

Department of Justice and Constitutional Development

# Annual Report

2011 | 12



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Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA





# Department of Justice and Constitutional Development Annual Report 2011/12

Minister Jeffrey Thamsanqa Radebe, MP

*Minister of Justice and Constitutional Development*

I have the honour of submitting this annual report of the Department of Justice and Constitutional Development for the period 1 April 2011 to 31 March 2012.



Ms Nonkululeko Sindane

*Accounting Officer*

31 August 2012



*The Constitution is the supreme law of the land. Let justice be administered without fear, favour or prejudice.*



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*“Children’s interests remain our priority as enjoined by the constitution, which is why poverty is never an excuse for any violation or neglect of children.”* Minister Jeff Radebe, Minister of Justice and Constitutional Development.



# Part 1

## GENERAL INFORMATION

### 1.1 VISION

A transformed and accessible justice system, which promotes and protects social justice, fundamental human rights and freedom.

### 1.2 MISSION

We commit to providing transparent, responsive and accountable justice for all.

### 1.3 VALUES AND PRINCIPLES

#### COMMITMENT TO CONSTITUTIONAL VALUES AND A CULTURE OF HUMAN RIGHTS

The department recognises the supremacy of the Constitution and the rule of law and applies all laws fairly and uniformly to ensure human dignity, the achievement of equality and the advancement of human rights and freedom, non-racialism and non-sexism for all in South Africa.

#### BATHO PELE

The department aims to provide quality services to both its internal and external customers by meeting and exceeding their needs and expectations.

#### GOOD GOVERNANCE

The department adheres to high standards of ethical behaviour that are transparent and promote accountability, based on sound internal controls. The department is committed to serve as an effective and responsible steward of the taxpayers' resources that are entrusted to it. The department is results-driven and efficient in conducting its business. The department measures and reports on progress in pursuit of its goals.

#### UBUNTU

The department upholds human dignity and ensures equal opportunities and fairness in its interactions in order to ignite a spirit of trust and unity. The department promotes tolerance and respect for the diversity of its employees and the people of this country and draws strength from such diversity.

#### PROFESSIONALISM AND CONTINUOUS IMPROVEMENT

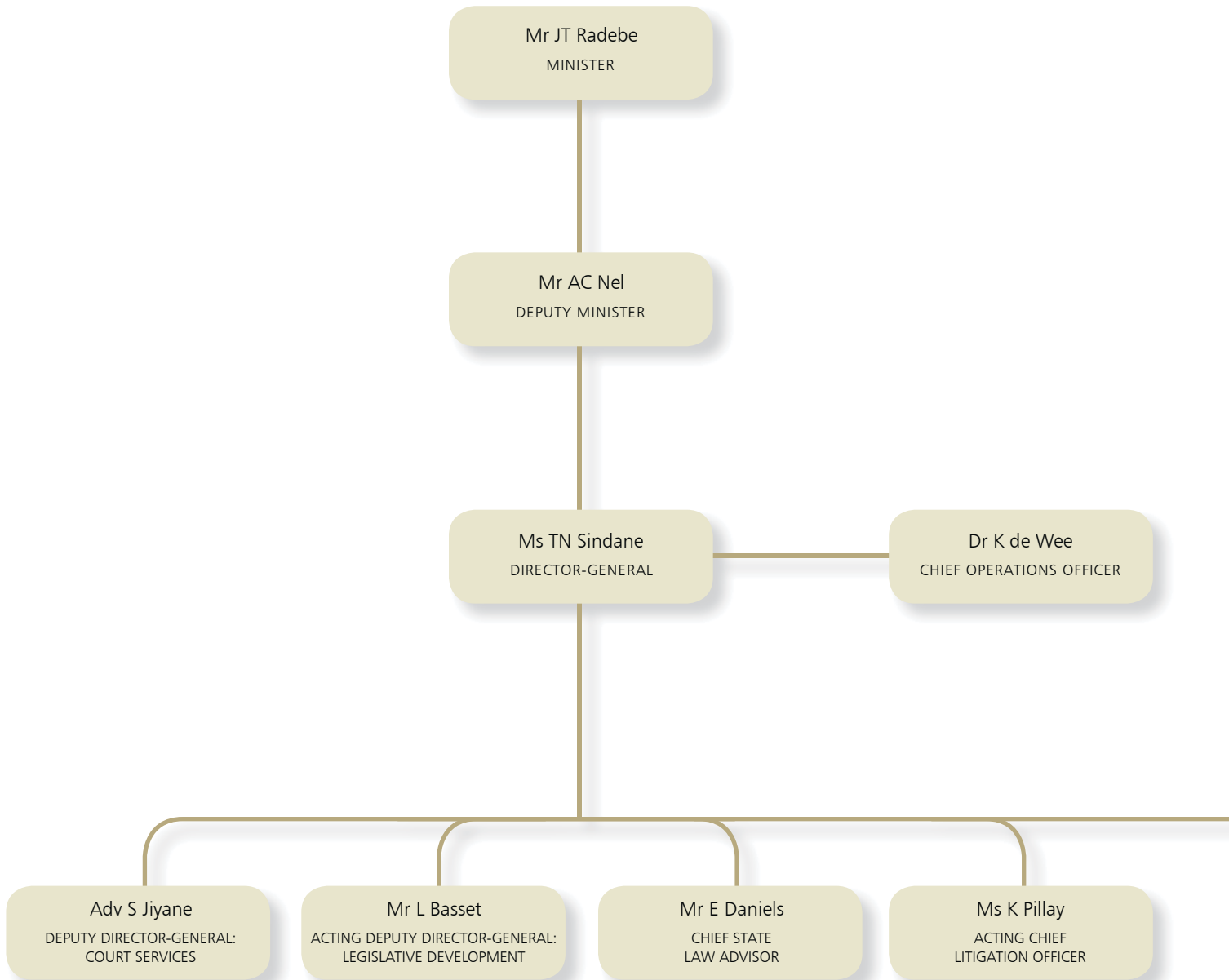
The department recognises that people are its most important resource for accomplishing its mission and is committed to the professional development, self-actualisation and personal wellbeing of all employees. The department recognises the need for continuous improvement and rewards all committed efforts to improve the quality of its services.

#### TRANSPARENCY

The department communicates and shares information openly with all relevant stakeholders in order to ensure participative and informed decision-making.



## 1.4 ORGANISATIONAL STRUCTURE







*“The Constitution is South Africa’s fundamental vision statement, which guides our policies and actions. We re-affirm our commitment to advance the ideals of our country’s Constitution at all times.” - President Zuma*

Adv L Basson  
CHIEF MASTER

Dr K de Wee  
ACTING DEPUTY DIRECTOR-GENERAL:  
CORPORATE SERVICES

Mr J Johnson  
ACTING CHIEF  
FINANCIAL OFFICER

(Vacant)  
DEPUTY DIRECTOR-GENERAL:  
CONSTITUTION DEVELOPMENT



## 1.5 LEGISLATIVE MANDATE

The department's mandate, deriving from the Constitution, is twofold. It seeks to provide a framework for the effective and efficient administration of justice, and it seeks to promote constitutional development through legislation and programmes that advance and sustain constitutionalism and the rule of law. It also seeks to provide an enabling environment for the judiciary and constitutional institutions to exercise their constitutional powers and functions freely and independently.

*The department derives its statutory mandate from various statutes and subordinate legislation. The following are categories of functions, emanating from different legislative instruments, which are relevant to the department:*

- i. Legislation providing for the establishment and functioning of the superior courts, magistrates' courts and special courts (the Constitutional Court Complementary Act of 1995, the Supreme Court Act of 1959, the Magistrates' Courts Act of 1944 and the Small Claims Court Act of 1984).
- ii. Legislation providing for the appointment of judges and other judicial officers, their conditions of service, discipline and training (the Judges Remuneration and Conditions of Employment Act of 2001, the Judicial Service Commission Act of 1994 (as amended), the South African Judicial Education Institute Act of 2008 and the Magistrates' Act of 1993).
- iii. Legislation providing for the establishment and functioning of the National Prosecuting Authority (NPA), the Special Investigating Unit (SIU) and the Asset Forfeiture Unit (AFU), the conduct of criminal proceedings, the investigation of organised crime and corruption, and the forfeiture of assets obtained through illicit means (the National Prosecuting Authority Act of 1998, the Criminal Procedure Act of 1977, the Prevention of Organised Crime Act of 1998, the Special Investigation Units and Special Tribunals Act of 1996 and the Witness Protection Act of 1998).
- iv. Legislation providing for the establishment and functioning of bodies responsible for legal aid, law reform and rule-making (the Legal Aid Act of 1969, the South African Law Reform Commission Act of 1973 and the Rules Board for Courts of Law Act of 1985).
- v. Legislation providing for the appointment of Masters of the High Courts and the administration of the Guardian's Fund and deceased and insolvent estates (the Administration of Estates Act of 1985 and the Insolvency Act of 1936).
- vi. Legislation regulating the provisioning of legal advisory services to government departments (the State Attorneys Act of 1957).
- vii. Legislation relating to the promotion, protection and enforcement of certain human rights (the Promotion of Administrative Justice Act of 2000, the Promotion of Access to Information Act of 2000, and the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000).
- viii. Legislation pertaining to the protection of vulnerable groups (the Child Justice Act of 2008, the Children's Act of 2005, the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007, the Maintenance Act of 1998 and the Domestic Violence Act of 1998).
- ix. Legislation providing support to Chapter 9 institutions (the Human Rights Commission Act of 1994 and the Public Protector Act of 1994).
- x. Legislation regulating management and control of public expenditure (the Public Finance Management Act of 1999).
- xi. Legislation regulating operations in the public service (the Public Service Act of 1994, as amended).

## 1.6 ENTITIES REPORTING TO THE MINISTER

**TABLE 1:** Public entities reporting to the Minister

NAME OF ENTITY	LEGISLATION	NATURE OF BUSINESS
Legal Aid South Africa (LASA)	Legal Aid Act (Act No. 22 of 1969)	Legal Aid SA, guided by its Board, renders or makes available legal aid to indigent persons and provides legal representation at the state's expense.
Special Investigating Unit (SIU)	Special Investigating Unit and Special Tribunals Act (Act No. 74 of 1996)	The SIU provides professional forensic investigations and litigation services to all state institutions at national, provincial and local level.
Rules Board for Courts of Law	Rules Board for Courts of Law Act (Act No. 107 of 1985)	The Rules Board for Courts of Law reviews existing rules of courts on a regular basis and, subject to the approval of the Minister, makes, amends or repeals rules for the Supreme Court of Appeal, the high courts and the lower courts.
South African Law Reform Commission (SALRC)	South African Law Reform Commission Act (Act No. 19 of 1973)	The SALRC conducts research regarding the development, improvement, modernisation or reform of all branches of the law of South Africa.







*"We shall be steadfast in our championing of the cause of an independent judiciary and shall be in the trenches of protecting the separation of powers as required by our Constitution. The application of the principle of non-encroachment should continue to be the oxygen of our democracy." - Mr JT Radebe, MP, Minister of Justice and Constitutional Development.*

## 1.7 MINISTER'S FOREWORD

For the financial year 2011/12, the mandate of the Department of Justice and Constitutional Development remained, among other things, the enabling of the administration of justice and the promotion of constitutional development. Such a broad mandate inevitably obliges the department to redress the legacy of apartheid by ensuring the necessary transformation to promote access to justice. The department's efforts to promote access to justice have involved a range of activities.

The transformation of the judiciary has been a key focus area of the department for some time. Progress has been made on transforming the profile of the judiciary, with Africans constituting 50% of the 243 judges. However, the inclusion of women has not progressed far enough and needs to be attended to by the Judicial Service Commission.

In the department's efforts to enhance the independence of the judiciary, the Office of the Chief Justice has been proclaimed a national department. In pursuit of further transforming the entire justice system, I have initiated the assessment of the decisions, powers and functions of both the Constitutional Court and the Supreme Court of Appeal. As I have previously assured the nation, this assessment will proceed without undermining the Constitution. The response so far has largely been positive and I am looking forward to constructive contributions from relevant interest groups and institutions as this initiative has the potential of enriching our jurisprudence.

The transformation of the judiciary will not be complete without the transformation of the legal profession. In observation of this reality, I have tabled the Legal Practice Bill in Parliament. This bill proposes to reduce fragmentation in the legal profession. It will also contribute to the transformation of the legal profession and reduce legal costs, which will improve wider access to justice.

In addition, during the period under review, Cabinet approved broad principles that would underpin the transformation of State Legal Services. The aim of these principles is to overhaul State Legal Services in order to provide services of the highest standard that protect

and safeguard the interest of the state and advance access to justice for all.

The *Discussion Document on the Transformation of State Legal Services* was released in February 2012 and seeks to solicit comments on all aspects of the transformation of State Legal Services, which is aimed at aligning our State Legal Services with the Constitution.

The Department of Justice and Constitutional Development (DoJ&CD) is a lead department in the Justice Crime Prevention and Security (JCPS) Cluster and part of the coordination involved in delivering on Outcome 3 of Government's Programme of Action: "All people in South Africa are and feel safe". One of the major focus areas has been the integration of information systems for the effective management of cases through the system. During the period under review, pilot projects on the integration of the National Prosecuting Authority (NPA) and South African Police Service (SAPS) have been completed and full roll-out is planned for the 2012/13 financial year. In addition, the video arraignment pilot in 47 courts has been completed and its results will be reviewed in 2012/13. The aim of this project is to enable postponement of cases without the accused being transported to court. This pilot will be reviewed during 2012/13.

The reduction of case backlogs remains an important focus area. It has become more urgent that all citizens should experience a speedy and fair resolution of their disputes. The department, together with the JCPS Cluster partners, is currently increasing its capacity and is streamlining systems and processes to ensure that this happens.

The department has made progress with the implementation of the recommendations of the Truth and Reconciliation Commission (TRC). During the year under review, 435 TRC beneficiaries have been traced and paid. This is an improvement on last year's performance. This contributed to about 16 837 beneficiaries being traced and an amount of R541 million being cumulatively paid from the President's Fund. Regulations to provide medical benefits and other forms of social assistance will be finalised before the end of 2012.



In pursuit of its vision of promoting access to justice, the department focused on extending services to township and rural areas, which previously did not have sufficient justice facilities. During the year under review, two new courts (Ntuzuma and Tsakane) have been completed and another two (Kagiso and Katlehong) are nearing completion. Although the department recognises the need to increase the number of courts, it is limited by the availability of funds.

Efforts that were concluded in the year under review to extend services to existing establishments include the following:

- The establishment of 23 additional small claims courts throughout different provinces, which enable people to institute a civil claim to the value of R12 000, without the need for legal representation.
- The proclamation of three courts (Mamelodi, Ntuzuma and Northam) as full-service courts to handle a wider range of cases, such as, civil family matters.

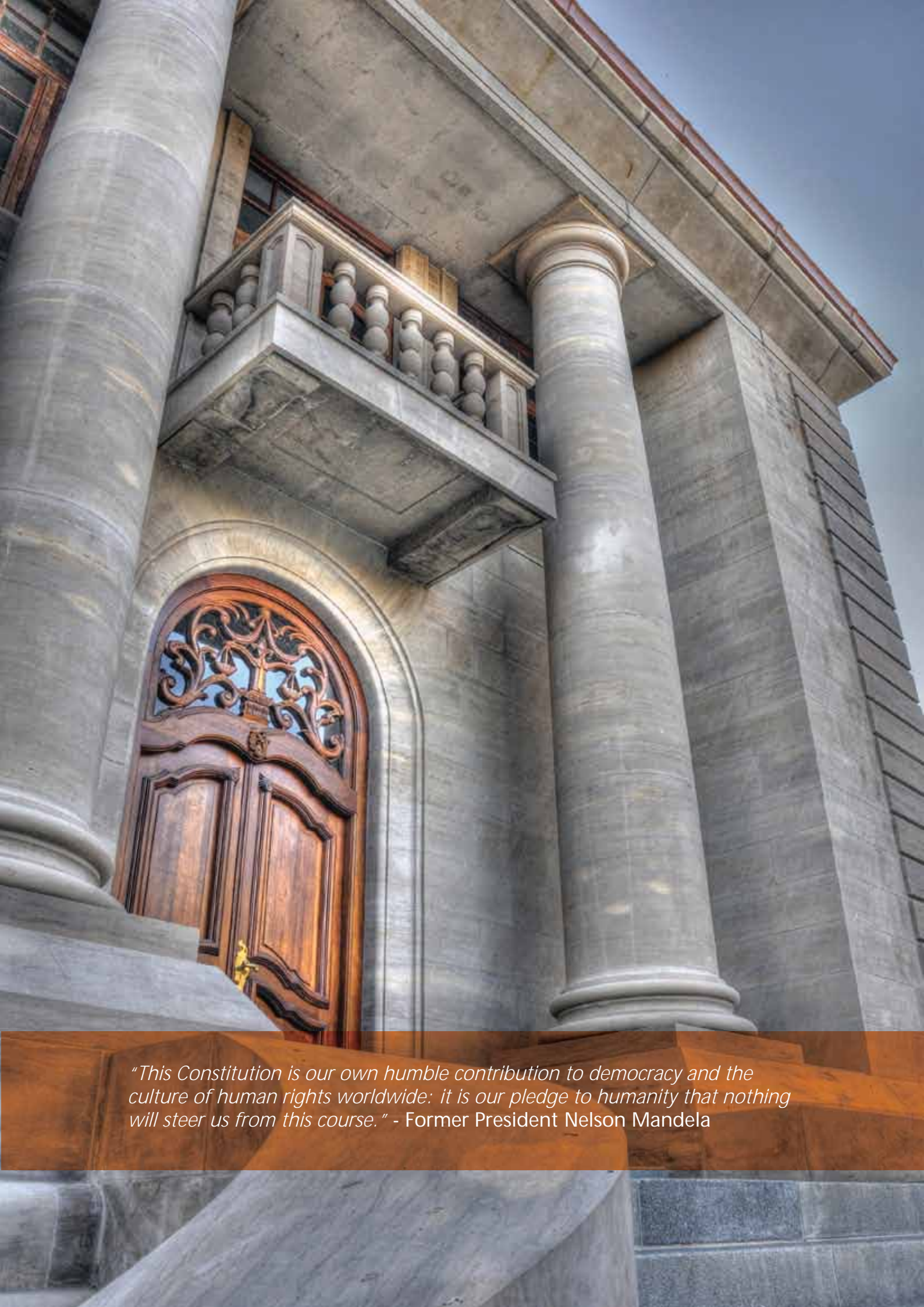
In addition, the Extension of the Civil Jurisdiction Act, promulgated in 2010, made it possible for civil matters (such as divorce), which could only be heard at high courts, to be dealt with in one of the 62 regional courts. An analysis of the effectiveness of this effort is underway through the Civil Justice Review Project.

The department will strengthen its administrative capacity and practices and ensure that an unqualified audit is achieved by the end of the 2012/13 financial year.

I would like to take this opportunity to thank Chief Justice Mogoeng and the entire judiciary, the Deputy Minister, Mr Andries Nel, the Director-General, Ms Nonkululeko Sindane, and the staff of the department, Advocate Jiba and the staff of the NPA, the Chairperson and staff of Legal Aid South Africa, my Cabinet colleagues and members of the JCPS Cluster, the Portfolio Committee on Justice and Constitutional Development, the Select Committee on Security and Constitutional Development, the Chapter 9 institutions and all other stakeholders for their support.

Mr Jeff Radebe  
*Minister of Justice and Constitutional Development*

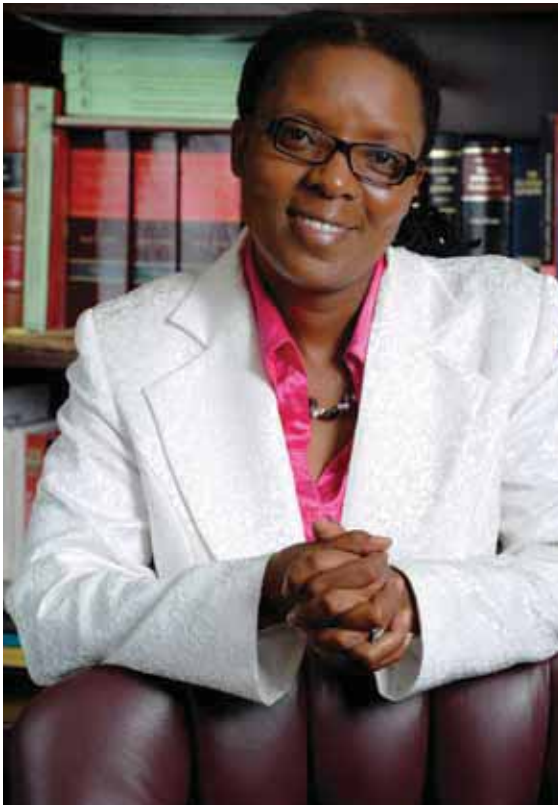




*"This Constitution is our own humble contribution to democracy and the culture of human rights worldwide: it is our pledge to humanity that nothing will steer us from this course."* - Former President Nelson Mandela



## 1.8 ACCOUNTING OFFICER'S OVERVIEW



It is my pleasure to present the Department of Justice and Constitutional Development's annual report of 2011/12 and to give an overview of the progress made by the department in improving its administration in pursuit of improved access to justice.

Two key focus areas for service improvement to the most vulnerable members of society were identified in the last financial year. These were a turnaround in the delivery of maintenance services' payments for children and service turnaround in the offices of the Master of the High Court. In addition, the department set a third key objective: to improve the overall administration of the department by achieving an unqualified audit opinion by the end of the 2012/13 financial year.

With regard to maintenance services, the department completed a successful pilot project on business process re-engineering at the Moretele Magistrate's Court to help alleviate problems associated with maintenance payments. Another major achievement was the improved turnaround times in the payment of beneficiaries in 103 courts where maintenance is

now decentralised through electronic fund transfers. At these sites, the turnaround time for receiving maintenance payments has decreased to 48 hours.

Within the Master's environment, the department has begun to address matters of transparency by making a list of insolvency practitioners available on the internet. The department continued with the successful automation of key Master's services and focused its efforts on training frontline staff on customer service.

To further demonstrate its commitment to service delivery, the department has finalised the departmental service charter and service standards. It is now training and capacitating staff in the courts that were identified for the roll-out of the first phase.

Efforts put in place to improve the administration of the department have been successful with the following as key achievements:

- The completion of accounting statements for the Third Party Fund (which includes maintenance payments and bail) for the 2010/11 financial year. This will assist the department to address the persistent qualification on the vote account. These statements are currently with the Office of the Auditor-General for auditing.
- The implementation of processes and procedures to detect and disclose irregular expenditure during the year under review. Hearings have been held and disciplinary processes initiated in cases where staff members were found to be non-compliant with prescripts.
- The spending of 99.9% of the R13 billion that was allocated to the vote account. This is an illustration of improved financial discipline in the department.
- The improvement of controls in the supply chain management area and the vetting of key staff in this unit through integrity testing. This helps the department to reduce the risk of fraud and corruption.
- The allocation of resources to resolve grievance and misconduct cases. A major improvement has been observed in the finalisation of cases compared to previous years.

The department managed to achieve an unqualified opinion in the quality of the performance information against the Strategic Plan. The department is of the



opinion that major progress has been made towards the achievement of an unqualified audit, which is expected in 2012/13.

As is the case with most organisations, the department has been adversely affected by budget cuts as a result of the challenging global economic climate. The impact of budget cuts has been in the following areas:

- Shortfall in the provision of security services, which makes it difficult to adequately protect assets and people at the department's service points. Efforts to stretch the limited budget have been implemented. However, the department remains exposed in this area.
- Underfunding in information and communication technology, which – despite additional funding – will remain under pressure.
- The inadequate provision of capital infrastructure to improve the state of existing courts and build new ones.
- The inadequate funding of the tools of trade to the judiciary, prosecution and the courts, which has an impact on the quality of the department's services.

The department will continue to identify opportunities to save costs and channel funds to areas of need.

During the year under review and through a virement process, the department transferred a sum of R30 million to the Special Investigating Unit (SIU). This was done in consultation with National Treasury to address a short-term funding challenge experienced by the SIU as a result of a change in contractual arrangements that resulted in the SIU being unable to collect fees from the investigatee organisations.

I wish to extend my appreciation to Minister Jeffrey Radebe, MP, and Deputy Minister Andries Nel, MP, for their leadership and support, the Portfolio Committee on Justice and Constitutional Development, the judiciary, the National Prosecuting Authority, Legal Aid South Africa, the JCPS Cluster, the SIU, the chapter 9 institutions and all stakeholders of the Department of Justice and Constitutional Development for their support and guidance during the year under review.

My deepest gratitude goes to the staff in the Department of Justice and Constitutional Development and the department's partners for their undying commitment and hard work towards the achievement of our mandate and objectives.



Ms Nonkululeko Sindane  
*Director-General*





*"The Children's Act recognises the need for special care and protection from harm, abuse and neglect of children. It gives effect to South Africa's commitments in line with the Convention on the Rights of the Child."* Mr. JT Radebe, Minister of Justice and Constitutional Development

# Part 2

## INFORMATION ON PRE-DETERMINED OBJECTIVES

### 2.1 OVERALL PERFORMANCE

There has been an increased focus by the department on ensuring that public funds are utilised effectively. Tighter controls have therefore been implemented in all areas of work, especially in the supply chain management environment. As a result of these compliance requirements, the department managed to spend 99.9% of its budget allocation, as illustrated in the table below.

#### 2.1.1 VOTED FUNDS (R'000)

**TABLE 2:** Voted funds for 2011/12 (excluding the NPA)

APPROPRIATION	MAIN APPROPRIATION	ADJUSTED APPROPRIATION	ACTUAL AMOUNT SPENT	OVER-/UNDER-EXPENDITURE
Amount appropriated	R8 773 234	R8 960 034	R8 958 959	R1 075
Statutory appropriation	R2 104 162	R2 104 162	R2 037 100	R67 062
Responsible minister	Minister of Justice and Constitutional Development			
Administering department	Justice and Constitutional Development			
Accounting officer	Director-General of Justice and Constitutional Development			

#### 2.1.2 AIM OF VOTE

The aim of the Department of Justice and Constitutional Development 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.

#### 2.1.3 STRATEGIC GOALS

Based on the constitutional, legislative and policy mandates, the department's strategic goals are as follows:

- Increased accountability, effectiveness and efficiency of the Department of Justice and Constitutional Development
- Improved effectiveness and efficiency in the delivery of justice services
- Transformed legal services to protect and advance the interests of government and citizens, and promote constitutional development

- Effective coordination of the JCPS Cluster in the delivery of Performance Outcome 3.

#### 2.1.4 OVERVIEW OF THE ORGANISATIONAL ENVIRONMENT FOR 2011/12

There are three key challenges that affect the department's ability to fully achieve some of the set objectives. These are as follows:

- Reduction in the medium-term budget allocation as a result of the difficult economic circumstances
- The ability to attract and retain people in key strategic areas
- The perception and management of incidents of fraud and corruption



#### 2.1.4 (a) Budget cuts

##### (i) Infrastructure and the expansion of justice services

Prior to 1994, most of the court buildings were situated in cities and towns outside the townships and rural areas. The major challenge facing the department is to address the historical imbalances of the past in terms of court infrastructure by providing facilities in previously underserved areas.

This challenge is complicated by the following additional realities that need to be addressed:

- The escalation of infrastructure costs above inflation, which means that the cash flow for building new courts is often insufficient. This results in postponements and delays in the construction of envisaged courts.
- Balancing the need for additional courts with the maintenance and accessibility programmes of existing courts.
- Using the infrastructure budget for additional accommodation where necessary.
- The growth in the staff establishments.

##### (ii) Investment in Information and Communication Technology

Over the years, budget constraints have resulted in under-investment in the information technology (IT) infrastructure and a backlog in maintenance, which resulted in ageing and out-of-warranty servers, computers and printers. This brought about a high operational risk, and the slowness of the networks had an impact on the IT transaction process. While the information and communication technology (ICT) software budget still remains a challenge, the department has been allocated R100 million for 2012/13 and R110 million for 2013/14 to renew its IT infrastructure. The IT infrastructure budget will be used for server and computer renewals, and network optimisation to ensure a stable ICT backbone. The development of automation systems remains a pressure point.

##### (iii) Escalating safety and security costs

In delivering its mandate of facilitating the resolution of disputes, the department continues to have a high risk of crime perpetuated against its infrastructure, staff and the public. For this reason, safety and security remains an important issue, despite the severe budget constraints experienced. The budget set aside to acquire and service its security infrastructure in facilities with a

high risk of security incidents will not meet all the needs of the department.

In the 2012/13 financial year, the department will introduce measures to stretch the limited budget to deliver on the important objective of keeping courts, staff and the community safe. These measures will assist the department to roll out security systems to 70 additional courts in the next two years.

##### (iv) Financial pressure points in operations

The department's partners in the judiciary and prosecution continue to raise challenges in a number of areas affected by financial constraints. These include the following:

- The need to increase the establishment of lower courts and provide the judiciary with adequate tools of trade
- Expanding the support personnel establishment in the courts (interpreters, financial officers and supply chain management staff), as well as staff to perform quasi-legal functions, such as default judgments, court orders, warrants of execution, etc
- Implementation costs of the new and proposed legislation
- Document and record management
- Adequate provision of library services to the various courts and support to the judiciary
- Capacity challenges in the Office of the State Attorney and the management of state litigation

#### 2.1.4 (b) Human resources challenges

Although the vacancy rate of the department has dropped significantly over the years, a number of top management posts have become vacant. A critical achievement for the year under review was the successful filling of the post of the Chief Master, which had been vacant for an extended period, and that of the Regional Head of the Free State.

The challenges of human capacity are further highlighted by the creation of new positions within the departmental structures that tended to increase the vacancy rate above the target of 10%, as prescribed for the public service. The establishment of the Constitutional Development Branch has necessitated an increase in the capacity and budget required to enable the department to support constitutional democracy. In addition to and in addressing capacity requirements in response to filling posts where services are highly needed, an amount of R45 million was allocated



to fund posts in critical areas. This effort resulted in the establishment of 232 additional positions in the department.

The department has managed to fill 90% of the posts on its establishment. The key challenge remains to fill only critical posts and to make efficient use of the establishment.

The departmental Employment Equity (EE) Report indicates that by the end of March 2012, 38% of senior management service members were female, against the prescribed target of 50%. In terms of people with disabilities, only 1.29% of the staff falls in this category, as opposed to the prescribed 2%. This indicates that the department should do more to meet its targets in this regard.

The department is addressing the number of days' sick leave taken and the stress levels experienced by its officials. It responded by strengthening the health and wellness programmes. A total of 3 827 employees were provided with proactive and curative services to promote their psychosocial wellness, and were encouraged to choose a healthier lifestyle. These services included supervisors' training sessions,

which focused on equipping managers with skills and information to enable them to detect early signs of behaviour associated with a troubled employee.

#### 2.1.4 (c) Financial management and internal controls

In the last few years, the Office of the Auditor-General has issued a qualified opinion on the management of the departmental vote account due to irregular expenditure and the Third Party Fund. The department has embarked on a turnaround plan in critical areas aimed at achieving an unqualified audit opinion at the end of 2012/13.

#### 2.1.5 KEY POLICY DEVELOPMENTS AND LEGISLATIVE CHANGES

##### 2.1.5 (a) Justice, Crime Prevention and Security Cluster Delivery Agreement

An important executive function assigned by government to the Justice and Constitutional Development portfolio is the coordination and leadership role of the Justice, Crime Prevention and Security (JCPS) Cluster. Government's Programme of Action, adopted by the JCPS Cluster in July 2009,



Mr. JT Radebe, Minister of Justice and Constitutional Development, at the JCPS Cluster Media briefing in Cape Town, 23 February 2012.



was reinforced by the signing of the Cluster Delivery Agreement by the JCPS Cluster ministers in 2010. The delivery agreement underpins the JCPS strategy of fighting crime and corruption, which is one of the key priorities adopted by government. Through his leadership of the JCPS Cluster, the Minister, supported by the department, monitors and coordinates the overall implementation of the strategies and activities of the cluster to realise the attainment of Government Outcome 3: "All people in South Africa are and feel safe".

The JCPS Cluster has achieved significant milestones in its endeavour to reduce crime and corruption. The overall reduction in the different types of serious crimes, in particular, attests to the effectiveness of the strategies that have been put in place to realise Government Outcome 3. However, from the perspective of the department, a lot still has to be done in the areas of case finalisation and case backlogs.

#### (i) Justice modernisation

The Integrated Justice System (IJS) Programme remains vital in the modernisation of the Criminal Justice System (CJS). The Cluster has identified five integration priorities that are packaged into three major programme streams to ensure focused delivery. These programme streams are the following:

- The implementation of case-related integration
- Cluster business intelligence capabilities
- The creation of an integrated framework for the effective management of persons (identification, detention and tracking throughout the CJS)

During the period under review, the Cluster concluded pilot projects of the various case-related integrations between the upgraded Crime Administration System (CAS) of the South African Police Service (SAPS) and the department's Integrated Case Management System (ICMS), which were conducted in the Benoni and Cullinan court districts. This integration entails the electronic transmission of docket information, first appearance outcomes and case status information between the SAPS and the department. The Cluster also concluded the deployment of the Video Arraignment Solution to 47 magistrates' courts linked to 22 correctional facilities. During 2012, the focus will be on the maintenance of these systems and an analysis of their impact and effectiveness.

#### 2.1.5 (b) Transformation of the judicial system

The Constitution 17<sup>th</sup> Amendment Bill, currently before Parliament, introduces fundamental changes to the

judicial system to bring it in line with the Constitution. This bill seeks to provide a constitutional framework for the Chief Justice to exercise his or her judicial leadership role. The enactment of the proposed new section 165(6) of the Constitution is intended to affirm the Chief Justice as the head of the judiciary and confer upon him or her, among others, the responsibility of developing and monitoring the implementation of norms and standards for the exercising of the judicial functions of all courts. The Constitution 17<sup>th</sup> Amendment Bill will also empower the Chief Justice to exercise oversight over the judiciary in respect of both the lower and the superior courts.

In the interim, measures have been put in place to strengthen the Office of the Chief Justice and enhance its capacity to support the Chief Justice in performing his or her constitutional mandate. As part of these measures, the Office of the Chief Justice has been proclaimed as a national department with a view to enhancing its stature (Proclamation No. 44, 2010, published in *Government Gazette No. 33500*, dated 3 September 2010). The Presidential Proclamation establishes a framework that enhances the independence of the Office of the Chief Justice and improves the collaboration and synergy between the Office of the Chief Justice and the Department of Justice and Constitutional Development in carrying out their respective mandates relating to the administration of justice. This is a transitional phase towards an independent judiciary.

During the period under review, the department assisted the Office of the Chief Justice with the following:

- The seconding of senior departmental staff to the Office of the Chief Justice
- The development of a new structure
- The advertising of senior management posts
- The review of the programme of the South African Judicial Education Institute (SAJEI)
- The development of plans to support the Constitutional Court and Supreme Court of Appeal
- Supporting the Judicial Service Commission and heads of courts

#### 2.1.5 (c) Re-alignment of magisterial districts with municipal districts

The department continues to implement programmes that seek to correct the old magisterial districts that were based on the racial and geopolitical boundaries of the defunct self-governing and independent states (homelands) and the former RSA territory. The

two-pronged programme seeks firstly to transform the branch courts that were built in the traditional black areas and rural villages into proper, adequately capacitated courts to meet the needs of the post-1994 democratic society. The transformation of the branch courts entails the rehabilitation of these courts, conferring on them adequate jurisdiction and providing them with sufficient capacity to function as fully-fledged courts. Twenty-four of the 90 branch courts were identified for rehabilitation into full-service courts by 2014. Of these 24 branch courts, 15 were converted into full-service courts in August 2009 and a further four were converted during 2011.

The second outcome of the rationalisation of the areas of jurisdiction of the courts relates to the alignment of the magisterial districts with the municipal boundaries that were established under the new constitutional dispensation. In terms of this programme, the 384 magisterial districts proclaimed prior to 1994 are being rationalised to enhance access to justice.

The department has, with the assistance of the Municipal Demarcation Board, drawn comprehensive and accurate maps depicting the 384 current magisterial districts. These maps have been revised to reflect the changes that were made by the Municipal Demarcation Board in relation to the 287

municipalities. During the year under review, a detailed discussion document was compiled for consultation with the Magistrates Commission, the Judicial Service Commission, the judiciary and other relevant stakeholders. This discussion document contained the new proposed areas of jurisdiction of the courts, with their revised maps. A final report emanating from these consultations, together with a social impact analysis report relating to the proposed changes, will be submitted for the Minister's consideration during 2012.

#### 2.1.5 (d) Review of the civil justice system

Cabinet has approved a document dealing with some of the issues relating to the transformation of the judiciary, the separation of powers and the interdependence and collaboration between the three branches of government to ensure the advancement of the Constitution and constitutional principles.

As part of continuing efforts to improve the civil justice system, 23 additional small claims courts were established during 2011/12 to bring the number of these courts to 247 by the end of March 2012. The target is to establish a small claims court for each of the 384 magisterial districts by 2014, subject to the rationalisation of the areas of jurisdiction of the lower courts.

The reason for the slow pace in the establishment



Members of the judiciary at the official opening of the new wing of the Supreme Court of Appeal of South Africa in Bloemfontein, 11 November 2011.





of these courts is the lack of an adequate number of legal practitioners with appropriate experience who are willing to be appointed as commissioners. Legal Aid South Africa has agreed to encourage its lawyers with sufficient experience to make themselves available for appointment, to address the shortage of commissioners.

Other initiatives that are being undertaken under the Civil Justice Review Programme are the following:

- Harmonisation and rationalisation of the rules of all courts (with a view to simplifying complex court processes and procedures)
- The institutionalisation of alternative dispute resolution mechanisms, diversions and mediation (to enhance access to justice)

The Rules Board for the Courts of Law (following extensive research and consultation with the relevant stakeholders) drafted court-based mediation rules, which were submitted to the Minister in December 2011 for promulgation. The draft rules, once implemented, will bring fundamental reforms to the adjudication of civil disputes. These rules seek to ensure the speedy finalisation of civil disputes through out-of-court settlements in deserving cases, thereby reducing the time and cost of litigation, and enhancing access to justice.

## 2.1.6 OVERVIEW OF THE SERVICE DELIVERY ENVIRONMENT FOR 2011/12

The key service delivery points for the public are all courts, Masters' offices and Family Advocate offices.

### 2.1.6.1 COURTS

#### 2.1.6.1(a) Case flow management initiatives at the North Gauteng High Court

##### (i) Civil trials

In June 2010, Court Management introduced a strict Practice Directive (Introduction to Chapter 6.13 of the *Practice Manual (North Gauteng)*, effective from 25 July 2011) in respect of all claims for damages, whether delictual or contractual, and all matters where expert notices and summaries must be delivered. Since the introduction of the Practice Directive, practitioners are complying with the Rules of Court.

##### (ii) Opposed motion court matters

On 11 October 2010, Court Management finalised a Practice Directive: Enrolment of Opposed Motion Court Matters (Introduction to Chapter 13.9 and Chapter 13.13 of the *Practice Manual (North Gauteng)*, effective from 25 July 2011). The Practice Directive ensures that only those matters that are trial-ready will be enrolled. This prevents the clogging of the roll and reduces waiting time.

##### (iii) Unopposed motion court matters

From January 2011, Court Management introduced a Practice Directive: Enrolment of Unopposed Motion Court Matters (Introduction to Chapter 13.9 of the *Practice Manual (North Gauteng)*, effective from 25 July 2011) in an attempt to reduce the waiting period for the hearing of unopposed matters.

#### 2.1.6.1 (b) Other case flow management initiatives

##### (i) Case Flow Management workshops

Sixteen civil case flow management workshops were held for the regional court divisions, targeting both regional court magistrates and administration support personnel. A total of 280 regional court magistrates, as well as 322 clerks of civil courts, registrars and assistant registrars, were capacitated through these workshops. The workshops dealt with the impact of civil jurisdiction on case flow management in the regional courts, and empowered the participants to manage court and case flow management.

##### (ii) Video Remand Solution

The Video Remand Solution has been implemented at 47 courts and 18 correctional facilities. During the year under review, 4 061 cases were remanded through the audio-visual remand (AVR) system. The development in this area of support to case flow management for the courts has brought about a significant improvement in the movement of cases through the use of technology.

(iii) Court performance

**CONSTITUTIONAL COURT**

During the year under review, the Constitutional Court received 123 new applications. In addition, three cases are awaiting direction (old and new applications), 97 matters were dismissed and 35 judgments were given.

**TABLE 3:** Constitutional Court matters lodged and finalised

Financial year	Application/cases	Awaiting directions	Court roll	Dismissed cases	Judgments	Taxations	Cases withdrawn
2010/11	117	22	101	79	30	13	3
2011/12	123	3	99	97	32	21	1

**SUPREME COURT OF APPEAL**

During the 2010/11 financial year, the Supreme Court of Appeal received 57 criminal appeals, while 36 appeals were finalised. Furthermore, 281 petitions were received, while 252 were finalised.

During 2011/12, 119 new appeals were enrolled, and 83 were finalised, 222 new petitions were enrolled and 189 finalised.

**TABLE 4A:** Supreme Court of Appeal: Criminal appeals and petitions

Financial year	Appeals		Petitions	
	New cases enrolled	Finalised	New cases enrolled	Finalised
2010/11	57	36	281	252
2011/12	119	83	222	189

During the 2010/11 financial year, the Supreme Court of Appeal received 281 civil appeals, while 186 appeals were finalised. Furthermore, 295 petitions were received, while 338 were finalised.

During 2011/12, 601 new appeals were enrolled, and 259 were finalised, 412 new petitions were enrolled and 427 finalised.

**TABLE 4B:** Supreme Court of Appeal: Civil appeals and petitions

Financial year	Appeals		Petitions	
	New cases enrolled	Finalised	New cases enrolled	Finalised
2010/11	281	186	295	338
2011/12	601	259	412	427



### LABOUR AND LABOUR APPEAL COURT

The Labour Court and Labour Appeal Court received 11 556 new cases during the 2010/11 financial year and finalised 8 305 matters.

During 2011/12, 11 235 new cases were enrolled and 6 553 were finalised. This includes referrals from the Commission for Conciliation, Mediation and Arbitration (CCMA), urgent applications and petitions.

**TABLE 5:** Labour and Labour Appeal Court

Financial year	New cases enrolled	Finalised
2010/11	11 556	8 305
2011/12	11 235	6 553

### LAND CLAIMS COURT

During 2010/11, the Land Claims Court enrolled 197 new matters and finalised 248 matters.

During 2011/12, 187 new matters were enrolled (Act 22 of 1994, Act 3 of 1996 and Act 62 of 1997 matters). The court finalised 141 matters.

**TABLE 6:** Land Claims Court: Restitution cases (Act 22 of 1994)

Financial year	Restitution cases (Act 22 of 1994)		Extension of security of tenure		Land reform (labour tenant)		Totals	
	New	Finalised	New	Finalised	New	Finalised	New	Finalised
	2010/11	108	121	70	92	19	35	197
2011/12	103	89	52	52	32	0	187	141

### HIGH COURTS: CIVIL AND CRIMINAL CASES

During the 2011/12 financial year, High Courts enrolled 27 804 new civil matters for trial and finalised 28 886 (which includes settlements and withdrawals). High Courts received 104 884 new motion applications and finalised 82 431 matters.

**TABLE 7A:** High Courts: Civil matters

Financial year	New cases enrolled	Finalised
2010/11	39 150	23 527
2011/12	27 804	28 887
High Court motion applications		
2010/11	75 611	62 571
2011/12	104 884	82 431



During the 2010/11 financial year, High Courts received 1 039 first appearance criminal matters and finalised 1 027 cases, opposed to 2011/12 when 902 first appearance matters were enrolled and 1 130 finalised.

**TABLE 7B:** High Courts: Criminal cases

Financial year	New cases: First appearance	Cases finalised
2010/11	1 039	1 027
2011/12	902	1 130

#### REGIONAL COURTS

During 2010/11, Regional Courts enrolled 75 428 new criminal cases (first appearances) and finalised 39 078 cases. During 2011/12, 68 211 new matters were enrolled and 40 242 matters finalised. Regional Courts managed to finalise 7% more matters compared to the previous year. This includes old and new matters .

**TABLE 8:** Regional Courts: Criminal matters

Financial year	New cases: First appearance	Cases finalised: Total
2010/11	75 428	39 078
2011/12	68 211	40 242

#### DISTRICT COURTS

During 2010/11, District Courts enrolled 800 896 new criminal cases (first appearances) and finalised 412 857 cases. During 2011/12, 748 231 new matters were enrolled and 400 991 finalised. District Courts managed to finalise 2% more matters compared to the previous year. This includes old and new matters.

**TABLE 9:** District Courts: Criminal cases

Financial year	New cases: First appearance	Cases finalised: Total
2010/11	800 896	412 857
2011/12	748 231	400 991



### 2.1.6.2 MASTERS' OFFICES

#### a. Deceased estates

Over 86% of the work of the Masters' offices is centred on deceased estates. A total of 170 150 cases were registered in 2011. During the year under review, the deceased estates registered declined in comparison to 2010, when 191 402 were registered. This decrease is due to a concerted effort in the previous year to register all service point matters on the Integrated Case Management System (ICMS), which was made available to magistrates' courts. Currently, all service points are actively registering estates on the ICMS Masters, thus reflecting the true day-to-day figures for matters registered.

#### b. Liquidations/insolvencies

The total number of liquidations decreased from 10 716 in 2010 to 9 958 in 2011. There was also a decrease in the number of liquidations/insolvencies registered at Masters' offices in 2011 when compared to 2010. Most liquidations/insolvencies occurred in Gauteng (Pretoria and Johannesburg). The only office showing an increase in liquidations/insolvencies was Kimberley, where the insolvencies registered more than doubled (from 26 in 2010 to 63 in 2011).

#### c. Trusts

There was an increase in the total number of trusts registered, from 15 749 in 2010 to 16 376 in 2011. Most of the trusts were registered in Gauteng (Pretoria and Johannesburg).

#### d. Curatorships

The number of curatorships dealt with increased from 996 in 2010 to 1 277 in 2011. Most of the activity regarding curatorships took place in Gauteng (Pretoria and Johannesburg). The increase could be attributed to the implementation of the Mental Health Care Act of 2002, which came into operation at the end of 2004. The Act allows persons to approach the Master, rather than the courts, as was previously the case, for the appointment of curator bonis. Since the implementation of this act, the Master's Office has consistently experienced growth in curatorships.



*Deputy Minister Mr Andries Nel with officials during his visit at the Master of the South Gauteng High Court Office, Johannesburg, September 2011.*

## 2.1.7 DEPARTMENTAL REVENUE

**TABLE 11:** Collection of departmental revenue (R'000)

	2008/09 actual	2009/10 actual	2010/11 actual	2011/12 target	2011/12 actual	Percentage deviation from target
Tax revenue						
Fines, penalties and forfeits	271 508	296 410	306 677	305 466	294 819	4%
Non-tax revenue						
Interest dividends and rent on land	44 872	16 821	10 929	3 022	2 104	33%
Sale of goods and services other than capital assets	13 248	43 659	64 922	44 649	59 188	24%
Transfers received	0	411	5	-	-	-
Sale of scrap, waste, arms and other used current goods	-	-	-	-	-	-
Sale of capital assets (capital revenue)	11	264	81	415	260	33%
Financial transactions (recovery of loans and advances)	22 872	14 050	28 871	19 471	22 695	-
Total departmental receipts	352 511	371 615	411 485	373 032	379 066	25%

## 2.1.8 DEPARTMENTAL EXPENDITURE

**TABLE 12:** Departmental expenditure (R'000)

Programmes	Voted for 2011/12	Shifting of funds	Virement	Total voted	Actual expenditure	Variance
Programme 1	1 686 258	-	156 048	1 842 306	1 842 300	5
Programme 2	4 359 251	-	(139 773)	4 219 478	4 219 477	2
Programme 3	721 387	-	(23 680)	697 707	697 704	3
Programme 4	2 640 257	-	(30 000)	2 621 665	2 615 415	6 250
Programme 5	2 163 138	-	37 405	2 200 543	2 199 478	1 065

## 2.1.9 TRANSFER PAYMENTS

**TABLE 13:** Transfer payments (R'000)

Name of institution	Amount transferred	Estimated expenditure
South African Human Rights Commission	89 773	89 773
Commission for Gender Equality	-	-
Special Investigating Unit	323 191	323 191
Legal Aid South Africa	1 137 545	1 137 545
Public Protector	153 729	153 729
Represented Political Parties' Fund	103 981	103 981





### 2.1.10 PUBLIC ENTITIES

#### a. Legal Aid South Africa

In terms of the Legal Aid Act, Act No. 22 of 1969, the objectives of Legal Aid South Africa (LASA) are as follows:

- Provide legal aid or make legal aid available to indigent persons within the budget allocated to it by the state
- Provide legal representation at state expense in terms of its constitutional obligation under section 35 of the Bill of Rights
- Have a legal practitioner assigned to detained persons at state expense if substantial injustice would otherwise result.

