


Briefing of Portfolio Committee on Correctional Services

14 November 2012

Legal Aid SA Briefing of Portfolio Committee on Correctional Services

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1. **Introduction**
 2. **Overview of Legal Aid SA: 2012**
 3. **Legal Aid programmes linked to Remand Detainees**
 4. **Legal Aid Services Delivery: assuring quality**
 5. **Matters arising from previous PC visits to Correctional Centre**
 6. **Concluding Comments**

***Briefing of Portfolio Committee on Correctional
Services***

1.
Introduction

1. Introduction



At its meeting in August 2012 the PC Correctional Services raised various concerns about the provision and quality of legal aid services to remand detainees.

The PMG Report of the meeting summarised these concerns of Correctional Services Portfolio Committee Meeting: 22 Aug 2012 as follows

The absence of sufficient Legal Aid in correctional centres was heavily criticised, as well as the quality of services that were provided, with Members declaring lack of trust in the system, and questioning why so many inmates claimed never to have the chance to consult with a lawyer prior to attending court, or being told simply to plead guilty, or not having the nature of the charges explained. A representative from Legal Aid South Africa (LASA) outlined the legal requirements around provision of legal aid and noted that LASA would welcome the opportunity to brief the Committee. There were budgetary constraints and LASA had dealt with over 382 000 criminal cases in the previous year.

This briefing is to address these concerns and will focus on

- Overview of Legal Aid SA: 2012
- Correctional Facilities Programme
- Legal Aid Services Delivery: assuring quality
- Matters arising from previous PC visits to prisons

Introduction

Correctional Services Portfolio Committee Meeting: 22 Aug 2012 : PMG Report extracts

Correctional Matters Amendment Act, 2011 (Act 5 of 2011): Implementation Status Report by Justice, Crime Prevention and Security (JCPS) Cluster

Ms Phaliso remarked that in some Centres, more than 50 people had said that they had been detained for three or four years. The absence of Legal Aid in Correctional Centres caused concern. Offenders complained that there were no legal services for them. Cases were delayed without explanation. She felt that more detail was needed, centre by centre, on remand detainees.

The Chairperson asked Legal Aid South Africa (LASA) to comment.

Ms Cordelia Robertson, Executive, Legal Aid South Africa, said that children under 18 received specific protection under the Child Justice Act. Each child had to be legally represented, and LASA would take on their defence if they were not independently represented. There was contact with the Department of Social Development to find places of safety, but even children would be kept in a correctional centre if they misbehaved or escaped from a place of safety. LASA appointed paralegals for remand detainees, and LASA did visit the correctional centres on a daily basis. There were not many remand detainees who pleaded guilty. Every Legal Aid practitioner had a consultation day, when they had to go to court.

Mr Max stated that he had no trust in Legal Aid. The capacity of its lawyers was lacking. He had attended a court case, in which one of a group of people, all of whom were drunk, had died, and the husband of the deceased, who was being charged, obviously had not been told what was going on. The witnesses had not been briefed. Mr Max had cautioned the Legal Aid representative that serious charges were at stake, in answer to which he had said merely that he was aware of that, and carried on fiddling with his cellphone, not showing much concern. This was particularly worrying since many of the illiterate youngsters whom LASA was representing simply believed what they were told.

The Chairperson remarked that there were probably 40 000 remand detainees who did not have lawyers. He asked about the case load, pointing out that in the previous year it had been stated at a figure of 500. The Committee could take LASA to virtually any court to prove that the inmates only saw a legal practitioner at court, and he too commented that the quality of the LASA services was very poor. The case load was too heavy. He asked where LASA representatives would hold their consulting, given the overcrowded centres, and said that there were no specific facilities for that. He urged LASA to be frank and open, and asked how many practitioners there were to deal with cases.

Ms Robertson replied that there was one practitioner for every court in the Western Cape and Northern Cape.

The Chairperson asked what happened if there were 10 000 detainees in an area. He asked, for instance, how many people were serviced at Bloemfontein.

Ms Robertson said that as soon as remand detainees applied for legal aid, they could have their day in court. There were paralegals at the prisons to assist with the applications.

The Chairperson pointed out that the concern was not limited to having one person serving 10 people, but stressed that it was unacceptable that inmates would see their legal representatives for the first time at the court. If there were problems around the budget, then that was something that would have to be taken to the relevant department, as it was vital that the law be properly implemented.

Mr Du Randt suggested that LASA be asked to make a presentation. There were budgetary constraints. LASA had had to deal with 382 000 criminals in the previous year.

Ms Phaliso remarked that there had been a call, for a long time, for representatives of LASA to engage with the other players. The Heads of Correctional Centres had commented that they would issue invitations to LASA, but nobody would show up at the meeting.

