**4. Report of the Portfolio Committee on Justice and Correctional Services on Budget Vote 21: Justice and Constitutional Development, dated 8 May 2018**

The Portfolio Committee on Justice and Correctional Services, having considered Budget Vote 21: Justice and Constitutional Development, reports as follows:

1. **Introduction**
	1. The Budget Vote 21: Justice and Constitutional Development continues to comprise of five programmes, as well as a direct charge for Magistrates’ salaries:
* The Department of Justice and Constitutional Development (the Department) is responsible for the Administration, Court Services, State Legal Services and National Prosecuting Authority (NPA) programmes, as well as for the Justice Modernisation subprogramme under Programme 5: Auxiliary and Associated Services, which funds the implementation of Information Technology (IT) infrastructure for the Department and distributes earmarked funds for JCPS Cluster projects as part of the Integrated Justice System (IJS).
* Section 39 of the Protection of Personal Information Act, 2013, (POPIA) establishes an Information Regulator as an independent juristic person that is accountable to the National Assembly. Towards the end of 2016, the Members of the Regulator were appointed. At present, until it becomes fully operational, the Regulator receives its allocation under the State Legal Services programme.
* Programme 5 also contains allocations to various auxiliary services, including transfer payments to: Legal Aid South Africa and the Special Investigating Unit (SIU); and to two State Institutions Supporting Constitutional Democracy – the South African Human Rights Commission (SAHRC) and the Public Protector (PP).
1. **Method**
	1. The Department of Justice and Constitutional Development, Information Regulator, Legal Aid South Africa, the Special Investigating Unit, the South African Human Rights Commission and the Public Protector each presented their revised strategic plans (where applicable), annual performance plans for 2018/19 and budgets for the 2018 MTEF.
	2. The briefings took place as follows:
* Public Protector – 17 April 2018.
* Minister of Justice and Correctional Services and the Department of Justice and Constitutional Development – 18 April 2018.
* South African Human Rights Commission – 19 April 2018.
* Legal Aid South Africa – 24 April 2018.
* Information Regulator – 24 April 2018.
* National Prosecuting Authority – 24 April 2018.
* Special Investigating Unit – 25 April 2018.
	1. All presentations can be obtained from the Committee Secretary.
1. **Fiscal environment**
	1. Planning and budgeting takes place within a context of fiscal austerity, requiring the appropriate balance between vast service delivery needs, and the need to manage government’s finances prudently. To fund a revenue shortfall and, in addition, fee-free higher education and training for students from households with an income of less than R350 000, and to increase subsidies to higher education and training institutions, the application of stringent expenditure controls has intensified. In all, baseline cuts over the medium term amount to R85.7 billion, of which R53.5 billion is at the level of national government, including large programmes and transfers to public entities. This has meant that spending plans have needed to be revised, as the only ‘additional’ funds available are those that can be realised by reductions elsewhere.

* 1. In 2016, the compensation ceilings of national and provincial departments were reduced by R10 billion in 2017/18 and R15 billion in 2018/19. This has led to a decline in the growth of the total national and provincial public sector headcount.
	2. The consolidated budget for the peace and security function accounts for R199.8 billion in 2018/19; R212.6 billion in 2019/2020; and R 221.8 billion in 2020/21. The allocation to this function declines over the MTEF by R16.8 billion, from R655.6 billion to R639.2 billion.
	3. In 2018/19, of the overall allocation for Peace and Security, approximately 9.7% goes to Justice and Constitutional Development and 1.1% to the Office of the Chief Justice and Judicial Administration (including magistrates and judges’ salaries).

**Table 1: Spending on Public Order and Defence 2018/19**

| **Peace and Security****(R’ billion)** | **2017/18** | **% of Public Order and Defence Spending** | **2018/19** | **% of Public Order and Defence spending** |
| --- | --- | --- | --- | --- |
| Justice and Constitutional Development | 18.9 | 9.6 | 19.3 | 9.7 |
| Office of the Chief Justice and Judicial Administration | 2 | 1.0 | 2.1 | 1.1 |
| Correctional Services | 22.8 | 11.6 | 23.8 | 12.2 |
| Police  | 87 | 44.4 | 91.8 | 46.0 |
| Independent Police Investigative Directorate | 0.25 | 0.13 | 0.3 | 0.15 |
| Defence and Military Veterans | 48.6 | 24.8 | 47.9 | 24.0 |
| Home Affairs | 7 | 3.6 | 7.9 | 4.0 |
| **Total (including Direct Transfer: Magistrates and Judges’ salaries)**  | **196.0** | **-** | **199.8** | **-** |

1. **Budgetary Review and Recommendation Report (BRRR) October 2017 and Minister of Finance’s response**
	1. In its Budgetary Review and Recommendation Report (October 2017), the Committee recommended that additional funding be allocated to:
* The Office of the Chief Justice for the operationalisation of the Mpumalanga High Court and for additional capacity to Judges Presidents for judicial functions.
* The Department for the shortfall in the compensation of employees and infrastructure’ budgets.
* The NPA for the shortfall in its compensation of employees’ budget; to fill vacancies; to create capacity in new courts; and to resume the aspirant prosecutor programme.
* Legal Aid South Africa, so that it would not have to cut posts and to ensure that it can maintain its civil work. The Committee also recommended that the funding presently allocated by the Department of Rural Development and Land Reform to a private firm of attorneys to provide representation in land-related matters be transferred to Legal Aid SA.
* The SAHRC for its monitoring obligations in respect of court orders.
* The PP to stabilise its financial health; for more investigative capacity; and for (increased) litigation costs.
	1. The Minister of Finance’s response was to advise that, due to the constrained fiscal outlook, the scope to provide additional funding is limited. Departments, entities and constitutional institutions are required to reprioritise funds within their existing baselines to fund any emerging priorities.
	2. The constrained fiscal outlook has resulted in the Vote’s baseline decreasing by R2 billion over the MTEF (R643 million in 2018/19; R667 million in 2019/20; and R705 million in 2020/21). The baseline reduction for 2018/19 is made up as follows: R200 million from Court Services; R43.7 million from the Administration programme; R49 million from State Legal Services; R200 million from the NPA; and R92.8 million from Legal Aid SA.
1. **Overview of Vote 21: Justice and Constitutional Development**
	1. The overall allocation to the Justice and Constitutional Development Vote (Vote 21) for 2018/19 is R19.3 billion (compared with R18.9 billion in 2017/18 and R17.9 billion in 2016/17), including Magistrates’ salaries. Over the medium term, the allocation increases to R21.9 billion in 2020/21.
	2. In 2018/19, the total for programmes (excluding the direct charge for magistrates’ salaries) is R17.1 billion (compared with R16.8 billion in 2017/18).

**Table 2: Vote 21 - Justice and Constitutional Development – Allocation for the 2018 MTEF per programme**

| **Programme****(R ‘million)** | **Budget****2018 MTEF** |
| --- | --- |
| **2017/18** | **2018/19** | **2019/20** | **2020/21** |
| Administration  | 1 786.9 | 2 211.7 | 2 247.2 | 2 382.9 |
| Court Services | 6 604.6 | 6 443.7 | 6 885.5 | 7 350.8 |
| State Legal Services | 1 232.3 | 1 251.5 | 1 343.8 | 1 440.6 |
| National Prosecuting Authority | 3 684.3 | 3 648.8 | 3 929.1 | 4 214.9 |
| Auxiliary and Associated Services | 3 478.8 | 3 587.6 | 3 777.0 | 3 985.0 |
| **TOTAL** | **16 786.8** | **17 049.4** | **18 182.7** | **19 374.1** |
| Magistrates’ Salaries | 2 040.5 | 2 215.5 | 2 383.7 | 2 560.2 |
| **Total** | **18 827.3** | **19 265.0** | **20 566.4** | **21 934.4** |

