

# Department of Justice & Constitutional Development Strategic and Annual Plan 2013

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## Justice and Constitutional Development

17 April 2013

Chairperson: Mr L Landers (ANC)

## Meeting Summary

The Department of Justice and Constitutional Development (DoJ) tabled and took Members through the general Strategic Plan and targets, and then concentrated on a more detailed presentation on the Programme 1. The Department had been affected last year by the changes effected by the Superior Courts and Constitutional Amendment Bills, and the creation of the Office of the Chief Justice (OCJ). The DoJ had not changed its vision of mission, but it was continuously working on professionalism and recognised that it was still far from the achievement. The effect of the Constitutional amendments to the mandate of the Department of Justice and Constitutional Development (DoJ or the Department) were summarized, particularly the changes to Chapter 8 of the Constitution. The position of Secretary General had been filled, although Dr De Wee, Chief Operations Officer of DoJ was still offering support. The South African Judicial Education Institute would be transferred to the OCJ. The administration of the Superior Courts would be moved to the OCJ, with fully functional internal controls and accounting systems set up. It was noted that the DoJ still retained responsibility for other legislative mandates. There had been engagement with the Office of the Public Protector (OPP) to coordinate matters from the OPP and other Chapter 9 institutions, to try to prepare proper responses or re-direct to appropriate institutions. The DoJ had also aligned its plans with the National Development Plan, and all Cluster departments would continue with the implementation of the recommendations emanating from the Criminal Justice System (CJS) Review, to try to ensure uniform results. Coordination had improved. The initiatives to improve access to justice were described, and it was noted that 90 branch offices would be converted to full-service courts, and seven new Small Claims Courts would be set up. The DoJ was aiming to have one court in each of the 387 magisterial districts and new models were being developed. The integration of the criminal justice system was progressing. There were processes to ensure better management of state litigation and proper use of resources, including the possible establishment of the Office of Solicitor-General. The DoJ also highlighted the work that it was doing to protect vulnerable groups, and noted that the National Policy Framework on the Management of Sexual Offences was being gazetted. Research into re-establishment of dedicated Sexual Offences Courts had been completed and was being interrogated internally, and criteria were set for what must be done before dedicated courts were designated, whilst work continued to update the Register on Sexual Offenders. A One-Stop Child Centre was established and the viability of establishing more centres was being investigated. An Intersectoral Frontline Service Guide on Managing Human Trafficking and Related Matters had been developed to guide the process and a Flow Chart had been established, outlining the various services provided. The DoJ had been assessing the impact of the decisions made in the Constitutional Courts and Supreme Court of Appeal.

The Strategic Goals were then outlined in more detail. It was stressed, in particular, that DoJ was trying to achieve better organisational performance and to facilitate the effective and efficient resolution of criminal civil and family law disputes, particularly by giving more support to the Office of the Family Advocate, which was struggling to deal with the volume of work. Advocacy issues were being pursued with partners. The DoJ had adopted a people-centred approach and took into account the availability of resources when setting its targets. There had been increased allocations in some areas but budget cuts in others and directives from Occupation Specific Dispensation and the Department of Public Service and Administration had quite an impact on the DoJ's staffing. There were ongoing problems around rising municipal charges and the continued dependence on the Department of Public Works for the major capital and maintenance projects. The additional allocation was R535 million, rising to R1 billion over the MTEF, and the total allocation was R16.7 billion. The DoJ had made substantial improvements in the accounting systems and ICT systems and was hoping for an improved audit outcome.

The goals for Programme 1 were then described, with specific mention made of improvements in Third Party Funds, the establishment of a Compliance Unit, the three-pronged strategy to fight fraud and corruption, and the ICT systems. There would be more attention paid to civil courts and the Master's Office. Slides were tabled detailing the ICT renewal projects, addressing the servers, networks, computers and laptops. The DoJ had an average vacancy rate of around 10% except at senior management level, where it was 17%. The vacancies were sometimes also as a result of inability to house more staff, as there were also problems with infrastructure and accommodation. 64% of misconduct cases had been finalized, although the target for the next year was lower, due to limitation on resources. A description was given on the Modernisation of the Criminal Justice System. In 2013/14 the DoJ would be implementing the National Prosecuting Authority's Electronic Case Management System (ECMS) in 20 high volume courts, served by around 100 police

stations. In relation to the Truth and Reconciliation Committee, the DoJ had, since last year, traced 400 beneficiaries, of whom 301 had been paid individual reparations and there were still others to be traced, although it was known that seven had moved abroad. The Independent Development Trust was doing a needs analysis and assisting with project management for community rehabilitation, and this process had started at Mamelodi and Alexandra. The Service Charter and Standards would be implemented.

Members asked a wide variety of questions, some of which were answered in this meeting and some carried over to the following day. The questions answered addressed the sexual offences responsibility, the plans to set up new sexual offences courts, whether these could be addressed quickly in new legislation, the possibility of combining the Child Protection and Sexual Offenders Registers, the Modernisation programme, and the targets for disciplinary matters, cases at the State Attorney's Office and Presidential Hotline.