Legal Aid SA is the primary source of delivery of access to justice through its full-time legal staff stationed at the 64 justice centres, 13 high courts and 64 satellite offices countrywide. This is the primary vehicle used by Legal Aid SA for the delivery of legal services, as it is found to be the most efficient and economical. Legal Aid SA also makes use of 'judicare', a system whereby lawyers in private practice are instructed to perform work on behalf of Legal Aid SA in return for a set fee. Judicare is utilised in situations where there is conflict of interest, where specialist skills are needed and to maintain a mixed delivery system.

Legal Aid SA has entered into agreements with a number of cooperation partners (NGOs) in rural areas in order to extend its delivery and outreach.

During the year under review, Legal Aid SA did the following with its budget of more than R1 billion:

- Quality legal services were delivered in approximately 429 000 new legal matters, comprising 382 419 (89%) criminal and 47 060 (11%) civil matters.
- Children were assisted in 27 960 matters (80% criminal and 20% civil). The number of matters decreased slightly in comparison to 2010/11. The decrease in criminal matters is attributed to the Child Justice Act and children being diverted from the formal criminal justice system.
- General advice services were rendered to 256 681 clients. A fully operational Client Call Centre, which facilitated telephonic access of first-level legal assistance, led to 46 025 clients being assisted (18% of general advice matters).

Legal Aid SA continued to participate in the Case Backlog Courts Project by providing legal aid at district

and regional backlog courts. It also maintained strong governance and financial management platforms that ensured a tenth unqualified audit (2010/11) with no matters of emphasis (for the sixth year). It has been successfully accredited as a best employer for the third year. The staff recruitment level at the end of 2011/12 was 96%. Unaudited expenditure levels indicate that more than 99.8% of the budget was spent by 31 March 2012.

Legal Aid SA planned programmes for 2012/13 include initiatives to ensure that it will continue to be a high performing organisation that provides quality legal services, focusing on the poor and vulnerable, in line with its constitutional mandate. It continued its outreach programmes to communities to make them aware of legal aid, the Constitution and the Bill of Rights. Legal Aid SA also has links with NGOs and advice offices to expand its points of contacts to provide legal aid services to communities.

#### b. Special Investigating Unit

The Special Investigating Unit (SIU) was established in terms of the Special Investigating Units and Special Tribunals Act of 1996 and investigates cases referred to it by the President. Its key strategic goals are as follows:

- Provide professional forensic investigations and litigation services to all state institutions at national, provincial and local levels to combat maladministration, corruption and fraud.
- Protect state assets and public money.

Legal or administrative actions resulting from the SIU's forensic investigations include criminal prosecutions, civil proceedings, disciplinary hearings and other remedial actions, such as process gap recommendations and the removal of disentitled beneficiaries from the client departments' systems or databases. Deterrent strategies are also implemented.

The SIU provides its services through national and regional subprogrammes. This currently includes investigations into social grants, illegal driver's licences, housing subsidies and contracts, local and provincial government departments, and high-level procurement and contract investigations. However, due to government's renewed focus on reducing wastage and addressing corruption, the SIU's service delivery focus over the past two years has shifted more towards complex, long-term investigations into procurement irregularities.

**TABLE 14:** Performance of the SIU

Category	2011/12 target	Actual performance at the end of the third quarter	Status
Cash recoveries	30 000 000	103 749 271	Target exceeded
Evidence prepared for civil litigation (acknowledgement of debt signed, etc)	2 500	3 494	Target exceeded
Prevention of justice losses	200 000 000	165 991 100	Target exceeded
Saving for financial year	30 000 000	7 062 940	Target partially achieved
Evidence prepared for criminal actions	2 000	1 795	Target partially achieved
Evidence prepared for other remedial actions	3 000	2 675	Target partially achieved
Evidence prepared for disciplinary actions	2 500	1 137	Target partially achieved

#### 2.1.11 CAPITAL INVESTMENT, MAINTENANCE AND ASSET MANAGEMENT PLAN

##### a. Capital investment

The department will continue with its Capital Works Programme in the new financial year. The programme includes the continuation of projects started in the previous financial year, as well as the commencement of new capital works projects.

The following multi-year major projects will continue from the previous financial year:

- Major renovations at the South Gauteng High Court (to be completed in June 2013)
- Construction of the new Limpopo High Court (scheduled for completion by February 2013)
- Construction of the new Katsieng Magistrate's Court (scheduled for completion by July 2012)
- Construction of the new Kagiso Magistrate's Court (completion date to be advised)

The following new projects will be initiated in the new financial year:

- Construction of the new Port Shepstone Magistrate's Court
- Construction of the new Mamelodi Magistrate's Court
- Construction of the new Plettenberg Bay Magistrate's Court
- Construction of the new Dimbaza Magistrate's Court
- Construction of new offices for the Director of Public Prosecution in Pietermaritzburg

The new projects are multi-year projects, with the project period ranging between 24 and 38 months.

##### b. Infrastructure/facilities maintenance

The department has an increasing maintenance backlog as a result of underfunding in the past years. A total of R85 million has been allocated to the Rehabilitation and Maintenance Programme (RAMP). Thirty-three facilities have been prioritised for upgrading in the 2012/13 financial year. The RAMP allocation will be used for planning (scoping and design) of the identified projects. The scope of work will include facilities maintenance, as well as upgrading and minor additional accommodation, where required.

With the progressive budget of the RAMP, the department intends to deal with the backlog, but also to implement a preventative and scheduled maintenance programme, as well as allocations for new and revamped facilities.



**TABLE 15:** Major building projects completed in 2011/12

Name	Province	Description	Completion date
Ntuzuma Magistrate's Court	KwaZulu-Natal	New magistrate's court	December 2011
Tsakane Magistrate's Court	Gauteng	New magistrate's court	February 2012

**TABLE 16:** Major capital projects to go out on tender in 2012/13

Name	Province	Description	Initial date of expected tender
Mamelodi Magistrate's Court	Gauteng	New court	September 2012
Port Shepstone Magistrate's Court	KwaZulu-Natal	New court	July 2012
Mpumalanga High Court	Mpumalanga	New high court	July 2012
Dimbaza Magistrate's Court	Eastern Cape	New court	July 2012
Plettenberg Bay Magistrate's Court	Western Cape	New court	July 2012

**TABLE 17:** Project planning to be finalised in 2012/13

Name	Province	Description
Bityi Magistrate's Court	Eastern Cape	New court
Tshilwavhusiku Magistrate's Court	Limpopo	Major additions
Richards Bay Magistrate's Court	KwaZulu-Natal	New court

**TABLE 18:** Sites to be acquired for major projects in 2012/13

Name	Province	Description
Richards Bay Magistrate's Court	KwaZulu-Natal	New court building
Springbok Magistrate's Court	Northern Cape	New court building
Goodwood Magistrate's Court	Western Cape	New court building
Midrand Magistrate's Court	Gauteng	New court building
Cradock Magistrate's Court	Eastern Cape	Additional accommodation (courts and offices)
Bloemfontein Magistrate's Court	Free State	Additional office accommodation

c. Asset management

The department did not dispose of any fixed assets under its management. In terms of the Government Immovable Asset Management Act (GIAMA) of 2009, the department cannot dispose of any fixed assets as it is not the custodian. Only the Department of Public Works can dispose of fixed assets. No fixed assets were returned to the custodian in the 2011/12 financial year.

The Department of Public Works has a responsibility to maintain the asset register and, according to its last assessment conducted in 2007, 70% of the department's fixed assets were in a bad condition and in need of maintenance. Inadequate funding to address the maintenance works required and identified during the assessment means that further deterioration would have impacted on most of the assets since 2007.

## 2.2 PROGRAMME PERFORMANCE

The activities of the Department of Justice and Constitutional Development are organised according to five programmes:

**PROGRAMME 1: ADMINISTRATION**

**PROGRAMME 2: COURT SERVICES**

**PROGRAMME 3: STATE LEGAL SERVICES**

**PROGRAMME 4: NATIONAL PROSECUTING AUTHORITY (REPORTED SEPARATELY)**

**PROGRAMME 5: AUXILIARY SERVICES (REPORTED SEPARATELY)**

Entities funded under Programme 5 include Legal Aid South Africa, the Public Protector, the South African Human Rights Commission and the Special Investigating Unit.

During the period under review, a decision was taken to focus efforts on audit issues due to the major challenges with persistent qualified audit opinions. As a result, overall performance of the department has been compromised. During the 2012/13 financial year, a proper balance between compliance and performance will be sought, although this is expected to be another challenging journey.

Performance on the three departmental programmes is detailed below.

### 2.2.1 PROGRAMME 1: ADMINISTRATION

#### PURPOSE

The purpose of this programme is to manage the department, develop policies and strategies for the efficient administration of justice, and provide centralised support services.

#### *Strategic objectives*

- Increased compliance with prescripts to achieve and sustain an unqualified audit
- Improved management of fraud and corruption cases
- Improved human resource service
- Increased optimisation of systems (automated and manual)
- Increased percentage of outstanding TRC victims who qualify for reparations paid as per TRC recommendations

The Administration Programme is divided into the following subprogrammes:

- The Ministry provides administrative and executive support to the Office of the Minister of Justice and Constitutional Development, including parliamentary and ministerial support services.
- The Deputy Ministry provides administrative and executive support to the Office of the Deputy Minister of Justice and Constitutional Development, including parliamentary and ministerial support services.
- Management incorporates the Office of the Director-General, the Office of the Chief Operations Officer and related support services.
- Corporate Services provides administrative functions, and aims to enhance corporate governance and improve internal control systems in the department.

#### 2.2.1.1 Ministry

The Minister undertook a number of key issues during the year under review. These included the following, among others:

- International travel to represent and engage with the United Nations (UN), Southern African Development Community (SADC) and the African Union (AU) to address issues of justice and the rule of law.
- Assistance with the processes for the appointment of judges, through the Judicial Service Commission, and facilitating the appointment of judges. In addition, the Minister assisted with the appointment of magistrates,





through the involvement of the Magistrates Commission.

- Providing guidance on key policy matters and engagement with relevant stakeholders, wherever possible.

#### 2.2.1.2 Deputy Ministry

The appointment of temporary members of the judiciary is important in maintaining service levels in our courts. The department, under the guidance of the Office of the Deputy Minister, undertook the responsibility of facilitating the appointment of acting members of the judiciary in order to enable access to justice. In this regard, all vacant posts during the year under review were provided with temporary capacity.

The Constitution requires organs of state to support and assist Chapter 9 institutions wherever appropriate. During the period under review, the Office of the Deputy Minister continued to assist the department with engagement with Chapter 9 institutions on issues pertaining to their mandates, operational issues and strategic challenges.

In facilitating access to justice, the department embarked on a project to establish a small claims court in each magisterial district. During the period under review, the department proclaimed 23 small claims courts under the guidance and leadership of the Deputy Minister.

#### 2.2.1.3 Corporate Services

##### INFORMATION AND SYSTEMS MANAGEMENT

For the department to provide better and speedier access to justice, it was considered necessary to invest in information and communication technology. A number of key projects have been implemented through the years and a good number are underway. Most notably, in the last few years, the department developed the Integrated Case Management System (ICMS), focusing on case registration, scanning and management reports. During the period under review, the ICMS evolved into a fully-fledged case management system, which includes the automation and monitoring of improved end-to-end business processes, with a special focus on the Master's Office, maintenance and interdepartmental integration, in line with the strategic focus of the department and the JCPS Cluster.

During the year under review, the department developed and piloted the following strategic IT business solutions:

- ICMS Masters: Deceased Estates
- ICMS Maintenance (pre-court order) – aimed at supporting the department's key strategic priority areas
- ICMS Criminal (SAPS docket integration)
- ICMS Criminal (case outcome integration) – aimed at supporting the IJS implementation as part of the JCPS Cluster strategy
- Justice College Student Information System – aimed at monitoring training and development in the department.

Information and Systems Management has achieved its performance target with the development and piloting of the aforementioned IT business solutions. These solutions will be rolled out countrywide in the next financial year.

Furthermore, the department has optimised and implemented the following operational IT business solutions:

- Master's Web Portal. This solution improves public access to Master's information via the web at any given time and place in order to prevent the public having to call or visit the Masters' offices for this information, for example, details of deceased parties and information about executors of deceased estates.
- Masters' Own Verification Information Technology (MOVIT). This solution enables the Masters' offices to authenticate and verify the identity of recipients of funds from the Guardian's Fund directly with the Department of Home Affairs. This solution has improved the processing turnaround times and the effectiveness of authenticating the identity of Guardian's Fund recipients.

The inadequate use of IT business solutions remains a source of concern for the department. In addressing this concern, the department has created an additional internal human resources capacity to improve the management of implemented IT business solutions, and to ensure that the IT solutions meet the business needs and requirements of the department. It also identified limited training as one of the major contributors to the poor use of IT systems. The department commenced with optimising its business solutions' training strategy in order to maximise its return on investment in business solutions. This intervention is expected to continue in the next financial year.

The successful implementation of IT systems requires a supporting and stable IT infrastructure. In this regard,

the department's IT Infrastructure has been maintained and upgraded through a limited budget. This has resulted in delays in refreshing IT equipment, and ageing and out-of-warranty equipment, for example, user desktops, scanners and printers.

To address these challenges, the department has been allocated additional funding for the Medium-term Expenditure Framework (MTEF) period to renew ageing and out-of-warranty equipment, and optimise the IT network. Implementation will commence in the next financial year and will continue over the MTEF period. Notwithstanding the aforementioned challenges, the department has successfully upgraded key IT infrastructure components, for example, servers in the data centre (Super Dome) and 386 out-of-warranty servers located in regional offices and courts. A total of 4 901 desktops, 50 laptops and 100 printers have also been refreshed. Furthermore, the department managed to upgrade the bandwidth at 60 sites to alleviate the slow network responses. This network upgrade exercise will continue over the MTEF period.

In intensifying the use of ICT as a strategic enabler, the department has identified and created a number of key internal IT positions for which the recruitment process is currently underway.

#### **PUBLIC EDUCATION AND COMMUNICATION**

The Publication Education and Communication Unit provides strategic communication interventions for the department to ensure that communication is conducted in a well-organised and coordinated manner.

The department invested in a television programme, *Final Verdict* and a radio programme, *Justice on the Airwaves*. *Final Verdict* was a 26-part television education programme produced in the form of a documentary-drama to enhance both its informative and entertainment potential. *Justice on the Airwaves* consisted of 26 episodes transmitted across 11 public service radio stations in all official languages. It had an overall listenership of 1 765 000.

The following public education initiatives were also undertaken:

- During Women's Month (August), the department was involved in a publicity media campaign for the Access to Justice Week. This is an initiative between the department and the South African Women Lawyers Association (SAWLA) to provide free legal advice to members of the public, with a special focus

on vulnerable groups from previously disadvantaged areas. In addition, the department hosted the annual Human Rights Day commemorations.

- During the 16 Days of Activism campaign, a four-page educational media supplement was produced to communicate departmental interventions in its efforts to combat gender-based violence with a special focus on sexual offences. The National Register for Sex Offenders (NRSO) was implemented. Schools were also visited during this campaign.
- A media campaign was undertaken to inform the public on the Truth and Reconciliation Commission (TRC). The community-based radio station campaign assisted with the tracing of beneficiaries throughout the country.

As required by Cabinet and in line with the departmental objectives, public participation programmes were undertaken with a special focus on maintenance and Masters' services. These included events at the Crossroads Community Hall in Phillipi and New Life Ministry Church in Bluedowns in the Western Cape. Other engagements took place at the Master of the High Court offices in Johannesburg, Gauteng, and Pietermaritzburg, KwaZulu-Natal.

The departmental communication strategy includes the use of the departmental website and online social media. During the period under review, 844 004 people visited the department's website. In addition, the department successfully launched the Minister's Facebook page for engagement with the public.

#### **OFFICE OF THE CHIEF FINANCIAL OFFICER**

The broader departmental strategic objective of an unqualified audit opinion is underpinned by financial management interventions and activities in the medium term.

These are focused on the following:

- Enhancing financial capacity
- Additional technical resources
- Reviewing and strengthening operating activities and procedures
- Assessing, reviewing and implementing the internal control environment activities
- Addressing the governance arrangements on the management of the various funds and accounts managed by the department

In the 2011/12 financial year, the department enhanced financial capacity through the approval and funding



of middle management and technical positions in the areas of supply chain management, internal control, trust fund management and asset management. These resources were deployed at the National Office and at a regional office as initial contract employees and positions were subjected to work study processes. It is envisaged that these positions will be permanent. This personnel capacity was supported through regional training and orientation sessions in financial administration, supply chain management and trust fund administration.

The department completed a comprehensive review and documented Third Party Fund operations, while 160 area court managers, financial operations staff and senior financial managers were trained on basic financial management and the appropriate financial reporting framework for the trust fund arrangement in the department. This training focused on the uniform and standardised application of activities across the department. A further 1 021 officials attended orientation sessions on financial month-end and year-end procedures for trust funds in November 2011. These training interventions will be deployed in 2012/13 and will focus on court managers and court personnel assigned to the cash management operations in cash halls.

The department strengthened internal controls on financial management and supply chain management through systems enhancements on the approval and payment of contracted services necessitating three quotations, tax compliance validations and use of the reviewed delegations of authority as a basis of approval for procurement decisions. An internal control unit was established to oversee and monitor all processed payment transactions for compliance to applicable financial prescripts. A Comprehensive National Audit Action Plan was developed, supplemented by regional audit plans, and implemented on identified audit risk areas. Monthly progress reporting was provided to executive management on the status and implication of approved audit action plans.

Following a departmental decision to cancel an outsourcing proposal due to affordability considerations, the department investigated and invested in using existing cash transfer capability. A pilot was launched in August 2010. By the end of March 2012, the new system of decentralised electronic funds transfer (EFT) payments, with a full audit trail and segregation of duty features, was deployed in 103 courts. An average

of 95 000 maintenance beneficiaries are now receiving payments via the new system on a monthly basis, receiving money within 24 to 48 hours, compared to up to 10 calendar days, as in the past. This considerably improved service delivery and reduced traffic in the courts. The children who depend on the maintenance receive it on time in the areas where the department has implemented the EFT project. The department will continue to roll out the EFT project to the other courts in the future and on a sustainable basis. In this regard, the department is strengthening the IT infrastructure to support this project.

The department concluded the financial reporting framework for the Third Party Fund (TPF) with the assistance of National Treasury and the Accounting Standard Board, while legal opinions from the Chief State Law Advisor confirmed the status and reporting framework for the Guardian's Fund. The department submitted annual financial statements for 2010/11 with 2009/10 comparatives for auditing, using the advised and prescribed General Recognised Accounting Practices (GRAP) accounting framework for the TPF. The Criminal Asset Recovery Account (CARA) Committee approved the disbursements from the CARA totaling R250 million to identified departments and entities in September 2011, based on recommendations by the department.

The department is currently piloting a new model in the Western Cape for the court-based management of procurement for purchases less than R30 000, with an envisaged reduction in administration costs and turnaround times. The approach will be deployed in courts across the country after the initial testing, training and structural arrangement.

A noteworthy success for the department during the period under review is the capacity that has been built in the Office of the Chief Financial Officer. The departmental annual financial statements have been prepared by the internal capacity that has been built. Key senior management and middle management posts in TPF have been filled and major progress has been made with systems required to address the management of third-party funds.

#### **FUND MANAGEMENT**

In addition to the vote account, the department is responsible for the CARA Fund, the Guardian's Fund, the President's Fund and Representatives of Political Parties' Fund. One of the issues of concern was the

accumulation of funds in the CARA Fund. For the 2011/12 financial year, the department attempted to put processes in place to facilitate the distribution of these funds. During the period under review, R30 million was transferred from the CARA Fund to the SIU. The distributed resources from the CARA Fund will go towards addressing the shortfall occasioned by the charges in the contractual arrangement, which resulted in the SIU not being able to charge the investigatee departments for services rendered. This was done with the full support of National Treasury. Other resources that will be distributed will go to those organisations responsible for the law enforcement of organised crime, as well as organisations that provide care for the victims of organised crime, such as human trafficking.

#### DEPUTY INFORMATION OFFICER

Section 32 of the Constitution, 1996, provides that everyone has the right to access any information held by the state and any information held by another person and that is required for the exercise or protection of any rights. The Promotion of Access to Information Act (PAIA), Act No. 2 of 2000, was enacted to respond to this constitutional imperative, and to engender a culture of transparency and accountability in the conduct of government business. The role of the Chief Directorate: Access to Information is twofold. Firstly, it ensures that the department's applications for access to information are provided within the legislated 60-day timeframe. Secondly, it assists other state organs, through training and other relevant interventions, to comply with the relevant act.

During the 2011/12 financial year, applications for access to information increased (from 215 in 2010/11 to 792). This marked increase can be attributed to inmates in correctional facilities appealing their sentences. Of the 792 cases, 141 requests were granted in full in the public interest despite there being grounds for refusal; 12 requests were refused in full, one was refused partially and 584 could not be processed due to incorrect descriptions of records and incomplete applications provided. In 13 instances, a provision of PAIA was relied on to refuse a request in full or partially, and in 162 instances, the 30-day period to deal with a request were extended. This indicates that the time periods for supplying the requested information in terms of PAIA were adhered to, to a large extent, except in those cases where an extension was requested. Three internal appeals were lodged with the relevant authority. There were no cases where requests were granted as a result of an internal appeals processes.

#### HUMAN RESOURCE MANAGEMENT

Human Resource Management (HRM) was faced with the challenge of ensuring that competent human resource capacity is employed to execute the departmental mandate, while also maintaining sound employee relations within the performance cycle. In order to ascertain that the human resource component reaches its strategic objective, a robust approach was adopted. Branches, in partnership with HRM, developed recruitment plans to which they were committed. The approach saw the appointment of 1 734 permanent employees (including judges and magistrates). The vacancy rate was reduced to 10.52%, as opposed to the 7% set target.

TABLE 19: Reduction in the vacancy rate

Vacancy rate	Targets (departmental)	As on 31 March 2012
Including judges and magistrates	7%	10.52%
Excluding judges and magistrates	7%	11.14%

Table 19 indicates the performance of the department in relation to the key performance indicator of reducing the vacancy rate. The overall performance in vacancy reduction was impacted on by an unexpected increase in terminations, transfers and promotions to other departments. In comparison to the 1 734 appointments, 1 361 vacancies were created by the aforementioned movements in the post establishment, making the attainment of the 7% target challenging.

On the other hand, the appointment of judges and magistrates is an area that is impacted on by market dynamics in the transformation of the judiciary and appointment processes of the Judicial Service Commission.





**TABLE 20:** Reduction in misconduct and grievance cases

	Target	Actual achievement
Grievances	50%	65%
Misconduct cases	65%	65%

Table 20 indicates the performance of the department in relation to the key performance indicator of grievances and misconduct. With regard to the reduction of grievances, the department exceeded its 50% target by 15% in resolving 65% of registered cases, while it managed to achieve the set target of 65% in misconduct cases. This performance was as a result of measures that were put in place to improve the management of cases. These measures included auditing all files throughout the regions to ensure the reliability of statistics, holding labour relations workshops to capacitate officials in the handling of labour relations matters and implementing a new data capturing tool.

#### JUSTICE COLLEGE

The Justice College was established to provide training of a practical nature to officials of the department. This training is intended to enable and enhance the officials' performance in the workplace and thus contribute to enabling the department to meet its objectives.

The department manages and provides a diverse portfolio of services. For every portfolio of service, there is a corresponding management framework emanating from legislation, policies and internal procedures. As this management framework comprises requirements to practice, it is incumbent on the department to ensure that it is internalised by officials to limit or eliminate negative consequences for the department. The Justice College therefore provides training that is relevant to the department.

There are no service providers or institutions that readily provide this type of training, thus the need to institutionalise the training at the Justice College. This also ensures that the department controls and directs the nature and quantity of training and that changes in the management framework are expeditiously factored into training.

The Justice College continued to provide training to prosecutors, Master's Office personnel, court administrative personnel, court interpreters, registrars,

clerks of the court and legislative drafters in all tiers of government. In the year under review, the college trained 6 207 staff members, of which 5 551 were against the set annual target of 6 048. The additional 656 who received judicial training was not part of the target due to this training migrating to the South African Judicial Education Institute. However, there were delays in the implementation of SAJEI training and the department had to compromise performance in other areas to assist with judicial training.

New training material for the administration of deceased estates was developed for LASA. LASA professionals were trained, thus capacitating them to administer deceased estates, which was an addition to their scope. Cancellation of courses was kept to an absolute minimum. Judicial training, as far as it pertains to court personnel other than magistrates and training for other personnel, went ahead in accordance with the work programme.

**TABLE 21:** Justice College performance

Indicators	Annual target	Annual performance
Anti-corruption, fraud and dishonesty	190	156
Maintenance (all staff)	510	293
Sexual offences training	680	461
Domestic violence training	360	227
Child Law training	545	532
Service excellence	735	612
Foundational management	270	333
Quasi-judicial services	2 698	2 355
Masters' training	60	582
Judicial training		
<b>Total</b>	<b>6 048</b>	<b>5 551</b>

#### 2.2.1.4 Management (Office of the Chief Operations Officer)

##### STRATEGY, MONITORING AND EVALUATION

There is a need for the department to account transparently for the resources that the department

is allocated and to show how it has performed in delivering access to justice. The department has worked on defining and setting the targets in response to transparent reporting. During the 2011/12 financial year, all audit findings relating to the structure of reports and adherence to SMART principles (specific, measurable, achievable, relevant and time bound) were addressed and all reports were submitted to relevant authorities on time. The majority of findings have therefore been addressed. (An area of concern is the internal controls in the management of performance information.) During the period under review, substantial progress was made to address the challenge of internal controls on performance information.

For the first time, a team has been put in place to assist with the auditing of quarterly performance reports to identify and address control weaknesses. Processes are being put in place to improve the turnaround times of audit projects for better outcomes in 2012/13.

An electronic performance information management system was implemented and training in all areas has been completed. There is 100% usage by all areas. However, there were network availability challenges that are being addressed to improve uptime. The system will continue to be enhanced with better reporting functionalities in 2012/13.

The approved departmental Policy on Planning and Reporting focuses on processes to effectively manage all reporting and planning internally in order to adhere to deadlines and produce quality documents. In addition to this policy, each predetermined objective requires procedures that focus on the integrity of the information being reported. These were put together during 2011/12. However, more work needs to be done to make improvements and ensure full compliance and sustainability.

Capacitation of the unit remains a top priority. During the period under review, three senior management posts were filled. The priority for 2012/13 remains filling all outstanding middle management posts, including the two that are already in the process of being filled.

#### RISK MANAGEMENT

The department revised and approved the Risk Management Policy and Risk Management Strategy. The Risk Management Policy and Strategy were aligned with the King III Report and the Best Practices in Risk Management. As part of the implementation of the Risk

Management Strategy, the department has conducted risk assessments in 29 different areas.

The department adopted a three-pronged strategy to fight corruption. This consisted of a staff awareness programme, improved finalisation of cases and the vetting of key staff members. During the period under review, 21 workshops on the prevention of fraud and corruption were held in collaboration with the Public Administration Leadership and Management Academy (PALAMA). To date, 1 715 staff members have been trained on the prevention of fraud and corruption. The target of training at least 75 ethics champions in terms of governance processes and audit action plans has been achieved.

The management of initiatives to prevent fraud and corruption cases involves the timely finalisation of cases and the implementation of sanctions in cases where members of staff are found guilty of fraud and corruption. During the period under review, 144 new cases of fraud and corruption were received through internal staff and public service fraud and corruption lines. Of these, 117 (81%) were finalised. Of the 78 old cases investigated, 58 (74%) were finalised. There were 31 dismissals, of which 14 officials were dismissed in one case. In some cases other officials were given final written warnings and five officials resigned as result of these investigations.

**TABLE 22: Forensic case finalisations**

	New cases (received in 2011/12)	Old cases (older than 1 April 2011)
Cases received	144	78
Cases finalised	117	58
Percentage finalisation	81%	74%
Sanction (dismissal)	31, of which 14 officials were dismissed in one case	
Final written warning	7	
Resigned	5 (as a result of investigation)	

#### SECURITY MANAGEMENT

To maintain the safety of staff and members of the public, the department has identified high-risk facilities



and embarked on a project to install appropriate security infrastructure. During the year under review, 50 projects were completed against a target of 50. More than 255 control room operators have been trained and handed over to sites.

To date, 17 heritage site applications have been forwarded to different heritage councils and 15 applications were approved. The remaining two are for the Queenstown and East London magistrates' courts, which will be completed in the first quarter of the new financial year. The projects for the approved sites will commence in the 2012/13 financial year.

In order to intensify controls around the management of information and safeguarding classified information, the department conducted 24 physical and information security awareness sessions during the year under review. A total of 517 officials were trained in information security and physical security. Twenty-two members of the judiciary currently receive special protection services.

In the regions, training was conducted on first aid and fire-fighting. Twelve training sessions were conducted in respect of occupational health and safety, where 336 officials were trained in safety, health, environment and risk nationally.

As part of preventative measures, 43 awareness sessions on vetting were conducted in six regions, with a total of 860 people attending. Special attention has been placed on the vetting of senior managers and 50% of senior managers have been vetted. In terms of cluster initiatives, the supply chain managers complied with the submission of vetting forms. The vetting investigation process is now underway.

Seventeen officials have been trained in fingerprint taking to speed up criminal record checks and address the audit findings on the appointment of officials without preliminary vetting. A relationship has been established with the SAPS, which helps in terms of the turnaround times for criminal record checks.

#### **TRUTH AND RECONCILIATION COMMISSION**

The Truth and Reconciliation Commission (TRC) Unit was established in September 2005 with a view to audit, monitor and coordinate the implementation of the TRC recommendations on an ongoing basis and to report to Cabinet and Parliament regularly. The TRC Unit works closely with the President's Fund Office,

which is located in the Office of the Chief Financial Officer (CFO). Following the TRC's recommendations to the President and the President's subsequent recommendations to Parliament, an ad hoc Joint Committee on Reparations of both the houses of Parliament (the Committee) was established to consider the President's recommendations. On 26 June 2003, Parliament approved the four key recommendations of the Committee.

#### **a. Final reparations**

This entails a once-off individual grant of R30 000 each to persons declared victims by the TRC and who applied for such reparations. Since the end of April 2011 (at which point 875 beneficiaries remained to be traced and paid), the department has renewed its efforts to trace the outstanding beneficiaries. Consequently, use was made of the database of the South African Social Security Agency (SASSA) and physical searches, coordinated by the regional offices, were conducted in the regions. These initiatives are yielding promising results.

The department also embarked on an advertising campaign in *Daily Sun*, *Isolezwe*, *Cape Argus* and *The Star*. In addition, tracing outstanding beneficiaries was included as a feature on the *Final Verdict* series and aired on SABC 2.

These more recent efforts must not be seen in isolation, since a number of initiatives have been embarked on throughout the years to trace the outstanding beneficiaries. These have included door-to-door searches conducted by the regional structures of the Government Communication and Information System (GCIS) and enlisting the services of a professional tracing agency. Of the 875 outstanding beneficiaries at the end of April 2011, 435 living beneficiaries or their rightful next-of-kin in the case of deceased beneficiaries have been paid. A total of 219 payments were made to living beneficiaries and 216 were made to the rightful next-of-kin of deceased beneficiaries. This means that 440 of the 16 837 beneficiaries who applied and were approved for reparation remain to be paid.

#### **b. Symbols and monuments**

This includes academic and formal records of history, cultural and art forms, as well as erecting symbols and monuments to exalt the freedom struggle, including new geographic and place names. The Department of Arts and Culture, in fulfilling the recommendation of the TRC, has focused its resources on symbolic

reparations and, in particular, the development of new commemorative structures and the renaming of geographic features.

c. **Medical benefits and other forms of social assistance**

This 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. Following publication in the *Government Gazette* in May 2011 for public comment and the evaluation of these comments, the draft regulations on basic education, higher education and training, and medical benefits are in varying stages of finalisation.

This process has been taking place in conjunction with the relevant government departments, as well as in consultation with TRC-related NGOs, and is expected to be finalised before the second half of 2012. In the interim, draft regulations on housing assistance are also in the process of development in conjunction with the Department of Human Settlements.

d. **Community rehabilitation**

The TRC expressed the view that it is important for communities that have been affected by gross human rights abuses to also benefit from reparation and rehabilitation measures. Providing individuals with services and resources would not address the effect of gross human rights abuses on communities as a whole.

The TRC therefore recommended the establishment of rehabilitation programmes aimed at developing and promoting reconciliation within communities that had been subjected to intense acts of violence and destruction during the specified conflict period.

The department has engaged with the Independent Development Trust (IDT) and the Department of Public Works to further the process of community rehabilitation. The department signed a Memorandum of Agreement with the IDT in March 2012. Programmes aimed at community rehabilitation could include the repair, renovation or provisioning of health clinics, community recreation centres, community conflict resolution and healing or reconciliation centres, school buildings, school equipment and ablution facilities, as well as electricity and water supply.

e. **Exhumations, handover and reburial of the disappeared**

The Missing Persons Task Team, which was established in the NPA in 2004, has been conducting investigations into cases of persons who disappeared in political circumstances between 1960 and 1994. The TRC Unit has divided these cases of missing persons into five categories, of which the following four are applicable: enforced disappearances, missing in exile, missing during periods of unrest and cases of indeterminate cause.



Minister Jeff Radebe, department officials and the Madondo family at the ceremony of cleansing and spiritual return of Ronald Madondo.





The department had previously developed Regulations on Exhumation, Reburial and Symbolic Burial of Missing Persons, providing for the monies in the President's Fund to be accessed for exhumation and reburial purposes. The regulations provide mainly for the payment of allowances (travel and subsistence) for the exhumation of a maximum of four people, and for a once-off grant of R17 000 for a reburial, or a once-off grant of R8 500 for a symbolic burial. The families concerned were provided with transport to and from the exhumation sites.

The regulations also make provision for the retrospective application of the regulations to ensure that families who had already buried the remains of their family members before the date of implementation of the regulations, and who had not received any assistance through other avenues, also receive assistance. Nine families were paid such reparations during the financial year, bringing the total of families paid to 45. These regulations are currently being amended in accordance with identified needs.

The department also assists families, among others, with obtaining death certificates from the Department of Home Affairs, applying for special pensions and once-off reparation grants where applicable, providing counselling by the Freedom Park and the Department of Social Development, and applying for South African identity documents for the children of victims born outside the Republic of South Africa during the conflict period (1960–1994). The department further organises and conducts the handover of the exhumed remains to the relevant families during special ceremonies. The department plays a supporting role during the reburial process. During this financial year, 13 exhumations took place, six remains were handed over and seven reburials (including symbolic repatriations) took place. Therefore, 77 exhumations have taken place to date, while 53 remains have been handed over and 54 reburials (including symbolic repatriations) have taken place. The number of exhumed remains that are ready for handover stands at five. Seventeen exhumed remains are still undergoing forensic examination, while two remains have been excluded through forensic examination.

#### **PROGRAMME SUPPORT AND ADMINISTRATION**

During the year under review, the department, through the Programme Support and Administration Unit, facilitated the approval of the Service Charter

and Standards by the Minister. The Charter was formally announced in November 2011 and tabled in Parliament in March 2012. To facilitate implementation of the standards, 50 officials from nine pilot courts were trained. These pilot sites have been selected for the Maintenance Turnaround Project, which seeks to improve the maintenance system in our courts so as to deliver effective and efficient maintenance services within the shortest turnaround period.

The Directorate: Service Delivery Improvement is currently responsible for the coordination of the Presidential Hotline complaints. The respective service points handle complaints received directly from the public. In the 2012/13 financial year, the department will develop an Integrated Complaints Management Framework that seeks to ensure that all complaints received are recorded and accounted for. In terms of complaints from officials, the directorate is responsible for the administration of the Theta database, as well as coordinating and facilitating the response to complaints by branches. A Theta Coordinators' Forum has been established, comprising members from all branches. An amount of R2.2 million worth of donor funding was allocated to the project on the further rollout of training on service standards and change management (lean management).

The department's Service Delivery Improvement Plan (SDIP) has been reviewed and is currently undergoing approval. The SDIP was developed through an extensive consultative process. It focuses on two of the three key priorities of the department, namely service turnaround in the Masters' offices and maintenance services. For the year under review, the section managed to resolve 82.6% of all Presidential Hotline enquiries received. The backlog cases were reduced by 86%. However, the challenge was that enquiries from the Presidential Hotline were not answered on time. The unit is working hard to ensure that the department meets its targets in terms of time.

The Programme Support and Administration Unit established processes to track, monitor and report on the progress made with the departmental Audit Action Plan. Included in this process was confirmation of the finalisation of matters by the Internal Audit Unit.

#### 2.2.1.5 Management (Office of the Director-General)

##### INTERNAL AUDIT

The Internal Audit Unit has achieved 82% of the coverage plan against the target of 80% (Indicator 1.3). The coverage plan comprised 311 audit projects. Of these audit projects, 255 were completed, while 14 audit project reports were in the final draft stage, 14 projects were in the draft phase and seven were in progress. Twenty-one audits were still outstanding.

The target was exceeded due to continuous improvement in the partnership with management. HRM has improved the turnaround time for the filling of vacant positions for the unit, thus effectively managing its planned audit projects.

##### JCPS CLUSTER COORDINATION

The JCPS Delivery Agreement is bringing partners together to ensure that the cluster role-players work together to achieve joint targets towards a safer South Africa. The Minister leads the JCPS Cabinet Committee, while the Director-General (DG) leads the JCPS DGs' Cluster.

The Cluster has established delivery forums to help achieve the targets and activities underpinning

Performance Outcome 3. The JCPS Development Committee and the Joint Operational and Intelligence Structure (JOINTS) Committee have established the related national and provincial committees. The JOINTS Committee has also established local committees. The strategy, policy, monitoring and evaluation are handled at national level, while the tactical and operational issues are addressed at local level.

Cluster coordination includes oversight over and guidance on short, medium and long-term cross-departmental JCPS interventions. Such interventions relate to management interventions, functional guidelines and directives, but also include more strategic actions, such as overarching protocols to improve the quality and speed of criminal justice system processes.

The JCPS Cluster departments have made good progress in enhancing crime-fighting measures during the period under review. Steady progress can be noted against both the implementation of the CJS Seven-point Plan and against the Delivery Agreement. Areas addressed thus far have shown that integrated and coordinated interventions can have a very positive impact on the challenges faced within the CJS context.



Minister JT Radebe, during the JCPS Cluster Media Briefing, 23 February 2012 in Cape Town.



### 2.2.1.6 Performance Report

Strategic Objective 1: Increased compliance with prescripts to achieve and sustain an unqualified audit					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Administration	1.1 Percentage completion of activities on the approved Audit Action Plan towards an unqualified audit	-	100% completion	90.3%	<b>Target partially achieved</b> If resolved findings are not verified in time, it impacts on the total progress.
	1.2 Completion of key outputs to address the Third Party Fund qualification	-	5	4	<b>Target partially achieved</b> Due to the focus on producing financial statements, the fifth target (systems upgrade and enhancement) was diverted to the 2012/13 and 2014/15 financial years.
	1.3 Percentage of the approved Audit Plan completed by Internal Audit	96% of approved Audit Plan completed	80%	82%	<b>Target achieved</b>
	1.4 Corporate risk mitigation plans developed by target date	Conducted all the planned risk identifications and assessments as per operational plan	November 2011	64% by December 2011	<b>Target partially achieved</b> Human capacity in regions and National Office remains a challenge. This includes the appointment of risk management champions per branch/region.
	1.5 Distribution of CARA funds to beneficiary organisations by target date	-	February 2012	28 February 2012 (R20 million distributed)	<b>Target achieved</b>
	1.6 Completion of the monitoring report of allocated CARA funds by target date	-	February 2012	The monitoring report of the CARA funds allocated to beneficiaries has not been finalised	<b>Target not achieved</b> Funds were only allocated in February 2012. The monitoring report could thus not be produced.

Strategic Objective 2: Improved management of fraud and corruption cases					
Programme	Key performance indicator	Baseline (actual output) 010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Administration	2.1 Number of fraud and corruption staff awareness workshops conducted	29 staff awareness-raising sessions conducted	30	21	<b>Target partially achieved</b> Budget constraints.
	2.2 Percentage finalisation of new forensic investigations (under one year)	On average, both old and new cases finalised within six months	50%	81%	<b>Target exceeded</b> More staff were appointed at the end of the third quarter.
	2.3 Percentage finalisation of older forensic investigations (over one year)		65%	74%	<b>Target exceeded</b> More staff were appointed at the end of the third quarter.
	2.4 Percentage completion of integrity competency of senior management (vetting)	-	65%	50%	<b>Target partially achieved</b> Lack of capacity in terms of vetting fieldwork, as well as high turnover.





Strategic Objective 3: Improved human resource service delivery					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Administration	3.1 Vacancy rate	9.8%, including judges and magistrates	7%	10.52.%	Target not achieved There was an unexpected increase in terminations, transfers and promotions to other departments.
	3.2 Percentage of grievance cases finalised	40% of grievances finalised	50%	65%	Target exceeded Measures were put in place by auditing all files throughout the regions to ensure reliability of statistics. A labour relations workshop was held to capacitate all labour relations officers in the handling and administration of labour relations matters. A data-capturing tool was designed.
	3.3 Percentage misconduct cases finalised	48% of disciplinary cases finalised	65%	65%	Target achieved
	3.4 Number of people trained in line with departmental objectives	5 841 trained	6 048	5 551	Target partially achieved The Justice College assisted with judicial training, which was initially planned to be done by the South African Judicial Institute. The Justice College responds to requests for ad hoc courses during the year and this can potentially lead to higher turnouts.

Strategic Objective 4: Increased optimisation of systems (automated and manual)					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Administration	4.1 Completion of pilots for five systems	New indicator	100%	100%	Target achieved
	4.2 Percentage of courts with case management systems deployed and supported	Rolled out to 478 lower courts and 12 high courts	100%	55%	Target partially achieved Deployment sites increased due to redesignation of sites to main courts.

Strategic Objective 5: Increased percentage of outstanding TRC victims who qualify for reparations in accordance with TRC recommendations					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Administration	5.1 Number of outstanding living TRC victims given access to the President's Fund in terms of individual reparations	Eight of 875 living and deceased victims paid	250 of 373 reparations paid	219	Target partially achieved Delays in tracking beneficiaries, particularly those in rural areas.
	5.2 Number of rightful next-of-kin of outstanding 502 deceased TRC victims given access to the President's Fund in terms of individual reparations	Eight of 875 living and deceased victims paid	250 of 502 reparations paid	227	Target partially achieved Delays in tracking beneficiaries, particularly those in rural areas.
	5.3 Number of regulations for providing assistance to the TRC victims gazetted	One exhumation, reburial and symbolic burial/ education and health regulations have been approved for consultation	Two (education and health)	80% completion of two regulations	Target partially achieved Delays in receiving comments from participating departments.



## 2.2.2 PROGRAMME 2: COURT SERVICES

### PURPOSE

The purpose of this programme is to facilitate the resolution of criminal, civil and family law disputes by providing accessible, efficient and quality administrative support to the courts, and to manage court facilities.

#### *Strategic objectives*

- Improved coordination of the JCPS Cluster towards the delivery of Performance Outcome 3
- Improved delivery of maintenance services
- Increased protection of the rights of vulnerable groups
- Increased access to justice services by underserved communities
- Improved functionality of justice service points
- Improved delivery of services at the courts

The Court Services Programme is divided into the following subprogrammes:

- The Constitutional Court funds the activities and operations of the Constitutional Court, which has jurisdiction over constitutional matters only.
- The Supreme Court of Appeal funds the activities and operations of the Supreme Court of Appeal, which adjudicates appeals and questions of law from the high courts.
- High Courts funds the activities and operations of the various high court divisions, which have jurisdiction over the defined geographical areas in which they are located.
- Specialised Courts funds the activities and operations of the labour and labour appeal courts, the land claims courts, the special tribunal and the family courts.
- Lower Courts funds the activities and operations of the various regional and district courts (the regional courts adjudicate serious criminal matters, while the district courts adjudicate civil cases and less serious criminal cases).
- The Family Advocate funds the Family Advocate offices, which make recommendations to the court where litigation and mediation relating to children in family matters is necessary.
- The Magistrates Commission funds the Magistrates Commission, which makes recommendations on the appointment and tenure 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 court administration and performance evaluation functions.

### 2.2.2.1 Administration of Courts

#### CASE BACKLOG PROJECT

The case backlog reduction intervention, which is aimed at reducing the number of backlog cases in the regional and district courts, has provided additional capacity to the backlog priority sites. The aim of the backlog intervention is to ensure that the inflow of the number of new cases is balanced by the number of matters concluded. The project deliverables have been integrated into the outputs of the JCPS Cluster Delivery Agreement.

During the period under review, the number of cases on the backlog decreased to 34 926. From the inception of the backlog reduction intervention in November 2006 until the end of March 2012, 59 232 criminal cases were removed from the regional and district court rolls and processed by these additional backlog courts.

**TABLE 23:** Case backlog progress

Period	Number of backlog courts	Cases finalised	Cases withdrawn	Cases transferred externally	Total number of cases disposed of
Nov 2006 – March 2007	37	855	513	57	1 425
April 2007 – March 2008	38	3 503	1 373	237	5 113
April 2008 – March 2009	46	4 496	1 763	315	6 574
April 2009 – March 2010	56	4 593	2 060	183	6 836
April 2010 – March 2011	77	11 085	5 387	554	17 026
April 2011 – March 2012	83	15 886	5 730	642	22 258

The department provided resources in the form of infrastructure, court personnel, the judiciary, magistrates and budget in support of the prosecution and judiciary to remove these cases off the backlog roll.

**SMALL CLAIMS COURTS**

The establishment of at least one small claims court in every magisterial district is part of the improvements proposed for the civil justice system. The department established 23 new small claims courts during the 2011/12 financial year. Five additional places of sitting were also proclaimed for existing small claims courts. During the period under review, 195 new commissioners and eight ad hoc commissioners were appointed, 185 advisory board members were appointed and 28 government notices were published. Eight small claims courts that had been inactive due to a lack of commissioners were revived by the appointment of new commissioners.



Deputy Minister, Mr. Andries Nel shaking hands with a member of the community during the opening of the Balfour Small Claims Court, Mpumalanga, 17 February 2012.





**TABLE 24:** Small claims courts established

Court	Province	Date established
Cathcart	Eastern Cape	3 June 2011
Kenhardt	Northern Cape	
Botshabelo	Free State	15 July 2011
Vrede	Free State	
Nongoma	KwaZulu-Natal	
Roodepoort	Gauteng	
Ingwavuma	KwaZulu-Natal	22 July 2011
Swartruggens	North West	
Ubombo	KwaZulu-Natal	19 August 2011
Willowmore	Eastern Cape	
Edenburg	Free State	26 August 2011
Ganyesa	North West	
Randfontein	Gauteng	4 November 2011
Waterval Boven	Mpumalanga	9 December 2011
Bloemhof	North West	23 December 2011
Mamelodi	Gauteng	
Eerstehoek	Mpumalanga	17 February 2012
Mount Fletcher	Eastern Cape	2 March 2012
Heidelberg	Gauteng	16 March 2012
Matatiele and Tshitale	Limpopo	
Cala	Eastern Cape	30 March 2012
Marquard	Free State	

#### **POLICY COORDINATION**

In an attempt to improve access to justice for people in previously disadvantaged areas, the department aims to convert existing branch courts in these areas into full-service courts. Twenty-four of the 90 branch courts were identified for upgrading and rehabilitation into full-service courts by 2014. Three courts (Mamelodi, Ntuzuma and Northam) were converted during the year under review and processes are underway to upgrade the outstanding branch courts to meet the target of 24 by 2014.

In addition to conversion, the department aims to align all magisterial districts with municipal districts. The rationalisation of the magisterial district is guided by the 287 municipalities that were rationalised by the Municipal Demarcation Board following the objective, fair and equitable demarcation process that is required by the Constitution. A discussion document containing new proposed areas of jurisdiction, accompanied by the revised maps, has been compiled and is being consulted. The target for the 2011/12 financial year to begin the Parliamentary approval process was not met due to delays in the consultative processes.