* 1. However, in real terms, the allocation to the Vote has once again decreased (by 3%). (In 2017/18, the allocation decreased by -1.36% in real terms).
	2. In 2018/19, R41.8 million is reprioritised from unfilled Magistrates’ posts to operationalise the Mpumalanga High Court. Over the medium term, an additional R79.4 million is reprioritised to the Office of the Chief Justice also for operational costs at the Mpumalanga High Court.
	3. In line with the commitment to reduce the headcount in the Public Service, personnel numbers for the Vote are expected to decrease from 24 094 in 2017/18 to 23 888 in 2020/21.
1. **Policy developments**
	1. The National Development Plan (NDP) requires, among others, that we build safer communities; promote accountability and fight corruption; and strengthen judicial governance and the rule of law.
	2. This is the last year for the present Administration to deliver in terms of the Medium Term Strategic Framework (MTSF) 2014-2019. Therefore, annual planning for 2018/19 is largely concerned with consolidation of policies and legislation, and effective implementation of programmes aimed at responding to Government’s programme of Action.
	3. In this year’s State of the Nation Address (SONA), the following was highlighted:
* The need to reinforce a commitment to ethical behaviour and leadership.
* The plunder of public resources will not be tolerated and corruption, fraud and collusion in the private sector will be fought with a similar intensity.
* The Commission of Inquiry into State Capture will be established to identify wrongdoers to restore public confidence in government.
* Law enforcement institutions should be strengthened and shielded from interference in carrying out the investigation and prosecution of all acts of corruption.
* The leadership issues at the NPA will be attended to urgently to ensure that the institution is stabilised and able to perform its duties without fear, favour or prejudice.
	1. On 18 March 2018, the Minister of Justice and Correctional Services presented an overview that reflected on the work undertaken in the past year (2017/18), as well as plans for 2018/19. To achieve its intention to deliver justice to all, the Department has placed considerable focus on transformation of the justice system in its entirety and of the legal profession as well. Priorities for the year ahead, therefore, include:
* Finalising a policy to address the constitutional imperative of a single, integrated judicial system by migrating the administration of the Lower Courts to the Office of the Chief Justice.
* Finalising a policy relating to judicial governance and court administration, which will be submitted to Cabinet for consideration.
* The systematic development of a new body of law that is steeped in constitutional values as part of the Renaissance Project.
* Overhauling the Magistrate’s Courts Act, 1944, as part of the Department’s broader transformation agenda.
* Developing a policy and legislative framework for community courts and for the best use of community advice offices, as mechanisms that will enhance access to justice.
* Continuing to establish dedicated sexual offences courts that meet the blueprint approved for these courts in 2013. In addition, intermediaries and court preparation officers will continue to be appointed to improve the services for victims of sexual offences.
* Upgrading 45 regional courts including their security, ICT platforms and other enablers, to enhance efficiency.
* Continuing the process of aligning court jurisdictional boundaries with that of the applicable municipal and provincial boundaries. Rollout to the Western Cape is targeted for 2018/19.
* Continuing to build, upgrade and maintain the court infrastructure. The construction of the Mpumalanga High Court is almost complete and there are plans to expand the Durban High Court. New Magistrates’ courts in Plettenberg Bay, Booysens and Dimbaza are to be completed this year as well.
* Improving the various family law services provided at Magistrates’ Courts.
* Investigating the regulation of Alternative Dispute Resolution Mechanisms (ADRM).
* Drafting an accountability structure as envisaged in section 22(5) of the National Prosecuting Authority Act, 1998.
* Ensuring the necessary infrastructure for the Commission of Inquiry into State Capture, Corruption and Fraud in the Public Sector, including organs of state, to be able to perform its functions.
1. **Spending priorities for the 2018 MTEF**
	1. The following is prioritised:
* The Justice Department’s work is closely aligned with the NDP’s vision that by 2030, all South Africans should feel safe, and similarly with Outcome 3 ‘All people in South Africa are and feel safe’. Over the medium term, the Departments intends to strengthen efforts to transform the justice system by: developing and implementing policies that will bring about improved access to justice; improving the efficiency of the criminal justice system; strengthening the capacity of the State to manage litigation; and protecting vulnerable groups.
* As the delivery of justice services is labour intensive, spending on compensation of employees remains the Department’s main cost driver. Still, the number of Justice officials is expected to decrease by 206 over the MTEF in line with the expenditure ceiling for this item. A review committee has been established to consider the filling of critical posts.
* The construction of the Mpumalanga High Court is expected to be completed this year at an estimated cost of R1.2 billion. To operationalise this court, R41.8 million is reprioritised over the MTEF period to fund prosecutorial capacity and legal defenders at that court. In addition, R79.4 million is transferred to the Office of the Chief Justice over the medium term for judicial appointments. A further R36 million is reprioritised for consequential costs arising from the appointments.
* The Department leads the Integrated Justice System (IJS) programme for the JCPS Cluster. There has been significant progress in recent years in developing systems and also establishing connectivity to share docket and case information between JCPS Cluster departments. A Digital Transformation Strategy was prepared in 2017/18 outlining several initiatives to modernise the criminal justice system through technology solutions. The Strategy will drive spending in the Auxiliary and Associated Services: Justice Modernisation sub-programme.
* Transformation of State Legal Services requires the finalisation of policies aimed at lowering the cost of litigation, establishing capacity to handle complex legal matters and ensuring that the Office of the State Attorney is run efficiently. Activities related to this transformation project are funded through the State Legal Services programme.
* The Department remains committed to combatting racism and xenophobia and protecting vulnerable groups. The National Action Plan is expected to be submitted to Cabinet for approval in 2018/19. Various awareness campaigns will be conducted over the medium term and this will result in increased expenditure under the State Legal Services: Constitutional Development sub-programme of the State Legal Services programme.
1. **Department of Justice and Constitutional Development**
	1. The Department has aligned its plans with the NDP to address, in particular, chapters 12 (Building safer communities) and 14 (Promoting accountability and fighting corruption). The Department also has a role to play in implementing chapters 11 (Social protection), 13 (Building a capable state) and 15 (Transforming society and uniting the country).
	2. The Department continues to focus on the following four transformational themes adopted in the 2017/18 planning cycle:
* The transformation of the legal profession and mechanism for access to justice for all.
* The transformation of State Legal Services.
* The transformation of the criminal justice system and restoring public confidence.
* Entity oversight and institutional arrangements.
	1. The allocation to programmes that are administered by the Department (including the NPA and the Justice Modernisation sub-programme under Auxiliary and Associated Services) in 2018/19 is R15.5 billion. The bulk of projected spending remains directed towards Court Services, which is allocated R6.4 billion in 2018/19. The NPA receives the next largest allocation of R3.6 billion in 2018/19.
	2. In terms of economic classification, projected spending on compensation of employees remains the biggest cost driver. An amount of R11.9 billion is allocated for the salaries of 23 603 employees, including 4 425 NPA staff and 1 926 magistrates in 2018/19. On average, over the medium term, this item accounts for 64% of projected expenditure.
	3. In 2018/19, R820 million is allocated for Building and other fixed structures. The building of new courts remains a core element in the Department’s efforts to improve access to justice. The building of the Mpumalanga High Court at Nelspruit is expected to be completed in 2018/19 so that every province has its own High Court. The total cost for this project is estimated at R1.2 billion (from an estimated R945.8 million in 2017/18). Magistrates’ courts also prioritised for completion are Plettenberg Bay, Dimbaza, and Johannesburg (Booysens Magistrates’ Court). Additional planned projects for the outer years are on hold. The Department has assisted the Department of Public Works, which is responsible for planned maintenance of buildings, with funding until now but is unable to do so going forward.
1. **Department of Justice and Constitutional Development: Programmes**
	1. **Programme 1: Administration**
		1. The Administration programme is allocated R2.1 billion for 2018/19, compared to R1.8 billion in 2017/18 (for the Ministry, Management, Corporate Services, Financial Administration, Internal Audit and Office Accommodation subprogrammes). Although, overall, the programme receives a real percentage increase of 12.3% from 2017/18, it is only the allocation to the Office Accommodation subprogramme that increases (by 32.7% or R303.5 million); all other subprogrammes within Administration experience significant decreases in their allocated funds.
		2. The purpose of this programme is to provide strategic leadership, management and support services to the Department.
		3. The Department has revised the strategic objectives for the programme. In addition to a focus on achieving and sustaining an unqualified audit opinion, the strategic objective ‘Increased number of public bodies compliant with PAIA’ was (re) introduced.
	2. **Programme 2: Court Services**
		1. The Court Services programme facilitates the resolution of criminal, and civil cases, and family law disputes, by providing accessible, efficient and quality administrative support to the courts and to manage court facilities.
		2. Court Services is allocated R6.4 billion for 2018/19 compared with R6.6 billion in 2017/18 (for the Lower Courts, Family Advocate, Magistrates Commission, Government Motor Transport, Facilities Management and Administration of Lower Courts sub-programmes). This programme decreases in real terms by -7.5% from 2017/18.
		3. The reduced allocation to Court Services affects the Lower Courts and Facilities Management subprogrammes particularly:
* The allocation to the Lower Courts subprogramme decreases in real terms by -3.9%. This is the third year of real negative growth. The Lower Courts subprogramme funds the activities and operations of more than 2 147 courtrooms across the country.
* Facilities Management experiences a real decrease of -26.9%. This is the second year that Facilities Management has a negative real growth.
	+ 1. The strategic objectives for this programme are to:
* Ensure an efficient and effective integrated criminal justice system that enhances public confidence in the criminal justice system.
* Ensure an enhanced victim-centric criminal justice system.
* Ensure an enhanced and integrated family law services.
* Increase access to courts by historically marginalised communities.
* Ensure an efficient and effective civil justice system.
* Enhance the transformation of the South African legal system.
	+ 1. A number of performance indicators have been removed:
* Number of backlog courts converted to permanent courts.
* Percentage of unopposed taxations processed within 14 working days from the date of set down.
* Number of divisions of the High Court aligned with provincial boundaries.
* Percentage of integrated family law matters finalised.
	+ 1. A number of new performance indicators have been introduced:
* Case management system for appeals and reviews rolled out by target date (31 January 2019).
* Number of recorded ‘unreturned” criminal cases updated on the Integrated Case Management System (ICMS): Criminal (<1 800).
* An Integrated Criminal Justice Strategy submitted to Cabinet for approval by target date (28 February 2019).
* Number of closed circuit television systems in regional courts upgraded in line with minimum standards to the Sexual Offences Court Model (45).
* Phases of Femicide Watch established as recommended by the United Nations by target date (Phase 1 by 31 March 2019).
* Number of children who benefit from family law matters (22 500).
* Percentage of all recorded convictions validated on the NSRO (50%).
* Percentage of litigation matters finalised (50%).
* Percentage of non-litigation matters finalised within 6 months from date matter was opened (50%).
* Blueprint on community courts approved by Minister by target date (28 February 2019).
	+ 1. The spending focus for the programme is largely on court infrastructure; implementation of legislation; medical services for psychiatric observation; and security services for courts.
	1. **Programme 3: State Legal Services**
		1. The State Legal Services programme is allocated R1.25 billion in 2018/19, compared to R1.23 billion in 2017/18 (for the State Law Advisers, Litigation and Legal Services, Legislative Development and Law Reform, Master of the High Court and Constitutional Development subprogrammes). The allocation to the programme decreases in real terms by -3.4% from 2017/18.
		2. The programme provides legal and legislative services to organs of State; supervises the administration of deceased and insolvent estates, the liquidation of juristic persons and registration of trusts; manages the Guardian’s Fund; facilitates constitutional development; and undertakes research.
		3. The strategic objectives for this programme have been revised as follows
* Legal costs paid by the State reduced.
* Implementation of the Truth and Reconciliation Commission (TRC) recommendations, as approved by Parliament, for the purpose of contributing to healing the wounds of the past and restoring human dignity.
	+ 1. A number of performance indicators have been removed:
* Number of cases handled by the Master of the High Court.
* Number of projects implemented to transform State Legal Services.
* Legal Practice Council established by target date.
* Legal Practice Regulations published in Government Gazette.
* Legal Practice Council members appointed by target date.
* Transfer of assets from Law Societies.
* Number of socio-economic impact assessments submitted to DPME for sign-off.
	+ 1. The following new performance indicators are introduced:
* Jurisdiction of Masters’ service points increased (Paperless estate Administration (PEAS) rolled out to 30 service points. MOVIT (Masters Own Verification Identity Technology rolled out to 15 service points).
* Number of Previously Disadvantaged Individuals (PDI) advocates briefed (1 200).
* Percentage value of briefs allocated to female counsel (27%).
* National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance finalised and submitted to Cabinet by target date (31 December 2018).
* Number of community rehabilitation projects handed over to communities in line with TRC recommendations (Five projects to be launched and handed over to communities from 2019/2020).
	+ 1. The spending focus for the programme is largely on employee compensation; legal costs and claims against the State. Further, funding has been set aside to establish the Information Regulator (R25 million in 2017/18; R27 million in 2018/19 and R28 million in 2019/20).
	1. **Programme 3: Information Regulator**
		1. The Protection of Personal Information Act, 2013, (POPIA) regulates the processing of personal information by providing a framework that sets out the minimum standards that responsible parties must comply with when processing personal information. The Act applies to public and private bodies, including juristic persons, and aims to achieve a balance between the free-flow of information and the right to privacy.
		2. The Information Regulator is established in terms of section 39 of POPIA and has a wide range of powers and functions regarding promoting and enforcing the right to privacy.
		3. POPIA also transfers certain key responsibilities concerning the Promotion of Access to Information Act, 2000, (PAIA) to the Information Regulator. These include the handling of complaints, conducting investigations, and making assessments about compliance by public and private bodies.
		4. At present, only those parts of the Act relating to the establishment of the Regulator are operational. Only when the Regulator has reached a stage of operational readiness will the remaining provisions come into force.
		5. Since the Members of the Information Regulator took office on 1 December 2016, the Regulator has:
* Engaged with various stakeholders on areas of mutual interest; provided training on POPIA to a number of bodies; and interacted with and hosted a number of international stakeholders.
* Engaged in litigation, having been cited as a Respondent in the Constitutional Court case of Black Sash Trust v Minister of Social Development and Others. The Regulator provided an explanatory affidavit clarifying that the personal information of grant beneficiaries belongs to them and could never vest in a third party. The Regulator has been monitoring the implementation of the court order regarding the protection of personal information of the grant beneficiaries. A series of meetings were convened with the relevant stakeholders. The Regulator has submitted two reports this year to the Independent Panel of Experts in fulfilment of its monitoring obligations.
* Received approximately 180 complaints, although it is not yet operational. Many of these are about direct marketing through unsolicited electronic communications.
* Published draft Regulations for public comment in September 2017. The submissions have been considered and, where possible, included. The final draft Regulations have been submitted to the Office of the State Law Advisors to be vetted for constitutional compliance and will be tabled in Parliament once the vetting process is completed.
* Dealt with queries/complaints relating to a number of material data breaches, including the Master Deeds, Facebook, and MiWay matters; and advised on the processing of personal information in the Voter’s Roll; and has engaged Senior Counsel to provide an opinion on whether unsolicited direct marketing by political parties is direct marketing as defined.
	+ 1. The Information Regulator is allocated R27 million in 2018/19, R29 million in 2019/20 and R30 million in 2020/21 for its establishment.
		2. The Information Regulator has massively underspent its allocated budget (At the end of December 2017, Treasury indicated that the Information Regulator had spent only R970 000 of the R25.9 million allocated to it in 2017/18). The underspending is attributed to the delays in finalising an establishment structure for the Regulator, which also adversely affected the procurement of office furniture and equipment and related goods and services.
		3. In terms of POPIA, the Regulator has the power to determine its own administration in consultation with the Minister of Finance. However, until its status is clarified, the organisational structure cannot be finalised. With the assistance of the Deputy Minister of Justice, the Regulator will engage the Minister of Finance to resolve the contradiction. At present, the Regulator has an Acting CEO and Acting Head of Legal and Compliance seconded from the Department.
		4. The Regulator occupies temporary offices at the Department’s SALU Building. It has engaged the Department of Public Works to assist it to procure accommodation.
		5. The Regulator has encountered the following challenges:
* The slow pace of its establishment, which has affected the commencement of the remaining sections of POPIA.
* Delays in the finalisation of the organisational structure.
* Limited capacity and a growing workload/demand for services.
* Underspending for 2017/18.
	1. **Programme 4: National Prosecuting Authority**
		1. The NPA provides a co-ordinated prosecuting service that ensures that justice is delivered to the victims of crime through general and specialized prosecutions; removes the profit from crime; and protects certain witnesses. The NPA also forms part of the Anti-Corruption Task.
		2. The NPA has aligned its strategic objectives with the NDP, which speaks to ‘building safer communities’, as well as to Outcome 3 of the MTSF. Notably, during SONA this year, there was a clear focus on turning the tide of corruption in our public institutions.
		3. The NPA has the following programmes: National Prosecutions Service; Asset Forfeiture Unit; Office for Witness Protection; and Support Services.
		4. The NPA’s strategic objectives are as follows:
* Ensure successful prosecution (NPS): To increase the conviction rate in the lower courts and high courts.
* Ensure that profit is removed from crime (AFU): To increase the number of completed forfeiture cases and increase the value of freezing orders.
* Ensure that vulnerable and intimidated witnesses and related persons are successfully protected (OWP): To ensure that no witnesses or related persons are harmed, threatened or killed while on the witness protection programme.
	+ 1. A number of new performance indicators were introduced, placing greater emphasis on other types of crime that affect our society:
* ‘Conviction rate in murder cases’ and ‘Conviction rate in money laundering’ were elevated from an operational to NPA level.
* ‘Number of victims assisted at TCC sites’ replaces the previous indicator ‘Number of operational TCC’s’ (due to funding constraints, the number of operational TCCs is to remain at 55 nationwide).
* ‘Number of persons convicted of private sector corruption’ is entirely new.
	+ 1. The NPA is allocated R3.6 billion for 2018/19 compared with R3.7 billion in 2017/18. In real terms, the allocation is reduced by -6.1%.
		2. As in previous years, the National Prosecutions Services sub-programme is allocated the biggest share of the funds (81%) allocated to this programme.
		3. Over the medium term, the NPA’s baseline is reduced by R611 million: R200 million in 2018/19; R200 million in 2019/20; and R211 million in 2020/21. However, R38.5 million has been reprioritised within the Vote to appoint eight prosecutors and three administrative staff at the Mpumalanga High Court.
		4. In previous years, shortfalls relating to the compensation of employees’ budget were funded through virements from the NPA’s operational budget or from the Department. However, this year, the NPA’s operational budget is unable to accommodate any virements to the compensation of employees’ budget. The projected shortfall for 2018/19 is R168 million, increasing to R435 million over the MTEF period.
		5. There has been a total moratorium on the filling of posts since 2015/16. In addition, 157 and 205 officials left the NPA during 2016/17 and 2017/18, respectively. The loss of staff has significantly increased the workload of prosecutors, which has a host of negative consequences for service delivery and for the workplace environment.
	1. **Programme 5: Auxiliary and Associated Services**
		1. The programme provides a variety of auxiliary services associated with the Department’s aims and funds transfer payment to the South Africa Human Rights Commission, the Public Protector, Legal Aid South Africa, the Special Investigation Unit and the President’s Fund.
		2. The programme also contains the Justice Modernisation sub-programme. This sub-programme contains funds for the modernisation of IT systems and for the Integrated Justice System (IJS) project on behalf of Justice Crime Prevention and Security (JCPS) Cluster departments and entities. An amount of R976.8 million is allocated to this subprogramme in 2018/19 compared with R903.7 million in 2017/18. This is an increase of 2.5% in real terms (compared to 2016/17 in which the allocation to the subprogramme declined in real terms by -11.3%; and to 2017/18, where the allocation once again decreased in real terms by -0.7 %.).
		3. The related strategic objective for the Justice Modernisation sub-programme is as follows: establishment of a functional, integrated electronic criminal justice system to monitor performance of the criminal justice system.
		4. There are some changes to the performance indicators and targets:
* The indicator ‘Number of KPI data uploaded to the IJS data warehouse’ was removed, while the target for the performance indicator ‘Number of government departments and entities exchanging information electronically’ was revised from eight (in 2017/18) to seven.
1. **Legal Aid South Africa**
	1. Legal Aid South Africa is an autonomous statutory body established in terms of the Legal Aid South Africa Act 39 of 2014. The main object of Legal Aid SA is to render or make available legal representation to the poor and vulnerable at State expense. Although the main thrust of its work is to provide legal representation to criminal accused, Legal Aid SA does provide advice and representation in civil matters.
	2. Legal Aid SA receives its funding as a transfer. The entity is allocated R1.8 billion in 2018/19, which is only slightly more than its allocation for 2017/18 of slightly less than R1.8 billion (compared to R1.7 billion in 2016/17). The percentage change to the grant allocation is 0.6%.

