

STRATEGIC PLAN 2015/20 AND BUDGET ALLOCATION FOR THE DOJCD

Briefing to the Select Committee on
Safety and Security

20 May 2015



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1. INTRODUCTION

During November 2014, the Department held a 3-day planning session in preparation of the Strategic Plan 2015/19 and Annual Performance Plan 2015/16. These plans include the following:

1. Guidance from the newly appointed Executive for priorities to be included in the current MTSF period;
2. Full alignment between the National Development Plan, the Medium Term Strategic Framework and the Strategic Plan to enable seamless reporting; and
3. Reviewed mission and vision of the Department following the migration of High Courts to the Office of the Chief Justice.

2. MANDATES

Constitutional mandate

- a) The Department's key constitutional mandate is the administration of Justice, which it derives from Chapter 8 of the Constitution – "Courts and Administration of Justice"
- b) Constitution Seventeenth Amendment Act, 2012, which was enacted in 2013 has introduced significant amendments to Chapter 8 of the Constitution. Important amendments are the new section 165(6) which affirms the Chief Justice as Head of the Judiciary and assign to him/her the responsibility to oversee the development and monitoring of norms and standards for the performance of all courts
- c) Accompanying the Constitution Seventeenth Amendment Act is the Superior Courts Act, 2013 which was enacted in 2013. Both the Constitution Seventeenth Amendment Act and the Superior Courts Act came into operation on 23 August 2013
- d) Importantly, the Superior Courts Act lays the basis for judicial institutional reforms by –
 - i. establishing a legislative framework for the Chief Justice to exercise his or her judicial leadership responsibilities supported by the Office of the Chief Justice
 - ii. prescribing a legislative mechanism for the rationalisation of High Courts
 - iii. providing for the delegation of certain functions flowing from the Superior Courts Act to the Office of the Chief Justice



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- Prevention and Combating of Trafficking in Persons Act 7 of 2013 which needs to be rolled out. The combating of trafficking and the smuggling of persons has been made a priority in the Government's National Development Plan.⁹ The Department reports that the Act will be implemented towards the end of July 2015.¹⁰
- Judicial Matters Second Amendment Act 43 of 2013. Notwithstanding the prioritisation of the rollout of sexual offences court (rooms) here are no additional funds for the establishment of these courts. The Department has submitted a request to Treasury for additional funding.¹¹
- Child Justice Act 75 of 2008.¹²

2. TRACKING UNDER-EXPENDITURE IN 2013/14 AND THIRD QUARTER EXPENDITURE IN 2014/15

The Department **underspent in 2013/14** by R475 million or 4.3%. The underspending occurred as a result of slow spending of the infrastructure budget as a result of delays from the Department of Public Works and delays in procurement processes in the area of the Integrated Justice System (IJS).

The Department **continued to underspend in these areas in 2014/15**. For instance, Treasury reported that R278 million was shifted due to delays in capital works during the 2014 Adjusted Estimates of National Expenditure (AENE) to fund other priorities (R30 million for a shortfall in municipal rates, taxes and office accommodation in the Administration programme; R101.8 million to the Marikana and Arms Procurement Commissions; R40 million for a shortfall in security services; R21 million to fund a new Commissioner for the SAHRC and the implementation of a criminal case backlog project at Legal Aid South Africa and R73 million for equipment for new and existing courts).¹³

In the **third quarter of 2014/15**, the Department of Justice and Constitutional Development spent R12.1 billion which is 8.3 percentage points lower than the approved projections of R13.5 billion. The Department's spending for the **third quarter** of the 2014/15 financial year reveals that **the trend of underspending continues** in buildings and other fixed structures (at 32.7 percentage points lower than approved projections), even after R278 million was shifted during the AENE to fund other priorities.

The other major items that contributed to the total underspending of R1.4 billion are mainly goods and services (at 13.3 percentage points lower than approved projections) and machinery and equipment (at 56.1 percentage points lower than the approved projections). This is mainly due to the delays in the submission of invoices for accommodation charges by the Department of Public Works (DPW), as well as the delays in receiving claims from the JCPS Cluster departments for the Criminal Justice System modernisation programme and the delays in processing claims for these projects due to prolonged procurement processes within the Department. Additional areas of under-expenditure include magistrate's salaries due to delays in filling vacant magistrate's posts.¹⁴ Direct Charges

⁹ Statement by the Deputy Minister of Justice and Constitutional Development of the Government of the Republic of South Africa, the Hon John Jeffery, MP, at the 13th United Nations Congress on Crime Prevention and Criminal Justice, Doha, Qatar, 12 – 19 April 2015 http://www.justice.gov.za/m_speeches/2015/20150414_QatarStatement.html#sthash.t5fzntYL.dpuf

¹⁰ Various departments such as Social Development and Home Affairs are currently concluding the regulations required to put the Act into operation. http://www.justice.gov.za/m_speeches/2015/20150414_Qatar.html#sthash.QISifaag.dpuf

¹¹ Response to the Portfolio Committee on Justice and Correctional Services BRRR (dated 31 January 2015)

¹² DoJ&CD Strategic Plan 2015-2020 p45

¹³ October 2014: Adjusted Estimates of National Expenditure

¹⁴ National Treasury

2. MANDATES

Legislative mandates

- c) Legislation providing for the prosecution of offenders and combating of crime: **National Prosecuting Authority, the Special Investigating Unit and the Asset Forfeiture Unit**, the conduct of criminal proceedings, the investigation of organised crime and corruption, and the forfeiture of assets obtained through illicit means
- d) Legislation providing for the establishment and functioning of bodies responsible for **legal aid** (the Legal Aid Act of 1969);
- e) Legislation providing for the establishment of bodies responsible for **law reform and rule-making**, the South African Law Reform Commission Act of 1973 and the Rules Board for Courts of Law Act of 1985);
- f) Legislation providing for the **administration of estates** The Act provide 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);