Ms Robertson said that LASA would welcome the opportunity to address the Committee. LASA had not previously been invited to any of this Committee's meetings. She reiterated that LASA had dealt with nearly 400 000 criminal cases in the previous year. The accused were seen at court, when the charges were laid, and were also consulted with later. She asked that Mr Max give her the name of the man involved in the case he related.

Introduction



Correctional Services Portfolio Committee Meeting: 22 Aug 2012 : ISSUES ARISING

PROVISION OF LEGAL AID SERVICES TO REMAND DETAINEES

- I. The absence of Legal Aid in Correctional Centres - 40 000 remand detainees who did not have lawyers
- II. Cases were delayed without explanation - more than 50 people had said that they had been detained for three or four years.
- III. Consultation facilities at correctional facilities
- IV. Problems around the budget to be taken to the relevant department

QUALITY OF LEGAL AID SERVICES

- I. Quality of the Legal Aid SA services was very poor - capacity of its lawyers was lacking
- II. The case load was too heavy
- III. The inmates only saw a legal practitioner at court

PERCEPTIONS OF LEGAL AID SA

- I. Committee has no trust in Legal Aid.
- II. Engaging stakeholders eg heads of correctional centre

***Briefing of Portfolio Committee on Correctional
Services***

2.

Overview of Legal Aid SA: 2012

2. Legal Aid SA Overview 2012

	Performance Indicator	2010/11	2011/12
	LEGAL AID DELIVERY		
1	New legal aid matters	421,365	428,653
2	New legal aid advice matters	257,619	254,286
3	Children assisted	28,115	27,960
4	% civil matters	7%	11%
5	National Delivery Footprint	64 Justice Centres 64 Satellite Offices	64 Justice Centres 64 Satellite Offices
	GOVERNANCE AND FINANCIAL MANAGEMENT		
6	Budget	R1,179,250,681	R1,270,039,008
7	% expenditure levels	99.2%	99.8%
8	Auditor-General's Report	Unqualified audit (10 th year) No matters of emphasis (6 th Y)	Unqualified audit (11 th year) No matters of emphasis (7 th Y)


Legal Aid SA Overview 2012



	Performance Indicator	2010/11	2011/12
	PEOPLE DEVELOPMENT		
9	Number of staff	2595	2677
10	% legal staff (including paralegals)	78%	79%
11	Recruitment levels	95.9%	95.6%
	Staff turnover rate excluding CAs		4.6%
12	Best Employer accreditation	3 rd year	4 th year

Legal Aid SA Overview 2012

National Footprint for delivery of legal aid services



Province	Justice Centres	Satellite Offices	High Court Units	Civil Units	Number of staff
Eastern Cape	10	11	4	2	396
Free State	6	3	1	1	201
North West	7	3	1	1	185
Gauteng	10	4	2	2	468
KwaZulu Natal	10	11	2	2	409
Limpopo	5	7	1	1	170
Mpumalanga	4	10		1	163
Northern Cape	3	6	1	1	106
Western Cape	9	9	1	2	372
TOTAL	64	64	13	13	2470
National Office					207

Legal Aid SA Overview 2012

New Matters by Delivery Systems by criminal/civil split



Matter Type:	Criminal Matters	Civil Matters	Total Matters
Year	2011/12	2011/12	2011/12
Justice Centres	365,369	43,400	408,769 (95%)
Judicare	15,239	702	15,941 (4%)
Co-operations Agreements	229	2,424	2,653 (1%)
Agency Agreements	1,288	2	1,290
TOTAL	382,125	46,528	428,653
	89%	11%	100%


Legal Aid SA also undertook 23 Impact Matters

March 2012
89% criminal
11% civil
legal matters

March 2012
428,653 new
legal matters

Legal Aid SA Overview 2012


JC New Matters By Court Type (2011/12)



Group Type	% of Court Roll covered by Legal Aid SA	New Criminal Matters	New Civil Matters	Total Matters	% of Total
District Court	Between 50% and 60%	305,985		305,983	75%
Regional Court	Between 70% and 80%	54,440		54,440	13%
High Court	> 80%	2,977	5,100	8,077	2%
Civil + Other		1,967	38,300	40,267	10%
Grand Total		365,369	43,400	408,769	
% of Total		89 %	11%		

Legal Aid SA Overview 2012

JC Criminal Matters By Court Type :- Differentiation of new matters



Group Type	District Court	Regional Court	High Court	Other	Grand Total	% of Total
Aggressive	128,679	22,823	1,549	787	153,838	42%
Economic	102,723	12,760	144	684	116,311	32%
Narcotics	38,024	108	20	116	38,268	10%
Sexual	11,262	16,401	435	180	28,278	8%
Other	25,297	2,348	829	200	28,674	8%
Grand Total	305,985	54,440	2,977	1,967	365,369	
% of Total	84%	15%	1%	1%		

