**3. Report of the Portfolio Committee on Justice and Correctional Services on Budget Vote 21: Justice and Constitutional Development, dated 12 July 2019**

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 South Africa (PPSA).

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 South Africa each presented their annual performance plans for 2019/20 and budgets for the 2019 MTEF.
   2. The briefings took place as follows:

* Minister of Justice and Correctional Services and the Department of Justice and Constitutional Development –3 July 2019.
* Information Regulator – 5 July 2019.
* South African Human Rights Commission – 10 July 2019.
* Public Protector – 10 July 2019.
* Legal Aid South Africa – 11 July 2019.
* Special Investigating Unit – 9 July 2019.
* National Prosecuting Authority – 9 July 2019.
  1. All presentations can be obtained from the Committee Secretary.

1. **Fiscal environment** 
   1. Spending takes place within a context of fiscal austerity. The economic and revenue outlook has weakened since the MTBPS in October 2018 and there are increased funding pressures from the state owned enterprises.
   2. The 2019 Budget, therefore, prioritises narrowing the budget deficit and stabilising the national debt to GDP ratio; supporting the restructuring of the electricity sector and reducing the immediate threat that Eskom poses to the economy and public finances; and renewing economic growth. Spending is focused towards stimulating economic growth, particularly capital expenditure.
   3. The baseline allocation is reduced by R9 billion in 2019/20, R19.7 billion in 2020/21 and 21.6 billion in 2021/22. As there are no additional resources available, any further allocations over the 2019 MTEF to a programme will need to be funded by reductions in funding for another programme, either within the department’s budget, or from another department’s budget.
   4. Managing the public service wage bill, which accounts for more than 35% of all public spending and has been a major driver of the fiscal deficit, is regarded as key. Departments are, therefore, expected to operate within their compensation of employees’ expenditure ceilings by containing costs and improving efficiency through the undertaking of appropriate operational changes. Further, any adjustments required as the result of the 2018 public sector wage agreement must be made within institutional compensation of employees’ expenditure ceilings. Although headcounts have declined sufficiently to absorb the wage increases, over the medium term government will take active measures to reduce the number of employees further.
   5. The Budget Review acknowledges that departments, which are labour intensive, run the risk of breaching their compensation of employees’ ceilings.
   6. The consolidated budget for the peace and security function accounts for R211 billion in 2019/20; R222.9 billion in 2020/21; and R 233 billion in 2021/22.
   7. In 2019/20, approximately 23% of the overall allocation for Peace and Security goes to ‘Law courts and prisons’, while 49% of the overall allocation to this function goes to ‘Police services’. Specifically, the Justice and Constitutional Development Vote receives 10% (including magistrates’ salaries) and the Office of the Chief Justice and Judicial Administration receives 1% (including judges’ salaries) of the overall allocation to this function.
   8. The peace and security function prioritises the implementation of an integrated strategy to fight crime and ensure national security over the medium term. The Integrated Justice System Modernisation programme is a key part of the integrated strategy to fight crime. Over the medium term, R853 million is shifted from the South African Police Service (SAPS) to the Department of Justice and Constitutional Development, where the programme is currently governed.
   9. To enable the State Capture Commission of Inquiry to continue its work to February 2020, an additional amount of R272.9 million is allocated.
   10. An additional amount of R309.2 million over the medium term is allocated to Legal Aid SA to retain public defenders.
2. **Budgetary Review and Recommendation Report (BRRR) October 2018 and Minister of Finance’s response**
   1. In the Budgetary Review and Recommendation Report (October 2018), the Committee expressed grave concern about the consequences of the R2 billion baseline reductions over the medium term. There is a “thin line between a so-called lean organisation where available resources – both human and financial – are used carefully and well and an organisation that is starved of means that it can no longer perform its mandated task. The Committee was especially concerned that the reduced staff establishment could undermine the work needed to create a transformed and responsive justice system.
   2. The Report recommended that additional funding be allocated to:

* 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 to prevent it from having to cut posts and to ensure that it can maintain its civil work.
  1. The Minister of Finance’s response regarding the recommendation for additional funding to the NPA “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. Should the fiscal outlook improve, future recommendations for additional funding may be considered” (National Treasury, Budget Review, p104). However, in his Budget Speech, the Minister of Finance made assurances that National Treasury and the Justice Department would work to support the establishment of a new Investigating Directorate at the NPA.
  2. In the case of Legal Aid SA, provision is made for the allocation of an additional R300 million over the MTEF to retain its public defenders. Of this, R104.5 million is reprioritised funding from the Justice Department.

1. **Overview of Vote 21: Justice and Constitutional Development**
   1. The constrained fiscal outlook 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).
   2. The overall allocation to the Justice and Constitutional Development Vote (Vote 21) for 2019/20 is R21.1 billion, which includes Magistrates’ salaries (compared with a revised estimate of R19.7 billion in 2018/19). In real terms, the allocation to the Vote in 2019/20 has increased, which is in contrast to decreases of -3% and -1.36% in real terms for 2018/19 and 2017/18, respectively). Over the medium term, the allocation increases to R23.6 billion in 2021/22.
   3. Notably, the 2019 MTEF sees the baseline increase by R1.43 billion, as follows:

* R853 million is shifted from SAPS’ Integrated Justice System (IJS) programme budget to Justice in order to consolidate the IJS funding (this is ringfenced).
* An additional R300.3 million is allocated to Legal Aid SA; and
* An additional amount of R272.9 million is allocated to allow the State Capture Commission of Inquiry to continue its work to February 2020.
  1. These increases to the baseline, however, are offset by a decrease over the medium term of R225.4 million for goods and services and reductions of the allocations to the South African Human Rights Commission (-R4.2 million), Public Protector (-R1.3 million) and SIU (-R25.5 million), which are in the form of salary freezes for senior management staff.
  2. In 2019/20, the total for programmes, excluding the direct charge for magistrates’ salaries, is R18.7 billion (compared with R17.5 billion in 2017/18). Over the medium term the allocation to programmes grows to 20.9 billion in 2021/22.

**Table 1: Vote 21 - Justice and Constitutional Development – Allocation for the 2019 MTEF per programme**

| **Programme**  **(R ‘million)** | **Budget**  **2019 MTEF** | | | |
| --- | --- | --- | --- | --- |
| **2018/19**  **Revised Estimate** | **2019/20** | **2020/21** | **2021/22** |
| Administration | 5 502.5 | 2 504.5 | 2 366.9 | 2 503.1 |
| Court Services | 6 431.0 | 6 824.9 | 7 290.5 | 7 809.4 |
| State Legal Services | 1 245.8 | 1 349.8 | 1446.2 | 1 536.8 |
| National Prosecuting Authority | 3 648.8 | 3 929.1 | 4 214.9 | 4 484.2 |
| Auxiliary and Associated Services | 3 630.6 | 4 108.8 | 4 338.1 | 4 576.4 |
| **TOTAL** | **17 458.8** | 18 717.1 | **19 656.7** | **20 909.9** |
| Magistrates’ Salaries | 2 215.5 | 2 383.7 | 2 560.2 | 2 726.6 |
| **Total** | **19 674.4** | **21 100.8** | **22 216.9** | **23 636.6** |

