

**PARLIAMENT**  
OF THE  
**REPUBLIC OF SOUTH AFRICA**

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**ANNOUNCEMENTS,  
TABLINGS AND  
COMMITTEE REPORTS**

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MONDAY, 15 JULY 2019

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### National Assembly

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## ANNOUNCEMENTS

### National Assembly

#### The Speaker

#### 1. Appointment of whips

- (1) The following members have been appointed as whips of the Inkatha Freedom Party in the National Assembly with effect from 5 June 2019:

Singh, N  
Ngwezi, X

#### 2. Responsibilities of Deputy President

- (1) The President has, in terms of section 91(2) of the Constitution, 1996 assigned the following powers and functions to the Deputy President, communicated in terms of Assembly Rule 352(1):
  - (a) Leader of Government Business in Parliament.
  - (b) Leading Government effort to fast-track Land Reform and the co-ordination of Government programmes to accelerate Land Reform and agricultural support.
  - (c) Assist the President to stimulate and support Rural and Township economy through implementing empowerment models. Assist the President in the implementation of Rapid Response interventions on Service Delivery and Trouble-shooting in service delivery hotspots.
  - (d) Co-ordinate Anti-poverty initiatives through, amongst others, Public Employment Programmes, Integrated Service Delivery and Enterprise Development.
  - (e) Leading the South African National AIDS Council and the country's integrated response to the challenges of HIV and AIDS.

- (f) Assist the President in efforts towards building a better Africa.
- (g) Support in investment Facilitation and Trade Promotion.
- (h) Leading the National Human Resource Development Council and fostering collaboration between government and social partners towards addressing the shortage of skills in critical sectors of the economy.
- (i) Promoting Social Cohesion Initiatives including being patron of the Moral Regeneration Movement.

**3. Referral of matter to Subcommittee on Physical Removal of Member from Chamber**

- (1) The circumstances of the physical removal of members of the Economic Freedom Fighters from the mini-plenary on Vote 9 – Public Enterprises on Thursday, 11 July 2019, together with the unrevised Hansard, minutes and a video recording of the proceedings in question, have been referred to the Subcommittee on Physical Removal of Member from Chamber for consideration, in terms of Assembly Rule 73 (12).

**National Council of Provinces**

**The Chairperson**

**1. Referral to Committees of papers tabled**

- (1) The following paper is referred to the **Select Committee on Security and Justice** for consideration and report:
  - (a) Annual Performance Plan of Independent Police Investigative Directorate (“IPID”) for 2019/2020.

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**TABLINGS**

**National Assembly and National Council of Provinces**

**1. The Minister of Police**

- (a) Half Year Report of the Independent Police Investigative Directorate for 2018/19, tabled in terms of section 9(n) of the Independent Police Investigative Directorate Act, 2011 (Act No 1 of 2011).

## National Assembly

### 1. The Speaker

- (a) A letter dated 4 July 2019, has been received from the Minister of Health, explaining the delay in the submission of the Annual Financial Statements and Annual Report for the Compensation Fund for Mines and Works for the 2018 -19 financial year, in terms of section 65(2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Referred to the **Portfolio Committee on Health** for consideration.

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## COMMITTEE REPORTS

### National Assembly

#### 1. Report of the Portfolio Committee on Justice and Correctional Service on Budget Vote 18: Correctional Services, dated 12 July 2019

The Portfolio Committee on Justice and Correctional Services, having considered the Department of Correctional Services' 2019/20 budget (Vote 18) and the annual performance plan, reports as follows:

#### 1. INTRODUCTION

- 1.1 The Minister of Justice and Correctional Services, Mr Ronald Lamola, tabled in the National Assembly, the Annual Performance Plan (APP) of the Department of Correctional Services (DCS) for consideration and report.
- 1.2 The Committee received a political overview by the Minister on 03 July, accompanied by the two Deputy Ministers, Inkosi Phathekile Holomisa (Correctional Services) and Mr. John Jeffery (Justice and Constitutional Development). On 04 July the Committee received a briefing from the Deputy Minister responsible for the Correctional Services portfolio and the Commissioner of Correctional Services, Mr Arthur Fraser,

accompanied by senior management of the Department. The briefing focussed on the 2019/20 Annual Performance Plan and the budget allocation as per Budget Vote 18.

1.3 The DCS's mandate is derived from the Correctional Services Act (No. 111 of 1998), as well as the white papers on Correctional Services (2005) and Remand Detention Management in South Africa (2014). The legislation and policies inform all the efforts towards achieving the safe and humane detention of offenders and remand detainees, rehabilitation and social reintegration.

1.4 The DCS's planning documents are also informed by the government-wide Medium-Term Strategic Framework (MTSF) 2014-19, which is geared towards the implementation of the National Development Plan's Vision 2030 (NDP).

## **2. POLITICAL OVERVIEW BY THE MINISTER OF JUSTICE AND CORRECTIONAL SERVICES**

2.1 After making some introductory remarks, the Minister informed the Committee that he had a handover briefing from the outgoing Minister and senior officials of the Department. He highlighted that the Departmental plans were in a transitional phase towards the new Medium Term Strategic Framework(MTSF). He said that the new MTSF will be infused by the priorities that were outlined by the President in his State of the Nation Address.

2.2 The Minister said that the July month is important in the calendar of South Africa's constitutional democracy as South Africa will be celebrating the role of Nelson Mandela, a global icon and statesman and first democratic President of South Africa. He said that in his honour, the United Nations had adopted the Revised Standard Minimum Rules for the Treatment of Prisoners; the Mandela Rules.

He said that the Mandela Rules provided a set of universally acknowledged minimum standard which the Department was translating into daily lived reality of inmates in South Africa's 243 correctional centres.

2.3 Minister Lamola said that over the medium-term, the Department of Correctional Services (DCS) will prioritise providing appropriate services for safe, secure and humane that the DCS has embarked on projects aimed at equipping inmates with agricultural skills and training in the cultivation of vegetables and fruits, milk and meat production leading to more than 3300 inmates opting for agriculture as their career of choice. He also emphasised the need to transform South African correctional centres from being havens of drugs and gang syndicates into proper rehabilitation centres.

2.4 The Minister reported that the number of inmates as at 31 March 2019 was 162 857, leading to 37 percent over-crowding as the DCS had bed-spaces for 118 572 inmates. He said that the DSC was mindful of the challenges of overcrowding in correctional and remand detention facilities which continue to undermine the creation and maintenance of safe and secure environment for inmates and personnel. This environment further undermined the delivering of effective and efficient rehabilitation. He said that the down-management of the inmate population required an integrated approach which takes into consideration external factors that indirectly and directly drive the population levels including such factors as the criminal culture across society, the increased focus on implementing effective measures to combat and prosecute crime, high unemployment rates and the economic climate in the country.

2.5 The Minister highlighted that the Correctional Services Act, which was now 13 years old, required a review given the new developments in such fields as restorative justice, child justice, rehabilitation and social reintegration and victim empowerment.

2.6 The Minister announced that the DCS had insourced the provision of nutrition to inmates in its 26 kitchens that had been serviced by African Global Operations (AGO-formerly known as Bosasa), as the contract was terminated in March 2019 after it was implicated in the State Capture Commission of Inquiry. He said that the insourcing of food services has opened doors for local businesses to supply food to the DCS.

2.7 On 04 July, the Deputy Minister responsible for Correctional Services, Inkosi Holomisa, added that following the insourcing of nutrition services following the cancellation of the AGO/Bosasa contract, the DCS was working with the Office of the Chief Procurement Officer (OCPO) at National Treasury to overhaul the procurement of food items in all its correctional facilities.

2.8 The Deputy Minister further highlighted that in the 2017/18 financial year, the DCS had incurred an irregular expenditure of R1,897 billion. He said that the main contributing transaction for this irregular expenditure related to the procurement of high security fences at various correctional centres which amounted to R1,724 billion (90 percent of the irregular expenditure for the year). This irregular expenditure was a result of non-compliance with Supply Chain Management (SCM) prescripts as well as significant expansion of scope by the implementing agent (the Independent Development Trust), he said. He told members of the Committee that the procurement of the fencing programme is currently a subject of investigation by the Special Investigating Unit (SIU).

2.9 The Deputy Minister concluded his briefing by assuring the Committee that as the country celebrated its 25 years of freedom and democracy, the DCS will amplify its efforts of making the 243 correctional facilities real centres of rehabilitation and learning.

### **3. DEPARTMENT OF CORRECTIONAL SERVICES' STRATEGIC GOALS**

3.1 The DCS's mission is to contribute to a just, peaceful and safer South Africa through the effective and humane incarceration of inmates, and the rehabilitation and social reintegration of offenders.

The DCS committed to playing its role to ensure that the MTSF and the NDP's strategic outcomes are achieved. The overarching goal is to build a safer South Africa where all people are and feel safe.

3.2 To this end the DCS has committed to:

- 3.2.1 providing all remand detainees and sentenced offenders with safe, secure and human conditions of detention and incarceration;
- 3.2.2 ensuring that remand detainees attend court as prescribed/required, and that they are provided with services responding to their needs, including personal wellbeing programmes; and
- 3.2.3 attending to sentenced offenders' health care, rehabilitation and social reintegration needs.

#### 4. OVERVIEW OF THE DCS BUDGET: 2019/20

4.1 The DCS will receive R25 407 billion in 2019/20, an increase of 7 percent from 2018/19. The allocation is projected to increase to R28 962 billion over the medium term (2021/22). Of the total 2019/20 budget, 74 percent (R18 213.6 billion) will go towards the Compensation of Employees.

**TABLE 1: SUMMARY OF ALLOCATION FOR 2019/20**

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Average growth rate (%)
<b>R'000</b>	<b>Audited outcome</b>	<b>Audited outcome</b>	<b>Audited outcome</b>	<b>Original Budget</b>	<b>Medium-term estimates</b>			
Administration	4,015,015	3,879,599	3,912,772	4,283,755	4,786,272	5,100,990	5,427,057	5.2%
Incarceration	12,289,172	13,097,338	13,949,901	14,529,263	15,139,582	16,214,671	17,317,655	5.9%
Rehabilitation	1,395,043	1,476,416	1,695,311	1,861,252	1,994,849	2,141,962	2,270,717	8.5%
Care	2,088,481	2,235,094	2,322,675	2,275,301	2,444,582	2,601,688	2,758,946	4.7%
Social Reintegration	800,964	853,727	907,919	898,939	1,042,353	1,117,809	1,188,189	6.8%
<b>Total</b>	<b>20,588,675</b>	<b>21,542,174</b>	<b>22,788,578</b>	<b>23,848,510</b>	<b>25,407,638</b>	<b>27,177,120</b>	<b>28,962,564</b>	<b>5.9%</b>
<b>Current payments</b>	<b>19,236,312</b>	<b>20,528,963</b>	<b>21,949,534</b>	<b>23,040,930</b>	<b>24,621,200</b>	<b>26,355,422</b>	<b>28,095,974</b>	<b>6.5%</b>
Compensation of employees	13,189,485	14,417,167	15,613,459	16,994,941	18,213,635	19,594,290	20,947,052	8.0%
Goods and services	6,045,168	6,111,482	6,331,609	6,045,989	6,407,565	6,761,132	7,148,922	2.8%
Interest on land	1,659	314	4,466					
<b>Transfers and subsidies</b>	<b>109,225</b>	<b>131,448</b>	<b>161,656</b>	<b>132,719</b>	<b>163,629</b>	<b>171,751</b>	<b>180,897</b>	<b>8.8%</b>
Payment of Capital assets	1,243,138	874,405	620,118	674,861	622,809	649,947	685,693	-9.4%
Payment of financial assets		7,358	57,270					
<b>Total</b>	<b>20,588,675</b>	<b>21,542,174</b>	<b>22,788,578</b>	<b>23,848,510</b>	<b>25,407,638</b>	<b>27,177,120</b>	<b>28,962,564</b>	<b>5.9%</b>

SOURCE: ESTIMATES OF NATIONAL EXPENDITURE 2019, PAGE 2-8.



4.2 The DCS budget is distributed across the following five programmes:

Administration (R4.7 billion), Incarceration (R15.1 billion), Rehabilitation (R1.9 billion), Care (2.4 billion), and Social Reintegration (R1.0 billion).

4.3 As in the previous years, about 78 percent of the total DCS budget goes towards the Administration and Incarceration programmes. The Rehabilitation and Social Reintegration programmes will together receive only 12 percent of the total budget for 2019/20, while the Care programme receives 10 percent. Allocations to the Care and Social Reintegration will increase by 4.80 percent and 7.69 percent respectively.

4.4 The Judicial Inspectorate of Correctional Services will receive transfers from the DSC Vote of R77,2 million in 2019/20, R81.5 million in 2020/21 and R86 million in 2021/22.

4.5 Despite a 5.9% average growth to the DCS budget, there has been some baseline reductions to the budget over the medium term.

4.6 For 2019/20, there is a baseline reduction of R79.9 million, and R74,3 million in 2020/21, affecting the Compensation of Employees. Since 2015/16 to 2020/21, the reduction would amount to R3,15 billion, leading to a reduction of funded posts from 42 006, before the budget cuts, to 39 191 funded posts over the 2019/20 MTEF.

4.7 Budget baseline cuts for Goods and Services from 2015/16 to 2020/21 would be R2,2 billion, putting immense budgetary pressure on the operational budgets for correctional centres and administration. The DCS has identified pressures to be on its ageing fleet of vehicles which transport inmates to courts and hospitals for medical treatments, and to consumables and food items for inmates, municipal services such as water and electricity bills.

4.8 On Capital Assets, baseline cuts between 2015/16 and 2020/21 are expected to be R847 million, affecting the infrastructure delivery programme that seeks to address overcrowding through construction and upgrading of correctional facilities.

## **5. OVERVIEW OF ALLOCATIONS PER PROGRAMME**

### **5.1.PROGRAMME 1: ADMINISTRATION**

5.1.1. The Administration programme provides for the functions that underpin the DCS's service delivery and comprises administrative, management, financial, information communication and technology, research, policy co-ordination and good governance support functions. The sub-programmes under this programme are: Ministry, Judicial Inspectorate for Correctional Services (JICS), Management, Human Resources, Finance, Internal Audit, Information Technology and Office Accommodation.

5.1.2. In terms of budget allocation for sub-programmes, the Human Resources sub-programme has been allocated 43 percent of the total budget of the Administration programme, while the Finance sub-programme is allocated 24 percent of the programme's budget. The Management sub-programme has been allocated 20 percent, the Information Technology sub-programme comprises only 6 percent, the Assurance Services sub-programme and Office Accommodation sub-programme have been allocated only 2 percent respectively. The Judicial Inspectorate for Correctional Services also received 2 percent while Ministry sub-programme received 0.61 percent.

5.1.3. This is the second largest programme in the Department in terms of budget allocation and has been increased by 9 percent as compared to 3.20 percent in the 2018/19 financial year. An amount of R4.7 billion has been allocated to the Administration programme for the 2019/20 financial year. This amounts to 19 percent of the total Departmental budget.

