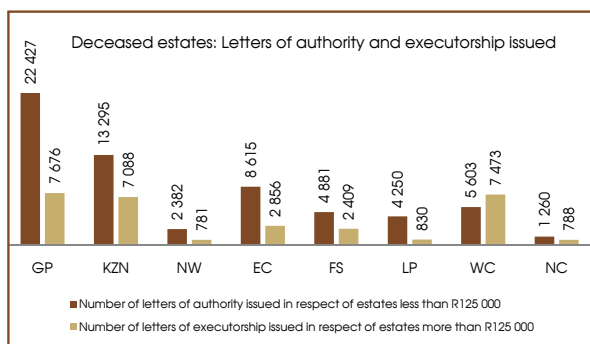
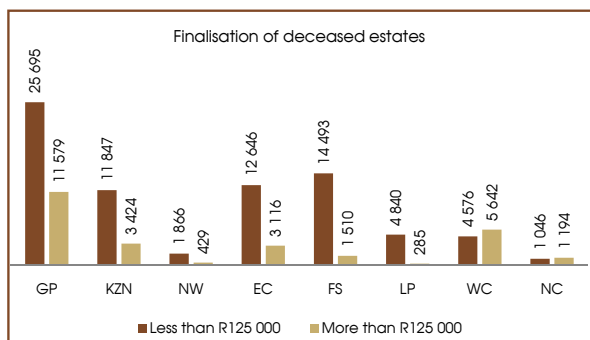


Figure 63: Finalisation of deceased estates



As already indicated, the regulatory framework in respect of all types of insolvent estates is outdated and requires urgent revision. One of the priorities of the Master's Branch for the year ahead is to facilitate the finalisation of this crucial aspect in the administration of justice. For this purpose, a researcher at the South African Law Reform Commission, who was responsible for the investigation into the revision of the law of insolvency, has been appointed in a vacant post in the Office of the Chief Master at the national office in Pretoria. A further aspect that requires urgent attention is the regulation of the liquidations industry (insolvency practitioners). Draft legislation in this regard will receive the attention of the branch during 2009/10, with the assistance of the resource person from the South African Law Reform Commission. In terms of the Insolvency Act, 1936 (Act No 24 of 1936), the Companies Act, 1973 (Act No 61 of 1973), and the Close Corporations Act, 1984 (Act No 69 of 1984), the Minister for Justice and Constitutional Development is required to determine policy regarding the appointment of trustees, liquidators and judicial managers in the case of all types of insolvent estates in order to promote consistency, fairness, transparency and the achievement of equality for persons previously disadvantaged by unfair discrimination in these areas. Policy guidelines to give effect to these statutory requirements will also receive priority attention.



(iii) Guardian's Fund

Chapter V of the Administration of Estates Act, 1965 (Act No 66 of 1965), regulates the administration of the Guardian's Fund. This fund consists of all monies received by the masters under the Administration of Estates Act, 1965 (Act No 66 of 1965), or any other law pursuant to an order of court or any money accepted by a master in trust for any known or unknown person. A master must, upon application of any person who has become entitled to receive money from the fund, pay that money to the applicant. The applicant can be a guardian, tutor or curator of a person, for instance, a minor. It is important to note that not all 14 master's offices offer Guardian's Fund services. Only the master's offices in Cape Town, Grahamstown, Pietermaritzburg, Pretoria, Kimberley and Bloemfontein offer these services. These six offices provide Guardian's Fund services to the remainder of the master's offices throughout the country, on their behalf.

The extension of the Guardian's Fund services to the remaining offices is one of the projects being driven by the Office of the Chief Master in the national office, Pretoria. It is planned to have the roll-out of Guardian's Fund services to all master's offices completed by the end of the current MTSF cycle. During the year ahead, specific attention will be given to the roll-out of these services in Johannesburg and Durban. Mention must

be made of the fact that the management and administration of this fund has been automated, and the erstwhile manual system designed for this purpose is in the final stages of being phased out. The Master's Office, Pretoria, was the last office to be automated and is in the process of finalising the verification of data placed on the system. The computerisation of the administration of the Guardian's Fund and the completion of the verification process in Pretoria will in future allow for far more accurate reporting on the activities of the fund at the push of a button.

The responsibilities relating to the administration of the Guardian's Fund include investing the money held in trust, calculating interest accruing to the money received, processing applications for payments from the fund and making payments to persons entitled to those monies. The total volume (number) of receipts for the Guardian's Fund for 2008/09 was 10 643 and the value of these receipts was R576 432 958. The total volume (number of cheques) or payments from the fund was 40 797, valued at R618 322 567.

The table below reflects the total volumes and values of payments made from the Guardian's Fund, as well as deposits received in the Guardian's Fund for the period under review.

Table 89: Payments made from and deposits received in the Guardian's Fund

Volumes and values of payments	Volume		Amount
	At interest	39 987	R577 384 631
	Commission	192	R2 598 102
	No interest	618	R38 339 834
Total		40 797	R618 322 567
Volumes and values of receipts	Volume		Amount
	At interest	9 196	R539 023 283
	Commission	664	R9 762 712
	No interest	783	R27 646 963
Total		10 643	R576 432 958

(iv) Trusts and Curatorships

Most trusts were registered in Gauteng. Compared to the statistics reflected for the previous financial year, the total number of trusts registered has increased from 23 644 to 32 746, approximately 10 000 more than the previous year. Most activity regarding curatorships took place in Gauteng. Compared to the statistics reflected for the previous financial year, the total number of

curatorships dealt with has increased from 836 to 1 097, approximately 300 more than the previous year. One of the reasons for this could be the implementation of the Mental Health Care Act, 2002 (Act No 17 of 2002), which came into operation at the end of 2004. This act allows persons to approach the masters, rather than the courts, as was previously the case, for the appointment of curators bonis.



Table 90: Trusts registered and trustees appointed

Province	Office	Number of trusts registered and trustees appointed	Number of curators bonis appointed
Gauteng	Johannesburg	7 187	134
	Pretoria	8 350	543
Total for Gauteng		15 537	677
KwaZulu-Natal	Durban	0	20
	Pietermaritzburg	3 323	65
Total for KwaZulu-Natal		3 323	85
North West	Mafikeng	165	26
Total for North West		165	26
Eastern Cape	Mthatha	16	3
	Grahamstown	3 091	40
	Bisho	24	0
	Port Elizabeth	260	7
Total for Eastern Cape		3 391	50
Free State	Bloemfontein	2 495	40
Total for Free State		2 495	40
Limpopo	Polokwane	4	0
	Thohoyandou	28	0
Total for Limpopo		32	0
Western Cape	Cape Town	7 187	212
Total for Western Cape		7 187	212
Northern Cape	Kimberley	616	7
Total for Northern Cape		616	7
Total for all master's offices		32 746	1 097

Figure 64: Trusts registered and trustees appointed

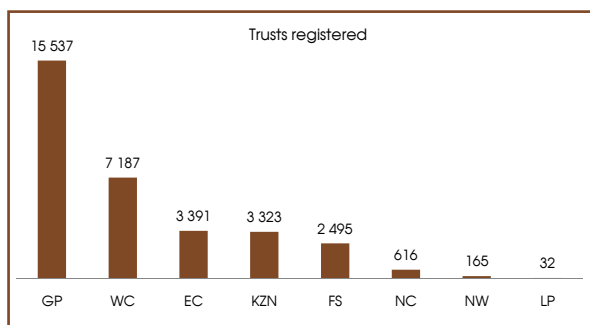
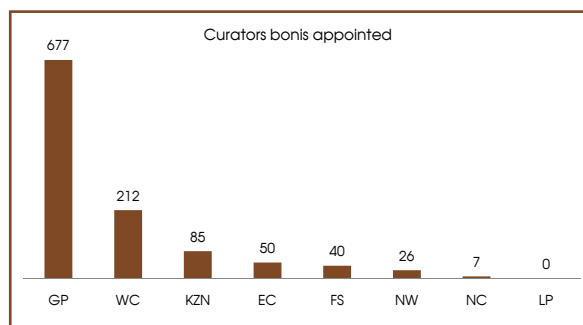


Figure 65: Curators bonis appointed



(v) General

The above statistics indicate a general increase in almost all new work being registered at the various master's offices, some quite considerably, especially in the case of insolvencies. The Master's Branch has an establishment of 1 174 posts. While nearly 600 new posts were created and recruitment processes in respect of these new posts were finalised during the previous financial year, many officials appointed in these posts only assumed duty during the year under review. There are still 223 vacant posts that need to be filled, some of which will be used in the roll-out of the Guardian's Fund services to the offices that do not offer these services at the moment. Every effort will be made to fill these vacancies in the year ahead insofar as the budget permits, bearing in mind the budget cuts announced by the Minister of Finance. Mpumalanga is the only province that does not have a master's office. This means that the master's services in that province

are provided by the master's offices in Johannesburg and Pretoria. The establishment of a master's office in Mpumalanga, possibly in Nelspruit, is under investigation. This will relieve some of the work pressure in the master's offices in Pretoria and Johannesburg.

In conclusion, mention needs to be made of the roll-out of the ICMS Masters to all 14 master's offices and 70 magistrate's courts during the previous financial year. ICMS Masters is a modern 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 in providing more accurate information for the purpose of reporting on these matters. The branch plans to roll this system out to all service points (magistrate's offices) by the end of the current MTSF cycle. This will go a long way in making more master's 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.



B OFFICE OF THE STATE LAW ADVISOR

The Office of the State Law Advisor provides legal advice, representation and legislative drafting services to the Executive, all state departments at both national and provincial levels, municipalities, parastatals and independent or autonomous bodies that may refer work to it. The department supports the government to achieve 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 high quality.

The core functions of the Office of the Chief State Law Advisor are as follows:

- 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

The State Law Advisors are tasked with the solemn responsibility of ensuring that the state is able to deliver on its obligations, promote the rule of law and give effect to the values enshrined in the Constitution of the Republic of South Africa. 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 in the Parliament of the Republic of South Africa. It is the responsibility of the State Law Advisors to ensure that legislation 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 towards the development of the country's constitutional jurisprudence.

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 department has established a Translation Services Unit. This Unit translates bills introduced in Parliament into the official languages of the Republic.

The department has completed a cost-benefit analysis to determine the advantages in terms of costs savings to the state if greater use is made of the services offered by

the Office of the Chief State Law Advisor. The results of the analysis are as follows:

In the private sector, using the Bar Council's scale for non-litigious matters, the following would be charged:

Junior Counsel	R500 per hour
Counsel with at least five years' experience	R800 per hour
Senior Counsel	R2 500 per hour

Benefit/savings for state

Using the scale above, the Office of the State Law Advisor averaged its savings for the state at R1 500 per hour.

Savings for government

To determine what it costs the state to use the services of the Office of the State Law Advisor, it divided its budget for the year by the number of hours worked by everyone in the office. This resulted in an amount of R424 per hour. This includes the provision made in the budget for infrastructure.

Examples:

a) Costing of the renaming of the High Court's bill:

Consultation with department (2 hours)	= R850
Research (20 hours)	= R8 500
Drafting (2 hours)	= R850
Checking and settling (12 hours)	= R5 100
Total hours (36 hours)	= R15 300*

If the same work was done privately, it would have cost the state R54 000.

Savings to the state = R38 700

* Note: This excludes the time that would be spent attending Portfolio and Select Committee meetings at Parliament, drafting committee-proposed amendments and rendering legal advice.

b) Costing of complex opinion on the meaning of the term 'salary' within the context of the National Prosecuting Authority Act, 1998 (Act No 32 of 1998):

Study of brief (1.5 hours)	= R638
Research (40 hours)	= R17 000
Drafting of opinion (15 hours)	= R6 375
Checking of opinion (8 hours)	= R3 400
Total hours (64.5 hours)	= R27 413



If the same work was done privately, it would have cost the state R96 750.

Savings to the state = R69 337

c) Costing of international agreements:

Scrutiny of international agreements for possible conflict with domestic law (4 hours)	= R1 700
Scrutiny to ensure uniform style and form (3 hours)	= R1 275
Checking (2 hours)	= R850
Total hours (9 hours)	= R3 825

If the same work was done privately, it would have cost the state R13 500.

Savings to the state = R9 675

During the period under review, there were requests for legal opinions relating to the legal framework governing local government, namely the Municipal Systems Act and Municipal Property Rates Act, as well as other opinions related to policies developed by municipalities. The department has been successful at providing legal services to government departments and municipalities as indicated in the graphs:

Table 91: Legal services provided

	Finalised	Not finalised	Total
Legal opinions	203	1	204
Bills	183	8	191
International agreements	354	1	355
Bills translated	24	0	24

Figure 66: Bills

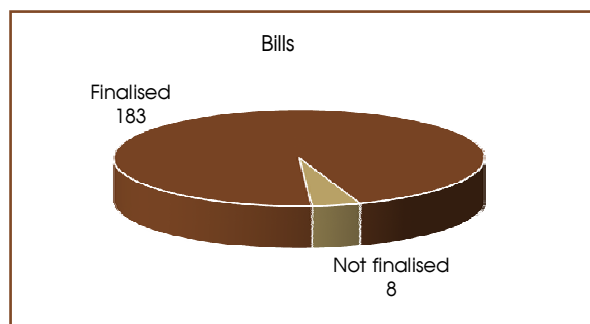


Figure 67: International agreements

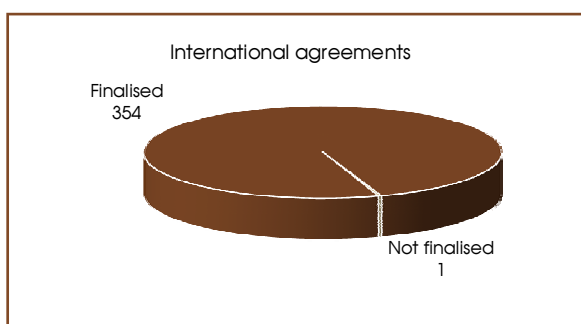


Figure 68: Legal opinions

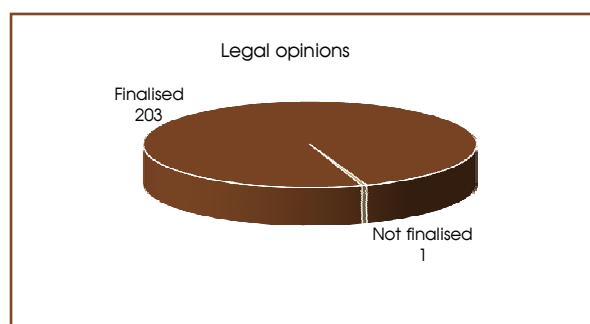
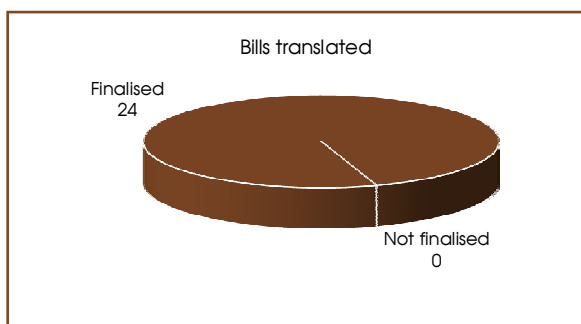


Figure 69: Bills translated





C OFFICE OF THE CHIEF LITIGATION OFFICER

The Office of the Chief Litigation Officer is responsible for managing state litigation in the country through the work performed by state attorneys who represent the state in all litigation matters. The Office of the Chief Litigation Officer comprises the State Attorneys, Legal Process and Law Enforcement divisions. The Office of the State Attorney was created in terms of the State Attorney Act, 1957 (Act No 56 of 1957), and performs the work of the attorney, notary and conveyancer for the national and provincial departments and for other government institutions.

Eleven offices of the State Attorney have been established across the country, with the most recent addition being an office in Mthatha, which will officially open on 1 June 2009.

The State Attorney provides an essential service to the public in that citizens who have claims against the state or provincial government can serve their court papers on the state attorney for the area concerned. The State Attorney will then attend to the matter further. In addition, the State Attorney acts on behalf of state and provincial departments to institute action on their behalf. The collection of unpaid debt due to the state forms a large portion of the work of the State Attorney, as does the registering of deeds of transfer normally in state housing schemes.

The various offices of the State Attorney need to make use of private practitioners where they do not have the capacity or skills. In this regard, the briefing policy is that 50% of all instructions go to black practitioners and 40% of all instructions to female practitioners. The client departments have the final say in the appointment of outside practitioners, and so their cooperation is essential to achieve these briefing targets.

During the period under review, further progress was achieved in preparing the service level agreements to be signed between the Office of the State Attorney and client departments. The objective for the signing of the service level agreements is to give effect to the intentions of the State Litigation Management Forum (SLMF) Blueprint whereby parties enter into agreements, where the needs and roles of the parties are specified according to their various requirements as dictated by the litigation each department is faced with.

One of the most challenging facets of litigation is the time constraints imposed on litigants, as set out in the Rules of Court. Therefore, in order to adhere to these constraints, it was necessary that a system of rapid communication be implemented. It is against this background that the National Litigation Directory was introduced, which sets out the contact details of the heads of office and deputies

for national and provincial government departments to aid the rapid communication between the offices of the State Attorney and the client departments.

The department has embarked on the rewriting of the current case management electronic system to make sure that it incorporates all the requirements of the department. A client specification workshop, Joint Application Design (JAD), was held with the State Information Technology Agency (SITA) to develop specific requirements for the new system. SITA is currently developing the system, which will be implemented during the 2009/10 financial year.

The SLMF is comprised of all government officials responsible for litigation implemented for or against the state, inclusive of provincial structures and parastatals. A conference was held in June 2008 at the Birchwood Hotel, where the SLMF was launched. The objective of the conference was to bridge the gap that had developed over numerous years between the Office of the State Attorney and client departments, to foster relations and to open the channels of communication. This is a major step for the efficient management of state litigation. The SLMF appointed a task team, as elected by members at the conference, to champion the drafting of the blueprint. Once a draft had been finalised, a consultation process was initiated with all stakeholders. After consideration of input received by stakeholders, a refined blueprint is to be presented to Cabinet for endorsement and approval.

The training needs were assessed in the offices of the State Attorney and a report was forwarded to the Justice College for the development of training programmes or outsourcing of training. The programme will be implemented in the 2009/10 financial year. Fields of specialisation in certain areas of the law were identified. Courses in respect on those areas of law must be in line with the area for specialisation in those fields of law.

A skills audit was conducted in all the State Attorney offices, and the report was forwarded to the Justice College to design training programmes to mitigate capacity gaps in the offices of the State Attorney. A new organisational structure for the offices of the State Attorney was approved, and additional posts will be created and filled during the 2009/10 financial year. Due to budgetary constraints, not all the posts were filled, but only the prioritised and critical posts. The department will conduct a business process mapping exercise to improve on the work flow and productivity of the branch.

The State Attorney System (SAS) will be extended to client departments. Consultation on proper systems, which will result in the issuing of timeous instructions, is an immediate need. This includes early warning systems.



The use of private legal service providers in providing legal services to client departments will always be a necessity. In cases of conflict of interest in respect of the State Attorney's office, whether due to conflicting instructions between various clients in the same matter or because of prior services rendered by the particular State Attorney's office, the use of correspondent attorneys becomes imperative and therefore unavoidable. Furthermore, the use of advocates has also been imperative because of the specialist services they render and because of a lack of internal capacity or limited internal capacity.

Statistics for the reporting period are based on payments made to private legal service providers during the reporting period. This is not necessarily reflective of the work outsourced for that period, because claims are often made outside the outsourcing period. The increase in the payments made in the reporting period are therefore impacted on by outsourcing in previous reporting periods.

Total expenditure on private legal practitioners

During the period 1 April 2008 to 31 March 2009, the State Attorney issued a total of 6 458 briefs to private advocates. Payments to counsel include payments where the counsel was briefed in the previous financial year.

Table 92: Expenditure on private legal practitioners

Office	Number of briefs	Value of the briefs (total payments to counsel)
Pretoria	2 343	R99 787 126
Johannesburg	1 212	R41 094 300
Bisho	806	R28 435 491
Durban	643	R9 908 623
Port Elizabeth	459	R17 118 399
Cape Town	392	R44 214 474
Mafikeng	250	R10 456 015
Bloemfontein	165	R5 496 647
Thohoyandou	119	R4 485 505
Kimberley	69	R4 135 113
Total	6 458	R265 131 693

Table 93: State litigation: civil cases

State litigation – civil cases	
New claims	89
New notices of motion	304
New ad hoc matters	51
Total	444

There are 330 pending civil action matters involving an amount of R3 395 117 832 (R3.3 billion). A total of R3 374 592 (R3.3 million) was paid towards settlements or *ex gratia* payments.

Figure 70: Briefs to private advocates

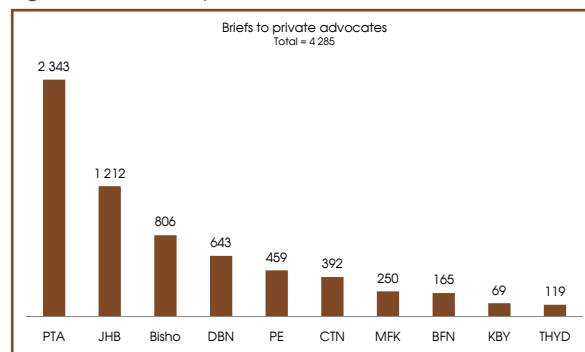


Figure 71: Value of briefs

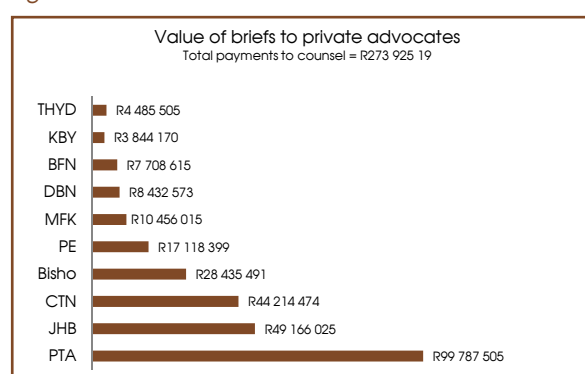


Figure 72: State litigation: civil cases

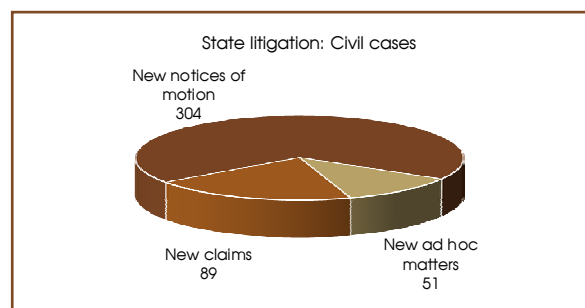
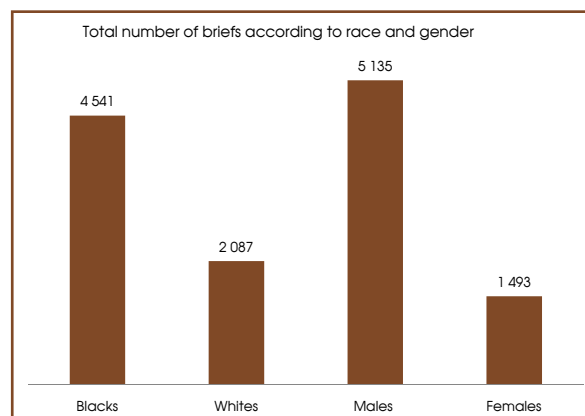


Figure 73: Total briefs according to gender and race



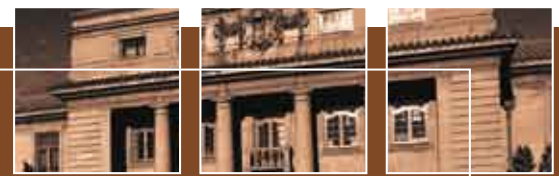


Table 94: State litigation: total briefs according to gender and race

State litigation – total briefs per gender and race									
Office	Black	White	Male	Female	Black males	Black females	White males	White females	Total
Bisho	693	113	744	62	649	44	95	18	806
Bloemfontein	90	75	123	42	63	27	60	15	165
Cape Town	239	153	221	171	134	105	87	66	392
Durban	580	63	380	263	335	245	45	18	643
Johannesburg	905	307	957	255	684	221	273	34	1 212
Kimberley	42	27	24	45	12	30	12	15	69
Mafikeng	217	33	167	83	141	76	26	7	250
Port Elizabeth	253	206	388	71	215	38	173	33	459
Pretoria	1 331	1 012	1 873	470	1 109	222	764	248	2 343
Thohoyandou	108	11	115	4	104	4	11	0	119
Total	4 458	2 000	4 992	1 466	3 446	1 012	1 546	454	6 458

Figure 74: Breakdown of briefs according to race and gender

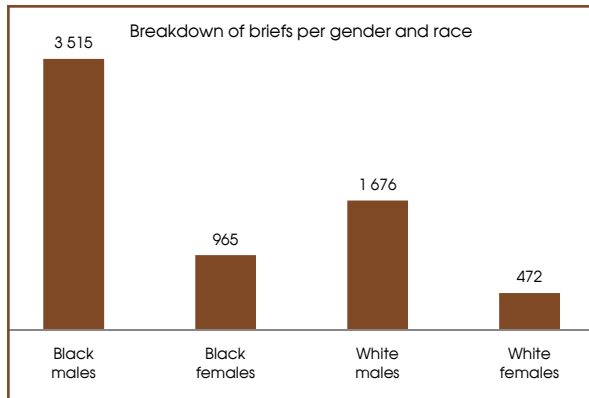


Table 95: State litigation: normal pardon applications

State litigation – normal pardon applications		
Quarters	Matters received	Processed
Q1	476	582
Q2	569	337
Q3	589	588
Q4	725	485
Total	2 359	1 992

Figure 75: State litigation: Civil cases

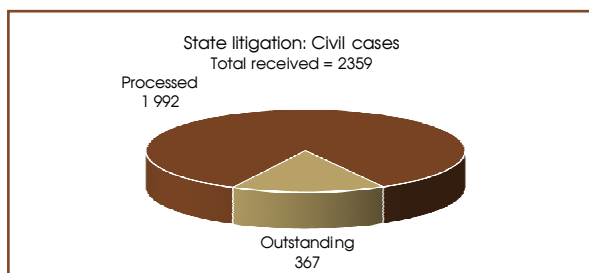
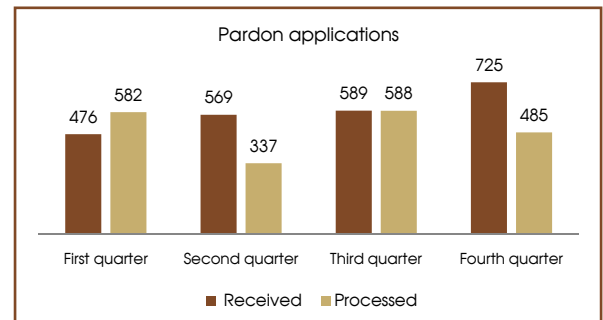


Figure 76: Pardon applications



Law enforcement

The main objective of the Directorate: Law Enforcement is the effective and efficient handling of all civil litigation, loss control and related matters involving the Minister, the Director-General and officials.

There are 330 pending civil action matters involving an amount of R3 395 117 832 (R3.3 billion). A total of R3 374 592 (R3.3 million) was paid towards settlements or *ex gratia* payments.

Loss control

Loss control matters are being dealt with in terms of Treasury Regulations 11 and 12, in conjunction with the departmental financial instructions and other standing instructions. Liability of the responsible officials is determined accordingly.

Table 96: Loss control: amount recovered

Loss	Amount recovered
Money	R27 762 463
Out-of-service debt	R26 724 308
Property	R90 850
Total	R54 577 621



D LEGISLATIVE DEVELOPMENT

The branch consists of the Chief Directorate: Legislative Development and the Chief Directorate: Law Reform, which includes 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
- 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 for Justice and Constitutional Development

(i) Legislative Development

During the year under review, the chief directorate exceeded its target of 12 legislative instruments (bills, regulations and rules) by submitting 11 bills and eight sets of regulations to the Minister. This is as a result of legislation requiring urgent promotion. Bills requiring urgent promotion relate to the National Prosecuting Authority Amendment Bill, the various Constitution Amendment Bills and the Reform of the Customary Law of Succession Bill.

(ii) Secretariat of the South African Law Reform Commission

During the year under review, the South African Law Reform Commission (SALRC) reached its target of submitting the following 10 research publications to the commission for consideration and approval: report on trafficking in persons, interim report on administration of estates, report on privacy and data protection, discussion paper on statutory law revision (legislation administered by the Department of Housing), discussion paper on statutory law revision (legislation administered by the Department of Transport), discussion paper on sexual offences (adult prostitution), pre-investigation on non-disclosure in insurance law, pre-investigation on the need for reform of the legal position regarding culpable and unlawful killing of a foetus by a third party, pre-investigation into multi-disciplinary legal practices, and an analysis of responses on an administration orders questionnaire.

The following research publications were published by the SALRC during the year under review: discussion paper on statutory law revision (legislation administered by the Department of Housing), discussion paper on statutory law revision (legislation administered by the Department of Transport), issue paper in questionnaire format to determine the scope of the law of evidence investigation, discussion paper on hearsay evidence and relevancy, report on protected disclosures, report on stalking, report on trafficking in persons, and report on administration of estates.

(iii) Secretariat of the Rules Board for Courts of Law

The Rules Board submitted 10 rules to the Minister for approval. The queries were attended to and the rules were resubmitted for the Minister's approval. The full list of rules submitted in this period is set out further in this report.

(iv) Legislation passed in 2008/09

- Repeal of the Black Administration Act, 2008 (Act No 7 of 2008)
- South African Judicial Education Institute Act, 2008 (Act No 14 of 2008)
- Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)
- Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008)
- Renaming of the High Courts Act, 2008 (Act No 30 of 2008)
- Regulation of Interception of Communications and Provision of Communication-related Information Amendment Act, 2008 (Act No 48 of 2008)
- Constitution Fourteenth Amendment Act of 2008
- Constitution Fifteenth Amendment Act of 2008
- General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Act, 2008 (Act No 55 of 2008)
- National Prosecuting Authority Amendment Act, 2008 (Act No 56 of 2008)
- Criminal Procedure Amendment Act, 2008 (Act No 65 of 2008)
- Judicial Matters Amendment Act, 2008 (Act No 66 of 2008)
- Child Justice Act, 2008 (Act No 75 of 2008)
- Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act No 11 of 2009)
- Constitution Sixteenth Amendment Act of 2009



(v) Legislation passed before 2008 that is receiving attention (implementation)

- Magistrate’s Courts Amendment Act, 1997 (Act No 67 of 1997): To implement the provisions dealing with lay assessors in certain criminal proceedings. Certain problems that have been identified by role-players must be addressed.
- Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000): Although the whole act is in operation, the implementation of the Rules of Procedure for Judicial Review and the Code of Good Administrative Conduct are outstanding. The code must be approved by Parliament before it is published by the Minister.
- Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000): The provisions dealing with the promotion of equality will be implemented once the regulations on the promotion of equality have been finalised.
- Protected Disclosures Act, 2000 (Act No 26 of 2000): Although the act is in operation, the Protected Disclosures Guidelines required by the act must still be approved by Parliament and published by the Minister after Parliament has so approved.
- Judicial Matters Second Amendment Act, 2003 (Act No 55 of 2003): The implementation of the provisions relating to the compulsory attendance of a legal practice management course by newly admitted attorneys is outstanding. The department held the implementation of these provisions in abeyance at the request of the Law Society of South Africa, which requested that further amendments be enacted. These amendments have been enacted. The provisions are now ready for implementation.
- Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007): Although the act is in operation, the establishment of the National Register for Sex Offenders and the national policy framework required by the act are receiving attention.

(vi) Bills introduced to Parliament during the financial year

Table 97: Bills introduced to Parliament during the financial year

Bill	Progress
General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Bill	This bill sought to effect amendments, which were mainly of a consequential nature and which emanate from the provisions of the Constitution Fourteenth Amendment Bill of 2008 and the Constitution Fifteenth Amendment Bill of 2008, to five relevant acts. The bill also sought to further regulate certain matters relating to the funding of political parties. The bill was passed by Parliament and came into operation on 17 April 2009.
Constitution Fourteenth Amendment Bill	These bills, among others, sought to abolish floor-crossing in the National Assembly, provincial legislatures and municipal councils. These bills were passed by Parliament and came into operation on 17 April 2009.
Constitution Fifteenth Amendment Bill	
Repeal of the Black Administration Act and Amendment of Certain Laws Amendment Bill	The bill sought to further extend the statutory deadline for the repeal of certain provisions of the Black Administration Act of 1927 in order to afford the department an opportunity to develop a policy framework and legislation regulating the roles and functions of traditional leaders in the administration of justice. The bill was passed by Parliament and came into operation on 29 June 2008.
Judicial Matters Amendment Bill	The bill contained amendments to numerous acts of Parliament that are administered by the Department of Justice and Constitutional Development, and which address mostly non-contentious issues of a technical nature that have been identified in practice. The bill has been passed by Parliament. A number of identified provisions of the act came into operation on 17 February 2009, when it was published in the Government Gazette.
Criminal Procedure Amendment Bill	The bill sought to make provision for the expungement of the criminal records of persons in respect of certain less serious offences after the lapse of a prescribed time period. It also sought to regulate the postponement of certain criminal proceedings by way of audiovisual linkage. The bill was passed by Parliament. The provisions relating to the expungement of criminal offences came into operation on 6 May 2009. In respect of the audiovisual provisions, regulations are required to deal with the technical aspects. These are receiving attention.



Bill	Progress
National Prosecuting Authority Amendment Bill	The bill sought to align the National Prosecuting Authority Act, 1998 (Act No 32 of 1998), with the relocation of the Directorate of Special Operations to the South African Police Service. After extensive public hearings and deliberations, it was approved by Parliament and came into operation on 20 February 2009.
Reform of Customary Law of Succession and Regulation of Related Matters Bill	The bill sought to give effect to the South African Law Reform Commission's legislative recommendations in order to bring the Customary Law of Succession in line with the Constitution, thereby eliminating unfair discrimination in that area of the law. Existing legislation in this regard has already been declared to be unconstitutional by the Constitutional Court. This bill sought to confirm the Constitutional Court's order, which will contribute to gender equality, allowing more women and children to share directly in the proceeds of deceased estates. The bill was passed by Parliament, but has not yet been implemented.
Renaming of High Courts Bill	The bill sought to address the undesirable situation where certain high courts are still referred to by their names under the previous constitutional dispensation prior to 1994. The bill was passed by Parliament and came into operation on 1 March 2009.
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 police and by establishing a DNA database. The bill is to receive further attention by Parliament.
Constitution Sixteenth Amendment Bill	The bill sought to redetermine the geographical areas of the provinces of Gauteng and North West so as to reincorporate the Merafong City Local Municipality into the province of Gauteng. The bill was passed by Parliament and came into operation on 3 April 2009.

(vii) Bills pending before Parliament that received attention during 2008/09

Table 98: Bills pending before Parliament that received attention during 2008/09

Bill	Progress
Regulation of Interception of Communications and Provision of Communication-related Information Amendment Bill (electronic registration of cellphone and SIM card-holders)	The bill sought to amend sections 40 and 62(6) of the principal act so as to allow the electronic capturing of the personal particulars of owners and buyers of cellular phones and SIM cards. The bill was passed by Parliament and will come into operation on a date to be fixed by the President.
Jurisdiction of Regional Courts Amendment Bill	The bill is intended to confer civil jurisdiction on regional courts, as well as jurisdiction to deal with family issues that are currently dealt with by the divorce courts established under section 10 of the Administration Amendment Act, 1929. The bill was passed by Parliament, but has not yet been implemented.
Judicial Service Commission Amendment Bill	The bill creates a tribunal and sets out procedures to deal with cases of incapacity, gross incompetence or gross misconduct on the part of judges. The bill was passed by Parliament. The act will be put into operation after regulations have been made.
South African Judicial Education Institute Bill	The bill sought to regulate the training of judicial officers, which will be undertaken by the institute the act intends to create. The bill was passed by Parliament. The act came into operation on 23 January 2009. A departmental task team, consisting of representatives of the Policy Unit and the Branches: Court Services and Legislative Development have been appointed to attend to implementation issues, and, among others, the drafting of the required regulations.
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 to Parliament in March 2008 and the department briefed the Portfolio Committee on the bill in May 2008. The bill was not finalised before the 2009 general election.



Bill	Progress
Child Justice Bill	The bill creates a separate criminal justice system for children in trouble with the law, thereby giving effect to section 28 of the Constitution, dealing with the rights of children, and, among others, the right to be treated in a manner and kept in conditions that take account of the child's age. This bill will also give effect to South Africa's international obligations as a party to the Convention on the Rights of the Child. The bill was passed by Parliament and will come into operation on 1 April 2010. Regulations are currently being drafted.

The following bills have reached an advanced stage of preparation with a view to their introduction to Parliament in the next financial year:

1. Constitution Amendment Bill and State Liability Amendment Bill

Because there have been instances where court orders have not been complied with by the state, the State Liability Bill is intended to ensure that the state (government departments) comply with court orders made against them, particularly court orders sounding in money. The current State Liability Act 57, 1957 (Act No 20 of 1957), is no longer appropriate for dealing with problems such as the prompt execution of court orders by the state, and therefore adversely affects the effectiveness of the courts. An accompanying Constitutional Amendment Bill is also required.

2. Prevention and Combating of Trafficking in Persons Bill

The bill is intended to give effect to the South African Law Reform Commission's legislative recommendations relating to trafficking in persons. The department is in the process of obtaining comments on the bill.

3. Protection from Harassment Bill

The bill is intended to give effect to the South African Law Reform Commission's legislative recommendations relating to stalking. The department is in the process of obtaining comments on the bill.

4. Muslim Marriages Bill

The bill is intended to give effect to the South African Law Reform Commission's legislative recommendations that provide for the recognition of Muslim marriages, the patrimonial consequences thereof and related matters.

5. Prevention and Combating of Hate Speech, Racial Discrimination, Xenophobia and Related Intolerance Bill

The bill is intended to give effect to South Africa's international obligations as a party to the Convention Against All Forms of Racial Discrimination.

6. South African Human Rights Commission Amendment Bill and Commission on Gender Equality Amendment Bill

The bills seek to bring the principal acts (the Human Rights Commission Act, 1994 (Act No 54 of 1994), and the Commission on Gender Equality Act, 1996 (Act No 39 of 1996)) in line with the Constitution and to further regulate various matters relating, among others, to the composition, powers, functions, functioning of, and the position of support staff of the South African Human Rights Commission and Commission on Gender Equality.

7. Superior Courts Bill and Constitution Amendment Bill

The Superior Courts Bill provides for the rationalisation of the structure and functioning of South Africa's superior courts, as contemplated in the Constitution. The bill also regulates the management of the judicial functions of all courts, and deals, among others, with the responsibility of the Executive for the administration of all courts.

8. 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.

9. Judicial Matters Amendment Bill

The bill is intended to promote a number of urgent amendments to different acts administered by the department.



10. Constitution Seventeenth Amendment Bill of 2009 (municipal functions)

The bill is intended to vest 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.

11. Constitution Amendment Bill

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 inter alia.

12. Constitution Amendment Bill

The bill is intended to address various financial matters.

Subordinate legislation

The following subordinate legislation has been prepared or finalised:

Table 99: Subordinate legislative instruments

Subordinate legislative instruments	Progress
Regulations relating to the Children’s Court in terms of Chapter 5 of the Children’s Act, 2005 (Act No 38 of 2005)	The Minister for Justice and Constitutional Development is required to make regulations under this act in respect of Chapters 4 and 17, after consultation with the Minister of Social Development and the Minister of Finance. The regulations have been prepared and submitted to the Minister of Social Development and the Minister of Finance. The Minister of Social Development is required to make regulations under the remainder of the provisions of the act, after consultation with the Minister for Justice and Constitutional Development. The Minister of Social Development has submitted a letter and draft Social Development Regulations to the Minister for Justice and Constitutional Development for comments. The comments have been prepared and are being finalised for submission to the Minister.
Amendment of regulations regarding witness fees in terms of the Criminal Procedure Act, 1977 (Act No 51 of 1977)	The regulations for increasing witness fees were published in the Government Gazette on 11 April 2008.
Regulations regarding the civil execution of maintenance orders in terms of the Maintenance Act, 1998 (Act No 99 of 1998)	A set of draft regulations is being prepared for submission to internal role-players for comments.
Regulations in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007)	Regulations giving effect to Chapters 5 and 6 of the act were published on 22 May 2008. Part 1 of these was implemented on 22 May 2008. Part 2, relating to the provisions for the establishment of the National Register for Sex Offenders, was implemented on 16 June 2008. The department is in the process of giving effect to the establishment of the National Register for Sex Offenders.
Regulations relating to the promotion of equality in terms of the Promotion of Equality and the Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000)	As a result of the regulatory impact assessment that was done in respect of the draft regulations and a few problems with the provisions of the act, a number of options were generated for consideration by the Minister.
Regulations relating to exhumations and reburials (TRC victims) in terms of the Promotion of National Unity and Reconciliation Act, 1995 (Act No 35 of 1995)	Draft regulations were published for general comment after having been approved by Cabinet. The comments received were evaluated and revised. Draft regulations have been submitted to the Minister of Finance for consideration.
Regulations relating to educational assistance (TRC victims) in terms of the Promotion of National Unity and Reconciliation Act, 1995 (Act No 35 of 1995)	Draft regulations were finalised in conjunction with the Department of Education. The Minister of Finance furnished comments on the draft regulations, which are being evaluated.
Regulations relating to medical assistance (TRC victims) in terms of the Promotion of National Unity and Reconciliation Act, 1995 (Act No 35 of 1995)	Draft regulations were submitted to the Minister of Health and comments are awaited.



Subordinate legislative instruments	Progress
Amendment of regulations relating to the funding of political parties in terms of the Public Funding of Represented Political Parties Act, 1997 (Act No 103 of 1997)	The regulations giving effect to the abolition of floor-crossing were published and came into effect on 17 April 2009.
Regulations relating to the expungement of certain criminal offences in terms of sections 2 and 3 of the Criminal Procedure Amendment Act, 2008 (Act No 65 of 2008)	Draft regulations in respect of the expungement of certain criminal offences were prepared during the period under review.

(viii) South African Law Reform Commission

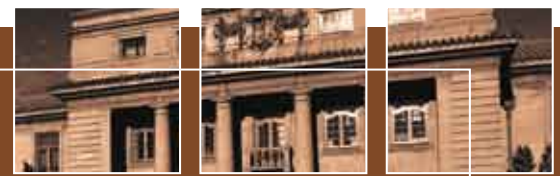
In 2008/09 the research projects of the South African Law Reform Commission progressed as follows:

Table 100: Research projects

Research projects	Progress
Project 25: Statutory law revision – Constitutionality of legislation and repeal of redundant provisions	On 31 July 2008 the Minister for Justice and Constitutional Development appointed advisory committee members to assist the SALRC with the review of the legislation administered by the departments of Agriculture, Communications, Defence, Education, Environmental Affairs and Tourism, Health, Home Affairs, Justice and Constitutional Development, Labour, Land Affairs, Minerals and Energy, National Treasury, Provincial and Local Government, and Trade and Industry. Thirteen advisory committees met during October and November 2008 to decide on the methodology to be adopted in the review process and commenced with developing draft consultation papers. Consultation papers and discussion papers will be finalised in respect of the 14 departments in the course of 2009. Legislation administered by the Department of Transport: a discussion paper was published for general information and comment in May 2008. The closing date for comment was 31 August 2008. A report will be finalised in the course of 2009. Legislation administered by the Department of Housing: a discussion paper was published for general information and comment in November 2008. The closing date for comment was 28 February 2009. A report will be finalised in the course of 2009. Legislation administered by National Treasury (in respect of certain acts, excluding tax legislation): a consultation paper was submitted to Treasury in June 2008 for preliminary comment. A discussion paper will be finalised in the course of 2009. A discussion paper on the tax legislation administered by Treasury is being developed and will be finalised during the course of 2009.
Hindu marriages	The appointment of an advisory committee to assist the SALRC is receiving attention. A discussion paper on Hindu marriages is being developed and will be finalised during the third quarter of 2009.
Review of the Interpretation Act, 1957 (Act No 33 of 1957)	A draft report is being developed and will be finalised during the course of 2009.
Project 94: Arbitration: Community dispute resolution structures	The project addresses issues that have to be considered when establishing effective structures for resolving community-level disputes. A need exists for an alternative system of dispute resolution apart from formal court procedures. The purpose of such a system would be to deliver justice to the community in a cost-effective, accessible and expeditious manner within a culture of human rights and respect for the Constitution. A draft report will be submitted to the SALRC during the course of 2009.



