



**PFMA
2021-22**

2021-22 Audit outcomes for the *Justice and Constitutional Development* portfolio & *Office of the Chief Justice*

12 October 2022



AUDITOR-GENERAL
SOUTH AFRICA



MISSION

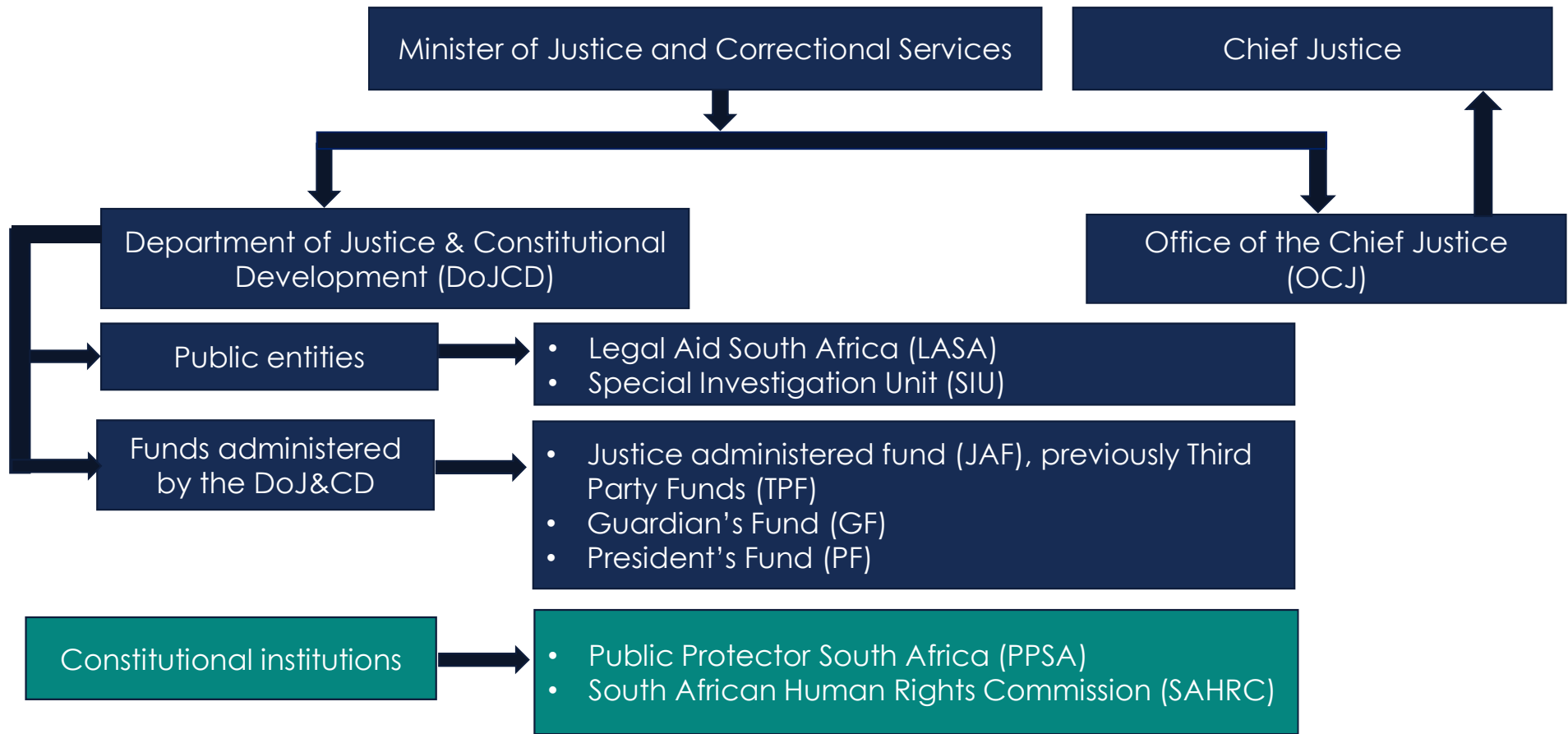
“The Auditor-General of South Africa has a constitutional mandate and, as the Supreme Audit Institution (SAI) of South Africa, it exists to strengthen our country’s democracy by enabling oversight, accountability and governance in the public sector through auditing, thereby building public confidence.”



