

B CASE BACKLOG

The Case Backlog Reduction Project assisted regional court centres where the demand exceeded the supply in such a way that the court rolls became hot spots and priority areas required focused attention. The project has at heart the provision of additional capacity to the regional court backlog priority sites (those sites where the cases on the outstanding roll are too many to be dealt with on a monthly basis and where a large number of cases have been on the roll for longer than nine months). The Case Backlog Reduction Project has focused on the regional court priority areas since November 2006. The project started with five sites and has expanded to the current 38 regional court sites.

This is an integrated project between the Department of Justice and Constitutional Development (DoJ&CD), the National Prosecuting Authority (NPA), the Legal Aid Board (LAB), the South African Police Service (SAPS) and the regional court presidents, coordinated by the DoJ&CD. Through additional funding received from National Treasury, specific interventions, such as additional capacity, are put in place. The aim is improved case flow management, screening and effective use of court hours. To deal with this, the goal is to have at least two prosecutors and two legal aid representatives per backlog court to deal with the backlog matters more effectively.

The Case Backlog Reduction Project has been integrated into the Criminal Justice System Review process. This entails that where required, in terms of interventions on an urgent basis – for example, the prioritisation of xenophobia matters, inquest backlogs and election criminal matters – the backlog courts are also used. The monitoring of the backlog rolls includes an analysis of all outstanding regional court cases at that site and promoting the rescreening and reprioritisation of these cases. It includes the promotion at provincial and local levels of holistic operational plans, liaison with the relevant regional court president, Director of Public Prosecutors (DPP), SAPS and the regional heads of the DoJ&CD, as well as the strengthening of governance and monitoring aspects pertaining to these interventions and the backlog courts in general.

The Case Backlog Reduction Project has thus far helped to stabilise the rolls in the regional courts and has also helped to increase the performance in those regional court centres where they were established as a focus area. Although the number of outstanding cases on the court rolls countrywide has generally increased in the lower courts, as well as the regional courts, the number

of backlog cases (those that have been on the regional court roll for longer than nine months) has decreased as a result of the functioning of the backlog reduction sites.

Since the Case Backlog Reduction Project was initiated in 2006 as a specific intervention to deal with the large number of backlog cases in the regional courts, there has been a very positive reduction in the backlog percentage in the regional courts. Statistics indicate a steady decrease in the number of backlog cases in all regional courts countrywide (and not only at the 38 backlog sites):

- The backlog was initially 20 452 cases (representing a 43% backlog) on an outstanding roll of 47 343 in November 2006.
- At the end of March 2007, the situation reflected 18 619 backlog cases (representing a 39% backlog) on an outstanding roll of 47 926.
- At the end of March 2008, the situation reflected 17 333 backlog cases (representing a 34% backlog) on an outstanding roll of 50 483.
- At the end of March 2009, the situation reflected 15 767 (representing a 30% backlog) on an outstanding roll of 51 802.

This reflects a steady continuous reduction in backlog cases. It also shows a reduction of 9% in the countrywide backlog cases of all regional courts for the past financial year.

The current 38 case reduction backlog courts have sat for an average of 03:34 hours per day since 1 November 2006 until the end of March 2009. They received 11 978 cases in total and finalised 8 855 of these cases (73.9%) as follows:

- Guilty: 6 581 (75.7%), of which 371 were as a result of plea bargains
- Not guilty: 2 114
- Diversions: 69
- Admissions of guilt: 91

A total of 3 649 cases were removed at these case reduction backlog sites through rescreening and withdrawals, while 609 cases were also transferred externally to other courts (for example, to higher courts for sentencing in terms of minimum sentences previously issued).

A total of 13 113 cases (comprising 8 855 cases that were finalised, 3 649 that were withdrawn after rescreening of regional cases at backlog sites and 609 that were transferred) were permanently removed from the regional court rolls as a result of the backlog courts from November 2006 until the end of March 2009. At the end of April 2009, the number of cases finalised had increased to 9 229.



The reduction in the backlog cases by 4 685 countrywide (comprising the 20 452 cases that represent the backlog in November 2006 less the 15 767 cases that represent the backlog in March 2009) on the regional court rolls is, in fact, a 22.9% reduction from the initial number of backlog cases (20 452) when the project started in November 2006 – this notwithstanding the fact that there was an increase in the number of new cases in the regional courts and a 9.4% increase (4 459 cases) in the number of outstanding cases (from 47 343 in 2006 to 51 802 at the end of March 2009). If one takes into account the number of cases removed as a result of the backlog courts (13 113), then the impact is a 64% reduction in cases on the roll. The positive impact on what the rolls would have been without the backlog courts is significant.

(i) National overview

The regional case backlogs per province since April 2008 are as follows:

- At the end of March 2008, the countrywide situation reflected 17 333 backlog cases (representing a 34% backlog) on an outstanding roll of 50 483 regional court cases.
- At the end of March 2009, there were 15 767 cases (representing a 30% backlog) on an outstanding roll of 51 802.

(ii) Backlog cases: All lower courts

Table 72: Backlog cases: all lower courts

Lower courts	2008/09	2007/08	Progress
District courts	26 505	22 186	19.5%
Regional courts	15 767	17 333	-9.0%
Total	42 272	39 519	7.0%

This indicates a growth in the backlogs in the district courts and will be a focus area for the current year.

(iii) Regional court situation per province

Table 73: Backlog cases: regional courts

Province	Month	Total backlog	Total outstanding roll	% backlog cases
Eastern Cape	April 2008	2 509	5 926	42.3
	March 2009	2 241	6 378	35.1
	Eastern Cape regional courts managed to reduce their backlogs by 268 cases (10.7%) in the past year.			
North West	April 2008	1 629	4 892	33.3
	March 2009	1 399	4 582	30.5
	North West regional courts managed to reduce their backlogs by 230 cases (14%) in the past year.			
Free State	April 2008	1 851	4 391	42.2
	March 2009	1 287	3 921	32.8
	Free State regional courts managed to reduce their backlogs by 564 cases (30%) in the past year.			
KwaZulu-Natal	April 2008	4 285	9 713	44.1
	March 2009	3 842	9 930	38.7
	KwaZulu-Natal regional courts managed to reduce their backlogs by 443 cases (10%) in the past year.			



Province	Month	Total backlog	Total outstanding roll	% backlog cases
Western Cape	April 2008	2 159	6 310	34.2
	March 2009	1 506	6 115	24.6
	Western Cape regional courts managed to reduce their backlogs by 653 cases (30%) in the past year.			
Gauteng	April 2008	4 140	13 121	31.6
	March 2009	3 903	13 848	28.2
	Gauteng regional courts managed to reduce their backlogs by 237 cases (5.7%) in the past year.			
Mpumalanga	April 2008	887	2 909	30.5
	March 2009	736	2 619	28.1
	Mpumalanga regional courts managed to reduce their backlogs by 151 cases (17%) in the past year.			
Northern Cape	April 2008	328	1 276	25.7
	March 2009	439	1 613	27.2
	Northern Cape regional courts increased their backlogs by 111 cases (33%) in the past year.			
Limpopo	April 2008	359	1 944	18.5
	March 2009	414	2 796	14.8
	Limpopo regional courts increased their backlogs by 55 cases (15%) in the past year.			
National total		15 767	51 802	30

(iv) New sites

Requests for additional backlog courts at the following 15 high-priority sites were received from the provinces and are being assessed. At present, all partly heard matters in the backlog courts are being analysed before new sites will be considered.

The number of partly heard matters has come down and the average conviction rates for all the backlog courts are satisfactory (approximately 77% against the average of all regional courts of 73%). Most backlog courts have double the finalisation rate per month than normal regional courts (the backlog courts finalised more than 10 cases a month on average).

Places with channelisation courts to prevent the regional courts just becoming bail/remand courts have also shown increased productivity. For example, in Pretoria, a channelisation court was established to help deal with all the postponements and bail applications for the regional courts, and now, for the first time in two years, the regional courts' outstanding rolls for Pretoria have come down to below 200 per court.

Table 74: new sites

Province	Court sites
KwaZulu-Natal	Inkanyezi
	Port Shepstone
	Scottburgh
	Pinetown
	Secunda
Gauteng	Randburg
	Tembisa
	Johannesburg Bail Court
	Vereeniging
Free State	Welkom
	Kroonstad
Mpumalanga	Secunda
Northern Cape	Kimberley (Warrenton, Jan Kempdorp, Hartswater)
North West	Ga-Rankuwa (Odi)
Limpopo	Thoyandou
	Polokwane



Additional prosecutors and legal representatives have been the key success factor of backlog courts. In addition to extra prosecutors for these courts, the LAB has appointed additional legal representatives where required for the backlog and other regional courts, and has also ensured that consultations are improved before the trials with their clients in order to improve court productivity.

More cases are finalised by the prosecutors in view of better court preparation and better consultation with the witnesses, because the backlog rolls consist of only trial-ready cases. Improved screening of the cases indicated where further investigation was required that could quickly be followed up. Where there was no further prospects of success (for example, witnesses could not be traced, etc) the cases could be withdrawn quicker. This has assisted in ensuring less wastage of court time (for example, cases having to stand down or the court having to adjourn repeatedly).

Case cycle times at these sites have improved in general and, as a result of the closer scrutiny of the court rolls by the regional court presidents and the coordinators of the court rolls, better workload spread is being implemented across the various normal regional courts. The focus has also been to bring the oldest outstanding cases forward for speedier finalisation.

A big positive factor is the existence of a good working relationship between key role-players in the provinces, for example, the Director of Public Prosecutions and his staff members – deputy directors of Public Prosecutions (DDPPs), chief prosecutors and senior public prosecutors – the judiciary (Regional Court President and the chief magistrates), the Regional Head of Justice, the Head of Detectives (SAPS), heads of the LAB and other role-players form the members of the provincial case flow management team and interact on a regular basis to plan activities and resolve challenges. They also promote the establishment and monitoring of the backlog court sites.

The cases are finalised much more speedily if a continuous roll is used, as is the case in the backlog courts. In addition to countrywide case flow management meetings held with all role-players to improve the effectiveness of the courts, a National Intersectoral Case Backlog Reduction Workshop was held on 14 and 15 May 2008 to obtain more buy-in for the backlog project and find consensus on operationalising the project more efficiently.

(v) Challenges

The project includes an analysis of all outstanding regional court cases at the various sites, and the rescreening and reprioritisation of these, which include liaison with the relevant regional court president. From this analysis, the following has become clear:

- There is a need to establish additional capacity in some areas, for example, North West, but accommodation is an acute challenge at the sites. Mobile courts are now being planned, as well as possible other options.
- There are challenges in dealing with certain district court matters that are creating backlogs. In this regard, inquests are problematic in the Western Cape and assistance will be provided to deal with this.
- Additional traffic courts for the Western Cape and Gauteng have also been requested, as the workload has increased substantially in that regard. This is being considered in conjunction with the move towards dealing with these matters in an administrative manner.
- A major challenge is currently being experienced in the district courts and a policy decision will be sought to also include the backlogs of the district courts under the Case Backlog Reduction Project. At present, the focus is only the regional courts.

The department aims to implement an operational plan for 2009/10 that will entail the following:

- Further additional backlog courts at all priority regional court sites countrywide
- Reduction of backlogs at both regional and district court level
- Improved case flow management and efficiency at court level
- Improved finalisation rates in all cases
- Improved use of restorative justice and ADR
- Further alignment with the CJS Review and implementation of good practices at other courts
- Strengthening of governance and monitoring aspects

C JUDICIAL POLICIES

(i) Policy on the Judiciary and the Courts

The draft Policy Framework on the Administration of Justice, which includes key principles that will inform the content of the Superior Courts Bill, was finalised. The policy document seeks to consolidate transformative policy initiatives relating to the administration of justice, with specific reference to the courts and the judiciary. The process of transformation seeks to ensure that the judicial system is appropriately positioned to respond



to the diverse needs of society and contributes to the building of a society envisaged by the Constitution.

A transformed judicial system would, among others, be able to:

- contribute to the consolidation of democracy, the pursuit of sustainable development and the realisation of the African Renaissance and a better world where basic human rights and freedoms are enjoyed by all;
- exhibit a culture and values that are aligned with the transformative vision underpinning the Constitution, and embrace the aspirations of all South Africans; and
- provide an environment where the judiciary is able to work constructively with other state institutions in the quest to transform South Africa into a society where the human dignity of all persons is equally respected and protected regardless of race, gender, socio-economic status or any other ground of discrimination.

The draft policy document will address the following transformational goals:

- The rationalisation of the courts to establish a judicial system suited to the requirements of the Constitution and bringing the areas of jurisdiction of the courts in line with the provincial and municipal dispensation under the Constitution. The objectives intended through the rationalisation of the courts are as follows:
 - The establishment of the Constitutional Court as the apex court and the reconstitution of the Supreme Court of Appeal (SCA) as the intermediate court of appeal between the Constitutional Court and the High Court
 - The abolishment of the full bench appeal and provision for appeals against the decisions of the High Court to tie in with the SCA, and the establishment of circuit appeal courts of the SCA to enhance access to justice
 - The conversion of various existing high courts into a single High Court of South Africa, comprising general and special divisions
 - The conversion of the special courts at the level of the high courts (competition appeals, land claims, electoral and income tax courts) into special divisions of the High Court of South Africa and the integration of the Labour Appeal Court and the Labour Court into the SCA and the High Court respectively
- The establishment of a framework for the establishment of a unified, single judiciary, which is based on uniform norms and standards for judges and magistrates, while recognising the hierarchy with the judiciary

- The establishment of a framework for court administration that is consistent with the model of separation of powers under the Constitution
- The rationalisation of rule-making structures and the harmonisation of the rules for courts of law to increase access to justice

The policy framework and a revised Superior Courts Bill based on the policy positions adopted in the policy framework document will be published soon for public comment before it is submitted to Cabinet and Parliament.

(ii) **Child Justice Act 2008 (Act No 75 of 2008)**

The Child Justice Act, 2008 (Act 75 of 2008), was passed by Parliament during 2008, and signed into law by the President on 7 May 2009. The aims and objectives of this act are, inter alia, to establish a criminal justice system for children who are in conflict with the law, in accordance with the values underpinning our Constitution and our international obligations through, among others, creating, as a central feature of this new criminal justice system for children, the possibility of diverting matters involving children who have committed offences away from the criminal justice system, in appropriate circumstances, while children whose matters are not diverted, are to be dealt with in the criminal justice system in the children's courts.

The objectives are also to expand and entrench the principles of restorative justice in the criminal justice system for children who are in conflict with the law, while ensuring their responsibility and accountability for the crimes committed.

The Child Justice Act, 2008 (Act No 75 of 2008) will be the first piece of legislation where operational systems and policies will be in place before the implementation of the act on 1 April 2010. This marks a radical and positive shift in the management and implementation of legislation. The introduction of this act will also help ensure the establishment of one-stop child justice centres for the purpose of handling children's cases quicker and more efficiently under one roof, so as to make the experience for the children less traumatising.

The National Policy Framework on Child Justice must be tabled in Parliament by June 2010 and the various departments have begun the processes of consultation in this regard. The outline of the national policy framework has been drafted and will be consulted upon extensively before finalisation by December 2009. The policy framework will ensure the coordinated



prioritisation and implementation, and monitoring of the impact of mainstreaming, prioritising and diverting the children as much as possible away from the criminal justice system, and will legislate the close cooperation between the relevant government departments and non-governmental organisations in this regard.

(iii) Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007)

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007), came into operation as from 16 December 2007. The aims and objectives of this act are to afford complainants of sexual offences the maximum protection that the law can provide, to introduce measures that seek to enable the relevant organs of state to give full effect to the provisions of this act, and to combat and ultimately eradicate the relatively high incidence of sexual offences committed in the Republic.

The introduction of this act will respond to the concerns of victims of sexual violence in order to address the secondary victimisation encountered in the criminal justice process. For the first time, the implementation of this legislation will have a major shift in policy and service delivery targets, and will oblige the departments involved in fighting the scourge of sexual offences to cooperate and coordinate their activities.

The major developments in terms of this act have been the establishment of the Intersectoral Committee on Sexual Offences, chaired by the Director-General of Justice and Constitutional Development. This will be a coordinating structure, bringing together all the relevant stakeholders involved in addressing the challenge of sexual offences.

(iv) Policy Coordination Unit

The Policy Coordination Unit monitored the implementation of key legislation relating to the transformation of the judiciary, including the facilitation of the development of policy guidelines for the effective implementation of the said legislation. The following acts, which were passed by Parliament and assented to by the President between October and December 2008, are critical to the attainment of a transformed judiciary: the Judicial Education Institute Act, 2008 (Act No 14 of 2008), the Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008) and the Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008).

The department is currently drafting a policy document focusing on how the justice system and the courts manage the issue of HIV/AIDS to ensure equality and non-discrimination in the provision of services. Those who have been affected and infected by HIV/AIDS will thus benefit immensely in this regard.

(a) Judicial Education Institution Act, 2008 (Act No 14 of 2008)

The Judicial Education Institution provides a uniform training framework for both judges and magistrates with a view to improve the productivity of the courts, the quality of judgments, and further develop the South African jurisprudence. The act came into operation on 23 January 2009.

The members of the council have been appointed and a facility has been leased for two years at E dura House in Johannesburg to house the institute temporarily, pending the construction of a permanent facility at the Constitutional Court.

(b) The Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 20 of 2008)

This act seeks to transform the regional courts, which, since their establishment in 1952, were conferred only with criminal jurisdiction. The costs associated with litigation at the High Court for civil disputes beyond the jurisdiction of district courts (R100 000) limit access to justice for ordinary citizens.

