

CHALLENGES

The current structure and establishment of offices of the Family Advocate is still aligned to the 1990 legislation – Mediation in Certain Divorce Matters Act. Subsequent to the promulgation of this Act, a number of new pieces of legislation were which increased the duties and responsibilities of Family Advocates. The jurisdiction of the Family Advocate was increased from divorce matters heard in the High Court, to include matters in divorce courts, and all lower courts hearing matters that impact on the best interests of children. Such legislation includes:

- The Natural Fathers of Children born out of Wedlock Act.
- Recognition of Customary Marriages Act.
- Divorce Courts Amendment Act.
- Judicial Matters Second Amendment Act (amended the Domestic Violence Act and the Maintenance Act.
- The Hague Convention on the Civil Aspects of International Child Abduction Act designates the Chief Family Advocate as Central Authority for the R.S.A.

The workload in offices of the Family Advocate has on accordingly increased by ± 150 % since the current establishment was approved. Current establishment was approved.

PLAN TO MEET THE NEW / EXTENDED RESPONSIBILITIES.

1. ACCESSIBILITY

All offices of the Family Advocate are situated at the seat of the High Court only. Clients and children have to travel vast distances of up to 600km to attend consultations with the Family Advocates. The establishment of satellite offices has become imperative in those areas where the bulk of the workload originates, so as to ensure easy access. Through the project : "**Extension of role of the family advocates**". The following satellite offices have been established, *albeit* still one –man stations:

Eastern Cape -	→ Buffalo City Umtata
Western Cape Kwazulu –Natal	→ George → Pietermaritzburg

A further roll-out is planned to take place as follows, subject to the availability of additional funding and facilities:

Province	AVAILABLE		SERVICE DELIVERY POINT	NEEDED		PROPOSED ADDITIONAL SERVICE DELIVERY POINTS
	F/A	F/C		F/A	F/C	
1. Gauteng	5 5	4 4	Johannesburg Pretoria	10	10	Soweto Hammanskraal Soshanguve
2. Free State	4	3	Bloemfontein	5	7	Phutaditjaba , Welkom
3. North West	1	1	Mafikeng	4	6	Tlhabane Potchefstroom
4. Western Cape	5	4	Cape Town George	10	12	Worcester Vredendal Mitchells Plain Khayelitsha Beaufort West
5. Eastern Cape	5	5	Port Elizabeth Buffalo City Umtata	5	7	Graafreinet Queenstown
6. Limpopo	1	1	Lebowakgomo	4	7	Mokopane Louis Trichard Nylstroom
7. Mpumalanga	1	1	Nelspruit	5	7	KwMhlanga Barberton
8. Northern Cape	1	1	Kimberly	4	7	Upington Springbok
9. Kwazulu - Natal	5	5	Durban Pietermaritzburg	8	10	NewCastle Ntuzuma Kokstad Nongoma
TOTAL	33	29		55	73	

2. CAPACITY BUILDING

Training of Family Advocates in trial advocacy and Social Context has been conducted through Justice College. Family Counsellors have been trained *inter alia* , giving expert testimony and report writing for court. Administrative staff have been trained as lay mediators and the professionals in mediation technique.

All funded vacant Family Counsellor posts have been filled as appears from the table above.

3. IMPROVEMENT OF FAMILY ADVOCATES SERVICES.

An audit of case backlogs has been conducted as reflected above. Long outstanding enquiries have been identified and measures put in place to attain speedy finalization. The audit has also assisted in identifying the roll-out needs in the above table.

Capacitation problems have prevented offices of the Family Advocate from rendering a holistic family mediation service. The personnel that has been trained provide the service on an *ad hoc* basis sometimes with the assistance of NGO's. With the increased capacity a holistic family mediation will be provided on an ongoing basis. The impact of Mediation will go directly to court rolls, in that more matters will become amicably resolved without going on trial and there will also be improved compliance with orders around parental rights and responsibilities. Secondly, with the provision of a forum for alternative dispute resolution, incidents of domestic violence will decrease significantly.