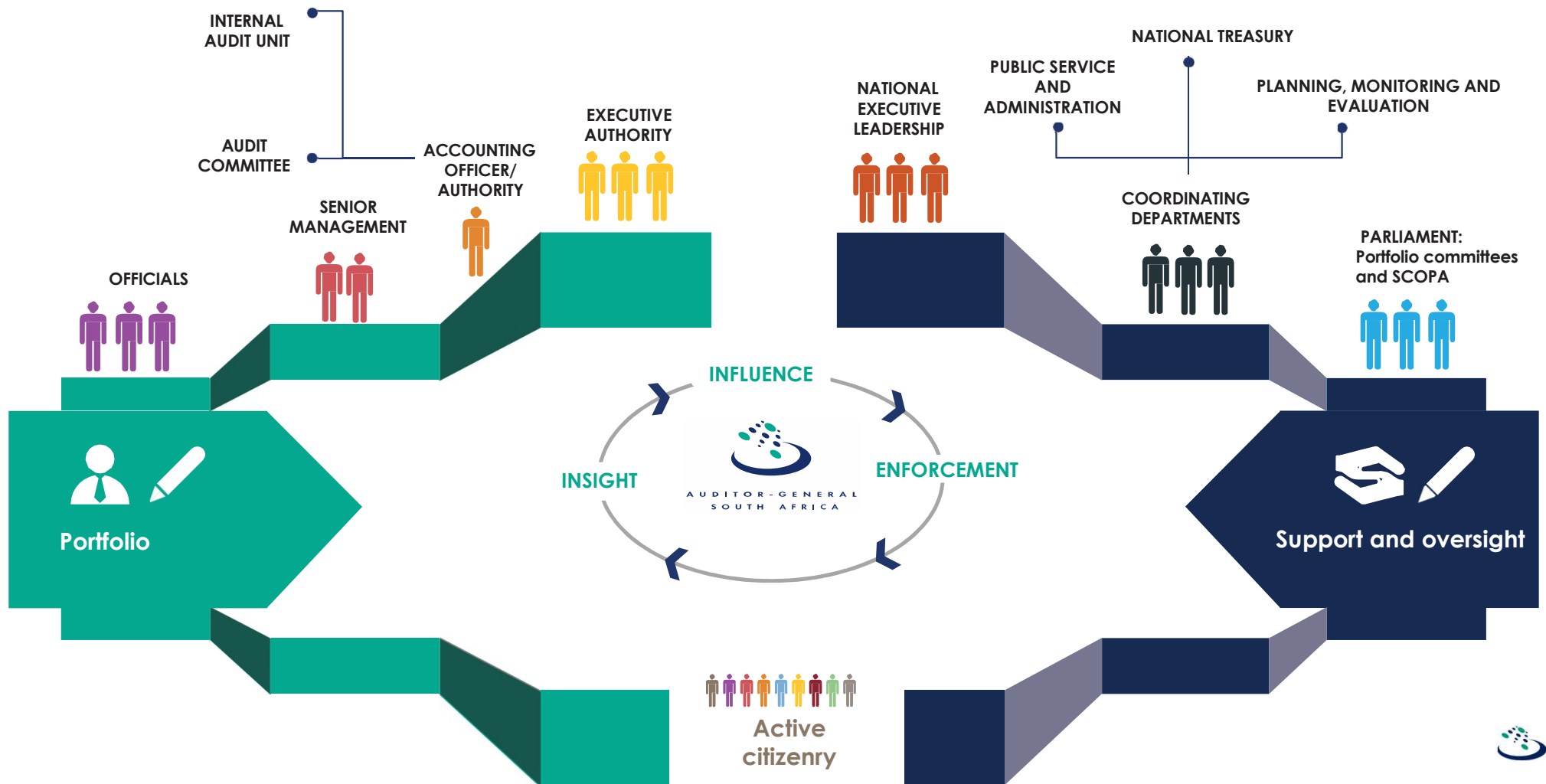
VISION

“To be recognised by all our stakeholders as a relevant Supreme Audit Institution (SAI) that enhances public sector accountability.”





All have role to play in national government accountability eco-system



Regression over administration term

	Unqualified with no findings (clean)	Unqualified with findings	Qualified with findings	Adverse with findings	Disclaimed with findings	Outstanding audits	
2019- 20 FIRST YEAR OF ADMINISTRATION	7	1	1	0	0	0	9
2020-21	7	1	1	0	0	0	9
2021-22	6	2	1	0	0	0	9

MOVEMENTS FROM PREVIOUS YEAR:
 0 ↑ 1 ↓ OCJ

FROM FIRST YEAR OF ADMINISTRATION:
 0 ↑ 1 ↓ OCJ

Guardian's Fund (GF)
 President's Fund (PF)
 Justice Administration Fund (JAF)

Legal Aid South Africa (Legal Aid SA)
 Office of the Chief Justice (OCJ) ↓

Public Protector South Africa (PPSA)
 South African Human Rights Commission (SAHRC)

Special Investigations Unit (SIU)
 Department of Justice and Constitutional Development (DoJ & CD)

Outstanding audit
 There are no outstanding audits within the justice portfolio



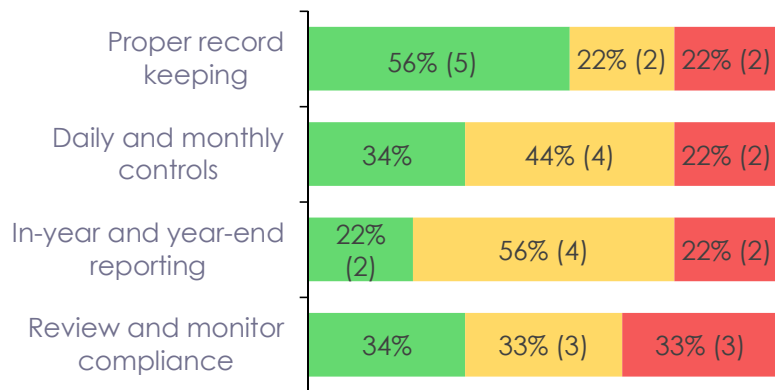


Financial management and compliance

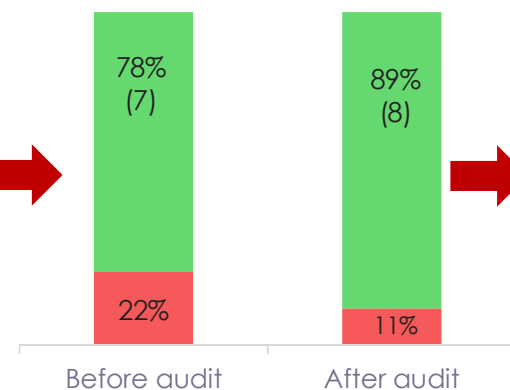


Quality of financial reporting

Financial management controls



Impact on quality or financial statements submitted for audit



Main qualification areas / material corrections made

Contingent liabilities - DoJ&CD

- The department did not have adequate processes in place to present contingent liabilities in accordance with the requirements of the accounting framework and CFO vacancy contributed to the breakdown of internal controls.
- The department did not determine the possible outcomes of the litigations in support of the disclosure.

Payables from exchange transactions – SAHRC

- Material adjustments were made in payables from exchange transactions as items were incorrectly assessed as accruals. The finance unit's lack of accounting knowledge contributed to the incorrect application of the payables classification requirements.

Impact

- The auditors did not receive acceptable information to provide assurance that the financial statements are free from material misstatement and conform with MCS framework i.e. Contingent liabilities
- The legal department with the finance unit need to maintain the requisite information in a database to enable assessment of litigations and claims such that the AFS disclosure note can be substantiated with evidence that is compliant with MCS framework.



Revenue



Expenditure



Debt- collection period >90 days at 4 auditees

SIU's debt collection period continues to be a challenge, as evidenced by the long debtor's collection period of **219** days. This collection period contributes to the significant increase in the debtors' impairment provision. Should the current status remain, SIU's service delivery may be impacted in future.

The DoJ&CD is responsible for state legal services for government and as a result has a collection period of **365** days, due to government departments disputing/not settling bills.

LASA's collection period of **369** days increased due to the transfer of the land rights management unit for the Department Agriculture, Land reform and rural development.

SAHRC recorded a debt collection period of **255** days for the financial year.

Average debt- collection period = **253 days**

Creditor- payment period > 30 days at 4 auditees

PPSA and SIU's creditor payment period is as a result of yearend processes completed and does not reflect the actual creditor payment period, all payments to creditor's within 30 days.

SAHRC and LASA creditor's payment period >30 days is as a result of slow administrative responses and inadequate controls.

Average creditor-payment period = 53 days

Although the creditor payment period exceeds 30 days, none of the above entities reported fruitless and wasteful expenditure related to interest paid due to late payments.

Impact

No auditees ended year in deficit (expenditure more than revenue)

The yearend balance was in overdraft at only **1** auditee

The bank overdraft at DoJ&CD has been increasing year on year and non-recoveries from national and provincial departments are putting pressure on the department's cash flow, which also resulted in the increase of impairment losses amount disclosed in the annual financial statements.

DoJ&CD's cash shortfall will not impact negatively in settling of future obligations as the shortfall is primarily driven by the bank overdraft as a result of non-payment by client departments of the state attorney.