2. MANDATES

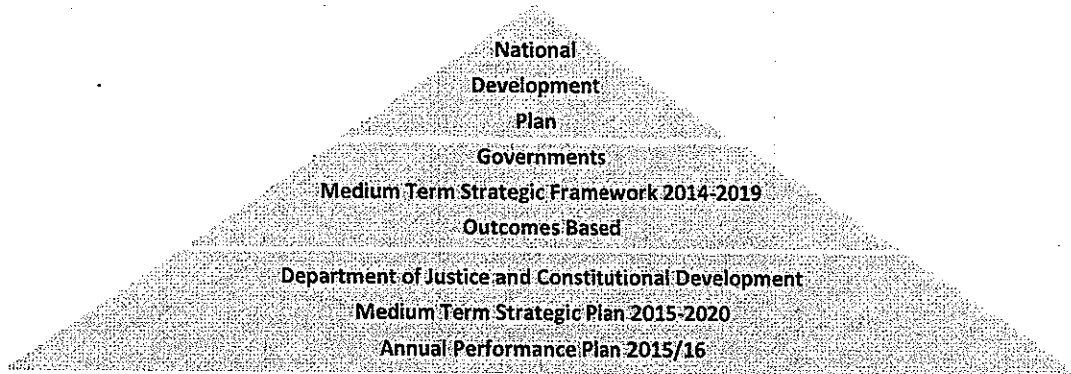
Legislative mandates

- g) Legislation regulating the provisioning of **legal advisory services** to government departments (the State Attorneys Amendment Act of 1957). The Act make provisions for the Minister to establish the Office State Attorney and the appointment of state attorneys and staff;
- h) Legislation relating to the **promotion, protection and enforcement of 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);



4. ALIGNING STRATEGIC PLANNING

The Departments Medium Term Strategic Plan (2015-2020) and Annual Performance Plan 2015/16 is informed by the National Development Plan (NDP) and Governments Medium Term Strategic Framework 2014-2019:¹⁸



The NDP 2030 vision requires; a modern integrated criminal justice system (full implementation of the seven point plan for the Criminal Justice System Review/Revamp adopted by Cabinet in 2007); increased access to justice and strengthening protection for whistle blowers.

These broad requirements of the NDP have been developed into actions and targets as set out the **Governments Medium Term Strategic Framework (MTSF) 2014-2019**. The Justice Departments obligations in terms of the MTSF can be briefly summarised as follows:

- **Safety:** Outcome 3 (All people in South Africa are and feel safe). This is to be achieved by:
 - (i) Establishing an efficient and effective criminal justice system. Develop a Criminal Justice System (CJS) business plan to ensure integrated activities across the cluster. (Target: Developed and approved by **December 2014**) and implemented by all Departments (Target: **April 2015**)
 - (ii) Establishing an integrated electronic CJS system to provide accurate and timely management of information (through an integrated case management system, an integrated person related information system and key performance indicators)
 - (iii) Introducing to Parliament a Cyber-Security Bill (Target: Bill approved by Cabinet for public comment and introduced to Parliament **2014/15**)
 - (iii) Reducing corruption in the public and private sector. Review/amend and implement Prevention of Corrupt Practices Act and Protected Disclosures Act (Target: **Dec 2015**)
- **Public Service:** Outcome 12 (An efficient, effective and development-oriented Public Service). This is to be achieved by: (i) Strengthening protection of whistle-blowers by amending the Protected Disclosures Act. (Target: **2014/15**).¹⁹
- **Social Protection:** Outcome 13 (An inclusive and responsive social protection system) by strengthening social welfare delivery through legislative, policy reforms and capacity.
- **Nation Building:** Outcome 14 (Nation Building and social cohesion). This is to be achieved by:²⁰

¹⁸ This will be the first of a series of 5-year planning cycles for implementation of the Plan and should be mirrored at all levels of governments including local government level.

¹⁹ Outcome 12 p28

²⁰ Nation Building and Social Cohesion

4. STRATEGIC GOALS

The new goals have been translated to align with those of the National Development Plan and National Outcomes

	Old	New	Aligned Budget Allocation
Goal 1	Enhanced organisational performance on all aspects of administration in line with set standards meeting and exceeding the needs and aspirations of key stakeholders.	An efficient, effective and development oriented administration. (Outcome 12)	Additional R48 million reallocated to improve internal audit, risk management and vetting, for 2015/16 financial year.
Goal 2	To facilitate the (effective and efficient) resolution of criminal, civil and family law disputes by providing accessible, efficient and quality administrative support to the courts.	Improved administration support to the justice system enabling efficient resolution of cases. (civil, family law and criminal)(Outcome 3 and 13)	Additional R74.5 million reallocated to address rural capacitation of courts, for 2015/16 financial year.

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4. STRATEGIC GOALS

The new goals have been translated to align with those of the National Development Plan and National Outcomes

	Old	New	Aligned Budget Allocation
Goal 3	Effective and cost-efficient provision of state legal services that anticipate, meet and exceed stakeholder needs and expectations.	Provision of quality legal services that strengthens the capacity of the State (Outcome 12)	The focus on the reengineering of the State Legal Services required an investment of an additional R34.1 million for 2015/16. A total of R108 million is allocated to this goal over the MTEF period.
Goal 4	To promote the Constitution and its values.	Promote constitutionalism and Social justice to contribute to social cohesion (Outcome 14).	R73 million (2015/16 financial year) has been allocated to this crucial focus area to ensure awareness of the relevance of our constitutional democracy and the rights and obligations of citizens in this regard.

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QUESTIONS

The Department should be asked to report on its progress in achieving the targets set in terms of the Governments MTSF.

- Was the Criminal Justice System Business Plan developed and approved by December 2014 and is it being implemented by all Departments as from April 2015 in line with MTSF requirements? If not why not? The Department should elaborate on the CJS Business Plan and how it will improve integration across the criminal justice sector.
- The amendments to the Protected Disclosures Act 26 of 2000 were to have been tabled in the 2014/15 financial year. What is the reason for the delay? Both the NDP and Government MTSF and the Public Service Commission (PSC) highlight the importance of whistle-blowers in the fight against corruption.
- What progress has been made with the drafting of a cyber-security Bill?
- The Department has a critical role to play in nation building and social cohesion. Given the recent series of attacks on foreign nationals the Department must explain:
 - What steps it is taking to build non-racialism through community dialogues on combatting racism, racial discrimination, xenophobia and related intolerance at (ward) level)?
 - When it will host a national summit on the National Action Plan to combat racism, racial discrimination, xenophobia and related intolerance?²²
 - When will the National Action Plan to combat racism, racial discrimination, xenophobia and related intolerance be finalised?²³
 - What are the two way communication mechanisms being established at 25 municipalities? Will these communication mechanisms be fast-tracked and will those areas that appear to have been particularly affected by incidents of violence against foreign nationals be targeted?
 - Whether it implemented the recommendations of the South African Human Rights Commission which were contained in the Commission's 2010 Report on the Investigation into issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence Against Non-Nationals.²⁴
 - When will the Policy framework framework on "Combating Hate Crimes, Hate Speech and Unfair Discrimination" be published for public comment?

