

3. Report of the Portfolio Committee on Justice and Correctional Services on the annual performance plans 2022/23 of the Department of Justice and Constitutional Development, National Prosecuting Authority, Legal Aid South Africa, Special Investigating Unit, Public Protector South Africa, South African Human Rights Commission and Information Regulator, and Budget Vote 25: Justice and Constitutional Development for the 2022 MTEF, dated 16 May 2022

The Portfolio Committee on Justice and Correctional Services, having considered the annual performance plans 2022/23 of the Department of Justice and Constitutional Development, National Prosecuting Authority, Legal Aid South Africa, Special Investigating Unit, Public Protector South Africa, South African Human Rights Commission and Information Regulator, and Budget Vote 25: Justice and Constitutional Development for the 2022 MTEF, referred to it, reports as follows:

1. Introduction

1.1. The Budget Vote 25: Justice and Constitutional Development consists 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 Justice, Crime Prevention and Security (JCPS) Cluster projects as part of the Integrated Justice System (IJS).
- In addition to the allocation to the Justice Modernisation subprogramme, Programme 5 Auxiliary and Associated Services contains transfer payments to Legal Aid South Africa, the Special Investigating Unit (SIU), the Information

Regulator, the South African Human Rights Commission (SAHRC) and the Public Protector South Africa (PPSA).

2. **Method**

- 2.1. On 3 May 2022, the Minister of Justice and Correctional Services presented an overview of the political priorities for the Department of Justice and Constitutional Development.
- 2.2. The Department, NPA, Information Regulator, Legal Aid South Africa, the SIU, the SAHRC, the Public Protector SA and the Information Regulator, each presented their annual performance plans for 2022/23 and budgets for the 2022 MTEF.
- 2.3. The briefings took place as follows:
 - The Department of Justice and Constitutional Development – 6 May 2022.
 - Legal Aid South Africa – 6 May 2022.
 - National Prosecuting Authority – 10 May 2022.
 - Public Protector South Africa – 10 May 2022.
 - Special Investigating Unit – 11 May 2022.
 - Information Regulator – 11 May 2022.
 - South African Human Rights Commission – 13 May 2022.
- 2.4. All presentations are available from the Committee Secretariat.

3. **Budgetary Review and Recommendation Report (BRRR) October 2021 and Minister of Finance's response to Parliament**

- 3.1. In the Budgetary Review and Recommendation Report (BRRR) (December 2021), the Committee expressed concern that the reduced salaries' budget will affect the overall effectiveness of the legal system, which relies heavily on warm bodies to deliver a wide range of services. The Committee was especially concerned that a

reduced staff establishment would undermine the work needed to create a transformed and responsive justice system.

3.2. Specifically, the Committee did not support budget reductions in the case of the NPA, Legal Aid SA, and the SIU; and also recommended that additional funding be allocated to:

- The NPA, for the Independent Directorate and for Witness Protection; the Information Regulator, for capacity and to fund its responsibilities in terms of PAIA; and Legal Aid SA for land matters; as well as to the PPSA and SAHRC.

3.3. The Committee also observed that an appropriate funding model for the Chapter 9 institutions is necessary.

3.4. The Minister of Finance responded to the recommendations as follows:

“The baseline budgets for justice-related institutions are not reduced in the 2022 Budget. Additional funding has been allocated through reprioritisation ... Funds will also be transferred to Legal Aid South Africa, in line with current budget processes, to enable the entity to provide the specified legal services upon receipt of a formal request to facilitate such a transfer from the institutions involved. No additional funding is allocated to the Information Regulator, although R105 million was provided in the 2021 Budget to enable it to grow and meet its legislative mandate”.

3.5. Reprioritised funds include:

- A total of R36 million, in 2022/23, to invest in ICT in institutions that include the Investigating Directorate, Public Protector South Africa and South African Human Rights Commission.
- A total of R426 million over the medium term to intensify the fight against corruption and ensure sufficient capacity for the investigation and prosecution of criminal cases emanating from the State Capture Commission. Among others, this will allow the Independent Directorate to appoint an estimated 90 staff members in a permanent capacity.

- An amount of R34.3 million is reprioritised to Legal Aid South Africa over the MTEF period to capacitate the six newly established Specialised Commercial Crimes Courts in Limpopo, Mpumalanga, North West and the Northern Cape.

4. **Medium Term Strategic Framework 2019 -2024**

- 4.1. 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.
- 4.2. The Medium Term Strategic Framework (MTSF) 2019-2024 identifies seven priorities and related interventions of the Sixth Administration. Justice has responsibilities in respect of two priorities: namely Priority 1 ‘A capable, ethical and developmental state’ and Priority 6 ‘Social cohesion and safe communities’.
- 4.3. In addition, the lack of access to resources and lack of opportunity for Women, Youth and People with Disabilities are identified as cross-cutting, requiring a variety of interventions, including legislative amendments.
- 4.4. In respect of the revised MTSF, the Department has made the following commitments:

MTSF INDICATORS	JUSTICE DEPARTMENT MTSF TARGETS 2022/23
Coordinating engagements between the leadership of the executive, legislature and judiciary in order to develop a social compact by 2021 and implement the compact by 2024.	A social compact document will be submitted to Cabinet by 31 March 2023.
Developing a system to ensure consistent barrier-free access to justice for persons	27 courts will be made compliant with the strategy on universal access for persons with disabilities in 2022/23.

MTSF INDICATORS	JUSTICE DEPARTMENT MTSF TARGETS 2022/23
with disabilities across the justice value chain.	
Coordinating the Implementation of the National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.	A framework for the virtual repository of disaggregated statistical data for the measurements of racism, racial discrimination, xenophobia and related intolerance to be developed by 31 March 2023.
Establishing and capacitating Specialised Commercial Crime Courts (SCCC's) by 2024.	The Department will ensure that the capacity and efficacy of the SCCC's is enhanced and optimised. Two specialised Commercial Crimes Courts will be capacitated.

4.5. *National Strategic Plan on Gender-Based Violence and Femicide (NSP on GBVF).*

Pillar 3 of the NSP-GBVF provides for Justice, Safety and Protection and seeks to address the systemic challenges that have resulted in an inadequate response to the management of GBVF cases, particularly domestic violence, sexual offences, child homicide, human trafficking, and other related matters. Departments are required to integrate related NSP-GBVF outcomes in their five-year strategic plans and annual performance plans, that is:

- Infrastructural alterations to court buildings to ensure that they are victim-friendly, disability friendly and child friendly.
- Court-based victim support services and witness protection are made available, particularly in rural areas.
- Quality legal aid support is readily accessible for women and LGBTQIA+ persons who cannot afford litigation.
- Information on GBV laws and policies and how these can assist is made widely available.
- E-services are available to survivors to ensure quick access to justice.
- Information on cases is readily available for victims to access and track.
- The backlog of GBVF cases is cleared.

- The effective implementation of GBV legislation with adequate resourcing and budget.
- The ongoing vetting of officials providing services to children and mentally disabled persons.

4.6. State of the Nation Address (2022) priorities:

- *Strengthening the system to protect whistle-blowers* in line with the recommendations made by the Judicial Commission of Inquiry into State Capture. Specifically, a legitimate whistle-blower should receive, as a matter of urgency, effective protection from retaliation.
- *Engaging with the Judiciary on the creation of special court rolls for state capture and corruption cases.*
- Continuing to intensify the fight against *gender-based violence and femicide* through the implementation of the National Strategic Plan on Gender-Based Violence and Femicide (NSP-GBVF)).
- *Youth employment.*

4.7. On 2 May 2022, the Minister of Justice and Correctional Services provided a political overview, introducing the budget and plans for 2022/23 for the Department of Justice and Constitutional Development. Regarding Justice, the Minister referred, among others, to the following initiatives:

- *Build and deepen Constitutionalism, respect for Human Rights and Rule of law.* The Department will hold various events to celebrate 25 years since the adoption and final certification of the Constitution, culminating in a symposium in September 2022.
- *Rebuilding the NPA.* Critical resources will be directed to the NPA to better capacitate it.
- *Cable theft and other acts of economic sabotage.* In addition, there will be a focus on addressing acts of economic sabotage as seen at ESKOM and PRASA.
- *Gender-based violence and femicide.*
- *Modernized, accessible courts and people-centred services.* The devastating ransomware attack has necessitated an overhaul of the Department's ICT infrastructure with an emphasis on digital transformation initiatives and

improved service delivery. Various online solutions will become available in 2022.

- *Establishment of a single judicial system.* The Constitution mandates the establishment of a single judicial system that is in line with the provisions of section 166 of the Constitution. The intention is to introduce the Lower Courts Bill and Magistrates' Court Bill in 2022/23 to replace the Magistrates Act, 1993, and the Magistrates' Courts Act, 1944.
- *Legislation.* Other legislation that will be introduced in Parliament in 2022/23 include a Regulation of Trusts Bill that will strengthen the anti-money laundering legal framework; and a Criminal Law Amendment Bill that will make provision for the offence of attempt, conspiracy and inducing another person to commit an offence and will repeal the Riotous Assemblies Act, 1956.
- *Infrastructure.* In response to infrastructure challenges, the Department is engaged in various discussions with the Department of Public Works and Infrastructure about appointing an implementing agent to assist with infrastructure projects and, also, increasing the threshold amount for maintenance of court building and justice service points from R100 000 to R1 million.

5. **Fiscal policy**

5.1. Overview

- 5.1.1. Medium-term fiscal policy remains focused on reducing the budget deficit and stabilising the debt-to-GDP ratio. Government has attempted to slow expenditure growth by reducing baseline budgets and setting ceilings on compensation spending. Despite this, the gap between revenue and expenditure has widened, as much of the increased budget has been absorbed by rising public-service salaries and debt-service costs.
- 5.1.2. The 2022 Budget is the second main budget to be tabled since the onset of the Covid-19 pandemic. Allocations over the MTEF period respond directly to the effects of the pandemic while aiming to grow the economy.

5.1.3. Consolidated expenditure amounts to R2.2 trillion in 2022/23, R2.2 trillion in 2023/24 and R2.3 trillion in 2024/25.

5.1.4. The allocation to functions that employ large numbers of staff, such as Peace and Security, will (continue) to decline in real terms over the MTEF due to compensation ceilings and baseline reductions to fund the Covid-19 spending response in 2021/22.

5.2. Peace and Security function

5.2.1. The function is allocated R220.7 billion in 2022/23, R217.0 billion in 2023/24 and R226.6 billion in 2024/25 and accounts for 12% of consolidated government expenditure.

5.2.2. Notably spending on Peace and Security has declined on average by -8.5% between 2012/13 and 2021/22 and will continue to decrease over the 2022 MTEF by -3.1%.

5.2.3. The function's baseline is increased by R15 billion over the MTEF period, from R645.4 billion to R660.4 billion. The R15 billion net increase includes R12.4 billion for compensation of employees' budgets within the function.

Peace and Security function budget allocation 2022 MTEF

Function (R'billions)	2021/22	2022/23	2023/24	2024/25	% Total MTEF allocation
Defence and State Security	49.0	50.0	48.9	50.3	22.5%
Police Services	108.5	110.2	108.6	114.2	50.0%
Law Courts and Prisons	49.7	50.8	50.02	52.3	23.0%
Home Affairs	11.2	9.7	9.6	9.8	14.1%
Total	218.4	220.7	217.0	226.6	100%
Compensation of employees	151.9	152.9	149.2	156.7	69.1%
Goods and Services	49.3	48.4	49.2	51.5	22.4%
Transfer and Subsidies	10.0	11.5	11.3	11.0	5.1%

Function (R'billion)	2021/22	2022/23	2023/24	2024/25	% Total MTEF allocation
Buildings and other fixed structures	2.5	3.1	2.8	3.0	1.3%
Machinery and equipment	4.5	4.6	4.4	4.3	2.0%

- 5.2.4. Approximately 23% of the overall allocation for Peace and Security goes to ‘Law courts and prisons’. Specifically, the Justice and Constitutional Development Vote receives 10.14% of the overall allocation to the function (including magistrates’ salaries).
- 5.2.5. Over the next three years, this function will focus on intensifying the fight against crime and corruption, and implementing personnel reforms to contain departmental compensation within the expenditure ceiling.
- 5.2.6. A total of R36 million is reprioritised in 2022/23 to invest in information and communication technology in the Office of the Chief Justice, Investigating Directorate, Public Protector of South Africa, South African Human Rights Commission and Financial Intelligence Centre.
- 5.2.7. Over the medium term, to intensify the fight against corruption and ensure sufficient capacity for the investigation and prosecution of criminal cases emanating from the State Capture Commission, R426 million is allocated to the Investigating Directorate in the National Prosecuting Authority and the Financial Intelligence Centre. This allocation – of which R262.1 million is from reprioritisation within the function – will provide for the permanent appointment of 68 staff in the Financial Intelligence Centre and an estimated 90 staff in the Investigating Directorate.
- 5.2.8. An amount of R34.3 million is reprioritised to Legal Aid South Africa over the MTEF period to capacitate the six newly established Specialised Commercial Crimes Courts in Limpopo, Mpumalanga, North West and the Northern Cape.

