

Influence of the Appointment of two Prosecutors per Court

The matter was discussed with the National Operations Executive of the Legal Aid Board, Mr Brian Nair. He indicated that the appointment of two prosecutors per court will have a huge impact on the demands to the Legal Aid Board as the appointment of more prosecutors will have the result that more cases are trial ready per day. The current capacity of the legal aid practitioners will not be able to manage the same output as the prosecutors. This will eventually lead to them being responsible for delays at the courts.

IMPLEMENTATION OF THE LAY ASSESORS SYSTEM

1. Establishment of the Advisory Committees

The identified pilot sites are currently establishing Advisory Committees to comply with the Constitutional mandate relating to involvement of communities.

2. Areas identified for pilot projects

- Cape Town
- Emlazi
- Polokwane
- Port Elizabeth
- Pretoria
- Protea North (Soweto)
- Upington

3. Scope

Only regional court cases will be utilized for the pilot site in respect of the offences referred in Schedule 2 of the Criminal Procedure Act, namely murder, rape, robbery.

4. State of readiness

Requirements	Pilot Site: Cape Town	Time Frame	Remarks
Budget	R1 170 000.00	2005/06	Regional Head requested that the amount be distributed to Mitchells Plain

			and Wynberg
Court Room Accommodation	Available		
Office Accommodation	None		
Lay Assessors committee	Yes (Mr K Desai)		
Co-ordinator	Yes (SO Williams)		
Number of Available Assessors	30		
Number of Regional Courts	9		
Number of cases heard	1160		

Requirements	Pilot Site: Emlazi	Time Frame	Remarks
Budget	R448 615	2005/06	
Court Room Accommodation	4 Regional courts Available		Additional chairs required
Office Accommodation	None		When the new regional court building is completed, an office will be available / Alternatively rental of two mobile homes
Lay Assessors committee	Exists		
Co-ordinator	Yes		
Number of Available Assessors	18		
Number regional courts	4		
Number of cases heard	680		

Requirements	Pilot Site: Polokwane	Time Frame	Remarks
Budget	R746 000.00	2005/06	
Court Room	Available		Provide

Accommodation			additional chairs
Office Accommodation	None		To utilize the new High Court offices once completed
Lay Assessors committee	None		
Co-ordinator	Exists		
Number of Available Assessors	8		
Number of regional courts	4		
Number of cases heard	490		

Requirements	Pilot Site: Port Elizabeth	Time Frame	Remarks
Budget	R1 100 000.00	2005/06	
Court Room Accommodation	Available		Court house is new
Office Accommodation	Available		New court house and old building renovated
Lay Assessors committee	Exists		
Co-ordinator	Available (Ms T Febana)		
Number of Available Assessors	Nomination not completed		Nomination list not yet completed
Number of regional courts	10		
Number of cases heard	1000		

Requirements	Pilot Site: Pretoria	Time Frame	Remarks
Budget	R3 186 468.00	2005/06	
Court Room Accommodation	Available		
Office Accommodation	1		Small office

Lay Assessors committee	Exists		
Co-ordinator	1 (Mr WB Sithole)		
Number of Available Assessors	35		
Number of regional courts	16		
Number of cases heard	1944(2004/05) 2262(2005/06)		

Requirements	Pilot Site: Protea North (Soweto)	Time Frame	Remarks
Budget	R1 170 000.00	2005/06	
Court Room Accommodation	Available		There are municipality buildings which are available.
Office Accommodation	Nil		Assessors share an office with magistrates
Lay Assessors committee	Exists		Well organised committee with a chairperson
Co-ordinator	1 (Mr Kunene)		
Number of Available Assessors	37		
Number of regional courts	10		
Number of cases heard	1202		

Requirements	Pilot Site: Upington	Time Frame	Remarks
Budget	R255 820	2005/06	
Court Room Accommodation	Available		A new building. Office space available
Office Accommodation	One office available for assessors		Sufficient office space

Lay Assessors committee	Yes		
Co-ordinator	Yes		
Number of Available Assessors	15		
Number of regional courts	10		
Number cases: Murder, rape, and robbery	193 +62		