A further transformative outcome of this act is the integration of the divorce courts into the regional courts. The divorce courts, established in 1929, were exclusively for Africans. When these courts were deracialised in 1997, their areas of jurisdiction were not rationalised. The act rationalised the areas of jurisdiction of the divorce courts into the area of jurisdiction of regional courts, thereby redressing the fragmented and disjointed lower court judicial system inherited from the past.

The Judicial Service Commission, Magistrates Commission, heads of the courts, magistrates and the legal profession were consulted extensively regarding the appointment of places/seats in the regional courts for the hearing of civil disputes and the determination of amounts for causes of action listed in the act. The seats and the amounts of causes of action will be published in the Government Gazette soon. The act is envisaged to be put into operation during August 2009.



(c) **The Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)**

This act, which is required by the Constitution (section 180(a)), provides for a complaint-handling mechanism for judicial officers. The act has been passed by Parliament and was assented into law by the President in December 2008. In terms of the act, regulations and a judicial code of conduct must be approved by Parliament. A judicial code of conduct and regulations will be submitted to Parliament during the first quarter of the 2009/10 financial year. The act is envisaged to be put into operation during August 2009.

D CONSTITUTIONAL DEVELOPMENT

The purpose of this chief directorate is to develop, promote and implement the Constitution and its values. The unit is also responsible for coordinating assistance to and protecting relevant Chapter 9 institutions to ensure their independence, impartiality, dignity and effectiveness. One of the main focus areas of this unit is to oversee the implementation of constitutionally mandated legislation such as the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000) (PEPUDA), as well as the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000) (PAJA). PAJA is an act of Parliament passed to give effect to the right to just administrative action entrenched in section 33 of the Constitution to ensure that government is democratic, accountable, open and transparent.

In terms of PEPUDA, the department is required to establish equality courts in every magisterial district and to increase proximity of services to all, especially in townships and rural areas, by improving service delivery. The department aims to increase proximity of services to all, especially in townships and rural areas, by collaborating with the relevant stakeholders to improve access to equality courts.

In promoting the Constitution and its values, information sessions were conducted in Middelburg and Hazyview with community development workers (CDWs) on constitutional and human rights education, which included information sessions on the Equality Act and equality courts. About 251 CDWs attended the sessions. The department further conducted workshops on constitutional education with CDWs from Vhembe, the Sekhukhune district and Capricorn district in Limpopo. The workshops dealt with, among others, the Constitution, human rights, equality and equality courts. The workshop in Vhembe was attended by about 115 CDWs. The CDWs will, in turn, use their knowledge to

educate members of the public. Regional officials of the department assisted with training on maintenance and domestic violence.

A public awareness session on equality was conducted in Plet Retief, Mpumalanga, during the period under review. The event was attended by about 600 people from the farming community in the area. Outreach programmes aimed at popularising PEPUDA and equality courts were held in the Mqanduli district, attended by 500 people, Eldorado Park, attended by 250 people, and Bizana, attended by 1 000 people. In order to ensure awareness of the Equality Act by members of the public, the unit has also translated the Equality Act into all eleven official languages and has developed a simplified equality booklet, posters and leaflets.

Information sessions and seminars were conducted with the National House of Traditional Leaders, as well as the Free State Provincial House of Traditional Leaders, to educate traditional leaders about the implications of Constitutional Court judgments on customary law, as well as rights in general.

Although PAJA was promulgated in 2000, awareness of this important piece of legislation is still a challenge for both administrators and the public at large. In order to improve compliance with PAJA, the department conducted a number of activities during the period under review, such as road shows with CDWs in Limpopo, the Free State and North West. The road shows were attended by 425 CDWs in Limpopo, 245 in the Free State and 253 in North West to ensure the effective implementation of PAJA. The unit further conducted work flow evaluations to determine whether the government and its agencies are complying with PAJA. This is aimed at ensuring that government and agency processes are in line with the provisions of PAJA. During the period under review, the unit conducted work flow evaluations of the processes in three local municipalities, Randfontein, Westonaria and Mogale City. The PAJA project team scrutinised and commented to the South African Social Security Agency (SASSA) on the Draft Social Assistance Regulations 27062008.doc in relation to PAJA compliance. The project team further commented on and adapted 39 letters for SASSA to be compliant with PAJA. The department also presented a paper for PAJA and the challenges facing the legislation at an international administrative law conference held in Windhoek, Namibia, from 18 to 21 August 2008. The conference was attended by over 60 delegates from SADC countries. It was aimed at sharing experiences on the implementation of administrative legislation.



With regard to assistance to the relevant Chapter 9 institutions, the department prepared a Cabinet memorandum seeking approval for the adjustment of the remuneration of the members of the South African Human Rights Commission (SAHRC) and the Commission on Gender Equality (CGE). The adjustment has been approved by Cabinet and signed by the President. Several meetings were held with the Chapter 9 institutions to assist with matters relevant to their various mandates. The department facilitated the launch of the Constitutional and Human Rights Programme launched by the Minister at an Imbizo in Klipfontein, Soweto. The launch featured some of the educational material, such as the booklet on the Bill of Rights, entitled *Know Your Rights*, PAJA in all official languages, the three human rights acts (PEPUDA, PAIA and PAJA) in four languages, a PAJA leaflet in eleven languages, and the PAJA booklet in eleven languages. The Imbizo was attended by more than 1 000 people.

The department further facilitated the launch of a partnership with the European Union on the Access to Justice and Promotion of Constitutional Rights Programme in Orange Farm on 10 December 2008. The programme's objective is to contribute to the strengthening of democracy by improving access to justice and promoting constitutional rights for the most vulnerable, in partnership with civil society organisations. The event was attended by 500 community members and the official launch was done by the then Deputy President of the Republic of South Africa, Ms Baleka Mbete. The programme was later launched by the former Minister for Justice and Constitutional Development, Mr Enver Surty, on 11 March 2009, after which a memorandum of agreement was signed with the Foundation for Human Rights as the implementing agency. In commemorating Human Rights Day, the unit facilitated a Human Rights Day event, which was held in Kimberley under the theme *Celebrating 15 Years of Freedom and Human Rights*. The keynote speaker was the then President of the Republic of South Africa, Mr Kgalema Motlanthe. This event was attended by 2 000 people.

During the period under review, the department developed a draft Policy Framework on the Prevention and Combating of Racism, Xenophobia and Related Intolerance, as well as a draft National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance. An interministerial committee was established by Cabinet to oversee the finalisation of the national action plan.

E PROMOTION AND PROTECTION OF THE RIGHTS OF VULNERABLE GROUPS

The Chief Directorate: Promotion of the Rights of Vulnerable Groups consists of two directorates, Child Justice and Family Law, and Victim Support and Specialised Services. The mandate of the chief directorate is to develop policies to support the implementation of legislation and programmes to protect and promote the rights of the vulnerable in courts, to coordinate efficient and effective service delivery, to monitor and evaluate the impact of legislation and policies on courts and the justice system, and to develop effective and efficient information management systems. During the period under review, the following areas were prioritised:

- Children, including children in the criminal and civil stream
- Domestic violence
- Mental health
- Small claims courts
- Maintenance
- Sexual offences

(i) Children (Child Justice)

In the year under review, an effort was made to support the passing of the Child Justice Bill through the various stages of Parliament. The Child Justice Bill, 2008 (No B49B of 2008), was passed by Parliament during November 2008. It incorporates many of the practical strategies developed to divert children out of the criminal justice system. The Child Justice Bill is the first piece of legislation where operational systems and policies are expected to be in place before the implementation of the act on 1 April 2010. This marks a radical and positive shift in the management and implementation of the legislation. The Child Justice Bill was signed by the President on 7 May 2009 as the Child Justice Act, 2008 (Act 75 of 2008).

Other activities relating to child justice for which the chief directorate is responsible include the convening of the Intersectoral Child Justice Steering Committee (ISCCJ) at national level, supported by the same structure in each of the nine provinces. This committee reports to the JCPS Cluster on its activities. This forum, convened by the relevant government departments, meets on a regular basis and includes members of the relevant NGOs and other civil society partners, as well as the institutions protecting democracy, such as the South African Human Rights Commission and the Office of the Public Protector.



One of the major successes of this forum is the reduction of children awaiting trial by 50% during the past five years. Changing the system from an adversarial to a more restorative system has contributed greatly to this reduction. Although accurate statistics from the various government departments concerned are difficult to obtain, between 9 000 and 13 000 children are arrested by the South African Police Service on a monthly basis.

This number is reduced by half within the first 48 hours when children are released into their parents' or guardians' care, released on warning or without charge, are found to have given wrong ages and are processed as adults through the courts, when the cases are withdrawn by the NPA, or when the cases are converted into Children's Court enquiries.

This means that approximately 4 500 to 5 000 cases a month are converted into Children's Court enquiries in terms of the Child Care Act, 1983 (Act No 74 of 1983), especially for younger children and children who have, for example, committed theft or other socio-economic crimes. These children are then declared in need of care and protection and are handled outside the criminal justice system.

Of the remaining number of children in the criminal justice system, between 3 000 and 5 500 children go through the courts on a monthly basis. On average, 1 900 children are diverted from the mainstream criminal justice system on a monthly basis. This means that where children acknowledge wrongdoing, the prosecutor provisionally withdraws the charges against them, on condition that they attend diversion programmes such as life skills and anger management programmes. If the programmes are completed successfully, the charges are withdrawn by the NPA, but if not, the trials can proceed. Diversion was not an option in the criminal justice system before 2003/04 and has increased by 20% each year. Approximately 48% of children who appear in court are diverted from the mainstream criminal justice system.

Of the children who await trial and appear in court, fewer than 1 000 children between the ages of 14 and 17 await trial in correctional facilities (prisons) on a monthly basis, usually for serious and violent crimes. Approximately 3 000 children await trial in detention in secure care facilities, places of safety and home-based supervision run by the Department of Social Development. Of the number of children originally arrested and charged, approximately 1% are sentenced to direct imprisonment, while approximately 20% are sentenced to non-custodial sanctions, including correctional and parole supervision, community service and/or non-custodial programmes

similar to the diversion programmes. Such programmes will be tailor-made to each individual child offender and could include life skills programmes, substance abuse programmes, anger management programmes, and restorative justice programmes such as victim-offender mediation or family group conferencing. These last options will only be done after consultation and approval by the victim of the crime and/or family members.

Approximately 5% of sentenced children are sentenced to reform schools at present being run by the Department of Education, which is also a custodial sanction. The facilities of the reform schools (sentenced children) and schools of industry (children in need of care and younger sentenced children) will be transferred to the Department of Social Development within the next two years, in terms of Chapter 13 of the Children's Amendment Act, 2007 (Act No 41 of 2007). The reform schools and schools of industry were established in terms of the Child Care Act, 1983, and its predecessors, to enable residential placement and schooling of children who may have behavioural challenges.

An increase in diversion and a reduction in the number of children awaiting trial may be attributed to the number of services and programmes of diversion. Some of the diversion programmes include home-based supervision. The preliminary inquiry is further being piloted at the Mangaung One-stop Child Justice Centre in Bloemfontein, which seems to indicate, preliminarily, that only 7 to 21% of the children going through preliminary inquiries go through a full-blown criminal trial. This means that even though more emphasis will be placed on the preliminary inquiry, fewer children will go through full trials, and more children will need to go through diversion programmes and be assisted by the Department of Social Development's aftercare programmes. This centre also received the UN Certificate of Recognition for Excellence in Urban Safety, Crime Prevention and Youth in September 2008.

The department is planning to train personnel in the criminal justice system. The manual is currently being tested. Roll-out for training will commence shortly after that. Prior to the passing of the Child Justice Bill, the department, as part of its campaign to reduce the number of children in detention, created an enabling project by providing alternatives to detention with the support of the National Institute for Crime Prevention and Reintegration of Offenders (NICRO). In conjunction with the rest of the JCPS Cluster member departments, a pilot project was launched in five magisterial districts in 2008, Odi (North West), Kimberley (Northern Cape), East London (Eastern Cape), Bellville (Western Cape) and Randburg (Gauteng). The following figure indicates



the number of referrals, placements and successful completion of the programmes concerned. The Non-custodial Sanctions (NCS) pilot project was launched

in five magisterial districts between February 2008 and March 2009.

Table 75: NCS programme statistics

Number of cases referred for assessment	Number of cases recommended to programmes	Number of offenders placed on NCS programmes	Number of offenders who have successfully completed NCS programmes
292	184	107	15

Source: Project statistics received from NICRO

While the outcome of the project may seem to indicate low numbers, they must be seen within the more holistic perspective of transformation. The social ripple effect of 15 people being given a second chance in the community, as opposed to being imprisoned, is valuable. In preliminarily assessing the low numbers further, it was concluded that managing from an adversarial and punitive justice system to a restorative, therapeutic system needs intensification, both with personnel in the justice system, as well as the general public. Operational systems in and between departments needed further rigorous attention, and general communication in the national and provincial levels of government needed further improvement. The reporting time period in which matters were finalised was rather short for effective sentencing. A more intensive and expansive assessment is currently underway. Nonetheless, these results provide invaluable information in the setting up of the system in view of the implementation of the Child Justice Act, 2008 (Act No 75 of 2008).

The Child Justice Act, 2008 (Act No 75 of 2008) is dependent on the recently enacted Children's Act, 2005 (Act No 38 of 2005), creating a natural link between these two pieces of legislation. Preparation for the implementation of both pieces of legislation is currently underway and will be more comprehensively reported on during the next cycle. The Children's Act, 2005 (Act No 38 of 2005), places a great deal of emphasis on protecting children, including child-headed households predominantly created as a result of the AIDS pandemic. These special categories of vulnerable children are specifically catered for, as well as children that are trafficked among the provisions that relate to neglected, abused, exploited or vulnerable children in society. The department is responsible for implementing Chapter 4 of this act, which manages child-related matters as they are processed through the courts, and forms part of the implementation task team convened by the Department of Social Development as the lead department responsible for the implementation of this act.

A victim impact statement (VIS) is a statement made by a victim of crime, expressing what the impact of crime has been upon his/her life. The VIS should be understood within the context of restorative justice, which seeks to empower victims to be involved in the justice process. Accordingly, the VIS provides an opportunity for the victim of crime to address both the court and the offender on the impact the crime has had on his/her life.

The purpose of a VIS is to provide the victim with an opportunity to play a greater role in the court process. Concerns have been raised that the South African Constitution sets out clearly the rights of the offender, but neglects those of the victim. The inclusion of the VIS is thus important in creating a victim-centred approach to the legal process. The Child Justice Bill, 2008 (No B49D of 2008), which will come into operation on 1 April 2010, now expressly makes provision for prosecutors to supply VISs to courts where child offenders are being considered for diversion and/or non-custodial sanctions.

(II) Domestic Violence

The Domestic Violence Act, 1998 (Act No 116 of 1998) (DVA), provides speedy interim and final relief to victims of violence in the family environment. The department is currently reviewing the implementation of this act, with a view to ensuring further efficiency. The department cooperated with the magistrates to develop guidelines for the implementation of the DVA for the magistrates in conjunction with the Family and Gender Service Delivery Committee of the Lower Court Management Committee (LCMC). These guidelines, which were developed by the magistracy, were launched in June 2008. The guidelines will impact on the standardisation of the implementation of the act and also on the effective management of domestic violence cases in the judiciary and courts.

The Ndabezitha Training Project, which was initiated by the SOCA Unit of the NPA in collaboration with the department and the National House of Traditional



Leaders, focuses on training traditional leaders and domestic violence clerks on the DVA and the utilisation of ADR and restorative justice processed in domestic violence cases by traditional leaders. Thus, 81 traditional leaders underwent the course offered.

A policy document was drafted to address the enhancement and review the process of service delivery to victims of domestic violence and the prosecution of offenders in a holistic, programmatic way.

(iii) Mental Health

During 2008/09, the department identified the need for evidence-based best practice development in the assessment, treatment and care of mentally ill persons in courts and the justice system. To this end, various collaborative processes between the relevant government departments commenced during 2008/09, based on the Forensic Mental Health Seminar that was facilitated by the departments of Health, together with the DoJ&CD, in July 2008.

This initiative was prompted by challenges with regard to the implementation of the Criminal Procedure Act, 1977 (Act 51 of 1977), the Mental Health Care Act, 2002 (Act 17 of 2002), the Criminal Law Amendment (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), and the Victim's Service Charter, relating to the forensic psychiatric evaluation, care, treatment and rehabilitation of awaiting trial prisoners, victims of crime and violence, state patients and mentally ill prisoners. A comprehensive strategy and plan to address the various shortcomings were still underway at the time of reporting.

Although this formed part of the CJS Review, the amendment below has assisted in fast-tracking cases. Section 79 of the Criminal Procedure Act, 1977 (Act No 51 of 1977) (CPA) was amended by the Judicial Matters Amendment Act, 2008 (Act No 48 of 2008), section 1 of section 79 inserted by subsection 13 to section 79. It was legally required that in serious matters, observations must be done by a panel of psychiatrists. There were not enough private psychiatrists willing to do this type of work. To put panels together was problematic and these observations took much longer.

There was no updated list of private psychiatrists to be used for observation purposes, as required in terms of section 79(9) of the CPA, for various reasons. Consequently, there was artificial compliance with the requirements of the CPA. Private psychiatrists were substituted by psychiatrists in full-time service of the state doing a certain number of hours overtime as private psychiatrists. Currently, this has been amended in the Judicial Matters Amendment Act, 2008 (Act No 48 of 2008), to read that two psychiatrists can attend to these panels, one of which does not have to be a private practitioner.