	2018/19 (R'000)	2019/20 (R'000)	Nominal % changes	Real % change	Nominal Rand change	Real Rand change
<b>Programme 1:</b>						
<b>Administration</b>	<b>4 487.8</b>	<b>4 786.3</b>	9.08	3.69	398.5	161.9
<b>Sub-programmes</b>						
Ministry	27.3	29.5	8.06	2,72	2.2	0.7
JICS	72.3	77.2	6.78	1,50	4.9	1.1
Management	830.1	985.9	18.77	12,90	155.8	107.1
Human Resources	1 872.7	2 039.8	8.92	3,54	167.1	66.3
Finance	1 130.9	1 186.8	4.98	-0.24	55.9	-2.8
Assurance Services	87.9	99.8	13.54	7.93	11.9	7.0
Information Technology	284.0	280.3	-1.30	-6.18	-3.7	-17.6
Office Accommodation	82.6	87.0	5.33	0.12	4.4	0.1

**TABLE 2: ADMINISTRATION PROGRAMME****5.2. PROGRAMME 2: INCARCERATION**

5.2.1. The Incarceration programme provides for services and physical infrastructure that support secure conditions of incarceration of inmates. The Incarceration programme has four (4) sub-programmes. The largest allocation of the budget under this programme goes to the Security Operations sub-programme which received R8.4 billion, constituting 32 percent of the total allocation for the programme. The Facilities sub-programme has been allocated R3.8 billion, which translates to 15 percent of the total allocation for this programme. The Remand Detention sub-programme has been allocated an amount of R622 million which is the smallest allocation under this Programme and only comprises 2 percent of the total allocation for the programme. The Offender Management sub-programme has been allocated R2.3 billion which translates to 9 percent of the total allocation to this programme.

5.2.2. Being the largest DSC programme, the Incarceration programme's budget is (R15, 139.6 billion) for 2019/20, an increase by 6 percent when compared to the previous financial year. This amounts to 60 percent of the total budget allocation for the Department. 79 percent (R11,944 billion) of the allocation for this programme goes towards Compensation of Employees.

	<b>2018/19 (R'000)</b>	<b>2019/20 (R'000)</b>	<b>Nominal % changes</b>	<b>Real % change</b>	<b>Nominal Rand Change</b>	<b>Real Rand change</b>
<b>Programme 2: Incarceration</b>	<b>14 350.4</b>	<b>15 139.6</b>	5.50	0.28	789.2	40.9
<b>Sub-programmes</b>						
Security Operations	7 965.5	8 350.5	4.83	-0.35	385.0	-27.8
Facilities	3 767.9	3 877.0	2.90	-2.19	109.1	-82.5
Remand Detention	697.4	622.0	-10.81%	-15.22	-75.4	-106.1
Offender Management	1 919.6	2 290.1	19.30%	13.40%	370.5	257.3

**TABLE 3: INCARCERATION PROGRAMME**

### **5.3 PROGRAMME 3: REHABILITATION**

5.3.1 The Rehabilitation programme provides for needs-based programmes and interventions to facilitate offenders' rehabilitation and eventual reintegration to society. It comprises three sub-programmes: Correctional Programmes, Offender Development and Psychological, Social and Spiritual Services.

5.3.2 The Rehabilitation Programme's comprises only 8 percent of the total allocation to the Department in 2019/20. For the 2019/20 financial year, this programme has been allocated an amount of R1, 994.8 billion which is a nominal increase of 10.20 percent as compared to the 2018/19 allocation. In monetary terms, this programme received R185 million more than in 2018/19. A total of 79 percent of this allocation goes to Compensation of Employees.

5.3.3 In terms of budget allocations to sub-programmes, the largest allocation is to Offender Development (R1, 037.6 billion or 52 percent), followed by Psychological, Social and Spiritual programme (R523.7 million or 26 percent) and Correctional programme (R433.6 million or 22 percent).

	2018/19 (R'000)	2019/20 (R'000)	Nominal % Changes	Real % change	Nominal Rand change	Real Rand change
<b>Programme</b>						
<b>3:Rehabilitation</b>	<b>1 810.1</b>	<b>1 994.8</b>	10.20	4.76	184.7	86.1
<b>Sub-programmes</b>						
Correctional Programmes	403.5	433.6	7.46	2.15	30.1	8.7
Offender Development	921.4	1 037.6	12.61	7.04	116.2	64.9
Psychological, Social and Spiritual Services	485.3	523.7	7.91	2.58	38.4	12.5

**TABLE 4: REHABILITATION PROGRAMME**

#### **5.4 PROGRAMME 4: CARE**

5.4.1 The Care programme provides for needs-based programmes and services aimed at maintaining the personal well-being of offenders. It comprises two sub-programmes; Nutritional Services and Health and Hygiene Services.

5.4.2 The allocation for this programme has increased by 4.80 percent (13.84% increase in 2018/19) in 2019/20 financial year, which resulted in this programme being allocated a total amount of R2, 275.3 billion. This translates to 9.6 percent of the total budget of the Department in the current financial year. Nutritional Services are allocated R1, 437.5 billion and Health and Hygiene Services, R1, 007.1 billion. In terms of expenditure trends, this programme has consistently managed to spend 100 percent of its allocation both in 2017/18 and 2016/17.

	<b>2018/19</b> <b>(R'000)</b>	<b>2019/20</b> <b>(R'000)</b>	<b>Nominal</b> <b>%</b> <b>changes</b>	<b>Real %</b> <b>change</b>	<b>Nominal</b> <b>Rand</b> <b>change</b>	<b>Real</b> <b>Rand</b> <b>change</b>
<b>Programme 4: Care</b>	<b>2 332,6</b>	<b>2 444,6</b>	4.80	-0.38	112.0	-8.8
<b>Sub-programmes</b>						
Nutritional Services	1 410.3	1 437.5	1.93	-3.11	27.2	-43.9
Health & Hygienic Services	922.3	1 007.1	9.19	3.80	84.8	35.0

**TABLE 5: CARE PROGRAMME****5.5 PROGRAMME 5: SOCIAL REINTEGRATION**

5.5.1 The Social Reintegration programme provides for services focussed on offenders' preparation for release, for the effective supervision of parolees, and for offenders' reintegration into society upon their release. It comprises three sub-programmes: Supervision, Community Reintegration, and Office Accommodation (Community Corrections).

5.5.2 This programme has been allocated an amount of R1, 042.4 billion for the 2019/20 financial year, which is an increase of 7.69 percent as compared to the previous financial year. This programme comprises only 4 percent of the total budget of the Department for this financial year. In terms of expenditure trends, this programme's expenditure has consistently been 100 percent for both 2017/18 and 2016/17. The bulk of this Programme's allocation is directed towards Supervision (91%), followed by Community Reintegration (5%), and Office Accommodation: Community Corrections (4%).

	<b>2018/19 (R'000)</b>	<b>2019/20 (R'000)</b>	<b>Nominal % Changes</b>	<b>Real % change</b>	<b>Nominal Rand change</b>	<b>Real Rand change</b>
Programme 5: Social Reintegration	<b>968.0</b>	<b>1 042.4</b>	7.69	2.36	74.4	22.9
Sub-programmes						
Supervision	882.0	949.9	7.70	2.37	67.9	20.9
Community Reintegration	49.1	53.5	8.96	3.58	4.4	1.8
Office Accommodation: Community Corrections	36.8	39.0	5.98	0.74	2.2	0.3

**TABLE 6: SOCIAL REINTEGRATION PROGRAMME**

## **6. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**

- 6.1. The Committee notes and welcomes the commitment of the Minister and the Deputy Minister on turning correctional centres into centres for learning and skills development. The Committee notices that there is a growing interest from inmates on skills development training such as agriculture, wood and steel production, textile, bakery and other artisan skills. The Committee encourages the Department to partner with TVET colleges and Sectoral Education and Training Authorities in ensuring that offenders are issued with some qualification for their acquired skills. The Committee believes that this will go a long way in ensuring rehabilitation and social reintegration, thus reducing re-offending.
- 6.2. While understanding the pressing need to curtail spending as a result of the government-wide fiscal consolidation measures, the Committee notes the baseline reductions on Compensation of Employees, which started in 2015/16, would reach R3,15 billion by 2020/21. The Committee believes that this would have some negative effects on services delivery as funded posts would be cut to 39 191 over the 2019/20 MTEF, from 42 006 in 2015/16.

- 6.3. The Committee notes further that over the same period (2015/16 to 2020/21), budget baseline cuts for Goods and Services would be R2,2 billion, putting immense pressures on the maintenance of the Department's ageing fleet of vehicles which is used to transport inmates to courts and hospitals for medical treatment, on consumables and food items, and on municipal service accounts for water and electricity.
- 6.4. The Committee notes and welcomes the cancellation of the AGO/Bosasa contracts and the insourcing of nutrition services in the 26 centres in which this company operated. The Committee wishes to congratulate the Ministry for acting swiftly in cancelling this contract following the allegations of corruption in the Zondo Commission of Inquiry. The Committee welcomes that the cancellation of this contract will offer opportunities for small local businesses to supply food to the Department.
- 6.5. The Committee notes that there are a number of investigations being conducted by the Special Investigations Unit (SIU) into DCS contracts. Some of these received Presidential Proclamations as far back as 2016. The investigations relate to procurement of the Electronic Monitoring System (EMS), the Integrated Inmate Management System (IIMS), Project Management Services and Fencing. These contracts combined are valued at more than R2 billion and have led to irregular expenditure of more than R1,5 billion. There has also been delays in the implementation of key projects in the DCS, pending the finalisation of investigations. The Committee will continue to monitor developments in these investigations and expects to see action being taken against all those implicated in any wrongdoing. The Committee expects to be updated quarterly on the developments in these investigations.
- 6.6. The Committee is concerned about the irregular expenditure of R1,897 billion incurred by the DCS in 2017/18. The Committee expects the Minister to heighten his oversight on the governance and



internal control environment of the DSC to ensure that audit action plans and the Auditor General's remedial measures are implemented. The Committee further recommends that the Department considers developing some measurable performance indicators and targets for the Assurance Services sub-programme. This could assist the DCS to implement its audit action plans and to achieve clean audits in the future.

- 6.7. The Committee notes the increase in allocations to the Incarceration programme and will monitor more closely the spending and achievement of targets especially those relating to safety and security for both inmates, personnel as well as for members of the public. The Committee is concerned that the Department has continuously failed to achieve many of its targets that are directed at improving security conditions by reducing the number of escapes, violence and unnatural deaths. Failure to achieve these targets attest to poor conditions of incarceration, particularly in the urban centres that are highly overcrowded.
- 6.8. The Committee recommends that the Department gives serious consideration to the use of technology to increase safety within its facilities. The Committee requests an update on the progress made in initiating and implementing such interventions as CCTV and cellphone detection technology in correctional and remand detention facilities.
- 6.9. The Committee is concerned about the increasing inmate population, which stood 37 percent overcrowding as of March 2019. The Committee has been informed about the increasing crime rate and certain challenges in the criminal justice system. The increase in the population of correctional centers means that the Department should create more new bed spaces and implement other measures to control overcrowding, including electronic monitoring (which has now been discontinued), bail protocols and section 49G (maximum incarceration period of a remand detainees), where applicable.

- 6.10. The Committee is therefore concerned that the electronic monitoring system has been discontinued. Electronic tagging is one of the tools that could assist the Department in dealing with overcrowding.
- 6.11. The Committee notes the targets to roll out the Integrated Inmate Management System(IIMS) over the MTEF. The Committee urges that more practical steps be taken to achieve these targets.
- 6.12. The Committee notes the new target of creating 435 new bed spaces by 2020/21. This target has been shifted over the years because the Department could not achieve it. In last years' annual performance plan, the Department told the previous Committee that it aims to create 18 000 new bed spaces over the next ten years. The Committee believes that the target of 435 new bed spaces is too low and that more bed spaces should be created if the Department is serious about creating 18 000 bed spaces over ten years and is committed to effectively down-manage overcrowding. The Committee also emphasizes the need for more cooperation and co-ordination between the DCS and the implementing agents; the Department of Public Works and the Independent Development Trust. The Committee requests a detailed report on the delayed infrastructural upgrades, detailing the challenges and steps that have been undertaken to resolve them. The report should also detail how much has been spent to date on those projects and the expected completion dates.
- 6.13. The Committee notes that the Department only has four Halfway houses across the country. The Committee believes that lessons in establishing Halfway Houses in Johannesburg, Limpopo, North West and Western Cape should be drawn upon to expand the programme to other provinces.

- 6.14. The Committee requires the DCS to supply it with more information on the services that are supplied to female inmates in Correctional Centres as its briefing to the Committee lacked any gender specific programmes or services.
- 6.15. The Committee urges the new Minister to pay particular attention to issues related to the financial independence of JICS. The Committee supports JICS' financial and operational independence from the DCS, as it plays an oversight role over the work of the Department. In the next quarter the Committee will schedule a briefing from the Inspecting Judge on the detailed plans of the Inspectorate.

## **7. Conclusion**

- 7.1. The Committee, having considered the Budget Vote 18: *Correctional Services*, supports it and recommends that it be approved.

**Report to be considered.**

## **2. Report of the Portfolio Committee on Justice and Correctional Services on Budget Vote 22: Office of the Chief Justice and Judicial Administration, dated 12 July 2019**

The Portfolio Committee on Justice and Correctional Services, having considered Budget Vote 22: Office of the Chief Justice and Judicial Administration, reports as follows:

1.1. The Office of the Chief Justice and Judicial Administration (OCJ) was established primarily to support the Chief Justice in executing his/her administrative and judicial powers and duties as Head of the Judiciary and Head of the Constitutional Court, as determined by the Minister of Public Service and Administration in 2010. The OCJ has the following functions:

- Providing and coordinating legal and administrative support to the Chief Justice.
- Providing communication and relationship management services and inter-governmental and international coordination.
- Developing courts administration policy, norms and standards.
- Supporting the development of judicial policy, norms and standards.
- Supporting the judicial function of the Superior Courts.
- Supporting the Judicial Service Commission (JSC) and the South African Judicial Education Institute (SAJEI) in the execution of their mandates.
- Administering the Judges' Remuneration and Conditions of Employment Act.

- 1.2. The transfer of administrative functions and identified staff attached to the Superior Courts from the Justice Department of Justice and Constitutional Development to the OCJ commenced on 1 October 2014, while the OCJ received its own Budget Vote from 1 April 2015.
- 1.3. The Minister of Justice and Correctional Services is the OCJ's Executive Authority (EA), while the Secretary General (SG) is its administrative head. The Secretary-General engages and consults with the Chief Justice and other Heads of Courts in respect of the administrative functioning of the Superior Courts, while the Chief Justice controls the judicial functions of the Superior and Lower courts. The Department continues to support the administration of the Lower/Magistrate's courts.
- 1.4. The Office of the Chief Justice presented its Annual Performance Plan 2019/20, as well as its Budget for the 2019 Medium Term Expenditure Framework (MTEF) on 5 July 2019. The presentation can be obtained from the Committee Secretariat.

## **2. Overview of the Vote for the 2019 MTEF**

- 2.1. The OCJ is allocated an annual budget of R2.3 billion, compared with R2.1 billion for 2018/19 and R2.0 billion in 2017/18 (adjusted appropriation). The budget is expected to increase to R2.46 billion in 2020/21 and R2.6 billion in 2021/22.