5. Future Plans

- 5.1 In the next financial year the number of pilot sites will be increased. An approach is to focus mainly on rural areas although some few urban areas will also be included. Further rollout will be in the following magistrate's offices: Germiston, Kempton Park, East London, Molopo, Klerksdorp, Kimberley, De Aar, Scottsburgh, Mitchells Plain, Wynberg, Nelspruit, Middleburg, Tzaneen and Bloemfontein. This will be considered after the assessment of the impact and success of the seven pilot sites.
- 5.2 According to the discussion held with the Regional Head: Western Cape, Wynberg and Mitchells Plain are preferred and not Cape Town because the districts are constituted of more diverse communities than Cape Town. There are 9 township areas in Wynberg, namely: Athlone, Gugulethu, Nyanga, Crossroads, Retreat, Lotus River, Steenberg and Parkwood, while Mitchells Plain is servicing Khayalitsha, Phillipie, Heinzpark and Cosovo. He further indicated that an amount of R1 170 000.00 allocated to Cape Town magistrate court should be distributed as follows: Cape Town R170 000.00, Mitchells Plain R500 000.00 and Wynberg R500 000.00.

6. Legislation

Final draft regulations with inputs from stakeholders have been completed. A project plan has been submitted to Ms Ina Botha for presentation to the Deputy Minister.

VULNERABLE GROUPS

Family court services

The primary focus of the family court project was to strengthen the five identified pilot sites in terms of the strategic priorities espoused in the implementation plan of the Family Court Blueprint. Some of the priorities achieved to date as been extended to areas beyond the realm of the pilots, into other courts, identified "hot-spot" areas and Presidential nodal points.

The focus this financial year included the permanent appointment of appropriately skilled personnel, to give fruition to the envisaged service delivery platform, hence rendering of substantive legal advice, and alternate dispute mechanisms. Thus, facilitated the appointment of permanent Maintenance Officers as envisaged by the Maintenance Act 98 of 1998. This is pursuant to the withdrawal of the NPA from this function.

Training, to date family law training (Maintenance; Domestic Violence and has been meted out to 255 family law services clerks, nationally and we are currently facilitating the training of the newly appointed 69 Maintenance Officers' training which would include 'black-letter' training on the Maintenance Act, social context, and ADR mechanisms.

Further training in the all the Family Law streams will also be meted out to the newly appointed permanent clerks.

The focus on the 2006/2007 financial year includes:

- Continued training for the Family Court personnel, especially in ADR mechanisms for Maintenance Officers, in collaboration with Justice College, so as to ensure ownership and continued training will thereafter rest with the Department.
- Facilitate training for Magistrates especially in the Civil Enforcement of Maintenance, to be done in collaboration with the LCMC.
- Facilitate the provision of EAP services to court personnel in collaboration with the Branch: Human Resources, especially since the stressful and traumatised environment they work in.
- Finalise the development of a case management system for the family law services sections, which would help inform reporting, standardise workflows, and improve case management and the holistic approach to family law disputes. It would further help inform statistical collection and dissemination for both the PFMA and turnaround times.
- Finalise the Family Law learnerships, and the recruitment of interns. The stipend paid to these interns need to be budgeted for.
- Prepare a paper on the establishment of Divorce Courts for consideration by the Minister
- Facilitate the infrastructural improvements at the courts to make it more children friendly.

The challenge faced to date is the fact that the project is managed by one person, who acts as both co-ordinator and Project Manager and has no other administrative support.

MAINTENANCE:

The department has embarked on Operation Isondlo, a Maintenance Service Delivery Programme. The objectives of the project are:

- Capacity Building at courts;
- Improvement of the Child Support System;
- Family Regeneration and Poverty Reduction

Achievements in 2005:

Capacity Building at courts:

427 Admin Clerks and **86** Maintenance Officers posts were created and filled in **128** courts in 9 provinces, including Presidential Nodes;

140 Assistants to Maintenance Officers were appointed permanently to investigate maintenance defaulters and respondents.

225 clerks were trained on Family Law in 9 provinces;

100 posts of Interns were advertised to work of Operation Isondlo.

An additional budget allocation will enable us to appoint more Officers, Investigators and Administration Officers with legal and paralegal qualifications to man Maintenance Courts thus improving the quality of service to court users.

