



**UNIVERSITY OF
KWAZULU-NATAL**

**INYUVESI
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**The Processing Domestic of Violence Cases by the Department of
Justice and Constitutional Development: The Case of Ntuzuma
Magistrate Court in KwaZulu-Natal.**

By

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**A dissertation submitted in partial fulfillment of the requirements for the
degree of**

Master of Public Administration

School of Management, Information Technology and Governance

College of Law and Management Studies

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2016

DECLARATION

I Nonhlanhla Cynthia Mbambo declare that

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- (ii) This dissertation has not been submitted for any degree or examination at any other university.
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Dedication

This dissertation is dedicated to my late parents Mr and Mrs Mdletshe for raising me to be a woman that I am today, if it was not for them I would not be where I am today. I like to thank them and appreciate what they have planted in me.

Acknowledgements

I would like to give God all glory for his favour and mercy upon completion of this dissertation. Special thanks go to the following people who made it possible for the dissertation to be completed:

- My research supervisor Dr Fayth Ruffin for providing me with professional guidance, both academically and emotionally throughout my studies but most importantly for believing in me.
- My mentor Ms Sarah-Jane Cooper-Knock all the way from UK University of Edinburgh for her assistance in proof reading my work and encouraging me that I can do it.
- The very special people in my life, my husband Mthokozisi Mbambo and my lovely three children Amahle, Lethokuhle and Andisiwe. Thank you for allowing me to pursue my dream of studying without complaining of my absence while studying, your support and love always kept me going.
- My sisters for always believing in me and that I can do it, thank you to oMaNgomane for their endless love.
- My Supervisor Ms Halimana at work for allowing me to work and study, she is the best supervisor ever.
- All Ntuzuma Magistrates Court officials who participated during my study, I cannot express how grateful I am for your contributions.
- Community members of Inanda, Ntuzuma and KwaMashu for participating in the focus group Interviews, you have contributed towards the improved court system.
- Lastly, the DOJ & CD for giving me the opportunity to learn ways of improving the justice system in court.

Glossary of Acronyms

AC	Administration Clerk
COC	Clerk of Court
DVA	Domestic Violence Act
DV	Domestic Violence
DOJ & CD	Department of Justice and Constitutional Development
FG	Focus Group
INK	Inanda, Ntuzuma, KwaMashu
INT	Interpreter
IPO	Interim Protection order
PAJA	Promotion of Administrative Justice Act
PMDS	Performance Management Development System
PO	Protection Order
RSA	Republic of South Africa
SAPS	South African Police Service

Abstract

Domestic violence is a universal experience faced in most parts of the world. Many years ago domestic violence was considered a private matter therefore perpetrators were not necessarily brought to justice for their abusive behaviours. In 1998, however, the South African government enacted the Domestic Violence Act (DVA) to provide a public justice forum to address domestic violence. The DVA provides victims with an accessible legal tool to stop certain abuses taking place within their domestic relationships. This study aims at determining whether the processing of domestic violence cases is effective at the Ntuzuma Magistrates Court. This study seeks to determine the factors that facilitate or hinder the processing of domestic violence (DV) cases in Ntuzuma Magistrates Court while exploring the experiences of the Inanda/Ntuzuma/KwaMashu (INK) community regarding the services from the DV section in the Ntuzuma Magistrates Court. Through interviews of court personnel and a focus group of community members, stakeholder perceptions on application of the DVA and administration of DV case processing at Ntuzuma Magistrates Court are examined. The role of cultural competency in DV case processing is also considered from the perspectives of study participants. Data were analysed using a combination of thematic, content and matrix analysis. Findings reveal a problem of what appears to be ineffective administrative processing of domestic violence cases with reference to the finalisation of DV cases, case withdrawals and insufficient personnel to operate court administration. Lastly, the study concludes with recommendations for the Department of Justice and Constitutional Development to undertake as a way of improving court administration. These recommendations include increasing court personnel, rearranging division of work, and taking justice to the people through outreach programmes or community *Izimbizos* where community members would be educated about administration and court services to improve access to justice for domestic violence matters.