**Table 1: Budget allocation for the Office of the Chief Justice per programme**

Programme	Adjusted Appropriation 2018/19	MTEF		
		2019/20	2020/21	2021/22
	R 'million	R 'million	R 'million	R 'million
Administration	201 380	214 611	227 852	237 517
Superior Court Services	845 252	900 110	965 784	1 029 837
Judicial Education and Support	73 115	82 971	88 234	91 776
<b>Subtotal</b>	1 119 747	1 197 692	1 282 870	1 359 130
<b>Direct Charge: Judges' Salaries</b>	1 022 091	1 098 546	1 180 937	1 257 698
<b>Total</b>	2 141 838	2 296 238	2 462 807	2 616 828

**Table 2: Budget allocation for the Office of the Chief Justice per economic classification**

Economic Classification	Adjusted Appropriation 2018/19	MTEF		
		2019/20	2020/21	2021/22
	R million	R million	R million	R million
Compensation of employees (including Judges' remuneration)	1 644 037	1755 428	1 865 703	1 987 106
Goods and services	314 442	340 656	358 923	379 952
Transfers and subsidies	67 646	95 609	127 905	136 178
Payments for capital assets	115 713	104 545	110 276	113 592
Payments for financial assets	-	-	-	-
<b>Total</b>	<b>2 141 838</b>	<b>2 296 238</b>	<b>2 462 807</b>	<b>2 616 828</b>

## 2.2. Spending priorities 2019 MTEF

- 2.2.1. The High Court in Mpumalanga will become fully operational in 2019/20. Funding for the court is expected to increase from R28.1 million in 2019/20 to R33.4 million in 2021/22, in the *Superior Court Services* programme. Similarly, allocations for the operations of the Polokwane High Court, which opened in 2016/17, are expected to increase by 13.6%, from R27.2 million in 2019/20 to R30.9 million in 2021/22.
- 2.2.2. The number of personnel is expected to increase from 2 601 in 2018/19 to 2 611 in 2021/22 with the operationalisation of the Mpumalanga High Court. Spending on compensation of employees, therefore, will increase from R1.6 billion in 2018/19 to R2 billion in 2021/22.
- 2.2.3. Over the medium term, the South African Judicial Education Institute (SAJEI) plans to provide 246 judicial education courses on case-flow management and constitutional imperatives. Other planned courses include courses on record keeping and general issues in pleadings, debt collections and debt reviews related to the National Credit Act (2005), criminal court skills, child justice skills, new legislation on domestic violence and spousal and child maintenance, immigration and other topics. Expenditure in the South African Judicial Education Institute subprogramme is expected to increase from R51.4 million in 2018/19 to R53.8 million in 2021/22.
- 2.2.4. The OCJ plans to modernise and digitise its systems and processes to respond to the growing need for court services and to stay abreast of technological developments. The implementation of an electronic filing system for the Superior Courts by 2020/21 is intended to increase efficiency. The project forms part of the Integrated Justice System (IJS) programme, led

by the Department of Justice and Constitutional Development, in the JCPS Cluster. An amount of R14.3 million is allocated over the medium term for the system in the *Administration* programme.

2.2.5. The judicial norms and standards were developed and gazetted in February 2014. The OCJ supports the Chief Justice in monitoring and reporting on compliance with the norms and standards, while the Judiciary reports on court performance. These activities are carried out in the *Superior Court Services* programme. Due to the labour-intensive nature of the work in this programme, the majority of this expenditure is on compensation of employees.

2.2.6. The OCJ plans to further improve the quality of its performance information by implementing an automated system to monitor court performance, which, in addition to the electronic filing system for Superior Courts, is expected to simplify the monitoring and evaluation of norms and standards.

### **3. Office of the Chief Justice (OCJ): Annual Performance Plan 2019/20**

3.1. The Secretary-General presented the OCJ's 2019/20 Annual Performance Plan.

3.2. The OCJ supports the Judiciary in its contribution to Chapter 14 of the National Development Plan (NDP) 'Promoting Accountability and Fighting Corruption by Strengthening Judicial Governance and the Rule of Law' by:

- Accelerating reforms to implement a judiciary-led court administration.
- Ensuring an efficient court system.
- Reducing court administration inefficiencies.



- Ensuring access to justice.
  - Ensuring judicial accountability.
  - Providing training to the judiciary through SAJEI.
- 3.3. The OCJ has aligned its plans with the NDP and Medium Term Strategic Framework (MTSF) 2014 – 2019 as follows:
- *Administration* is linked to Chapter 13 of the NDP, ‘Ensure good governance in the administration of the Department’; and to Outcome 12, ‘An efficient and effective development-orientated public service’.
  - The programmes *Superior Court Services* and *Judicial Education and Support* are linked to Chapter 14 of the NDP, ‘Promoting accountability and fighting corruption through strengthening judicial governance and the rule of law. This is linked to Outcome 2, ‘All people in South Africa are and feel safe’.
- 3.4. The OCJ has the following strategic goals: The efficient and effective administration of the OCJ; improved administrative and technical support to the Judiciary; and ensure administrative support to the Superior Courts. These are broken down into the following strategic objectives:
- Capacitate the Office of the Chief Justice.
  - Ensure good governance in the administration of the Department.
  - Ensure the effective and efficient administration of the Superior Courts.
  - Enhance the judicial skills of serving and aspiring judicial offices to perform optimally.
- 3.5. The OCJ has identified the following key strategic risks and mitigation strategies for 2019/20:

**Table 2: Strategic risks and interventions in mitigation**

Strategic Objective	Risk	Mitigation/ Interventions
<b>Administration</b>		
Capacitate the Office of the Chief Justice	Inadequate budget.	<ul style="list-style-type: none"> <li>Reprioritise funds and posts (based on organizational functionality assessment/realignment project).</li> <li>Request an adjustment of compensation of employees ceilings from National Treasury.</li> </ul>
Ensure good governance in the administration of the department	Possible exposure to fraud and corruption.	<ul style="list-style-type: none"> <li>Continuous awareness on fraud and anti-corruption policies.</li> <li>Strengthen internal controls relating to fraudulent court orders.</li> <li>Strengthen the monitoring and implementation of internal controls.</li> <li>Monitor implementation of fraud prevention plan.</li> </ul>
	Lack of control over security and facilities	<ul style="list-style-type: none"> <li>Monitor the implementation of the updated MOU contract</li> <li>Engage with the Justice Department of Justice and Constitutional Development to ensure that the budget is spent on OCJ priorities.</li> <li>Continuous monitoring of the facilities and infrastructure and address challenges encountered.</li> </ul>
<b>Superior Court Services</b>		
Ensure the effective and efficient administration of the Superior Courts	Inadequate quasi-judicial services rendered	<ul style="list-style-type: none"> <li>Prioritise the appointment of Registrars.</li> <li>Continuous training of Registrars.</li> </ul>
	Inadequate implementation of the Master Systems Plan (MSP)	<ul style="list-style-type: none"> <li>Request funding from IJS and National Treasury for implementation of the court modernization projects as outlined in the MSP.</li> <li>Additional Appointment and training of ICT personnel.</li> <li>Monitor implementation of the updated MOU for the transfer of functions between the Department of Justice and Constitutional Development and the OCJ.</li> </ul>

#### 4. Office of the Chief Justice: Programmes

##### 4.1. Programme 1: Administration

4.1.1. The purpose of this programme is to provide strategic leadership, management and support services to the Department. The programme consists of the following sub-programmes:

- The Management subprogramme provides administrative, planning, monitoring, evaluation, performance reporting and risk management functions necessary to ensure effective functioning of the Department.
- The Corporate Services subprogramme provides an integrated Human Resources Management (HRM), Information and Communication Technology (ICT) and Security Management Support Services to the Department.
- The Finance Administration subprogramme provides overall financial, asset and supply chain management services to the Judiciary and the Department.
- The Internal Audit subprogramme provides overall internal audit and forensic audit services to the Department.
- The Office Accommodation subprogramme provides for the acquisition of office accommodation for the Department.

4.1.2. Performance indicators and targets for 2019/20 include the following:

**Table 3: Administration: Performance indicators and annual targets 2018/19 – 2021/22**

Objective/Performance Indicator	Medium Term Targets			
	2018/19	2019/20	2020/21	2021/22
<b>Strategic objective 1: Capacitate the Office of the Chief Justice</b>				
Percentage of funded vacant posts on PERSAL per year	10%	10%	10%	10%

Objective/Performance Indicator	Medium Term Targets			
	2018/19	2019/20	2020/21	2021/22
<b>Strategic objective 2: Ensure good governance in the administration of the Department</b>				
Audit outcomes on financial statements	Unqualified audit opinion (No more than 5 material misstatements)	Unqualified audit opinion (Clean audit)	Unqualified audit opinion (Clean audit)	Unqualified audit opinion (Clean audit)
Annual Performance Plan (APP) tabled within prescribed timelines	APP tabled within prescribed timelines	APP tabled within prescribed timelines	APP tabled within prescribed timelines	APP tabled within prescribed timelines
Combined assurance plan developed and implemented	Implement plan	Implement plan in 24 Superior Courts	Implement plan in 24 Superior Courts	Implement plan in 24 Superior Courts
Number of strategic and operational risk registers developed and updated	8	8	8	8
Fraud Prevention Strategy implemented	Fraud Risk Prevention Strategy developed, approved and implemented	Fraud Risk Prevention Strategy implemented in 24 Superior Courts	Fraud Risk Prevention Strategy implemented in 24 Superior Courts	Fraud Risk Prevention Strategy implemented in 24 Superior Courts
ICT Master Plan implemented	Prioritised projects (e-filing) piloted at 2 High Courts	Prioritised projects (e-filing) rolled out in 5 Superior Courts	Prioritised projects (e-filing) rolled out in 12 Superior Courts	Prioritised projects (e-filing) rolled out in 24 Superior Courts
Percentage of internal audit projects completed in line with the approved Annual Audit Plan	100%	100%	100%	100%

Objective/Performance Indicator	Medium Term Targets			
	2018/19	2019/20	2020/21	2021/22
Number of compliant financial performance reports submitted	12	12	12	12
Number of asset registers produced	2	2	2	2

4.1.3. The *Administration* programme is allocated a total budget of R214.6 million in 2019/20. The spending focus is on the prioritised projects of the ICT Master Systems Plan (e-filing project) that will be rolled out to all Superior Courts by 2021/22.

#### 4.2. **Programme 2: Superior Court Services**

4.2.1. This programme provides judicial support and court administration services to the Superior Courts. The programme consists of the following sub-programmes:

- The Administration of Superior Courts subprogramme provides administrative and technical support to the Superior Courts, monitors the overall performance of the Superior Courts, and enhances judicial stakeholder relations.
- The Constitutional Court subprogramme funds the activities and operations of the Constitutional Court.
- The Supreme Court of Appeal subprogramme funds the activities and operations of the Supreme Court of Appeal.
- The High Courts subprogramme funds the activities and operations of the various high court divisions.
- The Specialized Courts subprogramme funds the activities and operations of the labour, land, electoral and competition courts.

4.2.2. All performance indicators and targets for the programme that address court performance have been removed, leaving only those that relate to quasi-judicial performance. The performance indicators and targets for 2019/20 are, therefore, as follows:

**Table 4: Superior Court Services - Performance indicators and annual targets 2018/19-2021/22**

Objective/Performance Indicator	Medium Term Targets			
	2018/19	2019/20	2020/21	2021/22
<b>Strategic Objective 3: Ensure the effective and efficient administration of the Superior Courts</b>				
Percentage achievement of quasi-judicial targets	90%	90%	100%	100%
No. of monitoring reports on Court Order integrity produced	4	4	4	4
Percentage of default judgments finalised by Registrars	90%	100%	100%	100%
Percentage of taxation of legal costs finalised	90%	100%	100%	100%
Number of training workshops on case management conducted for Registrars, clerks, etc.	2	2	2	2
Percentage of warrants of release delivered within one day of release granted	98%	98%	98%	98%

4.2.3. The *Superior Courts Services* programme is allocated R900 million for 2019/20 and will increase to R1 billion in 2021/22 as a result of the allocation of reprioritised funds from the Department of Justice and Constitutional Development for the operationalisation of the Mpumalanga High Court to improve access to justice.

#### 4.3. Programme 3: Judicial Education and Support

4.3.1. The programme, Judicial Education and Support, provides education programmes to Judicial Officers, including policy development and research services for the optimal administration of justice.

4.3.2. The programme has the following sub-programmes:

- The South African Judicial Education Institute sub-programme funds the activities of the SAJEI to provide training for Judicial Officers.
- The Judicial Policy, Research and Support subprogramme funds the provision of advisory opinions on policy development and regulatory services to the Judiciary and the Department.
- The Judicial Service Commission subprogramme provides secretariat and administrative support services to the Judicial Service Commission to perform its constitutional and legislative mandates effectively.

4.3.3. Performance indicators and targets for 2019/20 are as follows:

**Table 5: Judicial Education and Support - Performance indicators and annual targets 2018/19 – 2021/22**

Objective/Performance Indicator	Medium Term Targets			
	2018/19	2019/20	2019/20	2021/22
<b>Strategic Objective 4: Enhance judicial skills of serving and aspiring judicial officers to perform optimally</b>				
No. of judicial education courses conducted	78	80	82	84
No. of research monographs for Judicial Education produced per year	2	2	2	2

Percentage of legal advisory opinions on policy development and research services provided within 15 days of receipt	100%	100%	100%	100%
No. of reports on judicial appointments and judicial complaints produced	3	3	3	3

4.3.4. *The Judicial Education and Support* programme is allocated R82.9 million in 2019/20. The spending focus for this programme is on conducting training for judicial officers.

## 5. Committee's observations

### 5.1. *General*

The Committee raised a number of matters that the OCJ is unable to respond to as it would not be appropriate for it to speak on behalf of the Judiciary and the Judicial Services Commission. Although some these issues are captured in this report, the Committee intends to approach the Speaker to request a meeting with the Chief Justice and Heads of Court to discuss these and other issues of mutual interest.

### 5.2. *Information regarding court performance for more effective oversight of the court administration*

The Committee expressed its unhappiness about its inability to properly gauge how well the courts are working, as much of the information related to court performance is located within the Judiciary. Information and statistics on court performance, which used to be available to Parliament in the exercise of its oversight function of the Executive, is no longer accessible. The Committee fully understands the reasons for this. The Committee also acknowledges that the Judiciary has decided to 'account directly to the nation, as is the case with jurisdictions like Kenya, Singapore and many other comparable and progressive constitutional democracies'. The South African



Judiciary Annual Report 2017/18, which the Chief Justice presented to the Nation last year provides extremely valuable insight to developments within the Judiciary and contains some statistics relating to the Superior Courts.

Nonetheless, there are gaps – while the Judiciary has begun to collect data regarding the performance of the magistrates’ courts – for some years now there has been no information available. As these courts hear the majority of the cases heard, the lack of information regarding their functioning is concerning.

The Committee cannot but think that the court administration and performance functions are so closely related that it is impossible for it to consider the one without regard to the other. So, for example, if the air conditioning breaks down and prevents matters from being heard as the day warms unbearably or if difficulties obtaining the necessary journals and law books delays a judgement, access to justice is undermined by a failure in the court administration. In order to exercise oversight towards ensuring that the correct intervention occurs at an administrative level, it is helpful for the Committee to have an understanding of the systemic challenges that undermine delivery of justice services in our courts, as well as a basic grasp of how the court case management system works in practice. In this regard, the insight of the Judiciary is invaluable.

The Committee is aware that the solution lies partly in the finalisation of the long overdue court administration model. The Committee is also keen to hear more of the systemic challenges that the Judiciary face in the delivery of justice and will engage with the Speaker to request a meeting with the Chief Justice and Heads of Court.

5.3. ***Capacitation of the Land Claims Court.*** The Committee welcomes the Minister's announcement that legislation will be introduced that will ensure that Judges are appointed permanently to the Land Claims Court and its proper capacitation.

5.4. ***Progress towards a single judiciary and transfer of functions to the OCJ***

The Committee supports a single judiciary as envisaged by section 166 of the Constitution. The Committee understands that a Lower Courts Bill is at a very advanced stage and intends to continuously monitor progress going forward.