**Table 4: Legal Aid SA programme budget for the 2018 MTEF**

| **Subprogramme****(R’million)** | **2017/18** | **2018/19** | **2019/20** | **2020/21** |
| --- | --- | --- | --- | --- |
| Legal Aid Services | 1 425.8 | 1 444.6 | 1 530.3 | 1 601.5 |
| Administration  | 310.7 | 299.9 | 310 | 326.5 |
| Special projects | 50.4.3 | 52.9 | 55.8 | 59.5 |
| **TOTAL** | **1 786.9** | **1 797.3** | **1 896.2** | **1 987.5** |

* 1. Although the grant allocation to Legal Aid SA was not reduced in 2017/18, it had a budget shortfall of R45 million because of the salaries budget not being fully funded.
	2. However, this year, Legal Aid SA’s baseline is reduced by R92 million or 5.5%. However, once the difference between the National Treasury Macro increase and actual cost of living increases (COLI) is taken into account, Legal Aid SA has a budget shortfall/cut of R164 million in 2018/19; R180.7 million in 2019/2020; and R221.1 million in 2020/21. Over the medium term, Legal Aid SA will have a total budget shortfall/cut of R566 million.
	3. Legal Aid SA has been able previously years to manage the shortfall by:
* Downsizing the organisational structure through freezing vacant posts (110 posts in 2017/18).
* Containing the capital budget by extending the life cycle of assets (including computers and vehicles) beyond their normal life span.
* Reducing the Judicare budget.
* Reducing the operating budget.
* Reducing expenditure on performance incentive bonuses.
	1. In 2018/19, Legal Aid SA has further reduced expenditure on various items but will still have a shortfall of R43.8 million. As 80% of the budget is spent on salaries, Legal Aid SA is left with no choice but to cut 97 posts, which will have the following consequences for the delivery of legal aid services:

**Table 5: Impact of budget reductions on posts, matters and court coverage**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Staff category** | **Total staff posts****2017/18** | **No. of posts cut****2018/19** | **No. of matters reduced 2018/19** | **Court coverage reduction 2018/19** | **Amount saved****(R’million)** |
| Criminal: District Court | 893 | 34 | 9 350 | 86% to 83% | 9.3 |
| Criminal: Regional Court | 446 | 17 | 2 975 | 96% to 93% | 12.8 |
| Criminal: High Court | 109 | 6 | 300 | - | 5.9 |
| Civil | 237 | 13 | 3 250 | - | 7.9 |
| Paralegals | 188 | 1 | 4 000 | - | 0.4 |
| Support | 491 | 26 | - | - | 7.5 |
| Other | 389 | - | - | - | - |
| **Total** | **2 753** | **97** | **19 875** | **-** | **43.9** |

* 1. Legal Aid SA will receive R3.2 million in reprioritised funding from the Department to fund one legal practitioner and one paralegal practitioner at the Mpumalanga High Court.
	2. The Strategic Plan 2015 – 2020 sets out the outcomes and strategies that Legal Aid SA will pursue for that period. Legal Aid SA’s strategic outcomes for 2015-2020 are to provide quality justice for all, especially, the poor and vulnerable, and to be a respected, high performance, sustainable and accessible public entity that will have a positive impact on society, the economy and the environment.
	3. The overall strategic shift in the 2015 - 2020 period focuses on increased organisational maturity, and sustainable high performance and excellence in all segments of the organisation over the next decade, positively touching the lives of many more South Africans to ensure the outcome of quality justice for all.
	4. Legal Aid SA’s strategic objectives are as follows:
* Empowered clients and communities making informed choices about their legal rights and responsibilities.
* All poor and vulnerable persons able to access quality public funded legal services to protect or defend their rights.
* An accessible, effective, fair, independent and efficient justice system serving all in South Africa, contributing to building safer communities.
* Delivering on the constitutional and statutory shareholder mandate in an independent, accountable and sustainable manner.
* An organisation embedding sustainable practices in every segment of the organisation, to positively impact on society, the economy and the environment.
* Embedding good governance, high ethical standards and integrity, high performance and accountability.
* An effective and efficient, economic and environmentally responsive supply chain management system supporting client services delivery and internal business processes.
* An appropriately resourced national footprint reaching the poor and vulnerable persons requiring legal assistance.
* An expanded and capacitated/resourced national footprint reaching the poor and vulnerable persons requiring legal assistance.
* Competent, dedicated, motivated and empowered employees capacitated to deliver the constitutional mandate and organisational strategies.
* A modern and appropriate, integrated, secure and cost-effective IT Platform supporting the provision of client services and linkages and enabling internal business needs.
	1. In carrying out its mandate, Legal Aid SA continues to identify the following priority groups: children; every detained person, including sentenced prisoners; every accused person who wishes to appeal or review a court decision in a higher court; women, particularly in divorces, maintenance and domestic violence cases; and the landless, especially in eviction cases.
	2. Legal Aid SA’s Annual Performance Plan 2018/19 is accompanied by a Review of the Strategic Plan, which notes the impact of the budget reductions.
	3. Legal Aid SA’s targets for 2018/19 have been revised downward because of the budget constraints. Further, any proposal to increase its current responsibilities is not viable.