6. Overview of Vote 25: Justice and Constitutional Development

- 6.1. The overall allocation to the Justice and Constitutional Development Vote (Vote 25) for 2022/23, including the Direct Transfer for Magistrate's salaries is R 22.4 billion (compared with the adjusted budget of R21.9 billion in 2021/22). The total for programmes is R20.0 billion, while R2.4 billion is allocated to Magistrate's salaries. The allocation to the Vote decreases in real terms by -2.06% compared with 2021/22.
- 6.2. *Programmes.* In 2022/23, the total allocation for programmes, excluding the direct charge for magistrates' salaries, is R20.0 billion (compared with an adjusted budget of R19.5 billion in 2020/21). This allocation decreases in real terms by -1.79% from 2021/22.
- 6.3. The three Justice administered programmes (Administration, Court Services and State Legal Services), as well as the Justice Modernisation subprogramme under Programme 5, are allocated R11.9 billion for 2022/23, compared with an adjusted appropriation of R11.9 billion in 2021/22.

Vote 25 - Justice and Constitutional Development – Allocation for the 2022 MTEF per programme

Programme (R 'million)	Budget 2022 MTEF				% Total expenditure 2021/22- 2024/25	Real % change 2022/23
	2021/22	2022/23	2023/24	2024/25		
Administration	3 140.7	2 988.9	3 059.4	3 200.5	13.8%	-8.9%
Court Services	6 767.4	6 809.6	6 516.0	6 808.0	30%	-3.71%
State Legal Services	1 330.8	1 322.7	1 303.3	1 362.0	5.9%	-4.89%
National Prosecuting Authority	4 535.6	4 910.3	4 870.9	5 089.6	21.6%	3.6%
Auxiliary and Associated Services	3 734.2	3 990.4	4 052.7	4 232.2	17.8%	2.26%
TOTAL	19 508.7	20 021.9	19 802.2	20 692.4	89.2%	-1.79%

Programme (R 'million)	Budget 2022 MTEF				% Total expenditure 2021/22- 2024/25	Real % change 2022/23
	2021/22	2022/23	2023/24	2024/25		
Magistrates' Salaries	2 396.5	2 398.5	2 408.7	2 516.9	10.8%	-4.23%
TOTAL	21 905.2	22 420.5	22 211.0	23 209.3	100%	-2.06%
Change to 2021 Budget estimate	358.9	607.5	259.9	272.3	-	-

Vote 25 - Justice and Constitutional Development – Allocation for the 2022 MTEF per economic classification

Programme (R 'million)		Budget 2022 MTEF				Average: Expen- diture/ Total (%)
		2021/22	2022/23	2023/24	2024/25	2021/22- 2024/25
Current payments		17 792.8	18 330.6	18 074.0	18 880.0	81.4%
<i>Compensation of employees</i>		12 560.3	12 783.7	12 522.2	13 086.1	56.8%
<i>Goods and services</i>		5 232.5	5 546.9	5 551.7	5 793.9	24.7%
Transfers and subsidies		3 186.2	3 269.8	3 298.1	3 447.7	14.7%
Payments for capital assets		926.0	820.0	839.0	881.6	3.9%
Payments for financial assets		0.2	-	-	-	0%
Total		21 905.2	22 420.5	22 211.0	23 209.3	100%

6.4. The key cost drivers for the Vote remain unchanged from 2021/22, namely:

- *Compensation of employees.* Budgeted expenditure for salaries accounts for 57% of the allocation to the Vote. Overall, the Vote has 23 515 posts in 2022/23

costing R12.78 billion. In real terms, the allocation to this item decreases by - 2.6% when compared to 2021/22 (R12.56 billion).

- *Goods and services.* Budgeted expenditure for *Goods and Services* accounts for 24.7% of the allocation to the Vote at R5.23 billion, of which:
 - R1.41 billion is allocated for property payments. The allocation for this item increases in real terms by 12.82% compared to 2021/22 (R1.24 billion).
 - R1.10 billion is allocated for operating leases. This is a real increase of 5.57% compared to 2021/22 (R1.04 billion).
 - R1.18 billion for computer services. This is a real increase of 9.88% compared to 2021/22 (R1.07 billion).
 - R288.3 million for travel and subsistence. This is a real increase of 4.99% compared to 2021/22 (R274.6 million).
 - R260.3 million for agency and support/outsourced services. This is a real increase of 1.28% when compared to 2021/22 (R257 million).

6.5. Additional Funding

- 6.5.1. There is an additional R1.14 billion that is allocated over the 2022 MTEF to the Vote baseline, largely to cover costs arising from the 2021 public-service wage agreement. This also includes additional funding for entities under the Vote, as follows:

Additions to the Vote baseline 2022 MTEF

R'million	2022/23	2023/24	2024/25	MTEF Total
Compensation of employees	520.7	194.4	204.6	919.6
Goods and Services	189.8	189.6	191.0	570.4
Machinery and equipment	35.8	26/0	25.9	87.7
Public Protector SA	20.0	15.2	16.6	51.8
Legal Aid SA	11.2	11.3	11.8	34.3

SAHRC	8.0	4.0	5.0	17.0
Households: Employee social benefits	-31.0	-31.2	-32.6	-94.8
Buildings and other fixed structures	-147.0	-149.5	-150.0	-446.5
Total	607.5	259.9	2 723.0	1 139.7

7. Department of Justice and Constitutional Development

7.1. The Department's strategic focus is as follows:

- 7.1.1. *Constitutionalism and respect for the rule of law.* The Department will continue to lead and coordinate a focused national programme for engaging all of South Africa in a conversation about whether the intention of the Constitution to build a nation based on constitutionalism and human rights. The extended programme will include conducting research to review the implementation of the Constitution in the past 25 years and will be published as a compendium to celebrate 25 years of the Constitution. This research will also be utilised to guide policy making within government.
- 7.1.2. *Compliance with international and regional treaty obligations.* To improve compliance with international and regional treaty obligations, the Department will table in Cabinet for approval the Terms of Reference establishing the National Human Rights Coordinating, Monitoring, Reporting and Follow-up Committee (NHRCMRFC) in South Africa to serve as a national public mechanism or structure that is mandated to coordinate and prepare reports to and engage with international and regional human rights mechanisms, and to coordinate and track national follow-up and implementation of the treaty obligations and the recommendations emanating from these mechanisms.

- 7.1.3. *Extradition and mutual legal assistance.* Attention will be given to improving the Extradition regime and the Mutual legal assistance framework to ensure effectiveness and enhance collaboration with other States in the fight against crime in general. The conclusion of extradition and mutual legal assistance treaties will focus specifically on countries in Latin America and South East Asia.
- 7.1.4. *Review of justice-related colonial and apartheid era legislation.* The Department will continue to review of justice-related colonial and apartheid era legislation with the aim of aligning this legislation with the Constitution.
- 7.1.5. *Gender-Based Violence and Femicide (GBVF) and against all vulnerable persons.* Dedicated courts to deal with gender-based violence and related matters will be established in designated regional courts in terms of Sexual Offences Courts Regulations. The need for disaggregated GBVF data sets has become more urgent and the NSRO will take the lead in this regard.
- 7.1.6. *Modernising and increasing access to justice services.* The Department will implement programmes to modernise and digitize justice services as well as increase access to justice services. Further, the Department will roll out the court audio visual system which will enable court proceedings, including testifying and interpreting, to be done virtually by 2023/24.
- 7.1.7. *More periodical and/or branch courts* will be converted into full services courts during this strategic plan cycle.
- 7.1.8. *Transformation of state legal services.* Various initiatives to transform state legal services continue.
- 7.1.9. *Transformation of the legal profession.* The Department plans to finalise the policy guidelines on the conferral of senior counsels which will drive transformation of the legal profession.
- 7.1.10. *Fight against fraud and corruption.* The Department will roll out and capacitate specialised commercial crimes courts. The Department will continue provide

infrastructure needed in relation to the SIU's Special Tribunal, and the NPA's Investigative Directorate.

- 7.1.11. *Masters' office.* The paperless Estates Administration System (PEAS) is being used by all fifteen (15) Masters' offices countrywide, as well as 280 magistrates' offices linked with the relevant Masters' offices. The structure for a sixteenth (16th) Master's Office in Middelburg has been approved and capacitation will take place in 2022/23. Further rollout of the PEAS to more service points is planned, subject to funds. During past years, the Master rolled out MOVIT (fingerprint verification) to 302 Service Points, which allowed applicants to lodge their Guardian's Fund applications at those Magistrates Courts and have their fingerprints verified there. Following the ransomware attack, in September 2021, the relevant server was lost as well as all user data and connectivity to Home Affairs with regards to MOVIT. As a result, users at all sites have to be re-registered and MOVIT application re-installed. Masters has already re-registered users at all 15 Master's Offices and at 49 Service Points. For the 2022/23 financial year, Masters are planning to ensure that at least 150 of these service points are re-registered. This will be measured through the Masters Service Delivery Improvement Plan (SDIP).
- 7.1.12. The development and roll out of online registration of deceased estates and trusts will allow people, who want to report deceased estates or register trusts, to do so remotely.
- 7.1.13. *Access to persons with disabilities.* The Department is committed to providing facilities (offices/courts/service points) that allow access to persons with disabilities as required by building regulations. Currently, 69 courts remain to be upgraded and these will be completed in the next five years. All projects (new, additions and refurbishment) must include the specifications for access for persons with disabilities. Currently 38 courts are under construction.
- 7.1.14. *Economic crime.* The DPME develops the National Annual Strategic Plan (NASP) which will be the annual plan used to monitor the implementation of the MTSF. The selected MTSF indicator to be part of the NASP and which directly affects the Department is the percentage conviction rate in cable theft cases.

- 7.1.15. *Reducing case backlogs*: The courts are experiencing an insurmountable increase in case backlogs, exacerbated by the outbreak of the COVID-19 pandemic and the resultant national lockdown to contain its spread. The Department has developed, in liaison with the lower court judiciary, the NPA, Legal Aid SA and SAPS a case backlog reduction framework. Consultation with the stakeholders for the Judiciary and the JCPS cluster are underway to reach consensus on the performance target that the courts must strive to meet to drastically reduce the backlogs.
- 7.1.16. *Specialised commercial crime courts (SCCCs)*. The focus now will be on enhancing the SCCC's in all provinces in hindsight of the escalation of the corruption and fraud cases. A separate roll of cases handled by the SCCC's will be maintained and monitoring will occur.
- 7.1.17. *Improved audit outcomes*. The Department plans to implement interventions to ensure that it achieves and sustains an unqualified audit outcome on the vote account, and performance information by 2024/25.
- 7.1.18. *Decline in overall organizational performance*. To improve performance, the Department plans to finalise the reconfiguration of the macro structure, to fill critical vacant posts, and to train employees.
- 7.1.19. *Social compact*. Work on the concept of the Social Compact document has started and it will be submitted to Cabinet in 2022/23 to guide the engagement with the legislative and judicial branches of the state.
- 7.1.20. *implementation of the National Action Plan (NAP) to combat Racism, Racial Discrimination, Xenophobia and Related Intolerance*. The Department will continue with the implementation of the National Action Plan (NAP) to combat Racism, Racial Discrimination, Xenophobia and Related Intolerance in line with all NAP Programme of Action activities that are relevant to it.
- 7.1.21. *Sustained and visible anti-xenophobia campaigns conducted in collaboration with other departments and role-players*. The Department rolled out six (6) anti-xenophobia campaigns with a focus on the protection of the rights of migrants,

refugees, asylum seekers and stateless persons in different communities and on virtual platforms. The Department will also continue with constitutional awareness and human rights education programmes to protect the rights of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons. Furthermore, the Department will develop an intersectoral integrated system on Trafficking in Persons (TIP), which will be used to provide intersectoral data on the prevalence of TIP, as required by the UNODC, SADC and other international organizations.

7.2. The Department has developed the following departmental outcomes:

- Improved organizational capabilities and good governance.
- Improved awareness of justice services and constitutionalism.
- Increased access to justice services.
- Improved Masters Services.
- Transformed Colonial/Apartheid era justice-related legislation.
- Transformed State legal services.
- Transformed legal profession.
- Advanced constitutionalism, human rights and the rule of law.
- Crime and corruption reduced through effective prosecution.

7.3. There have been the following changes to the 2020-2025 Strategic Plan:

OUTCOME	INDICATOR	BASELINE	5-YEAR TARGET	REVISED TARGET
Increased access to Justice services	No. of courts providing	479	520	REMOVED
Transformed legal services	% decrease in state litigation annually	-	5% annually	3% annually AMENDED
Transformed legal profession	% increase annually PDI legal practitioners as Senior Counsel in line with policy	188	10% annually	REMOVED

	guidelines on the conferral of Senior Counsel			
Colonial/apartheid era justice related legislation reviewed and replaced	No. of colonial/apartheid era justice related legislation reviewed	-	12	NEW

7.4. The Department of Justice and Constitutional Development has declared 2022/23 ‘a Year of the Community’. This will culminate in the roll out of an extensive community outreach programme to interact with communities about justice services and issues of constitutionalism, promotion of human rights and respect for the Rule of Law.