CURRENT BUDGET OF THE OFFICE OF THE FAMILY ADVOCATE:

Total Allocation	- R34,4m
Expenditure as at 31/12/05	-R24,1m-70%

At this stage no over / under expenditure is anticipated.

2. Enhancing Organisational Efficiency

To deliver affordable services the courts have to be modernised. This entails harnessing technological innovation, rationalizing and streamlining processes and procedures and serving through a diverse and multi-skilled workforce. However, technology alone would not ensure effectiveness and efficiency; systems, processes and procedures need attention to ensure a seamless cheaper and faster service delivery. Equally, human resource development across the whole sector is important to raise standards of performance. The provision of modern accessible justice services is predicated on a quest for value for money.

IT: A major exercise providing judges, magistrates, prosecutors and administrative personnel with such equipment has been completed.

For the courts impact is around:

In order to improve the efficiency of the courts we are rolling out connectivity to all courts. Currently there are 230 remaining courts which have been prioritized in the next six months. This will complete the connectivity of all our courts.

The E-Scheduler: (See more detail hereunder under caseload management) Deployment of the e-Scheduler beyond the 44 **Integrated Case Flow Management Centres** ; The system will replace the CRMS and will be stabilized before deployed beyond the current 44 courts. 20 other courts will be targeted for this budget cycle for deployment.

Video postponements (pilot in KZN): (See more detail hereunder under caseload management)The system will alleviate security risks with escapes and danger to officials as well as saving resources and administrative burden of transporting awaiting trial detainees to and from courts. This system is up and running in Durban, Pinetown courts connected to Westville Prison since October 2005. It will be used for awaiting trial cases and exclude juvenile cases. Local stakeholders in the province are on board. The legislation is still in the processing stage.

JDAS/ Maintenance: These innovations are continuing to impact positively on the output at court level. The Johannesburg maintenance improvement project has delivered best practices that are now being rolled out to other areas in the country.

Court Nerve Centre:

We have established a functioning Court Nerve Centre as a tool for measuring court performance (Balanced Scorecard) and collating integrated court information based on a combination of court time, disposal rate and so also provide a predictive model. The Department will continue to improve processes and procedures for collecting and storing of court data.

All court managers are required to report, on a monthly basis, on various activities performed at the magistrate's offices for which they are responsible. For this purpose all court managers are required to submit monthly returns to the respective area court managers. In this process District Court Managers, appointed at main seats of court, are responsible for the collection of information from the main seat and the courts linked to the main seat (i.e. branch and periodical courts).

The returns are produced by District Court Managers and submitted, in accordance with the Court Management model, to Area Court Managers. Area Court Managers are in turn responsible for the capturing of data contained in the returns and the production of court performance

reports for all courts falling within their area. Area Court Managers then submit monthly court performance reports to the Regional Head and provide the Court Nerve Centre with the captured data.

As a long term solution, the Department has embarked on the design and building of central database for the manual capture of specific variables as a business intelligence solution. This application will provide for the manual capturing of variable data from the various areas in accordance with the Court Management model.

The Court Nerve Centre will develop performance and service standards for courts and monitor the extent to which courts are meeting set standards and strategic objectives. Standards are set in consultation with court users, court stakeholders and all relevant criminal justice role-players.