**Table 6: Legal Aid SA: Selected indicators and targets**

|  |  |  |  |
| --- | --- | --- | --- |
| **Performance indicator**  | **Actual performance 2016/17** | **Target****2017/18** | **Target****2018/19** |
| **Strategic objective: Access to criminal legal aid services** |
| Court coverage: District Courts | 86% | >83% | >80% |
| Court coverage:Regional Courts | 96% | >93% | >90% |
| Court coverage: High Courts | All legal aid matters covered | All legal aid matters covered | All legal aid matters covered |
| **Strategic objective: Access to civil legal aid services** |
| No. of clients assisted in civil matters | 58 990 | 46 000 | 42 750 |
| **Strategic objective: Legal advice** |
| No. of clients assisted in advice matters | 253 681Call Centre: 41 777 | No growth | No growth but will reduce by 4000 as a result of reduction of staff |

1. **Special Investigating Unit**
	1. The legislative mandate of the Special Investigating Unit (SIU) is derived from the Special Investigating Unit and Special Tribunals Act 74 of 1996 (as amended). Matters are referred to the SIU by way of Presidential proclamation, which sets out the scope of an investigation. The SIU has identified a number of limitations with the present enabling legislation:
* The SIU’s mandate limits it to a reactive role, as it is unable to undertake preliminary assessments of received allegations before applying to the President for a proclamation.
* There is no clear mandate to monitor and enforce remedial measures.
* The reporting requirements restrict reporting to specified persons, entities or state institutions.
* The SIU’s funding model is flawed.
	1. The SIU’s principal function is to investigate serious malpractices, maladministration and corruption in connection with the administration of state institutions, state assets and public money, as well as any conduct that may seriously harm the interests of the public. The SIU also:
* Institutes and conducts civil proceedings in any court of law or special tribunal, in its own name or on behalf of state institutions.
* Brings potential disciplinary matters to the attention of state institutions.
	1. The SIU has a mixed funding model that derives income from a National Treasury grant, as well as from work done for State departments. The SIU’s projected total revenue for 2018/19 is R624.9 million, compared with R579.6 million in 2017/18. Despite baseline reductions (R9.2 million in 2018/19; R15.8 million in 2019/20; and R16.6 million in 2020/21), the SIU’s budget increases in real terms by 2.2% compared with 2017/18. A significant portion of the budget (R 458 million or 73%) is for salaries (The SIU has a headcount of 516 staff at present and 88 vacancies).
	2. The intention is to reduce the SIU’s reliance on grant income over the medium term from a baseline of 62% in 2017/18 to 56% in 2020/21. This is reflected in a new performance indicator ‘Percentage reliance on government funding’.

**Table 7: SIU revenue breakdown 2018 MTEF**

| **Programme** | **Budget****(R’ million)** |
| --- | --- |
| **2017/18** | **2018/19** | **2019/20** | **2020/21** |
| Revenue  | 283.5 | 244.2 | 276.8 | 304.8 |
| Baseline grant  | 346.2 | 357.1 | 371.0 | 391.4 |
| Other | 22.2 | 23.6 | 25.1 | 26.6 |
| **Total** | 651.8 | 624.9 | 672.9 | 722.8 |

* 1. The SIU’s planning is aligned with two Government Outcomes, i.e. Outcome 3 (South Africans are and feel safe) and Outcome 12 (Efficient, effective and development oriented state). The Unit’s focus is on contributing significantly to the reduction of corruption and the perception of corruption. These outcomes are linked to the vision set out in the National Development Plan (NDP), which highlights the importance of building a resilient anti-corruption system. The SIU forms part of the Anti-Corruption Task Team (ACTT).
	2. During, 2017/18, the SIU embarked on an organisational review process that has led to its 2015-2020 strategic focus being revised. This, in turn, led to the SIU revising its ‘value chain’ and operating model to support the implementation of the revised goals, objectives and focus. Operational changes include standardisation of service quality; enhanced case registration and monitoring; and digital transformation to provide business intelligence for proactive decision taking. The SIU has also developed a new organisational structure to support the revised strategy. The implementation of this structure will take place during 2018/19.
	3. The SIU’s revised strategic goals are to:
* Enable core services to perform optimally.
* Influence proactively the systemic and behavioural root causes of maladministration and corruption.
* Achieve appropriate legal outcomes against perpetrators of maladministration and corruption.
	1. The revised value chain introduces a number of new focus areas:
* Public education services.
* Advisory services to prevent the reoccurrence of cases.
* Monitoring and evaluation of the SIU’s impact.
* Follow up and tracking of recommendations.
* Involving the Auditor-General and Executive Authorities in oversight activities.
	1. The 2018/19 Annual Performance Plan (APP) focuses on ensuring that the SIU plays a more proactive role and takes greater preventative measure to address maladministration and corruption.
	2. The APP, introduces a new programme – ‘Market data analytics and prevention’ in addition to the ‘Administration’ and ‘Investigations and Legal Counsel’ programmes with significant changes to the strategic objectives and performance indicators:
		1. The new objectives and indicators for the Administration programme are as follows:

**Table 8: SIU Administration programme – selected objectives, indicators and targets 2018/19**

| **Strategic objective** | **Performance indicator 2018/19** | **Target 2018/19** |
| --- | --- | --- |
| To provide compliant and sustainable financial services in accordance with service delivery standards | Percentage reliance on government funding | 59% |
| Percentage of valid invoices paid within 30 days | 95% |
| To attract a skilled workforce that is managed within a performance driven environment | Percentage of approved vacancies filled as per approved and budgeted workforce plan | 14% vacancy rate |
| Percentage implementation of a three-year ICT plan | Percentage implementation of three year ICT plan | 50% |
| Percentage compliance with agreed service delivery standards | 90% |
| To collaborate with stakeholders in support of enhanced service delivery and core business objectives | Stakeholder survey conducted and baseline established | Conduct stakeholder survey |
| To provide support for strategic and organisational performance management | No. of integrated operational plans assesses according to predetermined standards | 9 |
| To protect the SIU form potential legal risks | Percentage implementation of legal compliance framework | 100% |
| To protect the SIU’s integrity from external and internal threats | Percentage declaration of interests controlled by SIU employees | 90% |
| Percentage implementation of fraud prevention plan | 80% |
| To assess internal controls through internal audits | Percentage of improved internal audits conducted in accordance with internal audit plan | 100% |
| To enable the SIU to become risk intelligent | Implementation level of approved risk management framework through maturity index criterial levels | Level 2 |

* + 1. The Investigations and Legal Counsel programme (previously Operations) has the following new strategic objective and performance indicators:

**Table 9:** **SIU – Investigations and Legal Counsel: Selected objectives, indicators and target 2018/19**

| **Strategic objective** | **Performance indicator 2018/19** | **Target 2018/19** |
| --- | --- | --- |
| To ensure that each case is centrally reported and monitored | Percentage allegations electronically tracked according to predetermined standards | 100% |
| To ensure that each allegation is assessed in accordance with standardised criteria | Percentage of centrally registered allegations that are assessed in accordance with predetermined standards | 100% |
| To increase legal outcomes based on civil and other proceedings | Special Tribunal established and cases enrolled | * Establish proper funding and logistical base (April – June 2018)
* President of Tribunal appointed (July – Sept 2018)
* Arrangements with JPs to provide logistical support (Oct-Nov 2018) Special Tribunal established (by Jan-March 2019)
 |

* + 1. A new programme ‘Market data analytics and prevention’ is introduced with the following objectives and performance indicators (However, funding for this programme is included under Programme 2 for now):

**Table 10: SIU – Market data analytics and prevention: Selected objectives, indicators and targets 2018/19**

| **Strategic objective** | **Performance indicator 2018/19** | **Target 2018/19** |
| --- | --- | --- |
| To direct internal and influence external strategic decision-making processes through data analytics | No. of internal trend analysis reports issued | 4 |
| No. of external risk assessment and trend analysis reports issued | 4 |
| To assist state institutions with the prevention of the reoccurrence of reported cases | No. of systemic improvement plans developed in conjunction with targeted state institutions | 1 |
| To increase public awareness about targeted anti-corruption behaviour | No. of targeted awareness campaigns conducted | 1 |
| No. of public perception surveys conducted | 1 |
| Development of the final draft of the National Anti-Corruption Strategy (NACS) as part of the ACTT | Final draft Strategy developed(to be developed by service provider and implemented from 2020/21) |

1. **Public Protector**
	1. The Public Protector is an independent constitutional institution whose mandate, broadly, is to support and strengthen constitutional democracy by investigating maladministration or improper conduct in state affairs or the public administration in any sphere of government and to take appropriate remedial action. The Constitution also states that the Public Protector must be accessible to all persons and communities.
	2. In 2018/19, the PP is allocated R311 million compared to R301.8 million in 2017/18 (in real terms, the budget grows negatively by 2.2% from 2017/18) (Notably, in 2017/18, the allocation to the PPSA showed positive real growth of 7.83 %). The baseline has been reduced by R8 million in 2018/19. Of the revised budget amount, 80% or R250 million is for compensation of employees, while the goods and services budget is R53 million. The Public Protector, however, has indicated that there will be a total shortfall for 2018/19 of R33 million for operational costs.

**Table 11: Public Protector Budget 2018 MTEF**

| **Programme** | **Budget****(R’ million)** | **Real % change** **2018/19** |
| --- | --- | --- |
| **2017/18** | **2018/19** | **2019/20** | **2020/21** |
| Administration(38%) | 113.9 | 118 | 120.5 | 127.1 | -1.8% |
| Investigations (58%) | 173.8 | 180.4 | 189.3 | 199.7 | -1.6% |
| Stakeholder engagement(4%) | 14.1 | 13 | 13.7 | 14.5 | -12.8% |
| **Total** | **301.8** | **311.4** | **323.5** | **341.3** | -2.2% |

* 1. The Public Protector has indicated that certain projects have been deferred as a result of the budget constraints, including:
* The creation of an internal audit function (presently this is contracted out).
* Implementation of the institutional effectiveness turnaround approach.
* Improved security at offices.
* Staff training.
* The relocation of high-risk provincial offices.
	1. For some time now, however, the Public Protector has indicated that the institution is underfunded:
* In 2014, the Public Protector requested a budget of more than R300 million.
* In 2015, the Public Protector indicated that R200 million was needed in addition to its baseline to fund the organisational structure.
* In 2017, the Public Protector indicated that an amount of R883 million over the MTEF was required.
	1. The PP has submitted the following request for/recommendations regarding additional funding:
* An additional R33 million is made available to cover day-day operational costs.
* An additional R43 million is made available to fund special projects. These include a case management system; security improvement; litigation costs; an integrated telephone system; subject matter experts; and a video conferencing facility.
* An additional R883 million is allocated over the MTEF to fund the ‘key non-capital and equipment requirements so as to fulfil its mandate as per the Public Protector Act’. The ‘key non capital and equipment requirements’ referred to include the relocation of the head office; an IT master system plan; and complaints and stakeholder management.
	1. A breakdown of the amounts requested over the MTEF is as follows:
* The bulk of the additional funds requested over the MTEF – R746.5 million – is to fund the organisational structure: at present, the PPSA has funds for 393 of 707 posts.
* Realignment of administrative staff and investigators salaries accounts for R5.4 million over the MTEF. The job evaluations carried out in 2016 should be implemented to avoid costly court battles at the CCMA and discouragement of staff. (The PP states that implementation of the OSD for senior managers and provincial representatives in 2016/17 was a contributing factor for the PPSA’s reported deficit in that year.)
* Although implementation of the case management system is underway, a further R26.9 million is needed over the medium term for support and maintenance.
* The allocation of R5 million for litigation costs is inadequate: an additional amount of R27 million over the MTEF is requested for this item.
* The requests for security improvements, a video conferencing facility and integrated telephone system are R19.6 million, R7.5 million and R9 million, respectively, over the medium term.
* An amount of R31.7 million over the MTEF is requested for subject matter experts.
	1. The Public Protector has revised its strategic outcome orientated goals:
* Prompt services delivered to all persons and institutions in order to promote and maintain good governance
* Accessible Public protector services.
* An effective and efficient people-driven organisation.
* Oversight institutions and public complaints mechanisms strengthened.
	1. Selected objectives, indicators and targets for each of the strategic goals are as follows:

**Table 12: Public Protector - Selected objectives, indicators and targets 2018/19**

| **Strategic objective** | **Performance indicator** | **Target 2018/19** |
| --- | --- | --- |
| **Strategic Goal: Prompt services delivered to all persons and institutions in order to promote and maintain good governance** |
| **Investigate and finalise reports promptly** | No. of formal reports finalised | 30 |
| Investigation and finalisation of systemic investigations/interventions | 10 finalised |
| Percentage adherence to turnaround times in finalisation of cases | 100% within turnaround times |
| Percentage of 2-years and older cases finalised | 100% |
| **Promote culture of good governance** | No. of dialogues held with organs of state on systemic challenges | 10 |
| **Implementation of remedial action** | Percentage of remedial matters followed up | 100% |
| **Strategic Goal: Accessible Public Protector services** |
| **Ease of access to Public Protector Services** | No. of outreach clinics conducted | 208 |
| No of MOUs entered into to expand footprint | MOU with DoJ&CD and 9 provincial Speakers100% implementation of all MOUs |
| No. of roadshows conducted | 9 |
| No. of radio slots conducted | 4 per province annually |
| No. of national events conducted | 5 |
| **Strategic Goal: An effective and efficient people-driven organisation** |
| **Develop and implement ICT to optimally support business objectives** | Percentage implementation of ICT infrastructure | 100% of hard drive encryption |
| **Obtain clean audit** | Clean audit | * Develop and implement clean audit strategy
* Sustain and unqualified audit opinion with less than 3 matters of emphasis
* Reduce the no. of audit findings by 50%
 |
| **Acquire office accommodation and pool vehicles** | No. of pool vehicles acquired | 3 |
| Acquire long-term state-owned office accommodation | Engage with DPW |
| **Strategic Goal: Oversight institutions and public complaints mechanisms strengthened** |
| **Strengthening the role of ombudsman institutions**  | No. of bilateral agreements entered into annually | 1 by 31 March 2019 |
| Percentage of AORC board meetings chaired by PP | 100% of scheduled AORC meetings |
| Percentage of AOMA EXCO meetings attended by PP | 100% of AOMA EXCO meetings |

1. **South African Human Rights Commission (SAHRC)**
	1. The SAHRC’s mandate is extremely broad, encompassing almost every aspect of civil, political and economic rights. It must promote respect for human rights; promote the protection, development and attainment of human rights; and monitor how well human rights are observed. The Constitution also provides that each year the Commission must require relevant organs of state to provide it with information on measures taken towards the realisation of the socio-economic rights contained in the Constitution. The Commission has specific obligations in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA). The establishment of the Information Regulator will impact on the SAHRC’s obligations relating to the Promotion of Access to Information Act, 2000 (PAIA). These functions, excluding the Commission’s protection mandate, will be transferred to the Information Regulator once it is operational.
	2. As from 3 January 2017, seven new commissioners were appointed to the SAHRC. Of these, five are appointed full-time and two in a part-time capacity.
	3. In 2017/18, the newly appointed commissioners elected to make few changes to the Strategic Plan 2015-2020. However, the strategic plan has been revised since: this, therefore, is t the first strategic plan and annual performance plan of the new commissioners and (new) CEO. Further, the focus areas of the commissioners are rearranged for 2018/19.
	4. In recognition of South Africa’s core challenges – high levels of poverty, inequality, unemployment and violence – all areas of the SAHRC’s work should attempt to contribute to addressing each of these challenges.
	5. The SAHRC is allocated R178.8 million for 2018/19. However, the SAHRC ability to deliver is constrained by its (relatively) small budget (compared to the mandate), which is now exacerbated by the budget reductions. Its baseline has been reduced by R4.6 million in the 2018/19 financial year; R4.8 million in 2019/20 and R5.1 million in 2020/21.
	6. Of the R178.8 million allocated to the SAHRC for 2018/19, R128 million (or 72%) is for personnel; and R46.1 million (or 26%) is for operations/corporate costs.
		1. The allocation to programmes is as follows:

**Table 13: SAHRC – Programme Budget for 2018/19 (including a breakdown for personnel and operations)**

| **Programme (R’million)** | **Personnel** | **Operations** | **2018/19** |
| --- | --- | --- | --- |
| Administration | 31.1 | 47.0 | 78.1 |
| Promotion of human rights | 80.1 | 2.1 | 82.2 |
| Protection of human rights | 7.9 | 0.6 | 8.5 |
| Monitoring of human rights | 9.8 | 0.2 | 10.0 |
| **Total** | **128.9** | **49.9** | **178.8** |

* 1. The greatest part of the allocation for operation/corporate costs is already committed, including accommodation and municipal charges (R23.5 million); IT related costs (R5.8 million); Human Resource related costs (R2.5 million) and auditing fees (the SAHRC pays R3 million to the Auditor-General for auditing). The waiver of payment of auditing fees to the Auditor-General, which is also a Chapter 9, has been taken up at the Forum of Institutions Supporting Democracy (FISD) but without much success. Effectively, once the committed expenditure is removed, the Commission has only R3.3 million for core operational units in 2018/19.
	2. In response, the SAHRC has re-prioritised its spending and devised stringent measures, such as freezing vacant posts; reviewing its organisational structure; developing a cost containment plan; and reducing its accommodation space at head office to lower the rental costs.
	3. The Commission has the following revised strategic goals:
* To enhance good governance and strengthen capacity to support delivery on the mandate.
* To promote respect for human rights and a culture of human rights.
* To promote the protection, development and attainment of human rights.
* To monitor and assess the observance of human rights in the country.
	1. The Commission has identified the following five strategic objectives:
* Improve the effectiveness and efficiency of the Commission to support delivery on the mandate.
* Deepen the understanding of human rights to entrench a human rights culture.
* Take steps to secure appropriate redress where human rights have been violated.
* Conduct research to monitor, assess and report on the observance of human rights.
	1. The SAHRC has the following selected objectives and targets for 2018/19:

**Table 14: South African Human Rights Commission - Selected objectives, indicators and targets 2018/19**

| **Performance Indicators** | **Performance Targets** |
| --- | --- |
| **2017/18** | **2018/19** | **2017/18** | **2018/19** |
| **Strategic Objective 2: Deepen the understanding of human rights and promote a human rights culture** |
| Implementation of Advocacy and Communications Annual Plan (NEW) | No. of outreach clinics | Full implementation of Annual Plan | 778 |
| Percentage implementation of annual know your constitution campaign plan (NEW) | 403 |
| Development of educational material  | 8 pamphlets |
| No. of human rights day events hosted | 10 |
| No. of calendar events hosted | 10 |
| **Strategic Objective 3: Take steps to secure appropriate redress where human rights have been violated** |
| Hosting of investigative hearings | Completion of previous hearing reports | 4 | Complete 5 hearing reports |
| **Strategic Objective 4: Conduct research to monitor, assess and report on the observance of human rights** |
| Completion of SAHRC section 194(3) economic and social rights recommendations report  | Completion of State of human rights in South Africa report | 3 research briefs | Complete 1 report |
| - | No. of research seminars hosted | - | 4 |

1. **Committee’s observations: Department of Justice and Constitutional Development and National Prosecuting Authority**
	1. ***Budget reductions***.
		1. The Committee is exceedingly concerned about the effect of the budget reductions on the delivery of justice services. The Committee agrees that measures to contain costs and the reprioritisation of funds can only achieve so much in mitigating the impact of an increasingly reduced budget. There comes a point at which it is inevitable that a prolonged and increasingly severe deprivation of funds will render the affected institution largely useless as it will no longer have the resources (both human and financial) to go about fulfilling its mandated task(s) – in this instance, the delivery of justice services.

The adverse effects of the budget cuts are observed sharply in the reduced staff establishment. Broadly, as the delivery of justice services is labour intensive, staff reductions slow matters down, undermining the work that has been put into creating a transformed and responsive justice system. Staff reductions can also increase the workload of officials unacceptably, creating high levels of stress, low staff morale, an increased demand for employee wellness services, and loss of key staff to other positions in government or to the private sector.

In 2017/18, the ‘compensation of employees’ budget for the Vote was cut by R429 million and 1 213 posts within the Department were terminated; while 205 officials left the NPA; and 110 posts were cut from the Legal Aid SA’s establishment. In 2018/19, the Vote’s baseline for this item is reduced by R671 million.

Although the Department has assured the Committee that, it will prioritise the filling of identified critical posts and sharing of support services wherever possible so that service delivery is not affected, the Committee remains concerned.

The NPA has also shared that due to the pressure of the increased workload, it faces an exodus: an estimated 444 NPA officials applied in March this year for 297 aspirant magistrates’ posts, while 25 prosecutors have already transferred to the magistracy in February 2018. It has had to suspended its aspirant prosecutors’ programme, which is intended to provide training to legal practitioners seeking to become prosecutors, entirely.

Similarly, Legal Aid SA has reported that in addition to the loss of 110 staff in 2017/18 due to natural attrition, it will now have to retrench its public defenders and paralegals. Further, Legal Aid SA has no relief capacity.

The Committee is of the view that, as the Department, the NPA and Legal Aid SA are all engaged with the provision of essential services, these budget cuts should be avoided so as not to compromise service delivery levels further.

* + 1. The Committee notes that historically the Chapter 9 institutions have been underfunded. Consequently, these institutions feel the effect of the budget cuts especially severely. The Committee draws attention to the resolution of the National Assembly that in line with the recommendations of the ad hoc Committee on the Review of Chapter 9 and Associated Institutions (2007) (the Asmal Report) the budgets for the institutions supporting democracy be contained in a separate programme in Parliament’s Budget Vote. The Committee is also of the view that the National Assembly should embark on a process to engage formally with the Asmal Report in its entirety.
	1. **Transformation towards access to justice**
		1. ***Renaissance project****.* The Committee has previously noted the Department’s plan to bring about substantive change to our legal system in its entirety through policy reforms. This Renaissance project also encompasses the modernisation of both the criminal and civil legal systems to address inefficiencies and restore public confidence. The Department has reported that a draft Terms of Reference has been prepared and will be released once it has Cabinet approval. Further, the Department is in the process of establishing a Ministerial Advisory Committee to guide and oversee the project.

