

**Information on the Component Legal and Special Operations for the Portfolio Committee
on Correctional Services**

**1. MANDATE OF THE COMPONENT LEGAL AND SPECIAL OPERATIONS
AND WHEN THE COMPONENT WAS ESTABLISHED**

In 2002 Cabinet resolved that all government departments must establish the Minimum Anti-Corruption Capacity (MACC) within their structures to deal with corruption in their domains.

In 2003 the DCS approved the three pronged Anti-Corruption Strategy which was aligned to the Public Service Anti-Corruption Strategy. The said strategy focused on Prevention of corruption, investigation of reported cases and sanctioning.

During restructuring in 2003 the Chief Directorate Legal and Special Operations was established with three directorates, namely Legal Services, Departmental Investigation Unit (DIU) and Code Enforcement Unit (CEU). The DIU and CEU were designed to give effect to the MACC requirements as well as to lead the implementation of the Anti-Corruption Strategy.

**1.1 MANDATE OF THE DEPARTMENTAL INVESTIGATION UNIT (DIU) AND
CODE ENFORCEMENT UNIT (CEU)**

- **Correctional Services Act, 111 of 1998 as amended**

Section 95A. Departmental Investigation Unit

The National Commissioner must establish a unit to investigate theft, fraud, corruption and maladministration by correctional officials

Section 95B. Code Enforcement

The National Commissioner must establish a unit to institute disciplinary proceedings and to prosecute in disciplinary matters resulting from any investigation contemplated in section 95A.

- **Cabinet Resolution of 2002**

Required the government departments to establish minimum anti-corruption capacity in line with government's zero tolerance policy towards fraud and corruption.

- **Output 3 of Outcome 3: Delivery Agreement with the President of the RSA**

Outcome 3 "All people in South Africa are and feel safe"

**Information on the Component Legal and Special Operations for the Portfolio Committee
on Correctional Services**

The Minister of Correctional Services, the Honorable Nosiviwe Mapisa-Nqakula signed a performance agreement with the President which includes Output 3.

In terms of Output 3 of Outcome 3 the Cluster Ministries are required to ensure that corruption within the JCPS Cluster is combated to enhance its effectiveness and its ability to serve as a deterrent against crime. The indicators listed in respect of output 3 fall within the ambit of the operations of the DIU and CEU.

Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA)

This Act governs the fight against corruption from a criminal perspective in public and private sectors.

1.1 Legal Services

The mandate for Legal Services is to provide legal support to the Department.

2. CURRENT/ EXISTING STRUCTURE ORGANIZATIONAL STRUCTURE

2.1 Current post establishment:

COMPONENT	POST LEVEL	APPROVED POST ESTABLISHMENT	POSTS FINANCED	POSTS FILLED	POSTS VACANT	VACANCY RATE
DC LSO	DC	1	1	0	1	100%
	ASD	1	1	0	1	100%
	CO	1	1	1	0	0%
DIU	Dir	1	1	1	0	0%
	DD	2	2	2	0	0%
	ASD	15	15	14	1	6.6%
	CO	2	2	2	0	0%
CE	Dir	1	1	1	0	0%
	DD	2	2	2	0	0%
	ASD	6	6	5	1	16.66%
	SCO	2	1	1	0	0%
	CO	1	1	1	0	0%
LS	Dir	1	1	1	0	0%
	Senior LAO MR6	7	6	4	3	42.85%
	LAO(MR5)	2	2	0	2	100%
	ASD	1	1	1	0	0%
	Typist	1	1	1	0	0%
	CO	5	5	4	1	20%