5.5. ***Tools of trade.*** The Committee understands that Judicial Officers are experiencing difficulties accessing tools of trade, especially law reports and other library materials, and that the transfer of functions from the Justice Department to the OCJ that will allow the Judiciary to access these materials for itself has not yet occurred. The Committee requests that the OCJ provide it with a written report on the challenges that are being experienced in this regard by 30 August 2019.

5.6. ***Court infrastructure and maintenance.*** The Committee notes that the new Minister of Public Works and Infrastructure has stated that our courts are in a terrible state. She has asked for court managers to report on backlogs in maintenance matters, such as lifts and air conditioning that don't work. The Committee is interested in the outcome of this and requests that it is kept informed of developments in this regard. The Committee is also interested on whether the Judiciary has been approached to provide its input.

5.7. ***Impact of an increasingly litigious society on the courts.*** The Committee notes that as our society becomes increasingly litigious, the workload of our courts has grown. In order to keep abreast of the demand, there is need for more capacity and systems must be made more efficient by way of modernisation and digitisation. The ICT Master Systems Plan promises to improve efficiency in the court administrative processes and the e-filing project is prioritised for rollout to all Superior Courts over the medium term. The Committee is very interested in the scope and progress of the project and will arrange a dedicated briefing as soon as its programme permits.

5.8. ***Security.*** The Committee is concerned about reports of inadequate security at courts and requests that the OCJ provide it with a full report in this regard.

## **6. Recommendations**

6.1. The Committee, having considered the Budget Vote 22: *Office of the Chief Justice and Judicial Administration*, supports it and recommends that it be approved.

## **Report to be considered**

### **3. Report of the Portfolio Committee on Justice and Correctional Services on Budget Vote 21: Justice and Constitutional Development, dated 12 July 2019**

The Portfolio Committee on Justice and Correctional Services, having considered Budget Vote 21: Justice and Constitutional Development, reports as follows:

#### **1. Introduction**

1.1. The Budget Vote 21: Justice and Constitutional Development continues to comprise of five programmes, as well as a direct charge for Magistrates' salaries:

- The Department of Justice and Constitutional Development (the Department) is responsible for the Administration, Court Services, State Legal Services and National Prosecuting Authority (NPA) programmes, as well as for the Justice Modernisation subprogramme under Programme 5: Auxiliary and Associated Services, which funds the implementation of Information Technology (IT) infrastructure for the Department and distributes earmarked funds for JCPS Cluster projects as part of the Integrated Justice System (IJS).
- Section 39 of the Protection of Personal Information Act, 2013, (POPIA) establishes an Information Regulator as an independent juristic person that is accountable to the National Assembly. Towards the end of 2016, the Members of the Regulator were appointed. At present, until it becomes fully operational, the Regulator receives its allocation under the State Legal Services programme.

- Programme 5 also contains allocations to various auxiliary services, including transfer payments to: Legal Aid South Africa and the Special Investigating Unit (SIU); and to two State Institutions Supporting Constitutional Democracy – the South African Human Rights Commission (SAHRC) and the Public Protector South Africa (PPSA).

## 2. **Method**

2.1. The Department of Justice and Constitutional Development, Information Regulator, Legal Aid South Africa, the Special Investigating Unit, the South African Human Rights Commission and the Public Protector South Africa each presented their annual performance plans for 2019/20 and budgets for the 2019 MTEF.

2.2. The briefings took place as follows:

- Minister of Justice and Correctional Services and the Department of Justice and Constitutional Development – 3 July 2019.
- Information Regulator – 5 July 2019.
- South African Human Rights Commission – 10 July 2019.
- Public Protector – 10 July 2019.
- Legal Aid South Africa – 11 July 2019.
- Special Investigating Unit – 9 July 2019.
- National Prosecuting Authority – 9 July 2019.

2.3. All presentations can be obtained from the Committee Secretary.

### 3. **Fiscal environment**

- 3.1. Spending takes place within a context of fiscal austerity. The economic and revenue outlook has weakened since the MTBPS in October 2018 and there are increased funding pressures from the state owned enterprises.
- 3.2. The 2019 Budget, therefore, prioritises narrowing the budget deficit and stabilising the national debt to GDP ratio; supporting the restructuring of the electricity sector and reducing the immediate threat that Eskom poses to the economy and public finances; and renewing economic growth. Spending is focused towards stimulating economic growth, particularly capital expenditure.
- 3.3. The baseline allocation is reduced by R9 billion in 2019/20, R19.7 billion in 2020/21 and 21.6 billion in 2021/22. As there are no additional resources available, any further allocations over the 2019 MTEF to a programme will need to be funded by reductions in funding for another programme, either within the department's budget, or from another department's budget.
- 3.4. Managing the public service wage bill, which accounts for more than 35% of all public spending and has been a major driver of the fiscal deficit, is regarded as key. Departments are, therefore, expected to operate within their compensation of employees' expenditure ceilings by containing costs and improving efficiency through the undertaking of appropriate operational changes. Further, any adjustments required as the result of the 2018 public sector wage agreement must be made within institutional compensation of employees' expenditure ceilings. Although headcounts have declined sufficiently to absorb the wage increases, over the medium term government will take active measures to reduce the number of employees further.

- 3.5. The Budget Review acknowledges that departments, which are labour intensive, run the risk of breaching their compensation of employees' ceilings.
- 3.6. The consolidated budget for the peace and security function accounts for R211 billion in 2019/20; R222.9 billion in 2020/21; and R 233 billion in 2021/22.
- 3.7. In 2019/20, approximately 23% of the overall allocation for Peace and Security goes to 'Law courts and prisons', while 49% of the overall allocation to this function goes to 'Police services'. Specifically, the Justice and Constitutional Development Vote receives 10% (including magistrates' salaries) and the Office of the Chief Justice and Judicial Administration receives 1% (including judges' salaries) of the overall allocation to this function.
- 3.8. The peace and security function prioritises the implementation of an integrated strategy to fight crime and ensure national security over the medium term. The Integrated Justice System Modernisation programme is a key part of the integrated strategy to fight crime. Over the medium term, R853 million is shifted from the South African Police Service (SAPS) to the Department of Justice and Constitutional Development, where the programme is currently governed.
- 3.9. To enable the State Capture Commission of Inquiry to continue its work to February 2020, an additional amount of R272.9 million is allocated.
- 3.10. An additional amount of R309.2 million over the medium term is allocated to Legal Aid SA to retain public defenders.

4. **Budgetary Review and Recommendation Report (BRRR)  
October 2018 and Minister of Finance’s response**

- 4.1. In the Budgetary Review and Recommendation Report (October 2018), the Committee expressed grave concern about the consequences of the R2 billion baseline reductions over the medium term. There is a “thin line between a so-called lean organisation where available resources – both human and financial – are used carefully and well and an organisation that is starved of means that it can no longer perform its mandated task. The Committee was especially concerned that the reduced staff establishment could undermine the work needed to create a transformed and responsive justice system.
- 4.2. The Report recommended that additional funding be allocated to:
- The NPA for the shortfall in its compensation of employees’ budget; to fill vacancies; to create capacity in new courts; and to resume the aspirant prosecutor programme.
  - Legal Aid South Africa to prevent it from having to cut posts and to ensure that it can maintain its civil work.
- 4.3. The Minister of Finance’s response regarding the recommendation for additional funding to the NPA “due to the constrained fiscal outlook, the scope to provide additional funding is limited. Departments, entities and constitutional institutions are required to reprioritise funds within their existing baselines to fund any emerging priorities. Should the fiscal outlook improve, future recommendations for additional funding may be considered” (National Treasury, Budget Review, p104). However, in his Budget Speech, the Minister of Finance made assurances that National Treasury and the Justice Department would work to support the establishment of a new Investigating Directorate at the NPA.



- 4.4. In the case of Legal Aid SA, provision is made for the allocation of an additional R300 million over the MTEF to retain its public defenders. Of this, R104.5 million is reprioritised funding from the Justice Department.

**5. Overview of Vote 21: Justice and Constitutional Development**

- 5.1. The constrained fiscal outlook resulted in the Vote's baseline decreasing by R2 billion over the MTEF (R643 million in 2018/19; R667 million in 2019/20; and R705 million in 2020/21).

- 5.2. The overall allocation to the Justice and Constitutional Development Vote (Vote 21) for 2019/20 is R21.1 billion, which includes Magistrates' salaries (compared with a revised estimate of R19.7 billion in 2018/19). In real terms, the allocation to the Vote in 2019/20 has increased, which is in contrast to decreases of -3% and -1.36% in real terms for 2018/19 and 2017/18, respectively). Over the medium term, the allocation increases to R23.6 billion in 2021/22.

- 5.3. Notably, the 2019 MTEF sees the baseline increase by R1.43 billion, as follows:

- R853 million is shifted from SAPS' Integrated Justice System (IJS) programme budget to Justice in order to consolidate the IJS funding (this is ringfenced).
- An additional R300.3 million is allocated to Legal Aid SA; and
- An additional amount of R272.9 million is allocated to allow the State Capture Commission of Inquiry to continue its work to February 2020.

- 5.4. These increases to the baseline, however, are offset by a decrease over the medium term of R225.4 million for goods and services and reductions of the allocations to the South African Human Rights Commission (-R4.2 million), Public Protector (-R1.3 million) and SIU (-R25.5 million), which are in the form of salary freezes for senior management staff.
- 5.5. In 2019/20, the total for programmes, excluding the direct charge for magistrates' salaries, is R18.7 billion (compared with R17.5 billion in 2017/18). Over the medium term the allocation to programmes grows to 20.9 billion in 2021/22.

**Table 1: Vote 21 - Justice and Constitutional Development – Allocation for the 2019 MTEF per programme**

Programme (R 'million)	Budget 2019 MTEF			
	2018/19 Revised Estimate	2019/20	2020/21	2021/22
Administration	5 502.5	2 504.5	2 366.9	2 503.1
Court Services	6 431.0	6 824.9	7 290.5	7 809.4
State Legal Services	1 245.8	1 349.8	1446.2	1 536.8
National Prosecuting Authority	3 648.8	3 929.1	4 214.9	4 484.2
Auxiliary and Associated Services	3 630.6	4 108.8	4 338.1	4 576.4
<b>TOTAL</b>	<b>17 458.8</b>	<b>18 717.1</b>	<b>19 656.7</b>	<b>20 909.9</b>
Magistrates' Salaries	2 215.5	2 383.7	2 560.2	2 726.6
<b>TOTAL</b>	<b>19 674.4</b>	<b>21 100.8</b>	<b>22 216.9</b>	<b>23 636.6</b>

## 6. Policy developments

- 6.1. The National Development Plan (NDP) requires, among others, that we build safer communities; promote accountability and fight corruption; and strengthen judicial governance and the rule of law.

- 6.2. This is the last year of the Medium Term Strategic Framework (MTSF) 2014-2019. However, annual planning for 2019/20 must also lay a foundation on which the Sixth Administration will begin its work as the new MTSF cycle is introduced.
- 6.3. This year's State of the Nation Addresses (SONA) highlighted a need to:
  - 6.3.1. Fight state capture and corruption and committed to stabilising and restoring the credibility of institutions such as the NPA. A new National Director of Prosecutions Adv. Shamila Batohi was appointed on 1 February 2019 to lead the NPA's revival and to strengthen the fight against crime. The February SONA announced that an Investigating Directorate would be established in the office of the NDPP to deal with serious corruption and associated offences, especially those highlighted by the various commissions of inquiry. (This Directorate has been established since and is headed by Adv. H Cronje).
  - 6.3.2. End gender-based violence as a national priority. In this regard, the implementation at departmental level of the resolutions taken at the Presidential Summit and Declaration against Gender-based Violence and Femicide (November 2018) was highlighted.
- 6.4. On 3 July 2019, the Minister of Justice and Correctional Services provided a political overview, introducing the budget and plans for 2019/20 for the Department of Justice and Constitutional Development, Office of the Chief Justice and Judicial Administration and Department of Correctional Services. The Minister referred, among others, to:
  - 6.4.1. The key role that the Justice sector has to play in advancing radical socio-economic transformation in pursuit of the speedy resolution of the challenges of poverty, unemployment and inequality.

- 6.4.2. The importance of efforts to strengthen the fight against corruption; modernise the criminal and civil justice system and the courts; accelerate the transformation of the Office of the State Attorney and legal profession, and the expeditious enactment of key legislation.
- 6.4.3. The appointment of Adv. Shamila Batohi as the new NDPP and the appointment of Adv. Hermione Cronje. These appointments have given renewed impetus in the fight against crime and corruption. In this regard, the Department has made funds available for the Investigating Directorate to begin its work.
- 6.4.4. The establishment of the Special Tribunal, which will soon begin its work. This will allow the SIU to pursue, by way of a civil process, state monies lost through corruption and other illicit flows. The Regulations for the Tribunal to commence its work have been finalised and, once the necessary input is received from the Judiciary, will be published.
- 6.4.5. The need to transform the Office of the State Attorney and the legal profession.
- 6.4.6. The need to modernise the court system as part of the legacy of the 6th Administration by making use of the efficiencies of the Fourth Industrial Revolution.
- 6.4.7. The eradication of gender-based violence requires as a priority. The sexual offences courts must be geared towards the immediate reduction of these offences and its complete eradication in a decade.
- 6.4.8. The ongoing development of the Integrated Criminal Justice System, which will allow for the seamless sharing of information between stakeholders.

- 6.4.9. The National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP) was approved by Cabinet in February 2019.
- 6.4.10. The intention to table a Land Claims Court Bill aimed at strengthening the adjudication of land restitution, land expropriation, and land distribution, The Bill will address some of the challenges experienced in connection with the Land Claim Court, particularly the absence of permanent judges.
- 6.4.11. Legal Aid South Africa's continued efforts to engage with the Department of Agriculture, Rural Development and Land Reform on the need for legal aid to assist land claimants.
- 6.4.12. An upcoming engagement with the Chief Justice on a range of initiatives, including government's commitment to finalise a judicial and court administration model.

## **7. Department of Justice and Constitutional Development**

- 7.1. The Department continues to focus on the following transformational themes adopted in the 2017/18 planning cycle:
- The transformation of the legal profession and mechanism for access to justice for all.
  - The transformation of State Legal Services.
  - The transformation of the criminal justice system and restoring public confidence.
  - Entity oversight and institutional arrangements.
- 7.2. The allocation to programmes that are administered by the Department (including the Justice Modernisation sub-programme under Auxiliary and Associated Services) in 2019/20 is R11.95 billion. The bulk of projected spending remains directed towards Court Services, which is allocated R6.8 billion in 2019/20.

7.3. In terms of economic classification, projected spending on compensation of employees remains the biggest cost driver. An amount of R6.1 billion is allocated for salaries of the employees in the programmes that the Department administers directly.

7.4. The building of new courts remains a core element in the Department's efforts to improve access to justice. In 2019/20, R855.6 million is allocated for Building and other fixed structures (compared with R1.1 billion and R820 million in 2017/18 and 2018/19 respectively). The Mpumalanga High Court in Mbombela has been operational since May 2019 so that every province has its own High Court. (The total cost for this project, which began in 2013, is estimated at R1.2 billion. Magistrates' courts also prioritised for completion in 2019/20 are: Port Shepstone Magistrates Court and the Bityi Magistrates Court.

## 8. **Department of Justice and Constitutional Development: Programmes**

### 8.1. **Programme 1: Administration**

8.1.1. The Administration programme is allocated R2.5 billion for 2019/20, compared with R2.1 billion for 2018/19 (for the Ministry, Management, Corporate Services, Financial Administration, Internal Audit and Office Accommodation subprogrammes). In 2018/19, all national and provincial Departments were required to reduce their spending on administration. Overall, the allocation to Administration has decreased by -4.9% the programme. The allocation to the Office Accommodation subprogramme at R1.4 billion represents 55% of the total allocation to this Programme.