The Committee notes further that the Departments plans to develop three transformational policies (and a Blueprint) year. A target of Ministerial approval by 28 February 2019 is given. These are the Policy on Lower Court Reform; the Policy on Judicial Governance and Court Administration; a Policy Framework on the Overhaul of the Criminal Justice System as part of the Renaissance Project. The Department also intends to finalise the Blueprint on Community Courts.

The Committee intends to arrange a comprehensive briefing on the Renaissance Project as soon as its programme permits.

For now, it requests that the Department provide it with the Terms of Reference as soon as this has received Cabinet approval and, in addition, provide it with a comprehensive written progress report by 30 June 2018.

* + 1. **Use of language in court proceedings.** The Committee believes that language remains a fundamental barrier to access to justice and must be addressed holistically. For example, the practice of police officers taking statements in English despite not being proficient in that langauge not only affects the quality of the statements but increases the chance that it does not accurately reflect what was communicated. Furthermore, the quality of interpretation services in the courts are often less than ideal and are potentially prejudical to the accused.

The Committee notes the Judiciary’s view that English is to be the language of record in our courts. The reasons advanced are to do with efficiency and the smooth running of the court system. The Committee, however, remains committed to an approach that allows people to participate in court proceedings in the language that they understand best and will certainly raise the issue with the Judiciary when it next meets with it.

The Department was to finalise a Use of Official Languages in Court Proceedings Policy by the end of 2017/18. The Committee is infomed that the Policy has not been finalised: the Department embarked on a process of internal consultation to obtain the views of key roleplayers in court proceedings, including the NPA, Legal Aid SA and the legal profession broadly. Consultation with the public is to begin in 2018. The intention is to implement the finalised Policy through the Lower Courts Bill that is to be introduced in 2018/19. The Committee notes this. Given the seeming lack of progress, the Committee intends to initiate a Bill to ensure that such legislation is finalised before the end of this Parliament.

The Committee notes that a (new) Language Policy Unit is planned to guide and manage measures (such as the development of foreign language interpretation and sign language proficiency) to improve the quality of court interpretation. It is interested to see if the establishment of this Unit will have a positive impact. In this regard, the Committee is particularly concerned about the quality of interpretation services and requests that the Department address the accreditation of interpreters who offer services in our courts.

In the meantime, the Committee requests that the Department keep it informed of its progress in finalising the Policy and the establishment of the new Language Policy Unit. It requests a comprehensive written report by 30 June 2018.

* + 1. **Inclusion of an indigenous African language and indigenousAfrican law in the LLB curriculum.** The Committee believes that the ability to speak an indigenous African language should be a necessary requirement for the practice of law in this country. As such, it should be compulsory for those wishing to practice law in South Africa to be proficient in an indigenous African language, in the same that in the past law graduates were required to pass a course in English and Afrikaans as part of their university studies. The Committee draws attention to the example of the University of KwaZulu-Natal which has already made IsiZulu a compulsory subject in its LLB curriculum.

The Committee is informed that Department met with the Council for Higher Education in May 2017 at which the issue of the compulsory study of indigenous African languages and indigenous law as part of the LLB curriculum was raised. The Council informed the Department that the Standards applicable to the LLB curriculum do provide for both of these.

The Committee is not satisfied with the response. It intends initiating a process to bring a Committee Bill requiring the study of an African indigenous language, at university level, as a prerequisiste to the practice of law in this country.

* + 1. **Regulation of the paralegal sector and provision of funding for sustainability.** The Committee acknowledges the Department’s efforts, in conjunction with the Foundation for Human Rights, to address the issue of funding for community-based advice offices to ensure their sustainability by creating a ‘basket fund’ to ensure the sustainability of these offices. The issue of sustainability is being discussed with donor organisations and National Treasury to find a lasting solution.

In this regard, the Committee is informed that the Foundation for Human Rights with the EU-funded Sector Budget Support programme ‘Socio-Economic Justice for All’ (SEJA) provides support to Community-Based Advice Officess (CBAOs). A Key Performance Area of the SEJA programme relates to ‘Sustainable collaboration between Government, Chapter 9 institutions, and other stake-holders in justice service delivery and socio-economic rights’. This includes support for community advice offices. A sustainability study is being conducted to identify the challenges and opportunities in the sector and to make a case for why advice offices are viable institutions to invest in. The study is at an advanced stage of finalisation.

In addition, the Department is exploring the potential role of other government departments in providing support to the sector. The Department has engaged with National Treasury as a first step to establishing a collaborative group to detail the strategic support that Government can provide the sector. Further, a task team has been established to explore the various funding models.

A draft bill for the recognition of paralegals is being prepared and will be finalised once the funding model is approved.

Despite the reported progress, the Committee remains frustrated about the length of time that it is taking to resolve the status of the paralegals. Paralegals and community advice centres play a major role in promoting access to justice, especially for those who would not otherwise be able to afford legal services. The Committee is of view that statutory recogntition of the sector is urgent and the requisite legislation should be finalised before the end of this Parliament.

The Committee requests that the Department provide a comprehensive written report on progress by 30 June 2018 and to continue to keep it updated as part of the Department’s quarterly reporting process.

* + 1. **Policy on the design of the judicial governance and court administration model.** The Committee has noted previously that an Inter-Ministerial Committee (IMC), chaired by then Deputy President Ramaphosa, was appointed to make recommendations to Cabinet on an appropriate Judicial Governance and Court Administration Framework. The Deputy President had met with the Chief Justice to obtain the Judiciary’s views on this. In addition, a technical task team had been established, chaired by the Director General: Justice and Constitutional Development to assist the IMC’s work. At the time, the Committee welcomed the target date of 28 February 2018 for the Policy’s submission to Cabinet.

However, the APP 2018/19 now requires that the Policy be submitted for Ministerial approval by the end of February 2019. The design of a judicial governance and court administration model predates this Administration: a judiciary-led court administration model was mooted several years ago and the Judiciary has already undertaken extensive research and made proposals in this regard. At this rate, the Committee foresees that the Policy will not be finalised within the lifespan of the present Administration, which is extremely disappointing.

For now, the Committee requests that the Department provide it with a comprehensive written report on progress, in particular, the work of the technical task team, with timeframes by 30 June 2018. The Department should also continue to report on this item quarterly.

* + 1. **Land reform.** Apartheid dispossessed people of land and resources contributing to the levels of poverty and inequality that characterise our society. The processing of land claims is slow and there are huge backlogs. The snailpace at which land restitution is being carried out creates the risk of land occupations and violent protests as people become increasingly frustrated.

The Committee has repeatedly raised its concerns about the functioning of the Land Claims Court and has requested that it be properly capacitated. In particular, it has called for the appointment of permanent capacity to that court. The Committee acknowledges that, at present, Judge President Meer, Judge Canca, Judge Ncube and Judge Molefe are assigned to the Court but these are acting appointments. The Committee is unable to comment on the performance of these courts as it does not have access to that information.

The Committee, however, notes that there has been engagement between the Departments of Justice and Rural Development and Land Reform on the matter of the capacitation of the Land Claims Court and measures to accelerate the review of the Restitution of Land Rights Amendment Act in line with the Constitutional Court judgement. In addition, the Committee is informed that a Committee Bill to comply with the judgement was introduced in the National Assembly in August 2017.

The Committee has also proposed that the funds for legal representation and advice in land matters that is allocated to a private service provider (by the Department of Rural Development and Land Reform be transferred to Legal Aid SA for this purpose. The Committee has argued that Legal Aid SA is well placed to provide the necessary advice and representation: it has a national footprint, has developed capacity to undertake a significant number of civil cases and provides legal advice to the public. With the necessary funding, the Committee believes that Legal Aid SA would swiftly develop dedicated expertise to perform this function. In addition, Legal Aid SA takes the matter of the quality of its services very seriously.

The Minister requested that Legal Aid SA explore the feasibility of it taking on land claim and eviction matters and Committee welcomes the feedback it received in this regard. Regarding legal assistance to land claimants, it appears that the current Legal Aid Regulations would need to be amended to allow for legal assistance in respect of claim lodgement and investigation (this is excluded at present). However, the Land Rights Management Facility means test is similar to that employed by Legal Aid SA at present. There are 6 900 outstanding claims from 1999 and the extent of the potential litigaton is unknown. There are a further 164 000 claims that were lodged between July 2014 and July 2016, which cannot be processed because of the Consitutional Court ruling on the constitutionality of the amending legislation. At this stage, the possible extent of legal representation in these matters cannot be determined. Further, no information was provided on the 325 cases before the Land Cliams Court.

On providing assistance in eviction matters, an amendment to the Extension of Security of Tenure Act, 1997, (ESTA) which is aimed at establishing a Land Rights Management Board and Committee, is with the President for signature. Notably, in terms of this legislation, the Board must create a mechanism for the provision of legal assistance and representation to affected persons and formulate a means test to determine when the Board will fund this.

Legal Aid SA was able to detemine that the previous service provider of legal services had handled 1 863 ESTA matters. From the available information, it appears that the cost of the legal assiatance was approximately R185 million. Since July 2016, a new firm of attorneys has been apppointed: the contract will expire in July 2018. It is reported that 1 434 new cases were taken on (of which 227 are finalised) at a cost of R130 million (between August 2016 and November 2017).

The Committee is concerned that unless a firm decision regarding the transfer of the function of providing legal assistance in land matters to Legal Aid SA is made soon, another private service provider will be appointed and the matter will be placed on hold until the contractual period is up. The matter is likely to drag on indefinitely.

The Committee, therefore, requests that the Ministry continue to engage with its counterpart at Rural Development and Land Reform and National Treasury. The Committee, however, will approach the Standing Committee on Appropriations in terms of the Money Bills Amendment Procedure and Related Matters Amendment Act, 2009, to request additional funds or the transfer of fundds to legal Aid SA for such work. The Committee also undertakes to engage with the Portfolio Committee on Rural Development and Land Reform.

* + 1. **Integrated Criminal Jusice Strategy (ICJS).** The Integrated Criminal Justice Strategy (ICJS) is intended to provide a mechanism to address the ‘silo’ approach of the relevant JCPS Cluster departments and entities to strengthen co-ordination and co-operation among them. The ICJS is to incorporate the CJS 7-Point Plan and IJS modernization interventions, and envisages dealing with all the new trends and focus areas that are currently not adequately catered for, in one overarching integrated strategy (the ICJS).

The Committee notes that the ICJS was to have been developed and approved by 31 March 2018 but is now informed that the target date for submission to Cabinet has been revised to 28 February 2019 .

The ICJS will have two phases: The first phase relates to the development of the Strategy. Phase 2, therefore, is concerned with implementation. Funding of the ICJS is to take place within the normal baseline allocations but funds are allocated from the CJS Review/Revamp and from CARA funding.

The Committee is not pleased at the endless shifting of targets and repeats its intention to arrange a joint briefing on the ICJS, as soon as the programme permits.

In the meantime, the Committee requests that the Department provide it with a comprehensive written report on the progress of the project by 30 June 2018 with timeframes, and to continue to keep the Committee updated as part of the Department’s quarterly reporting process.

* + 1. **Integration of IT systems (IJS).** The ultimate goal of the IJS is to ensure seamless integration and consolidation of critical information between the entities that form part of the JCPS Cluster. The Committee notes too that the Auditor-General selected the IJS as a key value add project. There are eight departments representing key components of the IJS value chain, while the Department of Justice and Constitutional Development is responsible for project management. Successful integration of interdepartmental information exchange is highly dependent on establishing business applications across all departments. The Committee notes progress, in particular, with respect to the two of three integration priorities: Case Management Integration and Business Intelligence Integration. The third integration capability - Person Management Integration - is more challenging as the systems of all departments must have the necessary capabilities.