(iv) Maintenance

The department supported the Parliamentary hearings on the Extension of Civil Regional Jurisdiction Bill, 2008, which aims to improve access to justice for persons requiring family law services, including access to divorce courts. The regional courts will now be able to hear civil and criminal matters. Policy proposals were made and supported, and the department developed a phased implementation plan, together with budgets and the necessary resources, during which the Chief Directorate: Promotion of the Rights of Vulnerable Groups will manage the transitional arrangements between the present divorce courts and the new regional courts enabled to hear divorce cases.

As part of the Restorative Justice Programme, court clerks reported the intensification of family disputes as a result of unpaid maintenance monies. A pilot project was undertaken within the current legislative framework to provide mediation in resolving maintenance disputes. As a result, maintenance personnel in the Johannesburg Family Court and the Pretoria Magistrate's Court were provided with basic training on mediation skills. Subsequent to an external assessment of this project, it has been noted that the utilisation of mediation skills by the court clerks assisted in alleviating the acrimony involved in resolving maintenance disputes. As a result, the department will roll out this training for all maintenance clerks. Capacity for managing maintenance, in terms of the number of maintenance officers and investigators appointed countrywide, is depicted in the following table.

Table 76: Summary of capacity in maintenance courts from August 2008 to March 2009

Maintenance officers	Maintenance investigators	Administrative clerks in Family Law sections	Legal interns	Maintenance prosecutors	Senior maintenance prosecutors
171	200	855	43	118	10



(v) Sexual Offences

The Criminal Law Amendment Act (Sexual Offences and Related Matters), 2007 (Act 32 of 2007), attempts to provide services to certain victims of sexual offences and strives to eliminate secondary victimisation. This forms part of the achievements made through public participation in drafting legislation that is responsive to sexual crimes in South Africa. The act expands on constitutional guarantees of rights to privacy, dignity, freedom and security of the person, as well as the right to be free from all forms of public and private sources of violence.

The act includes new categories of sexual crimes, such as compelled rape, which is defined as a third party forcing a person to engage in sexual acts with someone. Other forms of crime include child prostitution, engaging sexual services of persons of 18 years or older for financial reward (adult prostitution), incest, bestiality, statutory rape and child pornography. The act also seeks to address one of the dire consequences of rape, exposure to HIV/AIDS. The act makes provision for the right to apply for the HIV testing of an alleged sexual offender, thus affording victims an appropriate legal response to the crime of sexual violence. With an expanded definition of sexual violence, the act has placed a significant degree of responsibility on government departments to deliver services, based on human rights, responsive to the challenges of the socio-economic conditions of beneficiaries and in an integrated and coordinated approach to service delivery.

This act promotes collaboration among the intersectoral services to resolve fragmented services. This framework is based on the principles of the rights-based approach, whereby all policies and programmes must be aligned with a view to developing effective monitoring and evaluation systems for measuring progress. Displaying its commitment to prioritising the plight of vulnerable groups, specifically women and children, and in view of the scourge of gender-based violence, the act requires that the policy framework be presented to Parliament on approval of Cabinet, after consideration by the most senior government officials, namely the relevant directors-general.

In the year under review, the department noted the challenges surrounding the availability of intermediaries, as shown in the judgment of Bertelsmann J in *S v Mokoena, Phaswane* (Case no CC7/07 and CC 192/07). The department has awarded full-time contractual employment to 30 intermediaries to ensure the availability of these services. Training of the intermediaries was conducted in 2007. The department has also rationalised the position of intermediaries across government and

has developed a governance framework within which the intermediaries would be appointed.

All intermediaries appointed by the department have undergone initial intensive training for five days. New recruits and those appointed by other departments will be progressively assimilated into the department by appointments and will undergo similar training. The aim of the training is to provide intermediaries with the knowledge and skills necessary to perform their functions in terms of section 170A of the Criminal Procedure Act, 1977 (Act 51 of 1977). The training includes, among others, the following topics:

- Understanding the adversarial approach to child development
- The effects of disclosure and trauma, child language and communicating with children, and techniques for interviewing children and the use of anatomically detailed dolls, as well as applicable legal concepts

The introduction of the Criminal Law Amendment Act, 1991 (Act 135 of 1991), inserted section 170A into the Criminal Procedure Act, saw intermediaries as an essential feature of the courts. Intermediaries are required in terms of legislation to act as 'interpreters' for children and not as experts. These intermediaries are used in children's courts in terms of the Children's Act, 2005 (Act No 38 of 2005), and the introduction of the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007, which has extended the use of intermediaries to mentally disabled persons. Intermediaries have thus become a permanent addition to many courts.

(vi) Children's Act, 2005 (Act No 38 of 2005)

Another piece of legislation that was implemented during the financial year relates to 47 sections of the Children's Act, 2005 (Act No 38 of 2005), which were put into operation in July 2007. The major policy and service delivery implications of this act relate to the children's courts and the Chief Family Advocate's Office. This act is mainly focused on protecting children, including child-headed households predominantly created as a result of the AIDS pandemic. The operative section of the act has substantially expanded the mandate of the Family Advocate without any increase in resources.

The department is responsible for implementing Chapter 4 of this act, which manages child-related matters as they are processed through the courts.

The act also mandates the Chief Family Advocate's Office to mediate disputes between parents regarding the children, as well as assisting with the drafting of parenting



plans and plans for parental rights and responsibilities. Sections 14 and 15 of the Children's Act, 2005 (Act No 38 of 2005) guarantee that children have the right to access any court for assistance, and all parties, including the state, must help them to access the courts concerned. This places an obligation on the state to develop policies and ensure the necessary resources in the courts and with the Family Advocate's offices, to be able to prioritise and fast-track the children's matters concerned.

A major risk in this regard is that the department has not received much additional funding for the implementation of the Children's Act, 2005 (Act No 38 of 2005), which will have a negative impact on service delivery once the rest of the act is implemented during the latter part of 2009.

(vii) Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007)

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007), came into operation as from 16 December 2007. The aims and objectives of this act are to afford complainants of sexual offences the maximum protection that the law can provide, to introduce measures that seek to enable the relevant organs of state to give full effect to the provisions of this act, and to combat and ultimately eradicate the relatively high incidence of sexual offences committed in the Republic.

The introduction of this act will respond to the concerns of victims of sexual violence in order to address the secondary victimisation encountered in the criminal justice process. For the first time, the implementation of this legislation will have a major shift in policy and service delivery targets, and will oblige departments involved in fighting the scourge of sexual offences to cooperate and coordinate their activities. The major developments in terms of this act have been the establishment of the Intersectoral Committee on Sexual Offences, chaired by the Director-General of Justice and Constitutional Development. This will be a coordinating structure, bringing together all the relevant stakeholders involved in addressing the challenge of sexual offences.

(viii) National Policy Framework for the Management of Sexual Offences

Section 62(1) of the Criminal Law Amendment (Sexual Offences and Related Matters) Act, 2007 (Act No 32 of 2007) mandates the Minister for Justice and Constitutional Development, in consultation with the ministers of Safety

and Security, Correctional Services, Social Development and Health, to adopt a national policy framework (NPF) for the effective implementation of the act.

The NPF must be located within the broad objectives of the act, which are to afford complainants of sexual offences the maximum and least traumatising protection, to introduce measures that seek to enable the relevant organs of state to give full effect to the provisions of this act and to combat and, ultimately, eradicate the relatively high incidence of sexual offences committed in the Republic.

The NPF has been developed to coordinate, align, prioritise and monitor the impact of the various policies and strategies to address prevention, prosecution, adjudication and support services to victims of sexual offences in a holistic and coordinated manner.

(ix) Governance on National Register for Sexual Offenders

In compliance with section 53 of the act, the department coordinated numerous bilateral meetings with the SAPS, the Department of Health (DoH), Department of Social Development (DSD), Department of Correctional Services (DCS) and the NPA to facilitate the establishment and management of the National Register for Sex Offenders (NRSO) (the register). The objects of the register are to protect children and persons who are mentally disabled against sexual offenders by establishing and maintaining a record of persons who have been convicted of sexual offences against children or persons who are mentally disabled, or who are alleged to have committed sexual offences against children or persons who are mentally disabled.

In summary, the act places a prohibition on certain types of employment being held by persons who have committed sexual offences against children and persons who are mentally disabled. Persons who have committed offences against children are prohibited, among other things, from being employed to work with children in any circumstances and may not hold any position that places them in a position of authority, supervision or care of children or where they may gain access to children (section 41(1)). Persons who have committed offences against persons who are mentally disabled are prohibited, among other things, from being employed to work with persons who are mentally disabled in any circumstances and they may not hold any position that places them in a position of authority, supervision or care of persons who are mentally disabled (section 41(2)).



Two business proposals were developed to enhance the effective management of the register, namely the SAPS fingerprint vetting process and the process of the enhancement of the DoJ&CD's current system to cater for the information required in the register. As a result of the department not having these records readily available, the actual fingerprint vetting process is conducted at the SAPS Criminal Record Centres (CRCs), utilising the SAPS's Automated Fingerprint Identification System (AFIS). An electronic version of the register has already been developed and should be operational by June 2009.

(x) Maintenance and Extension of Civil Jurisdiction to Regional Courts Bill, 2008

This piece of legislation was passed by Parliament during 2008/09, and will enable regional courts to hear civil matters, as well as divorce cases. This will enhance access to justice. Parties involved in divorce proceedings will greatly benefit from this legislative development, as their divorce can be settled at their nearest regional court. The services of the Family Advocate, including family mediation, will be extended to all regional courts designated/proclaimed under this act.

A test project was undertaken within the current legislative framework to provide mediation in resolving maintenance disputes. As a result, maintenance personnel in the Johannesburg Family Court and the Pretoria Magistrate's Court were provided with basic training on mediation skills. Subsequent to an external assessment of this project, it has been noted that the utilisation of mediation skills by the court clerks assisted in alleviating the acrimony involved in resolving maintenance disputes. As a result, the department will roll out this training for all maintenance clerks.

A document on future maintenance will advise on the need to ensure that future maintenance for children is ensured by making various options available, such as attaching part of parents' pension. It will enable the department to administer the lump-sum payments of maintenance on an interim basis for beneficiaries as a third party fund.

A document on mediation on maintenance matters will advise on the need to ensure that mediation takes place in court by maintenance officers, before the matter comes to court, in order for the court to hear only the matters that the parties cannot agree upon, and to lessen the backlogs in maintenance cases. It will also reduce the acrimony between the various parties concerned. Pilot projects have been launched in the

Pretoria and Johannesburg magistrate's courts.

(xi) Small Claims Courts

The small claims court services are regulated by the Small Claims Court Act, 1984 (Act No 61 of 1984), and its related enabling legislation. These courts provide speedy and cost-effective relief to minor civil disputes to the value of R7 000. In terms of this act, small claims courts must be designated if an Advisory Board and commissioners are appointed. With the assistance of the legal profession, especially attorneys who provide their services voluntarily, as well as the general public, 188 small claims courts have been established countrywide, 113 advisory boards set up and 114 commissioners appointed. In further assisting access to justice, some of these courts are operational on Saturdays for administrative purposes to enable litigants to process their administrative processes.

The department conducted research on the legal framework/critique and a comparative study of the different models of the small claims courts. This research is used as a baseline study for the transformation of the small claims courts. The research will further assist with the amendment of the Small Claims Courts Act, 1984 (Act No 61 of 1984).

(xii) Restorative Justice

The department has started the process for the development of a National Strategy and Policy on Restorative Justice to support departmental and JCPS Cluster initiatives in this regard, as well as to ensure the coordinated, holistic implementation of restorative justice obligations and clauses contained in pieces of legislation such as the Children's Act, 2005 (Act No 30 of 2005), and the Child Justice Bill, 2008. A Restorative Justice Task Team was established during 2007.



F OFFICE OF THE FAMILY ADVOCATE

The purpose of the Office of the Family Advocate is to promote and protect the best interests of minor and dependent children in matters relating to parental responsibility and rights disputes.

The professional component of the office comprises family advocates (lawyers) and family counsellors (social workers). The Family Advocate renders legal, as well as family mediation services, through multidisciplinary teams made up of lawyers and social workers so as to ensure a holistic and qualitative approach to serve the best interest of the child throughout the dispute resolution or adjudication process. Currently, there are 16 service delivery points situated in the provinces, 55 family advocates, 10 senior family advocates and 76 family counsellors on the establishment.

The mandate of the Family Advocate accords with section 28(2) of the Constitution, namely that "a child's best interests are of paramount importance in every matter concerning the child". The powers and duties of the Family Advocate are set out in section 4 of the Mediation in Certain Divorce Matters Act, 1990 (Act No 24 of 1990), as follows:

- To institute an enquiry so as to be able to furnish the court with a report and recommendation on any matter concerning the welfare of a minor/dependent child
- To appear at the trial of any divorce action or the hearing of a related application
- To adduce any available evidence relevant to the action or application
- To cross-examine witnesses giving evidence at such trial or hearing of application

Such powers and duties were subsequently extended to six other pieces of legislation, thus extending the mandate of the Family Advocate from High Court work to include special divorce court matters, disputes arising from customary and religious marriages, as well as matters related to children born out of wedlock.

In terms of amendments to the Domestic Violence Act and the Maintenance Act, 1998 (Act No 116 of 1998) presiding officers hearing maintenance and domestic violence cases can obtain Family Advocate reports regarding the best interests of the child prior to making orders. The clients of the Family Advocate are consequently members of the public, children, as well as the courts hearing such matters. The primary need of the clients is the speedy resolution of disputes, as well

as the availability of family advocates in court to ensure the efficient completion of hearings. Children need to be served in a child-favourable, non-intimidating environment, which is sensitive to and responds to their developmental needs. The best interests of the child require disputes to be resolved in the most non-conflictual manner as possible.

The most prominent challenge facing the Family Advocate is staff shortages, as well as limited accessibility. Clients travel long distances to obtain the services. Courts often postpone matters, sometimes at parties' costs, due to delays in obtaining reports or the availability of family advocates to appear in court. Such delays compromise the welfare of the child.

During the 2008/09 year, the Office of the Family Advocate has received 8 957 cases, of which 8 005 were finalised. These figures exclude the backlog of 2 937 cases accumulated over the past years.

(i) International Child Abduction

The Chief Family Advocate is the designated central authority for South Africa in terms of the Hague Convention on the Civil Aspect of International Child Abduction, which was ratified by South Africa in 1996. The main function of the central authority is to ensure the speedy return of children abducted to and from South Africa through the judicial process, as well as to ensure that the child's right to contact with both parents is not jeopardised unduly. This convention is enforceable between South Africa and 47 countries.

(ii) Mediation Services

The new Children's Act, 2005 (Act No 38 of 2005) (22 sections only) came into operation on 1 July 2007. The act has expanded the duties of the Family Advocate extensively. A rights-based approach is propagated by the act when dealing with children's matters. Most notable is the introduction of compulsory mediation in section 21 (disputes over parental rights and the responsibilities of fathers of children born out of wedlock). Family advocates and family counsellors provide the service through the co-mediation model. Eighty members of the professional staff have been trained in mediation techniques focusing on family mediation.

During 2008/09, 3 014 requests for mediations were received, 1 491 were completed by the personnel of the office and 1 523 were finalised with the assistance of NGOs that specialise in family mediation.



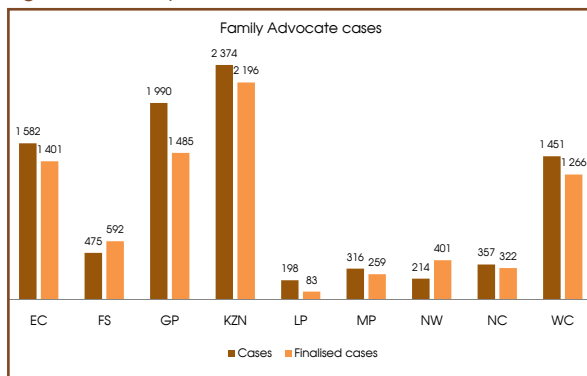
(iii) Conclusion

The Office of the Family Advocate has rendered over 120 parental education workshops in the different provinces, whereby parents were educated about their rights and responsibilities over their children, promoting the new Children’s Act, 2005 (Act No 38 of 2005), as well as mediation as an effective dispute resolution method. It is anticipated that as more people get to know and understand their rights, the demand for the services that are available under the new legislation will increase significantly.

Table 77: Cases received and finalised

Province	Received	Finalised
Eastern Cape	1 582	1 401
Free State	475	592
Gauteng	1 990	1 485
KwaZulu-Natal	2 374	2 196
Limpopo	198	83
Mpumalanga	316	259
North West	214	401
Northern Cape	357	322
Western Cape	1 451	1 266
Total	8 957	8 005

Figure 57: Family advocate cases



G 2010 WORLD CUP

A draft 2010 process mapping document has been completed and submitted to all stakeholders for their input. An unfunded priority project request has been forwarded to National Treasury for funding of the Programme for Foreign Interpreters. All provinces have been briefed about monthly progress reporting and the reporting template. The Prosecution Plan, Programme for Interpreters, Communication Plan and the Risk Plan has been distributed to all stakeholders. Gauteng is currently reviewing its 2010 dedicated courts. Musina and Phalaborwa have been added to the project, as these are two main points of entry in Limpopo.