²² According to the SAHRC 2010 Report on the Investigation into issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence Against Non-Nationals (p44) the Draft National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance recommends laudable measures for combating xenophobia. These are: a) Training public officials (including deepening public awareness) and putting mechanisms in place to ensure that non-nationals receive the services to which they are legally/ constitutionally entitled; b) Undertaking pragmatic reforms of immigration policy and practice with a view to ensuring more efficiency; c) Fighting corruption in the management of migrants and refugees, and facilitating better access to justice by non-nationals; d) Dealing effectively with the culture of impunity regarding violence in general and xenophobic violence in particular – and involving all stakeholders in the process; e) Effectively regulating industries in which non-nationals are a significant part of the labour force to enforce basic conditions of labour and punish employers for illegal labour practices; and f) Promoting positive reforms to build inclusive local governance structures, to create an inclusive environment for non-nationals.

²³ In 2001, when South Africa hosted the 3rd UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Conference adopted the Durban Declaration and Programme of Action (DDPA) which urges states to 'establish and implement without delay national policies and action plans to combat racism, racial discrimination, Xenophobia and related intolerance, including their gender based manifestations. The Justice Department established the National Forum Against Racism (NFAR) in 2003 following the Durban Declaration and Programme of Action. The NFAR comprises various stakeholders including national and provincial government and civil society organisations. The terms of reference of the NFAR included: the development of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (National Action Plan). The Justice Department is the focal agency responsible for leading the development, finalisation and for coordinating the implementation of the National Action Plan (NAP), as well as the monitoring and evaluation of the impact of the implementation of the NAP. Of concern have been the delays in finalising the NAP. A draft NAP was developed but was only tabled before Cabinet in February 2013. Following Cabinet input a revised draft of NAP is to be tabled before Cabinet this year (2015) to be followed by a public consultation process. The NAP is currently being revised and edited by the Foundation for Human Rights, so as to be in line with UN Guidelines.


²⁴ http://www.sahrc.org.za/home/21/files/Reports/Non%20Nationals%20Attacks%20Report_1-50_2008.pdf

5. IMPLEMENTATION OF KEY LEGISLATION

b) Legal Practice Act

The key objective of the Legal Practice Act is to rationalise various pre-1994 statutes which regulated the legal profession in different parts of the country. The Act does not only enhance access to the legal profession for aspirant lawyers, but will also enhance access to legal services, impacting positively on access to justice.

- i. The proclamation by the President to commence implementation of Parts 1 and 2 of Chapter 10 of the Act was published in January of 2015.
- ii. Implementation of the Act has begun during the 2014/15 financial year with the establishment of the National Forum
- iii. The National Forum will investigate and put processes in place for the implementation of the Act.
- iv. This will be one of the major areas of implementation for the Department during the 2015-2020 MTSF period.



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5. IMPLEMENTATION OF KEY LEGISLATION

b) Legal Practice Act

- vi. Appointment of a consultant to facilitate the formation of the National Forum and related activities has been concluded. Good progress is expected in 2015/16 to meet the deadline for this interim structure of 2017/18.
- vii. Funding for this implementation is included in a budget line on implementation of legislation.

	2015/16 '000	2016/17 '000	2017/18 '000
Approved budget	17 932	17 496	18 452
Year On Year Growth		2.8%	7.7%



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6. POLICIES AND RELATED INITIATIVES

b) Transforming the South African Legal System

Consolidate policy and legislative aimed at:

1. Transforming the South African legal system which will entail, among others, the Africanisation of the legal system and infusion of Ubuntu
2. Harnessing the transformation of the jurisprudence to realise the objective of the NDP – of a progressive jurisprudence that contributes to the State's efforts to redress the legacy of apartheid, of inequality, exclusion and poverty
3. The institutionalisation of the traditional justice system and restorative justice as the bedrock of the Alternative Dispute Resolution Mechanisms (ADRM) aimed at enhancing access to justice

6. POLICIES AND RELATED INITIATIVES

b) Transforming the South African Legal System

The following Reports and Discussion Papers are being drafted:

- (a) Report on the assessment of the impact of the jurisprudence emanating from the decisions of the Constitutional Court and Supreme Court of Appeal (Constitutional Jurisprudence Project)
- (b) Discussion Document on the Traditional Justice System to precede law reform in the area following the Traditional Courts Bill discourse
- (c) Regulations on Paralegals as part of the reform of the Justice of Peace dispensation to precede the legislative reform envisaged by the LPA

A series of Colloquia which will culminate into a National Colloquium in Nov 2015 will be arranged to ensure public consultation on above policy initiatives

6. POLICIES AND RELATED INITIATIVES

NATIONAL POLICIES

a) Transformation of State Legal Services

The transformation of State Legal Services forms part of on-going initiatives aimed at transforming the administration of justice broadly. In particular it is aimed at addressing the apparent lack of effective coordination of legal services that has led to a number of operational challenges experienced across government, which include the following:

- i. Prescription of claims involving government;
- ii. Default judgments granted against government;
- iii. Lack of monitoring systems over the work and outputs of attorneys and advocates;
- iv. Inconsistency in the determination of counsel fees; and
- v. Low success rates in cases against the State.



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6. POLICIES AND RELATED INITIATIVES

NATIONAL POLICIES

a) Transformation of State Legal Services

- i. Cabinet has approved a Framework for the Transformation of State Legal Services to address the above challenges.
- ii. The implementation of the Policy Framework will also go a long way in responding to general outcry within the profession that Previously Disadvantaged Individuals (PDIs) are not given briefs commensurate with transformational objectives.
- iii. The State Attorney Amendment Act of 2014 provided for the establishment of a Solicitor-General, who will focus efforts in coordinating litigation on behalf of the State and improve the overall management within offices of the State Attorneys. This appointment is expected to be made during the MTSF period;
- iii. Service turnaround in the State Attorney offices is one of the priorities of the department. The department will focus on containing litigation costs for the state through:
 - Implementing clear guidelines regulating how state litigation is to be conducted;
 - Clarifying the roles and responsibilities of in state litigation management; and
 - Implementation of cost-saving measures.

