



DEPARTMENT OF JUSTICE AND  
CONSTITUTIONAL DEVELOPMENT

BRIEFING ON THE EQUALITY COURTS PROJECT  
AND PROGRESS IN THE IMPLEMENTATION OF THE  
PROMOTION OF EQUALITY AND PREVENTION OF  
UNFAIR DISCRIMINATION ACT, NO 4 OF 2000

16 OCTOBER 2006

## Delegation from DOJ&CD

- **Adv Pieter Du Rand** – Acting DDG Court Services
- **Ms Shireen Said** – Chief Director Promotion of the Rights of Vulnerable Groups
- **Ms Lulama Nongogo** – Director Victim Support and Specialised Services
- **Ms Bonnie Makhene** - Chief Director Policy Research, Coordination and Monitoring
- **Ms Tshilidzi Ramanyimi** – Chief Director Facilities

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## WHO DEALS WITH THE EQUALITY COURTS PROJECT AND THE IMPLEMENTATION OF THE ACT IN QUESTION

### ■ COURT SERVICES

- Programme 3: Promotion of the Rights of Vulnerable Groups: Chief Director: Ms Said
- Programme 5: Chief Director Facilities: Ms Ramanyimi

### ■ OFFICE OF THE DG

- Chief Directorate: Policy Research, Coordination and Monitoring: Ms Makhene

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## Chief Directorate Promotion of the Rights of Vulnerable Groups

- The Chief Directorate was officially established in April 2005 to ensure access to justice to the vulnerable in courts, as well as, to facilitate the development programmes, policies, guidelines, uniform standards relating to the promotion and protection of the rights of vulnerable groups (women, children, persons with disability, the elderly and victims of crime) in our family, civil and criminal courts. Policy formulations etc is guided by the monitoring and evaluation that is facilitated by the courts through, for example, the statistics and other information provided by courts.
- The Chief Directorate: Vulnerable Groups comprises of:
  - The Directorate: Victim Support and Special Programmes; and
  - The Directorate: Child Justice and Family Law.

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## Directorate's core areas of function?

- Directorate Victim Support and Specialized Services is divided into two Sub-directorates:
  - VICTIM SUPPORT: Implementation of Victims' Service Charter and victim support services in courts;
  - SPECIALIZED SERVICES:
    - > Equality Courts Project
    - > Sexual Offences Court Project
    - > Small Claims Courts

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## DOJ&CD's STRATEGIC GOAL

- The Directorate in fulfillment of its function in its projects is guided by the Department's three strategic goals as contained in the Medium Term Strategic Framework 2005/6 – 2008/9:
  - > Access to Justice for All
  - > Enhancing Organisational Efficiency
  - > Transforming Justice State and Society(The Table on pg 3 provides a snap short of the MTSF as it relates to the Directorate)

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## Structure of the Directorate

- The structure that was approved in April 2005 is as follows:
  - > 1x Director
  - > 1 x Secretary
  - > 2 x Deputy Director
  - > 2 x Assistant Director
  - > 3 x Administrative Officer
  - > 2 x Clerks
- From the above, the Specialized Services Sub-directorate's approved structure is: Deputy Director, Assistant Director, Administrative Officer and a clerk
- Present position regarding the structure

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## Format of the report

- Report on all the key areas / interventions in line with Strategic Objectives the Department's MTSF. Areas of focus that have been identified include
  - Policy formulation, guidelines, systems and uniform standards
  - Structure of the Equality Court
  - Designation of Equality Courts
  - Resources
  - The infrastructure of the Equality Courts
  - Accessibility of courts to persons with disability
  - Human Capacity (Magistrates, Judges, Clerks and Lay Assessors)
  - Training
  - Public Education and Awareness/ Promotional material
  - Collation of Statistics

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## RESOURCES

- For the 2006/2007 financial year an amount of R12 million allocated to the Equality Court Project:
  - > R6 million - Compensation of Employees
  - > R6 million - Goods and Services
- The R6 million under Compensation of Employees was transferred to the Regions for appointment of permanent clerks
- The breakdown of the amounts transferred to each Region is in the Table on pgs 7 – 9

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## Designation of Equality Courts

- 220 Equality Courts designated as at 2005/2006 ( Table of break down per province pg 10 – 12)
- The MTSF target provides for designation as Equality courts of all 366 Magisterial Districts
- The above target will be achieved before the end of this financial year

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## Infrastructure and setting of Equality Courts

- PEPUDA provides for Equality cases to be heard in an informal boardroom-like setting
- Activities for 2005/2006 to ensure compliance with the above:
  - > R6 million spent to acquire furniture, Eg R336 580,86 for KZN; R526 000,00 for Northern Cape for court recording machines
  - > Report for last financial year was that 6 provinces were fully provided with furniture, except Northern Cape, Free State and Mpumalanga
- Activities for 2006/2007 to ensure compliance with the above:
  - > Audit is being conducted to: enable the Directorate to have a register of the furniture; determine the needs of the courts not provided with furniture; compliance of the court with boardroom setting and readiness of the undesignated courts for designation
  - > Templates for Audit = Annexure B
  - > Minimum requirement for Equality Court to be complaint: Annexure C
  - > Audit will be finalized by end October 2006
  - > Funds have been set aside for provision of furniture