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

8.1.3. The Department has added the following new indicators for Strategic Objective 3: Optimised organisational structure, systems and processes in order to improve the Department's performance.

**Table 2: Administration - New Performance Indicators and Targets**

<b>Performance indicators</b>	<b>Targets 2019/20</b>	<b>Targets 2020/21</b>	<b>Targets 2021/22</b>
No. of realigned organisational substructures	5	7	10
No. of people appointed on internship and learnership programmes	300	400	500
Repositioning strategy on Justice College finalised by target date	By 31 March 2020	-	-

## 8.2. Programme 2: Court Services

8.2.1. Court Services is allocated R6.8 billion for 2019/20 compared with R6.4 billion for 2018/19 (for the Lower Courts, Family Advocate, Magistrates Commission, Facilities Management and Administration of Lower Courts sub-programmes). Overall the allocation to this programme decreases by -0.8% in real terms from 2018/19.

- 8.2.2. The Lower Courts subprogramme receives 73% of the allocation to his programme to fund the activities and operations of more than 2 147 courtrooms across the country. This is a small increase of 1.1% in real terms. The Facilities Management subprogramme experiences a real decrease of – 0.64% (in contrast with a decrease of -26.9% in real terms in 2018/19).
- 8.2.3. The Court Services programme facilitates the resolution of criminal, and civil cases, and family law disputes, by providing accessible, efficient and quality administrative support to the courts and to manage court facilities.
- 8.2.4. In response to the call to address Gender-based violence as a national priority, existing indicators have been linked expressly to the commitments contained in the Presidential Summit Declaration against Gender-based Violence and Femicide, as follows:
- Number of courts adapted in line with the Sexual Offences Court Model *as required by Article 9 of the 2018 Presidential Summit Declaration against Gender-based Violence and Femicide* (with a target of 16 courts adapted in 2019/20).
  - Phases of the Femicide Watch established *as required by Article 15 of the 2018 Presidential Summit Declaration against Gender-based Violence and Femicide by target date* (with a target of Phase 2 of the Femicide Watch established by 31 March 2020).



8.2.5. A number of new performance indicators have been introduced, including:

**Table 3: Court Services – New Performance Indicators and Targets**

<b>Performance indicators</b>	<b>Targets 2019/20</b>	<b>Targets 2020/21</b>	<b>Targets 2021/22</b>
No. of magisterial districts and sub-districts with a supplier-base of foreign language interpreters	25	50	150
No. of courts where upgrades and extensions are completed	6	5	8
No. of new transformational policies approved	Discussion document for the reform of bail, arrest and expungement dispensation to be submitted to the Minister by 28 February 2020. Policy framework on community courts to be submitted to the Minister for approval by 28 February 2020. Policy framework on the choice of language in legal proceedings to be submitted to the Minister for approval by 28 February 2020.	Draft of the policy framework submitted to Minister by 28 February 2021	Minister's approval of the policy framework by 28 February 2022

- 8.2.6. The spending focus for the programme is largely on court infrastructure; implementation of legislation; medical services for psychiatric observation; and security services for courts.

8.3. **Programme 3: State Legal Services**

- 8.3.1. The State Legal Services programme is allocated R1.34 billion for 2019/20, compared with R1.25 billion in 2018/19 (for the State Law Advisers, Litigation and Legal Services, Legislative Development and Law Reform, Master of the High Court and Constitutional Development subprogrammes). The allocation to the programme increases in real terms by 3% from 2018/19. The Master of the High Court subprogramme receives the largest allocation at 41% of total allocation to this programme, while 38% goes to the Litigation and Legal Services subprogramme.

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

- 8.3.3. New performance indicators and targets include:

**Table 4: State Legal Services – Performance Indicators and Targets**

Performance indicators	Targets 2019/20	Targets 2020/21	Targets 2021/22
Project plan for repeal of apartheid era legislation	By 31 March 2020	-	-
Insolvency policy submitted to the Minister for approval			

No. of training sessions on the Guide for Service providers held with civil society organisations and public officials dealing with victims of hate crimes	9	9	9
SADC Integrated information system to monitor the implementation of Trafficking in Persons Act (TIP Act) implemented	Report generated on the SADC integrated information system tool	Report generated on the SADC integrated information system	Report generated on the SADC integrated information system
No. of targets in the implementation plan of the Cabinet approved National Action Plan to Combat Racism, Racial Discrimination; Xenophobia and Related Intolerance implemented	3 key initiatives implemented	-	-
Policy framework for the regulation and recognition of community based advice office sector and community-based paralegals in South Africa	By 31 March 2020		

- 8.3.4. The spending focus for the programme is largely on employee compensation; legal costs and claims against the State. Further, additional funding has been allocated to fund the establishment of the Legal Ombud (R10.7 million); the establishment of provincial LGBTI protection and rights promotion task teams and working groups (R7.9 million); and for the implementation of National Action Plan to Combat Combat Racism, Racial Discrimination; Xenophobia and Related Intolerance (NAP).

8.4. **Programme 3: Information Regulator**

- 8.4.1. The Protection of Personal Information Act, 2013, (POPIA) regulates the processing of personal information by providing a framework that sets out the minimum standards that responsible parties must comply with when processing personal information. The Act applies to public and private bodies, including juristic persons, and aims to achieve a balance between the free-flow of information and the right to privacy.
- 8.4.2. The Information Regulator is established in terms of section 39 of POPIA and has a wide range of powers and functions relating to promoting and enforcing the right to privacy.
- 8.4.3. POPIA also transfers certain key responsibilities concerning the Promotion of Access to Information Act, 2000, (PAIA) to the Information Regulator. These include the handling of complaints, conducting investigations, and making assessments about compliance by public and private bodies.
- 8.4.4. At present, only those parts of the Act relating to the establishment of the Regulator and the making of regulations are operational. Once the Regulator has reached a stage of operational readiness, the remaining provisions will come into

force. Even then, the Act provides for a grace period of one year to allow responsible parties to comply. This period can be extended to three years.

8.4.5. The SAHRC retains the functions relating to PAIA. These will also be transferred only once the Regulator is operational.

8.4.6. Delays in obtaining approval of its organisational structure has contributed to the slow progress in setting up the Information Regulator. In terms of POPIA, the Regulator has the power to determine its own administration in consultation with the Minister of Finance. A key challenge to the operationalisation of the Regulator has been its listing in terms of the Public Finance Management Act, 1999. The Regulator was advised that before the organisational structure could be approved, it should be listed as a National Public Entity in terms of the PFMA with the Members of the Regulator as its accounting authority. POPIA however, provides in section 48 for the appointment of a CEO who is also the accounting officer. If the Regulator were listed as a public entity, this would result in it having both an accounting authority in terms of the PFMA and an accounting officer in terms of POPIA. The Regulator made a submission to the Minister of Finance in which it requested that:

- Approval of its establishment be dealt with separately to that of its listing in terms of the PFMA.
- The establishment of its administration be approved while the challenges relating to its listing are addressed.
- The Chief Executive Officer be recognised as its accounting officer and the Chairperson be designated the Executive Authority in terms of National Treasury Regulation of 2001.
- The proposed organisation structure be considered and approved.

- The current practices in the public sector be used to determine the salaries and benefits of staff. Until its status is clarified, finalisation of the organisational structure is delayed.

8.4.7. The Information Regulator reports the following developments:

- Regulations were tabled before Parliament and have been published in the Government Gazette.
- Office accommodation has been secured (at the National Office of the South African Human Rights Commission) for a period of three years.
- The CEO and CFO were appointed and have assumed their duties. The Executive Officer: Legal, Policy, Research and Technology Analysis has been appointed and will assume duties in August 2019. The filling of other executive positions is in progress.
- The draft organisational structure has been developed and will be submitted to the Minister of Finance for consideration.

8.4.8. Funding is set aside under the State Legal Services programme for the continued establishment of the Information Regulator (R28.9 million in 2019/20; R30.5 million in 2020/21; and R32.2 million in 2021/22).

8.5. **Programme 4: National Prosecuting Authority**

8.5.1. The NPA provides a co-ordinated prosecuting service that ensures that justice is delivered to the victims of crime through general and specialized prosecutions; removes the profit from crime; and protects certain witnesses. The NPA also forms part of the Anti-Corruption Task (ACTT).

- 8.5.2. The NPA is allocated R3.9 billion for 2019/20, compared with R3.6 billion for 2018/19. In real terms, the allocation increases 2.4% from 2018/19.
- 8.5.3. As in previous years, the National Prosecutions Services sub-programme is allocated the biggest share of the funds (81%) allocated to this programme.
- 8.5.4. There has been a total moratorium on the filling of posts since 2015/16. In addition, 650 officials have left the NPA since then. The loss of staff has significantly increased the workload of prosecutors, which has a host of negative consequences for service delivery and for the workplace environment.
- 8.5.5. In previous years, shortfalls relating to the compensation of employees' budget were funded through virements from the NPA's operational budget or from the Department. However, this year, the NPA's operational budget is unable to accommodate any virements to the compensation of employees' budget without placing service delivery at risk. The projected shortfall on compensation of employees for 2019/2020 is R27.3 million. The NPA projects that it will need to reduce its staff establishment by more than 550 officials over the medium term to remain within the expenditure ceiling.

**Table 5: NPA: Budget vs Projected Expenditure for 2019/20**

R'000	2019/20		
	Budget	Projected Expenditure	Budget Shortfall
Compensation of Employees	3 486 309	3 513 643	-27 334
Goods and Services	391 006	485 173	-94 167
Transfers and Subsidies	18 922	18 922	0

R'000	2019/20		
	Budget	Projected Expenditure	Budget Shortfall
Machinery and Equipment	32 900	32 900	0
<b>Total</b>	<b>3 929 137</b>	<b>4 050 638</b>	<b>-121 501</b>

8.5.6. The NPA additional budget requirements are as follows:

**Table 6: NPA Additional Budget Requirements**

R'000	2019/20	2020/21	2021/22	2022/23	Total
Shortfall on warm bodies	27 334	88 954	86 758	181 414	384 460
Aspirant Prosecutors programme (100 for next 3 years)	-	25 793	27 341	28 981	82 116
Absorption of Aspirants	-	-	39 189	41 540	80 729
158 Critical NPA posts	-	91 478	96 967	96 967	285 412
<b>Total compensation of employees</b>	<b>27 334</b>	<b>206 225</b>	<b>250 255</b>	<b>348 903</b>	<b>832 717</b>
Operational Budget shortfall	94 167	115 913	130 005	153 790	493 875
Investigating Directorate	49 650	115 276	126 601	135 463	426 990
<b>Total</b>	<b>171 151</b>	<b>437 414</b>	<b>506 862</b>	<b>638 156</b>	<b>1 753 583</b>

8.5.7. The NDPP highlighted the following key service delivery initiatives:

- Restoration of NPA credibility and public confidence.
- Establishing the Investigating Directorate as a new (sub)programme within the NPA.



- Reviving the Aspirant Prosecutors programme.
- Developing and/or recruiting specialist skills.
- Developing a strategic support and innovative capacity.
- Undertaking ongoing staff development and training.
- Strengthening the NPA's independence in the form of its own accounting officer.
- Improving stakeholder relations.
- Addressing Truth and Reconciliation Commission cases.

8.5.8. The NPA has aligned its strategic objectives with the NDP, which speaks to 'building safer communities', as well as to Outcome 3 of the MTSF. Notably, during SONA this year, there was a clear focus on turning the tide of corruption in our public institutions. The February SONA announced the establishment of an Investigating Directorate to deal with serious corruption and associated offences.

8.5.9. The NPA has the following sub-programmes: National Prosecutions Service; Asset Forfeiture Unit; Office for Witness Protection; and Support Services. The NPA is proposing that a fifth subprogramme 'Investigating Directorate' be incorporated going forward.

8.5.10. Certain medium term targets relating to convictions in courts have been adjusted down in line with the resource constraints that the NPA is facing.

#### 8.6. **Programme 5: Auxiliary and Associated Services**

8.6.1. The programme provides a variety of auxiliary services associated with the Department's aims and funds transfer payment to the South Africa Human Rights Commission, the Public Protector, Legal Aid South Africa, the Special Investigation Unit and the President's Fund.

- 8.6.2. The programme also contains the Justice Modernisation sub-programme. This sub-programme contains funds for the modernisation of IT systems and for the Integrated Justice System (IJS) project on behalf of Justice Crime Prevention and Security (JCPS) Cluster departments and entities. An amount of R1.27 billion is allocated to this subprogramme for 2019/20, compared with R976.8 million in 2018/19. This is an increase of 23.4 % from 2018/19 in real terms. There is a significant increase in the allocation to this subprogramme over the medium term as a result of the migration of Integrated Justice Modernisation programme budget from the SAPS.
- 8.6.3. The related strategic objective for the Justice Modernisation sub-programme is as follows: establishment of a functional, integrated electronic criminal justice system to monitor performance of the criminal justice system.
- 8.6.4. The following new performance indicator and targets is included:

**Table 7: Justice Modernisation: New Performance Indicators and Targets**

<b>Performance indicators</b>	<b>Targets 2019/20</b>	<b>Targets 2020/21</b>	<b>Targets 2021/22</b>
No. of branches, sites, service centres of government departments where Person Verification Services deployed	280	420	560

## 9. Legal Aid South Africa

- 9.1. Legal Aid SA receives its funding as a transfer. The entity is allocated R1.9 billion in 2019/20. This is supplemented by R20 million from investment income. In 2018/19, and the MTEF period, Legal Aid SA had a 5% budget cut to its baseline allocation. This amounted to a budget cut/shortfall of R164 million for 2018/19. In 2019/20, National Treasury reversed Legal Aid SA's baseline cut for the MTEF period. As a result, the budget shortfall is R85.5 million for 2019/20 with a total budget cut/shortfall of R370.9 million for the MTEF period. However, in 2019/20, there was an additional cut of R2.7 million for each year relating to senior management salaries. Budget constraints continue to be a challenge for operations. The salaries budget constitutes at least 80% of the budget.

**Table 8: Legal Aid SA programme budget for the 2019 MTEF**

Subprogramme (R'million)	2018/19	2019/20	2020/21	2021/22
Legal Aid Services	1 437.9	1 587.7	1 635.1	1 724.0
Administration	336.6	334.8	390.5	410.9
Special projects	52.9	55.8	59.5	63.3
<b>TOTAL</b>	<b>1 827.3</b>	<b>1 978.4</b>	<b>2 085.1</b>	<b>2 198.2</b>

- 9.2. In order to manage the budget cuts, Legal Aid SA has had to reduce all segments of its budget: Salaries (legal and support); direct expenditure; operating budget and capital budget. The main impact has been cuts to staff posts, as well the reduced delivery targets and coverage of courts. The operating budget comprises only 20% of the Budget. This budget cannot be cut further if it is to support the staff employed at Legal Aid SA.
- 9.3. The Strategic Plan 2015–2020 sets out the outcomes and strategies that Legal Aid SA will pursue for that period. Legal Aid SA's strategic outcomes for 2015-2020 are to provide

quality justice for all, especially, the poor and vulnerable, and to be a respected, high performance, sustainable and accessible public entity that will have a positive impact on society, the economy and the environment.

9.4. The overall strategic shift in the 2015 - 2020 period focuses on increased organisational maturity, and sustainable high performance and excellence in all segments of the organisation over the next decade, positively touching the lives of many more South Africans to ensure the outcome of quality justice for all.