Although no going concern issues were identified, should the current status remain on indicators reflected, the service delivery may be impacted in future.



Compliance with key legislation



2021-22

SIU, PPSA, LASA

DoJ&CD, OCJ, SAHRC

0 1 OCJ

No material findings Material findings

***GF, PF and JAF are not included in the ambit of the PFMA, therefore no compliance areas have been scoped in

Most common areas of non-compliance	DoJ&CD	OCJ	SAHRC
Procurement and contract management	X	X	X
Quality of financial statements	X		X
Prevention of irregular, unauthorised, and fruitless and wasteful expenditure	X	X	X
Effecting consequences	X		X

- The portfolio has not adequately implemented action plans developed to respond to non-compliance findings raised in prior years. The entities continue to transgress laws & regulations governing financial matters, as previously reported.
- The regression in audit outcomes at the OCJ can be attributed to the slow response in filing critical vacancies which led to lack of segregation duties. The non-compliances with the SITA act could have been prevented if there were proper segregation of duties.



Procurement and payments

Status of compliance with legislation on procurement and contract management



***GF, PF and JAF does not procure goods and services, procurement for these funds are done through DOJ&CD

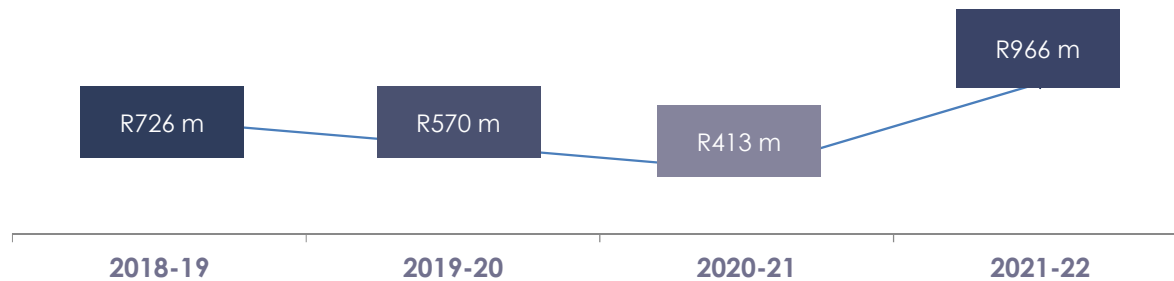
Details of procurement findings	DoJ&CD	OCJ	SAHRC	PPSA	LASA	SIU
Uncompetitive and unfair procurement processes	R7,4m	R428,7m	R6m	R749k	R99k	R281k
Prohibited awards to employees	R10,9 m					
Prohibited awards to other state officials	R10,9 m					
Limitations on audit of awards selected for testing						

Payment for goods and services not received or of poor quality
 All goods paid for were received and of acceptable quality



Irregular expenditure

Annual irregular expenditure



Top contributors

- R859 m** Bids which did not comply with the stipulated qualifying criteria were not disqualified (DoJ&CD)
- R52,1m** IT goods and services not procured through SITA (OCJ)
- R10,7 m** Evaluation and adjudication criteria not applied consistently (SAHRC)



Irregular expenditure is not complete

Still investigating to determine full amount
(2021-22 : 2 auditees (33%) R49,7m)
(2020-21 : 1 auditee (17%), R 999m)

Impact assessment of irregular expenditure incurred

Breach of five pillars of procurement – Equitable, Fairness, Cost effectiveness, Transparency and Competitiveness:

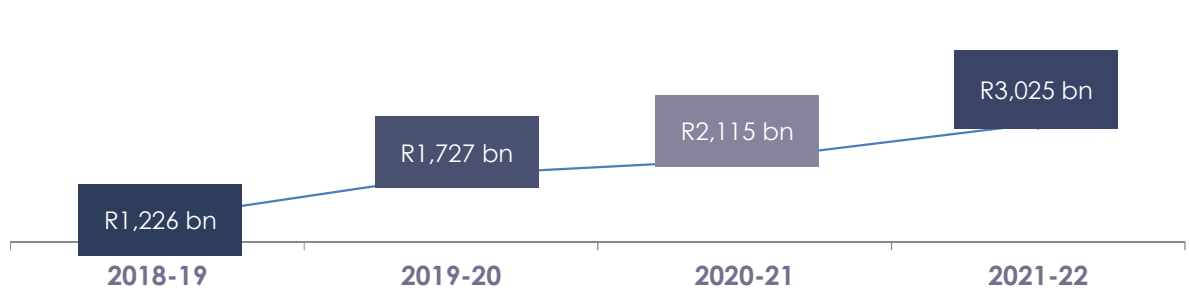
- Fairness (DoJ&CD) R867 m (Competitive bids)
- Competitiveness (DoJ&CD) R3,4 m (Quotations)
- Cost effectiveness (SAHRC) R949k (Competitive bids)
- Transparency (SAHRC) R3,3 m (Competitive bids)
- Competitiveness (SAHRC) R6,5m (Competitive bids)
- Cost effectiveness (PPSA) R37k (Quotations)
- Transparency/Competitiveness (LASA) R34k (Quotations)
- Fairness (LASA) R241k (Competitive bids)

Other:

- Procurement not through SITA Act and Regulations (OCJ) R52.1 m (Competitive bids)
- Foreign supplier not submitting SBD1 (OCJ) R385k (Quotations)
- Services rendered without approval (PPSA) R3k (Quotations)
- Contract variations not approved (SIU) R281k (Contract management)
- Contract variations not approved (LASA) R975k (Contract management)

Consequence management – dealing with irregular expenditure

Closing balance of irregular expenditure continues to increase



Closing balance movement

The significant increase in the closing balance was mainly due to the department as a result of non-compliance that was under assessment in the prior year. Furthermore, the investigation of irregular expenditure in the department takes longer to conclude. The slow progress in concluding investigations will lead to the increase in the irregular expenditure balance which could impact likelihood of recoveries, if applicable.

The top contributors (R20,9 million) to irregular expenditure not dealt with constitute 69% of R30,3 million



- Reasons for IE not dealt with:**
- Proper and complete records were not maintained as evidence to support investigations of irregular expenditure to the amount of R20,9m at the DoJ&CD.
 - Sufficient evidence could not be obtained that disciplinary steps were taken against officials that made or permitted irregular expenditure, as investigations into some irregular expenditure were not performed at the SAHRC.