#### **PROTECTION OF VULNERABLE GROUPS**

The objective of the department in terms of vulnerable groups is to develop and execute initiatives and policies for the implementation of legislation relating to the protection of the rights of vulnerable groups, with particular reference to women, children and persons with disabilities. The department is further responsible for the interdepartmental implementation of five pieces of legislation and five national policies or related matters.

a. **Maintenance Act, 1998: Maintenance Turnaround Strategy – Project Kha Ri Unde**

The department initiated Project Kha Ri Unde during the previous financial year as one of the subprojects of the Maintenance Turnaround Strategy. This is a three-year project that is aimed at reducing the turnaround times in service delivery from the entry point into the maintenance system up to the issuing of a maintenance order.

The following achievements were made during the period under review:

- One court was identified as a pilot court in each province, namely KwaMhlanga (Mpumalanga), Thohoyandou (Limpopo), Umlazi (KwaZulu-Natal), Johannesburg Family Court (Gauteng), Phillipi (Western Cape), East London (Eastern Cape), Moretele (North West), Kimberley (Northern Cape) and Botshabelo (Free State).
- Physical resources at pilot courts were addressed and improved through the procurement of office furniture, computers, scanners and partitioning to ensure a sequential workflow in the maintenance value chain. The re-arrangement of offices and service points was effected mainly to ensure that all services are located in one area in an endeavour to be time-efficient in service delivery, especially when clients are referred from one point to another.
- The National Family Law Signage System was introduced at two pilot courts (KwaMhlanga and the

Johannesburg Family Court) to help guide members of the public through the court building.

- Mediation services were introduced in the maintenance value chain to ensure the speedy finalisation of cases.
- The Lean Process Management System was introduced at Moretele Magistrate's Court. This system is intended to identify all the steps in the maintenance value stream for each service point, eliminate steps that do not create value so as to ensure speedy services, make the value-creating steps occur in tight sequence to ensure the smooth flow of services towards the client, and ensure that the value is specified from the client's perspective. This process is primarily aimed at eliminating waste and delays, while creating a client-centred approach to maintenance service delivery. The Lean Management System will be rolled out to the remaining pilot site in 2012/13.

b. **Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007**

During the past financial year, the Minister tabled the Sexual Offences National Policy Framework (NPF) in Parliament. However, the gazetting of the NPF had to be stalled to allow the reopening of the consultative process to include additional inputs from NGOs and other departments that were coopted as additional members of the Directors-General Intersectoral Committee (DG ISC) on the Management of Sexual Offences. The



Minister Jeff Radebe handing a maintenance cheque to a beneficiary during the official opening of the Galeshewe Branch Court, Northern Cape on 31 May 2011.



amended NPF will be presented to the Interministerial Committee by the end of June 2012 before it is re-tabled in Parliament.

In showing commitment to the capacitation of specialised services in sexual offences, the department commits funds to the progressive procurement of audio-visual court equipment and the establishment of witness testifying rooms every year. By the end of the period under review, 335 closed-circuit television cameras, 49 one-way mirrors, 225 child witness testifying rooms and 195 anatomically correct dolls had been supplied. These dolls were a single purchase made last year to assist child witnesses of sexual offences to testify in court with the demonstrative expression of their personal experiences using the dolls.

**c. National Register for Sex Offenders**

The number of registered names of sex offenders on the National Register for Sex Offenders (NRSO) increased from 978 in 2010/11 to 2 340 during the period under review. This figure clearly indicates a progressive increase in the registration of offenders.

During the 2011/12 financial year, the Registrar received 39 684 purified names of historical convictions from the SAPS. This was the very first submission of historical convictions made to the Registrar, and is therefore considered to be a huge breakthrough in the registration of this data. Unfortunately, data from other sources that had been identified was not received. The historical data will be purified and captured in the next financial year to be utilised for vetting purposes and for the issuing of clearance certificates.

**d. Child Justice Act, 2008**

The Child Justice Act envisages the establishment of one-stop centres to streamline the process from arrest to the formal court process. The plan is to include all services, includes holding cells, assessment rooms, police services, probation services and a courtroom in one building so that parents and children will not need to travel. The Directors-General Intersectoral Committee on Child Justice (DG ISCCJ) recommended the establishment of one-stop child justice centres at the Matlosana Secure Care Centre in Klerksdorp and the Khayaletumba Centre in Buffalo City, Eastern Cape. The designation was not finalised during the period under review due to delays in the concurrence process.

During the period under review, the department trained 190 child justice clerks. Three preliminary inquiries' workshops for the judiciary were also held to build and strengthen the judicial knowledge of the Child Justice Act. At the last workshop, the Standard Form and the Uniform Procedure for Conducting Preliminary Inquiries were drafted and finalised for the approval of the Magistrates Commission. In addition, 306 intersectoral stakeholders were trained on the Child Justice Act in various regions.

**e. Prevention and Combating of Trafficking in Persons Bill, 2008**

During the period under review, the department developed the draft NPF on Trafficking in Persons, in conjunction with the JCPS Cluster departments.

To ensure structured, coordinated and victim-centred service system, the department, in consultation with the JCPS Cluster departments, developed and printed National Guidelines for Frontliner Staff on Human Trafficking. These guidelines are intended to guide the intersectoral management of trafficking in persons cases, and will be launched in 2012/13.

**2.2.2.2 OFFICE OF THE CHIEF FAMILY ADVOCATE**

The objective of the Office of the Chief Family Advocate is to finalise family-related disputes according to the guidelines in the legislation and to ensure that this is done to the satisfaction of parties involved. The Office of the Chief Family Advocate managed to finalise 32% of family law cases during the year under review, against the target

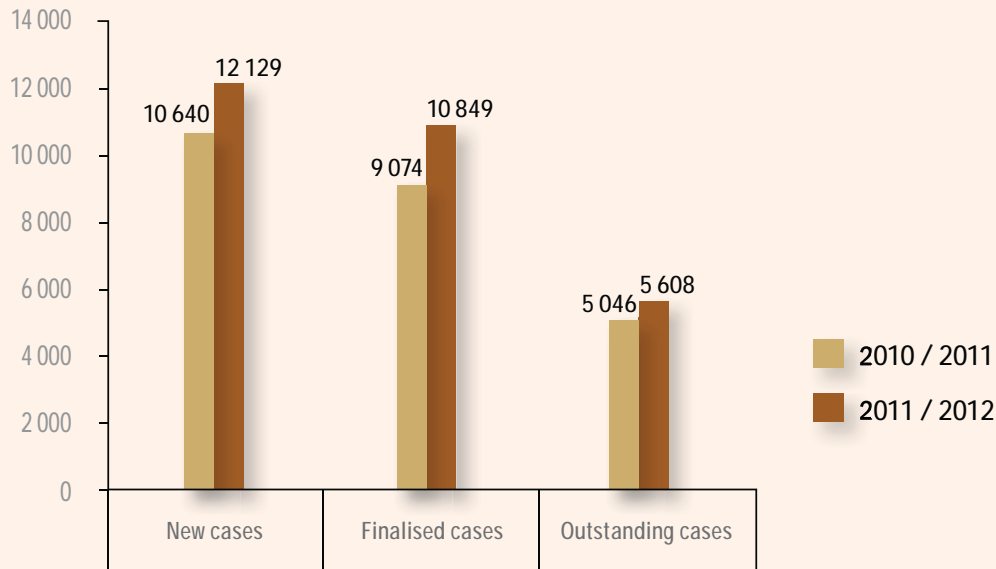
of 33%. This can be attributed to a heavy workload due to staff shortages, especially mediators, as well as the small footprint of the office in all regions. In addition, the Family Advocate's legislative mandate increased significantly with the introduction of new legislation, as well as mandatory mediation provisions in the Children's Act and the extension of the work of this office to all lower courts.

**TABLE 25:** Family law cases handled by the Office of the Chief Family Advocate in 2011/12 in comparison to 2010/11

	2010/11	2011/12
New cases	10 640	12 129
Finalised cases	9 074	10 849
Outstanding cases	5 046	5 608

When the Jurisdiction of Regional Courts Act was promulgated, 59 regional courts were designated to adjudicate on civil cases. Given the small footprint of the Office of the Chief Family Advocate in the provinces, extensive travelling to courts in far outlying areas diminishes production time and, by implication, the finalisation rate of cases. There are only 16 service points nationally.

**FIGURE 1:** Family law case handling



The following regions have only one service point covering vast geographical areas: Mpumalanga, Limpopo, North West, Northern Cape and Free State. Gauteng has only two, while KwaZulu-Natal, the Western Cape and the Eastern Cape have three each. The capacitating of the offices nationally with family advocates, mediators and family counsellors will mitigate the failure to meet or exceed targets.

## FACILITIES MANAGEMENT

### a. Access to court infrastructure

Despite major budget cuts and the escalation of costs in the construction industry, the department has worked hard to address the backlog in the establishment of new courts. In the 2011/12 financial year, three courts were





under construction: Tsakane, Katlehong and Kagiso. The Tsakane court has been completed, while the other two courts will be completed early in the 2012/13 financial year. The Ntuzuma court, which could not be completed in the previous financial year, was also completed during the last quarter of the 2011/12 financial year.

The Rehabilitation and Maintenance Project budget for 2011/12 was diverted to capital projects where funds were desperately needed.

### 2.2.2.3 Performance Report

Strategic Objective 6: Improved coordination of the JCPS Cluster towards the delivery of Outcome 3					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Court Services	6.1 Number of cluster reports finalised		Four quarterly reports	Four quarterly reports submitted.	Target achieved



The new Ntuzuma Magistrate Court in KwaZulu-Natal is a multi-storey facility to improve access to justice to the community, this facility will be officially opened during 2012/13.

Strategic Objective 7: Improved finalisation of activities in support of outputs of Outcome 3					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Court Services	7.1 Number of cases on the backlog roll	-	≤37 034	34 926	Target exceeded

Strategic Objective 8: Improved delivery of maintenance services					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Court Services	8.1 Percentage implementation of the approved Maintenance Turnaround Project by target date		100% of the one-year plan by 31 March 2012	65%	Target partially achieved Challenges with the filling of contract posts.



The Tsakane Magistrate Court in Gauteng was completed during 2011/12 to improve access to justice to the nearby community.



Strategic Objective 9: Increased protection of the rights of vulnerable groups					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Court Services	9.1 Number of key activities for the implementation of the Criminal Law (Sexual Offences and Related Matters) Amendment Act		Activity 3 of 4 completed	50%	Target partially achieved There were delays due to the extension of consultative forums.
	9.2 Percentage utilisation of the National Register for Sex Offenders (NRSO) by the courts (Phase 1)	Rolled out to 478 lower courts and 12 high courts	70%	70%	Target achieved
	9.3 Percentage completion of implementation of NRSO (Phase 2)		40%	4%	Target not achieved There were delays in the receipt of historical information from departments and the purification of information received by the SAPS.
	9.4 Number of additional one-stop child justice centres designated		Two	Nil	Target not achieved Awaiting written commitment of the Cluster departments to the joint contribution of resources.
	9.5 Percentage completion of the Draft National Policy Framework on the Prevention and Combating of Trafficking in Persons		30%	25%	Target partially achieved Delays were due to gaps and weaknesses identified from the interdependencies between stakeholders on operations relating to the management of trafficking in persons.
	9.6 Percentage of family law cases finalised per year (Family Advocate)	64.26%	33%	31%	Target partially achieved The Family Advocate's legislative mandate has increased significantly with the introduction of new legislation, as well as mandatory mediation provisions in the Children's Act and the extension of its work to all lower courts, which resulted in the Office of the Chief Family Advocate not meeting its target.
	9.7 Finalisation of approved legislative and policy priorities for vulnerable groups per year		100%	46%	Target partially achieved Target dates for bills, rules and regulations were not always met due to competing priorities, the parliamentary programme, the dependency on essential comments and inputs and challenges identified by role-players in the finalisation of the legislative instruments over which the branch has no control.

Strategic Objective 10: Increased access to justice services by underserved communities					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Court Services	10.1 Number of new court buildings completed	Three new buildings completed in 2010/11	Three: <ul style="list-style-type: none"> <li>• Katlehong</li> <li>• Kagiso</li> <li>• Tsakane</li> </ul>	One court completed (Tsakane)	<p>Target not achieved</p> <p>Cash flow problems hampered the completion of all buildings. The remaining two courts will be completed in the new financial year.</p> <p>Even though Ntuzuma was targeted for completion during 2010/11, it was only completed in the year under review.</p>
	10.2 Number of branch courts converted to full-service courts	15 of 24	19 of 24	18 of 24	<p>Target partially achieved</p> <p>Discussion document on the demarcation of the Atteridgeville court is still going through the consultation process.</p>
	10.3 Percentage completion of the process of aligning magisterial district boundaries with local municipal boundaries		60% approval of the rationalisation of the Superior Courts Blueprint, which complements the Superior Courts Bill	40%	<p>Target not achieved</p> <p>Delay due to dependency on the finalisation of the Superior Courts Bill and the Constitution Amendment Bill.</p>
	10.4 Establishment of a small claims court in every magisterial district	26 small claims courts established	30	23 small claims courts established	<p>Target partially achieved</p> <p>The establishment of new small claims courts is dependent on the voluntary availability of private legal practitioners to assist as commissioners in these courts. Without such private legal practitioners, new small claims courts cannot be established.</p>
	10.5 Number of communication activities implemented in line with departmental priorities		11 activities listed	14 activities	<p>Target exceeded</p> <p>This unit succeeded in implementing additional activities in line with the departmental priorities with the opening of the new Master of the High Court Office in Pietermaritzburg in November 2011 and the Deputy Minister's visit to the South Gauteng Master of the High Court Office in September 2012 as part of Public Service Week activities.</p>
	10.6 Number of communication activities implemented in line with the Communication Strategy		13 activities listed	19 activities	<p>Target exceeded</p> <p>The target was exceeded through increased strategic events and activities that were initially not planned. These included the implementation of a TRC media campaign to assist with tracing beneficiaries, the opening of the new wing of the Supreme Court of Appeal in Bloemfontein, the opening of the new wing of the Western Cape High Court and the opening of the Small Claims Court in Balfour.</p>





Strategic Objective 11: Improved functionality of justice service points					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Court Services	11.1 Number of priority courts improved through the Rehabilitation and Maintenance Programme (RAMP)	11 courts	4	0	Target not achieved Due to financial constraints, all RAMP projects were put on hold.
	11.2 Number of priority courts to which the integrated security system is rolled out	7	50	50	Target achieved
	11.3 Number of safety and security incidents	-	< 110	93	Target exceeded
	11.4 Implementation of the business continuity programme	64.26%	One region	34% completion	Target not achieved Lack of funding remains a challenge, but will be addressed in the new financial year.

Strategic Objective 12: Improved delivery of services at the courts					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
Court Services	12.1 Approval of key quasi-judicial indicators and baselines by target date	-	December 2011	-	Target not achieved
	12.2 Percentage of Presidential Hotline cases finalised within 30 days	62.5%	80%	54% resolved within 30 days (82.6% cases resolved to date)	Target not achieved Legal and process implications hamper the resolution of matters in all backlog cases.

### 2.2.3 PROGRAMME 3: STATE LEGAL SERVICES PURPOSE

The purpose of this programme is to provide legal and legislative services to government, supervise the administration of deceased and insolvent estates and the Guardian's Fund, prepare and promote legislation and undertake research in support of this.

This programme is mainly aimed at transforming justice, the state and society. It deals with four functions: constitutional development, legislative development (including conducting legal research), the provision of legal advisory services to other organs of state (including Parliament), providing litigation services to protect the organs of state, and the provision of probate services, administration of the Guardian's Fund, and regulation of insolvency and liquidation systems.

#### *Strategic objectives*

- Improved service delivery at the Master's Office service points
- Increased efficiency in the provision of services to beneficiaries of the Guardian's Fund, trusts, and insolvent and deceased estates
- Promotion of constitutional development and the strengthening of participatory democracy to ensure respect for fundamental human rights
- Improved provision of legal services to state organs
- Improved policy and legislative framework for the effective and efficient delivery of justice services.

The State Legal Services Programme is divided into the following subprogrammes:

- Legislative Development, the Law Reform Commission and the Rules Boards for Courts of Law prepare and promote legislation, conduct research and administer the Constitution.
- The Master of the High Court funds the Masters' offices, which supervise the administration of deceased and insolvent estates, trusts, curatorships and the Guardian's Fund.
- Litigation and Legal Services provides attorney, conveyance and notary public services to the executive, all state departments, parastatals and other government bodies through the Office of the State Attorney, and provides legal support to the department and the ministry.
- State Law Advisors provides legal advisory services to the executive, all state departments, parastatals and autonomous government bodies.

### 2.2.3.1 LEGISLATIVE DEVELOPMENT AND LAW REFORM

#### APPROVED LEGISLATIVE AND POLICY PRIORITIES FOR VULNERABLE GROUPS

The Prevention and Combating of Trafficking in Persons Bill has reached an advanced stage in the Parliamentary process and will be implemented as soon as possible after approval by Parliament. The bill will enhance the country's international standing in this area, since it intends to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (the Palermo Protocol). It focuses, among others, on the prosecution of persons involved in the trafficking of persons and provides for appropriate penalties. It also puts measures in place that are aimed at the protection of trafficking victims and providing them with assistance. The bill will promote access to justice and have a positive impact on protecting vulnerable groups, especially women and children, who are often victims of trafficking.

The Protection from Harassment Bill was approved by Parliament in 2011 and is intended to provide an inexpensive and easy remedy for victims of harassment. These victims will be able to apply to the courts for a protection order. While the Domestic Violence Act of 1998 also provides a similar remedy, it only applies to persons who are in a domestic relationship. The newly enacted legislation provides a remedy for persons who are not necessarily in a domestic relationship and goes further than the Domestic Violence Act in the sense that it meaningfully addresses harassment by persons who stalk their victims by means of electronic communications, which is an ever-increasing and threatening trend. In this regard, the new legislation contains provisions that will enable victims of stalking to approach the courts for assistance in tracing the identities of their stalkers. It also gives the SAPS the authority to assist these victims in identifying their stalkers in certain circumstances, a power the police did not have before. Consideration is given to including these innovations in the Domestic Violence Act. Although the bill has been approved by Parliament, it has not been implemented as planned. The regulations required by the legislation must still be finalised, with inputs currently being solicited.

The amendment of High Court Rule 17(3) was finalised by the Rules Board and approved by the Minister. This amendment substituted the so-called "8 km address



rule" with a "15 km address rule", at which parties to legal proceedings will accept notice and service of all documents in those proceedings. As a result of the amendment, parties to legal proceedings will, in practice, be required to appoint an address within 15 km of the High Court Registrar's office at which they will accept notice and service of all documents. The amendment will, among others, alleviate the hardship previously faced by a significant number of attorneys from previously disadvantaged groups whose offices were situated outside the 8 km radius from the courthouse. Before the amendment, they either had to appoint a city correspondent or set up a satellite office in the city centre in order to comply with this rule. Many black attorneys who set up their practices in traditional black townships where their clients reside and rental is mostly cheaper either had to set up another office within 8 km of the courthouse or appoint a city correspondent at whose offices court processes would be accepted on their behalf. This amendment therefore removes what is essentially an impediment to attorneys who set up their practices in outlying areas.

The Muslim Marriages Bill is intended to provide statutory recognition of Muslim marriages in order to address inequities and hardships arising from the non-recognition of these marriages. The bill will protect the rights of vulnerable groups, particularly women and children in the Muslim community. It will also improve access to justice. Because it has a bearing on Muslim Personal Law and the tenets of the Muslim faith, it is understandably a very sensitive and complex matter. As a result, there has been ongoing consultation with those who will be affected by the legislation, giving rise to the delay in submitting it to Parliament. The annual targets in this regard were therefore not reached.

The Prohibition of Racism, Hate Speech, Xenophobia and Related Intolerance Bill is intended to give effect to South Africa's international obligations as a party to the United Nations Convention against all Forms of Racial Discrimination. It will focus on the criminalisation of conduct that constitutes hate speech, racial discrimination or racism, xenophobia and related intolerance based on the grounds of unfair discrimination as set out in section 9 of the Constitution. It is intended to come to the assistance of victims of this type of unacceptable conduct, particularly foreigners who have been subject to xenophobic attacks and the lesbian, gay, bisexual and transgender community, which has been particularly vulnerable. The department has finalised a policy framework on the matter in

question, which, after Cabinet approval, will inform the contents of the bill. The annual targets in this regard were therefore not reached.

The finalisation for consideration by the South African Law Reform Commission (SALRC) of the report related to assisted decision-making for adults who have impaired decision-making capacity was not possible due to South Africa's ratification of the Convention on the Rights of Persons with Disabilities. The impact of ratification of the convention needs to be properly assessed before the report can be finalised. The annual targets in this regard were therefore not reached.

#### **IMPROVED POLICY AND LEGISLATIVE FRAMEWORK FOR EFFECTIVE AND EFFICIENT DELIVERY OF JUSTICE SERVICES**

The Constitution 17th Amendment Bill and accompanying Superior Courts Bill were introduced into Parliament in June 2011. The department has played a role in the Parliamentary deliberations to date. The introduction of these two bills into Parliament is a particular milestone and represents a culmination of years of deliberations and negotiations. The enactment by Parliament of these bills will contribute enormously to the transformation of the judiciary and the judicial system as envisaged by the Constitution. The bills seek to give effect to the Constitutional directive to rationalise all courts.. The Constitution 17th Amendment Bill provides, among others, for a single High Court of South Africa and provides for the Constitutional Court as the apex court, while the Superior Courts Bill provides detail and is intended to rationalise the structure and functioning of South Africa's superior courts (the Constitutional Court, the Supreme Court of Appeal and the high courts).

Although the target date for the introduction of the Legal Practice Bill into Parliament was not met, substantial progress has been made towards this goal. After it was approved by Cabinet, the bill was submitted to the Office of the Chief State Law Advisor for purposes of certification.

The certification of the bill has been time-consuming, among others, due to the following factors:

- Continuing engagement with the legal profession in an attempt to try and reach consensus on aspects in respect of which there was no agreement at the time the bill was considered by Cabinet
- Issues identified by the state law advisors that, in their opinion, required revisiting

- Issues highlighted during discussions between the department and the Competition Commission that the Commission considers to be anti-competitive and discriminatory

The unusually long time taken to certify the Bill has borne fruit and has led to the 'unblocking' of some, but not all areas of contestation. The bill contains numerous transformative features, for instance, the rendering of compulsory community service by aspirant and practising lawyers, the envisaged fee structure, which is to be put in place for the determination of affordable legal fees and tariffs, the establishment of a Legal Services Ombud, the emphasis on and obligation of the Legal Practice Council to create mechanisms to provide proper, appropriate and transformational legal education, and the move away from 'provincialism'. Besides democratising the current structures governing the profession, which will, in itself, lead to greater transformation, the bill also works against the perpetuation of the current 'provincial mindset' in terms of which independent statutory law societies and other non-statutory formations in the legal profession "each do their own thing", sometimes at odds with each other and the general good of the profession, and is certainly not in the interests of a unified legal profession and which is required to promote uniform minimum norms and standards for the public good. The transformative nature of the bill will furthermore manifest itself in its application once the mandate of the Transitional Council, namely to deal with outstanding issues, has been completed.

The State Liability Amendment Bill was approved by Parliament and implemented in 2011, in accordance with a deadline set by the Constitutional Court in the Nyathi matter. While this bill, on the face of it, seems to be technical in nature, with far-reaching and positive implications for litigants who successfully institute proceedings against the state. For the first time, a procedure has been put in place in terms of which execution proceedings against the state can take place in the fulfilment of a court judgment.

The Sheriffs Amendment Bill was introduced into Parliament in January 2012. Although the bill is technical in nature, it is intended to streamline and improve the application of the Sheriffs Act of 1986, which is, in numerous respects, outdated and out of touch with current realities and the new constitutional dispensation. Among others, it deals with the appointment of acting sheriffs and addresses problems relating to the non-availability of sheriffs in areas for which no sheriff or acting sheriff has been appointed. It also proposes an adapted composition of the South African Board for Sheriffs in order to promote inclusivity. The Bill strives to transform the sheriffs' profession, which, in turn, will enhance access to justice, with particular reference to the functioning of and entry into the sheriffs' profession. A positive aspect of the bill is that it will enhance access to justice in the sense that outlying communities will be able to access the services of sheriffs, which is a particular challenge in some outlying areas.



Service Fair, Mpumalanga, October 2011.

*"Overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of the fundamental human right, the right to dignity and a decent life. While poverty persists, there is no true freedom." - Former President Nelson Mandela*



The Prevention and Combating of Torture Bill was approved by Cabinet in March 2012 and submitted to the Speaker of the National Assembly and Chairperson of the National Council of Provinces at the beginning of April 2012 in terms of the Rules of Parliament. The bill gives effect to South Africa's international obligations in terms of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which requires state parties to enact legislation specifically prohibiting torture. Although section 12 of the Constitution specifically prohibits any form of torture, and although there are existing common law and statutory law offences that outlaw and punish any act or omission that constitutes torture, the bill aims to create a legislative framework to ensure that the convention is effectively implemented in South Africa so as to give effect to the letter and spirit of the convention, in particular, the promotion of universal respect for human rights and the protection of human dignity.

The Protection of Personal Information Bill is intended to promote the protection of personal information processed by public and private bodies by introducing information protection principles so as to establish minimum requirements for the processing of personal information. It also aims to establish an Information Protection Regulator who will be responsible for issuing codes of conduct. It will regulate the rights of persons regarding unsolicited electronic communications and automated decision-making, as well as the flow of personal information across the borders of the country. The bill is being considered by Parliament and has proved to be much more complex than originally anticipated. It has reached an advanced stage in the Parliamentary process and will be implemented as soon as possible after it has been approved by the Legislature.

The SALRC's project related to statutory law revision has made meaningful progress. This project, originally mandated by Cabinet, is intended to review the entire statute book with a view to eliminating any provisions that may result in unfair discrimination and, at the same time, rid the statute book of provisions that are redundant or obsolete. During the year under review, the SALRC finalised the review of the legislation administered by the departments of Energy, Human Settlements, Labour, and Rural Development and Land Reform. Reports in this regard, containing legislative proposals, have been submitted to the ministers in question for consideration. Although this might seem to be a technical exercise, its positive impact should

not be underestimated. By ridding the statute book of discriminatory provisions and replacing them with constitutionally acceptable provisions, members of the public are enabled to enforce their rights in terms of the law without first having to apply to the courts in order to challenge the constitutionality of the laws in question on a case-by-case basis on the grounds of unfair discrimination. The review of the legislation administered by the Department of Cooperative Governance and Traditional Affairs was not finalised as planned. The researcher at the SALRC responsible for this particular project was also responsible for the review of the legislation of seven other departments

The Criminal Procedure Amendment Bill, which aligns the legislative framework on the use of force in effecting an arrest with the Constitution, was still before Parliament at the end of the 2011/12 financial year and could not be implemented as scheduled.

Progress was made with the South African Human Rights Commission Bill and the Legal Aid Bill, even though the annual targets were not met. These bills were submitted to Cabinet and Parliament, but were held back due to unexpected challenges identified by key role-players shortly before they were scheduled to be submitted to Cabinet for consideration.

They respectively seek to do the following:

- Bring the Human Rights Commission Act of 1994, enacted on the strength of the Interim Constitution, in line with the Constitution and to further regulate various matters relating, among others, to the composition of the Commission, its powers and functions, and the support staff of the Commission.
- Revise the outdated Legal Aid Act of 1969 to bring it in line with current realities and streamline and improve the application of the prevailing legislation.

The NPA Amendment Bill provides for the delinking of the National Prosecuting Authority from the Department of Justice and Constitutional Development, a proposal strongly advocated by the Auditor-General. The bill will enhance organisational efficiency and promote the independence of the prosecuting authority. Although a bill was prepared, the complexity of the issues involved and different views expressed on how the delinking should be taken forward required more consultation than was originally anticipated.

The Criminal Procedure Amendment Bill, which will have a positive effect on the criminal justice system, did



not materialise due to competing legislative priorities.

This bill will give effect to the legislative recommendations of the SALRC relating to the following:

- An accused person's right to silence in criminal proceedings
- The right to appeal by the prosecution on questions of fact
- Out-of-court settlements in criminal cases in terms of which an accused person undertakes to comply with certain conditions in exchange for the prosecution not continuing with a particular prosecution

Two projects of the Rules Board – one relating to the granting of default judgments by registrars to ensure judicial oversight in matters involving certain immovable property, and the other involving the review of the scale of costs and fees in the Magistrates Court Rules – were deferred by the previous Rules Board to the new Rules Board, which was appointed in February 2012, and to the Civil Justice Review Project respectively.

The Judicial Matters Amendment Bill of 2012 was prepared and introduced into Parliament in March 2012. The bill amends the Special Investigating Units and Special Tribunals Act, Act No. 74 of 1996 (the SIU Act), as well as the National Prosecuting Authority Act, 1998 (Act 32 of 1998) (9 the NPA Act.) The amendments to the SIU Act seek to further regulate the litigation functions of a special investigating unit, to provide for the secondment of a member of the SIU to another state institution, and to provide for the funding of the SIU. The amendments to the NPA Act seek to do away with the requirement for the Minister of Justice and Constitutional Development to consult with the National Director of Public Prosecutions, the Minister of Public Service and Administration and the Minister of Finance in the event of ordinary cost-of-living remuneration increases for deputy directors of Public Prosecutions and prosecutors, and to provide for the appointment, continued employment and conditions of service of persons employed in the NPA as financial investigators and analysts.

A Determination of Remuneration of Commissioners of Chapter 9 Institutions Amendment Bill was prepared. Like the abovementioned bill, this was in addition to the commitments undertaken for the year under review. The various Acts of Parliament that regulate matters relating to Chapter 9 institutions provide for different procedures to be followed, and different functionaries to play a role in the determination

of the remuneration, allowances and other terms and conditions of employment of members of these institutions. The need has arisen to create uniformity in this regard. The bill seeks to address these disparities by amending the acts in question in order to provide for a uniform dispensation. The bill was referred to the Minister of Public Service and Administration for comment.

A Protected Disclosures Amendment Bill was also prepared in addition to the department's other commitments for the year under review. The bill, which originates from an investigation of the SALRC, seeks to extend the ambit of the Protected Disclosures Act (PDA), Act No. 26 of 2000, beyond the traditional employer and employee relationship. It also provides for an employee who makes a protected disclosure to be granted immunity from criminal and civil liability and provides a new remedy in the case where an employee has been victimised by an employer in contravention of the PDA.

Finally, 11 proclamations were prepared and published in terms of the Special Investigating Units and Special Tribunals Act of 1996. These authorised the SIU to investigate allegations of impropriety in state institutions. A further five proclamations were under consideration by the end of March 2012.

The following noteworthy subordinate legislative instruments were developed and/or finalised during the period under review:

- Amending regulations under the Attorneys Act, Act No. 53 of 1979, dealing with the investment of monies in the Attorneys Fidelity Fund, were promulgated in May 2011.
- Practical Guidelines for Employees under section 10(4) of the Protected Disclosures Act, Act No. 26 of 2000, were published in the *Government Gazette* in August 2011.
- Regulations to address technical issues identified in the existing Regulations under the Sheriffs Act, 1986, dealing, among others, with advisory committees for purposes of appointing sheriffs, were published in September 2011.
- Regulations were made by the Minister in terms of section 103 of the Administration of Estates Act, Act No. 66 of 1965, and published in November 2011. The regulations increased the fees and tariffs payable to appraisers for services rendered. These fees and tariffs were last adjusted in 2001.
- Regulations under the Magistrates' Act, Act No. 90 of



1993, to amend the leave dispensation of magistrates in respect of maternity leave, adoption leave and family responsibility leave, were published in January 2012.

In November 2011, a proclamation was published under section 4 of the Criminal Procedure Amendment Act, Act No. 65 of 2008, putting section 1 of that act (dealing with audio-visual postponements) into operation in the magisterial districts of Alberton, Benoni, Boksburg, East London, Germiston, Inanda, Johannesburg, Kempton Park, Krugersdorp, Mdantsane, Moretele, Mthatha, Odi, Pietermaritzburg, Randburg, Roodepoort, Uitenhage, Umlazi, Vanderbijlpark, Vereeniging and Wonderboom. At the same time, the Minister issued a notice designating the relevant correctional facilities in terms of section 159B(2) of the Criminal Procedure Act, Act No. 51 of 1977. In October 2011, a similar proclamation and notice were published in respect of the magisterial district of the Highveld and Bethal correctional centres, respectively.

#### 2.2.3.2 Constitutional Development

The department, through the Constitutional Development Unit, is responsible for the development, promotion and implementation of the Constitution and its values. The department also provides strategic assistance to the South African Human Rights Commission (SAHRC) and the Office of the Public Protector (OPP) to ensure their independence, impartiality, dignity and effectiveness. One of the main focus areas is to oversee the constitutionally mandated legislation, such as the Promotion of Administrative Justice Act (PAJA), Act No. 3 of 2000, and the Promotion of Equality and the Prevention of Unfair Discrimination Act (PEPUDA), Act No. 4 of 2000, and to focus on the development of the National Action Plan Development of the National Action Plan (NAP) for strengthening national cohesion by promoting programmes aimed at eliminating all forms of racism, racial discrimination, xenophobia and related intolerance. In addition, the department coordinates the implementation of the Access to Justice and Promotion of Constitutional Rights Programme through the Foundation for Human Rights (FHR).

##### a. Improving the PAJA compliance in the public sector

The role of the department in the administration and coordination of promoting the implementation of the PAJA throughout the public service and state-owned

entities has become prominent with the inclusion of PAJA implementation in Government's Performance Outcome 12. In this regard, the Minister approved the establishment of the Interdepartmental Working Group on the PAJA, among others, to serve as a platform that provides strategic direction in achieving the target of 60% implementation of the PAJA in the public service by 2014.

Five key activities in the implementation of PAJA were completed during the year under review. These were the implementation of PAJA, facilitating the interdepartmental working groups, implementing the practical tool to analyse business process (workflow analysis tool), facilitating the mainstreaming of the PAJA into relevant identified initiatives and facilitating the first meeting of the PAJA Training Project as a multistakeholder engagement to build the capacity of the public service. The remaining two activities are the launch of the PAJA Code of Good Administrative Conduct and finalising the establishment of the pilot institutions in all spheres of government as a target of focus.

##### b. Development of the National Action Plan for strengthening national cohesion by promoting programmes aimed at eliminating all forms of racism, racial discrimination, xenophobia and related intolerance

In order to strengthen national cohesion in South Africa by promoting programmes aimed at eliminating all forms of racism, racial discrimination, xenophobia and related intolerance, the department – as custodian of the Constitution – is required to develop, monitor and evaluate the implementation of a national policy framework in this regard. The development of the NAP is an international obligation arising from the Durban Declaration and Programme of Action adopted in 2001 by member states of the United Nations, including South Africa.

After years of delays in finalising the NAP, the department focused its attention on resuscitating the consultative processes, which were done in the form of provincial workshops for all the sectors, such as labour, health, education, women, children and people with disabilities. These consultations included with NGOs, civil society, community-based organisations and faith-based organisations. After these consultations, the department consulted government department and Chapter 9 institutions. Inputs received from

consultations were used to develop a revised NAP, which will be taken through governance processes for approval.

c. **Development of the Policy Framework to Combat Hate Crimes, Hate Speech and Unfair Discrimination**

The Constitution of the Republic of South Africa, 1996, brought about a new constitutional order in which the Constitution reigns supreme. The Constitution provides for a Bill of Rights, which protects and entrenches certain fundamental rights, including the rights to equality, dignity and freedom of expression. In May 2011, the Minister of Justice and Constitutional Development established a national intersectoral task team, comprising the relevant government departments, Chapter 9 institutions and representatives of civil society, with a view to developing an intervention strategy to address hate crimes against the lesbian, gay, bisexual and transgender community. The official opening of the first working session of the task team took place in October 2011.

Five workstreams have been established to assist in the formulation of an intervention plan for corrective rape: legislation, training, policy and research, public awareness and information management. The department has a responsibility to develop a Hate Crimes Policy Framework that gives effect to the enactment of legislation that will criminalise hate crimes, hate speech and unfair discrimination. During the period under review, internal consultative meetings

were held to finalise the policy framework, and further consultative meetings were held with the FHR and the Hate Crimes Working Group. The policy framework was submitted to the JCPS Cluster for comment. The target to finalise the policy framework was therefore not achieved. However, significant progress was made for the policy framework to be finalised in the new financial year.

d. **Access to Justice and Promotion of Human Rights Programme**

This programme, implemented through the FHR, has three key result areas:

- (i) Implementation of the programme to improve access to justice, including restorative justice mechanisms for vulnerable and marginalised groups.

In this area, the focus was on the strengthening of the capacity of civil-based organisations to carry out their access to justice and human rights programmes. The target to complete the project in the current financial year was reached.

The following activities were finalised:

- Forty-five awards were made to enable the establishment of new community-based advice offices involved in educating and giving access to grassroots communities. Of these, 18 were awarded and were reported in the last annual report.
- The target to sign 50 service level agreements with community-based advice offices for capacity-building programmes was achieved. These programmes



*"What they are entitled to and demand is that such criticism should be fair and informed; that it must be in good faith, that it does not impugn upon the dignity or bona fides and above all it does not impair their independence, because judges themselves would not be the only victims of such impairment." the late former Chief Justice Mohamed*



included identifying, mentoring and transferring skills to organisations that are passionate about the advice office sector to empower them to become champions of human rights and democracy. In addition, skills such as administration, fundraising and paralegal skills were covered.

- Seven workshops for training presiding officers and clerks of the equality courts were held across the country. The skills learned by these officers allow members of the public to lodge their complaints in courts throughout the country rather than travel long distances. The target was achieved.
- A total of 10 600 cases were converted to alternative dispute resolutions, against a target of 7 600. Where restorative justice has been found to be effective, such as child justice, the department will continue to hold dialogue and share experiences. During the period under review, a workshop was held with traditional leaders, as well as a national conference on restorative justice to grow awareness and share best practice on diversion programmes and restorative justice.

(ii) Implementation of the programme to increase awareness and knowledge of constitutional rights for vulnerable and marginalised groups

Constitutional principles are tools in the struggle against poverty and inequality and can be used to build a new society in which all South Africans are empowered to access their constitutional rights and live their lives in dignity. However, this requires vulnerable and marginalised groups to be aware of and know how to exercise these rights. Governments and national human rights institutions carry a responsibility based on both national and international law and practice for raising awareness of constitutional rights.

The following achievements were made in this project over a two-year period:

- Some 3.5 million people were reached through constitutional awareness programmes, against the target of 2 million. Included in this was the national tour of a play focusing on gender-based violence as part of the 16 Days of No Violence Against Women campaign.
- One hundred service level agreements were signed with civil-based organisations to implement a constitutional rights programme over two years, against a target of 120. These include the National Moot Court Competition for Schools and Human Rights Day events.

- A total of 32 000 refugees and asylum seekers benefited from community support services, against a target of 30 000.

(iii) Implementation of the programme to enhance participatory democracy through public policy dialogue and strengthening the capacity of community-based organisations.

One of the key challenges to realising participatory democracy is the lack of systematic, dynamic and meaningful policy dialogue between civil society and government on human rights issues. If properly managed, such dialogue could potentially lead to an avoidance of conflict and the breakdown of relationships between government and civil society. It also has the potential to reduce duplication of efforts and resources. It is critical that more structured methods of engagement be established to address this challenge, while preserving the independence of civil society.

The following achievements were made in this project:

- Four provincial forums (Mpumalanga, Northern Cape, Western Cape and Gauteng) were held in the previous financial year. The remaining five provincial forums were held in the latter part of 2011. The key issues that arose from the provincial forums included service delivery protests, discrimination, the brain drain, civil society and Chapter 9 institutions, mining and human rights, access to courts and funding challenges.
- Some 5 438 staff members of civil-based organisations benefited from capacity-building (2 400 in the current financial year).
- A total of 150 community-based organisations participated in public policy dialogues with 16 organisations being awarded grants under this call and approximately 1 547 community service officers participating in activities related to these projects.

**2.2.3.3 Master of the High Court**

In keeping with the department's objective of improving the services of the Master of the High Court, the Pretoria and Pietermaritzburg Masters' offices have been relocated to new accommodation to improve access of the public to these offices. Although challenges have been experienced in the relocation of the Pretoria Master's Office, services have now been restored and backlogs are being cleared. It is envisaged that the Cape Town Master's Office will be relocated in the next financial year.



The department, through officials of the Office of the Master of the High Court, was involved in several radio talk shows and television programmes during the year under review to inform the public about the different services offered by the Masters' Office. The department has participated in several community outreach efforts that targeted the communities to promote the services of the Master's Office. The interests of minor beneficiaries continue to be promoted and protected by the established close working relationship between Legal Aid SA and the Master's Office.

In Mpumalanga, the services of the Master of the High Court were provided by the Masters' offices in Johannesburg and Pretoria. This is due to a change with the establishment of a Master's Office in Nelspruit, Mpumalanga which is in progress and will be finalised in the next financial year. This is intended to provide the people of Mpumalanga with Masters' services closer to home, compared to the distances they have had to travel for these services over many years. This will also save them travel costs, particularly during these hard economic times.

The following achievements were made by the Office of the Master of the High Court on predetermined objectives:

**a. Service delivery and automation**

As part of the turnaround strategy in the Office of the Master of the High Court, special focus has been placed on training frontline officials. During the period under review, 259 officials who provide Masters' services were trained in service excellence by the Justice College.

This number comprises of 82 Masters' officials and 177 service point and regional officials.

The further development of the ICMS Masters system is currently in progress. This aims to create a Paperless Estate Administration System (PEAS) for the Master's Office. The first two modules with regard to the administration of deceased estates were finalised in the year under review and have been tested in the Pretoria Master's Office and Atteridgeville Magistrate's Court.

The successful implementation of PEAS will relieve work pressure on the Masters' officials, and also curb the possibility of fraud and documents getting lost. This system will computerise the administration process in deceased estates, as all documentation will be scanned and stored electronically. Interested parties will be able to view all relevant information at any given time on the Masters' portal, available on the website.

**b. Guardian's Fund**

Chapter V of the Administration of Estates Act, 1965, regulates the administration of the Guardian's Fund. This fund consists of all money received by the Master of the High Court under the Administration of Estates Act or any other law or 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 by any person who has become entitled to receive money from the fund, pay that money to the applicant. Payment of allowances to the guardian of a minor, or a tutor or curator of a person, may be considered by the Master.



The official opening of the Master of the High Court Office, Pietermaritzburg, 4 November 2011.

*"The Office of the Master remains one of our key service delivery programmes as it impacts on the vulnerable members of society. We are providing appropriate skills to the staff in the Masters' offices to improve turnaround times. On the Guardian's Fund we aim to ensure that 80% of the beneficiaries receive their entitlements within 40 days of submitting their applications."*  
Mr JT Radebe, MP Minister of Justice and Constitutional Development





The achievement of the aforementioned and attaining of a clean audit report underscores the fact that the fund is well managed and effectively run. A total of 52 944 payments were finalised during the financial year, of which 44 013 were finalised within the 40-day timeframe. This means that 83 (13% of all finalised matters) were finalised within the stipulated timeframe. The target of 90% set for the current financial year has only been partly reached because the Master is still partly reliant on the actions of third parties, such as the Department of Home Affairs, for the verification of fingerprints, which in some cases takes up to four months to obtain. The relocation of the Pretoria and Pietermaritzburg Masters' offices also impacted negatively on the achievement of the target as these are the two biggest Masters' offices in the country.

Achievements of the Guardian's Fund during the period under review include the following:

- The Fund grew by 11% in the year under review.
- Improved controls and turnaround times were recorded.
- The MOVIT system for the online verification of fingerprints, in collaboration with the Department of Home Affairs, was rolled out to all six Masters' offices.
- An unqualified audit report was received.
- All Guardian's Fund data in the six offices have been moved to the electronic Guardian's Fund system, as verified.
- An environment that is conducive to fraud was eliminated through the introduction of controls.
- Electronic fund transfers were implemented in four offices and the procedure manual was updated accordingly. This improves the turnaround time of payments to beneficiaries.
- All six Masters' offices are receiving and administering future maintenance funds deposited in terms of court orders. The streamlining of these processes was discussed with the regional offices in Gauteng and KwaZulu-Natal and implemented accordingly.
- The list of unclaimed funds, which was published in *Government Gazette 34619 of 29 September 2011*, was posted on the department's website. This initiative enabled an additional 4 941 people to access this information on the internet in the last seven months of the year under review, averaging more than 700 views per month.

#### c. Insolvencies and liquidations

The Insolvency Act of 1936 regulates the administration of insolvent estates in the case of individuals, and

Chapter XIV of the Companies Act of 1973 and the Close Corporations Act of 1984 regulates the winding up of insolvent companies and close corporations. Most liquidations occurred in Gauteng (Pretoria and Johannesburg). The Policy on the Appointment of Liquidators was drafted for consultation purposes during the year under review. Consultation sessions were conducted in the last month of the financial year. Further work on the development will be done in the new financial year. A list of active insolvency practitioners has been published on the department's website in compliance with Objective 13.2 of the Annual Performance Plan.

A total of 7 057 insolvency matters were finalised in the financial year, of which 1 372 were finalised within the 15-month timeframe. Of the 3 602 liquidation matters finalised during the year under review, 1 239 were finalised within the 15-month timeline, representing 34.4% of cases. The target of 90% was not achieved due to the dependence on third parties.

#### d. Trusts and curatorships

Most trusts were registered in Gauteng (Pretoria and Johannesburg). Compared to the statistics reflected for the previous financial year, the total number of new trusts registered increased from 15 749 to 17 155, approximately 1 400 more than the previous year. A total of 23 225 matters were finalised during the financial year, of which 22 207 were finalised within the 14-day timeframe. This means that 95.6% of the matters were finalised within the stipulated timeframe, consistently reaching the set target of 90%. This significant achievement can be ascribed to the continuous, effective use of the electronic ICMS Masters system.

#### 2.2.3.4 Litigation and Legal Services

A restructured State Legal Service Envisages a consolidation of the present structures that render legal services to the state and a greater coordination of these services.

The main objectives of the restructured State Legal Services are as follows:

- Create processes and infrastructure to ensure the strategic management of state litigation
- Ensure cooperation, efficiency, effectiveness and the proper utilisation of resources in the national interest
- Entrench alternative dispute resolution mechanisms as an essential component in the management of

- state litigation
- Create a process to strategically manage the allocation of instructions and briefs to the legal profession for effectiveness and transformational purposes and for better accountability and oversight
- Promote specialisation and instill greater confidence in all the state's legal services through focused training and development
- Ensure that the state attorneys perform their core mandate of going to court

It is envisaged that the Head of State Legal Services will be responsible and accountable for the implementation of the state's litigation strategy. The Blueprint for the Management of State Legal Services, which was previously a standalone project, is now part of the *Discussion Document on the Framework on the Transformation of the State Legal Services*.

The Blueprint is intended to create greater efficiency in the management of state litigation by means of the following:

- Implementing clear guidelines regulating how state litigation is to be conducted
- Clarifying the roles and responsibilities of stakeholders (state attorneys and government departments) in state litigation management
- Setting out minimum qualifications for persons dealing with litigation

**a. Achievement of targets for the briefing of counsel**

During the period under review, 70.3% of the value of briefs was issued to previously disadvantaged

individuals. The target of 70% was therefore achieved and even slightly exceeded. This percentage translates into an amount of R263 739 311 in monetary terms. This is an improvement on the previous year's performance of 69%. As far as the briefing of women is concerned, there was an improvement in comparison to the previous year, as 18.2% of the briefs issued were allocated to women. This translates into an amount of R68 242 342 in monetary terms. This is an improvement on 2010/11, where only 14.2% of the value of briefs was awarded to women, with a value of R39 874 635. A total of R374 755 279 was paid to counsel from all State Attorney offices. There was an overall increase in counsel payment of 33.5% during the 2011/12 financial year.

**b. Performance on cases enrolled and legal costs**

During the period under review, 5 893 cases were enrolled, of which only 31.5% were finalised. There was a decline of 2.1% in the number of cases finalised in comparison to the previous year's performance. In 2010/11, R63 677 232 was spent on briefing correspondent attorneys. In 2011/12, this amount was R58 386 081. This represents an 8.3% reduction, and is an achievement in so far as endeavours to reduce costs are concerned.