7.5. For 2022/23, the Justice Department's projected performance and expenditure is shaped in particular by a focus on increasing access to its services, and Strengthening the fight against maladministration and corruption

7.6. The Department has identified the following as risks:

Key risks and mitigation

OUTCOME	KEY RISKS	MITIGATION
Modernised and digitised justice services platforms	Aging and unstable ICT infrastructure resulting in unavailability of Justice Service on the internet portal and disruption of services.	<ul style="list-style-type: none"> Continuous review of ICT infrastructure plans based on the available budget. Implement digital solutions to enable end to end management of Justice Services in a manner that will reduce paper and enable real-time communication with all stakeholders.
	Delays in rolling out Courts Audio Visual Solution.	

Improved organisational capability and good governance	Vacancy in key position and non-compliance with employment equity targets.	<ul style="list-style-type: none"> • Fill vacant posts. • Implement HRD Strategy. • Training on policies and prescripts. • Introduce appropriate consequence management
	Potential for Fraud and corruption.	
	Non-compliance with laws and applicable prescripts leading to adverse audit outcome (Irregular expenditure, fruitless and wasteful expenditure and late payments of suppliers).	
Improved awareness of justice services and Constitutionalism	Inadequate cooperation from line function managers timeously on content updates/responses and planning required for communication activities	<ul style="list-style-type: none"> • Strengthen departmental platforms (website and social media sites to drive more communication). • Engage Civil Society Organisations (CSO's), NGOs and third-party endorsers who can assist in conveying departmental message
	Inadequate planning and managing of events by the project owner within the department.	
Increased access to justice services	Increased Gender based violence and Femicide which results in diminishing public confidence in the criminal justice system.	Implement National Integrated Femicide Prevention Strategy which includes phases of femicide watch
	Inability to implement the Child Justice Act and other legislation.	Speedy finalisation of child justice preliminary inquiries in order to increase access to justice services in the best interest of children
	Ineffective implementation of the NRSO Act resulting in	Implementation of phase two which will Improve turnaround

	the continued exposure of children and persons with mental disability to convicted sex offenders	time of issuing of clearance certificates to the clients.
	Delay in establishment of Sexual Offences Courts (SOCs) resulting in perpetual victimisation of victims.	Designation of regional courts where the SOCs must be established.
	Deteriorating court and office facilities leading to non-compliance to Occupational Health and Safety Act and possible office closure.	<ul style="list-style-type: none"> • Integrated, proactive and effective planning in the maintenance of court and office infrastructure. • Department to identify service points that should be remodelled to comply with universal access, designated principles and provision of reasonable accommodation for person with disabilities.
Improved masters services	Delay in provision of masters services due to slow network or system challenges.	<ul style="list-style-type: none"> • Develop a system that will create opportunity for online platforms by master services.
	Potential fraud and corruption in administration of masters processes.	<ul style="list-style-type: none"> • Monitor all applications to ensure speedy finalization 3. Implementation of Ethics Management
Colonial/apartheid era justice related legislation reviewed and replaced	Out-dated legislation which does not further constitutionalism.	<ul style="list-style-type: none"> • Develop Rules and research papers. • Develop legislation and review Apartheid/Colonial era justice-related legislation
Transformed State Legal Services	Internal and external (State organs and private legal	

	practitioners) resistance to change in relations to the strategy and mandate of the Office of the Solicitor General.	<ul style="list-style-type: none"> • Finalisation and implementation of Management of state Litigation policy, briefing and tariff policy and Mediation policy. • Review and update contingent liability register. • Use of public websites and free internet sites to access information
	Inadequate management of contingent liabilities.	
	Non availability of up-to-date Virtual Library in respect of Office of the Chief State Law Advisor (OCSLA) leading to delays	
Transformed legal profession	Slow transformation of previously disadvantaged individuals (PDIs) including female counsels	<ul style="list-style-type: none"> • Briefing counsels on a fee-sharing basis. • Pair PDIs with experienced counsels from other groups. • Stakeholder engagement on what is expected from the client
Advanced constitutionalism, human rights and the rule of law	Delays in submissions of reports for tabling and ratifications.	<ul style="list-style-type: none"> • Develop and implement comprehensive stakeholder engagement strategy. • Consultation with Embassies / foreign states, State security Agency (SSA), NPA, SAPS and DIRCO.
	Lack of cooperation to draft reports by some stakeholders (Departments, NGOs, Chapter 9 institutions).	
	Delays in extradition process and mutual legal assistance	

8. Department of Justice and Constitutional Development: Programmes

8.1. Programme 1: Administration

8.1.1. The purpose of this programme is to provide strategic leadership, management and support services to the Department.

8.1.2. The programme contributes to Outcome 1: Modernising and increasing access to justice services; Outcome 2: Improved organisational capability and good governance; and Outcome 3: Improved awareness of justice services and constitutionalism.

Performance planning

8.1.3. The following output indicators are added:

OUTPUTS	INDICATORS	2022/23 TARGETS
Justice services accessible via Digital Channels	Phases of State Attorneys Services available on the DOJ Internet Portal (online) by target date.	Phase 1 - Legal practice management solution to enable the tracking of state attorney cases and files.).
Appointment of people with disabilities	Percentage of total workforce positions occupied by people living with disability	2%
Appointment of youth	Percentage of total workforce positions occupied by youth	22%

8.1.4. The following indicators have been removed:

- Vacancy rate at SMS level. (In the 2021/22 APP the Department had set a target of a 10% vacancy rate over the medium term.)
- Percentage of significant findings resolved (in respect of audit issues).
- Number of people trained in line with Workplace Skills Plan (WSP) through Justice College and HRD unit.
- Percentage of Rand Value of Discretionary Procurement allocated to Exempted Micro Enterprises (EMEs) and Qualifying Small Enterprises(QSE).

- Expungement of Criminal Records services accessible via Digital platforms implemented.
- Number of sites where Cashless Court Solution through Point of Sale Devices is deployed.
- Number of initiatives completed to implement reconfigured macro structure.
- Percentage of disciplinary hearings finalised within 90 days from the date of opening the matter.
- Percentage of grievances resolved within 90 days from the date of opening the matter.
- Number of backlogs on disciplinary hearing cases for misconduct resolved.
- Number of grievances backlog resolved.
- Percentage of Rand Value of Discretionary Procurement allocated to women (10% in 2021/22 and over the medium term).
- Percentage of expungements finalized within 3 (three) months of receipts of complete application (this indicator has been moved to the State Legal Services' programme).
- A National Conference to celebrate the 25th Year of the Coming into Effect of the Constitution held by 31 March 2022.

8.1.5. The target for the Indicator 'Percentage of undisputed and valid invoices paid within 30 days from date of receipt' is reduced from 100% to 98%. (The target over the medium term is set at 98%).

Budget

8.1.6. The Administration programme is allocated R2.98 billion in 2022/23, compared with an adjusted budget of R3.14 billion in 2021/22. Overall, the allocation to Administration decreases by -9% in real terms. The largest real decrease of -23.10% is to the Corporate Services subprogramme. This is the third consecutive year that the allocation to Corporate Services has decreased significantly in real terms.

Administration: Allocation 2021/22 - 2022/23, including nominal and real percent change

Sub-programme	Budget R'million		Nominal Percent change 2022/23	Real Percent change 2022/23
	2021/22	2022/23		
Ministry	38.3	38.3	0.00 %	-4,31 %
Management	56.5	56.9	0.71 %	-3.63 %
Corporate Services	1 197.8	962.6	-19.64 %	-23.10 %
Financial Administration:	217.6	228.4	4.96 %	0.44 %
Internal Audit	102.6	101.5	-1.07 %	-5.33 %
Office Accommodation	1 527.8	1 601.2	4.80 %	0.29 %
TOTAL	3 141.0	2 988.9	-4.8 %	-8.93 %

8.1.7. The spending focus for the programme remains mainly on operating leases (R1.06 billion), personnel (R650.7 million), property payments (R540.1 million), and computer services (R495 million).

8.1.8. *Personnel.* The Administration programme has 1 146 posts, of which 162 are currently vacant with a vacancy rate of 14.1%.

8.2. Programme 2: Court Services

8.2.1. The Court Services programme facilitates the resolution of criminal and civil cases, and family law disputes, by providing accessible, efficient and quality administrative support to the courts and to manage court facilities.

Performance planning

8.2.2. The following new indicators are introduced:

OUTPUTS	OUTPUT INDICATORS	2022/23 TARGETS
NRSO Clearance Certificates issued from backlog cases	Number of NRSO clearance Certificates issued from backlog cases	3000

OUTPUTS	OUTPUT INDICATORS	2022/23 TARGETS
Maintenance investigations finalised	Percentage of maintenance Investigations finalised within 90 days of receipt of instruction by the Maintenance Officer or Referral by the Clerk of the Maintenance Court	30%
Dedicated Specialised Commercial Courts (Serious Economic Crimes Courts)	Number of dedicated Specialised Commercial Crimes Courts capacitated	2

8.2.3. The following indicator has an increased target: *Number of sexual offences courts established at designated courts*. The target for 2022/23 is 80 courts.

8.2.4. The following indicators have been removed:

- *Number of branch courts converted into full services courts.*
- *Percentage of criminal cases postponed due to unavailability of court administration staff.*
- *Case backlog Reduction Framework submitted to the Minister for approval by 31 March 2022.*

8.2.5. The targets relating to following indicators have been reduced:

- *Percentage of NRSO Clearance Certificates issued within 10 working days from date of receipt of the application.* The target for 2022/23 is reduced from 75% to 55%.
- *Number of courts compliant with the strategy on universal access for persons with disabilities.* The target is reduced from 100 courts to 27 courts in 2022/23.

Budget

8.2.6. Court Services is allocated R6.8 billion in 2022/23, compared with an adjusted budget of R6.8 billion in 2021/22 (for the Lower Courts, Family Advocate, Magistrates Commission, Facilities Management and Administration of Lower Courts sub-programmes). Overall, the allocation to this programme decreases in real

terms by -3.71% from 2021/22. The most significant real decrease of -15.24% is experienced by the Facilities Management subprogramme, which is responsible for the provision of office and courts' accommodation and maintenance.

Court Services: Allocation 2021/22 - 2022/23, including nominal and real percent change

Sub-programme	Budget R'million		Nominal Percent change 2022/23	Real Percent change 2022/23
	2021/22	2022/23		
Lower Courts	5 181.9	5 293.1	2.15 %	-2.25 %
Family Advocate	284.9	282.6	-0.49 %	-4.78 %
Magistrates Commission	15.2	17.4	14.47 %	9.54 %
Facilities Management	717.6	635.6	-11.43 %	-15.24 %
Administration of Lower Courts	568.7	581.0	2.16 %	-2.24 %
TOTAL	6 767.4	6 809.6	0.6 %	-3.71 %

8.2.7. Funding for selected indicators is as follows:

OUTPUT	INDICATOR	DEDICATED BUDGET SUPPORT FOR KEY INDICATORS
Increased access to justice services	Number of sexual offences courts established at designated courts	R30 million to designate 115 additional courts as sexual offences courts and improve the management of the National Register for Sex Offenders (NRSO)
	Number of courts compliant with the strategy on universal access for persons with disabilities	R49 million to upgrade all justice buildings to be accessible to people with disabilities.
Crime and corruption reduced through effective prosecution	Number of dedicated Specialised Commercial Crime Courts capacitated	R40 million annually for the establishment and enhancement of Specialised Commercial Crimes Courts, specifically for additional Legal Aid

OUTPUT	INDICATOR	DEDICATED BUDGET SUPPORT FOR KEY INDICATORS
		South Africa practitioners as well as court officials to support the courts.

8.2.8. The spending focus for the programme remains mainly on personnel (R4.4 billion), property payments (R767.6 million), buildings and fixed structures (R570 million) and travel and subsistence (R154.6 million).

8.2.9. *Personnel.* The programme has 13 413 posts, of which 934 posts are currently vacant with a vacancy rate of 7%.

8.3. Programme 3: State Legal Services

8.3.1. The programme provides legal and legislative services to government; supervises the administration of deceased and insolvent estates and estates undergoing liquidation; manages the Guardian's Fund; facilitates constitutional development; and undertakes research.

Performance planning

8.3.2. The following new indicators are introduced in 2022/23:

OUTPUTS	OUTPUT INDICATORS	2022/23 TARGETS
Bills, Regulations, Notices and Proclamations	Number of Bills, Regulations, Notices and Proclamations to strengthen the anti-corruption architecture of South Africa submitted to the Minister for consideration and approval	3
Plan to implement recommendations of the Commission on State Capture	Plan for the implementation of the recommendations of the Commission on State Capture developed and submitted to the	30 June 2022

OUTPUTS	OUTPUT INDICATORS	2022/23 TARGETS
	Minister for consideration and approval by target date	
Engagements with stakeholders	Number of engagements held with stakeholders toward the promotion of Equality Courts departments and role-players	4
Framework for Participatory Democracy	National Framework for Participatory Democracy submitted to DG for approval by target date	Framework to be submitted for approval by 31 March 2023

8.3.3. The following indicators are removed:

- *Policy on the management of the state litigation contingent liability implemented.*
- *Policy Guideline on the conferral of Senior Counsel status implemented.*
- *Policy Framework and accompanying draft Regulations on Conferral of Senior Legal Practitioner (advocates and attorney) submitted to the Minister for approval by 31 March 2022.*
- *Rapid Response Mechanism to respond to incidents of racist and xenophobic offences/hate crimes established by 31 March 2022.*
- *Framework on Extradition and Mutual legal assistance submitted to the Minister for approval by 28 February 2022.*
- *Framework on treaty obligations submitted to the Minister for approval by 31 March 2022.*
- *Framework to Monitor the implementation of Constitutional Court judgements submitted to the Minister for approval by 31 March 2022.*

8.3.4. Targets relating to following indicators have been reduced:

- *Number of Colonial/ Apartheid era justice-related legislation approved by the Minister for submission to Cabinet.* The projected target set in the 2021/22 APP for 2022/23 was 4 but is now reduced to 3.