How have auditees dealt with irregular expenditure

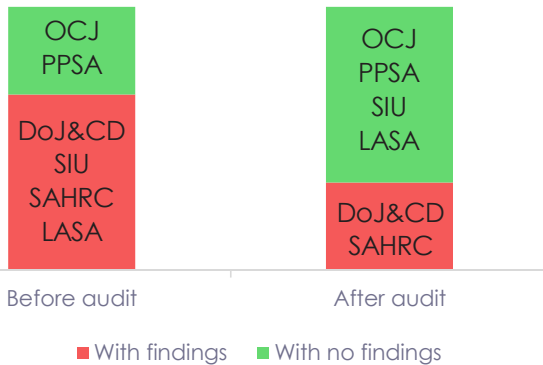
	Money recovered or in process of recovery- DOJ&CD	R1,6 m (0,08%)
	Condoned- DOJ&CD, LASA, OCJ	R53,17 m (2,51%)
	Written off- PPSA	R1,6 m (0,08%)
	Not dealt with	R30,3 m (1,43%)



Portfolio performance



Quality of performance reports before and after audit



***GF, PF and JAF are not required to prepare separate performance reports

Findings: Usefulness

- The source information for achieving the planned indicator was not clearly defined (DoJ&CD).
- The source of information, evidence and method calculation for measuring the planned indicator was not clearly defined and related systems and processes were not adequate (SAHRC).

Findings: Reporting

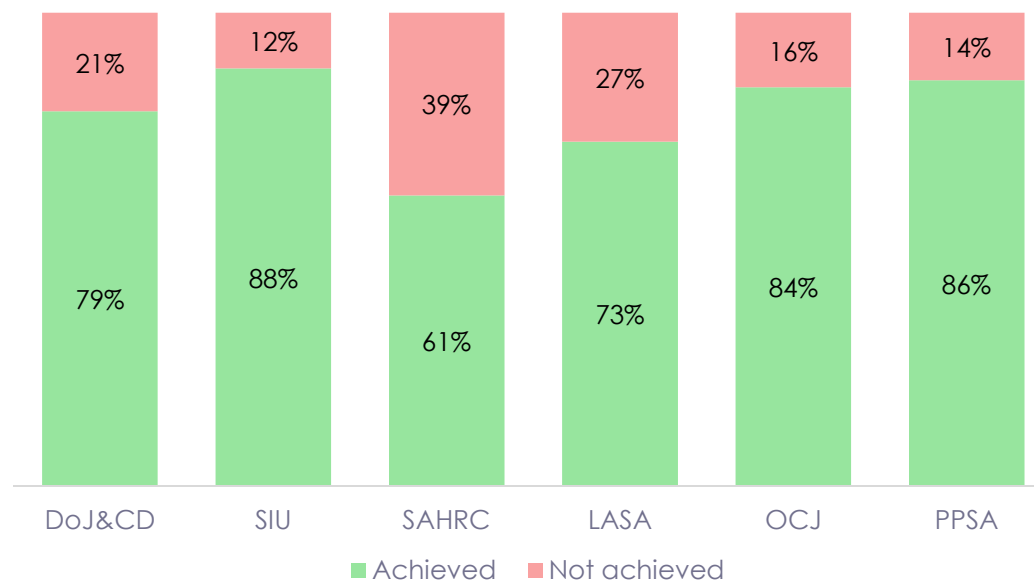
- The achievements reported in the annual performance report materially differed from the supporting evidence provided while in other instances we were unable to obtain sufficient and appropriate audit evidence. This was due to the lack of accurate and complete records. (DoJ&CD)
- As a result of inadequate systems and processes, we were unable to confirm the reliability of the reported achievement in the annual performance report of the SAHRC.

Impact

- DoJ&CD: Audit findings raised on usefulness and reliability do not directly impact service deliver.
- SAHRC: In the absence of supporting evidence the service delivery to the citizens is unknown.



Achievement of annual targets as reported in Annual Performance Report (all indicators) – 2021-22



Above are the reported achievement/non-achievement of targets based on reported performance per annual reports for the overall indicators and not only those that we audited. An analysis of Key Performance Indicators underachieved for each entity is contained in the next slide. Based on the audit outcomes of DOJ& CD and SAHRC the credibility of the reported performance information was found to be questionable as illustrated in the previous slide, therefore the reported targets achievement might not be a true reflection of the actual performance.



Performance targets

Performance indicator	Planned targets	Actual achievement	Reason non- achievement
Percentage of litigation cases settled	50%	64%	Target achieved
Percentage of letters of appointment issued in deceased estates within 15 days from receipt of all required documents	75%	77%	Target achieved
Percentage of beneficiaries in receipt of services within 40 days from receipt of all required documents (Guardian's Fund)	80%	76%	The amendments were due to backlog due to COVID-19 restrictions, severe Network instability and challenges with obtaining files from offsite storage in some of the offices. Delays in dealing with medical negligence, and rough communal property trusts which were not previously factored in.
Percentage of value of briefs allocated to PDI Legal Practitioners	82%	83%	Target achieved
8.2.1 Percentage of value of briefs allocated to Female Legal Practitioners	29%	29%	Target achieved
Percentage of Briefs allocated to Female Legal practitioners	41%	40%	The number of female legal practitioners at the different association are less than those of males, therefore the pool is not sufficient to encourage an increase in briefs.

- The department is responsible for 14 indicators on MTSF and 87,5% (12) were prioritised in the department's plans. i.e.
 - Hate speech and hate crime bill enacted by 2022
 - Percentage of disability related complaints on barrier free access, 41% compliance 2024.
 - 91% of the planned targets are in progress to be achieved by the end of the MTSF cycle and the non achieved indicator will be unpacked on the next slide.
- Some of the indicators are however not in the MTSF even though they are linked to legislative mandate of the department and are prioritised on the discretion of the department i.e. Percentage of beneficiaries in receipt of services within 40 days from receipt of all required documents (Guardian's Fund)
- The targeted percentage of briefs allocated to Female Legal practitioners is 41% however in value this translates to R302 million (29%)
- The average target over the past three years is 29% i.e. the target stayed the same, therefore the target is not being stretched to make an impact.
- The department's indicators measured in percentages are designed with focus on the matters that are finalised without reflection on the backlogs. The reported performance is therefore distorted and may be detached from reality.

Unplanned indicators

Indicator and target	Reasons
Hate speech and hate crime bill enacted by 2022	Bill had been put on hold pending two Constitutional Court judgments
Percentage of disability related complaints on barrier free access, 41% compliance 2024.	The department planned and achieved policy framework on management of disability complaints and investigations. This is however is not aligned to the MTSF indicator and target.