The department has been a party to several high-profile litigation matters, including the following:

- Lourens, CJA/Minister of Justice and Constitutional Development: The applicant issued a notice of motion out of the North Gauteng High Court of South Africa seeking a declaratory order that the Minister failed



*"We should seek to meet it with courage, with eagerness and with joy, by proclaiming, before the sun sets on this auspicious day, our irreversible commitment to a non-racial, democratic and caring New South Africa, which can hold its head high among the free and civilised nations of the world. A clear commitment to structure our society with all deliberate speed on the constitutional foundation of this basic truth shall begin to set us anally free from the shackles of fear, of anxiety, of greed, of insecurity, of poverty and of anger which have perpetuated our needless tragedy for so long." Justice Mohamed*



- to comply with section 31(2)(b) of the Promotion of Equality and Prevention of Unfair Discrimination Act, Act No. 4 of 2000, as amended, by failing to translate the act and its accompanying forms into all 11 official languages and making them available to the public. The matter is being defended by the state in court.
- Wilken, WJ (first applicant) and the Association of Regional Magistrates of Southern Africa (second applicant)/Minister of Justice and Constitutional Development (fourth respondent) and Four Others: Mr Wilken brought an application in the North Gauteng High Court, Pretoria, alleging that the Government Employees Pension Law of 1996 does not apply to magistrates, alternatively, the Government Employee Pension Law of 1996 is unconstitutional and invalid to the extent that it applies to magistrates. He further alleged that the retirement benefits due to magistrates should be calculated according to the regulations in terms of the Government Service Pension Fund Act, Act No. 53 of 1973. This matter is being defended by the state in court.
  - Teddy Bear Clinic/Minister of Justice and Constitutional Development and Others: This matter involved the constitutional attack of section 15 and 16 of the Sexual Offences Act. All necessary affidavits were filed and the matter was argued in court. Judgment is awaited. Should the applicants be successful, it will result in amendments to the Sexual Offences Act, which may impact on the purpose for which the act was created.
  - Singh, P/Minister of Justice and Constitutional Development and the Magistrates Commission: The applicant challenged the selection criteria of the Commission in appointing magistrates. It was found that the Commission had not taken into account the disability status of the applicant, and the Commission was required to reconsider her application on this basis. The applicant was partially successful in her application.
  - Stobbs/Clark/Minister of Justice and Constitutional Development and Others: A constitutional challenge for the legalisation of the use of cannabis was lodged. The matter, which also involves the Minister of Health, is being defended by the state in court.
  - Democratic Alliance/President of the RSA and others: The Democratic Alliance brought an application to challenge the process and appointment of the National Director of Public Prosecutions, Advocate Menzi Simelane. Judgment was delivered by the Supreme Court of Appeal and confirmation proceedings were subsequently argued in the Constitutional Court. Judgment is still pending.
  - Van Wyk/Minister of Justice and Constitutional Development and Others: The applicant brought an urgent application against the Minister of Justice and Constitutional Development for an order declaring, among others, that there is no distinction between a magistrate appointed in terms of section 9(1) of the Magistrates Court Act, Act No. 32 of 1944, and a magistrate appointed in terms of section 9(3) of the said Act. The application comes after the applicant was appointed in terms of section 9(3) of the act, but his salary was erroneously paid in accordance with section 9(1) of the act. On 29 March 2011, the court decided in favour of the applicant and held that there is indeed no difference between the two appointments as indicated above. On 4 March 2011, the respondents filed for leave to appeal the decision in favour of the applicant. At this stage, the filing of the records and the setting down thereof is awaited.
  - Pallazolo/Minister of Justice and Constitutional Development and Others: The applicant brought an application to review the respondents' decisions to issue a notification in terms of section 5(1)(a) of the Extradition Act in relation to the applicant's extradition to Italy. The court found against the respondents with regard to the notification, but refused to interdict the respondents from issuing an extradition notice against the applicant in relation to a request by the Italian government. This aspect has been appealed and is currently before the Supreme Court of Appeal.
  - Alves/Minister of Justice and Constitutional Development (second defendant) and Others: The plaintiff claimed damages in the amount of R5 120 000 by way of action based on his allegation that the defendants were negligent in preparing the transcript for his appeal hearing, resulting in him having to spend a further, unnecessary period of incarceration. Judgment was given in favour of the plaintiff against the second defendant in the amount of R350 000.
- ### 2.2.3.5 Pardons and expungements
- Pardons and expungements relate to the clearing of the criminal record of a person. In the year under review, 5 894 expungements and 703 pardon applications were finalised. The clearing of a criminal record enables rehabilitated persons to reintegrate themselves into society in general and the job market in particular.
- ### 2.2.3.6 Office of the Chief State Law Advisor
- The department, through the Office of the Chief State Law Advisor, provides legal advice, representation and

legislative drafting services to the Executive, all departments at both national and provincial levels, municipalities, parastatals and independent or autonomous bodies that may refer work to it.

The state law advisors are tasked with the responsibility of ensuring that the state is able to deliver on its mandate, promote the rule of law and give effect to the values enshrined in the Constitution of the Republic of South Africa. They provide legal advice and guidance to the state on its proposals, legislation and international agreements 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 the Office of the Chief State Law Advisor is compatible with the Constitution and other legal instruments and that it withstands constitutional muster.





During the period under review, this office received 927 requests for legal opinions and finalised 892. Of these, 552 were finalised within the set timeframe of 15 days from the date of entry. Most of the outstanding legal opinions were received during the course of the fourth quarter and are thus receiving the most urgent attention of the state law advisors. The office received 31 requests for preliminary opinions on draft bills for Cabinet's consideration and finalised 29, of which 17 were finalised within the set timeframes.

In terms of bills and other legislative instruments, the office received 454 pieces of work, which consisted of 295 international agreements, 66 regulations and 93 Bills. The office finalised 435 pieces of work, of which 241 were finalised within the set timeframe. Most of the work still outstanding was received during the course of the fourth quarter. During the period under review, 30 bills were certified.

During the year under review, the Office of the Chief State Law Advisor translated bills into isiZulu, isiXhosa, Sepedi, Xitsonga, Sesotho, Tshivenda, SiSwati, isiNdebele, Setswana and Afrikaans. A total of 66 translations were received and processed and 63 were finalised within the set timeframe of 65 days from date of entry.

**TABLE 26:** Bills for the period April 2011 to March 2012

Department	Bill	Date certified
Arts and Culture	South African Languages Bill	2 September 2011
Defence	Implementation of the Geneva Convention Bill	6 May 2011
Defence	Military Ombud Bill	9 May 2011
Defence	Defence Amendment Bill	28 October 2011
Environmental Affairs	South African Weather Service Amendment Bill	4 October 2011
Environmental Affairs	National Environmental Management Laws Amendment Bill	30 March 2012
Health	National Health Amendment Bill, 2011	3 November 2011
Higher Education and Training	Higher Education Laws Amendment Bill	22 July 2011
Higher Education and Training	Further Education and Training Colleges Amendment Bill, 2011	18 July 2011
Higher Education and Training	Skills Development Amendment Bill	15 Sept 2011
Human Settlements	Rental Housing Amendment Bill	17 October 2011
Justice and Constitutional Development	Constitution 17 <sup>th</sup> Amendment Bill	3 June 2011
Justice and Constitutional Development	Superior Courts Bill	3 June 2011
Justice and Constitutional Development	Sheriffs Amendment Bill	20 December 2011
Justice and Constitutional Development	Judicial Matters Amendment Bill	13 March 2012
Justice and Constitutional Development	South African Human Rights Commission Bill	19 March 2012
Justice and Constitutional Development	Judges Remuneration and Conditions of Employment Bill	July 2011
National Treasury	Financial Markets Bill, 2010	16 March 2012
National Treasury	Credit Rating Services Bill, 2012	31 January 2012
National Treasury	Government Employees Pension Law Amendment Bill, 2011	15 August 2011
National Treasury	Financial Services Laws General Amendment Bill	9 March 2012



National Treasury	Taxation Laws Amendment Bill	14 October 2011
National Treasury	Taxation Laws Second Amendment Bill	14 October 2011
National Treasury	Division of Revenue, 2012	10 February 2012
National Treasury	Finance Bill	10 February 2012
National Treasury	Adjustment Appropriation Bill, 2012	9 February 2011
National Treasury	Additional Adjustment Appropriation Bill, 2012	15 February 2012
National Treasury	Rates and Monitoring Amounts Bill	7 March 2012
South African Police Service	South African Police Service of Amendment Bill	24 February 2012
State Security	General Intelligence Laws Amendment Bill	18 November 2011

#### 2.2.3.7 International Legal Relations (Africa and South)

During the year under review, the Directorate: International Legal Relations (Africa and South) received 131 requests for extradition and mutual legal assistance in criminal matters. Of these requests, 32 had to be returned to the respective states, as the requests did not comply with South Africa's domestic law. A total of 99 valid requests have been processed and channelled to the NPA and/or Interpol for execution.

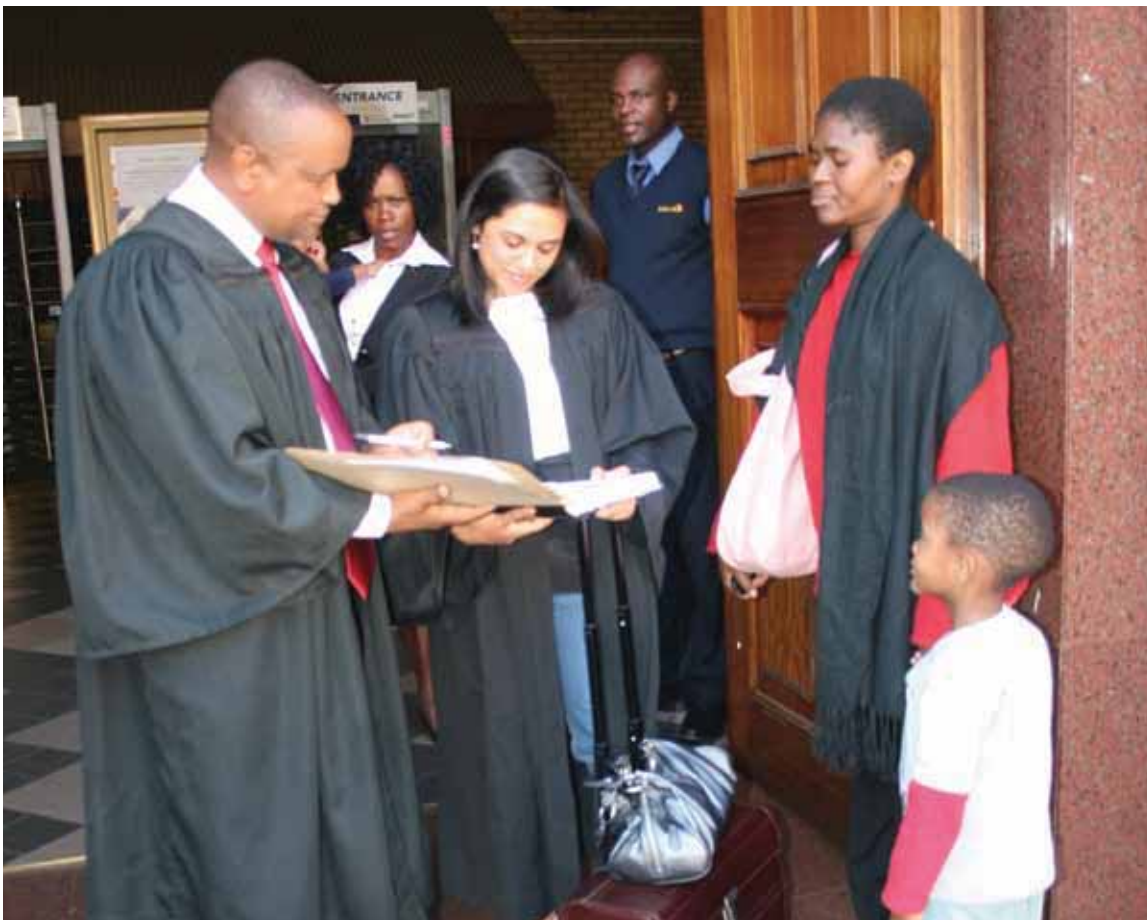
Due to the number of departments and/or institutions involved in the execution of extradition and mutual legal assistance requests, and taking into consideration that diplomatic channels are followed to transmit documents, delays are experienced from time to time. Provisions are, however, now included in extradition and mutual legal assistance agreements to provide for direct communication between central authorities. The department is also in consultation with embassies to provide foreign states with a clear indication of the requirements of extradition and mutual legal assistance requests in an attempt to reduce the number of invalid requests received.

The drastic reduction in the turnaround time for the processing of these requests should be a clear indication to the rest of the world that South Africa will neither be a safe haven for fugitives nor a breeding ground for transnational organised crime.



### 2.2.3.8 Performance report

Strategic Objective 13: Improved service delivery at the Masters' service points					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
State Legal Services	13.1 Implementation of a project to develop ICMS modules to enhance service delivery		100% completion	100%	Target achieved
	13.2 Provision of up-to-date insolvency practitioners to the public		100% completion	100%	Target achieved
	13.3 Tabling of the Insolvency Bill to Parliament by target date		March 2012	Bill not tabled	Target not achieved Legislation not developed due to the pending guidelines on insolvency by the World Bank.



**Strategic Objective 14: Increased efficiency in the provision of services to beneficiaries of the Guardian's Fund, trusts, and insolvent and deceased estates**

Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
State Legal Services	14.1 Percentage of large estates (> R125 000) administered to a stage where heirs and creditors could receive their dues within 12 months	99.3% (38 599 of 38 842 cases finalised )	90%	49%	Target not achieved The Masters were unable to reach the target as the achievement of this objective is dependent on the actions of third parties, namely executors and their agents.
	14.2 Percentage of small estates (< R125 000) where creditors and heirs are placed in a position to obtain their dues within four months	99.8% (89 836 of 89 996 estate files)	90%	95%	Target achieved
	14.3 Percentage of beneficiaries in receipt of services within 40 days (Guardian's Fund)	93% of beneficiaries of the Guardian's Fund received services within 40 days	90%	82.4%	Target partially achieved The Master is still partly reliable on the actions of third parties for the verification of fingerprints, which in some cases takes up to four months to obtain from Home Affairs. The disruption of services as a result of the relocation of the Pretoria and Pietermaritzburg Masters' Offices also impacted negatively on the achievement of the target.
	14.4 Percentage of liquidation cases finalised within 15 months of registration.	99% (12 939 of 12 973) of liquidation matters finalised within 15 months	90%	38%	Target not achieved The Master is still partly reliable on the actions of third parties for the verification of fingerprints, which in some cases takes up to four months to obtain from Home Affairs. The disruption of services as a result of the relocation of the Pretoria and Pietermaritzburg Master's offices also impacted negatively on the achievement of the target.
	14.5 Percentage of insolvency cases finalised within 15 months of registration.	12 939 of 12 973 insolvency matters finalised within 15 months of registration (99%)	90%	62.2%	Target partially achieved The Masters were unable to reach the target as the achievement of this objective is dependent on the actions of third parties, namely the executors and their agents.
	14.6 Turnaround time for finalisation of trusts (14-days)	99% (12 939 of 12 973) of liquidation and insolvency matters finalised within 15 months	90%	97.2%	Target exceeded This significant achievement is due to the continuous, effective use of the ICMS Masters electronic system.



**Strategic Objective 15: Promote Constitutional development and strengthen participatory democracy to ensure respect for fundamental human rights.**

Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
State Legal Services	15.1 Percentage implementation of the project for improved access to justice, including restorative justice mechanisms for vulnerable and marginalised groups	100%	100%	100%	Target achieved
	15.2 Percentage implementation of the project to increase awareness and knowledge of constitutional rights for vulnerable and marginalised groups	100%	100%	95%	Target partially achieved
	15.3 Percentage implementation of the project to enhance participatory democracy through public policy dialogue and strengthening the capacity of community-based organisations	100%	100%	100%	Target achieved
	15.4 Number of activities towards the improvement in PAJA implementation		7	Five activities towards the improvement of PAJA implementation have been achieved, except the one relating to the launch of the PAJA Code of Good Administrative Conduct.	Target partially achieved The PAJA Code could not be launched because of the court challenge by the Lawyers for Human Rights on the constitutionality of Rules of Procedure for Judicial Review. Although the pilot sites were selected, a formal communication and action plan was not completed due to time constraints.
	15.5 National Action Plan (NAP) for strengthening national cohesion by promoting programmes aimed at eliminating all forms of racism, racial discrimination, xenophobia and related intolerance.		NAP tabled	The NAP was not tabled. The finalisation of the NAP was delayed by consultative processes that have to be completed before it can be tabled in Parliament.	Target not achieved The decision to put the NAP process on hold led to the non-achievement of all the activities. The main contributing factor for the non-achievement of the indicator was that all the activities were dependent on the finalisation of the Draft NAP.
	15.6 Development of Policy Framework for Hate Crimes Legislation.		4	Two activities completed. Final draft of the Policy Framework was approved by the department's Policy Development and Co-ordination Committee of the Executive Committee on 28 March 2012. The draft Policy Framework is currently before the JCPS Cluster departments for comment before submission to Cabinet.	Target partially achieved Consultations for comments caused delays.

**Strategic Objective 16: Promote Constitutional development and strengthen participatory democracy to ensure respect for fundamental human rights.**

Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
State Legal Services	16.1 Increased number of briefs in value to be allocated to previously disadvantaged individuals	69%	70%	70%	Target achieved Increased endeavours to achieve equitable briefing patterns have resulted in a slight improvement in the achievement of the target.
	16.2 Reduction of legal costs against the state by target date	-	15% decrease	33% increase	Target not achieved Increased litigation and costs resulted in the non-achievement of this target.
	16.3 Percentage of complicated legal opinions finalised within 15 days of their date of entry	59% (133 of 224) within 21 days	70%	52%	Target partially achieved A change in approach ensured that the office provides opinions of the highest quality in compliance with constitutionality and domestic law.
	16.4 Percentage of preliminary opinions on draft bills for Cabinet's consideration completed within 15 days	-	85%	53%	Target partially achieved A change in approach ensured that the office provides opinions of the highest quality in compliance with constitutionality and domestic law.
	16.5 Percentage of bills and other legislative instruments scrutinised or certified within 20 days of receipt	15 bills certified	85%	57%	Target partially achieved A change in approach ensured that the office provides opinions of the highest quality in compliance with constitutionality and domestic law.
	16.6 Percentage of translations finalised within stipulated days	-	100% within 65 days	93%	Target partially achieved The office received complex legal documents that needed more time to be resolved.
	16.7 Bi-annual reports on PAIA compliance completed within stipulated timeframes	Four reports produced	One report within two months	Four reports produced	Target achieved
	16.8 Level of compliance with PAIA by DoJ&CD	100% compliance	100% compliance	18% (141 requests granted from a total of 792 received)	Target not achieved There was a high increase in requests, and 584 requests could not be processed due to incorrect description of the records.
	16.9 Reduction in turnaround time for preparation and approval of requests for extradition (notification) and mutual legal assistance in criminal matters	-	100% within three weeks	87.2%	Target partially achieved A lot of time is spent determining whether the request is valid or not. This takes longer to finalise, impacting on the turnaround time.
	16.10 Completion of the Litigation Management Blueprint	Draft Blueprint prepared	Finalised document	Document finalised and approved	Target achieved





Strategic Objective 17: Improved policy and legislative framework for effective and efficient delivery of justice services					
Programme	Key performance indicator	Baseline (actual output) 2010/11	Performance against target		Reason for variance
			Annual target	Actual performance	
State Legal Services	17.1 Policy Framework on the Transformation of the Judiciary and the Rationalisation of the Superior Courts approved by Cabinet	100% complete	100%	75%	Target partially achieved Delay due to dependency on the finalisation of the Superior Courts Bill and the Constitution Amendment Bill.
	17.2 Rationalisation of the Lower Courts' Areas of Jurisdiction Blueprint approved by Cabinet	-	100%	50%	Target not achieved Delay due to dependency on the finalisation of the Superior Courts Bill and the Constitution Amendment Bill.
	17.3 Review of the Policy Framework for the Alignment of Traditional Courts with the Constitution	-	100%	25%	Target partially achieved The bill was withdrawn from the National Assembly by the Minister pursuant to a decision of the Portfolio Committee on Justice and Constitutional Development. The finalisation of the bill is targeted at mid- 2012 for finalisation by the National Council of Provinces (NCOP) before being referred to the National Assembly.
	17.4 Policy Framework on the Transformation of the Legal Profession	-	100%	40%	Target not achieved Delayed by consultation processes with relevant stakeholders.
	17.5 Percentage completion of the Civil Justice Review	-	100%	25%	Target not achieved New Rules Board had to be appointed after the expiry of the term of office of the previous Board. Implementation of the mediation rules submitted to the Minister will be implemented in April 2012.
	17.6 Percentage of legislative instruments completed by target date	48 subordinate legislative instruments	100%	93%	Target partially achieved Target dates for bills, rules and regulations were not met due to competing priorities, the Parliamentary programme, the dependency on essential comments and inputs and challenges identified by role-players in the finalisation of the legislative instruments over which the branch has no control.



*DIGNITY, FREEDOM AND EQUALITY*

*The first of the founding provisions in the constitution defines South Africa as a state founded on the values of human dignity.*



# Part 3

## ANNUAL FINANCIAL STATEMENTS FOR THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

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### 3.1 REPORT OF THE AUDIT COMMITTEE

for the year ended 31 March 2012

#### 1. REPORT OF THE AUDIT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2012.

##### 1.1 AUDIT COMMITTEE MEMBERS AND ATTENDANCE

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

Name of members	Numbers of meetings attended	Status
Mr. Motsamai Karede (Chairperson)	6	Reappointed 15 December 2009
Mr. Cedric Boltman	6	Reappointed 15 December 2009
Ms. Bajabulile Luthuli	4	Appointed 15 December 2009
Ms. Matshego Ramagaga	2	Retired 24 February 2012
Ms. Zodwa Manase	0	Retired 24 February 2012
Mr. Wilson Ramabulana	6	Appointed 15 December 2009

##### 1.2 AUDIT COMMITTEE RESPONSIBILITY

We report that we have adopted appropriate formal terms of reference in our charter in line with the requirement of section 38(l)(a) of the Public Finance Management Act, 1999 (Act NO. 1 of 1999) and Treasury Regulation 3.1. (PFMA)

##### 1.3 THE EFFECTIVENESS OF INTERNAL CONTROL

There were no significant control weaknesses and risks reported to the Audit Committee and we are satisfied that key controls had remained in place throughout the year under review and where deficiencies in internal controls were identified, management has demonstrated commitment in addressing them. The Audit Committee has also noted the department's processes of risk identification and assessment as an area of improvement.

Whilst there has been an overall improvement in controls and the management of risks, the Audit Committee is still concerned about control weaknesses on the Third Party Funds (TPF), especially that the TPF impacts on the department's

audit outcomes. The TPF requires management to double its efforts in addressing the control weaknesses effectively.

##### 1.4 INTERNAL AUDIT

The Internal Audit unit has discharged its responsibilities as per the internal audit plan. The unit has also shown a notable improvement in comparison to the challenges experienced over the past few years.

##### 1.5 AUDITOR-GENERAL SOUTH AFRICA

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

Management has also made an undertaking to develop and implement a plan to address the shortcomings as highlighted on the review of TPF. The Audit Committee will monitor and review the implementation of remedial action on an ongoing basis.

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



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

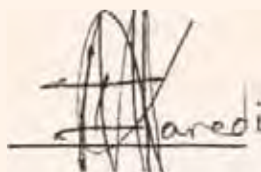
We are satisfied with the content and quality of monthly and quarterly reports prepared and issued by the Accounting Officer of the department during the year under review. We have also noted a significant improvement on the reporting and management of performance information as compared to prior years.

*1.5.2 Evaluation of financial statements*

We have done the following:

- Reviewed and discussed the audited annual financial statements to be included in the annual report with the Auditor-General South Africa and the Accounting Officer;
- Reviewed the Auditor-General South Africa's management letter and management's response to it;
- Reviewed the department's compliance with legal and regulatory provisions; and
- Reviewed significant adjustments resulting from the audit.

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



**M Karedi**

*Chairperson of the Audit Committee*

Date: 30 July 2012



### 3.2 REPORT OF THE ACCOUNTING OFFICER TO THE EXECUTIVE AUTHORITY AND PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

#### 1 GENERAL REVIEW OF THE STATE OF FINANCIAL AFFAIRS

The surplus on the Vote for the 2011/12 financial year amounts to R1 075 000, which represents 0,01% of the voted funds. The main areas of spending were on the compensation of employees (38,3% in 2010/11 and 39,0% in 2011/12) and transfer payments (19% in 2010/11 and 20,2% in 2011/12). These remain the most significant expenses in the departmental Vote.

##### 1.1 Important policy decisions and strategic issues facing the department

During the period under review, the following key policy decisions and legislative changes were undertaken:

- Justice, Crime Prevention and Security (JCPS) Cluster Delivery Agreement
- Transformation of the judicial system
- Realignment of magisterial districts with municipal districts
- Review of the civil justice system
- Establishment of the Office of the Chief Justice

##### 1.2 Achievements

Efforts put in place to improve the administration of the department have been successful with the following as key achievements:

- In order to address the impact of the financial management of Third Party Funds (TPF) on the department, it has now cleared and finalised the financial reporting framework for TPF in consultation with the Accountant-General and Accounting Standards Board.
- The department furthermore completed accounting statements for the TPF (which includes maintenance payments and bail) for the 2009/10 and 2010/11 financial years. This will assist the department to address the persistent qualification on the Vote account. The department is currently busy with an extensive training and development programme for court managers and financial practitioners on TPF.
- The department implemented processes and procedures to detect and disclose irregular expenditure during the year under review. Furthermore, it held hearings and began

disciplinary processes in cases where staff members were found to be negligent.

- The department managed to spend 99% of the R8.9 billion (excluding Direct Charges and the NPA) that has been allocated to its Vote account. This is an illustration of improved financial discipline in the department.
- The department has improved controls in the area of supply chain management and has taken key staff in this unit through integrity testing (vetting). This has helped the department to reduce the risk of fraud and corruption.
- It has put resources in place to resolve grievance and misconduct cases, and has seen a major improvement in the finalisation of cases.
- The department believes that major progress has been made towards the achievement of an unqualified audit and it is looking forward to this achievement in 2012/13.

##### 1.3 Key challenges

As is the case with most organisations, the department has been adversely affected by budget cuts as a result of the challenging economic climate. Areas of concern include the following:

- Shortfall in the provision of security services, which makes it difficult to adequately protect assets and people at the department's service points. Efforts to stretch the limited budget have been implemented. However, more will be needed.
- Underfunding in the area of information and communications technology, which despite additional funding, will remain under pressure.
- Inadequate provision of capital spending to improve the state of existing courts and build new ones.
- Inadequate submission of the tools of trade to the judiciary, prosecution and the courts, which has an impact on the quality of the department's services.
- Operational cost funding at lower court level.
- The challenges around the implementation of approved legislation.

##### 1.4 Significant events that have taken place during the year

In pursuit of its vision of promoting access to justice, the department has constructed facilities particularly for people living in townships and rural areas.

For the year under review, the following facilities were under construction:

- Limpopo High Court in Polokwane
- Katlehong Magistrate's Office
- Kagiso Magistrate's Office
- Ntuzuma Magistrate's Office
- Tsakane Magistrate's Office
- Major renovations at the South Gauteng High Court

All of these facilities will be operational by the end of 2013.

### 1.5 Spending trends

#### Voted funds received by the department

The budget allocated to the Departmental Vote (excluding Statutory Appropriation) amounted to R11,413 billion. During the adjusted Estimate of National Expenditure, an additional amount of R168,208 million was allocated to the Vote, increasing the appropriation to R11,582 billion.

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

	2011/12 R' 000	2010/11 R' 000
Total adjusted appropriation (excluding NPA and statutory appropriation)	8 930 034	8 103 082
Amount received from the NPA for virement	30 000	175 729
Final appropriation	8 960 034	8 278 811
Less: Expenditure	(8 958 959)	(8 189 658)
<b>Total underspending</b>	<b>1 075</b>	<b>89 153</b>
Percentage underspend	0,01%	1,1%

An amount of R30 million was shifted from the NPA to the Special Investigating Unit Sub-programme as part of the final virement. Other underspending was viremented to defray overspending in Programme

1 (Administration) on operational expenditure and payments for security at the courts to the value of R123,882 million.

Underspending of R1,064 million on the Integrated Justice System Programme is the only significant saving in the department.

### 1.6 Virement

The following virements were approved between programmes:

- An amount of R90,419 million, mainly underspent on Compensation of employees and Goods and services in Programme 2 (Court Services), was utilised to increase the Goods and services budget in Programme 1 (Administration).
- An underspending on Compensation of employees and Goods and services of R19,947 million in Programme 3 (State Legal Services) was utilised to fund excess expenditure on Goods and services in Programme 1 (Administration).
- Increased transfers to the Special Investigating Unit (R30 million) and the International Criminal Court (R2,195 million) were also effected after National Treasury approval was obtained.

The final underspending of the department after virement, was on the following items:

Item	R' 000
Current payments	4
Transfers and subsidies	4
Machinery and equipment	1 067
<b>Total underspending</b>	<b>1 075</b>

## 2. SERVICES RENDERED BY THE DEPARTMENT

### 2.1 Tariff policy

The tariff policy remains the same as the department's services and related charges are mostly fixed by law 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.

Fees prescribed in the Regulations to the Promotion of Access to Information Act, 2000, are not affected and can in future be paid in cash at the department's offices nationwide.

## 2.2 Services provided at no charge to the public

- Small Claims Court: The presiding officer is normally a lawyer or retired magistrate that renders these services pro bono (without being paid a stipend/salary).
- The administration of Third Party Funds (Monies in Trust) is currently being done at no charge except for a 10% commission (to a maximum of R300 per collection) in respect of debt collected by the State Attorney on behalf of government departments, which is paid over to the National Revenue Fund. This commission is collected in terms of section 65J of the Magistrates' Court Act, Act No. 32 of 1944, as amended.
- Law lecturers render service at a Magistrate's Court at no charge.
- A number of services relating to activities in the Masters' offices include estate duty taxation, administration services, archive services, inspection services and the Guardian's Fund.
- Various legal services are rendered by the department on behalf of other government departments (all spheres of government) in terms of the cooperative requirements of the constitution of South Africa.
- Transcription records are provided at no charge to litigants for purposes of challenging the outcome of cases.
- Legal advice, counselling and mediation services are offered at family courts by family advocates, family counsellors, and maintenance investigators.
- The High Court North Gauteng made an order indicating that all court processes in magistrates' courts and high courts shall, if not stamped, be issued without the payment of court fees.
- Legal aid services, including legal advice and assistance in courts in criminal and some civil matters, are provided by Legal Aid South Africa.
- Information desk services at courts, as well as brochures and other informational material

on a large variety of aspects, are provided free of charge to members of the public.

## 2.3 Inventories

The total inventories on hand at year-end will be included in Annexure 6 on the inventory.

## 3 CAPACITY CONSTRAINTS

Although the vacancy rate of the department has dropped significantly over the years, a number of Top Management posts have become vacant. The key challenge remains to fill only critical posts and make efficient use of the establishment.

## 4 UTILISATION OF DONOR FUNDS

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

	2011/12 R' 000	2010/11 R' 000
Donor funding		
Assistance rolled over from previous year	16 378	950
Grants received during the financial year	1 378	-
<b>Total amount received</b>	<b>17 756</b>	<b>22 541</b>
Less: Expenditure	(4 964)	(7 113)
Paid back to National Treasury	-	-
<b>Closing balance</b>	<b>12 792</b>	<b>16 378</b>

## 5 TRADING ENTITIES AND PUBLIC ENTITIES

### 5.1 Trading entities

None

## 5.2 Public entities

### 5.2.1 *Special Investigating Unit*

The Special Investigating Unit (SIU) was established in terms of the Special Investigating Units and Special Tribunals Act of 1996 and investigates cases referred to it by the President. The SIU provides professional forensic investigating and litigation services to all state institutions at national, provincial and local government level to combat maladministration, corruption and fraud, and to protect state assets and public money.

### 5.2.2 *Legal Aid South Africa*

The Legal Aid South Africa (LASA) was established in terms of the Legal Aid Act of 1969 to provide legal aid to indigent people and legal representation at state expense to people entitled to it in terms of the Constitution. 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.

### 5.2.3 *Rules Board for Courts of law*

The Rules Board for Courts of Law was established in terms of Rules Board for Courts of Law Act of 1985 to review existing rules of court on a regular basis and, subject to the approval of the Minister, to make, amend or repeal rules for the Supreme Court of Appeal, the high courts and the lower courts.

### 5.2.4 *South African Law Reform Commission*

The South African Law Reform Commission (SALRC) was established in terms of South African Law Reform Commission Act of 1973. The objectives of the South African Law Reform Commission relate to research regarding the development, improvement, modernisation or reform of all branches of the law of South Africa.

## 5.3 Constitutional institutions

### 5.3.1 *South African Human Rights Commission*

The South African Human Rights Commission (SAHRC) is an independent statutory body established in terms of Chapter 9 of the Constitution of the Republic of South Africa of 1996. The powers and functions of the SAHRC are further detailed in the Human Rights Commission Act of 1994. The Commission's specific

mandate is to support constitutional democracy by promoting and protecting human rights. It raises awareness of human rights, monitors and assesses the observance of human rights, provides education and training on human rights, addresses human rights violations and seeks effective redress.

### 5.3.2 *Office of the 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 of 1996 to strengthen constitutional democracy. Its additional mandate is provided for in the Public Protector Act of 1994, as amended. The core business of the Office 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.

## 5.4 Other funds

### 5.4.1 *President's Fund*

The President's Fund is established to compensate victims in terms of section 42 of the Promotion of National Unity Reconciliation Act, Act No. 34 of 1995.

### 5.4.2 *Guardian's Fund*

The primary responsibility of the Guardian's Fund is to receive monies due on behalf of persons deemed legally incapable or lacking the capacity to manage their own affairs, as well as undetermined, unknown or absent heirs and untraceable persons in terms of Chapter V of the Administration of Estates Act, Act No. 66 of 1965.

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

The Guardian's Fund System has reached the extent of its possible development. Significant development work is still required to upgrade and integrate the current Guardian's Fund into a full financial platform. This should be achieved with the minimum impact on the current operation of the Guardian's Fund. The integration into the financial system will deliver functionality to further support the department in managing the financial affairs of the Guardian's Fund





and improve service delivery to beneficiaries. The full financial integration of the Guardian's Fund is to be included with the department's overall system objectives. The department is considering several all-encompassing options, which include, among others the Integrated Case Management System (ICMS) Financials.

The Guardian's Fund offices in Grahamstown, Kimberley, Cape Town and Bloemfontein processed electronic payments to beneficiaries over the 2011/12 financial year by way of the Absa Bi-online System. Of the total payments issued at these Guardian's Fund offices, 82% was processed by way of electronic payments, which has improved the service delivery at these offices by reducing payment turnaround times, as well as affecting an increase in the number of payments made to beneficiaries.

#### 5.4.3 *Third Party Funds*

Third Party Funds (TPF) refer to the collective funds that the department administrates on behalf of third parties. This includes maintenance, bail, fines and State Attorney monies. The nature and volume of transactions (approximately R9,5 million per financial year), as well as the distribution of service points (496 bank accounts with four different banks), pose a challenge for the department given the level of required sophistication of the technology systems and skills of personnel.

The Justice Deposit Account System (JDAS), utilised for the administration of TPF, was designed as a case administration system with payment- and receipt-recording functionality, and not as a financial accounting system with prescribed accounting and financial reporting capabilities. The department was thus unable to produce annual financial statements for TPF for the 2008/09, 2009/10 and 2010/11 financial years. The annual financial statements submitted for 2005/06, 2006/07 and 2007/08 were disclaimed by the Auditor-General.

In 2010, a tender was awarded to the joint venture of PricewaterhouseCoopers (PwC)/Guarantee Trust and Faranani to produce annual financial statements for 2010/11, with comparative figures for 2009/10. These annual financial statements were submitted to the Auditor-General on 19 March 2012. Delays in PwC producing these annual financial statements

were mainly attributed to the accounting framework having to be established first. National Treasury, through the Office of the Accountant-General, has confirmed that the TPF annual financial statements have to be submitted in South African Generally Recognised Accounting Practices – accrual. Delays can also be attributed to incomplete bank statement information being received from some of the banks, as well as the complexity and volume of data contained on the JDAS databases. Due to the complexity and high volumes of transaction in the TPF environment, the Auditor-General estimates that it will finalise the audit of the annual financial statements by August 2012.

The department, with technical oversight by PwC, is in the process of finalising the production of annual financial statements for TPF for 2011/12. Due to the audit report on the 2010/11 annual financial statements only being ready during August 2012, the department will not be in a position to submit the 2011/12 TPF annual financial statements until after receiving the final audit report, as it has to take any findings that the Auditor-General may have on the audit of the 2010/11 annual financial statements into account.

#### 5.4.4 *The Criminal Assets Recovery Account*

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

On 31 March 2012, R43 million was available for new allocations to beneficiaries in terms of the Prevention of Organised Crime Act (R257 million as at 31 March 2011). The CARC recommended R250 million for allocation on 22 March 2011. However, Cabinet approved the recommendation to allocate the R250 million to various law enforcement agencies and organisations rendering assistance to victims of crime on 7 September 2011. R20 million of the R150 million allocated for the Anti-corruption Task Team Project was transferred to the SIU on 29 February 2012. The balance of R230 million will be transferred to the beneficiaries in the 2012/13 financial period.

The account previously tabled separate annual reports and annual financial statements. In accordance with National Treasury guidance, dated 20 July 2012, CARA is now reported as an Annexure to the annual report of the Department of Justice and Constitutional Development, and is not consolidated into the annual financial statements of the Vote.

## 6 ORGANISATIONS TO WHOM TRANSFER PAYMENTS HAVE BEEN MADE

The Accounting Officer's responsibilities were executed for the 2011/12 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	2011/12 R'000	2010/11 R' 000
Special Investigating Unit	323 191	171 089
Legal Aid South Africa	1 137 545	1 116 355

The following amounts were transferred to the constitutional institutions:

Name of institution	2011/12 R' 000	2010/11 R' 000
South African Human Rights Commission	89 773	74 368
Office of the Public Protector	153 729	114 082
Represented Political Parties Fund (Electoral Commission)	103 981	98 095

## 7. PUBLIC-PRIVATE PARTNERSHIPS

None

## 8 CORPORATE GOVERNANCE ARRANGEMENTS

### 8.1 Introduction

The governance processes of the department are driven by the Executive Committee (EXCO) under the guidance of the Accounting Officer and the Minister. As such, corporate governance is placed as one of the significant responsibilities of EXCO in line with

the requirements of King III.

To enable the Accounting Officer and EXCO to discharge their responsibilities and duties, certain responsibilities have been delegated to the following subcommittees:

- Policy Development and Coordinating Sub-committee
- Strategy and Operations Sub-committee
- IT and Risk Management Sub-committee
- Audit and Finance Sub-committee
- Human Resources Sub-committee
- Corporate Governance Sub-committee
- Service Delivery and Communications Sub-committee

The governance structures are reviewed regularly to incorporate developments and new trends within the department and in the public sector.

### 8.2 Powers, roles and responsibilities of EXCO members

The Executive Committee operates in terms of its Charter and is comprised of the following:

- The Accounting Officer
- The Chief Operations Officer
- The Deputy Directors-General
- Chief Directors responsible for certain governance issues

The skills and experience of EXCO members are appropriate to the strategic direction of the department and necessary to secure sound performance and the promotion of ethical behaviour. In addition to the abovementioned subcommittees, EXCO is responsible for the following:

#### 8.2.1 Enterprise-wide Risk Management Strategy

EXCO views enterprise-wide risk management as a management function that is strategically employed to ensure that the strategic objectives set by the department are met. Appropriate governance structures are necessary to facilitate activities of enterprise-wide risk management within the department. EXCO is accountable for the processes of risk management. The IT and Risk Management Sub-committee and the Audit Committee fulfil the role of oversight at different levels. As part of systematic thinking and an integrated approach, all the elements of Anti-fraud, Risk and Quality Management were incorporated into one committee, whose terms of



reference were approved by the Accounting Officer. This new structure will be operational in all the regions in the new financial year and will update the relevant EXCO sub-committees.

### **8.2.2 Anti-fraud and Corruption Strategy**

EXCO takes the initiative to ensure that all its members are taking the lead in directing operations and service delivery initiatives in a manner that is consistent with ethical standards. The intention is that all the departmental actions should be governed by ethical principles, which are contained in the Fraud Prevention Plan and Code of Ethics and Business Conduct of the department.

The Fraud Prevention Plan and the Whistle-blowing Policy were approved after proper consultation within the department. The roll-out of the Fraud Prevention Plan is anticipated to be completed in the next three years. The Anti-fraud, Risk and Quality Management Committee will monitor the progress in terms of the implementation of the Fraud Prevention Plan and the Whistle-blowing Policy.

The coordination of financial disclosure has gained momentum each year and key management personnel are actively responding to their legal and ethical obligation of disclosing interests as required by the Public Service Regulations. All the senior managers of the department, including the newly formed Administration for the Chief Justice, have complied with submitting their completed financial disclosure forms. Officials are also requested to table their interest in any contract as part of procurement bidding processes.

The Security Vetting Policy and the Personal Suitability Checks (pre-screening) Policy has been revisited to ensure updates with the current developments and to simplify processes. The full implementation of these policies in the next financial year will not only address issues of ethics, but will also assist in addressing the new Ministerial outcomes.

The department is actively involved in the anti-corruption structures of government, which include the Anti-corruption Coordinating Committee (ACCC), the Governance and Administration Working Group (on implementing the anti-corruption action plan of the Public Service to address initiatives identified by government), and the National Anti-Corruption Forum (NACF). These

initiatives are aimed at implementing the outcomes identified by government. As part of government, the department falls under Outcome 3, pertaining to fighting corruption. In addition, the Practical Guidelines for Employees on Implementing the Protected Disclosures Act of 2000 was tabled and approved by the National Council of Provinces (NCOP).

The department is now concentrating on the policy that regulates remunerative work outside employment in the Public Service, in compliance with section 30 of the Public Service Act of 1994. This is part of the focus on upholding the integrity of employees and encouraging good ethics by all the employees of the department. The coordination of financial disclosures each and every year is gaining momentum as senior managers disclose their business interests in compliance to the Public Service Regulations, while also promoting good governance.

The department has made strides in the security vetting of employees in its Top Management, Senior Management and other critical areas, such as supply chain management. This is in response to government's strategy on fighting corruption by ensuring the integrity of officials who are responsible for critical decision-making processes. In the past financial year, the Vetting Fieldwork Unit has been capacitated, and an improvement to the structure is being investigated by the Human Resource Development Section (Job Evaluation).

In terms of the department's overall interdepartmental involvement, the department is still actively involved in the anti-corruption structures of the Government that include the Anti-Corruption Coordinating Committee (ACCC), the Governance and Administration Working Group on the Implementing the anti-corruption strategy of the public service to address initiatives identified by the government, and National Anti Corruption Forum (NACF).

### **8.2.3 Internal Audit and Audit Committee**

The Department's Internal Audit Unit operates in accordance with the Public Finance Management Act (PFMA), Treasury Regulations and the Internal Audit Charter. The unit also conducts its operations in accordance with the International 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 has also been integrated into the department's Internal Audit Unit and internal auditing activities are performed on an integrated basis.

The Internal Audit Unit focuses mainly on providing assurance and advice to management and the Audit Committee on matters pertaining to governance, risk management and control processes. The unit, through its Chief Audit Executive, reports functionally to the Audit Committee and administratively to the Accounting Officer.

The Audit Committee comprises members drawn from outside the public service and conducts its business in accordance with the PFMA, Treasury Regulations and the Audit Committee Charter. The Audit Committee met as required in terms of its charter and has unrestricted access to both information and personnel in the department. The Audit Committee played its oversight role during the year in the review of risks, controls, financial and operational information, and also advised the Accounting Officer and management.

#### 9 DISCONTINUED ACTIVITIES/ACTIVITIES TO BE DISCONTINUED

None

#### 10 NEW/PROPOSED ACTIVITIES

None

#### 11 ASSET MANAGEMENT

The challenge for the department is to cultivate a culture of asset management awareness to ensure that all asset movements, additions, disposals and replacements are tracked and recorded in an updated asset register, which requires daily attention and interventions.

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

- Establish decentralised /user ownership for assets (court and regional responsibility)
- Ensure that all assets purchased, maintained, disposed of and/or replaced are accounted for in the schedules of assets
- Ensure that the department's Asset Register is updated accordingly, and reflects the actual

status of assets in the department

- Ensure that the department's Asset Register reconciles with the financial statements

A concerted effort is made to reconcile the Asset Register to the financial statements and also to ensure that the Asset Register is accurate and is complete. During the period under review, the department has built capacity in this area in both the national and regional offices.

#### 12 INVENTORIES

All inventory opening and closing balances, together with movements for the year, will be reflected in Annexure 6 on the inventory.

#### 13 EVENTS AFTER THE REPORTING DATE

To our knowledge, there are no post-reporting date events that have a significant impact on the annual financial statements as reported.

#### 14 INFORMATION ON PREDETERMINED OBJECTIVES

A new monitoring system (Trous Software) has been developed. This system enables officials to upload performance information directly and provide timely reports.

To counter the shortcomings with regard to the monitoring and evaluation function, which cannot be performed by the system, the following measures have been undertaken:

- The approved Planning, Monitoring and Evaluation Policy has clarified the roles, responsibilities and a calendar that will ensure effectiveness of this function.
- Key personnel have been identified who will be responsible for monitoring and evaluation in their units. These officials will be adequately trained and supported, should this be necessary.
- The inclusion of reporting in the performance contracts of unit heads is recommended.

During the 2011/12 financial year, a concerted effort was made to ensure that indicators meet the SMART principles (specific, measurable, attainable, relevant and timeous).

