



JUSTICE AND CORRECTIONAL SERVICES

Judicial authority is vested in the courts, which are independent and subject only to the Constitution of South Africa, 1996 and the law. No person or organ of state may interfere with the functioning of the courts.

JUSTICE AND CORRECTIONAL SERVICES

The mandate of the Department of Justice and Constitutional Development is to uphold and protect the Constitution and the rule of law. The department is responsible for overseeing the administration of justice in the interest of a safer and more secure South Africa.

The courts **Constitutional Court**

This is the highest court in all constitutional matters and deals only with constitutional issues. The court's work includes deciding whether Acts of Parliament and the conduct of the President and executive are consistent with the Constitution, including the Bill of Rights.

The court's decisions are binding on all persons, including organs of state, and on all other courts. It consists of the Chief Justice of South Africa, the Deputy Chief Justice and 11 Constitutional Court judges.

Supreme Court of Appeal (SCA)

The SCA is the highest court in respect of all other matters. The court has jurisdiction to hear and determine an appeal against any decision of a high court. Decisions of the SCA are binding on all courts of a lower order.

It consists of the President and Deputy President of the SCA and a number of judges of appeal determined by an Act of Parliament.

High courts

A high court has jurisdiction in its own area over all persons residing or present in that area.

On 1 October 2009, President Jacob Zuma announced the appointment of Justice Sandile Ngcobo as the new Chief Justice of South Africa. Chief Justice Ngcobo assumed office on 12 October 2009. Justice Dikgang Moseneke is the Deputy Chief Justice.



These courts hear matters that are of such a serious nature that the lower courts would not be competent to make an appropriate judgment or to impose a penalty. Except where a minimum or maximum sentence is prescribed by law, their penal jurisdiction is unlimited and includes handing down a sentence of life imprisonment in certain specified cases

There are 13 seats of the High Court. In terms of the Renaming of the High Courts Act, 2008, they are named as: Western Cape High Court, Cape Town; Eastern Cape High Court, Grahamstown; Eastern Cape High Court, Port Elizabeth; Eastern Cape High Court,

The Safety and Security Sector Education and Training Authority awarded R1 million to the Department of Justice and Constitutional Development to train volunteers for the 2010 FIFA World Cup™.

The department will target mainly young, unemployed citizens from all provinces, train them in fields related to the administration of justice and equip them with skills that will be valuable beyond 2010. The volunteers' duties will include, among other things, to:

- assist in the courts designated to handle event cases with 2010 information and administration
- act as info guides in courts when event cases are activated
- capture data in courts.

To deal with all criminal cases in a fast and efficient way, especially where foreigners are involved, the following special measures will be implemented:

- at least one dedicated district court and one dedicated regional court per host city to deal with 2010-related cases
- dedicated courts will be operational two weeks before, during and two weeks after the event
- dedicated skilled and experienced magistrates, prosecutors, Legal Aid South Africa attorneys, local and foreign court language interpreters and other court officials will be assigned to each of the 2010 dedicated courts within each host city in each province
- all 2010-related cases outside of the host city will be prioritised and dealt with in a court with jurisdiction.



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Mthatha; Eastern Cape High Court, Bhisho; Northern Cape High Court, Kimberley; Free State High Court, Bloemfontein; KwaZulu-Natal High Court, Pietermaritzburg; KwaZulu-Natal High Court; Durban, North Gauteng High Court, Pretoria; South Gauteng High Court, Johannesburg; Limpopo High Court, Thohoyandou; and North West High Court, Mafikeng.

Regional courts

Regional courts, established in each regional division, have jurisdiction over all offences, except treason. Unlike the High Court, the penal jurisdiction of the regional courts is limited.

The Jurisdiction of Regional Courts Amendment Act, 2008, empowers regional magistrates to preside in civil matters. Processes are underway to pave the way for the implementation of the Act. Prime among those is the need to build capacity at regional court level to deal with civil and divorce matters. The divorce courts will be subsumed under the regional-court divisions. This will address the jurisdictional challenges in terms of which litigants have to travel to remote courts to get legal redress.

Magistrates' courts

Magisterial districts have been grouped into 13 clusters headed by chief magistrates. This system has streamlined, simplified and provided uniform court-management systems applicable throughout South Africa, in terms of judicial provincial boundaries.

By mid-2009, there were 366 magisterial districts and main magistrates' offices, 80 branch courts and 282 periodical courts in South Africa. There were 1 906 magistrates in the country, including regional court magistrates.

In addition, full jurisdiction was conferred to courts in rural areas and former black townships that exercise limited jurisdiction and depend entirely on the main courts in urban areas to deliver essential justice services.

Small claims courts

A commissioner in the Small Claims Court hears cases involving civil claims not exceeding R7 000.

By June 2009, there were 188 such courts across the country. The commissioner is usually a practising advocate or attorney, a legal academic or another competent person who offers his or her services free of charge. Neither the plaintiff nor the defendant may be represented or assisted by counsel at the hearing. There is no appeal to a higher court.