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	magisterial districts project. Currently it is available in Gauteng and North West.	can be linked to paralegals in community advice offices.
Traditional Courts Bill	The Portfolio Committee recommended that the Justice Department should consider reviving, redrafting and re-introducing the Traditional Courts Bill as a matter of urgency. ⁴⁹ The Department has reported that it is developing a concept paper and will table a Traditional Courts Bill in November 2015. ⁵⁰ Currently these courts are still administered by the Black Administration Act 38 of 1927. ⁵¹ The Truth and Reconciliation Commission Report recommended: ⁵² that the Justice Department carefully monitor the administration of justice at this level. ⁵³	Has the Justice Department been monitoring the administration of justice at this level? The Department reports it will be responsible for the training of traditional leaders and the administrative staff attached to these courts.

5. Programme Analysis

5.1 Administration Programme

Table 2: Allocations to subprogrammes in the Administration programme

Programme	Budget		Nominal Percent change in 2015/16	Real Percent change in 2015/16
	2014/15	2015/16		
Ministry:	R33.4 million	R34.8 million	4.04 per cent	-0.73 per cent
Management:	R43.5 million	R48.7 million	11.91 per cent	6.79 per cent
Corporate Services:	R847.5 million	R741.3 million	-12.52 per cent	-16.53 per cent
Office Accommodation:	R1.01 billion	R1.032 billion	1.59 per cent	-3.06 per cent
TOTAL	R1.94 billion	R1.85 billion	-4.3 per cent	-8.68 per cent

There is a real decrease of 8.7 per cent in the Administration programme allocation compared with 2014/15. The Office Accommodation subprogramme (which provides for accommodation charges, leased buildings and municipal rates) continues to receive the largest allocation of the Administration programme budget (at 55.6 per cent). The main cost drivers for this programme remain operating leases (R568 million) and property payments (R466 million).⁵⁴ Funding pressures are experienced from substantial increases in municipal service rates.⁵⁵

Vacancies in the Management subprogramme continue to lead to underspending. In the October 2014 AENE R24.2 million was shifted from compensation of employees (vacant posts) in the Administration programme to fund capacitation in the State Legal Services Programme. Note also that in some cases funds for vacant posts, particularly in the CFO's office were used for the Arms Procurement

⁴⁹Budget Report of the Portfolio Committee on Justice and Correctional Services (dated 11 July 2014)

⁵⁰ Response to Parliamentary Question submitted by Dr M Motshekga.

⁵¹ Repeal of the Black Administration Act and Amendment of Certain Laws Amendment Act 20 of 2012. In 2008 there were 1886 traditional courts.

⁵² The TRC Report noted that many civil legal matters in South Africa are decided by bodies outside the formal court structure, namely tribunals administered by chiefs under laws dating from the colonial period. I) an urgent audit of these courts and their personnel be undertaken by the Justice Department in co-operation with the provincial ministries of traditional affairs <http://www.justice.gov.za/trc/report/finalreport/Volume5.pdf>

⁵³ In 2011 the statement emanating from the Access to Justice Conference agreed that all measures necessary to enhance access to affordable justice shall be taken including restructuring and resourcing community and traditional courts.

⁵⁴ ENE 2015

⁵⁵ DoJ&CD Strategic Plan 2015-20 p37

7. BUDGET OVERVIEW

MTEF BUDGET ALLOCATIONS:
Year on Year Growth

	2014/15 '000	2015/16 '000	2016/17 '000	2017/18 '000
Approved budget	16,459,120	16,864,738	18,038,926	19,137,516
Year On Year Growth		2.5%	7.0%	6.1%

- i. Due to the current economic climate the Department has received a below inflationary rate increase in budget as illustrated above. This is the result of a cut in the previous MTEF indicative allocations as follows: Remuneration R74 million, Goods and Services R95.2 million, Capital 29 million and Departmental agencies R70.5 million for the financial year 2015/16.
- ii. The Department therefore re-prioritised within the existing baseline to fund its new programmes and priorities.

7. BUDGET OVERVIEW

MTEF Budget Allocations per Programme

	2014/15	2015/16	2016/17	2017/18
	Medium-term estimates			
	MTEF Baseline			
1. Administration	1 941 235	1 857 833	2 030 501	2 135 998
2. Court Services	5 333 787	5 526 428	5 978 370	6 314 448
3. State Legal Services	964 362	1 032 176	1 094 736	1 161 000
4. National Prosecuting Authority	3 254 123	3 373 988	3 557 505	3 771 179
5. Auxiliary and Associated Services	3 091 330	3 193 544	3 336 652	3 614 371
Total for programmes	14 584 837	14 983 969	15 997 764	16 996 996
Direct charge against the National Revenue Fund	1 874 283	1 880 769	2 040 162	2 140 520
Magistrates' salaries	1 874 283	1 880 769	2 040 162	2 140 520
Departmental total	16 459 120	16 864 738	18 037 926	19 137 516



- Co-ordination of the JCPS cluster towards achievement of Outcome 3 and NDP Goals

While one indicator dealing with TRC obligations has been **moved** to the State Legal Services programme (number of needs analysis completed in TRC identified communities.)