The Committee has often expressed its frustration at the slow pace of progress of the IJS and, therefore, is glad that there now appears to be some tangible results. It is a concern, however, that underspending on the CJS is attributed to some departments not performing as anticipated. This suggests that, despite all that has been invested in this project, there are ongoing challenges, which have yet to be resolved.

The Committee notes that the IJS Board has requested an opportunity to address a joint briefing of the Portfolio Committees on Justice and Correctional Services, Police, Home Affairs and Social Development on the progress made so far. The Committee agrees that this is a priority and will arrange for this as soon as its programme permits. The Committee also requests that the Department provide a comprehensive report of progress by 30 June 2018 and, in addition, continue to report on this item as part of the quarterly reporting process.

* + 1. **Community courts.** The Committee notes that the Department intends to develop a blueprint on Community Courts for submission to the Minister by 28 February 2019. The Committee was told before that the South African Law Reform Commission (SALRC) had been tasked with conducting research into community courts in South Africa and that a draft report should have been available by the end of September 2017. The Committee does not understand why the process is taking so long, given that there has been a community courts’ pilot project in existence for more than a decade.

The Committee requests that it is furnished with the outcome of the research and will continue to engage with the Department on the Blueprint’s development.

* 1. **Vulnerable groups**
		1. **Dedicated sexual offences courts**. The Committee repeats its concern about the impact of funding constraints on the rollout of dedicated sexual offences courts, It notes that 14 courts are to be adapted this year in line with the sexual offences courts model. In addition, the Department plans to upgrade 45 closed circuit television systems in regional courts in line with the minimum standards in sexual offences courts model. This will increase to 90 in 2019/20 and 120 in 2020/21.

The Committee repeats its intention to engage with the Department and other stakeholders specifically on the rollout and functioning of the dedicated sexual offences courts as soon as its programme permits.

* + 1. **Femicide Watch**. The Committee notes that the Department has introduced a new indicator ‘Phases of the Femicide Watch established as recommended by the United Nations’. Phase 1 is targeted for completion by the end of 2018/19. The Committee is interested in hearing more about this initiative and requests that the Department provide it with a comprehensive written report by 30 June 2018. The Committee intends also to request a briefing on this as soon as its programme permits.
		2. **Maintenance.** The Committee is pleased about the improved targets for the indicator ‘Percentage of maintenance matters finalised within 90 days from the date of proper service of process’ but is concerned that about the Department’s capacity to deliver. For example, the Committee is directed to a report that the only maintenance officer for the Maintenance Court at Cape Town shoulders a workload that should be shared among at least three officers. The Committee asks that the Department provide it with a comprehensive written report on the functioning of these courts, clarifying among others the allocation of capacity and identifying any challenges by 30 June 2018.
	1. **Court infrastructure**
		1. The Committee welcomes that the Department has reported improved delivery in the context of capital works projects by the Department of Public Works and the Independent Development Trust (IDT). Historically, it has been a challenge to deliver new courts on time and within budget. Ironically, the Department has repeatedly reported slow spending on this budget item with ‘savings’ that were returned to National Treasury. In 2017/18, however, the Department was faced with a budget shortfall of R300 million which was remedied by way of a virement.

The building of new courts remains a core element of the Department’s efforts to improve access to justice. The establishment of the new High Court in Mpumalanga, in particular, is vital in this regard and the expectation is that this court will be completed later this year at a cost of R1.2 billion (the costs associated with the building of this court have escalated substantially since 2016). The Committee, however, is concerned that the given completion date is premature as, despite the project being at a very advanced stage, work has stalled while a solution is found to an access road to the Court. The Committee is pleased though to note that funds have been reprioritised for the operationalisation of this court.

The Committee requests that the Department provide it with a comprehensive progress report on all its infrastructure projects by 30 June 2018, and be prepared to address the Committee quarterly of this matter.

The Committee will schedule a joint briefing with public works and the IDT on all aspects of the infrastructure programme, including planned maintenance, as soon as its programme permits.

* + 1. **Planned maintenance**. The Committee is alarmed that there are no funds within the Department of Public Works to undertake planned maintenance. The ageing nature of many of our court buildings requires that are regularly maintained. If neglected, these buildings quickly deteriorate and require costly repairs. The Department has informed the Committee that although it was using its own budget to assist the Department of Public Works it can no longer afford to do so.

The Committee remains unclear about what the Department is doing to address this challenge and requests a comprehensive written report on this by 30 June 2018.

The Committee will schedule a joint briefing with public works and the IDT on all aspects of the infrastructure programme, including planned maintenance, as soon as its programme permits.

* 1. **Transformation of State Legal Services**
		1. **State Legal Services**. The Committee has previously noted that the State is the largest consumer of legal services in the country. It also employs hundreds of professionals who provide litigation and legal advisory services for the State in different capacities. Of concern are reports of disarray within the offices of the State Attorney and complaints regarding the provision of state legal work to young, previously disadvantaged legal practitioners in a context where there is currently no comprehensive set of clearly defined rules governing how litigation services are to be acquired, managed and monitored. In this regard, it welcomes the Department’s intention to prioritise the transformation of State Legal Services.

The State Attorney continues to experience many challenges. Towards the end of the Fourth Parliament, legislative amendments were passed to provide for a ‘chief’ State Attorney – the Solicitor-General - but this appointment has been delayed because of challenges relating to the level of the post. More recently, the filling of the position was halted pending the restructuring of the entire state advisory and litigation offices. The Committee is extremely pleased that the Department has taken the initiative to designate Ms Vedalankar, who has been the CEO at Legal Aid SA for many years and is instrumental in not only turning it around but also in ensuring its excellence, as Project Leader to assist with the transformation.

The Committee will arrange a dedicated briefing on the full scope of the plans as soon as its programme permits**.** In the meantime, the Committee requests that the Department provide a written report on progress made by 30 June 2018. The Department is also requested to report on progress quarterly.

* + 1. **State support to Black legal practitioners, especially black women/briefing patterns**. The Committee believes that a great deal more should be done to support Black legal practitioners, in particular black women, wishing to make law their career. The many obstacles that women legal practitioners encounter are well documented and require a comprehensive response that involves the profession as well.

The Committee notes that the Department now include a breakdown of the percentage and value of briefs awarded to previously disadvantaged individuals on its website monthly. The Committee repeats its intention to convene a meeting involving a range of stakeholders as soon as its programme permits.

* 1. ***Information Regulator***. The Committee is concerned about the lack of progress in fully capacitating the Information Regulator. POPIA requires only that the Regulator consult with the Minister of Finance on its staffing. The Regulator has consulted with the Department of Public Service and Administration (DPSA), National Treasury and the Public Service Commission, and has compiled the necessary documents, including a report on its benchmarking visits. The latest obstacle is an insistence that the Regulator be listed in the PFMA as a Schedule 3A entity before its organisational structure can be approved. However, the Board of a Schedule 3A entity is the accounting authority, whereas POPIA clearly provides that the Regulator’s CEO is its accounting officer. The Regulator will approach the Minister of Finance for assistance to resolve the contradiction.

The Committee is frustrated that it is taking so long to resolve the matter of the organisational structure and, therefore, urges that the Ministry do all that it can to assist the Regulator in finding a resolution to this new obstacle as soon as possible. It asks that it be kept informed of developments in this regard.

1. **National Prosecuting Authority**
	1. The Committee notes the concerning trend to prematurely announce an intention to institute a private prosecution despite the NPA not having declined to prosecute the matter in question. The Committee believes that such announcements damage the NPA’s legitimacy in the eyes of the public and are therefore undesirable.
	2. ***Budget reductions and staff shortages***. The Committee has already dealt with the impact of budget cuts on the NPA’s staff establishment. The Committee wishes to highlight that the loss of prosecutorial capacity on this scale has increased the workload of our already overburdened prosecutors substantially. The consequences for the effective and efficient functioning of the criminal justice system are profound and run counter to the Government’s stated priorities to create safer communities and combat corruption. Without the ability to retain and attract the necessary capacity and expertise, the ability of the NPA to fulfil its constitutional and legal mandate is severely undermined.
2. **Legal Aid SA**
	1. Once again, there was unanimous support from the Committee for the view that Legal Aid SA is an exemplary institution that deserves its full support.
	2. Legal Aid SA is no longer able to absorb the budget shortfall created by a minimal increase that is less than the actual increases to its costs. This shortfall is exacerbated by a baseline reduction of 5% this year. The combined effect is that Legal Aid SA has a budget shortfall/cut of R164 million for 2018/19. In 2019/20, the projected shortfall/cut increases to R180.9 million and, in 2020/21, the shortfall/cut is R221.2 million. Legal Aid SA already runs a tight ship and managing this will require that it go beyond capping its salaries budget and implementing cost-cutting efficiency measures. The only recourse is to reduce the staff establishment further (by 97 posts this year, in addition to the 110 post that were reduced last year). Legal Aid SA has quantified the consequences for court coverage and for the number of cases it will be able to handle. This information is captured elsewhere in this report.

The Board has considered the cumulative shortfall and has agreed that it is unworkable. The main reason being that they will result in high levels of staff reduction and a consequential decrease in service delivery. The Committee agrees with the Board that a reduction in legal aid services infringes on the constitutional rights of South Africans. The Committee is concerned that this may expose Legal Aid SA and the State to litigation in future.

As it is, the Committee is aware that the high demand for legal aid services poses an enormous challenge to Legal Aid SA’s practitioners, especially as practitioner coverage at many courts is already insufficient. Without representation, presiding officers will have no choice but to postpone matters until representation is available. To do anything else would undermine a defendant’s right to a fair trial. The proposed budget reduction, therefore, will have serious consequences for the functioning of the criminal justice system as a whole.