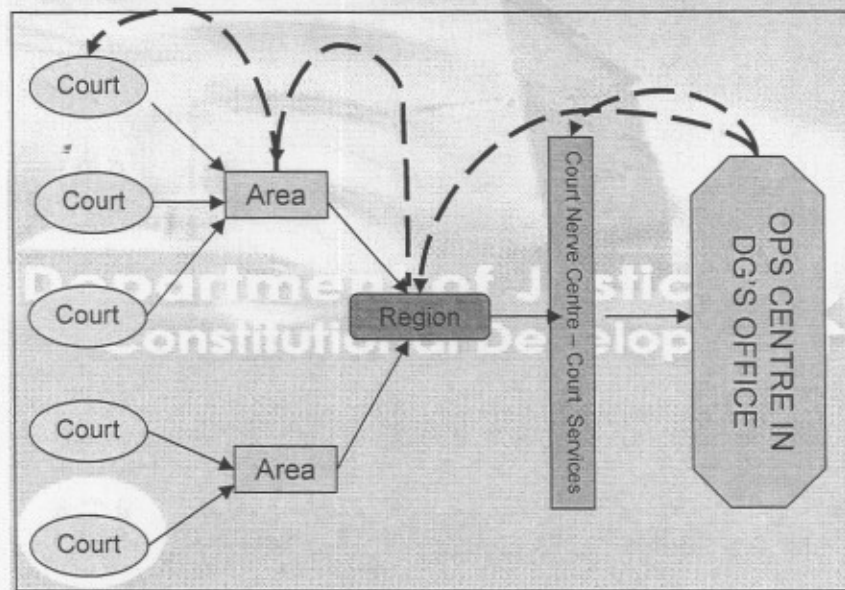
Since the development of a proper system for court performance measurement is a lengthy process, the Court Nerve Centre devised Excel spreadsheets as a short term intervention. The aim of this tool (spreadsheets) is to assist District Court Managers in the collection, storage and provision of the required information. These spreadsheets have been made available to all Area Court Managers in KwaZulu Natal, Northern Cape and Free State, while the proper processes and procedures for the collection, storage, dissemination and interpretation of the collected information have been explained to them.

The tool provides for the capturing of information at three levels: the "Monthly Court Return" contains detailed information on court "occupancy" which is captured at a court room level; the "Monthly Return" contains workload information on other activities and functions performed in a magistrates office (civil matters, criminal matters and family law related matters) and other court activities (such as estates, lay assessors, appeals and divorces) which is captured at a court house level; while the "Monthly Establishment Returns" contains information on the establishment (human resource capacity) which is captured at a court responsibility level (a responsibility centre being a main court, that manages branch and periodical courts).

This information will be collated by the Court Nerve Centre as shown in the diagram below:

Diagram 1: The Flow of Information in the Department of Justice and Constitutional Development.

INFORMATION FLOW



Case Flow Management

1. We have established an integrated case flow management system approach across the criminal justice value chain to ensure greater participation and cooperation

- CFM Guidelines were developed and made available to all lower courts for distribution amongst all role players.
- Judiciary clusters and Regional Heads are being capacitated through training workshops to implement case flow management based on the guidelines.
- We have in the past year facilitated change management on Case Flow Management for the court system stakeholders and support implementation processes at court level. Various workshops were conducted.
- Templates have been developed to assist courts in developing their own Case Flow Management plans and to monitor their performance
- Guidance are provided to the Heads of Office, Sub Cluster and Cluster Heads to establish CFM stakeholder forums and align same with provincial and local JCPS forums

2. Integrated Case Flow Management Centres

The Integrated Case Flow Management Centres concept is currently operating at 44 district criminal courts. The case roll management system that provides case flow management information to the integrated case flow management centres has been converted into an **improved E-scheduler system**. This system has more functionality, but the main functionalities namely the tracking of cases and the measuring of the performance of the courts, where the case flow management centres have been set up, are still intact. One of the enhancements of the new system is that it is connected to the Departmental network whilst the previous system was strictly a stand alone system. The e-Scheduler will in future be the official operational and statistical tool to be utilized to measure and manage performance relating to case flow in the court environment. Training was conducted to the users of each court where the e-Scheduler has been rolled out. Sessions were also conducted that focused on the general management functionalities (change management) that the system provides. The current version is being upgraded to be web enabled that will further enhance the utilisation thereof.