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 of the Medium Term Strategic Framework (MTSF) 2014-2019. However, annual planning for 2019/20 must also lay a foundation on which the Sixth Administration will begin its work as the new MTSF cycle is introduced.
   3. This year’s State of the Nation Addresses (SONA) highlighted a need to:
      1. Fight state capture and corruption and committed to stabilising and restoring the credibility of institutions such as the NPA. A new National Director of Prosecutions Adv. Shamila Batohi was appointed on 1 February 2019 to lead the NPA’s revival and to strengthen the fight against crime. The February SONA announced that an Investigating Directorate would be established in the office of the NDPP to deal with serious corruption and associated offences, especially those highlighted by the various commissions of inquiry. (This Directorate has been established since and is headed by Adv. H Cronje).
      2. End gender-based violence as a national priority. In this regard, the implementation at departmental level of the resolutions taken at the Presidential Summit and Declaration against Gender-based Violence and Femicide (November 2018) was highlighted.
   4. On 3 July 2019, the Minister of Justice and Correctional Services provided a political overview, introducing the budget and plans for 2019/20 for the Department of Justice and Constitutional Development, Office of the Chief Justice and Judicial Administration and Department of Correctional Services. The Minister referred, among others, to:
      1. The key role that the Justice sector has to play in advancing radical socio-economic transformation in pursuit of the speedy resolution of the challenges of poverty, unemployment and inequality.
      2. The importance of efforts to strengthen the fight against corruption; modernise the criminal and civil justice system and the courts; accelerate the transformation of the Office of the State Attorney and legal profession, and the expeditious enactment of key legislation.
      3. The appointment of Adv. Shamila Batohi as the new NDPP and the appointment of Adv. Hermione Cronje. These appointments have given renewed impetus in the fight against crime and corruption. In this regard, the Department has made funds available for the Investigating Directorate to begin its work.
      4. The establishment of the Special Tribunal, which will soon begin its work. This will allow the SIU to pursue, by way of a civil process, state monies lost through corruption and other illicit flows. The Regulations for the Tribunal to commence its work have been finalised and, once the necessary input is received from the Judiciary, will be published.
      5. The need to transform the Office of the State Attorney and the legal profession.
      6. The need to modernise the court system as part of the legacy of the 6th Administration by making use of the efficiencies of the Fourth Industrial Revolution.
      7. The eradication of gender-based violence requires as a priority. The sexual offences courts must be geared towards the immediate reduction of these offences and its complete eradication in a decade.
      8. The ongoing development of the Integrated Criminal Justice System, which will allow for the seamless sharing of information between stakeholders.
      9. The National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP) was approved by Cabinet in February 2019.
      10. The intention to table a Land Claims Court Bill aimed at strengthening the adjudication of land restitution, land expropriation, and land distribution, The Bill will address some of the challenges experienced in connection with the Land Claim Court, particularly the absence of permanent judges.
      11. Legal Aid South Africa’s continued efforts to engage with the Department of Agriculture, Rural Development and Land Reform on the need for legal aid to assist land claimants.
      12. An upcoming engagement with the Chief Justice on a range of initiatives, including government’s commitment to finalise a judicial and court administration model.
2. **Department of Justice and Constitutional Development**
   1. The Department continues to focus on the following 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 Justice Modernisation sub-programme under Auxiliary and Associated Services) in 2019/20 is R11.95 billion. The bulk of projected spending remains directed towards Court Services, which is allocated R6.8 billion in 2019/20.
  2. In terms of economic classification, projected spending on compensation of employees remains the biggest cost driver. An amount of R6.1 billion is allocated for salaries of the employees in the programmes that the Department administers directly.
  3. The building of new courts remains a core element in the Department’s efforts to improve access to justice. In 2019/20, R855.6 million is allocated for Building and other fixed structures (compared with R1.1 billion and R820 million in 2017/18 and 2018/19 respectively). The Mpumalanga High Court in Mbombela has been operational since May 2019 so that every province has its own High Court. (The total cost for this project, which began in 2013, is estimated at R1.2 billion. Magistrates’ courts also prioritised for completion in 2019/20 are: Port Shepstone Magistrates Court and the Bityi Magistrates Court.

1. **Department of Justice and Constitutional Development: Programmes**
   1. **Programme 1: Administration**
      1. The Administration programme is allocated R2.5 billion for 2019/20, compared with R2.1 billion for 2018/19 (for the Ministry, Management, Corporate Services, Financial Administration, Internal Audit and Office Accommodation subprogrammes). In 2018/19, all national and provincial Departments were required to reduce their spending on administration. Overall, the allocation to Administration has decreased by -4.9% the programme. The allocation to the Office Accommodation subprogramme at R1.4 billion represents 55% of the total allocation to this Programme.
      2. The purpose of this programme is to provide strategic leadership, management and support services to the Department.
      3. The Department has added the following new indicators for Strategic Objective 3: Optimised organisational structure, systems and processes in order to improve the Department’s performance.

**Table 2: Administration - New Performance Indicators and Targets**

| **Performance indicators** | **Targets**  **2019/20** | **Targets**  **2020/21** | **Targets**  **2021/22** |
| --- | --- | --- | --- |
| No. of realigned organisational substructures | 5 | 7 | 10 |
| No. of people appointed on internship and learnership programmes | 300 | 400 | 500 |
| Repositioning strategy on Justice College finalised by target date | By 31 March 2020 | - | - |

* 1. **Programme 2: Court Services**
     1. Court Services is allocated R6.8 billion for 2019/20 compared with R6.4 billion for 2018/19 (for the Lower Courts, Family Advocate, Magistrates Commission, Facilities Management and Administration of Lower Courts sub-programmes). Overall the allocation to this programme decreases by -0.8% in real terms from 2018/19.
     2. The Lower Courts subprogramme receives 73% of the allocation to his programme to fund the activities and operations of more than 2 147 courtrooms across the country. This is a small increase of 1.1% in real terms. The Facilities Management subprogramme experiences a real decrease of –0.64% (in contrast with a decrease of -26.9% in real terms in 2018/19).
     3. 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.
     4. In response to the call to address Gender-based violence as a national priority, existing indicators have been linked expressly to the commitments contained in the Presidential Summit Declaration against Gender-based Violence and Femicide, as follows:
* Number of courts adapted in line with the Sexual Offences Court Model *as required by Article 9 of the 2018 Presidential Summit Declaration against Gender-based Violence and Femicide* (with a target of 16 courts adapted in 2019/20).
* Phases of the Femicide Watch established *as required by Article 15 of the 2018 Presidential Summit Declaration against Gender-based Violence and Femicide by target date* (with a target of Phase 2 of the Femicide Watch established by 31 March 2020).
  + 1. A number of new performance indicators have been introduced, including:

**Table 3: Court Services – New Performance Indicators and Targets**

| **Performance indicators** | **Targets**  **2019/20** | **Targets**  **2020/21** | **Targets**  **2021/22** |
| --- | --- | --- | --- |
| No. of magisterial districts and sub-districts with a supplier-base of foreign language interpreters | 25 | 50 | 150 |
| No. of courts where upgrades and extensions are completed | 6 | 5 | 8 |
| No. of new transformational policies approved | Discussion document for the reform of bail, arrest and expungement dispensation to be submitted to the Minister by 28 February 2020.  Policy framework on community courts to be submitted to the Minister for approval by 28 February 2020.  Policy framework on the choice of language in legal proceedings to be submitted to the Minister for approval by 28 February 2020. | Draft of the policy framework submitted to Minister by 28 February 2021 | Minister’s approval of the policy framework by 28 February 2022 |

* + 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 R1.34 billion for 2019/20, compared with R1.25 billion in 2018/19 (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 increases in real terms by 3% from 2018/19. The Master of the High Court subprogramme receives the largest allocation at 41% of total allocation to this programme, while 38% goes to the Litigation and Legal Services subprogramme.
     2. The programme provides legal and legislative services to government; supervises the administration of deceased and insolvent estates an estates undergoing liquidation; manages the Guardian’s Fund; facilitates constitutional development; and undertakes research.
     3. New performance indicators and targets include:

**Table 4: State Legal Services – Performance Indicators and Targets**

| **Performance indicators** | **Targets**  **2019/20** | **Targets**  **2020/21** | **Targets**  **2021/22** |
| --- | --- | --- | --- |
| Project plan for repeal of apartheid era legislation | By 31 March 2020 | - | - |
| Insolvency policy submitted to the Minister for approval |  |  |  |
| No. of training sessions on the Guide for Service providers held with civil society organisations and public officials dealing with victims of hate crimes | 9 | 9 | 9 |
| SADC Integrated information system to monitor the implementation of Trafficking in Persons Act (TIP Act) implemented | Report generated on the SADC integrated information system tool | Report generated on the SADC integrated information system | Report generated on the SADC integrated information system |
| No. of targets in the implementation plan of the Cabinet approved National Action Plan to Combat Racism, Racial Discrimination; Xenophobia and Related Intolerance implemented | 3 key initiatives implemented | - | - |
| Policy framework for the regulation and recognition of community based advice office sector and community-based paralegals in South Africa | By 31 March 2020 |  |  |