Performance indicator	Planned targets	Actual achievement	Reason non- achievement
Value of freezing orders obtained for corruption or offences relating to corruption MTSF Target:- R10.4 bn over 5 years	2,4 bn	5,5 bn (Cumulative) 9,85 bn	Target achieved
Value of recoveries relating to corruption or related offences Target :- R5.4 billion over 5 years	3,11 ml	2019/20- 3,05 ml 2020/21- 1,08 bn 2021/22- 3,30 ml Planned target 2022/23 1,4 bn 2023/24 1,4 bn	Target not achieved due to delays in the finalisation of trials and obtaining freezing orders in high value cases
Percentage conviction rate in cable theft cases Target :- 74% conviction rate in cable theft cases	80%	92%	Target achieved

- The accumulated performance on value of recoveries relating to corruption or related offences is concerning reflecting 31% of the MTSF target as at 31 March 2022.
- The department has not successfully met the target of 1,4 bn in prior years and it is unlikely that the target will be met 2024
- The department's annual target for percentage conviction rate in cable theft cases is 70% and consistently the department achieves this target however looking at the cluster holistically, government does not measure the rate of success in arresting suspects for reported incidents of cable theft. Cable theft continues to put structure on the ailing electricity infrastructure
- There is an opportunity for the cluster to coordinate the planning such that the reported performance information is reflective of the people's lived experiences.



Performance indicator	Planned indicator & targets	Actual achievement	Reason non- achievement
Conviction rate for serious corruption in the private sector Target :- 70%	Number of persons convicted in the private sector Target :- 158	209	Target achieved
Conviction rate for serious corruption in the public sector Target :- 70%	Number of government officials convicted of corruption and or offences related to corruption Target :- 232	130	Target not achieved due to delays by defence in finalisation and fewer trials conducted.

Impact:-

- The NPA indicators do not measure the rate of success in prosecution of crimes, this is critical information in determining if the services of the department are addressing the core issues of service delivery and implement changes where there is areas of improvement. i.e. Conviction rate on criminal cases and the lost cases.
- Previously PC committee raised a concern regarding the measurement of the percentage of NRSO Clearance Certificates issued within 10 working days from date of receipt of application and since then the department revised the measurement method to consider all valid applications rather than finalised applications. The department also exceeded the target of 50% by reporting 82%.

- These indicators design materially differ from the MTSF, the department measures the number of persons convicted instead of the conviction rate.
- The number of persons convicted is not a measure of service delivery without reflecting on the cases that were prosecuted for impact.



Value add work done on ICT environment/ projects

20



Integrated Justice System (IJS) programme

Impact:

Delayed projects for the modernization of the Criminal Justice System result in worsening case backlogs, reliance on manual systems, and difficulties in the retrieval of information required for investigations leading to delayed investigations and drawn-out court cases.

Cause:

- Project management deficiencies
- SITA constraints
- Poor financial management

Recommendations to AO/AA:

- Improve the overall project management capability in the IJS PMO and all member entities
- The IJS PMO should support member entities to manage SITA to mitigate the risk around dependencies on SITA
- Improve the project financial management process across all member entities.
- Member entities and the IJS PMO should ensure vendor contracts and SLA's meet requirements.

IJS programme review conducted during 2021/22 focused on:

- Evaluating the effectiveness of the programme governance structures
- Review of IT Projects at a programme and member departments
- Review root causes for the delays of IT projects

The goal to modernize the Criminal Justice System has not been fully realized.

The goal to fully modernise the Criminal Justice System (CJS) has not been fully realised in line with resources and investments made over the years. The funding of the Integrated Justice System (IJS) programme from inception to date is totalling R8, 65 billion with total expenditure of R7, 84 billion.

Although the reconstituted programme governance structures are in operation and are overseeing implementation of projects outlined in the 2019-2024 Medium Term Expenditure Framework (MTEF) some projects are faced with challenges ranging from procurement, resource constraints, contract management and vendor management. This has resulted in major project delivery delays that has impacted the project timelines and budgets.

The drivers for the modernisation of the CJS are dependent on a fully Integrated Case Management System (ICMS), Integrated Person Management System (IPMS) and Business Intelligence (BI) platform. The integration status of the three work streams is at 100% , 40%, 80% for ICMS, IPMS and BI respectively. The delays in the implementation of the IPMS are attributed to the major delays in individual projects at Department of Home Affairs(DHA), South African Police Services (SAPS) and Department of Correctional Services (DCS) resulting in programme benefits not to be realised.

Moving forward, the new measures designed by IJS PMO along with the implementation of the AGSA recommendations at member departments may improve the overall project success rate and enable the achievement of the closure of the integration and case management phase of the programme.



Material irregularities



Implementation of material irregularity process

The material irregularity (MI) process was implemented at the following auditees

- Department of Justice and Constitutional Development (DoJ&CD)
- Legal Aid SA (LASA)
- South African Human Rights Commission (SAHRC)

No MI's were identified at these auditees during the 2021-22 audit

means any **non-compliance** with, or **contravention** of, legislation, **fraud**, **theft** or a **breach of a fiduciary duty** identified during an audit performed under the Public Audit Act that **resulted in** or is **likely to result in** a **material financial loss**, the **misuse or loss of a material public resource**, or **substantial harm to a public sector institution or the general public**



Identified MIs – next steps and responsibilities

1 AO/AA is dealing with MI

AO/AA... implements the committed actions to address the MI and improves controls to prevent recurrence

AGSA... follows up in the next audit if actions were implemented and if outcomes were reasonable. If not, can include recommendations in audit report on how the MI should be addressed by a specific date

2 MI is referred to a public body

AO/AA... cooperates with public body and implements any remedial actions / recommendations made. Improves controls to prevent recurrence

AGSA... provides information on MI to public body, monitors progress with investigation and follows up in audits on implementation of any remedial actions/ recommendations

3 Recommendation included in audit report

AO/AA... implements the recommendations by the date stipulated in the audit report and improves controls to prevent recurrence

AGSA... follows up by stipulated date if recommendations were implemented and if outcomes were reasonable. If not, issues remedial action to AO/AA that must be implemented by a specific date

4 Remedial action issued

AO/AA... implements the remedial action by the date stipulated in the audit report and improves controls to prevent recurrence

AGSA ... follows up whether the remedial actions have been implemented. If not, issues a notice of intention to issue a certificate of debt (CoD) to the AO/AA. Request a written submission on reasons not to issue CoD within 20 working days

Executive and oversight

Executive... monitors progress and supports AO/AA in addressing the MI and improving controls

Oversight... monitors progress and calls AO/AA to account for actions taken and outcomes

Executive and oversight

Executive... supports public body investigation and the AO/AA in improving controls. If responsible for public body, monitors progress with investigation

Oversight... monitors progress with investigation and calls public body to account for undue delays in investigation.