March 2012
42% aggressive
32% economic

Legal Aid SA Overview 2012

Pending Matters (2011/12)



March 2012
Pending matters
within turnaround
time

Court Type	Target		Total Number of Pending Matters	Number of Matters exceeding Turnaround Time	%
	%	Period			
District Court	<20%	6 mths	96,761	14,542	15%
Regional Court	<25%	9 mths	33,611	10,404	31%
High Court	<30%	12 mths	3,464	1,128	33%
Civil	<30%	12 mths	43,578	11,061	25%
Other	<30%	12 mths	694	111	16%
Total			178,108	37,246	

Comment: Matters that exceed the target turnaround times will generally be regarded as backlog matters. We give special attention to these matters to ensure that the backlog situation does not grow out of control.

March 2012
Pending matters
exceeding
turnaround time

Legal Aid SA Overview 2012

Delivery Data 2011/12: Number of children assisted




Matter type	Number of New Matters involving children		
	2009/10	2010/11	2011/12
Criminal	54,781	25,586	22,376
Civil	4,485	2,529	5,584
Totals	59,266	28,115	27,960

March 2012
27,960
Children
assisted

Legal Aid SA Overview 2012

Delivery Data 2011/12: General Advice (All staff)



Legal Aid Office	2009/10	2010/11	2011/12
Justice Centre	211,874	243,693	185,538
Legal Aid Advice Line		13,962	46,025
ATP Paralegal's			22,723
Totals	211,874	257,619	254,286

March 2012
254,286
Persons
assisted with
advice

Legal Aid SA Overview 2012

Legal Aid SA Grant allocations and budget cuts

YEAR	Government Grant	NT Efficiency cut (%)	NT Efficiency cut (amount)	Revised Government Grant	Budget @ 2012	Revised Budget 2013-16
2012-13	1,267,025,000	3%	(34,308,000)	1,232,707,000	1,286,778,091	
2013-14	1,311,109,000	1%	(13,111,000)	1,297,998,000	1,369,327,940	1,356,216,850
2014-15	1,389,428,000	2%	(27,789,000)	1,361,639,000	1,450,894,337	1,423,105,777
2015-16	1,453,343,000	3%	(43,600,000)	1,409,742,000	1,537,435,992	1,474,252,918
TOTAL 2013-2016	4,153,880,000		(84,500,000)	4,069,379,000		

Notes: Budget shortfall does not include COLI shortfall R13 million for 2012/13
 OSD Phase 1 shortfall was absorbed within baseline allocation in 2012/13

Legal Aid SA Overview 2012

Impact on service delivery : practitioner per court ratios

Court Room Coverage - District Court																		
Region	Number of Court Seats	Number of Court Rooms	Number of Reception Courts	Days Court Sits	Staff Establishment		Actual posts 97.5% recruitment		Revised Coverage									
					Days Court Served	% Coverage	Days Court Served	% Coverage	FY 2013/14			FY 2014/15			FY 2015/16			
									Number of Post Reduced	Days Court Served	% Coverage	Number of Post Reduced	Days Court Served	% Coverage	Number of Post Reduced	Days Court Served	% Coverage	
Total	673	1 090	41	16 868	15 646	88%	15 255	86%	0	15 255	86%	15	15 015	85%	40	14 615	83%	
Court Room Coverage - Regional Court																		
Region	Number of Court Seats	Number of Court Rooms	Number of Reception Courts	Days Court Sits	Staff Establishment		Actual posts 97.5% recruitment		Revised Coverage									
					Days Court Served	% Coverage	Days Court Served	% Coverage	FY 2013/14			FY 2014/15			FY 2015/16			
									Number of Post Reduced	Days Court Served	% Coverage	Number of Post Reduced	Days Court Served	% Coverage	Number of Post Reduced	Days Court Served	% Coverage	
Total	337	545	1	7 167	6 993	97%	6 818	95%	0	6 818	95%	8	6 690	93%	20	6 498	90%	

Notes:

The impact of budget cuts will be a reduction in coverage of District Courts from 86% to 83% and reduction in coverage of Regional Courts from 95% to 90%.

The current coverage of courts is not adequate – the reduction in coverage will exacerbate this.