Research projects	Progress
Project 94: Arbitration: Family mediation	The field of family and divorce mediation developed in a highly segmented fashion, as services in the past were provided along lines of race, culture and income level. Family advocates and the divorce courts do utilise mediation, but family advocates have been criticised for not making proper use of mediation procedures, while mediation in the divorce courts is a limited, irregular and informal part of the settlement process. Social workers in provincial institutions are also involved in this area and court referrals often result in intervention requests. A draft discussion paper will be finalised during the course of 2009.
Project 100: Family law and the law of persons: Custody of and access to minor children	Preparatory and comparative research (identification and gathering of research and comparative material) has been conducted with a view to identifying issues for reform. A series of countrywide workshops with stakeholders also aided this process. A discussion paper with draft legislation is in the process of being developed.
Project 100: Family law and the law of persons: Review of aspects of matrimonial property law	Preparatory research, with a view to developing an issue paper as time allows while the researcher is still involved in Project 122, progressed throughout the period. The question whether sharing of pension benefits on divorce should be included in the investigation in view of the envisaged pending implementation of a draft bill dealing with this issue was resolved through consultation with the Branch: Legislative Development. An advisory committee was appointed to assist the SALRC with the investigation. The advisory committee met to identify possible issues for reform for inclusion in the issue paper.
Project 107: Sexual Offences: Adult prostitution	A discussion paper entitled <i>Sexual Offences: Adult Prostitution</i> was approved by the SALRC for publication on 28 March 2009. The planning of nine workshops on the discussion paper has been completed.
Project 113: The use of electronic equipment in court proceedings	This investigation was included in the SALRC's programme on 14 June 1997. The objective of the investigation is to determine whether or not the use of electronic equipment in court proceedings is a viable option to save costs or prevent delays in civil and criminal trials. At the request of the National Director of Public Prosecutions in 2002/03, the SALRC expedited the investigation and conducted a separate investigation into the possibility of postponement of cases via video-conferencing. In a report submitted to the Minister in July 2003, the SALRC recommended the use of audiovisual links with reference to applications for leave to appeal and appeals in respect of accused persons in custody in prison. The recommendations of the report have been incorporated into the Criminal Procedure Amendment Bill, which was passed by Parliament in October 2008. At the recommendation of the Advisory Committee for the Review of Rules of Evidence, the remainder of the outstanding issues relating to evidence in Project 113 are now included as a subproject under Project 126, the review of the rules of evidence. Since completion and publication of the report on the postponement of criminal cases via audiovisual link in July 2003, Project 113 is now deemed to be finalised, but SALRC approval for this is still pending.
Project 122: Assisted decision-making: Adults with impaired decision-making capacity	Support to the SALRC with regard to other priorities impacted on the finalisation of a draft report (which will include a proposed draft bill on assisted decision-making). Flow charts of processes reflected in the proposed draft bill were prepared at the request of the Chief Master to enable long-term planning for the envisaged implementation of the proposed legislation. Policy input on the proposed legislation was requested and obtained from the Department of Justice and Constitutional Development. A draft report will be finalised during the course of 2009.
Project 123: Protected disclosures	The report on protected disclosures was approved for publication by the Minister on 23 September 2008 and released to the public at a media conference on 25 November 2008. Media enquiries have been dealt with on an ad hoc basis.
Project 124: Privacy and data protection	The investigation into privacy and data protection has been concluded. The report, including the draft Protection of Personal Information Bill, was finalised in October 2008. It was evaluated and approved by the advisory committee in November 2008 and by the SALRC in January 2009. The document was submitted to the Minister of Justice and Constitutional Development for consideration in February 2009.



Research projects	Progress
Project 125: Prescription periods	A draft discussion paper was developed for the attention of the project leader for consideration. The community was included at early stages of the investigation by developing a questionnaire and making a presentation on 2 September 2009 at a Law Week Conference held at the University of the North, with a view to eliciting information from the community and informing them about the project.
Project 126: Review of the law of evidence	A discussion paper on hearsay evidence and relevance and an issue paper on the review of the law of evidence were published for general information and comments during the first quarter of 2008. The closing date for comments was 31 March 2008, but was extended to 30 June 2008, and again to the end of August 2008 at the request of a number of role-players. The publications were submitted to various role-players for input, including members of the judiciary, academics, attorneys, advocates, law societies, bar councils, government departments, and members of the prosecution service. In the light of the limited response received, the advisory committee resolved in November 2008 that the discussion paper and issue paper should be resubmitted for comment. The two research publications were distributed again for comment during the first quarter of 2009 and the new closing date for comments was 31 March 2009.
Project 127: Review of administration orders	On 14 January 2009 the SALRC considered a document containing the researcher's response to comments on the questionnaire published in March 2008. The SALRC approved the researcher's proposals on the way forward. The researcher is working on urgent legislative amendments for discussion at a stakeholders' meeting in the second quarter of 2009.
Project 130: Stalking	The report on stalking and draft Protection from Harassment Bill were approved for publication by the Minister on 28 October 2008 and released to the public by way of a media conference on 25 November 2008. The bill is receiving the attention of the DoJ&CD and is to be tabled in Parliament in 2009. Media enquiries have been dealt with on an ad hoc basis. Support is being provided to the DoJ&CD as and when needed.
Project 131: Trafficking in persons	The report on trafficking in persons and draft Prevention and Combating of Trafficking in Persons Bill were approved for publication by the Minister and released to the public by way of a media conference on 25 November 2008. The bill is receiving the attention of the DoJ&CD and is to be tabled in Parliament in 2009. Media enquiries have been dealt with on an ad hoc basis. Support is being provided to the DoJ&CD as and when needed.
Project 133: A specific civil action in respect of consequential damages arising from hoaxes	A discussion paper has been finalised and submitted to the project leader for consideration.
Project 134: Administration of estates	An interim report was submitted to the Minister on 19 August 2008 and was released at a media conference on 25 November 2008. The Minister met with the Subcommittee of Masters of the Justice Portfolio Committee and other stakeholders on 19 March 2009. The acting Chief Master requested the researcher to attend, as the meeting dealt with recommendations in the interim report of the SALRC on the administration of estates. The researcher prepared documents for this meeting, including a draft directive by the Chief Master and draft notices to increase amounts in terms of the Administration of Estates Act, 1965 (Act 66 of 1965). The Minister afforded interested parties until early April to comment on the draft directive.

(ix) Secretariat of the Rules Board for Courts of Law

The Rules Board has submitted the following 10 sets of rules to the Minister for approval in the period 1 April 2008 to 31 March 2009:

1. Rules of Procedure for Judicial Review of Administrative Action
2. Amendment of Rule 70(4) of the Uniform Rules of Court to provide a new procedure for the taxation of costs in the High Courts
3. Amendment of Rule 50 of the Uniform Rules of Court to provide for notice of set down of trials to be served by the Registrar
4. Amendment of Rules 45 and 46 of the Uniform Rules of Court to provide for judicial oversight of sales of immovable property in execution as provided by the Constitution
5. Amendment of Rule 46(3) of the Uniform Rules of Court to amend the mode of attachment of immovable property



6. Amendment of the Magistrate's and High Court Rules to increase sheriffs' fees
7. Amendment of the Magistrate's and High Court Rules to increase attorneys' tariff of fees
8. Amendment of Rule 22 of the Magistrate's Court Rules to provide for a case management system
9. Amendment of Rule 43(6) of the Magistrate's Court Rules to provide for the publication of notice of sales in execution in designated newspapers
10. Amendment of Rule 46(7)(c) of the High Court Rules to provide for the publication of notice of sales in execution in designated newspapers

2.10.5 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, the Public Protector, the Commission on Gender Equality, the Legal Aid Board, the Special Investigating Unit, the Represented Political Parties' Fund and the President's Fund.

- The Office for the Control of Interception and Monitoring of Communication authorises applications by law enforcement agencies for the interception and monitoring of communications in terms of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No 70 of 2002).
- The South African Human Rights Commission promotes and monitors the observance of human rights in South Africa.
- The Commission on Gender Equality aims to create a society free from gender discrimination and any other forms of oppression.
- The Special Investigating 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.
- The Legal Aid Board provides legal aid to indigent people and provides 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.
- The Justice Modernisation National Crime Prevention Strategy (NCPS) 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 gives effect to the reparations policy flowing from the findings of the Truth and Reconciliation Commission.
- The Represented Political Parties' Fund provides for the funding of political parties participating in Parliament and provincial legislatures.

Measurable objective

Ensure the independence and integrity of the administration of justice, provide vulnerable groups with additional legal services and advice, and ensure that these services are used increasingly due to greater public awareness.

A JUSTICE MODERNISATION

(i) Integrated Call Centre Relocation

The Integrated Support Centre (ISC) is the department's information and communications technology help desk. It is a very important service support delivery organ of the department and requires close monitoring, management and control in the interest of the public being served. Its relocation to the national office will improve its supervision for better service delivery. The physical relocation of ISC was completed in March 2009.

(ii) Public Key Infrastructure (PKI) Proof-of-concept (POC) Project

This project is completed, and, based on budget circumstances and organisational requirements, a full roll-out will be considered. The benefit of this is to ensure that sensitive documentation will be encrypted and secured.

(iii) Desktop and Printer Renewal Project

The project was completed as planned, and 2 897 desktops have been renewed at 109 sites, while 336 desktops were deployed to new users. A total of 2 136 printers have been renewed at 217 sites. This project ensures that services are not interrupted as a result of out-of-warranty equipment for which spares are not easily available.

(iv) 3-COM Switch Renewal Project

The project was completed as planned. The project commenced in October 2008 and 881 switches have been renewed.



(v) Implementation of ILM Archival Solutions

This project was not completed as planned, due to the delay experienced in the procurement phase of the project. The department has chosen the archiving of e-mails as Phase 1 of this project. The project is still in its conceptual phase. The benefit of this project will be to make available space on the servers where information and documents are stored. This will also comply with the archival and disposal rules.

(vi) Implementation of IT Disaster Recovery Plan (DRP) Business Continuity Solutions

The site is 80% completed. The outstanding portion is due to delays from the Department of Public Works. Once the disaster recovery site is completed, a disaster recovery solution will have to be implemented in order to replicate all the department's applications and data in real time so as to ensure a continuous service to the public. The tender was published and technical evaluation was undertaken in conjunction with the State Information Technology Agency (SITA). Budget shortfalls prohibit the implementation of the solution.

(vii) Development and roll-out of identified modules: Integrated Case Management System (ICMS)

- **ICMS Small Claims Court Phase**
This system has been designed, developed and tested as per the user requirements and is currently being piloted at two courts and will be rolled out to the rest of the country.
- **ICMS Lower Court Civil**
Phase 1 of the system has been deployed to 196 courts and 417 scanners have been installed. Further enhancements were made to the Phase 1 system, which has been designed, developed and tested as per the user requirements. This enhanced system is currently being piloted at two courts and will be rolled out to the rest of the country. Functional trainers have been trained for the enhanced system.
- **ICMS Family Courts**
The high-level scoping and user requirements specification have been completed. The development of the family court system was dependent on lower courts' civil enhancements being completed first in order to reuse developed components and reducing costs.
- **ICMS Lower Court Criminal**
Phase 1 of the system has been tested and implemented at the Kempton Park, Durban and Bronkhorstspuit magistrate's courts. Functional

trainers received further refresher training in April 2009. Development for Phase 2 of this system has commenced with high-level scoping and user requirement specifications having been completed. Detailed user requirements are in the process of being obtained via Joint Application Development (JAD) workshops with users.

- **ICMS Masters (IADE) Enhancements**

Phase 1 of the system has been deployed to all 14 master's offices and 75 service points. Phase 2 of this system has commenced with high-level scoping and user requirement specifications having been completed. Detailed functional specifications were signed off.

(viii) National Register for Sex Offenders and Certificate Issuance System

The high-level scoping and detailed user requirements have been completed. It must be noted that the SAPS plays a major and critical role in the envisaged solution for a person vetting process via their criminal record centres (CRCs). A business process mapping exercise with the relevant departments is underway. Once finalised, the system will be fully developed.

(ix) Justice Deposit Account System

The Justice Deposit Account System (JDAS) is now rolled out to all cash halls at courts countrywide.

Achieving interoperability within the cluster: integration between the case management systems of the various IJS departments

The integrated justice system (IJS) focuses on the various interdepartmental information exchange points and events arising from the flow of cases, persons, exhibits and property business information between the cluster departments (DoJ&CD, the SAPS, the Department of Correctional Services, the NPA and the Department of Social Development). The following related departmental integration projects were identified for the last financial year:

- **ICMS/CAS Integration**

As a result of this integration, it will not be necessary for the clerks of the courts to capture the case particulars, as they will be able to access this on the system once they have entered the criminal administration system (CAS) number. The court would be able to send reminders/notes to SAPS users via the system (notifications) without having to call them for information telephonically. In instances



where cases are postponed and the accused are sent to prison or places of safety, the SAPS is notified of the postponement date electronically and case outcomes are also sent to them electronically, alleviating the dependency on capturers to capture it onto the Criminal History System and CAS system. The development of the ICMS and CAS components allowing for this integration has been completed. Pilot site testing is planned for the 2009/10 financial year.

- **ICMS/ECMS integration**

The prosecutors at courts can send reminders/notes to NPA users via the system (notifications) without having to call them for information telephonically. In instances where a case is postponed and the accused is sent to prison or places of safety, the ECMS system is updated automatically and the prosecutor is notified of the postponement date. The case management system for the National Prosecution Service (NPS) business unit is still in the process of development. Completion of development is envisaged for September 2009.

- **ICMS/A&R integration**

As a result of this integration, it will not be necessary for the clerks at the Department of Correctional Services to capture the case particulars or the postponement date/next appearance date of an accused sent to prison for the first time or being sent back to prison as a result of a postponement, as they will be able to access this on the system once they have entered the CAS number. The court can send reminders/notes to the DCS users via the system (notifications) without having to call them for information telephonically. It should also contribute to reducing the backlog that has occurred as a result of information of persons entering the prison not being captured on the day when the person was brought to prison. Case outcomes are also sent to them electronically. A decision was taken to defer this integration to the new financial year. The Department of Correctional Services was not ready for the integration due to the lack of funds to upgrade the network to allow for the integration and changes being made to the A&R system. The integration is dependent on the funds to upgrade the DCS network.

- **ICMS/DSD Child Protection Register integration**

As a result of this integration, it will not be necessary for the clerks at the Department of Social Development (DSD) to capture the case particulars or the postponement date/next appearance date of minors in conflict with the law sent to secure care facilities as a result of a postponement, as they will

be able to access this on the system once they have entered the CAS number. The court can send reminders/notes to the DSD or probation officers via the system (notifications) without having to call them for information telephonically. This will alleviate the dependency on capturers to capture data, as they now only have to capture the information required by the DSD. Case outcomes are also sent to them electronically. A decision was taken to defer this integration to the new financial year, 2009/10, during the second quarter. The DSD was not ready for the integration due to the lack of funds to upgrade the DSD network to allow for the integration and changes made to the CPR system.

- **ICMS/CJS KPI BI integration**

High-level scoping and user requirement specifications have been completed as part of various IJS workshops. Once finalised, the system will be developed to submit relevant information to the IJS hub to produce key performance indicators (KPIs) for the CJS.

Video Postponement Project

This project allows for the completion of certain remands at a correctional centre that is linked to a court through digital connectivity by means of video-conferencing. The Port Elizabeth site is operational and has conducted 130 remands. The national roll-out of the solution has commenced with the distribution of hardware to an identified site for Phase 1. The following activities at the Pretoria courts and Pretoria DCS site were completed:

- Refurbishments
- Network installation
- Equipment installation

All identified sites should be operational by March 2010.

B PRESIDENT'S FUND

A progress report on the implementation of the TRC recommendation is included under the report in Programme 1.





Annual Financial Statements

for the year ended 31 March 2009



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1. Report of the Accounting Officer to the Executive Authority and Parliament of the Republic of South Africa

1.1 General review of the state of financial affairs

1.1.1 Important policy decisions and strategic issues facing the department

The department's key strategic objectives are as follows:

- Capacitating and restructuring courts
- Integrating the justice system
- Catering for vulnerable groups
- Improving the maintenance system to relieve the pressure on the courts

Effectively meeting these objectives will improve the standard of service delivery, broaden access to justice, and improve the efficiency of the criminal justice system.

Improving service delivery

The department aims to do the following:

- Fill critical vacancies
- Modernise the justice system services
- Reduce the backlog of cases and improve overall case flow management

Additional resources are utilised to meet the demands imposed on the criminal justice system by the high crime rate, and more general factors such as skills shortages.

Improved administrative processes and logistics and more efficient use of human resources led to noticeably higher levels of service delivery. Information technology solutions introduced at selected courts countrywide helped to resolve cases more speedily.

Broadening access to justice services

In order to bring court services to marginalised communities, townships and rural areas, the department is continuing to rationalise courts and redemarcate magisterial districts. The construction of new courts in townships and rural areas is continuing, and mobile courts will service remote communities until permanent facilities are built.

Crimes against women and children continue to be high on the agenda. Ongoing priorities are as follows:

- Public communication and education about services and assistance for victims of crime

- Services related to maintenance
- The Guardian's Fund
- Sexual and domestic violence
- Truth and Reconciliation Commission recommendations
- Issues affecting vulnerable groups

A Child Justice Bill implementation framework has been developed and is being reviewed by the stakeholders. The Association of Regional Magistrates of South Africa facilitated the training of approximately 250 regional court magistrates on child justice, diversion and non-custodial sanctions in serious cases. A family law learnership was finalised in 2007/08, and staff such as family advocates and counsellors are being trained on domestic violence.

More efficient criminal justice system

The review of the criminal justice system, endorsed by Cabinet as priority, is currently underway. The review seeks to improve the overall functioning of the criminal justice cluster, and is being conducted by the Justice Crime Prevention and Security (JCPS) Cluster, coordinated by the Deputy Minister of Justice and Constitutional Development.

Progress has been made in establishing a single coordinating and management structure for the criminal justice system at all levels, including an integrated and seamless electronic database of information relevant to the Criminal Justice Cluster.

Programmes for combating crime and strengthening South Africa's democracy will continue in partnership with the private sector, religious and traditional leaders, and civil society.

1.1.2 Significant events that have taken place during the year

Occupation Specific Dispensation (OSD)

The Minister of Public Service and Administration issued a determination for the OSD after an agreement was concluded in the bargaining council. The agreement was signed with the provision that the Minister of Justice and Constitutional Development will extend the determination to the National Prosecuting Authority and the Legal Aid Board. The agreement came into effect on 7 February 2008 (date of signing), with payments backdated to 1 July 2007. The then Minister of Justice and Constitutional Development approved the implementation of the OSD, which included the shifting of funds within the vote and additional allocations to the Legal Aid Board.



A request for additional funding of R177 million in the Adjustment Estimate was declined. The department, through internal reprioritisation, downscaling of existing programmes and a National Treasury allocation for inflation adjustments, managed to secure funding for the implementation of Phase 1 of the OSD. The Office of the CFO and branch managers were requested to thoroughly interrogate the baseline allocations and identify possible areas of saving/underspending.

The percentage underspending represents 0.6% of the total adjusted appropriation, which is an indication of the department's commitment to curb expenditure to stay within the budget approved by Parliament.

Increases in the compensation of judges and magistrates

The Independent Commission for the Remuneration of Office-bearers made recommendations in October 2008 (after the Adjusted Estimate of National Expenditure for 2008/09) for the remuneration of judges and magistrates to be increased. On 21 October 2008, the President approved the salary increases payable to judges and magistrates with effect from 1 April 2008. The payment of salaries for judges and magistrates is a statutory amount and therefore a direct charge against the National Revenue Fund. National Treasury granted approval for the department to draw additional amounts from the National Revenue Fund to cover the over-expenditure of R198 685 million on the judges' and magistrates' salaries during the 2008/09 financial year. The excess of R13 million remaining at financial year-end has been recovered from the National Revenue Fund during the 2009/10 financial year.

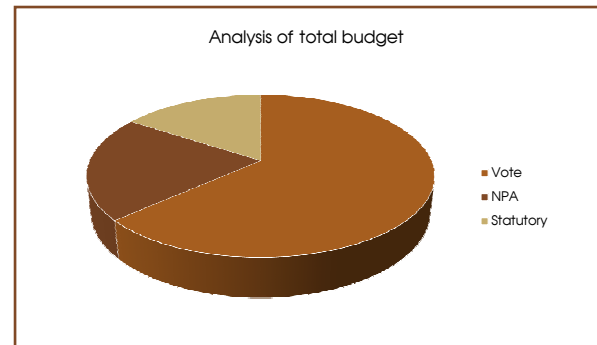
1.1.3 Spending trends

Voted funds received by the department

The budget allocated to the department (excluding statutory appropriation) amounted to R8 341 432 000. An additional amount of R174 093 000 was allocated to the department, bringing the adjusted appropriation to R8 515 525 000. Although the adjusted appropriation indicates a budget totalling R8 515 525 000 for the vote, the financial statements reflect only R6 403 716 000. The discrepancy of R2 111 809 000 is due to the fact that the amount appropriated for the National Prosecuting Authority (NPA) is reported on in the financial statements of the NPA. However, when applying the principles of virement, it is applied on the vote as a whole and not as the NPA being a separate reporting responsibility.

The NPA assumed separate responsibility for all support services previously rendered by the department with

effect from 1 April 2001. The NPA has since this date been responsible for its own accounting systems, and therefore separate financial statements have, as was the case last year, been prepared for the NPA.



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

	2008/09 R'000	2007/08 R'000
Total adjusted appropriation (excluding NPA and statutory appropriation)	6 400 004	5 733 976
Amount (transferred to)/ received from NPA for virement	3 712	(56 575)
Final appropriation	6 403 716	5 677 401
Less: Expenditure	6 362 176	5 513 497
Saving/Underspending	41 540	163 904
Percentage underspending	0.6%	2.9%

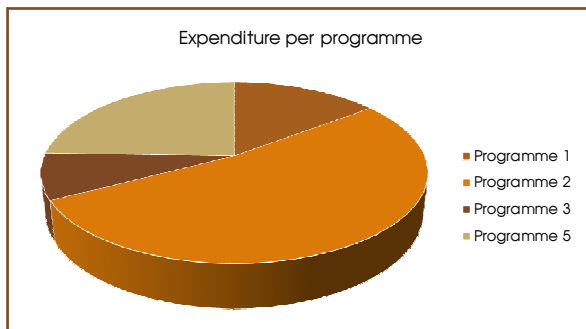
The expenditure incurred by the department was R6 362 176 000 and against the final appropriated amount for the year of R6 403 716 000 leaving the department with an underspending of R41.5 million, 0.6 % of the final appropriated amount.

The implementation of the Occupational Specific Dispensation (OSD) for legally qualified personnel resulted in the programmes for Court Services (Programme 2) and State Legal Services (Programme 3) being the programmes with the highest over-expenditure. The underspending of the department is the direct result of deliberate cuts in operational expenditure, curtailment of unplanned acquisition of goods and services and the non-filling of vacant posts. This was done to fund the implementation of the OSD.



The underspending of the department was on the following items:

Item	R'000
Goods and services	11 526
Transfers and subsidies	1 417
Other current expenditure	3
Payment for capital assets	28 594
Total saving	41 540



Virement

The following virements were approved between programmes.

- A portion of the saving on goods and services was utilised to increase the compensation of employee budget by R1 984 million.
- A portion of the saving on the transfer to the Legal Aid Board was utilised to fund the excess of expenditure of R4 892 million incurred for the transfer of households.

Statutory appropriation (judges' and magistrates' salaries and allowances)

	2008/09 R'000	2007/08 R'000
Total amount appropriated	1 389 329	1 266 518
<i>Plus:</i> Additional allocation	198 685	-
	1 588 014	1 266 518
<i>Less:</i> Expenditure	1 601 091	1 184 527
Saving/(Overspending)	(13 077)	81 991

Revenue

	2008/09 R'000	2007/08 R'000
Opening balance	14 426	4 770
Revenue generated	352 511	312 434
Total revenue generated	366 937	317 204
<i>Less:</i> Revenue paid to Revenue Fund	343 806	302 778
Surplus to be surrendered to Revenue Fund	23 131	14 426



Some 77% (2007/08: 76%) 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.

A legal opinion and research on practices internationally indicated that monies received from the TPF do not necessarily constitute departmental revenue. The department therefore continued with its endeavours in order to get clarity on the uncertainty whether monies received by the TPF on behalf of the state should be paid to the vote account and be regarded as departmental revenue. The department engaged in several meetings with National Treasury (NT) regarding the approach, and although it was initially envisaged that the revenue from the TPF would be paid directly to the National Revenue Fund (NRF), the NT, in a letter dated 27 July 2009, indicated that if money is due to the state, then this money will flow to the NRF through the books of the relevant departments. The department is in the process to investigate the practical implication of the ruling, as well as the impact of this on the vote account of the department.

1.2 Services rendered by the department

1.2.1 Tariff policy

The department's services and related charges are all fixed by law and 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.

1.2.2 Free services

- Administration of Third Party Funds (Monies in Trust) is currently being done free of charge. Should a fee be charged, it would yield significant revenue.
- Small Claims Court: The presiding officer is normally a lawyer or retired magistrate.
- Law lecturers render a free service at magistrate's courts.
- A number of free 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 and financial 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 South Africa. Legal services include scrutiny of international agreements, including extradition agreements, scrutiny of draft subordinate legislation, writing of legal opinions, and secondment of staff on a part-time basis to assist other departments.
- Transcription records are provided free of charge to litigants for purposes of challenging the outcome of cases. Should a fee be charged, it would yield significant revenue.
- Legal advice, counselling and mediation services are offered at family courts by family advocates, family counsellors, and maintenance investigators.

1.2.3 Inventories

The Inventory Management Policy was revised and, as a result, the number of stores in the department over the last financial year was reduced from 86 to 11 formal stores. The inventory on hand at the magistrate's offices is not material in quantity and/or value and is regarded as issued stock and therefore not regarded as formal stores.

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

	Total R'000
National Office	644
Regional Office: Gauteng	256
Regional Office: Western Cape	123
Regional Office: KwaZulu-Natal	619
Regional Office: Free State	28
Regional Office: Limpopo	4
Regional Office: Mpumalanga	3
Regional Office: Northern Cape	252
Regional Office: Eastern Cape	419
Regional Office: North West	134
Constitutional Court	384
Total	2 866

1.3 Capacity constraints

The vacancy rate has decreased to 13.6% during the financial year under review. Skills shortages, covering a broad spectrum of specialisation in the various areas, have however continued to affect the department's operations and have affected the service delivery capacity of the department.



The department had to continue outsourcing services to consultants/contractors to assist with the roll-out of projects. Hence, much reliance was placed on temporary staff, contractors and consultants for the continuation of projects, as well as the day-to-day operations of the department.

A number of new posts have also been created during the financial year under review in an effort to improve service delivery and address skills shortages.

1.4 Utilisation of donor funds

Apart from voted funds, the department also depends on donor funding to fund some of its core 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 is withdrawn or has come to an end.

	2008/09 R'000	2007/08 R'000
Assistance rolled over from previous year	14 514	37 543
Grants received during the financial year	1 100	39 340
Total amount received	15 614	76 883
<i>Less:</i> Expenditure	2 793	62 369
Closing balance	12 821	14 514

The following donor-funded projects have been implemented in the department during the reporting period

Project	Donor	Project objectives and strategic support to department	Status
E-Justice Programme	European Commission and The Royal Netherlands Embassy	Enhancing organisational efficiency by providing business solutions using IT as enabler.	The final evaluation report indicates that the introduction of information systems is with no doubt a highly significant contribution towards increased efficiency and transparency in the public sector. It brings about changes in enhancing economic performance, increasing government's accountability and strengthening civil society capacity to monitor government achievements. This is particular valid for the judicial sector in South Africa, where its effectiveness is a key factor for the improvement of citizens' lives and their confidence in government. Well managed court records are the means by which citizens and organisations are able to enforce their rights, and they support accountability by making the judiciary more transparent.



Project	Donor	Project objectives and strategic support to department	Status
Integrated Administration of Deceased Estates (IADE)	The Government of Ireland (Irish Aid)	Facilitating accessible deceased and insolvent estate services	<p>The business objectives achieved in the development of the Integrated Case Management System (ICMS) and Integration of the Administration of Deceased Estates (IADE) System, inter alia, include:</p> <ul style="list-style-type: none"> • Increased operational efficiency and communication infrastructure, making it easier to drive change in the master's offices • Improved quality of management information, ensuring that the Master's Branch has a centralised view of all its offices by identifying trends and problems within the branch through the provision of management information reports • Improved customer service • Possible reduction in corruption and fraud with regard to the administration of deceased estates <p>The aforementioned has been achieved through participation in the project by all stakeholders, seamless integration with other systems, the implementation of standardised processes at all offices, appropriate change management and adequate infrastructure.</p> <p>Phase 1 of the Irish contribution to the ICMS Masters solution is complete and proposals for the enhancement of the phase are currently underway.</p>
Building capacity in the field of children and the law	Sweden (Sida)	Access to justice with focus on children and the law.	<p>A final report on the utilisation of the Swedish funding was forwarded to the donor during April 2009. The following achievements are highlighted in the report:</p> <ul style="list-style-type: none"> • National and provincial child justice fora as monitoring structures work well, are sustainable and are addressing children's issues. • Good intersectoral coordination with regard to child justice matters has been established. • The number of children awaiting trial in correctional facilities has been halved, while the number of children awaiting trial in secure care has doubled. • Various clauses of the Child Justice Bill were piloted successfully. • Two one-stop child justice centres were established and are working well. • The concept of restorative justice central to the Child Justice Bill and system was mainstreamed. • Eighty seven percent of children appearing before courts in criminal matters are represented by the Legal Aid Board. <p>No receipts were received and no expenditure was incurred during the financial year.</p>



Project	Donor	Project objectives and strategic support to department	Status
Promotion of Administrative Justice Act (PAJA), 2000 (Act No 3 of 2000)	Germany (GTZ)	Access to justice for all implementation of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000)	Training of departments on the implementation of the Act is ongoing. No receipts were received and no expenditure was incurred during the financial year.
The National Action Plan to Re-engineer Small Claims Courts	Government of the Swiss Confederation	Promote access to justice for all, especially the vulnerable groups	The Small Claims Court Project has been established to assist the Directorate: Victim Support and Specialised Court Services with the development of training manuals for commissioners and court officials, as well as to provide for their training, particularly training for commissioners. The process of developing a manual is underway and it is envisaged that it will be finalised in June 2009. Training of commissioners will start in the 2009/10 financial year. The training for court officials that is offered by the Justice College is continuing on an ongoing basis.

1.5 Trading entities and public entities

1.5.1 Trading entities

None.

1.5.2 Public entities

Special Investigating Unit

The Special Investigating Unit 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.

Legal Aid Board

The Legal Aid Board 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 in terms of the Constitution. The board 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.

1.5.3 Constitutional institutions

Commission on Gender Equality

The Commission on Gender Equality 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 and any legislation affecting the status of women.

South African Human Rights Commission

The Human Rights Commission 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 on human rights, monitors and assesses the observance of human rights, provides education and training on human rights, and addresses human rights violations and seeks effective redress.

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 23 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 to result in impropriety or prejudice, and to mediate, negotiate, conciliate, report and recommend remedial action.

1.5.4 Other funds

President's Fund

The President's Fund was established in terms of section 42 of the Promotion of National Unity Reconciliation Act, 1995 (Act No 34 of 1995). Parliament approved compensation to victims on the recommendations of the President and subsequent recommendations of the ad hoc committee of both houses of Parliament on the tabling of the last two volumes of the Truth and Reconciliation Commission (TRC) Report.

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. The obligation is a very serious one, especially as the bulk of people falling in this category are orphans and mentally incapacitated people, ie some of the most vulnerable groups in society.

Third Party Funds

In order to give assistance to the courts (judiciary) in a structured manner, the department established a vehicle known as Third Party Funds (TPF) that acts as a conduit for the decisions (with financial implications) taken by the judiciary. These decisions, inter alia, necessitate the receipt of funds and the later payment of these funds to third parties depending on the circumstances. The department maintains a separate set of financial statements for TPF.

National Prosecuting Authority/Criminal Asset Recovery Account (NPA/CARA)

The NPA assumed responsibility for all support services previously rendered by the department with effect from April 2001 (refer to paragraph 1.1.3 of this report). The Criminal Asset Recovery Account (CARA) that was established by section 63 of the Prevention of Organised Crime Act, 1988 (Act 121 of 1988), is currently located within the Finance and Procurement Division of the NPA. The purpose of CARA is to hold forfeited monies and property before they can be distributed to defined beneficiaries.

1.6 Organisations to whom transfer payments have been made

In terms of the PFMA, the accounting officer has certain responsibilities prior to the transfer of funds to a public entity, which are as follows:

- 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 2007/08 audit results and internal audit findings for 2007/08.
- National Treasury Regulation 26.1 and 30.2.1 further require quarterly reporting by entities. Quarterly reporting was a prerequisite for continued transfer of funds to the public entities.
- According to section 38(i)(j), the lack of assurance by public entities puts a responsibility on the transferring department by introducing condition of the transfer, and follow-up of 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 2008/09 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	Amount R'000
Special Investigating Unit	116 297
Legal Aid Board	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 Regulation 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	Amount R'000
Commission on Gender Equality	46 193*
South African Human Rights Commission	60 603
Public Protector	86 475
Represented Political Parties Fund (Independent Electoral Commission)	88 187

- * The findings of the AGSA on the Commission on Gender Equality for 2007/08 identified a breakdown of financial management, lack of appropriate financial management capacity, and lack of effective policies and procedures with no or limited evidence of financial controls. Technical assistance was provided by the department to the commission in this regard.

1.7 Public Private Partnerships (PPP)

Third Party Funds (formerly known as Management of Monies in Trust) (bail, maintenance, court fines, payments into court, estates, Guardian's Fund, etc)

The department has a turnover of more than R2 billion in Third Party Funds (excluding the Guardian's Fund) per annum through its cash halls at magistrate's offices. The consolidated national bank balance as at 31 March 2009 amounted to R557 million.

Furthermore, the Guardian's Fund has a turnover of more than R440 million. The consolidated bank accounts of the fund amounts to R45 million, while a further R5 billion is managed on investments.

The Third Party Funds (TPF) Public Private Partnership (PPP) process has reached its final stages. The TPF PPP actively seeks to remove all or most cash handling from courts, transferring the risk attached thereto to a private party (PP). The PP will, in short, be responsible, for the partnership period, for financial management (receipts, payments, record-keeping and financial reporting) and the provision of a front-end financial administrative system, while the department will remain responsible for all the administrative and legal duties attached to the management of TPF.

With reference to paragraph 7.2 on pages 106 to 107 of the previous annual report, it is reported that National Treasury granted TA2A approval on 1 April 2008, and that the RfBAFO was issued on the same day. Bids were received on 14 April 2008. After approval of the project governance structure and tender evaluation

criteria, evaluation proceeded on 12 May 2008 and was finalised on 26 June 2008.

After bidder clarifications were received, the bid selection committee recommended a preferred and reserve bidder to the Director-General. The Director-General approved the request for TA2B from National Treasury on 18 December 2008 and National Treasury provided such approval on 29 January 2009. The preferred and reserve bidders were informed of their status on 26 March 2009. An engagement meeting was held with the preferred bidder on 3 April 2009 and contract negotiations are currently underway and it is estimated to be finalised by 30 September 2009, after which TA3 approval will be requested.

1.8 Corporate governance arrangements

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

1.8.1 Powers, roles and responsibilities of Exco members

The Deputy Directors-General, the Chief Operations Officer 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 Public Finance and Management Act, 1999 (Act 1 of 1999) (PFMA), encompassing the National Treasury Regulations
- 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.

Enterprise-wide Risk Management Strategy

The departmental Executive Committee (Exco) take cognisance of the fact that the control environment enhances the tone of risk management and provides the necessary discipline and structure for the same. 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, development and competence of 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 that 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 that enable risks to be assessed and managed. The internal and external assurance bodies review the efficacy of enterprise-wide risk management regularly. The department was assessed by 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. The Exco is accountable for the processes of risk management, and the Audit Committee also fulfils the role of 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. During the year under review, risk profiles for various units and regions were developed. Risk assessments for strategic projects like the 2010 FIFA World Cup were also conducted and reported on. 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 introduce proper mitigation strategies. In certain areas, the review of risk profiles were conducted in order to ensure that the risk plans developed were implemented, and to identify further risks and opportunities for continuous improvement, where possible. The unit continues to work closely with management in order to identify inherent risks and improve the system of internal control.

Other activities that relate to the Chief Directorate: Risk Management have been outlined below and incorporated in the sections of the annual report that deal with programme performance.

Anti-Fraud and Corruption Strategy

Management is ultimately responsible in terms of section 38 of the PFMA to ensure that proper controls are in place

to prevent and detect fraudulent and irregular activities. In line with the Public Sector Anti-Corruption Strategy, which was approved by Cabinet in 2002 and which emphasises the comprehensive fraud and corruption prevention measures as the first line of defence against corruption, the department has continued to implement its approved fraud and corruption plan in its quest to prevent and detect acts of fraud, corruption and other irregularities.

During the year under review, the department has ensured full compliance with the Minimum Anti-Corruption Capacity (MACC) requirements, as approved by Cabinet in September 2003. The MACC requirements specifically direct that, in order to fight corruption in departments and public entities, each accounting officer must do the following in his or her department:

- Specifically focus on and analyse corruption risk as part of the risk assessment required in terms of the PFMA
- Implement fraud plans required in terms of the PFMA to specifically address the corruption risk
- Verify the previous employment, qualifications, citizenship and criminal record of all persons before they are employed

During the year under review, the department has continued to popularise the National Anti-Corruption Hotline (0800 701 701). The Exco has increased capacity to investigate allegations, and institute and conclude disciplinary action for cases of corruption. The Fraud and Corruption Prevention Subdirectorate in the Directorate: Integrity Management has been established to ensure that all the preventative mechanisms are put in place. The internal Fraud and Corruption Communication Strategy was developed and approved. The implementation of this communication strategy has been characterised by the following:

- Training and awareness campaigns on fraud and corruption
- Articles on fraud and corruption in the *Justice Today* newsletter
- Communication on DJINI (intranet)
- Distribution of pamphlets, posters, booklets and any other materials that promotes awareness among employees
- The UN International Anti-corruption Day was celebrated on 9 December 2008
- The financial disclosures for the SMS members reached 100% in the 2008/09 financial year. A concerted effort had been made in this regard, as alignment in terms of the Minimum Anti-Corruption Capacity requirements has been gradually and actively implemented in the department.



As indicated in the section above, the fraud and corruption risk assessments were conducted. These risk assessments have paved a way for the review of the current Fraud and Corruption Plan.

As part of the roll-out of the National Vetting Strategy by the National Intelligence Agency (NIA), the department has entered into a memorandum of understanding (MoU) with the NIA for security vetting of the department's personnel. The MoU was signed by the Directors-General of the NIA and the DoJ&CD, and the job evaluation guidelines by the Department of Public Service and Administration (DPSA) have been adopted and approved by the Director-General.

The MoU sets the tone for the establishment of the Vetting Fieldwork Unit (VFU) and will serve as a NIA delegation of its vetting mandate to the department so as to reduce the vetting backlog. The three vacant vetting fieldwork positions have been filled.

The Project Kgaolo is intended to ensure the education of employees on matters relating to security vetting, fraud and corruption prevention, and is ongoing. The awareness project is characterised by the following:

- Presentations on the role of vetting in the fight against fraud and corruption
- The legal framework supporting the fight against fraud and corruption
- Encouraging employees to come forward and report any suspected incidences of fraud and corruption
- The completion of vetting application forms

Visits to seven regions and most offices in each regional responsibility have been completed. The visits to other outstanding offices in other regions will be completed during the 2009/10 financial year.

Project Kgaolo is very successful and the submission of security clearance applications has improved drastically. This will go a long way in reducing the vetting backlog the department has at the moment.

The Vetting and Personnel Suitability Check policies had been developed and discussed with all stakeholders, circulated internally for inputs and are now in the process of being approved. The Human Resources Recruitment Unit has been involved in a discussion on the implementation of this pre-employment screening. This procedure is intended to proactively ensure that the department only employs people who are not susceptible to bribery and/or fraud and corruption.

Business Continuity Management

In line with the National Disaster Risk Management Framework and good corporate governance principles,

Exco takes the responsibility for this process. Hence, structures have been instituted in the chief directorates of Risk Management and Information Systems Management in order to ensure its implementation. A documented process that will allow the department to continue its critical service delivery processes, including network operations in the event of a disastrous incident impacting various activities, is currently being developed. In consultation with all relevant stakeholders, this will allow the department to have a comprehensive and tested Business Continuity Plan in the near future.

1.8.2 Internal Audit Unit 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 National Prosecuting Authority's Internal Audit Unit had 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, and the unit, through its Chief Audit Executive, reports to the Audit Committee on a quarterly basis.

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 meets regularly and has unrestricted access to information and personnel within the department.

1.9 Discontinued activities/activities to be discontinued

The department has abolished the use of revenue stamps on court documents and trust instruments 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 Service as part of the ongoing efforts to reduce the administrative burden on taxpayers and to simplify the tax system.

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 our offices nationwide.



1.10 New/proposed activities

None.

1.11 Asset management

With reference to paragraph 11 on page 108 of the previous report, it was reported that the department embarked on an asset management turnaround project. The project is completed and all locations were subjected to a physical asset verification process. However, the nature of the project and magnitude of this project in the diverse environment of the department had its challenges. Quarterly verifications during the 2009/10 financial year will iron out all possible gaps that may still exist to ensure the completeness of the asset register, so that the existence of assets can easily be verified.

The Auditor-General of South Africa (AGSA) qualified the Audit Report of the department to Parliament by indicating that significant errors relating to the completeness of capital and minor assets and the existence of certain capital and minor assets were still identified. The qualification is regarded as serious, but must be seen in the light of the diverse environment of the department and the value of its assets. The value of the assets of the department is in excess of R1 billion and even a relatively low error rate is regarded as material by the auditors. Subsequent efforts to clear the findings raised by the auditors indicated that the majority of the assets indeed existed, but could not be located because of gaps in the asset register that can, inter alia, be attributed to temporary barcodes that were used during the project.

The challenge for the department is to resolve the unverified assets that resulted from the verification process, which are disclosed as part of the adjustments in note 32. However, the cost-effectiveness of launching into yet another exercise trying to locate, identify and value the unverified assets must be determined. Unverified assets do not necessarily represent the loss of assets. A major contributing factor is the result of previous improper record-keeping practices, reflecting duplicate assets that are now regarded as unverified as the assets never existed. It will be more prudent to write off these unverified items, and if unverified assets are found, consider it as gains.

Distilled to its essence, the department operates towards a strategic approach to managing assets. Regions are increasingly taking responsibility for the management of assets, and support the initiatives taken to address

shortcomings. This aligns with the overall key objective to ensure that all assets are accounted for in order to ensure the efficient and effective management of assets.

The department faces many challenges in ensuring effective asset management, but is committed to address all the gaps in order to produce an acceptable asset register that reconciles with the financial statements. These challenges, inter alia, include the following:

- **Skills:** The identification and sourcing of appropriate skills remains a priority in the department
- **Culture:** Compliance to circulars and other prescripts issued remains a concern
- **Geographical spread/footprint:** The department is faced with the reality to control assets in a decentralised environment. There are currently approximately 750 sites where assets need to be controlled and verified

The success of the department's asset management process lies in that all assets purchased are captured on the fixed asset register. A key strategic imperative is to drive the monthly reconciliation process from the BAS expenditure to the JYP asset register and vice versa. The intention is for these monthly reconciliations to be a decentralised process per office, a function that will be implemented in due course.