In addition, indicator definitions (included in the Annual Performance Plan) consider the following:

- Account data collection methods
- Frequency of reporting
- Source documentation
- Processes to be followed



## 15 STANDING COMMITTEE ON PUBLIC ACCOUNTS (SCOPA) RESOLUTIONS

Previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>The first SCOPA Report was adopted by the National Assembly in February 2011. The Auditor-General reported that:</p> <ol style="list-style-type: none"> <li>As disclosed in Note 26 to the annual financial statements, irregular expenditure to the amount of R812 million was incurred, R436 million of which related to the current year's irregular expenditure and R368 million related to the prior year's irregular expenditure identified in the current year.</li> <li>R3,8 million of irregular expenditure not condoned is a result of competitive procurement procedures not being followed and prior approval for procurement not obtained from the Bid Adjudication Committee.</li> <li>Fruitless and wasteful expenditure amounting to R2 million was incurred as a result of officials not boarding flights or not using reserved accommodation.</li> </ol> <p>SCOPA recommended the following:</p> <ol style="list-style-type: none"> <li>Disciplinary action should be taken against employees who are responsible for incurring such irregular and fruitless expenditure as required by section 51 (e)(iii) of the PFMA.</li> <li>The department should strengthen its internal control systems in order to avoid incurring further irregular expenditure.</li> </ol>	<p>Supply Chain Management (Procurement)</p>	<ol style="list-style-type: none"> <li>Investigation was conducted on all identified cases and disciplinary action taken against officials who caused irregular expenditure.</li> <li>Cautionary letters were issued to all responsible managers who incurred irregular expenditure.</li> <li>Some irregular expenditure incurred was condoned following the condonement procedures.</li> <li>National Treasury condoned irregular expenditure incurred due to the incorrect implementation of the Broad-based Black Economic Empowerment (B-BBEE) Code of Good Practice in 2010/11.</li> </ol> <p>The department has implemented the following in an attempt to strengthen controls:</p> <ul style="list-style-type: none"> <li>A circular was issued detailing the procedures to be followed with regard to the administration of leases, as well as delegated officials to sign the lease agreements.</li> <li>Monthly reporting by various offices (submission of copies of signed lease agreements/ addendums).</li> <li>The construction of a national lease database, including confirmation of the existence of the leased assets.</li> <li>A checklist to be attached to all payments to identify instances of non-compliance and a review of the financial delegations.</li> </ul>
<p>The Auditor-General identified the following:</p> <ol style="list-style-type: none"> <li>Three price quotations were not invited in all instances.</li> <li>Awards were made to certain suppliers who failed to provide a valid tax clearance certificate.</li> <li>The preference point system, as required by the Preferred Procurement Policy Framework, was not applied in all instances.</li> <li>Awards were made to certain suppliers who did not score the highest points in terms of the preference points system.</li> <li>Amendments to contracts or extensions resulted in the circumvention of competitive bidding.</li> </ol>	<p>Supply Chain Management (Procurement)</p>	<ol style="list-style-type: none"> <li>System controls have been strengthened to force officials to capture three quotations.</li> <li>A checklist has been developed to include, among others: <ul style="list-style-type: none"> <li>Confirmation that three quotations were received, where applicable</li> <li>Confirmation that a tax clearance certificate was received from the relevant supplier</li> <li>Confirmation that the preferred procurement policy framework was applied</li> <li>Confirmation that the supplier is a VAT vendor</li> </ul> </li> </ol>



Previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>f) Ineffective internal audit evaluation of supply chain management compliance.</p> <p>SCOPA recommended the following:</p> <p>a) The departmental Supply Chain Management Policy should be updated to encompass all the elements of the PFMA, Treasury Regulations, Preferential Procurement Framework Act (PPFA), Preferential Procurement Regulations and Supply Chain Management Practice Notes issued by National Treasury. This will ensure an appropriate procurement and provisioning system that is fair, equitable, transparent and competitive.</p> <p>b) A checklist should be kept of all legislative requirements for all Supply Chain Management-related transactions, signed by both the preparer and the reviewer.</p> <p>c) A proper filing system is kept for all information supporting Supply Chain Management-related transactions.</p> <p>d) Critical vacancies in the Supply Chain Management Unit should be filled with adequately skilled officials.</p> <p>e) Early warning reports listing contracts that will soon expire should be compiled and new tender processes should be entered into timeously.</p> <p>f) Monthly reconciliations should be done in order to avoid non-compliance with Supply Chain Management requirements.</p> <p>g) The scope of internal audit with regard to Supply Chain Management should be increased to ensure that day-to-day controls are effectively implemented and all procurement complies with Supply Chain Management legislative requirements.</p> <p>h) The total population of expenditure should be revisited, excluding all suppliers not affected by the PPFA, to determine the full extent of the non-compliance that will lead to irregular expenditure.</p> <p>i) Disciplinary measures should be taken against all officials that do not comply with the legislative requirements surrounding Supply Chain Management.</p>		<ul style="list-style-type: none"> <li>• A Companies and Intellectual Properties Commission (CIPC) check</li> <li>• Engagements have been held with the Accounting Officer of the State Information Technology Agency (SITA) to lock the system when three quotes are not obtained and a deviation has not been approved. This is being investigated and should be implemented as the technical development has been concluded.</li> </ul> <p>c) A filing system for Supply Chain Management documents is in place.</p> <p>d) All critical vacancies in the Supply Chain Management environment were filled with adequately skilled officials during the period under review. Capacity is being built at the regional level through the appointment of 45 supply chain management practitioners at middle management and technical levels.</p> <p>e) In its strategy, the department has identified a Compliance Contract Unit that will manage all departmental contracts. A manual system is now in place.</p> <p>f) During the period under review, the department developed and issued a checklist and circulars to guide staff when processing procurement transactions.</p> <p>g) There have been an extensive engagements and involvement of the Internal Audit Unit to guide the department in addressing the challenge of irregular expenditure in the department.</p> <p>h) The Internal Control Unit embarked on a project to identify unreported irregular expenditure transacted during 2011 and the period under review to ensure completeness of the department's register. This resulted in an adjustment of the opening balance on 1 April 2011.</p> <p>i) The department has instituted disciplinary action against employees who caused irregular expenditure and precautionary letters were issued where a lack of understanding was identified as the cause.</p>



Previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>The first SCOPA Report was adopted by the National Assembly in February 2011. The Auditor-General reported that:</p> <ol style="list-style-type: none"> <li>The Internal Audit Unit was established, but not in operation throughout the year.</li> <li>The Internal Audit Unit did not fulfil its required responsibilities.</li> </ol> <p>SCOPA recommended the following:</p> <ol style="list-style-type: none"> <li>A fully functional audit committee that promotes independence, accountability and service delivery should be established.</li> <li>The Internal Audit function should monitor the adequacy and implementation of internal control.</li> <li>Effective risk assessments and strategies, including fraud prevention plans, should be maintained, to address the identified weaknesses.</li> </ol>	<p>Internal Audit</p>	<ol style="list-style-type: none"> <li>The department's Audit Committee is in place and is comprised of individuals with diverse skills. It also discharges its responsibilities in terms of the department's Audit Committee Charter. The Committee has developed a schedule of meetings for the year, which includes agenda items on the areas of its responsibilities. This is performed to ensure that optimum oversight is provided and the department improves on its financial, accountability, reporting and service delivery obligations and objectives.</li> <li>The Internal Audit function concluded all the planned critical audit activities</li> <li>Risk identification, assessment and mitigation is an ongoing process in the department. <ul style="list-style-type: none"> <li>During the 2011//12 financial year, the department conducted 19 reviews.</li> <li>The Fraud Prevention Plan and a Whistle-blowing Policy has been reviewed and was approved in March 2011.</li> </ul> </li> </ol>
<p>The first SCOPA Report was adopted by the National Assembly in February 2011. The Auditor-General reported that:</p> <ol style="list-style-type: none"> <li>The vacancy rate for Senior Management had deteriorated by 14% to 25% in 2009/10.</li> <li>The verification of criminal and financial or asset records, citizenship, financial status, qualifications and previous employment for all new appointments were not done.</li> <li>Certain officials had acted for periods exceeding 12 months.</li> <li>All performance management agreements were not signed by 31 July.</li> <li>More temporary/permanent incapacity leave was granted than entitled to and there was non-compliance with the policy and procedure of the Department of Public Service and Administration (DPSA) on incapacity leave for ill health retirement.</li> <li>Not all leave taken by employees was captured accurately and in full.</li> <li>Not all monthly payroll reports were certified. All certified payroll reports were not returned to the Finance department within 10 days. The completeness of</li> </ol>	<p>Human Resources</p>	<ol style="list-style-type: none"> <li>The vacancy rate for the department as a whole was 11,14% at 31 March 2012.</li> <li>The Recruitment and Selection Policy and procedure manual were reviewed and consulted with relevant stakeholders and are currently in the process of being finalised.</li> <li>An acting allowance procedure manual was developed and is currently in the the process of being finalised.</li> <li>An 87% of the performance agreements were signed and submitted by Senior Management Service members. Reminders, letters and circulars were issued with prescribed cut-off dates.</li> <li>A procedure manual on leave management, dated 6 October 2010, was issued in order to ensure the efficient management of leave. It was again revised on 8 December 2010.</li> <li>The following processes were implemented to ensure effective and efficient leave management: <ul style="list-style-type: none"> <li>All leave must be approved prior to being taken.</li> <li>The submission of late applications</li> </ul> </li> </ol>

Previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>certified payroll reports was not checked in all instances and corrective measures were not taken where discrepancies were noted.</p> <p>SCOPA recommended the following:</p> <ul style="list-style-type: none"> <li>a) HR policies should be developed and implemented.</li> <li>b) DPSA policies and procedures should be complied with.</li> <li>c) The vacancy rate should be reduced by appointing permanent senior management.</li> <li>d) Leave forms should be timeously and correctly captured on PERSAL.</li> </ul>	<p>Human Resources</p>	<p>for leave must be accompanied by a written explanation justifying such a request. This is only applicable in exceptional circumstances.</p> <ul style="list-style-type: none"> <li>• A template has been submitted to managers in an effort to assist with the monitoring of leave taken.</li> <li>• The decentralisation of leave capturing at suboffices has been implemented in six regions to ensure the timely capturing of leave forms. The feasibility of decentralisation at the three remaining regions is currently being investigated.</li> <li>• A circular on the enforcement of policies and HR directives was issued on 24 May 2010 in order to sensitise staff.</li> </ul> <p>g) Payroll certification is now decentralised to different regions for the seamless certification and submission within prescribed time frames.</p>
<p>The first SCOPA Report was adopted by the National Assembly in February 2011. The Auditor-General reported that:</p> <ul style="list-style-type: none"> <li>a) The completeness of the Asset Register and the existence of certain assets could not be confirmed.</li> </ul> <p>SCOPA recommended the following:</p> <ul style="list-style-type: none"> <li>a) All capital assets should be properly recorded as required by section 40(1)(a) of the PFMA and Treasury Regulations 17.2.3.</li> <li>b) There should be regular asset counting, verification and reconciliation in order to avoid incorrect disclosures in the annual financial statements.</li> </ul>	<p>Supply Chain Management (Procurement)</p>	<ul style="list-style-type: none"> <li>a) The department has built capacity in the Supply Chain Management Unit and appointed a director and two deputy directors to oversee the management of assets. Quarterly asset verifications are conducted to achieve completeness of the Asset Register and confirm the existence of the assets reported.</li> <li>b) The Asset Register is reviewed by the Director: Assets and the Chief Director: Supply Chain Management for the proper recording, classification and accuracy of the register.</li> </ul>



Previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>The first SCOPA Report was adopted by the National Assembly in February 2011. The Auditor-General reported that:</p> <p>a) The department does not have adequate monitoring processes in place to identify deficiencies and ensure that corrective actions have been implemented that will result in reliable performance information.</p> <p>SCOPA recommended the following:</p> <p>a) A monitoring system should be developed that will address the adequacy of performance information.</p> <p>b) Such a system should be frequently reviewed in order to address any gaps that are identified.</p>	<p>Governance</p>	<p>a) A new monitoring system (Trox Software) has been developed. This system enables officials to upload performance information directly and will provide timely reports.</p> <p>b) To counter the shortcomings with regard to the Monitoring and Evaluation function, which cannot be performed by the system, the following have been undertaken:</p> <ul style="list-style-type: none"> <li>• The approved Planning, Monitoring and Evaluation Policy has clarified the roles and responsibilities, and provides a calendar that will ensure the effectiveness of this function.</li> <li>• Key personnel have been identified who will be responsible for monitoring and evaluation in their units. These officials will be adequately trained and supported, should this be necessary.</li> <li>• The inclusion of reporting in the performance contracts of unit heads will be recommended.</li> <li>• The department better defined its key performance indicators in its last Strategic Plan and can only improve on the Service Standards.</li> </ul> <p>c) During the 2011/12 financial year, a concerted effort was made to ensure that indicators meet the SMART principles (specific, measurable, attainable, relevant and timeous). In addition, indicator definitions (included in the Annual Performance Plan) will consider the following:</p> <ul style="list-style-type: none"> <li>• Account data collection methods</li> <li>• Frequency of reporting</li> <li>• Source documentation</li> <li>• Processes to be followed</li> </ul> <p>d) The aforementioned will make it possible to easily validate information and produce meaningful reports.</p> <p>e) The Internal Audit function has undertaken to conduct a quarterly audit on performance information with the intention of assisting the department to identify areas of improvement.</p>

Previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>The first SCOPA Report was adopted by the National Assembly in February 2011. The Auditor-General reported that:</p> <ul style="list-style-type: none"> <li>a) No financial statements were prepared for Third Party Funds as no reliable financial information existed for revenue to be determined.</li> <li>b) The potential claims against the fund as a result of fraud, theft and loss to the department were not complete.</li> <li>c) The money collected on behalf of the state and not yet paid to the department could not be ascertained.</li> </ul> <p>SCOPA recommended the following:</p> <ul style="list-style-type: none"> <li>a) A proper financial system should be developed or the current features of the JDAS should be enhanced with the required controls to ensure complete, accurate and reliable financial information and reporting.</li> <li>b) The vacancies at court level should be filled with adequately skilled officials.</li> <li>c) All fraud, cash shortages and losses should be investigated timeously.</li> <li>d) Disciplinary measures should be taken against every official that does not comply with the policies and procedures or who is charged or found guilty of misconduct.</li> </ul>	<p>Third Party Funds</p>	<ul style="list-style-type: none"> <li>a) The department is awaiting approval for the development of a new system from National Treasury. Control weaknesses in the current system will be addressed in the new system. A formal application for the new system has been submitted to National Treasury as prescribed by National Treasury Regulations 17.3. The following work has been done: <ul style="list-style-type: none"> <li>• Training to all offices was conducted.</li> <li>• Reconciliations per court are complete.</li> <li>• The department produced financial statements for each court and consolidated statements for periods up to 31 March 2011.</li> <li>• Consolidated financial statements for 31 March 2012 are in progress.</li> </ul> </li> <li>b) Some 45 posts at deputy director, assistant director and state accountant levels have been filled and are in the process of being filled. Training interventions were held for 200 area court managers, financial operations managers and other senior financial and court operations were conducted in June to September 2011.</li> <li>c) The department will have a proper quantification of cash shortages and losses that accumulated over the years upon finalisation of the financial statements for 2010/11. In consultation with regional loss control officers, the losses will be investigated and the appropriate disciplinary measures, as well as criminal and civil actions, taken.</li> <li>d) The SCOPA resolution and recommendation is noted. Upon quantification of the loss, appropriate disciplinary action will be implemented. In the interim, the department will continue with disciplinary actions, recoveries and litigation processes as is currently the case.</li> </ul>





Previous audit report and SCOPA resolutions	Subject	Findings on progress
<p>The first SCOPA Report was adopted by the National Assembly in February 2011. The Auditor-General reported that:</p> <p>a) An IT governance framework has been developed that directs the positioning of IT, resource requirements, service continuity in instances of data loss and risk and internal control management.</p> <p>b) The access control security has been strengthened to ensure that no unauthorised access takes place.</p>	<p>Information Systems and related issues</p>	<p>a) The department's IT Governance Framework is based on the following key elements as guided by the COBIT Framework:</p> <ul style="list-style-type: none"> <li>• Strategic alignment of IT and business goals</li> <li>• Value delivery of services and new projects</li> <li>• Risk management</li> <li>• Resource management</li> <li>• Performance management</li> <li>• In support of the IT Governance Framework, approved IT policies are in existence, which address issues such as email usage, password security, etc. The Department's IT and Risk Management Committee, Internal Audit, as well as the Chief Directorate: Strategy, Monitoring and Evaluation provide an oversight role on matters relating to IT.</li> <li>• The department has an approved IT Plan that was tabled with DPSA that addresses the positioning of IT, resource requirements, and aligning the portfolio of IT projects with the business strategy.</li> <li>• The Disaster Recovery Plan, including the Business Continuity Plan, is not in place due to budget constraints. Funds will only be made available during the 2012/13 financial year.</li> </ul> <p>b) The department is in a process of instilling a discipline of access and security control. In some areas controls around systems need to be improved.</p> <ul style="list-style-type: none"> <li>• On PERSAL, the department has finalised and adopted a policy on access control and planning to finalise similar policies on BAS, the Justice Yellow Pages (JYP) and JDAS.</li> </ul>

## 16. 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 the regions. These action plans are based on the template received from National Treasury and actions steps were developed for all the findings raised by the Auditor-General. National Office champions were appointed to drive the process. The CFO reported on a monthly basis to the Accounting Officer and the Audit Committee on progress made with the audit action plans.

Nature of qualification	Financial Year in which it first arose	Progress made in clearing the matter
<p><b>Third Party Funds</b> The impact of the administration of TPF (administered as a separate entity) on the Vote Account. The components (disclosure notes), revenue, receivables and contingent liabilities are affected. Directly related to the absence of a legal and accounting framework.</p>	2005/06	The department is now able to determine the actual information from the 2010/11 annual financial statements prepared by PricewaterhouseCoopers, as well as through the preparation of the 2011/12 annual financial statements.
<p><b>Irregular expenditure</b> The completeness of irregular expenditure could not be verified due to insufficient evidence.</p>	2008/09	The department implemented processes and procedures to detect and disclose irregular expenditure during the year under review. Furthermore, it held hearings and began disciplinary processes in cases where staff members were found to be negligent.
<p><b>Non-compliance with regulatory requirements (PFMA)</b></p> <ul style="list-style-type: none"> <li>• Submission of strategic plan</li> <li>• Inadequate content of the strategic plan</li> <li>• Lack of effective, efficient and transparent systems and internal controls regarding performance management</li> <li>• Inadequate quarterly reporting on performance information</li> </ul>	2009/10	<p>A new monitoring system (Trouw Software) was developed. This system enables officials to upload performance information directly and will provide timely reports.</p> <p>To counter the shortcomings with regard to the Monitoring and Evaluation function, which cannot be performed by the system, the following have been undertaken:</p> <ul style="list-style-type: none"> <li>• The approved Planning, Monitoring and Evaluation Policy has clarified the roles and responsibilities and provides a calendar that will ensure the effectiveness of this function.</li> <li>• Key personnel were identified who will be responsible for monitoring and evaluation in their units. These officials will be adequately trained and supported, should this be necessary.</li> <li>• The inclusion of reporting in performance contracts of unit heads will be recommended.</li> </ul> <p>The department better defined its key performance indicators in its last Strategic Plan and can only improve on the service standards.</p> <p>During the 2011/12 financial year, a concerted effort was made to ensure that indicators meet the SMART principles (specific, measurable, attainable, relevant and timeous). In addition, indicator definitions (included in the Annual Performance Plan) will consider the following:</p> <ul style="list-style-type: none"> <li>• Account data collection methods</li> <li>• Frequency of reporting</li> <li>• Source documentation</li> <li>• Processes to be followed</li> </ul> <p>The aforementioned will make it possible to easily validate information and produce meaningful reports.</p> <p>The Internal Audit function has undertaken to conduct a quarterly audit on performance information with the intention of assisting the department to identify areas of improvement.</p>



**17. EXEMPTIONS AND DEVIATIONS RECEIVED FROM NATIONAL TREASURY**

None

**18. INTERIM FINANCIAL STATEMENTS**

The department prepared four interim financial statements during the period under review.

**19. OTHER**

None

**20. APPROVAL**

The annual financial statements set out on pages 99 to 152 have been approved by the Accounting Officer.

Ms N Sindane  
Director-General: Department of Justice  
and Constitutional Development  
Date: 31 July 2012

### 3.3 REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON VOTE NO 24: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT REPORT ON THE FINANCIAL STATEMENTS

#### INTRODUCTION

1. I have audited the financial statements of the Department of Justice and Constitutional Development set out on pages 99 to 142 which comprise the appropriation statement, the statement of financial position as at 31 March 2012, the statement of financial performance, statement of changes in net assets and the cash flow statement for the year then ended, and the notes, comprising a summary of significant accounting policies and other explanatory information.

#### The Accounting Officer's responsibility for the financial statements

2. The Accounting Officer is responsible for the preparation of these financial statements in accordance with the Departmental Financial Reporting Framework prescribed by National Treasury and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No 1 of 1999), 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.

#### Auditor-General's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with the Public Audit Act of South Africa, 2004 (Act No 25 of 2004) (PAA), the General Notice issued in terms thereof and International Standards on Auditing. 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.
4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's

preparation 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.

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

#### BASIS FOR QUALIFIED OPINION

##### Departmental revenue, receivables for departmental revenue, contingent liabilities and provisions

6. In the course of administering justice, the department established the Third Party Funds (the Fund), which acts as a conduit for the receipt and payment of funds on behalf of other parties and the state (for example, bail, maintenance money, various types of fines, and payments to courts and legal costs) through court processes by virtue of its mandate.
7. For the purpose of my audit, I could not rely on the adequacy of the Fund's financial and internal control systems. Furthermore, the Fund has not submitted financial statements for the year ended 31 March 2012 for auditing. The systems did not permit the application of alternative audit procedures to determine the following:
  - Whether the departmental revenue amounting to R294 819 051 (2010/11: R306 676 012), as disclosed in note 3 to the financial statements, had been properly collected, accurately and completely recorded and classified by the Fund and surrendered to the department. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness and accuracy of departmental revenue received from the Fund.
  - Whether the potential claims against the Fund as a result of fraud, theft and losses to be paid by the department and amounting



to R79 187 000 (2010/11: R79 905 000), disclosed as contingent liabilities in note 20 to the financial statements, were complete, existed and were correctly valued, and the obligations regarding these claims pertained to the department. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness, existence, rights and obligations and valuation of the shortfall identified in the accounting records of the Fund.

- Whether the money collected on behalf of the state and not yet paid to the department as at 31 March 2012, amounting to R295 567 000 (2010/11: R334 301 000), disclosed as receivables for departmental revenue and provisions in notes 25 and 31 to the financial statements respectively, had been properly collected and recorded by the Fund. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to completeness, existence, rights and obligations and valuation of receivables for departmental revenue and provisions.
- I could therefore not obtain all the information and explanations I considered necessary to satisfy myself as to the completeness and accuracy of departmental revenue, as well as the completeness, existence, rights and obligations and valuation pertaining to contingent liabilities, receivables for departmental revenue and provisions.

#### Qualified opinion

8. In my opinion, except for the effects of the matter described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Department of Justice and Constitutional Development as at 31 March 2012 and its financial performance and cash flows for the year then ended, in accordance with the Departmental Financial Reporting Framework prescribed by the National Treasury and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No.1 of 1999) (PFMA).

#### Emphasis of matters

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

#### Restatement of corresponding figures

10. As disclosed in notes 20, 21, 25 and 31 to the financial statements, the corresponding figures for 31 March 2011 have been restated as a result of errors discovered during 31 March 2012 in the financial statements of the Department of Justice and Constitutional Development at, and for the year ended, 31 March 2011.

#### Payables

11. It was noted that included in accruals are payments that exceeded the payment term of 30 days from receipt of invoices as detailed in Treasury Regulation 8.2.3. These exceptions amounted to R448 538 812. Unspent funds to the value of R1 075 000 were earmarked for specific objectives. Voted funds to be surrendered amounted to R68 137 000. Taking the above into account, the department would have overspent its budget by an amount of R379 326 812, should the invoices have been paid timeously, which would have resulted in unauthorised expenditure.

#### Additional matter

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

#### Financial reporting framework

13. The financial reporting framework prescribed by National Treasury and applied by the department is a compliance framework. The wording of my opinion on a compliance framework should reflect that the financial statements have been prepared in accordance with this framework and not that they "present fairly." Section 20(2)(a) of the PAA, however, requires me to express an opinion on the fair presentation of the financial statements. The wording of my opinion therefore reflects this requirement.

#### REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

14. In accordance with the PAA and the General Notice issued in terms thereof, I report the following findings relevant to performance against predetermined objectives, compliance with laws and regulations and internal control, but not for the purpose of expressing an opinion.

#### Predetermined objectives

15. I performed procedures to obtain evidence about the usefulness and reliability of the information in



the annual performance report as set out on pages 13 to 73 of the annual report.

17. The reported performance against predetermined objectives was evaluated against the overall criteria of usefulness and reliability. The usefulness of information in the annual performance report relates to whether it is presented in accordance with the National Treasury annual reporting principles and whether the reported performance is consistent with the planned objectives. The usefulness of information further relates to whether indicators and targets are measurable and relevant as required by the National Treasury Framework for Managing Programme Performance Information.
18. The reliability of the information in respect of the selected programmes is assessed to determine whether it adequately reflects the facts.
19. There were no material findings on the annual performance report concerning the usefulness and reliability of the information.

#### **Additional matters**

20. Although no material findings concerning the usefulness and reliability of the performance information were identified in the annual performance report, I draw attention to the following matters below.

#### **Achievement of planned targets**

21. Of the total number of 72 planned targets, only 20 were achieved during the year under review. This represents 72% of total planned targets that were not achieved during the year under review.

This was as a result of the department not adequately monitoring performance against predetermined targets on an ongoing basis to take appropriate steps timeously in ensuring the achievement of targets.

#### **Material adjustments to the annual performance report**

22. Material misstatements in the annual performance report were identified during the audit, all of which were corrected by management.

#### **Compliance with laws and regulations**

23. I performed procedures to obtain evidence that the entity has complied with applicable laws and

regulations regarding financial matters, financial management and other related matters. My findings on material non-compliance with specific matters in key applicable laws and regulations as set out in the General Notice issued in terms of the PAA are as follows:

#### **Annual financial statements, performance and annual report**

24. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework and not supported by full and proper records as required by sections 40(1)(a) and (b) of the PFMA. Material misstatements of current liabilities, revenue, expenditure and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected, but the fact that supporting records relating to the Third Party Funds could not be provided resulted in the financial statements receiving a qualified audit opinion.

#### **Asset and liability management**

25. Proper control systems to safeguard and maintain assets were not implemented, as (required by section 38(1)(d) of the PFMA and Treasury Regulation (TR) 10.1.1 (a).

#### **Expenditure management**

26. The Accounting Officer did not take effective steps to prevent irregular expenditure, as required by section 38(1)(c)(ii) of the PFMA and TR 9.1.1.
27. Effective and appropriate disciplinary steps were not taken against officials who made and/or permitted irregular expenditure, as required by section 38(1)(h)(iii) of the PFMA and TR 9.1.3.
28. Contractual obligations and money owed by the department were not settled within 30 days or an agreed period, as required by section 38(1)(f) of the PFMA and TR 8.2.3.

#### **Human resource management and compensation**

29. Appointments were made in posts that were not approved and funded, as required by Public Service Regulation (PSR) 1/III/ F.1(a) and (d).
30. Employees were appointed without following a proper process to verify the claims made in their applications in contravention of PSR 1/V11/D.8.



31. The Accounting Officer did not ensure that all leave taken by employees were recorded accurately and in full as required by PSR 1/V/F(b).
32. Some senior managers did not have signed performance agreements for the year under review, as required by PSR 4/III/B 8.1.

#### Procurement and contract management

33. Goods and services with a transaction value below R500 000 were procured without obtaining the required price quotations, as required by TR 16A6.1.
34. Goods and services of a transaction value above R500 000 were procured without inviting competitive bids, as required by TR 16A6.1. Deviations were approved by the accounting officer even though it was not impractical to invite competitive bids, in contravention of TR 16A6.4.
35. Employees of the department performed remunerative work outside their employment in the department without written permission from the relevant authority as required by section 30 of the Public Service Act.

#### Revenue management

36. Money collected by the department was not always paid timeously into the department's paymaster-general account, in contravention of TR 15.5.3.

#### Internal control

37. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with laws and regulations. The matters reported below under the fundamentals of internal control are limited to the significant deficiencies that resulted in the basis for the qualified opinion, the findings on the performance report and the findings on compliance with laws and regulations included in this report.

#### Leadership

38. The leadership of the department did not adequately exercise oversight responsibility regarding financial reporting and related internal controls over the administration of the Third Party Fund to enable the Fund to submit credible and timeous financial statements for auditing.
39. The implementation of internal policies and procedures of the department to address the processes pertaining to the monitoring, as well as

managing and reporting performance information at the overall performance management level and programme level were inadequate.

41. The department developed a plan to address internal and external audit findings, but adherence to the plan was not monitored on a timely basis by the appropriate level of management.

#### Financial and performance management

42. Proper record-keeping in a timely manner was not implemented to ensure that complete, relevant and accurate information is accessible and available to support financial reporting relating to the Third Party Fund.
43. The department did not have a proper filing system that supports the reported performance contained in the annual performance report, which resulted in material adjustments to the annual performance report. This includes information that relates to the collection, collation, verification, storing and reporting of actual performance information.
44. Management did not prepare regular, accurate and complete financial reports that were supported and evidenced by reliable information.
45. Furthermore, the department did not have sufficient monitoring controls to ensure compliance with all applicable laws and regulations.

#### OTHER REPORTS

##### Investigations

46. An investigation was conducted by an independent consulting firm on request of the department in the previous financial year. The investigation was initiated based on the allegation of possible irregularities by employees in the Supply Chain Management Unit. The investigation was completed and management has commenced to take appropriate action to address the recommendations in the report.

*Auditor-General*

Date: 31 July 2012  
Pretoria



AUDITOR-GENERAL  
SOUTH AFRICA

*Auditing to build public confidence*

### 3.4 APPROPRIATION STATEMENT

for the year ended 31 March 2012

Appropriation per programme										
	2011/12					2010/11				
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure	
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000	
<b>1. Programme (Administration)</b>										
Current payment	1 597 349	(2 842)	2 950	1 597 457	1 597 456	1	100%	1 620 228	1 620 228	
Transfers and subsidies	10 247	2 655	-	12 902	12 899	3	100%	12 420	7 941	
Payment for capital assets	78 662	-	153 098	231 760	231 759	1	100%	64 817	64 817	
Payment for financial assets	-	187	-	187	186	1	99.5%	9	9	
	<b>1 686 258</b>	<b>-</b>	<b>156 048</b>	<b>1 842 306</b>	<b>1 842 300</b>	<b>6</b>		<b>1 697 474</b>	<b>1 692 995</b>	
<b>2. Programme 2 (Court Services)</b>										
Current payment	3 613 496	(3 395)	(138 096)	3 472 005	3 472 004	1	100%	3 342 850	3 298 212	
Transfers and subsidies	24 268	67	(10 550)	13 785	13 785	-	100%	10 904	10 904	
Payment for capital assets	721 487	-	8 873	730 360	730 360	-	100%	603 554	603 554	
Payment for financial assets	-	3 328	-	3 328	3 328	-	100%	-	-	
	<b>4 359 251</b>	<b>-</b>	<b>(139 773)</b>	<b>4 219 478</b>	<b>4 219 477</b>	<b>1</b>		<b>3 957 308</b>	<b>3 912 670</b>	
<b>3. Programme 3 (State Legal Services)</b>										
Current payment	714 622	(1 369)	(25 583)	687 670	687 668	2	100%	647 792	647 792	
Transfers and subsidies	1 298	1 369	-	2 667	2 667	-	100%	2 164	2 164	
Payment for capital assets	5 467	-	1 903	7 370	7 369	1	100%	6 390	6 390	
Payment for financial assets	-	-	-	-	-	-		14 496	14 496	
	<b>721 387</b>	<b>-</b>	<b>(23 680)</b>	<b>697 707</b>	<b>697 704</b>	<b>3</b>		<b>670 842</b>	<b>670 842</b>	
<b>4. Programme 5 (Auxiliary and Associated Services)</b>										
Current payment	376 792	-	4 576	381 368	381 368	-	100%	358 514	329 012	
Transfers and subsidies	1 765 014	-	43 206	1 808 220	1 808 219	1	100%	1 573 990	1 573 989	
Payment for capital assets	21 332	-	(10 377)	10 955	9 891	1 064	90.3%	20 683	10 150	
	<b>2 163 138</b>	<b>-</b>	<b>37 405</b>	<b>2 200 543</b>	<b>2 199 478</b>	<b>1 065</b>		<b>1 953 187</b>	<b>1 913 151</b>	
<b>Subtotal</b>	<b>8 930 034</b>	<b>-</b>	<b>30 000</b>	<b>8 960 034</b>	<b>8 958 959</b>	<b>1 075</b>	<b>100%</b>	<b>8 278 811</b>	<b>8 189 658</b>	
<b>Statutory Appropriation Current Payment Transfers</b>										
Current payment	2 017 102	-	-	2 017 102	1 967 238	49 864	97.5%	1 858 006	1 858 278	
Transfers and subsidies	87 060	-	-	87 060	69 862	17 198	80.2%	71 864	51 951	
<b>Total</b>	<b>11 034 196</b>	<b>-</b>	<b>30 000</b>	<b>11 064 196</b>	<b>10 996 059</b>	<b>68 137</b>	<b>99.4%</b>	<b>10 208 681</b>	<b>10 099 887</b>	

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

	2011/12		2010/11	
	Final appropriation	Actual expenditure	Final appropriation	Actual expenditure
Total (brought forward)	11 064 196	10 996 059	10 208 681	10 099 887
Reconciliation with statement of financial performance				
Add:				
Departmental receipts	379 066		411 485	
Direct Exchequer receipts	-		-	
Aid assistance	1 378		22 541	
Actual amounts per statement of financial performance (total revenue)	11 444 640		10 642 707	
Add:				
Aid assistance		4 964		7 113
Direct Exchequer payments				
Prior year unauthorised expenditure approved without funding				
<b>Actual amounts per statement of financial performance (total expenditure)</b>		<b>11 001 023</b>		<b>10 107 000</b>

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

		Appropriation per economic classification							
		2011/12					2010/11		
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
<b>Current payments</b>									
Compensation of employees	3 627 140	(34 236)	(101 874)	3 491 030	3 491 028	2	100%	3 134 367	3 134 367
Goods and services	2 670 200	26 690	(50 928)	2 645 962	2 645 962	-	100%	2 830 298	2 756 158
Interest and rent on land	4 919	(60)	(3 352)	1 507	1 505	2	99.9%	4 719	4 719
<b>Transfers and subsidies</b>									
Provinces and municipalities	255	95	-	350	349	1	99.7%	-	-
Departmental agencies and accounts	1 770 086	-	43 206	1 813 292	1 813 291	1	100%	1 578 469	1 573 989
Foreign governments and international organisations	4 955	2 235	-	7 190	7 189	1	100%	6 343	6 343
Households	25 508	1 761	(10 550)	16 719	16 718	1	100%	14 662	14 662
Gifts and donations	23	-	-	23	23	-	100%	4	4
<b>Payments for capital assets</b>									
Buildings and other fixed structures	682 515	580	-	683 095	683 095	-	100%	542 493	542 493
Machinery and equipment	143 249	(580)	152 233	294 902	293 837	1 065	99.6%	148 465	137 932
Software and other intangible assets	1 184	-	1 265	2 449	2 448	1	100%	3 671	3 671
<b>Payments for financial assets</b>									
	-	3 515	-	3 515	3 514	1	100%	14 505	14 505
<b>Total</b>	<b>8 930 034</b>	<b>-</b>	<b>30 000</b>	<b>8 960 034</b>	<b>8 958 959</b>	<b>1 075</b>	<b>100%</b>	<b>8 277 996</b>	<b>8 188 843</b>



## APPROPRIATION STATEMENT

for the year ended 31 March 2012

	Statutory appropriation									
	2011/12					2010/11				
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure	
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000	R'000
Direct charges against the National/Provincial Revenue Fund	2 104 162	-	-	2 104 162	2 037 099	67 063	96.8%	1 929 870	1 910 229	
Judges' and magistrates' salaries										
<b>Total</b>	<b>2 104 162</b>	<b>-</b>	<b>-</b>	<b>2 104 162</b>	<b>2 037 099</b>	<b>67 063</b>	<b>96.8%</b>	<b>1 929 870</b>	<b>1 910 229</b>	

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

Programme 1: Administration	2011/12						2010/11		
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
<b>1.1 Ministry</b>									
Current payment	36 937	(3 160)	-	33 777	33 777	-	100%	3 303	3 303
Transfers and subsidies	15	(5)	-	10	9	1	90%	-	-
Payment for capital assets	2 377	-	117	2 494	2 494	-	100%	-	-
<b>1.2 Management</b>									
Current payment	67 847	(30 242)	-	37 605	37 605	-	100%	34 430	34 430
Transfers and subsidies	5 175	(39)	-	5 136	5 135	1	100%	4 483	4
Payment for capital assets	3 812	-	(2 722)	1 090	1 090	-	100%	1 162	1 162
<b>1.3 Corporate Services</b>									
Current payment	868 903	53 291	2 950	925 144	925 143	1	100%	913 083	913 083
Transfers and subsidies	5 057	2 699	-	7 756	7 755	1	100%	7 937	7 937
Payment for capital assets	72 473	-	155 703	228 176	228 175	1	100%	63 655	63 655
Payment for financial assets	-	187	-	187	186	1	99.5%	9	9
<b>1.4 Office accommodation</b>									
Current payment	623 662	(22 731)	-	600 931	600 931	-	100%	669 412	669 412
<b>Total</b>	<b>1 686 258</b>	<b>-</b>	<b>156 048</b>	<b>1 842 306</b>	<b>1 842 300</b>	<b>6</b>	<b>100%</b>	<b>1 697 474</b>	<b>1 692 995</b>

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

Programme 1 per economic classification	2011/12						2010/11		
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
<b>Current payments</b>									
Compensation of employees	360 062	(34 236)	1	325 827	325 825	2	100%	282 530	282 530
Goods and services	1 237 086	31 454	2 948	1 271 488	1 271 489	(1)	100%	1 337 499	1 337 499
Interest and rent on land	201	(60)	-	141	141	-	100%	199	199
<b>Transfers and subsidies to:</b>									
Provinces and municipalities	15	8	-	23	22	1	95.7%	-	-
Departmental agencies and accounts	5 072	-	-	5 072	5 072	-	100%	4 479	-
Foreign governments and international organisations	4 955	2 235	-	7 190	7 189	1	100%	6 343	6 343
Households	205	412	-	617	616	1	99.8%	1 598	1 598
<b>Payment for capital assets</b>									
Machinery and equipment	78 526	-	150 786	229 312	229 312	-	100%	64 817	64 817
Software and other intangible assets	136	-	2 313	2 449	2 448	1	100%	-	-
<b>Payments for financial assets</b>									
	-	187	-	187	186	1	99.5%	9	9
<b>Total</b>	<b>1 686 258</b>	<b>-</b>	<b>156 048</b>	<b>1 842 306</b>	<b>1 842 300</b>	<b>6</b>	<b>100%</b>	<b>1 697 474</b>	<b>1 692 995</b>

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

Programme 2: Court Services	2011/12				2010/11				
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
<b>2.1 Constitutional Court</b>									
Current payment	120 653	-	(30 302)	90 351	90 351	-	100%	72 745	72 745
Transfers and subsidies	376	-	(376)	-	-	-	-	-	-
Payment for capital assets	1 032	-	(390)	642	642	-	100%	1 909	1 909
<b>2.2 Supreme Court of Appeal</b>									
Current payment	24 665	-	(4 051)	20 614	20 614	-	100%	13 519	13 519
Transfers and subsidies	-	-	-	-	-	-	-	20	20
Payment for capital assets	-	266	-	266	266	-	100%	-	-
<b>2.3 High Court</b>									
Current payment	277 534	-	73 007	350 541	350 541	-	100%	323 321	323 321
Transfers and subsidies	1 026	580	-	1 606	1 606	-	100%	618	618
Payment for capital assets	1 117	-	(933)	184	184	-	100%	989	989
Payment for financial assets	-	1 501	-	1 501	1 501	-	100%	-	-
<b>2.4 Specialised Court</b>									
Current payment	30 996	-	10 417	41 413	41 413	-	100%	34 902	34 902
Transfers and subsidies	125	-	(123)	2	2	-	100%	8	8
Payment for capital assets	115	-	(14)	101	101	-	100%	340	340
<b>2.5 Lower Court</b>									
Current payment	2 597 812	(3 395)	(113 103)	2 481 314	2 481 313	1	100%	2 378 855	2 334 217
Transfers and subsidies	18 925	(516)	(8 493)	9 916	9 916	-	100%	9 664	9 664
Payment for capital assets	4 772	-	13 687	18 459	18 459	-	100%	24 674	24 674
Payment for financial assets	-	1 179	-	1 179	1 179	-	100%	-	-

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

Programme 2: Court Services	2011/12					2010/11			
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
<b>2.6 Family Advocate</b>									
Current payment	121 719	-	(16 701)	105 018	105 018	-	100%	100 181	100 181
Transfers and subsidies	891	-	(725)	166	166	-	100%	352	352
Payment for capital assets	1 050	-	(350)	700	700	-	100%	1 224	1 224
<b>2.7 Magistrates Commission</b>									
Current payment	10 599	-	(199)	10 400	10 400	-	100%	9 407	9 407
Transfers and subsidies	-	3	-	3	3	-	100%	2	2
Payment for capital assets	-	7	-	7	7	-	100%	-	-
<b>2.8 Government Motor Transport</b>									
Payment for capital assets	28 698	(2 337)	(3 127)	23 234	23 234	-	100%	24 929	24 929
<b>2.9 Facilities Management</b>									
Current payment	76 410	-	(60 432)	15 978	15 978	-	100%	79 573	79 573
Payment for capital assets	682 911	1 517	-	684 428	684 428	-	100%	544 484	544 484
<b>2.10 Administration of Courts</b>									
Current payment	353 108	-	3 268	356 376	356 376	-	100%	330 347	330 347
Transfers and subsidies	2 925	-	(833)	2 092	2 092	-	100%	240	240
Payment for capital assets	1 792	547	-	2 339	2 339	-	100%	5 005	5 005
Payment for financial assets	-	648	-	648	648	-	100%	-	-
<b>Total</b>	<b>4 359 251</b>	<b>-</b>	<b>(139 773)</b>	<b>4 219 478</b>	<b>4 219 477</b>	<b>1</b>	<b>100%</b>	<b>3 957 308</b>	<b>3 912 670</b>



## APPROPRIATION STATEMENT

for the year ended 31 March 2012

Programme 2 per economic classification	2011/12					2010/11			
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Current payments									
Compensation of employees	2 660 846	-	(90 694)	2 570 152	2 570 152	-	100%	2 331 424	2 331 424
Goods and services	948 506	(3 395)	(44 463)	900 648	900 648	-	100%	1 007 621	962 983
Interest and rent on land	4 144	-	(2 939)	1 205	1 204	1	99.9%	3 805	3 805
Transfers and subsidies to:									
Provinces and municipalities	240	67	-	307	307	-	100%	-	-
Households	24 005	-	(10 550)	13 455	13 455	-	100%	10 900	10 900
Gifts and donations	23	-	-	23	23	-		4	4
Payment for capital assets									
Buildings and other fixed structures	682 515	580	-	683 095	683 095	-	100%	542 493	542 493
Machinery and equipment	38 940	(580)	8 905	47 265	47 265	-	100%	61 061	61 061
Software and other intangible assets	32	-	(32)	-	-	-		-	-
Payments for financial assets	-	3 328	-	3 328	3 328	-	100%	-	-
<b>Total</b>	<b>4 359 251</b>	<b>-</b>	<b>(139 773)</b>	<b>4 219 478</b>	<b>4 219 477</b>	<b>1</b>	<b>100%</b>	<b>3 957 308</b>	<b>3 912 670</b>

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

Programme 3: State Legal Services	2011/12					2010/11			
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
<b>3.1 State Law Advisors</b>									
Current payment	47 740	1 211	-	48 951	48 951	-	100%	41 774	41 774
Transfers and subsidies	-	-	-	-	-	-	-	21	21
Payment for capital assets	393	8	-	401	401	-	100%	393	393
<b>3.2 Litigation and Legal Services</b>									
Current payment	257 947	5 012	-	262 959	262 959	-	100%	240 729	240 729
Transfers and subsidies	-	1 822	-	1 822	1 822	-	100%	1 432	1 432
Payment for capital assets	1 391	1 279	-	2 670	2 670	-	100%	941	941
<b>3.3 Legislative Development and Law Reform</b>									
Current payment	55 209	(15 894)	(1 150)	38 165	38 164	1	100%	35 379	35 379
Transfers and subsidies	75	505	-	580	580	-	100%	24	24
Payment for capital assets	522	(354)	-	168	167	1	99.4%	319	319
<b>3.4 Master of the High Court</b>									
Current payment	320 200	8 302	(1 901)	326 601	326 601	-	100%	308 782	308 782
Transfers and subsidies	1 212	(947)	-	265	265	-	100%	687	687
Payment for capital assets	2 041	187	1 903	4 131	4 131	-	100%	4 678	4 678
Payment for financial assets	-	-	-	-	-	-	-	14 496	14 496
<b>3.5 Constitutional Development</b>									
Current payment	33 526	-	(22 532)	10 994	10 993	1	100%	21 128	21 128
Transfers and subsidies	11	(11)	-	-	-	-	100%	-	-
Payment for capital assets	1 120	(1 120)	-	-	-	-	100%	59	59
<b>Total</b>	<b>721 387</b>	<b>-</b>	<b>(23 680)</b>	<b>697 707</b>	<b>697 704</b>	<b>3</b>	<b>100%</b>	<b>670 842</b>	<b>670 842</b>

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

Programme 3 per economic classification	2011/12					2010/11			
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percent- age 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	606 232	-	(11 181)	595 051	595 051	-	100%	520 413	520 413
Goods and services	107 816	(1 369)	(13 989)	92 458	92 457	1	100%	126 664	126 664
Interest and rent on land	574	-	(413)	161	160	1	99.4%	715	715
Transfers and subsidies to:									
Provinces and municipalities	-	20	-	20	20	-	100%	-	-
Households	1 298	1 349	-	2 647	2 647	-	100%	2 164	2 164
Payment for capital assets									
Machinery and equipment	5 467	-	1 903	7 370	7 369	1	100%	6 390	6 390
Payments for financial assets	-	-	-	-	-	-		14 496	14 496
<b>Total</b>	<b>721 387</b>	<b>-</b>	<b>(23 680)</b>	<b>697 707</b>	<b>697 704</b>	<b>3</b>	<b>100%</b>	<b>670 842</b>	<b>670 842</b>

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

	2011/12						2010/11		
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a percentage of final appropriation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
<b>Programme 5: Auxiliary and Associated Services</b>									
5.1 South African Human Rights Commission									
Transfers and subsidies	89 066	-	707	89 773	89 773	-	100%	74 368	74 368
5.2 Special Investigating Unit									
Transfers and subsidies	291 020	-	32 171	323 191	323 191	-	100%	171 089	171 089
5.3 Legal Aid South Africa									
Transfers and subsidies	1 128 057	-	9 488	1 137 545	1 137 545	-	100%	1 116 355	1 116 355
5.4 Public Protector									
Transfers and subsidies	152 889	-	840	153 729	153 729	-	100%	114 082	114 082
5.5 Justice Modernisation									
Current payment	376 792	-	4 576	381 368	381 368	-	100%	358 514	329 012
Payment for capital assets	21 332	-	(10 377)	10 955	9 891	1 064	90.3%	20 683	10 150
5.6 President's Fund									
Transfers and subsidies	1	-	-	1	-	1		1	-
5.7 Represented Political Parties Fund									
Transfers and subsidies	103 981	-	-	103 981	103 981	-	100%	98 095	98 095
<b>Total</b>	<b>2 163 138</b>	<b>-</b>	<b>37 405</b>	<b>2 200 543</b>	<b>2 199 478</b>	<b>1 065</b>	<b>100%</b>	<b>1 953 187</b>	<b>1 913 151</b>

## APPROPRIATION STATEMENT

for the year ended 31 March 2012

Programme 5 per economic classification	2011/12							2010/11	
	Adjusted appropriation	Shifting of funds	Virement	Final appropriation	Actual expenditure	Variance	Expenditure as a per- centage of final appro- priation	Final appropriation	Actual expenditure
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Current payments									
Goods and services	376 792	-	4 576	381 368	381 368	-	100%	358 514	329 012
Transfers and subsidies to:									
Departmental agencies and accounts	1 765 014	-	43 206	1 808 220	1 808 219	1	100%	1 573 990	1 573 989
Payment for capital assets									
Machinery and equipment	20 316	-	(9 361)	10 955	9 891	1 064	90.3%	16 197	5 664
Software and other intangible assets	1 016	-	(1 016)	-	-	-		4 486	4 486
<b>Total</b>	<b>2 163 138</b>	<b>-</b>	<b>37 405</b>	<b>2 200 543</b>	<b>2 199 478</b>	<b>1 065</b>	<b>100%</b>	<b>1 953 187</b>	<b>1 913 151</b>





### 3.5 NOTES TO THE APPROPRIATION STATEMENT

for the year ended 31 March 2012

1. **DETAIL OF TRANSFERS AND SUBSIDIES AS PER APPROPRIATION ACT (AFTER VIREMENT):**  
Detail of these transactions can be viewed in the note on transfers and subsidies, disclosure notes and Annexure 1 (A-H) 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 PAYMENTS FOR FINANCIAL ASSETS**  
Detail of these transactions per programme can be viewed in the note on payments for financial assets 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 percentage of final appropriation
No material variances to report.				
4.2 Per economic classification	Final appropriation	Actual expenditure	Variance	Variance as a percentage of final appropriation
	R'000	R'000	R'000	R'000

Current payments No material variances to report

Compensation of employees

Goods and services

Interest and rent on land

Transfers and subsidies

Payments for capital assets

Buildings and other fixed structures

Machinery and equipment

Software and other intangible assets

Payments for financial assets

### 3.6 STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>REVENUE</b>			
Annual appropriation	1	8 960 034	8 278 811
Statutory appropriation	2	2 104 162	1 929 870
Departmental revenue	3	379 066	411 485
Aid assistance	4	1 378	22 541
<b>TOTAL REVENUE</b>		<b>11 444 640</b>	<b>10 642 707</b>
<b>EXPENDITURE</b>			
<b>Current expenditure</b>			
Compensation of employees	5	5 458 266	4 992 645
Goods and services	6	2 645 962	2 756 158
Interest and rent on land	7	1 505	4 719
Aid assistance	4	4 964	7 114
<b>Total current expenditure</b>		<b>8 110 697</b>	<b>7 760 636</b>
<b>Transfers and subsidies</b>			
Transfers and subsidies	9	1 907 432	1 646 949
<b>Total transfers and subsidies</b>		<b>1 907 432</b>	<b>1 646 949</b>
<b>Expenditure for capital assets</b>			
Tangible capital assets	10	976 932	680 425
Software and other intangible assets	10	2 448	4 486
<b>Total expenditure for capital assets</b>		<b>979 380</b>	<b>684 911</b>
Payments for financial assets	8	3 514	14 505
<b>TOTAL EXPENDITURE</b>		<b>11 001 023</b>	<b>10 107 001</b>
<b>SURPLUS/(DEFICIT) FOR THE YEAR</b>		<b>443 617</b>	<b>535 707</b>
<b>Reconciliation of net surplus/(deficit) for the year</b>			
Voted funds		68 137	108 794
Departmental revenue and NRF receipts	15	379 066	411 485
Aid assistance	4	(3 586)	15 427
<b>SURPLUS/(DEFICIT) FOR THE YEAR</b>		<b>443 617</b>	<b>535 706</b>

### 3.7 STATEMENT OF FINANCIAL POSITION

as at 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>ASSETS</b>			
<b>Current assets</b>		<b>458 884</b>	<b>578 614</b>
Cash and cash equivalents	11	3 472	3 373
Prepayments and advances	12	5 207	3 411
Receivables	13	450 205	571 830
<b>TOTAL ASSETS</b>		<b>458 884</b>	<b>578 614</b>
<b>LIABILITIES</b>			
<b>Current liabilities</b>		<b>448 951</b>	<b>570 092</b>
Voted funds to be surrendered to the NRF	14	68 137	73 512
Departmental revenue and NRF receipts to be surrendered to the NRF	15	39 681	52 522
Bank overdraft	16	324 613	425 999
Payables	17	3 728	1 681
Aid assistance unutilised	4	12 792	16 378
<b>TOTAL LIABILITIES</b>		<b>448 951</b>	<b>570 092</b>
<b>NET ASSETS</b>		<b>9 933</b>	<b>8 522</b>
<b>Represented by:</b>			
Recoverable revenue		9 933	8 522
<b>TOTAL</b>		<b>9 933</b>	<b>8 522</b>

### 3.8 STATEMENT OF CHANGES IN NET ASSETS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>NET ASSETS</b>			
<b>Recoverable revenue</b>			
Opening balance		8 522	12 049
Transfers:		1 411	(3 527)
Debts revised		(3 991)	(2 655)
Debts recovered (included in departmental receipts)		(3 863)	(3 575)
Debts raised		9 265	2 703
Closing balance		9 933	8 522
<b>TOTAL</b>		<b>9 933</b>	<b>8 522</b>

### 3.9 CASH FLOW STATEMENT

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Receipts</b>		11 444 380	10 607 341
Annual appropriated funds received	1	8 960 034	8 243 529
Statutory appropriated funds received	2	2 104 162	1 929 867
Departmental revenue received	3	378 806	411 404
Aid assistance received	4	1 378	22 541
Net (increase)/decrease in working capital		121 876	(151 336)
Surrendered to Revenue Fund		(465 419)	(308 164)
Current payments		(8 110 697)	(7 760 635)
Payments for financial assets	8	(3 514)	(14 505)
Transfers and subsidies paid		(1 907 432)	(1 646 949)
<b>Net cash flow available from operating activities</b>	18	<b>1 079 194</b>	<b>725 752</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Payments for capital assets	10	(979 380)	(684 911)
Proceeds from sale of capital assets	3.4	260	81
<b>Net cash flows from investing activities</b>		<b>(979 120)</b>	<b>(684 830)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
Increase/(decrease) in net assets		1 411	(3 527)
<b>Net cash flows from financing activities</b>		<b>1 411</b>	<b>(3 527)</b>
Net increase/(decrease) in cash and cash equivalents		101 485	37 395
Cash and cash equivalents at beginning of period		(422 626)	(460 021)
<b>Cash and cash equivalents at end of period</b>	19	<b>(321 141)</b>	<b>(422 626)</b>



## 3.10 NOTES TO THE ANNUAL FINANCIAL STATEMENTS INCLUDING THE ACCOUNTING POLICIES AND RELATED MATTERS

for the year ended 31 March 2012

The financial statements have been prepared in accordance with the following policies, which have been applied consistently in all material aspects, unless otherwise indicated. However, where appropriate and meaningful, additional information has been disclosed to enhance the usefulness of the financial statements and to comply with the statutory requirements of the Public Finance Management Act, 1999 (Act No 1 of 1999) (as amended by Act No 29 of 1999), and the Treasury Regulations issued in terms of the act and the Division of Revenue Act, 2010 Act No 1 of 2010).