This also does not provide for any coverage for any new courts eg Palmridge Court opened on the East Rand in August 2012

Legal Aid SA Overview 2012

MTEF 2015–2016: Additional Funding Request

LEGAL AID SOUTH AFRICA						
MTEF FUNDING PROPOSALS - FY 2013/16						
No	Programme proposals for funding		2013 / 14	2014 / 15	2015 / 16	MTEF PERIOD
		Total New Staff	New Funding Required	New Funding Required	New Funding Required	Total Funding required for MTEF period
1	Increasing Legal Aid SA Practitioner Capacity at Courts					
1.1	Increasing ratio of PAs at District Courts to 100%	76	R 22,121,472	R23,448, 760	R 24,855, 686	R 70,425,918
1.2	Increasing ratio of PAs at Regional Courts to 110%	56	R 25,618,992	R 27,156,132	R 28,785,499	R81,560,623
1.3	Increasing ratio of HCU PAs to 125%	21	R 11,452,854	R 12,140,025	R 12,868,427	R 36,461,306
2	Increasing Civil Capacity					
	Civil Practitioners	40	R 18,832,600	R 19,962,556	R 21,160,309	R 59,955,465
3	Expansion of National Footprint					
3.1	Conversion of SO to JC	6	R 18,600,000	R 15,900, 000	R 16, 854,000	R 51,354, 000
3.2	New Satellite Offices	4	R 10,000,000	R 8,480,000	R 8,988,000	R 27,468,800
3.3	New Justice Centres	1	R 5,000,000	R 4,240,000	R 4,494,400	R 13,734,400
4	IT Infrastructure		R 7,600,000	R2,100,000	R 2,166, 000	R11,866,000
	TOTAL	193	R 119,225,918	R 113,427,473	R 120,173,121	R 352,826,513

***Briefing of Portfolio Committee on Correctional
Services***

3.
Legal Aid Programmes Linked to
Remand Detainees

Legal Aid Programmes Linked to Remand Detainees

Briefing of PC
Correctional Services



LEGAL AID LINK TO CORRECTIONAL CENTRES

- I. Coverage of Correctional Centres with RDs
- II. Correctional Centre visitation programme
- III. RD Paralegal Statistics
- IV. Legal Aid Advice Line – Assistance to Accused

LEGAL AID SERVICE TO RDs IN COURTS

- V. Reducing Unrepresented Accused at courts
- VI. Automatic Review Statistics
- VII. Bail Applications Requirements
- VIII. Management of Guilty Pleas
- IX. Client Consultation Programme
- X. Children Awaiting Trial (CAT) Programme
- XI. Remand Detainees > 2 yrs Monitoring Programme

LEGAL AID LINKS TO STAKEHOLDERS

- XII. Linkage with Judicial Inspectorate of Prisons(JIP)
- XIII. Protocol with DCS to improve Access to Remand Detainees for Consultation Purposes

***Briefing of Portfolio Committee on Correctional
Services***

3.

**Legal Aid Programmes Linked to Remand
Detainees**

LEGAL AID LINK TO CORRECTIONAL CENTRES

Legal Aid SA Coverage of Correctional Centres with remand detainees

Province	Justice Centres	Satellite Offices	ATP Paralegals	Correctional Services	Remand Detainees
Eastern Cape	10	11	3	13	4,981
Free State	6	3	1	16	3,310
North West	7	3	0	5	952
Gauteng	10	4	3	18	18,019
KwaZulu Natal	10	11	2	20	7,035
Limpopo	5	7	0	2	650
Mpumalanga	4	10	1	9	2,391
Northern Cape	3	6	0	10	1,063
Western Cape	9	9	2	29	9,743
TOTAL	64	64	12	122	48,144

Comment: Legal Aid SA has got a dedicated programme to link with the 20% of correctional centres which house 80% of the RDs. Dedicated paralegals are employed to visit these correctional centres on a regular basis to meet with unrepresented RDs to offer them legal aid.


RD Paralegal Statistics

ATP - Paralegal Stats - YTD FY 2012/13


Region	Justice Centre	Q1 FY 2012/13		Q2 FY 2012/13		YTD FY 2012/13	
		Awaiting Trial Prisoner	Sentenced Prisoner	Awaiting Trial Prisoner	Sentenced Prisoner	Awaiting Trial Prisoner	Sentenced Prisoner
Eastern Cape	East London	86	127	160	134	246	261
	Mthatha	62	15	43	17	105	32
	Port Elizabeth	200	106	298	102	498	208
Free State & North West	Bloemfontein	259	127	210	66	469	193
Western Cape & Northern Cape	Athlone	748	61	693	59	1,441	120
	Cape Town	575	29	1052	69	1,627	98
Gauteng	Benoni	346	58	339	100	685	158
	Johannesburg	1,137	26	1,306	10	2,443	36
	Pretoria	855	3	1,117	8	1,972	11
Kwazulu Natal	Empangeni	254	63	372	199	626	262
	Pietermaritzburg	463	3	425	3	888	6
Limpopo & Mpumalanga	Nelspruit	448	0	479	0	927	0
Total		5,433	618	6,494	767	11,927	1,385

Comment: Our RD Paralegal visitation programme, coupled with our programme to link with all accused persons at courts, ensure that the most of the RDs have access to legal aid. This is clearly evident in the fact that the automatic review stats, which deal with unrepresented accused who are convicted, have consistently decreased over the years.