Areas where the ICFM centres are in place:

Eastern Cape	Free State	Gauteng	KwaZulu-Natal	Limpopo	Mpumalanga	Northern Cape	North West	Western Cape
6	3	6	14	1	5	2	5	3
East London	Bloemfontein	Benoni	Empangeni	Polokwane	Ermelo	Kimberley	Klerksdorp	Bellville
New Brighton	Kroonstad	Germiston	Ixopo		Kabokweni	Upington	Odi	Khayelitsha
Port Elizabeth	Welkom	Vanderbijlpark	Kickstand		Middelburg		Potchefstroom	Mitchells Plain
Queens-town		Vereeniging	Lady-smith		Nelspruit		Wolme-ransstad	
Zwelitsha		Oberholzer	Madadeni		Witbank		Lichten-burg	
Uitenha-ge		Sebokeng	New-castle					
Umtata			Pinetown					
			Port Shep-stone					
			Scott-burgh					
			Verulam					
			Vryheid					
			Umlazi					
			Chats-					

			worth					
			Stanger					

3. Audio-visual postponement of criminal cases in the lower courts

The concept is currently being piloted between Durban and Pinetown Magistrates Courts and Durban Westville Correctional Centre. The first remands were conducted on 7 October 2005. Achievements thus far:

- User requirements determined
- Tender awarded
- Site preparation DOJ - completed
- Site preparation DCS - completed
- Operational procedures at court developed
- Operational procedures at prison developed
- Human resources to conduct Video postponements at court assigned
- Human resources to conduct Video postponements at prison assigned
- All stakeholders are on board
- Number of accused that have appeared in court via Audio Visual link:
 - October 2005 : 87
 - November 2005 : 437
 - December 2005 : 404
 - Total 928 accused

4. Court Management Development Programme

To improve the performance of court operations an initiative was taken to capacitate Court Managers/Administrative Control Officers in management competencies.

In March 2004, 30 Court Managers/ Administrative Control Officers drawn from Gauteng and Western Cape provinces were trained in Project Management skills and successfully completed the course. Another 30 Court Managers/ Administrative Control Officers drawn from all provinces, completed the Skills Programme: Certificate in Practical Management which commenced in July 2004 and ended in August 2005. As from January 2005, 90 Court Managers/ Administrative Control Officers drawn from all provinces and 10 unemployed South Africans from Gauteng province only, were enrolled in the Court Management Learnership Programme which is due to be completed in December 2006. The Learnership that carries 120 nationally recognised credits is at Diploma level, that is Level 5 of the NQF and the duration thereof is two years. All

the above training is aligned with the Skills Development Act, 1998 and the National Qualifications Framework (NQF). This training is provided to the Court Managers/Administrative Control Officers with a view to equip them to deal with the day to day challenges at court level with some measure of professionalism. This invariably has the effect of enhancing efficiency and support the independence of the Judiciary at courts.

5. Additional Courts

A framework for the establishment of these courts is being developed by the Department together with the NPA and the Magistracy. This is to ensure that the Department is now able to account for the investment of these resources and monitor the returns through proper mechanism to monitor the performance of these courts. The purpose of establishing additional courts is to reduce case backlogs. The additional courts at present have mainly been continued with regards to part heard matters

6. Redefinition of the New Registrars Dispensation

Based on a job evaluation process that was conducted a new Registrars dispensation for the High Courts is in the process to be implemented and posts have been advertised.

COURT INTEGRITY PROJECT

Feedback/Progress on 2005/06 issues

The project is located within the framework of the United Nations Office on Drugs and Crime (UNODC) Global Programme against Corruption and it aims to assist the Government of South Africa, and particularly the Judiciary, in enhancing the rule of law by strengthening the integrity and capacity of the courts. For this purpose, the project will assist the judicial system and the National Prosecuting Authority (NPA), as well as other relevant stakeholders, including court users, in developing an integrated National Action Plan to capacitate and empower the lower court, especially in providing satisfactory services to court users and to enhance the capacity of the judicial system to deal with corruption.

The project is on track with surveys having been conducted during 2005. The data was analysed by independent consultants. Two provincial meetings were held (one in Pretoria and one in Durban) with various role players. Inputs and the analysed data were used to draft the National Action Plan, which will be finalised and endorsed soon. Due to time constraints, the National Action Plan is to be finalized in the first quarter of 2006.