### 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 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 financial statements have been reclassified to ensure that the format in which the information is presented is consistent with the format of the current year's financial statements.

#### 1.5 Comparative figures – appropriation statement

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

### 2. REVENUE

#### 2.1 Appropriated funds

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

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

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

Any amount due from the National Revenue Fund at the end of the financial year is recognised as a receivable in the statement of financial position.

#### 2.2 Departmental revenue

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

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

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

#### 2.3 Direct Exchequer receipts

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

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



## 2.4 Direct Exchequer payments

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

Aid assistance is recognised as revenue when received.

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

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

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

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

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

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

## 3. EXPENDITURE

### 3.1 Compensation of employees

#### 3.1.1 Salaries and wages

Salaries and wages are expensed in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March of each year).

Other employee benefits that give rise to a present legal or constructive obligation are disclosed in the disclosure notes to the financial statements at their face value and are not recognised in the statement of financial performance or position.

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

#### 3.1.2 Social contributions

Employer contributions to post-employment benefit plans in respect of current employees are expensed in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March 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.

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

### 3.2 Goods and services

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

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

Rental paid for the use of buildings or other fixed structures is classified as goods and services and not as rent on land.

### 3.3 Interest and rent on land

Interest and rental payments are recognised as expenses 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 is recorded under goods and services.

#### **3.4 Payments for financial assets**

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

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

#### **3.5 Transfers and subsidies**

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

#### **3.6 Unauthorised expenditure**

When confirmed, unauthorised expenditure is recognised as an asset in the statement of financial position until such time as the expenditure is either approved by the relevant authority, recovered from the responsible person or written off as irrecoverable in the statement of financial performance.

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

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

#### **3.7 Fruitless and wasteful expenditure**

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

#### **3.8 Irregular expenditure**

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

### **4. ASSETS**

#### **4.1 Cash and cash equivalents**

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

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

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

#### **4.2 Other financial assets**

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

#### **4.3 Prepayments and advances**

Amounts prepaid or advanced are recognised in the statement of financial position when the payments are made and are derecognised as and when the goods and/or services are received or the funds utilised.

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

#### **4.4 Receivables**

Receivables included in the statement of financial position arise from cash payments made that are recoverable from another party (including departmental employees) and are derecognised upon recovery or write-off.

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

#### **4.5 Investments**

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



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

#### **4.6 Loans**

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

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

#### **4.7 Inventory**

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

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

#### **4.8 Capital assets**

##### **4.8.1 Movable assets**

###### **Initial recognition**

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

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

###### **Subsequent recognition**

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

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

##### **4.8.2 Immovable assets**

###### **Initial recognition**

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

###### **Subsequent recognition**

Work in progress of a capital nature is recorded in the statement of financial performance as expenditure for capital assets. On completion, the total cost of the project is included in the asset register of the department that is accountable for the asset.

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

## **5. LIABILITIES**

### **5.1 Payables**

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

### **5.2 Contingent liabilities**

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

### **5.3 Contingent assets**

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

### **5.4 Commitments**

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

### **5.5 Accruals**

Accruals are not recognised in the statement of financial position as a liability or as expenditure in

the statement of financial performance, but are included in the disclosure notes.

#### **5.6 Employee benefits**

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

#### **5.7 Lease commitments**

##### **Finance lease**

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

##### **Operating lease**

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

#### **5.8 Impairment and other provisions**

The department tests for impairment where there is an indication that a receivable, loan or investment may be impaired. An assessment of whether there is an indication of possible impairment is done at each reporting date. An estimate is made for doubtful loans and receivables based on a review of all outstanding amounts at year-end. Impairments on investments are calculated as being the difference between the carrying amount and the present value of the expected future cash flows/service potential flowing from the instrument.

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

## **6. RECEIVABLES FOR DEPARTMENTAL REVENUE**

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

## **7. NET ASSETS**

### **7.1 Capitalisation reserve**

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

### **7.2 Recoverable revenue**

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

## **8. RELATED PARTY TRANSACTIONS**

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

## **9. KEY MANAGEMENT PERSONNEL**

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



## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

### 1. ANNUAL APPROPRIATION

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

	2011/12		2010/11	
	Final appropriation	Actual funds received	Funds not requested/ not received	Appropriation received
	R'000	R'000	R'000	R'000
Administration	1 842 305	1 686 258	156 047	1 697 384
Court Services	4 219 479	4 346 045	(126 566)	3 922 026
State Legal Services	697 707	721 387	(23 680)	670 842
Auxiliary and Associated Services	2 200 543	2 206 344	(5 801)	1 953 277
<b>Total</b>	<b>8 960 034</b>	<b>8 960 034</b>	<b>-</b>	<b>8 243 529</b>

### 2. STATUTORY APPROPRIATION

	2011/12 R'000	2010/11 R'000
Judges' and magistrates' salaries	2 104 162	1 929 870
<b>Total</b>	<b>2 104 162</b>	<b>1 929 870</b>
Actual statutory appropriation received	2 104 162	1 929 867

### 3. DEPARTMENTAL REVENUE

	Note	2011/12 R'000	2010/11 R'000
Tax revenue			
Sales of goods and services other than capital assets	3.1	59 188	64 922
Fines, penalties and forfeits	3.2	294 819	306 677
Interest, dividends and rent on land	3.3	2 104	10 929
Sales of capital assets	3.4	260	81
Transactions in financial assets and liabilities	3.5	22 695	28 871
Transfer received	3.6	-	5
<b>Total revenue collected</b>		<b>379 066</b>	<b>411 485</b>
<b>Departmental revenue collected</b>		<b>379 066</b>	<b>411 485</b>

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>3.1 Sales of goods and services other than capital assets</b>			
Sales of goods and services produced by the department	3	59 169	64 882
Sales by market establishment		6 827	5 873
Administrative fees		35	23
Other sales		52 307	58 986
Sales of scrap, waste and other used current goods		19	40
Total		59 188	64 922
<b>3.2 Fines, penalties and forfeits</b>			
Fines	3	232 353	236 588
Penalties		1 802	2 000
Forfeits		60 664	68 089
Total		294 819	306 677
<b>3.3 Interest, dividends and rent on land</b>			
Interest	3	2 104	10 929
Total		2 104	10 929
<b>3.4 Sale of capital assets</b>			
Tangible assets	3	260	81
Machinery and equipment		260	81
Total		260	81
<b>3.5 Transactions in financial assets and liabilities</b>			
Loans and advances	3	180	-
Receivables		1 632	2 571
Stale cheques written back		117	216
Other receipts including Recoverable revenue		20 766	26 084
Total		22 695	28 871

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>3.6 Transfers received</b>			
Public corporations and private enterprises	3	-	5
<b>Total</b>		<b>-</b>	<b>5</b>
<b>4. AID ASSISTANCE</b>			
<b>4.1 Aid assistance received in cash from RDP</b>			
Foreign	4		
Opening balance		16 378	951
Revenue		1 378	22 541
Expenditure		(4 964)	(7 114)
Current		(4 964)	(7 114)
Closing balance		12 792	16 378
<b>4.2 Total assistance</b>			
Opening balance		16 378	951
Revenue		1 378	22 541
Expenditure		(4 964)	(7 114)
Current		(4 964)	(7 114)
Closing balance		12 792	16 378
<b>4.3 Analysis of balance</b>			
Aid assistance unutilised		12 792	16 378
RDP		12 792	16 378
Closing balance		12 792	16 378
<b>5. COMPENSATION OF EMPLOYEES</b>			
<b>5.1 Salaries and wages</b>			
Basic salary		3 730 917	3 390 359
Performance award		27 972	17 569
Service-based		56 456	55 169
Compensative/circumstantial		26 163	40 364
Periodic payments		15 321	19 102
Other non-pensionable allowances		955 425	886 128
<b>Total</b>		<b>4 812 254</b>	<b>4 408 691</b>

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>5.2 Social Contributions</b>			
Employer contributions			
Pension		393 016	360 231
Medical		252 038	222 783
UIF		9	24
Bargaining Council		949	916
<b>Total</b>		<b>646 012</b>	<b>583 954</b>
<b>Total compensation of employees</b>		<b>5 458 266</b>	<b>4 992 645</b>
Average number of employees		20 825	20 244
<b>6. GOODS AND SERVICES</b>			
Administrative fees		4 657	5 923
Advertising		51 475	18 774
Assets less than R5 000	6.1	42 742	23 270
Bursaries (employees)		4 612	3 774
Catering		5 829	8 013
Communication		145 395	135 268
Computer services	6.2	425 885	365 999
Consultants, contractors and agencies/outsourced services	6.3	281 779	451 741
Entertainment		205	109
Audit cost – external	6.4	21 592	29 803
Fleet services		27 453	20 173
Inventory	6.5	70 680	78 011
Operating leases		408 322	527 972
Property payments	6.6	580 060	540 005
Transport provided as part of departmental activities		19	-
Travel and subsistence	6.7	447 712	430 951
Venues and facilities		5 190	4 556
Training and staff development		6 555	18 811
Other operating expenditure	6.8	115 800	93 005
<b>Total</b>		<b>2 645 962</b>	<b>2 756 158</b>
<b>6.1 Assets less than R5 000</b>			
Tangible assets	6		
Machinery and equipment		42 734	23 266
Intangible assets		8	4
<b>Total</b>		<b>42 742</b>	<b>23 270</b>

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>6.2 Computer services</b>			
SITA computer services	6	65 596	75 459
External computer service providers		360 289	290 540
<b>Total</b>		<b>425 885</b>	<b>365 999</b>
<b>6.3 Consultants, contractors and agencies/outsourced services</b>			
Business and advisory services		54 652	35 787
Laboratory services		973	824
Legal costs		49 358	50 988
Contractors		27 802	32 369
Agency and support/outsourced services		148 994	331 773
<b>Total</b>		<b>281 779</b>	<b>451 741</b>
<b>6.4 Audit cost – external</b>			
Regularity audits		21 592	29 803
<b>Total</b>		<b>21 592</b>	<b>29 803</b>
<b>6.5 Inventory</b>			
Learning and teaching support material		5	3
Food and food supplies		234	80
Fuel, oil and gas		140	115
Other consumable materials		1 569	2 556
Materials and supplies		859	184
Stationery and printing		67 839	75 051
Medical supplies		34	22
<b>Total</b>		<b>70 680</b>	<b>78 011</b>
<b>6.6 Property payments</b>			
Municipal services		184 871	172 903
Property management fees		634	15 907
Property maintenance and repairs		14 338	14 213
Other		380 217	336 982
<b>Total</b>		<b>580 060</b>	<b>540 005</b>



## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>6.7 Travel and subsistence</b>			
Local	6	438 262	425 363
Foreign		9 450	5 588
<b>Total</b>		<b>447 712</b>	<b>430 951</b>
<b>6.8 Other operating expenditure</b>			
Learnerships		11 913	-
Professional bodies, membership and subscription fees		597	487
Resettlement costs		5 829	9 285
Other		97 461	83 233
<b>Total</b>		<b>115 800</b>	<b>93 005</b>
<b>7. INTEREST AND RENT ON LAND</b>			
Interest paid		1 505	4 719
<b>Total</b>		<b>1 505</b>	<b>4 719</b>
<b>8. PAYMENTS FOR FINANCIAL ASSETS</b>			
Material losses through criminal conduct		229	9 005
Theft	8.3	229	9 005
Other material losses written off	8.1	3 140	3 355
Debts written off	8.2	145	2 145
<b>Total</b>		<b>3 514</b>	<b>14 505</b>
<b>8.1 Other material losses written off</b>			
Nature of losses			
Irrecoverable losses		1 548	3 314
Civil actions		1 592	41
<b>Total</b>		<b>3 140</b>	<b>3 355</b>
<b>8.2 Debts written off</b>			
Nature of debts written off			
Staff debts (prescribed staff debts)		145	2 145
<b>Total debt written off</b>		<b>145</b>	<b>2 145</b>



## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>8.3 Detail of theft</b>			
Nature of theft			
Burglaries		83	-
Theft		146	9 005
<b>Total</b>		<b>229</b>	<b>9 005</b>

### 9. TRANSFERS AND SUBSIDIES

Provinces and municipalities	<i>Annex 1A</i>	349	-
Departmental agencies and accounts	<i>Annex 1B</i>	1 813 291	1 573 989
Foreign governments and international organisations	<i>Annex 1C</i>	7 189	6 343
Households	<i>Annex 1D</i>	86 603	66 617
<b>Total</b>		<b>1 907 432</b>	<b>1 646 949</b>

### 10. EXPENDITURE FOR CAPITAL ASSETS

Tangible assets		976 932	680 425
Buildings and other fixed structures	35	683 095	542 493
Machinery and equipment	33	293 837	137 932
Software and other intangible assets		2 448	4 486
Computer software	34	2 448	4 486
<b>Total</b>		<b>979 380</b>	<b>684 911</b>

#### 10.1 Analysis of funds utilised to acquire capital assets – 2011/12

	Voted funds R'000	Aid assistance R'000	Total R'000
Tangible assets	976 932	-	976 932
Buildings and other fixed structures	683 095	-	683 095
Machinery and equipment	293 837	-	293 837
Software and other intangible assets	2 448	-	2 448
Computer software	2 448	-	2 448
<b>Total</b>	<b>979 380</b>	<b>-</b>	<b>979 380</b>

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

### 10.2 Analysis of funds utilised to acquire capital assets – 2010/11

	Voted funds R'000	Aid assistance R'000	Total R'000
Tangible assets	680 425	-	680 425
Buildings and other fixed structures	542 493	-	542 493
Machinery and equipment	137 932	-	137 932
Software and other intangible assets	4 486	-	4 486
Computer software	4 486	-	4 486
<b>Total</b>	<b>684 911</b>	<b>-</b>	<b>684 911</b>

	Note	2011/12 R'000	2010/11 R'000
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### 11. CASH AND CASH EQUIVALENTS

Cash receipts	(983)	(931)
Disbursements	-	1
Cash on hand	4 455	4 303
<b>Total</b>	<b>3 472</b>	<b>3 373</b>

### 12. PREPAYMENTS AND ADVANCES

Travel and subsistence	1 164	1 751
Advances paid to other entities	4 043	1 660
<b>Total</b>	<b>5 207</b>	<b>3 411</b>

### 13. RECEIVABLES

		R'000	R'000	R'000	Dec-11 R'000	Nov-10 R'000
	Note	Less than one year	One to three years	Older than three years	Total	Total
Claims recoverable	Annex 4	277 141	109 505	2 385	389 031	366 299
Trade receivables	13.2	718	41	-	759	718
Staff debt	13.3	3 041	5 673	14 160	22 874	20 293
Other debtors	13.4	31 247	2 665	3 629	37 541	184 520
<b>Total</b>		<b>312 147</b>	<b>117 884</b>	<b>20 174</b>	<b>450 205</b>	<b>571 830</b>

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>13.1 Claims recoverable</b>			
National departments	13	150 204	196 292
Provincial departments		238 827	170 007
<b>Total</b>		<b>389 031</b>	<b>366 299</b>
<b>13.2 Trade receivables</b>			
Trade receivables		759	718
<b>Total</b>		<b>759</b>	<b>718</b>
<b>13.3 Staff debt</b>			
In-service debt		2 858	3 126
Out-of-service debt		20 016	17 167
<b>Total</b>		<b>22 874</b>	<b>20 293</b>
<b>13.4 Other debtors</b>			
Disallowance accounts		7 380	8 621
Salary suspense accounts		161	170
Funds due to the department (virement)		30 000	175 729
<b>Total</b>		<b>37 541</b>	<b>184 520</b>
<b>14. VOTED FUNDS TO BE SURRENDERED TO THE REVENUE FUND</b>			
Opening balance		73 512	(91 353)
Transfer from statement of financial performance		68 137	108 794
Voted funds not requested/not received	1.1	-	(35 282)
Paid during the year		(73 512)	13 832
Received during the year		-	(105 185)
<b>Closing balance</b>		<b>68 137</b>	<b>73 512</b>
<b>15. DEPARTMENTAL REVENUE AND NRF RECEIPTS TO BE SURRENDERED TO THE REVENUE FUND</b>			
Opening balance		52 522	40 554
Transfer from statement of financial performance		379 066	411 485
Paid during the year		(391 907)	(399 517)
<b>Closing balance</b>		<b>39 681</b>	<b>52 522</b>

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>16. BANK OVERDRAFT</b>			
Consolidated Paymaster-General Account		324 613	425 999
<b>Total</b>		<b>324 613</b>	<b>425 999</b>
<b>17. PAYABLES – CURRENT</b>			
Clearing accounts	17.1	245	312
Other payables	17.2	3 483	1 369
<b>Total</b>		<b>3 728</b>	<b>1 681</b>
<b>17.1 Clearing accounts</b>			
Salary control accounts		230	312
Overseas maintenance		5	-
VAT clearing account		10	-
<b>Total</b>		<b>245</b>	<b>312</b>
<b>17.2 Other payables</b>			
Social development		-	1 059
Salary reversal control		8	-
Disallowance miscellaneous		3 475	297
Provincial Department of Transport, Mpumalanga		-	13
<b>Total</b>		<b>3 483</b>	<b>1 369</b>
<b>18. NET CASH FLOW AVAILABLE FROM OPERATING ACTIVITIES</b>			
Net surplus/(deficit) as per statement of financial performance		443 617	535 707
Add back non-cash/cash movements not deemed operating activities		635 577	190 045
(Increase)/decrease in receivables – current		121 625	(149 038)
(Increase)/decrease in prepayments and advances		(1 796)	(1 287)
Increase/(decrease) in payables – current		2 047	(1 013)
Proceeds from sale of capital assets		(260)	(81)
Expenditure on capital assets		979 380	684 911
Surrenders to Revenue Fund		(465 419)	(308 164)
Voted funds not requested/not received		-	(35 283)
<b>Net cash flow generated by operating activities</b>		<b>1 079 194</b>	<b>725 752</b>



## NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>19. RECONCILIATION OF CASH AND CASH EQUIVALENTS FOR CASH FLOW PURPOSES</b>			
Consolidated Paymaster-General account		(324 613)	(425 999)
Cash receipts		(983)	(931)
Disbursements		-	1
Cash on hand		4 455	4 303
<b>Total</b>		<b>(321 141)</b>	<b>(422 626)</b>



### 3.11 DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

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

#### 20. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

Contingent liabilities

Liable to	Nature			
Housing loan guarantees	Employees	Annex 3A	2 332	5 221
Claims against the department		Annex 3B	9 130 664	*7 423 768
Other departments (interdepartmental unconfirmed balances)		Annex 5	288 315	79 855
Other		Annex 3B	80 181	**79 905
<b>Total</b>			<b>9 501 492</b>	<b>7 588 749</b>

\* Previous year figure restated due to one claim included as R6 million instead of R6 billion.

\*\* Previous year figure restated due to the initiated departmental project to ensure compliant financial reporting for the Third Party Fund. Through the recalculation and validation of Third Party Fund's transaction data, the department was able to produce annual financial statements for the Third Party Fund, which it had been unable to do previously.

#### 21. COMMITMENTS

Current expenditure				
Approved and contracted			687 051	1 176 628
Approved but not yet contracted			5 816	36 822
			<b>692 867</b>	<b>1 213 450</b>
Capital expenditure				
Approved and contracted			703 339	*1 351 517
Approved but not yet contracted			441	1 515
			<b>703 780</b>	<b>1 353 032</b>
<b>Total commitments</b>			<b>1 396 647</b>	<b>2 566 482</b>

\*Previous year figure restated due to capital works projects (buildings) being increased with R126 million. Commitments totalling R626 million under current expenditure relates to multiyear contracts mainly for security guarding services. Commitments totalling R176 million under capital expenditure relates to a multiyear contract. Commitments totalling R524 million under capital expenditure relates to capital works projects (Department of Public Works).

## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000	
<b>22. ACCRUALS</b>				
Listed by economic classification				
	30 days	30+ days	Total	Total
Goods and services	244 185	484 151	728 336	298 975
Capital assets	77 746	8 453	86 199	235 229
<b>Total</b>	<b>321 931</b>	<b>492 604</b>	<b>814 535</b>	<b>534 204</b>
Listed by programme level				
Programme 1: Administration			355 554	163 052
Programme 2: Court Services			380 610	309 718
Programme 3: State Legal Services			9 387	7 270
Programme 5: Auxiliary and Associated Services			68 984	54 164
<b>Total</b>			<b>814 535</b>	<b>534 204</b>
Confirmed balances with other departments	Annex 5		200 631	243 015
<b>Total</b>			<b>200 631</b>	<b>243 015</b>
<b>23. EMPLOYEE BENEFITS</b>				
Leave entitlement			*459 003	432 425
Service bonus (13 <sup>th</sup> cheque)			126 443	117 305
Performance awards			74 077	64 658
Capped leave commitments			242 644	240 209
Other			958	820
<b>Total</b>			<b>903 125</b>	<b>855 417</b>

\* Included in the leave entitlement is an amount of R7 874 759.93 representing negative leave balances.

## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

### 24. LEASE COMMITMENTS

Operating leases expenditure

2011/12	Buildings and other fixed structures R'000	Machinery and equipment R'000	Total R'000
Not later than one year	479 542	108	479 650
Later than one year and not later than five years	708 536	40	708 576
Later than five years	645 713	-	645 713
<b>Total lease commitments</b>	<b>1 833 791</b>	<b>148</b>	<b>1 833 939</b>

2010/11	Buildings and other fixed structures R'000	Machinery and equipment R'000	Total R'000
Not later than one year	302 734	161	302 895
Later than one year and not later than five years	1 093 363	108	1 093 471
Later than five years	64 861	-	64 861
<b>Total lease commitments</b>	<b>1 460 958</b>	<b>269</b>	<b>1 461 227</b>

Finance leases expenditure

2011/12	Buildings and other fixed structures R'000	Machinery and equipment R'000	Total R'000
Not later than one year	-	14 966	14 966
Later than one year and not later than five years	-	11 274	11 274
Total lease commitments	-	26 240	26 240
Less: finance costs	-	(1 438)	(1 438)
<b>Total present value of lease liabilities</b>	<b>-</b>	<b>24 802</b>	<b>24 802</b>

2010/11	Buildings and other fixed structures R'000	Machinery and equipment R'000	Total R'000
Not later than one year	-	24 055	24 055
Later than one year and not later than five years	-	9 046	9 046
Total lease commitments	-	33 101	33 101
Less: finance costs	-	(2 037)	(2 037)
<b>Total present value of lease liabilities</b>	<b>-</b>	<b>31 064</b>	<b>31 064</b>

## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>25. RECEIVABLES FOR DEPARTMENTAL REVENUE</b>			
Fines, penalties and forfeits		295 567	*334 301
Other		271	10 820
<b>Total</b>		<b>295 838</b>	<b>345 121</b>

\* Previous year figure restated due to the initiated departmental project to ensure compliant financial reporting for Third Party Fund. Through recalculation and validation of Third Party Fund's transaction data, the department was able to produce annual financial statements for the Third Party Fund, which it had been unable to do previously.

### 25.1 Analysis of receivables for departmental revenue

Opening balance	345 121	96 524
Less: amounts received	(49 283)	(96 524)
Add: amounts recognised	-	345 121
<b>Closing balance</b>	<b>295 838</b>	<b>345 121</b>

## 26. IRREGULAR EXPENDITURE

### 26.1 Reconciliation of irregular expenditure

Opening balance	102 468	2 979 823
Add: Irregular expenditure – relating to prior year	53 935	403
Add: Irregular expenditure – relating to current year	223 445	*422 324
Less: Amounts condoned	(172 427)	(3 300 065)
Less: Amounts not recoverable (not condoned)	(2 667)	(17)
<b>Irregular expenditure awaiting condonation</b>	<b>204 754</b>	<b>102 468</b>

\* Adjustment to prior year figure due to population verification performed

#### Analysis of awaiting condonation per age classification

Current year	150 819	102 117
Prior years	53 935	351
<b>Total</b>	<b>204 754</b>	<b>102 468</b>

## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

### 26.2 Details of irregular expenditure – current year

Incident	Disciplinary steps taken/criminal proceedings	2011/12 R'000
<ul style="list-style-type: none"> <li>• Normal procurement policies and procedures not followed</li> <li>• Tender procedures not followed</li> <li>• Deviation from usage sole supplier</li> </ul>	Cases currently under investigation and disciplinary procedures to be finalised	72 526
		18 554
		132 365
<b>Total</b>		<b>223 445</b>

### 26.3 Details of irregular expenditure condoned

Incident	Condoned by (condoning authority)	2011/12 R'000
• Sole supplier	Condoned by Accounting Officer	132 365
• Procurement procedures not followed	Condoned by Departmental Bid Adjudication Committee	40 062
<b>Total</b>		<b>172 427</b>

### 26.4 Details of irregular expenditure not recoverable (not condoned)

Incident	Not condoned by (condoning authority)	2011/12 R'000
• Possible irregular expenditure reported for procurement procedures not followed	Departmental Bid Adjudication Committee	2 667
<b>Total</b>		<b>2 667</b>

Note	2011/12 R'000	2010/11 R'000
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## 27. FRUITLESS AND WASTEFUL EXPENDITURE

### 27.1 Reconciliation of fruitless and wasteful expenditure

Opening balance	2 944	2 081
Fruitless and wasteful expenditure – relating to prior year	5 045	383
Fruitless and wasteful expenditure – relating to current year	2 122	*534
Less: Amounts condoned	(48)	(50)
Less: Amounts transferred to receivables for recovery	(1)	(4)
Fruitless and wasteful expenditure awaiting condonement	<u>10 062</u>	<u>2 944</u>

\* Previous-year financials restated with R315 000 due to duplication of fees charged on officials not boarding flights and amounts previously disclosed as fruitless instead of irregular expenditure.

Analysis of awaiting condonation per economic classification

## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

	Note	2011/12 R'000	2010/11 R'000
<b>27.2 Analysis of waiting condonation per economic classification</b>			
Current		2 099	1254
Capital		7 963	1690
<b>Total</b>		<b>10 062</b>	<b>2 944</b>

### 27.3 Analysis of current year's fruitless and wasteful expenditure

Incident	Disciplinary steps taken/criminal proceedings	2011/12 R'000
Fees charged in respect of officials not boarding flights or not using reserved accommodation	Cases currently under investigation and disciplinary procedures to be finalised	397
Lease agreements – option not exercised to pay lower rates after initial lease period	Cases currently under investigation and disciplinary procedures to be finalised	16
Penalty interest on late payment of accounts	Cases currently under investigation and disciplinary procedures to be finalised	80
Reinstalment of PABX lines	Cases currently under investigation and disciplinary procedures to be finalised	48
Car hire and traffic fines		5
Rental paid for unoccupied leases		1 576
<b>Total</b>		<b>2 122</b>

## 28. RELATED PARTY TRANSACTIONS

*Guardian's Fund*  
*Legal Aid Board*  
*South African Human Rights Commission*  
*Office of the Public Protector*  
*President's Fund*  
*Third Party Funds*  
*National Prosecuting Authority*  
*Special Investigating Unit*  
*Criminal Asset Recovery Account*  
*Representative Political Parties' Fund*



## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

### 29. KEY MANAGEMENT PERSONNEL

	No of individuals	2011/12 R'000	2010/11 R'000
Officials:			
Level 15 to 16	17	18 652	17 548
Level 14	51	36 860	26 835
Family members of key management personnel	6	1 453	826
<b>Total</b>		<b>56 965</b>	<b>45 209</b>

### 30. IMPAIRMENT

#### Impairment

Debtors	10 335	9 614
Other	1 679	6 029
<b>Total</b>	<b>12 014</b>	<b>15 643</b>

### 31. PROVISIONS

Guardian's Fund – TBVC	52 431	**49 379
Third-party revenue	295 567	*334 301
<b>Total</b>	<b>347 998</b>	<b>383 680</b>

\* Previous year figure restated due to the initiated departmental project to ensure compliant financial reporting for Third Party Fund. Through recalculation and validation of Third Party Fund's transaction data, the department was able to produce annual financial statements for Third Party Funds which it had been unable to do previously.

\*\* Previous year figures restated due to a journal entry passed in the Guardian's Fund that was a result of interest misstatement during the previous financial year ending 2010/11.

## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

### 32. NON-ADJUSTING EVENTS AFTER REPORTING DATE

Include an estimate of the financial effect of the subsequent non-adjusting events or a statement that such an estimate cannot be made.

2011/12  
R'000

**Total**

### 33. MOVABLE TANGIBLE CAPITAL ASSETS PER ASSETS REGISTER FOR THE YEAR ENDED 31 MARCH 2012

	Opening balance	Current-year Adjustments to prior year balances	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000	R'000
Machinery and equipment	707 824	(2 623)	48 548	2 133	751 616
Transport assets	96 581	536	14 794	416	111 495
Computer equipment	194 310	(1 136)	19 151	961	211 364
Furniture and office equipment	185 669	(958)	12 036	536	196 211
Other machinery and equipment	231 264	(1 065)	2 567	220	232 546
<b>Total movable tangible capital assets</b>	<b>707 824</b>	<b>(2 623)</b>	<b>48 548</b>	<b>2 133</b>	<b>751 616</b>

#### 33.1 Additions to movable tangible capital assets for the year ended 31 March 2012

	Cash	Non-cash	(Capital work in progress, current costs and finance lease payments)	Received current, not paid (paid current year, received prior year)	Total
	R'000	R'000	R'000	R'000	R'000
Machinery and equipment	293 837	(14 143)	(241 482)	10 336	48 548
Transport assets	25 976	(14 143)	-	2 961	14 794
Computer equipment	18 116	-	-	1 035	19 151
Furniture and office equipment	25 575	-	(18 856)	5 317	12 036
Other machinery and equipment	224 170	-	(222 626)	1 023	2 567
<b>Total additions to movable tangible capital assets</b>	<b>293 837</b>	<b>(14 143)</b>	<b>(241 482)</b>	<b>10 336</b>	<b>48 548</b>

## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

### 33.2 Disposals of movable tangible capital assets for the year ended 31 March 2012

	Sold for cash	Transferred out, destroyed or scrapped	Total disposals	Cash received actual
	R'000	R'000	R'000	R'000
Machinery and equipment	688	1 445	2 133	260
Transport assets	416	-	416	260
Computer equipment	99	862	961	-
Furniture and office equipment	146	390	536	-
Other machinery and equipment	27	193	220	-
<b>Total disposal of movable tangible capital assets</b>	<b>688</b>	<b>1 445</b>	<b>2 133</b>	<b>260</b>

### 33.3 Movement in movable tangible assets for for the year ended 31 March 2011

	Opening balance	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000
Machinery and equipment	655 625	54 887	2 688	707 824
Transport assets	84 221	12 920	560	96 581
Computer equipment	170 148	25 285	1 123	194 310
Furniture and office equipment	173 052	13 066	449	185 669
Other machinery and equipment	228 204	3 616	556	231 264
<b>Total movable tangible assets</b>	<b>655 625</b>	<b>54 887</b>	<b>2 688</b>	<b>707 824</b>

## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

### 33.4 Minor assets as at March 2012

	Intangible assets	Machinery and equipment	Total
	R'000	R'000	R'000
Opening balance	83	621 909	621 992
Current year adjustments	-	(872)	(872)
Additions	-	22 246	22 246
Disposals	-	4 517	4 517
<b>Total minor assets</b>	<b>83</b>	<b>638 766</b>	<b>638 849</b>
Number of R1 minor assets	-	39	39
Number of minor assets at cost	29	464 498	464 527
<b>Total number of minor assets</b>	<b>29</b>	<b>464 537</b>	<b>464 566</b>

### 33.5 Minor assets as at March 2011

Opening balance	81	596 307	596 388
Additions	2	31 143	31 145
Disposals	-	5 541	5 541
<b>Total minor assets</b>	<b>83</b>	<b>621 909</b>	<b>621 992</b>
Number of R1 minor assets	-	8	8
Number of minor assets at cost	26	431 665	431 691
<b>Total number of minor assets</b>	<b>26</b>	<b>431 673</b>	<b>431 699</b>

### 34. MOVABLE INTANGIBLE CAPITAL ASSETS FOR THE YEARENDED 31 MARCH 2012

	Opening balance	Current-year adjustments to prior year balances	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000	R'000
Computer software	43 670	-	10 319	-	53 989
<b>Total intangible capital assets</b>	<b>43 670</b>	<b>-</b>	<b>10 319</b>	<b>-</b>	<b>53 989</b>

## DISCLOSURE NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2012

### 34.1 Additions to intangible capital assets for the year ended 31 March 2012

	Cash	Non-cash	(Develop- ment work in progress – current costs)	Received current year, not paid (paid current year, received prior year)	Total
	R'000	R'000	R'000	R'000	R'000
Computer software	2 448	-	-	7 871	10 319
<b>Total additions to intangible capital assets</b>	<b>2 448</b>	<b>-</b>	<b>-</b>	<b>7 871</b>	<b>10 319</b>

### 34.2 Movement in intangible capital assets for the year ended 31 March 2011

	Opening balance	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000
Computer software	43 670	-	-	43 670
<b>Total intangible capital assets</b>	<b>43 670</b>	<b>-</b>	<b>-</b>	<b>43 670</b>

## 35. MOVEMENT IN IMMOVABLE TANGIBLE CAPITAL ASSETS FOR THE YEAR ENDED 31 MARCH 2012

	Opening balance	Current-year adjustments to prior year balances	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000	R'000
Buildings and other fixed structures	13 267	-	158	-	13 425
Other fixed structures	13 267	-	158	-	13 425
<b>Total immovable tangible capital assets</b>	<b>13 267</b>	<b>-</b>	<b>158</b>	<b>-</b>	<b>13 425</b>



### 35.1 Additions to immovable tangible capital assets for the year ended 31 March 2012

	Cash	Non-cash	Capital work in progress, current costs and finance lease payments	Received current, not paid (paid current year, received prior year)	Total
	R'000	R'000	R'000	R'000	R'000
Building and other fixed structures	683 095	-	(682 937)	-	158
Non-residential buildings	682 937	-	(682 937)	-	-
Other fixed structures	158	-	-	-	158
<b>Total additions to immovable tangible capital assets</b>	<b>683 095</b>	<b>-</b>	<b>(682 937)</b>	<b>-</b>	<b>158</b>

### 35.2 Movement in immovable tangible capital assets for the year ended 31 March 2011

	Opening balance	Additions	Disposals	Closing balance
	R'000	R'000	R'000	R'000
Buildings and other fixed structures	11 365	36 447	34 545	13 267
Non-residential buildings	-	34 545	34 545	-
Other fixed structures	11 365	1 902	-	13 267
<b>Total immovable tangible assets</b>	<b>11 365</b>	<b>36 447</b>	<b>34 545</b>	<b>13 267</b>



### 3.12 ANNEXURES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2012

#### ANNEXURE 1A STATEMENT OF UNCONDITIONAL GRANTS AND TRANSFERS TO MUNICIPALITIES

NAME OF MUNICIPALITY	GRANT ALLOCATION			TRANSFER			SPENT			2010/11 Total available
	Amount R'000	Roll-overs R'000	Adjustments R'000	Total available R'000	Actual transfer R'000	Percentage of available funds transferred %	Amount received by municipality R'000	Amount spent by municipality R'000	Percentage of available funds spent by municipality %	
PD: Vehicles fines and penalties	255	-	95	350	349		-	-		-
	255	-	95	350	349		-	-		-

#### ANNEXURE 1B STATEMENT OF TRANSFERS TO DEPARTMENTAL AGENCIES AND ACCOUNTS

DEPARTMENT/AGENCY/ACCOUNT	TRANSFER ALLOCATION				TRANSFER			2010/11 Appropriation
	Adjusted appropriation R'000	Roll-overs R'000	Adjustments R'000	Total available R'000	Actual transfer R'000	Percentage of available funds transferred %		
South African Human Rights Commission	89 066	-	707	89 773	89 773	100%	74 368	
Legal Aid South Africa	1 128 057	-	9 488	1 137 545	1 137 545	100%	1 116 355	
Special Investigating Unit	291 020	-	32 171	323 191	323 191	100%	171 089	
Office of the Public Protector	152 889	-	840	153 729	153 729	100%	114 082	
Representative Political Parties' Fund	103 981	-	-	103 981	103 981	100%	98 095	
President's Fund	1	-	-	1	-	-	-	
Safety and Security Sector	5 072	-	-	5 072	5 072	100%	-	
	1 770 086	-	43 206	1 813 292	1 813 291		1 573 989	

**ANNEXURE 1C**  
**STATEMENT OF TRANSFERS TO FOREIGN GOVERNMENT AND INTERNATIONAL ORGANISATIONS**

FOREIGN GOVERNMENT/ INTERNATIONAL ORGANISATION	TRANSFER ALLOCATION			EXPENDITURE		2010/11 Appropriation	
	Adjusted appropriation	Roll-overs	Adjustments	Total available	Actual transfer		Percentage of available funds transferred
	R'000	R'000	R'000	R'000	R'000		%
Transfers							
Subscription fees: International Criminal Court	4 955	-	2 235	7 190	7 189	100%	
<b>Total</b>	<b>4 955</b>	<b>-</b>	<b>2 235</b>	<b>7 190</b>	<b>7 189</b>	<b>6 343</b>	

**ANNEXURE 1D**  
**STATEMENT OF TRANSFERS TO HOUSEHOLDS**

HOUSEHOLDS	TRANSFER ALLOCATION			EXPENDITURE		2010/11 Appropriation	
	Adjusted appropriation	Roll-overs	Adjustments	Total available	Actual transfer		Percentage of available funds transferred
	R'000	R'000	R'000	R'000	R'000		%
Transfers							
Household: Employee social benefits	95 220	-	(11 398)	83 822	83 821	100%	
Household: Claims against the state	150	-	2 067	2 217	2 217	100%	
Household: Payment/refund and remuneration – act of grace	-	-	542	542	542	100%	
Household: Donation and gifts	23	-	-	23	23	100%	
<b>Total</b>	<b>95 393</b>	<b>-</b>	<b>(8 789)</b>	<b>86 604</b>	<b>86 603</b>	<b>66 617</b>	

**ANNEXURE 1E**  
STATEMENT OF GIFTS, DONATIONS AND SPONSORSHIPS RECEIVED

NAME OF ORGANISATION	NATURE OF GIFT, DONATION OR SPONSORSHIP	2011/12	2010/11
		R'000	R'000
Received in cash			
Law Society	Improving library facilities	-	5
Law Society	Donation	-	1
Subtotal		-	6
Received in kind			
Lewis Stores, Free State	Carpets, Samsung DVD and Protea television stand	-	4
Department of Labour	Furniture and equipment	10	-
Subtotal		10	4
Total		10	10

**ANNEXURE 1F**  
STATEMENT OF AID ASSISTANCE RECEIVED

NAME OF DONOR	PURPOSE	Opening bal- ance	Revenue	Expenditure	Closing bal- ance
		R'000	R'000	R'000	R'000
Received in cash					
Swiss Fund	Improving the accessibility of small claims courts	-	1 378	1 378	-
European Union	Sectoral budget support	16 095	-	3 559	12 536
USAID	Judicial capacity and institutional building in Southern Sudan	210	-	26	184
USAID	Gender justice within the SADC region	73	-	1	72
Total		16 378	1 378	4 964	12 792

**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	2011/12	2010/11
	R'000	R'000
Paid in cash		
Farewell gift – Germiston	-	1
Donation of computers – Western Cape	-	302
Farewell gift – Western Cape	-	2
Farewell gift – Western Cape	-	1
Farewell gift – Upington	-	9
Farewell gift – Nelspruit	-	4
Farewell gift – Aliwal North	-	1
Farewell gift – Lydenburg	-	1
Judge-President annual function – Grahamstown	-	1
Statue for Mr Strydom	1	-
<b>Total</b>	<b>1</b>	<b>322</b>

**ANNEXURE 3A**  
STATEMENT OF FINANCIAL GUARANTEES ISSUED AS AT 31 MARCH 2012 – LOCAL

Guarantor institution	Guarantee in respect of housing	Original guaranteed capital amount	Opening balance 1 April 2011	Guarantees draw down during the year	Guarantees repayments/cancelled/reduced/released during the year	Revaluations	Closing balance 31 March 2012	Guaranteed interest for year ended 31 March 2012	Realised losses not recoverable (claims paid out)
		R'000	R'000	R'000	R'000	R'000	R'000	R'000	R'000
Standard Bank		-	619	-	298	-	321	-	-
Nedbank		-	1 403	26	938	-	491	-	-
FirstRand Bank		-	649	-	511	-	138	-	-
Absa		-	879	39	533	-	385	-	-
Peoples Bank		-	177	-	133	-	44	-	-
Old Mutual		-	637	-	346	-	291	-	-
Other		-	702	-	364	-	338	-	-
Bank Limited		-	12	-	5	-	7	-	-
FNB		-	143	493	319	-	317	-	-
	<b>Total</b>	-	5 221	558	3 447	-	2 332	-	-

**ANNEXURE 3B**  
**STATEMENT OF CONTINGENT LIABILITIES AS AT 31 MARCH 2012**

NATURE OF LIABILITY	Opening balance 1 April 2011	Liabilities in- curred during the year	Liabilities paid/ cancelled/ reduced dur- ing the year	Liabilities recoverable	Closing balance 31 March 2012
	R'000	R'000	R'000	R'000	R'000
Claims against the department					
Summons	7 423 768	1 609 727	-	92 295	8 941 200
Supplier discrepancies	14 836	1 735	-	-	16 571
Theft and losses	996	1 030	-	-	2 026
PPP cancellation	11 681	-	-	-	11 681
Property management services	-	77 084	-	-	77 084
Human resources services	-	82 102	-	-	82 102
<b>Subtotal</b>	<b>7 451 281</b>	<b>1 771 678</b>	<b>-</b>	<b>92 295</b>	<b>9 130 664</b>
Other					
Third-party, theft , losses and dishonoured cheques	79 905	276	-	-	80 181
<b>Subtotal</b>	<b>79 905</b>	<b>276</b>	<b>-</b>	<b>-</b>	<b>80 181</b>
<b>Total</b>	<b>7 531 186</b>	<b>1 771 954</b>	<b>-</b>	<b>92 295</b>	<b>9 210 845</b>



**ANNEXURE 4**  
**CLAIMS RECOVERABLE**

Government entity	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31 March 2012 R'000	31 March 2011 R'000	31 March 2012 R'000	31 March 2011 R'000	31 March 2012 R'000	31 March 2011 R'000
Department						
National Department	130 262	170 585	15 070	23 809	145 332	194 394
Eastern Cape	46 386	40 531	48 764	17 395	95 150	57 926
Free State	4 461	2 334	8 771	6 141	13 232	8 475
Gauteng	24 399	16 317	32 753	30 184	57 152	46 501
KwaZulu-Natal	6 358	5 174	2 883	1 426	9 241	6 600
Mpumalanga	5 016	2 875	4 504	7 893	9 520	10 768
Northern Cape	657	1 909	4 799	4 376	5 456	6 285
Limpopo	10 279	4 126	16 656	13 279	26 935	17 405
North West	11 803	5 951	9 031	7 853	20 834	13 804
Western Cape	301	2 885	1 007	-	1 308	2 885
Agency Service Control Account	-	-	2 605	42	2 605	42
PACE	458	56	-	-	458	56
Salary recoverable account	-	269	1 808	889	1 808	1 158
<b>Subtotal</b>	<b>240 380</b>	<b>253 012</b>	<b>148 651</b>	<b>113 287</b>	<b>389 031</b>	<b>366 299</b>
Other government entities Foreign Affairs	3 081	-	949	-	4 030	-
<b>Total</b>	<b>243 461</b>	<b>253 012</b>	<b>149 600</b>	<b>113 287</b>	<b>393 061</b>	<b>366 299</b>

**ANNEXURE 5**  
**INTERGOVERNMENT PAYABLES**

GOVERNMENT ENTITY	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31 March 2012 R'000	31 March 2011 R'000	31 March 2012 R'000	31 March 2011 R'000	31 March 2012 R'000	31 March 2011 R'000
<b>Departments</b>						
Current						
National Prosecuting Authority	-	-	64	67	64	67
Public Works	183 252	242 848	277 396	73 093	460 648	315 941
South African Police Service	109	72	32	73	141	145
Labour	15	13	18	6	33	19
Transport	-	-	-	155	-	155
Mineral Resources	-	-	-	10	-	10
Chief Registrar of Deeds	15	-	-	-	15	-
Communication and Information Systems	1	-	-	-	1	-
Arts and Culture	-	-	21	-	21	-
Correctional Services	44	-	122	-	166	-
Statistics	57	-	121	-	178	-
Energy	3	-	-	-	3	-
Home Affairs	-	-	35	-	35	-
Human Settlement	22	-	-	-	22	-
Rural Development	29	-	128	-	157	-
Social Development	6	-	-	-	6	-
Tourism	21	-	-	-	21	-
Water Affairs	102	-	52	-	154	-

GOVERNMENT ENTITY	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31 March 2012 R'000	31 March 2011 R'000	31 March 2012 R'000	31 March 2011 R'000	31 March 2012 R'000	31 March 2011 R'000
National Treasury	13	-	-	-	13	-
Agriculture, KwaZulu-Natal	-	16	21	-	21	16
Public Works, KwaZulu-Natal	4	-	-	4	4	4
Education, KwaZulu-Natal	33	-	-	-	33	-
Health, KwaZulu-Natal	17	-	-	-	17	-
Social Development, KwaZulu-Natal	-	-	13	-	13	-
Health, Western Cape	-	19	-	-	-	19
Transport and Public Works, Western Cape	-	-	13	-	13	-
Education, Western Cape	-	-	21	-	21	-
Agriculture, Free State	-	-	40	-	40	-
Education, Free State	-	-	8	-	8	-
Public Works, Free State	-	-	14	-	14	-
Premier, Eastern Cape	-	19	7	16	7	35
Health, Eastern Cape	16	-	-	-	16	-
Social Development, Northern Cape	-	-	20	-	20	-
Sports and Arts, Northern Cape	-	-	8	-	8	-
Economic Development, Mpumalanga	-	-	9	-	9	-
Premier, Mpumalanga	-	-	50	-	50	-
Education, Mpumalanga	12	-	-	-	12	-
Provincial Government, Mpumalanga	54	-	-	-	54	-
Health, North West	-	-	14	-	14	-
Provincial Treasury, North West	-	-	62	-	62	-

GOVERNMENT ENTITY	Confirmed balance outstanding		Unconfirmed balance outstanding		Total	
	31 March 2012	31 March 2011	31 March 2012	31 March 2011	31 March 2012	31 March 2011
	R'000	R'000	R'000	R'000	R'000	R'000
Shared Services, Gauteng	41	-	-	-	41	-
Public Roads, Gauteng	-	-	-	6 420	-	6 420
Community Safety, Gauteng	-	-	42	-	42	-
Finance, Gauteng	10	-	26	-	36	-
Local Government and Housing	-	-	40	-	40	-
Health, Limpopo	-	13	-	11	-	24
Agriculture, Limpopo	-	15	39	-	39	15
Economic Development, Limpopo	4	-	-	-	4	-
Public Works, Limpopo	-	-	21	-	21	-
Government Provincial Fleet	16 751	-	9 858	-	26 609	-
<b>Total</b>	<b>200 631</b>	<b>243 015</b>	<b>288 315</b>	<b>79 855</b>	<b>488 946</b>	<b>322 870</b>

#### ANNEXURE 6 INVENTORY

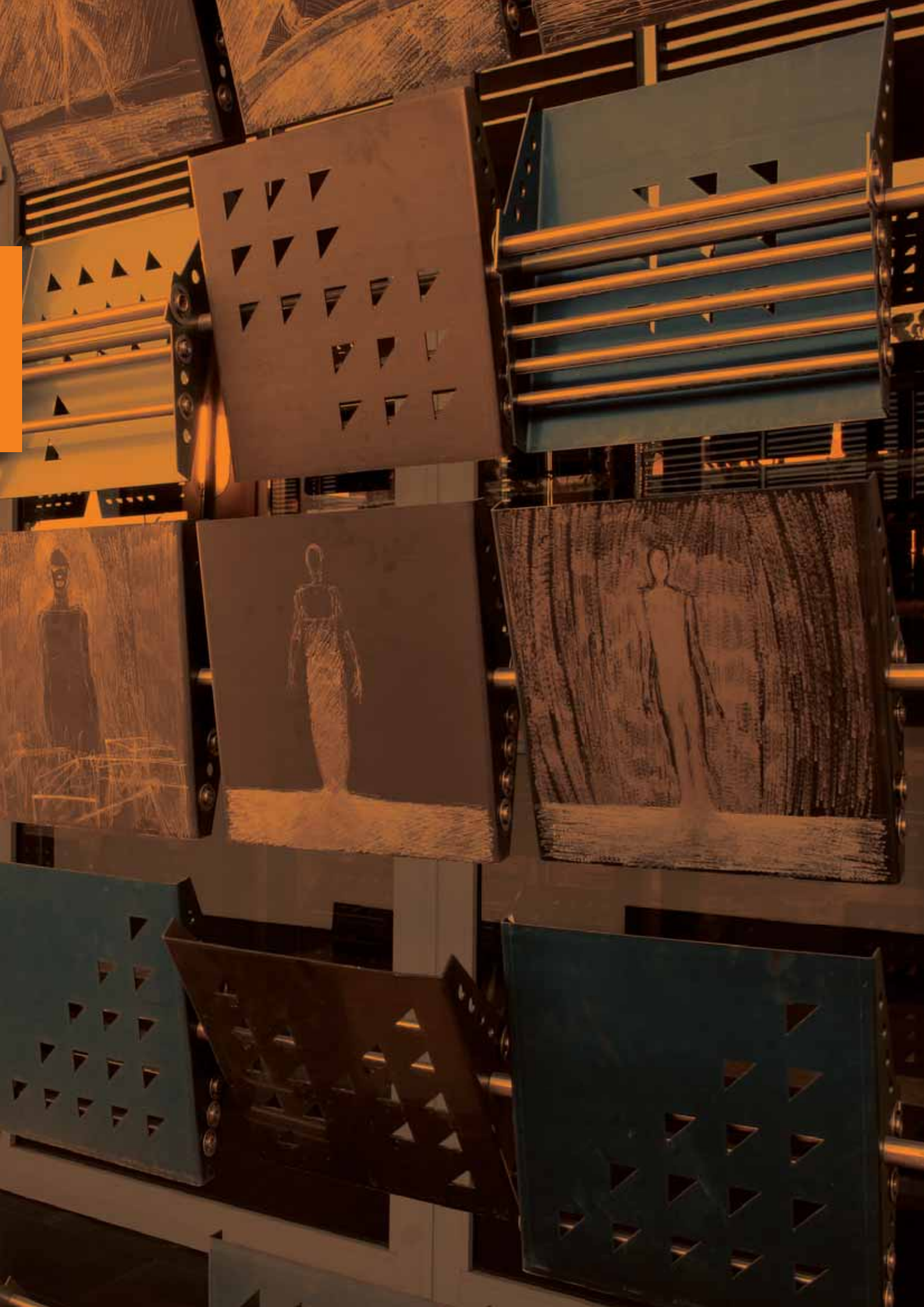
Inventory	Note	2011/12		2010/11	
		Quantity	R'000	Quantity	R'000
Opening balance		58 621	1 774	71 237	2 466
Add/(less): Adjustments to prior year balance		4 203	(107)	(14 561)	(643)
Add: Additions/purchases – Cash		76 189	3 154	81 047	3 317
(Less): Issues		(80 651)	(3 290)	(77 538)	(3 320)
Add/(less): Adjustments		-	-	(1 564)	(64)
<b>Closing balance</b>		<b>58 362</b>	<b>1 531</b>	<b>58 621</b>	<b>1 774</b>



Department of Justice and Constitutional Development

# **CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)**







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## DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

### 3.13 CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 MARCH 2012



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18	19	20
22	23	

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**Thunzeb**  
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ekawelwe  
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DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)  
FOR THE YEAR ENDED 31 MARCH 2012

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Ms Nonkululeko Sindane  
*Director-General*

# REPORT OF THE ACCOUNTING OFFICER

for the year ended 31 March 2012

Report by the Accounting Officer to the Executive Authority and Parliament of the Republic of South Africa.