Executive and oversight

Executive... monitors progress and supports AO/AA in implementing recommendations and improving controls

Oversight... request action plan or implementation, monitors progress and calls AO/AA to account for actions taken and outcomes

Executive and oversight

Executive... monitors progress and supports AO/AA in implementing remedial action and improving controls

Oversight... monitors progress and calls AO/AA to account for actions taken and outcomes



Conclusions and recommendations



Overall root causes of significant findings in portfolio

- Lack of appropriate competencies and key vacancies in the finance unit to ensure that accounting standards are applied appropriately
- Capacity constraints within the strategic support & governance unit evidenced by a lack of available supporting evidence and reviews of reported performance achievements.
- Inadequate monitoring of the action plan to address assurance providers findings especially on compliance with SCM legislation.
- The instability in the CFO position during the year led an increase in non-compliance areas in SCM and expenditure management.

Key recommendations to and commitments by Accounting officers and authorities

- Filling of key vacancies across the provinces to ensure
- Filling the CFO position
- Action plan needs to be tracked by the AO/ AA and audit committee on a quarterly basis.





Key recommendations to and commitments by Accounting officers and authorities

Contingent Liabilities

- The department should consider employing temporal staff to populate the voluminous historical information on litigations and claims register, thereafter, the status of progress on each litigation and claim should be updated throughout the year where applicable.
- The legal department should assess and record the possible outcome of each claim as at year-end based on the status of progress for disclosure of the contingent liabilities to the AFS.
- The finalization of the revised population should be concluded timeously for review by internal auditors and external auditor prior to the official submission of the AFS as a value add.



Key recommendations to and commitments by Accounting officers and authorities

Performance Information

- The department should develop a tool to report performance information of the portfolio against the MTSF indicators and targets, oversight bodies should monitor progress of the performance outcomes against the MTSF targets.
- Design systems and processes to collect and report credible performance information.
- The department should maintain proper and timely record keeping to ensure that complete, relevant and accurate information is accessible and available to support performance reporting. Sound record keeping will also enable senior management to hold staff accountable for their actions.





Key recommendations to and commitments by Executive authority

- The EA committed to follow up on DOJ IE to ensure it is investigated and closed
- He confirmed that recommendations are simple, clear and will be easy to implement by the auditees and for him to oversee/ track implementation
- DGs to meet quarterly and ministers to meet bi-annually to track the IJS objectives and progress.
- Master will brief the minister and outline the challenges of the liquidation process including legal challenges. Once he receives that he we will be able to continue this engagement in our next meeting.
- The APP gaps seems to be a cluster issue and they will have to see how they close the gaps.

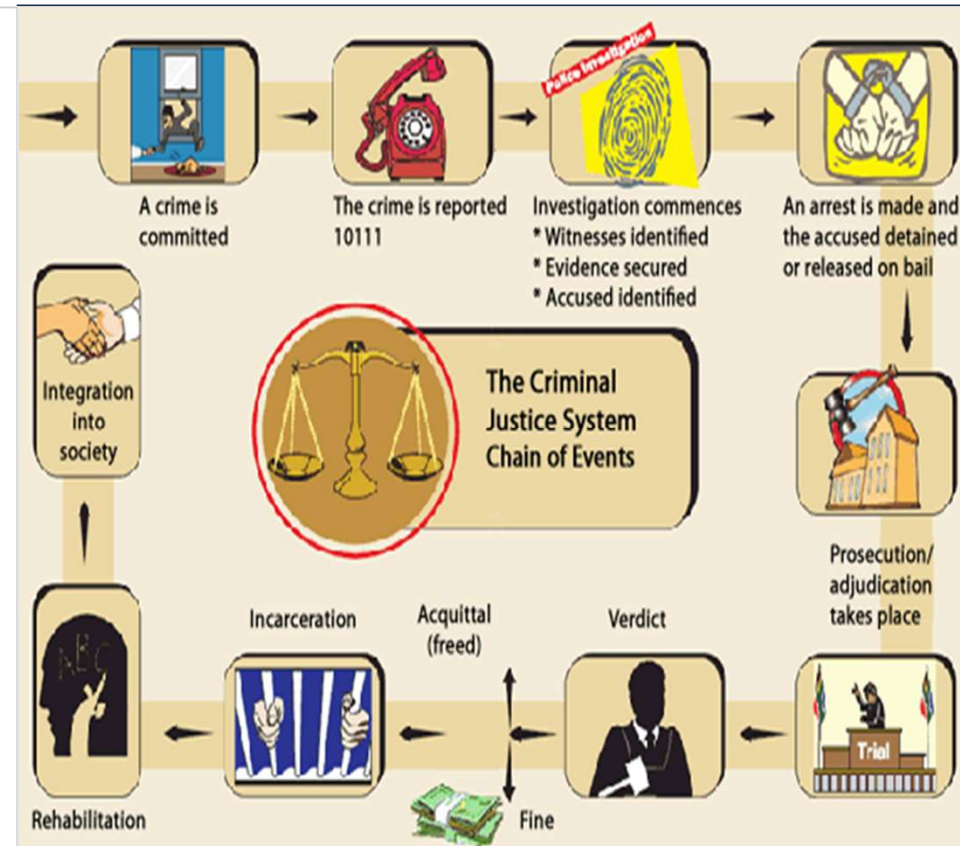
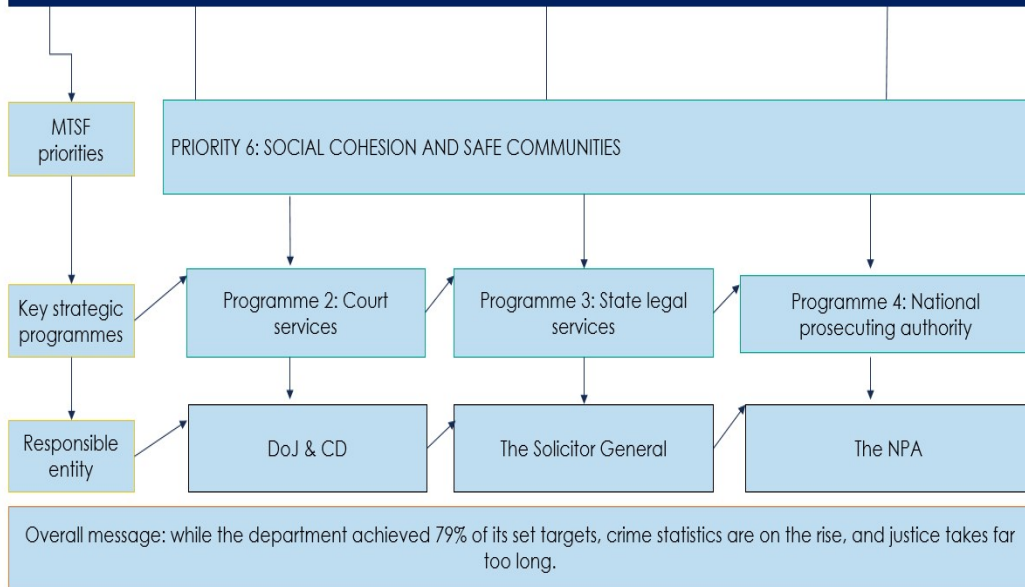


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Department of Justice and Correctional Services (DoJ&CD)

Vision

An accessible justice system in a vibrant and evolving constitutional democracy.