There is a national programme that aims to strengthen and roll out small claims courts to rural and peri-urban areas by pursuing the strategic objectives of:

- providing access for all, especially the poor and the vulnerable
- establishing systems and rules of court that are accessible and easy to understand
- providing trained administrative support staff
- attracting and retaining commissioners.

Sexual offences courts

These specialised courts allow sexual offences' cases to be handled with sensitivity to avoid secondary victimisation of traumatised victims.

Equality courts

The establishment of equality courts seeks to achieve the expeditious and informal processing of cases, which facilitates participation by the parties to the proceedings. The courts also seek to ensure access to justice to all persons in relevant judicial and other dispute-resolution forums.

Community courts

Community courts, like the Hatfield Community Court in Pretoria, are normal district magistrates' courts that assist in dealing with matters in partnership with the community and business. These courts focus on restorative justice processes, such as diverting young offenders into suitable programmes.

Thirteen community courts have been established. Four have been formally launched and are fully operational in Hatfield (Pretoria), Fezeka (Gugulethu), Mitchell's Plain and Cape Town. Another nine pilot sites commenced in Durban (Point), KwaMashu,

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By mid-2009, of the 205 judges, 45,37% (93) were white; 38,4% (78) were African; 7,80% (16) were coloured; and 8,78% (18) were Indian. Overall, 20,49% were female and 79,51% male.



In terms of the lower-court judiciary, of the 1 906 magistrates, 46% were white, 39% African, 7% coloured and 8% Indian. Overall, 33% were female and 67% male.

Mthatha, Bloemfontein, Thohoyandou, Kimberley, Phuthaditjaba, Hillbrow and Protea (Lenasia).

Court for Income Tax Offenders

In October 1999, the South African Revenue Service (Sars) opened a criminal courtroom at the Johannesburg Magistrate's Office dedicated to the prosecution of tax offenders. The court deals only with cases concerning failure to submit tax returns or provide information requested by Sars officials. It does not deal with bigger cases such as tax fraud.

Chiefs' courts

An authorised African headman or his deputy may hear and determine civil claims, arising from indigenous law and custom, brought before him by an African against another African within his area of jurisdiction.

Litigants have the right to choose whether to institute an action in a chief's court or in a magistrate's court. Proceedings in a chief's court are informal. An appeal against a judgment of a chief's court is heard in a magistrate's court.

Special Investigating Unit (SIU)

The SIU, created in terms of the SIU and Special Tribunals Act, 1996, is an independent statutory body that is directly accountable to Parliament and the President of South Africa. It was established to conduct investigations at the President's request, and to report on the outcomes thereof. The SIU functions in a manner similar to a commission of inquiry, in that the President refers cases to it by way of a proclamation. It may investigate any matter set out in Section Two of the SIU and Special Tribunals Act, 1996.

In 2009/10, the Asset Forfeiture Unit had the best year ever for the number and value of deposits into the Criminal Assets Recovery Account at R66 million, the highest ever number of seizures and total orders and the highest ever numbers for forfeitures applied for and forfeitures completed.



National Prosecuting Authority (NPA)

The NPA structure includes the National Prosecutions Service, the Witness-Protection Programme, the Asset Forfeiture Unit and units such as the Sexual Offences and Community Affairs Unit, the Specialised Commercial Crime Unit and the Priority Crimes Litigation Unit.

Public Protector

The Public Protector investigates complaints from the public or on own initiatives against government at any level, its officials, persons performing public functions, corporations or companies where the State and statutory councils are involved. The Public Protector's services are free and available to everyone.

The names of the complainants are kept confidential as far as possible. The President appoints the Public Protector on recommendation of the National Assembly and in terms of the Constitution, for a non-renewable period of seven years.

The Public Protector is subject only to the Constitution and the law, and functions independently from government and any political party.

Supporting activities operated by the Sexual Offences and Community Affairs Unit include its multidisciplinary Thuthuzela care centres (TCCs), recognised by the United Nations General Assembly as a "world best-practice model" in the field of gender-violence management and response.

The TCCs are one-stop facilities that have been introduced as a critical part of South Africa's Anti-Rape Strategy, aiming to reduce secondary trauma for victims, improve conviction rates and reduce the cycle time for finalising cases.



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Victims' Charter

The Service Charter for Victims of Crime in South Africa and minimum standards for services for victims of crime are important instruments elaborating and consolidating rights and obligations relating to services applicable to victims and survivors of crime in the country.