Correctional Centre visitation programme

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- ▶ Legal Aid SA has implemented a programme to link with those correctional facilities with the most remand detainees.
 - ▶ 24 correctional facilities are currently on this programme
 - ▶ Legal aid clinics are held at these identified correctional facilities where various legal topics relevant to remand detainees and sentenced prisoners are discussed.
 - ▶ Opportunities are given to inmates to address any queries or complaints they have directly with our local management who are present at these clinics.
 - ▶ Unrepresented remand detainees are also given an opportunity to apply for legal aid.

Legal Aid Advice Line – Assistance to Accused

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- ▶ Legal Aid SA has implemented a call centre on a toll free line 0800 110 110.
 - ▶ Whilst our call centre was primarily aimed at assisting civil clients with general legal advice, approximately 10 % of calls are from accused persons, most of whom are in custody.
 - ▶ During the first half of this financial year 2,679 persons called our centre for assistance in their criminal matters.
 - ▶ Our call centre agents assist these accused with information on trial procedure, appeal handling processes, etc.
 - ▶ They also address any complaints that such accused may have with their legal representation to our local and regional management teams.
 - ▶ Our advice line is not actively marketed at correctional facilities noting our intention to assist civil clients. However, our call centre number is now generally well publicised and we do not turn away any calls from inmates or remand detainees that are made to our call centre.


***Briefing of Portfolio Committee on Correctional
Services***

3.

**Legal Aid Programmes Linked to Remand
Detainees**

LEGAL AID SERVICE TO RDs IN COURTS

Reducing Unrepresented Accused at courts

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- ▶ Reception court programme – increased legal aid practitioner capacity to ensure that accused persons are proactively engaged to encourage acceptance of legal aid.
 - ▶ Presiding officers engaged to encourage all unrepresented accused to apply for legal aid
 - ▶ Our practitioner per court model allows all our practitioners to interact directly with all accused who appear unrepresented at their courts.
 - ▶ Dedicated RD paralegals visit prisons with high numbers of remand detainees to encourage those accused without legal representation to apply for legal aid.

Automatic Review Statistics

Delivery Data 2011/12 Automatic reviews

NUMBER OF AUTOMATIC REVIEWS PER FINANCIAL YEAR


FY 02/03	FY 03/04	FY 04/05	FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11	FY 11/12
30,306	29,133	26,720	18,370	14,720	12,019	10,597	8,770	7,094	6,359
100%	96%	88%	61%	49%	40%	35%	29%	23%	21%

The % in bottom row is reflected as a % of the number of matters in 2002/03


Comment: Automatic review statistics reflect accused persons who appear unrepresented before a magistrate with less than 7 years experience and where the accused is sentenced to direct imprisonment or to a fine exceeding R2000. The consistent drop in the number of automatic review statistics highlights the role played by Legal Aid SA in ensuring that the numbers of unrepresented accused going through the court system is reduced.

**March 2012
Automatic
reviews
reduced to
6,359**

Bail Applications Requirements

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- ▶ All practitioners are required to ensure that bail applications are made for all our clients who are in custody, unless specifically instructed not to do so.
 - ▶ All practitioners have been trained on the two stage bail procedure and are required to ensure that this is followed by the court.
 - ▶ The two stage bail procedure requires the magistrate to firstly determine if the accused is a suitable candidate to be released on bail and secondly to consider the question of affordability, ie the amount that the bail should be set at.
 - ▶ This is important because it ensures that bail is set at an amount that the accused can afford. Otherwise, setting bail at an amount that the accused cannot afford is tantamount to a refusal of bail.
 - ▶ The payment of bail is monitored by practitioners at the next court appearance of client and where necessary, applications for the reduction of the bail amount is brought immediately.
 - ▶ Practitioners are also required to consider bail appeals where appropriate.