Improvement of the Maintenance System:

An audit of maintenance files was conducted in 25 Hot Spot areas;

The audit pertains to the number of maintenance Enquiries set down for trial; number of Section 31 set down for trial, number of long outstanding Warrants of Arrest, number of dormant files etc. From the audit process matters will be set down for trial with the view of fast-tracking them. Applicants will be called in to revive dormant files where respondent are still alive and employed. The process is aimed at reducing cycle times in maintenance matters.

During the 16 days of Activism Operation Isondlo was launched by the Minister in Limpopo. Defaulters were arrested in roadblocks in Lebowa-Kgomo, Rustenburg, Welkom and Durban.

Apart from serving process and tracing defaulters, the 140 Maintenance Investigators, through the Trans Union Information Support System have been able to obtain information on property ownership (and its value); deeds search, credit profile, Home Affairs particulars about individuals who might be liable for maintenance; vehicle ownership and financial status of respondents to determine their liability to pay child support.

Strengthening of the Family Structure and Poverty Reduction:

Public Education and Awareness campaigns will emphasize the need for South Africans to honour their legal and moral obligation to support their children and families. This is the department's contribution toward the reduction of poverty for millions of children who are dependant on earning parents for their livelihood.

The appointment of Interns will provide jobs for 100+ unemployed graduates.

Children's Courts:

Clerks and Commissioners of Child Welfare in 9 provinces trained

Restorative Justice.

The department participated in the costing of the Children's Bill with the department of Social Development in preparation for the implementation of the Act.

Facilitated the involvement of DOJCD in the Foster Care Project where 200 children were placed in KZN and EC in one day.

Child Justice:

The ISCCJ - National Inter-Sectoral Committee Child Justice comprising of Justice, NPA, the judiciary, Social Development, Correctional Services, Education and the Legal Aid Board has grown from strength to strength in its task of monitoring children Awaiting Trial.

The ISCCJ promoted the establishment of Case Review Task Teams at court level to deal with overcrowding of juveniles in prisons and to facilitate alternative sentencing options with the view of keeping children out of prison

The Number of Children Awaiting Trial has decreased from **2200** to **1109** in November 2005.

Intersectoral teams have been fostered on National, Provincial and Local level through the Regional Heads.

Sexual Offences Courts:

The section facilitated the integration of Sexual Offences courts into mainstream courts with the view of ensuring equal justice in all the courts

Through the National Project Oversight Committee, we identified Courts for permanent posts of Regional magistrates. **15** posts were advertised giving courts the necessary capacity to cope with the increasing number of Rape cases.

We drafted a Framework for the Management of partly-heard matters to facilitate a smooth phasing out of specialized Sexual Offences Courts and contract magistrates.

29 contract Intermediaries were appointed at Regional Courts to assist abused children during proceedings in terms of the non-legislative recommendations of the SA Law Commission.

Workshops on Social Context Training in Sexual Offences was conducted in three [3] provinces for magistrates with greater emphasis on peer education. One seminar for vulnerable witnesses was hosted.

Domestic Violence:

The section facilitated the development of Domestic Violence Guidelines for Magistrates which are due to be printed. Peer Education workshops will be held on the Act and the Guidelines.

Facilitated the creation and filling of permanent posts of clerks at Family Sections at Courts;

225 clerks were trained on Family law in 9 provinces.

Equality Courts:

160 contract clerks appointed and trained as Equality Court Clerks;

Furniture and equipment was purchased for the smooth running of the Equality Courts.

There is ongoing training for clerks, Magistrates and Judges on the Equality legislation to ensure that Equality services are available at all service points including rural and peri-urban areas. Ultimately every court in the country will provide all justice offerings.

Awareness Campaigns were held in five [5] provinces on Equality Legislation.

Implementation of the Service Charter for Victims at Courts:

Service Charter publications, pamphlets and posters, have been printed in all official languages and Braille.

80 Toll-Free Line Officials were trained in all provinces and 36 toll free lines were established.

Training and briefing sessions for Court managers and other personnel were held in 9 provinces.

A needs analysis for courts has been conducted for implementation in the new financial year.