Those not answered included questions around the Deputy Master's OSD, training of prosecutors, training of magistrates on Protection of Access to Information Act, the effect of the Small Claims Courts on civil cases, the Protection of Personal Information Act budget, the laptop figures and whether these would be included in asset management reports. Other questions related to the TRC reparations process, how the DoJ attempted to trace beneficiaries, whether support services were available for the new centres being built and how the DoJ worked with the Department of Social Development. More details were required on the State Attorney plans. More clarity was also sought about the project to assess the impact of judgments of the Constitutional Court and Supreme Court of Appeal, and details sought on a disciplinary matter questioned in the previous year. The Committee noted its concern about apparently rampant corruption in the South Gauteng Registrar's office, the vacancies, which SCOPA resolutions had not yet been implemented, the responsibility for reporting on international conventions, the Guardian's Fund, off-site storage, buildings and infrastructure, the One Stop Child Justice Centres, and demarcation and court boundary issues. A Member asked when access would be extended to Bushbuckridge and other remote areas.

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## Meeting report

### **Department of Justice & Constitutional Development Strategic and Annual Plan 2013**

Ms Nonkululeko Sindane, Director General, Department of Justice and Constitutional Development, tabled the Strategic Plan and Annual Performance Plan for 2013/14. She indicated what the Plan would cover and noted that the Department had done work last year on the vision and mission, arising from the changes effected by the Superior Courts and Constitutional Amendment Bills. The setting up of the Office of the Chief Justice (OCJ) had been done.

The vision had not changed, and remained that the DoJ aimed to achieve a transformed and accessible justice system that promoted and protected social justice and the rule of law, whilst its mission was to provide transparent, responsible and accountable justice services for all. This was not merely a "rehash" because the Department was continuously working on professionalism and recognised that it was still far from the achievement.

The effect of the Constitutional amendments to the mandate of the Department of Justice and Constitutional Development (DoJ or the Department) were summarised. The Department derived its mandate around the administration of justice from Chapter 8 of the Constitution. The Constitution 17th Amendment Act had introduced some significant amendments to that Chapter, including the new section 165(6) which affirmed that the Chief Justice (CJ) was the head of the judiciary, and assigned to that person the responsibility to oversee the development and monitoring of norms and standards for the performance of all courts. The Superior Courts Bill had been passed, giving effect to the new Constitution section 165(6), which dealt with the migration of the administration of the superior courts to the Office of the Chief Justice and the assignment of some functions (see attached presentation for full details). The initiatives under way to create capacity at the Office of the Chief Justice were summarised. The position of Secretary General had been filled. The administration of the Constitutional Court and Judicial Service Commission by OCJ was being taken over, pursuant to a Memorandum of Understanding. The secondment of Dr De Wee, Chief Operations Officer, DoJ, had been terminated because of the permanent appointment but the relationships and guidance would remain.

In relation to the coordination of judicial education programmes by the South Africa Judicial Education Institute (SAJEI), 1 098 officers had been trained by end of December 2012. Authority was sought from the OCJ to allow training to happen. This was to ensure accountability for training, as it was important to train prosecutors and other support staff as well as the judiciary.

Following discussions with the OCJ, the administration of the Superior Courts would be moved to the OCJ, with fully functional internal controls and accounting systems set up. A lot of work had gone into this already. The separate budget vote was created, and National Treasury had made significant progress on this. The governance structures for SAJEI would be strengthened. Although SAJEI still fell under the Accounting Officer for DoJ, the legislation would be changed.

Other legislative mandates falling under the responsibility of the DoJ were also described (see attached presentation for full details)

which included the National Prosecuting Authority (NPA), Special Investigating Unit (SIU), Master's Office and others. She noted that there had been some discussion in the last year about the performance under the Promotion of Access to Information Act (PAIA). She thanked the Committee for assisting with the Sheriff's Act in the previous year. There had been engagement with the Office of the Public Protector (OPP) to coordinate matters from the OPP and other Chapter 9 institutions, to try to prepare proper responses or re-direct to appropriate institutions.

The DoJ was guided by a number of new policies and related initiatives under the National Development Plan (NDP). Ms Sindane noted some of the key deliverables, whilst noting also that a Chapter of the NDP was dedicated to the fight against crime and corruption. The DoJ had aligned its plans with the NDP, although it had not been possible for the infrastructure programme to be fed into the plan, as a Cluster. This would be done in future. All departments would continue with the implementation of the recommendations emanating from the Criminal Justice System (CJS) Review, to try to ensure uniform results. Coordination had improved. There were also a number of initiatives to improve access to justice, including the conversion of 90 branch courts to full-service courts, of which 24 had been completed. This would continue in line with availability of funding. The project to align all magisterial districts and municipal boundaries was progressing well. Another seven new Small Claims Courts would be added, to bring the total to 275 and the additional places of sitting to 73. The DoJ was aiming to have one court in each of the 387 magisterial districts and new models were being developed. The DoJ was monitoring and coordinating overall implementation of the cluster strategies and activities. Although it had not managed yet to achieve the full integration of the criminal justice system, this was progressing. There were processes to transform legal services in the context of private and state legal services, to ensure better management of state litigation and proper use of resources. In the past, the State Attorney had received very limited investment. Investigations were under way to establish a post of Solicitor-General, who would have full Accounting Officer responsibility, project-manage and be accountable for the immediate deliverables to the end user of the State, and address performance, including setting of norms and standards.