The quarterly asset verification process per province will be supported by further initiatives such as the allocation and distribution of scanners to aid in the physical verification of assets.

Fair value of assets (2005/06 financial year)

A contributing factor for qualifying the audit opinion on the financial statements for the department was the fact that assets were disclosed at fair value for 2005/06 and years prior to that financial year. The department entered into discussions with the Accountant-General in order to agree on an acceptable process to address the findings raised by the AGSA. It was agreed with the Accountant-General that it would be acceptable if the assets disclosed for 2005/06 at fair value be adjusted to reflect the cost of these assets. Adjusting the fair value back to cost involved the matching of invoices against the assets in order to determine the original cost and compared to the current value on the fixed asset register. This matter has been successfully corrected during the year under review.

1.12 Events after the reporting date

None.



1.13 Performance information

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

The information relating to the performance against predetermined objectives is subject to audit by the AGSA 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 AGSA to determine the standards to be applied in performing such audits. The AGSA 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.

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 Medium-term Strategic Framework, key performance indicators (KPI), has been developed in collaboration with branches. The tool is designed to monitor the progress on the implementation of the Medium-term Strategic Framework by analysing delivery of targets.

1.14 SCOPA resolutions

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: Paragraph 4.1 of the Report of the AGSA for 2005/06: SCOPA recommended the following:</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 AGSA will be able to verify the completeness and accuracy of receivables at year-end. 	Third-party Funds	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. The department is faced with the dilemma that there is currently no legislation enabling it to establish a trust. The department had several discussions with the relevant role-players in an effort not to engage in the tedious process to amend legislation.
<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 AGSA: SCOPA recommended that the issues on how to account for TPF monies, as indicated in National Treasury letter of 15 August 2007, are addressed as a matter of urgency. 	Governance Arrangements Third-party Funds	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 Third Party Funds. The Director-General approved the request for TA2B from National Treasury on 18 December 2008, and National Treasury granted such approval on 29 January 2009. The preferred and reserve bidders were informed of their status on 26 March 2009. An engagement meeting was held with the preferred bidder on 3 April 2009 and contract negotiations are currently underway (see paragraph 7 on TPF PPP).



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"> The AGSA 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 are taken against employees whose negligence are 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. In addition, the audit of the establishment, the decentralisation of the recruitment process to regional offices and continuous monitoring and reporting on vacancies by Human Resources contributed to a reduction in the vacancy rate of 13.6% 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 AGSA reported that lack of planning led to non-compliance with the Supply Chain Management Policy and Treasury Regulations: SCOPA recommended that the accounting officer ensure that tender procedures are followed well in advance, before the expiry of current contracts. The AGSA 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 AGSA reported that in five provinces, the service providers 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 AGSA 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 interest as prescribed. In conclusion SCOPA further recommended the following: <ol style="list-style-type: none"> That the problems highlighted by the AGSA be addressed urgently 	<p>Supply Chain Management (Procurement)</p>	<p>Resolution 1 to 4: Supply chain management (SCM) is a specialised field, and an appropriate organisational/staffing structure to deal with the challenges is receiving urgent attention. Therefore the filling of posts with the appropriate staff is dependent on finalising the matter.</p> <p>Standardised policies and procedures (SCM Policy and Procedure Manual) were developed to ensure consistency and compliance of implementation in the department's decentralised financial management environment. An implementation plan was developed in order to ensure the smooth and appropriate implementation of the manual at all levels of the department. The plan includes the key elements relating to the establishment of various committees, such as evaluation (DBEC), adjudication (DBAC), the regional control committee (RCC) and disposal committees. The plan further addresses systems of risk management, cross-functional teams for demand management and various training initiatives.</p> <p>Progress is being made with the implementation of the plan. Insofar as it relates to procurement (tender processes), the manual, inter alia, contains controls on the following: contract management, record-keeping, reporting and performance measurement, evaluation, acquisition management and the adjudication/awarding of quotations and bids.</p> <p>Training initiatives for all role-players in the supply chain management process are ongoing.</p>



Reference to previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>b. That the department report back to Parliament within 60 days of the adoption of this resolution by the National Assembly on the progress made with identified issues</p> <p>(i) That the Chief Financial Officer address the supply chain management problems and that actions be initiated against responsible staff and suppliers</p> <p>(ii) That disciplinary measures be taken against officials who were charged or found guilty of misconduct for awarding contracts to service providers that did not qualify</p> <p>(iii) That instances of fruitless and wasteful expenditure due to bids being cancelled be dealt with</p>	<p>Supply Chain Management (Procurement) (continued)</p>	<p>Resolution 5 of the report (conclusion)</p> <p>Paragraph a The responses given with regard to resolutions 1 to 4 above are applicable.</p> <p>Paragraph b The responses given with regard to resolutions 1 to 4 above are applicable. In addition to the above, responses please note the following:</p> <p>(i) Outcome of disciplinary processes (staff) 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 as to why formal misconduct steps should not be considered against them. The responses were evaluated and forwarded to the Section: Labour Relations for 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 The issue of restrictive horizontal practices was referred to the Competition Commission and is still under investigation by them.</p> <p>(iii) Fruitless and wasteful expenditure due to bids being cancelled 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>

1.15 Prior modifications to audit reports

As was the case in previous years, audit action plans were compiled 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 AGSA. The actions were approved by the accounting officer and were circulated under his signature. Monthly reports on the progress with audit action plans were submitted. In addition, the CFO monitored the progress, and reported it to the accounting officer and the Audit Committee.

1.16 Exemptions and deviations received from the National Treasury

None.

1.17 Other

1.17.1 Third Party Funds

The department, as an organ of the state, through legislative and other measures, assists and protects the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts (section 165 (4) of the Constitution). The effectiveness of the courts is to a large extent dependent on the administrative functions performed by officials of the department. The courts, for example, impose court fines and issue court orders (e.g. maintenance orders) and the department assists with the administration (e.g. receipts of fines) to ensure the effectiveness of the courts.

The department, in order to give assistance to the courts (judiciary) in a structured manner, established



a vehicle known as the Third Party Funds (TPF), which acts as a conduit for the decisions (with a financial implication) taken by the judiciary. These decisions, inter alia, necessitate the receipt of funds and the later payment of these funds to other parties, depending on the circumstances.

The department continued with its endeavours to resolve the uncertainties with regard to the accounting and legal framework governing the Third Party Funds (TPF) and the extent to which these impact on the vote account of the department. The National Treasury, in a letter dated 13 May 2008, confirmed the principle of a separate entity by suggesting the establishment of a trust, but the department has the dilemma that there is currently no legislation enabling it to establish a trust. The department had several discussions with the relevant role-players in an effort not to engage in the tedious process to amend legislation. There is no provision in the PFMA to establish the TPF as a separate entity, nor does it address the accounting status of administered funds or revenue. Following a meeting on 21 July 2009 between officials of the NT, the AGSA and the department, the NT, in a letter dated 27 July 2009 (which must still be ratified by the attendees) inter alia concluded the following:

- All money due to the state will flow to the state via the National Revenue Fund (NRF).
- The DoJ&CD is responsible for the administration functions of the court process, which include the collection and administration of monies arising from the judiciary process.
- The independence of the judiciary is in no way affected by the DoJ&CD when the department performs the above administration process.
- If the money is due to the state, then this money will flow to the NRF through the books of the relevant department (ie the department whose function gives rise to the payment of such money).
- Two sets of annual financial statements (AFSs) need to be prepared, one for the DoJ&CD and the other for the TPF.
- The DoJ&CD must appropriately reflect the relationship of the TPF to the department in the annual financial statements of the department. For example, if there is money that is likely to be paid out by the department, then such money must be reflected as a contingent liability. If the opposite is true, then such money must be reflected as a contingent asset.
- Both sets of AFSs must be published together in the DoJ&CD's annual report that is tabled in the National Assembly as per section 65 of the PFMA.

The department is in the process of investigating the practical implication of the conclusion, as well as the impact of this on the vote account of the department. The department supports that both sets of the AFS must be published in the annual report of the department, but must highlight that NT was informed that, as a result of efforts to improve the quality of the annual financial statements of the TPF, the statements will be finalised later than stipulated in the requirements of the PFMA. For practical reasons, it will therefore not be possible to publish both sets of financial statements in the annual report of the department.

1.17.2 Irregular and fruitless expenditure

Irregular and fruitless expenditure amounting to R60 million (see Note 28.2) were identified by the department during the year. A further R53 million (Irregular expenditure) and R18 million (fruitless and wasteful) in Note 12 identified during the audit is technical in nature and requires further investigation by the department before it can be regarded as such. In order to address certain technical issues, the department will be approaching the Chief State Law Advisor for a legal opinion.

1.18 Approval

The Annual Financial Statements set out on pages 153 to 206 have been approved by the accounting officer.

Advocate Menzi Simelane
Accounting Officer
31 July 2009



2 Report of the AGSA to Parliament on the Financial Statements and Performance Information of Vote 21 for the year ended 31 March 2009

Report on the financial statements

Introduction

1. 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 2009, and the statement of financial performance, the statement of changes in net assets and the cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory notes as set out on pages 153 to 206.

The accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the modified cash basis of accounting determined by the National Treasury, as set out in accounting policy note 1 and in the manner required by the Public Finance Management Act, 1999 (Act No 1 of 1999) (PFMA) and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The AGSA's responsibility

3. As required by section 188 of the Constitution of the Republic of South Africa, 1996, read with section 4 of the Public Audit Act, 2004 (Act No 25 of 2004) (PAA), my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with the International Standards on Auditing, read with General Notice 616 of 2008, issued in Government Gazette No 31057 of 15 May 2008.

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.

5. 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 judgment, 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 entity'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.
6. 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, contingent liability and receivables for departmental revenue:

7. 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 (e.g. bail, maintenance money, various types of fines, payments into court and legal costs), through court processes as a result of its mandate. A separate set of financial statements for the fund is maintained.
8. 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:



- The revenue to the state amounting to R272 million, as disclosed in note 3.2 to the financial statement, has 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 losses, to be paid by the department as disclosed in note 22 to the financial statements.
 - The money collected on behalf of the state and not yet paid to the department as at 31 March 2009 according to the fund money, as disclosed in note 27 to the financial statements.
9. 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 disclosures to the financial statements.

Employee benefit

10. Manual leave forms are not captured timeously and accurately on PERSAL due to insufficient controls over leave. The department's records did not permit the application of alternative audit procedures to determine the effect of the late and incorrect capturing of leave forms.
11. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness, existence and valuation of leave entitlement and capped leave commitments amounting to R397 million and R214 million respectively, as disclosed in note 25 to the financial statements.

Finance lease commitment

12. The agreement date, period of the contract and monthly instalment used to calculate the future lease commitment were not in all instances supported by lease agreements. The department's records did not permit the application of alternative audit procedures to determine the finance lease commitment.
13. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness, existence and valuation of

the finance lease commitment amounting to R63 million, as disclosed in note 26.2 to the financial statements.

Irregular expenditure condoned

14. In terms of Practice note 5 of 2006/07, finance lease agreements for equipment exceeding 36 months is not condoned. Finance lease agreements exceeding 36 months were included in note 28.3.
15. The department's records did not permit the application of alternative audit procedures to determine the condoned irregular expenditure, as lease agreements were not in all instances available.
16. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the accuracy and existence of irregular expenditure condoned amounting to R34 million, as disclosed in note 28.3 to the financial statements.

Capital and minor assets

17. The department embarked on an asset turnaround project that was finalised during the current year. However, significant errors relating to the completeness of the capital and minor asset register and the existence of certain capital and minor assets were still identified.
18. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness of the capital and minor asset register and existence of capital and minor assets amounting to R585 million and R554 million respectively, as disclosed in note 32 and 32.4 to the financial statements.

Qualification

19. 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 as at 31 March 2009 and its financial performance and its cash flows for the year then ended,



in accordance with the modified cash basis of accounting determined by the National Treasury, as set out in accounting policy note 1.

Emphasis of matters

20. I draw attention to the following matters on which I do not express an qualified of opinion:

Basis of accounting

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

Irregular expenditure

22. As disclosed in note 28 to the financial statements, irregular expenditure amounting to R69 million was incurred, mainly as a result of proper tender processes that were not followed.

Fruitless expenditure

23. As disclosed in note 12 to the financial statements, possible fruitless expenditure amounting to R18 million was identified as a result of the audit. The department is still in the process of investigating this matter.

Restatement of corresponding figures

24. As disclosed in the following notes to the financial statements, the corresponding figures for 31 March 2008 have been restated as a result of errors discovered during the year ended 31 March 2009 in the financial statements of the department:
- Note 22, contingent liability (claims against the state) comparative restated with R90 million
 - Note 23, commitments comparative restated with R257 million
 - Note 25, employee benefits comparative restated with R283 million
 - Note 27, receivables for departmental revenue comparative restated with R139 million
 - Note 30, key management personnel comparative restated with R82 million

Other matters

I draw attention to the following matters that relates to my responsibilities in the audit of the financial statements:

Human Resource Management

25. The substantive documentation to support the information disclosed in Part 5 (page 208 to 231) of the annual report was not available and the correctness could therefore not be verified.

Non-compliance with applicable legislation

26. Treasury Regulations (TR)
- Not all procurement of goods and services, either by way of quotations or through a bidding process, was within the threshold values as determined by the National Treasury as required by TR16A6.1.
 - Payments were not in all instances made within 30 days. Accruals that exceed the payment terms of 30 days as detailed in TR 8.2.3 amounted to R209 million. This amount in turn exceeds the voted funds to be surrendered of R28 million as per the statement of financial performance by R181 million. The amount of R181 million would therefore have constituted unauthorised expenditure, should the invoices have been paid in time.
 - The person in charge at the respective pay points did not in all instances certify that all persons listed on the payroll report are entitled to payments, as required by TR 8.3.4.
27. Public Service Regulations (PSR)
- The human resource organisational structure did not include certain functional information, and was not approved by the Department of Public Service and Administration, as required by the PSR part III B 2(a).
 - The job descriptions and titles were not reviewed at least once every three years and, where necessary, redefined to ensure that they remain appropriate and accurate, as required by PSR, chapter 1, Part III, 1.1 and 1.2.
 - All newly appointed employees did not have signed written contracts of employment, as required PSR, section 11(2).



Governance framework

28. The governance principles that impact the auditor’s opinion on the financial statements are related to the responsibilities and practices exercised by the accounting officer and executive management and are reflected in the internal control deficiencies and other key governance requirements addressed below:

Internal control deficiencies

29. Section 38(1)(a)(i) of the PFMA states that the accounting officer must ensure that the

department has and maintains effective, efficient and transparent systems of financial and risk management and internal control. The table below depicts the root causes that gave rise to the deficiencies in the system of internal control, which led to the qualified opinion. The root causes are categorised according to the five components of an effective system of internal control. (The number listed per component can be followed with the legend below the table.) In some instances, deficiencies exist in more than one internal control component.

Paragraph no	Basis for qualified opinion	CE	RA	CA	C	M
7 – 9	Departmental revenue, contingent liability and receivables for departmental revenue			3	1	1
10 – 11	Employee benefit			3	1	1
12 – 13	Finance lease commitments			3	1	1
14 – 16	Irregular expenditure condoned			3	1	1
17 – 18	Capital and minor assets			3	1	1

Legend	
CE = Control environment	
The organisational structure does not address areas of responsibility and lines of reporting to support effective control over financial reporting.	1
Management and staff are not assigned appropriate levels of authority and responsibility to facilitate control over financial reporting.	2
Human resource policies do not facilitate effective recruitment and training, disciplining and supervision of personnel.	3
Integrity and ethical values have not been developed and are not understood to set the standard for financial reporting.	4
The accounting officer does not exercise oversight responsibility over financial reporting and internal control.	5
Management’s philosophy and operating style do not promote effective control over financial reporting.	6
The entity does not have individuals competent in financial reporting and related matters.	7
RA = Risk assessment	
Management has not specified financial reporting objectives to enable the identification of risks to reliable financial reporting.	1
The entity does not identify risks to the achievement of financial reporting objectives.	2
The entity does not analyse the likelihood and impact of the risks identified.	3
The entity does not determine a risk strategy/action plan to manage identified risks.	4
The potential for material misstatement due to fraud is not considered.	5
CA = Control activities	
There is inadequate segregation of duties to prevent fraudulent data and asset misappropriation.	1
General information technology controls have not been designed to maintain the integrity of the information system and the security of the data.	2
Manual or automated controls are not designed to ensure that the transactions have occurred, are authorised, and are completely and accurately processed.	3
Actions are not taken to address risks to the achievement of financial reporting objectives.	4
Control activities are not selected and developed to mitigate risks over financial reporting.	5
Policies and procedures related to financial reporting are not established and communicated.	6
Realistic targets are not set for financial performance measures, which are in turn not linked to an effective reward system.	7



IC = Information and communication	
Pertinent information is not identified and captured in a form and time frame to support financial reporting.	1
Information required to implement internal control is not available to personnel to enable internal control responsibilities.	2
Communications do not enable and support the understanding and execution of internal control processes and responsibilities by personnel.	3
M = Monitoring	
Ongoing monitoring and supervision are not undertaken to enable an assessment of the effectiveness of internal control over financial reporting.	1
Neither reviews by internal audit or the audit committee, nor self-assessments are evident.	2
Internal control deficiencies are not identified and communicated in a timely manner to allow for corrective action to be taken.	3

Key governance responsibilities

30. The PFMA tasks the accounting officer with a number of responsibilities concerning financial and risk management and internal control. Fundamental to achieving this is the implementation of key governance responsibilities, which I have assessed as follows:

No	Matter	Yes	No
Clear trail of supporting documentation that is easily available and provided in a timely manner			
1.	No significant difficulties were experienced during the audit concerning delays or the availability of requested information.		No
Quality of financial statements and related management information			
2.	The financial statements were not subject to any material amendments resulting from the audit.		No
3.	The annual report was submitted for consideration prior to the tabling of the auditor’s report.		No
Timeliness of financial statements and management information			
4.	The annual financial statements were submitted for auditing as per the legislated deadlines section 40 of the PFMA.		No
Availability of key officials during audit			
5.	Key officials were available throughout the audit process.	Yes	
Development and compliance with risk management, effective internal control and governance practices			
6.	Audit Committee		
	• The department had an audit committee in operation throughout the financial year.	Yes	
	• The audit committee operates in accordance with approved, written terms of reference.	Yes	
	• The audit committee substantially fulfilled its responsibilities for the year, as set out in section 77 of the PFMA and Treasury Regulation 3.1.10.	Yes	
7.	Internal Audit		
	• The department had an internal audit function in operation throughout the financial year.	Yes	
	• The internal audit function operates in terms of an approved internal audit plan.	Yes	
	• The internal audit function substantially fulfilled its responsibilities for the year, as set out in Treasury Regulation 3.2.		No
8.	There are no significant deficiencies in the design and implementation of internal control in respect of financial and risk management.		No
9.	There are no significant deficiencies in the design and implementation of internal control in respect of compliance with applicable laws and regulations.		No
10.	The information systems were appropriate to facilitate the preparation of the financial statements.		No
11.	A risk assessment was conducted on a regular basis and a risk management strategy, which includes a fraud prevention plan, is documented and used as set out in Treasury Regulation 3.2.	Yes	
12.	Powers and duties have been assigned, as set out in section 44 of the PFMA.	Yes	
Follow-up of audit findings			
13.	The prior year’s audit findings have been substantially addressed.		No
14.	SCOPA resolutions have been substantially implemented.		No



No	Matter	Yes	No
Issues relating to the reporting of performance information			
15.	The information systems were appropriate to facilitate the preparation of a performance report that is accurate and complete.		No
16.	Adequate control processes and procedures are designed and implemented to ensure the accuracy and completeness of reported performance information.		No
17.	A strategic plan was prepared and approved for the financial year under review for purposes of monitoring the performance in relation to the budget and delivery by the department against its mandate, predetermined objectives, outputs, indicators and targets (Treasury Regulations 5.1, 5.2 and 6.1).		No
18.	There is a functioning performance management system and performance bonuses are only paid after proper assessment and approval by those charged with governance.		No

Investigations

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

Report on other legal and regulatory requirements

Report on performance information

- 32. I have reviewed the performance information as set out on pages 3 to 123.

The Accounting Officer's responsibility for the performance information

- 33. The accounting officer has additional responsibilities, as required by section 40(3)(a) of the PFMA, to ensure that the annual report and audited financial statements fairly present the performance against the predetermined objectives of the department.

The AGSA's responsibility

- 34. I conducted my engagement in accordance with section 13 of the PAA, read with General Notice 616 of 2008, issued in Government Gazette No 31057 of 15 May 2008.
- 35. In terms of the foregoing, my engagement included performing procedures of an audit nature to obtain sufficient appropriate evidence about the performance information and related systems, processes and procedures. The procedures selected depend on the auditor's judgment.
- 36. I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for the review findings reported below.

Findings on performance information

Non-compliance with regulatory requirements

Submission of strategic plan

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

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

- 38. 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 department'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. The current draft policy does not address key control elements expected in a policy.

Inadequate quarterly reporting on performance information

- 39. The quarterly reports of the department did not in all instances adequately and consistently track progress against outputs, indicators and targets as per the approved strategic plan and therefore did not facilitate effective performance monitoring and evaluation, as required by Treasury Regulation section 5.3.1.



Usefulness and reliability of reported performance information

40. The following criteria were used to assess the usefulness and reliability of the information on the department's performance with respect to the objectives in its strategic plan:
- Consistency: Has the department reported on its performance with regard to its objectives, indicators and targets in its approved strategic plan?
 - Relevance: Is the performance information as reflected in the indicators and targets clearly linked to the predetermined objectives and mandate? Is this specific and measurable, and is the time period or deadline for delivery specified?
 - Reliability: Can the reported performance information be traced back to the source data or documentation and is the reported performance information accurate and complete in relation to the source data or documentation?

The following audit findings relate to the above criteria:

Reported performance information not relevant

41. A certain number of targets with regard to the department's programmes were not:
- specific in clearly identifying the nature and the required level of performance;
 - measurable in identifying the required performance; and
 - time-bound in specifying the time period or deadline for delivery.

Reported performance information not reliable

Lack of source documentation

42. Sufficient appropriate audit evidence in relation to certain reported performance information of the department could not be obtained, as the relevant source documentation could not in all instances be provided for audit purposes.

Source information not accurate and complete

43. The source information provided to support certain reported performance information with regard to the programmes, subprogrammes and objectives did not adequately support the accuracy and completeness of the facts.

Performance information not received in time

44. The performance information was not submitted for auditing as per the legislated deadlines in terms of section 40 of the PFMA.

Other reports

Performance audits

45. A performance audit was conducted during the year under review concerning the appointment and utilisation of consultants. The results of the performance audit will be reported to management and tabled to Parliament separately.

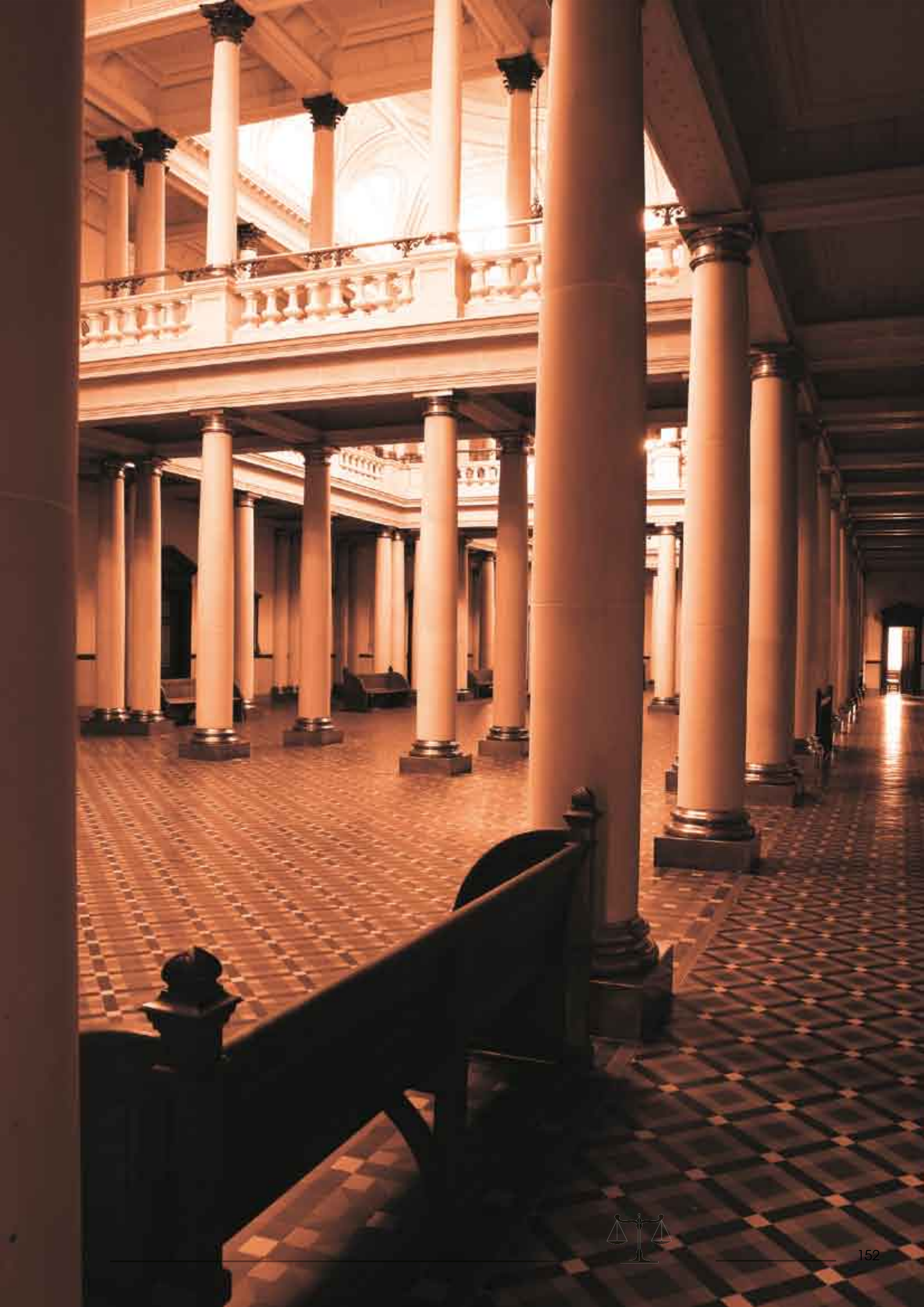
Appreciation

46. The assistance rendered by the staff of the department during the audit is sincerely appreciated.

Auditor-General

Pretoria
21 September 2009





3. Appropriation Statement for the year ended 31 March 2009

Appropriation per programme									
Programmes	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
1. Administration									
Current payment	946 607	-	(34 766)	911 841	911 838	3	100.0	837 976	833 224
Transfers and subsidies	8 786	-	1 859	10 645	9 230	1 415	86.7	8 702	7 697
Payment for capital assets	12 376	-	-	12 376	9 625	2 751	77.8	75 400	69 372
2. Court Services									
Current payment	2 854 454	-	28 266	2 882 720	2 881 442	1 278	100.0	2 569 667	2 571 001
Transfers and subsidies	7 294	-	2 676	9 970	9 919	51	99.5	10 840	10 217
Payment for capital assets	480 734	-	-	480 734	457 041	23 693	95.1	490 733	369 124
3. State Legal Services									
Current payment	498 558	-	21 719	520 277	520 276	1	100.0	394 438	372 437
Transfers and subsidies	500	-	1 208	1 708	1 708	-	100.0	1 154	1 199
Payment for capital assets	4 095	-	-	4 095	3 288	807	80.3	12 317	3 855



Appropriation per programme									
Programmes	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
5. Auxiliary and Associated Services									
Current payment	335 524	-	(13 250)	322 274	312 027	10 247	96.8	244 273	243 439
Transfers and subsidies	1 239 876	-	(4 000)	1 235 876	1 235 875	1	100.0	973 243	973 243
Payment for capital assets	11 200	-	-	11 200	9 907	1 293	88.5	58 658	58 689
Subtotal	6 400 004	-	3 712	6 403 716	6 362 176	41 540	99.4	5 677 401	5 513 497
Statutory Appropriation									
Current payment	1 518 679	-	18 506	1 537 185	1 550 262	(13 077)	100.9	1 203 342	1 155 886
Transfers and subsidies	69 335	-	(18 506)	50 829	50 829	-	100.0	63 176	28 641
Total	7 988 018	-	3 712	7 991 730	7 963 267	28 463	99.6	6 943 919	6 698 024



Part 4: Annual Financial Statements (Vote 21)

	2008/09		2007/08	
	Final appropriation	Actual expenditure	Final appropriation	Actual expenditure
Total (brought forward)	7 991 730	7 963 267	6 943 919	6 698 024
Reconciliation with statement of financial performance				
ADD				
Departmental receipts	352 511		312 434	
Aid assistance	1 100		39 340	
Actual amounts per statement of financial performance (total revenue)	8 345 341		7 295 693	
ADD				
Aid assistance		2 793		62 369
Actual amounts per statement of financial performance (total expenditure)		7 966 060		6 760 393



Appropriation per economic classification									
	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	2 318 592	-	1 984	2 320 576	2 320 574	2	100.0	1 969 751	1 952 340
Goods and services	2 316 544	-	(7 233)	2 309 311	2 297 785	11 526	99.5	2 073 328	2 064 784
Interest and rent on land	-	-	3 804	3 804	3 804	-	100.0	-	-
Financial transactions in assets and liabilities	7	-	3 414	3 421	3 420	1	100.0	3 323	3 026
Transfers and subsidies									
Provinces and municipalities	-	-	5	5	4	1	80.0	-	-
Departmental agencies and accounts	1 244 297	-	(4 000)	1 240 297	1 238 883	1 414	99.9	977 453	977 098
Foreign governments and international organisations	4 240	-	846	5 086	5 085	1	100.0	4 220	3 573
Households	7 869	-	4 892	12 761	12 760	1	100.0	12 218	11 636
Payments for capital assets									
Buildings and other fixed structures	423 188	-	-	423 188	416 824	6 364	98.5	414 622	296 148
Machinery and equipment	85 142	-	(21)	85 121	62 891	22 230	73.9	220 718	203 781
Software and other intangible assets	125	-	21	146	146	-	100.0	1 768	1 112
Total	6 400 004		3 712	6 403 716	6 362 176	41 540	99.4	5 677 401	5 513 498

Statutory appropriation									
	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Direct changes against the National/Provincial Revenue Fund									
Judges' and magistrates' salaries	1 588 014	-	-	1 588 014	1 601 091	(13 077)	100.8	1 266 518	1 184 527
Total	1 588 014	-	-	1 588 014	1 601 091	(13 077)	100.8	1 266 518	1 184 527



Programme 1: Administration

Detail per sub-programme: Programme 1: Administration	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
1.1 Minister Current payment	1 019	-	962	1 981	1 981	-	100.0	938	2 004
1.2 Deputy Minister Current payment	828	-	479	1 307	1 307	-	100.0	762	1 401
1.3 Management Current payment	69 191	-	(17 944)	51 247	51 247	-	100.0	69 269	73 260
Transfers and subsidies	4 435	-	96	4 531	3 116	1 415	68.8	4 330	3 966
Payment for capital assets	3 946	-	(692)	3 254	503	2 751	15.5	2 565	751
1.4 Corporate Services Current payment	489 756	-	(26 092)	463 664	463 661	3	100.0	413 313	403 696
Transfers and subsidies	4 351	-	1 763	6 144	6 114	-	100.0	4 372	3 731
Payment for capital assets	8 430	-	692	9 122	9 122	-	100.0	72 835	68 621
1.5 Property Management Current payment	385 813	-	7 829	393 642	393 642	-	100.0	353 694	352 863
Total	967 769	-	(32 907)	934 862	930 693	4 169	99.6	922 078	910 293



Programme 1 per economic classification	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	272 990	-	(63 053)	209 937	209 936	1	100.0	171 261	169 627
Goods and services	673 610	-	28 049	701 659	701 658	1	100.0	663 460	660 640
Financial transactions in assets and liabilities	7	-	238	245	244	1	99.6	3 255	2 957
Transfers and subsidies to:									
Departmental agencies and accounts	4 421	-	-	4 421	3 008	1 413	68.0	4 210	3 850
Foreign governments and international organisations	4 240	-	846	5 086	5 085	1	100.0	4 220	3 573
Households	125	-	1 013	1 138	1 137	1	99.9	272	275
Payment for capital assets									
Machinery and equipment	12 376	-	-	12 376	9 625	2 751	77.8	74 413	68 918
Software and other intangible assets	-	-	-	-	-	-	-	987	454
Total	967 769	-	(32 907)	934 862	930 693	4 169	99.6	922 078	910 294



Programme 2: Court Services

Detail per sub-programme: Programme 2: Court Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	58 046	-	1 648	59 694	59 694	-	100.0	57 995	45 112
Transfers and subsidies	372	-	(306)	66	15	51	22.7	40	-
Payment for capital assets	1 325	-	771	2 096	2 095	1	100.0	1 896	945
2.2 Supreme Court of Appeal									
Current payment	15 375	-	(3 369)	12 006	12 006	-	100.0	14 845	12 668
Transfers and subsidies	48	-	(48)	-	-	-	-	51	30
Payment for capital assets	300	-	-	300	46	254	15.3	300	194
2.3 High Courts									
Current payment	202 217	-	42 657	244 874	244 874	-	100.0	206 683	223 520
Transfers and subsidies	845	-	(241)	604	604	-	100.0	905	1 020
Payment for capital assets	1 320	-	-	1 320	865	455	65.5	2 173	2 079
2.4 Specialised Courts									
Current payment	22 079	-	4 505	26 584	26 584	-	100.0	35 160	24 368
Transfers and subsidies	100	-	(54)	46	46	-	100.0	40	-
Payment for capital assets	213	-	7	220	220	-	100.0	216	375
2.5 Lower Courts									
Current payment	2 030 220	-	50 624	2 080 844	2 079 568	1 276	99.9	1 841 696	1 880 288
Transfers and subsidies	4 165	-	3 563	7 728	7 728	-	100.0	7 835	7 594
Payment for capital assets	11 541	-	-	11 541	8 034	3 507	69.6	25 333	31 080



Programme 2: Court Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
2.6 Family Advocate									
Current payment	77 707	-	6 614	84 321	84 321	-	100.0	65 278	66 732
Transfers and subsidies	809	-	(689)	120	120	-	100.0	763	1
Payment for capital assets	1 000	-	-	1 000	771	229	77.1	1 025	558
2.7 Magistrate's Commission									
Current payment	8 561	-	(1 171)	7 390	7 390	-	100.0	7 458	7 176
Transfers and subsidies	50	-	(18)	32	32	-	100.0	-	468
Payment for capital assets	-	-	25	25	25	-	100.0	50	-
2.8 Government Motor Transport									
Payment for capital assets	31 821	-	-	31 821	17 271	14 550	54.3	30 286	27 786
2.9 Facilities Management									
Current payment	140 972	-	(83 135)	57 837	57 835	2	100.0	84 225	65 148
Payment for capital assets	427 801	-	(1 481)	426 320	421 623	4 697	98.9	420 610	295 982
2.10 Administration of Courts									
Current payment	299 277	-	9 893	309 170	309 170	-	100.0	256 327	245 989
Transfers and subsidies	905	-	469	1 374	1 374	-	100.0	1 206	1 104
Payment for capital assets	5 413	-	678	6 091	6 091	-	100.0	8 844	10 125
Total	3 342 482	-	30 942	3 373 424	3 348 402	25 022	99.3	3 071 240	2 950 342



Part 4: Annual Financial Statements (Vote 21)

Programme 2 per economic classification	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	1 610 476	-	111 312	1 721 788	1 721 787	1	100.0	1 498 695	1 497 792
Goods and services	1 243 978	-	(89 961)	1 154 017	1 152 740	1 277	99.9	1 070 952	1 073 189
Interest and rent on land	-	-	3 804	3 804	3 804	-	100.0	-	-
Financial transactions in assets and liabilities	-	-	3 111	3 111	3 111	-	100.0	20	20
Transfers and subsidies to:									
Provinces and municipalities	-	-	5	5	4	1	80.0	-	-
Departmental agencies and accounts	-	-	-	-	-	-	-	-	6
Households	7 244	-	2 671	9 915	9 915	-	100.0	10 840	10 211
Payment for capital assets									
Buildings and other fixed structures	423 188	-	-	423 188	416 824	6 364	98.5	414 622	296 148
Machinery and equipment	57 471	-	(3)	57 468	40 089	17 379	69.8	75 511	72 446
Software and other intangible assets	125	-	3	128	128	-	100.0	600	530
Total	3 342 482	-	30 942	3 373 424	3 348 402	25 022	99.3	3 071 240	2 950 342



Programme 3: State Legal Services

Detail per sub-programme: Programme 3: State Legal Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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 State Law Advisors									
Current payment	33 373	-	(3 802)	29 571	29 571	-	100.0	23 939	21 320
Transfers and subsidies	-	-	-	-	-	-	-	62	62
Payment for capital assets	550	-	-	550	497	53	90.4	530	104
3.2 Litigation and Legal Services									
Current payment	189 173	-	6 611	195 784	195 784	-	100.0	155 953	146 458
Transfers and subsidies	-	-	766	766	766	-	100.0	420	411
Payment for capital assets	249	-	1 302	1 551	1 551	-	100.0	3 035	1 854
3.3 Legislation and Constitutional Development									
Current payment	38 139	-	(8 928)	29 211	29 210	1	100.0	35 149	32 559
Transfers and subsidies	-	-	346	346	346	-	100.0	182	181
Payment for capital assets	796	-	-	796	339	457	42.6	730	250
3.4 Master of the High Court									
Current payment	237 873	-	27 838	265 711	265 711	-	100.0	179 397	172 100
Transfers and subsidies	500	-	96	596	596	-	100.0	490	545
Payment for capital assets	2 500	-	(1 302)	1 198	901	297	75.2	8 022	1 647
Total	503 153	-	22 927	526 080	525 272	808	99.8	407 909	377 491



Part 4: Annual Financial Statements (Vote 21)

Programme 3 per economic classification	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	434 664	-	(45 905)	388 759	388 759	-	100.0	299 451	284 830
Goods and services	63 894	-	67 559	131 453	131 452	1	100.0	94 987	87 607
Financial transactions in assets and liabilities	-	-	65	65	65	-	100.0	48	49
Transfers and subsidies to:									
Households	500	-	1 208	1 708	1 708	-	100.0	1 106	1 150
Payment for capital assets									
Machinery and equipment	4 095	-	(18)	4 077	3 270	807	80.2	12 136	3 727
Software and other intangible assets	-	-	18	18	18	-	100.0	181	128
Total	503 153	-	22 927	526 080	525 272	808	99.8	407 909	377 491

Programme 5: Auxiliary and Associated Services

Detail per sub-programme: Programme 5: Auxiliary and Associated Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	620	-	(370)	250	99	151	39.6	709	100
Transfers and subsidies	-	-	-	-	-	-	-	-	1
5.2 South African Human Rights Commission									
Transfers and subsidies	60 603	-	-	60 603	60 603	-	100.0	55 281	55 281
5.3 Commission on Gender Equality									
Transfers and subsidies	46 193	-	-	46 193	46 193	-	100.0	39 745	39 745



Auxiliary and Associated Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
5.4 Special Investigating Unit									
Transfers and subsidies	116 297	-	-	116 297	116 297	-	100.0	103 111	103 111
5.5 Legal Aid Board									
Transfers and subsidies	842 120	-	(4 000)	838 120	838 120	-	100.0	613 029	613 029
5.6 Public Protector									
Current payment	-	-	-	-	-	-	-	-	55
Transfers and subsidies	86 475	-	-	86 475	86 475	-	100.0	78 722	78 722
5.7 Justice Modernisation (NCPS)									
Current payment	334 904	-	(12 880)	322 024	311 928	10 096	96.9	243 564	243 284
Payment for capital assets	11 200	-	-	11 200	9 907	1 293	88.5	58 658	58 689
5.8 President's Fund									
Transfers and subsidies	1	-	-	1	-	1	-	1	-
5.9 Represented Political Parties Fund									
Transfers and subsidies	88 187	-	-	88 187	88 187	-	100.0	83 354	83 354
Total	1 586 600	-	(17 250)	1 569 350	1 557 809	11 541	99.3	1 276 174	1 275 371



Part 4: Annual Financial Statements (Vote 21)

Programme 5 per economic classification	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	462	-	(370)	92	92	-	100.0	344	91
Goods and services	335 062	-	(12 880)	322 182	311 935	10 247	96.8	243 929	243 348
Transfers and subsidies to:									
Departmental agencies and accounts	1 239 876	-	(4 000)	1 235 876	1 235 875	1	100.0	973 243	973 242
Payment for capital assets									
Machinery and equipment	11 200	-	-	11 200	9 907	1 293	88.5	58 658	58 690
Total	1 586 600	-	(17 250)	1 569 350	1 557 809	11 541	99.3	1 276 174	1 275 371



4. Notes to the Appropriation Statement for the year ended 31 March 2009

1. Detail of transfers and subsidies as per Appropriation Act (after virement):

Detail of these transactions can be viewed in note 9 (transfers and subsidies) and Annexures 1 (A-D) to the annual financial statements.

2. Detail of specifically and exclusively appropriated amounts voted (after virement):

Detail of these transactions can be viewed in note 1 (annual appropriation) to the annual financial statements.

3. Detail on financial transactions in assets and liabilities

Detail of these transactions per programme can be viewed in note 8 (financial transactions in assets and liabilities) to the annual financial statements.

4. Explanations of material variances from amounts voted (after virement):

4.1	Per programme	Final appropriation	Actual expenditure	Variance	Variance as a % of final appropriation
		R'000	R'000	R'000	%
	Administration	934 862	930 693	4 169	0.45
	Court Services	3 373 424	3 348 402	25 022	0.74
	State Legal Services	526 080	525 272	808	0.15

The underspending of the department is the direct result of the deliberate cuts in operational expenditure, curtailment of unplanned acquisition of goods and services and the non-filling of vacant posts to fund the implementation of the Occupational-specific Dispensation for legally qualified personnel.

4.2	Economic classification	Final appropriation	Actual expenditure	Variance	Variance as a % of final appropriation
		R'000	R'000	R'000	%
	Current payments				
	Compensation of employees	2 320 576	2 320 574	2	0.00
	Goods and Services	2 309 311	2 297 785	11 526	0.50
	Financial transactions in assets and liabilities	3 421	3 420	1	0.03
	Transfers and subsidies				
	Provinces and municipalities	5	4	1	20.00
	Departmental agencies and accounts	1 240 297	1 238 883	1 414	0.11
	Public corporations and private enterprises	5 086	5 085	1	0.02
	Households	12 761	12 760	1	0.01
	Gifts and donations				



Part 4: Annual Financial Statements (Vote 21)

4.2	Per economic classification	Final appropriation	Actual expenditure	Variance	Variance as a % of final appropriation
		R'000	R'000	R'000	%
	Payments for capital assets				
	Buildings and other fixed structures	423 188	416 824	6 364	1.50
	Machinery and equipment	85 121	62 891	22 230	26.12
	Software and other intangible assets	146	146	-	0.00

The underspending of the department is the direct result of the deliberate cuts in operational expenditure, curtailment of unplanned acquisition of goods and services and the non-filling of vacant posts to fund the implementation of the Occupational-specific Dispensation for legally qualified personnel.