- *Number of research papers submitted to the South African Law Reform Commission for consideration and approval.* The projected target set in the 2021/22 APP for 2022/23 was 12 but is now reduced to 10.

Budget

8.3.5. The State Legal Services programme is allocated R1.32 billion in 2022/23 compared with an adjusted budget of R1.33 billion in 2021/22 (for the State Law Advisers, Litigation and Legal Services, Legislative Development and Law Reform, Master of the High Court and Constitutional Development subprogrammes). The allocation to the programme decreases in real terms by -4.89% from 2021/22.

State Legal Services: Allocation 2021/22 - 2022/23, including nominal and real percent change

Sub-programme	Budget R'million		Nominal Percent change 2022/23	Real Percent change 2022/23
	2021/22	2022/23		
State Law Advisers	82.2	82.5	0.36 %	-3.96 %
Litigation and Legal Services	512.7	511.1	-0.31 %	-4.60 %
Legislative Development and Law Reform	77.9	R75.7	-2.82 %	-7.01 %
Master of the High Court	567.3	558.9	-1.48 %	-5.72 %
Constitutional Development	90.7	94.5	4.19 %	-0.30 %
TOTAL	1 330.8	1 322.7	-0.6 %	-4.89 %

8.3.6. The spending focus for the programme remains mainly on personnel (R1.15 billion), and Legal Services (R39.3 million).

8.3.7. *Personnel.* The programme has 2279 posts of which 259 posts are currently vacant with a vacancy rate of 11.4%.

9. Programme 4: National Prosecuting Authority

9.1. 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 Team (ACTT).

9.2. The programme has the following sub-programmes:

- National Prosecutions Service: Primarily responsible for general and specialised prosecutions and the appeals that might follow, which include resolving criminal matters outside of the formal trial process through alternative dispute resolution mechanisms, settling admissions of guilt for minor offences and considering dockets brought by the police where persons have not been charged. This sub-programme further deals with priority crimes litigation, sexual offences, and community affairs and specialised commercial crimes.
- Investigating Directorate provides for the Investigating Directorate, established in the Office of the National Director of Public Prosecutions, to deal with offences or criminal or unlawful activities involving serious, high-profile and complex corruption, including allegations of corruption arising from commissions of inquiry.
- Assets Forfeiture Unit: Seizes assets that are the proceeds of crime or have been part of the offence through a criminal or civil process.
- Office of Witness Protection: Provides for protection, support and related services to vulnerable, intimidated witnesses and related persons in judicial proceedings in terms of the Witness Protection Act (1998).
- Support Services provides corporate support services to the NPA in terms of finance, human resources, ICT, strategy support, integrity, security, communication and risk management.

9.3. The NPA has aligned its strategy with the Department's impact statement of 'Improved public perception, confidence in the justice system and respect for the rule of law' and contributes the outcome 'Crime and corruption reduced through effective prosecution. The related outputs, indicators and targets are as follows:

NPA – Outcomes, outputs, output indicators and targets

OUTPUT	OUTPUT INDICATORS	TARGET			
		2021/22 ESTIMATE	2022/23	2023/24	2024/25
Effective prosecutions conducted	Conviction rate in High Court	87%	87%	87%	87%
	Conviction rate in Regional Court	74%	74%	74%	74%
	Conviction rate in District Court	88%	88%	88%	88%
	Conviction rate in cable theft cases	N/A	80%	80%	80%
	Number of witnesses and related persons threatened, harmed or killed while on the witness protection programme	0	0	0	0
Fraud and corruption dealt with	Conviction rate in complex commercial crime	93%	90%	90%	90%
	Number of persons convicted of corruption and/or offences related to corruption	370	334	334	334
	Number of investigations authorised NEW	NA	11	16	21
	Number of state capture matters enrolled	NA	9	18	27

OUTPUT	OUTPUT INDICATORS	TARGET			
		2021/22 ESTIMATE	2022/23	2023/24	2024/25
	NEW				
	Number of cases finalised with verdict involving money laundering	90	100	110	120
Freezing of money and assets that are the proceeds of crime	Value of completed forfeiture cases	R550 million	R550 million	R550 million	R550 million
	Value of freezing orders obtained for corruption or offences relating to corruption	R2.4 bn	R2.4 bn	R2.4 bn	R2.2 bn
Recovery of money and assets that are the proceeds of crime	Value of recoveries relating to corruption or related offences	R1.4 bn	R1.6 bn	R1.8 bn	
Victim-centric services enhanced	Number of operational TCCs in place	58	62	64	66
	Conviction rate in sexual offences	70%	70%	70%	70%
	Number of public awareness sessions conducted	140	150	160	

Budget

- 9.4. The NPA is allocated R4.9 billion for 2022/23, compared with R4.6 billion in 2021/22.
- 9.5. The NPA receives an additional R1.1 billion over the medium term, as follows: R422.7 million in 2022/23; R327.3 million in 2023/24 and R342.05 million in 2024/25. Specifically, an allocation of R393 million over the medium term is made

to the Investigating Directorate sub-programme. The NPS sub-programme accounts for 77.21% of the 2022/23 budget.

NPA: Allocation for 2022 MTEF

SUB-PROGRAMME R'000	BUDGET			
	2021/22 ADJUSTED	2022/23	2023/24	2024/25
National Prosecutions Service	3 507.3	3 706.4	3 666.7	3 871.4
Investigating Directorate	106.4	243.6	236.1	246.7
Asset Forfeiture Unit	195.2	212.4	210.2	219.7
Office of Witness Protection	196.6	219.9	221.5	231.4
Support Services	467.-	528.0	536.5	560.4
Total	4535.6	4 910.3	4 870.9	5 089.6
Change to 2021 estimate	-	89.4	422.7	342.0

9.6. The NPA has registered that it requires a further R750 million per annum and R1 billion per annum for it to respond to the Zondo Commission reports and for longer term ‘structural needs’ to strengthen the NPA’s capacity as part of the criminal justice system’s response to rising crime levels.

9.7. *Personnel.* The NPA has a staff establishment of 6210 posts, of which 4948 are filled. The NPA has embarked on mass recruitment to address shortages of capacity and necessary skills needed to investigate and prosecute complex matters within the NPA environment. This includes to a large extent the capacitation of the Investigating Directorate.

10. Programme 5: Auxiliary and Associated Services

10.1. The programme provides a variety of auxiliary services associated with the Department’s aims and also funds transfer payment to the South Africa Human Rights Commission, the Public Protector SA, Legal Aid South Africa, the Special Investigation Unit and the Information Regulator.

10.2. The spending focus of this programme is the modernisation of the justice system and transfers to public entities and constitutional institutions.

10.3. **Justice Modernisation**

10.3.1. The Justice Modernisation 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.

10.3.2. Justice Modernisation has identified the following outcome: ‘Modernised and digitised justice services platforms’ and outputs: ‘Inter-departmental information exchange platform’; ‘KPIs completed on the Integrated Justice System dashboard’; ‘Criminal Justice System (CJS) Digitised and Integrated’; and ‘Effective IJS Governance Systems’.

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10.3.3. The following indicator is removed: Number of IJS DPME Assessment Report recommendations implemented.

10.3.4. According to the 2022/23 APP, a total of 59 IJS projects will be undertaken in 2022/23, including:

- SAPS - Integrated Person Management (IPM), CAS/ICDMS, Service Integration Bus (SiBUS)
- NPA – ECMS High Court Module Phase 1 (Critical for the IJS APP/ 28 KPI dashboard); Digital docket; ECMS Phase 3.
- Justice Department – Electronic Bail; Court Audio Visual Solution for case participants - Phase 2; Targeted Infrastructure and Network Upgrades (Staggered) (Critical for Datacentre upgrade);
- Legal Aid SA – eLAA rolled out to production.
- Department of Home Affairs - HANIS Technology Refresh (Outer Year). To be rolled out in April 2022

10.3.5. Justice Modernisation is allocated R777.2 million for 2022/23. Compared with R621.1 million in 2021/22, increasing by 19.7% in real terms.

Justice Modernisation: Budget nominal and real changes 2021/22 - 2022/23

SUB-PROGRAMME	ALLOCATION		NOMINAL PERCENT CHANGE IN 2022/23	REAL PERCENT CHANGE IN 2022/23
	2021/22 (Adjusted)	2022/23		
Justice Modernisation:	R621.1 million	R777.2 million	25.13 %	19.74 %

11. Legal Aid South Africa

- 11.1. The main objective of Legal Aid SA is to render or make available legal representation to indigent persons at state expense as contemplated in the Constitution, ensuring the rights of citizens to access to justice.
- 11.2. The Strategic Plan 2020-2025 sets out the policy priorities, programmes and project plans for that period, as well as the related outcomes, outcome indicators and five-year targets. Legal Aid SA's plans are aligned with the MTSF priority 'Social cohesion and safer communities':
- 11.3. Legal Aid SA's strategic outcomes for 2020-2025 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.
- 11.4. The overall strategic shift for the 2020-2025 period that Legal Aid SA is seeking to achieve is 'Ensure equal access to justice for all to build a just society'.
- 11.5. 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.
- 11.6. Land Rights Management Unit:

- On 1 January 2022, Legal Aid SA took over the management of the legal component of the Land Rights Management Facility in the Department of Agriculture, Land Reform and Rural Development (DALRRD). The Land Rights Management Unit (LRMU) has received 33 referrals from the DALRRD to date.
- The Justice Department is engaging National Treasury to secure the required funding to implement the LRMU s internal management and service delivery structure for land-related matters.
- Legal Aid SA intends to follow the salaried Legal Practitioner model per province to provide legal representation to farm occupiers, labour tenants and land claimants post the transitional phase.
- The internal Legal Practitioners will be trained and capacitated to handle land related matters and the current legal quality assurance program will be adopted by the LRMU to ensure the delivery of quality legal services
- To ensure a seamless handover, LRMU will make use of the LRMF Panel of Legal Practitioners attending to pending matters as of 1 January 2022 (transfer date), subject to two conditions: accreditation on the Legal Aid SA Judicare System and compliance with the National Treasury CSD requirements.
- In 2022/2023, Legal Aid SA will manage the LRMU from the National Office until it receives funding to cover the roll out of the proposed national footprint.
- Resourcing of the Provincial footprint will be phased in from June 2022, subject to availability of funds.

Budget

- 11.7. Legal Aid SA is allocated R2.1 billion in 2022/23 compared to R2.05 billion in 2021/22. Salaries and related costs continue to be the largest driver of spending accounting for 79% of the allocation. The operating budget is the second highest driver accounting for 12% of the allocation. Other direct expenditure relates to expenditure that is directly linked to the provision of Legal services. The remaining 2% is for the replacement of capital assets.

Legal Aid SA programme budget for the 2022 MTEF

Subprogramme (R'million)	2021/22	2022/23	2023/24	2024/25
Legal Aid Services	539.5	571.9	587.9	598.1
Administration	1 451.4	1 475.6	1 474.6	1 557.8
Special projects	63.3	66.7	69.7	71.1
TOTAL	2 054.2	2 114.2	2 132.2	2 227.1

11.8. There are additional allocations of R11.2 million in 2022/23, R11.3 million in 2023/24 and R11.8 million in 2024/25 to fund the cost of 15 legal practitioners appointed in 2021/22 to service newly established Specialised Commercial Crimes Courts in Limpopo, Mpumalanga, North West and Northern Cape.

11.9. Legal Aid SA's baseline is reduced by R352 million or 15% over the 2022 MTEF as follows: R75 million (R20 million in 2020/21; R25 million in 2021/22 and R30 million in 2022/23). This has had a negative impact on service delivery as 80% of the budget is spent on employee costs and legal practitioners make up 79% of the total staff component. Vacant permanent positions have not been filled due to lack of certainty on future funding requirements.