Management of Guilty Pleas

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- ▶ A criticism that is often made against legal aid practitioners is that we encourage our clients to plead guilty.
 - ▶ Noting that most of our practitioners at the District Courts are candidate attorneys, we have implemented a procedure, much to the dissatisfaction of other court role-players such as the prosecutors, to ensure that all s1 12(2) guilty plea statements are reviewed by a JC legal manager, even if this requires the matter to be postponed by a day.
 - ▶ This procedure allows us to confirm that the guilty plea is in accordance with client instructions and that the evidence points to the guilt of the accused.
 - ▶ It should also be noted that s1 12 guilty plea statements are read into the court record and therefore presiding officers also have a duty to verify from the accused that the statement is in accordance with their instructions.
 - ▶ We have often investigated allegations made by prisoners who alleged that they were forced to plead guilty. However, from our investigations it was clear that their allegations were unfounded.


Guilty Plea Statistics

Guilty Plea's Outcomes Report - YTD FY 2012/13


Region	Total Criminal Matters	Total Criminal Matters (Excluding Withdrawn, struck off roll & Warrant of Arrest Outcomes)	Total Guilty Plea's	% of Guilty Plea's / Criminal Matters	% of Guilty Plea's / Criminal Matters (Excluding Withdrawn, struck off roll & Warrant of Arrest Outcomes)
Eastern Cape	27,110	8,218	4,558	17%	55%
Free State & North West	23,326	6,951	3,076	13%	44%
Gauteng	36,694	11,742	5,223	14%	44%
Kwazulu Natal	30,028	10,123	5,040	17%	50%
Limpopo & Mpumalanga	20,900	6,081	2,287	11%	38%
Western Cape & Northern Cape	58,287	13,620	7,447	13%	55%
Total	196,345	56,735	27,631	14%	49%

Comment: Only 14% of criminal matters handled by Legal Aid SA is finalised by guilty plea. However, if we remove matters that are withdrawn, struck of the roll or warrant of arrests are issued, then this increased to 49%.

Client Consultation Programme

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- ▶ Legal Aid SA practitioners are required to timeously consult with all clients in their matters.
 - ▶ The consultation process begins when the application for legal aid is taken down by our lawyer
 - ▶ Our practitioners are encouraged to use every court appearance as an opportunity to further the consultation process.
 - ▶ Where consultations with clients are not completed before the trial, our practitioners are required to arrange to visit clients at the correctional centres where they are incarcerated.
 - ▶ Practitioners are required as part of their performance contracts to ensure that full consultations with clients on their matters are completed before the day of the trial;
 - ▶ It often happens that our practitioners are not able to consult fully with clients by the time of their trials, such as when clients do not honour appointments or do not respond to prison visits, then our practitioners are required to note the reason for this on their files for quality review purposes.

Children Awaiting Trial (CAT) Programme

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- ▶ All JCs proactively link with various stakeholders, including SAPS and social development, in order to identify children awaiting trial in custody.
 - ▶ Legal Aid SA has developed a web page where all children who are awaiting trial for > 1 month are recorded by the relevant JC so that they can be individually tracked.
 - ▶ All Justice Centre Executives are appointed as children's champions and they are specifically required to interact with practitioners representing such children to determine interventions that can be made to speed up these matters, as well as assist remove children from detention.
 - ▶ CAT statistics, including reasons for delays in finalising matters of these children, are also monitored at our regional and national oversight committees, as well as by our Board.

Children Awaiting Trial – Statistics @ Sept 2012

CAT Report - Q2 FY 2012/13


Region	New	Finalised	Pending End				Total
			< 1 months	< 2 months	< 3 months	> 3 months	
Eastern Cape	36	22	0	0	12	30	42
Free State & North West	5	12	0	0	1	3	4
Gauteng	0	3	0	0	0	4	4
Kwazulu Natal	14	14	1	1	2	25	29
Limpopo & Mpumalanga	0	0	0	0	0	0	0
Western & Northern Cape	15	14	0	5	5	3	13
Total	70	65	1	6	20	65	92

Comment: The main reasons identified for children being in custody for extended periods include:

- Parents or guardians that cannot be traced or they refuse to take child into their custody;
- children who have previously absconded from a place of safety;
- children who appear together with adult accused and facing serious charges.