Family court services

The promotion of family values and the strengthening of the family nucleus is essential to the prevention of crime and societal disorders. It is for that reason the Court Services has initiated programmes focusing on family law services. These programmes includes maintenance, domestic violence, deceased estates and the Family Advocacy. Deceased Estate is a mandate of the Master's Branch but is covered in this report as it is essentially part of the services delivered by the courts.

The greatest need for administrative capacity at courts is in the family law sections. There is greater need to appoint more maintenance officers, Investigators and Administration Officers with legal and paralegal qualifications to provide services in the Maintenance Courts thus improving the quality of service to court users. This is confirmed by an audit of maintenance files which was conducted in 25 selected courts.

The audit pertained to the number of maintenance enquiries set down for trial; number of Section 31 (non compliance with maintenance orders) set down for trial, number of long outstanding Warrants of Arrest, number of dormant files etc. From the audit it transpired that there in the average a workload of 13 900 files per official per annum, which translates to about 1200 per month and just under 100 per day. Realistically an official could handle not more than 35 files per day.

To alleviate the situation 427 Admin Clerks and 86 Maintenance Officers posts were created and filled in 128 courts in the 9 provinces, including Presidential Nodes; 140 Assistants to Maintenance Officers were appointed permanently to investigate maintenance defaulters and respondents; 225 clerks were trained on Family Law in the 9 provinces; 100 posts of Interns were advertised to work on Operation Isondlo - a Maintenance Service Delivery Programme with the objective to build capacity at the courts, improve the Child Support System and contribute towards the strengthening of the family unit.

The lack of capacity in the family law services has led to the appointment of temporary staff to deal with enquires at the courts. The enactment of legislation to improve access to courts as the promulgation of the Maintenance Act, Domestic Violence Act, and Equality Act have increased have increased added responsibilities at the courts. Despite these developments the structures at the courts have largely remained the same. It became common for courts to appoint contract employees to cope with the increased volume of work. For the 2005 a total number of contract employees was 1359. Contract period vary from 3 to 12 months and the completion of the contract period is normally captured as turnover.

OFFICE OF THE FAMILY ADVOCATE

The office of the Family Advocate, in accordance with relevant legislation, renders a specialized service to the High Court, Lower Court and Divorce Courts in matters affecting the best interests of minor dependant children. In the execution of this function, legislation requires that the Family Advocate be assisted by a Family Counsellor / Social Worker, who provides, an expert report on the psycho-social issues around the best interests of such children, and is also the Family Advocate's expert witness at the hearing of the matter.

The family advocate is also required by legislation to render family mediation in issues of custody, access and guardianship, which they cannot provide currently due to capacity problems.

The Chief Family Advocate is the country's designated Central Authority under the International Child Abduction Act.

Of the nine posts of Principal Family Advocate created in each province, six have been filled during April 2005. Budgetary constraints have prevented the filling of the remaining three, viz Mpumalanga, North West and Northern Cape). The number of Advocates has increased to 33 with these new appointments.

Ongoing training has been secured with Justice College –for Family Advocates, in trial advocacy and implementation of the International Child Abduction Act, and for Family Counsellors.

The office of the Family Advocate has, since the inception of Act in 1990, been dependant on the department of Social Development to second senior social workers to be styled family counsellors. At this stage only 19 secondments have been made available to offices of the Family Advocate, and not all provinces avail of such secondment. The following

readings mentioned

(ii) Divorce Court

6,801

Settlement Agreement

9,682

Cases have been received by the Chief Family Magistrate, and have been finalized in the High Court and four through mediation.

1. Reduction of case cycle times.

With additional funding in respect of Family Councillor posts, an additional number of Family Counsellors will be appointed as early as possible in the new financial year, with a view to reducing the case cycle time of all matters in family advocates' office to six months. An audit of commenced around the training of Family Advocates and Family Counsellors in mediation. It is envisaged that once holistic family mediation is mainstreamed into the judicial system, the backlogs in the High Court, Divorce Courts, Maintenance and Domestic Violence Courts will ease significantly.

3. Capacity building generally.

The current structure and establishment (Plans for the future (continued) of the Family Advocates is still based on Act 24 /1987. The structure and staff establishment needs to be reviewed and aligned to the more recent seven pieces of legislation that came into operation since 1994.