ORGANOGRAM: DC LSO

DC: LSO

Dir: DIU

Dir: CEU

Dir LS

DD: Analytical & Prevention

DD: Investigations

2X Admin Support

DD: Prosecutions

DD: Sanction

7X Senior LAO

2X LAO

5X Admin Support

1X ASD

3X ASDs

12X ASDs

6X ASDs

3X ASDs

1X SCD Admin Support

**Information on the Component Legal and Special Operations for the Portfolio Committee
on Correctional Services**

3. BUDGET ALLOCATION

Activity	GFS	Allocated Budget 2010/11	Expenditure 2010/11 - (Commitments) [Expenditure with commitments]	Allocated budget 2011/12	- Expenditure 2011/12 as on 30/9/2011 - (Commitments) - [Expenditure with commitments]
DC LSO	Compensation of Employees	550 690	117 988	100 000	98 340
	Goods & Services	4000	3 766	250 000	994
	Machinery & Equipment	0	0	0	0
	Total	554 690	121 754	350 000	99 334
DIU	Compensation of Employees	6 440 100	6 387 478	6 446 000	3 586 827
	Goods & Services	1 460 300	1 467 964 (180 985)	2 826 000	957 782 (482 799) [1 440 581]
	Provincial & Local Governments	3100	3117	4 000	3920
	Capital Assets	92 500	92 463	90 000	0
	Total	7 996 000	7 951 022 (180 985) [8132 007]	9 366 000	4548528 (482 798) [5 031 327]
CE	Compensation of Employees	3 719 800	3 719 827	3 869 800	2 123 400
	Goods & Services	1 649 100	1 647 569 (327 332) [1 974 900]	2 302 000	762 679 (447 162) [1 209 841]
	Capital Assets	31 100	31 062	0	12 591
	Total	5 400 000	15 398 458 (327 332) [5 725 790]	6 171 800	2 898 670 (447 162) [3 345 832]
LS	Compensation of Employees	3 471 000	3 469 892	4 661 800	1 921 262
	Goods & Services	26 426 400	26 322 179 (110 894) [26 433 073]	15 522 000	9 152 016 (249 828) [9 401 844]
	Capital Assets	0	0	214 000	136 790
	Total	29 897 400	29 792 071 (110 894) [29 902 965]	20 393 800	11 210 067 (249 828) [11 588 482.59]