5. Statement of Financial Performance for the year ended 31 March 2009

	Note	2008/09 R'000	2007/08 R'000
REVENUE			
Annual appropriation	1	6 403 716	5 677 401
Statutory appropriation	2	1 588 014	1 266 518
Departmental revenue	3	352 511	312 434
Aid assistance	4	1 100	39 340
TOTAL REVENUE		8 345 341	7 295 693
EXPENDITURE			
Current expenditure			
Compensation of employees	5	3 870 837	3 108 226
Goods and services	6	2 297 786	2 064 784
Interest on rent on land	7	3 804	-
Financial transactions in assets and liabilities	8	3 420	3 026
Aid assistance	4	2 793	30 247
Total current expenditure		6 178 640	5 206 283
Transfers and subsidies			
Transfers and subsidies	9	1 307 559	1 020 948
Expenditure for capital assets			
Tangible capital assets	10	478 286	532 050
Software and other intangible assets	10	1 575	1 112
Total expenditure for capital assets		479 861	533 162
TOTAL EXPENDITURE		7 966 060	6 760 393
SURPLUS/(DEFICIT) FOR THE YEAR		379 281	535 300
Reconciliation of net surplus/(deficit) for the year			
Voted funds	16	28 463	245 895
Departmental revenue	17	352 511	312 434
Aid assistance	4	(1 693)	(23 029)
SURPLUS/(DEFICIT) FOR THE YEAR		379 281	535 300



6. Statement of Financial Position at ended 31 March 2009

POSITION	Note	2008/09 R'000	2007/08 R'000
ASSETS			
Current assets		356 649	314 934
Unauthorised expenditure	11	-	139 052
Cash and cash equivalents	13	5 213	12 683
Prepayments and advances	14	2 424	2 481
Receivables	15	349 012	160 718
TOTAL ASSETS		356 649	314 934
LIABILITIES			
Current liabilities		346 951	305 328
Voted funds to be surrendered to the Revenue Fund	16	28 463	245 895
Departmental revenue to be surrendered to the Revenue Fund	17	23 131	14 426
Bank overdraft	18	281 224	-
Payables	19	1 312	30 493
Aid assistance unutilised	4	12 821	14 514
TOTAL LIABILITIES		346 951	305 328
NET ASSETS		9 698	9 606
Represented by:			
Recoverable revenue		9 698	9 606
TOTAL		9 698	9 606



7. Statement of Changes in Net Assets for the year ended 31 March 2009

NET ASSETS	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Recoverable revenue			
Opening balance		9 606	9 137
Transfers:		92	469
Debts revised		(249)	(383)
Debts recovered (included in departmental receipts)		(2 784)	(3 083)
Debts raised		3 125	3 935
Closing balance		9 698	9 606
TOTAL		9 698	9 606



8. Cash Flow Statement for the year ended 31 March 2009

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts		8 345 330	7 295 693
Annual appropriated funds received	1	6 403 716	5 677 401
Statutory appropriated funds received	2	1 588 014	1 266 518
Departmental revenue received	3	352 500	312 434
Aid assistance received	4	1 100	39 340
Net (increase)/decrease in working capital		(78 366)	79 634
Surrendered to Revenue Fund		(589 701)	(237 168)
Current payments		(6 178 640)	(5 206 283)
Transfers and subsidies paid		(1 307 559)	(1 020 948)
Net cash flow available from operating activities	20	191 064	910 928
CASH FLOWS FROM INVESTING ACTIVITIES			
Payments for capital assets	10	(479 861)	(533 162)
Proceeds from sale of capital assets	3.4	11	-
Net cash flows from investing activities		(479 850)	(533 162)
CASH FLOWS FROM FINANCING ACTIVITIES			
Increase/(decrease) in net assets		92	570
Net cash flows from financing activities		92	570
Net increase/(decrease) in cash and cash equivalents		(288 694)	378 336
Cash and cash equivalents at the beginning of the period		12 683	(365 653)
Cash and cash equivalents at end of period	21	(276 011)	12 683



9. Accounting Policies for the year ended 31 March 2009

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, (Act 1 of 1999) (as amended by Act 29 of 1999), and the Treasury Regulations issued in terms of the act and the Division of Revenue Act (Act 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

Prior period comparative information 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 are recognised in the financial records on the date the appropriation becomes effective. Adjustments to the appropriated funds made in terms of the adjustment budget process are recognised in the

financial records on the date the adjustments become effective.

Total appropriated funds are presented in the statement of financial performance.

Unexpended appropriated funds are surrendered to the National Revenue Fund. Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.

2.2 Statutory appropriation

Statutory appropriations are recognised in the financial records on the date the appropriations become effective. Adjustments to the statutory appropriations made in terms of the adjustment budget process are recognised in the financial records on the date the adjustments become effective.

Total statutory appropriations are presented in the statement of financial performance.

Unexpended statutory appropriations are surrendered to the National Revenue Fund. Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.

2.3 Departmental revenue

All departmental revenue is paid into the National Revenue Fund when received, unless otherwise stated. Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.

Amounts receivable at the reporting date are disclosed in the disclosure notes to the annual financial statements.

2.3.1 Tax revenue

Tax revenue consists of all compulsory unrequited amounts collected by the department in accordance with laws and/or regulations (excluding fines, penalties and forfeits).

Tax receipts are recognised in the statement of financial performance when received.

2.3.2 Sales of goods and services other than capital assets

The proceeds received from the sale of goods and/or the provision of services are recognised in the statement of financial performance when the cash is received.

2.3.3 Fines, penalties and forfeits

Fines, penalties and forfeits are compulsory unrequited amounts which were imposed by a court or quasi-



judicial body and collected by the department. Revenue arising from fines, penalties and forfeits is recognised in the statement of financial performance when the cash is received.

2.3.4 Interest, dividends and rent on land

Interest, dividends and rent on land are recognised in the statement of financial performance when the cash is received.

2.3.5 Sale of capital assets

The proceeds received on the sale of capital assets are recognised in the Statement of financial performance when the cash is received.

2.3.6 Financial transactions in assets and liabilities

Repayments of loans and advances previously extended to employees and public corporations for policy purposes are recognised as revenue in the statement of financial performance on receipt of the funds.

Cheques issued in previous accounting periods that expire before being banked are recognised as revenue in the statement of financial performance when the cheque becomes stale. When the cheque is reissued, the payment is made from revenue.

Forex gains are recognised on payment of funds.

2.3.7 Transfers received (including gifts, donations and sponsorships)

All cash gifts, donations and sponsorships are paid into the National Revenue Fund and recorded as revenue in the statement of financial performance when received. Amounts receivable at the reporting date are disclosed in the disclosure notes to the financial statements.

All in-kind gifts, donations and sponsorships are disclosed at fair value in an annexure to the financial statements.

2.4 Direct exchequer receipts

All direct exchequer receipts are recognised in the statement of financial performance when the cash is received.

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).

2.5 Aid assistance

Local and foreign aid assistance is recognised as revenue when notification of the assistance is received from the

National Treasury or when the department directly receives the cash from the donor(s).

All in-kind local and foreign aid assistance are disclosed at fair value in the annexures to the annual financial statements.

The cash payments made during the year relating to local and foreign aid assistance projects are recognised as expenditure in the statement of financial performance. The value of the assistance expensed prior to the receipt of the funds is recognised as a receivable in the statement of financial position.

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

All 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 current or capital expenditure in the statement of financial performance.

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

3. Expenditure

3.1 Compensation of employees

3.1.1 Short-term employee benefits

Salaries and wages comprise payments to employees (including leave entitlements, thirteenth cheques and performance bonuses). Salaries and wages are recognised as an expense 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). Capitalised compensation forms part of the expenditure for capital assets in the statement of financial performance¹.

All other payments are classified as current expenses.

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 statements of financial performance or position.

3.1.2 Post-retirement benefits

The department provides retirement benefits (pension benefits) for certain of its employees through a defined benefit plan for government employees. These benefits are funded by both employer and employee contributions.

¹ This accounting policy is only relevant where the department elects to capitalise the compensation paid to employees involved on capital projects



Employer contributions (ie social contributions) to the fund are expensed when the final authorisation for payment to the fund is effected on the system (by no later than 31 March of 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.

The department provides medical benefits for certain of its employees. Employer contributions to the medical funds are expensed when final authorisation for payment to the fund is effected on the system (by no later than 31 March of each year).

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. These amounts are not recognised in the statements of financial performance or position.

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 services were used for a capital project or an asset of R5 000 or more is purchased. All assets costing less than R5 000 will also be reflected under goods and services.

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 amounts are disclosed as a disclosure note.

Forex losses are recognised on payment of funds.

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 discovered, 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 in the statement of financial performance when the unauthorised expenditure is approved and the related funds are received. Where the amount is approved without funding, it is derecognised as expenditure, subject to the availability of savings, 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. 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 in the statement of financial performance.



3.9 Expenditure for capital assets

Payments made for capital assets 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).

4. Assets

4.1 Cash and cash equivalents

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

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.

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.

Pre-payments 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.

Receivables outstanding at year end are carried in the statement of financial position at cost plus any accrued interest.

4.5 Investments

Capitalised investments are shown at cost in the statement of financial position. Any cash flows such as dividends received or proceeds from the sale of investments are recognised in the statement of financial performance when the cash is received.

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

4.6 Loans

Loans are recognised in the statement of financial position at the nominal amount when cash is paid to the beneficiary. Loan balances are reduced when cash

repayments are received from the beneficiary. Amounts that are potentially irrecoverable are included in the disclosure notes.

Loans that are outstanding at year-end are carried in the statement of financial position at cost.

4.7 Inventory

Inventories purchased during the financial year are disclosed at cost in the notes.

4.8 Capital assets

4.8.1 Movable assets

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.

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

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.

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 Voted funds to be surrendered to the Revenue Fund

Unexpended appropriated funds are surrendered to the National Revenue Fund. Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.



5.2 Departmental revenue to be surrendered to the Revenue Fund

Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position at cost.

5.3 Direct exchequer receipts to be surrendered to the Revenue Fund

All direct exchequer fund receipts are recognised in the statement of financial performance when the cash is received.

Amounts received must be surrendered to the relevant revenue fund on receipt thereof. Any amount not surrendered at year end is reflected as a current payable in the statement of financial position.

5.4 Bank overdraft

The bank overdraft is carried in the statement of financial position at cost.

5.5 Payables

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

5.6 Contingent liabilities

Contingent liabilities are included in the disclosure notes to the financial statements.

5.7 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.

5.8 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.

5.9 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 statements of financial performance or the statement of financial position.

5.10 Lease commitments

Finance leases

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 the interest portions. The finance lease liability is disclosed in the disclosure notes to the financial statements.

Operating leases

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.

6. Receivables for departmental revenue

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

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 transferred to the National Revenue Fund on disposal, repayment or recovery of such amounts.

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.

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 PPP arrangement, the contract fees and current and capital expenditure relating to the PPP arrangement is included in the disclosure notes.



10. Notes to the Annual Financial Statements for the year ended 31 March 2009

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 R'000	2008/09 Actual funds received R'000	Funds not requested/ not received R'000	2007/08 Appropriation Received R'000
Administration	934 862	934 862	-	922 078
Court Services	3 373 424	3 373 424	-	3 071 240
State Legal Services	526 080	526 080	-	407 909
Auxiliary and Associated Services	1 569 350	1 569 350	-	1 276 174
Total	6 403 716	6 403 716	-	5 677 401

2. Statutory appropriation

	2008/09 R'000	2007/08 R'000
Judges' and magistrates' salaries	1 588 014	1 266 518
Total	1 588 014	1 266 518
Actual Statutory Appropriation received	1 588 014	1 266 518



3. Departmental revenue

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Sales of goods and services other than capital assets	3.1	13 248	14 027
Fines, penalties and forfeits	3.2	271 508	238 025
Interest, dividends and rent on land	3.3	44 872	48 700
Sales of capital assets	3.4	11	-
Financial transactions in assets and liabilities	3.5	22 872	11 682
Departmental revenue collected		352 511	312 434

3.1 Sales of goods and services other than capital assets

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Sales of goods and services produced by the department		13 215	13 964
Sales by market establishment		3 560	197
Other sales		9 655	13 767
Sales of scrap, waste and other used current goods		33	63
Total		13 248	14 027

3.2 Fines, penalties and forfeits

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Fines	3	227 846	165 736
Penalties		3 569	2 289
Forfeits		40 093	70 000
Total		271 508	238 025

3.3 Interest, dividends and rent on land

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Interest	3	44 872	48 700
Total		44 872	48 700

3.4 Sales of capital assets

Tangible assets

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Machinery and equipment	41.2	11	-
Total		11	-



3.5 Financial transactions in assets and liabilities

	Note	2008/09	2007/08
	3	R'000	R'000
Loans and advances		26	(3)
Receivables		1 358	182
Stale cheques written back		228	215
Other receipts, including recoverable revenue		21 260	11 288
Total		22 872	11 682

4. Aid assistance

4.1 Aid assistance received in cash from RDP

	Note	2008/09	2007/08
		R'000	R'000
Foreign			
Opening balance		14 514	37 543
Revenue		1 100	39 340
Expenditure		(2 793)	(62 369)
Current		(2 793)	(30 247)
Capital		-	(32 122)
Closing balance		12 821	14 514

4.2 Total assistance

	2008/09	2007/08
	R'000	R'000
Opening balance	14 514	37 543
Revenue	1 100	39 340
Expenditure	(2 793)	(62 369)
Current	(2 793)	(30 247)
Capital	-	(32 122)
Closing balance	12 821	14 514

Analysis of balance

Aid assistance unutilised	12 821	14 514
RDP	12 821	14 514
Closing balance	12 821	14 514



5. Compensation of employees

5.1 Salaries and wages

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Basic salary		2 640 141	2 244 051
Performance award		29 838	23 521
Service based		6 847	10 440
Compensative/circumstantial		19 695	18 438
Periodic payments		13 042	11 018
Other non-pensionable allowances		762 920	457 486
Total		3 472 483	2 764 954

5.2 Social contributions

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Employer contributions			
Pension		271 051	224 534
Medical		126 796	118 264
UIF		32	14
Bargaining Council		475	460
Total		398 354	343 272
Total compensation of employees		3 870 837	3 108 226
Average number of employees		19 827	18 702



6. Goods and services

	Note	2008/09 R'000	2007/08 R'000
Administrative fees		3 918	1 455
Advertising		29 806	22 121
Assets less than R5 000	6.1	37 153	58 190
Bursaries (employees)		2 962	5 354
Catering		13 046	7 855
Communication		124 844	117 275
Computer services	6.2	261 480	240 156
Consultants, contractors and agency/outsourced services	6.3	486 644	416 214
Entertainment		746	435
Audit cost – external	6.4	26 350	19 058
Inventory	6.5	88 748	103 276
Operating leases		323 815	286 656
Owned and leasehold property expenditure	6.6	371 443	282 809
Transport provided as part of the departmental activities		142	15
Travel and subsistence	6.7	392 300	322 751
Venues and facilities		11 293	20 644
Training and staff development		22 245	13 054
Other operating expenditure	6.8	100 851	147 466
Total		2 297 786	2 064 784

6.1 Assets less than R5 000

	Note	2008/09 R'000	2007/08 R'000
Tangible assets	6	37 098	57 931
Machinery and equipment		37 098	57 931
Intangible assets		55	259
Total		37 153	58 190

6.2 Computer services

	Note	2008/09 R'000	2007/08 R'000
SITA computer services	6	63 485	68 270
External computer service providers		197 995	171 886
Total		261 480	240 156



6.3 Consultants, contractors and agency/outsourced services

	<i>Note</i>	2008/09	2007/08
	<i>6</i>	R'000	R'000
Business and advisory services		99 280	110 938
Laboratory services		559	-
Legal costs		46 418	41 460
Contractors		79 042	27 185
Agency and support/outsourced services		261 345	236 631
Total		486 644	416 214

6.4 Audit cost – external

	<i>Note</i>	2008/09	2007/08
	<i>6</i>	R'000	R'000
Regularity audits		24 945	18 165
Performance audits		1 210	217
Forensic audits		195	673
Other audits		-	3
Total		26 350	19 058

6.5 Inventory

	<i>Note</i>	2008/09	2007/08
	<i>6</i>	R'000	R'000
Learning and teaching support material		38	-
Food and food supplies		68	-
Fuel, oil and gas		168	101
Other consumable materials		2 783	740
Maintenance material		1 319	1 120
Stationery and printing		84 282	101 315
Medical supplies		90	-
Total		88 748	103 276

6.6 Owned and leasehold property expenditure

	<i>Note</i>	2008/09	2007/08
	<i>6</i>	R'000	R'000
Municipal services		94 783	90 846
Property management fees		18 068	-
Other		258 592	191 963
Total		371 443	282 809



6.7 Travel and subsistence

	<i>Note</i>	2008/09	2007/08
Local	6	383 049	313 104
Foreign		9 251	9 647
Total		392 300	322 751

6.8 Other operating expenditure

	<i>Note</i>	2008/09	2007/08
	6	R'000	R'000
Professional bodies, membership and subscription fees		396	76 325
Resettlement costs		12 390	9 772
Other		88 065	61 369
Total		100 851	147 466

7. Interest on rent on land

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Interest paid		3 804	-
Total		3 804	-

8. Financial transactions in assets and liabilities

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Material losses through criminal conduct		3 038	1 600
Theft	8.4	550	312
Other material losses	8.1	2 488	1 288
Other material losses written off	8.2	150	934
Debts written off	8.3	232	492
Total		3 420	3 026

8.1 Other material losses

	<i>Note</i>	2008/09	2007/08
	8	R'000	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. The loss could not be recovered.		
		2 488	1 288
Total		2 488	1 288



8.2 Other material losses written off

	<i>Note</i>	2008/09	2007/08
	<i>8</i>	R'000	R'000
Nature of losses			
Irrecoverable losses		70	531
Civil actions		50	175
Damages to vehicles		30	170
State money shortages		-	58
Total		150	934

8.3 Debts written off

	<i>Note</i>	2008/09	2007/08
	<i>8</i>	R'000	R'000
Nature of debts written off			
Staff debts (prescribed staff debts)		232	492
Total		232	492

8.4 Detail of theft

	<i>Note</i>	2008/09	2007/08
	<i>8</i>	R'000	R'000
Nature of theft			
Burglaries		458	195
Theft		92	117
Total		550	312

9. Transfers and subsidies

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Provinces and municipalities	<i>Annex 1A</i>	4	-
Departmental agencies and accounts	<i>Annex 1B</i>	1 238 883	977 098
Foreign governments and international organisations	<i>Annex 1C</i>	5 084	3 573
Households	<i>Annex 1D</i>	63 588	40 277
Total		1 307 559	1 020 948



10. Expenditure for capital assets

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Tangible assets		478 286	532 050
Buildings and other fixed structures	34.1	416 823	296 148
Machinery and equipment	32.1	61 463	235 902
Software and other intangible assets		1 575	1 112
Other intangibles	33.1	1 575	1 112
Total		479 861	533 162

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

	Voted funds	Aid assistance	Total
	R'000	R'000	R'000
Tangible assets	478 286	-	478 286
Buildings and other fixed structures	416 823	-	416 823
Machinery and equipment	61 463	-	61 463
Software and other intangible assets	1 575	-	1 575
Capitalised development costs	1 430	-	1 430
Computer software	145	-	145
Total	479 861	-	479 861

10.2 Analysis of funds utilised to acquire capital assets – 2007/08

	Voted funds	Aid assistance	Total
	R'000	R'000	R'000
Total assets acquired	501 040	32 122	533 162

11. Unauthorised expenditure

11.1 Reconciliation of unauthorised expenditure

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Opening balance		139 052	185 617
Less: Amounts approved by Parliament/Legislature (with funding)		(139 052)	(46 565)
Unauthorised expenditure awaiting authorisation		-	139 052



12. Fruitless and wasteful expenditure

Fruitless expenditure amounting to R17.8 million identified as a result of the audit is in the process to be investigated, as the matter is technical of nature. These matters have been noted in the relevant registers and are being dealt with in terms of National Treasury Practice Note 4 of 2008/2009.

13. Cash and cash equivalents

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Consolidated Paymaster-General account		-	9 805
Cash receipts		1 279	(31)
Disbursements		14	(10)
Cash on hand		3 920	2 919
Total		5 213	12 683

14. Prepayments and advances

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Travel and subsistence		2 284	2 481
Advances paid to other entities		140	-
Total		2 424	2 481

15. Receivables

	<i>Note</i>	2008/09			Total	2007/08
		Less than one year	One to three years	Older than three years		
		R'000	R'000	R'000	R'000	Total
Claims recoverable	<i>15.1 & Annex 4</i>	167 118	26 626	138	193 882	120 807
Recoverable expenditure	<i>15.2</i>	109 967	-	-	109 967	-
Staff debt	<i>15.3</i>	3 496	6 529	10 981	21 006	18 928
Other debtors	<i>15.4</i>	6 450	3 427	14 280	24 157	20 983
Total		287 031	36 582	25 399	349 012	160 718

15.1 Claims recoverable

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
National departments	<i>15</i>	113 427	71 706
Provincial departments		80 455	47 172
Private enterprises		-	1 929
Total		193 882	120 807



15.2 Recoverable expenditure

	<i>Note</i>	2008/09	2007/08
	<i>15</i>	R'000	R'000
Unauthorised expenditure recoverable		109 967	-
Total		109 967	-

15.3 Staff debt

	<i>Note</i>	2008/09	2007/08
	<i>15</i>	R'000	R'000
In-service debt		5 605	5 501
Out-of-service debt		15 401	13 427
Total		21 006	18 928

15.4 Other debtors

	<i>Note</i>	2008/09	2007/08
	<i>15</i>	R'000	R'000
Disallowance accounts		17 892	20 236
Salary suspense accounts		2 553	747
Funds due to DoJ&CD by NPA (virement)		3 712	-
Total		24 157	20 983

16. Voted funds to be surrendered to the Revenue Fund

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Opening balance		245 895	(65 610)
Transfer from statement of financial performance		28 463	245 895
Paid during the year		(245 895)	65 610
Closing balance		28 463	245 895

17. Departmental revenue to be surrendered to the Revenue Fund

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Opening balance		14 426	4 770
Transfer from statement of financial performance		352 511	312 434
Paid during the year		(343 806)	(302 778)
Closing balance		23 131	14 426

18. Bank overdraft

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Consolidated Paymaster-General account		281 224	-
Total		281 224	-



19. Payables – current

Description	Note	2008/09 Total	2007/08 Total
Advances received	19.1	665	858
Clearing accounts	19.2	647	1 400
Other payables	19.3	-	28 235
Total		1 312	30 493

19.1 Advances received

Description	Note	2008/09 R'000	2007/08 R'000
Western Cape Agency Services	19	665	858
Total		665	858

19.2 Clearing accounts

Description	Note	2008/09 R'000	2007/08 R'000
Salary control accounts	19	586	1 322
Overseas maintenance		61	78
Total		647	1 400

19.3 Other payables

Description	Note	2008/09 R'000	2007/08 R'000
NPA virement still to be paid by DoJ&CD	19	-	26 575
Commission on Gender Equality, surplus to be surrendered to National Treasury		-	1 660
Total		-	28 235



20. Net cash flow available from operating activities

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Net surplus/(deficit) as per statement of financial performance		379 281	535 300
Add back non-cash/cash movements not deemed operating activities		(188 217)	375 628
(Increase)/decrease in receivables – current		(188 294)	7 321
(Increase)/decrease in prepayments and advances		57	(292)
(Increase)/decrease in other current assets		139 052	46 565
Increase/(decrease) in payables – current		(29 181)	26 040
Proceeds from sale of capital assets		(11)	-
Expenditure on capital assets		479 861	533 162
Surrenders to Revenue Fund		(589 701)	(237 168)
Net cash flow generated by operating activities		191 064	910 928

21. Reconciliation of cash and cash equivalents for cash flow purposes

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Consolidated Paymaster-General account		(281 224)	9 805
Cash receipts		1 279	(31)
Disbursements		14	(10)
Cash on hand		3 920	2 919
Total		(276 011)	12 683



11. Disclosure Notes to the Annual Financial Statements for the year ended 31 March 2009

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

22. Contingent liabilities

		<i>Note</i>	2008/09	2007/08
			R'000	R'000
Liable to	Nature			
Motor vehicle guarantees	Employees	<i>Annex 3A</i>	129	315
Housing loan guarantees	Employees	<i>Annex 3A</i>	12 213	17 021
Claims against the department		<i>Annex 3B</i>	3 484 997	3 004 932
Other departments (interdepartmental unconfirmed balances)		<i>Annex 5</i>	10 683	36 735
Third-party fraud, losses, theft and dishonoured cheques		<i>Annex 3B</i>	41 555	-*
Total			3 549 577	3 059 003

* Previous years contingent liability relating to third-party funds not available.

23. Commitments

		<i>Note</i>	2008/09	2007/08
			R'000	R'000
Current expenditure				
Approved and contracted			1 119 992	510 946
Approved but not yet contracted			7 519	1 428
			1 127 511	512 374
Capital expenditure				
Approved and contracted			6 922	62 497
Approved but not yet contracted			15 026	5 251
			21 948	67 748
Total commitments			1 149 459	580 122

* Previous year's commitment restated due to additional information obtained.



24. Accruals

	<i>Note</i>		2008/09	2007/08
			R'000	R'000
Listed by economic classification				
	30 days	30+ days	Total	Total
Compensation of employees	-	56 839	56 839	8 621
Goods and services	107 190	109 169	216 359	145 098
Buildings and other fixed structures	-	47 188	47 188	556
Machinery and equipment	-	457	457	2 865
Software and other intangible assets	-	-	-	5 638
Total	107 190	213 653	320 843	162 778

	<i>Note</i>		2008/09	2007/08
			R'000	R'000
Listed by programme level				
Programme 1: Administration			132 035	29 784
Programme 2: Administration of Courts			95 438	128 844
Programme 3: State Legal Services			11 043	4 150
Programme 5: Auxiliary and Associated Services			41 990	-
Statutory Appropriation: Judges and Magistrates			40 337	-
Total			320 843	162 778

	<i>Note</i>		2008/09	2007/08
			R'000	R'000
Confirmed balances with other departments		<i>Annex 5</i>	63 828	28 426
Confirmed balances with other government entities		<i>Annex 5</i>	15 533	-*
Total			79 361	28 426

* Previous year's accrual for Third Party Funds (amount to be paid to the National Revenue Fund) not available.

25. Employee benefits

	<i>Note</i>		2008/09	2007/08
			R'000	R'000
Leave entitlement			*397 277	366 878
Thirteenth cheque			93 967	85 704
Performance awards			4 941	5 764
Capped leave commitments			**214 224	203 271
Total			710 409	661 617

* Included in this amount is an amount of (R3 356 413) that relates to financial years prior to July 2000.

** Included in the commitments for capped leave is an amount of (R325 878) that relates to financial years prior to July 2000.



26. Lease commitments

26.1 Operating leases expenditure

2008/09	Land	Buildings and other fixed structures	Machinery and equipment	Total
	R'000	R'000	R'000	R'000
Later than 1 year and not later than 5 years	-	-	2 687	2 687
Total lease commitments	-	-	2 687	2 687

2007/08	Land	Buildings and other fixed structures	Machinery and equipment	Total
	R'000	R'000	R'000	R'000
Later than 1 year and not later than 5 years	-	-	2 004	2 004
Total lease commitments	-	-	2 004	2 004

Previous year's operating lease commitment restated due to additional information obtained.

26.2 Finance leases expenditure

2008/09	Land	Buildings and other fixed structures	Machinery and equipment	Total
	R'000	R'000	R'000	R'000
Not later than 1 year			27 594	27 594
Later than 1 year and not later than 5 years			43 816	43 816
Total lease commitments			71 410	71 410
LESS: finance costs			8 203	8 203
Total present value of lease liabilities			63 207	63 207

2007/08	Land	Buildings and other fixed structures	Machinery and equipment	Total
	R'000	R'000	R'000	R'000
Not later than 1 year			11 447	11 447
Later than 1 year and not later than 5 years			10 283	10 283
Total present value of lease liabilities			21 730	21 730



27. Receivables for departmental revenue

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Fines penalties and forfeits *		15 533	-
Interest dividends and rent on land **		381	371
Other ***		8 634	8 634
Total		24 548	9 005

* This amount was received in the Third Party Fund accounts at year end, but not yet paid into the vote account for transfer to the National Revenue Fund. Previous year's receivables are not available.

** The amount for interest dividends and rent on land for the 2007/08 financial year is restated due to new information obtained.

*** The amount for 2007/08 has been restated due to the fact that the amount is already disclosed in Note 11 as part of the unauthorised expenditure balance.

27.1 Analysis of receivables for departmental revenue

	<i>Note</i>	2008/09
		R'000
Opening balance		9 005
Add: Amounts recognised		15 543
Closing balance		24 548

28. Irregular expenditure

28.1 Reconciliation of irregular expenditure

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Opening balance		94 671	77 797
Add: Irregular expenditure – relating to prior year	28.2	25 495	99 111
Add: Irregular expenditure – relating to current year	28.2	35 002	-
Less: Amounts condoned	28.3	(109 076)	(82 237)
Less: Amounts not recoverable (not condoned)	28.4	(40 318)	-
Irregular expenditure awaiting condonation		5 774	94 671

Analysis of awaiting condonation per age classification

Current year	387	71 669
Prior years	5 387	23 002
Total	5 774	94 671



28.2 Details of irregular expenditure – current year

Incident	Disciplinary steps taken/criminal proceedings	2008/09 R'000
Supply Chain Management procedures not adhered to for Security Services	No loss was suffered by the department and disciplinary steps could not be taken, as the official responsible resigned.	526
IT equipment procured through an expired SITA contract	No loss was suffered by the department	2 572
Supply Chain Management procedures not adhered to for Communication Services	Official responsible was dismissed.	257
Non-compliance with departmental Supply Chain Management procedures (departmental Bid Adjudication Committee approvals not obtained)	Matters are still under investigation.	5 517
Inadequate delegations to departmental Bid Adjudication Committee	Condonation requested from accounting officer as the matter is technical of nature.	17 010
Finance leases entered into in terms of transversal State Tender Board contract (RT3) Non-compliance with Treasury Regulation 13.2.5	No further action is necessary, as condonation had been granted by National Treasury.	34 615
		60 497

28.3 Details of irregular expenditure condoned

Incident	Condoned by (condoning authority)	2008/09 R'000
Inadequate delegations to departmental Bid Adjudication Committee	Condoned by accounting officer	74 461
Finance leases entered into in terms of Transversal State Tender Board contract (RT3) Non-compliance with Treasury Regulations 13.2.5	Condoned by National Treasury	34 615
Total		109 076

28.4 Details of irregular expenditure not recoverable (not condoned)

Incident	Not condoned by (condoning authority)	2008/09 R'000
Supply Chain Management procedures not adhered to for Security Services	No loss was suffered by the department and disciplinary steps could not be taken, as the official responsible resigned.	526
IT equipment procured through an expired SITA contract	No loss was suffered by the department.	2 572
Tender procedures not followed in procuring consultancy services	Investigations have revealed that value for money was received, although it was evident that procurement procedures were not followed. The responsible official was dismissed.	13 240
Re-appointment of an employee in contravention of the Public Service Regulations	No loss was suffered by the department and the employee's service was terminated.	284
Supply Chain Management procedures not adhered to for consultancy services	Submission to accounting officer for condonation of non-compliance. The presiding officer did not make an order that the officials involved should re-pay any amount. The officials were dismissed.	9 478
Supply Chain Management procedures not adhered to for least cost routing	No loss was incurred, as the department derived a cost saving of 32% from this initiative.	14 218
Total		40 318



* Irregular expenditure amounting to R53 million identified as a result of the audit are not included in the above amount, as the department is in the process to investigate the matter because it is technical of nature. These matters have been noted in the relevant registers and are being dealt with in terms of National Treasury Practice Note 4 of 2008/2009.

29. Related party transactions

The funds mentioned under paragraph 1.5.2 of the report of the accounting officer, are related parties.

30. Key management personnel

	No of individuals	2008/09 R'000	2007/08 R'000
Officials:			
Level 15 to 16	16	12 364	11 125
Level 14 (and any other key management personnel identified by DoJ&CD)	307	145 859	*96 569
Total		158 223	107 694

* The amount disclosed in 2007/08 for level 14 was amended to include any other key management personnel identified by DoJ&CD.

31. Provisions

	<i>Note</i>	2008/09 R'000	2007/08 R'000
Potential irrecoverable debts			
Staff debtors		8 101	6 856
Other debtors		12 340	13 949
Total		20 441	20 805
Provisions			
Provision for non-recoverable loans		394	-
Occupational-specific Dispensation for legally qualified personnel		-	182 214
		394	182 214
Total		20 835	203 019



32. Movable tangible capital assets

MOVEMENT IN MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Opening balance R'000	Current year adjustments to prior year balances R'000	Additions R'000	Disposals R'000	Closing Balance R'000
Machinery and equipment	577 691	(52 487)	60 507	659	585 052
Transport assets	50 888	15 364	6 404	-	72 656
Computer equipment	299 783	(171 324)	20 650	145	148 964
Furniture and office equipment *	86 651	60 565	23 219	211	170 224
Other machinery and equipment **	140 369	42 908	10 234	303	193 208
Total movable tangible capital assets	577 691	(52 487)	60 507	659	585 052

* Included above in the "Current year adjustments to prior year balances" is an adjustment of 1 763, representing unverified assets of prior years to the value of R28,942 million. Refer to paragraph 11 of the accounting officer's report for more detail.

** Comparative figures have been restated to adhere to new disclosure requirements.

32.1 Additions

ADDITIONS TO MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Cash R'000	Non-cash R'000	(Capital work in progress, current costs and finance lease payments) R'000	Received current, not paid (Paid current year, received prior year) R'000	Total R'000
Machinery and equipment	61 463	(9 290)	-	8 334	60 507
Transport assets	17 216	(10 812)	-	-	6 404
Computer equipment	21 691	(1 845)	-	804	20 650
Furniture and office equipment	17 926	3 397	-	1 896	23 219
Other machinery and equipment	4 630	(30)	-	5 634	10 234
Total Additions to Movable Tangible Capital Assets	61 463	(9 290)	-	8 334	60 507



32.2 Disposals

DISPOSALS OF MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Sold for cash R'000	Transferred out or destroyed or scrapped R'000	Total disposals R'000	Cash received actual R'000
Machinery and equipment	325	334	659	-
Computer equipment	61	84	145	-
Furniture and office equipment	51	160	211	-
Other machinery and equipment	213	90	303	-
Total disposal of movable tangible capital assets	325	334	659	-

32.3 Movement for 2007/08

MOVEMENT IN MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2008

	Opening balance R'000	Additions R'000	Disposals R'000	Closing balance R'000
Machinery and Equipment	366 736	211 103	148	577 691
Transport assets	36 447	14 441	-	50 888
Computer equipment	136 437	163 404	58	299 783
Furniture and office equipment	60 877	25 864	90	86 651
Other machinery and equipment	132 975	7 394	-	140 369
Total movable tangible capital assets	366 736	211 103	148	577 691

32.4 Minor assets

	Intangible assets R'000	Machinery and equipment R'000	Total R'000
Minor assets	171	554 073	554 244
Total	171	554 073	554 244

	Intangible assets	Machinery and equipment	Total
Number of minor assets	44	391 313	391 357
Total	44	391 313	391 357

* Not included above is 10 123 unverified minor assets of prior years to the value of R21,625 million. Refer to paragraph 11 of the accounting officer's report for more detail.



33. Intangible capital assets

MOVEMENT IN INTANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Opening balance R'000	Current year adjustments to prior year balances R'000	Additions R'000	Disposals R'000	Closing balance R'000
Capitalised development costs	-	4 725	1 430	-	6 155
Computer software	29 849	14	125	-	29 988
Total intangible capital assets	29 849	4 739	1 555	-	36 143

33.1 Additions

ADDITIONS TO INTANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Cash R'000	Non-cash R'000	(Develop- ment work in progress – current costs) R'000	Received current year not paid (paid current year received prior year) R'000	Total R'000
Capitalised development costs	1 430	-	-	-	1 430
Computer software	145	(20)	-	-	125
Total additions to intangible capital assets	1 575	(20)	-	-	1 555

33.2 Movement for 2007/08

MOVEMENT IN INTANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2008

	Opening balance R'000	Additions R'000	Disposals R'000	Closing balance R'000
Computer software	29 404	445	-	29 849
Total	29 404	445	-	29 849



34. Immovable tangible capital assets

MOVEMENT IN IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Opening balance R'000	Curr Year adjustments to prior year balances R'000	Additions R'000	Disposals R'000	Closing balance 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 capital assets	-	-	417 785	412 934	4 851

34.1 Additions

ADDITIONS TO IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Cash R'000	Non-cash R'000	(Capital work in progress current costs and finance lease payments) R'000	Received current not paid (Paid current year received prior year) R'000	Total R'000
Building and other fixed structures	416 823	-	-	962	417 785
Non-residential buildings	412 934	-	-	-	412 934
Other fixed structures	3 889	-	-	962	4 851
Total additions to immovable tangible capital assets	416 823	-	-	962	417 785



34.2 Disposals

DISPOSALS OF IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Sold for cash R'000	Transferred out or destroyed or scrapped R'000	Total disposals R'000	Cash received actual R'000
Buildings and other fixed structures		412 934	412 934	-
Non-residential buildings		412 934	412 934	-
Total disposals of immovable tangible capital assets		412 934	412 934	-

34.3 Movement for 2007/08

MOVEMENT IN IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2008

	Opening balance R'000	Additions R'000	Disposals R'000	Closing balance R'000
Buildings and other fixed structures	-	296 148	296 148	-
Dwellings	-	11 106	11 106	-
Non-residential buildings	-	285 042	285 042	-
Total immovable tangible assets	-	296 148	296 148	-



12. Annexures to the Annual Financial Statements for the year ended 31 March 2009

Annexure 1A

STATEMENT OF UNCONDITIONAL GRANTS AND TRANSFERS TO MUNICIPALITIES

Name of Municipality	Grant allocation				Transfer		Spent			2007/08
	Amount	Roll-overs	Adjustments	Total available	Actual transfer	% Of available funds transferred	Amount received by municipality	Amount spent by municipality	% Of available funds spent by municipality	Total available
	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000	%	R'000
Provincial department fines and penalties	-	-	-	-	2	-	-	-	-	-
Provincial department vehicle licences	-	-	-	-	2	-	-	-	-	-
	-	-	-	-	4	-	-	-	-	-

Annexure 1B

STATEMENT OF TRANSFERS TO DEPARTMENTAL AGENCIES AND ACCOUNTS

Department/Agency/Account	Transfer allocation				Transfer		2007/08
	Adjusted Appropriation Act	Roll-overs	Adjustments	Total available	Actual transfer	% Of available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Human Rights Commission	60 603	-	-	60 603	60 603	100.0	55 281
Legal Aid Board	842 120	-	(4 000)	838 120	838 120	100.0	613 029
Special Investigating Unit	116 297	-	-	116 297	116 297	100.0	103 111
Commission on Gender Equality	46 193	-	-	46 193	46 193	100.0	39 745
Public Protector	86 475	-	-	86 475	86 475	100.0	78 722
Representative Political Parties' Fund	88 187	-	-	88 187	88 187	100.0	83 354
President's Fund	1	-	-	1	-	-	1
Education, Training and Development Practice Sectoral Authority	4 421	-	-	4 421	3 008	68.0	4 211
	1 244 297	-	(4 000)	1 240 297	1 238 883		977 454



Annexure 1C

STATEMENT OF TRANSFERS TO FOREIGN GOVERNMENT AND INTERNATIONAL ORGANISATIONS

	Transfer allocation				Expenditure		2007/08
	Adjusted Appropriation Act	Roll-overs	Adjustments	Total available	Actual transfer	% Of available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Foreign Government/ International organisation							
Transfers							
Subscription fees: International Criminal Court	4 240	-	839	5 079	5 084	100	4 220
	4 240	-	839	5 079	5 084		4 220
Total	4 240	-	839	5 079	5 084		4 220

Annexure 1D

STATEMENT OF TRANSFERS TO HOUSEHOLDS

	Transfer allocation				Expenditure		2007/08
	Adjusted Appropriation Act	Roll-overs	Adjustments	Total available	Actual transfer	% of Available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Households							
Transfers							
Household: Employee Social benefit	81 738	-	(1 607)	80 131	61 624	77	74 725
Household: Claims against the state	327	-	1 588	1 915	1 915	100	496
Household: Ex gratia payments	30	-	19	49	49	100	129
Household: State vehicles and car rentals	-	-	-	-	-		44
Total	82 095	-	0	82 095	63 588		75 394
Total	82 095		0	82 095	63 588		75 394



Part 4: Annual Financial Statements (Vote 21)

Annexure 1E

STATEMENT OF GIFTS, DONATIONS AND SPONSORSHIPS RECEIVED

Name of organisation	Nature of gift, donation or sponsorship	2008/09	2007/08
		R'000	R'000
Received in cash			
Law Society	Improving library facilities – North West	5	5
City of Cape Town	Funding of municipal courts	-	1
Donations and gifts	Children's christmas party	-	11
Law Society	Donation	5	-
Subtotal		10	17
Received in kind			
Mosiak Church	Upgrading of children's intermediary, awaiting and interrogation rooms	12	15
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 for golf day event	3	-
Amar Africa	Catering for golf day event	1	-
Subtotal		45	15
Total		55	32

Annexure 1F

STATEMENT OF LOCAL AND FOREIGN AID ASSISTANCE RECEIVED

Name of donor	Purpose	Opening			Closing
		Balance	Revenue	Expenditure	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
Ireland	Re-engineering business processes in the master's offices and selected magistrate's courts	2 185	-	*2 185	
Swiss Fund	Improving the accessibility of small claims courts	1 762	1 099	607	2 254
Total		14 514	1 099	2 792	12 821

* The amount of R2 185 000 for Ireland disclosed as expenditure is not actual expenditure, but rather a transfer to National Treasury's RDP fund.



Annexure 1G

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

Nature of gift, donation or sponsorship	2008/09	2007/08
	R'000	R'000
Made in kind		
Western Cape – Judge Howie farewell gift	3	-
Western Cape – Chief Magistrate HAJ Swart farewell gift	1	-
Total	4	-

Annexure 3A

STATEMENT OF FINANCIAL GUARANTEES ISSUED AS AT 31 MARCH 2009 – LOCAL

Guarantor institution	Guarantee in respect of	Original guaranteed capital amount	Opening balance 1 April 2008	Guarantees draw downs during the year	Guarantees repayments/ cancelled/ reduced/ released during the year	Revaluations	Closing balance 31 March 2009	Guaranteed interest for year ended 31 March 2009	Realised losses not recoverable, ie claims paid out
		R'000	R'000	R'000	R'000	R'000	R'000	R'000	R'000
Stannic	Motor vehicles	-	315	-	90	(96)	129	-	-
	Subtotal	-	315	-	90	(96)	129	-	-
	Housing								
	Standard Bank	-	3 030	-	658	-	2 372	-	-
	Nedbank Limited	-	2 684	-	629	-	2 055	-	-
	Firststrand Bank Ltd	-	1 599	-	487	40	1 152	-	-
	ABSA	-	5 307	-	1 863	105	3 549	-	-
	Peoples Bank Incorp	-	509	-	107	-	402	-	-
	FNB	-	729	-	246	56	539	-	-
	Old Mutual Bank	-	2 106	-	807	17	1 316	-	-
	Other	-	1 057	-	249	20	828	-	-
	Subtotal	-	17 021	-	5 046	238	12 213	-	-
Total	-	17 336	-	5 136	142	12 342	-	-	



Part 4: Annual Financial Statements (Vote 21)

Annexure 3B

STATEMENT OF CONTINGENT LIABILITIES AS AT 31 MARCH 2009

Nature of Liability	Opening balance 01/04/2008	Liabilities incurred during the year	Liabilities paid/ cancelled/ reduced during the year	Liabilities recoverable (Provide details hereunder)	Closing balance 31/03/2009
	R'000	R'000	R'000	R'000	R'000
Claims against the department					
Summonses	3 004 932	661 467	181 402	-	3 484 997
Litigation	-	3 073	3 073	-	-
	3 004 932	664 540	184 475	-	3 484 997
Other					
Third Party Fund fraud, theft, losses and dishonoured cheques	-	41 555	-	-	41 555
	-	41 555	-	-	41 555
Total	3 004 932	706 095	184 475	-	3 526 552

* Amounts disclosed as "Claims against the department" are disclosed at the best known value available to the department and in the majority of cases are the value of the summons issued against the department. The amount disclosed is therefore not necessarily the most likely amount the court will settle on.