New and modified indicators are reflected in the table below:

Table 3: Administration programme: Changes to the 2015/16 APP Indicators

STRATEGIC OBJECTIVE		OBJECTIVE INDICATOR ⁶¹	PERFORMANCE INDICATORS (MODIFIED AND NEW)		2015/16 APP	
2014/15 APP	2015/16 APP	NEW TO THE 2015/16 APP	2014/15 APP	2015/16 APP	2014/15 (Est. performance)	2015/16 (Target)
Increased compliance with prescripts for good governance	Increased compliance with prescripts to achieve and sustained unqualified audit opinions. (MODIFIED)	Unqualified audit opinion achieved and sustained on financial statements (NEW)	-	-	Vote: Unqualified; Guardian's Fund: Clean CARA: Clean TPF: Qualified President Fund Clean	Vote: Unqualified; Guardian's Fund: Clean CARA: Clean TPF: Qualified President Fund: Clean Vote: Unqualified; Guardian's Fund: Clean CARA: Clean TPF: Qualified
	Implementation of programmes aimed at creating employment opportunities for the youth (NEW)	Number of employment opportunities created for the youth (NEW)				Baseline information report
				Number of people appointed on internship and learnership programmes (NEW)	750	800
				Percentage of procurement spending on the youth (NEW)	-	Baseline report
Reduction of fraud and corruption in the Department		Percentage of employees perceiving a decrease in fraud and corruption (NEW)			Baseline survey	-
			Percentage of misconduct cases finalised	Percentage of forensic investigations finalised (MODIFIED)	91%	92%

⁶¹ This is a new measurement introduced in the 2015/16 Annual Performance Plan

7. BUDGET OVERVIEW

Areas of spending pressures during the 2014 budget process

1. Maintenance of security infrastructure in the departmental service
2. Introduction of Paralegals in Regional and District courts
3. Introduction of mediators according to the Draft Rules on Mediation as per the Magistrate Court Act
4. Small Claims Court Re-engineering Program
5. Technical capacity within the department to fast track projects to be implemented by the Department of Public Works
6. Roll-out of protection of Personal Information Regulator

PROGRAMME 1: STRATEGIC PLAN



were in KZN and 63 in the Western Cape.⁷⁰ The AG had reported in 2013/14 that various investigations were in progress to probe cash shortages in the court environment and it is unclear if these suspensions are related to these investigations.

QUESTIONS

- In the 2014 Budget Report the Committee recommended that (i) the legal status of the Third Party Funds be finalised with the introduction of relevant legislation as soon as possible. The Justice Administered Fund Bill has still **not** been tabled in Parliament and the reasons for the delay are unclear; and (ii) the upgrade to TPF IT system should be prioritised. There have however been delays with SITA in the award for a new IT system and the Department should report on progress in this regard. It is unfortunate that the Department has removed the indicator from the 2015/16 APP that measured the completion of the phases of the Third Party Funds IT system.
- Although the Department has prioritised good governance in its administration the AG notes in its 2013/14 Audit Report that contracts and quotations were awarded to bidders who did not submit a declaration on whether they are employed by the state or connected to a person employed by the state.⁷¹ Notably on 1 December 2014 the President signed into law the Public Administration and Management Act which amongst others prohibits public servants from doing business with the State.
- The Department should report on National Anti-Corruption Hotline cases forwarded by the Public Service Commission.⁷²
- How many of the 419 officials currently suspended are alleged to have been involved in fraudulent and or corrupt activities? Are any of these activities linked to the issuing of fraudulent court orders or to maintenance monies or the Guardians Fund?

5.2 Court Services Programme

Table 4: Allocations to subprogrammes in the Court Services Programme.

Programme	Budget		Nominal Percent change in 2015/16	Real Percent change in 2015/16
	2014/15	2015/16		
Lower Courts	R3.8 billion	R4 billion	4.53 per cent	-0.26 per cent
Family Advocate	R192 million	R202 million	5.21 per cent	0.39 per cent
Magistrates Commission	R15 million	R16 million	8.05 per cent	3.10 per cent
Government Motor Transport	R35.5 million	R18 million	-48.94 per cent	-51.28 per cent
Facilities Management	R681 million	R755 million	10.79 per cent	5.72 per cent
Administration of Lower Courts	R526 million	R475.7 million	-9.62 per cent	-13.76 per cent
TOTAL	R5.3 billion	R5.5 billion	3.6 per cent	-1.13 per cent

⁷⁰ Response to a Parliamentary question from Mr S Motau

⁷¹ AG Report to the Portfolio Committee (dated 16 October 2014)

⁷² Presentation to the Portfolio Committee on Public Service and Administration Success and Challenges of the National Anti-Corruption Hotline (dated 19 November 2014)

PROGRAMME 1: ADMINISTRATION

Objective 2 : Implementation of programmes aimed at creating employment opportunities for the youth

- a) This objective is aimed at measuring the department's initiatives towards reducing the level of unemployment among youth in our country.
- b) It is aligned with the Chapter 3 : Economy and employment and Chapter 13: Building a capable State.
- c) In addressing the scourge of youth unemployment and related complexities, key areas of focus for the MTSF will be on the following:
 - i. Intensifying the use of learnerships and internships in areas of the Department where capacity is needed. For 2013/14 and 2014/15 financial years, 1074 youth were provided work training through learnership and internship programmes in area of law, ICT and public management. For 2015/16 800 youth will take part in learnership internship opportunities.
 - ii. Allocating a portion of our procurement spend to the youth. The mechanisms and the baseline will be investigated during the 2015/16 financial year.

PROGRAMME 1: ADMINISTRATION

Objective 3: Reduce fraud and corruption in the department

- i. Reduction in incidences of fraud and corruption is one of government priorities as articulated in Chapter 14: Promoting Accountability and Fighting Corruption
- ii. The Department will continue to align with government programmes on this matter, including among others, participation in the Anti-Corruption Task Team and implementation of required procedures and initiatives.
- iii. The Department will continue to run anti-corruption workshops and ensure speedy forensic investigation where suspected cases have been identified. In addition, vetting of SMS as well as other identified areas such as supply chain management officials, will continue.
- iv. To monitor the impact and effectiveness of anti-fraud and corruption activities, the Department will run perception surveys on fraud and corruption.

PROGRAMME 1: ADMINISTRATION

Objective 4: Increased number of public bodies' compliance with the promotion of access to information act (PAIA) of 2000

- i. Aligned with Chapter 14 of NDP: Promoting Accountability and Fighting Corruption
- ii. The DOJCD is a lead department in ensuring that government complies with this Act
- iii. The Act is critical to Section 32 of the Constitution of right to access to information.
- iv. In an effort to create openness, responsiveness and accountability by public service and increase compliance with the legislation, the department has included objectives and indicators in its plans to:
 - Monitor compliance with implementation of PAIA by public bodies;
 - Continue monitoring the Department's turnaround times in dealing with DOJCD PAIA requests; and
 - Capacitate public bodies to improve their level of compliance with PAIA.