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Chapter One

INTRODUCTION AND BACKGROUND OF THE STUDY

1.1 Chapter Introduction

Domestic violence (DV) is an act of physical, sexual, emotional, verbal and psychological abusive behaviours towards a complainant (Morei, 2014:932). Whilst there are many ways in which DV can be handled, legal action plays a vital role in ensuring that those who suffer from DV are protected and those who commit such acts are brought to justice. The following study explores the effectiveness of case processing by the Department of Justice and Constitutional Development (DOJ & CD). Ntuzuma Magistrates Court is used as a case study through which to explore whether or not DV cases are effectively processed. In addition, this research study compares and contrasts what other studies have revealed and subsequently discusses the findings from those studies in relation to the findings of this study. Based on the findings, conclusions and recommendations are made regarding DV case processing in the Ntuzuma Magistrates Court in the province of KwaZulu-Natal.

This chapter introduces the study by first providing the background and overview of the broad research problem. This is followed by the research problem. Taken as a whole the problem statements include results of a review of the literature. This chapter then proceeds to outline the research objectives and research questions guiding the study followed by key terms and definitions used in the study. Next presented are subsections on the rationale and significance of the study as well as the philosophical worldview and research design and methods underpinning the study. Lastly, the outline of the subsequent chapters is highlighted before the chapter concludes with the chapter summary.

1.2 Background and Overview of the Broad Research Problem

Domestic violence is a global occurrence. It is significant and complicated to deal with and there has been dissatisfaction with how it has been dealt with to date. Broadly, dissatisfaction seems to signal some real shortcomings in the legal system. That is the reason why more research to understand the nature of these apparent shortcomings in the legal system is necessary. Domestic violence violates

the principle of human self-respect that lies at the heart of ethical ideas (Thomas & Beasley,2014:38). Domestic violence is a constant and regular event, which violates human rights therefore the state, has the obligation to protect human rights (Galic, 2011:28). This can be effective if the state enforces legislations and policies to protect victims of DV. Galic further argues that there is a structural gender inequality between women and men where clashes give rise to DV and are rooted in a broader societal standard that supports authority of males over females (Galic, 2011: 9).

It is estimated that one in four females in South Africa are in an abusive relationship (Bendall, 2010:100). According to Seedat, Niekerk, Jewkes, Suffla and Ratele (2009:1011) poverty and inequality are critical shared dynamics that contribute to South Africans' burden of violence. Matthews and Abraham (2001:2) conducted a study in Bellville in the Western Cape South Africa (SA) on the impact of the Domestic Violence Act (DVA) (RSA 1998) on women. The study revealed that although the DVA provides the police with duties and responsibilities, victims of DV still experience problems with DVA implementation due to police attitudes (Matthews and Abraham (2001:2).

Domestic violence manifests in a myriad of ways. For example, Chaudhary's (2013:146, 147) study on DV in India found that physical, sexual and psychological abuse of women is compounded by women's vulnerability due to dependence of women on men as well as women's limited access to training and education. Abeyratine and Jain (2013:370) indicate that, on average, a crime is committed against females in India every three minutes and 37 percent of married females are exposed to DV violence at some point in their married points out that dowry abuse in India leads to the murder of large numbers of women life. McQuigg (2010:346). In their Canadian study involving Asian and White couples, Maeder, Mossière & Cheung (2012) estimate that three to four million women were physically abused by their male partners within a year. Just as the phenomenon of DV is a global problem, so are challenges of court administration and handling of DV cases a worldwide problem. According to Foster (2013:3) in Australia, for example, there is pressure on case management due to the expanding judicial workloads leading to delays in proceedings. On the one hand, the court ignores the value of technology for easy management of cases. On the other hand, according to the Australian study, there are huge delays in case finalisation due to various factors such as insufficient trained personnel and the large volume of cases

received on a daily basis. Gauthier's (2010:1376) study in Canada found that DV charges were often dropped in part because of lack of support from court personnel or victim's refusal to testify due to fear of retaliation from perpetrators. A Brazilian study showed that courts were hardly able to properly administer cases due to docket overload and inefficiencies in the system; leaving women subjected to recurring DV (Roure, 2009:89).

Drawing from this broad research problem of the prevalence of DV on the one hand and issues regarding court administration on the other hand, this study explores the narrow research problem next discussed.