11.10. The impact of the baseline reduction on Judicare, staffing, service delivery and coverage is as follows:

	2021/22	2022/23
Judicare	-R8.8 million	-R7.6 million
Staff	-131	-171
Criminal matters	-33 945	-52850
Coverage		
District Court	82.1%	76.5%
Regional Court	90.8%	85.4%
Civil matters		
Advice	236 355 (-11%)	209 985 (-10%)
Civil matters	40 034	36 034 (-8%)

12. **Special Investigating Unit**

- 12.1. 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.
- 12.2. 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 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 MTSF also identifies the investigative reports of the Financial Intelligence Centre as key in the identification of high priority cases. The SIU is part of the Anti-Corruption Task Team (ACTT), which was established to fast-track investigations and prosecutions of serious corruption cases.
- 12.3. The SIU locates its role under the MTSF priorities: 'Social Cohesion and Safe Communities' and 'A capable, ethical and developmental state'. The MTSF envisages an improvement in corruption perception by the end of the five-year period. The SIU is to contribute by reducing levels of fraud and corruption in the private and public sectors; freezing money and assets; establishing and strengthening the capacity of the Special Tribunal for civil recoveries; and increasing the use of Financial Intelligence Reports in identifying high priority cases.
- 12.4. The SIU reports that its strategic focus areas for 2022/23 are:
- Improving investigation turnaround times.
 - Monitoring implementation of the SIU referrals and consequence management.

- Implementing measures to accelerate civil litigation.
- Reviewing and strengthening the SIU funding model.
- Monitoring and evaluating the impact of the SIU objectives.
- Implementing targeted prevention and awareness campaigns.
- Making systematic recommendations to state institutions to prevent a recurrence of corruption, maladministration and malpractice.
- Improving communication and stakeholder relations.
- Implementing corruption, maladministration and malpractice data analytics improving the SIU governance framework improving all the SIU operations enablement functions.
- Introducing a new organisational and individual performance management system.
- Re-introducing an E-PMO (NEW).
- Digital Transformation (NEW).
- Accelerating implementation of Data Analytics capability (NEW).
- Business Development (Provincial Offices) (NEW).
- Strengthening of Employee Value Proposition (EVP) (NEW).

12.5. The SIU has identified the following as key risks:

- Inability to provide adequate protection of investigators and whistle blowers against intimidation and threats emanating from SIU investigations.
- Inability to financially sustain SIU operations in the short to medium term due to shortcomings in the funding model.
- Inadequate human resource capacity to execute and meet the growing demand of the SIU forensic and litigation services.
- Inability to expedite and timeously conclude civil matters and other legal proceedings enrolled at the Special Tribunal.
- Failure to complete investigations as per approved project plans and timeframe.
- Inability to provide adequate monitoring on the implementation of the SIU legal recommendations.

12.6. The SIU continues to have three programmes:

PROGRAMME	RESPONSIBILITY
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Administration	Responsible for the provision of business oversight and enablement services to the core business units of the SIU.
Investigations and Legal Counsel Programme	Responsible for ensuring the adequate execution of the mandated service delivery of the SIU.
Market Data Analytics and Prevention	Responsible for the implementation of relevant and proactive initiatives to prevent the reoccurrence of fraud and corruption cases as a result of systemic weaknesses in the public sector and to positively influence the behaviour of South African citizens

12.7. There are no new indicators for the Administration sub-programme, namely ‘Maintaining an unqualified audit’; ‘Implementation of Data Analytics milestones (phase 2)’; and ‘Stakeholder engagements’ (although the target for this last indicator has increased to 5 in 2022/23 and over the medium term.)

12.8. There are no new indicators for the Investigations and Legal Counsel sub-programme. However, certain targets have been amended when compared to the projected targets contained in the 2021/22 APP:

- *Number of referrals for disciplinary action against officials.* In the 2022/23 APP this target is reduced to 180 from 200 in 2021/22.
- *Number of referrals made for administrative action.* In the 2022/23 APP, the target for 2022/23 is reduced from 150 to 120.
- *Number of referrals made to the NPA.* In the 2022/23 APP, the target for 2022/23 is reduced from 275 to 250.
- *Rand value of matters in respect of which evidence was referred for the institution or defence/opposition of civil proceedings.* In the 2022/23 APP, the target for 2022/23 is increased from the projected target of R1.8 billion to R2 billion.
- *Number of cases in the Special Tribunal.* In the 2022/23 APP, the target for 2022/23 is increased from the projected target of 30 to 35.

- *Rand value of contract and or administrative decisions and or actions set aside or deemed invalid.* In the 2021/22 APP the projected target for 2022/23 was R1.5 billion. In the 2022/23 APP this target has been increased to R1.6 billion.

12.9. There are no changes to the indicators and related targets for the Market Data Analytics and Prevention, which remain: 100% Allegations received from Whistleblower hotline recorded for tracking; and 100% of registered allegations assessed by Assessment Committee.

Budget

- 12.10. The SIU has a mixed funding model that derives income from a National Treasury grant and from work done for state departments. The SIU's projected total revenue for 2022/23 is R850.1, compared with R800.9 million in 2021/22, decreasing by-1.57% in real terms.
- 12.11. The grant allocation is R452.1 million or 55.3% of the total projected revenue for 2022/23, while the SIU has projected that it will receive R369.6 million in payments from state institutions for services rendered.

SIU revenue 2022 MTEF

Revenue	2021/22	2022/23	2023/24	2024/25
R'million				
Sale of goods and services other than capital assets	336.3	369.9	406.9	447.6
Other non-tax revenue	26.7	28.1	29.5	30.9
Transfers received	437.9	452.1	454.8	475.1
Total revenue	800.9	850.1	891.2	953.8

- 12.12. The SIU's expenditure is expected to increase at an average annual rate of 17.9%, from R751.6 million in 2021/22 to R1.2 billion in 2024/25, driven by an increase in spending on compensation of employees from R531.2 million in 2021/22 to R927.9 million in 2024/25. This increase reflects the planned increase in the number of personnel from 612 in 2021/22 to 816 in 2024/25, in line with the objective of increasing the number of investigations finalised.

- 12.13. In 2020/21, the SIU's budget was cut by R31 million. In 2021/22, a further R134.2 million was cut over MTEF. However, there are no additional cuts imposed in the 2022 Budget.
- 12.14. *Personnel.* The staff complement as at March 2022 was 588, of which there are 6 or 1.8% people living with disabilities. The vacancy rate as at the end of the March 2022 is 12% (as compared to 15% of the previous year) against the 13% planned target.

13. **Public Protector SA**

- 13.1. The Public Protector SA 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.

Performance planning

- 13.2. The PPSA continues to plan its performance in line with its Vision 2023, which is underpinned by the following pillars:
- Enhancing access to (PPSA) services.
 - Engaging targeted communities in their mother tongue.
 - Expanding the (PPSA's) footprint.
 - Leveraging stakeholder relations and formalising those relationships in Memoranda of Understanding.
 - Projecting the image (of the PPSA) as being a safe haven for the downtrodden.
 - Empowering people to understand their rights.
 - Encouraging organs of state to establish effective internal complaints resolution units.
 - Turning communities into their own liberators.

13.3. The PPSA has the following impact statement: ‘Empower everyone at all levels of society to effectively engage organs of state about any injustice, service delivery failure or improper conduct and assist organs of state to establish and maintain efficient and effective governance and administration’.

13.4. The PPSA has identified the following as its intended outcomes:

- Accessible PPSA services.
- Successful resolution of complaints.
- Clean audit achieved and maintained.
- Implementation of ICT systems to optimally support business objectives.

13.5. The PPSA continues to have three programmes: Administration, Investigations and Stakeholder Engagement.

13.5.1. Administration: The programme has two indicators: ‘A clean audit achieved annually’; and ‘Implementation of ICT infrastructure’. The target for ‘*Implementation of ICT infrastructure*’ has changed for 2022/23 from 100% implementation of a Mobile Referral Application by 31 March 2022 to 100% implementation of a Case Management Application.

13.5.2. Investigations: The programme has five indicators: ‘Number of Investigation reports finalised’; ‘Percentage of adherence to turnaround times in finalisation of cases’; ‘Investigation and finalisation of systemic investigations/interventions’; Number of quarterly reports on the implementation of remedial action submitted to Parliament’ (NEW) and ‘Number of dialogues with organs of state on systemic challenges’. Notably the indicator, ‘Percentage of 2 years and older cases finalised’ has been removed. Amendments to the related targets are as indicated:

OUTPUT INDICATOR	2022/23 APP TARGETS
Number of Investigation reports finalised	The target is increased from 50 to 80 investigation reports finalised in 2022/23; 90 reports in 2023/24 and 100 in 2024/25.

OUTPUT INDICATOR	2022/23 APP TARGETS
Systemic investigations finalised	The target has been increased from 2 to three systemic investigations finalised in the 2022/23.

13.5.3. Stakeholder Engagement. The performance indicator remains the same: ‘Number of activities executed in the implementation of an Integrated Access and Stakeholder Management Strategy’ but the target of 245 activities has been reduced to 117 for 2022/23 and over the medium term.

Budget

13.6. The PPSA is allocated a budget of R360.9 million for 2022/23 compared to the revised R340.9 million in 2021/22 financial year.

Public Protector SA Budget 2022 MTEF

PROGRAMME (R'million)	2021/22 REVISED	2022/23	2023/24	2024/25
Administration	160.2	146.2	144.3	153.3
Investigations	188.3	200.0	201.1	208.5
Stakeholder engagement	14.3	14.7	15.0	15.5
Total	362.7 *	360.9	360.4	377.3

*Note: The original approved budget of PPSA amounts to R331,8 million. Additional budget of R30,8 million confirmed in November 2021 was factored in the last 2 months of the financial year. The revised budget for the year was R362,7 million.

13.7. Spending on personnel costs in the 2022/23 financial year will amount to R269.8 million, which represents 75% of the entire allocation. Spending on Goods and services amounts to R86.6million (24%) and capital expenditure amounts to R4,3 million (1%).

13.8. The 2021 MTEF reduced the PPSA baseline over the medium term by R85.1million. However, the 2022 MTEF provides for additional funding over the medium term of

R51.8 million for the PPSA as follows: R20 million in 2021/22; R15.2 million in 2022/23 and R16.6 million in 2023/24

13.9. PPSA currently has the following funding needs that hinders the effective functioning of its operations:

Description R'million	2022/23	2023/24	2024/25
Funding of critical positions	15.2	15.2	15.8
Radio Studio Office	0.2	0.02	0.02
Subject Matter Experts	2.0	1.0	1.0
Total	17.4	16.2	16.9

13.10. *Personnel*. The number of posts for 2022/23 of 378 increases by 10 from the 368 posts in 2021/22.

14. **South African Human Rights Commission (SAHRC)**

14.1. The SAHRC's constitutional mandate is extremely wide, 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.

14.2. The Commission has other mandates, including:

- The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA).
- The Promotion of Access to Information Act, 2000 (PAIA).
- Preventing torture through the National Preventive Mechanism (NPM), established in terms of the Optional Protocol to the Convention against Torture

and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Commission is designated as coordinator and functionary of a multi-body National Preventive Mechanism (NPM).

- Monitoring and Reporting on the Convention on the Rights of People with Disabilities (CRPD). The CRPD was ratified by South Africa in 2007. In September 2018, the United Nations recommended that South Africa should expedite the designation of an Independent Monitoring Mechanism (IMM). The Commission has been designated as the IMM under the CRPD. This places obligations on the Commission to fully establish and ensure the functionality of the IMM, and monitor and report on compliance with the requirements of the CRPD to the United Nations Committee on the Rights of Persons with Disabilities.
- Convention on the Rights of the Child (CRC) and International Covenant on Economic, Social and Cultural Rights (ICESCR).

14.3. The MTSF focuses strongly on mainstreaming crosscutting focus areas, specifically the empowerment and access to resources and opportunities women, the youth and people with disabilities.

14.4. The MTSF also highlights the need for social cohesion and a key outcome under the priority ‘Social Cohesion and Safe Communities’ is the implementation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.

14.5. In addition, the MTSF identifies the Commission as contributing to:

- The promotion of the Constitution and its values in schools, awareness campaigns, public engagements and dialogues.
- The development of a system to ensure consistent barrier free access for persons with disabilities to justice across the justice value chain.
- Strengthening and expanding protection measures for children and for adults with disabilities in institutionalised settings, such as special school boarding facilities, mental health care facilities and residential facilities.

- 14.6. The SAHRC's Strategic Plan 2020-25 provides for mandate-linked strategies:
- Promotion - Enhancing human rights advocacy, visibility and awareness programmes by conducting high impact engagements to influence policy, legislation and its application; establishing strategic partnerships for capacity and collaboration; empowering communities and the public to proactively engage with human rights issues; and utilising media platforms to raise awareness and increase visibility.
 - Protection – Increasingly using redress mechanisms to minimise human rights violations by instituting strategic impact litigation and proactively conducting investigative inquiries and hearings.
 - Monitoring – Comprehensive human rights monitoring and impact evaluation by strengthening and applying a comprehensive monitoring system to assess the state of human rights.
- 14.7. The Commission has four programmes: Administration; Monitoring the observance of human rights; Promotion of human rights; and Protection of human rights.
- 14.8. The *Administration* programme has five sub-programmes: Finance; Corporate services; Internal audit; Strategic support; and Office of the Chief Executive Officer.
- 14.8.1. Under the Administration programme, the Commission has replaced the indicator: 'Audit Findings resolved' with 'Audit Opinion', setting the target at a clean audit for 2022/23 (and over the medium term). The programme also introduces a new indicator, 'Supply Chain Management Turnaround Plan' with a target of 100% implementation in 2022/23 and over the medium term.
- 14.9. The Promotion of human rights programme is responsible for the promotional aspects of the Commission's work and seeks to:
- Conduct high impact engagements to influence policy, legislation and its application.
 - Establish strategic partnerships for capacity and collaboration.
 - Empower communities and the public to proactively engage with human rights issues.