* + 1. The spending focus for the programme is largely on employee compensation; legal costs and claims against the State. Further, additional funding has been allocated to fund the establishment of the Legal Ombud (R10.7 million); the establishment of provincial LGBTI protection and rights promotion task teams and working groups (R7.9 million); and for the implementation of National Action Plan to Combat Combat Racism, Racial Discrimination; Xenophobia and Related Intolerance (NAP).
  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 relating to 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 and the making of regulations are operational. Once the Regulator has reached a stage of operational readiness, the remaining provisions will come into force. Even then, the Act provides for a grace period of one year to allow responsible parties to comply. This period can be extended to three years.
     5. The SAHRC retains the functions relating to PAIA. These will also be transferred only once the Regulator is operational.
     6. Delays in obtaining approval of its organisational structure has contributed to the slow progress in setting up the Information Regulator. In terms of POPIA, the Regulator has the power to determine its own administration in consultation with the Minister of Finance. A key challenge to the operationalisation of the Regulator has been its listing in terms of the Public Finance Management Act, 1999. The Regulator was advised that before the organisational structure could be approved, it should be listed as a National Public Entity in terms of the PFMA with the Members of the Regulator as its accounting authority. POPIA however, provides in section 48 for the appointment of a CEO who is also the accounting officer. If the Regulator were listed as a public entity, this would result in it having both an accounting authority in terms of the PFMA and an accounting officer in terms of POPIA. The Regulator made a submission to the Minister of Finance in which it requested that:
* Approval of its establishment be dealt with separately to that of its listing in terms of the PFMA.
* The establishment of its administration be approved while the challenges relating to its listing are addressed.
* The Chief Executive Officer be recognised as its accounting officer and the Chairperson be designated the Executive Authority in terms of National Treasury Regulation of 2001.
* The proposed organisation structure be considered and approved.
* The current practices in the public sector be used to determine the salaries and benefits of staff. Until its status is clarified, finalisation of the organisational structure is delayed.
  + 1. The Information Regulator reports the following developments:
* Regulations were tabled before Parliament and have been published in the Government Gazette.
* Office accommodation has been secured (at the National Office of the South African Human Rights Commission) for a period of three years.
* The CEO and CFO were appointed and have assumed their duties. The Executive Officer: Legal, Policy, Research and Technology Analysis has been appointed and will assume duties in August 2019. The filling of other executive positions is in progress.
* The draft organisational structure has been developed and will be submitted to the Minister of Finance for consideration.
  + 1. Funding is set aside under the State Legal Services programme for the continued establishment of the Information Regulator (R28.9 million in 2019/20; R30.5 million in 2020/21; and R32.2 million in 2021/22).
  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 (ACTT).
     2. The NPA is allocated R3.9 billion for 2019/20, compared with R3.6 billion for 2018/19. In real terms, the allocation increases 2.4% from 2018/19.
     3. As in previous years, the National Prosecutions Services sub-programme is allocated the biggest share of the funds (81%) allocated to this programme.
     4. There has been a total moratorium on the filling of posts since 2015/16. In addition, 650 officials have left the NPA since then. 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.
     5. 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 without placing service delivery at risk. The projected shortfall on compensation of employees for 2019/2020 is R27.3 million. The NPA projects that it will need to reduce its staff establishment by more than 550 officials over the medium term to remain within the expenditure ceiling.

**Table 5: NPA: Budget vs Projected Expenditure for 2019/20**

| **R’000** | **2019/20** | | |
| --- | --- | --- | --- |
| **Budget** | **Projected Expenditure** | **Budget Shortfall** |
| Compensation of Employees | 3 486 309 | 3 513 643 | -27 334 |
| Goods and Services | 391 006 | 485 173 | -94 167 |
| Transfers and Subsidies | 18 922 | 18 922 | 0 |
| Machinery and Equipment | 32 900 | 32 900 | 0 |
| **Total** | **3 929137** | **4 050 638** | **-121 501** |

* + 1. The NPA additional budget requirements are as follows:

**Table 6: NPA Additional Budget Requirements**

| **R’000** | **2019/20** | **2020/21** | **2021/22** | **2022/23** | **Total** |
| --- | --- | --- | --- | --- | --- |
| Shortfall on warm bodies | 27 334 | 88 954 | 86 758 | 181 414 | 384 460 |
| Aspirant Prosecutors programme  (100 for next 3 years) | - | 25 793 | 27 341 | 28 981 | 82 116 |
| Absorption of Aspirants | - | - | 39 189 | 41 540 | 80 729 |
| 158 Critical NPA posts | - | 91 478 | 96 967 | 96 967 | 285 412 |
| **Total compensation of employees** | **27 334** | **206 225** | **250 255** | **348 903** | **832 717** |
| Operational Budget shortfall | 94 167 | 115 913 | 130 005 | 153 790 | 493 875 |
| Investigating Directorate | 49 650 | 115 276 | 126 601 | 135 463 | 426 990 |
| **Total** | **171 151** | **437 414** | **506 862** | **638 156** | **1 753 583** |

* + 1. The NDPP highlighted the following key service delivery initiatives:
* Restoration of NPA credibility and public confidence.
* Establishing the Investigating Directorate as a new (sub)programme within the NPA.
* Reviving the Aspirant Prosecutors programme.
* Developing and/or recruiting specialist skills.
* Developing a strategic support and innovative capacity.
* Undertaking ongoing staff development and training.
* Strengthening the NPA’s independence in the form of its own accounting officer.
* Improving stakeholder relations.
* Addressing Truth and Reconciliation Commission cases.
  + 1. 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. The February SONA announced the establishment of an Investigating Directorate to deal with serious corruption and associated offences.
    2. The NPA has the following sub-programmes: National Prosecutions Service; Asset Forfeiture Unit; Office for Witness Protection; and Support Services. The NPA is proposing that a fifth subprogramme ‘Investigating Directorate’ be incorporated going forward.
    3. Certain medium term targets relating to convictions in courts have been adjusted down in line with the resource constraints that the NPA is facing.
  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 R1.27 billion is allocated to this subprogramme for 2019/20, compared with R976.8 million in 2018/19. This is an increase of 23.4 % from 2018/19 in real terms. There is a significant increase in the allocation to this subprogramme over the medium term as a result of the migration of Integrated Justice Modernisation programme budget from the SAPS.
     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. The following new performance indicator and targets is included:

**Table 7: Justice Modernisation: New Performance Indicators and Targets**

| **Performance indicators** | **Targets**  **2019/20** | **Targets**  **2020/21** | **Targets**  **2021/22** |
| --- | --- | --- | --- |
| No. of branches, sites, service centres of government departments where Person Verification Services deployed | 280 | 420 | 560 |

1. **Legal Aid South Africa**
   1. Legal Aid SA receives its funding as a transfer. The entity is allocated R1.9 billion in 2019/20. This is supplemented by R20 million from investment income. In 2018/19, and the MTEF period, Legal Aid SA had a 5% budget cut to its baseline allocation. This amounted to a budget cut/shortfall of R164 million for 2018/19. In 2019/20, National Treasury reversed Legal Aid SA’s baseline cut for the MTEF period. As a result, the budget shortfall is R85.5 million for 2019/20 with a total budget cut/shortfall of R370.9 million for the MTEF period. However, in 2019/20, there was an additional cut of R2.7 million for each year relating to senior management salaries. Budget constraints continue to be a challenge for operations. The salaries budget constitutes at least 80% of the budget.