Ms Sindane expanded on promotion of vulnerable groups, noting that South Africa had made commitments to comply with a number of conventions. She highlighted the Convention on the Rights of the Child, and noted the concerns around violence against children, although she stressed that this was a societal issue in which the DoJ played a part only. There were still problems with the lack of infrastructure to eliminate discrimination against those with disabilities, although substantial work had been done. Discrimination against women persisted in society, and the DoJ addressed this through its advocacy programmes partnerships. The National Policy Framework on the Management of Sexual Offences was tabled in Parliament, but then withdrawn because the Commission on Gender Equality requested that it be re-drafted, which was done. The DoJ was now gazetting the policy. There had been considerable work between the DoJ and other sector members, and there were monthly meetings. However, there remained a concern that the parties still did not manage to deal with the issues quickly enough on the ground, and she pointed out that no amount of improvement in the courts would address that issue. The research into re-establishment of dedicated Sexual Offences Courts had been completed and was being interrogated internally, and criteria were set for what must be done before dedicated courts were designated. The fundamental issue was that all matters must be investigated and brought to a court. The National Register for Sexual Offences was continuing to capture information, and there were 3 048 registered offenders by end February 2013. It had adopted a slightly different approach with South African Police Services (SAPS) as, although the officials were cooperative, it was difficult to ensure that the information being given was reliable. In relation to children, she noted that the Matlosana Child and Youth Care Centre had been designed as a One Stop Child Centre and was fully operational. The Intersectoral Committee would continue to investigate the viability of establishing more centres. An Intersectoral Frontline Service Guide on Managing Human Trafficking and Related Matters had been developed to guide the process and a Flow Chart had been established, outlining the various services provided.

A lot of attention had been directed last year to assess the impact of the decisions made in the Constitutional Court and the Supreme Court of Appeal, on society. The aim of this was to enable the country to take stock of the progress in advancing the values of the Constitution. There had been a re-evaluation and re-draft, but the DoJ was convinced that no different results would have been achieved in the redraft. The project must be understood in the context of the 20-year review of what had been happening in the country. A review of the Civil Justice System had been agreed upon, but it had moved slowly because the level of work and time required had been under-estimated initially. The governance structure had been agreed upon between the Minister and Chief Justice. She outlined what had been achieved to date (see attached document).

#### Strategic Goals in detail

Ms Sindane then proceeded to outline the Strategic Goals. Goal 1 was to achieve enhanced organisational performance to meet the needs of key stakeholders. The Annual Report last year had noted low performance, because the DoJ was trying to get its house in order, which had affected the performance reports because of time invested in getting systems going. In the new year, attention would continue to be focused on performance. There were still some areas where performance was not yet up to scratch.

Strategic Goal 2 was to facilitate the effective and efficient resolution of criminal civil and family law disputes by providing accessible, efficient and quality administrative support to the courts. In the past, there had been low performance by the Office of the Family Advocate. Expansion of jurisdiction in 2010 had given additional responsibility to the Office and it was re-prioritising. It was struggling to deal with the sheer volume of work.

Strategic Goal 3 was to provide effective and efficient state legal services, and she had already expanded on this. Strategic Goal 4 was

the effective coordination of the JCPS cluster in delivery of Outcome 3, and Strategic Goal 5 was the promotion of the Constitution and its values. There was a specific branch to deal with this, and there were some staff pushing the advocacy issues around Constitutional matters, and issues resulting from the advocacy programmes.

During the revision of the Strategic Plan, the DoJ had considered the policy guidance from the Minister and Deputy Minister, and took into account the centrality of the public as consumers and the availability of resources. She was grateful that National Treasury had decided to fund some areas, although the funding was still insufficient. There was a dedicated focus on improved organisational performance. The needs of other partners such as Legal Aid, NPA, and OPP were also taken into account. Other stakeholders had also given guidance.

Certain risks were also taken into account. These included the budget cuts, which forced the DoJ to reconsider its performance targets. The impact on staff cuts as a result of Department of Public Service and Administration directives on lower level employees, and pressure to include staff not covered by the directive, remained an area of financial uncertainty. Ms Sindane explained that employees at Level 4 received a determination that increased their level to Level 5. This would affect the DoJ to the tune of about R150 million and it was decided to phase it in over a period of time. There were also Occupation Specific Dispensation (OSD) processes that remained unresolved. The migration of some functions to the OCJ would have an impact on operations, but any uncertainty here should be resolved through ongoing communication. Increases in rates and service charges would have a negative impact, and there were ongoing problems arising from the dependence of the DoJ on the Department of Public Works (DPW), both in terms of completion times and inflation of costs.

The Department had received a very different budget, with an additional allocation approved to the total of R535 million, rising to R1 billion over the MTEF. However, there were also budget cuts totalling R610 million. She reminded the Committee that last year there was some relationship between budget cuts and accruals, although there was a dispensation given at the end of last year. The cuts would impact on how the DoJ managed its cash flow. Planning had improved at the DoJ. The total budget allocation amounted to R16.7 billion. There were various areas severely affected, which included security in service points and offices, the ability to increase the number of facilities and infrastructure support, including accommodation, ICT, Library and additional security and rentals. The cuts would impact negatively on enhancing capacity in the State Legal Services, the Master's Office, third party funds, personnel and risk management. Previously, there had not been a policy framework for ICT, but there had been much work on this, and the DoJ was hoping for an improved audit outcome.