The economic crunch facing the department has forced the review of the department’s approach in dealing with cases emanating from the FIFA events. The approach of dedicated resources and additional courtrooms, which has a huge budgetary implication, will be revised to accommodate all event-related cases in the normal courts with jurisdiction. Engagements with all relevant stakeholders are currently in place to review options and adopt an approach that will be cost-effective. The Chief Financial Officer has set aside R35 million for the provision of language service requirements, with R5 million for the Confederation Cup this year and the balance towards the 2010 FIFA World Cup.

H COURT MODERNISATION PROGRAMME

One of the major projects of the department is to modernise justice services by providing a speedy business productivity solution using information technology as an enabler.

(i) E-scheduler

E-scheduler is a web-based case management system that allows for access by all court users in the department. The user requirements of the various court types necessitated evolving the E-scheduler into the Integrated Case Management System (ICMS), which provides for a common case registration and case management system related to criminal and civil matters in the Lower and High Court environments, together with the incorporation of a scanning module that provides for the electronic capturing, storage and retrieval of documents related to cases. Currently, the ICMS is being developed in phases and tested prior to roll-out. The table below provides a summary of E-scheduler per region.

Table 78: Summary of E-scheduler per region

Region	Courts
Eastern Cape	85
Free State	66
Gauteng	46
KwaZulu-Natal	77
Limpopo	38
Mpumalanga	36
Northern Cape	35
North West	34
Western Cape	56
Total	473



(ii) Video Postponement

The table below provides a summary of the total cases for the utilisation of the video remand concept for 2008 and 2009.

Table 79: Utilisation of the video remand concept for 2008 and 2009

Year	Durban	Pinetown	Total
2008	714	454	1 168
2009	36	106	142
Total	750	560	1 310

The table below provides a summary of the total cases for the utilisation of the video remand concept since 2005.

Table 80: Utilisation of the video remand concept since 2005

Year	Durban	Pinetown	Port Elizabeth (Operational from 1 August 2008)	New Brighton (Operational from 1 August 2008)	Total
2005 (from October 2005)	713	113			826
2006	2 343	1 560			3 903
2007	788	128			916
2008	714	454	46	55	1 269
January 2009	14	55	5	4	78
February 2009	22	51	4	6	83
Total	4 594	2 361	55	65	7 075

The table below provides a summary of ICMS sites deployed.

Table 81: Summary of ICMS sites deployed

Province	ICMS civil installed	Scanner
Eastern Cape	59	120
Free State	26	55
Gauteng	8	19
KwaZulu-Natal	32	70
Limpopo	5	8
Mpumalanga	16	30
North West	16	34
Northern Cape	23	49
Western Cape	11	26
Total	196	411

(iii) Digital Court Recording System

Summary of the Digital Court Recording System (DCRS) roll-out.

Table 82: Digital Court Recording System roll-out

Area	Headphone system	Data backup system	Sexual offences court/CCTV
Eastern Cape	287	287	47
Free State	169	169	24
Gauteng	363	363	50
KwaZulu-Natal	308	308	29
Limpopo	128	128	36
Mpumalanga	114	114	15



Area	Headphone system	Data backup system	Sexual offences court/CCTV
North West	113	113	26
Northern Cape	89	89	22
Western Cape	265	265	34
High Court	178	0	0
Mobile Units	75	0	0
Total	2 089	1 836	283

The table below provides a summary of the deployment of DCRS court recording machines.

Table 83: Deployment of DCRS court recording machines

Recorders	Number
Recorders installed/deployed	2 089
Deployed to regions for training purposes	120
Recorders still outstanding/stored/backup	221
Total recorders procured	2 430

(iv) Scanning Solution

This system is no longer an independent system, as it has been incorporated into the ICMS development. Scanners have already been procured and deployed to most courts.

(v) Case Flow Management

The department is engaged in the development of an enhanced version of the case flow management (CFM) framework for implementation by involving all stakeholders. In the process, participants from other partner organisations will make meaningful contributions on the issues and blockages affecting the proper implementation of CFM in the court environment. Efforts to eradicate such blockages will be proposed by adopting workable solutions. These include the following:

- Continuous cooperation of stakeholders to implement and maintain CFM at all courts
- Establishing judicial leadership and CFM buy-in processes in the lower and higher courts in the form of CFM forums
- Facilitating and monitoring the creation of CFM governance structures to sustain productivity in the court environment
- Maintaining the CFM concept (guidelines, plans, governance, reporting and systems)

In this regard, CFM judicial empowerment workshops have been conducted in most provinces, in which a total of 366 (of a total of 1 516) district courts and 190 (of a total of 337) regional court magistrates have participated. Endeavours are currently in place to provide for four additional workshops to provinces that still require CFM empowerment and to train coordinators

to manage the process in provinces/clusters in order to empower all remaining magistrates. The enhanced version of the CFM guidelines has been completed through the interaction of most stakeholders and the guidelines are in the process of publication.

2.10.3 Programme 3: State Legal Services

Purpose

Provide legal and legislative services to government, supervise the administration of deceased and insolvent estates and the Guardian’s Fund, prepare and promote legislation, facilitate constitutional development and undertake research in support of this.

- The State Law Advisors provides legal advisory services to the executive, all government departments, parastatals and government autonomous bodies.
- Litigation and Legal Services provides attorney, conveyancing and notary public services to the executive, all government departments, parastatals and other government bodies through the offices of the State Attorney, and provides legal support to the department and the Ministry.
- Legislation and Constitutional Development prepares and promotes primary and secondary legislation, and conducts research.
- The Master of the High Court supervises the administration of deceased and insolvent estates, trusts, curatorships and the Guardian’s Fund.

Measurable objectives

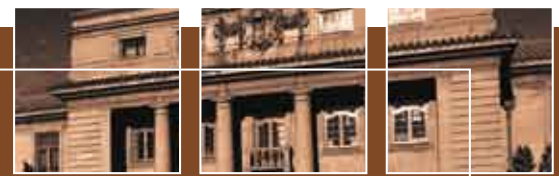
- Improve the legal system by preparing at least 12 draft bills and regulations and rules for submission to the Ministry for Justice and Constitutional Development in 2008/09.



- Facilitate law reform by submitting at least 10 research publications to the South African Law Reform Commission for consideration and approval in 2008/09.
- Improve legal services provided to government by reducing government departments' reliance on private sector legal advisory services from 70% in 2007/08 to 30% by the end of 2010/11.
- Improve the administration of deceased estates by completing registered estate cases worth R50 000 or less within four months and providing beneficiaries of estates access to assets within 60 days of application.

Table 84: Service delivery achievements

Sub-programmes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Legislative Development	Preparing at least 12 draft bills and regulations and rules for submission to Ministry	Draft bills and regulations and rules	12	29 (11 bills, 8 regulations and 10 rules)	The target actually comprised 12 legislative instruments (bills, regulations and rules).
	Submitting at least 10 research publications to the South African Law Reform Commission for consideration and approval	Research publications	10	10	Achieved.
State Litigation	Improve legal services provided to government	Reducing government departments' reliance on private sector legal advisory services from 70% in 2007/08 to 30% by the end of 2010/11	30%	Not achieved	The use of private legal service providers in providing legal services to client departments will always be a necessity. In cases of conflict of interest in respect of the State Attorney's office, whether due to conflicting instructions between various clients in the same matter or because of prior services rendered by the particular State Attorney's office, the use of correspondent attorneys becomes imperative and therefore unavoidable.



Sub-programmes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
State Litigation (continued)	Improve legal services provided to government (continued)	Reducing government departments' reliance on private sector legal advisory services from 70% in 2007/08 to 30% by the end of 2010/11 (continued)			<p>Further, the use of advocates is also imperative because of the specialist services they render and in the absence of internal capacity or in cases of limited internal capacity.</p> <p>Statistics for the reporting period are based on payments made to private legal services providers during the reporting period. This is not necessarily reflective of the work outsourced for that period, because claims are often made outside the outsourcing period. The increase in the payments made in the reporting period are therefore impacted upon by the outsourcing in previous reporting periods.</p> <p>The lateness, lack of or poor quality of instructions given by clients results in losses of cases and attracts costs against the state. This is a matter not entirely within the control of the branch, because the capacity (whether human or professional) available in the client departments' legal services has a direct bearing on the ability to provide adequate and timeous instructions. The department also does not control the behaviour of public servants, managers, heads of department, MECs and ministers. More specifically, it cannot change the behaviour of policemen, nurses, doctors, teachers, etc, which consequently result in litigation.</p> <p>Finally, there has been an increase in litigation in the past year, and payments to be made in the coming quarter will be influenced largely by that increase.</p>



Sub-programmes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
State Litigation (continued)	Improve legal services provided to government (continued)	Reducing government departments' reliance on private sector legal advisory services from 70% in 2007/08 to 30% by the end of 2010/11 (continued)			<p>Further, the judgment of the Constitutional Court on 2 June 2008 has put pressure on government departments to pay all outstanding judgments, and to provide a report on this by 31 July 2008.</p> <p>The compliance with the judgment has resulted in increased spending on payments of both costs and capital, the bulk of which related to old matters. The continuous and dedicated focus on the settlement of costs since the judgment has resulted in the acceleration of the taxation and payment of costs carried over from previous periods, and the spillover from those activities in the previous quarter will be filtered through in this and subsequent quarters.</p>
Master of the High Court	Improve the administration of deceased estates	Completing registered estate cases worth R50 000 or less within four months	Within four months	Virtually all deceased estates less than R50 000 are finalised within the four-month target	<p>The Master's Branch has committed itself to finalise all small deceased estates, that is those less than R125 000 in value, within four months of their registration, and not only estates of R50 000 or less. While virtually all deceased estates of less than R50 000 that are registered at service points are finalised within the four-month target, approximately 80% to 90% of deceased estates between R50 000 and R125 000 that are dealt with at the master's offices themselves are finalised within the four-month target.</p>



Sub-programmes	Outputs	Output performance measures/ service delivery indicators	Actual performance against target		Motivation
			Target	Actual	
Master of the High Court (continued)	Improve the administration of deceased estates (continued)	Providing beneficiaries of estates access to assets within 60 days of application	60 days of application	The time taken to process applications differs from office to office. In some offices, particularly the smaller offices, the turnaround time is as little as three or four days, while in others it is 14 days. In some instances, it is longer and could exceed the 60-day target. Reasons are set out in the last column.	Some claims take some time, for instance, in cases where applicants are applying for money from the fund for the first time and where applicants are applying for final payments on reaching maturity. In these instances, the particulars of the applicants must be verified, for instance their fingerprints must be verified with the Department of Home Affairs, which can delay payments from the fund.

A MASTER OF THE HIGH COURT

The Master’s Branch is a service-driven branch, providing statutory services to the public in terms of a number of acts of Parliament, most notably the Administration of Estates Act, 1965 (Act No 66 of 1965), the Insolvency Act, 1936 (Act 24 of 1936), Chapter XIV of the Companies Act, 1973 (Act No 61 of 1973) (regulating the winding up of companies), the Close Corporations Act, 1984 (Act No 69 of 1984), and the Trust Property Control Act, 1998 (Act No 57 of 1998). In summary, the mandate of the Master of the High Court is to supervise the administration of deceased and insolvent estates of individuals and juristic persons, trusts and curators, and to improve access to the Guardian’s Fund. Section 2 of the Administration of Estates Act, 1965 (Act No 66 of 1965) provides for the appointment of masters of the high courts by the Minister for Justice and Constitutional Development. In terms of this section, the Minister must appoint a Chief Master of the High Court and a master for every high court in the country. The Minister may, depending on the need, also appoint one or more deputy masters and assistant masters at every master’s office who may, subject to the control, direction and supervision of the master in question, do anything which the master may lawfully do.

The Chief Master is subject to the control, direction and supervision of the Minister. The Chief Master is the

executive officer of the master’s offices and exercises control, direction and supervision over all masters. There are 14 master’s offices throughout the country, in Johannesburg, Pretoria, Durban, Pietermaritzburg, Mafikeng, Mthatha, Grahamstown, Bisho, Port Elizabeth, Bloemfontein, Polokwane, Thohoyandou, Cape Town and Kimberley. Mention needs to be made of the fact that there were no master’s offices in Port Elizabeth, Durban, Johannesburg and Polokwane before 1994. These offices were only established after 2000 in an effort to enhance access to justice. Section 2A of the Administration of Estates Act, 1965 (Act No 66 of 1965), however, empowers the Minister to designate places within the area of jurisdiction of a master as service points. This section was inserted into the act in order to facilitate the availability of masters’ services at centres other than at the master’s offices themselves. All magistrate’s offices have been designated as service points for this purpose. The accompanying tables set out the statistics for each of the 14 master’s offices in respect of the different types of estates administered, as well as the registration of trusts and the appointment of trustees and curators bonis.

(i) Deceased Estates

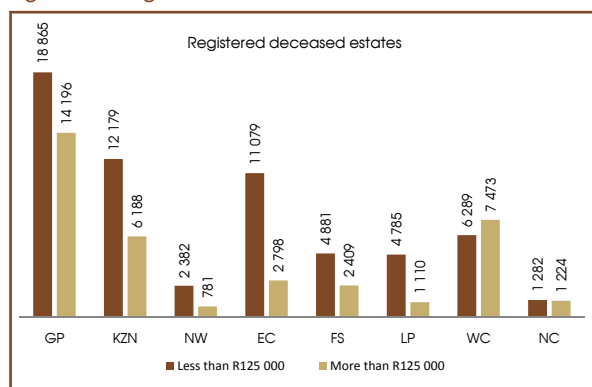
The supervision of the administration of deceased estates constitutes more than 80% of the work carried out in the various master’s offices. The Administration of Estates Act



of 1965 regulates the administration of deceased estates. In terms of section 18(3) of this act, if the value of any estate does not exceed the amount determined by the Minister by notice in the Government Gazette (R125 000), the master may dispense with the appointment of an executor and give directions as to the manner in which any such estate shall be liquidated and distributed.

The graph below depicts the number of deceased estates registered at the various master's offices during 2008/09:

Figure 58: Registered deceased estates



* There is no master's office in Mpumalanga

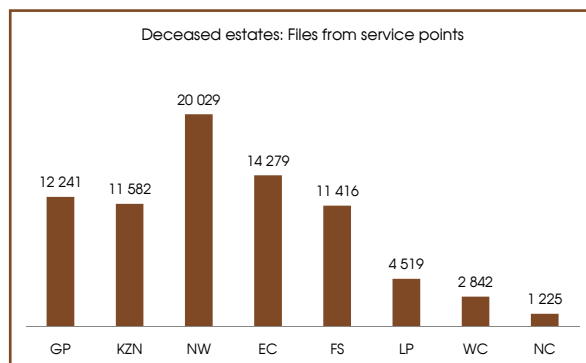
The following are the statistics in respect of deceased estates below R125 000 and deceased estates of R125 000 and more that were registered at the 14 master's offices during 2008/09. The last column indicates the number of files that were received by the master's offices from the various service points that have been designated in terms of section 2A of the Administration of Estates Act, 1965 (Act No 66 of 1965). The figures in the last column are, however, not included in the figures for the number of deceased estates of less than R125 000 in the second column.

Table 85: Estates registered at the various master's offices during 2008/09

Province	Less than R125 000	More than R125 000	Files received from service points
Gauteng	18 865	14 196	12 241
KwaZulu-Natal	12 179	6 188	11 582
North West	2 382	781	3 897
Eastern Cape	11 079	2 798	14 279
Free State	4 881	2 409	11 416
Limpopo	4 785	1 110	4 519
Western Cape	6 289	7 473	2 842
Northern Cape	1 282	1 224	1 225
Total	61 742	36 179	62 001

The graph below depicts the number of files of deceased estates from service points during 2008/09:

Figure 59: Deceased estates: Files from service points



The figures reflecting the number of estates of less than R125 000 in value (those dealt with in terms of section 18(3) of the Administration of Estates Act, 1965 (Act No 66 of 1965), where the appointment of executors is not required) and those of more than R125 000 in value, which were registered at the 14 master's offices during the year under review, are intended to indicate the volumes that are required to be processed by these offices throughout the country. This gives a figure of 97 921 new matters (61 742 estates of less than R125 000 and 36 179 estates of more than R125 000), but excludes the matters received by the master's offices from designated service points.

What is particularly noteworthy, is the fact that the relatively newly established master's offices in Port Elizabeth, Durban and Johannesburg have almost exceeded or have, in fact, exceeded the number of estates registered at the master's offices where these estates would have had to be registered, namely Grahamstown, Pietermaritzburg and Pretoria, had the three new offices not been established. A continuation of this trend might require a re-evaluation of staff establishments in the respective offices in order to accommodate changing needs.

The number of letters of authority issued in respect of estates less than R125 000 in value, section 18(3) of the Administration of Estates Act, 1965 (Act No 66 of 1965), and the number of letters of executorship issued in respect of estates more than R125 000 in value during 2008/09 are as follows:

Table 86: Letters of authority and executorship issued

Province	Number of letters of authority issued in respect of estates less than R125 000	Number of letters of executorship issued in respect of estates more than R125 000
Gauteng	22 427	7 676
KwaZulu-Natal	13 295	7 088
North West	2 382	781
Eastern Cape	8 615	2 856
Free State	4 881	2 409
Limpopo	4 250	830



Province	Number of letters of authority issued in respect of estates less than R125 000	Number of letters of executorship issued in respect of estates more than R125 000
Western Cape	5 603	7 473
Northern Cape	1 260	788
Total	62 713	29 901

In the annual report of the previous year, the number of letters of authority issued in respect of estates less than R125 000 in value was 63 894, compared to 62 713 during the year under discussion, representing a decrease of approximately 1 000. In respect of estates of more than R125 000 in value, there has also been a decrease compared to the previous year, namely from 32 039 in 2007/08 to 29 901 in the year under review, a decrease of approximately 2 000 matters. Again, the statistics in respect of the new offices in Port Elizabeth, Durban and Johannesburg indicate that they are in the process of becoming centres where services are required more than in Grahamstown, Pietermaritzburg and Pretoria, which previously provided the services in question.