- Utilise media platforms to raise awareness and increase visibility.

14.9.1. The programme has three sub-programmes: Commissioners programme; Advocacy and Communications; and Provincial Offices.

14.9.2. Under this programme, the Commission has removed the following indicators:

- Percentage implementation of Programme of Action (POA) for promotional strategic interventions to influence policy, legislation, service delivery, and create awareness.
- Percentage implementation of Action Plan based on 2020-21 Racial Polarisation Conference Resolutions.
- Percentage implementation of Action Plan based on 2012 Amman Declaration and Programme of Action for promoting Gender Equality.
- Percentage implementation of Equality Programme Toolkit Action Plan.
- Action Plan to promote functionality of Equality Courts implemented.
- Action Plan on Impact of Covid-19 on children and youth Conference Resolutions implemented.
- Action Plan based on 2020–21 Anti-Corruption Conference Resolutions implemented.
- Increased visibility of the Commission through the media: Readership, Viewership, Listenership.
- Pro-Human Rights policies, legislation, service delivery and awareness.

14.10. The Protection of Human Rights Programme is responsible for carrying out the protective component of the Commission’s constitutional mandate and contains the Legal Services Unit and Office of the Chief Operations Officer sub-programmes.

14.10.1. Through its Protection programme the Commission seeks to:

- Institute strategic impact litigation.
- Proactively conduct investigative inquiries and hearings.
- Utilise alternative dispute resolution and mediation.

14.10.2. Under this programme, the Commission has amended various indicators and targets, as follows:

- The target for ‘Number of complaints and enquiries finalised’ is reduced from 5000 in to 3000 (Actual matters finalised in 2021/22 is 7129).
- The target for ‘Number of strategic impact litigation (SIL) matters instituted’ is reduced from 15 to 3 matters in 2022/23 and over the medium term.
- The target for ‘Number of initiatives undertaken to address systemic human rights violations’ is increased from 26 to 39. (Although the 2020/21 target was 63).
- The target for the indicator ‘Review of the SAHRC Complaints Handling Procedures’ is removed.
- The indicator Strategic stakeholder engagements conducted for the protection of human rights’ is moved to Programme 2.
- A new indicator ‘Number of Memoranda of Understanding (MoU) signed with Universities’ is introduced.

Budget

- 14.11. The Commission is allocated R209.5 million for 2022/23, increasing in real terms by 1.25% from 2021/22. However, the Commission reports on a surplus of R11 million, rolled over from 2021/22, which brings the available budget for 2022/23 to R220.5 million.

SAHRC – Budget 2022 MTEF

PROGRAMME (R'million)	2021/22 REVISED	2022/23	2023/24	2024/25
Administration	72.2	79.7	77.7	82.6
Monitoring observance of human rights	9.5	9.7	9.8	10.1
Promotion of human rights	106.5	106.8	108.3	112.7
Protection of human rights	9.8	13.3	13.6	14.1
Total	198.0	209.5	209.3	219.5

- 14.12. Compensation of employees remains the largest cost driver, accounting for 66% of the budget.
- 14.13. In previous budgets, the Commission has been affected by baseline reductions. However, this year, additional funding is allocated to the Commission, as follows:
- A one-off allocation of R5 million in 2022/23 for ICT infrastructure. (R36 million is reprioritised in 2022/23 to invest in information and communication technology in the Office of the Chief Justice, Investigating Directorate, Public Protector of South Africa, South African Human Rights Commission and Financial Intelligence Centre.)
 - Additional allocations amounting to R17 million over the MTEF (R8 million in 2022/23, R4 million in 2023/23 and R5 million in 2024/25) to fulfil the Commission's commitments to the United Nations Optional Protocol to the Convention Against Torture.

15. **Information Regulator**

- 15.1. 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.
- 15.2. The Information Regulator is established in terms of section 39 of POPIA and has wide range of powers and functions relating to promoting and enforcing the right to privacy. 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.

Performance planning

15.3. The Regulator has charted a new strategic vision for the next five-year period (2022/23-2026/27). This includes a new impact statement: ‘All persons are empowered to assert their right to privacy, as it relates to the protection of personal information and their right of access to information’. Impact will be measured through complaints management, compliance monitoring and education and rights awareness.

15.4. Key risks and mitigation actions identified by the Regulator in its strategic planning documents include:

RISKS	MITIGATION
Inadequate enforcement powers	Full establishment of an enforcement committee and approval of rules of procedure relating to the manner in which a complaint may be referred to the enforcement committee.
Backlog of complaints	Funding from Treasury to fill prioritised positions.
Ineffective education and awareness	Conclusion of partnership agreements with other public agencies and training service providers on the delivery of education awareness programmes.

15.5. The Regulator has five programmes, namely ‘Protection of Personal Information’; ‘Promotion of Access to Information’; ‘Education and Communication’; Legal, Policy, Research and Information Technology Analysis’ and ‘Administration’.

15.6. The *Protection of Personal Information* programme seeks to ensure the promotion and protection of personal information processed by public and private bodies. It has two subprogrammes: ‘Compliance and Monitoring’ and ‘Complaints and Investigations’.

15.6.1. Under this programme, the following indicators are removed:

- Percentage of complaints pre-investigated.
- Percentage of prioritised actions in the readiness plan implemented.
- Approved Guidance Note on Exclusions and Exemption from POPIA.

15.6.2. The following new indicators with associated targets are introduced:

OUTPUT INDICATORS	2022/23 TARGETS
Percentage of complex complaints received , investigated and finalised	50%
Simple complaints received investigated and resolved	100%
POPIA compliance monitoring and enforcement framework approved	Approve monitoring and enforcement framework
Number of targeted responsible parties monitored on compliance with POPIA	4
Approved and implemented rules of procedure relating to the manner in which any POPI matters or complaints must be referred and handled by the Enforcement Committee	Approved and implemented rules of procedure relating to the manner in which any POPI matters or complaints must be referred and handled by the Enforcement Committee

15.7. The *Promotion of Access to Information* programme seeks to ensure the effective promotion, protection, monitoring and implementation of the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. It has two subprogrammes: ‘Compliance and Monitoring’ and ‘Complaints and Investigations’.

15.7.1. Under this programme, the following indicators are removed:

- Percentage of complaints Pre-investigated and finalised.
- Approved updated PAIA Manual and uploaded on the website.
- Approved procedures for making information electronically available and uploaded on the website.

15.7.2. The 2022/23 APP introduces the following new indicators:

OUTPUT INDICATORS	2022/23 TARGETS
Percentage of complex complaints received , investigated and finalised	50%

Simple complaints received investigated and resolved	100%
PAIA Compliance and Monitoring and Enforcement Framework Approved	Approved Framework
Approved and implemented rules of procedure relating to the manner in which any PAIA matters or complaints must be referred and handled by the Enforcement Committee	Approved rules of procedure relating to the manner in which any PAIA matters or complaints must be referred and handled by the Enforcement Committee
Number of targeted public and private parties monitored on compliance	96 targeted public and private bodies monitored on compliance

15.8. The *Education and Communication* programme provides strategic direction for the provision of Education and Communication and has two sub-programmes ‘Education and Public Awareness’ and ‘Communication and Media Relations’.

15.8.1. Under this programme, the following indicators are removed:

- Approved public awareness and education strategy.
- Approved Communication and Branding Strategy and Plan.
- Number of communication programmes and products developed and implemented.
- Approved stakeholder engagement strategy and plan.

15.8.2. The following are new indicators:

OUTPUT INDICATORS	TARGETS
A public opinion survey on the percentage of nationally representative sample of the population who are aware of their rights to privacy conducted.	5%
A public opinion survey on the percentage of nationally representative sample of the population who are aware of their right of access to information.	5%
Number of education programmes conducted to promote the protection of personal information.	7

Number of education programmes conducted to promote PAIA.	7
Number of public awareness programmes on Information Rights conducted at community level.	34
Number of stakeholder engagement sessions conducted according to cluster.	48 cluster sessions
Number of research reports (on personal information and access to information) finalised.	1
Number of international cooperation programmes conducted.	8

15.9. The *Legal, Policy, Research and Information Technology Analysis* programme provides for the rendering of legal services.

15.9.1. Under this programme, the following indicators are removed:

- Percentage of prioritised actions in the readiness plan implemented.
- Approved POPIA compliance framework for the Regulator.
- Approved Rules of procedures for the enforcement Committee.
- Approved Legal Strategy.
- Number of research projects in line with the approved research strategy implemented.
- Approved POPIA personal information impact assessment.
-

15.9.2. The following new indicators are introduced:

OUTPUT INDICATORS	TARGETS
Percentage of legal opinions rendered and finalised	100%
Percentage of contracts vetted and drafted	100%
Percentage of litigation matters successfully managed	100%
Number of proposed legislation examined and reports submitted	6

15.10. The *Administration* programme provides effective and efficient leadership, corporate and financial support services to the Information Regulator. The programme consists of the Office of the Chief Executive Officer; Corporate Services and Finance sub-programmes.

15.10.1. In 2022/23, the following indicators are removed:

- Approved separation strategy.
- Approved Human Resource Strategy and plan.
- Percentage of vacancy rate on funded posts maintained.
- Approved ICT Strategy and plan.
- Approved Human Resource strategy and plan.

15.10.2. In 2022/23, the following new indicators are introduced:

OUTPUT INDICATORS	2021/22 TARGETS
Percentage implementation of the HR Plan achieved	80%
Percentage implementation of ICT Plan	80%
Number of activities in Records Management Plan Implemented	16
Facilities Management Plan Approved	Approved facilities management plan
Number of research reports on technological changes affecting protection of personal information	1 report

Budget

15.11. Previously the Information Regulator's funding was ring-fenced under the Department's State Legal Services programme. However, as from 2022/23, the Regulator is now listed under the Associated and Auxiliary Services Programme along with other public and constitutional entities such as the SAHRC, PPSA, SIU and Legal Aid SA.

15.12. An amount of R100.6 million is allocated to the Information Regulator for 2022/23, compared to R87.2 million in 2021/22, which is a real increase of 10.4%.

Programme R'million	Budget				Nominal Percent change 2022/23	Real Percent change 2022/23
	2021/22	2022/23	2023/24	2024/25		
Information Regulator	87.2	100.6	106.5	111.3	15.4%	10.4%

16. **Committee's observations**

- 16.1. The Committee acknowledges that the constraints of the parliamentary programme limited the time available for these engagements but there will be opportunities later on to delve into certain issues. We have also asked for further information on several issues. These reporting requests form part of the Committee's work method as they supplement our knowledge and assist us to track progress. We were, therefore, highly dissatisfied that the Department did not table a report addressing the matters that we raised in our Budgetary Review and Recommendation Report (3 December 2021). The Department was given ample time to respond and the failure to do so has not assisted us to engage in effective oversight.

Department of Justice and Constitutional Development

16.2. *Performance planning.*

- 16.2.1. The Committee acknowledges how difficult it must be to plan in a context where there are so many priorities but the resources available are extremely tight. However, we have difficulties with certain aspects of the annual performance plan, in particular, the removal of certain indicators and the reduction of targets. We note the letter from the Minister, dated 12 May 2022, informing the Committee that the Department has listened to our views about the exclusion of certain indicators and the reduction of targets. The Department will revise its annual performance plan accordingly. Despite this welcome development, we believe that it is necessary for us to record our views on the plan that was presented to us, and have done so below.
- 16.2.2. We do not support the reduced target for the payment of undisputed and valid invoices with 30 days from 100% to 98%. This contravenes section 38(1)(f) of the Public Finance Management Act (PFMA), 1999, which requires the accounting officer for a department to settle all contractual obligations and pay all money owing, including intergovernmental claims, within the prescribed or agreed period. Further, Treasury Regulation 8.2.3 states that 'Unless determined otherwise in a contract or other agreement, all payments due to creditors must be settled within 30 days from

receipt of an invoice or, in the case of civil claims, the date of settlement or court judgement'. The late and/or non-payment of supplier's invoices has serious consequences, impacting negatively on the socio-economic challenges that our country faces; the financial health of suppliers; and the ability of suppliers to pay salaries and meet their contractual obligations. Late payment may often result in suppliers being liquidated, specifically the Small Micro and Medium-Sized Enterprises (SMMEs). Although we understand that the Department is experiencing problems meeting the target, largely as a result of the instability of its system, the solution is not to mask the problem by reducing the target but to fix the system and, in the meantime, file the necessary exception reports.

16.2.3. Further, given the Department's poor performance and audit outcomes in recent years, we question why indicators that measure improved capability and governance have been removed, in particular, the indicators 'Vacancy rate at SMS level' and 'Percentage of significant findings resolved' (in respect of audit issues). These indicators speak directly to issues that both the Auditor General and ourselves have identified as significantly affecting the Department's performance. Also, as skills development and training are critical to developing internal capacity, we don't understand why the Department has removed the indicator 'Number of people trained in line with the Workplace Skills Plan (WSP)'.

16.2.4. On a positive note, we are pleased to note that the annual performance plan contains indicators prioritising the inclusion of women, youth and people living with disabilities in the workplace. We will continue to monitor progress made in meeting these targets.