#### Description of goals per programme

##### *Programme 1: Administration*

Ms Sindane noted that the DoJ continued to focus on better administration to achieve an unqualified audit. It was focusing on fighting fraud and corruption, improving safety and security of service points, implementing ICT projects, improving HR management and development, coordination of the Cluster, finalising the Truth and Reconciliation Commission (TRC) recommendations and implementing the Service Charter. Much work had been done with the Auditor-General (AG), including addressing the controls. Ms Sindane hoped that the DoJ would obtain an unqualified audit. The Audit Committee was very active and knowledgeable, and it was working to improve the performance information. The DoJ had also increased its compliance with prescripts for good governance. It had addressed some Third Party Funds (TPF) challenges, although there were still other challenges, which would be detailed under Maintenance Services for Programme 2. DoJ was strengthening its capacity and skills to manage the Vote Account. It had established a Compliance Unit which was mandated to identify laws, regulations and internal controls with which the Department must comply.

In relation to fighting fraud and corruption, the DoJ intended to continue with a three-pronged strategy. It had completed awareness and training sessions. Complaints and referrals came from the Public Service Hotline. It was aiming to improve finalisation of forensic investigations and vetting of key staff. In 2011/12 the forensic capacity was thin and DoJ had done investigations, and had had to dismiss some members. The DoJ had received 133 cases and had finalised 102, as well as finalising all 41 old cases. It had paid particular attention to the longer ongoing cases. The vetting was not going as well as hoped, as the preliminary checks were not telling the Department much about the quality of the people being hired, although this was not unique to DoJ. The Cluster and Department were addressing this issue and hopefully there would be improvements.

In relation to ICT, Ms Sindane stressed that the DoJ needed a strategic system to deliver, almost in real time. It had made R100 million investment in the previous year and for the following two years, R110 million and R115 million had been allocated. This had also enabled the DoJ to address some of the needs of the past, and it was ensuring that the investment was consistent with future demands. A full plan was drawn for the spending, which would cover the lower courts, in the civil courts, where insufficient attention was paid in the past, as well as the Master's Deceased Estates system, where there had been improvements effected through a more specific focus over the last few years, and in Third Party Funds. The Department had taken a decision to run with a system that would take it forward into the future and be able to accommodate State Attorney bonds and the like. The off-site storage project had been deployed in seven courts, following a template developed and working in the Western Cape.

Slides were tabled detailing the ICT renewal projects, addressing the servers, networks, computers and laptops (see attached presentation for full details). She stressed that this project differed from the Integrated Criminal Justice System (ICJS) as it was an



internal project, although there would be links to the transversal hub of the ICJS.

The DoJ had maintained its average vacancy rate at around 10% but it still had some problems with a 17% vacancy rate at senior management level. This was not for want of trying to improve, and the interviewing process would continue. The budget cuts were not necessarily directly in the recruitment of staff, but there were links because some of the offices countrywide simply did not have space for additional people, and could not afford to move in order to take on more staff. She described a problem with the Office of the Family Advocate in Bloemfontein, where the DoJ was being prosecuted for failure to produce electrical compliance certificates and noted that some offices were facing closure because of infrastructure problems.

291 (64% of the total) of misconduct cases had been finalised, and 171 were not finalised. About 176, or 60% resulted in dismissals, final warnings and suspensions. A target of 55% finalisation had been set for the 2013/14 financial year and this lower target was directly linked to availability of resources. There had been many grievances lodged in the past years, and by February 2013, 236 cases were finalised and 266 were not, representing 46% of the total. 427 of the 512 grievances related to performance assessment, salary and unfair labour practices. This number would reduce because of the adjustment of the Level 4 / 5 staff. It had targeted finalising 40% of cases in the 2013/14 year.

The DoJ had been training through the Justice College, but there had been a lull because of uncertainty as to what Justice College would handle in the future. In relation to administration, it would continue to train, with a target of reaching 5 000 personnel. By December 2012, the SAJEI had trained 1 098 people.

In relation to modernisation of the Criminal Justice System (CJS) there were five integration priorities, packaged into three major programme streams, relating to implementation of case-related integration, Cluster business intelligence capabilities and management of people. Pilot projects between South African Police Services (SAPS) and the Integrated Case Management System (ICMS) of the DoJ had been completed, and the DoJ was now able to get information real-time from identified courts. Similar processes had been completed in the National Prosecuting Authority (NPA), to allow for direct links between SAPS and NPA. The Legal Aid Notification Process was supposed to apply, when a person was arrested, and although it was not available everywhere it was running in some areas. The integrated framework for effective management of people was intended to cut down on the different numbering wherever a person went through the system – at SAPS police stations, at holding cells at Correctional Service Centres, before the prosecutor, and where applicable at the Department of Correctional Services (DCS). Video arraignment was deployed to 47 magistrate's courts linked to 22 Department of Correctional Service (DCS) facilities. The DoJ had decided not to grow the project further at this stage, until it had investigated why so many prosecutors were reluctant to make use of the system.

In 2013/14 the DoJ would be implementing the NPA's Electronic Case Management System (ECMS) in 20 high volume courts, served by around 100 police stations. Nine of the key performance indicators had been tested, and they would go live in this year. The audit of the Integrated Justice System (IJS) was pending, as required by the Portfolio Committee. The audit had been requested to take place at a different time from the regular audits. It would be looking at systems rather than value for money at this stage.

Ms Sindane described the developments in relation to the Truth and Reconciliation Commission. At the beginning of the 2012 financial year, there were 440 outstanding beneficiaries to be traced and paid. Since then, 400 had been traced, and 310 had been paid individual reparations. Seven were living abroad, the addresses of two were unknown, and 31 must still be traced and paid in the 2013/14 year. During the 2013/14 year, the DoJ would shift its focus to finalising and implementing the regulations to implement the outstanding TRC recommendations. The DoJ had formally engaged with Independent Development Trust to conduct a needs analysis and assist with project management for community rehabilitation, and this process had started at Mamelodi and Alexandra. All costs associated with the development of the regulations were to be funded through the Vote Fund, not the President's Fund. The DoJ had been trying to get everyone to move in the same direction, but there were problems around expectations. The DoJ had to check the intentions behind the rehabilitation.