The number of estates of less than R125 000 in value and the number of estates of more than R125 000 in value finalised during 2008/09 are as follows:

Table 87: Estates finalised during 2008/09

Province	Number of estates of less than R125 000 finalised	Number of estates of more than R125 000 finalised
Gauteng	25 695	11 579
KwaZulu-Natal	11 847	3 424
North West	1 866	429
Eastern Cape	12 646	3 116
Free State	14 493	1 510
Limpopo	4 840	285
Western Cape	4 576	5 642
Northern Cape	1 046	1 194
Total	77 009	27 179

The above figures give an indication of the number of small and big estates (those of less than R125 000 and those of more than R125 000, respectively), which were finalised during the year under review.

These statistics have not been reflected in the annual reports of the past two years. They will form the basis for a comparison in the next annual report. In total, 104 188 estates (small and big) were finalised this year. Although 103 288 new deceased estates (small and big) were registered in the year under review and 104 188 were finalised during the

same period, it is accepted that many of the estates finalised this year also include some of those that were registered during the previous financial year and not finalised then.

Again, cognisance must be taken of the statistics in respect of the newly established offices in Port Elizabeth, Durban and Johannesburg, which are beginning to overshadow their counterparts in Grahamstown, Pietermaritzburg and Pretoria.

(ii) Insolvencies/liquidations

What is striking from the statistics below, is the considerable increase in the number of insolvencies/liquidations dealt with in many of the master's offices when compared with the statistics provided in the annual report for the period 2007/08. This can only be ascribed to the current global economic crisis. The Insolvency Act, 1936 (Act No 24 of 1936), regulates the administration of insolvent estates in the case of individuals, and Chapter XIV of the Companies Act, 1973 (Act No 61 of 1973), and the Close Corporations Act, 1984 (Act No 69 of 1984), regulate the winding up of insolvent companies and close corporations, respectively. The Insolvency Act, 1936 (Act No 24 of 1936), and Chapter XIV of the Companies Act, 1973 (Act No 61 of 1973), are particularly in need of urgent revision in order to bring them in line with best international practices and to address challenges being experienced.

Statistics in respect of companies and close corporations placed in liquidation and in respect of individuals who were sequestrated during 2008/09 are as follows:

Figure 60: Companies and close corporations placed under liquidation

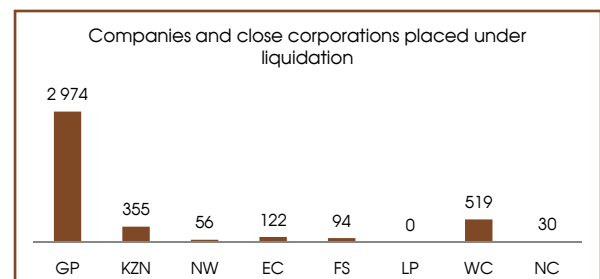


Figure 61: Number of individuals sequestrated

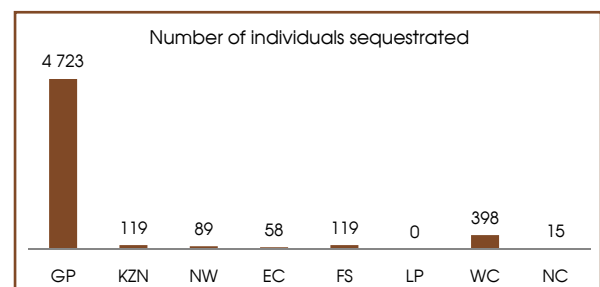


Table 88: Liquidations and sequestrations

Province	Number of companies and close corporations placed under liquidation	Number of individuals who were sequestrated
Gauteng	2 974	4 723
KwaZulu-Natal	355	119
North West	56	89
Eastern Cape	122	58
Free State	94	119
Limpopo	0	0
Western Cape	519	398
Northern Cape	30	15
Total	4 150	5 221

Most liquidations occurred in Gauteng, the economic hub of the country. Compared to the statistics reflected for the previous financial year, the total number of liquidations has increased from 2 124 to 4 150, nearly double the previous statistics in this regard. Again, cognisance must be taken of the statistics in respect of the newly established offices in Port Elizabeth, Durban and Johannesburg, which are beginning to overshadow their counterparts in Grahamstown and Pietermaritzburg. Pretoria still exceeds Johannesburg in this respect, however.

Most sequestrations occurred in Gauteng, the economic hub of the country. Compared to the statistics reflected for the previous financial year, the total number of sequestrations has increased from 1 864 to 5 221, more than double the previous statistics in this regard. Again, cognisance must be taken of the statistics in respect of the newly established offices in Port Elizabeth and Durban, which are beginning to overshadow their counterparts in Grahamstown and Pietermaritzburg. Pretoria still exceeds Johannesburg in this respect.

Figure 62: Letters of authority and executorship issued on deceased estates

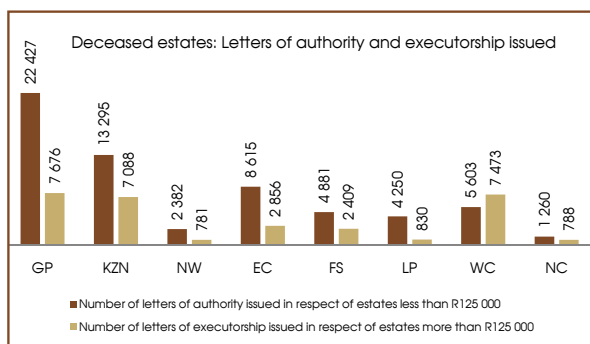
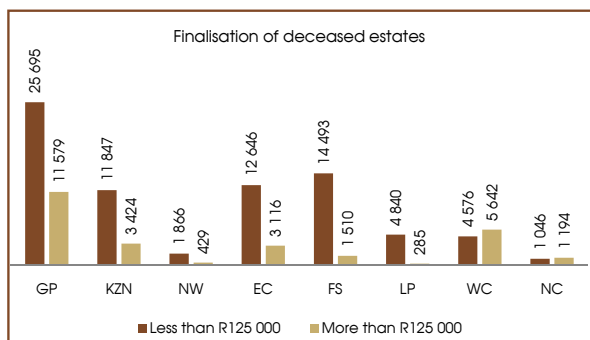
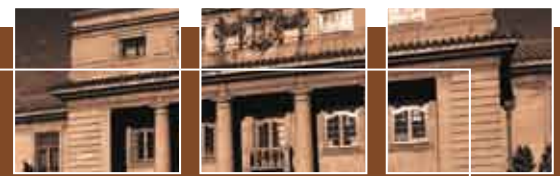


Figure 63: Finalisation of deceased estates



As already indicated, the regulatory framework in respect of all types of insolvent estates is outdated and requires urgent revision. One of the priorities of the Master's Branch for the year ahead is to facilitate the finalisation of this crucial aspect in the administration of justice. For this purpose, a researcher at the South African Law Reform Commission, who was responsible for the investigation into the revision of the law of insolvency, has been appointed in a vacant post in the Office of the Chief Master at the national office in Pretoria. A further aspect that requires urgent attention is the regulation of the liquidations industry (insolvency practitioners). Draft legislation in this regard will receive the attention of the branch during 2009/10, with the assistance of the resource person from the South African Law Reform Commission. In terms of the Insolvency Act, 1936 (Act No 24 of 1936), the Companies Act, 1973 (Act No 61 of 1973), and the Close Corporations Act, 1984 (Act No 69 of 1984), the Minister for Justice and Constitutional Development is required to determine policy regarding the appointment of trustees, liquidators and judicial managers in the case of all types of insolvent estates in order to promote consistency, fairness, transparency and the achievement of equality for persons previously disadvantaged by unfair discrimination in these areas. Policy guidelines to give effect to these statutory requirements will also receive priority attention.



(iii) Guardian's Fund

Chapter V of the Administration of Estates Act, 1965 (Act No 66 of 1965), regulates the administration of the Guardian's Fund. This fund consists of all monies received by the masters under the Administration of Estates Act, 1965 (Act No 66 of 1965), or any other law pursuant to an order of court or any money accepted by a master in trust for any known or unknown person. A master must, upon application of any person who has become entitled to receive money from the fund, pay that money to the applicant. The applicant can be a guardian, tutor or curator of a person, for instance, a minor. It is important to note that not all 14 master's offices offer Guardian's Fund services. Only the master's offices in Cape Town, Grahamstown, Pietermaritzburg, Pretoria, Kimberley and Bloemfontein offer these services. These six offices provide Guardian's Fund services to the remainder of the master's offices throughout the country, on their behalf.

The extension of the Guardian's Fund services to the remaining offices is one of the projects being driven by the Office of the Chief Master in the national office, Pretoria. It is planned to have the roll-out of Guardian's Fund services to all master's offices completed by the end of the current MTSF cycle. During the year ahead, specific attention will be given to the roll-out of these services in Johannesburg and Durban. Mention must

be made of the fact that the management and administration of this fund has been automated, and the erstwhile manual system designed for this purpose is in the final stages of being phased out. The Master's Office, Pretoria, was the last office to be automated and is in the process of finalising the verification of data placed on the system. The computerisation of the administration of the Guardian's Fund and the completion of the verification process in Pretoria will in future allow for far more accurate reporting on the activities of the fund at the push of a button.

The responsibilities relating to the administration of the Guardian's Fund include investing the money held in trust, calculating interest accruing to the money received, processing applications for payments from the fund and making payments to persons entitled to those monies. The total volume (number) of receipts for the Guardian's Fund for 2008/09 was 10 643 and the value of these receipts was R576 432 958. The total volume (number of cheques) or payments from the fund was 40 797, valued at R618 322 567.

The table below reflects the total volumes and values of payments made from the Guardian's Fund, as well as deposits received in the Guardian's Fund for the period under review.

Table 89: Payments made from and deposits received in the Guardian's Fund

Volumes and values of payments	Volume		Amount
	At interest	39 987	R577 384 631
	Commission	192	R2 598 102
	No interest	618	R38 339 834
Total		40 797	R618 322 567
Volumes and values of receipts	Volume		Amount
	At interest	9 196	R539 023 283
	Commission	664	R9 762 712
	No interest	783	R27 646 963
Total		10 643	R576 432 958

(iv) Trusts and Curatorships

Most trusts were registered in Gauteng. Compared to the statistics reflected for the previous financial year, the total number of trusts registered has increased from 23 644 to 32 746, approximately 10 000 more than the previous year. Most activity regarding curatorships took place in Gauteng. Compared to the statistics reflected for the previous financial year, the total number of

curatorships dealt with has increased from 836 to 1 097, approximately 300 more than the previous year. One of the reasons for this could be the implementation of the Mental Health Care Act, 2002 (Act No 17 of 2002), which came into operation at the end of 2004. This act allows persons to approach the masters, rather than the courts, as was previously the case, for the appointment of curators bonis.



Table 90: Trusts registered and trustees appointed

Province	Office	Number of trusts registered and trustees appointed	Number of curators bonis appointed
Gauteng	Johannesburg	7 187	134
	Pretoria	8 350	543
Total for Gauteng		15 537	677
KwaZulu-Natal	Durban	0	20
	Pietermaritzburg	3 323	65
Total for KwaZulu-Natal		3 323	85
North West	Mafikeng	165	26
Total for North West		165	26
Eastern Cape	Mthatha	16	3
	Grahamstown	3 091	40
	Bisho	24	0
	Port Elizabeth	260	7
Total for Eastern Cape		3 391	50
Free State	Bloemfontein	2 495	40
Total for Free State		2 495	40
Limpopo	Polokwane	4	0
	Thohoyandou	28	0
Total for Limpopo		32	0
Western Cape	Cape Town	7 187	212
Total for Western Cape		7 187	212
Northern Cape	Kimberley	616	7
Total for Northern Cape		616	7
Total for all master's offices		32 746	1 097

Figure 64: Trusts registered and trustees appointed

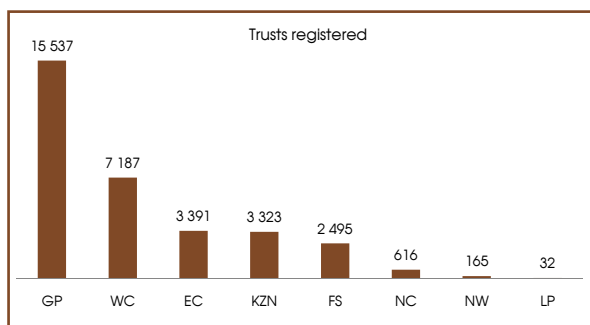
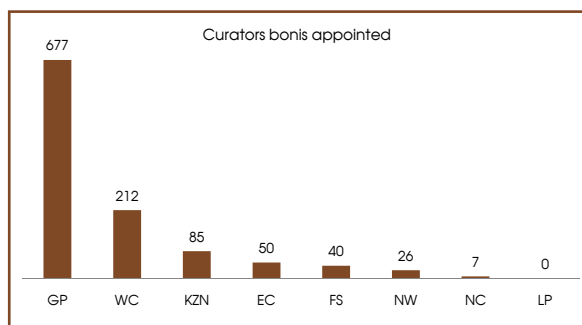


Figure 65: Curators bonis appointed

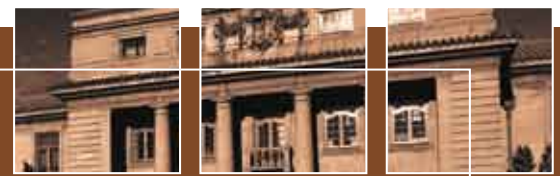


(v) General

The above statistics indicate a general increase in almost all new work being registered at the various master's offices, some quite considerably, especially in the case of insolvencies. The Master's Branch has an establishment of 1 174 posts. While nearly 600 new posts were created and recruitment processes in respect of these new posts were finalised during the previous financial year, many officials appointed in these posts only assumed duty during the year under review. There are still 223 vacant posts that need to be filled, some of which will be used in the roll-out of the Guardian's Fund services to the offices that do not offer these services at the moment. Every effort will be made to fill these vacancies in the year ahead insofar as the budget permits, bearing in mind the budget cuts announced by the Minister of Finance. Mpumalanga is the only province that does not have a master's office. This means that the master's services in that province

are provided by the master's offices in Johannesburg and Pretoria. The establishment of a master's office in Mpumalanga, possibly in Nelspruit, is under investigation. This will relieve some of the work pressure in the master's offices in Pretoria and Johannesburg.

In conclusion, mention needs to be made of the roll-out of the ICMS Masters to all 14 master's offices and 70 magistrate's courts during the previous financial year. ICMS Masters is a modern IT solution that is intended to assist in the registration and administration of all matters dealt with by the master's offices. It will also assist in providing more accurate information for the purpose of reporting on these matters. The branch plans to roll this system out to all service points (magistrate's offices) by the end of the current MTSF cycle. This will go a long way in making more master's services available to members of the public close to where they live rather than them having to travel to the master's offices to access services.



B OFFICE OF THE STATE LAW ADVISOR

The Office of the State Law Advisor provides legal advice, representation and legislative drafting services to the Executive, all state departments at both national and provincial levels, municipalities, parastatals and independent or autonomous bodies that may refer work to it. The department supports the government to achieve its objectives of transforming South African society and redressing past imbalances by providing efficient and cost-effective legal advice, legislative drafting and translation services of high quality.

The core functions of the Office of the Chief State Law Advisor are as follows:

- Drafting and certification of legislation
- Translation of legislation
- Writing of legal opinions
- Scrutiny and certification of all international agreements, including extradition agreements
- Scrutiny and certification of draft subordinate legislation
- Review and certification of municipal by-laws
- Serving as consultants to organs of state
- Performing any other function referred to it by the Executive

The State Law Advisors are tasked with the solemn responsibility of ensuring that the state is able to deliver on its obligations, promote the rule of law and give effect to the values enshrined in the Constitution of the Republic of South Africa. The State Law Advisors do this by providing legal advice and guidance to the state on its proposals, legislation and international agreements and by ensuring that potential litigation against the state on constitutional and other legal grounds is considerably reduced. The State Law Advisors scrutinise, develop, draft and certify all primary legislation before it is introduced in the Parliament of the Republic of South Africa. It is the responsibility of the State Law Advisors to ensure that legislation is compatible with the Constitution and other legal instruments, and that it will withstand constitutional muster. In this way, the State Law Advisors make a significant contribution towards the development of the country's constitutional jurisprudence.

Having recognised the historically diminished use and status of the indigenous languages of our people and the obligation of the state to take practical and positive measures to elevate the status and advance the use of these languages, the department has established a Translation Services Unit. This Unit translates bills introduced in Parliament into the official languages of the Republic.

The department has completed a cost-benefit analysis to determine the advantages in terms of costs savings to the state if greater use is made of the services offered by

the Office of the Chief State Law Advisor. The results of the analysis are as follows:

In the private sector, using the Bar Council's scale for non-litigious matters, the following would be charged:

Junior Counsel	R500 per hour
Counsel with at least five years' experience	R800 per hour
Senior Counsel	R2 500 per hour

Benefit/savings for state

Using the scale above, the Office of the State Law Advisor averaged its savings for the state at R1 500 per hour.