Annexure 4

CLAIMS RECOVERABLE

Government Entity	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31/03/2009	31/03/2008	31/03/2009	31/03/2008	31/03/2009	31/03/2008
	R'000	R'000	R'000	R'000	R'000	R'000
Department						
National department	107 855	69 005	5 572	2 167	113 427	71 172
Eastern Cape	30 559	19 222	142	2 044	30 701	21 266
Free State	4 223	2 928	50	5	4 273	2 933
Gauteng	12 041	6 631	271	292	12 312	6 923
KwaZulu-Natal	2 239	1 715	60	108	2 299	1 823
Mpumalanga	3 329	2 148	2 110	436	5 439	2 584
Northern Cape	1 444	225	275	427	1 719	652
Limpopo	12 891	5 683	979	1 218	13 870	6 901
North West	6 787	2 493	183	765	6 970	3 258
Western Cape	1 643	790	412	42	2 055	832
Agency Services Control Account	-	-	38	-	38	-
Sal: Recoverable	480	415	299	119	779	534
Total	183 491	111 255	10 391	7 623	193 882	118 878



Annexure 5
INTERGOVERNMENT PAYABLES

Government entity	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31/03/2009	31/03/2008	31/03/2009	31/03/2008	31/03/2009	31/03/2008
	R'000	R'000	R'000	R'000	R'000	R'000
DEPARTMENTS						
Current						
Transport (GG) Western Cape	1 252	1 648	8 344	8 165	9 596	9 813
Government Communications	-	24	-	-	-	24
SAPS	5	77	76	82	81	159
Office Premier Limpopo	-	1	-	-	-	1
Public Service Commission	-	11	-	-	-	11
Home Affairs	-	20	-	3	-	23
Trade and Industry	-	15	-	-	-	15
Agriculture	-	9	-	-	-	9
NW Provincial Administration	21	1	-	-	21	1
Transport (GG) KZN	-	603	-	10 868	-	11 471
Department of Foreign Affairs	742	-	2 006	2 557	2 748	2 557
Department of Public Works	46 478	18 982	-	14 925	46 478	33 907
Transport (GG) Gauteng	15 163	7 022	121	130	15 284	7 152
Department of Health	12	13	-	-	12	13
Mineral and Energy	-	-	-	5	-	5
Education EC	13	-	-	-	13	-
Arts and Culture National	13	-	-	-	13	-
Agriculture	2	-	40	-	42	-
Education FS	13	-	-	-	13	-
Social Development	6	-	-	-	6	-
Social Development FS	-	-	22	-	22	-
Labour	57	-	-	-	57	-
Water Affairs and Forestry	46	-	-	-	46	-
Public Service and Administration	5	-	-	-	5	-
Public Works FS	-	-	6	-	6	-
Office of the Premier	-	-	4	-	4	-
Arts and Culture FS	-	-	26	-	26	-
Health EC	-	-	38	-	38	-
Total	63 828	28 426	10 683	36 735	74 511	65 161
OTHER GOVERNMENT ENTITY						
Current						
National Revenue Fund (TPF)*	15 533	-	-	-	15 533	-
Total	15 533	-	-	-	15 533	-

* Accrual for Third Party Funds administered revenue still to be paid from the vote account to the National Revenue Fund. Previous year's accrual is not available.





Annual Financial Statements

for the year ended 31 March 2009



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1. Report of the Accounting Officer to the Executive Authority and Parliament of the Republic of South Africa

1.1 General review of the state of financial affairs

1.1.1 Important policy decisions and strategic issues facing the department

The department's key strategic objectives are as follows:

- Capacitating and restructuring courts
- Integrating the justice system
- Catering for vulnerable groups
- Improving the maintenance system to relieve the pressure on the courts

Effectively meeting these objectives will improve the standard of service delivery, broaden access to justice, and improve the efficiency of the criminal justice system.

Improving service delivery

The department aims to do the following:

- Fill critical vacancies
- Modernise the justice system services
- Reduce the backlog of cases and improve overall case flow management

Additional resources are utilised to meet the demands imposed on the criminal justice system by the high crime rate, and more general factors such as skills shortages.

Improved administrative processes and logistics and more efficient use of human resources led to noticeably higher levels of service delivery. Information technology solutions introduced at selected courts countrywide helped to resolve cases more speedily.

Broadening access to justice services

In order to bring court services to marginalised communities, townships and rural areas, the department is continuing to rationalise courts and redemarcate magisterial districts. The construction of new courts in townships and rural areas is continuing, and mobile courts will service remote communities until permanent facilities are built.

Crimes against women and children continue to be high on the agenda. Ongoing priorities are as follows:

- Public communication and education about services and assistance for victims of crime

- Services related to maintenance
- The Guardian's Fund
- Sexual and domestic violence
- Truth and Reconciliation Commission recommendations
- Issues affecting vulnerable groups

A Child Justice Bill implementation framework has been developed and is being reviewed by the stakeholders. The Association of Regional Magistrates of South Africa facilitated the training of approximately 250 regional court magistrates on child justice, diversion and non-custodial sanctions in serious cases. A family law learnership was finalised in 2007/08, and staff such as family advocates and counsellors are being trained on domestic violence.

More efficient criminal justice system

The review of the criminal justice system, endorsed by Cabinet as priority, is currently underway. The review seeks to improve the overall functioning of the criminal justice cluster, and is being conducted by the Justice Crime Prevention and Security (JCPS) Cluster, coordinated by the Deputy Minister of Justice and Constitutional Development.

Progress has been made in establishing a single coordinating and management structure for the criminal justice system at all levels, including an integrated and seamless electronic database of information relevant to the Criminal Justice Cluster.

Programmes for combating crime and strengthening South Africa's democracy will continue in partnership with the private sector, religious and traditional leaders, and civil society.

1.1.2 Significant events that have taken place during the year

Occupation Specific Dispensation (OSD)

The Minister of Public Service and Administration issued a determination for the OSD after an agreement was concluded in the bargaining council. The agreement was signed with the provision that the Minister of Justice and Constitutional Development will extend the determination to the National Prosecuting Authority and the Legal Aid Board. The agreement came into effect on 7 February 2008 (date of signing), with payments backdated to 1 July 2007. The then Minister of Justice and Constitutional Development approved the implementation of the OSD, which included the shifting of funds within the vote and additional allocations to the Legal Aid Board.



A request for additional funding of R177 million in the Adjustment Estimate was declined. The department, through internal reprioritisation, downscaling of existing programmes and a National Treasury allocation for inflation adjustments, managed to secure funding for the implementation of Phase 1 of the OSD. The Office of the CFO and branch managers were requested to thoroughly interrogate the baseline allocations and identify possible areas of saving/underspending.

The percentage underspending represents 0.6% of the total adjusted appropriation, which is an indication of the department's commitment to curb expenditure to stay within the budget approved by Parliament.

Increases in the compensation of judges and magistrates

The Independent Commission for the Remuneration of Office-bearers made recommendations in October 2008 (after the Adjusted Estimate of National Expenditure for 2008/09) for the remuneration of judges and magistrates to be increased. On 21 October 2008, the President approved the salary increases payable to judges and magistrates with effect from 1 April 2008. The payment of salaries for judges and magistrates is a statutory amount and therefore a direct charge against the National Revenue Fund. National Treasury granted approval for the department to draw additional amounts from the National Revenue Fund to cover the over-expenditure of R198 685 million on the judges' and magistrates' salaries during the 2008/09 financial year. The excess of R13 million remaining at financial year-end has been recovered from the National Revenue Fund during the 2009/10 financial year.

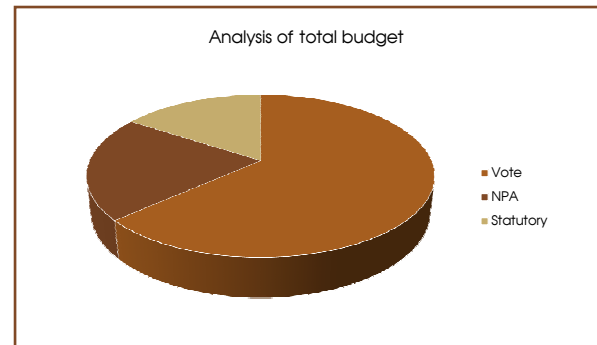
1.1.3 Spending trends

Voted funds received by the department

The budget allocated to the department (excluding statutory appropriation) amounted to R8 341 432 000. An additional amount of R174 093 000 was allocated to the department, bringing the adjusted appropriation to R8 515 525 000. Although the adjusted appropriation indicates a budget totalling R8 515 525 000 for the vote, the financial statements reflect only R6 403 716 000. The discrepancy of R2 111 809 000 is due to the fact that the amount appropriated for the National Prosecuting Authority (NPA) is reported on in the financial statements of the NPA. However, when applying the principles of virement, it is applied on the vote as a whole and not as the NPA being a separate reporting responsibility.

The NPA assumed separate responsibility for all support services previously rendered by the department with

effect from 1 April 2001. The NPA has since this date been responsible for its own accounting systems, and therefore separate financial statements have, as was the case last year, been prepared for the NPA.



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

	2008/09 R'000	2007/08 R'000
Total adjusted appropriation (excluding NPA and statutory appropriation)	6 400 004	5 733 976
Amount (transferred to)/ received from NPA for virement	3 712	(56 575)
Final appropriation	6 403 716	5 677 401
Less: Expenditure	6 362 176	5 513 497
Saving/Underspending	41 540	163 904
Percentage underspending	0.6%	2.9%

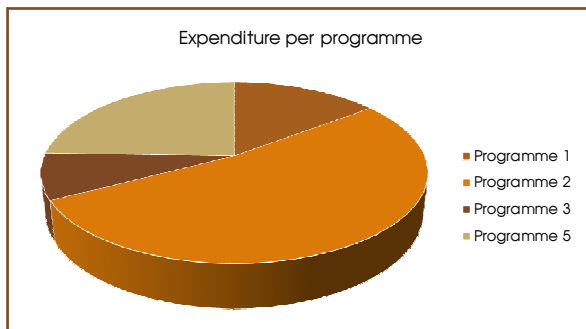
The expenditure incurred by the department was R6 362 176 000 and against the final appropriated amount for the year of R6 403 716 000 leaving the department with an underspending of R41.5 million, 0.6 % of the final appropriated amount.

The implementation of the Occupational Specific Dispensation (OSD) for legally qualified personnel resulted in the programmes for Court Services (Programme 2) and State Legal Services (Programme 3) being the programmes with the highest over-expenditure. The underspending of the department is the direct result of deliberate cuts in operational expenditure, curtailment of unplanned acquisition of goods and services and the non-filling of vacant posts. This was done to fund the implementation of the OSD.



The underspending of the department was on the following items:

Item	R'000
Goods and services	11 526
Transfers and subsidies	1 417
Other current expenditure	3
Payment for capital assets	28 594
Total saving	41 540



Virement

The following virements were approved between programmes.

- A portion of the saving on goods and services was utilised to increase the compensation of employee budget by R1 984 million.
- A portion of the saving on the transfer to the Legal Aid Board was utilised to fund the excess of expenditure of R4 892 million incurred for the transfer of households.

Statutory appropriation (judges' and magistrates' salaries and allowances)

	2008/09 R'000	2007/08 R'000
Total amount appropriated	1 389 329	1 266 518
<i>Plus:</i> Additional allocation	198 685	-
	1 588 014	1 266 518
<i>Less:</i> Expenditure	1 601 091	1 184 527
Saving/(Overspending)	(13 077)	81 991

Revenue

	2008/09 R'000	2007/08 R'000
Opening balance	14 426	4 770
Revenue generated	352 511	312 434
Total revenue generated	366 937	317 204
<i>Less:</i> Revenue paid to Revenue Fund	343 806	302 778
Surplus to be surrendered to Revenue Fund	23 131	14 426



Some 77% (2007/08: 76%) 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.

A legal opinion and research on practices internationally indicated that monies received from the TPF do not necessarily constitute departmental revenue. The department therefore continued with its endeavours in order to get clarity on the uncertainty whether monies received by the TPF on behalf of the state should be paid to the vote account and be regarded as departmental revenue. The department engaged in several meetings with National Treasury (NT) regarding the approach, and although it was initially envisaged that the revenue from the TPF would be paid directly to the National Revenue Fund (NRF), the NT, in a letter dated 27 July 2009, indicated that if money is due to the state, then this money will flow to the NRF through the books of the relevant departments. The department is in the process to investigate the practical implication of the ruling, as well as the impact of this on the vote account of the department.

1.2 Services rendered by the department

1.2.1 Tariff policy

The department's services and related charges are all fixed by law and 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.

1.2.2 Free services

- Administration of Third Party Funds (Monies in Trust) is currently being done free of charge. Should a fee be charged, it would yield significant revenue.
- Small Claims Court: The presiding officer is normally a lawyer or retired magistrate.
- Law lecturers render a free service at magistrate's courts.
- A number of free 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 and financial 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 South Africa. Legal services include scrutiny of international agreements, including extradition agreements, scrutiny of draft subordinate legislation, writing of legal opinions, and secondment of staff on a part-time basis to assist other departments.
- Transcription records are provided free of charge to litigants for purposes of challenging the outcome of cases. Should a fee be charged, it would yield significant revenue.
- Legal advice, counselling and mediation services are offered at family courts by family advocates, family counsellors, and maintenance investigators.

1.2.3 Inventories

The Inventory Management Policy was revised and, as a result, the number of stores in the department over the last financial year was reduced from 86 to 11 formal stores. The inventory on hand at the magistrate's offices is not material in quantity and/or value and is regarded as issued stock and therefore not regarded as formal stores.

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

	Total R'000
National Office	644
Regional Office: Gauteng	256
Regional Office: Western Cape	123
Regional Office: KwaZulu-Natal	619
Regional Office: Free State	28
Regional Office: Limpopo	4
Regional Office: Mpumalanga	3
Regional Office: Northern Cape	252
Regional Office: Eastern Cape	419
Regional Office: North West	134
Constitutional Court	384
Total	2 866

1.3 Capacity constraints

The vacancy rate has decreased to 13.6% during the financial year under review. Skills shortages, covering a broad spectrum of specialisation in the various areas, have however continued to affect the department's operations and have affected the service delivery capacity of the department.



The department had to continue outsourcing services to consultants/contractors to assist with the roll-out of projects. Hence, much reliance was placed on temporary staff, contractors and consultants for the continuation of projects, as well as the day-to-day operations of the department.

A number of new posts have also been created during the financial year under review in an effort to improve service delivery and address skills shortages.

1.4 Utilisation of donor funds

Apart from voted funds, the department also depends on donor funding to fund some of its core 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 is withdrawn or has come to an end.

	2008/09 R'000	2007/08 R'000
Assistance rolled over from previous year	14 514	37 543
Grants received during the financial year	1 100	39 340
Total amount received	15 614	76 883
<i>Less:</i> Expenditure	2 793	62 369
Closing balance	12 821	14 514

The following donor-funded projects have been implemented in the department during the reporting period

Project	Donor	Project objectives and strategic support to department	Status
E-Justice Programme	European Commission and The Royal Netherlands Embassy	Enhancing organisational efficiency by providing business solutions using IT as enabler.	The final evaluation report indicates that the introduction of information systems is with no doubt a highly significant contribution towards increased efficiency and transparency in the public sector. It brings about changes in enhancing economic performance, increasing government's accountability and strengthening civil society capacity to monitor government achievements. This is particular valid for the judicial sector in South Africa, where its effectiveness is a key factor for the improvement of citizens' lives and their confidence in government. Well managed court records are the means by which citizens and organisations are able to enforce their rights, and they support accountability by making the judiciary more transparent.



Project	Donor	Project objectives and strategic support to department	Status
Integrated Administration of Deceased Estates (IADE)	The Government of Ireland (Irish Aid)	Facilitating accessible deceased and insolvent estate services	<p>The business objectives achieved in the development of the Integrated Case Management System (ICMS) and Integration of the Administration of Deceased Estates (IADE) System, inter alia, include:</p> <ul style="list-style-type: none"> • Increased operational efficiency and communication infrastructure, making it easier to drive change in the master's offices • Improved quality of management information, ensuring that the Master's Branch has a centralised view of all its offices by identifying trends and problems within the branch through the provision of management information reports • Improved customer service • Possible reduction in corruption and fraud with regard to the administration of deceased estates <p>The aforementioned has been achieved through participation in the project by all stakeholders, seamless integration with other systems, the implementation of standardised processes at all offices, appropriate change management and adequate infrastructure.</p> <p>Phase 1 of the Irish contribution to the ICMS Masters solution is complete and proposals for the enhancement of the phase are currently underway.</p>
Building capacity in the field of children and the law	Sweden (Sida)	Access to justice with focus on children and the law.	<p>A final report on the utilisation of the Swedish funding was forwarded to the donor during April 2009. The following achievements are highlighted in the report:</p> <ul style="list-style-type: none"> • National and provincial child justice fora as monitoring structures work well, are sustainable and are addressing children's issues. • Good intersectoral coordination with regard to child justice matters has been established. • The number of children awaiting trial in correctional facilities has been halved, while the number of children awaiting trial in secure care has doubled. • Various clauses of the Child Justice Bill were piloted successfully. • Two one-stop child justice centres were established and are working well. • The concept of restorative justice central to the Child Justice Bill and system was mainstreamed. • Eighty seven percent of children appearing before courts in criminal matters are represented by the Legal Aid Board. <p>No receipts were received and no expenditure was incurred during the financial year.</p>



Project	Donor	Project objectives and strategic support to department	Status
Promotion of Administrative Justice Act (PAJA), 2000 (Act No 3 of 2000)	Germany (GTZ)	Access to justice for all implementation of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000)	Training of departments on the implementation of the Act is ongoing. No receipts were received and no expenditure was incurred during the financial year.
The National Action Plan to Re-engineer Small Claims Courts	Government of the Swiss Confederation	Promote access to justice for all, especially the vulnerable groups	The Small Claims Court Project has been established to assist the Directorate: Victim Support and Specialised Court Services with the development of training manuals for commissioners and court officials, as well as to provide for their training, particularly training for commissioners. The process of developing a manual is underway and it is envisaged that it will be finalised in June 2009. Training of commissioners will start in the 2009/10 financial year. The training for court officials that is offered by the Justice College is continuing on an ongoing basis.

1.5 Trading entities and public entities

1.5.1 Trading entities

None.

1.5.2 Public entities

Special Investigating Unit

The Special Investigating Unit 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.

Legal Aid Board

The Legal Aid Board 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 in terms of the Constitution. The board 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.

1.5.3 Constitutional institutions

Commission on Gender Equality

The Commission on Gender Equality 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 and any legislation affecting the status of women.

South African Human Rights Commission

The Human Rights Commission 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 on human rights, monitors and assesses the observance of human rights, provides education and training on human rights, and addresses human rights violations and seeks effective redress.

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 23 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 to result in impropriety or prejudice, and to mediate, negotiate, conciliate, report and recommend remedial action.

1.5.4 Other funds

President's Fund

The President's Fund was established in terms of section 42 of the Promotion of National Unity Reconciliation Act, 1995 (Act No 34 of 1995). Parliament approved compensation to victims on the recommendations of the President and subsequent recommendations of the ad hoc committee of both houses of Parliament on the tabling of the last two volumes of the Truth and Reconciliation Commission (TRC) Report.

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. The obligation is a very serious one, especially as the bulk of people falling in this category are orphans and mentally incapacitated people, ie some of the most vulnerable groups in society.

Third Party Funds

In order to give assistance to the courts (judiciary) in a structured manner, the department established a vehicle known as Third Party Funds (TPF) that acts as a conduit for the decisions (with financial implications) taken by the judiciary. These decisions, inter alia, necessitate the receipt of funds and the later payment of these funds to third parties depending on the circumstances. The department maintains a separate set of financial statements for TPF.

National Prosecuting Authority/Criminal Asset Recovery Account (NPA/CARA)

The NPA assumed responsibility for all support services previously rendered by the department with effect from April 2001 (refer to paragraph 1.1.3 of this report). The Criminal Asset Recovery Account (CARA) that was established by section 63 of the Prevention of Organised Crime Act, 1988 (Act 121 of 1988), is currently located within the Finance and Procurement Division of the NPA. The purpose of CARA is to hold forfeited monies and property before they can be distributed to defined beneficiaries.

1.6 Organisations to whom transfer payments have been made

In terms of the PFMA, the accounting officer has certain responsibilities prior to the transfer of funds to a public entity, which are as follows:

- 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 2007/08 audit results and internal audit findings for 2007/08.
- National Treasury Regulation 26.1 and 30.2.1 further require quarterly reporting by entities. Quarterly reporting was a prerequisite for continued transfer of funds to the public entities.
- According to section 38(i)(j), the lack of assurance by public entities puts a responsibility on the transferring department by introducing condition of the transfer, and follow-up of 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 2008/09 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	Amount R'000
Special Investigating Unit	116 297
Legal Aid Board	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 Regulation 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	Amount R'000
Commission on Gender Equality	46 193*
South African Human Rights Commission	60 603
Public Protector	86 475
Represented Political Parties Fund (Independent Electoral Commission)	88 187

- * The findings of the AGSA on the Commission on Gender Equality for 2007/08 identified a breakdown of financial management, lack of appropriate financial management capacity, and lack of effective policies and procedures with no or limited evidence of financial controls. Technical assistance was provided by the department to the commission in this regard.

1.7 Public Private Partnerships (PPP)

Third Party Funds (formerly known as Management of Monies in Trust) (bail, maintenance, court fines, payments into court, estates, Guardian's Fund, etc)

The department has a turnover of more than R2 billion in Third Party Funds (excluding the Guardian's Fund) per annum through its cash halls at magistrate's offices. The consolidated national bank balance as at 31 March 2009 amounted to R557 million.

Furthermore, the Guardian's Fund has a turnover of more than R440 million. The consolidated bank accounts of the fund amounts to R45 million, while a further R5 billion is managed on investments.

The Third Party Funds (TPF) Public Private Partnership (PPP) process has reached its final stages. The TPF PPP actively seeks to remove all or most cash handling from courts, transferring the risk attached thereto to a private party (PP). The PP will, in short, be responsible, for the partnership period, for financial management (receipts, payments, record-keeping and financial reporting) and the provision of a front-end financial administrative system, while the department will remain responsible for all the administrative and legal duties attached to the management of TPF.

With reference to paragraph 7.2 on pages 106 to 107 of the previous annual report, it is reported that National Treasury granted TA2A approval on 1 April 2008, and that the RfBAFO was issued on the same day. Bids were received on 14 April 2008. After approval of the project governance structure and tender evaluation

criteria, evaluation proceeded on 12 May 2008 and was finalised on 26 June 2008.

After bidder clarifications were received, the bid selection committee recommended a preferred and reserve bidder to the Director-General. The Director-General approved the request for TA2B from National Treasury on 18 December 2008 and National Treasury provided such approval on 29 January 2009. The preferred and reserve bidders were informed of their status on 26 March 2009. An engagement meeting was held with the preferred bidder on 3 April 2009 and contract negotiations are currently underway and it is estimated to be finalised by 30 September 2009, after which TA3 approval will be requested.

1.8 Corporate governance arrangements

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

1.8.1 Powers, roles and responsibilities of Exco members

The Deputy Directors-General, the Chief Operations Officer 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 Public Finance and Management Act, 1999 (Act 1 of 1999) (PFMA), encompassing the National Treasury Regulations
- 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.

Enterprise-wide Risk Management Strategy

The departmental Executive Committee (Exco) take cognisance of the fact that the control environment enhances the tone of risk management and provides the necessary discipline and structure for the same. 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, development and competence of 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 that 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 that enable risks to be assessed and managed. The internal and external assurance bodies review the efficacy of enterprise-wide risk management regularly. The department was assessed by 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. The Exco is accountable for the processes of risk management, and the Audit Committee also fulfils the role of 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. During the year under review, risk profiles for various units and regions were developed. Risk assessments for strategic projects like the 2010 FIFA World Cup were also conducted and reported on. 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 introduce proper mitigation strategies. In certain areas, the review of risk profiles were conducted in order to ensure that the risk plans developed were implemented, and to identify further risks and opportunities for continuous improvement, where possible. The unit continues to work closely with management in order to identify inherent risks and improve the system of internal control.

Other activities that relate to the Chief Directorate: Risk Management have been outlined below and incorporated in the sections of the annual report that deal with programme performance.

Anti-Fraud and Corruption Strategy

Management is ultimately responsible in terms of section 38 of the PFMA to ensure that proper controls are in place

to prevent and detect fraudulent and irregular activities. In line with the Public Sector Anti-Corruption Strategy, which was approved by Cabinet in 2002 and which emphasises the comprehensive fraud and corruption prevention measures as the first line of defence against corruption, the department has continued to implement its approved fraud and corruption plan in its quest to prevent and detect acts of fraud, corruption and other irregularities.

During the year under review, the department has ensured full compliance with the Minimum Anti-Corruption Capacity (MACC) requirements, as approved by Cabinet in September 2003. The MACC requirements specifically direct that, in order to fight corruption in departments and public entities, each accounting officer must do the following in his or her department:

- Specifically focus on and analyse corruption risk as part of the risk assessment required in terms of the PFMA
- Implement fraud plans required in terms of the PFMA to specifically address the corruption risk
- Verify the previous employment, qualifications, citizenship and criminal record of all persons before they are employed

During the year under review, the department has continued to popularise the National Anti-Corruption Hotline (0800 701 701). The Exco has increased capacity to investigate allegations, and institute and conclude disciplinary action for cases of corruption. The Fraud and Corruption Prevention Subdirectorate in the Directorate: Integrity Management has been established to ensure that all the preventative mechanisms are put in place. The internal Fraud and Corruption Communication Strategy was developed and approved. The implementation of this communication strategy has been characterised by the following:

- Training and awareness campaigns on fraud and corruption
- Articles on fraud and corruption in the *Justice Today* newsletter
- Communication on DJINI (intranet)
- Distribution of pamphlets, posters, booklets and any other materials that promotes awareness among employees
- The UN International Anti-corruption Day was celebrated on 9 December 2008
- The financial disclosures for the SMS members reached 100% in the 2008/09 financial year. A concerted effort had been made in this regard, as alignment in terms of the Minimum Anti-Corruption Capacity requirements has been gradually and actively implemented in the department.



As indicated in the section above, the fraud and corruption risk assessments were conducted. These risk assessments have paved a way for the review of the current Fraud and Corruption Plan.

As part of the roll-out of the National Vetting Strategy by the National Intelligence Agency (NIA), the department has entered into a memorandum of understanding (MoU) with the NIA for security vetting of the department's personnel. The MoU was signed by the Directors-General of the NIA and the DoJ&CD, and the job evaluation guidelines by the Department of Public Service and Administration (DPSA) have been adopted and approved by the Director-General.

The MoU sets the tone for the establishment of the Vetting Fieldwork Unit (VFU) and will serve as a NIA delegation of its vetting mandate to the department so as to reduce the vetting backlog. The three vacant vetting fieldwork positions have been filled.

The Project Kgaolo is intended to ensure the education of employees on matters relating to security vetting, fraud and corruption prevention, and is ongoing. The awareness project is characterised by the following:

- Presentations on the role of vetting in the fight against fraud and corruption
- The legal framework supporting the fight against fraud and corruption
- Encouraging employees to come forward and report any suspected incidences of fraud and corruption
- The completion of vetting application forms

Visits to seven regions and most offices in each regional responsibility have been completed. The visits to other outstanding offices in other regions will be completed during the 2009/10 financial year.

Project Kgaolo is very successful and the submission of security clearance applications has improved drastically. This will go a long way in reducing the vetting backlog the department has at the moment.

The Vetting and Personnel Suitability Check policies had been developed and discussed with all stakeholders, circulated internally for inputs and are now in the process of being approved. The Human Resources Recruitment Unit has been involved in a discussion on the implementation of this pre-employment screening. This procedure is intended to proactively ensure that the department only employs people who are not susceptible to bribery and/or fraud and corruption.

Business Continuity Management

In line with the National Disaster Risk Management Framework and good corporate governance principles,

Exco takes the responsibility for this process. Hence, structures have been instituted in the chief directorates of Risk Management and Information Systems Management in order to ensure its implementation. A documented process that will allow the department to continue its critical service delivery processes, including network operations in the event of a disastrous incident impacting various activities, is currently being developed. In consultation with all relevant stakeholders, this will allow the department to have a comprehensive and tested Business Continuity Plan in the near future.

1.8.2 Internal Audit Unit 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 National Prosecuting Authority's Internal Audit Unit had 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, and the unit, through its Chief Audit Executive, reports to the Audit Committee on a quarterly basis.

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 meets regularly and has unrestricted access to information and personnel within the department.

1.9 Discontinued activities/activities to be discontinued

The department has abolished the use of revenue stamps on court documents and trust instruments 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 Service as part of the ongoing efforts to reduce the administrative burden on taxpayers and to simplify the tax system.

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 our offices nationwide.



1.10 New/proposed activities

None.

1.11 Asset management

With reference to paragraph 11 on page 108 of the previous report, it was reported that the department embarked on an asset management turnaround project. The project is completed and all locations were subjected to a physical asset verification process. However, the nature of the project and magnitude of this project in the diverse environment of the department had its challenges. Quarterly verifications during the 2009/10 financial year will iron out all possible gaps that may still exist to ensure the completeness of the asset register, so that the existence of assets can easily be verified.

The Auditor-General of South Africa (AGSA) qualified the Audit Report of the department to Parliament by indicating that significant errors relating to the completeness of capital and minor assets and the existence of certain capital and minor assets were still identified. The qualification is regarded as serious, but must be seen in the light of the diverse environment of the department and the value of its assets. The value of the assets of the department is in excess of R1 billion and even a relatively low error rate is regarded as material by the auditors. Subsequent efforts to clear the findings raised by the auditors indicated that the majority of the assets indeed existed, but could not be located because of gaps in the asset register that can, inter alia, be attributed to temporary barcodes that were used during the project.

The challenge for the department is to resolve the unverified assets that resulted from the verification process, which are disclosed as part of the adjustments in note 32. However, the cost-effectiveness of launching into yet another exercise trying to locate, identify and value the unverified assets must be determined. Unverified assets do not necessarily represent the loss of assets. A major contributing factor is the result of previous improper record-keeping practices, reflecting duplicate assets that are now regarded as unverified as the assets never existed. It will be more prudent to write off these unverified items, and if unverified assets are found, consider it as gains.

Distilled to its essence, the department operates towards a strategic approach to managing assets. Regions are increasingly taking responsibility for the management of assets, and support the initiatives taken to address

shortcomings. This aligns with the overall key objective to ensure that all assets are accounted for in order to ensure the efficient and effective management of assets.

The department faces many challenges in ensuring effective asset management, but is committed to address all the gaps in order to produce an acceptable asset register that reconciles with the financial statements. These challenges, inter alia, include the following:

- **Skills:** The identification and sourcing of appropriate skills remains a priority in the department
- **Culture:** Compliance to circulars and other prescripts issued remains a concern
- **Geographical spread/footprint:** The department is faced with the reality to control assets in a decentralised environment. There are currently approximately 750 sites where assets need to be controlled and verified

The success of the department's asset management process lies in that all assets purchased are captured on the fixed asset register. A key strategic imperative is to drive the monthly reconciliation process from the BAS expenditure to the JYP asset register and vice versa. The intention is for these monthly reconciliations to be a decentralised process per office, a function that will be implemented in due course.

The quarterly asset verification process per province will be supported by further initiatives such as the allocation and distribution of scanners to aid in the physical verification of assets.

Fair value of assets (2005/06 financial year)

A contributing factor for qualifying the audit opinion on the financial statements for the department was the fact that assets were disclosed at fair value for 2005/06 and years prior to that financial year. The department entered into discussions with the Accountant-General in order to agree on an acceptable process to address the findings raised by the AGSA. It was agreed with the Accountant-General that it would be acceptable if the assets disclosed for 2005/06 at fair value be adjusted to reflect the cost of these assets. Adjusting the fair value back to cost involved the matching of invoices against the assets in order to determine the original cost and compared to the current value on the fixed asset register. This matter has been successfully corrected during the year under review.

1.12 Events after the reporting date

None.



1.13 Performance information

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

The information relating to the performance against predetermined objectives is subject to audit by the AGSA 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 AGSA to determine the standards to be applied in performing such audits. The AGSA 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.

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 Medium-term Strategic Framework, key performance indicators (KPI), has been developed in collaboration with branches. The tool is designed to monitor the progress on the implementation of the Medium-term Strategic Framework by analysing delivery of targets.

1.14 SCOPA resolutions

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: Paragraph 4.1 of the Report of the AGSA for 2005/06: SCOPA recommended the following:</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 AGSA will be able to verify the completeness and accuracy of receivables at year-end. 	Third-party Funds	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. The department is faced with the dilemma that there is currently no legislation enabling it to establish a trust. The department had several discussions with the relevant role-players in an effort not to engage in the tedious process to amend legislation.
<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 AGSA: SCOPA recommended that the issues on how to account for TPF monies, as indicated in National Treasury letter of 15 August 2007, are addressed as a matter of urgency. 	Governance Arrangements Third-party Funds	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 Third Party Funds. The Director-General approved the request for TA2B from National Treasury on 18 December 2008, and National Treasury granted such approval on 29 January 2009. The preferred and reserve bidders were informed of their status on 26 March 2009. An engagement meeting was held with the preferred bidder on 3 April 2009 and contract negotiations are currently underway (see paragraph 7 on TPF PPP).



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"> The AGSA 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 are taken against employees whose negligence are 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. In addition, the audit of the establishment, the decentralisation of the recruitment process to regional offices and continuous monitoring and reporting on vacancies by Human Resources contributed to a reduction in the vacancy rate of 13.6% 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 AGSA reported that lack of planning led to non-compliance with the Supply Chain Management Policy and Treasury Regulations: SCOPA recommended that the accounting officer ensure that tender procedures are followed well in advance, before the expiry of current contracts. The AGSA 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 AGSA reported that in five provinces, the service providers 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 AGSA 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 interest as prescribed. In conclusion SCOPA further recommended the following: <ol style="list-style-type: none"> That the problems highlighted by the AGSA be addressed urgently 	<p>Supply Chain Management (Procurement)</p>	<p>Resolution 1 to 4: Supply chain management (SCM) is a specialised field, and an appropriate organisational/staffing structure to deal with the challenges is receiving urgent attention. Therefore the filling of posts with the appropriate staff is dependent on finalising the matter.</p> <p>Standardised policies and procedures (SCM Policy and Procedure Manual) were developed to ensure consistency and compliance of implementation in the department's decentralised financial management environment. An implementation plan was developed in order to ensure the smooth and appropriate implementation of the manual at all levels of the department. The plan includes the key elements relating to the establishment of various committees, such as evaluation (DBEC), adjudication (DBAC), the regional control committee (RCC) and disposal committees. The plan further addresses systems of risk management, cross-functional teams for demand management and various training initiatives.</p> <p>Progress is being made with the implementation of the plan. Insofar as it relates to procurement (tender processes), the manual, inter alia, contains controls on the following: contract management, record-keeping, reporting and performance measurement, evaluation, acquisition management and the adjudication/awarding of quotations and bids.</p> <p>Training initiatives for all role-players in the supply chain management process are ongoing.</p>



Reference to previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>b. That the department report back to Parliament within 60 days of the adoption of this resolution by the National Assembly on the progress made with identified issues</p> <p>(i) That the Chief Financial Officer address the supply chain management problems and that actions be initiated against responsible staff and suppliers</p> <p>(ii) That disciplinary measures be taken against officials who were charged or found guilty of misconduct for awarding contracts to service providers that did not qualify</p> <p>(iii) That instances of fruitless and wasteful expenditure due to bids being cancelled be dealt with</p>	<p>Supply Chain Management (Procurement) (continued)</p>	<p>Resolution 5 of the report (conclusion)</p> <p>Paragraph a The responses given with regard to resolutions 1 to 4 above are applicable.</p> <p>Paragraph b The responses given with regard to resolutions 1 to 4 above are applicable. In addition to the above, responses please note the following:</p> <p>(i) Outcome of disciplinary processes (staff) 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 as to why formal misconduct steps should not be considered against them. The responses were evaluated and forwarded to the Section: Labour Relations for 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 The issue of restrictive horizontal practices was referred to the Competition Commission and is still under investigation by them.</p> <p>(iii) Fruitless and wasteful expenditure due to bids being cancelled 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>

1.15 Prior modifications to audit reports

As was the case in previous years, audit action plans were compiled 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 AGSA. The actions were approved by the accounting officer and were circulated under his signature. Monthly reports on the progress with audit action plans were submitted. In addition, the CFO monitored the progress, and reported it to the accounting officer and the Audit Committee.

1.16 Exemptions and deviations received from the National Treasury

None.

1.17 Other

1.17.1 Third Party Funds

The department, as an organ of the state, through legislative and other measures, assists and protects the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts (section 165 (4) of the Constitution). The effectiveness of the courts is to a large extent dependent on the administrative functions performed by officials of the department. The courts, for example, impose court fines and issue court orders (e.g. maintenance orders) and the department assists with the administration (e.g. receipts of fines) to ensure the effectiveness of the courts.

The department, in order to give assistance to the courts (judiciary) in a structured manner, established



a vehicle known as the Third Party Funds (TPF), which acts as a conduit for the decisions (with a financial implication) taken by the judiciary. These decisions, inter alia, necessitate the receipt of funds and the later payment of these funds to other parties, depending on the circumstances.

The department continued with its endeavours to resolve the uncertainties with regard to the accounting and legal framework governing the Third Party Funds (TPF) and the extent to which these impact on the vote account of the department. The National Treasury, in a letter dated 13 May 2008, confirmed the principle of a separate entity by suggesting the establishment of a trust, but the department has the dilemma that there is currently no legislation enabling it to establish a trust. The department had several discussions with the relevant role-players in an effort not to engage in the tedious process to amend legislation. There is no provision in the PFMA to establish the TPF as a separate entity, nor does it address the accounting status of administered funds or revenue. Following a meeting on 21 July 2009 between officials of the NT, the AGSA and the department, the NT, in a letter dated 27 July 2009 (which must still be ratified by the attendees) inter alia concluded the following:

- All money due to the state will flow to the state via the National Revenue Fund (NRF).
- The DoJ&CD is responsible for the administration functions of the court process, which include the collection and administration of monies arising from the judiciary process.
- The independence of the judiciary is in no way affected by the DoJ&CD when the department performs the above administration process.
- If the money is due to the state, then this money will flow to the NRF through the books of the relevant department (ie the department whose function gives rise to the payment of such money).
- Two sets of annual financial statements (AFSs) need to be prepared, one for the DoJ&CD and the other for the TPF.
- The DoJ&CD must appropriately reflect the relationship of the TPF to the department in the annual financial statements of the department. For example, if there is money that is likely to be paid out by the department, then such money must be reflected as a contingent liability. If the opposite is true, then such money must be reflected as a contingent asset.
- Both sets of AFSs must be published together in the DoJ&CD's annual report that is tabled in the National Assembly as per section 65 of the PFMA.

The department is in the process of investigating the practical implication of the conclusion, as well as the impact of this on the vote account of the department. The department supports that both sets of the AFS must be published in the annual report of the department, but must highlight that NT was informed that, as a result of efforts to improve the quality of the annual financial statements of the TPF, the statements will be finalised later than stipulated in the requirements of the PFMA. For practical reasons, it will therefore not be possible to publish both sets of financial statements in the annual report of the department.

1.17.2 Irregular and fruitless expenditure

Irregular and fruitless expenditure amounting to R60 million (see Note 28.2) were identified by the department during the year. A further R53 million (Irregular expenditure) and R18 million (fruitless and wasteful) in Note 12 identified during the audit is technical in nature and requires further investigation by the department before it can be regarded as such. In order to address certain technical issues, the department will be approaching the Chief State Law Advisor for a legal opinion.

1.18 Approval

The Annual Financial Statements set out on pages 153 to 206 have been approved by the accounting officer.

Advocate Menzi Simelane
Accounting Officer
31 July 2009



2 Report of the AGSA to Parliament on the Financial Statements and Performance Information of Vote 21 for the year ended 31 March 2009

Report on the financial statements

Introduction

1. 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 2009, and the statement of financial performance, the statement of changes in net assets and the cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory notes as set out on pages 153 to 206.

The accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the modified cash basis of accounting determined by the National Treasury, as set out in accounting policy note 1 and in the manner required by the Public Finance Management Act, 1999 (Act No 1 of 1999) (PFMA) and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The AGSA's responsibility

3. As required by section 188 of the Constitution of the Republic of South Africa, 1996, read with section 4 of the Public Audit Act, 2004 (Act No 25 of 2004) (PAA), my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with the International Standards on Auditing, read with General Notice 616 of 2008, issued in Government Gazette No 31057 of 15 May 2008.

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.

5. 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 judgment, 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 entity'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.
6. 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, contingent liability and receivables for departmental revenue:

7. 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 (e.g. bail, maintenance money, various types of fines, payments into court and legal costs), through court processes as a result of its mandate. A separate set of financial statements for the fund is maintained.
8. 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:



- The revenue to the state amounting to R272 million, as disclosed in note 3.2 to the financial statement, has 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 losses, to be paid by the department as disclosed in note 22 to the financial statements.
 - The money collected on behalf of the state and not yet paid to the department as at 31 March 2009 according to the fund money, as disclosed in note 27 to the financial statements.
9. 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 disclosures to the financial statements.

Employee benefit

10. Manual leave forms are not captured timeously and accurately on PERSAL due to insufficient controls over leave. The department’s records did not permit the application of alternative audit procedures to determine the effect of the late and incorrect capturing of leave forms.
11. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness, existence and valuation of leave entitlement and capped leave commitments amounting to R397 million and R214 million respectively, as disclosed in note 25 to the financial statements.

Finance lease commitment

12. The agreement date, period of the contract and monthly instalment used to calculate the future lease commitment were not in all instances supported by lease agreements. The department’s records did not permit the application of alternative audit procedures to determine the finance lease commitment.
13. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness, existence and valuation of

the finance lease commitment amounting to R63 million, as disclosed in note 26.2 to the financial statements.

Irregular expenditure condoned

14. In terms of Practice note 5 of 2006/07, finance lease agreements for equipment exceeding 36 months is not condoned. Finance lease agreements exceeding 36 months were included in note 28.3.
15. The department’s records did not permit the application of alternative audit procedures to determine the condoned irregular expenditure, as lease agreements were not in all instances available.
16. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the accuracy and existence of irregular expenditure condoned amounting to R34 million, as disclosed in note 28.3 to the financial statements.

Capital and minor assets

17. The department embarked on an asset turnaround project that was finalised during the current year. However, significant errors relating to the completeness of the capital and minor asset register and the existence of certain capital and minor assets were still identified.
18. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness of the capital and minor asset register and existence of capital and minor assets amounting to R585 million and R554 million respectively, as disclosed in note 32 and 32.4 to the financial statements.

Qualification

19. 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 as at 31 March 2009 and its financial performance and its cash flows for the year then ended,



in accordance with the modified cash basis of accounting determined by the National Treasury, as set out in accounting policy note 1.

Emphasis of matters

20. I draw attention to the following matters on which I do not express a qualified opinion:

Basis of accounting

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

Irregular expenditure

22. As disclosed in note 28 to the financial statements, irregular expenditure amounting to R69 million was incurred, mainly as a result of proper tender processes that were not followed.

Fruitless expenditure

23. As disclosed in note 12 to the financial statements, possible fruitless expenditure amounting to R18 million was identified as a result of the audit. The department is still in the process of investigating this matter.

Restatement of corresponding figures

24. As disclosed in the following notes to the financial statements, the corresponding figures for 31 March 2008 have been restated as a result of errors discovered during the year ended 31 March 2009 in the financial statements of the department:
- Note 22, contingent liability (claims against the state) comparative restated with R90 million
 - Note 23, commitments comparative restated with R257 million
 - Note 25, employee benefits comparative restated with R283 million
 - Note 27, receivables for departmental revenue comparative restated with R139 million
 - Note 30, key management personnel comparative restated with R82 million

Other matters

I draw attention to the following matters that relates to my responsibilities in the audit of the financial statements:

Human Resource Management

25. The substantive documentation to support the information disclosed in Part 5 (page 208 to 231) of the annual report was not available and the correctness could therefore not be verified.