The Service Charter and Standards were approved and most of the work on this would happen in this financial year. It would be training officials to facilitate the implementation of standards, and would continue to measure and improve performance through a lean management programme. The Public Service Commission had undertaken a study on the performance of some courts, and had found them wanting, which was both an embarrassment and of assistance to the Department.

84% of cases reported to the Presidential Hotline had been completed. The new target for 2013 was 85%. Many of the cases reported related to services rendered by the DoJ.

#### *Discussion*

Ms D Schäfer (DA) said that the Deputy Masters had raised questions on Occupation Specific Dispensation, and she questioned why this had not been resolved, particularly because they claimed to have very scarce skills.

Ms Schäfer asked if it was correct that only two people in the DoJ were responsible directly for sexual offences, and she questioned why, if this was the case.

Ms Schäfer wanted to see the infrastructure plan.

Ms Schäfer asked if there had been any training by Justice College in the last year, and whether there was a way to train prosecutors on bail submissions. Many people were demoralised by the way in which so many repeat offenders were being released on bail; with apparent non-compliance with section 56 of the Criminal Procedure Act.

Ms Schäfer asked if there had been any thought to changing the legislation to combine the Child Protection and Sexual Offenders Registers. The DOJ had also previously raised a problem with the categories of the offenders to be listed in relation to the Sexual Offenders Register and she wanted to know what progress had been made on that.

Mr J Jeffery (ANC) asked for more detail on the programmes to try to combine the records on criminal cases and assign specific numbers and track accused.

Mr Jeffery asked if magistrates were being trained on Promotion of Access to Information Act (PAIA).

Mr Jeffery commended the rollout of the Small Claims Courts but he enquired if there had been any impact on civil court rolls.

Mr Jeffery noted also that amendments to the Sexual Offences Act were named as a priority in the State of the Nation Address and he asked when these would be addressed. He accepted that it was clearly impossible to provide for specialist sexual offences courts everywhere, but he wondered if they could be introduced perhaps as circuit courts.

Mr S Swart (ACDP) agreed that the legislation to set up the specialist courts should be expedited, and he asked if perhaps the DoJ should ask the Committee to pass a Bill quickly to ensure that the special courts were rolled out.

Ms L Adams (COPE) said that there was a discrepancy between the target of 42 sexual offences courts noted here, and the Minister's reference to 52 such courts, and asked that it be explained. She also wanted to hear more on the Department's role in the Sexual Victims programme and the possible budgetary implications.

Mr Jeffery asked what the criteria were for a court to be a sexual offences court. He wanted to know how many were operational, where they were, and which had the facilities already, as well as the additional ones that could be expanded. The main problem with the sexual offences courts was the reluctance of magistrates to hear the cases, and he enquired how that would be overcome.

Mr Jeffery enquired about the Protection of Personal Information Act budget

Mr Jeffery questioned the drop in the targets for fighting fraud and corruption. Although he accepted that this was said to be due to financial and human resources capacity, he was worried that this might send out the wrong message.

Mr Jeffery also noted that the DoJ had aimed to resolve 80% of grievances and 90% of misconduct cases in the last year, but this year there was a substantial drop to 55%. He understood the financial problems but said that it was surely in the interests of a better-functioning administration to deal with serious offences expeditiously, to avoid long suspensions on full pay. He would have thought that, even in lean times, it was better to finalise matters to achieve a more effective and efficient public service. A staff member would not be productive if the grievance was also not being addressed.

Mr Jeffery enquired about ICT targets, pointing out that some other aspects were included in the last year, such as Maintenance Courts projects, and the Master's Trust System, which were not included this year.

Mr Jeffery noted the references to laptops for the judiciary and asked if the magistrates would also get them, and, if so, how many.

Ms C Pilane-Majake (ANC) asked if the laptops would be included in the asset management report.

Mr Jeffery wanted more details on the modernisation programme, saying that he just did not understand it. On 30 January 2013 the Director General had given a report with great detail of what was happening. He questioned why a simple system was not put in place where a person entering the system at SAPS level would retain the same reference number throughout up to incarceration at DCS. The Benoni and Cullinan courts processes had been mentioned last year, but were repeated again in this strategic plan. This did not appear to indicate any progress. With respect, the DoJ did not appear to have an integrated tracking in place. He understood the complexities but did not feel that there was substantial progress, nor was it clear when this would happen.

He added that the January report had no section dealing with Benoni and Cullinan. He said that his difficulty was that different components of the Justice system had different statistics; as even within the DoJ and NPA, the statistics differed. It would become even more confusing when the SAPS and DCS were introduced. He queried where the targets were. He wanted to know when all

components in the CJS would be on the same page, and when the integrated framework for management of person across the whole country would apply. There did not appear to have been any further development since the pilots. He did not think that the list of achievements such as purchasing biometric requirements was helpful, and questioned what the point was of the information provided. The main issue was when the components of the justice system would speak to each other and come up with the same statistics. This was linked to the complaint made to the Committee by Shukumisa the previous day about the sexual offences problems. There was data collection but it was not yet coherent.