**Table 8: Legal Aid SA programme budget for the 2019 MTEF**

| **Subprogramme**  **(R’million)** | **2018/19** | **2019/20** | **2020/21** | **2021/22** |
| --- | --- | --- | --- | --- |
| Legal Aid Services | 1 437.9 | 1 587.7 | 1 635.1 | 1 724.0 |
| Administration | 336.6 | 334.8 | 390.5 | 410.9 |
| Special projects | 52.9 | 55.8 | 59.5 | 63.3 |
| **TOTAL** | **1 827.3** | **1 978.4** | **2 085.1** | **2 198.2** |

* 1. In order to manage the budget cuts, Legal Aid SA has had to reduce all segments of its budget: Salaries (legal and support); direct expenditure; operating budget and capital budget. The main impact has been cuts to staff posts, as well the reduced delivery targets and coverage of courts. The operating budget comprises only 20% of the Budget. This budget cannot be cut further if it is to support the staff employed at Legal Aid SA.
  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. The following are focus areas for 2019/20:
* Developing the strategic plan 2020-2025 for the next 5-year planning period.
* Ensuring financial sustainability and client services delivery by: managing.
* Managing the impact of budget constraints on employees.
  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.

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. Although the SIU does not have the power to arrest or prosecute offenders for criminal conduct, it reports matters to the Directorate for Priority Crime Investigation (DPCI/the Hawks), the South African Police Service (SAPS) and the National Prosecuting Authority (NPA). The SIU also works closely with the Asset Forfeiture Unit (AFU) in the NPA, where its powers are more appropriate or effective in recovering the proceeds of crime. The Unit is part of the Anti-Corruption Task Team (ACTT), which was established to fast–track investigations and prosecutions of serious corruption cases.
  2. 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 2019/20 is R718 million, compared with R661.7 million in 2018/19. Despite baseline reductions (R8 million in 2019/10, R8.5 million in 2020/21 and R9 million in 2021/22 to be implemented by way of a salary increase freeze/reduction for senior management staff), the SIU’s budget increases in real terms by 3.2% from 2018/19. A significant portion of the budget (R565.9 million or 79%) is for salaries (The SIU projects to increase its headcount in 2019/20 from 531 to 673 employees).
  3. As at 31 March 2019, the SIU’s outstanding debt was at R493 million. The SIU reports the following actions to recover the outstanding amounts: Letters were sent to Heads of Departments and CFOs by the SIU, National Treasury and the Minister regarding outstanding debt. The feedback received indicated that, in many instances, the SIU has not provided state institutions with feedback. The SIU has since supplied progress reports to state institutions. Although the final SIU report is addressed to the President, the SIU is in a position to present state institutions with progress/output reports and has taken the decision to do so to support outstanding invoices. The Presidency is also distributing the SIU’s reports to relevant State institutions so that they can give feedback on actions taken as a result of the reports.
  4. The SIU referred 331 matters to the NPA in 2018/19. The SIU and NPA had signed a Memorandum of Understanding but this is in the process of being reviewed. The SIU is prioritising some referrals to speed up key cases.
  5. During, 2017/18, the SIU embarked on an organisational review process that 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 also developed a new organisational structure to support the revised strategy.
  6. The SIU has the following three programmes: Administration, Investigations and Legal Counsel; and Market Data Analytics and prevention.
  7. The 2019/20 Annual Performance Plan (APP) outlines specific activities for the SIU to take a more proactive role and ensure greater preventative measures to address maladministration, malpractice and corruption.
  8. The following strategic inventions are planned to support this focus:
* Define the SIU value chain.
* Accelerate the conversion of allegations to proclamations.
* Establish capacity for corruption, maladministration and malpractice prevention through public education, data analytics, and scenario analysis.
* Monitor and evaluate the impact of the SIU’s objectives.
* Standardise the manner in which cases are scoped.
* Improve the quality and turnaround time of investigations.
* Expand on the monitoring and evaluation of case management, including central case registration system.
* Ensure the long term financial stability of the SIU.
* Create and publish sector data intelligence.
* Create advisory capacity to prevent the reoccurrence of maladministration, malpractice and corruption.
* Amend the SIU Act.
* Improve governance.

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 2019/20, the PP is allocated R322.6 million, compared to R311 million in 2018/19. (in real terms, the budget grows negatively by -1.5% from 2018/19). Following a baseline cut in the 2018 Budget of R36.2 million over the MTEF, the 2019 Budget includes further cuts of R3.9 million over the medium term, as a result of a salary freeze for senior management. A total of 80% or R257.1 million is for compensation of employees, while the goods and services budget is R62.5 million.

**Table 9: Public Protector Budget 2019 MTEF**

| **Programme** | **Budget**  **(R’ million)** | | | |
| --- | --- | --- | --- | --- |
| **2018/19** | **2019/20** | **2020/21/20** | **2021/22** |
| Administration  (38%) | 118 | 123.9 | 133.7 | 138.6 |
| Investigations (58%) | 180.4 | 185.2 | 1892.7 | 204.3 |
| Stakeholder engagement  (4%) | 13 | 13.4 | 13.9 | 14.8 |
| **Total** | **311.4** | **322.6** | **340.4** | **357.7** |

* 1. For some time now, the Public Protector has indicated that the institution is underfunded. The main areas of need are as follows:

**Table 10: Public Protector - Additional Funding Requested 2019 MTEF**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Description** | **2019/20** | **2020/21** | **2021/22** | **Total** |
| **Funding of critical positions** | 15 613 410 | 16 564 243 | 17 573 241 | 49 750 894 |
| **Professional fees** | 13 110 000 | 13 896 000 | 14 730 396 | 41 736 396 |
| **Security** | 6 127 038 | 6 464 026 | 6 819 547 | 19 410 611 |
| **Gratuity for the Deputy Public Protector** | 5 375 330 | - | - | 5 375 330 |
| **Total** | **40 225 779** | **36 924 268** | **39 123 184** | **116 273 231** |

* 1. The Public Protector identified the following strategic challenges and interventions:

**Table 11: Public Protector SA – Strategic Challenges and Interventions**

|  |  |
| --- | --- |
| **Challenges** | **Interventions** |
| Insufficient funding for 2019/20 financial year | Value Proposition (Budget Bid) was formulated and presented to National Treasury |
| Capacity shortages (few investigators, diverse skills such as forensic, actuarial, engineering, quantity surveying, etc. are lacking) | Outsourcing/MOU’s and SLA’s with other state institutions to leverage on synergies and innovations such as assisting organs of State to establish internal complaints handling mechanisms. |
| Security (lack of security measures in provincial and regional offices) | Leverage state resources by attempting to secure office accommodation (specifically DoJ) in order to utilise the same physical security services |

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 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.
   4. The Commission’s goals are informed by the need to address the key challenges of poverty, unemployment, inequality and violence. Priority areas include the following:

* Business and Human Rights.
* Corruption and Human Rights.
* Violence against vulnerable groups.
* Equality and social cohesion.
* Protests, local government and service delivery.
  1. During the annual planning process for 2019/20, the Commission has emphasised the need for high impact interventions in order to achieve greater results with fewer resources. These will include:
* Promoting human rights education and awareness at schools in marginalised areas.
* Hosting Human Rights Dialogues across the country.
* Sustaining public outreach and coverage through the media, including community media.
* Alternative protection mandate strategies focusing on higher impact and addressing systemic violations.
* Strengthening the monitoring of implementation of recommendations and directives.
* Assessing and reporting on the state of human rights in the country: economic and social rights, equality, civil and political rights, and international and regional human rights obligations.
* National Preventive Mechanism for the Optional Protocol Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
* Monitoring system as envisaged in the Convention on the Rights of People with Disabilities.
  1. With regards to institutional effectiveness, the Commission will focus on the following:
* Synergy and integration to promote institutional effectiveness and efficiency.
* Stabilisation and strategic utilisation of the Information and Communications Technology infrastructure.
* ‘Switching on our people’ through a comprehensive human resources management strategy.
* Exploring funding opportunities to augment financial resources.
  1. The Commission has a total budget of R189.7m (including budgeted income) for 2019/20. A significant portion (69% or R130.9m) of the budget is allocated to cover personnel costs, reduced from 72% last year. A total of R45.6 million or 24% of the budget for 2019/20 is allocated to Corporate Support Committed Costs and only 7% or R13.2m of the budget is allocated to the Commission’s core operations. The greatest part of the allocation for operation/corporate costs is already committed, including accommodation and municipal charges; supply chain; IT related costs; human resource related costs and auditing fees.
  2. The allocation to programmes is as follows:

**Table 12: SAHRC – Programme Budget for 2019/20 (including a breakdown for personnel and operations)**

| **Programme (R’million)** | **Personnel** | **Operations** | **Total** |
| --- | --- | --- | --- |
| Administration | 31 993.5 | 49 494.5 | 81 488 |
| Promotion of human rights | 83 596.9 | 5 774.1 | 89 371 |
| Protection of human rights | 7 771.0 | 2 587.5 | 10 358.5 |
| Monitoring of human rights | 7 507.6 | 980 | 8 487.5 |

* 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).
  2. In response to its budget constraints, 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.