Department of Justice and Constitutional Development- State Attorney

Appointment of the Solicitor General

Pursuant to the state amendment act, the minister of justice announced the appointment of the first solicitor general on 02 April 2020 for coordination and management of all litigation in which the State is involved as well as creation and implementation of policies on state litigations.

Policies

- 2 policies (Briefing and Outsourcing of Legal Work; Initiating, Defending and Opposing of Matters) were submitted and approved by the Minister. The Policy on the management of state litigation contingent liabilities was also submitted and approved by the Minister.
- These policies will be instrumental in directing a consistent and coordinated strategy to reduce government's potential exposure due to litigations as well as the abuse of the litigations system by exploiting the pitfalls within the litigation management processes.

Procurement framework

- There is no procurement framework for procurement of state legal services which largely contributed to the non-compliance findings reported on supply chain management.
- The procurement of legal services currently is not fair, transparent and equitable which is a requirement of the constitution such that wealth can be distributed that benefits all.
- It is also unknown if the rates paid for legal services by government are economical without competitively testing the market and this requires the issue of procurement framework to be speedily resolved.
- The department's strategy also contributes to the transformation of the legal profession. The lack of procurement framework is a challenge for the department in deliberately planning and realising the transformation agenda.

- The department measures the percentage of settled state legal cases in comparison to finalised matters. This is a strategy that was adopted to reduce the value of state legal costs incurred through court appearances e.g. settling in/ out of court, mediation where appropriate.
- The target for percentage of litigation cases settled was 50% and the reported achievement is 64%, however, the audit determined that the supporting evidence provided materially differed from the reported achievement, while in other instances we were unable to obtain sufficient appropriate audit evidence.
- This was due to the lack of accurate and complete records, the significant challenge in the office is poor record management and it becomes a challenge to ascertain the performance of the department without a sound control environment.
- 729 cases were finalised in the 2021/22 cycle to the value 5.99 billion representing 34 departments in 8 provinces and overall the payouts are worth R162.2 million. This represents 4% of the estimated state litigations of 147 billion.
- The department could not furnish the list of all active state litigation matters upon our request i.e. the extent of government exposure due to litigation and claims is unknown, this lack of information may result into government incurring unnecessary payouts.
- The highest number of finalised matters are SAPS claims (585), 55 million however the highest pay-outs were made by the department of health with (222) 83 million. Top three contributing offices in the finalised cases are Durban, East London and Mafikeng



The Chief Financial Officer (also the CIO), Chief Director: Court Administrator (also the OCJ Spoke person of the department) and a Director: Case Management had resigned 31 May 2022.

The resignation of the CFO as well as media articles in this regard brought to light some procurement risks:

- a company was **established short after awarding the sole supplier contract** to Thomas Reuters and the CFO and two other former employees of the department were directors in this company. Thomas Reuters subsequently subcontracted 56% of the contract value of R225.6 million to this company.
- on a different award, allegations of another employee involved in drafting the bid specifications and being a member of the bid evaluation committee, **not declaring his connection to the director** of a company who received four awards, which included a joint venture award, in the last two years.
- the department **not making use of SITA** when procuring information technology goods and/or services.

Management is currently investigating these allegations sighted in the media article and has put a hold on any payments to these suppliers subsequent to the allegations being reported. The AGSA's Investigations Business unit has also assessed these contracts to identify possible irregularities, which might not have been identified through a normal audit process.

The observations and findings from this review are as follows:

- No involvement of SITA in information technology procurement (material finding - audit report matter)
- The sub-contracting conditions were not included in the terms of reference/bid specifications
- The tender was not advertised for the minimum number of days i.e. 21 days
- Deviations were approved even though it was practical to invite competitive bids



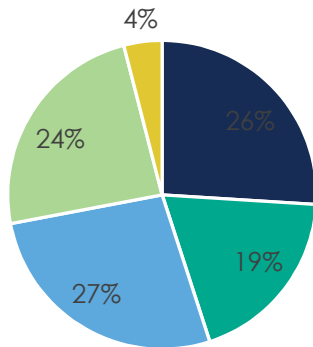
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Special Investigating Unit (SIU)

Funding Model & Debtors

SIU is currently sitting with a huge amount of debt as well as the related debt impairment provision as a result of non-payment by state institutions. At 31 March the invoiced debtors before impairment amounted to R667 million.

The composition of these debts has been analysed as follows:

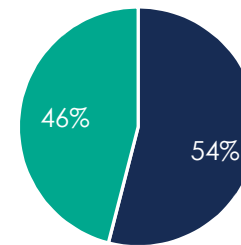


- Local government
- Provincial departments
- Provincial public entities
- National departments
- National public entities

Top 10 institutions that have been identified to have contributed significantly to the huge debtors' balance of the SIU i.e. R294 million are as follows:

- South African Social Security Agency (SASSA)
- Gauteng Department of Health (GP-DOH)
- Alfred Nzo District Municipality (ANDM)
- South African Post Office (SAPO)
- EC Department of Education (EC-DOE)
- South African Airways (SAA)

Top 10 debtors



- Struggling
- Not struggling

- Department of Justice and Constitutional Development (DOJ&CD)
- Unemployment Insurance Fund (UIF)
- KZN Department of Public Works (KZN-DPW)
- NW Department of Local government and Traditional affairs (NW-DLGTA)

The continuous inability of SIU to recover the monies owed to them may negatively impact on their ability to deliver on the mandate in the future, especially if the entity wants to continue with automating its processes.



Referrals and related consequence management

In relation to the number of referrals made to different institutions, such as National Prosecuting Authority (NPA), the SIU has overachieved on the related indicators in the Annual performance report (APR), as follows:

- 3.1 Number of referrals made for disciplinary action against officials - 469
- 3.2 Number of referrals made for executive and/or administrative action – 24 786
- 3.3 Number of referrals made to the relevant Prosecuting Authority - 570

The above indicators greatly affect consequence management by state institutions in relation to the wrong doings of the officials, suppliers, and other stakeholders.

However, with SIU having no vested powers to enforce remedial action, follow ups on whether the state institutions have affected consequence management upon receipt of referrals from the SIU are still lacking.

In the absence of electronic monitoring system, the SIU's interactions with Parliament have been received positively. The SIU should also consider to include an indicator in their annual performance plan to report on status of investigations and the implementation of recommendation for remedial action to Parliament. This will empower Parliament to hold public sector entities accountable for the implementation of the recommendations for remedial action, with a view to remedy the consequences of corruption, maladministration and fraud at state institutions. '



Investigation turnaround time

The strategic plan expresses the need to adopt more innovative ways to improve the entity’s internal processes in a bid to improve investigation turnaround times. Further, in the APR, the SIU has shown great achievement in the number of investigations closed, as the entity has overachieved in this regard.