Non-compliance with applicable legislation

26. Treasury Regulations (TR)
- Not all procurement of goods and services, either by way of quotations or through a bidding process, was within the threshold values as determined by the National Treasury as required by TR16A6.1.
 - Payments were not in all instances made within 30 days. Accruals that exceed the payment terms of 30 days as detailed in TR 8.2.3 amounted to R209 million. This amount in turn exceeds the voted funds to be surrendered of R28 million as per the statement of financial performance by R181 million. The amount of R181 million would therefore have constituted unauthorised expenditure, should the invoices have been paid in time.
 - The person in charge at the respective pay points did not in all instances certify that all persons listed on the payroll report are entitled to payments, as required by TR 8.3.4.
27. Public Service Regulations (PSR)
- The human resource organisational structure did not include certain functional information, and was not approved by the Department of Public Service and Administration, as required by the PSR part III B 2(a).
 - The job descriptions and titles were not reviewed at least once every three years and, where necessary, redefined to ensure that they remain appropriate and accurate, as required by PSR, chapter 1, Part III, 1.1 and 1.2.
 - All newly appointed employees did not have signed written contracts of employment, as required PSR, section 11(2).



Governance framework

28. The governance principles that impact the auditor’s opinion on the financial statements are related to the responsibilities and practices exercised by the accounting officer and executive management and are reflected in the internal control deficiencies and other key governance requirements addressed below:

Internal control deficiencies

29. Section 38(1)(a)(i) of the PFMA states that the accounting officer must ensure that the

department has and maintains effective, efficient and transparent systems of financial and risk management and internal control. The table below depicts the root causes that gave rise to the deficiencies in the system of internal control, which led to the qualified opinion. The root causes are categorised according to the five components of an effective system of internal control. (The number listed per component can be followed with the legend below the table.) In some instances, deficiencies exist in more than one internal control component.

Paragraph no	Basis for qualified opinion	CE	RA	CA	C	M
7 – 9	Departmental revenue, contingent liability and receivables for departmental revenue			3	1	1
10 – 11	Employee benefit			3	1	1
12 – 13	Finance lease commitments			3	1	1
14 – 16	Irregular expenditure condoned			3	1	1
17 – 18	Capital and minor assets			3	1	1

Legend	
CE = Control environment	
The organisational structure does not address areas of responsibility and lines of reporting to support effective control over financial reporting.	1
Management and staff are not assigned appropriate levels of authority and responsibility to facilitate control over financial reporting.	2
Human resource policies do not facilitate effective recruitment and training, disciplining and supervision of personnel.	3
Integrity and ethical values have not been developed and are not understood to set the standard for financial reporting.	4
The accounting officer does not exercise oversight responsibility over financial reporting and internal control.	5
Management’s philosophy and operating style do not promote effective control over financial reporting.	6
The entity does not have individuals competent in financial reporting and related matters.	7
RA = Risk assessment	
Management has not specified financial reporting objectives to enable the identification of risks to reliable financial reporting.	1
The entity does not identify risks to the achievement of financial reporting objectives.	2
The entity does not analyse the likelihood and impact of the risks identified.	3
The entity does not determine a risk strategy/action plan to manage identified risks.	4
The potential for material misstatement due to fraud is not considered.	5
CA = Control activities	
There is inadequate segregation of duties to prevent fraudulent data and asset misappropriation.	1
General information technology controls have not been designed to maintain the integrity of the information system and the security of the data.	2
Manual or automated controls are not designed to ensure that the transactions have occurred, are authorised, and are completely and accurately processed.	3
Actions are not taken to address risks to the achievement of financial reporting objectives.	4
Control activities are not selected and developed to mitigate risks over financial reporting.	5
Policies and procedures related to financial reporting are not established and communicated.	6
Realistic targets are not set for financial performance measures, which are in turn not linked to an effective reward system.	7



IC = Information and communication	
Pertinent information is not identified and captured in a form and time frame to support financial reporting.	1
Information required to implement internal control is not available to personnel to enable internal control responsibilities.	2
Communications do not enable and support the understanding and execution of internal control processes and responsibilities by personnel.	3
M = Monitoring	
Ongoing monitoring and supervision are not undertaken to enable an assessment of the effectiveness of internal control over financial reporting.	1
Neither reviews by internal audit or the audit committee, nor self-assessments are evident.	2
Internal control deficiencies are not identified and communicated in a timely manner to allow for corrective action to be taken.	3

Key governance responsibilities

30. The PFMA tasks the accounting officer with a number of responsibilities concerning financial and risk management and internal control. Fundamental to achieving this is the implementation of key governance responsibilities, which I have assessed as follows:

No	Matter	Yes	No
Clear trail of supporting documentation that is easily available and provided in a timely manner			
1.	No significant difficulties were experienced during the audit concerning delays or the availability of requested information.		No
Quality of financial statements and related management information			
2.	The financial statements were not subject to any material amendments resulting from the audit.		No
3.	The annual report was submitted for consideration prior to the tabling of the auditor’s report.		No
Timeliness of financial statements and management information			
4.	The annual financial statements were submitted for auditing as per the legislated deadlines section 40 of the PFMA.		No
Availability of key officials during audit			
5.	Key officials were available throughout the audit process.	Yes	
Development and compliance with risk management, effective internal control and governance practices			
6.	Audit Committee		
	• The department had an audit committee in operation throughout the financial year.	Yes	
	• The audit committee operates in accordance with approved, written terms of reference.	Yes	
	• The audit committee substantially fulfilled its responsibilities for the year, as set out in section 77 of the PFMA and Treasury Regulation 3.1.10.	Yes	
7.	Internal Audit		
	• The department had an internal audit function in operation throughout the financial year.	Yes	
	• The internal audit function operates in terms of an approved internal audit plan.	Yes	
	• The internal audit function substantially fulfilled its responsibilities for the year, as set out in Treasury Regulation 3.2.		No
8.	There are no significant deficiencies in the design and implementation of internal control in respect of financial and risk management.		No
9.	There are no significant deficiencies in the design and implementation of internal control in respect of compliance with applicable laws and regulations.		No
10.	The information systems were appropriate to facilitate the preparation of the financial statements.		No
11.	A risk assessment was conducted on a regular basis and a risk management strategy, which includes a fraud prevention plan, is documented and used as set out in Treasury Regulation 3.2.	Yes	
12.	Powers and duties have been assigned, as set out in section 44 of the PFMA.	Yes	
Follow-up of audit findings			
13.	The prior year’s audit findings have been substantially addressed.		No
14.	SCOPA resolutions have been substantially implemented.		No



No	Matter	Yes	No
Issues relating to the reporting of performance information			
15.	The information systems were appropriate to facilitate the preparation of a performance report that is accurate and complete.		No
16.	Adequate control processes and procedures are designed and implemented to ensure the accuracy and completeness of reported performance information.		No
17.	A strategic plan was prepared and approved for the financial year under review for purposes of monitoring the performance in relation to the budget and delivery by the department against its mandate, predetermined objectives, outputs, indicators and targets (Treasury Regulations 5.1, 5.2 and 6.1).		No
18.	There is a functioning performance management system and performance bonuses are only paid after proper assessment and approval by those charged with governance.		No

Investigations

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

Report on other legal and regulatory requirements

Report on performance information

- 32. I have reviewed the performance information as set out on pages 3 to 123.

The Accounting Officer's responsibility for the performance information

- 33. The accounting officer has additional responsibilities, as required by section 40(3)(a) of the PFMA, to ensure that the annual report and audited financial statements fairly present the performance against the predetermined objectives of the department.

The AGSA's responsibility

- 34. I conducted my engagement in accordance with section 13 of the PAA, read with General Notice 616 of 2008, issued in Government Gazette No 31057 of 15 May 2008.
- 35. In terms of the foregoing, my engagement included performing procedures of an audit nature to obtain sufficient appropriate evidence about the performance information and related systems, processes and procedures. The procedures selected depend on the auditor's judgment.
- 36. I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for the review findings reported below.

Findings on performance information

Non-compliance with regulatory requirements

Submission of strategic plan

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

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

- 38. 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 department'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. The current draft policy does not address key control elements expected in a policy.

Inadequate quarterly reporting on performance information

- 39. The quarterly reports of the department did not in all instances adequately and consistently track progress against outputs, indicators and targets as per the approved strategic plan and therefore did not facilitate effective performance monitoring and evaluation, as required by Treasury Regulation section 5.3.1.



Usefulness and reliability of reported performance information

40. The following criteria were used to assess the usefulness and reliability of the information on the department's performance with respect to the objectives in its strategic plan:
- Consistency: Has the department reported on its performance with regard to its objectives, indicators and targets in its approved strategic plan?
 - Relevance: Is the performance information as reflected in the indicators and targets clearly linked to the predetermined objectives and mandate? Is this specific and measurable, and is the time period or deadline for delivery specified?
 - Reliability: Can the reported performance information be traced back to the source data or documentation and is the reported performance information accurate and complete in relation to the source data or documentation?

The following audit findings relate to the above criteria:

Reported performance information not relevant

41. A certain number of targets with regard to the department's programmes were not:
- specific in clearly identifying the nature and the required level of performance;
 - measurable in identifying the required performance; and
 - time-bound in specifying the time period or deadline for delivery.

Reported performance information not reliable

Lack of source documentation

42. Sufficient appropriate audit evidence in relation to certain reported performance information of the department could not be obtained, as the relevant source documentation could not in all instances be provided for audit purposes.

Source information not accurate and complete

43. The source information provided to support certain reported performance information with regard to the programmes, subprogrammes and objectives did not adequately support the accuracy and completeness of the facts.

Performance information not received in time

44. The performance information was not submitted for auditing as per the legislated deadlines in terms of section 40 of the PFMA.

Other reports

Performance audits

45. A performance audit was conducted during the year under review concerning the appointment and utilisation of consultants. The results of the performance audit will be reported to management and tabled to Parliament separately.

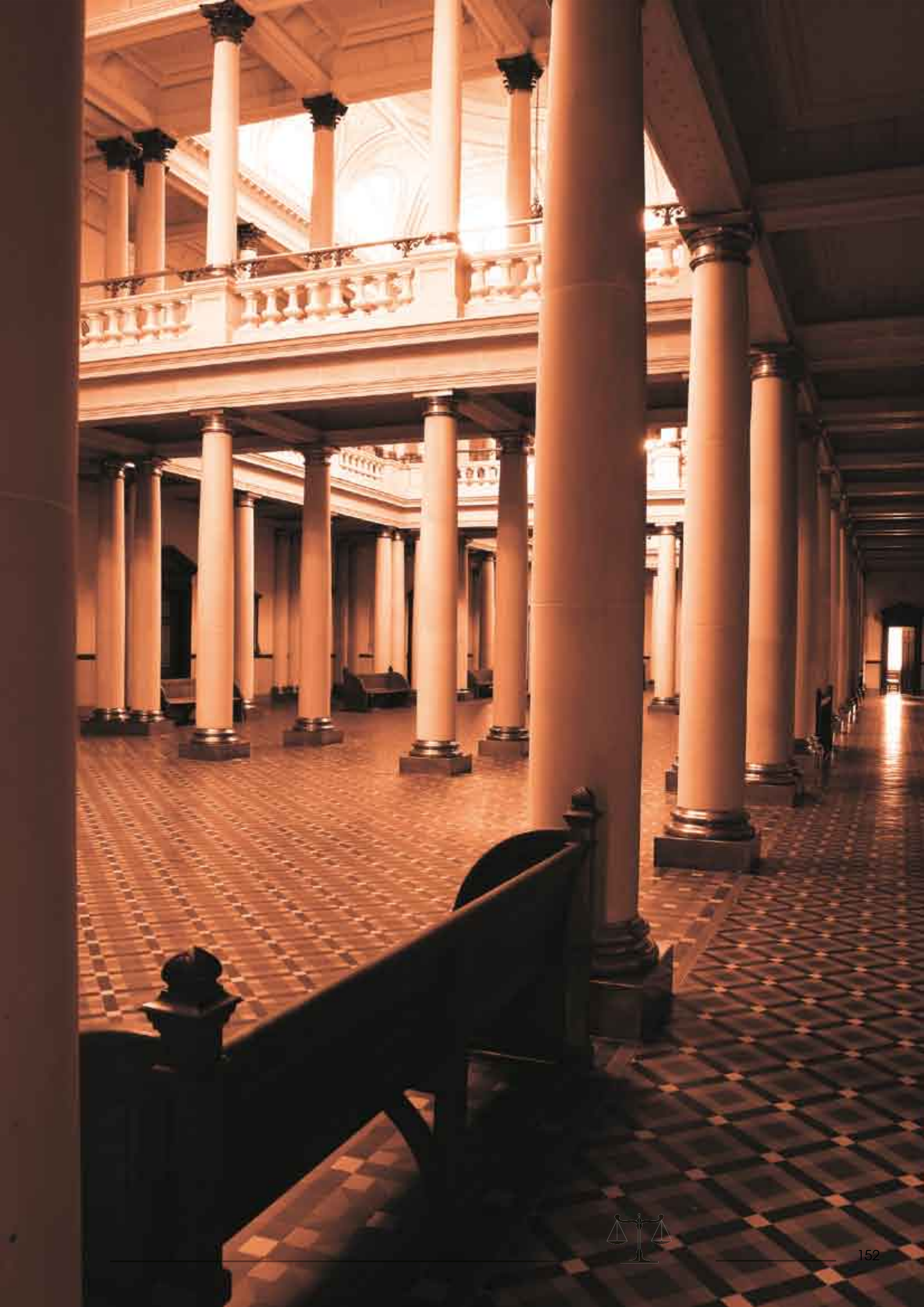
Appreciation

46. The assistance rendered by the staff of the department during the audit is sincerely appreciated.

Auditor-General

Pretoria
21 September 2009





3. Appropriation Statement for the year ended 31 March 2009

Appropriation per programme									
Programmes	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
1. Administration									
Current payment	946 607	-	(34 766)	911 841	911 838	3	100.0	837 976	833 224
Transfers and subsidies	8 786	-	1 859	10 645	9 230	1 415	86.7	8 702	7 697
Payment for capital assets	12 376	-	-	12 376	9 625	2 751	77.8	75 400	69 372
2. Court Services									
Current payment	2 854 454	-	28 266	2 882 720	2 881 442	1 278	100.0	2 569 667	2 571 001
Transfers and subsidies	7 294	-	2 676	9 970	9 919	51	99.5	10 840	10 217
Payment for capital assets	480 734	-	-	480 734	457 041	23 693	95.1	490 733	369 124
3. State Legal Services									
Current payment	498 558	-	21 719	520 277	520 276	1	100.0	394 438	372 437
Transfers and subsidies	500	-	1 208	1 708	1 708	-	100.0	1 154	1 199
Payment for capital assets	4 095	-	-	4 095	3 288	807	80.3	12 317	3 855



Appropriation per programme									
Programmes	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
5. Auxiliary and Associated Services									
Current payment	335 524	-	(13 250)	322 274	312 027	10 247	96.8	244 273	243 439
Transfers and subsidies	1 239 876	-	(4 000)	1 235 876	1 235 875	1	100.0	973 243	973 243
Payment for capital assets	11 200	-	-	11 200	9 907	1 293	88.5	58 658	58 689
Subtotal	6 400 004	-	3 712	6 403 716	6 362 176	41 540	99.4	5 677 401	5 513 497
Statutory Appropriation									
Current payment	1 518 679	-	18 506	1 537 185	1 550 262	(13 077)	100.9	1 203 342	1 155 886
Transfers and subsidies	69 335	-	(18 506)	50 829	50 829	-	100.0	63 176	28 641
Total	7 988 018	-	3 712	7 991 730	7 963 267	28 463	99.6	6 943 919	6 698 024



Part 4: Annual Financial Statements (Vote 21)

	2008/09		2007/08	
	Final appropriation	Actual expenditure	Final appropriation	Actual expenditure
Total (brought forward)	7 991 730	7 963 267	6 943 919	6 698 024
Reconciliation with statement of financial performance				
ADD				
Departmental receipts	352 511		312 434	
Aid assistance	1 100		39 340	
Actual amounts per statement of financial performance (total revenue)	8 345 341		7 295 693	
ADD				
Aid assistance		2 793		62 369
Actual amounts per statement of financial performance (total expenditure)		7 966 060		6 760 393



Appropriation per economic classification									
	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	2 318 592	-	1 984	2 320 576	2 320 574	2	100.0	1 969 751	1 952 340
Goods and services	2 316 544	-	(7 233)	2 309 311	2 297 785	11 526	99.5	2 073 328	2 064 784
Interest and rent on land	-	-	3 804	3 804	3 804	-	100.0	-	-
Financial transactions in assets and liabilities	7	-	3 414	3 421	3 420	1	100.0	3 323	3 026
Transfers and subsidies									
Provinces and municipalities	-	-	5	5	4	1	80.0	-	-
Departmental agencies and accounts	1 244 297	-	(4 000)	1 240 297	1 238 883	1 414	99.9	977 453	977 098
Foreign governments and international organisations	4 240	-	846	5 086	5 085	1	100.0	4 220	3 573
Households	7 869	-	4 892	12 761	12 760	1	100.0	12 218	11 636
Payments for capital assets									
Buildings and other fixed structures	423 188	-	-	423 188	416 824	6 364	98.5	414 622	296 148
Machinery and equipment	85 142	-	(21)	85 121	62 891	22 230	73.9	220 718	203 781
Software and other intangible assets	125	-	21	146	146	-	100.0	1 768	1 112
Total	6 400 004		3 712	6 403 716	6 362 176	41 540	99.4	5 677 401	5 513 498

Statutory appropriation									
	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Direct changes against the National/Provincial Revenue Fund									
Judges' and magistrates' salaries	1 588 014	-	-	1 588 014	1 601 091	(13 077)	100.8	1 266 518	1 184 527
Total	1 588 014	-	-	1 588 014	1 601 091	(13 077)	100.8	1 266 518	1 184 527



Programme 1: Administration

Detail per sub-programme: Programme 1: Administration	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
1.1 Minister Current payment	1 019	-	962	1 981	1 981	-	100.0	938	2 004
1.2 Deputy Minister Current payment	828	-	479	1 307	1 307	-	100.0	762	1 401
1.3 Management Current payment	69 191	-	(17 944)	51 247	51 247	-	100.0	69 269	73 260
Transfers and subsidies	4 435	-	96	4 531	3 116	1 415	68.8	4 330	3 966
Payment for capital assets	3 946	-	(692)	3 254	503	2 751	15.5	2 565	751
1.4 Corporate Services Current payment	489 756	-	(26 092)	463 664	463 661	3	100.0	413 313	403 696
Transfers and subsidies	4 351	-	1 763	6 144	6 114	-	100.0	4 372	3 731
Payment for capital assets	8 430	-	692	9 122	9 122	-	100.0	72 835	68 621
1.5 Property Management Current payment	385 813	-	7 829	393 642	393 642	-	100.0	353 694	352 863
Total	967 769	-	(32 907)	934 862	930 693	4 169	99.6	922 078	910 293



Programme 1 per economic classification	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	272 990	-	(63 053)	209 937	209 936	1	100.0	171 261	169 627
Goods and services	673 610	-	28 049	701 659	701 658	1	100.0	663 460	660 640
Financial transactions in assets and liabilities	7	-	238	245	244	1	99.6	3 255	2 957
Transfers and subsidies to:									
Departmental agencies and accounts	4 421	-	-	4 421	3 008	1 413	68.0	4 210	3 850
Foreign governments and international organisations	4 240	-	846	5 086	5 085	1	100.0	4 220	3 573
Households	125	-	1 013	1 138	1 137	1	99.9	272	275
Payment for capital assets									
Machinery and equipment	12 376	-	-	12 376	9 625	2 751	77.8	74 413	68 918
Software and other intangible assets	-	-	-	-	-	-	-	987	454
Total	967 769	-	(32 907)	934 862	930 693	4 169	99.6	922 078	910 294



Programme 2: Court Services

Detail per sub-programme: Programme 2: Court Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	58 046	-	1 648	59 694	59 694	-	100.0	57 995	45 112
Transfers and subsidies	372	-	(306)	66	15	51	22.7	40	-
Payment for capital assets	1 325	-	771	2 096	2 095	1	100.0	1 896	945
2.2 Supreme Court of Appeal									
Current payment	15 375	-	(3 369)	12 006	12 006	-	100.0	14 845	12 668
Transfers and subsidies	48	-	(48)	-	-	-	-	51	30
Payment for capital assets	300	-	-	300	46	254	15.3	300	194
2.3 High Courts									
Current payment	202 217	-	42 657	244 874	244 874	-	100.0	206 683	223 520
Transfers and subsidies	845	-	(241)	604	604	-	100.0	905	1 020
Payment for capital assets	1 320	-	-	1 320	865	455	65.5	2 173	2 079
2.4 Specialised Courts									
Current payment	22 079	-	4 505	26 584	26 584	-	100.0	35 160	24 368
Transfers and subsidies	100	-	(54)	46	46	-	100.0	40	-
Payment for capital assets	213	-	7	220	220	-	100.0	216	375
2.5 Lower Courts									
Current payment	2 030 220	-	50 624	2 080 844	2 079 568	1 276	99.9	1 841 696	1 880 288
Transfers and subsidies	4 165	-	3 563	7 728	7 728	-	100.0	7 835	7 594
Payment for capital assets	11 541	-	-	11 541	8 034	3 507	69.6	25 333	31 080



Programme 2: Court Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
2.6 Family Advocate									
Current payment	77 707	-	6 614	84 321	84 321	-	100.0	65 278	66 732
Transfers and subsidies	809	-	(689)	120	120	-	100.0	763	1
Payment for capital assets	1 000	-	-	1 000	771	229	77.1	1 025	558
2.7 Magistrate's Commission									
Current payment	8 561	-	(1 171)	7 390	7 390	-	100.0	7 458	7 176
Transfers and subsidies	50	-	(18)	32	32	-	100.0	-	468
Payment for capital assets	-	-	25	25	25	-	100.0	50	-
2.8 Government Motor Transport									
Payment for capital assets	31 821	-	-	31 821	17 271	14 550	54.3	30 286	27 786
2.9 Facilities Management									
Current payment	140 972	-	(83 135)	57 837	57 835	2	100.0	84 225	65 148
Payment for capital assets	427 801	-	(1 481)	426 320	421 623	4 697	98.9	420 610	295 982
2.10 Administration of Courts									
Current payment	299 277	-	9 893	309 170	309 170	-	100.0	256 327	245 989
Transfers and subsidies	905	-	469	1 374	1 374	-	100.0	1 206	1 104
Payment for capital assets	5 413	-	678	6 091	6 091	-	100.0	8 844	10 125
Total	3 342 482	-	30 942	3 373 424	3 348 402	25 022	99.3	3 071 240	2 950 342



Part 4: Annual Financial Statements (Vote 21)

Programme 2 per economic classification	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	1 610 476	-	111 312	1 721 788	1 721 787	1	100.0	1 498 695	1 497 792
Goods and services	1 243 978	-	(89 961)	1 154 017	1 152 740	1 277	99.9	1 070 952	1 073 189
Interest and rent on land	-	-	3 804	3 804	3 804	-	100.0	-	-
Financial transactions in assets and liabilities	-	-	3 111	3 111	3 111	-	100.0	20	20
Transfers and subsidies to:									
Provinces and municipalities	-	-	5	5	4	1	80.0	-	-
Departmental agencies and accounts	-	-	-	-	-	-	-	-	6
Households	7 244	-	2 671	9 915	9 915	-	100.0	10 840	10 211
Payment for capital assets									
Buildings and other fixed structures	423 188	-	-	423 188	416 824	6 364	98.5	414 622	296 148
Machinery and equipment	57 471	-	(3)	57 468	40 089	17 379	69.8	75 511	72 446
Software and other intangible assets	125	-	3	128	128	-	100.0	600	530
Total	3 342 482	-	30 942	3 373 424	3 348 402	25 022	99.3	3 071 240	2 950 342



Programme 3: State Legal Services

Detail per sub-programme: Programme 3: State Legal Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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 State Law Advisors									
Current payment	33 373	-	(3 802)	29 571	29 571	-	100.0	23 939	21 320
Transfers and subsidies	-	-	-	-	-	-	-	62	62
Payment for capital assets	550	-	-	550	497	53	90.4	530	104
3.2 Litigation and Legal Services									
Current payment	189 173	-	6 611	195 784	195 784	-	100.0	155 953	146 458
Transfers and subsidies	-	-	766	766	766	-	100.0	420	411
Payment for capital assets	249	-	1 302	1 551	1 551	-	100.0	3 035	1 854
3.3 Legislation and Constitutional Development									
Current payment	38 139	-	(8 928)	29 211	29 210	1	100.0	35 149	32 559
Transfers and subsidies	-	-	346	346	346	-	100.0	182	181
Payment for capital assets	796	-	-	796	339	457	42.6	730	250
3.4 Master of the High Court									
Current payment	237 873	-	27 838	265 711	265 711	-	100.0	179 397	172 100
Transfers and subsidies	500	-	96	596	596	-	100.0	490	545
Payment for capital assets	2 500	-	(1 302)	1 198	901	297	75.2	8 022	1 647
Total	503 153	-	22 927	526 080	525 272	808	99.8	407 909	377 491



Part 4: Annual Financial Statements (Vote 21)

Programme 3 per economic classification	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	434 664	-	(45 905)	388 759	388 759	-	100.0	299 451	284 830
Goods and services	63 894	-	67 559	131 453	131 452	1	100.0	94 987	87 607
Financial transactions in assets and liabilities	-	-	65	65	65	-	100.0	48	49
Transfers and subsidies to:									
Households	500	-	1 208	1 708	1 708	-	100.0	1 106	1 150
Payment for capital assets									
Machinery and equipment	4 095	-	(18)	4 077	3 270	807	80.2	12 136	3 727
Software and other intangible assets	-	-	18	18	18	-	100.0	181	128
Total	503 153	-	22 927	526 080	525 272	808	99.8	407 909	377 491

Programme 5: Auxiliary and Associated Services

Detail per sub-programme: Programme 5: Auxiliary and Associated Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	620	-	(370)	250	99	151	39.6	709	100
Transfers and subsidies	-	-	-	-	-	-	-	-	1
5.2 South African Human Rights Commission									
Transfers and subsidies	60 603	-	-	60 603	60 603	-	100.0	55 281	55 281
5.3 Commission on Gender Equality									
Transfers and subsidies	46 193	-	-	46 193	46 193	-	100.0	39 745	39 745



Auxiliary and Associated Services	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
5.4 Special Investigating Unit									
Transfers and subsidies	116 297	-	-	116 297	116 297	-	100.0	103 111	103 111
5.5 Legal Aid Board									
Transfers and subsidies	842 120	-	(4 000)	838 120	838 120	-	100.0	613 029	613 029
5.6 Public Protector									
Current payment	-	-	-	-	-	-	-	-	55
Transfers and subsidies	86 475	-	-	86 475	86 475	-	100.0	78 722	78 722
5.7 Justice Modernisation (NCPS)									
Current payment	334 904	-	(12 880)	322 024	311 928	10 096	96.9	243 564	243 284
Payment for capital assets	11 200	-	-	11 200	9 907	1 293	88.5	58 658	58 689
5.8 President's Fund									
Transfers and subsidies	1	-	-	1	-	1	-	1	-
5.9 Represented Political Parties Fund									
Transfers and subsidies	88 187	-	-	88 187	88 187	-	100.0	83 354	83 354
Total	1 586 600	-	(17 250)	1 569 350	1 557 809	11 541	99.3	1 276 174	1 275 371



Part 4: Annual Financial Statements (Vote 21)

Programme 5 per economic classification	2008/09							2007/08	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as % 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	462	-	(370)	92	92	-	100.0	344	91
Goods and services	335 062	-	(12 880)	322 182	311 935	10 247	96.8	243 929	243 348
Transfers and subsidies to:									
Departmental agencies and accounts	1 239 876	-	(4 000)	1 235 876	1 235 875	1	100.0	973 243	973 242
Payment for capital assets									
Machinery and equipment	11 200	-	-	11 200	9 907	1 293	88.5	58 658	58 690
Total	1 586 600	-	(17 250)	1 569 350	1 557 809	11 541	99.3	1 276 174	1 275 371



4. Notes to the Appropriation Statement for the year ended 31 March 2009

1. Detail of transfers and subsidies as per Appropriation Act (after virement):

Detail of these transactions can be viewed in note 9 (transfers and subsidies) and Annexures 1 (A-D) to the annual financial statements.

2. Detail of specifically and exclusively appropriated amounts voted (after virement):

Detail of these transactions can be viewed in note 1 (annual appropriation) to the annual financial statements.

3. Detail on financial transactions in assets and liabilities

Detail of these transactions per programme can be viewed in note 8 (financial transactions in assets and liabilities) to the annual financial statements.

4. Explanations of material variances from amounts voted (after virement):

4.1	Per programme	Final appropriation	Actual expenditure	Variance	Variance as a % of final appropriation
		R'000	R'000	R'000	%
	Administration	934 862	930 693	4 169	0.45
	Court Services	3 373 424	3 348 402	25 022	0.74
	State Legal Services	526 080	525 272	808	0.15

The underspending of the department is the direct result of the deliberate cuts in operational expenditure, curtailment of unplanned acquisition of goods and services and the non-filling of vacant posts to fund the implementation of the Occupational-specific Dispensation for legally qualified personnel.

4.2	Economic classification	Final appropriation	Actual expenditure	Variance	Variance as a % of final appropriation
		R'000	R'000	R'000	%
	Current payments				
	Compensation of employees	2 320 576	2 320 574	2	0.00
	Goods and Services	2 309 311	2 297 785	11 526	0.50
	Financial transactions in assets and liabilities	3 421	3 420	1	0.03
	Transfers and subsidies				
	Provinces and municipalities	5	4	1	20.00
	Departmental agencies and accounts	1 240 297	1 238 883	1 414	0.11
	Public corporations and private enterprises	5 086	5 085	1	0.02
	Households	12 761	12 760	1	0.01
	Gifts and donations				



Part 4: Annual Financial Statements (Vote 21)

4.2	Per economic classification	Final appropriation	Actual expenditure	Variance	Variance as a % of final appropriation
		R'000	R'000	R'000	%
	Payments for capital assets				
	Buildings and other fixed structures	423 188	416 824	6 364	1.50
	Machinery and equipment	85 121	62 891	22 230	26.12
	Software and other intangible assets	146	146	-	0.00

The underspending of the department is the direct result of the deliberate cuts in operational expenditure, curtailment of unplanned acquisition of goods and services and the non-filling of vacant posts to fund the implementation of the Occupational-specific Dispensation for legally qualified personnel.



5. Statement of Financial Performance for the year ended 31 March 2009

	Note	2008/09 R'000	2007/08 R'000
REVENUE			
Annual appropriation	1	6 403 716	5 677 401
Statutory appropriation	2	1 588 014	1 266 518
Departmental revenue	3	352 511	312 434
Aid assistance	4	1 100	39 340
TOTAL REVENUE		8 345 341	7 295 693
EXPENDITURE			
Current expenditure			
Compensation of employees	5	3 870 837	3 108 226
Goods and services	6	2 297 786	2 064 784
Interest on rent on land	7	3 804	-
Financial transactions in assets and liabilities	8	3 420	3 026
Aid assistance	4	2 793	30 247
Total current expenditure		6 178 640	5 206 283
Transfers and subsidies			
Transfers and subsidies	9	1 307 559	1 020 948
Expenditure for capital assets			
Tangible capital assets	10	478 286	532 050
Software and other intangible assets	10	1 575	1 112
Total expenditure for capital assets		479 861	533 162
TOTAL EXPENDITURE		7 966 060	6 760 393
SURPLUS/(DEFICIT) FOR THE YEAR		379 281	535 300
Reconciliation of net surplus/(deficit) for the year			
Voted funds	16	28 463	245 895
Departmental revenue	17	352 511	312 434
Aid assistance	4	(1 693)	(23 029)
SURPLUS/(DEFICIT) FOR THE YEAR		379 281	535 300



6. Statement of Financial Position at ended 31 March 2009

POSITION	Note	2008/09 R'000	2007/08 R'000
ASSETS			
Current assets		356 649	314 934
Unauthorised expenditure	11	-	139 052
Cash and cash equivalents	13	5 213	12 683
Prepayments and advances	14	2 424	2 481
Receivables	15	349 012	160 718
TOTAL ASSETS		356 649	314 934
LIABILITIES			
Current liabilities		346 951	305 328
Voted funds to be surrendered to the Revenue Fund	16	28 463	245 895
Departmental revenue to be surrendered to the Revenue Fund	17	23 131	14 426
Bank overdraft	18	281 224	-
Payables	19	1 312	30 493
Aid assistance unutilised	4	12 821	14 514
TOTAL LIABILITIES		346 951	305 328
NET ASSETS		9 698	9 606
Represented by:			
Recoverable revenue		9 698	9 606
TOTAL		9 698	9 606



7. Statement of Changes in Net Assets for the year ended 31 March 2009

NET ASSETS	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Recoverable revenue			
Opening balance		9 606	9 137
Transfers:		92	469
Debts revised		(249)	(383)
Debts recovered (included in departmental receipts)		(2 784)	(3 083)
Debts raised		3 125	3 935
Closing balance		9 698	9 606
TOTAL		9 698	9 606



8. Cash Flow Statement for the year ended 31 March 2009

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts		8 345 330	7 295 693
Annual appropriated funds received	1	6 403 716	5 677 401
Statutory appropriated funds received	2	1 588 014	1 266 518
Departmental revenue received	3	352 500	312 434
Aid assistance received	4	1 100	39 340
Net (increase)/decrease in working capital		(78 366)	79 634
Surrendered to Revenue Fund		(589 701)	(237 168)
Current payments		(6 178 640)	(5 206 283)
Transfers and subsidies paid		(1 307 559)	(1 020 948)
Net cash flow available from operating activities	20	191 064	910 928
CASH FLOWS FROM INVESTING ACTIVITIES			
Payments for capital assets	10	(479 861)	(533 162)
Proceeds from sale of capital assets	3.4	11	-
Net cash flows from investing activities		(479 850)	(533 162)
CASH FLOWS FROM FINANCING ACTIVITIES			
Increase/(decrease) in net assets		92	570
Net cash flows from financing activities		92	570
Net increase/(decrease) in cash and cash equivalents		(288 694)	378 336
Cash and cash equivalents at the beginning of the period		12 683	(365 653)
Cash and cash equivalents at end of period	21	(276 011)	12 683



9. Accounting Policies for the year ended 31 March 2009

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, (Act 1 of 1999) (as amended by Act 29 of 1999), and the Treasury Regulations issued in terms of the act and the Division of Revenue Act (Act 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

Prior period comparative information 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 are recognised in the financial records on the date the appropriation becomes effective. Adjustments to the appropriated funds made in terms of the adjustment budget process are recognised in the

financial records on the date the adjustments become effective.

Total appropriated funds are presented in the statement of financial performance.

Unexpended appropriated funds are surrendered to the National Revenue Fund. Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.

2.2 Statutory appropriation

Statutory appropriations are recognised in the financial records on the date the appropriations become effective. Adjustments to the statutory appropriations made in terms of the adjustment budget process are recognised in the financial records on the date the adjustments become effective.

Total statutory appropriations are presented in the statement of financial performance.

Unexpended statutory appropriations are surrendered to the National Revenue Fund. Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.

2.3 Departmental revenue

All departmental revenue is paid into the National Revenue Fund when received, unless otherwise stated. Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.

Amounts receivable at the reporting date are disclosed in the disclosure notes to the annual financial statements.

2.3.1 Tax revenue

Tax revenue consists of all compulsory unrequited amounts collected by the department in accordance with laws and/or regulations (excluding fines, penalties and forfeits).

Tax receipts are recognised in the statement of financial performance when received.

2.3.2 Sales of goods and services other than capital assets

The proceeds received from the sale of goods and/or the provision of services are recognised in the statement of financial performance when the cash is received.

2.3.3 Fines, penalties and forfeits

Fines, penalties and forfeits are compulsory unrequited amounts which were imposed by a court or quasi-



judicial body and collected by the department. Revenue arising from fines, penalties and forfeits is recognised in the statement of financial performance when the cash is received.

2.3.4 Interest, dividends and rent on land

Interest, dividends and rent on land are recognised in the statement of financial performance when the cash is received.

2.3.5 Sale of capital assets

The proceeds received on the sale of capital assets are recognised in the Statement of financial performance when the cash is received.

2.3.6 Financial transactions in assets and liabilities

Repayments of loans and advances previously extended to employees and public corporations for policy purposes are recognised as revenue in the statement of financial performance on receipt of the funds.

Cheques issued in previous accounting periods that expire before being banked are recognised as revenue in the statement of financial performance when the cheque becomes stale. When the cheque is reissued, the payment is made from revenue.

Forex gains are recognised on payment of funds.

2.3.7 Transfers received (including gifts, donations and sponsorships)

All cash gifts, donations and sponsorships are paid into the National Revenue Fund and recorded as revenue in the statement of financial performance when received. Amounts receivable at the reporting date are disclosed in the disclosure notes to the financial statements.

All in-kind gifts, donations and sponsorships are disclosed at fair value in an annexure to the financial statements.

2.4 Direct exchequer receipts

All direct exchequer receipts are recognised in the statement of financial performance when the cash is received.

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).

2.5 Aid assistance

Local and foreign aid assistance is recognised as revenue when notification of the assistance is received from the

National Treasury or when the department directly receives the cash from the donor(s).

All in-kind local and foreign aid assistance are disclosed at fair value in the annexures to the annual financial statements.

The cash payments made during the year relating to local and foreign aid assistance projects are recognised as expenditure in the statement of financial performance. The value of the assistance expensed prior to the receipt of the funds is recognised as a receivable in the statement of financial position.

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

All 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 current or capital expenditure in the statement of financial performance.

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

3. Expenditure

3.1 Compensation of employees

3.1.1 Short-term employee benefits

Salaries and wages comprise payments to employees (including leave entitlements, thirteenth cheques and performance bonuses). Salaries and wages are recognised as an expense 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). Capitalised compensation forms part of the expenditure for capital assets in the statement of financial performance¹.

All other payments are classified as current expenses.

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 statements of financial performance or position.

3.1.2 Post-retirement benefits

The department provides retirement benefits (pension benefits) for certain of its employees through a defined benefit plan for government employees. These benefits are funded by both employer and employee contributions.

¹ This accounting policy is only relevant where the department elects to capitalise the compensation paid to employees involved on capital projects



Employer contributions (ie social contributions) to the fund are expensed when the final authorisation for payment to the fund is effected on the system (by no later than 31 March of 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.

The department provides medical benefits for certain of its employees. Employer contributions to the medical funds are expensed when final authorisation for payment to the fund is effected on the system (by no later than 31 March of each year).

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. These amounts are not recognised in the statements of financial performance or position.

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 services were used for a capital project or an asset of R5 000 or more is purchased. All assets costing less than R5 000 will also be reflected under goods and services.

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 amounts are disclosed as a disclosure note.

Forex losses are recognised on payment of funds.

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 discovered, 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 in the statement of financial performance when the unauthorised expenditure is approved and the related funds are received. Where the amount is approved without funding, it is derecognised as expenditure, subject to the availability of savings, 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. 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 in the statement of financial performance.



3.9 Expenditure for capital assets

Payments made for capital assets 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).

4. Assets

4.1 Cash and cash equivalents

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

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.

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.

Pre-payments 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.

Receivables outstanding at year end are carried in the statement of financial position at cost plus any accrued interest.

4.5 Investments

Capitalised investments are shown at cost in the statement of financial position. Any cash flows such as dividends received or proceeds from the sale of investments are recognised in the statement of financial performance when the cash is received.

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

4.6 Loans

Loans are recognised in the statement of financial position at the nominal amount when cash is paid to the beneficiary. Loan balances are reduced when cash

repayments are received from the beneficiary. Amounts that are potentially irrecoverable are included in the disclosure notes.

Loans that are outstanding at year-end are carried in the statement of financial position at cost.

4.7 Inventory

Inventories purchased during the financial year are disclosed at cost in the notes.

4.8 Capital assets

4.8.1 Movable assets

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.

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

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.

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 Voted funds to be surrendered to the Revenue Fund

Unexpended appropriated funds are surrendered to the National Revenue Fund. Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position.



5.2 Departmental revenue to be surrendered to the Revenue Fund

Amounts owing to the National Revenue Fund at the end of the financial year are recognised in the statement of financial position at cost.

5.3 Direct exchequer receipts to be surrendered to the Revenue Fund

All direct exchequer fund receipts are recognised in the statement of financial performance when the cash is received.

Amounts received must be surrendered to the relevant revenue fund on receipt thereof. Any amount not surrendered at year end is reflected as a current payable in the statement of financial position.

5.4 Bank overdraft

The bank overdraft is carried in the statement of financial position at cost.

5.5 Payables

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

5.6 Contingent liabilities

Contingent liabilities are included in the disclosure notes to the financial statements.

5.7 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.

5.8 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.

5.9 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 statements of financial performance or the statement of financial position.

5.10 Lease commitments

Finance leases

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 the interest portions. The finance lease liability is disclosed in the disclosure notes to the financial statements.

Operating leases

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.

6. Receivables for departmental revenue

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

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 transferred to the National Revenue Fund on disposal, repayment or recovery of such amounts.

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.

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 PPP arrangement, the contract fees and current and capital expenditure relating to the PPP arrangement is included in the disclosure notes.