1. **Committee’s observations**
   1. ***Budget constraints***
      1. Although the Department was able to absorb substantial cuts until 2017/18, this is no longer the case and even the entities are for the first time significantly affected. Measures to introduce efficiencies through organisational realignment, contain costs and the reprioritisation of funds can only achieve so much, especially in a context where the budget must stretch to fund these new priorities. The main challenge is the shortfall on compensation to service existing service points. As the sector is labour intensive, there is a real possibility that there will be overspending on compensation. A further challenge that the Department has identified is the practice of looking to the Department to fund the entities and institutions within the Justice portfolio. The Department has reached a stage where it can no longer absorb further cuts without impacting on service delivery points.
      2. The Committee learnt that the budget cuts have adversely affected the delivery of justice in our courts. In this regard, witnesses are increasingly at risk as a result of the reduction of protection services; the level of security at courts and justice buildings is compromised; the eradication of backlog cases is sluggish; and key positions (prosecutors, court interpreters, maintenance officers; and estate administrators and administrative staff in the areas of finance, human resources and IT) remain unfilled.
      3. Economic growth can only happen if underpinned by a well-functioning and stable justice system. If our legal system collapses, our democracy is threatened. Further, investors have made it very clear that the State must address corruption for investment to take place. The public have also made it clear that it expects action on the part of government against those who have stolen from the State.
      4. The President, during the SONA addresses, emphasised the need to tackle corruption urgently, announcing the establishment of an Investigating Directorate in the Office of the NDPP to assist in this regard. The Department was able to find start-up funds for the establishment of the Investigating Directorate and the intention is to apply for CARA funding to augment this. However, additional funds are required in order that the NPA can address high vacancies in the Asset Forfeiture Unit and the Specialised Commercial Crime Unit, for example. Both of these Units have a key role to play in the fight against crime and corruption.
      5. Overall, the NPA has an extraordinary high vacancy rate of prosecutors (650 prosecutors have left the NPA since 2015/16). The NPA’s finances leave it with little room to address its crippling vacancy rates. It already has a large shortfall on its salaries budget, which it fears will require it to lose a further 550 prosecutors over the medium term. Without sufficient prosecutors, the criminal justice system will not function efficiently or effectively.
      6. The situation at the NPA is exacerbated by the loss of highly skilled and experienced prosecutors and investigators over the years and it will take time and money to build up the prosecuting service.
      7. The Committee notes the Minister of Finance’s response to the 2018 Budgetary Review and Recommendation Report. The former Committee recommended that the NPA be allocated additional funding to address its shortfall relating to the its compensation of employees’ budget and to allow it to resume its Aspirant Prosecutors programme. The response was a refusal: ‘Department, public entities and constitutional institutions are required to reprioritise funds within their existing baselines to fund any emerging priorities’. The Committee will pursue the matter further as part of its deliberations during the Budgetary Review and Recommendation Report process.
      8. The President also highlighted the need to eradicate gender-based violence altogether. Departments are required to action the recommendations of the Presidential Summit Declaration on Gender-based Violence and Femicide. For Justice, this requires the rollout of further dedicated sexual offences courts, the establishment of more TCCs, the appointment of intermediaries, more prosecutors and public defenders, etc. However, there is no corresponding increase to the budget.
      9. The Committee notes that the South African Human Rights Commission and Public Protector have baseline cuts. 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.
   2. **Transformation of the legal system**
      1. The Fifth Parliament had planned to bring about substantive change to our legal system in its entirety through policy reforms. This transformation also encompassed the modernisation of both the criminal and civil legal systems to address inefficiencies and restore public confidence.
      2. ***Transformation policies***. The Committee notes that in 2018/9, the Department planned to develop the following policies: the Policy on Lower Court Reform was to be submitted to Cabinet for approval by 28 February 2019; the Policy on Judicial Governance and Court Administration and the Policy Framework on the Overhaul of the Criminal Justice System as part of the Renaissance Project were to be approved by the Minister by 28 February 2019; and a Blueprint on Community Courts was to be approved by the Minister by 28 February 2019. It is unclear as to whether these targets were achieved.

The Department plans to develop three transformational policies in 2019/20. These are a discussion document for the reform of the bail, arrest and expungement dispensation; a policy framework on community courts; and a policy framework on the choice of language proceedings. All of these are to be submitted to the Minister for approval by 28 February 2020.

The Committee intends to arrange a comprehensive briefing on the Department’s initiatives to bring about transformation of the South African legal system as soon as its programme permits. For now, it requests that the Department provide it with a comprehensive written report of progress made by 15 August 2019.

* + 1. ***Regulation of the paralegal sector and provision of funding for sustainability.***The Committee notes that a Policy Framework for the regulation and recognition of community-based advice office sector aand community-based paralegals in South Africa is to be finalised by 31 March 2020.

In the Fifth Parliament, the Committee was informed that a Bill was being prepared and would be introduced once the problem of funding was resolved.

However, it would seem that a funding solution has not yet been found and is delaying the finalsation of the necessary legislationn.

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. As this matter is long outstanding, the Committee is of view that the statutory recogntition of the sector is urgently required as part of the broader transformation agenda. Although the Committee welcomes that a Community-based Paralegal Bill has been prepared, it urges the swift resolution of the matter of funding.

The Committee requests that the Department provide a comprehensive written report on this by 30 August 2019 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 notes that in the Fifth Administration an Inter-Ministerial Committee (IMC), chaired by the Deputy President, was appointed to make recommendations to Cabinet on an appropriate Judicial Governance and Court Administration Framework.

The Committee notes that the design of a judicial governance and court administration model predates this Administration: a judiciary-led court administration model was already mooted in the Third Administration and the Judiciary had undertaken extensive research and made proposals in this regard. It would seem that the matter of accountability is the chief stumbling block.

The Committee notes that the Department is now ready to present this model.The Committee notes further that this was a matter that the Minister intended to address when he meets with the Judiciary.

On the issue of the migration of the magistracy, the legislation overhauling the Magistrates Act, 1993, and Magistrates’ Court Act, 1944, is far advanced.

For now, the Committee requests that the Department provide it with a comprehensive written report on progress by 30 August 2019.

* + 1. **Land reform.** In the Fifth Parliament, concerns about the functioning of the Land Claims Court were raised repeatedly with the request that it be properly capacitated. In particular, the appointment of permanent capacity to that court was called for. The Committee, therefore, welcomes the intention to introduce a Land Claims Court Bill that will address this issue.
    2. **Integrated Criminal Justice 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 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 target date for the finalisation of the Strategy was 31 March 2018 but was revised to 28 February 2019 (for submission to Cabinet). The reason provided then was that there were ‘delays in the identification of all the officials who were requested to participate’. The Department reported that an Integrated Task Team on Criminal Justice Reform (ITT-CJR), which is headed by Adv. Lungi Mahlathi and is made up of senior designated officials from the line function departments and law enforcement agencies, had been established to accelerate the development of the ICJS and the overhaul of the Criminal Procedure Act.

The Committee requests that the Department provide it with a comprehensive written report on the progress of the project by 30 August 2019, and to continue to keep the Committee updated as part of the Department’s quarterly reporting process. The Committee will also endeavour to arrange a dedicated briefing as soon as its programme permits.