Savings for government

To determine what it costs the state to use the services of the Office of the State Law Advisor, it divided its budget for the year by the number of hours worked by everyone in the office. This resulted in an amount of R424 per hour. This includes the provision made in the budget for infrastructure.

Examples:

a) Costing of the renaming of the High Court's bill:

Consultation with department (2 hours)	= R850
Research (20 hours)	= R8 500
Drafting (2 hours)	= R850
Checking and settling (12 hours)	= R5 100
Total hours (36 hours)	= R15 300*

If the same work was done privately, it would have cost the state R54 000.

Savings to the state = R38 700

* Note: This excludes the time that would be spent attending Portfolio and Select Committee meetings at Parliament, drafting committee-proposed amendments and rendering legal advice.

b) Costing of complex opinion on the meaning of the term 'salary' within the context of the National Prosecuting Authority Act, 1998 (Act No 32 of 1998):

Study of brief (1.5 hours)	= R638
Research (40 hours)	= R17 000
Drafting of opinion (15 hours)	= R6 375
Checking of opinion (8 hours)	= R3 400
Total hours (64.5 hours)	= R27 413



If the same work was done privately, it would have cost the state R96 750.

Savings to the state = R69 337

c) Costing of international agreements:

Scrutiny of international agreements for possible conflict with domestic law (4 hours)	= R1 700
Scrutiny to ensure uniform style and form (3 hours)	= R1 275
Checking (2 hours)	= R850
Total hours (9 hours)	= R3 825

If the same work was done privately, it would have cost the state R13 500.

Savings to the state = R9 675

During the period under review, there were requests for legal opinions relating to the legal framework governing local government, namely the Municipal Systems Act and Municipal Property Rates Act, as well as other opinions related to policies developed by municipalities. The department has been successful at providing legal services to government departments and municipalities as indicated in the graphs:

Table 91: Legal services provided

	Finalised	Not finalised	Total
Legal opinions	203	1	204
Bills	183	8	191
International agreements	354	1	355
Bills translated	24	0	24

Figure 66: Bills

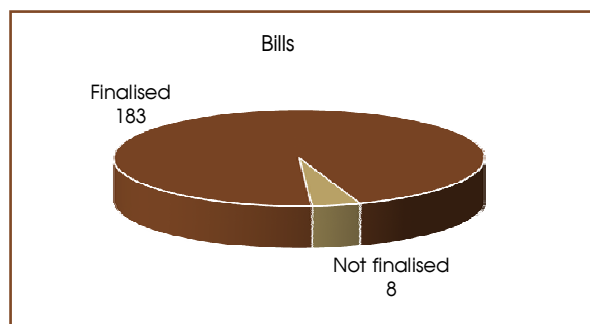


Figure 67: International agreements

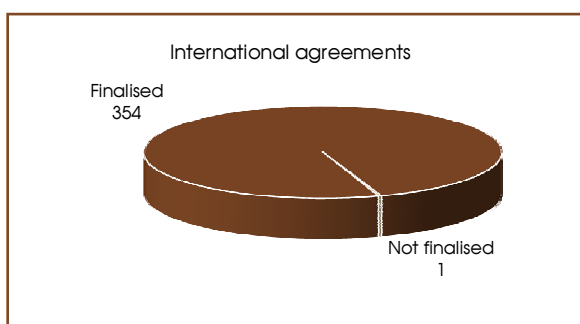


Figure 68: Legal opinions

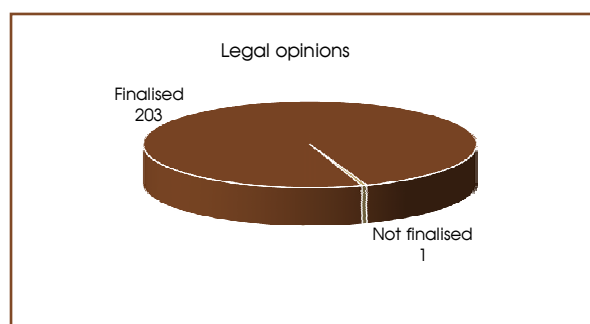
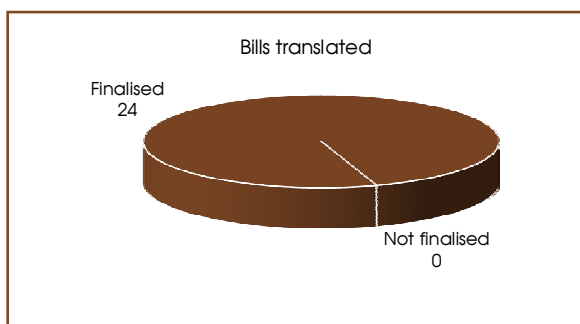


Figure 69: Bills translated





C OFFICE OF THE CHIEF LITIGATION OFFICER

The Office of the Chief Litigation Officer is responsible for managing state litigation in the country through the work performed by state attorneys who represent the state in all litigation matters. The Office of the Chief Litigation Officer comprises the State Attorneys, Legal Process and Law Enforcement divisions. The Office of the State Attorney was created in terms of the State Attorney Act, 1957 (Act No 56 of 1957), and performs the work of the attorney, notary and conveyancer for the national and provincial departments and for other government institutions.

Eleven offices of the State Attorney have been established across the country, with the most recent addition being an office in Mthatha, which will officially open on 1 June 2009.

The State Attorney provides an essential service to the public in that citizens who have claims against the state or provincial government can serve their court papers on the state attorney for the area concerned. The State Attorney will then attend to the matter further. In addition, the State Attorney acts on behalf of state and provincial departments to institute action on their behalf. The collection of unpaid debt due to the state forms a large portion of the work of the State Attorney, as does the registering of deeds of transfer normally in state housing schemes.

The various offices of the State Attorney need to make use of private practitioners where they do not have the capacity or skills. In this regard, the briefing policy is that 50% of all instructions go to black practitioners and 40% of all instructions to female practitioners. The client departments have the final say in the appointment of outside practitioners, and so their cooperation is essential to achieve these briefing targets.

During the period under review, further progress was achieved in preparing the service level agreements to be signed between the Office of the State Attorney and client departments. The objective for the signing of the service level agreements is to give effect to the intentions of the State Litigation Management Forum (SLMF) Blueprint whereby parties enter into agreements, where the needs and roles of the parties are specified according to their various requirements as dictated by the litigation each department is faced with.

One of the most challenging facets of litigation is the time constraints imposed on litigants, as set out in the Rules of Court. Therefore, in order to adhere to these constraints, it was necessary that a system of rapid communication be implemented. It is against this background that the National Litigation Directory was introduced, which sets out the contact details of the heads of office and deputies

for national and provincial government departments to aid the rapid communication between the offices of the State Attorney and the client departments.

The department has embarked on the rewriting of the current case management electronic system to make sure that it incorporates all the requirements of the department. A client specification workshop, Joint Application Design (JAD), was held with the State Information Technology Agency (SITA) to develop specific requirements for the new system. SITA is currently developing the system, which will be implemented during the 2009/10 financial year.

The SLMF is comprised of all government officials responsible for litigation implemented for or against the state, inclusive of provincial structures and parastatals. A conference was held in June 2008 at the Birchwood Hotel, where the SLMF was launched. The objective of the conference was to bridge the gap that had developed over numerous years between the Office of the State Attorney and client departments, to foster relations and to open the channels of communication. This is a major step for the efficient management of state litigation. The SLMF appointed a task team, as elected by members at the conference, to champion the drafting of the blueprint. Once a draft had been finalised, a consultation process was initiated with all stakeholders. After consideration of input received by stakeholders, a refined blueprint is to be presented to Cabinet for endorsement and approval.

The training needs were assessed in the offices of the State Attorney and a report was forwarded to the Justice College for the development of training programmes or outsourcing of training. The programme will be implemented in the 2009/10 financial year. Fields of specialisation in certain areas of the law were identified. Courses in respect on those areas of law must be in line with the area for specialisation in those fields of law.

A skills audit was conducted in all the State Attorney offices, and the report was forwarded to the Justice College to design training programmes to mitigate capacity gaps in the offices of the State Attorney. A new organisational structure for the offices of the State Attorney was approved, and additional posts will be created and filled during the 2009/10 financial year. Due to budgetary constraints, not all the posts were filled, but only the prioritised and critical posts. The department will conduct a business process mapping exercise to improve on the work flow and productivity of the branch.

The State Attorney System (SAS) will be extended to client departments. Consultation on proper systems, which will result in the issuing of timeous instructions, is an immediate need. This includes early warning systems.



The use of private legal service providers in providing legal services to client departments will always be a necessity. In cases of conflict of interest in respect of the State Attorney's office, whether due to conflicting instructions between various clients in the same matter or because of prior services rendered by the particular State Attorney's office, the use of correspondent attorneys becomes imperative and therefore unavoidable. Furthermore, the use of advocates has also been imperative because of the specialist services they render and because of a lack of internal capacity or limited internal capacity.

Statistics for the reporting period are based on payments made to private legal service providers during the reporting period. This is not necessarily reflective of the work outsourced for that period, because claims are often made outside the outsourcing period. The increase in the payments made in the reporting period are therefore impacted on by outsourcing in previous reporting periods.

Total expenditure on private legal practitioners

During the period 1 April 2008 to 31 March 2009, the State Attorney issued a total of 6 458 briefs to private advocates. Payments to counsel include payments where the counsel was briefed in the previous financial year.

Table 92: Expenditure on private legal practitioners

Office	Number of briefs	Value of the briefs (total payments to counsel)
Pretoria	2 343	R99 787 126
Johannesburg	1 212	R41 094 300
Bisho	806	R28 435 491
Durban	643	R9 908 623
Port Elizabeth	459	R17 118 399
Cape Town	392	R44 214 474
Mafikeng	250	R10 456 015
Bloemfontein	165	R5 496 647
Thohoyandou	119	R4 485 505
Kimberley	69	R4 135 113
Total	6 458	R265 131 693

Table 93: State litigation: civil cases

State litigation – civil cases	
New claims	89
New notices of motion	304
New ad hoc matters	51
Total	444

There are 330 pending civil action matters involving an amount of R3 395 117 832 (R3.3 billion). A total of R3 374 592 (R3.3 million) was paid towards settlements or *ex gratia* payments.

Figure 70: Briefs to private advocates

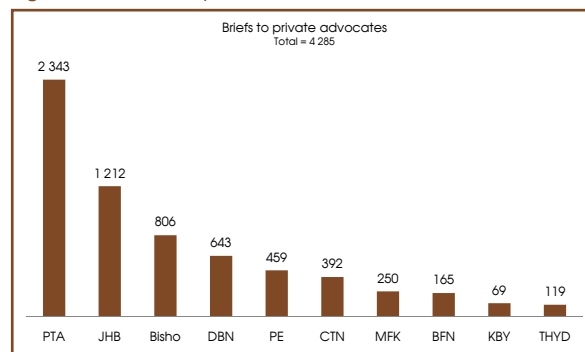


Figure 71: Value of briefs

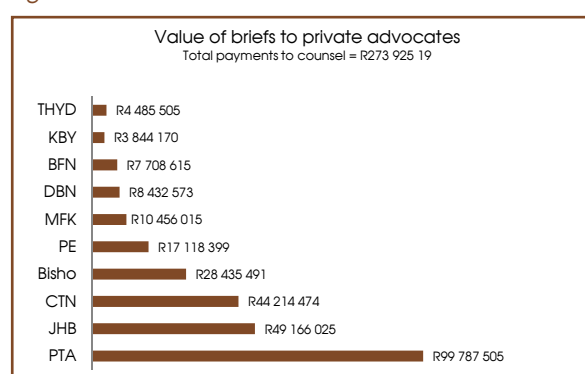


Figure 72: State litigation: civil cases

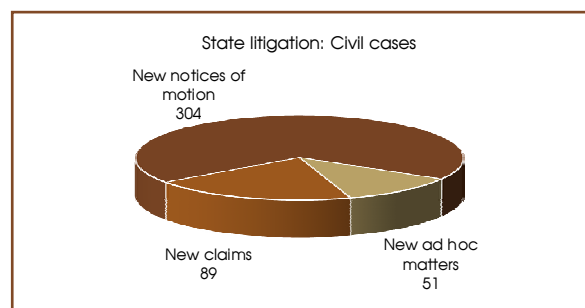


Figure 73: Total briefs according to gender and race

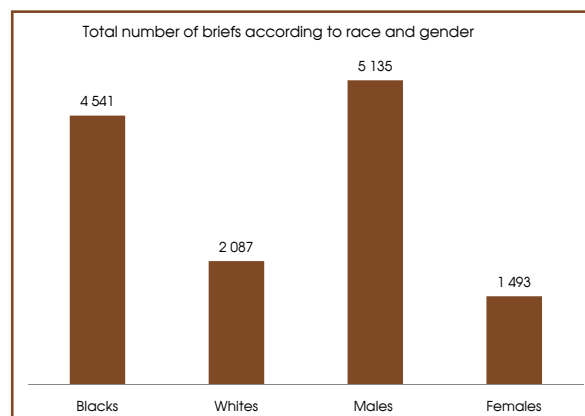




Table 94: State litigation: total briefs according to gender and race

State litigation – total briefs per gender and race									
Office	Black	White	Male	Female	Black males	Black females	White males	White females	Total
Bisho	693	113	744	62	649	44	95	18	806
Bloemfontein	90	75	123	42	63	27	60	15	165
Cape Town	239	153	221	171	134	105	87	66	392
Durban	580	63	380	263	335	245	45	18	643
Johannesburg	905	307	957	255	684	221	273	34	1 212
Kimberley	42	27	24	45	12	30	12	15	69
Mafikeng	217	33	167	83	141	76	26	7	250
Port Elizabeth	253	206	388	71	215	38	173	33	459
Pretoria	1 331	1 012	1 873	470	1 109	222	764	248	2 343
Thohoyandou	108	11	115	4	104	4	11	0	119
Total	4 458	2 000	4 992	1 466	3 446	1 012	1 546	454	6 458

Figure 74: Breakdown of briefs according to race and gender

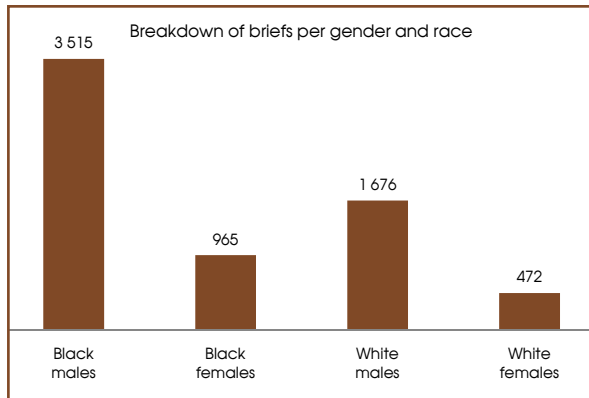


Table 95: State litigation: normal pardon applications

State litigation – normal pardon applications		
Quarters	Matters received	Processed
Q1	476	582
Q2	569	337
Q3	589	588
Q4	725	485
Total	2 359	1 992

Figure 75: State litigation: Civil cases

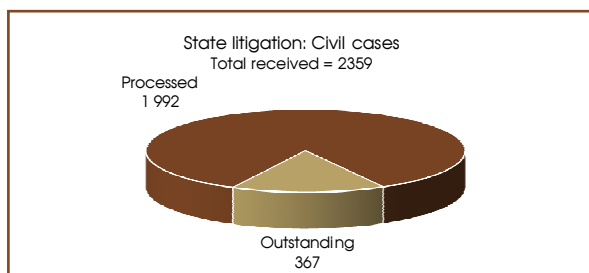
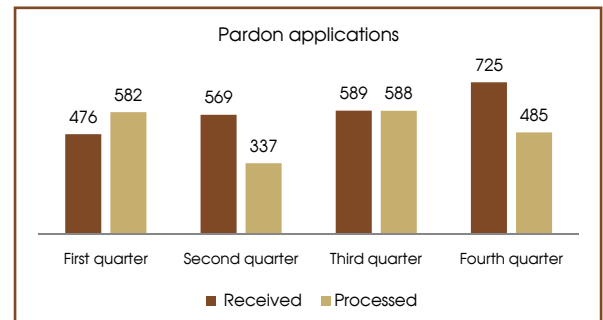


Figure 76: Pardon applications



Law enforcement

The main objective of the Directorate: Law Enforcement is the effective and efficient handling of all civil litigation, loss control and related matters involving the Minister, the Director-General and officials.

There are 330 pending civil action matters involving an amount of R3 395 117 832 (R3.3 billion). A total of R3 374 592 (R3.3 million) was paid towards settlements or *ex gratia* payments.

Loss control

Loss control matters are being dealt with in terms of Treasury Regulations 11 and 12, in conjunction with the departmental financial instructions and other standing instructions. Liability of the responsible officials is determined accordingly.