PROGRAMME 2: STRATEGIC PLAN

PROGRAMME 2: COURT SERVICES

Under this programme, the following key objectives have been identified:

1. Improved finalisation of criminal cases in support of Outcome 3: People are and feel safe;
2. Provide improved court-based services to achieve clients' satisfaction within the vulnerable groups;
3. Increased protection of the best interest of children and promotion of family cohesion through mediation services;
4. Increased access to justice services to historically marginalised communities; and
5. Improved level of compliance with quasi-judicial standards of service.

PROGRAMME 2: COURT SERVICES

Objective 5: Improve finalisation of criminal cases in support of Outcome 3 "All people in South Africa are and feel safe"

- i. This objective is aligned to Chapter 12 of the NDP: Building Safer Communities and SubOutcome 2 of the Outcome 3: An efficient and effective criminal justice system
- ii. Achievement of this objective is important to the performance of the criminal justice system. There are, however, dependencies with OCJ, NPA, Magistrates Commission and other role players, which need to be effectively managed.
- iii. In addressing this objective, the Department will focus on minimising the number of case postponements resulting from the Department's administrative delays.
- iv. The target for this objective is to reduce criminal cases on the backlog roll from an estimated 26 650 in 2014/15 to 21 795 in 2019/20

PROGRAMME 2 COURT SERVICES

Objective 6 : Provide improved court-based services to achieve customer satisfaction within the vulnerable group

- i. The Department facilitates the implementation of legislation in promotion of the rights of vulnerable groups. This function is in line with Chapter 11 Social Protection a and Chapter 12 of the National Development Plan
- ii. The objective is to ensure that clients that are assisted are satisfied with the quality of service. The impact of our services will be measured annually through a customer survey.
- iii. The department will also continue to focus on:
 - Improving services and turnaround times in maintenance orders and payment successes.
 - Continue establishing dedicated sexual offences courts (23 additional courts in the next 2 financial years)
 - Purification and inclusion of historical date into the National Register of Sexual Offenders

Increased funding for Vulnerable Groups (R220, 7 million over the MTEF period)



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PROGRAMME 2 COURT SERVICES

Objective 7: Increased protection of the best interest of children and promotion of family cohesion through mediation services

- i. This objective is aligned with Chapter 13 of the NDP: Social Security.
- ii. The objective of this programme is to assist children whose families are going through challenges.
- iii. Capacitation of this office, through opening of additional service points will continue.
- iv. During this MTSF period the Chief Family Advocate will continue to increase the number of children who will be assisted through the family advocate intervention to 58 320 by the end of 5 years by:
 - Improving mediation services towards full compliance with legislation;
 - Improving turnaround times in lodging children's reports with the courts; and
 - Widening the net of child protection against the harmful effects of international child abduction, in line with the Hague Convention

Additional funding for capacitation of the Office of the Family Advocate: R48.6 million over the MTEF period



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PROGRAMME 2: COURT SERVICES

Objective 8: Increased access to justice services to historically marginalised communities

- i. Aligned to Chapter 12 of the NDP: Building Safer Communities
- ii. The Department will continue to implement programmes that increase access to justice services, particularly in disadvantaged communities. These include:
 - Rollout of small claims court to every municipality in the country
 - Alignment of magisterial districts with municipal boundaries
 - Implementation of the Superior Courts Act to ensure that every province has a high court.
- iii. Customer surveys will be used to assess the extent to which the Department has increased access to justice services. In addition, this process will assist the Department to gauge our client's appetite for using other service channels, both physical and virtual.
- iv. Targets for the MTEF period will be set up as a consequence of the survey.

Increased funding for capacitation of rural courts: (R236 million over the MTEF period)

PROGRAMME 2: COURT SERVICES

Objective 9: Improved level of compliance with quasi-judicial standards of services

- i. There is a need for the Department to improve quasi-judicial functions, particularly within the civil section of the courts. These include:
 - Timeous finalisation of default judgment
 - Timeous finalisation of taxation following conclusion of civil cases.
- ii. To measure the impact of these improvements on the sector, customer surveys will be conducted. These will help guide the Department in further improving services offered.



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2014/15 APP	2015/16 APP		2014/15 APP	2015/16 APP	2014/15 Est. performance	2015/16 (Target)
Increased efficiency in the provision of services to beneficiaries of the Guardians Fund, trusts and insolvent and deceased estates	Increased efficiency in the provision of Masters services to all beneficiaries thereto (MODIFIED)	Number of visits to the Masters web portal (NEW)	-	-	91000	100000
Enhanced litigation services	Improved management of litigation on behalf of the state to reduce litigation costs and transform the legal profession (MODIFIED)	Percentage of savings on damages claimed (NEW)	-	-	-	5%
			-	Percentage of finalised damages claims where savings were made (MODIFIED)	61%	62%
			-	Number of policies submitted for executive endorsement (NEW)	-	1
			-	Number of positions filled (NEW)	-	73
			-	Number of managers trained on management (NEW)	-	13
-	Enhance re-integration of petty offenders into socio-economic environment (NEW)	Number of offenders who's convictions were cleared to facilitate re-integration into the socio-economic environment (NEW)	-	-	9000	11000
Provision of legal advisory services	Provision of quality legal advisory services which pass constitutional muster (MODIFIED)	Percentage of legislative instruments and international agreements which can be challenged in court for constitutionality (NEW)		-	-	<2%

PROGRAMME 3 STATE LEGAL SERVICES

Objective 10: Increased efficiency in the provision of services to all Master's offices

- i. This objective is aligned to Chapter 11: Social Protection of the NDP.
- ii. The Masters of the High Court have embarked on projects to improve efficiencies in document processing and improving turnaround times in services provided to the public.
- iii. These largely involve paperless processing through implementation of ICMS
- iv. Electronic processing achieves the following:
 - Audit trail to mitigate against fraud and corruption
 - Effective monitoring
 - Better access to services by our clients
- v. The objective of these initiatives is to increase number of people accessing electronic service from 91 000 in 2014/15 to 140 000 in 2017/18



An additional R10 million was allocated to the Masters baseline in aid of service delivery initiatives

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PROGRAMME 3 STATE LEGAL SERVICES

Objective 11: Improved management of litigation on behalf of the state to reduce litigation costs and transform the legal profession.