* + 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. This is regarded 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 welcomes the suggestion that a joint address of the Portfolio Committees on Justice and Correctional Services, Police, Home Affairs and Social Development on the progress made so far take place and will arrange for this as soon as the programme permits. The Committee also requests that the Department provide a comprehensive report of progress by 30 August 2019 and, in addition, continue to report on this item as part of the quarterly reporting process.

* 1. **Vulnerable groups**
     1. **Eradicating gender-based violence within a decade.**

The Committee notes that, in February’s SONA, the President touched on work underway to implement the decisions of the Presidential Summit Declaration against Gender-based Violence and Femicide. This included a review of existing laws and policies applicable to gender-based violence and femicide to identify and address legislative gaps; a comprehensive costing and resourcing of the facilities that give support to survivors of gender-based violence; the integration of systems for the optimal management of data throughout the criminal justice system without delay that will include the collection of data relating to survivors and offenders; the adequate resourcing of the TCCs; and better functioning sexual offences courts.

Although the NPA reports an increase in the conviction rate for sexual offences, the actual number of sexual offence cases in our courts that reach verdict is low: in 2017/18, SAPS recorded 50 108 sexual offences cases, of which only 6 679 cases (or 14%) made it to court (of these, there were 5004 guilty verdicts). Indeed, the discepancy between the number of sexual offences reported to SAPS and the number of cases reaching our courts is of grave concern.

The Committee notes too that the Department tabled its 2017/18 Report on the Implementation on the Criminal Law Sexual Offences and Related Matters Act in the Fifth Parliament and believes that discussion of its contents will provide an opportunity for focused engagement on this issue. The Committee will arrange a joint briefing on the Report, as soon as the programme permits.

* + 1. **Dedicated sexual offences courts**. Although the NPA reports an increase in the conviction rate for sexual offences to 70%, the number of these cases in our courts that reach verdict is low when compared to the number of reported matters. The Committee is not satisfied by the NPA’s explanation for the level of attrition in these matters. Despite linking existing indicators relating to the rollout of the dedicated sexual offences courts and the establishment of the Femicide Watch to the commitments set out in the Presidential Summit Declaration against Gender-based Violence and Femicide, the Committee fears that there is little new to suggest that we will make huges strides in this area.

The Committee notes that a total of 16 court(room)s are to be adapted this year, in line with the sexual offences courts model and 12 closed circuit television systems in regional courts are to be upgraded in line with the minimum standards in sexual offences courts model. The Department was only able to upgrade 10 CCTV systems in the regional courts in 2018/19 against a target of 45 and that, going forward, the targets in this regard are substantially reduced to those contained in 2018/19 APP.

The Committee notes too that funding constraints have led to a moratorium on the appointment of further intermediaries.

The Committee understands that the Regulations for the Establishment and Management of Sexual Offence Courts are at an advanced stage.

* + 1. **Femicide Watch**. In 2018/19, the Department introduced a new indicator ‘Phases of the Femicide Watch established as required by Artcile 15 of Presidential Summit Declaration against Gender-based Violence and Femicide. Phase 1 was completed as planned by the end of 2018/19 and, in 2019/20, Phase 2 will be rolled out.

The Committee is interested to hear more about this initiative and requests that the Department provide it with a comprehensive written report by 30 August 2019.

* + 1. **National Register of Sexual Offences (NSRO).** The Western Cape High Court found in the matter of Abrahams v the State (A131/8) [2019] ZAWCHC 62 (23 May 2019) that there is a loophole in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, in that the NSRO only records the names of perpeprators convicted of sexual offences against children and mentally disabled individuals but not adults. In this matter, the name of the perpetrator did not appear in the Register because his previous victims were adults. The Court found that this loophole was part of the reason why the perpetrator had access to his victim and leaves a huge gap in curbing and combating sexual crimes against children. The Committee notes that the Court requested that a copy of the judgement be forwarded to the Speaker of the National Assembly and the Chairperson of the Justice Portfolio Committee. The Committee notes too that the Ministry agrees that there is a need to review the National Register of Sexual Offences (NSRO) as the Register is not functioning as it ought to.

The Committee, therefore, urges the Department to address this gap and any other gaps that it has identified expeditiously, and requests a comprehensive report on its plans in this regard, with deadlines, by 30 August 2019.

* + 1. **Trafficking in Persons Act, 2013**. The Department has included a new indicator and target relating to the implementation of the SADC Integrated Information System to monitor implementation of the Trafficking in Persons Act, 2013. In addition, the Prevention and Combating of Trafficking in Persons National Policy Framework, which is intended to support the implementation of the Act, was finally launched on 25 April 2019.

The Committee is interested in learning more about this monitoring tool and requests that the Department provide a comprehensive written report on this item by 30 August 2019.

* + 1. **Maintenance.** The Committee is concerned by reports of ongoing challenges experienced by women accessing maintenance services at courts. A recent article indicates that there are approximately R7 million maintenance defaulters. The Women’s Legal Centre has also expressed concern in this regard, attributing the problem in accessing maintenance, among others, to insufficient dedicated staff at courts. The Department has confirmed that budget constraints prevent the appointment of certain critical staff at courts, including the maintenance courts but was to have embarked on a process to fill vacancies.

The Committee, therefore, asks that the Department provide it with a comprehensive written report on the functioning of the maintenance courts, clarifying among others the allocation of capacity and identifying any challenges by 30 August 2019.

* 1. ***National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance*.** The Committee notes that the NAP was finalised and approved by Cabinet on 27 February 2019. The Department plans to implement three key initiatives in 2019/20. An amount of R9.4 million has been set aside for the implementation of the NAP over the medium term.

The Committee is interested in learning more about the Plan and intends to arrange a dedicated briefing on the NAP as soon as its programme permits.

* 1. **Truth and Reconciliation Commission.** A total of five community rehabilitation projects were to have been signed off for launch in 2018/19 and handed over during 2019/20 but it is unclear whether this target will be achieved. Given that it is over twenty years since the TRC resolutions were handed down, the Committee does not understand why efforts to give effect to the recommendations of the Truth and Reconciliation Commission are ongoing.

The Committee requests the Departmentto provide it with a comprehensive written report on its progress in this regard and will arrange a dedicated briefing on all outstanding aspects relating to the TRC as soon as its programme permits.

* 1. **Court infrastructure**.
     1. Building new courts in under-serviced areas has been a core element of the Department’s efforts to expand access to justice. However, the tendency has been that capital works projects typically take far longer to finish than projected and, consequently, costs escalate hugely. There are also challenges relating to the quality of the work done.

The new High Court in Mpumalanga at Mbombela, is at long last operational. However, as was the case for the Limpopo High Court, building has been subject to extensive delays and the associated costs have risen to R1.2 billion. The Committee is informed that an amount of R233.1 million is under investigation by the SIU in relation to the Limpopo High Court relating to the failure to pay contractors in a timely manner which incurred additional costs (with the IDT).

The Committee notes that other courts that are to completed this year are the Port Shepstone Magistrates Court and the Bitiyi Magistrates Court.

The Committee notes as well that the Department has included a new indicator relating to the upgrading and extension of courts, targeting six courts in 2019/20 (the Evander magistrates Court, the Vulamehlo Magistrates Court, Umbumbulu Magistrates Courts, the Chatsworth Magistrates Court, the Palace of Justice and the burnt out court in Pretoria). Over the medium term it is projected that additional court infrastructure will cost R1.5 billion.

The Committee requests that the Department provide it with a comprehensive progress report on all its infrastructure projects by 30 August 2019, and be prepared to address the Committee quarterly on this matter.

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

* + 1. **Planned maintenance**.The ageing nature of many of our court buildings requires that they are regularly maintained. If neglected, these buildings quickly deteriorate and require costly repairs. The maintenance of building is largely the responsibility of the Department of Public Works and Infrastructure (small repairs can be done at court level) but there has been very little money available for this.