Table 96: Loss control: amount recovered

Loss	Amount recovered
Money	R27 762 463
Out-of-service debt	R26 724 308
Property	R90 850
Total	R54 577 621



D LEGISLATIVE DEVELOPMENT

The branch consists of the Chief Directorate: Legislative Development and the Chief Directorate: Law Reform, which includes the Rules Board for Courts of Law and the South African Law Reform Commission. These chief directorates have the following mandates:

- Investigation, preparation and promotion of primary and subordinate legislation relating to the line functions of the department
- Administration of the Constitution, which includes the investigation, preparation and promotion of amendments to the Constitution
- Research in respect of all branches of the law of South Africa in order to formulate recommendations for the development, improvement, modernisation or reform of these
- Provision of a secretarial and research function to the Rules Board for Courts of Law, which was established to review the rules of court and to make, amend and repeal the rules, subject to approval by the Minister for Justice and Constitutional Development

(i) Legislative Development

During the year under review, the chief directorate exceeded its target of 12 legislative instruments (bills, regulations and rules) by submitting 11 bills and eight sets of regulations to the Minister. This is as a result of legislation requiring urgent promotion. Bills requiring urgent promotion relate to the National Prosecuting Authority Amendment Bill, the various Constitution Amendment Bills and the Reform of the Customary Law of Succession Bill.

(ii) Secretariat of the South African Law Reform Commission

During the year under review, the South African Law Reform Commission (SALRC) reached its target of submitting the following 10 research publications to the commission for consideration and approval: report on trafficking in persons, interim report on administration of estates, report on privacy and data protection, discussion paper on statutory law revision (legislation administered by the Department of Housing), discussion paper on statutory law revision (legislation administered by the Department of Transport), discussion paper on sexual offences (adult prostitution), pre-investigation on non-disclosure in insurance law, pre-investigation on the need for reform of the legal position regarding culpable and unlawful killing of a foetus by a third party, pre-investigation into multi-disciplinary legal practices, and an analysis of responses on an administration orders questionnaire.

The following research publications were published by the SALRC during the year under review: discussion paper on statutory law revision (legislation administered by the Department of Housing), discussion paper on statutory law revision (legislation administered by the Department of Transport), issue paper in questionnaire format to determine the scope of the law of evidence investigation, discussion paper on hearsay evidence and relevancy, report on protected disclosures, report on stalking, report on trafficking in persons, and report on administration of estates.

(iii) Secretariat of the Rules Board for Courts of Law

The Rules Board submitted 10 rules to the Minister for approval. The queries were attended to and the rules were resubmitted for the Minister's approval. The full list of rules submitted in this period is set out further in this report.

(iv) Legislation passed in 2008/09

- Repeal of the Black Administration Act, 2008 (Act No 7 of 2008)
- South African Judicial Education Institute Act, 2008 (Act No 14 of 2008)
- Judicial Service Commission Amendment Act, 2008 (Act No 20 of 2008)
- Jurisdiction of Regional Courts Amendment Act, 2008 (Act No 31 of 2008)
- Renaming of the High Courts Act, 2008 (Act No 30 of 2008)
- Regulation of Interception of Communications and Provision of Communication-related Information Amendment Act, 2008 (Act No 48 of 2008)
- Constitution Fourteenth Amendment Act of 2008
- Constitution Fifteenth Amendment Act of 2008
- General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Act, 2008 (Act No 55 of 2008)
- National Prosecuting Authority Amendment Act, 2008 (Act No 56 of 2008)
- Criminal Procedure Amendment Act, 2008 (Act No 65 of 2008)
- Judicial Matters Amendment Act, 2008 (Act No 66 of 2008)
- Child Justice Act, 2008 (Act No 75 of 2008)
- Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act No 11 of 2009)
- Constitution Sixteenth Amendment Act of 2009



(v) Legislation passed before 2008 that is receiving attention (implementation)

- Magistrate’s Courts Amendment Act, 1997 (Act No 67 of 1997): To implement the provisions dealing with lay assessors in certain criminal proceedings. Certain problems that have been identified by role-players must be addressed.
- Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000): Although the whole act is in operation, the implementation of the Rules of Procedure for Judicial Review and the Code of Good Administrative Conduct are outstanding. The code must be approved by Parliament before it is published by the Minister.
- Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000): The provisions dealing with the promotion of equality will be implemented once the regulations on the promotion of equality have been finalised.
- Protected Disclosures Act, 2000 (Act No 26 of 2000): Although the act is in operation, the Protected Disclosures Guidelines required by the act must still be approved by Parliament and published by the Minister after Parliament has so approved.
- Judicial Matters Second Amendment Act, 2003 (Act No 55 of 2003): The implementation of the provisions relating to the compulsory attendance of a legal practice management course by newly admitted attorneys is outstanding. The department held the implementation of these provisions in abeyance at the request of the Law Society of South Africa, which requested that further amendments be enacted. These amendments have been enacted. The provisions are now ready for implementation.
- Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007): Although the act is in operation, the establishment of the National Register for Sex Offenders and the national policy framework required by the act are receiving attention.

(vi) Bills introduced to Parliament during the financial year

Table 97: Bills introduced to Parliament during the financial year

Bill	Progress
General Laws (Loss of Membership of National Assembly, Provincial Legislature or Municipal Council) Amendment Bill	This bill sought to effect amendments, which were mainly of a consequential nature and which emanate from the provisions of the Constitution Fourteenth Amendment Bill of 2008 and the Constitution Fifteenth Amendment Bill of 2008, to five relevant acts. The bill also sought to further regulate certain matters relating to the funding of political parties. The bill was passed by Parliament and came into operation on 17 April 2009.
Constitution Fourteenth Amendment Bill	These bills, among others, sought to abolish floor-crossing in the National Assembly, provincial legislatures and municipal councils. These bills were passed by Parliament and came into operation on 17 April 2009.
Constitution Fifteenth Amendment Bill	
Repeal of the Black Administration Act and Amendment of Certain Laws Amendment Bill	The bill sought to further extend the statutory deadline for the repeal of certain provisions of the Black Administration Act of 1927 in order to afford the department an opportunity to develop a policy framework and legislation regulating the roles and functions of traditional leaders in the administration of justice. The bill was passed by Parliament and came into operation on 29 June 2008.
Judicial Matters Amendment Bill	The bill contained amendments to numerous acts of Parliament that are administered by the Department of Justice and Constitutional Development, and which address mostly non-contentious issues of a technical nature that have been identified in practice. The bill has been passed by Parliament. A number of identified provisions of the act came into operation on 17 February 2009, when it was published in the Government Gazette.
Criminal Procedure Amendment Bill	The bill sought to make provision for the expungement of the criminal records of persons in respect of certain less serious offences after the lapse of a prescribed time period. It also sought to regulate the postponement of certain criminal proceedings by way of audiovisual linkage. The bill was passed by Parliament. The provisions relating to the expungement of criminal offences came into operation on 6 May 2009. In respect of the audiovisual provisions, regulations are required to deal with the technical aspects. These are receiving attention.

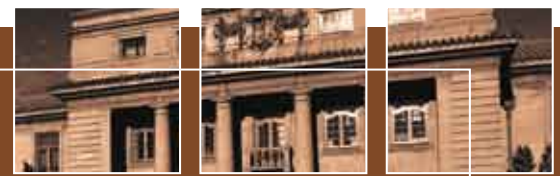


Bill	Progress
National Prosecuting Authority Amendment Bill	The bill sought to align the National Prosecuting Authority Act, 1998 (Act No 32 of 1998), with the relocation of the Directorate of Special Operations to the South African Police Service. After extensive public hearings and deliberations, it was approved by Parliament and came into operation on 20 February 2009.
Reform of Customary Law of Succession and Regulation of Related Matters Bill	The bill sought to give effect to the South African Law Reform Commission's legislative recommendations in order to bring the Customary Law of Succession in line with the Constitution, thereby eliminating unfair discrimination in that area of the law. Existing legislation in this regard has already been declared to be unconstitutional by the Constitutional Court. This bill sought to confirm the Constitutional Court's order, which will contribute to gender equality, allowing more women and children to share directly in the proceeds of deceased estates. The bill was passed by Parliament, but has not yet been implemented.
Renaming of High Courts Bill	The bill sought to address the undesirable situation where certain high courts are still referred to by their names under the previous constitutional dispensation prior to 1994. The bill was passed by Parliament and came into operation on 1 March 2009.
Criminal Law (Forensic Procedures) Amendment Bill	The bill is intended to strengthen the criminal forensic investigation powers of the police by broadening the fingerprint database of the police and by establishing a DNA database. The bill is to receive further attention by Parliament.
Constitution Sixteenth Amendment Bill	The bill sought to redetermine the geographical areas of the provinces of Gauteng and North West so as to reincorporate the Merafong City Local Municipality into the province of Gauteng. The bill was passed by Parliament and came into operation on 3 April 2009.

(vii) Bills pending before Parliament that received attention during 2008/09

Table 98: Bills pending before Parliament that received attention during 2008/09

Bill	Progress
Regulation of Interception of Communications and Provision of Communication-related Information Amendment Bill (electronic registration of cellphone and SIM card-holders)	The bill sought to amend sections 40 and 62(6) of the principal act so as to allow the electronic capturing of the personal particulars of owners and buyers of cellular phones and SIM cards. The bill was passed by Parliament and will come into operation on a date to be fixed by the President.
Jurisdiction of Regional Courts Amendment Bill	The bill is intended to confer civil jurisdiction on regional courts, as well as jurisdiction to deal with family issues that are currently dealt with by the divorce courts established under section 10 of the Administration Amendment Act, 1929. The bill was passed by Parliament, but has not yet been implemented.
Judicial Service Commission Amendment Bill	The bill creates a tribunal and sets out procedures to deal with cases of incapacity, gross incompetence or gross misconduct on the part of judges. The bill was passed by Parliament. The act will be put into operation after regulations have been made.
South African Judicial Education Institute Bill	The bill sought to regulate the training of judicial officers, which will be undertaken by the institute the act intends to create. The bill was passed by Parliament. The act came into operation on 23 January 2009. A departmental task team, consisting of representatives of the Policy Unit and the Branches: Court Services and Legislative Development have been appointed to attend to implementation issues, and, among others, the drafting of the required regulations.
Traditional Courts Bill	The bill is intended to regulate anew the role and functions of traditional leaders in the administration of justice in accordance with Constitutional imperatives. It was introduced to Parliament in March 2008 and the department briefed the Portfolio Committee on the bill in May 2008. The bill was not finalised before the 2009 general election.



Bill	Progress
Child Justice Bill	The bill creates a separate criminal justice system for children in trouble with the law, thereby giving effect to section 28 of the Constitution, dealing with the rights of children, and, among others, the right to be treated in a manner and kept in conditions that take account of the child's age. This bill will also give effect to South Africa's international obligations as a party to the Convention on the Rights of the Child. The bill was passed by Parliament and will come into operation on 1 April 2010. Regulations are currently being drafted.

The following bills have reached an advanced stage of preparation with a view to their introduction to Parliament in the next financial year:

1. Constitution Amendment Bill and State Liability Amendment Bill

Because there have been instances where court orders have not been complied with by the state, the State Liability Bill is intended to ensure that the state (government departments) comply with court orders made against them, particularly court orders sounding in money. The current State Liability Act 57, 1957 (Act No 20 of 1957), is no longer appropriate for dealing with problems such as the prompt execution of court orders by the state, and therefore adversely affects the effectiveness of the courts. An accompanying Constitutional Amendment Bill is also required.

2. Prevention and Combating of Trafficking in Persons Bill

The bill is intended to give effect to the South African Law Reform Commission's legislative recommendations relating to trafficking in persons. The department is in the process of obtaining comments on the bill.

3. Protection from Harassment Bill

The bill is intended to give effect to the South African Law Reform Commission's legislative recommendations relating to stalking. The department is in the process of obtaining comments on the bill.

4. Muslim Marriages Bill

The bill is intended to give effect to the South African Law Reform Commission's legislative recommendations that provide for the recognition of Muslim marriages, the patrimonial consequences thereof and related matters.

5. Prevention and Combating of Hate Speech, Racial Discrimination, Xenophobia and Related Intolerance Bill

The bill is intended to give effect to South Africa's international obligations as a party to the Convention Against All Forms of Racial Discrimination.

6. South African Human Rights Commission Amendment Bill and Commission on Gender Equality Amendment Bill

The bills seek to bring the principal acts (the Human Rights Commission Act, 1994 (Act No 54 of 1994), and the Commission on Gender Equality Act, 1996 (Act No 39 of 1996)) in line with the Constitution and to further regulate various matters relating, among others, to the composition, powers, functions, functioning of, and the position of support staff of the South African Human Rights Commission and Commission on Gender Equality.

7. Superior Courts Bill and Constitution Amendment Bill

The Superior Courts Bill provides for the rationalisation of the structure and functioning of South Africa's superior courts, as contemplated in the Constitution. The bill also regulates the management of the judicial functions of all courts, and deals, among others, with the responsibility of the Executive for the administration of all courts.

8. Legal Practice Bill

The bill is intended to rationalise the legislation regulating the legal profession. The legal profession is still regulated by different outdated statutes that are in operation in various parts of the country.

9. Judicial Matters Amendment Bill

The bill is intended to promote a number of urgent amendments to different acts administered by the department.



10. Constitution Seventeenth Amendment Bill of 2009 (municipal functions)

The bill is intended to vest national government with new powers of intervention at local government level when it is necessary to achieve regional efficiencies and economies of scale in respect of municipal functions.

11. Constitution Amendment Bill

The bill is intended to further regulate the removal from office of the Public Protector, the Auditor-General or a member of a Commission established by Chapter 9 of the Constitution inter alia.

12. Constitution Amendment Bill

The bill is intended to address various financial matters.

Subordinate legislation

The following subordinate legislation has been prepared or finalised:

Table 99: Subordinate legislative instruments

Subordinate legislative instruments	Progress
Regulations relating to the Children’s Court in terms of Chapter 5 of the Children’s Act, 2005 (Act No 38 of 2005)	The Minister for Justice and Constitutional Development is required to make regulations under this act in respect of Chapters 4 and 17, after consultation with the Minister of Social Development and the Minister of Finance. The regulations have been prepared and submitted to the Minister of Social Development and the Minister of Finance. The Minister of Social Development is required to make regulations under the remainder of the provisions of the act, after consultation with the Minister for Justice and Constitutional Development. The Minister of Social Development has submitted a letter and draft Social Development Regulations to the Minister for Justice and Constitutional Development for comments. The comments have been prepared and are being finalised for submission to the Minister.
Amendment of regulations regarding witness fees in terms of the Criminal Procedure Act, 1977 (Act No 51 of 1977)	The regulations for increasing witness fees were published in the Government Gazette on 11 April 2008.
Regulations regarding the civil execution of maintenance orders in terms of the Maintenance Act, 1998 (Act No 99 of 1998)	A set of draft regulations is being prepared for submission to internal role-players for comments.
Regulations in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007)	Regulations giving effect to Chapters 5 and 6 of the act were published on 22 May 2008. Part 1 of these was implemented on 22 May 2008. Part 2, relating to the provisions for the establishment of the National Register for Sex Offenders, was implemented on 16 June 2008. The department is in the process of giving effect to the establishment of the National Register for Sex Offenders.
Regulations relating to the promotion of equality in terms of the Promotion of Equality and the Prevention of Unfair Discrimination Act, 2000 (Act No 4 of 2000)	As a result of the regulatory impact assessment that was done in respect of the draft regulations and a few problems with the provisions of the act, a number of options were generated for consideration by the Minister.
Regulations relating to exhumations and reburials (TRC victims) in terms of the Promotion of National Unity and Reconciliation Act, 1995 (Act No 35 of 1995)	Draft regulations were published for general comment after having been approved by Cabinet. The comments received were evaluated and revised. Draft regulations have been submitted to the Minister of Finance for consideration.
Regulations relating to educational assistance (TRC victims) in terms of the Promotion of National Unity and Reconciliation Act, 1995 (Act No 35 of 1995)	Draft regulations were finalised in conjunction with the Department of Education. The Minister of Finance furnished comments on the draft regulations, which are being evaluated.
Regulations relating to medical assistance (TRC victims) in terms of the Promotion of National Unity and Reconciliation Act, 1995 (Act No 35 of 1995)	Draft regulations were submitted to the Minister of Health and comments are awaited.



Subordinate legislative instruments	Progress
Amendment of regulations relating to the funding of political parties in terms of the Public Funding of Represented Political Parties Act, 1997 (Act No 103 of 1997)	The regulations giving effect to the abolition of floor-crossing were published and came into effect on 17 April 2009.
Regulations relating to the expungement of certain criminal offences in terms of sections 2 and 3 of the Criminal Procedure Amendment Act, 2008 (Act No 65 of 2008)	Draft regulations in respect of the expungement of certain criminal offences were prepared during the period under review.