The charter identifies the following rights of crime victims:

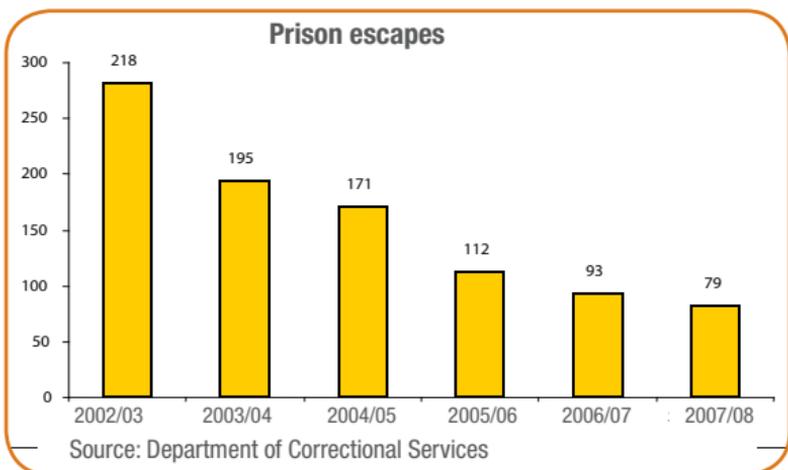
- to be treated with fairness, respect, dignity and privacy
- to offer information
- to receive information
- protection
- assistance
- compensation
- restitution.

Truth and Reconciliation Commission Unit

The TRC Unit was established in September 2005 to audit, monitor and coordinate government's implementation of the TRC recommendations.

The TRC Unit works closely with the President's Fund Office, which is located in the Office of the Chief Financial Officer in the Department of Justice and Constitutional Development.

The President's Fund Office has been giving effect to the payment of both urgent interim and final reparations to the victims who applied for reparations and were approved by the TRC.



The TRC identified 21 769 people as victims of gross human-rights violations. Of the total identified victims, 16 837 applied for reparations. By May 2009, 15 881 beneficiaries had been paid the once-off grants of R30 000 as a final reparation.

Correctional services

The Department of Correctional Services aims to provide adequate correctional-centre accommodation that complies with accepted standards. In March 2009, there were 165 230 inmates in correctional service centres, which were accommodated in 239 facilities throughout the country.

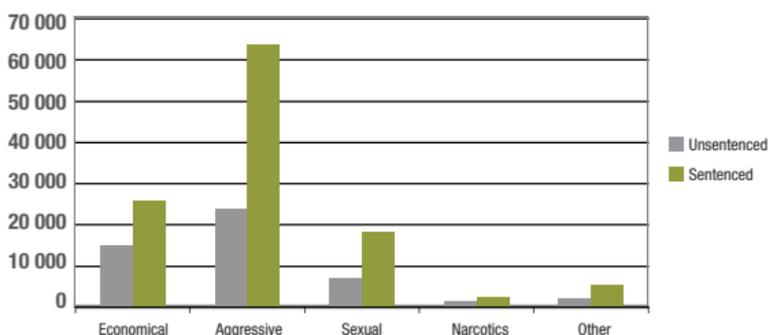
In June 2009, two facilities were closed for renovations. There are two private prisons in South Africa. Of the 239 centres, eight are female centres, 13 are for the youth, 130 are male centres and 86 are for both female and male.

Overcrowding in correctional centres

To alleviate overcrowding, unsentenced juveniles have been transferred to places of secure care, some sentences have been converted to correctional supervision, and facilities have been renovated or upgraded.

National and provincial action plans to fast-track all children awaiting trial from prisons and police cells since October 2004 have led to a reduction in the number of children awaiting trial.

Crime categories offenders in custody, 31 March 2009



Source: Department of Correctional Services

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No prisoners may be released before they have served at least half their sentence. The Criminal Law Amendment Act, 1997 provides for much harsher sentences for serious crimes. These changes are expected to place an even greater burden on prisons.

An independent judicial inspectorate regularly visits all prisons to report on conditions and prisoners' treatment.

Overcrowding continues to pose a challenge and impacts on how the department functions and on its service delivery. At the close of the 2008/09 financial year, the department's facilities were overcrowded by 43,3% at an average cost for incarceration estimated at R123,37 per day.

In 2009, the actual capacity in the department's facility stood at 114 822 with 25 000 meant for trial-awaiting detainees and 89 822 earmarked for sentenced offenders.

In March 2009, there were 49 477 trial-awaiting detainees and 115 753 sentenced offenders in the department's correctional centres.

Care and development of inmates

The department continues to improve the healthcare of inmates.

In 2007/08, four facilities were accredited for the provision of antiretroviral treatment, bringing the total number of facilities accredited to 16.

The implementation of the Occupation Specific Dispensation for nurses will also ensure availability of suitably qualified nurses to take care of the health of inmates and assist in the retention strategy in relation to nurses.

In 2008, the department entered into a mass literacy programme in partnership with the then Department of Education to address illiteracy in the country. The programme is themed *Kha Ri Gude*, a Xhivenda expression meaning "let us learn".

By March 2009, 3 378 offenders in correctional centres countrywide were already participating in the programme.

The department also introduced the Early Childhood Development Programme in 2008 to the babies of incarcerated mothers. By March 2009, 27 babies aged between zero to two years participated in the programme.