9.5. The following are focus areas for 2019/20:

- Developing the strategic plan 2020-2025 for the next 5-year planning period.
- Ensuring financial sustainability and client services delivery by: managing.
- Managing the impact of budget constraints on employees.

9.6. In carrying out its mandate, Legal Aid SA continues to identify the following priority groups: children; every detained person, including sentenced prisoners; every accused person who wishes to appeal or review a court decision in a higher court; women, particularly in divorces, maintenance and domestic violence cases; and the landless, especially in eviction cases.

## 10. **Special Investigating Unit**

10.1. The legislative mandate of the Special Investigating Unit (SIU) is derived from the Special Investigating Unit and Special Tribunals Act 74 of 1996 (as amended). Matters are referred to the SIU by way of Presidential proclamation, which sets out the scope of an investigation. The SIU has identified a number of limitations with the present enabling legislation:

- The SIU's mandate limits it to a reactive role, as it is unable to undertake preliminary assessments of received allegations before applying to the President for a proclamation.
- There is no clear mandate to monitor and enforce remedial measures.
- The reporting requirements restrict reporting to specified persons, entities or state institutions.
- The SIU's funding model is flawed.

10.2. The SIU's principal function is to investigate serious malpractices, maladministration and corruption in connection with the administration of state institutions, state assets and public money, as well as any conduct that may seriously harm the interests of the public. The SIU also:

- Institutes and conducts civil proceedings in any court of law or special tribunal, in its own name or on behalf of state institutions.
- Brings potential disciplinary matters to the attention of state institutions.

10.3. Although the SIU does not have the power to arrest or prosecute offenders for criminal conduct, it reports matters to the Directorate for Priority Crime Investigation (DPCI/the Hawks), the South African Police Service (SAPS) and the National Prosecuting Authority (NPA). The SIU also works closely with the Asset Forfeiture Unit (AFU) in the NPA, where its powers are more appropriate or effective in recovering the proceeds of crime. The Unit is part of the Anti-Corruption Task Team (ACTT), which was established to fast-track investigations and prosecutions of serious corruption cases.

- 10.4. The SIU has a mixed funding model that derives income from a National Treasury grant, as well as from work done for State departments. The SIU's projected total revenue for 2019/20 is R718 million, compared with R661.7 million in 2018/19. Despite baseline reductions (R8 million in 2019/20, R8.5 million in 2020/21 and R9 million in 2021/22 to be implemented by way of a salary increase freeze/reduction for senior management staff), the SIU's budget increases in real terms by 3.2% from 2018/19. A significant portion of the budget (R565.9 million or 79%) is for salaries (The SIU projects to increase its headcount in 2019/20 from 531 to 673 employees).
- 10.5. As at 31 March 2019, the SIU's outstanding debt was at R493 million. The SIU reports the following actions to recover the outstanding amounts: Letters were sent to Heads of Departments and CFOs by the SIU, National Treasury and the Minister regarding outstanding debt. The feedback received indicated that, in many instances, the SIU has not provided state institutions with feedback. The SIU has since supplied progress reports to state institutions. Although the final SIU report is addressed to the President, the SIU is in a position to present state institutions with progress/output reports and has taken the decision to do so to support outstanding invoices. The Presidency is also distributing the SIU's reports to relevant State institutions so that they can give feedback on actions taken as a result of the reports.
- 10.6. The SIU referred 331 matters to the NPA in 2018/19. The SIU and NPA had signed a Memorandum of Understanding but this is in the process of being reviewed. The SIU is prioritising some referrals to speed up key cases.
- 10.7. During, 2017/18, the SIU embarked on an organisational review process that led to its 2015-2020 strategic focus being revised. This, in turn, led to the SIU revising its 'value chain' and operating

model to support the implementation of the revised goals, objectives and focus. Operational changes include standardisation of service quality; enhanced case registration and monitoring; and digital transformation to provide business intelligence for proactive decision taking. The SIU also developed a new organisational structure to support the revised strategy.

- 10.8. The SIU has the following three programmes: Administration, Investigations and Legal Counsel; and Market Data Analytics and prevention.
- 10.9. The 2019/20 Annual Performance Plan (APP) outlines specific activities for the SIU to take a more proactive role and ensure greater preventative measures to address maladministration, malpractice and corruption.
- 10.10. The following strategic inventions are planned to support this focus:
  - Define the SIU value chain.
  - Accelerate the conversion of allegations to proclamations.
  - Establish capacity for corruption, maladministration and malpractice prevention through public education, data analytics, and scenario analysis.
  - Monitor and evaluate the impact of the SIU's objectives.
  - Standardise the manner in which cases are scoped.
  - Improve the quality and turnaround time of investigations.
  - Expand on the monitoring and evaluation of case management, including central case registration system.
  - Ensure the long term financial stability of the SIU.
  - Create and publish sector data intelligence.
  - Create advisory capacity to prevent the reoccurrence of maladministration, malpractice and corruption.
  - Amend the SIU Act.
  - Improve governance.

## 11. Public Protector

11.1. The Public Protector is an independent constitutional institution whose mandate, broadly, is to support and strengthen constitutional democracy by investigating maladministration or improper conduct in state affairs or the public administration in any sphere of government and to take appropriate remedial action. The Constitution also states that the Public Protector must be accessible to all persons and communities.

11.2. In 2019/20, the PP is allocated R322.6 million, compared to R311 million in 2018/19. (in real terms, the budget grows negatively by -1.5% from 2018/19). Following a baseline cut in the 2018 Budget of R36.2 million over the MTEF, the 2019 Budget includes further cuts of R3.9 million over the medium term, as a result of a salary freeze for senior management. A total of 80% or R257.1 million is for compensation of employees, while the goods and services budget is R62.5 million.

**Table 9: Public Protector Budget 2019 MTEF**

Programme	Budget (R' million)			
	2018/19	2019/20	2020/21/20	2021/22
Administration (38%)	118	123.9	133.7	138.6
Investigations (58%)	180.4	185.2	1892.7	204.3
Stakeholder engagement (4%)	13	13.4	13.9	14.8
<b>Total</b>	<b>311.4</b>	<b>322.6</b>	<b>340.4</b>	<b>357.7</b>



- 11.3. For some time now, the Public Protector has indicated that the institution is underfunded. The main areas of need are as follows:

**Table 10: Public Protector - Additional Funding Requested 2019 MTEF**

Description	2019/20	2020/21	2021/22	Total
<b>Funding of critical positions</b>	15 613 410	16 564 243	17 573 241	49 750 894
<b>Professional fees</b>	13 110 000	13 896 000	14 730 396	41 736 396
<b>Security</b>	6 127 038	6 464 026	6 819 547	19 410 611
<b>Gratuity for the Deputy Public Protector</b>	5 375 330	-	-	5 375 330
<b>Total</b>	<b>40 225 779</b>	<b>36 924 268</b>	<b>39 123 184</b>	<b>116 273 231</b>

- 11.4. The Public Protector identified the following strategic challenges and interventions:

**Table 11: Public Protector SA – Strategic Challenges and Interventions**

Challenges	Interventions
Insufficient funding for 2019/20 financial year	Value Proposition (Budget Bid) was formulated and presented to National Treasury
Capacity shortages (few investigators, diverse skills such as forensic, actuarial, engineering, quantity surveying, etc. are lacking)	Outsourcing/MOU's and SLA's with other state institutions to leverage on synergies and innovations such as assisting organs of State to establish internal complaints handling mechanisms.
Security (lack of security measures in provincial and regional offices)	Leverage state resources by attempting to secure office accommodation (specifically DoJ) in order to utilise the same physical security services

## 12. **South African Human Rights Commission (SAHRC)**

- 12.1. The SAHRC's mandate is extremely broad, encompassing almost every aspect of civil, political and economic rights. It must promote respect for human rights; promote the protection, development and attainment of human rights; and monitor how well human rights are observed. The Constitution also provides that each year the Commission must require relevant organs of state to provide it with information on measures taken towards the realisation of the socio-economic rights contained in the Constitution. The Commission has specific obligations in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA). The establishment of the Information Regulator will impact on the SAHRC's obligations relating to the Promotion of Access to Information Act, 2000 (PAIA). These functions, excluding the Commission's protection mandate, will be transferred to the Information Regulator once it is operational.
- 12.2. As from 3 January 2017, seven new commissioners were appointed to the SAHRC. Of these, five are appointed full-time and two in a part-time capacity.
- 12.3. In recognition of South Africa's core challenges – high levels of poverty, inequality, unemployment and violence – all areas of the SAHRC's work should attempt to contribute to addressing each of these challenges.
- 12.4. The Commission's goals are informed by the need to address the key challenges of poverty, unemployment, inequality and violence. Priority areas include the following:
- Business and Human Rights.
  - Corruption and Human Rights.
  - Violence against vulnerable groups.

- Equality and social cohesion.
- Protests, local government and service delivery.

12.5. During the annual planning process for 2019/20, the Commission has emphasised the need for high impact interventions in order to achieve greater results with fewer resources. These will include:

- Promoting human rights education and awareness at schools in marginalised areas.
- Hosting Human Rights Dialogues across the country.
- Sustaining public outreach and coverage through the media, including community media.
- Alternative protection mandate strategies focusing on higher impact and addressing systemic violations.
- Strengthening the monitoring of implementation of recommendations and directives.
- Assessing and reporting on the state of human rights in the country: economic and social rights, equality, civil and political rights, and international and regional human rights obligations.
- National Preventive Mechanism for the Optional Protocol Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Monitoring system as envisaged in the Convention on the Rights of People with Disabilities.

12.6. With regards to institutional effectiveness, the Commission will focus on the following:

- Synergy and integration to promote institutional effectiveness and efficiency.
- Stabilisation and strategic utilisation of the Information and Communications Technology infrastructure.
- ‘Switching on our people’ through a comprehensive human resources management strategy.
- Exploring funding opportunities to augment financial resources.

12.7. The Commission has a total budget of R189.7m (including budgeted income) for 2019/20. A significant portion (69% or R130.9m) of the budget is allocated to cover personnel costs, reduced from 72% last year. A total of R45.6 million or 24% of the budget for 2019/20 is allocated to Corporate Support Committed Costs and only 7% or R13.2m of the budget is allocated to the Commission's core operations. The greatest part of the allocation for operation/corporate costs is already committed, including accommodation and municipal charges; supply chain; IT related costs; human resource related costs and auditing fees.

12.8. The allocation to programmes is as follows:

**Table 12: SAHRC – Programme Budget for 2019/20 (including a breakdown for personnel and operations)**

<b>Programme (R'million)</b>	<b>Personnel</b>	<b>Operations</b>	<b>Total</b>
Administration	31 993.5	49 494.5	81 488
Promotion of human rights	83 596.9	5 774.1	89 371
Protection of human rights	7 771.0	2 587.5	10 358.5
Monitoring of human rights	7 507.6	980	8 487.5

12.9. The greatest part of the allocation for operation/corporate costs is already committed, including accommodation and municipal charges (R23.5 million); IT related costs (R5.8 million); Human Resource related costs (R2.5 million) and auditing fees (the SAHRC pays R3 million to the Auditor-General for auditing).

12.10. In response to its budget constraints, the SAHRC has re-prioritised its spending and devised stringent measures, such as freezing vacant posts; reviewing its organisational structure; developing a cost containment plan; and reducing its accommodation space at head office to lower the rental costs.

13. **Committee's observations**

13.1. ***Budget constraints***

13.1.1. Although the Department was able to absorb substantial cuts until 2017/18, this is no longer the case and even the entities are for the first time significantly affected. Measures to introduce efficiencies through organisational realignment, contain costs and the reprioritisation of funds can only achieve so much, especially in a context where the budget must stretch to fund these new priorities. The main challenge is the shortfall on compensation to service existing service points. As the sector is labour intensive, there is a real possibility that there will be overspending on compensation. A further challenge that the Department has identified is the practice of looking to the Department to fund the entities and institutions within the Justice portfolio. The Department has reached a stage where it can no longer absorb further cuts without impacting on service delivery points.

13.1.2. The Committee learnt that the budget cuts have adversely affected the delivery of justice in our courts. In this regard, witnesses are increasingly at risk as a result of the reduction of protection services; the level of security at courts and justice buildings is compromised; the eradication of backlog cases is sluggish; and key positions (prosecutors, court interpreters, maintenance officers; and estate administrators and administrative staff in the areas of finance, human resources and IT) remain unfilled.

13.1.3. Economic growth can only happen if underpinned by a well-functioning and stable justice system. If our legal system collapses, our democracy is threatened. Further, investors have made it very clear that the State must address corruption for investment to take place. The public have also made it clear that it expects action on the part of government against those who have stolen from the State.

- 13.1.4. The President, during the SONA addresses, emphasised the need to tackle corruption urgently, announcing the establishment of an Investigating Directorate in the Office of the NDPP to assist in this regard. The Department was able to find start-up funds for the establishment of the Investigating Directorate and the intention is to apply for CARA funding to augment this. However, additional funds are required in order that the NPA can address high vacancies in the Asset Forfeiture Unit and the Specialised Commercial Crime Unit, for example. Both of these Units have a key role to play in the fight against crime and corruption.
- 13.1.5. Overall, the NPA has an extraordinary high vacancy rate of prosecutors (650 prosecutors have left the NPA since 2015/16). The NPA's finances leave it with little room to address its crippling vacancy rates. It already has a large shortfall on its salaries budget, which it fears will require it to lose a further 550 prosecutors over the medium term. Without sufficient prosecutors, the criminal justice system will not function efficiently or effectively.
- 13.1.6. The situation at the NPA is exacerbated by the loss of highly skilled and experienced prosecutors and investigators over the years and it will take time and money to build up the prosecuting service.
- 13.1.7. The Committee notes the Minister of Finance's response to the 2018 Budgetary Review and Recommendation Report. The former Committee recommended that the NPA be allocated additional funding to address its shortfall relating to the its compensation of employees' budget and to allow it to resume its Aspirant Prosecutors programme. The response was a refusal: 'Department, public entities and constitutional institutions are required to reprioritise funds within their

existing baselines to fund any emerging priorities’. The Committee will pursue the matter further as part of its deliberations during the Budgetary Review and Recommendation Report process.

13.1.8. The President also highlighted the need to eradicate gender-based violence altogether. Departments are required to action the recommendations of the Presidential Summit Declaration on Gender-based Violence and Femicide. For Justice, this requires the rollout of further dedicated sexual offences courts, the establishment of more TCCs, the appointment of intermediaries, more prosecutors and public defenders, etc. However, there is no corresponding increase to the budget.

13.1.9. The Committee notes that the South African Human Rights Commission and Public Protector have baseline cuts. Historically the Chapter 9 institutions have been underfunded. Consequently, these institutions feel the effect of the budget cuts especially severely. The Committee draws attention to the resolution of the National Assembly that in line with the recommendations of the ad hoc Committee on the Review of Chapter 9 and Associated Institutions (2007) (the Asmal Report) the budgets for the institutions supporting democracy be contained in a separate programme in Parliament’s Budget Vote.

## 13.2. **Transformation of the legal system**

13.2.1. The Fifth Parliament had planned to bring about substantive change to our legal system in its entirety through policy reforms. This transformation also encompassed the modernisation of both the criminal and civil legal systems to address inefficiencies and restore public confidence.