Remand Detainees > 2 yrs Monitoring Programme

Briefing of PC
Correctional Services

- 
- ▶ Legal Aid SA has developed a web page where all our adult clients who are awaiting trial for > 2 years are recorded by the relevant JC so that they can be individually tracked.
 - ▶ Justice Centre legal managers interact with practitioners representing such clients to determine interventions that can be made to speed up these matters.
 - ▶ RD statistics, including reasons for delays in finalising matters of these accused, are also monitored at our regional and national oversight committees, as well as by our Board.
 - ▶ Some of the main reasons for RDs being in custody for extended periods include:
 - ▶ Multiple accused, high number of witnesses and multiple charges
 - ▶ Congested court rolls
 - ▶ Frequent changes by accused of their legal representatives;
 - ▶ Accused persons themselves deliberately delaying the proceedings;

Remand Detainees > 2 Yrs in Custody

Remand Detainees - FY 2012/13				
Region	Pending Matters			
	> 24 Months	> 40 Months	> 60 Months	Total
Eastern Cape	13	58	52	123
Free State & North West	10	11	5	26
Gauteng	92	171	23	286
Kwazulu Natal	83	61	14	158
Limpopo & Mpumalanga	10	14	11	35
Western Cape & Northern Cape	65	65	9	139
Total	273	380	114	767


***Briefing of Portfolio Committee on Correctional
Services***

3.


**Legal Aid Programmes Linked to Remand
Detainees**

LEGAL AID LINKS TO STAKEHOLDERS

Linkage with Judicial Inspectorate of Prisons(JIP)

- 
- ▶ The special project between Legal Aid SA and the JIP a few years ago, where specially appointed IPVs worked exclusively with our JCs to drive the legal representation programme for unrepresented accused, was very successful.
 - ▶ Unfortunately, this special project was not continued by the JIP mainly because of funding and high staff turnover.
 - ▶ We are currently in discussions with the JIP to ensure improved communication so that we can better attend to legal representation issues and complaints that they identify.
 - ▶ A MOU is currently being drafted which will include ensuring that our JCs are invited to attend JIP visitation committee meeting, as well as ensuring that there is improved linkages with local IPVs and our JCs for efficient complaints handling.


Protocol with DCS to improve Access to Remand Detainees for Consultation Purposes

- 
- ▶ As part of the Criminal Justice Review, the above mentioned protocol was drafted in order to address the many challenges that we have experienced with attending to consultation with clients at correctional facilities.
 - ▶ This protocol is intended to deal with the following issues:
 - ❑ The procedure to notify the DCS official of our intended visit as well as the inmates that we seek to consult with
 - ❑ The co-operation of DCS officials in facilitating the efficient processing of our requests so that consultations can be conducted without much delays;
 - ❑ To ensure that adequate and secure facilities are made available to legal aid lawyers to conduct consultations.
 - ▶ This protocol is currently being discussed between DCS and ourselves


***Briefing of Portfolio Committee on Correctional
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4.
**Legal Aid Services Delivery:
assuring quality**

Legal Quality Intervention Programmes

- 
- ▶ Senior Legal Supervisory capacity at all Legal Aid SA offices to ensure adequate levels of support and monitoring of practitioners' preparation and performance.
 - ▶ Legal training and development programme at JC, RO and National level.
 - ▶ Mentorship and coaching programmes for all practitioners identified as requiring high levels of support
 - ▶ Candidate attorney specific programmes including court readiness programme and pre-admission programme
 - ▶ Research support for legal practitioners including access to legal sites such as Jutastat, in-house on-line legal discussion forums and monthly legal newsletters

Legal Quality Monitoring Programmes

- 
- ▶ Legal quality assessment reviews by JC management as well as independently by our Legal Quality Assurance Unit based in our Internal Audit department.
 - ▶ Peer reviews
 - ▶ Stakeholder feedback including quarterly interaction with all presiding officers on performance of practitioners stationed at their courts.
 - ▶ Bi-annual performance management assessment reviews for all practitioners based on their signed performance contracts.
 - ▶ Complaints handling on client related matters
 - ▶ Business Intelligence reports


***Briefing of Portfolio Committee on Correctional
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5.

**Matters arising from previous PC
visits to Correctional Centres**

Legal Aid Services Delivery: assuring quality


Practitioner Quality Scores (2011/12)




Legal Practitioner	Target %	JC Quality Assessment		Internal Audit (Legal Quality Assurance Unit)	
		File	Court Observation	File	Court Observation
Candidate Attorney (CA)	80%	87%	87%	86%	89%
Professional Assistant (PA)	85%	91%	92%	90%	93%
PA High Court Unit	90%	94%	95%	93%	95%
Civil - PA	85%	91%	89%	93%	95%
		Quality of Advice			
Paralegal	85%	88%			

**March 2012
Practitioner
Quality scores exceeding
targets**

Practitioner Case Load Management

- 
- ▶ Legal Aid SA employs a practitioner per court model. Practitioners are therefore based at a single court and only handle matters that relate to that court.
 - ▶ Legal Aid has engaged both the prosecutions and magistracy to ensure that only a manageable number of cases are placed on the court roll per day so that our practitioners do not have to prepare for many cases than necessary. This request has however not always been well received.
 - ▶ All legal aid practitioners are required to set aside a day per week in order to attend to consultations and preparations for their cases. This initiative has ensured that practitioners are able to properly prepare for their cases and that the quality of the service is in keeping with our quality standards.
 - ▶ The pending matter stats for all practitioners are monitored and all matters that exceed our target turnaround times are reviewed by JC legal managers.