**Information on the Component Legal and Special Operations for the Portfolio Committee
on Correctional Services**

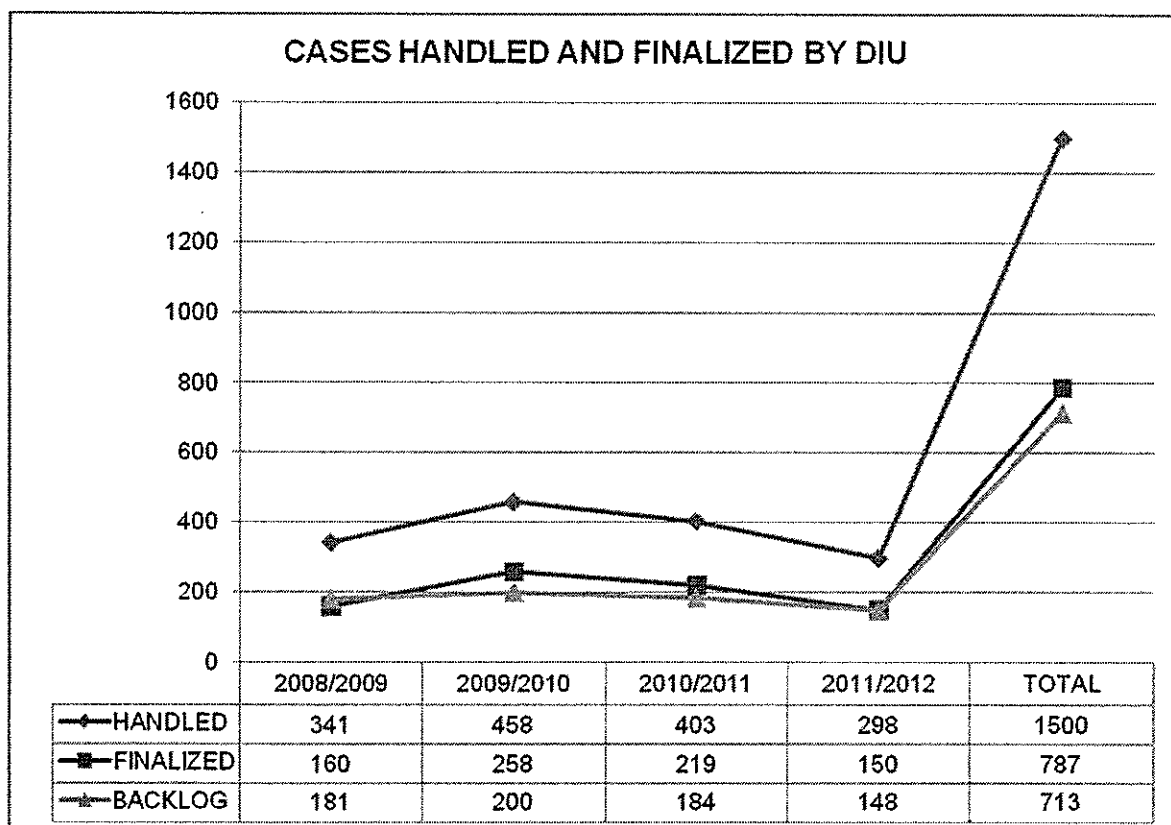
4. CASE LOAD AND BACKLOGS

For the past three years given the number of reported incidents as well as disciplinary hearings, the structure as it were proved to be inadequate. The table below provides an overview of reported incidents and disciplinary hearings over the three year period:

Table reflecting reported incidents

Period	Handled	Concluded investigations	Backlog
2008/2009	341	160	181
2009/2010	458	258	200
2010/2011	403	219	184
2011/2012 April-Sept	298	150	148

Graph reflecting handled cases



**Information on the Component Legal and Special Operations for the Portfolio Committee
on Correctional Services**

Table reflecting disciplinary hearings (One case can have different hearings and implicate a number of officials)

Period	Outstanding previous FY	Received in FY	Hearings concluded	Disciplinary Hearings Pending
2008-9	17	61 cases	39 (officials)	21
2009-10	21 cases	45 cases	109 (officials)	40
2010-11	40 cases	45 cases	113 (officials)	40
2011-12 April-Sept	40 Cases	103 cases	115 (officials)	38

For the period 1 April 2011 to 30 September 2011 cases were finalised as follows:

- **Total Cases handled 115**
- 105 officials charged,
- 103 found guilty,
 - Sanctions:
 - Written Warning 3;
 - Final Written Warning: 71;
 - Suspension without salary 14;
 - Dismissal 15;
- 2 Acquitted.
- Case withdrawn 9;
- Official resigned 1;
- **98.09% success rate.**

5. Challenges

5.1 Capacity

DIU and CE operate nationally and centralized at Head Office.

Insufficient capacity is supported by the recommendations emanating from the independent audit conducted by the DPSA and ETHICS SA:

“Investigation and prosecution capacity does not fit the risk profile of the DCS”

5.2 Legislative Mandates

DIU does not have the powers to request information from banks etc. Other agencies such as SAPS must be requested to do so which delays the finalization of investigations. A proposal on the amendment of the DCS act to provide for such powers is to be considered by the Department.

5.3 Legal Services

- Capacity for Legal Services both in Head Office and Regions is not aligned with the DCS litigation risk profile
- The OSD for Legal Services qualified personnel creates the following:
 - To be appointed to the rank of MR-6, the applicant must have at least 8 years experience after obtaining an LLB degree.
 - To be appointed to the rank of MR-5 the applicant must have at least 8 years after obtaining the LLB degree.
 - Any applicant who has no experience or less than 8 years should be considered. In 5 cases, recommendations for appointments were made, but the candidates declined because of the low salaries.