16.3. *Policy and legislation.*

16.3.1. *Policy on judicial governance and court administration.* We welcome the Minister's announcement that he intends to introduce a policy on judicial governance and court administration to Cabinet in this financial year, as well as introduce to Parliament legislation that will overhaul the Lower Courts towards the establishment of a single judiciary.

16.3.2. *Expungement of criminal records relating to COVID-19 related transgressions.* The Committee has previously expressed its concern about the number of arrests related to alleged transgressions of the COVID-19 Regulations. Many citizens were unaware that paying an admission of guilt fine resulted in their having a criminal record. We do not believe that it is desirable to make criminals of citizens for relatively minor misdeeds. We are, therefore, pleased to note that the Department intends introducing a Judicial Matters Amendment Bill in this financial year to address the problem.

16.4. *Turnaround strategy.*

16.4.1. We note the Department's view that its performance in 2021/22 has shown significant signs of recovery and upward trajectory and will engage with the Department's annual report and audit report later this year. Nonetheless, we have observed the considerable difference between what is presented at strategic meetings and what happens on the ground, which we find deeply concerning.

16.4.2. The Department had previously identified vacancies at senior management in the Finance and Supply Chain Management sections as a significant contributor to its audit issues but we are pleased to note that these are now reportedly filled. The Committee is especially pleased that a new Chief Financial Officer, Ms Rofhiwa Irene Singo, was appointed from 1 April 2022 and wish her well in the position.

16.4.3. We note that the Department intends in 2022/23 to implement the turnaround strategy that it has developed. In this regard, we ask that we be provided with the following information, in writing, before 30 June 2022:

- Details of the remaining vacancies, particularly at SMS level, but also in critical positions; how long the positions have been vacant for; the related recruitment plan, with timeframes, as well as an explanation for any delay, if applicable.
- Details of the findings of the skills audit that was to have been finalised by the end of 2021/22. How will the Department use these findings to improve its performance going forward?
- Details of the progress made to reposition and redefine Justice College, including related timeframes, challenges and mitigation strategies. The report

should also include information on the use of external service providers to provide training.

- Details of the service delivery plan, including: how the plan differs from previous plans; the related implementation plan; a list of the service points at which the plan is to be rolled in 2022/23 and going forward; and plans to ensure that service delivery will be monitored and enforced.

16.4.4. *Consequence management.* The Committee has repeatedly highlighted the importance of consequence management and, therefore, asks that it be given a consolidated report of all outstanding disciplinary matters so that it may track progress, before 30 June 2022.

16.4.5. *Audit action plan:* The Committee notes that the Department reports that it has developed an audit action plan to address challenges that have resulted in the audit qualification and also to develop sustainable systems and processes. A Contingent Liability Plan has been finalised and the Department has committed to no longer being qualified on the basis of contingent liabilities. However, we ask, once again, to be provided with the details of the commitments made, the interventions planned, and the progress made, before 30 June 2022.

16.5. *Rebuilding the ICT infrastructure and building internal capacity.* We note that following the ransomware attack, the Department is busy with rebuilding its ICT infrastructure from scratch. In November 2021, following the adjustments process, an amount of R422 million was moved from the Justice Modernisation programme to the Administration programme. We ask that the Department provide us with a report, in writing, on how these funds have been used to address the ICT infrastructure risk. We also ask that we be provided with details of plans, if any, to improve internal capacity to reduce reliance on consultants.

16.6. *Greater attention needed on maintenance of infrastructure*

16.6.1. The Committee's recent visits to courts and buildings in several provinces revealed the deplorable, even shocking, state of the Department's infrastructure. Not only are some court buildings so neglected that they have become structurally unsafe, a

number of courts cannot access running water and electricity when there are outages. In these circumstances, courts cannot stay open, contributing to increased backlog matters. (As an aside, it seems contradictory to prioritise technology driven modernisation intended to increase access to justice but at the same time carry out the work of dispensing justice in buildings that are crumbling.) We intend to convene a meeting with the Minister and Director-General, as well as representatives of the DPWI, to discuss our observations once we have finalised our oversight report.

- 16.6.2. We note that R463.9 million is allocated in 2022/23, and each year after over the medium term, for the construction and/or refurbishment of 38 courts. We are doubtful that this is anywhere enough given the extent of the need but, in past years, the Department has been unable to spend its infrastructure budget as a result of poor or non-performance by the Department of Public Works and Infrastructure (DPWI). Over time, this has led to a far smaller allocation for this item. The challenges surrounding the capabilities of the DPWI remain and are a threat to future allocations. We, therefore, welcome the Department's intention to explore the possible use of entities to implement infrastructure projects but suggest that, in doing so, the Department makes use of its previous experience to avoid potential pitfalls.
- 16.6.3. We are also told that there is a process underway to increase the delegation for day-to-day maintenance to R1 million so that the Department can undertake more of its own maintenance work. We note, however, that agreement must still be reached on the transfer of the necessary budget from DPWI.
- 16.6.4. We intend to convene a joint meeting so that we can be fully briefed by the Department and the DPWI on the Department's infrastructure and maintenance programme as soon as the programme permits. For now, we ask the Department to provide a comprehensive progress report, before 30 June 2022 and be prepared to report quarterly.
- 16.7. *Increased backlog cases.* The Committee notes that the Department describes the increase of backlog cases as insurmountable. We are extremely concerned and repeat our belief that a well-functioning and stable justice system is essential to a thriving democracy. Increased case backlogs are a clear indicator that all is not well. We have

noted previously that the budget cuts implemented have greatly affected the Department's salaries' budget. This remains the case for 2022/23. As such, there is little scope in the budget to pay the salaries that will permit additional courts to run.

- 16.8. *Combatting Gender-based Violence (GBV) and Femicide.* The Committee asks the Department to provide it with the number of GBV backlog cases currently on the roll and the progress of the project to reduce the backlog, in the form of a written report, before 30 June 2022.
- 16.9. *Barrier-free Access to Justice for persons with disabilities.* Our recent oversight visits highlighted how difficult it is for people with disabilities to access court buildings and service centres. For example, the lifts at the Polokwane High Court, which houses the Master's Office on the fifth floor, have not worked since September 2021 making access to Master's services very difficult for people with disabilities or the elderly. The Committee asks that it be provided with an explanation as to why the target for courts compliant with the strategy on universal access for persons with disabilities has been reduced from 100 to 27 courts in 2022/23. We also ask for details of the courts that have already been made compliant, as well as courts that will be made compliant in this financial year.
- 16.10. *Master's offices.* We note the Department's intention to implement a robust strategy in 2022/23 to transform the services rendered by the Master's Offices across the country. The strategy aims to address the concerns raised by those who make use of the Master's Office. Unfortunately, no further information is provided in the annual performance plan and we, therefore, ask for a report setting out the details of the strategy and the associated deliverables, with timeframes, in writing, before 30 June 2022.
- 16.11. *State Attorneys.* The appointment of an Acting Solicitor-General was made in 2020 for a period of two years as a temporary solution while the post underwent an evaluation process. More than two years has passed but the post is still in the process of being finalised. We, therefore, urge the Department to prioritise finalising the position so that a recruitment process can get underway.

16.12. *Legal Services Ombud*. The Committee requests a written report on the funding and capacitation of the office of the Legal Ombud before 30 June 2022.

16.13. *Justice Modernisation*.

16.13.1. *ICT Modernisation and Digitisation projects*. The Committee notes the continued focus on modernisation by way of online solutions that will automate various justice-related processes. The Department plans to implement the following online solutions in 2022/23: Maintenance; Trusts; Deceased Estates; Protection Order; Expungement of Criminal Records; and National Register of Sex Offenders (NSRO) (currently in the design phase). While online solutions are intended to improve efficiency and to increase access to justice services, we are concerned about their reliability, as connectivity is often a challenge and systems go down. The Committee intends to engage with the Department on the various aspects of its modernisation programme and will arrange a meeting as soon as the programme permits. In the meantime, we ask for a comprehensive report, in writing, before 30 June 2022, on the progress of rolling out the planned online solutions, the related timeframes, and challenges experienced, as well as mitigation strategies.

16.13.2. *Integrated Justice System programme*. The Committee notes the intention to roll-out 59 IJS-related projects in 2022/23. A list of the key projects for 2022/23 is captured earlier in the report. We will meet with all role-players, to engage on this item as soon as the programme permits. In the meantime, we ask for details of the IJS governance structures, their responsibilities and how often they are required to meet. Also, we ask once again for a copy of the assessment report conducted by the Department of Planning, Monitoring and Evaluation in 2018, as well as details of any outstanding recommendations, before 30 June 2022.

National Prosecuting Authority

16.14. The NPA has been widely criticised for its lack of progress in prosecuting high profile corruption matters and there is a perception that the NPA has not prioritised these matters. The NPA strongly refutes this, pointing to capacity and skills challenges within the NPA that have first needed to be addressed. We, therefore,

welcome the NPA's intention to focus on pursuing identified high profile corruption matters this year. The Committee notes that the Investigating Directorate (ID) has declared 82 investigations and enrolled 20 cases with 65 accused. Further, it has prioritised nine corruption matters for enrolment within the next six months. The NDPP describes these cases as being 'seminal'.

- 16.15. *Funding.* The Committee is also pleased that the NPA is allocated an additional R1.1 billion over the medium term. We note, that of the additional funds allocated, R393 million is allocated to the Investigating Directorate so that it can address capacity constraints by employing 90 extra permanent staff members with specialist skills and experience, and train and develop existing employees. The additional funds will also allow the NPA to increase its capacity by recruiting 17 senior state advocates for the AFU and 12 protectors for the Office of Witness Protection, as well as employ 700 aspirant prosecutors in the National Prosecutions Service.
- 16.16. We note that the NPA has indicated that it requires a further R2.1 billion over the medium term so it can recover from years of decay and perform its role fully.
- 16.17. *Vacancies.* We are told that the vacancy rate is at 16%, which exceeds the recommended norm for vacancies in the public service. However, this is largely as a result of a huge recruitment drive intended to address shortages of capacity and necessary skills needed to investigate and prosecute complex matters within the NPA environment. The organisation has also been devastated by Covid-19, having lost 68 prosecutors. We note also that the attrition rate is low, at less than 2%, which indicates that staff morale has improved considerably in recent years. The real challenge at present is the shortage of specialist capacity within the organisation. We request a report, in writing, from the NPA providing a more detailed breakdown of the recruitment drive, including timeframes, before 30 June 2022, as well as its plans to train and develop internal capacity.
- 16.18. *Skills assessment.* The Committee requests further information concerning the outcome of the skills assessment undertaken, in writing, before 30 June 2022.

- 16.19. *Donor-funding.* The Committee notes that the NPA is developing a protocol for the donations it may receive for skills and financial assistance. The NPA has clear guidelines from National Treasury on how to deal with donations and a donor oversight committee will also play a role. In this regard, the NPA's request to establish a multi-disciplinary task team to develop draft terms of reference for a Donor Review Committee was approved earlier this year and a task team is in the process of compiling a detailed report to the NDPP and Director-General.
- 16.20. *OSD.* We are pleased to learn that the NPA has presented an option to Directors of Public Prosecutions and Chief Prosecutors to settle the legal action on account of their being excluded from the improved salary dispensation for legal professionals working in the justice sector that was gazetted in 2010. Although legal professionals, this level of staff did not receive the benefit of the OSD because they were seen as part of senior management. It has created a situation in which junior and senior prosecutors earned the same as, or more than, their seniors. This has not only affected morale but has discourage Directors of Public Prosecutions from applying for more senior positions. The option has been submitted to the Minister.
- 16.21. *Referrals.* We note that a Memorandum of Understanding between the SIU and NPA is in place and bi-weekly meetings occur. Also, a coordination and monitoring mechanism for referrals, which will be led by the Department of Monitoring and Evaluation, is being developed. We understand that there is a need for legislative amendments and the Department is engaged with this task.
- 16.22. *Asset Forfeiture Unit.* We note that the AFU has developed a Turnaround Plan and Asset Recovery Strategy.
- 16.23. *Investigating Directorate.* The Committee congratulates Adv. Andrea Johnson on her appointment as head of the Investigating Directorate and welcomed her to the position. The Committee is pleased to learn that the transition of leadership at the Investigating Directorate has been seamless, so much so that it is poised for action, intending to prosecute nine 'seminal' corruption cases related to state capture within six months.

- 16.24. We are encouraged that the Extradition and Mutual Legal Assistance Treaties between South Africa and the United Arab Emirates are at last ratified.
- 16.25. *Retrieval of monies forfeited in the Bobroff matter from Israel.* The Committee also asks that it be given details before 30 June 2022 concerning the NPA's progress retrieving the monies held in two bank accounts in Israel in the names of Ronald and Darren Bobroff who fled from South Africa to Australia in March 2016 after irregularities were uncovered at their firm. Briefly, it is reported that the Bobroffs reached a secret settlement with Israel early last year to escape criminal prosecution. Consequently, the Israeli government seized around R70 million of the money and, in return, dropped criminal charges related to money laundering against them. The Bobroffs retained the balance of R25 million. This means that no money has been returned to South Africa despite the Supreme Court of Appeal (SCA) ruling in May 2021 that the money was the proceeds of crime and must be forfeited to the State. There was no consultation with the NPA before the settlement was reached and the only proposal that the AFU has received since from Israel has been an offer of R14.5 million as a token of goodwill between the countries. We will also ask for a briefing on this item as soon as the programme permits.
- 16.26. *Prevention and Combatting of Corrupt Activities Act (PRECCA).* The Committee requests a comprehensive report on the challenges associated with our anti-corruption legislation and whether/what legislative amendments are required, in writing, before 30 June 2022.