Specific needs, conditions of and perceptions about the South African judicial system were determined through the surveys. The National Action Plan focuses on key issues such as –

- Access to justice,
- Quality and timeliness of justice delivery,
- Independence, impartiality and fairness of the justice system,
- Integrity, accountability and oversight of the courts,
- Co-ordination and co-operation across the integrated justice system, and
- Public confidence in the system.

The implementation of the National Action Plan will receive urgent attention after its endorsement by the Minister for Justice and Constitutional Development.

3. Transforming Justice

Below is the composition of the judges in terms of race and gender population group at the end of November 2005:

Table 1: Composition of the Judiciary as at 30 November 2005.

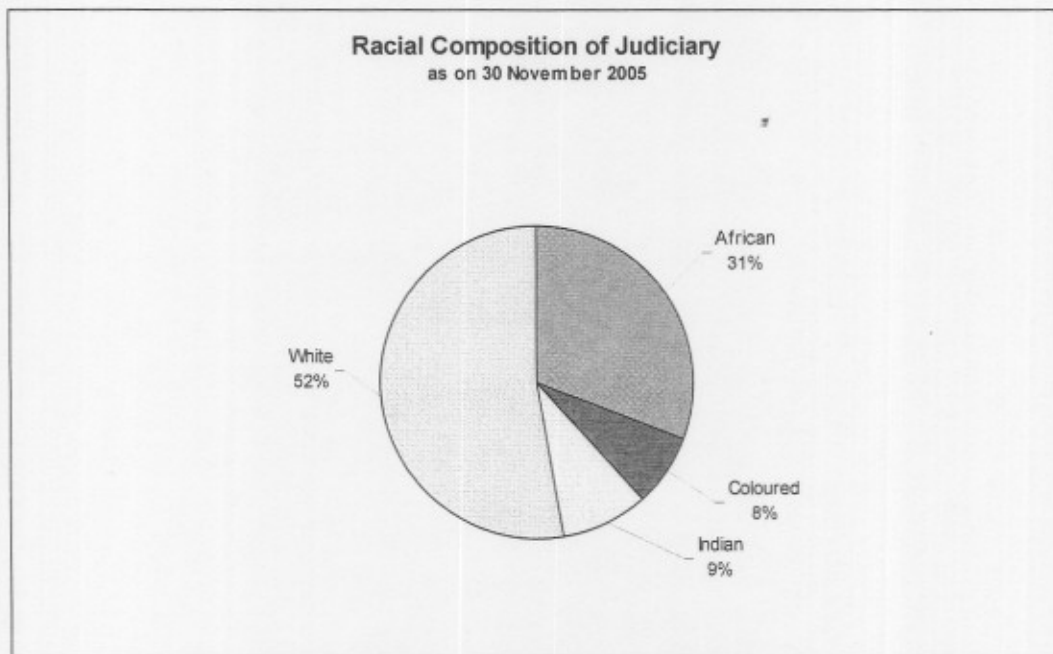
Court	African		Coloured		Indian		White		Total
	Male	Female	Male	Female	Male	Female	Male	Female	
Constitutional Court	5	1	-	-	1	-	3	1	11
Supreme Court of Appeal	4	-	-	-	2	-	12	2	20
Land Claims Court	2	-	-	-	-	1	1	-	4
Labour Court and Labour Appeal Court	1	-	1	-	-	1	-	1	4
Natal Provincial Division	10	-	2	1	3	1	8	1	26
Free State Division	2	-	-	-	-	1	9	1	13
Eastern Cape Division	2	2	-	-	2	-	12	-	18
Cape Provincial Division	3	1	5	2	-	-	15	2	28
Northern Cape Division	2	-	1	1	-	-	2	-	6
Witwatersrand Local Division	5	3	-	-	3	1	14	3	29
Transvaal Provincial Division	11	-	1	-	1	-	16	1	30
Transkei Division	2	1	-	-	-	-	3	1	7
Ciskei Division	2	-	-	-	1	-	1	-	4
Bophuthatswana Division	2	1	1	1	-	-	1	-	6
Venda Division	2	-	-	-	-	-	-	-	2
Total	55	9	11	5	13	5	97	13	208