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## Accessibility of Courts

- Investigation conducted by Chief Directorate: Facilities indicates that R563 million is required to make all courts accessible
- 2006/2007 financial year R10 million is earmarked
- 2007/2008 a further R10 million is earmarked
- Table on pg 14 – 17 has a breakdown of the work to be undertaken in the designated courts
- MTSF target in this regard provides for provision of user friendly facilities in all Justice services delivery points by 2007/2008

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## Numbers of Equality cases

- Since their establishment until end of the last financial year the statistics received from Equality Courts nationally indicated that less than 700 cases reported (note as at June 2003: 60 courts were established and thereafter 160 established in 2004)
- Statistics for January – August 2005 reveal that 362 cases were reported nationally and the break down per provinces is contained in Table on pgs 18 - 20
- The highest numbers of complaints were from Gauteng (146) followed by KwaZulu Natal (95), with Free State having reported no cases. Racism and hate speech combined make up the highest numbers of cases received being 253 cases.

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## Human capacity

- Have a draft Database which gives some indication of the available pool of human capacity for Equality Courts; the database still needs verification by the provinces, as prior training was done by consultants
- Appointment of clerks as Equality court clerk:
  - > DG's powers of appointment of clerks to be delegated to court managers
  - > Delegations of clerks to be finalised by financial year end
- Permanent appointment of clerks – 139 permanent posts funded this financial year – R6 million transferred to Regions for this purpose; (Table with a breakdown of the posts on pgs 7 – 9 (includes undesignated & 22 - 24 (designated)))
- To ensure the availability of clerks the strategy adopted is to have a pool of clerks trained per court
- To ensure availability of lay assessors, courts must have a list of pool of lay assessor in line with document outlining Minimum requirement

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statistics on numbers trained, challenges in compiling the database is availability of information on personnel trained (for now there is no information on people trained between 2003 -2004)

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## Training (database)

- With the finalization of this database the Directorate will then be able to determine:
  - > Designated courts that do not have trained Equality court personnel and Magistrates
  - > Equality courts have trained clerks and magistrates, and that they do, whether the clerks and Magistrates were appointed,

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## Public Education and awareness

- Major concern about under utilization (reasons lack of knowledge about the courts and legalistic nature of PEPUDA)
- Approach adopted is to popularise the courts and raise awareness:
  - Department's public education chief directorate to take over the responsibility in their outreach programmes, radio talk shows
  - Collaboration with Stakeholders such Legal Aid Board; Chapter nine institutions; other government Departments
  - Promotional material – R419 200 spent on Equality Booklets; R100 000 on Posters, advertising campaign; translation of PEPUDA and Regulations; signage in courts

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## Equality Review Committee

- **ERC was established in terms S32 of PEPUDA on 1 September 2000 and has seven members**
  - > Mr. J Kollapen: Chairperson of the South African Human Rights Commission, appointed in terms of Section 32 (b) of the Act. Since the
  - > Ms T M Masipa ( Senior Judicial Officer) appointed in terms of Section 32 (a) of the Act.
  - > Ms Joyce Piliso-Seroke, Chairperson of the Commission on Gender Equality, appointed in terms of Section 32 (c) of the Act.
  - > Mr. Vincent Saldanha ; Representative of the Civil Society, from the Legal Resources Centre, appointed in terms of Section 32 (d).
  - > Prof. Shadrack Gutto: expert in the field of human rights, appointed in terms of Section 32 (e) of the Act.
  - > MS Ntombazana Botha, member of the National Assembly, appointed in terms of Section 32 (f) of the Act.
  - > Mr. P D N Maloyi, member of the National Council of Provinces, appointed in terms of Section 32 (g) of the Act.

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- Adv. Rob Skosana ( Head of the Secretariat)
- Mr. Samuel Rasiuba ( Legal Administrative Officer)
- Ms Thabang Snowy Dibilwana ( Administrative Clerk)

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## LEGISLATION AND REGULATIONS

- Sections 24 – 28 of PEPUDA which relate to promotion of equality are not in operation
  - S27(2) relates to obligations of private persons and the Minister has to make regulations in relation to these obligations

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## LEGISLATION AND REGULATIONS cont.

### ■ The Approach to implement the Act is incremental:

- > The 2003 focus was on the establishment and functioning of the courts;
- > In 2004 consultations, workshops and round table discussions were held on the implementation of the balance of the Act especially the draft regulations regulations;
- > Since then: Draft regulations were presented to the Minister who requested advice from the Policy unit which resulted in further meetings
- > Opinion sought and obtained from State Law Adviser and further draft regulations were submitted to the Minister
- > Since then two further sets of draft regulations were submitted to the Minister
- > Once draft regulations are approved by the Minister the Minister of Finance will also be consulted and thereafter submitted to Parliament

THANK YOU FOR YOUR ATTENTION