Mr Jeffery was pleased to note the reparations process for the TRC, although he felt it should have been resolved long ago. In relation to the regulations, he asked if the deadlines presented in the last year were not met.

Ms Smuts was also pleased to hear that the TRC matters had been resolved, and she asked if there had been advertising on radio for the last few beneficiaries still to be traced. She asked also for more detail on the resistance from communities, and whether these were supposed to be *ex gratia* payments or whether they were supposed to help communities exist. Reparations were under the decision of Parliament and were intended to be once-off.

Mr Jeffery noted that the 87% completion rate for the Presidential Hotline was higher, in the last year, than the 84% target recorded for this year. He realised that 87% was above the initial target of 80% but wondered why the 87% was not used as the baseline for this year.

The Chairperson pointed out that the Auditor-General was critical when targets were set too high and were not achieved.

Mr Jeffery understood that, but thought that one year's achievement should form the basis of the next target.

Mr Swart noted a general improvement. He said that on the previous day concerns were raised about the additional funding for the Thuthuzela Centres and he had also raised questions about the budget for psycho-support services. There was a concern that several civil society NGOs had to withdraw services because of their financial constraints. He said that although the rollout of centres was planned, he also needed to know whether the support services would be provided, and asked how the DoJ worked with the Department of Social Development (DSD) to ensure that funding was available for critical support services.

Mr Swart referred to the comment about the State Attorneys' services and the investigation into the Solicitor-General. This Office was staffed by professional attorneys, but he was concerned about the recovery of money from the client departments. The Minister of Justice had also indicated concerns about the low success rate of litigation. He thought that the concept of the Solicitor-General might improve this, but more detail was needed on how many cases were lost, and at what point; it was not desirable to settle at the steps of the court, after incurring massive legal costs. He was particularly interested in how civil litigation was handled, both to save money for the DoJ and other departments.

Ms Smuts asked about the assessment of the judgments of the Constitutional Court and Supreme Court of Appeal. That suggestion was made at the time when separation of powers was being questioned and the President had suggested that the powers of judicial review would be reviewed. After that the separation of powers was listed as the point of departure. The DoJ had noted that some organisations were starting the work and she questioned what terms of reference they were using. She also questioned page 16, and the Director General's statement that the "procurement announcement had rendered negative results". She asked her also to clarify her statement on the other tender and what she had meant by the challenges. She noted that at one stage Minister Pandor had said that the only justifiable exercise was to see whether Government had given effect to the judgments of the Constitutional Court. She was interested in what negative results were produced.

Ms Smuts asked what had happened in the case of a departmental Regional matter against whom there were three charges not pursued; one being a final warning, the second an alleged transgression of the Code of Conduct, and the third in relation to posts where the person was alleged to have hand-picked an area court manager before the appointment process was completed. Adv Rudman was asked to conduct investigations into the charges but she wanted to know what had happened.

Ms Smuts said that there was apparently rampant corruption in the Registrar's Office in South Gauteng, including the issuing of fraudulent court orders, and she had heard that members of staff were arrested but were not removed. At the end of last year she was told that the corruption still existed, that a senior police officer had been assigned to work with the whistle-blower but nothing further happened because the whistle-blower then had for some reason backed down. She pointed out that if indeed fraudulent court orders were being issued by the Registrar's office, this led to a parallel system of justice that was completely unacceptable.

Mr J Sibanyoni (ANC) noted that the Hotline was not only a phone, but also a fax line, and he wondered if use was being made of the latter, and whether the DoJ was making it known. Some people may find it difficult to use the toll-free number.

Ms Schäfer asked how many cases were received from the Hotline.

Ms Adams wondered how many positions were represented by the 17% vacancies at senior management level, and how that related to the number of all vacant posts. She also wanted to know whether the position of the Chief Financial Officer had yet been filled.

Ms Adams asked which SCOPA resolutions had not yet been implemented.

Ms C Pilane-Majake (ANC) said that whilst she could not argue with the overall plans stated at the outset, she thought that the DoJ was also supposed to participate in the developmental state, which should surely be included in the strategic plans.

Ms Pilane-Majake asked who was responsible for the reports on the Convention for Elimination of All Forms of Discrimination against Women, to the United Nations.

Ms Pilane-Majake noted that previously there were problems with the Guardian's Fund and asked if there had been any improvements.

Ms Pilane-Majake referred to off-site storage, and wanted to know if the past problems with difficulties in getting records had been addressed.

Ms Pilane-Majake asked what the difference was between Justice College and SAJEI. When she was informed that the latter had replaced the former, she asked what it was now doing.

Ms Pilane-Majake asked how performance of the Small Claims Court and the Sheriff's Office were measured. The public often could not find the Sheriff's Offices and she questioned how easy it was for the public to access both offices, and how user-friendly they were. Because the public was expected to fill out forms and serve them on the defendant, she wondered how easy it would be for many sectors to access the Small Claims Court at all.

Ms Pilane-Majake asked about the state of the buildings at the Gauteng High Court. The pace of building had financial implications and she enquired how far the infrastructure was.

Ms Pilane-Majake wanted to know how the One-Stop Child Justice Centres would be replicated elsewhere.

Ms Pilane-Majake said she would have liked to see a report from the Audit Committee.

Ms S Shope-Sithole (ANC) asked how independent that Audit Committee was.

The Chairperson asked if the DoJ would liaise with the Municipal Demarcation Board (MDB) on the municipal and magisterial boundaries.