10. Notes to the Annual Financial Statements for the year ended 31 March 2009

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 R'000	2008/09 Actual funds received R'000	Funds not requested/ not received R'000	2007/08 Appropriation Received R'000
Administration	934 862	934 862	-	922 078
Court Services	3 373 424	3 373 424	-	3 071 240
State Legal Services	526 080	526 080	-	407 909
Auxiliary and Associated Services	1 569 350	1 569 350	-	1 276 174
Total	6 403 716	6 403 716	-	5 677 401

2. Statutory appropriation

	2008/09 R'000	2007/08 R'000
Judges' and magistrates' salaries	1 588 014	1 266 518
Total	1 588 014	1 266 518
Actual Statutory Appropriation received	1 588 014	1 266 518



3. Departmental revenue

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Sales of goods and services other than capital assets	3.1	13 248	14 027
Fines, penalties and forfeits	3.2	271 508	238 025
Interest, dividends and rent on land	3.3	44 872	48 700
Sales of capital assets	3.4	11	-
Financial transactions in assets and liabilities	3.5	22 872	11 682
Departmental revenue collected		352 511	312 434

3.1 Sales of goods and services other than capital assets

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Sales of goods and services produced by the department		13 215	13 964
Sales by market establishment		3 560	197
Other sales		9 655	13 767
Sales of scrap, waste and other used current goods		33	63
Total		13 248	14 027

3.2 Fines, penalties and forfeits

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Fines	3	227 846	165 736
Penalties		3 569	2 289
Forfeits		40 093	70 000
Total		271 508	238 025

3.3 Interest, dividends and rent on land

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Interest	3	44 872	48 700
Total		44 872	48 700

3.4 Sales of capital assets

Tangible assets

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Machinery and equipment	41.2	11	-
Total		11	-



3.5 Financial transactions in assets and liabilities

	Note	2008/09	2007/08
	3	R'000	R'000
Loans and advances		26	(3)
Receivables		1 358	182
Stale cheques written back		228	215
Other receipts, including recoverable revenue		21 260	11 288
Total		22 872	11 682

4. Aid assistance

4.1 Aid assistance received in cash from RDP

	Note	2008/09	2007/08
		R'000	R'000
Foreign			
Opening balance		14 514	37 543
Revenue		1 100	39 340
Expenditure		(2 793)	(62 369)
Current		(2 793)	(30 247)
Capital		-	(32 122)
Closing balance		12 821	14 514

4.2 Total assistance

	2008/09	2007/08
	R'000	R'000
Opening balance	14 514	37 543
Revenue	1 100	39 340
Expenditure	(2 793)	(62 369)
Current	(2 793)	(30 247)
Capital	-	(32 122)
Closing balance	12 821	14 514

Analysis of balance

Aid assistance unutilised	12 821	14 514
RDP	12 821	14 514
Closing balance	12 821	14 514



5. Compensation of employees

5.1 Salaries and wages

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Basic salary		2 640 141	2 244 051
Performance award		29 838	23 521
Service based		6 847	10 440
Compensative/circumstantial		19 695	18 438
Periodic payments		13 042	11 018
Other non-pensionable allowances		762 920	457 486
Total		3 472 483	2 764 954

5.2 Social contributions

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Employer contributions			
Pension		271 051	224 534
Medical		126 796	118 264
UIF		32	14
Bargaining Council		475	460
Total		398 354	343 272
Total compensation of employees		3 870 837	3 108 226
Average number of employees		19 827	18 702



6. Goods and services

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Administrative fees		3 918	1 455
Advertising		29 806	22 121
Assets less than R5 000	6.1	37 153	58 190
Bursaries (employees)		2 962	5 354
Catering		13 046	7 855
Communication		124 844	117 275
Computer services	6.2	261 480	240 156
Consultants, contractors and agency/outsourced services	6.3	486 644	416 214
Entertainment		746	435
Audit cost – external	6.4	26 350	19 058
Inventory	6.5	88 748	103 276
Operating leases		323 815	286 656
Owned and leasehold property expenditure	6.6	371 443	282 809
Transport provided as part of the departmental activities		142	15
Travel and subsistence	6.7	392 300	322 751
Venues and facilities		11 293	20 644
Training and staff development		22 245	13 054
Other operating expenditure	6.8	100 851	147 466
Total		2 297 786	2 064 784

6.1 Assets less than R5 000

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Tangible assets		37 098	57 931
Machinery and equipment		37 098	57 931
Intangible assets		55	259
Total		37 153	58 190

6.2 Computer services

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
SITA computer services	6	63 485	68 270
External computer service providers		197 995	171 886
Total		261 480	240 156



6.3 Consultants, contractors and agency/outsourced services

	<i>Note</i>	2008/09	2007/08
	6	R'000	R'000
Business and advisory services		99 280	110 938
Laboratory services		559	-
Legal costs		46 418	41 460
Contractors		79 042	27 185
Agency and support/outsourced services		261 345	236 631
Total		486 644	416 214

6.4 Audit cost – external

	<i>Note</i>	2008/09	2007/08
	6	R'000	R'000
Regularity audits		24 945	18 165
Performance audits		1 210	217
Forensic audits		195	673
Other audits		-	3
Total		26 350	19 058

6.5 Inventory

	<i>Note</i>	2008/09	2007/08
	6	R'000	R'000
Learning and teaching support material		38	-
Food and food supplies		68	-
Fuel, oil and gas		168	101
Other consumable materials		2 783	740
Maintenance material		1 319	1 120
Stationery and printing		84 282	101 315
Medical supplies		90	-
Total		88 748	103 276

6.6 Owned and leasehold property expenditure

	<i>Note</i>	2008/09	2007/08
	6	R'000	R'000
Municipal services		94 783	90 846
Property management fees		18 068	-
Other		258 592	191 963
Total		371 443	282 809



6.7 Travel and subsistence

	<i>Note</i>	2008/09	2007/08
Local	6	383 049	313 104
Foreign		9 251	9 647
Total		392 300	322 751

6.8 Other operating expenditure

	<i>Note</i>	2008/09	2007/08
	6	R'000	R'000
Professional bodies, membership and subscription fees		396	76 325
Resettlement costs		12 390	9 772
Other		88 065	61 369
Total		100 851	147 466

7. Interest on rent on land

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Interest paid		3 804	-
Total		3 804	-

8. Financial transactions in assets and liabilities

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Material losses through criminal conduct		3 038	1 600
Theft	8.4	550	312
Other material losses	8.1	2 488	1 288
Other material losses written off	8.2	150	934
Debts written off	8.3	232	492
Total		3 420	3 026

8.1 Other material losses

	<i>Note</i>	2008/09	2007/08
	8	R'000	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. The loss could not be recovered.		
		2 488	1 288
Total		2 488	1 288



8.2 Other material losses written off

	<i>Note</i>	2008/09	2007/08
	<i>8</i>	R'000	R'000
Nature of losses			
Irrecoverable losses		70	531
Civil actions		50	175
Damages to vehicles		30	170
State money shortages		-	58
Total		150	934

8.3 Debts written off

	<i>Note</i>	2008/09	2007/08
	<i>8</i>	R'000	R'000
Nature of debts written off			
Staff debts (prescribed staff debts)		232	492
Total		232	492

8.4 Detail of theft

	<i>Note</i>	2008/09	2007/08
	<i>8</i>	R'000	R'000
Nature of theft			
Burglaries		458	195
Theft		92	117
Total		550	312

9. Transfers and subsidies

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Provinces and municipalities	<i>Annex 1A</i>	4	-
Departmental agencies and accounts	<i>Annex 1B</i>	1 238 883	977 098
Foreign governments and international organisations	<i>Annex 1C</i>	5 084	3 573
Households	<i>Annex 1D</i>	63 588	40 277
Total		1 307 559	1 020 948



10. Expenditure for capital assets

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Tangible assets		478 286	532 050
Buildings and other fixed structures	34.1	416 823	296 148
Machinery and equipment	32.1	61 463	235 902
Software and other intangible assets		1 575	1 112
Other intangibles	33.1	1 575	1 112
Total		479 861	533 162

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

	Voted funds	Aid assistance	Total
	R'000	R'000	R'000
Tangible assets	478 286	-	478 286
Buildings and other fixed structures	416 823	-	416 823
Machinery and equipment	61 463	-	61 463
Software and other intangible assets	1 575	-	1 575
Capitalised development costs	1 430	-	1 430
Computer software	145	-	145
Total	479 861	-	479 861

10.2 Analysis of funds utilised to acquire capital assets – 2007/08

	Voted funds	Aid assistance	Total
	R'000	R'000	R'000
Total assets acquired	501 040	32 122	533 162

11. Unauthorised expenditure

11.1 Reconciliation of unauthorised expenditure

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Opening balance		139 052	185 617
Less: Amounts approved by Parliament/Legislature (with funding)		(139 052)	(46 565)
Unauthorised expenditure awaiting authorisation		-	139 052



12. Fruitless and wasteful expenditure

Fruitless expenditure amounting to R17.8 million identified as a result of the audit is in the process to be investigated, as the matter is technical of nature. These matters have been noted in the relevant registers and are being dealt with in terms of National Treasury Practice Note 4 of 2008/2009.

13. Cash and cash equivalents

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Consolidated Paymaster-General account		-	9 805
Cash receipts		1 279	(31)
Disbursements		14	(10)
Cash on hand		3 920	2 919
Total		5 213	12 683

14. Prepayments and advances

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Travel and subsistence		2 284	2 481
Advances paid to other entities		140	-
Total		2 424	2 481

15. Receivables

	<i>Note</i>	2008/09			Total	2007/08
		Less than one year	One to three years	Older than three years		
		R'000	R'000	R'000	R'000	Total
Claims recoverable	<i>15.1 & Annex 4</i>	167 118	26 626	138	193 882	120 807
Recoverable expenditure	<i>15.2</i>	109 967	-	-	109 967	-
Staff debt	<i>15.3</i>	3 496	6 529	10 981	21 006	18 928
Other debtors	<i>15.4</i>	6 450	3 427	14 280	24 157	20 983
Total		287 031	36 582	25 399	349 012	160 718

15.1 Claims recoverable

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
National departments	<i>15</i>	113 427	71 706
Provincial departments		80 455	47 172
Private enterprises		-	1 929
Total		193 882	120 807



15.2 Recoverable expenditure

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Unauthorised expenditure recoverable	15	109 967	-
Total		109 967	-

15.3 Staff debt

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
In-service debt	15	5 605	5 501
Out-of-service debt		15 401	13 427
Total		21 006	18 928

15.4 Other debtors

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Disallowance accounts	15	17 892	20 236
Salary suspense accounts		2 553	747
Funds due to DoJ&CD by NPA (virement)		3 712	-
Total		24 157	20 983

16. Voted funds to be surrendered to the Revenue Fund

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Opening balance		245 895	(65 610)
Transfer from statement of financial performance		28 463	245 895
Paid during the year		(245 895)	65 610
Closing balance		28 463	245 895

17. Departmental revenue to be surrendered to the Revenue Fund

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Opening balance		14 426	4 770
Transfer from statement of financial performance		352 511	312 434
Paid during the year		(343 806)	(302 778)
Closing balance		23 131	14 426

18. Bank overdraft

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Consolidated Paymaster-General account		281 224	-
Total		281 224	-



19. Payables – current

Description	<i>Note</i>	2008/09 Total	2007/08 Total
Advances received	19.1	665	858
Clearing accounts	19.2	647	1 400
Other payables	19.3	-	28 235
Total		1 312	30 493

19.1 Advances received

Description	<i>Note</i>	2008/09 R'000	2007/08 R'000
Western Cape Agency Services	19	665	858
Total		665	858

19.2 Clearing accounts

Description	<i>Note</i>	2008/09 R'000	2007/08 R'000
Salary control accounts	19	586	1 322
Overseas maintenance		61	78
Total		647	1 400

19.3 Other payables

Description	<i>Note</i>	2008/09 R'000	2007/08 R'000
NPA virement still to be paid by DoJ&CD	19	-	26 575
Commission on Gender Equality, surplus to be surrendered to National Treasury		-	1 660
Total		-	28 235



20. Net cash flow available from operating activities

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Net surplus/(deficit) as per statement of financial performance		379 281	535 300
Add back non-cash/cash movements not deemed operating activities		(188 217)	375 628
(Increase)/decrease in receivables – current		(188 294)	7 321
(Increase)/decrease in prepayments and advances		57	(292)
(Increase)/decrease in other current assets		139 052	46 565
Increase/(decrease) in payables – current		(29 181)	26 040
Proceeds from sale of capital assets		(11)	-
Expenditure on capital assets		479 861	533 162
Surrenders to Revenue Fund		(589 701)	(237 168)
Net cash flow generated by operating activities		191 064	910 928

21. Reconciliation of cash and cash equivalents for cash flow purposes

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Consolidated Paymaster-General account		(281 224)	9 805
Cash receipts		1 279	(31)
Disbursements		14	(10)
Cash on hand		3 920	2 919
Total		(276 011)	12 683



11. Disclosure Notes to the Annual Financial Statements for the year ended 31 March 2009

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

22. Contingent liabilities

		<i>Note</i>	2008/09	2007/08
			R'000	R'000
Liable to	Nature			
Motor vehicle guarantees	Employees	<i>Annex 3A</i>	129	315
Housing loan guarantees	Employees	<i>Annex 3A</i>	12 213	17 021
Claims against the department		<i>Annex 3B</i>	3 484 997	3 004 932
Other departments (interdepartmental unconfirmed balances)		<i>Annex 5</i>	10 683	36 735
Third-party fraud, losses, theft and dishonoured cheques		<i>Annex 3B</i>	41 555	-*
Total			3 549 577	3 059 003

* Previous years contingent liability relating to third-party funds not available.

23. Commitments

		<i>Note</i>	2008/09	2007/08
			R'000	R'000
Current expenditure				
Approved and contracted			1 119 992	510 946
Approved but not yet contracted			7 519	1 428
			1 127 511	512 374
Capital expenditure				
Approved and contracted			6 922	62 497
Approved but not yet contracted			15 026	5 251
			21 948	67 748
Total commitments			1 149 459	580 122

* Previous year's commitment restated due to additional information obtained.



24. Accruals

	<i>Note</i>		2008/09	2007/08
			R'000	R'000
Listed by economic classification				
	30 days	30+ days	Total	Total
Compensation of employees	-	56 839	56 839	8 621
Goods and services	107 190	109 169	216 359	145 098
Buildings and other fixed structures	-	47 188	47 188	556
Machinery and equipment	-	457	457	2 865
Software and other intangible assets	-	-	-	5 638
Total	107 190	213 653	320 843	162 778

	<i>Note</i>		2008/09	2007/08
			R'000	R'000
Listed by programme level				
Programme 1: Administration			132 035	29 784
Programme 2: Administration of Courts			95 438	128 844
Programme 3: State Legal Services			11 043	4 150
Programme 5: Auxiliary and Associated Services			41 990	-
Statutory Appropriation: Judges and Magistrates			40 337	-
Total			320 843	162 778

	<i>Note</i>		2008/09	2007/08
			R'000	R'000
Confirmed balances with other departments		<i>Annex 5</i>	63 828	28 426
Confirmed balances with other government entities		<i>Annex 5</i>	15 533	-*
Total			79 361	28 426

* Previous year's accrual for Third Party Funds (amount to be paid to the National Revenue Fund) not available.

25. Employee benefits

	<i>Note</i>		2008/09	2007/08
			R'000	R'000
Leave entitlement			*397 277	366 878
Thirteenth cheque			93 967	85 704
Performance awards			4 941	5 764
Capped leave commitments			**214 224	203 271
Total			710 409	661 617

* Included in this amount is an amount of (R3 356 413) that relates to financial years prior to July 2000.

** Included in the commitments for capped leave is an amount of (R325 878) that relates to financial years prior to July 2000.



26. Lease commitments

26.1 Operating leases expenditure

2008/09	Land	Buildings and other fixed structures	Machinery and equipment	Total
	R'000	R'000	R'000	R'000
Later than 1 year and not later than 5 years	-	-	2 687	2 687
Total lease commitments	-	-	2 687	2 687

2007/08	Land	Buildings and other fixed structures	Machinery and equipment	Total
	R'000	R'000	R'000	R'000
Later than 1 year and not later than 5 years	-	-	2 004	2 004
Total lease commitments	-	-	2 004	2 004

Previous year's operating lease commitment restated due to additional information obtained.

26.2 Finance leases expenditure

2008/09	Land	Buildings and other fixed structures	Machinery and equipment	Total
	R'000	R'000	R'000	R'000
Not later than 1 year			27 594	27 594
Later than 1 year and not later than 5 years			43 816	43 816
Total lease commitments			71 410	71 410
LESS: finance costs			8 203	8 203
Total present value of lease liabilities			63 207	63 207

2007/08	Land	Buildings and other fixed structures	Machinery and equipment	Total
	R'000	R'000	R'000	R'000
Not later than 1 year			11 447	11 447
Later than 1 year and not later than 5 years			10 283	10 283
Total present value of lease liabilities			21 730	21 730



27. Receivables for departmental revenue

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Fines penalties and forfeits *		15 533	-
Interest dividends and rent on land **		381	371
Other ***		8 634	8 634
Total		24 548	9 005

* This amount was received in the Third Party Fund accounts at year end, but not yet paid into the vote account for transfer to the National Revenue Fund. Previous year's receivables are not available.

** The amount for interest dividends and rent on land for the 2007/08 financial year is restated due to new information obtained.

*** The amount for 2007/08 has been restated due to the fact that the amount is already disclosed in Note 11 as part of the unauthorised expenditure balance.

27.1 Analysis of receivables for departmental revenue

	<i>Note</i>	2008/09
		R'000
Opening balance		9 005
Add: Amounts recognised		15 543
Closing balance		24 548

28. Irregular expenditure

28.1 Reconciliation of irregular expenditure

	<i>Note</i>	2008/09	2007/08
		R'000	R'000
Opening balance		94 671	77 797
Add: Irregular expenditure – relating to prior year	28.2	25 495	99 111
Add: Irregular expenditure – relating to current year	28.2	35 002	-
Less: Amounts condoned	28.3	(109 076)	(82 237)
Less: Amounts not recoverable (not condoned)	28.4	(40 318)	-
Irregular expenditure awaiting condonation		5 774	94 671

Analysis of awaiting condonation per age classification

Current year	387	71 669
Prior years	5 387	23 002
Total	5 774	94 671



28.2 Details of irregular expenditure – current year

Incident	Disciplinary steps taken/criminal proceedings	2008/09 R'000
Supply Chain Management procedures not adhered to for Security Services	No loss was suffered by the department and disciplinary steps could not be taken, as the official responsible resigned.	526
IT equipment procured through an expired SITA contract	No loss was suffered by the department	2 572
Supply Chain Management procedures not adhered to for Communication Services	Official responsible was dismissed.	257
Non-compliance with departmental Supply Chain Management procedures (departmental Bid Adjudication Committee approvals not obtained)	Matters are still under investigation.	5 517
Inadequate delegations to departmental Bid Adjudication Committee	Condonation requested from accounting officer as the matter is technical of nature.	17 010
Finance leases entered into in terms of transversal State Tender Board contract (RT3) Non-compliance with Treasury Regulation 13.2.5	No further action is necessary, as condonation had been granted by National Treasury.	34 615
		60 497

28.3 Details of irregular expenditure condoned

Incident	Condoned by (condoning authority)	2008/09 R'000
Inadequate delegations to departmental Bid Adjudication Committee	Condoned by accounting officer	74 461
Finance leases entered into in terms of Transversal State Tender Board contract (RT3) Non-compliance with Treasury Regulations 13.2.5	Condoned by National Treasury	34 615
Total		109 076

28.4 Details of irregular expenditure not recoverable (not condoned)

Incident	Not condoned by (condoning authority)	2008/09 R'000
Supply Chain Management procedures not adhered to for Security Services	No loss was suffered by the department and disciplinary steps could not be taken, as the official responsible resigned.	526
IT equipment procured through an expired SITA contract	No loss was suffered by the department.	2 572
Tender procedures not followed in procuring consultancy services	Investigations have revealed that value for money was received, although it was evident that procurement procedures were not followed. The responsible official was dismissed.	13 240
Re-appointment of an employee in contravention of the Public Service Regulations	No loss was suffered by the department and the employee's service was terminated.	284
Supply Chain Management procedures not adhered to for consultancy services	Submission to accounting officer for condonation of non-compliance. The presiding officer did not make an order that the officials involved should re-pay any amount. The officials were dismissed.	9 478
Supply Chain Management procedures not adhered to for least cost routing	No loss was incurred, as the department derived a cost saving of 32% from this initiative.	14 218
Total		40 318



* Irregular expenditure amounting to R53 million identified as a result of the audit are not included in the above amount, as the department is in the process to investigate the matter because it is technical of nature. These matters have been noted in the relevant registers and are being dealt with in terms of National Treasury Practice Note 4 of 2008/2009.

29. Related party transactions

The funds mentioned under paragraph 1.5.2 of the report of the accounting officer, are related parties.

30. Key management personnel

	No of individuals	2008/09 R'000	2007/08 R'000
Officials:			
Level 15 to 16	16	12 364	11 125
Level 14 (and any other key management personnel identified by DoJ&CD)	307	145 859	*96 569
Total		158 223	107 694

* The amount disclosed in 2007/08 for level 14 was amended to include any other key management personnel identified by DoJ&CD.

31. Provisions

	<i>Note</i>	2008/09 R'000	2007/08 R'000
Potential irrecoverable debts			
Staff debtors		8 101	6 856
Other debtors		12 340	13 949
Total		20 441	20 805
Provisions			
Provision for non-recoverable loans		394	-
Occupational-specific Dispensation for legally qualified personnel		-	182 214
		394	182 214
Total		20 835	203 019



32. Movable tangible capital assets

MOVEMENT IN MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Opening balance R'000	Current year adjustments to prior year balances R'000	Additions R'000	Disposals R'000	Closing Balance R'000
Machinery and equipment	577 691	(52 487)	60 507	659	585 052
Transport assets	50 888	15 364	6 404	-	72 656
Computer equipment	299 783	(171 324)	20 650	145	148 964
Furniture and office equipment *	86 651	60 565	23 219	211	170 224
Other machinery and equipment **	140 369	42 908	10 234	303	193 208
Total movable tangible capital assets	577 691	(52 487)	60 507	659	585 052

* Included above in the "Current year adjustments to prior year balances" is an adjustment of 1 763, representing unverified assets of prior years to the value of R28,942 million. Refer to paragraph 11 of the accounting officer's report for more detail.

** Comparative figures have been restated to adhere to new disclosure requirements.

32.1 Additions

ADDITIONS TO MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Cash R'000	Non-cash R'000	(Capital work in progress, current costs and finance lease payments) R'000	Received current, not paid (Paid current year, received prior year) R'000	Total R'000
Machinery and equipment	61 463	(9 290)	-	8 334	60 507
Transport assets	17 216	(10 812)	-	-	6 404
Computer equipment	21 691	(1 845)	-	804	20 650
Furniture and office equipment	17 926	3 397	-	1 896	23 219
Other machinery and equipment	4 630	(30)	-	5 634	10 234
Total Additions to Movable Tangible Capital Assets	61 463	(9 290)	-	8 334	60 507



32.2 Disposals

DISPOSALS OF MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Sold for cash R'000	Transferred out or destroyed or scrapped R'000	Total disposals R'000	Cash received actual R'000
Machinery and equipment	325	334	659	-
Computer equipment	61	84	145	-
Furniture and office equipment	51	160	211	-
Other machinery and equipment	213	90	303	-
Total disposal of movable tangible capital assets	325	334	659	-

32.3 Movement for 2007/08

MOVEMENT IN MOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2008

	Opening balance R'000	Additions R'000	Disposals R'000	Closing balance R'000
Machinery and Equipment	366 736	211 103	148	577 691
Transport assets	36 447	14 441	-	50 888
Computer equipment	136 437	163 404	58	299 783
Furniture and office equipment	60 877	25 864	90	86 651
Other machinery and equipment	132 975	7 394	-	140 369
Total movable tangible capital assets	366 736	211 103	148	577 691

32.4 Minor assets

	Intangible assets R'000	Machinery and equipment R'000	Total R'000
Minor assets	171	554 073	554 244
Total	171	554 073	554 244

	Intangible assets	Machinery and equipment	Total
Number of minor assets	44	391 313	391 357
Total	44	391 313	391 357

* Not included above is 10 123 unverified minor assets of prior years to the value of R21,625 million. Refer to paragraph 11 of the accounting officer's report for more detail.



33. Intangible capital assets

MOVEMENT IN INTANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Opening balance R'000	Current year adjustments to prior year balances R'000	Additions R'000	Disposals R'000	Closing balance R'000
Capitalised development costs	-	4 725	1 430	-	6 155
Computer software	29 849	14	125	-	29 988
Total intangible capital assets	29 849	4 739	1 555	-	36 143

33.1 Additions

ADDITIONS TO INTANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Cash R'000	Non-cash R'000	(Develop- ment work in progress – current costs) R'000	Received current year not paid (paid current year received prior year) R'000	Total R'000
Capitalised development costs	1 430	-	-	-	1 430
Computer software	145	(20)	-	-	125
Total additions to intangible capital assets	1 575	(20)	-	-	1 555

33.2 Movement for 2007/08

MOVEMENT IN INTANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2008

	Opening balance R'000	Additions R'000	Disposals R'000	Closing balance R'000
Computer software	29 404	445	-	29 849
Total	29 404	445	-	29 849



34. Immovable tangible capital assets

MOVEMENT IN IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Opening balance R'000	Curr Year adjustments to prior year balances R'000	Additions R'000	Disposals R'000	Closing balance 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 capital assets	-	-	417 785	412 934	4 851

34.1 Additions

ADDITIONS TO IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Cash R'000	Non-cash R'000	(Capital work in progress current costs and finance lease payments) R'000	Received current not paid (Paid current year received prior year) R'000	Total R'000
Building and other fixed structures	416 823	-	-	962	417 785
Non-residential buildings	412 934	-	-	-	412 934
Other fixed structures	3 889	-	-	962	4 851
Total additions to immovable tangible capital assets	416 823	-	-	962	417 785



34.2 Disposals

DISPOSALS OF IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2009

	Sold for cash R'000	Transferred out or destroyed or scrapped R'000	Total disposals R'000	Cash received actual R'000
Buildings and other fixed structures		412 934	412 934	-
Non-residential buildings		412 934	412 934	-
Total disposals of immovable tangible capital assets		412 934	412 934	-

34.3 Movement for 2007/08

MOVEMENT IN IMMOVABLE TANGIBLE CAPITAL ASSETS PER ASSET REGISTER FOR THE YEAR ENDED 31 MARCH 2008

	Opening balance R'000	Additions R'000	Disposals R'000	Closing balance R'000
Buildings and other fixed structures	-	296 148	296 148	-
Dwellings	-	11 106	11 106	-
Non-residential buildings	-	285 042	285 042	-
Total immovable tangible assets	-	296 148	296 148	-



12. Annexures to the Annual Financial Statements for the year ended 31 March 2009

Annexure 1A

STATEMENT OF UNCONDITIONAL GRANTS AND TRANSFERS TO MUNICIPALITIES

Name of Municipality	Grant allocation				Transfer		Spent			2007/08
	Amount	Roll-overs	Adjustments	Total available	Actual transfer	% Of available funds transferred	Amount received by municipality	Amount spent by municipality	% Of available funds spent by municipality	Total available
	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000	%	R'000
Provincial department fines and penalties	-	-	-	-	2	-	-	-	-	-
Provincial department vehicle licences	-	-	-	-	2	-	-	-	-	-
	-	-	-	-	4	-	-	-	-	-

Annexure 1B

STATEMENT OF TRANSFERS TO DEPARTMENTAL AGENCIES AND ACCOUNTS

Department/Agency/Account	Transfer allocation				Transfer		2007/08
	Adjusted Appropriation Act	Roll-overs	Adjustments	Total available	Actual transfer	% Of available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Human Rights Commission	60 603	-	-	60 603	60 603	100.0	55 281
Legal Aid Board	842 120	-	(4 000)	838 120	838 120	100.0	613 029
Special Investigating Unit	116 297	-	-	116 297	116 297	100.0	103 111
Commission on Gender Equality	46 193	-	-	46 193	46 193	100.0	39 745
Public Protector	86 475	-	-	86 475	86 475	100.0	78 722
Representative Political Parties' Fund	88 187	-	-	88 187	88 187	100.0	83 354
President's Fund	1	-	-	1	-	-	1
Education, Training and Development Practice Sectoral Authority	4 421	-	-	4 421	3 008	68.0	4 211
	1 244 297	-	(4 000)	1 240 297	1 238 883		977 454



Annexure 1C

STATEMENT OF TRANSFERS TO FOREIGN GOVERNMENT AND INTERNATIONAL ORGANISATIONS

	Transfer allocation				Expenditure		2007/08
	Adjusted Appropriation Act	Roll-overs	Adjustments	Total available	Actual transfer	% Of available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Foreign Government/ International organisation							
Transfers							
Subscription fees: International Criminal Court	4 240	-	839	5 079	5 084	100	4 220
	4 240	-	839	5 079	5 084		4 220
Total	4 240	-	839	5 079	5 084		4 220

Annexure 1D

STATEMENT OF TRANSFERS TO HOUSEHOLDS

	Transfer allocation				Expenditure		2007/08
	Adjusted Appropriation Act	Roll-overs	Adjustments	Total available	Actual transfer	% of Available funds transferred	Appropriation Act
	R'000	R'000	R'000	R'000	R'000	%	R'000
Households							
Transfers							
Household: Employee Social benefit	81 738	-	(1 607)	80 131	61 624	77	74 725
Household: Claims against the state	327	-	1 588	1 915	1 915	100	496
Household: Ex gratia payments	30	-	19	49	49	100	129
Household: State vehicles and car rentals	-	-	-	-	-		44
Total	82 095	-	0	82 095	63 588		75 394
Total	82 095	-	0	82 095	63 588		75 394



Part 4: Annual Financial Statements (Vote 21)

Annexure 1E

STATEMENT OF GIFTS, DONATIONS AND SPONSORSHIPS RECEIVED

Name of organisation	Nature of gift, donation or sponsorship	2008/09	2007/08
		R'000	R'000
Received in cash			
Law Society	Improving library facilities – North West	5	5
City of Cape Town	Funding of municipal courts	-	1
Donations and gifts	Children's christmas party	-	11
Law Society	Donation	5	-
Subtotal		10	17
Received in kind			
Mosiak Church	Upgrading of children's intermediary, awaiting and interrogation rooms	12	15
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 for golf day event	3	-
Amar Africa	Catering for golf day event	1	-
Subtotal		45	15
Total		55	32

Annexure 1F

STATEMENT OF LOCAL AND FOREIGN AID ASSISTANCE RECEIVED

Name of donor	Purpose	Opening			Closing
		Balance	Revenue	Expenditure	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
Ireland	Re-engineering business processes in the master's offices and selected magistrate's courts	2 185	-	*2 185	
Swiss Fund	Improving the accessibility of small claims courts	1 762	1 099	607	2 254
Total		14 514	1 099	2 792	12 821

* The amount of R2 185 000 for Ireland disclosed as expenditure is not actual expenditure, but rather a transfer to National Treasury's RDP fund.



Annexure 1G

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

Nature of gift, donation or sponsorship	2008/09	2007/08
	R'000	R'000
Made in kind		
Western Cape – Judge Howie farewell gift	3	-
Western Cape – Chief Magistrate HAJ Swart farewell gift	1	-
Total	4	-

Annexure 3A

STATEMENT OF FINANCIAL GUARANTEES ISSUED AS AT 31 MARCH 2009 – LOCAL

Guarantor institution	Guarantee in respect of	Original guaranteed capital amount	Opening balance 1 April 2008	Guarantees drawn down during the year	Guarantees repayments/ cancelled/ reduced/ released during the year	Revaluations	Closing balance 31 March 2009	Guaranteed interest for year ended 31 March 2009	Realised losses not recoverable, ie claims paid out
		R'000	R'000	R'000	R'000	R'000	R'000	R'000	R'000
Stannic	Motor vehicles	-	315	-	90	(96)	129	-	-
	Subtotal	-	315	-	90	(96)	129	-	-
	Housing								
	Standard Bank	-	3 030	-	658	-	2 372	-	-
	Nedbank Limited	-	2 684	-	629	-	2 055	-	-
	Firststrand Bank Ltd	-	1 599	-	487	40	1 152	-	-
	ABSA	-	5 307	-	1 863	105	3 549	-	-
	Peoples Bank Incorp	-	509	-	107	-	402	-	-
	FNB	-	729	-	246	56	539	-	-
	Old Mutual Bank	-	2 106	-	807	17	1 316	-	-
	Other	-	1 057	-	249	20	828	-	-
	Subtotal	-	17 021	-	5 046	238	12 213	-	-
Total	-	17 336	-	5 136	142	12 342	-	-	



Part 4: Annual Financial Statements (Vote 21)

Annexure 3B

STATEMENT OF CONTINGENT LIABILITIES AS AT 31 MARCH 2009

Nature of Liability	Opening balance 01/04/2008	Liabilities incurred during the year	Liabilities paid/ cancelled/ reduced during the year	Liabilities recoverable (Provide details hereunder)	Closing balance 31/03/2009
	R'000	R'000	R'000	R'000	R'000
Claims against the department					
Summonses	3 004 932	661 467	181 402	-	3 484 997
Litigation	-	3 073	3 073	-	-
	3 004 932	664 540	184 475	-	3 484 997
Other					
Third Party Fund fraud, theft, losses and dishonoured cheques	-	41 555	-	-	41 555
	-	41 555	-	-	41 555
Total	3 004 932	706 095	184 475	-	3 526 552

* Amounts disclosed as "Claims against the department" are disclosed at the best known value available to the department and in the majority of cases are the value of the summons issued against the department. The amount disclosed is therefore not necessarily the most likely amount the court will settle on.

Annexure 4

CLAIMS RECOVERABLE

Government Entity	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31/03/2009	31/03/2008	31/03/2009	31/03/2008	31/03/2009	31/03/2008
	R'000	R'000	R'000	R'000	R'000	R'000
Department						
National department	107 855	69 005	5 572	2 167	113 427	71 172
Eastern Cape	30 559	19 222	142	2 044	30 701	21 266
Free State	4 223	2 928	50	5	4 273	2 933
Gauteng	12 041	6 631	271	292	12 312	6 923
KwaZulu-Natal	2 239	1 715	60	108	2 299	1 823
Mpumalanga	3 329	2 148	2 110	436	5 439	2 584
Northern Cape	1 444	225	275	427	1 719	652
Limpopo	12 891	5 683	979	1 218	13 870	6 901
North West	6 787	2 493	183	765	6 970	3 258
Western Cape	1 643	790	412	42	2 055	832
Agency Services Control Account	-	-	38	-	38	-
Sal: Recoverable	480	415	299	119	779	534
Total	183 491	111 255	10 391	7 623	193 882	118 878



Annexure 5
INTERGOVERNMENT PAYABLES

Government entity	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31/03/2009	31/03/2008	31/03/2009	31/03/2008	31/03/2009	31/03/2008
	R'000	R'000	R'000	R'000	R'000	R'000
DEPARTMENTS						
Current						
Transport (GG) Western Cape	1 252	1 648	8 344	8 165	9 596	9 813
Government Communications	-	24	-	-	-	24
SAPS	5	77	76	82	81	159
Office Premier Limpopo	-	1	-	-	-	1
Public Service Commission	-	11	-	-	-	11
Home Affairs	-	20	-	3	-	23
Trade and Industry	-	15	-	-	-	15
Agriculture	-	9	-	-	-	9
NW Provincial Administration	21	1	-	-	21	1
Transport (GG) KZN	-	603	-	10 868	-	11 471
Department of Foreign Affairs	742	-	2 006	2 557	2 748	2 557
Department of Public Works	46 478	18 982	-	14 925	46 478	33 907
Transport (GG) Gauteng	15 163	7 022	121	130	15 284	7 152
Department of Health	12	13	-	-	12	13
Mineral and Energy	-	-	-	5	-	5
Education EC	13	-	-	-	13	-
Arts and Culture National	13	-	-	-	13	-
Agriculture	2	-	40	-	42	-
Education FS	13	-	-	-	13	-
Social Development	6	-	-	-	6	-
Social Development FS	-	-	22	-	22	-
Labour	57	-	-	-	57	-
Water Affairs and Forestry	46	-	-	-	46	-
Public Service and Administration	5	-	-	-	5	-
Public Works FS	-	-	6	-	6	-
Office of the Premier	-	-	4	-	4	-
Arts and Culture FS	-	-	26	-	26	-
Health EC	-	-	38	-	38	-
Total	63 828	28 426	10 683	36 735	74 511	65 161
OTHER GOVERNMENT ENTITY						
Current						
National Revenue Fund (TPF)*	15 533	-	-	-	15 533	-
Total	15 533	-	-	-	15 533	-

* Accrual for Third Party Funds administered revenue still to be paid from the vote account to the National Revenue Fund. Previous year's accrual is not available.



Human Resource Management





5.1 Service delivery

Table 1.1: Main services provided and standards

Main services	Actual clients	Potential clients	Standard of service	Actual achievement against standards
Value-added services	All branches	All branches	Provision of employee health and wellness services to 100% of employees Implementation of learner-ship and internship programmes	<ul style="list-style-type: none"> 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 Department disability programme: 60% of people with disabilities have been provided with assistive devices and 100% of visually impaired employees are provided with monthly payslips in Braille The department has an internship programme for LLB graduates, which is registered with the National Youth Services Programme (NYSP) There are four active learnership programmes that accommodate employed and unemployed learners
Customer Management Centre	All branches	All branches	Effective and efficient HR administrative services	Reduction of vacancy rate
Key accounts	All branches	All branches	Provision of the finest possible HR experience to clients through partnerships	<ul style="list-style-type: none"> Forging mutually beneficial partnerships Aligning processes and systems with the corporate strategy

Table 1.2: Consultation arrangements with customers

Type of arrangement	Actual clients	Potential clients	Actual achievements
Partnerships	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 clients	<ul style="list-style-type: none"> Approved human resource policies A human resource plan and roll-out plan was developed and approved
Client Management Centre: Will offer efficient and consistent HR administration services that meet the time and quality requirements of clients	Effective and efficient administration services
Key accounts: Will uphold the vision, mission and transformation values of the Human Resource Branch, maximising the speed and quality of HR services	<ul style="list-style-type: none"> Sound partnerships with branches Provision of day-to-day advice and solutions to client branches, thereby increasing efficiency in service delivery



Table 1.4: Service information tool

Types of information tools	Actual achievements
Public folders	Successful
DJINI intranet portal	Latest HR information

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 by programme (Table 2.1) and by salary band (Table 2.2). In particular, they provide 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, 2008/09

Programme	Total expenditure (R'000)	Personnel expenditure (R'000)	Training expenditure (R'000)	Professional and special services (R'000)	Personnel cost as a percentage of total expenditure	Average personnel cost per employee (R'000)
Administration	930 693	209 936	12 829	75 898	23	62
Auxiliary and Associated Services	1 557 809	92	0	72 776	0	0
Court Services	3 348 402	1 721 787	8 816	72 692	51	145
Direct Charges	1 601 091	1 550 262	8 816		97	925
State Legal Services	525 272	388 759	596	49 351	74	304
Total as on financial system (BAS)	7 963 267	3 870 836	22 241	270 717	49	213

Table 2.2: Personnel costs by salary bands, 2008/09

Salary bands	Personnel Expenditure (R'000)	% of total personnel cost	Average personnel cost per employee (R'000)
Lower skilled (levels 1 – 2)	241 927	6.25	66
Skilled (levels 3 – 5)	1 155 445	29.85	95
Highly skilled production (levels 6 – 8)	793 908	20.51	173
Highly skilled supervision (levels 9 – 12)	650 300	16.80	361
Senior management (levels 13 – 16)	137 415	3.55	821
Contract (levels 1 – 2)	61 933	1.60	62
Contract (levels 3 – 5)	587 980	15.19	89
Contract (levels 6 – 8)	54 966	1.42	163
Contract (levels 9 – 12)	88 255	2.28	340
Contract (levels 13 – 16)	3 871	0.10	728
Periodical remuneration	77 417	2.00	14
Abnormal appointment	17 419	0.45	21
Total	3 870 836	100.00	211

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 (HOA) 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 by programme, 2008/09

Programme	Salaries		Overtime		Homeowner's allowance		Medical assistance	
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Overtime as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount (R'000)	Medical Assistance as a % of personnel cost
Administration	146 205	69.64	360	0.17	3 857	1.84	6 980	3.32
Auxiliary and Associated Services	57	61.96	-	0.00	6	6.52	13	14.13
Direct Charges	983 017	57.09	16	0.00	427	0.02	10 603	0.62
Court Services	1 237 523	79.83	3 640	0.23	47 245	3.05	95 443	6.16
State Legal Services	273 342	70.31	749	0.19	6 711	1.73	13 758	3.54
Total	2 640 144	68.21	4 765	0.12	58 246	1.50	126 797	3.28

Table 2.4: Salaries, overtime, homeowner's allowance and medical assistance by salary band, 2008/09

Salary band	Salaries		Overtime		Homeowner's allowance (HOA)		Medical assistance	
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Overtime as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount (R'000)	Medical assistance as a % of personnel cost
Lower skilled (levels 1 – 2)	165 009	4.26	298	0.01	3 640	0.09	7 925	0.20
Skilled (levels 3 – 5)	788 083	20.36	1 422	0.04	17 386	0.45	37 849	0.98
Highly skilled production (levels 6 – 8)	541 494	13.99	977	0.03	11 946	0.31	26 006	0.67
Highly skilled supervision (levels 9 – 12)	443 544	11.46	801	0.02	9 785	0.25	21 302	0.55
Senior management (Levels 13-16)	93 725	2.42	169	0.00	2 068	0.05	4 501	0.12
Contract (levels 1 – 2)	42 242	1.09	76	0.00	932	0.02	2 029	0.05
Contract (levels 3 – 5)	401 038	10.36	724	0.02	8 848	0.23	19 260	0.50
Contract (levels 6 – 8)	37 490	0.97	68	0.00	827	0.02	1 801	0.05
Contract (levels 9 – 12)	60 195	1.56	109	0.00	1 328	0.03	2 891	0.07
Contract (levels 13 – 16)	2 640	0.07	5	0.00	58	0.00	127	0.00
Periodical remuneration	52 803	1.36	95	0.00	1 165	0.03	2 536	0.07
Abnormal appointment	11 881	0.31	21	0.00	262	0.01	571	0.01
Total	2 640 144	68.21	4 765	0.12	58 246	1.50	126 797	3.28

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 additional to the establishment. This information is presented in terms of three key variables: programme (Table 3.1), salary band (Table 3.2) and occupation (Table 3.3).

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



Table 3.1: Employment and vacancies by programme, 31 March 2009

Programme	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Administration, permanent	3 377	2 910	13.83	72
Administration, temporary	432	432	0.00	0
Court Services, permanent	12 511	10 746	14.11	77
Court Services, temporary	1 139	1 139	0.00	0
State Legal Services, permanent	1 342	1 221	9.02	3
State Legal Services, temporary	56	56	0.00	0
Auxiliary and Associated Services	1	1	0.00	0
Magistrates	1 923	1 471	23.50	0
Judges	258	205	20.54	0
Total	21 039	18 181	13.58	152

Table 3.2: Employment and vacancies by salary band, 31 March 2009

Salary band	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Lower skilled (levels 1 – 2), permanent	552	541	1.99	8
Skilled (levels 3 – 5), permanent	11 195	9 424	15.28	53
Highly skilled production (levels 6 – 8), permanent	2 810	2 684	4.5	51
Highly skilled supervision (levels 9 – 12), permanent	2 398	1 746	27.2	25
Senior management (levels 13 – 16), permanent	2 199	1 954	11.14	15
Judges	258	205	20.5	0
Interns	186	186	0	0
Contract (levels 1 – 2)	60	60	0	0
Contract (levels 3 – 5)	854	854	0	0
Contract (levels 6 – 8)	213	213	0	0
Contract (levels 9 – 12)	112	112	0	0
Contract (levels 13 – 16)	202	202	0	0
Total	21 039	18 181	13.58	152

The vacancy rate as reflected includes permanent and contract posts. Should contract posts and judges be excluded, the vacancy rate for permanent posts only is 14.64%.

Table 3.3: Employment and vacancies by occupation, 31 March 2009

Occupations	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Administrative-related, permanent	9 593	8 086	16	66
Administrative-related, contract	691	691	0	0
Advocates, permanent	110	92	16.36	0
Advocates, contract	4	4	0	0
Attorneys, permanent	202	186	7.92	0
Attorneys, contract	27	27	0	0
Authors, journalists and other writers, contract	2	2	0	0



Occupations	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Building and other property caretakers, permanent	27	12	55.6	0
Bus and heavy/light vehicle drivers, permanent	25	25	0	0
Cleaners in offices, workshops, hospitals etc, permanent	279	218	21.86	2
Client information clerks (switchboard, reception and information clerks), permanent	149	125	16.11	18
Communication- and information-related, permanent	29	22	24.14	0
Communication- and information-related, contract	1	1	0	0
Financial and related professionals, permanent	436	351	19.50	0
Financial and related professionals, contract	11	11	0	0
Financial clerks and credit controllers, permanent	298	262	12.08	8
Financial clerks and credit controllers, contract	52	52	0	0
Food services aids and waiters, permanent	25	21	16	0
Food services aids and waiters, contract	5	5	0	0
General legal administration and related professionals, permanent	1 223	1 135	7.2	4
General legal administration and related professionals, contract	80	80	0	0
Head of department/chief executive officer, permanent	1	1	0	0
Human resources and organisational development and related professionals, permanent	265	207	21.89	2
Human resources clerks, permanent	164	156	4.88	0
Human resources clerks, contract	32	32		0
Information technology-related, permanent	46	9	80.43	0
Information technology-related, contract	2	2	0	0
Judges, permanent	258	205	20.54	0
Language practitioners, interpreters and other communication staff, permanent	1 944	1 740	10.49	20
Language practitioners, interpreters and other communication staff, contract	122	122	0	0



Occupations	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Librarians and related professionals, permanent	44	34	22.73	1
Library, mail and related clerks, permanent	156	144	7.69	5
Library, mail and related clerks, contract	36	36	0	0
Magistrates, permanent	1 923	1 734	9.83	9
Magistrates, contract	196	196	0	0
Messengers, porters and deliverers, permanent	406	357	12.07	2
Messengers, porters and deliverers, contract	192	192	0	0
Risk management and security services, permanent	12	8	33.3	0
Secretaries and other keyboard-operating clerks, permanent	1 030	856	16.89	6
Secretaries and other keyboard-operating clerks, contract	136	136	0	0
Security officers, permanent	492	346	29.67	3
Security officers, contract	14	14	0	0
Senior managers, permanent	275	222	19.27	6
Senior managers, contract	21	21	0	0
Statisticians and related professionals, contract	3	3	0	0
Total	21 039	18 181	13.58	152

The information in each case reflects the situation as at 31 March 2009. For an indication of changes in staffing patterns over the year under review, please refer to section 5 of this report.

5.4 Job evaluation

The Public Service Regulations (PSR), 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 organisations. In terms of the regulations, all vacancies on salary levels 9 and higher must be evaluated before they are filled.