1.3 Research Problem of the Study

Violence is the leading cause of deaths in South Africa and it is estimated that 3.5 million people every year seek health care for non-fatal harms of which half is caused by violence (Seedat, Niekerk, Jewkes, Suffla and Ratele, 2009:1011). It has been predicted that one in four female victims are exposed to DV (Bendall, 2010:100). According to section 34 of the South African Constitution (RSA, 1996) everyone has a right to have any arguments attended to by a representative of the law and decided on in a reasonably unrestricted trial in a court of law. The South African Constitution, section 32 (a) further provides that all individuals have the right of access to any relevant information held by the government and also to any evidence that is held by other persons which may be relevant to the exercise of any rights (RSA, 1996). The Domestic Violence Act (DVA) was enacted in 1998 to provide legal protection to victims of DV (RSA, 1998). As to court administration, Foster (2013:1) identifies a need to understand the division of work in courts, which function on a hierarchical regulation-centred model, staff morale, and its relationship to the processing of DV cases is directly related to this model. The 2003 Consortium of Violence against Women study on Magistrates and the DVA concluded that implementation of the DVA has been compromised by a range of procedural challenges, including inconsistent approaches to prescribed procedures, space shortage in the courts, heavy caseloads and lack of dedicated personnel to process DV cases making the application process slow (Artz 2003: 4). Artz (2003:14) found that victims were not provided with written documents such as return dates for court appearances, which is against the constitutional interests of transparency.

In light of these factors, this study is designed to address the narrow research problem of the processing of DV cases in the Ntuzuma Magistrates Court. The Ntuzuma Magistrates Court deals with DV cases and provides services to the neighbouring areas of Inanda, Ntuzuma and KwaMashu (INK). This is called the INK area and is a sub-area of eThekweni metropolitan municipality in KwaZulu-Natal. There seems to be a challenge in processing of court cases in particular DV cases and service delivery in general in the absence of culturally competent approaches to citizen services such as taking into account a citizen's mother tongue and cultural belief system. The South African population is highly diverse and cultural diversity should be attended to by ensuring security for language, ethnic and spiritual differences. Victims of DV belong to a variety of races and ethnicities and have a constitutional right to access justice, fairness, and cultural recognition as stipulated in the South African Constitution, Section 31 (RSA, 1996). The absence of cultural competence could impede access to justice for DV victims, which is problematic. In addition, slow case processing, withdrawal of cases, lack of finalisation of cases are issues to be interrogated if court administration is to meet its constitutional mandates.

Based upon the research problem, certain research objectives and research questions were formulated and are next presented.

1.4 Research Objectives

The objectives of the study are to:

- Determine the factors that facilitate or hinder the processing of DV cases in Ntuzuma Magistrates Court;
- Explore how the experiences of the INK community, regarding the services from the DV section in the Ntuzuma Magistrates Court, can improve court administration;
- Examine how stakeholders perceive the application of the DVA in processing DV cases in the Ntuzuma Magistrates Court; and
- Identify factors that indicate why cultural competence should be taken into account in the processing of DV cases in the Ntuzuma Magistrates Court.

In each of the above-mentioned objectives, the focus is particularly on the challenges and the opportunities that present themselves to address the issues around dissatisfaction on the part of the community with regard to court processes. The research questions follow.

1.5 Research Questions

A research question refers to what the researcher aims to discover during the study (Creswell, 2013:129). The research questions that the study aimed to answer are:

- What are the factors that facilitate or hinder the processing of DV cases in the Ntuzuma Magistrates Court?
- How can the experiences of the INK community regarding the services they receive from the DV section in the Ntuzuma Magistrates Court help to improve court administration?
- How do stakeholders perceive the application of the DVA in processing DV cases in the Ntuzuma Magistrates Court?
- Why should cultural competence be taken into account in the processing of DV cases in the Ntuzuma Magistrates Court?

With the research problem, research objectives and research questions in mind it is important to identify key terms and definitions used in the study which are next delineated in Table 1.1.

1.6 Key Terms and Definitions

These key terms and definitions are based on the literature review in Chapter 2 and will be discussed in that chapter as well as other chapters.

Table 1.1 Key Terms and Definitions	
1. Culture	Culture is grouping of attitudes, customs and social behaviour of certain individuals or society (Maluleke, 2012: 428).