Ms S Shope-Sithole (ANC) asked when the DoJ would be able to extend access to far-flung areas like Bushbuckridge.

Ms Sindane responded that she and members of the delegation would try to group the answers together.

#### *Staff working on sexual offences and criticisms from civil society*

Ms Sindane confirmed that there were two people working on this work, but she wanted to put it in context. There had been job evaluations of the portfolio on Vulnerable Groups to see what structures would meet the legislative compliance requirements. Those two people were supported by other staff on contractual appointments, pending the job evaluations process. The progress had been slow, not because of HR, but because the reorganisation and capacitation of the courts had been taking place at one point, but when the project collapsed, this had set back the DoJ's internal processes, with the result that it was forced to take in temporary capacity.

He said that Mr Malema would speak further on vacant positions. It was a priority area and the positions would be filled. She could assure the Committee that this was work in progress.

#### *Sexual Offences Register*

She noted that capturing of the information as required by the law, for the Sexual Offences Register, was being done. The magistrates were supposed to sign forms in addition to imposing sentences that directed that the name must be entered in the register. A lot of work had been done over the last six months to try to ensure that this process was activated and working.

Ms Sindane said that the possible merger of the Child Protection and Sexual Offences Registers had been discussed with the DSD and DoJ would not have a problem with that. However, the two registers looked at very specific issues. A model would have to be designed of a new form that would fit into the registers. The Department of Women, Children and People with Disabilities (WCPD) were also co-opted to give comment.

### *Sexual Offences Courts*

In relation to the numbers of Sexual Offences Courts, she noted that there was an explanation for the apparent inconsistency. The infrastructure audit had noted the numbers of courts fully equipped as SO Courts, whether or not they were in use, and this had produced a number of 42. Subsequently, there was another list drawn up, including courts where some investment would be required, that would not be too substantial, and this had pushed the number of possible courts up to 58. There would be phases working on making the courts available firstly from current, but not utilised courts, to current courts that required minimal investment, and finally to equipping all courts. Further information on the location of the courts would be provided. At a high level, this exercise of answering whether it was feasible to introduce sexual offences courts had been debated between the DoJ, NPA, Legal Aid and others, including the Regional Court Presidents, (for there were to be Regional Sexual Offences Courts). The report explored how the courts had been defined in the past, and what they were now. That report had not been released formally by the Minister as yet, but it contained this information from the research. She did not have a date when it was likely to be released.

Mr Jeffery asked if that information as to what the criteria were for a sexual offence court could be released separately.

Ms Sindane said that it could, and she would provide that to the Committee.

### *Targets*

Ms Sindane said that she had indicated that some of the targets provided for misconduct and other disciplinary matters were informed by the fact that most of the cases were prosecuted by people travelling to the regions, and the budget affected how much could be done. The DoJ was definitely not “going soft on disciplinary matters”. She was happy to look again at the targets, and reminded the Committee that the performance targets were only a guide, and the DoJ would not stop working just because it had reached a number. Everything had to be taken into account when developing performance targets and it was unfortunate that there was a cutback in some areas. In the branch plans, which the DoJ was still working upon, the numbers could be raised. In the quarterly reports, the performance at branch level could be listed also, to ensure that the reports were noted as accurately and completely as possible.

### *Integrated systems and modernization: questions asked by Mr Jeffery*

Ms Sindane noted that when the DoJ had attended another meeting some questions were asked about the systems that were being developed and this information was provided in the context of the DoJ's assurance that it would brief the Committee on the ongoing projects on the Integrated Justice System (IJS). In relation to the question when all the systems would talk to each other and be fully operational, she noted that at the beginning of the IJS project a lot of money had been allocated by National Treasury to SAPS, to develop systems to a certain point, before they could then spread to DoJ and the NPA, and finally to DCS. Only last year, when the DoJ did the motivation, was some of the money from the total allocation moved across to DoJ so that it could start to develop its systems. She noted, on the question of what would result from the system, that it would be unlikely that the system would provide the same figures of numbers of people entering into and exiting the criminal justice system, because what came into the system was affected by later developments. However, the figures would be explained because the reasons for divergence would be shown. The ECMS system of the NPA did also speak to case management, and would track cases from SAPS, the NPA to DCS, (where system development had not yet happened). She noted that this was case management, to be distinguished from individual identification of persons.

In the IJS, there were five areas identified. The IJS board had been operating in the past, but without direct line management and supervision, but this was then changed when the Board was required to report to the Justice Crime Prevention and Security (JCPS) Cluster. It was identified what must happen in each of the departments.. One area was case flow management. The second area was the person identification – but in order to deal with this it was first necessary to define who a person was and how that person would be identified – for instance, through ID verification, fingerprinting and so forth – and that information must first be settled at SAPS level.

Ms Sindane referred Members to a spreadsheet with colour coding on business systems and applications, which had been provided to the Committee previously. This was primarily related to what was happening in the DoJ. The IJS capacity had to be developed. It was necessary to ensure that all the departments were working on the same page, and agreeing on the definitions of each element. The connection was likely to take place in 2015/16 but there were still many hurdles to overcome. In addition to case flow management and the personal identifier, there were also other matters happening in the IJS environment and budget, as well as in other departments such as the Department of Home Affairs. The Master's Office Own Verification system was a biometric programme that had to verify the eligibility of a person claiming Guardian's Fund money, on the spot, with the Department of Home Affairs (DHA) to allow for instant payment. It was relevant for the whole Cluster and all of this was important to how the work was being done.