- 3.4 Number of investigations closed under a published proclamation – 28 135
- 3.6 Number of cases issued in the Special Tribunal – 54
- 3.7 Number of reports submitted to the Presidency - 19

However, from a high-level analysis of proclamations and investigations, the following has been noted:

- In the 2022 financial year, 92 proclamations were active, consisting of 14 new proclamations and 78 old proclamations, of which by year-end 16 (17%) of these were finalised and closed.

- SIU has 76 proclamations that are currently ongoing, the ageing proclamations is as follows:

0 - 1 Year	1 - 3 years	3 - 5 years	More than 5 years
18% (14)	47% (36)	26% (20)	8% (6)

- There are 106 cases that were with the Special Tribunal in the 2022 financial year, 51% (54 cases) of these were issued in the Special Tribunal, and as such, 49% (52 cases) were ongoing at year-end.

In light of the above, the entity should consider developing an automated system of tracking ageing of cases, against their progress, as the benefit of investigating these cases and the likelihood of applying consequences or recoveries diminish over time. In addition, investigations could be categorized per type of investigation taking into account complexity, and past data on the average turnaround time for similar cases in the past, the different types of investigations could then be tracked against these turnaround times.



The PPSA's mandate is to strengthen constitutional democracy through investigating, reporting on any alleged improper conduct in state affairs and taking appropriate remedial action. In addition to only taking remedial action through their investigation reports issued, a value-add initiative that is outside the mandate of the PPSA office was implemented when the PPSA established a monitoring unit. The unit monitors the status of implementation of the remedial action stipulated in the relevant investigation report within in specified timelines and assess whether the desired outcome has been achieved through the remedial action taken. The monitoring activity is however not included in the APP as this function is outside of their constitutional mandate. It should also be noted that due to limited capacity the unit is not able to follow-up on all remedial actions, and neither can they enforce the implementation.

Due to the limitations identified in the current monitoring process, the PPSA identified a need to report to Parliament on the progress in implementing remedial actions. As a result, the PPSA included a new indicator and target in the 2022-23 annual performance plan which relates to the submission of quarterly reports on the status of implementation of remedial action to Parliament. This will empower Parliament to hold public sector entities accountable for the implementation of the remedial action, with a view to remedy the consequences of maladministration, corruption, or impropriety. An increased awareness of the progress in implementing remedial actions on oversight level, will inversely put pressure on other oversight and governance structures e.g., executive authorities, audit committees and internal audit to execute their responsibilities in tracking and reporting on the remedial actions implemented. With this accountability element in place, improved service delivery and citizen experience will be achieved.

The PPSA is encouraged assess if the new indicator and target do achieve the desired impact or require improvement, if necessary.



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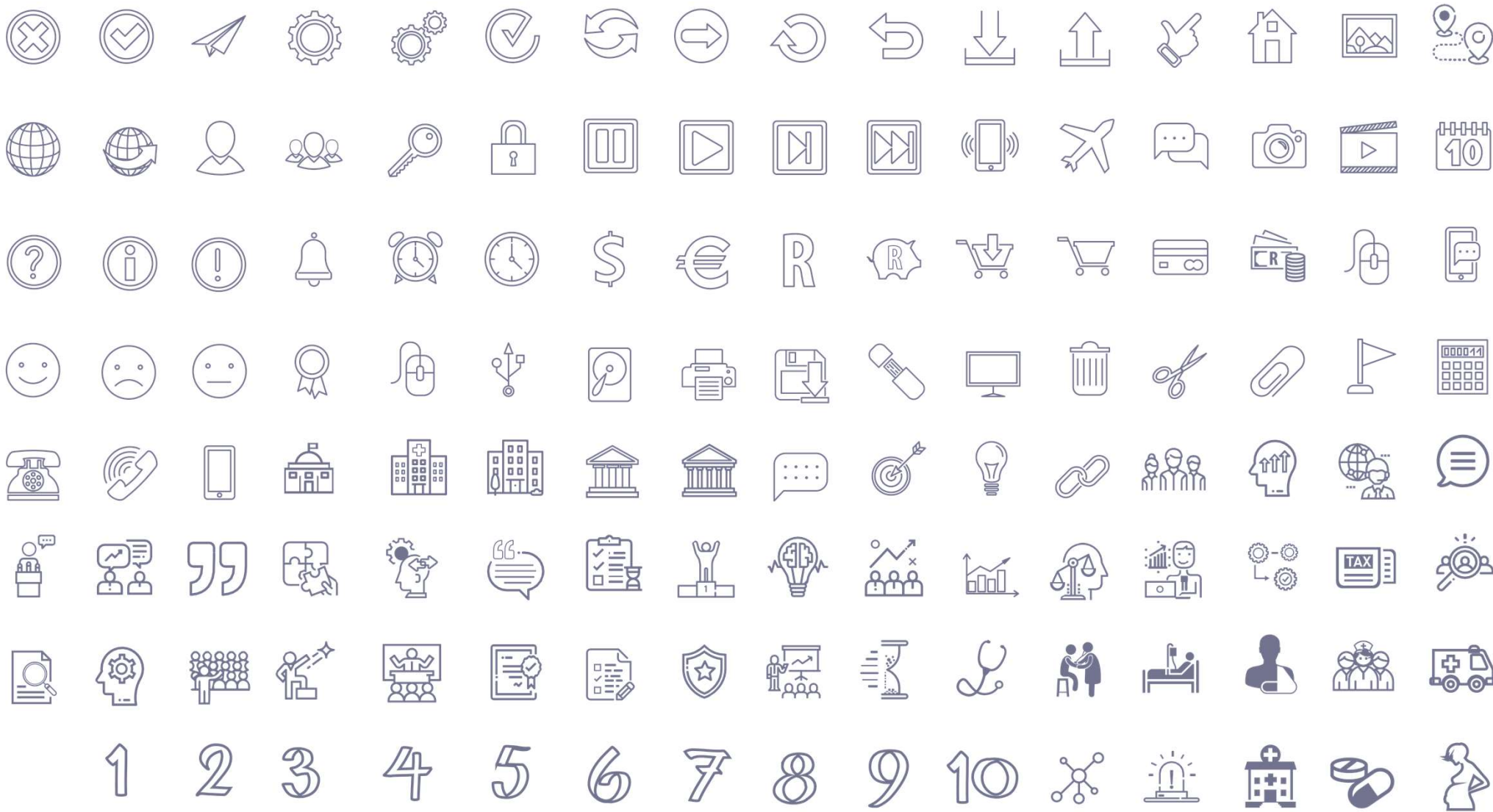
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