A number of operational and strategic challenges have been identified within the State Attorney environment. For the MTSF period, the Department will invest significant time and efforts in turning this area around.

Key deliverables of this transformation include:

- i. Putting policies and systems in place to contain litigation cost escalation;
- ii. Improving operational management towards an improved organisational performance
- iii. Continuing with the transformation agenda to build capacity of PDI's

Funding

- R108 million over 3 years, starting from 15/16 financial year.
- R34 million for the 2015/26 financial year. This will fund the Solicitor-General office, filling of newly established posts and training interventions.



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wounds of the past and restoring human dignity (MODIFIED)						
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• **Monitoring performance in the State Legal Services programme**

The Litigation and Legal Services sub- programme (office of the state attorney) has been beset with problems. The state attorney has come under severe criticism from the courts;⁹¹ the Auditor General noted in 2013/14 that an internal investigation into possible irregularities that resulted in fruitless and wasteful expenditure was being conducted at the State Attorney in Pretoria.⁹² (It is unclear when this investigation will be concluded);⁹³ and there are also persistent concerns about the lack of transformation in respect of the allocation of briefs to Previously Disadvantaged Individuals (PDI) most particularly black female lawyers.⁹⁴

The Department has acknowledged the following challenges at the state attorney:

- High work volume – 145743 files for 256 state attorneys
- Outdated State Attorney Act
- Junior attorneys – system failures
- Salaries and moratorium placed on filling these posts by the DPSA – 84 vacant posts because the Department did not correctly implement OSD – although the OSD was intended to improve the salaries of legally qualified personnel this did not happen for the new appointments on level of assistant state attorney
- Outdated IT System – a new system was developed in 2010 but was never implemented because it did not include the finance chapter – so the offices continue to use manual registers
- Client departments failing to provide sufficient and or timeous instructions
- Rising costs of litigation

⁹¹ South African Liquor Traders Association and Others v Chairperson Gauteng Liquor Board and Others 2006 (8) BCLR 901 (CC). O’ Regan J expressed displeasure at ‘the office of the State Attorney in Pretoria whose systems of training and supervision appear to be woefully inadequate’ and made an order of costs de bonis propriis against the State Attorney; Nyathi v Member of the Executive Council for the Department of Health Gauteng and Another 2008 (5) SA 94 (CC) Madala J expressed concern at the ineptitude of the state attorney and noted as follows; ‘relying on the moral obligation of the State Attorney and the Department of Justice to improve the state of affairs has been an exercise in futility; Minister of Safety and Security v G4S International UK Ltd, In re: G4S International UK Ltd v South African Airways (Pty) Ltd and Others (07/12735) [2012] ZAGPJHC 50 (30 March 2012) Van Oosten J of the South Gauteng High Court observed that the instances of neglect and general decline in standards of service at the office of the State Attorney required an urgent in-depth investigation by the authorities; Tasima v Department of Transport 2013 (4) SA 134 (GNP) Tuchten J of the North Gauteng High Court stated that the experience of each of the members of this full Bench has been that frequently and most disturbingly civil litigation against the State in this division is allowed to go by default. He was of the view that ‘the office of the State Attorney, Pretoria, an important organ of state, is presently unable to comply with its constitutional and statutory obligations.’ He ordered the individual state attorney and office of the State Attorney, Pretoria, jointly and severally to pay the costs of the application for a postponement of the appeal, including the costs of both senior and junior counsel on the attorney and own client scale. The liability of the individual state attorney for these costs was de bonis propriis. Further concerns were raised in Central Authority for the Republic of South Africa v R (6364/13) [2014] ZAGPPHC 19 (18 February 2014); and Minister of Rural Development and Land Reform v Griffio Trading CC; In Re: Griffio Trading CC v Minister of Rural Development and Land Reform (12440/11) [2014] ZAGPPHC 666 (2 September 2014).

⁹² This issue was also flagged by the AG in the 2012/13 Annual Report.

⁹³ DoJ&CD Annual Report 2013/14 p106

⁹⁴ Keynote Address by the Deputy Minister of Justice and Constitutional Development, the Hon JH Jeffery, MP, at a Seminar on Gender Transformation in the Legal Profession, hosted by NADEL Western Cape, 6 October 2014 http://www.justice.gov.za/m_speeches/2014/20141006_Nadel.html#sthash.wUMhDgKS.dpufhttp://www.justice.gov.za/m_speeches/2014/20141006_Nadel.html

PROGRAMME 3: STATE LEGAL SERVICES

Objective 14: Fulfilment of International Obligations by the Department

- i. The tabling of reports in time to various international bodies remains crucial;
- ii. 12 country reports and 5 ratifications are planned to be finalised over the next 5 years.
- iii. In addition, the Department intends to finalise extradition cases and mutual legal assistance matters within stipulated timeframes.

PROGRAMME 3: STATE LEGAL SERVICES

Objective 15: Development of legislative instruments that withstand constitutional challenges

- i. The aim of this programme is to develop legislative instruments that improve justice services. Some of the legislations to be developed are aligned to sub-outcome 4: Secure cyber -space and sub-outcome 7: Corruption in the public sector reduced of Outcome 3
- ii. Each year, a legislative programme is finalised with the Leader of Government Business . This takes into account the priorities of government
- iii. The Department aims to develop legislation that pass the constitutionality and other legal tests.