2. Cultural Competence	Cultural competence is readiness to engage in activities of determining the recognized prejudices of traditional practices and willingness to accept individuals from other cultures (Balcaza and Taylor-Ritler: 2009, 1159).
3. Division of Work	Refers to responsibilities that are broken down into various duties with the aim to be accomplished certainly by personnel of that organization (Mahmood, Bhasharat and Bashir, 2012:515).
4. Domestic Violence	According to DVA (1998) section 1 (viii), Domestic Violence is a humiliating action including physical, psychological and emotional abuse that may harm the safety and well-being of the complainant (RSA, 1998).
5. Philosophical Worldview	Philosophical worldview refers to a basic set of principles that guide actions (Creswell, 2013:6).
6. Protection Order	A protection order (PO) is an order issued by the court to impose limitations on a person`s future behaviour (William, 2010:718).
7. Theory	Theory is a collection of beliefs, guidelines, approaches and processes tested and checked by overall familiarity (Wren, 2011: 215).
8. Staff Morale	It is when there is job fulfilment in the workplace which is stimulated mainly by how staff are treated by their employers as well as how their needs are met in terms of empowerment and performance reward (Claybourn, 2011:294).
9. Service Delivery	Service delivery involves customer interactions by adopting a customer focus, which involves implementing structures, strategies, and priorities that enables greater understanding to customer needs (Bontis, Richards and Serenko, 2011:240).

10. Victim Services	It is about how citizens as clients, experience satisfaction with service delivery from the public service sector (Lippman 2013: 1424).
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1.7 The Rationale and Significance of the Study

Magistrates' courts handle DV cases in South Africa. There is scarce research on court administration in South Africa. The purpose of the study then seeks to have a better understanding of DV court case handling. It is worth determining the views of DV victims as to how cases are being handled and to receive community inputs regarding how justice can be better administered in DV cases. The study explores administrative and management challenges of court personnel handling DV cases on the one hand and perceptions of DV victims regarding service delivery by the court on the other hand. The rationale is to understand these perceptions from the perspective of service providers and service recipients. To achieve its purpose, the study is guided by a conceptual model that draws on a number of public administration and management theories (for example, those posited by such theorists as Henri Fayol, Max Weber and Frederick Taylor). The conceptual model is explained in Chapter 2 and is specifically directed toward the Ntuzuma Magistrates Court. The conceptual model includes division of work among court personnel, staff morale, and cultural competency as well as victim services.

The study is significant for a number of reasons. Given the human diversity in South Africa, including the recognition of eleven official languages, the extent to which the Magistrates Courts use culturally competent approaches in processing cases needs to be studied. This involves a constitutional mandate wherein section 30 of the South African Constitution indicates that everyone has a right to use their preferred language and to participate in the cultural life of their choice (RSA, 1996). Data from both court personnel and victims of DV who are serviced by the court shed light on the issue of cultural competence and other issues. Understanding the division of work and staff morale can lead to enhancement of court operations. By engaging the voice of community members, insight can be provided to improve victim services by the court. These are the reasons underlying the need for this study.

1.8 Philosophical Worldview, Research Design and Methods

The study is shaped by the advocacy/participatory worldview, because it focuses on the desires of individuals and groups to be free from unnecessary social restraints. (Creswell, 2013: 10). It also promotes both individual and/or group involvement in issues of concern to them. The study is all about individual and group perceptions and experiences. That is why it is guided by the advocacy/participatory worldview so as to give voice to DV survivors as well as court personnel. Such perceptions could help with identifying factors for judicial reform that may improve the process of how DV cases are handled at the Ntuzuma Magistrates Court.

This is an exploratory qualitative research study. Qualitative research involves ways of discovering and accepting the significance of the individual or groups' responses to a shared problem (Creswell, 2013: 4). The reason for choosing this design is in line with the problem statement as well as the research strategy, which was to use the DV section of the Ntuzuma Magistrates Court as a case study. Data collection tools were interviews and a focus group in addition to documentary evidence. Interviews of court personnel were conducted. Community members who received services from the DV section of the Ntuzuma Magistrates Court participated in a focus group.