- 13.2.2. ***Transformation policies.*** The Committee notes that in 2018/9, the Department planned to develop the following policies: the Policy on Lower Court Reform was to be submitted to Cabinet for approval by 28 February 2019; the Policy on Judicial Governance and Court Administration and the Policy Framework on the Overhaul of the Criminal Justice System as part of the Renaissance Project were to be approved by the Minister by 28 February 2019; and a Blueprint on Community Courts was to be approved by the Minister by 28 February 2019. It is unclear as to whether these targets were achieved.

The Department plans to develop three transformational policies in 2019/20. These are a discussion document for the reform of the bail, arrest and expungement dispensation; a policy framework on community courts; and a policy framework on the choice of language proceedings. All of these are to be submitted to the Minister for approval by 28 February 2020.

The Committee intends to arrange a comprehensive briefing on the Department's initiatives to bring about transformation of the South African legal system as soon as its programme permits. For now, it requests that the Department provide it with a comprehensive written report of progress made by 15 August 2019.

- 13.2.3. ***Regulation of the paralegal sector and provision of funding for sustainability.*** The Committee notes that a Policy Framework for the regulation and recognition of community-based advice office sector and community-based paralegals in South Africa is to be finalised by 31 March 2020.

In the Fifth Parliament, the Committee was informed that a Bill was being prepared and would be introduced once the problem of funding was resolved.



However, it would seem that a funding solution has not yet been found and is delaying the finalisation of the necessary legislation.

Paralegals and community advice centres play a major role in promoting access to justice, especially for those who would not otherwise be able to afford legal services. As this matter is long outstanding, the Committee is of view that the statutory recognition of the sector is urgently required as part of the broader transformation agenda. Although the Committee welcomes that a Community-based Paralegal Bill has been prepared, it urges the swift resolution of the matter of funding.

The Committee requests that the Department provide a comprehensive written report on this by 30 August 2019 and to continue to keep it updated as part of the Department's quarterly reporting process.

- 13.2.4. ***Policy on the design of the judicial governance and court administration model.*** The Committee notes that in the Fifth Administration an Inter-Ministerial Committee (IMC), chaired by the Deputy President, was appointed to make recommendations to Cabinet on an appropriate Judicial Governance and Court Administration Framework.

The Committee notes that the design of a judicial governance and court administration model predates this Administration: a judiciary-led court administration model was already mooted in the Third Administration and the Judiciary had undertaken extensive research and made proposals in this regard. It would seem that the matter of accountability is the chief stumbling block.

The Committee notes that the Department is now ready to present this model. The Committee notes further that this was a matter that the Minister intended to address when he meets with the Judiciary.

On the issue of the migration of the magistracy, the legislation overhauling the Magistrates Act, 1993, and Magistrates' Court Act, 1944, is far advanced.

For now, the Committee requests that the Department provide it with a comprehensive written report on progress by 30 August 2019.

13.2.5. **Land reform.** In the Fifth Parliament, concerns about the functioning of the Land Claims Court were raised repeatedly with the request that it be properly capacitated. In particular, the appointment of permanent capacity to that court was called for. The Committee, therefore, welcomes the intention to introduce a Land Claims Court Bill that will address this issue.

13.2.6. **Integrated Criminal Justice Strategy (ICJS).** The Integrated Criminal Justice Strategy (ICJS) is intended to provide a mechanism to address the 'silo' approach of the relevant JCPS Cluster departments and entities to strengthen co-ordination and co-operation among them. The ICJS is to incorporate the CJS 7-Point Plan and IJS modernization interventions, and envisages dealing with all the new trends and focus areas that are currently not adequately catered for, in one overarching integrated strategy (the ICJS).

The ICJS will have two phases: The first phase relates to the development of the Strategy. Phase 2, therefore, is concerned with implementation. Funding of the ICJS is to take place within the normal baseline allocations but funds are allocated from the CJS Review/Revamp and from CARA funding.

The target date for the finalisation of the Strategy was 31 March 2018 but was revised to 28 February 2019 (for submission to Cabinet). The reason provided then was that there were 'delays in

the identification of all the officials who were requested to participate'. The Department reported that an Integrated Task Team on Criminal Justice Reform (ITT-CJR), which is headed by Adv. Lungi Mahlathi and is made up of senior designated officials from the line function departments and law enforcement agencies, had been established to accelerate the development of the ICJS and the overhaul of the Criminal Procedure Act.

The Committee requests that the Department provide it with a comprehensive written report on the progress of the project by 30 August 2019, and to continue to keep the Committee updated as part of the Department's quarterly reporting process. The Committee will also endeavour to arrange a dedicated briefing as soon as its programme permits.

- 13.2.7. **Integration of IT systems (IJS).** The ultimate goal of the IJS is to ensure seamless integration and consolidation of critical information between the entities that form part of the JCPS Cluster. This is regarded as a key value add project. There are eight departments representing key components of the IJS value chain, while the Department of Justice and Constitutional Development is responsible for project management. Successful integration of interdepartmental information exchange is highly dependent on establishing business applications across all departments.

The Committee welcomes the suggestion that a joint address of the Portfolio Committees on Justice and Correctional Services, Police, Home Affairs and Social Development on the progress made so far take place and will arrange for this as soon as the programme permits. The Committee also requests that the Department provide a comprehensive report of progress by 30 August 2019 and, in addition, continue to report on this item as part of the quarterly reporting process.

### 13.3. **Vulnerable groups**

#### 13.3.1. ***Eradicating gender-based violence within a decade.***

The Committee notes that, in February's SONA, the President touched on work underway to implement the decisions of the Presidential Summit Declaration against Gender-based Violence and Femicide. This included a review of existing laws and policies applicable to gender-based violence and femicide to identify and address legislative gaps; a comprehensive costing and resourcing of the facilities that give support to survivors of gender-based violence; the integration of systems for the optimal management of data throughout the criminal justice system without delay that will include the collection of data relating to survivors and offenders; the adequate resourcing of the TCCs; and better functioning sexual offences courts.

Although the NPA reports an increase in the conviction rate for sexual offences, the actual number of sexual offence cases in our courts that reach verdict is low: in 2017/18, SAPS recorded 50 108 sexual offences cases, of which only 6 679 cases (or 14%) made it to court (of these, there were 5004 guilty verdicts). Indeed, the discrepancy between the number of sexual offences reported to SAPS and the number of cases reaching our courts is of grave concern.

The Committee notes too that the Department tabled its 2017/18 Report on the Implementation on the Criminal Law Sexual Offences and Related Matters Act in the Fifth Parliament and believes that discussion of its contents will provide an opportunity for focused engagement on this issue. The Committee will arrange a joint briefing on the Report, as soon as the programme permits.

#### 13.3.2. ***Dedicated sexual offences courts.*** Although the NPA reports an increase in the conviction rate for sexual offences to 70%, the number of these cases in our courts that reach verdict is low when compared to the number of reported matters. The Committee is not satisfied by the NPA's explanation for the level of attrition in these

matters. Despite linking existing indicators relating to the rollout of the dedicated sexual offences courts and the establishment of the Femicide Watch to the commitments set out in the Presidential Summit Declaration against Gender-based Violence and Femicide, the Committee fears that there is little new to suggest that we will make huge strides in this area.

The Committee notes that a total of 16 court(room)s are to be adapted this year, in line with the sexual offences courts model and 12 closed circuit television systems in regional courts are to be upgraded in line with the minimum standards in sexual offences courts model. The Department was only able to upgrade 10 CCTV systems in the regional courts in 2018/19 against a target of 45 and that, going forward, the targets in this regard are substantially reduced to those contained in 2018/19 APP.

The Committee notes too that funding constraints have led to a moratorium on the appointment of further intermediaries.

The Committee understands that the Regulations for the Establishment and Management of Sexual Offence Courts are at an advanced stage.

- 13.3.3. ***Femicide Watch.*** In 2018/19, the Department introduced a new indicator 'Phases of the Femicide Watch established as required by Article 15 of Presidential Summit Declaration against Gender-based Violence and Femicide. Phase 1 was completed as planned by the end of 2018/19 and, in 2019/20, Phase 2 will be rolled out.

The Committee is interested to hear more about this initiative and requests that the Department provide it with a comprehensive written report by 30 August 2019.

- 13.3.4. ***National Register of Sexual Offences (NSRO)***. The Western Cape High Court found in the matter of *Abrahams v the State* (A131/8) [2019] ZAWCHC 62 (23 May 2019) that there is a loophole in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, in that the NSRO only records the names of perpetrators convicted of sexual offences against children and mentally disabled individuals but not adults. In this matter, the name of the perpetrator did not appear in the Register because his previous victims were adults. The Court found that this loophole was part of the reason why the perpetrator had access to his victim and leaves a huge gap in curbing and combating sexual crimes against children. The Committee notes that the Court requested that a copy of the judgement be forwarded to the Speaker of the National Assembly and the Chairperson of the Justice Portfolio Committee. The Committee notes too that the Ministry agrees that there is a need to review the National Register of Sexual Offences (NSRO) as the Register is not functioning as it ought to.

The Committee, therefore, urges the Department to address this gap and any other gaps that it has identified expeditiously, and requests a comprehensive report on its plans in this regard, with deadlines, by 30 August 2019.

- 13.3.5. ***Trafficking in Persons Act, 2013***. The Department has included a new indicator and target relating to the implementation of the SADC Integrated Information System to monitor implementation of the Trafficking in Persons Act, 2013. In addition, the Prevention and Combating of Trafficking in Persons National Policy Framework, which is intended to support the implementation of the Act, was finally launched on 25 April 2019.

The Committee is interested in learning more about this monitoring tool and requests that the Department provide a comprehensive written report on this item by 30 August 2019.

- 13.3.6. **Maintenance.** The Committee is concerned by reports of ongoing challenges experienced by women accessing maintenance services at courts. A recent article indicates that there are approximately R7 million maintenance defaulters. The Women's Legal Centre has also expressed concern in this regard, attributing the problem in accessing maintenance, among others, to insufficient dedicated staff at courts. The Department has confirmed that budget constraints prevent the appointment of certain critical staff at courts, including the maintenance courts but was to have embarked on a process to fill vacancies.

The Committee, therefore, asks that the Department provide it with a comprehensive written report on the functioning of the maintenance courts, clarifying among others the allocation of capacity and identifying any challenges by 30 August 2019.

- 13.4. **National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.** The Committee notes that the NAP was finalised and approved by Cabinet on 27 February 2019. The Department plans to implement three key initiatives in 2019/20. An amount of R9.4 million has been set aside for the implementation of the NAP over the medium term.

The Committee is interested in learning more about the Plan and intends to arrange a dedicated briefing on the NAP as soon as its programme permits.

- 13.5. **Truth and Reconciliation Commission.** A total of five community rehabilitation projects were to have been signed off for launch in 2018/19 and handed over during 2019/20 but it is unclear whether this target will be achieved. Given that it is over twenty years since the TRC resolutions were handed down, the Committee does not understand why efforts to give effect to the recommendations of the Truth and Reconciliation Commission are ongoing.

The Committee requests the Department to provide it with a comprehensive written report on its progress in this regard and will arrange a dedicated briefing on all outstanding aspects relating to the TRC as soon as its programme permits.

**13.6. Court infrastructure.**

- 13.6.1. Building new courts in under-serviced areas has been a core element of the Department's efforts to expand access to justice. However, the tendency has been that capital works projects typically take far longer to finish than projected and, consequently, costs escalate hugely. There are also challenges relating to the quality of the work done.

The new High Court in Mpumalanga at Mbombela, is at long last operational. However, as was the case for the Limpopo High Court, building has been subject to extensive delays and the associated costs have risen to R1.2 billion. The Committee is informed that an amount of R233.1 million is under investigation by the SIU in relation to the Limpopo High Court relating to the failure to pay contractors in a timely manner which incurred additional costs (with the IDT).

The Committee notes that other courts that are to be completed this year are the Port Shepstone Magistrates Court and the Bitiyi Magistrates Court.

The Committee notes as well that the Department has included a new indicator relating to the upgrading and extension of courts, targeting six courts in 2019/20 (the Evander magistrates Court, the Vulamehlo Magistrates Court, Umbumbulu Magistrates Courts, the Chatsworth Magistrates Court, the Palace of Justice and the burnt out court in Pretoria). Over the medium term it is projected that additional court infrastructure will cost R1.5 billion.



The Committee requests that the Department provide it with a comprehensive progress report on all its infrastructure projects by 30 August 2019, and be prepared to address the Committee quarterly on this matter.

The Committee will schedule a joint briefing with public works on all aspects of the infrastructure programme, including planned maintenance, as soon as its programme permits.

- 13.6.2. **Planned maintenance.** The ageing nature of many of our court buildings requires that they are regularly maintained. If neglected, these buildings quickly deteriorate and require costly repairs. The maintenance of building is largely the responsibility of the Department of Public Works and Infrastructure (small repairs can be done at court level) but there has been very little money available for this.

The Department has informed the Committee that the Department of Public Works and Infrastructure anticipates that it will not need all of the funds allocated for new court infrastructure. The Department, therefore, intends asking National Treasury if it can use the projected ‘savings’ to undertake maintenance of its courts and to improve security. The Committee notes that the Minister of Public Works and Infrastructure has declared the state on the courts to be shocking and is encouraged that she has requested a full report. The Committee notes too that a meeting is scheduled between the two Ministers on the infrastructure programme and maintenance of the courts.

### 13.7. **Transformation of State Legal Services**

- 13.7.1. **State Legal Services.** The State is the largest consumer of legal services in the country and employs hundreds of professionals who provide litigation and legal advisory services for the State in different capacities. For some time, there have been reports of

disarray within the offices of the State Attorney and complaints regarding the provision of state legal work to young, previously disadvantaged legal practitioners in a context where there is currently no comprehensive set of clearly defined rules governing how litigation services are to be acquired, managed and monitored. The Courts have been very critical of the quality of the work done by state attorneys in the past. The Public Service Commission issued an in-depth report on the Office in 2016. More recently, it emerged that there is corruption at certain offices and the matter has been referred to the SIU for investigation.

At present, a fragmented approach to the management of State Legal Services exists. This undermines efforts to transform the legal profession by ensuring that briefing patterns across government support previously disadvantaged legal practitioners and contain costs. Re-engineering the manner in which State Legal Services are delivered across government and addressing organisational challenges is a key departmental initiative. This entails finalising policies aimed at lowering the cost of litigation for the State, establishing the State's capacity to handle complex legal matters, and ensuring the efficient management of the offices of the state attorney. Policies to drive transformation (on mediation, state representation, the management of state litigation and tariffs) have been developed and these are expected to be submitted to Cabinet for approval, as well as a proposal for the establishment of State Legal Services as a government component. A State Legal Services Bill has been drafted and will be consulted on before finalisation for tabling in Parliament.

The Committee welcomes the focus on the re-engineering of State Legal Services. In the meantime, it requests a comprehensive written report of current challenges that are being experienced in the Office of the State Attorney by 30 August 2019, and will arrange a dedicated meeting in order to deepen its understanding of

the operations of this Office countrywide, as well as the Department's plans to transform State Legal Services as a whole, as soon as its programme permits.

- 13.7.2. *State support to Black legal practitioners, especially black women/briefing patterns.* The Committee believes that a great deal more should be done to support Black legal practitioners, in particular black women, wishing to make law their career. The many obstacles that young black legal practitioners encounter require a comprehensive response involving all stakeholders.

The Committee welcomes that the Department includes a breakdown of the percentage and value of briefs awarded to previously disadvantaged individuals on its website monthly.

- 13.7.3. *A transformed legal profession.* The Committee welcomes the establishment of the Legal Practice Council in October 2018, when the transitional National Forum ceased to exist. The Committee notes that the Department has allocated R7.9 million to establish a Legal Ombud as required by the Legal Practice Act, 2014.