## 1. THE CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

The Criminal Assets Recovery Account (CARA) is a separate account within the National Revenue Fund (NRF) into which monies and property are deposited following a judicial forfeiture or confiscation order. The confiscation and forfeiture processes, as well as the establishment of the CARA, are legislated in terms of the Prevention of Organised Crime Act (POC Act) of 1998.

The underlying hypothesis of asset forfeiture legislation is that, by confiscating or forfeiting the profits or proceeds of crime, the incentive for committing specific crimes is reduced.

Section 64 of the Act regulates the constitution of the CARA. In particular, section 64(a) is of importance to the criminal asset recovery process as it determines that all confiscated and forfeited monies and property are to be deposited into the CARA.

### 64. Finances of Account

*The Account shall consist of:*

- a. all moneys derived from the fulfilment of confiscation and forfeiture orders contemplated in Chapters 5 and 6; [Para. (a) substituted by section 35 (a) of Act No. 24 of 1999.]
  - (aA) all property derived from the fulfilment of forfeiture orders as contemplated in section 57; [Para. (aA) inserted by section 35 (b) of Act No. 24 of 1999.]
- b. the balance of all moneys derived from the execution of foreign confiscation orders as defined in the International Co-Operation in Criminal Matters Act, 1996 (Act No. 75 of 1996), after payments have been made to requesting States in terms of that Act;
- c. any property or moneys appropriated by Parliament, or paid into, or allocated to, the Account in terms of any other Act; [Para. (c) substituted by section 35 (c) of Act No. 24 of 1999.]
- d. domestic and foreign grants;

- e. any property or amount of money received or acquired from any source; and [Para. (e) substituted by section 35 (d) of Act No. 24 of 1999.]
- f. all property or moneys transferred to the Account in terms of this Act. [Para. (f) substituted by section 35 (e) of Act No. 24 of 1999.]

## 2. PURPOSE OF THE CARA

Section 69A of the Act regulates for what purpose the monies and property in the Account may be utilised:

69A Utilisation of Account & Accountability. 1) The property and money allocated to, or standing to the credit of, the Account may be utilised by Cabinet, after considering the recommendations of the Committee, for

- a. the allocation of property and amounts of money from the Account to specific law enforcement agencies;
- b. the allocation of property and amounts of money from the Account to any institution, organisation or fund contemplated in section 68(c); and the administration of the Account.

## 3. THE CRIMINAL ASSETS RECOVERY COMMITTEE (CARC)

Section 65 of the Act establishes a Criminal Assets Recovery Committee (CARC) which is responsible for providing Cabinet with recommendations on the utilisation of the Account and providing advice on specific issues related to the criminal assets recovery process.

### The Committee consists of:

Minister for Justice and Constitutional Development:

*Mr. JT Radebe MP* (Chairperson)

Minister of Police:

*Mr. Nathi Mthethwa MP*  
(Deputy Chairperson)





Minister of Finance: *Mr. Pravin Gordhan MP*  
as well as *two Ministers* appointed by the  
Chairperson and The National Director of Public  
Prosecutions

Section 69 of the POC Act provides that monies and property in the CARA may only be distributed to beneficiaries on recommendation by the CARC and after approval by National Cabinet.

On 31 March 2012, R43 million was available for new allocations to beneficiaries in terms of the POC Act (R257 million as at 31 March 2011). The Criminal Assets Recovery Committee recommended R250 million for allocation on 22 March 2011. National Cabinet, however, approved the recommendation to allocate the R250 million on 07 September 2011 to various law enforcement agencies and organisations rendering assistance to victims of crime. R20 million of the R150 million allocated for the Anti-Corruption Task Team Project was transferred to the SIU on 29 February 2012. The balance of R230 million will be transferred to the beneficiaries in the new financial year (2012/2013). The beneficiaries of the Cabinet allocations of R250,050 million are:

*South African Police Service (SAPS):* R11,250 million;  
*Department of Justice and Constitutional Development (DOJCD):*  
R20 million;  
*National Prosecuting Authority (NPA):* R20 million;  
*Department of Social Development (DSD):* R26 million;  
*Department of Correctional Service (DCS):* R22,8 million; and  
*The Anti-Corruption Task Team (ACTT) Project:*  
R150 million.

#### **4. PAYMENTS MADE DIRECTLY TO VICTIMS**

In those instances where the court orders that payments be made directly to victims, these payments do not form part of these accounts.

#### **5. CONCLUSION**

The initiatives such as the installation of accounting software for CARA are underway, which will result in more effective management of the CARA in the future.

#### **6. ACKNOWLEDGEMENTS**

Our appreciation towards the loyal support and valuable contributions of the various stakeholders is hereby acknowledged.

The financial statements set out on pages 166 to 174 have been approved by the Accounting Officer.

**Ms N Sindane**  
*Director-General: Department of Justice and Constitutional  
Development*





DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

# REPORT OF THE AUDIT COMMITTEE

for the year ended 31 March 2012

## 1. REPORT OF THE AUDIT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2012.

### 1.1 AUDIT COMMITTEE MEMBERS AND ATTENDANCE

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

Name of members	Numbers of meetings attended	Status
Mr. Motsamai Karede (Chairperson)	6	Reappointed 15 December 2009
Mr. Cedric Boltman	6	Reappointed 15 December 2009
Ms. Bajabulile Luthuli	4	Appointed 15 December 2009
Ms. Matshego Ramagaga	2	Retired 24 February 2012
Ms. Zodwa Manase	0	Retired 24 February 2012
Mr. Wilson Ramabulana	6	Appointed 15 December 2009

### 1.2 AUDIT COMMITTEE RESPONSIBILITY

We report that we have adopted appropriate formal terms of reference in our charter in line with the requirement of section 38(l)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) and Treasury Regulation 3.1. (PFMA)

### 1.3 THE EFFECTIVENESS OF INTERNAL CONTROL

There were no significant control weaknesses and risks reported to the Audit Committee and we are satisfied that key controls had remained in place throughout the year and where deficiencies in internal con-

trols were identified, management has demonstrated commitment in addressing them.

### 1.4 INTERNAL AUDIT

The internal audit unit for the Department of Justice and Constitutional Development is responsible for the auditing of the CARA.

The internal audit unit has discharged its responsibilities as per the internal audit plan.



## 1.5 AUDITOR-GENERAL SOUTH AFRICA

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

*1.5.1 The quality of in-year management and monthly/quarterly reports submitted in terms of the PFMA.* We are satisfied with the content and quality of monthly and quarterly reports prepared and issued by the Accounting Officer of the department during the year under review.

### *1.5.2 Evaluation of financial statements*

We have done the following:

- Reviewed and discussed the audited annual financial statements to be included in the annual report with the Auditor-General South Africa and the Accounting Officer;
- Reviewed the Auditor-General South Africa's management letter and management's response to it;
- Reviewed the department's compliance with legal and regulatory provisions; and
- Reviewed significant adjustments resulting from the audit.

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



*Chairperson of the Audit Committee*

Date: 30 July 2012



# REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE CRIMINAL ASSETS RECOVERY ACCOUNT

## Introduction

1. I have audited the financial statements of the Criminal Assets Recovery Account set out on pages 14 to 21 which comprise the statement of financial position as at 31 March 2012, the statement of financial performance, statement of changes in net assets and the cash flow statement for the year then ended, the notes, comprising a summary of significant accounting policies and other explanatory information.

### Accounting Officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation of these financial statements in accordance with the Departmental financial reporting framework prescribed by the National Treasury and the requirements of the Public Finance Management Act of South Africa, 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.

### Auditor General's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA), the General Notice issued in terms thereof and International Standards on Auditing. 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.
4. 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 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.

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

### Opinion

6. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Criminal Assets Recovery Account as at 31 March 2012 and its financial performance and cash flows for the year then ended in accordance with the Departmental financial reporting framework prescribed by the National Treasury and the requirements of the PFMA.

### Additional matter

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

### Financial reporting framework

8. The financial reporting framework prescribed by the National Treasury and applied by the department is a compliance framework. The wording of my opinion on a compliance framework should reflect that the financial statements have been prepared in accordance with this framework and not that they 'present fairly'.

Section 20(2) (a) of the PAA, however, requires me to express an opinion on the fair presentation of the financial statements. The wording of my opinion therefore reflects this requirement.

#### REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

9. In accordance with the PAA and the General Notice issued in terms thereof, I report the following findings relevant to performance against predetermined objectives, compliance with laws and regulations and internal control, but not for the purpose of expressing an opinion.

##### Predetermined objectives

10. The performance against predetermined objectives relating to the Criminal Assets Recovery Account is reported in the annual report of the Department of Justice and Constitutional Development, Programme 1: Administration.

##### Compliance with laws and regulations

11. I performed procedures to obtain evidence that the entity has complied with applicable laws and regulations regarding financial matters, financial management and other related matters. My finding on material non-compliance with specific matters in key applicable laws and regulations as set out in the General Notice issued in terms of the PAA is as follows:

##### Annual financial statements

12. The financial statements submitted for auditing were not prepared in all material respects in accordance with the requirements of section 40(1) (b) of the PFMA.

13. Material misstatements of contingent assets and receivables disclosures identified by the auditors were subsequently corrected, resulting in the financial statements receiving an unqualified audit opinion.

##### Internal control

14. I considered internal control relevant to my audit of the financial statements, and compliance with laws and regulations. The matter reported below under the fundamentals of internal control is limited to the significant deficiency that resulted in the finding on compliance with laws and regulations included in this report.

##### Financial and performance management

15. Management did not prepare regular, accurate and complete financial statements.

*Auditor-General*

31 July 2012  
Pretoria



AUDITOR-GENERAL  
SOUTH AFRICA

*Auditing to build public confidence*



DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

# STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 31 March 2012

	<i>Notes</i>	2011/12 R'000	2010/11 R'000
<b>Revenue</b>			
Net proceeds from forfeiture and confiscation orders	13	37 026	50 105
Less: expenditure		(20 000)	-
<b>Surplus/(deficit) for the year</b>		<b>17 026</b>	<b>50 105</b>



DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

# STATEMENT OF FINANCIAL POSITION

as at 31 March 2012

	Notes	2011/12 R'000	2010/11 R'000
<b>ASSETS</b>			
<b>Current assets</b>		<b>274 283</b>	<b>256 950</b>
Cash and cash equivalents	15	274 283	256 950
<b>Total assets</b>		<b>274 283</b>	<b>256 950</b>
<b>LIABILITIES</b>			
<b>Total liabilities</b>		<b>230 977</b>	<b>620</b>
Trade and other payables	14	230 977	620
<b>CAPITAL AND RESERVES</b>			
<b>Total net assets</b>		<b>43 306</b>	<b>256 330</b>
Accumulated surplus	16	43 306	256 330
<b>Total net assets and liabilities</b>		<b>274 283</b>	<b>256 950</b>



DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

## STATEMENT OF CHANGES IN NET ASSETS

for the year ended 31 March 2012

	<i>Notes</i>	2011/12 R'000	2010/11 R'000
<b>Accumulated surplus</b>			
Opening balance		256 330	206 225
<b>Plus: Surplus/(deficit) for the year</b>		17 026	50 105
		<b>273 356</b>	<b>256 330</b>
<b>Less: Cabinet allocations</b>		(230 050)	-
<b>Closing balance</b>	<b>16</b>	<b>43 306</b>	<b>256 330</b>

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

## CASH FLOW STATEMENT

for the year ended 31 March 2012

	<i>Notes</i>	2011/12 R'000	2010/11 R'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Cash receipts on behalf of beneficiaries		37 333	50 279
Cash paid to beneficiaries and creditors		(20 000)	-
<b>Cash generated from/(utilised in) operations</b>	<b>17</b>	<b>17 333</b>	<b>50 279</b>
Investment income received			
<b>Net cash inflows/(outflows) from operating activities</b>		<b>-</b>	<b>-</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
<b>Net cash flows from investing activities</b>			
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
<b>Net cash flow financing activities</b>			
Increase/(decrease) in beneficiary liability		-	-
Decrease/(increase) in accounts receivable		-	-
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>17 333</b>	<b>50 279</b>
Cash and cash equivalents at the beginning of the year		256 950	206 671
<b>Cash and cash equivalents at end of the year</b>		<b>274 283</b>	<b>256 950</b>



DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

# NOTES TO THE ANNUAL FINANCIAL STATEMENTS INCLUDING ACCOUNTING POLICIES

for the year ended 31 March 2012

The Criminal Assets Recovery Account (CARA) receives proceeds in cash, property, motor vehicles, equipment and other assets from the enforcement of court orders granted in terms of the Prevention of Organised Crime Act (Act No. 121 of 1998 as amended).

The Asset Forfeiture Unit (AFU) in the National Prosecuting Authority of South Africa (NPA) is engaged in the prosecution process and the Criminal Assets Recovery Unit (CARU) is mandated to comply with Chapter 7 of the Prevention of Organised Crime Act (Act No. 121 of 1998 as amended).

## 1. PRESENTATION OF THE FINANCIAL STATEMENTS

### 1.1 Basis of preparation

The financial statements have been prepared in accordance with the modified cash basis of accounting. 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. The annual 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 annual financial statements and to comply with the statutory requirements of the Public Finance Management Act, 1999 (Act No. 1 of 1999 as amended) and the Treasury Regulations issued in terms of the Act.

### 1.2 Presentation currency

The financial statements are presented in 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).

## 2. SIGNIFICANT JUDGEMENTS AND ACCOUNTING ESTIMATES

The preparation of financial statements requires the use of certain accounting estimates. It also requires management to exercise its judgement in the process of applying the unit's accounting policies. The areas involving a higher degree of judgement or complexity or areas where assumptions and estimates are significant to the financial statements are receivables consisting of the realisable values of confiscation orders and the estimated proceeds from contingent assets and inventory awaiting realisation.

## 3. FINANCIAL INSTRUMENTS AND RISK MANAGEMENT

Exposure to continuously changing market conditions has highlighted the importance of financial risk management as an element of control for the CARA.

The CARA finances its cabinet allocations to beneficiaries from the proceeds of court orders. The personnel and administration costs of the CARA unit is funded by the Department of Justice and Constitutional Development.

### Credit risk management

Potential areas of credit risk consist of receivables and unfulfilled confiscation orders. CARA monitors the ageing of court orders on an ongoing basis and engages the Asset Forfeiture Unit with regard to the finalisation of court orders. Cash is banked with the South African Reserve Bank and credit risk is considered to be acceptably low.

## 4. REVENUE

### 4.1 Definition of revenue

All monies deposited into the South African Reserve Bank for the CARA represents the net proceeds of court orders.

#### 4.2 Revenue recognition

Revenue is recognised on the cash basis when the forfeited assets have been disposed of for cash, and actual deposits have been received into the CARA.

#### 4.3 Unidentified deposits

Deposits received in the CARA that are not known to cases under management, are classified as unidentified deposits, and are not recognised as revenue.

### 5. CURRENT ASSETS

#### 5.1 Cash and cash equivalents

Cash and cash equivalents are stated in the statement of financial position. In the cash flow statement, cash and cash equivalents comprise cash at the South African Reserve Bank.

#### 5.2 Receivables

Receivables consist of the gross value of confiscation orders and gross value of cash held by curators pending the approval of their fees and expenses by the Master's office.

#### 5.3 Contingent assets

Contingent assets are those assets such as motor vehicles, property, furniture, equipment, electronic equipment, cellphones, etc. that could not be reliably valued at 31 March 2012. These assets are valued at a nominal R1 per item.

### 6. CURRENT LIABILITIES

#### 6.1 Payables

Payables consist of unidentified deposits and erroneous payments made into the CARA and the balance of allocations approved by the Cabinet but not transferred to beneficiaries at year-end.

#### 6.2 Contingent liabilities

Contingent liabilities consist of amounts recommended by the Criminal Assets Recovery Committee for allocation to beneficiaries pending approval by the Cabinet in terms of the Prevention of Organised Crime Act (Act No. 121 of 1998).

### 7. INVENTORY

Inventory is shown in Annexure 1 and not shown in the financial statements. The gross value of inventory is determined using available curator reports, auto dealers' digest and other available resources. Net realisable value is the estimated selling price in the ordinary course of business less the costs of curator's fees and selling expenses.

### 8. RELATED PARTIES

The CARA constitutes part of the national government in terms of the Public Finance Management Act (Act No. 1 of 1999, as amended). Public and other entities within the National government sphere are considered to be related parties.

### 9. COMPARATIVE FIGURES

Where necessary, additional information has been mentioned relating to prior years and to conform to changes in presentation in the current year.

### 10. EVENTS AFTER REPORTING DATE

The CARA unit reviews its activities subsequent to its reporting date to determine whether or not the conditions that existed at the reporting date require adjustments to the annual financial statements.

### 11. FOREIGN CURRENCY TRANSACTIONS

A foreign currency transaction is recorded, at initial recognition in SA Rand, by applying the foreign currency amount the spot exchange rate between the functional currency and the foreign currency at the date of transaction.

### 12. TAXATION

The CARA is not registered as a taxpayer.



DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

# NOTES TO THE FINANCIAL STATEMENTS

for the year ended 31 March 2012

	2011/12 R	2010/11 R
<b>13. Revenue</b>		
Confiscation orders	8 062	28 515
Forfeiture orders	28 964	21 590
	<b>37 026</b>	<b>50 105</b>
<b>14. Trade and other payables</b>		
Victims payments incorrectly deposited into CARA	72	72
CARA allocations approved by Cabinet	230 050	-
Unidentified deposits	855	548
	<b>230 977</b>	<b>620</b>
<b>15. Cash and cash equivalents</b>		
South African Reserve Bank		
Opening balance as at 01 April 2011	256 950	206 671
<b>Plus:</b> Funds received during financial year	37 333	50 279
	<b>294 283</b>	<b>256 950</b>
<b>Less:</b> Funds transferred during financial year	(20 000)	-
	<b>274 283</b>	<b>256 950</b>
<b>16. Accumulated surplus/(deficit)</b>		
Opening balance at the begin of the year	<b>256 330</b>	<b>206 225</b>
<b>Less: Expenditure</b>	(230 050)	-
South African Police Service	(11 250)	-
Department of Justice	(20 000)	-
National Prosecuting Authority	(20 000)	-
Department of Correctional Service	(22 800)	-
Department of Social Development	(26 000)	-
Anti-Corruption Task Team Project	(130 000)	-
Surplus/(deficit) for the year	17 026	50 105
<b>Balance at the end of the year</b>	<b>43 306</b>	<b>256 330</b>



## 17. Cash generated from/ (utilised in) operations

Surplus/(deficit) before interest
Reconciliation of unidentified deposits
Total: Unidentified deposits in the year
Plus: Other receipts
Less: Funds repaid during the year
Less: Identified deposits cleared
Net cash flow operating activities

2011/12	2010/11
R	R
17 026	50 105
469	399
-	47
-	-
(162)	(272)
<b>17 333</b>	<b>50 279</b>

## 18. Related Parties

### Name of related parties

Department of Justice and Constitutional Development
National Prosecuting Authority
Legal Aid Board
Special Investigating Unit
Guardian's Fund
Human Rights Commission
Public Protector
President's Fund

### Relationship

Dept. under common ministry
Dept. under common ministry
Entity under common ministry
Entity under common ministry
Entity under common ministry
Entity under common ministry
Entity under common ministry
Entity under common ministry

Compensation and administration costs for the CARA are paid for by the Department of Justice and Constitutional Development.

The details of the expenditure are shown below:

	R'000	R'000
Compensation of employees NPA	-	566
Compensation of employees DoJ	1 608	779
Goods & services DoJ	82	793
<b>Total</b>	<b>1 690</b>	<b>2 138</b>

## 19. Contingent assets

Total assets (including cash) forfeited to the state in pursuance of court orders, pending realisation and deposit into the CARA account are valued at R91 as at 31 March 2012 and at R670 as at 31 March 2011.

## 20. Contingent liabilities

There were no contingent liabilities as at 31 March 2012.  
The contingent liabilities amounted to R250 million as at 31 March 2011

## 21. Receivables

The gross value of cash held by curators pending finalisation of their fees and expenses and the gross value of unrealised confiscation orders granted amounted to R66 million as at 31 March 2012, and amounted to R78 million as at 31 March 2011.



DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

CRIMINAL ASSETS RECOVERY ACCOUNT (CARA)

# THE FINANCIAL STATEMENTS ANNEXURE 1

for the year ended 31 March 2012

## 22. Inventory

The forfeited assets to the CARA is valued at R4 million as at 31 March 2012, and R12 million as at 31 March 2011. The forfeited assets are classified as inventory as they will be realized and the net proceed after deduction of curator and expenses will be deposited into CARA. Inventory consists of motor vehicles, equipment, furniture, household effects, and cell phones etcetera.





# Part 4

## HUMAN RESOURCE MANAGEMENT



## HUMAN RESOURCE MANAGEMENT

### 4.1 SERVICE DELIVERY

Table 1.1: Main services provided and standards

Main services	Actual customers	Potential customers	Standard of service	Actual achievement against standards
Human Resources Policy and Strategy	All branches	All branches	Provision of Employee Health and Wellness Programme (EHWP) to 100% employees	The appointment of a service provider ensures timeous and accessible EHWP services, which include trauma debriefing and counselling on stress management throughout the department. The proactive programme includes awareness sessions on a healthy living style and supervisors' training on the management of troubled employees. In addition, employees are provided with a 24-hour call centre to access services that include personal financial wellness, legal advice and psychosocial services.
Customer Management Centre	All branches	All branches	Effective and efficient Human Resources (HR) administrative services	The Human Resources subbranch reorganised itself to ensure speedy and effective service delivery.

Table 1.2: Consultation arrangements with customers

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

Table 1.3: Service delivery access strategy

Access strategy	Actual achievements
Policy and strategy: To manage and facilitate the provision of a strategic HR function (value adding) in the department, to develop HR strategies, policies and regulations, and to monitor holistic compliance to the HR regulatory framework.	Four HR policies approved. Four draft policies in consultation stage.
Customer Management Centre: To manage and facilitate the provision of HR centres of excellence, and to render HR functional and administrative support services to the operations of branches and offices.	Reduced turnaround time in providing HR functions to line managers.



Table 1.4: Service information tool

Types of information tool	Actual achievements
DJINI intranet portal	HR policies, procedures, strategies and plans, notices, circulars.
Workshops and information sessions	Conducted ER, HR Plan workshops, leave management workshops, EHWP information sessions and the commemoration of national calendar events.

Table 1.5: Complaints mechanism

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

## 4.2 EXPENDITURE

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

Table 2.1: Personnel costs by programme, 2011/12

Programme	Total voted expenditure (R'000)	Compensation of employee expenditure (R'000)	Training expenditure (R'000)	Professional and special services (R'000)	Compensation of employees as a percentage of total expenditure	Average personnel cost per employee (R'000)
Administration	1 842 300	325 826	1 576	90 803	17.69	16
Auxiliary and Associated Services	2 199 478	-	-	25 815	-	-
Court Services	4 219 477	2 570 152	4 458	111 350	60.91	125
Direct charges	2 037 100	1 967 238	-	-	96.57	96
State Legal Services	697 704	595 051	521	429	85.29	29
Total as on financial system (BAS)	10 996 059	5 458 267	6 555	228 397	49.64	265

Table 2.2: Personnel costs by salary band, 2011/12

Salary band	Personnel expenditure (R'000)	Percentage of total personnel cost	Average personnel cost per employee
Lower skilled (Levels 1–2)	15 562	0.3	24 202
Skilled (Levels 3–5)	1 270 135	23.3	131 239
Highly skilled production (Levels 6–8)	948 940	17.4	224 761



Salary band	Personnel expenditure (R'000)	Percentage of total personnel cost	Average personnel cost per employee
Highly skilled supervision (Levels 9–12)	1 644 681	30.2	524 452
Senior management (Levels 13–16)	1 144 668	20.3	1 101 702
Contract (levels 1–2)	3 675	0.1	54 044
Contract (Levels 3–5)	104 931	1.9	108 624
Contract (Levels 6–8)	69 529	1.2	187 916
Contract (Levels 9–12)	160 228	2.8	389 849
Contract (Levels 13–16)	76 311	1.4	1 861 244
Periodical remuneration	11 234	0.2	20 842
Abnormal appointment	989	-	123 625
<b>Total</b>	<b>5 450 883</b>	<b>100</b>	<b>258 079</b>

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

Table 2.3: Salaries, overtime, Home Owners' Allowance and medical assistance by programme, 2011/12

Programme	Salaries		Overtime		Home Owners' Allowance		Medical assistance	
	Amount (R'000)	Salaries as a percentage of personnel cost	Amount (R'000)	Overtime as a percentage of personnel cost	Amount (R'000)	Home Owners' Allowance as a percentage of personnel cost	Amount (R'000)	Medical assistance as a percentage of personnel cost
Administration	222 795	68.38	438	0.13	9 249	2.84	12 494	3.83
Court Services	1 797 542	69.94	3 447	0.13	110 415	4.30	188 780	7.35
State Legal Services	417 439	70.49	442	0.07	14 493	2.44	25 432	4.27
<b>Total</b>	<b>2 437 776</b>	<b>69.89</b>	<b>4 327</b>	<b>0.12</b>	<b>134 157</b>	<b>3.84</b>	<b>226 706</b>	<b>6.49</b>



Table 2.4: Salaries, overtime, Home Owners' Allowance and medical assistance by salary band, 2011/12

Salary band	Salaries		Overtime		Home Owners' Allowance		Medical assistance	
	Amount (R'000)	Salaries as a percentage of personnel cost	Amount (R'000)	Overtime as a percentage of personnel cost	Amount (R'000)	Home Owners' Allowance as a percentage of personnel cost	Amount (R'000)	Medical assistance as a percentage of personnel cost
Lower skilled (Levels 1-2)	9 715	62.43	5	0.03	835	5.37	915	5.88
Skilled (Levels 3-5)	860 809	67.77	1 681	0.13	80 900	6.37	136 171	10.72
Highly skilled production (Levels 6-8)	690 977	72.82	1 974	0.21	34 889	3.68	61 026	6.43
Highly skilled supervision (Levels 9-12)	1 337 802	81.34	539	0.03	25 187	1.53	41 270	2.51
Senior management (Levels 13-16)	1 048 007	91.56	-	-	6 671	0.58	12 679	1.11
Contract (Levels 1-2)	3 634	98.88	3	0.08	-	-	-	-
Contract (Levels 3-5)	104 406	99.5	97	0.09	-	-	-	-
Contract (Levels 6-8)	69 253	99.6	26	0.04	6	0.01	6	0.01
Contract (Levels 9-12)	159 396	99.48	5	-	114	0.07	36	0.02
Contract (Levels 13-16)	72 200	94.61	-	-	140	0.18	82	0.11
Periodical remuneration	-	-	-	-	-	-	-	-
Abnormal appointment	957	96.76	-	-	-	-	12	1.21
<b>Total</b>	<b>4 357 156</b>	<b>79.93</b>	<b>4 330</b>	<b>0.08</b>	<b>148 742</b>	<b>2.73</b>	<b>252 197</b>	<b>4.63</b>

### 4.3 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 that are additional to the establishment. This information is presented in terms of three key variables: programme (Table 3.1), salary band (Table 3.2) and per occupation (Table 3.3). The vacancy rate reflects the percentage of posts that are not filled.

Table 3.1: Employment and vacancies by programme, 31 March 2012

Programme	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Administration, permanent	1 257	971	22.75	44
Administration, temporary	452	452	-	-
Court Services, permanent	14 712	13 216	10.10	32
Court Services, temporary	1 322	1 322	-	-
State Legal Services, permanent	2 064	1 846	10.56	4
State Legal Services, temporary	45	45	-	-
Magistrates	1 935	1 641	15.19	7
Judges	258	233	9.69	-
<b>Total</b>	<b>22 045</b>	<b>19 726</b>	<b>10.52</b>	<b>87</b>

Table 3.2: Employment and vacancies by salary bands, 31 March 2012

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	11	11	0.00	-
Skilled (Levels 3–5), permanent	10 744	9 679	9.91	42
Highly skilled production (Levels 6–8), permanent	4 648	4 223	9.14	24
Highly skilled supervision (Levels 9–12), permanent	2 433	1 963	19.32	12
Senior management (Levels 13–16), permanent	197	157	20.30	2
Magistrates	1 935	1 641	15.19	7
Judges	258	233	9.69	-
Contract (Levels 1–2)	59	59	-	-
Contract (Levels 3–5)	960	960	-	-
Contract (Levels 6–8)	374	374	-	-
Contract (Levels 9–12)	206	206	-	-



Salary band	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Contract (Levels 13–16)	220	220	-	-
<b>Total</b>	<b>22 045</b>	<b>19 726</b>	<b>10.52</b>	<b>87</b>

Table 3.3: Employment and vacancies by occupation, 31 March 2012

Occupations	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Administrative-related, permanent	9 918	9 063	8.62	42
Administrative-related, contract	849	849	-	-
Advocates, permanent	84	66	21.43	-
Attorneys, permanent	209	190	9.09	-
Attorneys, contract	4	4	-	-
Authors, journalists and other writers, contract	1	1	-	-
Building and other property caretakers, permanent	7	6	14.29	-
Bus and heavy/light vehicle drivers, permanent	31	28	9.68	1
Cleaners in offices, workshops, hospitals, etc., permanent	186	164	11.83	7
Client information clerks (switchboard, receptionist, information clerks), permanent	137	130	5.11	-
Client information clerks (switchboard, receptionist, information clerks), contract	1	1	-	-
Communication and information-related, permanent	38	27	28.95	-
Communication and information-related, contract	2	2	-	-
Financial and related professionals, permanent	234	184	21.37	3
Financial and related professionals, contract	14	14	-	-
Financial clerks and credit controllers, permanent	647	532	17.77	2
Financial clerks and credit controllers, contract	92	92	-	-

Occupations	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Food service aids and waiters, permanent	27	26	3.70	-
Food service aids and waiters, contract	2	2	-	-
General legal administration and related professionals, permanent	1 171	965	17.59	4
General legal administration and related professionals, contract	70	70	-	-
Head of department/chief executive officer, permanent	1	1	-	-
Human resources and organisational development and related professionals, permanent	53	48	9.43	1
Human resource clerks, permanent	382	337	11.78	6
Human resource clerks, contract	22	22	-	-
Information technology-related, permanent	48	32	33.33	-
Judges, permanent	258	233	9.69	-
Language practitioners, interpreters and other communication, permanent	2 028	1 835	9.52	1
Language practitioners, interpreters and other communication, contract	176	176	-	-
Librarians and related professionals, permanent	47	33	29.79	-
Librarians and related professionals, contract	2	2	-	-
Library, mail and related clerks, permanent	338	315	6.80	-
Library, mail and related clerks, contract	16	16	-	-
Logistical support personnel, permanent	49	39	20.41	-
Magistrates, permanent	1 935	1 641	15.19	7
Magistrates, contract	313	313	-	-
Material recording and transport clerks, permanent	81	75	7.41	-
Material recording and transport clerks, permanent	17	17	-	-



Occupations	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Messengers, porters and deliverers, permanent	455	407	10.55	-
Messengers, porters and deliverers, contract	82	82	-	-
Risk management and security services, permanent	7	5	28.57	-
Secretaries and other keyboard operating clerks, permanent	1 111	972	12.51	12
Secretaries and other keyboard operating clerks, contract	136	136	-	-
Security officers, permanent	430	317	26.28	1
Security officers, contract	6	6	-	-
Senior managers, permanent	196	156	20.41	-
Senior managers, contract	13	13	-	-
Social work and related professionals, permanent	116	78	32.76	-
Social work and related professionals, contract	1	1	-	-
Statisticians and related professionals, permanent	2	2	-	-
<b>Total</b>	<b>22 045</b>	<b>19 726</b>	<b>10.52</b>	<b>87</b>

The information in each case reflects the situation as at 31 March 2012.

#### 4.4 FILLING OF SENIOR MANAGEMENT SERVICE POSTS

Table 4.1: Senior Management Service posts as at 31 March 2012

Senior Management Service level	Total number of funded Senior Management Service posts per level	Total number of Senior Management Service posts filled per level	Percentage of Senior Management Service posts filled per level	Total number of Senior Management Service posts vacant per level	Percentage of Senior Management Service posts vacant per level
Director-General/ Head of Department	1	1	100.00	-	-
Salary Level 16, but not Head of Department	2	2	100.00	-	-
Salary Level 15	8	3	37.50	5	62.50



Salary Level 14	44	34	77.27	10	22.73
Salary Level 13	142	117	82.39	25	17.61
<b>Total</b>	<b>197</b>	<b>157</b>	<b>79.70</b>	<b>40</b>	<b>20.30</b>

Note: Excludes judges and magistrates.

Table 4.2: Senior Management Service posts as on 30 September 2011

Senior Management Service level	Total number of funded Senior Management Service posts per level	Total number of Senior Management Service posts filled per level	Percentage of Senior Management Service posts filled per level	Total number of Senior Management Service posts vacant per level	Percentage of Senior Management Service posts vacant per level
Director-General/ Head of Department	1	1	100.00	-	-
Salary Level 16, but not Head of Department	2	2	100.00	-	-
Salary Level 15	8	4	50.00	4	50.00
Salary Level 14	43	34	79.07	9	20.93
Salary Level 13	138	113	81.88	25	18.12
<b>Total</b>	<b>192</b>	<b>154</b>	<b>80.21</b>	<b>38</b>	<b>19.79</b>

Table 4.3: Advertising and filling of Senior Management Service posts as on 31 March 2012

Senior Management Service level	Advertising	Filling of posts	
	Number of vacancies per level advertised in six months of becoming vacant	Number of vacancies per level filled in six months after becoming vacant	Number of vacancies per level not filled in six months but filled in 12 months
Director-General/ Head of Department	-	-	-
Salary Level 16, but not Head of Department	-	-	-
Salary Level 15	3	-	1
Salary Level 14	2	-	-
Salary Level 13	9	1	3
<b>Total</b>	<b>14</b>	<b>1</b>	<b>4</b>



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

Reasons for vacancies not advertised within six months:
Reprioritisation of departmental needs whereby urgent needs necessitated the utilisation of permanent posts for contract appointments.
Planned reconfiguration process to improve organisational capability necessitated a moratorium on the filling of some vacancies.
Unavailability of suitable qualified applicants causing posts to be readvertised and/or headhunting.
Difficulty in attracting and retaining legally qualified professionals due to occupational-specific dispensation.
Challenges in respect of infrastructure, which impacted on accommodation upon appointment.
Delay in obtaining qualification verification results from the South African Qualifications Authority (SAQA), which impacted negatively on the appointment of recommended candidates.
Reasons for vacancies not filled within 12 months:
Reprioritisation of departmental needs whereby urgent needs necessitated the utilisation of permanent posts for contract appointments.
Planned reconfiguration process to improve organisational capability necessitated a moratorium on the filling of some vacancies.
Unavailability of suitable qualified applicants causing posts to be readvertised and/or headhunting.
Difficulty in attracting and retaining legally qualified professionals due to occupational-specific dispensation.
Challenges in respect of infrastructure, which impacted on accommodation upon appointment.
Delay in obtaining qualification verification results from SAQA, which negatively impacted on the appointment of recommended candidates

Table 4.5: Disciplinary steps taken for not complying with the prescribed timeframes for filling Senior Management Service posts within 12 months

No disciplinary steps were taken against non-compliance.

Reasons for no disciplinary steps being taken:
Disciplinary actions could not be taken since the reasons for non-compliance were not attributed to negligence or poor performance. The department has, however, put measures in place to ensure that vacant posts are filled within the prescribed period. The adopted measures include the development of recruitment and commitment plans that indicate time lines. These are signed off by individual line managers.
Circular 74 of 2011, dated 25 August 2011, "Directive on the advertising and filling of all funded vacant posts" was issued

## 4.5 JOB EVALUATION

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

The following table (Table 5.1) indicates the total number of posts on the establishment of the department as at 31 March 2012. The table also provides statistics on the number of posts that were upgraded or downgraded.

Table 5.1: Job evaluation, 1 April 2011 to 31 March 2012

Salary band	Number of posts	Number of posts evaluated	Percentage of posts evaluated by salary band	Posts upgraded		Posts downgraded	
				Number	Percentage of posts evaluated	Number	Percentage of posts evaluated
Lower skilled (Levels 1–2)	11	-	-	-	-	-	-
Skilled (Levels 3-5)	10 744	1	0.01	-	-	-	-
Highly skilled production (Levels 6-8)	4 648	13	0.28	-	-	-	-
Highly skilled supervision (Levels 9-12)	2 433	19	0.78	-	-	-	-
Senior Management Service (Levels 13–16)	197	2	1.02	-	-	-	-
<b>Total</b>	<b>18 033</b>	<b>35</b>	<b>0.19</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

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

Table 5.2: Profile of employees whose salary positions were upgraded due to their posts being upgraded, 1 April 2011 to 31 March 2012

Beneficiaries	African	Asian	Coloured	White	Total
Female	88	5	13	5	111
Male	123	5	24	11	163
<b>Total</b>	<b>211</b>	<b>10</b>	<b>37</b>	<b>16</b>	<b>274</b>
Employees with a disability	-	-	-	-	-

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 5.3: Employees whose salary level exceed the grade determined by job evaluation, 1 April 2011 to 31 March 2012 (in terms of PSR 1.V.C.3)

Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
Accounting Clerk	2	7	6	Resolution 3 of 2009 – accelerated grade progression.
Chief Accounting Clerk	7	8	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Chief Accounting Clerk	10	8	7	Resolution 3 of 2009 – accelerated grade progression.
Administration Clerk	1	7	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Administration Clerk	104	6	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Administration Clerk	62	5	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Administration Clerk	12	6	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Administration Clerk	8	7	6	Resolution 3 of 2009 – accelerated grade progression.
Chief Administration Clerk	24	8	7	Resolution 3 of 2009 – accelerated grade progression.
Chief Administration Clerk	4	8	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Administration Head	1	10	9	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Administration Officer	103	8	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Administration Officer	1	8	7	Resolution 3 of 2009 – accelerated grade progression.

Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
Area Court Manager	3	12	11	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Court Manager	18	10	9	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Assistant Director	4	9	7	Employees retained in lower level posts in terms of PSR V.C.3.
Assistant Director	3	10	9	Resolution 3 of 2009 – accelerated grade progression.
Assistant Director	6	10	9	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Deputy Director	5	12	11	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Deputy Director	1	11	9	Employee retained in lower level post in terms of PSR V.C.3.
Audit Manager	2	12	10	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Chief Messenger	1	5	4	Resolution 3 of 2009 – accelerated grade progression.
Court Interpreter	1	6	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Court Interpreter	1	8	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Court Stenographer	2	6	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Data Typist	1	6	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Data Typist	1	7	6	Resolution 3 of 2009 – accelerated grade progression.



Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
Debt Collection Clerk	1	6	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Deputy Director-General	1	16	15	Employee seconded to Office of the President. Minister approved placement on higher salary.
Human Resource Officer	1	7	5	Post was on Level 6 prior to the job evaluation done by the Department of Public Service and Administration (DPSA). The officials were appointed before the posts were evaluated by the DPSA.
Human Resource Officer	60	6	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Human Resource Officer	18	8	7	Post was on Level 6 prior to the job evaluation done by the DPSA. The officials were appointed before the posts were evaluated by the DPSA.
Human Resource Officer	2	8	7	Resolution 3 of 2009 – accelerated grade progression.
Senior Human Resource Officer/HR Practitioner	4	8	7	Post was on Level 8 prior to the job evaluation done by the DPSA. The officials were appointed before the posts were evaluated by the DPSA.
Labour Relations Officer	1	8	7	Resolution 3 of 2009 – accelerated grade progression.
Inspector of Interpreters	2	9	8	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Legal Secretary	1	8	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Legal Secretary	4	7	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Legal Secretary	5	6	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.



Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
Chief Librarian	1	9	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Librarian	1	7	6	Resolution 3 of 2009 – accelerated grade progression.
Librarian	1	7	6	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Media Liaison Officer	1	14	12	Political appointment.
Office Manager	1	10	9	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Personal Assistant	2	8	5	Post was on Level 8 prior to the job evaluation done by the DPSA. The officials were appointed before the posts were evaluated by the DPSA.
Personal Assistant	2	8	7	Employee retained in terms of PSR V.C.3.
Provisioning Administration Clerk	1	6	4	Resolution 3 of 2009 – accelerated grade progression.
Senior Provisioning Administration Officer	3	8	7	Employees on higher salary notch due to previous rank/leg promotion service dispensation.
Registrars' Clerk	6	6	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Registrars' Clerk	2	5	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Registrars' Clerk	3	6	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Registry Clerk	2	7	6	Resolution 3 of 2009 – accelerated grade progression.
Registry Clerk	3	5	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.



Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
Registry Clerk	3	6	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Registry Clerk	9	7	6	Resolution 3 of 2009 – accelerated grade progression.
Chief Registry Clerk	6	8	7	Resolution 3 of 2009 – accelerated grade progression.
Judges' Secretary	3	8	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Judges' Secretary	1	7	6	Resolution 3 of 2009 – accelerated grade progression.
Secretary	1	6	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Secretary	11	7	5	Post was on Level 7 prior to the job evaluation done by the DPSA. The officials were appointed before the posts were evaluated by the DPSA.
Secretary	2	8	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Security Officer	4	4	3	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Security Officer	3	6	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Security Officer	1	7	6	Resolution 3 of 2009 – accelerated grade progression.
Senior Training Officer	1	8	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Telecom Operator	1	6	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.

Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
Principal Telecom Operator	2	8	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
State Accountant	1	7	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
State Accountant	4	8	7	Resolution 3 of 2009 – accelerated grade progression.
State Accountant	4	8	7	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Typist	2	6	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Typist	5	5	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Typist	3	6	5	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Typist	5	7	6	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Chief Typist	2	7	4	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Chief Typist	6	7	6	When the job evaluation process was finalised, the employees were already on higher notches than the level determined by the job evaluation.
Chief Typist	5	8	7	Resolution 3 of 2009 – accelerated grade progression.
Total number of employees whose salaries exceeded the level determined by job evaluation in 2011/12				602
Percentage of total employment				3.05



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

Table 5.4: Profile of employees whose salary level exceeded the grade determined by the job evaluation, 1 April 2011 to 31 March 2012 (in terms of PSR 1.V.C.3)

Beneficiaries	African	Asian	Coloured	White	Total
Female	247	8	28	158	441
Male	125	4	15	17	161
Total	372	12	43	175	602
Employees with a disability	-	-	-	-	-
Total number of employees whose salaries exceeded the grades determined by the job evaluation in 2011/12					602

#### 4.6 EMPLOYMENT CHANGES

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

Turnover rates provide an indication of trends in the employment profile of the department. The following tables provide a summary of turnover rates by salary band (Table 6.1) and by occupation (Table 6.2). It should be noted that these tables do not take into account upgrades/downgrades of posts or movement of employees between levels (promotion) or translation to another rank without a change in salary level. A total of 317 employees were promoted to a higher salary level, the salary levels of 207 employees were upgraded and 602 employees were carried out of adjustment against another post. The personnel movement regarding appointments and terminations does not reflect the changes mentioned above.

Table 6.1: Annual turnover rates by salary band for the period 1 April 2011 to 31 March 2012

Salary band	Number of employees per band as on 31 March 2011	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Lower skilled (Levels 1–2), permanent	328	50	15	4.57
Skilled (Levels 3–5), permanent	9 253	1 024	384	4.15
Highly skilled production (Levels 6–8), permanent	4 211	216	262	6.22
Highly skilled supervision (Levels 9–12), permanent	1 963	89	100	5.09
Senior Management Service (Level 13–16) permanent	147	10	19	12.93
Magistrates	1 692	7	41	2.42
Judges	225	20	15	6.66
Subtotal: permanent employees	17 819	1 416	836	4.69

Salary band	Number of employees per band as on 31 March 2011	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Contract (Levels 1–2)	207	130	96	28.49
Contract (Levels 3–5)	249	2 272	1 327	52.64
Contract (Levels 6–8)	135	702	448	53.52
Contract (Levels 9–12)	52	1 504	607	39.01
Contract (Levels 13–16)	7	18	11	44.00
Subtotal: contract employees	650	4 626	2 489	47.18
Total	18 469	6 042	3 325	18.00

Table 6.2: Annual turnover rates by occupation for the period 1 April 2011 to 31 March 2012

Occupations	Number of employees per occupation as on 31 March 2011	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Administrative-related, permanent	9 035	658	373	4.13
Administrative-related, contract	204	1 819	1 125	55.61
Advocates, permanent	88	8	5	5.68
Advocates, contract	-	2	1	50.00
Attorneys, permanent	209	15	10	4.78
Attorneys, contract	6	10	7	43.75
Authors, journalists and other writers, contract	1	-	-	-
Building and other property caretakers, permanent	9	-	1	11.11
Bus and heavy vehicle drivers, permanent	30	-	-	-
Cleaners in offices, workshops, hospitals, etc., permanent	168	5	12	7.14
Cleaners in offices, workshops, hospitals, etc., contract	-	4	3	75.00



Occupations	Number of employees per occupation as on 31 March 2011	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Client information clerks (switchboard/reception information clerks), permanent	146	3	2	1.37
Client information clerks (switchboard/reception information clerks), contract	-	3	-	-
Communication- and information-related, permanent	28	3	9	32.14
Communication- and information-related, contract	1	3	2	5.00
Finance and related professionals, permanent	164	62	4	2.44
Finance and related professionals, contract	1	21	9	40.91
Finance clerks and credit controllers, permanent	493	96	58	11.76
Finance clerks and credit controllers, contract	54	180	67	28.63
Food services aids and waiters, permanent	25	5	1	4.00
Food services aids and waiters, contract	1	3	1	25.00
General legal administration and related professionals, permanent	900	77	59	6.56
General legal administration and related professionals, contract	45	100	67	46.21
Head of department/chief executive officer, permanent	1	-	-	-
Human resources and organisational development and related professionals, permanent	46	15	-	-
Human resources clerks, permanent	323	29	40	12.38
Human resources-related, contract	4	42	32	69.57
Information technology-related, permanent	36	4	6	16.67
Information technology-related, contract	-	-	-	-
Judges, permanent	225	20	15	6.67
Language practitioners, interpreters and other communication professionals, permanent	1 823	171	79	4.33



Occupations	Number of employees per occupation as on 31 March 2011	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Language practitioners, interpreters and other communication professionals, contract	19	461	243	50.63
Librarians and related professionals, permanent	33	3	1	3.03
Librarians and related professionals, contract	3	1	-	-
Library mail and related clerks, permanent	297	20	12	4.04
Library mail and related clerks, contract	4	39	20	46.51
Logistical and support personnel, permanent	41	3	4	9.76
Magistrates, permanent	1 692	7	41	2.42
Magistrates, contract	168	1 382	551	35.55
Material recording and transport clerks, permanent	74	21	7	9.46
Material recording and transport clerks, contract	-	19	4	21.05
Messengers, porters and deliverers, permanent	405	78	20	4.94
Messengers, porters and deliverers, contract	31	147	98	55.06
Risk management and security services, permanent	5	-	-	-
Secretaries and other keyboard operating clerks, permanent	960	87	40	4.17
Secretaries and other keyboard operating clerks, contract	96	348	236	53.45
Security officers, permanent	333	6	17	5.11
Security officers, contract	-	20	4	20.00
Senior managers, permanent	146	11	10	6.85
Senior managers, contract	12	17	14	73.68
Social work and related professionals, permanent	84	7	10	11.90
Social work and related professionals, contract	-	5	5	100.00



Occupations	Number of employees per occupation as on 31 March 2011	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Statisticians and related professionals, permanent	-	2	-	-
<b>Total</b>	<b>18 469</b>	<b>6 042</b>	<b>3 325</b>	<b>18.00</b>

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

Table 6.3: Reasons why staff are leaving the department

Termination type	Number	Percentage of total resignations
Death, permanent	103	3.09
Resignation, permanent	261	7.85
Expiry of contract, temporary	2 489	74.86
Discharged due to ill health, permanent	27	0.81
Dismissal – misconduct, permanent	61	1.83
Retirement, permanent	134	4.03
Transfer, permanent	250	7.52
<b>Total</b>	<b>3 325</b>	<b>100.00</b>

Resignations as percentage of employment	16.86%
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Table 6.4: Promotions by occupation

Occupation	Employees as at 31 March 2011	Promotions to another salary level	Salary level promotions as a percentage of employees by occupation	Progressions to another notch within a salary level	Notch progressions as a percentage of employees by occupation
Administrative-related, permanent	9 035	109	1.21	6 820	75.48
Administrative-related, contract	204	-	-	100	49.02
Advocates, permanent	88	-	-	45	51.14
Advocates, contract	-	-	-	-	-

Occupation	Employees as at 31 March 2011	Promotions to another salary level	Salary level promotions as a percentage of employees by occupation	Progressions to another notch within a salary level	Notch progressions as a percentage of employees by occupation
Attorneys, permanent	209	-	-	137	65.55
Attorneys, contract	6	-	-	-	-
Authors, journalists and other professionals, contract	1	-	-	-	-
Building and other property caretakers, permanent	9	-	-	2	22.22
Bus and heavy/light vehicle drivers, permanent	30	-	-	11	36.67
Bus and heavy vehicle drivers, contract	-	-	-	-	-
Cleaners in offices, workshops, hospitals, etc., permanent	168	-	-	84	50.00
Cleaners in offices, workshops, hospitals, etc., contract	-	-	-	-	-
Client information clerks (switchboard/reception information clerks), permanent	146	2	1.37	90	61.64
Client information clerks (switchboard/reception information clerks), contract	-	-	-	-	-
Communication- and information-related, permanent	28	5	17.86	18	64.29
Communication- and information-related, contract	1	-	-	-	-
Finance and related professionals, permanent	164	35	21.34	77	46.95
Finance and related professionals, contract	1	-	-	1	100.00
Finance clerks and credit controllers, permanent	493	23	4.67	309	62.68
Finance clerks and credit controllers, contract	54	-	-	12	22.22



Occupation	Employees as at 31 March 2011	Promotions to another salary level	Salary level promotions as a percentage of employees by occupation	Progressions to another notch within a salary level	Notch progressions as a percentage of employees by occupation
Food services aids and waiters, permanent	25	-	-	8	32.00
Food services aids and waiters, contract	1	-	-	-	-
General legal administration and related professionals, permanent	900	31	3.44	601	66.78
General legal administration and related professionals, contract	45	-	-	-	-
Head of department/chief executive officer, permanent	1	-	-	-	-
Human resources and organisational development and related professionals, permanent	46	10	21.74	22	47.83
Human resources clerks, permanent	323	9	2.79	228	70.59
Human resources-related, contract	4	-	-	2	50.00
Information technology-related, permanent	36	-	-	21	58.33
Information technology-related, contract	-	-	-	-	-
Judges, permanent	225	5	2.22	-	-
Language practitioners, interpreters and other communication professionals, permanent	1 823	37	2.03	1 427	78.28
Language practitioners, interpreters and other communication professionals, contract	19	-	-	10	52.63
Librarians and related professionals, permanent	33	2	6.06	16	48.48
Library mail and related professionals, contract	3	-	-	-	-
Library mail and related clerks, permanent	297	4	1.35	225	75.76
Library mail and related clerks, contract	4	-	-	2	50.00

Occupation	Employees as at 31 March 2011	Promotions to another salary level	Salary level promotions as a percentage of employees by occupation	Progressions to another notch within a salary level	Notch progressions as a percentage of employees by occupation
Logistical and support personnel, permanent	41	-	-	15	36.59
Magistrates, permanent	1692	2	0.12	-	-
Magistrates, contract	168	-	-	3	1.79
Material recording and transport clerks, contract	74	7	9.46	43	58.11
Messengers, porters and deliverers, permanent	405	5	1.23	223	55.06
Messengers, porters and deliverers, contract	31	-	-	4	12.90
Risk management and security services, permanent	5	-	-	2	40.00
Secretaries and other keyboard operating clerks, permanent	960	20	2.08	611	63.65
Secretaries and other keyboard operating clerks, contract	96	-	-	11	11.46
Security officers, permanent	333	-	-	135	40.54
Security officers, contract	-	-	-	-	-
Senior managers, permanent	146	11	7.53	11	7.53
Senior managers, contract	12	-	-	-	-
Social work and related professionals, permanent	84	-	-	38	45.24
Social work and related professionals, contract	-	-	-	-	-
<b>Total</b>	<b>18 469</b>	<b>317</b>	<b>1.72</b>	<b>11 364</b>	<b>61.53</b>



Table 6.5: Promotions by salary band

Salary band	Employees as at 31 March 2011	Promotions to another salary level	Salary band promotions as a percentage of employees by salary level	Progressions to another notch within a salary level	Notch progressions as a percentage of employees by salary band
Lower skilled (Levels 1–2), permanent	328	-	-	18	5.49
Skilled (Levels 3–5), permanent	9 253	62	0.67	7 221	78.04
Highly skilled production (Levels 6–8), permanent	4 211	141	3.35	2 568	60.98
Highly skilled supervision (Levels 9–12), permanent	1 963	95	4.84	1 359	69.23
Senior Management Service (Level 13–16) permanent	147	12	8.16	53	36.05
Magistrates	1 692	2	0.12	-	-
Judges	225	5	2.22	-	-
Contract (Levels 1–2)	207	-	-	3	1.45
Contract (Levels 3–5)	249	-	-	114	45.78
Contract (Levels 6–8)	135	-	-	24	17.78
Contract (Levels 9–12)	52	-	-	4	7.69
Contract (Levels 13–16)	7	-	-	-	-
<b>Total</b>	<b>18 469</b>	<b>317</b>	<b>1.72</b>	<b>11 364</b>	<b>61.53</b>

#### 4.7 EMPLOYMENT EQUITY

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

Table 7.1: Total number of employees (including employees with disabilities) in each of the following occupational categories as on 31 March 2012

Occupational category according to South African Standard Classification of Occupations (SASCO)	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Judges	69	16	12	71	25	8	12	20	233
Legislators, senior officials and managers, permanent	463	84	69	477	280	55	97	244	1 769



Occupational category according to South African Standard Classification of Occupations (SASCO)	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers, temporary	8	1	-	3	1	-	-	-	13
Professionals, permanent	949	44	31	148	770	97	96	197	2 332
Professionals, temporary	152	21	28	79	86	10	20	40	436
Clerks, permanent	3 086	339	114	133	5 321	904	226	1 042	11 165
Clerks, temporary	304	38	13	22	587	46	27	65	1 102
Service and sales workers, permanent	152	42	14	64	35	8	1	6	322
Service and sales workers, temporary	5	-	-	-	1	-	-	-	6
Plant and machine operators and assemblers, permanent	22	3	1	1	1	-	-	-	28
Labourers and related workers, permanent	288	34	2	11	238	19	4	14	610
Labourers and related workers, temporary	36	4	1	2	35	2	1	3	84
Technical and associated professions, permanent	528	44	19	55	546	62	25	169	1448
Technical and associated professions, temporary	37	2	-	1	117	11	1	9	178
<b>Total</b>	<b>6 099</b>	<b>672</b>	<b>304</b>	<b>1 067</b>	<b>8 043</b>	<b>1 222</b>	<b>510</b>	<b>1 809</b>	<b>19 726</b>

Employees with disabilities	82	15	-	20	61	6	7	19	210
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Table 7.2: Total number of employees (including employees with disabilities) in each of the following occupational bands as on 31 March 2012

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Judges	69	16	12	71	25	8	12	20	233
Top Management, permanent	2	1	-	1	2	-	-	-	6
Senior Management, permanent	474	85	70	478	288	55	96	246	1 792
Professionally qualified and experienced specialists and mid-management, permanent	467	35	28	141	326	45	55	155	1 252
Skilled technical and academically qualified workers, junior management, supervisors, foremen, permanent	1 631	107	46	145	1 797	242	112	854	4 934
Semi-skilled and discretionary decision-making, permanent	2 909	362	106	123	4 773	803	186	417	9 679
Unskilled and defined decision-making, permanent	5	-	-	1	5	-	-	-	11
Contract (Top Management), permanent	2	-	-	-	1	-	-	-	3
Contract (Senior Management)	110	17	23	74	50	8	13	28	323
Contract (professionally qualified)	42	1	5	9	29	-	7	8	101
Contract (skilled technical)	76	12	-	16	186	26	8	47	371

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Contract (semi-skilled), permanent	282	36	14	7	532	34	21	32	958
Contract (unskilled)	30	-	-	1	29	1	-	2	63
<b>Total</b>	<b>6 099</b>	<b>672</b>	<b>304</b>	<b>1 067</b>	<b>8 043</b>	<b>1 222</b>	<b>510</b>	<b>1 809</b>	<b>19 726</b>

Table 7.3: Recruitment for the period 1 April 2011 to 31 March 2012

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top Management	1	-	-	-	-	-	-	-	1
Judges	4	2	2	5	4	1	-	2	20
Senior Management	3	4	1	-	4	-	-	4	16
Professionally qualified and experienced specialists and mid-management	35	1	-	2	36	2	5	8	89
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	87	3	2	2	94	12	6	10	216
Semi-skilled and discretionary decision-making	369	68	9	5	468	72	10	23	1 024
Unskilled and defined decision-making	30	2	-	1	15	1	-	1	50
Contract (Senior Management)	9	-	2	5	1	-	-	1	18
Contract (professionally qualified)	504	81	89	329	227	45	74	155	1 504
Contract (skilled technical)	128	22	4	28	297	63	29	131	702
Contract (semi-skilled )	696	78	41	17	1 219	73	84	64	2 272



Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Contract (unskilled)	55	7	-	-	61	6	-	1	130
<b>Total</b>	<b>1 921</b>	<b>268</b>	<b>150</b>	<b>394</b>	<b>2 426</b>	<b>275</b>	<b>208</b>	<b>400</b>	<b>6 042</b>

Employees with disabilities	-	-	-	-	-	-	-	-	-
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Table 7.4: Promotions for the period 1 April 2011 to 31 March 2012

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top Management, permanent	2	-	-	3	-	-	-	-	5
Senior Management, permanent	7	1	-	2	2	-	1	1	14
Professionally qualified and experienced specialists and mid-management, permanent	45	2	-	5	36	3	1	3	95
Skilled technical and academically qualified workers, junior management, supervisors, foremen, permanent	62	5	1	1	62	3	1	6	141
Semi-skilled and discretionary decision-making, permanent	26	4	-	-	22	5	4	1	62
Unskilled and defined decision-making, permanent	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>142</b>	<b>12</b>	<b>1</b>	<b>11</b>	<b>122</b>	<b>11</b>	<b>7</b>	<b>11</b>	<b>317</b>

Employees with disabilities	-	-	-	-	-	-	-	-	-
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Table 7.5: Terminations for the period 1 April 2011 to 31 March 2012

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top Management, permanent	6	-	-	13	-	-	-	1	20

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Senior Management, permanent	20	-	2	16	6	2	2	7	55
Professionally qualified and experienced specialists and mid-management, permanent	50	2	1	3	31	1	5	7	100
Skilled technical and academically qualified workers, junior management, supervisors, foremen, permanent	111	2	2	7	78	9	1	52	262
Semi-skilled and discretionary decision-making, permanent	120	15	2	8	188	28	3	20	384
Unskilled and defined decision-making, permanent	8	-	-	1	6	-	-	-	15
Contract (Senior Management)	5	-	1	2	2	-	-	1	11
Contract (professionally qualified)	214	27	31	130	70	23	36	76	607
Contract (skilled technical)	79	16	2	11	193	48	20	79	448
Contract (semi-skilled)	423	44	16	14	720	44	24	42	1 327
Contract (unskilled)	42	1	-	-	48	4	1	-	96
<b>Total</b>	<b>1 078</b>	<b>107</b>	<b>57</b>	<b>205</b>	<b>1 342</b>	<b>159</b>	<b>92</b>	<b>285</b>	<b>3 325</b>

Table 7.6: Disciplinary action for the period 1 April 2011 to 31 March 2012

	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Disciplinary action	222	22	2	10	159	15	6	14	450

Table 7.7: Skills development for the period 1 April 2011 to 31 March 2012

Occupational band	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	52	7	2	15	27	8	1	7	119



Professionals	815	251	34	217	503	149	55	197	2 221
Technicians and associate professionals	3	4	1	1	3	1	1	4	18
Clerks	2 078	438	49	217	1 916	495	62	472	5 727
Service and sales workers	-	-	-	-	-	-	-	-	-
Plant and machine operators and assemblers	-	-	-	-	-	-	-	-	-
Elementary occupations	84	13	4	6	119	22	6	34	288
Employees with disabilities	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>3 032</b>	<b>713</b>	<b>90</b>	<b>456</b>	<b>2 568</b>	<b>675</b>	<b>125</b>	<b>714</b>	<b>8 373</b>
Employees with disabilities	-	-	-	-	-	-	-	-	-

#### 4.8 SIGNING OF PERFORMANCE AGREEMENTS BY SENIOR MANAGEMENT SERVICE MEMBERS

Table 8.1: Signing of performance agreements by Senior Management Service members as on 31 July 2011

Senior Management Service level	Total number of funded Senior Management Service posts per level	Total number of Senior Management Service members per level	Total number of signed performance agreements per level	Signed performance agreements as percentage of total number of Senior Management Service members per level
Director-General/ Head of Department	1	1	1	100%
Salary Level 16, but not Head of Department	2	2	2	100%
Salary Level 15	8	4	4	100%
Salary Level 14	43	36	30	83.33%
Salary Level 13	136	107	90	84.11%
<b>Total</b>	<b>190</b>	<b>150</b>	<b>127</b>	<b>84.67%</b>

Table 8.2: Reasons for not having concluded performance agreements for all Senior Management Service members as on 31 July 2011

1. New appointments/secondments or disputes, and non-submission.
2. Agreements signed but not submitted to HR yet by 31 July 2011.



Table 8.3: Disciplinary steps taken against Senior Management Service members for not having concluded performance agreements as on 31 July 2011

1. Non-submission was brought to their attention and they were warned about the consequences of their actions. This was regarded as adequate corrective action.

#### 4.9 PERFORMANCE REWARDS

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

Table 9.1: Performance rewards by race, gender and disability, 1 April 2011 to 31 March 2012

	Beneficiary profile			Cost	
	Number of beneficiaries	Total number of employees in group	Percentage of total within group	Cost (R'000)	Average cost per employee
African, female	938	7 982	11.75	8 331	R8 881.66
African, male	635	6 017	10.55	6 550	R10 314.96
Asian, female	74	503	14.71	974	R13 000.00
Asian, male	36	304	11.84	530	R14 722.22
Coloured, female	209	1 216	17.19	1 733	R8 291.87
Coloured, male	95	657	14.46	829	R8 726.32
White, female	417	1 790	23.30	5 258	R12 637.89
White, male	101	1047	9.65	2 142	R21 207.92
Employees with a disability	37	210	17.62	397	R10 729.73
<b>Total</b>	<b>2 542</b>	<b>197 26</b>	<b>12.89</b>	<b>26 743</b>	<b>R105 204.56</b>

Table 9.2: Performance rewards by salary band for personnel below Senior Management Service, 1 April 2011 to 31 March 2012

Salary band	Beneficiary profile			Cost		
	Number of beneficiaries	Number of employees	Percentage of total within salary band	Total cost (R'000)	Average cost per employee	Total cost as a percentage of the total personnel expenditure
Lower skilled (Levels 1–2)	4	11	36.36	15	R3 500.00	-
Skilled (Levels 3–5)	1 221	9 679	12.62	6 494	R5 322.69	0.12



Salary band	Beneficiary profile			Cost		
	Number of beneficiaries	Number of employees	Percentage of total within salary band	Total cost (R'000)	Average cost per employee	Total cost as a percentage of the total personnel expenditure
Highly skilled production (Levels 6–8)	877	4 223	20.73	9 089	R10 363.43	0.17
Highly skilled supervision (Levels 9–12)	421	1 963	21.56	10 104	R23 926.71	0.19
Contract (Levels 1–2)	-	59	-	-	-	-
Contract (Levels 3–5)	-	960	-	-	-	-
Contract (Levels 6–8)	-	374	-	-	-	-
Contract (Levels 9–12)	-	206	-	-	-	-
<b>Total</b>	<b>2 523</b>	<b>17 475</b>	<b>14.44</b>	<b>25 702</b>	<b>R10 186.96</b>	<b>0.47</b>

Table 9.3: Performance rewards by occupation, 1 April 2011 to 31 March 2012

Occupation	Beneficiary profile			Cost	
	Number of beneficiaries	Number of employees	Percentage of total within occupation	Total cost (R'000)	Average cost per employee
Administrative-related, permanent	1 370	9 063	15.12	11 351	R8 288.53
Advocates, permanent	15	66	22.73	635	R42 333.33
Attorneys, permanent	16	190	8.42	420	R26 250.00
Building and other property caretakers, permanent	1	6	16.67	4	R4 000.00
Bus and heavy vehicle drivers, permanent	5	28	17.86	20	R4 000.00
Cleaners in offices, workshops, hospitals, etc., permanent	15	164	9.15	60	R4 000.00
Client information clerks (switchboard/reception information clerks), permanent	18	130	13.85	100	R5 555.56

Occupation	Beneficiary profile			Cost	
	Number of beneficiaries	Number of employees	Percentage of total within occupation	Total cost (R'000)	Average cost per employee
Communication- and information-related, permanent	10	27	37.04	221	R22 100.00
Financial and related professionals, permanent	41	184	22.28	473	R11 536.59
Financial clerks and credit controllers, permanent	127	532	23.87	1 555	R12 283.46
Food services aids and waiters, permanent	6	26	23.08	29	R4 833.33
General legal administration and related professionals, permanent	162	965	16.79	4 174	R25 765.43
Head of department/chief executive officer, permanent	-	1	-	-	-
Human resources and organisational development and related professionals, permanent	13	48	27.08	148	R11 384.62
Human resources clerks, permanent	130	337	38.58	1 775	R13 653.85
Information technology-related, permanent	4	32	12.50	72	R18 000.00
Judges	-	233	-	-	-
Language practitioners, interpreters and other communication professionals, permanent	150	1 835	8.17	1 296	R8 640.00
Librarians and related professionals, permanent	5	33	15.15	64	R12 800.00
Library mail and related clerks, permanent	67	315	21.27	463	R6 985.07
Logistical and support personnel, permanent	8	39	20.51	84	R10 500.00
Magistrates, permanent	-	1641	-	-	-



Occupation	Beneficiary profile			Cost	
	Number of beneficiaries	Number of employees	Percentage of total within occupation	Total cost (R'000)	Average cost per employee
Material recording and transport clerks, permanent	19	75	25.33	98	R51 736.84
Messengers, porters and deliverers, permanent	72	407	17.69	311	R4 319.44
Risk management and security services, permanent	2	5	40.00	22	R11 000.00
Secretaries and other keyboard operating clerks, permanent	202	972	20.88	1 736	R8 591.13
Security officers, permanent	53	317	16.72	351	R6 622.64
Senior managers, permanent	19	156	12.18	1 056	R54 789.47
Social work and related professionals, permanent	11	78	14.10	216	R19 636.36
Statisticians and related, permanent	1	2	50.00	6	R6 000.00
<b>Total</b>	<b>2 542</b>	<b>17 907</b>	<b>14.20</b>	<b>26 743</b>	<b>R10 868.21</b>

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

Salary band	Beneficiary profile			Cost		
	Number of beneficiaries	Number of employees	Percentage of total within band	Total cost (R'000)	Average cost per employee	Total cost as a percentage of the total personnel expenditure
Band A	18	117	15.38	881	R48 971.28	0.02
Band B	-	34	-	-	-	-
Band C	1	3	33.33	160	R159 877.00	-
Band D	-	3	-	-	-	-
<b>Total</b>	<b>19</b>	<b>157</b>	<b>12.10</b>	<b>1041</b>	<b>R54 808.42</b>	<b>0.02</b>

#### 4.10 FOREIGN WORKERS

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

Table 10.1: Foreign workers, 1 April 2011 to 31 March 2012, by salary band

Salary band	31 March 2011		31 March 2012		Change	
	Number	Percentage of total	Number	Percentage of total	Number	Percentage change
Abnormal appointment	17	17.17	32	60.38	15	-32.61
Periodical appointment	57	57.58	-	-	-57	123.91
Lower skilled (Levels 1-2)	23	23.23	-	-	-23	50.00
Skilled (Levels 3-5)	-	-	19	35.85	19	-41.30
Highly skilled production (Levels 6-8)	-	-	-	-	-	-
Highly skilled supervision (Levels 9-12)	1	1.01	2	3.77	1	-2.17
Senior Management (Levels 13-16)	-	-	-	-	-	-
<b>Total</b>	<b>99</b>	<b>100</b>	<b>53</b>	<b>100.00</b>	<b>-46</b>	<b>100.00</b>

Table 10.2: Foreign worker, 1 April 2011 to 31 March 2012, by major occupation

Major occupation	31 March 2011		31 March 2012		Change	
	Number	Percentage of total	Number	Percentage of total	Number	Percentage change
Administrative office workers	1	1.01	-	-	-1	2.17
Other occupations	96	96.97	53	100	-43	93.48
Professionals and managers	2	2.02	-	-	-2	4.35
<b>Total</b>	<b>99</b>	<b>100</b>	<b>53</b>	<b>100</b>	<b>-46</b>	<b>100.00</b>



#### 4.11 LEAVE UTILISATION FOR THE PERIOD 1 JANUARY 2011 TO 31 DECEMBER 2011

The Public Service Commission identified the need for careful monitoring of sick leave within 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 11.1: Sick leave, 1 January 2011 to 31 December 2011

Salary band	Total days	Percentage days with medical certification	Number of employees using sick leave	Percentage of total employees using sick leave	Average days per employee	Estimated cost (R'000)
Lower skilled (Levels 1–2)	140	95.7	16	0.1	9	34
Skilled (Levels 3–5)	73 091	86.4	8 281	54.1	9	23 921
Highly skilled production (Levels 6–8)	29 601	83.5	3 482	22.8	9	17 316
Highly skilled supervision (Levels 9–12)	22 129	80.3	2 369	15.5	9	33 361
Senior Management (Levels 13–16)	4 744	80.3	447	2.9	11	11 391
Contract (Levels 1–2)	51	80.4	15	0.1	3	10
Contract (Levels 3–5)	1 935	79.2	420	2.7	5	607
Contract (Levels 6–8)	869	80.6	193	1.3	5	473
Contract (Levels 9–12)	225	76	67	0.4	3	254
Contract (Levels 13–16)	7	57.1	3	-	2	18
<b>Total</b>	<b>132 792</b>	<b>84.3</b>	<b>15 293</b>	<b>100</b>	<b>9</b>	<b>87 385</b>

Table 11.2: Incapacity leave (temporary and permanent), 1 January 2011 to 31 December 2011

Salary band	Total days taken	Percentage days with medical certification	Number of employees using disability leave	Percentage of total employees using disability leave	Average days per employee	Estimated cost (R'000)
Lower skilled (Levels 1–2)	18	100	2	0.4	9	4
Skilled (Levels 3–5)	7 461	100	320	57.7	23	2 470
Highly skilled production (Levels 6–8)	4 322	97	156	28.1	28	2 544



Salary band	Total days taken	Percentage days with medical certification	Number of employees using disability leave	Percentage of total employees using disability leave	Average days per employee	Estimated cost (R'000)
Highly skilled supervision (Levels 9–12)	1 774	100	67	12.1	26	2 438
Senior management (Levels 13–16)	200	100	7	1.3	29	652
Contract (Levels 3–5)	17	100	2	0.4	9	5
Contract (Levels 6–8)	8	100	1	0.2	8	5
<b>Total</b>	<b>13 800</b>	<b>99.1</b>	<b>555</b>	<b>100</b>	<b>25</b>	<b>8 118</b>

Table 11.3 summarises the utilisation of annual leave. The wage agreement concluded with trade unions in the Public Service Coordinating Bargaining Council (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 11.3: Annual leave, 1 January 2011 to 31 December 2011

Salary band	Total days taken	Average per employee	Number of employees who took leave
Lower skilled (Levels 1–2)	405.84	18	22
Skilled (Levels 3–5)	198 719.48	20	9 733
Highly skilled production (Levels 6–8)	96 504.16	22	4 369
Highly skilled supervision (Levels 9–12)	72 889.08	23	3 136
Senior Management (Levels 13–16)	17 354	25	689
Contract (Levels 1–2)	148	5	30
Contract (Levels 3–5)	5 219	8	634
Contract (Levels 6–8)	2 664	9	285
Contract (Levels 9–12)	722	6	113
Contract (Levels 13–16)	108	8	14
<b>Total</b>	<b>394 733.56</b>	<b>21</b>	<b>19 025</b>



Table 11.4: Capped leave, 1 January 2011 to 31 December 2011

Salary band	Total days of capped leave taken	Average number of days taken per employee	Average capped leave per employee as at 31 December 2011	Number of employees who took capped leave	Total number of capped leave available as at 31 December 2011
Lower skilled (Levels 1–2)	-	-	-	-	-
Skilled (Levels 3–5)	561	5	45	112	68 981
Highly skilled production (Levels 6–8)	1 759	7	77	259	209 470
Highly skilled supervision (Levels 9–12)	558	7	65	75	47 475
Senior management (Levels 13–16)	49	4	76	12	11 838
<b>Total</b>	<b>2 927</b>	<b>6</b>	<b>66</b>	<b>458</b>	<b>337 764</b>

Table 11.5: Leave payouts for the period 1 April 2011 to 31 March 2012

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

Reason	Total amount (R'000)	Number of employees	Average payment per employee
Leave payout for 2011/12 due to non-utilisation of leave for the previous cycle	118	4	29 500
Capped leave payouts on termination of service for 2011/12	6 394	603	10 604
Current leave payout on termination of service for 2011/12	803	186	4 317
<b>Total</b>	<b>7 315</b>	<b>793</b>	<b>9 224</b>

#### 4.12 HIV/AIDS AND HEALTH PROMOTION PROGRAMMES

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

Units/categories of employees identified to be at high risk of contracting HIV and related diseases (if any)	Key steps taken to reduce the risk
The department does not have categories of employees identified to be at risk exposed to HIV infection due to the nature of their occupations.	

Table 12.2: Details of health promotion and HIV/AIDS programmes.  
(tick the applicable boxes and provide the required information)

Question	Yes	No	Details, if yes
1. Has the department designated a member of the Senior Management Service to implement the provisions contained in Part VI E of Chapter 1 of the Public Service Regulations, 2001? If so, provide her or his name and position.	Yes		Ms Kedibone Tsolo, Director.
2. Does the department have a dedicated unit or has it designated specific staff members to promote the health and wellbeing of its 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		Director, Deputy Director and two assistant directors. Budget for 2011/12 financial year was R1.7 million
3. Has the department introduced an Employee Assistance or Health Promotion programme for its employees? If so, indicate the key elements and/or services of this programme.	Yes		1. Psychosocial counselling 2. Health promotion and risk management (health screening) 3. HIV/AIDS, TB and STI Workplace Programme. 4. Sport and recreation
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		Employee Advisory Committee has been established and it represents all business units or branches of the department, as well as representatives from organised labour.
5. Has the department reviewed its employment policies and practices to ensure that these do not unfairly discriminate against employees on the basis of their HIV status? If so, list the employment policies and practices so reviewed.	Yes		New HR policies have been developed: Revision of Recruitment Policy
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		The Directorate has run awareness sessions on HIV/AIDS which included the following: <ul style="list-style-type: none"> <li>• Outlining of the department's HIV/AIDS programme.</li> <li>• Training managers on how to assist and support troubled subordinates in their respective units.</li> <li>• Presentations by the Government Employees Medical Scheme (GEMS) of its Aid for AIDS Programme to educate employees on how to enrol into the antiretroviral (ARV) programme in case they are HIV-positive.</li> </ul>



Question	Yes	No	Details, if yes
7. Does the department encourage its employees to undergo voluntary counselling and testing? If so, list the results that it has achieved.	Yes		The department managed to conduct health screening sessions, which included the following: HIV/AIDS, cholesterol, blood pressure and blood sugar levels.
8. Has the department developed measures or indicators to monitor and evaluate the impact of its health promotion programme? If so, list these measures or indicators.	Yes		The programme is measured in accordance with the Employee Health and Wellness Programme Readiness Assessment Tool of the DPSA.

#### 4.13 LABOUR RELATIONS

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

Table 13.1: Collective agreements, 1 April 2011 to 31 March 2012

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

Table 13.2: Misconduct and disciplinary hearings finalised, 1 April 2011 to 31 March 2012

Outcomes of disciplinary hearings	Number	Percentage of total
Acquittal	21	7
Demotion	5	2
Deceased	1	-
Dismissal	85	29
Resignation	16	5
Suspended	43	15
Verbal warning	6	2
Written warning	24	8
Final warning	46	16
Withdrawn	46	16
<b>Total</b>	<b>293</b>	<b>100%</b>

Table 13.3: Types of misconduct addressed at disciplinary hearings

Type of misconduct	Number	Percentage of total
Abscondment	9	2
Abuse of leave	7	2
Abuse of state property	27	6
Alcohol abuse	4	1
Assault	6	1
Bribery	8	2
Corruption	27	6
Damage to state property	6	1
Defeating the ends of justice	1	-
Dishonesty	12	3
Falsification of documents	8	2
Fraud	101	22
Insubordination	33	7
Mismanagement of funds	7	2
Loss of state money	25	6
Maladministration	15	3
Misrepresentation	2	-
Negligence	18	4
Poor performance	3	1
Sexual harassment	6	1
Theft	71	16
Unauthorised absence	38	8
Unethical behaviour	16	4
<b>Total</b>	<b>450</b>	<b>100%</b>



Table 13.4: Grievances lodged for the period 1 April 2011 to 31 March 2012

Number of grievances finalised according to outcome	Number	Percentage of total
Number of grievances resolved	208	71
Number of grievances not resolved	8	3
Number of grievances substantiated	11	4
Number of grievances not substantiated	64	22
<b>Total number of grievances</b>	<b>291</b>	<b>100%</b>

Table 13.5: Disputes lodged with councils for the period 1 April 2011 to 31 March 2012

Number of dispute outcome	Number	Percentage of total
Settlement	35	41
Withdrawal	15	17
Dismissed	25	29
Referred to arbitration	3	3
Unresolved	8	9
<b>Total number of disputes lodged</b>	<b>86</b>	<b>100%</b>

Table 13.6: Strike action for the period 1 April 2011 to 31 March 2012

Total number of person working days lost	104
Total cost (R'000) of working days lost	R28 936
Amount (R'000) recovered as a result of no work no pay	R28 936

Note: Strike action for 7 March 2012 (E-toll)

Table 13.7: Precautionary suspensions for the period 1 April 2011 to 31 March 2012

<b>Number of people suspended</b>	
Number of people suspended	75
Number of people whose suspension exceeded 30 days	72
Average number of days suspended	364 days
Cost (R'000) of suspensions (2011/12 financial year)	R7 155 140
<b>Cost (R'000) of suspensions (Total to date)</b>	<b>R11 471 055</b>



#### 4.14 SKILLS DEVELOPMENT

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

Table 14.1: Training needs identified 1 April 2011 to 31 March 2012

Occupational category	Gender	Number of employees as at 1 April 2011	Training provided within the reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials and managers	Male	90	-	290	-	290
	Female	57	-	231	-	231
Professionals	Male	2 196	-	2 772	-	2 772
	Female	1 744	-	3 676	-	3 676
Technicians and associate professionals	Male	630	-	-	-	-
	Female	759	-	-	-	-
Clerks	Male	3 630	-	431	-	431
	Female	7 501	-	457	-	457
Service and sales workers	Male	289	-	-	-	-
	Female	51	-	-	-	-
Plant and machine operators and assemblers	Male	28	-	-	-	-
	Female	1	-	-	-	-
Labourers and related workers	Male	333	-	-	-	-
	Female	285	-	-	-	-
Subtotal	Male	7 196	-	-	-	-
	Female	10 398	-	-	-	-
<b>Total</b>		<b>17 594</b>	<b>-</b>	<b>7 857</b>	<b>-</b>	<b>7 857</b>



Table 14.2: Training provided 1 April 2011 to 31 March 2012

Occupational category	Gender	Number of employees as at 1 April 2011	Training provided within the reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials and managers	Male	90	-	71	5	76
	Female	57	-	31	12	43
Professionals	Male	2 196	-	1 291	6	1 297
	Female	1 744	-	891	13	904
Technicians and associate professionals	Male	630	-	12	-	12
	Female	759	-	12	-	12
Clerks	Male	3 630	-	774	8	782
	Female	7 501	-	2 917	28	2 945
Service and sales workers	Male	289	-	-	-	-
	Female	51	-	-	-	-
Plant and machine operators and assemblers	Male	28	-	-	-	-
	Female	1	-	-	-	-
Labourers and related workers	Male	333	-	-	-	-
	Female	285	-	-	-	-
Subtotal	Male	7 196	-	-	-	-
	Female	10 398	-	-	-	-
<b>Total</b>		<b>17 594</b>	<b>-</b>	<b>5 999</b>	<b>72</b>	<b>6 071</b>

#### 4.15 INJURY ON DUTY

The following tables provide basic information on injury on duty.

Table 15.1: Injury on duty, 1 April 2011 to 31 March 2012

Nature of injury on duty	Number	Percentage of total
Required basic medical attention only	16	51.61%
Pending Investigation	15	48.39%
Temporary total disablement	-	-
Permanent disablement	-	-
Fatal	-	-
<b>Total</b>	<b>31</b>	<b>100.00%</b>

#### 4.16 UTILISATION OF CONSULTANTS

Table 16.1: Report on consultant appointments using appropriated funds

Project title	Total number of consultants that worked on the project	Duration: Work days	Contract value in rand
RFB 2011 01: Appointment of service provider to provide technical assistance in the compilation of the annual financial statements for the period ending 31 March 2011. Awarded to: SAB & T	30	103	R5 406 170.00
RFB 2011 08: Lesbian, gay, bisexual, and transgender individuals (LGBTI) situational analysis research Awarded to: Create-Africa Trading	13	101	R848 633.20
RFB 2010 03 B: Third Party Funds Awarded to: PricewaterhouseCoopers, Guarantee Trust Cooperate Support and Faranani	411	251	R47 087 906.00
<b>Total number of projects</b>	<b>Total individual consultants</b>	<b>Total duration: work days</b>	<b>Total contract value in rand</b>
Three	454	455	R53 342 709.20



Table 16.2: Analysis of consultant appointments using appropriated funds in terms of historically disadvantaged individuals (HDIs)

Project title	Percentage ownership by HDI groups	Percentage management by HDI groups	Number of consultants from HDI groups that worked on the project
RFB 2011 01: Appointment of service provider to provide technical assistance in the compilation of the annual financial statements for the period ending 31 March 2011 Awarded to: SAB & T	4.77	4.77	-
RFB 2011 08: LGBTI situational analysis research Awarded to: Create-Africa Trading (Ms Corlia Kok/Adv Vusi Mbamali) Mahlaku/Joseph	6.6	6.6	-
RFB 2010 03 B: Third Party Funds Awarded to: PricewaterhouseCoopers, Guarantee Trust Co-operate Support and Faranani. (Mr Nico van Harmelen)	4.75	4.75	-

Table 16.3: Report on consultant appointments using donor funds

Project title	Total number of consultants that worked on the project	Duration: work days	Contract value in rand
-	-	-	-

Table 16.4: Report on consultant appointments using donor funds, in terms of HDIs

Project title	Percentage ownership by HDI groups	Percentage management by HDI groups	Number of consultants from HDI groups that work on the project
-	-	-	-







# Part 5

## ACRONYMS AND ABBREVIATIONS



## ACRONYMS AND ABBREVIATIONS

ACCC	Anti-corruption Coordinating Committee
AFU	Asset Forfeiture Unit
ARV	Antiretroviral
Au	African Union
AVR	Audio-visual remand
B-BBEE	Broad-based Black Economic Empowerment
CARA	Criminal Asset Recovery Account
CARC	Criminal Asset Recovery Committee
CAS	Crime Administration System
CCMA	Commission for Conciliation, Mediation and Arbitration
DoJ&CD	Department of Justice and Constitutional Development
CFO	Chief Financial Officer
CIPC	Companies and Intellectual Properties Commission
CJS	Criminal Justice System
COBIT	Control Objectives for Information and Related Technologies
DG	Director-General
DG ISC	Directors-General Intersectoral Committee
DG ISCCJ	Directors-General Intersectoral Committee on Child Justice
DPSA	Department of Public Service and Administration
EE	Employment Equity
EFT	Electronic Funds Transfer
EHWP	Employee Health and Wellness Programme
EXCO	Executive Committee
FHR	Foundation for Human Rights
FIFO	First-in-first-out
GCIS	Government Communication and Information System
GEMS	Government Employees Medical Scheme
GIAMA	Government Immovable Asset Management Act
GRAP	Generally Recognised Accounting Practices
HDI	Historically disadvantaged individual
HRM	Human Resource Management
HR	Human Resources
HRP	Human Resource Plan
ICMS	Integrated Case Management System
ICT	Information and Communication Technology
IDT	Independent Development Trust
IJS	Integrated Justice System



IT	Information Technology
JCPS	Justice Crime Prevention and Security (Cluster)
JDAS	Justice Deposit Account System
JOINTS	Joint Operational and Intelligence Structure
JYP	Justice Yellow Pages
LASA	Legal Aid South Africa
LGBTI	Lesbian, Gay, Bisexual, and Transgender Individual
MTEF	Medium-term Expenditure Framework
MOVIT	Masters' Own Verification Information Technology
NACF	National Anti-Corruption Forum
NAP	National Action Plan
NCOP	National Council of Provinces
NPA	National Prosecuting Authority
NPF	National Policy Framework
NRF	National Revenue Fund
NRSO	National Register for Sex Offenders
OPP	Office of the Public Protector
PAA	Public Audit Act
PAIA	Promotion of Access to Information Act
PAJA	Promotion of Administrative Justice Act
PALAMA	Public Administration Leadership and Management Academy
PDA	Protected Disclosures Act
PEAS	Paperless Estate Administration System
PEPUDA	Promotion of Equality and the Prevention of Unfair Discrimination Act
PFMA	Public Finance Management Act
PPP	Public-private Partnership
PPFA	Preferential Procurement Framework Act
PSCBC	Public Service Coordinating Bargaining Council
PwC	PricewaterhouseCoopers
RAMP	Rehabilitation and Maintenance Programme
SADC	South African Development Community
SAHRC	South African Human Rights Commission
SAJEI	South African Judicial Education Institute
SALRC	South African Law Reform Commission
SAPS	South African Police Service
SAQA	South African Qualifications Authority
SASCO	South African Standard Classification of Occupations
SASSA	South African Social Security Agency
SAWLA	South African Women Lawyers Association

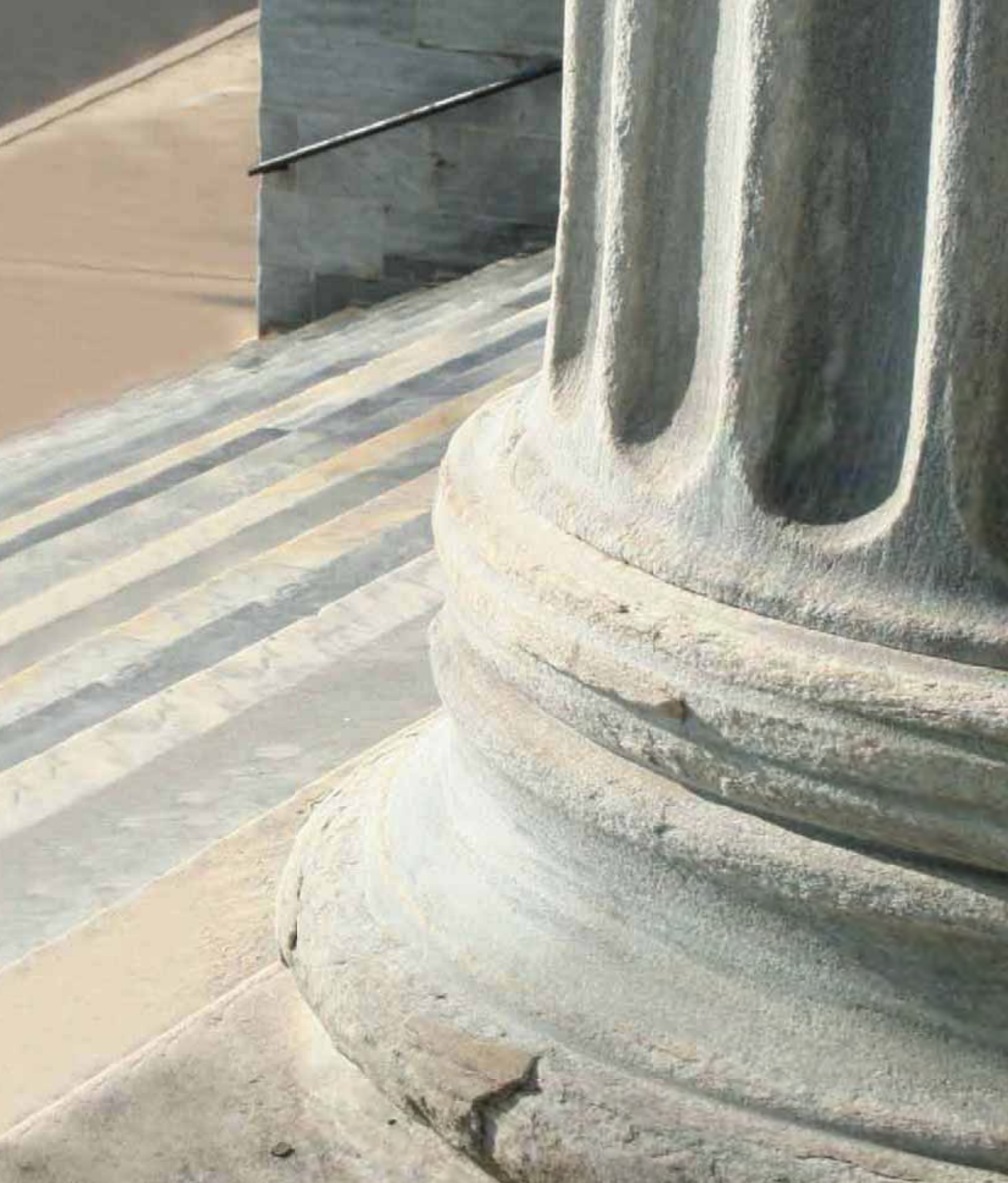
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SCOPA	Standing Committee on Public Accounts
SDIP	Service Delivery Improvement Plan
SITA	State Information Technology Agency
SIU	Special Investigating Unit
TPF	Third Party Fund
TRC	Truth and Reconciliation Commission
UN	United Nations









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