(viii) South African Law Reform Commission

In 2008/09 the research projects of the South African Law Reform Commission progressed as follows:

Table 100: Research projects

Research projects	Progress
Project 25: Statutory law revision – Constitutionality of legislation and repeal of redundant provisions	On 31 July 2008 the Minister for Justice and Constitutional Development appointed advisory committee members to assist the SALRC with the review of the legislation administered by the departments of Agriculture, Communications, Defence, Education, Environmental Affairs and Tourism, Health, Home Affairs, Justice and Constitutional Development, Labour, Land Affairs, Minerals and Energy, National Treasury, Provincial and Local Government, and Trade and Industry. Thirteen advisory committees met during October and November 2008 to decide on the methodology to be adopted in the review process and commenced with developing draft consultation papers. Consultation papers and discussion papers will be finalised in respect of the 14 departments in the course of 2009. Legislation administered by the Department of Transport: a discussion paper was published for general information and comment in May 2008. The closing date for comment was 31 August 2008. A report will be finalised in the course of 2009. Legislation administered by the Department of Housing: a discussion paper was published for general information and comment in November 2008. The closing date for comment was 28 February 2009. A report will be finalised in the course of 2009. Legislation administered by National Treasury (in respect of certain acts, excluding tax legislation): a consultation paper was submitted to Treasury in June 2008 for preliminary comment. A discussion paper will be finalised in the course of 2009. A discussion paper on the tax legislation administered by Treasury is being developed and will be finalised during the course of 2009.
Hindu marriages	The appointment of an advisory committee to assist the SALRC is receiving attention. A discussion paper on Hindu marriages is being developed and will be finalised during the third quarter of 2009.
Review of the Interpretation Act, 1957 (Act No 33 of 1957)	A draft report is being developed and will be finalised during the course of 2009.
Project 94: Arbitration: Community dispute resolution structures	The project addresses issues that have to be considered when establishing effective structures for resolving community-level disputes. A need exists for an alternative system of dispute resolution apart from formal court procedures. The purpose of such a system would be to deliver justice to the community in a cost-effective, accessible and expeditious manner within a culture of human rights and respect for the Constitution. A draft report will be submitted to the SALRC during the course of 2009.



Research projects	Progress
Project 94: Arbitration: Family mediation	The field of family and divorce mediation developed in a highly segmented fashion, as services in the past were provided along lines of race, culture and income level. Family advocates and the divorce courts do utilise mediation, but family advocates have been criticised for not making proper use of mediation procedures, while mediation in the divorce courts is a limited, irregular and informal part of the settlement process. Social workers in provincial institutions are also involved in this area and court referrals often result in intervention requests. A draft discussion paper will be finalised during the course of 2009.
Project 100: Family law and the law of persons: Custody of and access to minor children	Preparatory and comparative research (identification and gathering of research and comparative material) has been conducted with a view to identifying issues for reform. A series of countrywide workshops with stakeholders also aided this process. A discussion paper with draft legislation is in the process of being developed.
Project 100: Family law and the law of persons: Review of aspects of matrimonial property law	Preparatory research, with a view to developing an issue paper as time allows while the researcher is still involved in Project 122, progressed throughout the period. The question whether sharing of pension benefits on divorce should be included in the investigation in view of the envisaged pending implementation of a draft bill dealing with this issue was resolved through consultation with the Branch: Legislative Development. An advisory committee was appointed to assist the SALRC with the investigation. The advisory committee met to identify possible issues for reform for inclusion in the issue paper.
Project 107: Sexual Offences: Adult prostitution	A discussion paper entitled <i>Sexual Offences: Adult Prostitution</i> was approved by the SALRC for publication on 28 March 2009. The planning of nine workshops on the discussion paper has been completed.
Project 113: The use of electronic equipment in court proceedings	This investigation was included in the SALRC's programme on 14 June 1997. The objective of the investigation is to determine whether or not the use of electronic equipment in court proceedings is a viable option to save costs or prevent delays in civil and criminal trials. At the request of the National Director of Public Prosecutions in 2002/03, the SALRC expedited the investigation and conducted a separate investigation into the possibility of postponement of cases via video-conferencing. In a report submitted to the Minister in July 2003, the SALRC recommended the use of audiovisual links with reference to applications for leave to appeal and appeals in respect of accused persons in custody in prison. The recommendations of the report have been incorporated into the Criminal Procedure Amendment Bill, which was passed by Parliament in October 2008. At the recommendation of the Advisory Committee for the Review of Rules of Evidence, the remainder of the outstanding issues relating to evidence in Project 113 are now included as a subproject under Project 126, the review of the rules of evidence. Since completion and publication of the report on the postponement of criminal cases via audiovisual link in July 2003, Project 113 is now deemed to be finalised, but SALRC approval for this is still pending.
Project 122: Assisted decision-making: Adults with impaired decision-making capacity	Support to the SALRC with regard to other priorities impacted on the finalisation of a draft report (which will include a proposed draft bill on assisted decision-making). Flow charts of processes reflected in the proposed draft bill were prepared at the request of the Chief Master to enable long-term planning for the envisaged implementation of the proposed legislation. Policy input on the proposed legislation was requested and obtained from the Department of Justice and Constitutional Development. A draft report will be finalised during the course of 2009.
Project 123: Protected disclosures	The report on protected disclosures was approved for publication by the Minister on 23 September 2008 and released to the public at a media conference on 25 November 2008. Media enquiries have been dealt with on an ad hoc basis.
Project 124: Privacy and data protection	The investigation into privacy and data protection has been concluded. The report, including the draft Protection of Personal Information Bill, was finalised in October 2008. It was evaluated and approved by the advisory committee in November 2008 and by the SALRC in January 2009. The document was submitted to the Minister of Justice and Constitutional Development for consideration in February 2009.



Research projects	Progress
Project 125: Prescription periods	A draft discussion paper was developed for the attention of the project leader for consideration. The community was included at early stages of the investigation by developing a questionnaire and making a presentation on 2 September 2009 at a Law Week Conference held at the University of the North, with a view to eliciting information from the community and informing them about the project.
Project 126: Review of the law of evidence	A discussion paper on hearsay evidence and relevance and an issue paper on the review of the law of evidence were published for general information and comments during the first quarter of 2008. The closing date for comments was 31 March 2008, but was extended to 30 June 2008, and again to the end of August 2008 at the request of a number of role-players. The publications were submitted to various role-players for input, including members of the judiciary, academics, attorneys, advocates, law societies, bar councils, government departments, and members of the prosecution service. In the light of the limited response received, the advisory committee resolved in November 2008 that the discussion paper and issue paper should be resubmitted for comment. The two research publications were distributed again for comment during the first quarter of 2009 and the new closing date for comments was 31 March 2009.
Project 127: Review of administration orders	On 14 January 2009 the SALRC considered a document containing the researcher's response to comments on the questionnaire published in March 2008. The SALRC approved the researcher's proposals on the way forward. The researcher is working on urgent legislative amendments for discussion at a stakeholders' meeting in the second quarter of 2009.
Project 130: Stalking	The report on stalking and draft Protection from Harassment Bill were approved for publication by the Minister on 28 October 2008 and released to the public by way of a media conference on 25 November 2008. The bill is receiving the attention of the DoJ&CD and is to be tabled in Parliament in 2009. Media enquiries have been dealt with on an ad hoc basis. Support is being provided to the DoJ&CD as and when needed.
Project 131: Trafficking in persons	The report on trafficking in persons and draft Prevention and Combating of Trafficking in Persons Bill were approved for publication by the Minister and released to the public by way of a media conference on 25 November 2008. The bill is receiving the attention of the DoJ&CD and is to be tabled in Parliament in 2009. Media enquiries have been dealt with on an ad hoc basis. Support is being provided to the DoJ&CD as and when needed.
Project 133: A specific civil action in respect of consequential damages arising from hoaxes	A discussion paper has been finalised and submitted to the project leader for consideration.
Project 134: Administration of estates	An interim report was submitted to the Minister on 19 August 2008 and was released at a media conference on 25 November 2008. The Minister met with the Subcommittee of Masters of the Justice Portfolio Committee and other stakeholders on 19 March 2009. The acting Chief Master requested the researcher to attend, as the meeting dealt with recommendations in the interim report of the SALRC on the administration of estates. The researcher prepared documents for this meeting, including a draft directive by the Chief Master and draft notices to increase amounts in terms of the Administration of Estates Act, 1965 (Act 66 of 1965). The Minister afforded interested parties until early April to comment on the draft directive.

(ix) Secretariat of the Rules Board for Courts of Law

The Rules Board has submitted the following 10 sets of rules to the Minister for approval in the period 1 April 2008 to 31 March 2009:

1. Rules of Procedure for Judicial Review of Administrative Action
2. Amendment of Rule 70(4) of the Uniform Rules of Court to provide a new procedure for the taxation of costs in the High Courts
3. Amendment of Rule 50 of the Uniform Rules of Court to provide for notice of set down of trials to be served by the Registrar
4. Amendment of Rules 45 and 46 of the Uniform Rules of Court to provide for judicial oversight of sales of immovable property in execution as provided by the Constitution
5. Amendment of Rule 46(3) of the Uniform Rules of Court to amend the mode of attachment of immovable property



6. Amendment of the Magistrate's and High Court Rules to increase sheriffs' fees
7. Amendment of the Magistrate's and High Court Rules to increase attorneys' tariff of fees
8. Amendment of Rule 22 of the Magistrate's Court Rules to provide for a case management system
9. Amendment of Rule 43(6) of the Magistrate's Court Rules to provide for the publication of notice of sales in execution in designated newspapers
10. Amendment of Rule 46(7)(c) of the High Court Rules to provide for the publication of notice of sales in execution in designated newspapers

2.10.5 Programme 5: Auxiliary and Associated Services

Purpose

Provide a variety of auxiliary services associated with the department's aim, and fund transfer payments to the South African Human Rights Commission, the Public Protector, the Commission on Gender Equality, the Legal Aid Board, the Special Investigating Unit, the Represented Political Parties' Fund and the President's Fund.

- The Office for the Control of Interception and Monitoring of Communication authorises applications by law enforcement agencies for the interception and monitoring of communications in terms of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No 70 of 2002).
- The South African Human Rights Commission promotes and monitors the observance of human rights in South Africa.
- The Commission on Gender Equality aims to create a society free from gender discrimination and any other forms of oppression.
- The Special Investigating Unit provides professional forensic investigating and litigation services to all state institutions at national, provincial and local level to combat maladministration, corruption and fraud and to protect state assets and public money.
- The Legal Aid Board provides legal aid to indigent people and provides legal representation at the state's expense, as set out in the Constitution.
- The Public Protector investigates any conduct in state affairs, public administration, or any sphere of government that is alleged to be improper, or which results in any impropriety or prejudice.
- The Justice Modernisation National Crime Prevention Strategy (NCPS) designs and implements IT infrastructure and networks to re-engineer business processes for the administration of civil and criminal justice in the integrated justice system.

- The President's Fund gives effect to the reparations policy flowing from the findings of the Truth and Reconciliation Commission.
- The Represented Political Parties' Fund provides for the funding of political parties participating in Parliament and provincial legislatures.

Measurable objective

Ensure the independence and integrity of the administration of justice, provide vulnerable groups with additional legal services and advice, and ensure that these services are used increasingly due to greater public awareness.

A JUSTICE MODERNISATION

(i) Integrated Call Centre Relocation

The Integrated Support Centre (ISC) is the department's information and communications technology help desk. It is a very important service support delivery organ of the department and requires close monitoring, management and control in the interest of the public being served. Its relocation to the national office will improve its supervision for better service delivery. The physical relocation of ISC was completed in March 2009.

(ii) Public Key Infrastructure (PKI) Proof-of-concept (POC) Project

This project is completed, and, based on budget circumstances and organisational requirements, a full roll-out will be considered. The benefit of this is to ensure that sensitive documentation will be encrypted and secured.

(iii) Desktop and Printer Renewal Project

The project was completed as planned, and 2 897 desktops have been renewed at 109 sites, while 336 desktops were deployed to new users. A total of 2 136 printers have been renewed at 217 sites. This project ensures that services are not interrupted as a result of out-of-warranty equipment for which spares are not easily available.

(iv) 3-COM Switch Renewal Project

The project was completed as planned. The project commenced in October 2008 and 881 switches have been renewed.



(v) Implementation of ILM Archival Solutions

This project was not completed as planned, due to the delay experienced in the procurement phase of the project. The department has chosen the archiving of e-mails as Phase 1 of this project. The project is still in its conceptual phase. The benefit of this project will be to make available space on the servers where information and documents are stored. This will also comply with the archival and disposal rules.

(vi) Implementation of IT Disaster Recovery Plan (DRP) Business Continuity Solutions

The site is 80% completed. The outstanding portion is due to delays from the Department of Public Works. Once the disaster recovery site is completed, a disaster recovery solution will have to be implemented in order to replicate all the department's applications and data in real time so as to ensure a continuous service to the public. The tender was published and technical evaluation was undertaken in conjunction with the State Information Technology Agency (SITA). Budget shortfalls prohibit the implementation of the solution.

(vii) Development and roll-out of identified modules: Integrated Case Management System (ICMS)

- **ICMS Small Claims Court Phase**
This system has been designed, developed and tested as per the user requirements and is currently being piloted at two courts and will be rolled out to the rest of the country.
- **ICMS Lower Court Civil**
Phase 1 of the system has been deployed to 196 courts and 417 scanners have been installed. Further enhancements were made to the Phase 1 system, which has been designed, developed and tested as per the user requirements. This enhanced system is currently being piloted at two courts and will be rolled out to the rest of the country. Functional trainers have been trained for the enhanced system.
- **ICMS Family Courts**
The high-level scoping and user requirements specification have been completed. The development of the family court system was dependent on lower courts' civil enhancements being completed first in order to reuse developed components and reducing costs.
- **ICMS Lower Court Criminal**
Phase 1 of the system has been tested and implemented at the Kempton Park, Durban and Bronkhorstspuit magistrate's courts. Functional

trainers received further refresher training in April 2009. Development for Phase 2 of this system has commenced with high-level scoping and user requirement specifications having been completed. Detailed user requirements are in the process of being obtained via Joint Application Development (JAD) workshops with users.

- **ICMS Masters (IADE) Enhancements**

Phase 1 of the system has been deployed to all 14 master's offices and 75 service points. Phase 2 of this system has commenced with high-level scoping and user requirement specifications having been completed. Detailed functional specifications were signed off.

(viii) National Register for Sex Offenders and Certificate Issuance System

The high-level scoping and detailed user requirements have been completed. It must be noted that the SAPS plays a major and critical role in the envisaged solution for a person vetting process via their criminal record centres (CRCs). A business process mapping exercise with the relevant departments is underway. Once finalised, the system will be fully developed.

(ix) Justice Deposit Account System

The Justice Deposit Account System (JDAS) is now rolled out to all cash halls at courts countrywide.

Achieving interoperability within the cluster: integration between the case management systems of the various IJS departments

The integrated justice system (IJS) focuses on the various interdepartmental information exchange points and events arising from the flow of cases, persons, exhibits and property business information between the cluster departments (DoJ&CD, the SAPS, the Department of Correctional Services, the NPA and the Department of Social Development). The following related departmental integration projects were identified for the last financial year:

- **ICMS/CAS Integration**

As a result of this integration, it will not be necessary for the clerks of the courts to capture the case particulars, as they will be able to access this on the system once they have entered the criminal administration system (CAS) number. The court would be able to send reminders/notes to SAPS users via the system (notifications) without having to call them for information telephonically. In instances



where cases are postponed and the accused are sent to prison or places of safety, the SAPS is notified of the postponement date electronically and case outcomes are also sent to them electronically, alleviating the dependency on capturers to capture it onto the Criminal History System and CAS system. The development of the ICMS and CAS components allowing for this integration has been completed. Pilot site testing is planned for the 2009/10 financial year.

- **ICMS/ECMS integration**

The prosecutors at courts can send reminders/notes to NPA users via the system (notifications) without having to call them for information telephonically. In instances where a case is postponed and the accused is sent to prison or places of safety, the ECMS system is updated automatically and the prosecutor is notified of the postponement date. The case management system for the National Prosecution Service (NPS) business unit is still in the process of development. Completion of development is envisaged for September 2009.

- **ICMS/A&R integration**

As a result of this integration, it will not be necessary for the clerks at the Department of Correctional Services to capture the case particulars or the postponement date/next appearance date of an accused sent to prison for the first time or being sent back to prison as a result of a postponement, as they will be able to access this on the system once they have entered the CAS number. The court can send reminders/notes to the DCS users via the system (notifications) without having to call them for information telephonically. It should also contribute to reducing the backlog that has occurred as a result of information of persons entering the prison not being captured on the day when the person was brought to prison. Case outcomes are also sent to them electronically. A decision was taken to defer this integration to the new financial year. The Department of Correctional Services was not ready for the integration due to the lack of funds to upgrade the network to allow for the integration and changes being made to the A&R system. The integration is dependent on the funds to upgrade the DCS network.

- **ICMS/DSD Child Protection Register integration**

As a result of this integration, it will not be necessary for the clerks at the Department of Social Development (DSD) to capture the case particulars or the postponement date/next appearance date of minors in conflict with the law sent to secure care facilities as a result of a postponement, as they will

be able to access this on the system once they have entered the CAS number. The court can send reminders/notes to the DSD or probation officers via the system (notifications) without having to call them for information telephonically. This will alleviate the dependency on capturers to capture data, as they now only have to capture the information required by the DSD. Case outcomes are also sent to them electronically. A decision was taken to defer this integration to the new financial year, 2009/10, during the second quarter. The DSD was not ready for the integration due to the lack of funds to upgrade the DSD network to allow for the integration and changes made to the CPR system.

- **ICMS/CJS KPI BI integration**

High-level scoping and user requirement specifications have been completed as part of various IJS workshops. Once finalised, the system will be developed to submit relevant information to the IJS hub to produce key performance indicators (KPIs) for the CJS.

Video Postponement Project

This project allows for the completion of certain remands at a correctional centre that is linked to a court through digital connectivity by means of video-conferencing. The Port Elizabeth site is operational and has conducted 130 remands. The national roll-out of the solution has commenced with the distribution of hardware to an identified site for Phase 1. The following activities at the Pretoria courts and Pretoria DCS site were completed:

- Refurbishments
- Network installation
- Equipment installation

All identified sites should be operational by March 2010.

B PRESIDENT'S FUND

A progress report on the implementation of the TRC recommendation is included under the report in Programme 1.