### 13.8. **Information Regulator**

- 13.8.1. In the Committee's view, the establishment of the Information Regulator is a priority. Unless the Regulator is adequately capacitated, the remaining provisions of POPIA will not be declared operational. Given how important it is for South Africa to have a legislative framework that protects personal data, these delays must be addressed urgently. Worldwide, data protection legislation is seen as a key component in securing information so that it does not fall into the wrong hands. The Regulator has commented that in South Africa the personal information of data subjects continues to be processed with

impunity and without adequate redress and that the country is experiencing an unprecedented number of data breaches that the Regulator is unable to deal with effectively. The Committee also notes the significant cost of data breaches to individuals and the country as a whole. Furthermore, ensuring that personal data is properly secured will facilitate measures to strengthen cybersecurity, and will assist to prevent cybercrime.

- 13.8.2. The Committee is concerned about the lack of progress in fully capacitating the Information Regulator. The Protection of Personal Information Act (POPIA) requires only that the Regulator consult with the Minister of Finance on its staffing. The Regulator has consulted with the Department of Public Service and Administration (DPSA), National Treasury and the Public Service Commission, and has compiled the necessary documents, including a report on its benchmarking visits. The latest obstacle relates to the advice that the Regulator be listed in the PFMA as a Schedule 3A entity before its organisational structure can be approved. However, the Board of a Schedule 3A entity is the accounting authority, whereas POPIA clearly provides that the Regulator's CEO is its accounting officer. The Regulator approached the Minister of Finance for assistance to resolve the contradiction. In the interim, it was agreed to de-link the establishment of the organisational structure from the matter of the Regulator's status in terms of the PFMA. In this respect, the Minister of Finance agreed to the organisational structure and appointment of top management. The Regulator will need to approach the Minister once more to obtain approval for the remainder of the organisational structure.

The Committee is of the view that this matter of the organisational structure and the Regulator's status must be resolved expeditiously and requests the Ministry do all that it

can to assist the Regulator in its engagements with the Minister of Finance and National Treasury to find a solution as soon as possible. It asks that it be kept informed of developments in this regard.

13.8.3. The Regulator introduced the Committee to its new CEO (Mr M Thibela) and CFO (Mr P Narismulu) and informed the Committee that a number of new appointments to its Executive are to follow in the coming months. The Committee welcomes the appointments and notes too that the Regulator has acted on its plans to share accommodation with the South African Human Rights Commission, which is also pleasing.

13.8.4. The Committee notes that until the Regulator is operational and the remaining provisions of POPIA come into effect, the SAHRC will continue to fulfil its (largely unfunded) mandate with regards to ‘Access to Information’.

#### 14. **National Prosecuting Authority**

14.1. The Committee congratulates Adv. Batohi on her appointment as National Director of Public Prosecutions (NDPP) from 7 February 2019 and wishes her well in the position.

14.2. **Budget shortfalls and staff shortages.** The Committee has already expressed its concern about the effect of funding constraints for service delivery. Briefly, the Committee is of the view that insufficient weight is being given to the essential nature of prosecutorial services. The Committee, therefore, advocates that additional funds be made available to address the shortfall on the NPA’s salaries budget so that it can fill vacancies. Since 2015/16, about 650 prosecutors have left the NPA. As a result of the moratorium on filling posts, the overall vacancy rate for prosecutors is now at 20%. In some of the

specialised units, the vacancy rates are much higher – between 25-28%. The NPA anticipates a shortfall on its ‘compensation of employees’ budget, which will result in unauthorized expenditure on its salaries budget of R27 million in 2019/20, growing to R88.9 million, R86.8 million and R181.4 million in 202/21, 2021/22, 2022/23, respectively. The Committee was informed that the NPA will need to lose a further 550 prosecutors over the medium term if it is to stay within budget. In addition, as its salaries budget consumes almost 90% of the NPA’s budget, there is little space to save costs or reprioritise funds.

The Committee has already expressed its view that the loss of prosecutorial capacity on this scale is disastrous for the rule of law.

- 14.3. **Legislative amendments to the NPA Act, 1998.** The Committee notes that the Department intends to table amendments to the National Prosecuting Authority Act, 1998, to address a declaration of constitutional invalidity in respect of sections 12(4) and (6) of the Act. The deadline for compliance with the court order is February 2020. The Committee, therefore, requests that the Ministry bring these amendments as soon as possible in order that Parliament is able to meet the applicable timeframes.
- 14.4. **Independence of the NPA.** Before 2014, National Treasury provided the NPA with an exemption that allowed it to prepare its own annual financial statements (AFS) separate from the Justice. The exemption was given, pending the enactment of legislation that would clarify the NPA’s status was enacted. At the beginning of the Fifth Parliament, the situation changed in that the NPA is reported as a programme in the Justice Vote and no longer prepares separate annual financial statements.

The NDPP, however, continues to table a separate annual report on its activities in terms of the NPA Act, 1998. The new NDPP, however, has indicated that it is not satisfactory for the NPA to have the DG: Justice and Constitutional Development as its accounting officer, a view that the Department appears to support. The Committee supports an independent prosecuting authority but will need to engage further on this matter to obtain a fuller understanding of the policy issues and practicalities involved.

14.5. **Thuthuzela Care Centres (TCCs).** The TCCs are multidisciplinary centres that cater for survivors of sexual and domestic abuse. At present, there are 55 TCCs countrywide. For some time, the establishment of further TCCs has been on hold because funding constraints. The Committee, therefore, welcomes the plan to establish a further five centres over the next 5 years. The Committee learnt that some of the funding for this will come from the Criminal Assets Recovery Account (CARA) Fund. The Committee notes also recent media reports that due to a lack of funding, half of the Thuthuzela Care Centres (TCCs) across the country are without counselling services or forced to rely on only one or two social workers to assist victims of sexual abuse and violence. This is partly because donor funding to NGOs providing counselling services at the TCCs has decreased. The Committee will arrange for a dedicated joint briefing on measures to address gender-based violence, as soon as its programme permits.

14.6. **Apartheid prosecutions.** In June 2019, the South Gauteng High Court found that the NPA had breached the Constitution by allowing political interference to stall the prosecution of cases in which the TRC either did not grant amnesty or there was no application for amnesty made to the TRC. The NDPP was asked to consider charging those who had prevented the prosecution of these cases. In addition, the families of victims

have also formally requested that a commission of inquiry be established. For now, the NPA is in the process of establishing a task team to look into all cases of deaths in detention. The Committee regrets the delays in finalizing these cases and will monitor progress.

- 14.7. **The need for skilled prosecutors at the NPA.** The NDPP was frank about the shortage of skills within the NPA and, also, in other sectors of law enforcement. The new Head of the Investigating Directorate echoed this, stating that the greatest challenge in establishing the Investigating Directorate is the lack of specialist capacity. The Committee agrees that the extremely high vacancy rates in the specialised units, such as the Asset Forfeiture Unit, undermines the work of recovering monies lost to the State through crime and corruption. The Committee notes that Mr. Hofmeyr, who heads the AFU, is due to retire shortly and hopes that this will not create further challenges for the AFU. As already mentioned, funding constraints hamper efforts to recruit new capacity. In addition, it takes time to develop the necessary expertise.

The Committee notes as well the suggestion that the legislation applicable to CARA funding be amended to allow the AFU and law enforcement to retain a percentage of the monies recovered but is not in a position at this stage to comment further on this.

- 14.8. **Strategic support and innovation unit.** The Committee notes with interest the NPA's intention to establish a strategic support and innovation unit in the Office of the NDPP to look at efficiencies and innovative ways of doing things. The Committee will engage further with the NDPP on this matter.



- 14.9. **Resourcing of Investigating Directorate.** The Committee notes that R37 million was made available for the initial start-up costs of the Investigating Directorate. Considerably more funds (R219 million) are needed for it to access the necessary legal and forensic skills required for it to perform its mandate.
- 14.10. **Aspirant prosecutors programme.** The Committee is pleased that the Aspirant Prosecutors Programme has been revived but is concerned that no additional funding has been made available for this. This programme not only provides young lawyers with an opportunity to gain critical experience and skills, but also provides the institution with a stream of well-trained “new blood” as prosecutors already employed at the NPA progress within or even leave the institution. Further the creation of employment opportunities for the youth is a national priority. The Committee, therefore, requests a comprehensive report on the plans to revive this programme and related funding by 30 August 2019.
- 14.11. **Move away from statistics driven performance measures.** The Committee agrees that purely statistics driven performance measures can adversely shape behaviour. If conviction rates measure performance, there is the risk that cases, which are more challenging from a prosecuting perspective, are dropped. The Committee, therefore, is pleased that the NPA intends to rethink the way in which it measures its performance as part of its upcoming strategic planning process.
- 14.12. **Addressing referrals expeditiously.** The Hawks, IPID and the SIU have referred a large number of investigations to the NPA. The Committee requests the NPA to provide a comprehensive written response on the measures that have been taken to improve the time taken to decide whether or not to prosecute by 30 August 2019.

**15. Legal Aid SA**

- 15.1. There was unanimous support from the Committee for the view that Legal Aid SA is an exemplary institution that deserves its full support.
- 15.2. Legal Aid SA continues to be challenged by a budget shortfall created by the gap between the allocated minimal increase and the actual inflationary increases to its costs. The cumulative shortfall poses the real risk to its service delivery going forward.

Although the 2018/19 baseline reduction of 5% has been reversed, there is the possibility that there may be new baseline reductions for the 2020 MTEF of 5%. Should this occur, there is a high likelihood that jobs will be lost. As it is, the high demand for legal aid services poses an enormous challenge to Legal Aid SA's practitioners, especially as practitioner coverage at many courts is already insufficient. Without representation, presiding officers will have no choice but to postpone matters until representation is available. To do anything else would undermine a defendant's right to a fair trial. The proposed budget reduction, therefore, will have serious consequences for the functioning of the criminal justice system as a whole.

- 15.3. The Committee welcomes Legal Aid SA's commitment to looking into ways it can make use of technology to assist people with hearing loss to access its services.

**16. Special Investigating Unit**

- 16.1. **Review of funding model.** The Committee notes that the SIU intends to bring legislative amendments to its enabling legislation that will provide it with a clear mandate to address

its funding model; undertake pre-proclamation investigations; and monitor and enforce remedial measures. In addition, legislative amendments are required so that the SIU can provide the services/undertake the functions envisaged by the organisational review. For example, the SIU is not mandated at present to perform a market data analytics function.

16.2. **Debt recovery.** The SIU reported its difficulties in recovering monies owed to it by state institutions for its services (The amount owed by state institutions now stands at a little less than R500 million). The SIU has engaged Treasury on this matter. As a result, the need for legislative amendments is being explored.

16.3. **Referrals.** The Committee queried whether the SIU is satisfied with the memorandum of understanding between it and the NPA. The Committee asks that the SIU continue to keep the Committee informed of measures to enhance collaboration between it and the NPA.

16.4. **Special Tribunal.** The SIU has the power to conduct civil litigation in its own name or in the name of the affected state institution but heavy court rolls often result in its civil litigation work being delayed. The Committee is informed that there is finally progress in establishing a Special Tribunal that will allow the SIU to process matters faster than in the ordinary civil courts.

## 17. **Public Protector**

17.1. The Committee notes the PP's request for additional funds and has included details of the request in this report. The Committee understands that the PP has engaged with National Treasury regarding its budgetary needs over the medium term.

The Committee, however, asks the PP to address it on the matter of its forward funding needs once again during the 2018 October Budgetary Review and Recommendation process. The Committee reiterates that it does not generally support baseline reductions in the case of the Chapter 9 insertions and is of the view that their budgets need to be revisited in their entirety.

- 17.2. The Committee is concerned about the legal costs associated with the increased number of the PP's findings that are being taken on review since the Constitutional Court clarified the Public Protector's powers of remedial action. The Committee requests that the PP keep it informed of the number and status of the review applications and the associated costs. The Committee agrees that being taken on review is no indicator of the quality of a report. The Committee, however, asks the PP ensure that its reports are of the very highest standard to lessen the prospects of a successful challenge.
- 17.3. The Committee notes that the PP has focused on clearing its backlog cases. While this is highly commendable, the Committee is concerned that this may ignore the complexity of some matters and could affect the quality of the final report in such cases.
- 17.4. The Committee notes that the term of office of the Deputy Public Protector comes to an end in December 2019. It is important that the process of recruiting the next Deputy Public Protector commence as soon as possible to ensure stability in the office. The Committee notes that the conditions of service of the Deputy Public Protector do not provide for a gratuity once he or she vacates office. The issue of the DPP's salary and conditions of service has been raised previously and needs to be addressed.

- 17.5. The Committee is concerned that only one of the PP' s offices has security. Given the nature of the work that the PP undertakes, the matter of security is one that cannot be ignored and should be adequately funded.

**18. South African Human Rights Commission**

- 18.1. The SAHRC's ability to deliver is constrained by its (relatively) small budget (compared to the mandate), which is now exacerbated by budget reductions. In 2018/19, the Commission's baseline was reduced by R4.6 million in 2018/19; R4.8 million in 2019/20 and R5.1 million in 2020/21. Further cuts to the baseline are introduced in 2019/20, amounting to R4.2 million over the medium term through salary freezes for senior management. The Committee is aware that the SAHRC has specifically requested additional funding to fulfil its court-order monitoring responsibilities, which the then Committee supported. The Committee notes that the response from National Treasury is that there are no additional funds for this. The Committee is concerned that the Commission will not be able to monitor compliance with court orders without additional funding.

Given their already relatively small budgets, the Committee does not support the implementation of budget reductions for the Chapter 9 institutions. It also expresses its views on the need to revise the funding of the Chapter 9 institutions elsewhere in this report.

- 18.2. The Committee is pleased that the Commission has targeted the hosting of the Schools Moot Court Competition as a flagship intervention in its efforts to promote public awareness of the Constitution and the Bill of Rights. This specific intervention is

intended to promote rights awareness in schools. The Committee is also pleased to learn that the Commission plans to put in place strategies that focus on systemic violations of rights.

- 18.3. The Committee is aware that the Commission's budget for its human rights promotion work is insufficient. The Committee notes that the Commission was to have developed a fundraising strategy in 2018/19, and will continue this year to explore funding opportunities that will not compromise the Commission's independence.
- 18.4. The Commission has never received additional funds for it to fulfil its mandate in terms of the Promotion of Access to Information Act (PAIA), 2000. In addition, a lack of enforcement powers has constrained its effectiveness of its PAIA work. The SAHRC has observed a worrying trend of non-compliance with PAIA in recent years. With the exception of its promotional work, the Commission's powers with respect to access to information will be transferred to the Information Regulator once the Regulator is fully established. The Committee is pleased that the SAHRC and Information Regulator are sharing space and hopes that this will assist when these powers and functions are finally transferred. However, the slow progress in the establishment of the Information Regulator is frustrating.
- 18.5. The Committee notes that the largest portion of complaints to the Commission concern the right to equality (including racism). The Committee agrees that equality is a threat to economic and social rights and threatens the realization of all other forms of rights. The Committee notes, in this regard, that the Equality Courts are not effectively utilised. The Committee is informed, for example, of considerable delays in matters

litigated in the Equality Courts. The Commission's provincial offices have reported challenges regarding the availability of magistrates for these courts. The Committee encourages the Commission to engage with the Judiciary on the use and functioning of these courts.

**19. Recommendations**

- 19.1. The Committee, having considered the Budget Vote 21: Justice and Constitutional Development supports it and recommends that it be approved.

**Report to be considered**