The Chairperson said that the IJS was very important for many reasons. It involved different sectors, but at some point he thought that somebody had to look at it. Ms Annelise van Wyk, Chairperson of the Portfolio Committee on Police, had drawn to his attention the sum of money that was allocated to the SAPS in 2003 and had suggested that someone should be following up on that to see exactly what was being done, and to get an overall viewpoint from the Cluster. He suggested that it might be useful for the Committee to get a description of how the process was intended to work, and how it would be operated. The Portfolio Committee on Police had tried to question SAPS on this but had failed to get answers, as a result of which the Auditor-General was asked to investigate. He thought that

although Ms Sindane might not have the answers, it was something that was very important and that other systems had to be found to give effect to it.

Mr Johan Johnson, Acting Chief Financial Officer, DoJ, noted that the Department of Justice had been actively running with the project and wanted credit to be given where it was due. DoJ had achieved connection of 22 courts to the police stations since taking over the project so it was clear that there was implementation.

Ms Smuts agreed that it would be a good idea to have an overview prepared by an outside body as to progress.

Ms Sindane assured the Committee that a reading of reports presented in January did not indicate the achievements for the year, and wanted to put that into perspective. Figures could be given for the year. The only programme that was delayed was the CJS programme. She noted that the January report made perfect sense to the Department, because it had interrogated what it wanted to achieve.

In relation to the questions on the Benoni and Cullinan courts, she noted that these were high volume courts. Benoni was served by more than one police station so it was connected from two centres. The same applied with other courts, such as Mitchell's Plain. These courts were already connected and the pilot had been concluded. The January report was an in-year report. The DoJ was now indicating what it would be doing in 2013/14, and giving the context of how the projects had been picked. This was no longer a pilot, but at proper rollout phase, and the connectivity was being grown.

Mr T Malema, Acting Deputy Director General, Court services said that ....

#### *Presidential Hotline*

Ms Lebo Mphahlele-Ntsasa, Chief Director, Department of Justice, answered the questions on the Presidential Hotline. The targets were set high but they could not be reached because DoJ could not predict how difficult the cases would be. For instance, there was one huge corruption case in the last year. It had to try to position indicators to talk to performance. The number of cases finalised should perhaps be used, such as saying that an investigator should deal with, say, ten cases per year, but it was still difficult to come up with an average as a case might take only a week or a few years to finalise. The reason why there were still targets was because of the importance of the matters, but the lowering of targets was taking into account the level of performance. The targets for the next year took into account the unpredictability of cases. Some of the corruption cases were received from the Public Service Hotline and it was difficult to predict these numbers. The targets must be reasonable but not too high.

She noted that last year there were 426 cases, and 343 were simple. When a person went to the Presidential Hotline, the queries might well relate to the pace at which court matters were progressing. It was possible only to tell these complainants that the legal process was slow. DoJ would separate out the more simple matters –although it would not want to say how many there would be – and was trying to be more productive with the way it targeted matters. She added that the DoJ must be noted as not the worst performer in the Public Service.

#### *Cases against the State*

Ms Mphahlele-Ntsasa noted that numbers on the success rates were not yet audited. However, it must be noted that the so called "success" was not judged on whether the matter was actually won or lost, as it was based rather on the processes, so a case settled at level 7 of the quantum originally claimed would be classified in a certain way. Cases averted were also noted. The DoJ was not trying to win cases, but to save costs of the litigation to the State. The success rate on saving costs was 44%. Some cases were not winnable, but settling these quickly was important than dragging them out.

#### *Justice College*

Ms Mphahlele-Ntsasa noted, in relation to questions on Justice College, that it did not train the judiciary alone, but also the DoJ's own staff, and covered a number of matters such as maintenance, service excellence, basic management, Master's matters and so forth.

Ms Sindane added that other court staff, such as interpreters and clerks, were also included in training, not just prosecutors and magistrates and judges. It was necessary to ensure that all court staff be aware of what processes followed what step. That fact had not come out clearly in the broader discussion on the separation of the functions in future between the Justice College and SAJEI. There was no duplication across the two institutions and the two complemented each other on the work within the court environment. The quasi-judicial functions would include the granting of default judgments, taxations and similar functions. She stressed that even if a litigant won a case, there was not completed access to justice if the judgment was not able to be satisfied.

#### *Data and reporting in general*

Ms Sindane followed on the previous comments by saying that the DoJ had been focusing on areas where it had not been reporting over the last few months, and noted that matters such as how long it would take to get a default judgment were now being measured, and the necessity to define and measure matters quite carefully. Some pieces of legislation were more specific on what had to be measured.



The question of data on sexual offences and violations had also been raised by Mr Jeffery. Ms Sindane conceded that collection of data was poor, across all value chains. The IJS people were now trying, in the form design, to ensure that the forms matched the offence and classification at entry point. That was difficult. She cited the example of domestic violence which may be reported as assault, or assault GBH, but never linked to domestic violence, and the DoJ was now trying also to correct that.

#### *Vetting*

Ms Mphahlela-Ntsasa answered the question on vetting. This was not an easy process, as it was not a question of people filling out a form, as a lot of work had to be done prior to that. The work previously done by National Intelligence Agency was now being done by the Department. It would be reporting on the numbers but in September about 67% of people had been vetted, and the intention was that 160 would be vetted, which represented only an increase of 20, by year end, but this was reasonable given the protracted processes.

The meeting was adjourned to the following day, when the remaining questions would be answered.