The Department has informed the Committee that the Department of Public Works and Infrastructure anticipates that it will not need all of the funds allocated for new court infrastructure. The Department, therefore, intends asking National Treasury if it can use the projected ‘savings’ to undertake maintenance of its courts and to improve security. The Committee notes that the Minister of Public Works and Infrastructurehas declared the state on the courts to be shocking and is encouraged that she has requested a full report. The Committee notes too that a meeting is scheduled between the two Ministers on the infrastructure programme and maintenance of the courts.

* 1. **Transformation of State Legal Services**
     1. **State Legal Services**. The State is the largest consumer of legal services in the country and employs hundreds of professionals who provide litigation and legal advisory services for the State in different capacities. For some time, there have been 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. The Courts have been very critical of the quality of the work done by state attorneys in the past. The Public Service Commission issued an in-depth report on the Office in 2016. More recently, it emerged that there is corruption at certain offices and the matter has been referred to the SIU for investigation.

At present, a fragmented approach to the management of State Legal Services exists. This undermines efforts to transform the legal profession by ensuring that briefing patterns across government support previously disadvantaged legal practitioners and contain costs. Re-engineering the manner in which State Legal Services are delivered across government and addressing organisational challenges is a key departmental initiative. This entails finalising policies aimed at lowering the cost of litigation for the State, establishing the State’s capacity to handle complex legal matters, and ensuring the efficient management of the offices of the state attorney. Policies to drive transformation (on mediation, state representation, the management of state litigation and tariffs) have been developed and these are expected to be submitted to Cabinet for approval, as well as a proposal for the establishment of State Legal Services as a government component. A State Legal Services Bill has been drafted and will be consulted on before finalisation for tabling in Parliament.

The Committee welcomes the focus on the re-engineering of State Legal Services. In the meantime, it requests a comprehensive written report of current challenges that are being experienced in the Office of the State Attorney by 30 August 2019, and will arrange a dedicated meeting in order to deepen its understanding of the operations of this Office countrywide, as well as the Department’s plans to transform State Legal Services as a whole, as soon as its programme permits.

* + 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 young black legal practitioners encounter require a comprehensive response involving all stakeholders.

The Committee welcomes that the Department includes a breakdown of the percentage and value of briefs awarded to previously disadvantaged individuals on its website monthly.

* + 1. ***A transformed legal profession***. The Committee welcomes the establishment of the Legal Practice Council in October 2018, when the transitional National Forum ceased to exist. The Committee notes that the Department has allocated R7.9 million to establish a Legal Ombud as required by the Legal Practice Act, 2014.
  1. **Information Regulator**
     1. In the Committee’s view, the establishment of the Information Regulator is a priority. Unless the Regulator is adequately capacitated, the remaining provisions of POPIA will not be declared operational. Given how important it is for South Africa to have a legislative framework that protects personal data, these delays must be addressed urgently. Worldwide, data protection legislation is seen as a key component in securing information so that it does not fall into the wrong hands. The Regulator has commented that in South Africa the personal information of data subjects continues to processed with impunity and without adequate redress and that the country is experiencing an unprecedented number of data breaches that the Regulator is unable to deal with effectively. The Committee also notes the significant cost of data breaches to individuals and the country as a whole. Furthermore, ensuring that personal data is properly secured will facilitate measures to strengthen cybersecurity, and will assist to prevent cybercrime.
     2. The Committee is concerned about the lack of progress in fully capacitating the Information Regulator. The Protection of Personal Information Act (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 relates to the advice 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 approached the Minister of Finance for assistance to resolve the contradiction. In the interim, it was agreed to de-link the establishment of the organisational structure from the matter of the Regulator’s status in terms of the PFMA. In this respect, the Minister of Finance agreed to the organisational structure and appointment of top management. The Regulator will need to approach the Minister once more to obtain approval for the remainder of the organisational structure.

The Committee is of the view that this matter of the organisational structure and the Regulator’s status must be resolved expeditiously and requests the Ministry do all that it can to assist the Regulator in its engagements with the Minister of Finance and National Treasury to find a solution as soon as possible. It asks that it be kept informed of developments in this regard.

* + 1. The Regulator introduced the Committee to its new CEO (Mr M Thibela) and CFO (Mr P Narismulu) and informed the Committee that a number of new appointments to its Executive are to follow in the coming months. The Committee welcomes the appointments and notes too that the Regulator has acted on its plans to share accommodation with the South African Human Rights Commission, which is also pleasing.
    2. The Committee notes that until the Regulator is operational and the remaining provisions of POPIA come into effect, the SAHRC will continue to fulfil its (largely unfunded) mandate with regards to ‘Access to Information’.

1. **National Prosecuting Authority**
   1. The Committee congratulates Adv. Batohi on her appointment as National Director of Public Prosecutions (NDPP) from 7 February 2019 and wishes her well in the position.
   2. **Budget shortfalls and staff short*ages***. The Committee has already expressed its concern about the effect of funding constraints for service delivery. Briefly, the Committee is of the view that insufficient weight is being given to the essential nature of prosecutorial services. The Committee, therefore, advocates that additional funds be made available to address the shortfall on the NPA’s salaries budget so that it can fill vacancies. Since 2015/16, about 650 prosecutors have left the NPA. As a result of the moratorium on filling posts, the overall vacancy rate for prosecutors is now at 20%. In some of the specialised units, the vacancy rates are much higher – between 25-28%. The NPA anticipates a shortfall on its ‘compensation of employees’’ budget, which will result in unauthorized expenditure on its salaries budget of R27 million in 2019/20, growing to R88.9 million, R86.8 million and R181.4 million in 202/21, 2021/22, 2022/23, respectively. The Committee was informed that the NPA will need to lose a further 550 prosecutors over the medium term if it is to stay within budget. In addition, as its salaries budget consumes almost 90% of the NPA’s budget, there is little space to save costs or reprioritise funds.

The Committee has already expressed its view that the loss of prosecutorial capacity on this scale is disastrous for the rule of law.

* 1. **Legislative amendments to the NPA Act, 1998**.The Committee notes that the Department intends to table amendments to the National Prosecuting Authority Act, 1998, to address a declaration of constitutional invalidity in respect of sections 12(4) and (6) of the Act. The deadline for compliance with the court order is February 2020. The Committee, therefore, requests that the Ministry bring these amendments as soon as possible in order that Parliament is able to meet the applicable timeframes.
  2. **Independence of the NPA**. Before 2014, National Treasury provided the NPA with an exemption that allowed it to prepare its own annual financial statements (AFS) separate from the Justice. The exemption was given, pending the enactment of legislation that would clarify the NPA’s status was enacted. At the beginning of the Fifth Parliament, the situation changed in that the NPA is reported as a programme in the Justice Vote and no longer prepares separate annual financial statements. The NDPP, however, continues to table a separate annual report on its activities in terms of the NPA Act, 1998. The new NDPP, however, has indicated that it is not satisfactory for the NPA to have the DG: Justice and Constitutional Development as its accounting officer, a view that the Department appears to support. The Committee supports an independent prosecuting authority but will need to engage further on this matter to obtain a fuller understanding of the policy issues and practicalities involved.
  3. **Thuthuzela Care Centres (TCCs)*.*** The TCCs are multidisciplinary centres that cater for survivors of sexual and domestic abuse. At present, there are 55 TCCs countrywide. For some time, the establishment of further TCCs has been on hold because funding constraints. The Committee, therefore, welcomes the plan to establish a further five centres over the next 5 years. The Committee learnt that some of the funding for this will come from the Criminal Assets Recovery Account (CARA) Fund. The Committee notes also recent media reports that due to a lack of funding, half of the Thuthuzela Care Centres (TCCs) across the country are without counselling services or forced to rely on only one or two social workers to assist victims of sexual abuse and violence. This is partly because donor funding to NGOs providing counselling services at the TCCs has decreased. The Committee will arrange for a dedicated joint briefing on measures to address gender-based violence, as soon as its programme permits.
  4. **Apartheid prosecutions**. In June 2019, the South Gauteng High Court found that the NPA had breached the Constitution by allowing political interference to stall the prosecution of cases in which the TRC either did not grant amnesty or there was no application for amnesty made to the TRC. The NDPP was asked to consider charging those who had prevented the prosecution of these cases. In addition, the families of victims have also formally requested that a commission of inquiry be established. For now, the NPA is in the process of establishing a task team to look into all cases of deaths in detention. The Committees regrets the delays in finalizing these cases and will monitor progress.
  5. **The need for skilled prosecutors at the NPA**. The NDPP was frank about the shortage of skills within the NPA and, also, in other sectors of law enforcement. The new Head of the Investigating Directorate echoed this, stating that the greatest challenge in establishing the Investigating Directorate is the lack of specialist capacity. The Committee agrees that the extremely high vacancy rates in the specialised units, such as the Asset Forfeiture Unit, undermines the work of recovering monies lost to the State through crime and corruption. The Committee notes that Mr. Hofmeyr, who heads the AFU, is due to retire shortly and hopes that this will not create further challenges for the AFU. As already mentioned, funding constraints hamper efforts to recruit new capacity. In addition, it takes time to develop the necessary expertise.