* + 1. As discussed earlier in this report, the Committee requests that the Ministry engage with the Ministry of Rural Development and Land Reform to confer the feasibility of transferring funds for legal assistance to land claimants to Legal Aid South Africa.
1. **Special Investigating Unit**
	1. The Committee notes that the SIU intends to bring legislative amendments to its enabling legislation that will provide it with a clear legislative mandate to address its funding model; undertake pre-proclamation investigations; and monitor and enforce remedial measures. In addition, legislative amendments are required so that the SIU can provide the services/undertake the functions envisaged by the organisational review. For example, the SIU is not mandated at present to perform a market data analytics function.
	2. The Committee has engaged with the SIU in the past on allegations that appeared in a newspaper last year. Adv. Mothibi strongly rebutted the allegations when he appeared before the Committee in October 2017. At the time, it was suggested that the allegations might have been linked to unhappiness by certain staff members regarding the organisational review. The Committee now has a letter from certain dissatisfied staff members. It is a concern that such levels of dissatisfaction exists within the SIU, as it has the potential to undermine the stability of the Unit. In addition, these allegations tarnish the image of the Unit, which, as an integrity institution, it can ill afford.
	3. The Committee believes that any changes to the organisation structure should only take place in terms of the approved organogram. In addition, it implores the SIU to ensure that any job losses are kept to a minimum.
	4. The Committee has expressed its concern regarding the possible duplication of roles among anti-corruption organisations. At the time, the SIU agreed that there was scope for better co-ordination and communication between institutions, a view that the Committee supported. The Committee, therefore, is pleased that the SIU has proactively embarked on a number of initiatives to improve its stakeholder relations. The SIU has entered into a Memorandum of Understanding with the Presidency and the Justice Department to ensure continued co-operation and assistance so that motivations and the publication of proclamations are handled expeditiously. The SIU also held its first stakeholder engagements with the theme ‘Working together towards ridding society of corruption, malpractice and maladministration’.
	5. Further, the Committee is informed that since April 2017, 34 of the 99 files submitted by the SIU to the NPA have been converted to cases. These matters have been directed to the relevant Specialised Commercial Crime Unit offices. Five such cases have been finalised since April 2017. The Committee asks that the SIU continue to keep the Committee informed of measures to enhance collaboration between it and the NPA.
	6. The SIU has the power to conduct civil litigation in its own name or in the name of the affected state institution but heavy court rolls often result in its civil litigation work being delayed. The Committee is informed that there is finally progress in establishing a Special Tribunal that will allow the SIU to process matters faster than in the ordinary civil courts. It is envisaged that the Special Tribunal will effectively operate as a specialist division of the High Court. The Committee requests that it be kept informed of progress regularly.
2. **Public Protector**
	1. The Committee is especially concerned at reports of institutional instability at the PP because of constant turnover and the redeployment of staff, particularly among senior staff. The Committee is unable to comment on the reasons for this but is of the view that this matter should receive urgent attention.
	2. The Committee notes too that the Deputy Public Protector was not present at the meeting. It raised its concern that the Public Protector is not making best use of the Deputy, who has an important leadership role to play within the institution. The Committee was informed verbally that the Deputy is delegated the functions of staff training and quality assurance but requests that it be provided with the full list of delegations to the Deputy Public Protector for the record.
	3. The Committee notes the PP’s request for additional funds. While the Committee understands why the request is made and is largely sympathetic, the request is made at a time when all Departments, entities and institutions are being asked to compromise. The Committee did propose in its BRRR that the PP be given additional funding for increased investigative capacity and for the increased costs of litigation but was informed by the Minister of Finance that there is simply no money at this time.
	4. The Committee is concerned about the legal costs associated with the increased number of the PP’s findings that are being taken on review since the Constitutional Court clarified the Public Protector’s powers of remedial action. The Committee requests that the PP keep it informed of the number and status of the review applications and the associated costs. The Committee, however, asks that the PP ensure that its reports are of the highest standard to lessen the prospects of a successful challenge for procedural reasons.
	5. The Committee notes that the PP has focused on clearing backlog cases for 2018/19. While this is highly commendable, the Committee is concerned that this may ignore the complexity of some matters and could affect the quality of the final report in such cases.
	6. The Committee asks that the PP look closely at its Rules to ensure that these address informing complainants of the progress and outcome of their cases and, also, the prioritization of matters involving Executive Members so that these are finalized in the shortest possible time.
	7. The Committee repeats it support for the Public Protector’s view that the Public Protector Act, 1994, requires revision to bring it in line with the Constitution and requests that this be brought to Parliament as a matter of urgency.
3. **South African Human Rights Commission**
	1. During last year’s Budget and BRR processes, the Commission highlighted that it needed additional funding to fulfil its monitoring responsibilities because of various court orders, which the Committee supported. However, the response from National Treasury has been that there is no additional funds for this.
	2. The Committee is interested in engaging further with the Commission on its plans. The Committee will arrange for a follow-up meeting with at a suitable time. The Committee is also concerned that the singular pursuit of a ‘human rights’ agenda may cause the consideration of ‘people’s rights’ to be overlooked.
	3. Committee expressed concern about the extent of the expenditure on personnel costs at the expense of operations. The Committee is aware that the Commission’s work is labour intensive but the extreme imbalance of the salaries and operational budgets casts doubt on whether the Commission is able to deliver on its mandate once its salary bill is satisfied.
	4. The Committee seeks clarity as to whether other sources of income (such as donor funding) have been explored to augment the present funding crisis.
	5. The Committee requests that the new Commission clarify its achievements so far and provide it with a written report in this regard.
	6. The Committee is concerned to avoid duplications and encourages the efficient use of resources. The Committee, therefore, is interested in the extent to which the Commission has engaged with the Department and the Foundation for Human Rights, both of which also do work in the area of constitutional awareness. The Committee asks that the Commission provide it with a report on the outcome of any such engagements.
	7. The Committee is also interested to know whether the SAHRC has explored the use of technology to improve awareness and assist with access, as well as a cost saving measure (for example, working from home and video conferencing).
	8. The Committee is interested in the SAHRC’s views on what is the proper balance between the policing of transgressions of human rights of human rights) and developing a human rights culture. It look forward to engaging with the Commission on this at its next meeting with it.
	9. The Committee asks that the Commission clarify what it is doing to address the lack of awareness among the public of the Constitution, the Bill of Rights and the work of the Commission.
	10. The Committee notes that the enabling legislation provides that the seat of the Commission must be in Gauteng. It requests further clarity on the decision to locate all the Commissioners at the national office and requests a report in this regard.
	11. The Committee requests that the SAHRC provide it with a report on its efforts to engage with the Department of Public Works on the availability of state owned buildings to house its offices.
4. **Reporting requests**

| **Reporting request** | **Action required** | **Associated timeframe** |
| --- | --- | --- |
| **Renaissance project:**Terms of Reference and progress[See paragraph14.2.1] | Copy of the Terms of Reference | Once Cabinet has approved the Terms of Reference. |
| Comprehensive written progress report | 30 June 2018 |
| Comprehensive briefing | To be scheduled as soon as the programme permits |
| ***Use of Official Languages in Court Proceedings Policy:*** Progress in finalising the Policy for incorporation in Lower Courts Bill;Establishment of a Language Policy Unit[*See paragraph 14.2.2*.] | Committee to engage with Judiciary on its views on the use of language in court proceedings | Meeting to be arranged |
| Progress report on finalised Use of Official Languages in Court Proceedings Policy  | 30 June 2018  |
| Written progress report on the establishment of a Language Policy Unit | 30 June 2018 |
| ***Inclusion of an indigenous African language and indigenous African law in the LLB curriculum:***[See paragraph 14.2.3.] | Committee to request permission of the House to initiate a Committee Bill | Before the end of the Fifth Parliament  |
| ***Regulation of the paralegal sector and provision of funding for sustainability:***Study funded by the FHR making case for viability of CBAOs; engagement with government departments on provision of strategic support;Task team to explore funding models; Introduction of legislation regulating the paralegalsector[*See paragraph 14.2.4*] | Introduction of Paralegal Bill  | 2018/19 |
| Comprehensive written report on progress to resolve issue of sustainability and funding | 30 June 2018 and quarterly |
| ***Policy on the design of the judicial governance and court administration model*:** Progress report*[See paragraph 14.2.5***]** | Comprehensive written report | 30 June 2018 and quarterly |
| ***Land reform*:**Capacitation of the Land Claims Court; Funding to Legal Aid SA[*See paragraph 14.2.6*] | Comprehensive written report on outcome of engagement with Department of Rural Development and Land Reform | 30 June 2018 |
| Engage with the Portfolio Committee on Rural Development and Land Reform | As soon as the programme permits |
|  | Engage with the Standing |Committee on Finance regarding additional funds/transfer of funds | As part of Budget process |
| **Integrated Criminal Justice Strategy**[*See paragraph 14.2.7***]** | Comprehensive written reportBriefing | 30 June 2018As soon as the programme permits |
| **Integration of IT systems (IJS)**[*See paragraph 14.2.8*] | Joint briefing on progress made on the IJS | As soon as the programme permits |
| ***Community Courts: Blueprint***[*See paragraph 14.2.9*] | Progress report | 30 June 2018 |
| ***Dedicated sexual offences courts****[See paragraph 14.3.1[* | Joint briefing on rollout and functioning of dedicated sexual offences courts | As soon as the programme permits |
| ***Femicide Watch***[*See paragraph 14.2.2.]* | Comprehensive written report | 30 June 2018 |
| Briefing | As soon as the programme permits |
| ***Maintenance: capacity challenges***[*See paragraph 14.3.2.]* | Comprehensive written report | 30 June 2018 |
| ***Court infrastructure***[*See paragraph 14.4.1.*] | Comprehensive written report | 30 June 2018 |
| Joint briefing (also planned maintenance) | As soon as the programme permits |
| ***Planned maintenance***[*See paragraph 14.4.2.]* | Comprehensive written report | 30 June 2018 |
| ***State Legal Services***[*See paragraph 14.5.1*] | Comprehensive written report | 30 June 2018 |
| Briefing  | As soon as the programme permits |
| ***Support to Black legal practitioners***[*See paragraph 14.5.2*] | Consultative meeting | As soon as the programme permits |
| ***Information Regulator***: capacitation[*See paragraph 14.6]* | Progress report | 30 June 2018  |
| **Special Investigating Unit** |
| Collaboration with NPA[*See paragraph 17.4]* | Progress report on efforts to enhance collaboration with the NPA | 30 June 2018 |
| Special Tribunal[*See paragraph 17.5*] | Progress report | 30 June 2018 and quarterly |
| **Public Protector** |
| Delegations to Deputy Public Protector[*See paragraph18.2]* | Report | 30 May 2018 |
| **South African Human Rights Commission** |
| Further engagement on Strategic Plan[*See paragraph 19.2]* | Meeting | As soon as the programme permits |
| Donor funding*See paragraph 19.4]* | Written report | 30 June 2018 |
| Report on Commissioner’s achievements *[See paragraph 19.5]]* | Written report | 30 June 2018 |
| Engagement with the Justice Department and Foundation for Human Rights on constitutional awareness[*See paragraph 19.6*] | Written report | 30 June 2018 |
| Achieving a balance between reactive and proactive work*[See paragraph 19.8]* | Written report | 30 June 2018 |
| Public awareness*[See paragraph 19.9]* | Written report | 30 June 2018 |
| Office accommodation[*See paragraph 19.9]* | Written report | 30 June 2018 |
| Relocation of commissioners*[See paragraph 19.10]* | Written report | 30 May 2018 |

1. **Recommendations**
	1. The Committee, having considered the Budget Vote 21: Justice and Constitutional Development supports it and recommends that it be approved.
		1. The Committee recommends further that the baseline reduction affected in the case of Legal Aid SA over the medium term be reversed to avoid the retrenchment of its staff.
	2. **Additional matters**
		1. The National Assembly resolve to consider and adopt the recommendations of the report of the ad hoc Committee on the Review of Chapter 9 and Associated Institutions.
		2. The Committee will also be approaching the Standing Committee on Appropriations to argue for additional funding or the transfer of funding to support legal advice to and litigation by legal claimants to Legal Aid SA. This will be done in terms of the Money Bills Amendment Procedure and Related Matters Act, 2009.
		3. The Committee recommends that the Ministry continue to engage with the Ministry of Rural Development and Land Reform on the transfer of funds allocated to support legal advice to and litigation by land claimants to Legal Aid South Africa.
		4. The Ministry intervene to expedite the finalisation of the Information Regulator’s organogram and to ensure the appropriate allocation of resources, including accommodation, for the Regulator to be able to begin its work as a matter of extreme urgency.

**Report to be considered**