Legal Aid SA

- 16.27. *Budget.* For the same reasons advanced in previous reports, the Committee does not support the reductions to Legal Aid SA's baseline. This report provides details of how the recent cuts to the baseline have affected operations, reducing the number of matters that Legal Aid SA can take on and stretching court coverage. The absence of a relief component is also concerning, as matters cannot proceed if an accused's legal representative is unavailable, causing blockages and contributing to the backlogs. It is also concerning that Legal Aid SA has several unfunded mandates.

- 16.28. *Additional funding.* We are pleased that additional funds have been allocated to Legal Aid SA to employ practitioners for the Specialised Commercial Crimes Courts that have been set up in six provinces.
- 16.29. *Land justice.* The Committee is pleased that the legal representation function previously undertaken by the Department of Agriculture, Land Reform and Rural Development is finally transferred to Legal Aid SA, in order to assist the indigent that seek land justice. We are concerned that the transfer of function has yet to be accompanied by funding. We note that, while there is some capacity in place at the National Office, Legal Aid SA will not embark on an aggressive recruitment drive to capacitate offices at a provincial level until the promised funding is made available. We will continue to monitor progress closely.
- 16.30. *Unfunded mandates.* We note that Legal Aid SA reports that the following legislative mandates are currently unfunded: Labour Relations Act 66 of 1995 (section 149); Restitution of Land Rights Act 22 of 1994 (section 22); Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (section 4(5)); Land Reform (Labour Tenants) Act, 1996; and the Extension of Security of Tenure Act.
- 16.31. *Office accommodation.* We note the challenges that Legal Aid SA has experienced concerning its office accommodation, including escalating lease premiums amid budget cuts; non-responsive tenders; and poorly maintained leased premises. Further, the acquisition and management of office accommodation contributes to the irregular expenditure incurred by Legal Aid SA. The strategic solutions to these challenges include the purchase of buildings by Legal Aid SA, relocation to cheaper areas, reducing office space and merging with Legal Aid SA Provincial Offices and co-habiting with other government departments. Anticipated outcomes of the acquisition of properties are reduced rental over the medium to long-term; reduced office space and their optimal use; increased owned property portfolio; increased certainty of tenure; and reduced irregular expenditure. Legal Aid SA advises that the Minister has expressed his support for this strategy but that it is waiting for a formal confirmation from the Minister. The Committee supports the strategy in principle and asks that it be informed of progress.

- 16.32. *Civil work.* Legal Aid SA's budget largely goes towards funding legal representation of accused in criminal matters, as there is a constitutional obligation on the State to assist accused persons without legal representation. However, there is desperate need for advice and representation in civil matters and, for this reason, we particularly appreciate the effort that Legal Aid SA has taken to stretch its capacity to undertake civil work. Unfortunately, a narrow interpretation of Legal Aid SA's mandate in respect of the realisation of the right of access to justice means that its civil work is especially vulnerable to budget cuts. The Committee feels very strongly that the funding allocated should at least maintain the current level of legal assistance provided in civil matters.

Special Investigating Unit

- 16.33. *Funding model and debt recovery.* The SIU's enabling legislation provides that the SIU may recover fees from State institutions for the investigation services rendered. Currently the fees recovered in this way make up approximately 45% of the SIU's total projected annual revenue. Regrettably, the SIU has, to date, struggled to recover fees, complicating the relationship between the SIU and its targeted clients; and creating serious challenges in respect of its funding. The SIU has engaged National Treasury to explore alternative funding models but to date there has been little progress. As a result, the legislative amendments are proposed.
- 16.34. We note that the Department is among the list of those who owe the SIU for services rendered and will write to the Minister about this.
- 16.35. The Committee has noted previously that, with the Department's assistance, the SIU will formulate, develop and promulgate amendments to the SIU Act. The Committee understands that some of the amendments that are being considered are: the establishment of a permanent independent SIU and its status; the revenue and expenditure for the functioning of the SIU; and the monitoring and enforcement of remedial action. The SIU has submitted its proposals to the Department for it to draft the necessary amendments. As the finalisation of the proposed legislative amendments is long outstanding, we, therefore, urge that these be prioritised.

- 16.36. We acknowledge the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State (Zondo Commission) praise of the SIU's work as being commendable and of demonstrating what can be achieved by a skilled and committed litigation unit dedicated to the recovery of the proceeds of crime. We note, however, the Zondo Commission's concern that the work of the SIU depends on the President's goodwill, which undermines its role as a defence mechanism against state capture.
- 16.37. *Whistle-blower Protection Task Team.* We note that the SIU is part of a joint task team, which also consists of the NPA, the Department and the Directorate for Priority Crime Investigation/HAWKS. This task team has been established to conduct a comparative analysis of whistle-blower protection in other jurisdictions, aiming to make recommendations to Government regarding strengthening whistle-blower protection legislation in South Africa.
- 16.38. *Security.* We note that the SIU has identified the security of its employees as a significant risk in the 2022/23 Annual Performance Plan and are very concerned by this development. The SIU reports that interim security measures and interventions are in place to protect SIU employees and it is currently working on a long-term plan for security measures to cover employees. We note that the SIU has gone so far as to tender for the Appointment of a Panel of Close Armed Protection Services. The purpose is to provide Close Armed Protection services for its employees nationally on an "as-and-when required" basis.
- 16.39. *Justice-related investigations.* We note that the SIU has finished its investigation into the construction of the Limpopo and Mpumalanga High Courts and will finalise the report soon. The SIU anticipates that it will finalise its investigation into the Master's Office by the end of July 2022 and into the Office of the State Attorney by the end of September 2022.
- 16.40. *State Attorney investigation results in successful civil litigation to recover funds.* We are pleased to learn that the SIU's investigation into the Office of the State Attorney has resulted in the Special Tribunal ordering a former state attorney, to pay back

R4.4 million in fraudulent claims. A pension amount of just under R800 000, belonging to the former official will be forfeited as part payment for the money to be recovered.

Public Protector South Africa

- 16.41. *Drop boxes.* We welcome the PPSA's innovative approach to improving access to its services, especially in rural areas. We note that the PPSA has installed 45 drop-boxes in areas where it does not have a foot print to enable communities to lodge their complaints in writing with the PPSA. Going forward, the PPSA reports that it also plans to collaborate with Traditional leaders and Community-Based Organisations to identify additional catchment areas for enhanced accessibility to its services.
- 16.42. *Mobile referral application.* We are pleased to learn that the PPSA has recently launched a mobile referral application, which will provide potential complainants with the information on which institutions they should approach to resolve their specific problems before lodging their complaint with the PPSA, reducing the need for referrals.
- 16.43. *Funding.* We welcome the PPSA's report that its funding pressures have eased as a result of additional funding. The PPSA has been able to provide for ICT infrastructure, an e-library, 22 staff posts and an electronic document management system. Current funding pressures include the filling of 22 additional positions, with estimated costs of R15.1 million.
- 16.44. *Investigation reports finalised.* We welcome the increased target for the number of investigation reports finalised from 50 to 80 and, similarly, the increased target for the number of systemic investigations finalised from 2 to 3.
- 16.45. We also note the introduction of a new performance indicator as part of the PPSA's efforts to address a lack of compliance with the recommended remedial action, namely 'Number of quarterly reports on compliance with remedial action submitted to Parliament'.

- 16.46. We are pleased that the PPSA reports that it has finally resolved its security concerns by making use of cameras to monitor the spaces that it occupies.

South African Human Rights Commission

- 16.47. *Equality Courts.* We note the Commission's concern that despite high levels of inequality and the volume of complaints relating to hate speech and discrimination, complainants are still not accessing or utilising Equality Courts. This is not a new issue – underutilisation of the Equality Courts has been a concern for many years. We note as well that the Department provides for a new indicator in the 2022/23 Annual Performance Plan, 'Number of engagements held with stakeholders towards the promotion of Equality Courts'. We are interested in the Commission's views on the effectiveness and functionality of Equality Courts and are interested to know whether the SAHRC will be partnering with the Department in the planned engagements with stakeholders. We ask that the Commission provide a report in writing on this before 30 June 2022.
- 16.48. *Investigation into the cause of the July 2021 Riots.* We note that the Commission's investigation into the cause of the July 2021 riots is nearing completion and it anticipates finalising a draft report by the end of June 2022/23. The Commission launched a National Investigative Hearing, focusing on the causes of the unrest and the impact on human rights. The testimonies that it heard have clearly pointed to the disintegration of communities around racial lines and growing inequalities and the Commission has identified the need to focus on social cohesion as a way to ease the tensions.
- 16.49. *Flood relief monitoring.* We note the Commission's intention to monitor the provision of alternative housing, food, water, and healthcare in the aftermath of flooding in KwaZulu-Natal to ensure that human rights are observed. The Commission is also part of the Forum for Institutions Supporting Democracy (FISD), consisting of the heads of the independent constitutional institutions. The FISD has

agreed to establish a nerve centre which will develop a plan of action to monitor, exercise due diligence and oversight, over Government disaster relief efforts.

- 16.50. *Human Resources.* The Commission has previously reported that senior management resignations and vacancies had adversely affected delivery. Also, as part of cost saving measures, the institution had suspended senior posts. We are especially concerned to learn that the position of Chief Financial Officer is vacant, which is a significant risk to the institution. We, therefore, request a report in writing on the vacancies, particularly those in senior management positions, and the related recruitment plan, with deadlines, before 30 June 2022.

Information Regulator

- 16.51. *Appointments.* We congratulate Adv. Pansy Tlakula, Adv. Lebogang Cordelia Stroom-Nzama, Adv. Johannes Collen Weapond and Mr Mfana Gwala on their appointment as members of the Information Regulator from 1 December 2021.
- 16.52. *Data breaches.* The Committee has engaged with the Regulator on a number of occasions concerning various large-scale data breaches over the past few years, including Experian. We note that among the latest breaches is that of the credit bureau, TransUnion, which has affected more than 3 million data subjects. We note further that the Information Regulator met with TransUnion on 19 March 2022 and called on the company to explain the circumstances of the security compromise that it experienced but was not satisfied with the response. The Regulator then issued a further directive.
- 16.53. *Ransomware attack.* We are deeply concerned that the Department has not co-operated with the Information Regulator and did not provide a conclusive report on the nature or extent of the ransomware attack that occurred in September 2021, as requested. We note that the Regulator then appointed an independent digital forensic analyst to ascertain the extent of the harm and how many records were compromised. However, as the Department has not been forthcoming, the Regulator intends to use the enforcement mechanism to obtain the necessary information. We will raise this

matter with the Minister in the strongest possible terms, and request that we are kept informed of further developments.

- 16.54. *Legal status.* We have previously identified the urgent need to resolve the issue of the Regulator's listing in terms of the Public Finance Management Act, 1999 to allow the Regulator to properly separate from the Department. Until this matter is resolved, the Regulator essentially operates as a 'regional office' of the Department of Justice, which is not acceptable. We intend to write to the Minister requesting his urgent attention.
- 16.55. *Enforcement Committee.* We note that the Information Regulator has run into a problem concerning its recommendation that a retired judge be appointed to Chair the Enforcement Committee. POPIA requires that the appointment be made in consultation with the Chief Justice and the Minister. The Chief Justice has disagreed with the Regulator's recommendation. The Regulator remains of the opinion that the appointment of a retired judge is the right recommendation as the decisions of the Enforcement Committee are binding. It would need to approach a very senior legal practitioner if it were to take up the Chief Justice's suggestion, which has its own challenges. The Regulator has not yet received the Minister's response, which is required. Although the Committee intends to write to the Minister prompting him to provide a response, we suggest that, in the meantime, the Regulator consider an alternative appointment.

17. **Recommendation**

- 17.1. The Committee, having considered the Annual Performance Plans 2022/23 of the Department of Justice and Constitutional Development, NPA, Legal Aid SA, SIU, Public Protector SA, SAHRC, and the Information Regulator, recommends that they be approved.
- 17.2. The Committee, having considered the Budget Vote 25: Justice and Constitutional Development, supports it, and recommends that it be approved.

18. **Appreciation**

18.1. The Committee wishes to thank the following for their co-operation and assistance in this process:

- The Minister and the Deputy Ministers.
- The Director General and Department officials.
- The National Director of Public Prosecutions and NPA officials.
- The Public Protector and the Deputy Public Protector; the Chairperson and the Commissioners of the South African Human Rights Commission; the Chairperson and Members of the Board of Legal Aid South Africa; and the Head of the Special Investigating Unit, the Chairperson and Members of the Information Regulator, as well as all respective staff members.

18.2. We wish to thank the Committee support staff for their hard work and dedication.

Report to be considered