The Committee notes as well the suggestion that the legislation applicable to CARA funding be amended to allow the AFU and law enforcement to retain a percentage of the monies recovered but is not in a position at this stage to comment further on this.

* 1. **Strategic support and innovation unit.** The Committee notes with interest the NPA’s intention to establish a strategic support and innovation unit in the Office of the NDPP to look at efficiencies and innovative ways of doing things. The Committee will engage further with the NDPP on this matter.
  2. **Resourcing of Investigating Directorate**. The Committee notes that R37 million was made available for the initial start-up costs of the Investigating Directorate. Considerably more funds (R219 million) are needed for it to access the necessary legal and forensic skills required for it to perform its mandate.
  3. **Aspirant prosecutors programme**. The Committee is pleased that the Aspirant Prosecutors Programme has been revived but is concerned that no additional funding has been made available for this. This programme not only provides young lawyers with an opportunity to gain critical experience and skills, but also provides the institution with a stream of well-trained “new blood” as prosecutors already employed at the NPA progress within or even leave the institution. Further the creation of employment opportunities for the youth is a national priority. The Committee, therefore, requests a comprehensive report on the plans to revive this programme and related funding by 30 August 2019.
  4. **Move away from statistics driven performance measures**. The Committee agrees that purely statistics driven performance measures can adversely shape behaviour. If conviction rates measure performance, there is the risk that cases, which are more challenging from a prosecuting perspective, are dropped. The Committee, therefore, is pleased that the NPA intends to rethink the way in which it measures its performance as part of its upcoming strategic planning process.
  5. **Addressing referrals expeditiously*.*** The Hawks, IPID and the SIU have referred a large number of investigations to the NPA. The Committee requests the NPA to provide a comprehensive written response on the measures that have been taken to improve the time taken to decide whether or not to prosecute by 30 August 2019.

1. **Legal Aid SA**
   1. 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 continues to be challenged by a budget shortfall created by the gap between the allocated minimal increase and the actual inflationary increases to its costs. The cumulative shortfall poses the real risk to its service delivery going forward.

Although the 2018/19 baseline reduction of 5% has been reversed, there is the possibility that there may be new baseline reductions for the 2020 MTEF of 5%. Should this occur, there is a high likelihood that jobs will be lost. As it is, 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. The Committee welcomes Legal Aid SA’s commitment to looking into ways it can make use of technology to assist people with hearing loss to access its services.

1. **Special Investigating Unit**
   1. **Review of funding model**. The Committee notes that the SIU intends to bring legislative amendments to its enabling legislation that will provide it with a clear 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. **Debt recovery**. The SIU reported its difficulties in recovering monies owed to it by state institutions for its services (The amount owed by state institutions now stands at a little less than R500 million). The SIU has engaged Treasury on this matter. As a result, the need for legislative amendments is being explored.
   3. **Referrals**. The Committee queried whether the SIU is satisfied with the memorandum of understanding between it and the NPA. The Committee asks that the SIU continue to keep the Committee informed of measures to enhance collaboration between it and the NPA.
   4. **Special Tribunal**. 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.
2. **Public Protector** 
   1. The Committee notes the PP’s request for additional funds and has included details of the request in this report. The Committee understands that the PP has engaged with National Treasury regarding its budgetary needs over the medium term. The Committee, however, asks the PP to address it on the matter of its forward funding needs once again during the 2018 October Budgetary Review and Recommendation process. The Committee reiterates that it does not generally support baseline reductions in the case of the Chapter 9 insertions and is of the view that their budgets need to be revisited in their entirety.
   2. 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 agrees that being taken on review is no indicator of the quality of a report. The Committee, however, asks the PP ensure that its reports are of the very highest standard to lessen the prospects of a successful challenge.
   3. The Committee notes that the PP has focused on clearing its backlog cases. 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.
   4. The Committee notes that the term of office of the Deputy Public Protector comes to an end in December 2019. It is important that the process of recruiting the next Deputy Public Protector commence as soon as possible to ensure stability in the office. The Committee notes that the conditions of service of the Deputy Public Protector do not provide for a gratuity once he or she vacates office. The issue of the DPP’s salary and conditions of service has been raised previously and needs to be addressed.
   5. The Committee is concerned that only one of the PP’ s offices has security. Given the nature of the work that the PP undertakes, the matter of security is one that cannot be ignored and should be adequately funded.
3. **South African Human Rights Commission**
   1. The SAHRC’s ability to deliver is constrained by its (relatively) small budget (compared to the mandate), which is now exacerbated by budget reductions. In 2018/19, the Commission’s baseline was reduced by R4.6 million in 2018/19; R4.8 million in 2019/20 and R5.1 million in 2020/21. Further cuts to the baseline are introduced in 2019/20, amounting to R4.2 million over the medium term through salary freezes for senior management. The Committee is aware that the SAHRC has specifically requested additional funding to fulfil its court-order monitoring responsibilities, which the then Committee supported. The Committee notes that the response from National Treasury is that there are no additional funds for this. The Committee is concerned that the Commission will not be able to monitor compliance with court orders without additional funding.

Given their already relatively small budgets, the Committee does not support the implementation of budget reductions for the Chapter 9 institutions. It also expresses its views on the need to revise the funding of the Chapter 9 institutions elsewhere in this report.

* 1. The Committee is pleased that the Commission has targeted the hosting of the Schools Moot Court Competition as a flagship intervention in its efforts to promote public awareness of the Constitution and the Bill of Rights. This specific intervention is intended to promote rights awareness in schools. The Committee is also pleased to learn that the Commission plans to put in place strategies that focus on systemic violations of rights.
  2. The Committee is aware that the Commission’s budget for its human rights promotion work is insufficient. The Committee notes that the Commission was to have developed a fundraising strategy in 2018/19, and will continue this year to explore funding opportunities that will not compromise the Commission’s independence.
  3. The Commission has never received additional funds for it to fulfil its mandate in terms of the Promotion of Access to Information Act (PAIA), 2000. In addition, a lack of enforcement powers has constrained its effectiveness of its PAIA work. The SAHRC has observed a worrying trend of non-compliance with PAIA in recent years. With the exception of its promotional work, the Commission’s powers with respect to access to information will be transferred to the Information Regulator once the Regulator is fully established. The Committee is pleased that the SAHRC and Information Regulator are sharing space and hopes that this will assist when these powers and functions are finally transferred. However, the slow progress in the establishment of the Information Regulator is frustrating.
  4. The Committee notes that the largest portion of complaints to the Commission concern the right to equality (including racism). The Committee agrees that equality is a threat to economic and social rights and threatens the realization of all other forms of rights. The Committee notes, in this regard, that the Equality Courts are not effectively utilised. The Committee is informed, for example, of considerable delays in matters litigated in the Equality Courts. The Commission’s provincial offices have reported challenges regarding the availability of magistrates for these courts. The Committee encourages the Commission to engage with the Judiciary on the use and functioning of these courts.

1. **Recommendations**
   1. The Committee, having considered the Budget Vote 21: Justice and Constitutional Development supports it and recommends that it be approved.

**Report to be considered**