Source: Statutory Appointments Division

In the figure 1 below, the composition of the judiciary is presented in terms of the four official population groups. The figure shows the effort that still needs to be made to transform the judiciary in terms of population

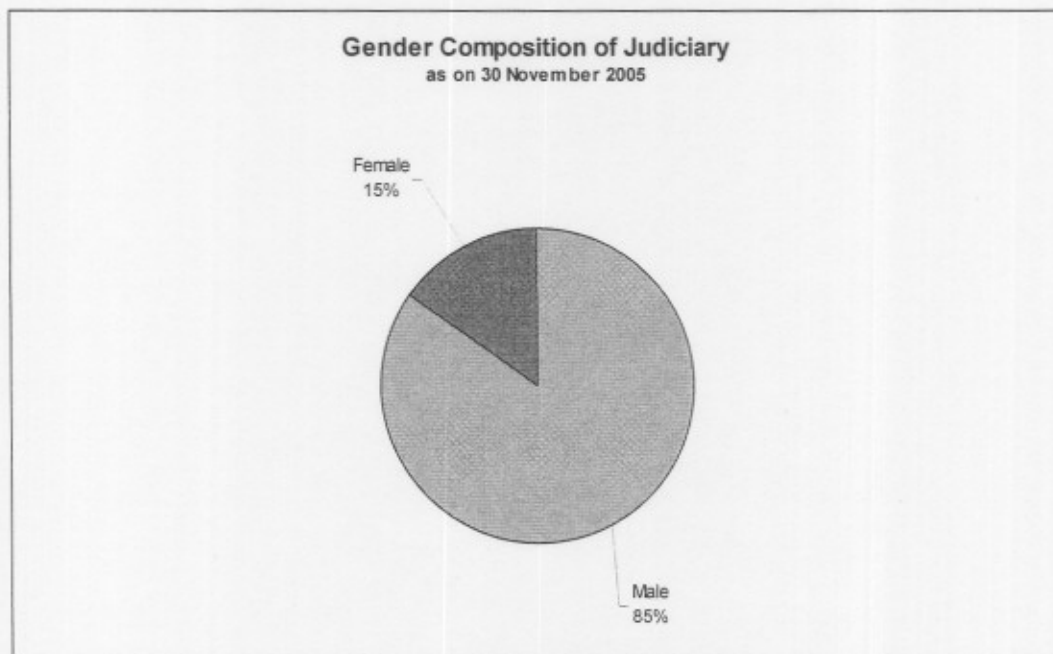
representivity. In terms of population group, figure 1 shows that 52% of the judiciary is white, 31% African, 8% coloured and 9% Indian.

Figure 1: Racial Composition of the judiciary as at 28 February 2005



In respect of the gender composition of the judiciary, figure 2 shows that a mere 15% are female (of any population group) and 85% male.

Figure 2: Gender Composition of Judiciary as on 30 November 2005



Category	Number of posts
Regional Court President	10
Regional Court Magistrate	303
Special Grade Chief Magistrate	1
Chief Magistrate	24
Senior Magistrate	138
Magistrate	1,352
Total	1,828

Source: Establishment Maintenance Division

The composition of the magistracy in terms of race and gender as at 30 August 2005 is given in table below.

	Male	Female	Male	Female	Male	Female	Male	Female
Regional Court President	1	3	1	1	1	2	1	2
Chief Magistrate	1	1	1	1	1	1	1	1
Senior Magistrate	1	1	1	1	1	1	1	1

The information is also shown graphically in figure 5. The population group distribution of the magistracy is presented in terms of the four official population groups (i.e. African, Coloured and Indian). The figures show that, on 30 August 2005, 37% of the magistracy is African, 6% coloured, 7% Indian, and 50% white.