The following table (Table 4.1) summarises the number of jobs that were evaluated during the year under review. The table also provides statistics on the number of posts that were upgraded or downgraded.

Table 4.1: Job evaluation, 1 April 2008 to 31 March 2009

Salary band	Number of posts	Number of posts evaluated	% of posts evaluated by salary bands	Posts upgraded		Posts downgraded	
				Number	% of posts evaluated	Number	% of posts evaluated
Lower skilled (levels 1 – 2)	552	136	24.64	4	2.94	0	0.00
Skilled (levels 3 – 5)	11 195	6 100	54.49	1 850	30.33	109	1.79
Highly skilled production (levels 6 – 8)	2 810	979	34.84	226	22.08	28	2.86
Highly skilled supervision (levels 9 – 12)	2 398	479	19.97	168	35.07	20	4.18



Salary band	Number of posts	Number of posts evaluated	% of posts evaluated by salary bands	Posts upgraded		Posts downgraded	
				Number	% of posts evaluated	Number	% of posts evaluated
Senior Management Service Band A	202	6	2.97	0	0.00	0	0.00
Senior Management Service Band B	64	2	1.56	0	0.00	0	0.00
Senior Management Service Band C	8	0	3.13	0	0.00	0	0.00
Senior Management Service Band D	2	0	0.00	0	0.00	0	0.00
Total	17 231	7 702	44.70	2 248	29.18	157	2.04

The following table provides a summary of the number of employees whose salary positions were upgraded due to their posts being upgraded. The number of employees might differ from the number of posts upgraded, since not all employees are automatically absorbed into the new posts and some of the posts upgraded could also be vacant.

Table 4.2: Profile of employees whose salary positions were upgraded due to their posts being upgraded, 1 April 2008 to 31 March 2009

Beneficiaries	African	Asian	Coloured	White	Total
Female	185	3	4	16	208
Male	171	3	11	14	199
Total	356	6	15	30	407
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.

Table 4.3: Employees whose salary levels exceed the grade determined by job evaluation (JE), 1 April 2008 to 31 March 2009 (in terms of PSR 1.V.C.3)

Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
Deputy Director	1	11	12	JE was done after official progressed with previous leg promotion
Deputy Director	1	11	12	Official was already on level 12 at appointment; DG approval granted
Labour Relations Officer	1	8	9	JE delayed
HR Practitioner	1	7	8	DPSA benchmarking done after official progressed with previous leg promotion
Senior HR Officer	7	7	8	DPSA JE was done after DG approved the upgrading to a higher level
HR Officer	45	5	6	DPSA JE was done after DG approved the upgrading to a higher level
Principal Typist Grade I	2	4	5	JE was done after official progressed with previous leg promotion
Principal Typist Grade II	11	4	6	JE was done after official progressed with previous leg promotion
Senior Administration Clerk Grade II	21	4	5	JE was done after official progressed with previous leg promotion
Senior Administration Clerk Grade III	83	4	6	JE was done after official progressed with previous leg promotion
Secretary	17	5	7	JE delayed



Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
Court Interpreter	53	5	7	JE was done after official progressed with previous leg promotion
Court Stenographer	5	4	6	JE was done after official progressed with previous leg promotion
Registrar's Clerk	1	4	6	JE was done after official progressed with previous leg promotion
Total number of employees whose salaries exceeded the level determined by job evaluation in 2008/09				249
Percentage of total employment				1.37

Table 4.4 summarises the beneficiaries of the above in terms of race, gender, and disability.

Table 4.4: Profile of employees whose salary levels exceed the grade determined by job evaluation, 1 April 2008 to 31 March 2009 (in terms of PSR 1.V.C.3)

Beneficiaries	African	Asian	Coloured	White	Total
Female	128	6	4	33	171
Male	72	0	2	4	78
Total	200	6	6	37	249
Employees with disabilities					0
Total number of employees whose salaries exceeded the grades determined by job evaluation in 2008/09					249

5.5 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 5.1) and by critical occupation (Table 5.2). It should be noted that this table does not take into account up- or downgrades of posts or employees, nor movement of employees between levels.

Table 5.1: Annual turnover rates by salary band for the period 1 April 2008 to 31 March 2009

Salary band	Number of employees per band as on 1 April 2008	Appointments and transfers to the department	Terminations and transfers out of the department	Turnover rate
Lower skilled (levels 1 – 2), permanent	719	62	51	7.09
Skilled (levels 3 – 5), permanent	5 615	2 714	356	6.34
Highly skilled production (levels 6 – 8), permanent	4 192	175	264	6.30
Highly skilled supervision (levels 9 – 12), permanent	2 756	239	135	4.90
Senior Management Service (level 13 – 16) permanent	864	257	43	6.25
Contract (levels 1 – 2)	129	75	135	66.18
Contract (levels 3 – 5)	2 491	355	1 011	40.75
Contract (levels 6 – 8)	179	58	158	88.27
Contract (levels 9 – 12)	229	116	329	95.36
Contract (levels 13 – 16)	60	2	10	18.33
Total	17 234	4 053	2 492	14.00



Table 5.2: Annual turnover rates by occupation for the period 1 April 2008 to 31 March 2009

Occupation	Number of employees per occupation as on 1 April 2008	Appointments and transfers to the department	Terminations and transfers out of the department	Turnover rate
Administrative-related, permanent	6 403	2 412	397	6.34
Administrative-related, contract	2 378	298	839	35.74
Advocates, permanent	64	10	2	3.13
Attorneys, permanent	180	15	8	4.44
Authors, journalists, permanent	0	1	0	0
Building and other property caretakers, permanent	15	0	3	20
Bus and heavy vehicle drivers, permanent	9	1	1	11.11
Cleaners in offices, workshops, hospitals etc, permanent	213	0	14	6.57
Cleaners in offices, workshops, hospitals etc, contract	1	9	9	90
Client information clerks (switchboard, reception, information clerks), permanent	109	14	3	2.75
Client information clerks (switchboard, reception, information clerks), contract	0	2	5	4.59
Communication- and information-related, permanent	15	10	6	40
Computer programmers, permanent	1	0	0	0
Finance and related professionals, permanent	122	42	9	7.38
Finance clerks and credit controllers, permanent	398	75	58	14.57
Finance clerks and credit controllers, contract	71	11	42	59.15
Food services aids and waiters, permanent	21	2	1	4.76
Food services aids and waiters, contract	4	5	3	75
General legal administration and related professionals, permanent	612	87	35	5.72
General legal administration and related professionals, contract	102	229	60	59.80
Head of department/chief executive officer, permanent	1	0	1	100
Human resources and organisational development and related professionals, permanent	46	7	4	8.70
Human resources clerks, permanent	192	39	52	27.08
Human resources-related, contract	18	7	21	77.78
Human resources-related, permanent	85	3	3	3.53
Information technology-related, permanent	6	3	2	33.33
Judges, permanent	199	18	11	5.53
Language practitioners, interpreters and other communication staff, permanent	1 576	238	87	5.52
Language practitioners, interpreters and other communication staff, contract	138	58	134	97.10
Librarians and related professionals, permanent	25	9	2	8
Library, mail and related clerks, permanent	270	24	15	5.56
Library, mail and related clerks, contract	0	10	40	0
Light vehicle drivers, permanent	20	1	0	0
Magistrates, permanent	1 708	84	52	3.04
Magistrates, contract	189	99	279	96.89
Material-recording and transport clerks, permanent	49	15	2	4.08



Occupation	Number of employees per occupation as on 1 April 2008	Appointments and transfers to the department	Terminations and transfers out of the department	Turnover rate
Messengers, porters and deliverers, permanent	360	63	18	5
Messengers, porters and deliverers, contract	0	45	85	0
Risk management and security services, permanent	40	0	0	0
Secretaries and other keyboard-operating clerks, permanent	852	67	35	4.11
Secretaries and other keyboard-operating clerks, contract	175	38	101	57.71
Security officers, permanent	391	3	20	5.12
Security officers, contract	12	3	13	86.67
Senior managers, permanent	164	2	15	9.15
Senior managers, contract	0	11	6	0
Total	17 234	4 053	2 492	14.00

Table 5.3 identifies the major reasons why staff left the department.

Table 5.3: Reasons why staff left the department

Termination type	Number	% of total resignations
Death, permanent	98	3.98
Death, temporary	8	0.32
Resignation, permanent	347	14.09
Resignation, temporary	178	7.23
Expiry of contract, permanent	1	0.04
Expiry of contract, temporary	1 453	58.31
Discharged due to ill health, permanent	15	0.61
Dismissal for misconduct, permanent	63	2.56
Dismissal for misconduct, temporary	3	0.12
Dismissal due to incapacity, permanent	1	0.04
Retirement, permanent	103	4.18
Retirement, contract	1	0.04
Transfer, permanent	216	8.77
Total	2 492	100

Resignations as a percentage of employment	14.00
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Table 5.4: Promotions by occupation

Occupation	Employees as at 1 April 2008	Promotions to other salary levels	Salary level promotions as a % of employees by occupation	Progressions to other notches within a salary level	Notch progressions as a % of employees by occupation
Administrative-related	8 781	187	2.23	3 277	37.32
Advocates, permanent	64	2	3.13	11	17.19
Attorneys, permanent	180	5	2.78	54	30.00
Building and other property caretakers, permanent	15	0	0	4	26.67
Bus and heavy vehicle drivers, permanent	9	1	11.11	5	55.6



Occupation	Employees as at 1 April 2008	Promotions to other salary levels	Salary level promotions as a % of employees by occupation	Progressions to other notches within a salary level	Notch progressions as a % of employees by occupation
Cleaners in offices, workshops, hospitals etc, permanent	214	0	0	77	35.98
Client information clerks (switchboard, reception and information clerks), permanent	109	1	0.92	53.33	45.9
Communication and information-related, permanent	15	8	53.33	7	46.7
Computer programmers, permanent	1	0	0	0	0
Finance and related professionals, permanent	122	2	1.64	70	57.3
Finance clerks and credit controllers, permanent	469	44	9.38	93	19.83
Food services aids and waiters, permanent	25	0	0	16	64
General legal administration and related professionals, permanent	714	53	7.42	91	12.75
Head of department/ chief executive officer, permanent	1	0	0	0	0
Human resources, organisational development and related professionals, permanent	46	0	0	8	17.39
Human resources clerks, permanent	192	24	12.15	108	56.8
Human resources-related, permanent	103	0	0	45	43.69
Information technology-related, permanent	6	2	33.33	1	16.67
Judges, permanent	199	0	0	0	0
Language practitioners, interpreters and other communication staff, permanent	1 714	37	2.16	1 212	70.71
Librarians and related professionals, permanent	25	9	36	8	32
Library, mail and related clerks, permanent	270	0	0	97	35.9



Occupation	Employees as at 1 April 2008	Promotions to other salary levels	Salary level promotions as a % of employees by occupation	Progressions to other notches within a salary level	Notch progressions as a % of employees by occupation
Light vehicle drivers, permanent	20	0	0	13	65
Magistrates, permanent	1 897	0	0	0	0
Material-recording and transport clerks, permanent	49	0	0	20	40.8
Messengers, porters and deliverers, permanent	360	66	18.33	167	46.4
Risk management and security services, permanent	40	0	0	2	5
Secretaries and other keyboard-operating clerks, permanent	1 027	5	0.49	487	47.42
Security officers, permanent	403	3	0.74	179	44.42
Senior managers, permanent	164	27	16.46	21	12.8
Total	17 234	476	2.76	6 123	35.53

Table 5.5: Promotions by salary band

Salary band	Employees as at 1 April 2008	Promotions to other salary levels	Salary band promotions as a % of employees by salary level	Progressions to other notches within a salary level	Notch progressions as a % of employees by salary band
Lower skilled (levels 1 – 2), permanent	719	0	0	310	43.12
Skilled (levels 3 – 5), permanent	5 615	224	3.99	3 082	54.89
Highly skilled production (levels 6 – 8), permanent	4 192	114	2.72	2 061	49.17
Highly skilled supervision (levels 9 – 12), permanent	2 756	111	4.03	449	0.16
Senior management (levels 13 – 16), permanent	864	27	3.13	38	4.4
Contract (levels 1 – 2), permanent	129	0	0	12	41.38
Contract (levels 3 – 5), permanent	2 491	0	0	157	6.3
Contract (levels 6 – 8), permanent	179	0	0	9	5
Contract (levels 9 – 12), permanent	229	0	0	4	1.75
Contract (levels 13 – 16), permanent	60	0	0	1	1.67
Total	17 234	476	2.77	6 123	35.53



5.6 Employment equity

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

Table 6.1: Total number of employees (including employees with disabilities) in each of the following occupational categories as on 31 March 2009

Occupational category (SASCO)	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Judges	62	12	10	79	16	4	8	14	205
Legislators, senior officials and managers, permanent	49	8	7	46	25	7	7	11	160
Legislators, senior officials and managers, temporary	8	0	1	2	9	0	1	1	22
Professionals, permanent	1 268	111	79	636	832	115	157	442	3 640
Professionals, temporary	124	12	19	57	62	8	18	29	329
Clerks, permanent	2 857	290	102	142	4 762	825	217	1 190	10 385
Clerks, temporary	253	33	18	18	444	71	19	132	988
Service and sales workers, permanent	159	43	16	85	40	4	1	9	357
Service and sales workers, temporary	9	1	1	0	2	0	1	0	14
Plant and machine operators and assemblers, permanent	23	3	1	1	0	0	0	0	28
Labourers and related workers, permanent	261	26	9	17	270	17	2	6	608
Labourers and related workers, temporary	78	5	1	2	97	7	2	5	197
Technical and associated professions, permanent	429	37	18	55	374	44	20	184	1 161
Technical and associated professions, temporary	12	7	0	2	44	12	1	9	87
Total	5 592	588	282	1 142	6 977	1 114	454	2 032	18 181

Employees with disabilities	62	8	3	8	50	15	4	9	159
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Table 6.2: Total number of employees (including employees with disabilities) in each of the following occupational bands as at 31 March 2009

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Judges	62	12	10	79	16	4	8	14	205
Top management, permanent	5	2	1	1	3	1	0	2	15
Senior management, permanent	525	83	66	567	271	58	96	271	1 937
Professionally qualified and experienced specialists and mid-management, permanent	634	46	32	136	480	64	70	212	1 674
Skilled technical and academically qualified workers, junior management, supervisors, foremen, permanent	1 349	76	35	144	1 397	167	68	948	4 184



Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Semi-skilled and discretionary decision-making, Permanent	2 251	273	86	109	3 933	701	162	409	7 924
Unskilled and defined decision-making, permanent	280	38	12	25	219	21	8	10	613
Contract (top management), permanent	0	0	0	1	2	2	4	1	10
Contract (senior management), permanent	67	7	16	45	29	4	10	14	192
Contract (professionally qualified), permanent	47	1	2	12	34	1	5	10	112
Contract (skilled technical), permanent	33	11	5	13	76	25	4	46	213
Contract (semi-skilled), permanent	240	31	10	8	403	58	16	88	854
Contract (unskilled), permanent	24	6	6	0	19	3	1	3	62
Interns	75	2	1	2	95	5	2	4	186
Total	5 592	588	282	1 142	6 977	1 114	454	2 032	18 181

Table 6.3: Recruitment for the period 1 April 2008 to 31 March 2009

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	0	0	1	0	0	0	0	0	1
Senior management	63	5	11	102	35	3	8	29	256
Professionally qualified and experienced specialists and mid-management	88	10	7	6	83	18	10	17	239
Skilled technical and academically qualified workers, junior management, supervisors, foremen and superintendents	72	33	0	1	57	4	2	6	175
Semi-skilled and discretionary decision-making	708	89	23	22	1 513	226	47	86	2 714
Unskilled and defined decision-making	44	2	1	1	12	1	0	1	62
Contract (senior management), permanent	0	0	0	1	1	0	0	0	2
Contract (professionally qualified), permanent	41	3	5	36	11	1	7	12	116
Contract (skilled technical), permanent	12	1	0	4	20	3	2	16	58
Contract (semi-skilled), permanent	103	16	7	7	142	38	6	36	355
Contract (unskilled), permanent	36	5	1	1	27	4	0	1	75
Total	1 167	164	56	181	1 901	298	82	204	4 053
Employees with disabilities	0	2	0	1	1	0	0	0	4



Table 6.4: Promotions for the period 1 April 2008 to 31 March 2009

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management, permanent	0	0	0	0	0	0	0	0	0
Senior management, permanent	9	2	1	1	4	2	1	4	24
Professionally qualified and experienced specialists and mid-management, permanent	37	1	1	3	40	5	7	8	112
Skilled technical and academically qualified workers, junior management, supervisors, foremen, permanent	50	2	1	0	47	1	4	10	115
Semi-skilled and discretionary decision-making, permanent	98	12	7	3	74	17	3	11	225
Unskilled and defined decision-making, permanent	0	0	0	0	0	0	0	0	0
Total	194	17	10	7	165	25	15	43	476
Employees with disabilities	1	0	0	0	0	0	0	0	1

Table 6.5: Terminations for the period 1 April 2008 to 31 March 2009

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management, permanent	1	0	0	1	5	0	0	0	7
Senior management, permanent	13	0	1	13	2	1	0	6	36
Professionally qualified and experienced specialists and mid-management, permanent	63	2	5	16	29	5	5	10	135
Skilled technical and academically qualified workers, junior management, supervisors, foremen, permanent	98	9	3	10	77	7	0	60	264
Semi-skilled and discretionary decision-making, permanent	97	16	3	8	148	40	10	34	356
Unskilled and defined decision-making, permanent	27	5	2	3	11	1	0	2	51
Contract (senior management), permanent	2	0	0	4	2	1	1	0	10
Contract (professionally qualified), permanent	109	13	14	83	53	8	14	35	329
Contract (skilled technical), permanent	29	10	3	7	52	11	4	42	158
Contract (semi-skilled), permanent	280	52	20	11	463	90	24	71	1011
Contract (unskilled), permanent	43	10	1	5	61	10	2	3	135
Total	762	117	52	161	903	174	60	263	2 492



Table 6.6: Disciplinary action for the period 1 April 2008 to 31 March 2009

	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Disciplinary action	94	2	3	7	56	6	0	10	178

Table 6.7: Skills development for the period 1 April 2008 to 31 March 2009

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	712	81	96	26	368	64	129	48	1 524
Professionals	1 276	138	282	61	788	155	279	128	3 107
Technicians and associate professionals	0	0	0	0	0	0	0	0	0
Clerks	2 051	313	120	70	3 123	673	703	156	7 209
Service and sales workers	91	20	26	11	31	4	2	2	187
Plant and machine operators and assemblers	0	0	0	0	0	0	0	0	0
Elementary occupations	45	1	0	0	55	5	1	8	115
Total	4 175	553	524	168	4 365	901	1 114	342	12 142
Employees with disabilities	31	3	4	0	23	2	1	9	73

5.7 Performance rewards

To encourage good performance, the department has granted the performance rewards indicated below during the year under review. The information is presented in terms of race, gender, and disability (Table 7.1), salary bands (table 7.2) and critical occupations (Table 7.3).

Table 7.1: Performance rewards by race, gender and disability for the period 1 April 2008 to 31 March 2009

Race and Gender	Beneficiary profile			Cost	
	Number of beneficiaries	Total number of employees in group	% of total within group	Cost (R'000)	Average cost per employee
African, female	1 126	6 977	16.13	8 530	7 575
African, male	831	5 592	14.86	7 257	8 732
Asian, female	88	454	19.38	9 72	11 040
Asian, male	41	282	14.54	486	11 849
Coloured, female	177	1 114	15.89	1 518	8 573
Coloured, male	86	588	14.63	728	8 459
White, female	601	2 032	29.58	6 479	10 780
White, male	153	1 142	13.40	2 566	16 767
Total	3 103	18 181	17	28 532	9 195
Employees with disabilities	10	159	6.29	143	14 310



Table 7.2: Performance rewards by salary band for personnel below Senior Management Service for the period 1 April 2008 to 31 March 2009

Salary band	Beneficiary profile			Cost		
	Number of beneficiaries	Number of employees	% of total within salary bands	Total cost (R'000)	Average cost per employee	Total cost as a % of the total personnel expenditure
Lower skilled (levels 1 – 2)	183	859	21.30	732	3 997	0.02
Skilled (levels 3 – 5)	1 209	8 778	13.77	6 289	5 201	0.16
Highly skilled production (levels 6 – 8)	1 286	4 397	29.25	12 428	9 664	0.32
Highly skilled supervision (levels 9 – 12)	366	1 786	20.49	7 109	19 422	0.18
Total	3 044	15 820	19.24	26 558	8 724	0.69

Table 7.3: Performance rewards by occupation for the period 1 April 2008 to 31 March 2009

Occupation	Beneficiary profile			Cost	
	Number of beneficiaries	Number of employees	% of total within occupation	Total cost (R'000)	Average cost per employee
Administrative related, permanent	1 705	8 086	21.06	13 822	8 107
Advocates, permanent	8	92	8.67	207	25 849
Attorneys, permanent	22	186	11.83	490	22 260
Building and other property caretakers, permanent	1	12	8.33	5	4 825
Bus and heavy vehicle drivers, permanent	14	25	56.00	56	3 999
Cleaners in offices, workshops, hospitals, etc, permanent	56	218	25.69	165	2 941
Client inform clerks (switchboard, reception and information clerks), permanent	19	125	15.20	132	6 916
Communication and information-related, permanent	5	22	22.73	96	19 073
Financial and related professionals, permanent	88	351	25.07	1 258	27 200
Financial clerks and credit controllers, permanent	58	262	22.14	410	7 063
Food services aids and waiters, permanent	9	21	42.86	41	4 516
General legal administration and related professionals, permanent	101	1 135	8.90	2 167	21 451
Head of department/chief executive officer, permanent	1	1	100.00	146	145 094
Human resources and organisational development and related professional, permanent	56	207	27.05	130	29 771
Human resources clerks, permanent	83	156	53.21	1 592	9 180
Information technology-related, permanent	2	9	22.22	53	26 566
Judges	0	205	0	0	0
Language practitioners, interpreters and other communication staff, permanent	273	1 740	15.69	2 100	7 689
Librarians and related professionals, permanent	11	34	32.35	138	12 474
Library, mail and related clerks, permanent	72	144	50.00	465	6 448



Occupation	Beneficiary profile			Cost	
	Number of beneficiaries	Number of employees	% of total within occupation	Total cost (R'000)	Average cost per employee
Magistrates, permanent	1	1 734	0.06	19	18 693
Messengers, porters and delivery staff, permanent	113	357	31.65	481	4 253
Risk management and security services, permanent	3	8	37.50	41	13 553
Secretaries and other keyboard operating clerks, permanent	262	856	30.61	2 195	8 376
Security officers, permanent	91	346	26.31	587	6 448
Senior managers, permanent	50	222	22.52	1 686	33 724
Total	3 104	16 554	18.74	28 482	8 724

Table 7.4: Performance related rewards (cash bonus), by salary band, for Senior Management Service

Salary band	Beneficiary profile			Total cost (R'000)	Average cost per employee (R'000)	Total cost as a % of the total personnel expenditure
	Number of beneficiaries	Number of employees	% of total within band			
Band A	40	156	25.64	1 228	30 694	0.03
Band B	14	49	0.29	484	34 546	0.01
Band C	3	15	20	119	39 567	0
Band D	2	2	100	145	72 547	0
Total	59	222	22.52	1 976	39 504	0.05

5.8 Foreign workers

The tables below summarise the employment of foreign nationals in the department in terms of salary bands 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 8.1: Foreign workers, 1 April 2008 to 31 March 2009, by salary band

Salary band	1 April 2008		31 March 2009		Change	
	Number	% of total	Number	% of total	Number	% change
Periodical appointment	0	0	48	72.73	48	137.14
Lower skilled (levels 1 – 2)	3	9.68	14	21.21	11	31.43
Skilled (levels 3 – 5)	15	48.39	0	0	-15	-42.86
Highly skilled production (levels 6 – 8)	11	35.48	0	0	-11	-31.43
Highly skilled supervision (levels 9 – 12)	1	3.23	3	4.55	2	5.71
Senior management (levels 13 – 16)	1	3.23	1	1.52	0	0
Total	31	100	66	100	35	100

Table 8.2: Foreign worker, 1 April 2008 to 31 March 2009, by major occupation

Major occupation	1 April 2008		31 March 2009		Change	
	Number	% of total	Number	% of total	Number	% change
Administrative office workers	12	38.71	14	21.21	2	5.71
Other occupations	17	54.84	48	72.73	31	88.57
Professionals and managers	2	6.45	4	6.06	2	5.71
Total	31	100	66	100	35	100



5.9 Leave utilisation for the period 1 January 2008 to 31 December 2008

The Public Service Commission identified the need for careful monitoring of sick leave in the public service. The following tables 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 9.1: Sick leave, 1 January 2008 to 31 December 2008

Salary band	Total days	% of days with medical certification	Number of employees using sick leave	% of total employees using sick leave	Average days per employee	Estimated cost (R' 000)
Lower skilled (levels 1 – 2)	3 442	87.3	427	3.7	8	634
Skilled (levels 3 – 5)	39 831.5	86.1	5 429	46.5	7	9,803
Highly skilled production (levels 6 – 8)	23 458	84.3	2 982	25.6	8	10,077
Highly skilled supervision (levels 9 – 12)	7 820	80	1 113	9.5	7	7,491
Senior management (levels 13 – 16)	13 723	84.8	1 183	10.1	12	13,670
Contract (levels 1 – 2)	182	78.6	46	0.4	4	30
Contract (levels 3 – 5)	1 639.5	83.3	347	3	5	378
Contract (levels 6 – 8)	349.5	85.6	76	0.7	5	148
Contract (levels 9 – 12)	386	81.9	57	0.5	7	383
Contract (levels 13 – 16)	82	90.2	10	0.1	8	179
Total	90 913.5	84.9	11 670	100	8	42 793

Table 9.2: Disability leave (temporary and permanent), 1 January 2008 to 31 December 2008

Salary band	Total days taken	% of days with medical certification	Number of employees using disability leave	% of total employees using disability leave	Average days per employee	Estimated cost (R' 000)
Lower skilled (levels 1 – 2)	140	100	7	4.6	20	25
Skilled (levels 3 – 5)	1 537	100	50	33.1	31	387
Highly skilled production (levels 6 – 8)	1 843	100	58	38.4	32	789
Highly skilled supervision (levels 9 – 12)	872	100	31	20.5	28	882
Senior management (levels 13 – 16)	214	100	4	2.6	54	469
Contract (levels 9 – 12)	49	100	1	0.7	49	69
Total	4 655	100	151	100	31	2 621

Table 9.3 summarises the utilisation of annual leave. The wage agreement concluded with trade unions in the 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.

Table 9.3: Annual leave, 1 January 2008 to 31 December 2008

Salary band	Total days taken	Average days per employee
Lower skilled (levels 1 – 2)	12 871	21
Skilled (levels 3 – 5)	118 984.44	16
Highly skilled production (levels 6 – 8)	93 465.36	22
Highly skilled supervision (levels 9 – 12)	30 451.92	19



Salary band	Total days taken	Average days per employee
Senior management (levels 13 – 16)	49 353	26
Contract (levels 1 – 2)	604	6
Contract (levels 3 – 5)	4 534.76	7
Contract (levels 6 – 8)	1 235.92	9
Contract (levels 9 – 12)	923	9
Contract (levels 13 – 16)	299	14
Total	312 722.4	19

Table 9.4: Capped leave, 1 January 2008 to 31 December 2008

Salary band	Total days of capped leave taken	Average number of days taken per employee	Average capped leave per employee as at 31 December 2008
Lower skilled (levels 1 – 2)	249	10	68
Skilled (levels 3 – 5)	604	4	43
Highly skilled production (levels 6 – 8)	2 108	7	83
Highly skilled supervision (levels 9 – 12)	337	6	69
Senior management (levels 13 – 16)	111	6	73
Total	3 409	6	70

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

Table 9.5: Leave payouts for the period 1 April 2008 to 31 March 2009

Reason	Total amount (R'000)	Number of employees	Average payment per employee
Leave payout for 2008/09 due to non-utilisation of leave for the previous cycle	81	11	7 364
Capped leave payouts on termination of service for 2008/09	3 982	529	7 527
Current leave payout on termination of service for 2008/09	276	166	1 663
Total	4 339	706	6 146

5.10 HIV and AIDS and health promotion programmes

Table 10.1: 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
Scientific study (actuarial) still to be conducted to determine the above.	Prevention initiatives currently cover all employees in the department. This includes HIV and AIDS awareness sessions, the HIV Voluntary Counselling and Testing programme, as well as condom distribution as an infection barrier method against HIV.



Table 10.2: 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		Ms Matsie Litheko, Chief Director: Value Added Service.
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		Three employees with a budget of R 4 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. Psychosocial 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		The department has established an Employee Advisory Committee representing all stakeholders in the department.
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		Recently reviewed the departmental HIV and AIDS and the Employee Health and Wellness Programme policies.
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		127 peer educators have been trained in nine regions to ensure that: <ul style="list-style-type: none"> • basic information is disseminated to all staff members; and • the departmental HIV and AIDS Policy is implemented.
7. Does the department encourage its employees to undergo voluntary counselling and testing (VCT)? If so, list the results that you have achieved.	Yes		A service provider was appointed to render VCT services to employees nationally. To date, a total of 310 employees took the test.
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		Quarterly reports are used to measure penetration rates of psychosocial counselling, health screenings and VCT per region and nationally.

5.11 Labour relations

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

Table 11.1: Collective agreements, 1 April 2008 to 31 March 2009

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 11.2: Misconduct and disciplinary hearings finalised, 1 April 2008 to 31 March 2009

Outcome of disciplinary hearing	Number	% of total
Verbal warning	8	4.50
Written warning	42	23.60
Final written warning	54	30.34
Suspension without pay	7	3.93



Outcome of disciplinary hearing	Number	% of total
Demotion	0	0
Dismissal	21	11.80
Withdrawn	9	5.05
Resigned	18	10.11
Deceased	0	0
Leave without pay	0	0
Rehabilitation	0	0
Corrective counselling	5	2.80
Not guilty	14	7.87
Total	178	100%

Table 11.3: Types of misconduct addressed at disciplinary hearings

Type of misconduct	Number	% of total
Fraud	11	6.19
Theft	10	5.61
Corruption	1	0.57
Unbecoming behaviour	6	3.38
Alcohol abuse	4	2.24
Abuse of state property	13	7.30
Unauthorised absence	16	8.99
Negligence	5	2.80
Loss of state money	32	17.98
Insubordination	25	14.04
Abscondment	7	3.93
Sexual harassment	0	0
Racism	0	0
Other	48	26.97
Total	178	100

Table 11.4: Grievances lodged for the period 1 April 2008 to 31 March 2009

	Number	% of total
Number of grievances resolved	185	43.95
Number of grievances not resolved	236	56.05
Total number of grievances lodged	421	100

Table 11.5: Disputes lodged with councils for the period 1 April 2008 to 31 March 2009

	Number	% of total
Number of disputes upheld	80	59.25
Number of disputes dismissed	55	40.75
Total number of disputes lodged	135	100

Table 11.6: Strike actions for the period 1 April 2008 to 31 March 2009

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 11.7: Precautionary suspensions for the period 1 April 2008 to 31 March 2009

Number of people suspended	27
Number of people whose suspension exceeded 30 days	12
Average number of days suspended	252
Cost (R'000) of suspensions	8 791 064



5.12 Skills development

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

Table 12.1: Training needs identified during the period 1 April 2008 to 31 March 2009

Occupational categories	Gender	Number of employees as at 1 April 2008	Training provided in the reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials and managers	Male	269	0	1 172	7	1 179
	Female	94	0	256	0	256
Professionals	Male	1 965	53	1 708	4	1 765
	Female	1 335	37	1 152	8	1 197
Technicians and associate professionals	Male	605	1	570	0	571
	Female	609	1	471	0	472
Clerks	Male	2 729	139	5 098	174	5 411
	Female	5 442	141	1 321	235	1 697
Service and sales workers	Male	332	0	91	4	95
	Female	65	0	81	14	95
Plant and machine operators and assemblers	Male	29	0	0	0	0
	Female	0	0	1	0	1
Labourers and related workers	Male	329	0	209	11	220
	Female	343	0	111	4	115
Total		14 146	372	12 241	461	13 074
Gender subtotals	Male	6 258	193	8 848	200	9 241
	Female	7 888	179	3 393	261	3 833

Table 12.2: Training provided 1 April 2008 to 31 March 2009

Occupational categories	Gender	Number of employees as at 1 April 2008	Training provided in the reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials and managers	Male	269	0	906	9	915
	Female	94	0	599	10	609
Professionals	Male	1 965	41	1 649	67	1 757
	Female	1 335	70	1 209	71	1 350
Technicians and associate professionals	Male	605	0	0	0	0
	Female	609	0	0	0	0
Clerks	Male	2 729	53	2 019	482	2 554
	Female	5 442	47	4 004	604	4 655
Service and sales workers	Male	332	0	148	0	148
	Female	65	0	39	0	39
Plant and machine operators and assemblers	Male	29	0	0	0	0
	Female	0	0	0	0	0
Labourers and related workers	Male	329	0	16	30	46
	Female	343	0	31	38	69
Total		14 146	211	10 620	1 311	12 142
Gender subtotals	Male	6 258	94	4 738	588	5 420
	Female	7 888	117	5 882	723	6 722



5.13 Injuries on duty

The following table provides basic information on injuries on duty.

Table 13.1: Injuries on duty during the period 1 April 2008 to 31 March 2009

Nature of injury on duty	Number	% of total
Required basic medical attention only	42	44.68
Pending investigation	50	53.19
Temporary total disablement	1	1.06
Permanent disablement	0	0
Fatal	1	1.06
Total	94	100

5.14 Utilisation of consultants

Table 14.1: Report on consultant appointments using appropriated funds

Project title	Total number of consultants that worked on the project	Duration: Work days	Contract value in Rand
TSS IT Plan	1	260	3 800 378.69
Management Monies in Trust PPP Project	1	260	1 393 992.00
Human Capital Plan	Paid to firm	260	7 605 544.20
Capacity-building	Paid to firm	260	7 278 261.87
Forensic audit	Paid to firm	260	10 091 014.95
Grudco	2	260	297 455.28
Guardian's Fund Master Project	135	260	33 505 807.14
Ginwala Enquiries	5	260	2 771 544.96
Remand detainee and offender case management and capacity-building	18	260	50 284 541.84
Compilation Immovable Asset Management Plan	Paid to firm	260	4 450 655.85
Resource substitutes	Paid to firm	260	13 399 453.85

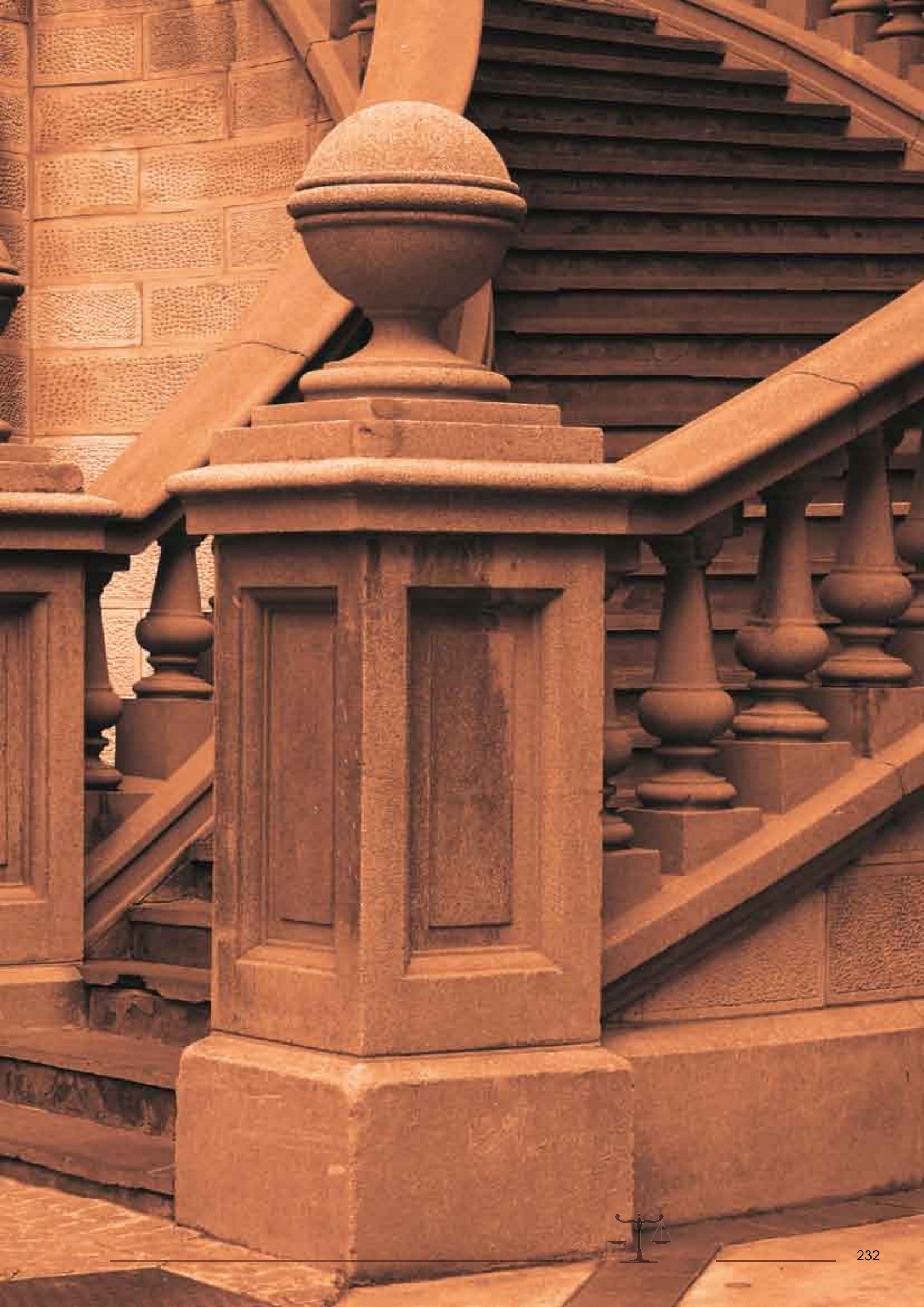
Table 14.2: Number and value of projects outsourced to consultants

Total number of projects	Total individual consultants	Duration: Work days	Contract value in Rand
11	162	260	134 878 650.63

Please note that the amount disclosed above differs from the amount disclosed in the annual financial statements (Note 6 – Goods and Services). The item includes consultants, contractors, agency and outsourced services. An analysis is contained in the following table:

Table 14.3: Analysis of the value of services outsourced to consultants, contractors and agencies

Audit fees	437 770.31
Assessor/sheriff fees	22 018 003.88
Contractors	79 043 140.99
Legal costs	46 418 288.21
Medical services	34 794 408.30
Operational	109 366 125.94
Security services	30 382 533.78
IT solutions	7 607 360.70
Transcription services	20 020 298.78
Consultants as per table	134 878 650.63
Total	486 643 056.20





List of acronyms and abbreviations



ADR	alternative dispute resolution	DVA	Domestic Violence Act, 1998 (Act 116 of 1998)
AFIS	Automated Fingerprint Identification System (of SARS)	EAP	Employee Assistance Programme
AGSA	Auditor-General of South Africa	ECMS	enterprise content management system
ATD	awaiting trial detainee	EHWP	Employee Health and Wellness Programme
AU	African Union	EFT	electronic funds transfer
BOT	Built, Operate and Terminate	Exco	Executive Committee
CARA	Criminal Asset Recovery Account	FAS	financial administration system
CAS	Criminal Administration System	GIAMA	Government-wide Immovable Asset Management Act, 2007 (Act No 19 of 2007)
CAT	Convention Against Torture	HR	Human Resources (Unit)
CCMA	Commission for Conciliation, Mediation and Arbitration	HRP	Human Resources Plan
CDW	community development workers	IADE	Integrated Administration of Deceased Estates
CFM	case flow management	ICCPR	International Covenant on Civil and Political Rights
CFO	chief financial officer	ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
CGE	Commission on Gender Equality	ICMS	Integrated Case Management System
CJS	criminal justice system	ICT	information and communication technology
CJSR	Criminal Justice System Review	IDT	Independent Development Trust
CMC	Customer Management Centre	IJS	Integrated Justice System
COE	Convention on Extradition	IS	information systems
CPA	Criminal Procedure Act, 1977 (Act No 51 of 1977)	ISC	Integrated Support Centre
CPF	community policing forum	ISCCJ	Intersectoral Committee on Child Justice
CRC	Criminal Record Centre (at SAPS)	ISM	Information and System Management
CWJA	Commonwealth Judges' Association	ISM	integrated support management
DBAC	Departmental Bid Allocation Committee	IT	information technology
DBEC	Departmental Bid Evaluation Committee	JAD	joint application design
DCRS	Digital Court Recording System	JCPS	Justice, Crime Prevention and Security (Cluster)
DCS	Department of Correctional Services	JDAS	Justice Deposit Account System
DDPP	Deputy Directors of Public Prosecutions	JE	job evaluation
DFA	Diamond Fields Advertiser	KPI	key performance indicator
DoH	Department of Health	LAB	Legal Aid Board
DoJ&CD	Department of Justice and Constitutional Development	LCMC	Lower Court Management Committee
DPP	Director of Public Prosecutions	MACC	Minimum Anti-corruption Capacity
DPSA	Department of Public Service and Administration	MEC	Member of the Executive Committee
DPW	Department of Public Works		
DRC	Democratic Republic of the Congo		
DRP	disaster recovery plan		
DSD	Department of Social Development		



Abbreviations and acronyms

MLA	mutual legal assistance	PRC	People's Republic of China
MMT PPP	Management of Monies in Trust Public Private Partnership	RAMP	Repair and Maintenance Programme
MoU	memorandum of understanding	RCC	Regional Control Committee
MPTT	Missing Persons Task Team	RSA	Republic of South Africa
MTEF	Medium-term Expenditure Framework	SADC	South African Development Community
MTSF	Medium-term Strategic Framework	SAHRC	South African Human Rights Commission
NCPS	National Crime Prevention Strategy	SALRC	South African Law Reform Commission
NCS	non-custodial sanctions	SAMTRAC	Safety Management Training Course
NEBOSH	National Examination Board of Occupational Safety and Health	SAPS	South African Police Service
NGO	non-governmental organisation	SAQA	South African Qualifications Authority
NIA	National Intelligence Agency	SAS	State Attorney System
NICRO	National Institute for Crime Prevention and Reintegration of Offenders	SASSA	South African Social Security Agency
NPA	National Prosecuting Authority	SCA	Supreme Court of Appeal
NPF	National Policy Framework	SCCU	Special Commercial Crime Unit
NPS	National Prosecution Service	SCM	supply chain management
NRSO	National Register for Sex Offenders	SCOPA	Standing Committee on Public Accounts
NYSP	National Youth Service Programme	SHERQ	Safety, Health, Environment, Risk and Quality Management
OCJSR	Office of Criminal Justice Systems Reform	SITA	State Information Technology Agency
ODA	Official Development Assistance	SLMF	State Litigation Management Forum
ODG	Office of the Director-General	SMF	Senior Management Forum
OSD	Occupation Specific Dispensation	SMS	Senior Management Service
PAIA	Promotion of Access to Information Act, 2000 (Act No 2 of 2000)	SOCA	Sexual Offences and Community Affairs (Unit)
PAJA	Promotion of Administrative and Justice Act, 2000 (Act 3 of 2000)	TPF	Third Party Funds
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000)	TRC	Truth and Reconciliation Commission
PFMA	Public Finance Management Act, 1999 (Act No 1 of 1999)	UAMP	User Asset Management Plan
PIM	performance indicator metric	UN	United Nations
PKI	public key infrastructure	UNITAR	United Nations Institute for Training and Research
PMDS	Performance Management and Development System	UP	University of Pretoria
POC	proof of concept	USAID	United States Agency for International Development
PPP	public private partnership	VAS	value-added services
		VFU	Vetting Fieldwork Unit
		VIS	victim impact statement
		WCCJ	World Conference on Constitutional Justice

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