PROGRAMME 3: STATE LEGAL SERVICES

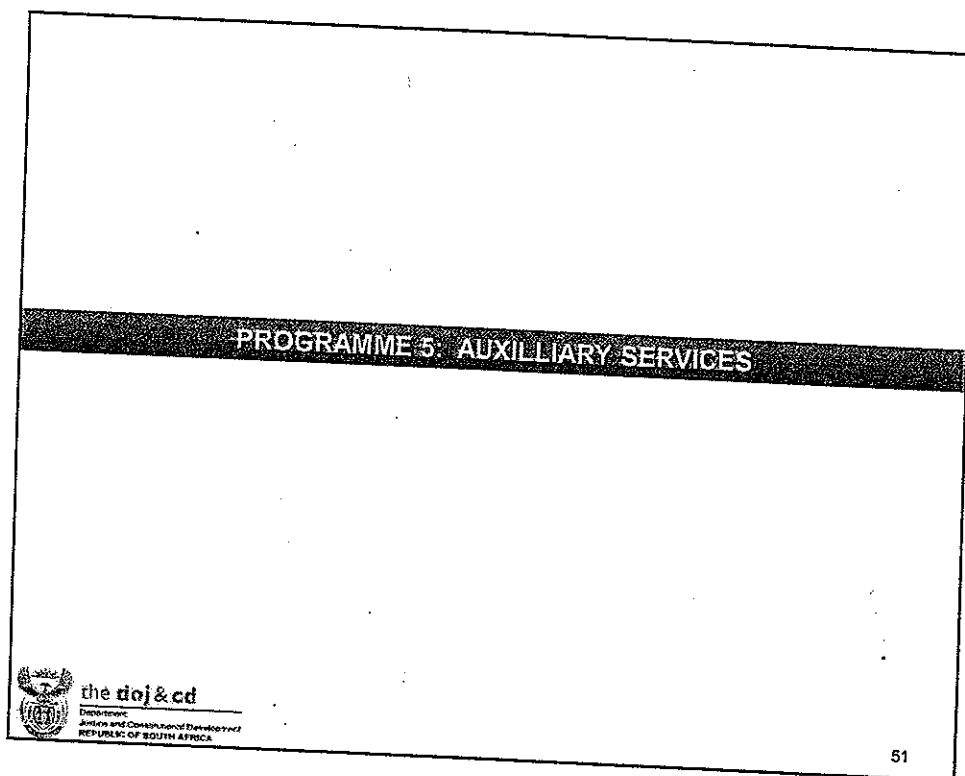
Objective 16: Promotion of broad based knowledge about and support for values of Equality, Human dignity and Fundamental Human Rights

- i. Aligned with Chapter 12: Building safer Communities and Chapter 15: Transforming Society and Uniting the Country of the NDP as well as Sub-Outcomes 1 and 2 of Outcome 14.
- ii. Continue with the implementation of EU funded Socio-Economic Justice Programme for All (SEJA) Programmes through the Foundation for Human Rights
- iii. This programme empowers civil society to assist with human rights issues and facilitate dialogue regarding constitutional issues.
- iv. The objective of this programme is to increase awareness of constitutional rights from 52% in 2014/15 to 65% over 5 years.

PROGRAMME 3: STATE LEGAL SERVICES

Objective 17: Implementation of the TRC recommendations, as approved by Parliament, for purposes of contributing to healing the wounds of the past and restoring human dignity


- i. Aligned to Chapter 15 of the NDP: Transforming Society and Uniting the Country.
- ii. Regulations on Community Rehabilitation will be finalised during 2015/16 financial year. This will enable the department to implement the 18 projects consulted on which are targeted for completion over the next 5 years.



PROGRAMME 5: AUXILLIARY SERVICES

Objective 18: Establishment of an integrated electronic Criminal Justice System (CJS) modernisation of the criminal justice information.

- i. The purpose of programme 5 is to provide transfer funding for entities and to fund a number of auxiliary services. Justice Modernisation is funded within this program.
- ii. The objective under this programme is aligned with Chapter 12 of the NDP and sub outcome 2 of the Outcome 3: An efficient and effective criminal justice system
- iii. This IJS programme remains a very critical initiative identified to help the country deal with the issues of crime and safety.
- iv. This programme will continue with the five priorities in the MTEF period, which include person identification and the 28KPI performance dashboard, among others.
- v. Within the initiatives driven by the Department, completion of the 28 KPI project and implementation of audiovisual remand systems will be implemented.


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- **Monitoring performance in the Justice Modernisation subprogramme**

In the 2014/15 APP the Department had specific performance indicators to measure completion over the medium term of its Integrated Case Management System projects for instance the IT system for the Third Party Funds, and Civil Matters in Lower courts. Now according to the 2015/16 APP all these individual projects are going to be measured under one indicator. Given the substantial funding dedicated to the rollout of an integrated electronic criminal justice system (CJS) to modernise the management of the criminal justice information system surely greater transparency is required through the provision of indicators and targets for the specific projects that are being developed and rolled-out.

The Department reports that it used the 2014/15 period to improve on the Audio Visual Remand System system which is operating at 80 magistrates courts linked to 21 correctional centres.

COMMENTS

- What are the 14 KPI's on the integrated justice system?
- How does the Department define 50 per cent completion of ICMS modernisation in 2015/16?
- What improvements were made during 2014/15 to the Audio Visual Remand System? Will it be rolled out to other courts/correctional centres over the medium term?
- What progress has been made on establishing an integrated information system to facilitate the effective monitoring and implementation of the Prevention and Combating of Trafficking in Persons Act?

6. CONCLUSION

Ongoing challenges at Justice in the financial year ahead concern the need to; turnaround the under-expenditure of infrastructure and justice modernisation budgets; manage the relationships with the DPW and SITA in way that leads to improved performance and delivery; manage the transition of personnel to the office of the Chief Justice and fast-track the transformation of the state attorneys/management of state litigation.

Sources:

- Budget Review and Recommendation Report 2014
- Estimates of National Expenditure 2015
- Department of Justice and Constitutional Development Annual Report 2013/14
- Department of Justice and Constitutional Development Annual Performance Plan 2015/16
- Department of Justice and Constitutional Development Annual Performance Plan 2014/15
- Medium Term Budget Policy Statement October 2014
- Report of the Department of Justice and Constitutional Development to the Portfolio Committee (31 January 2015)
- Third Party Funds Annual Report 2010/11-2012/13

9. CONCLUSION

The following changes were made in the new plans:

- a. The Strategic Objectives in the Strategic Plan and APP are aligned with the NDP and MTSF;
- b. SMART indicators have been formulated for these strategic objectives to enable evaluation of these objectives at the end of the MTSF period.
- c. Budget has been made available to perform against the plan and in some instances allocation has been increased substantially through reprioritisation of activities.
- d. In addition, the Department will broadly continue to deliver on our legislative mandates. In particular, area of emphasis will be on:
 - i. Implementing a plan to improve State Attorneys offices;
 - ii. Building capacity in the form of people and systems to improve service delivery with particular emphasis on youth; and
 - iii. Ensuring discipline within the Department and fight fraud and corruption.

THANKS