Management of Pending Matters (incl. Backlog Matters)

- 
- ▶ Information on practitioner pending matters is available real time to all our staff via our computer software system
 - ▶ All practitioners complete daily matter activity reports on all matters that they attend to per day. Included in this report is the next court date of a matter.
 - ▶ Practitioner outlook diaries are automatically populated with a record of all matters per day. This allows managers to monitor practitioner case loads per day without the need to see their physical diaries.
 - ▶ JC managers have a file review programme in place for all practitioners where they examine practitioner pending matters to monitor quality of services rendered
 - ▶ Included in this review is the identification of reasons which could cause a delay in the matter and these are addressed with individual practitioners.
 - ▶ Statistics on matters exceeding our turnaround times are monitored on a quarterly basis, as well as reported to our board.
 - ▶ We also participate in the backlog courts project to reduce the backlog situation at identified district and regional courts.

Legal Aid Delivery – case backlogs

Pending Matters (2011/12)




March 2012
Pending matters
within turnaround
time

Court Type	Target		Total Number of Pending Matters	Number of Matters exceeding Turnaround Time	%
	%	Period			
District Court	<20%	6 mths	96,761	14,542	15%
Regional Court	<25%	9 mths	33,611	10,404	31%
High Court	<30%	12 mths	3,464	1,128	33%
Civil	<30%	12 mths	43,578	11,061	25%
Other	<30%	12 mths	694	111	16%
Total			178,108	37,246	


March 2012
Pending matters
exceeding
turnaround time

Legal Aid Services Delivery: Stakeholder Feedback


Briefing of PC
Correctional Services

- 
- ▶ Judicial officer survey conducted at the end of 2011 confirmed overall satisfaction with service provided by Legal Aid SA
 - ▶ Survey revealed that presiding officer perceptions of our service was on average 20% less positive when compared to their actual experience of the practitioners at their courts.
 - ▶ Stakeholder Consultation on our Strategic Plan commenced and finalised in October 2011. Very positive comments received. Issues raised are those resulting primarily from budget constraints ie capacity in courts and increased civil legal aid

5. Matters arising from previous PC visits to Correctional Centres

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- ▶ The portfolio committee visited the Kroonstad Correctional Centre during the middle of last year.
 - ▶ The visit was reported on in a local newspaper, the Volksblad.
 - ▶ Inmates made a number of complaints to the portfolio committee, which dealt mainly with allegations that they were forced to plead guilty by our practitioners.
 - ▶ Legal Aid undertook an investigation where we examined the case files of each inmate who made a complaint.
 - ▶ Our findings on each of the complaints made was that their allegations were unfounded.
 - ▶ A detailed schedule of our findings was forwarded at the time to the portfolio committee chairman.


Matters arising from previous PC visits to Correctional Centres

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- ▶ During June 2012, the Portfolio Committee visited the Johannesburg Correctional facility.
 - ▶ Legal Aid was invited and both our local JC management, as well as our regional management, attended the 2 day session.
 - ▶ According to local JC management, not many issues were raised by inmates during the walk-around.
 - ▶ Our Regional Operations Executives did address the committee on issues of our quality programme, as well as our consultation procedures.

***Briefing of Portfolio Committee on Correctional
Services***

6.
Concluding Comments

Concluding Comments

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- ▶ Legal Aid SA has a programme in place to link with remand detainees, either at courts or correctional facilities, to ensure that they have an opportunity to be legally represented.
 - ▶ Our CAT programme and our RD > 2Yr programme do ensure that focus is given to both categories of detainees who are in custody for long periods;
 - ▶ Legal Aid practitioners do conduct consultations with accused person in order to properly prepare for their cases. This includes visiting correctional facilities where necessary.
 - ▶ Legal Aid SA procedures and requirements do ensure that guilty pleas are in accordance with client instructions and are in accordance with the evidence in the docket.
 - ▶ Practitioner case loads are constantly managed to ensure that quality standards are not compromised. This includes ensuring that practitioners have a day set aside per week when they do not have to be at court.
 - ▶ Current discussions with the JIP with regards developing a MOU will ensure improved linkages at local level, which will ultimately benefit RDs/inmates.
 - ▶ The DCS/Legal Aid protocol, when implemented, will improve consultation access by our practitioners, which currently poses some challenges.
 - ▶ Legal Aid SA participates actively in all committees, include MATD committee, to address ways to reduce RD population.

end