The recruitment of focus group participants was done through distribution of flyers with research details and a request for voluntary participation. A ward councillor who gave authority to conduct the study in the form of a letter also encouraged community participation. Recruitment for the individual interviews was likewise done via the flyers with the research information. Authorisation was also given to participate by senior management of the DOJ and CD. Data analysis incorporated content analysis, matrix analysis and thematic analysis as discussed in chapter three. Ethical protocols of the University of KwaZulu-Natal were followed. This is further discussed in Chapter Three along with certain limitations of the study as well as how the researcher tried to overcome those limitations.

1.9 Outline of Chapters

The chapters in this dissertation are structured as follows:

Chapter One: introduces the study, the background and the overview of the study. It proceeds to outline the problem statement, research objectives and research questions followed by the philosophical worldview, research design and methods. A table of key terms and definitions is provided. It concludes with a chapter summary after the outline of the coming chapters.

Chapter Two: provides an analytical overview of the literature on the processing of DV cases. It also presents DV discourse, theories of public administration and management and the conceptual framework underpinning the study.

Chapter Three: outlines the selection of research design, the philosophical worldview and the research strategy and units of analysis employed during the study. The case, site and respondents' selection, sampling, as well as data collection and analysis are covered in that chapter. Ethical considerations and limitations of the study are also presented before the chapter is concluded by a summary of contents.

Chapter Four: highlights the context of Ntuzuma Magistrates Court using documentary evidence. It designates the themes that emerged during the study, shows interaction between the conceptual framework and philosophical worldview as well as between the conceptual framework and emerging theme. It then provides primary data presentation and analysis through a series on matrices, while interrogating literature in relation to reduced data. Data are interpreted in light of the aims of the study. The Chapter then discusses triangulation of the data and is concluded by the chapter summary.

Chapter Five: presents findings and conclusions. It also details recommendations based on the findings of what the DOJ and CD should implement to achieve effective processing of DV cases at the Ntuzuma Magistrates Court. That Chapter suggests how findings from this study seem to contribute to the body of knowledge on court administration in the South African context along with future

research envisaged. The chapter and this dissertation are concluded by the chapter summary.

1.10 Chapter Summary

This chapter provided a background and overview of the broad research problem followed by an indication of the research problem of this study. The research problem sub-sections included a review of the literature. The chapter declared with the location of the study. The research objectives and research questions and a Table of key terms and definitions used in the study were presented. The chapter went on to indicate the rationale and significance of the study followed by a brief discussion of the research methodology employed by the study. The chapter then summarised the content of the subsequent chapters. Chapter Two will now review the literature and highlight the conceptual framework underpinning the study.

Chapter Two

LITERATURE REVIEW

2.1 Chapter Introduction

In this chapter, the literature review analyses why the processing of DV cases is an important topic, and highlights some of the complex challenges that emerge when processing such cases. The review informs the focus of the dissertation and the analysis that follows (Creswell, 2013: 23; Yin, 2011: 64). The different aspects outlined include: legislative and policy frameworks such as Domestic Violence Act (RSA, 1998), and the process of reporting DV as well as protection orders (PO) and interim protection orders (IPO)]. The chapter further highlights the Promotion of Administrative Justice Act (PAJA) (RSA 2000) and provides a discussion of human rights and DV in the Republic of South Africa (RSA). The administration of the South African court system is then discussed. Furthermore, theories of public administration and management, concepts of cultural competence and the conceptual model guiding the study are presented before the Chapter concludes with the chapter summary.

2.2 South African Legislative and Policy Frameworks on Domestic Violence

The South African Constitution, section 33(i), Bill of Rights entitles all individuals to unbiased, legitimate and rational administration of the law, if they are harmed through DV (RSA, 1996). Besides the Constitution, there are a number of laws and policies that address DV in South Africa. Attention here is directed toward the DVA (RSA, 1998) and the PAJA (RSA, 2000). Each of the above is discussed in turn.

2.2.1 Domestic Violence Act 116 of 1998 of the Republic of South Africa

The Domestic Violence Act 116 of 1998 (RSA, 1998) came into effect in December 1999. The objective of this Act is to protect citizens who are victims of DV abuse (RSA, 1998). The purpose of the DVA is to afford victims of DV the firmest protection from DV abuse that the law can provide. According to the DVA, the domestic relationship means a shared experience between two or more people in a home environment and is not limited to married couples (RSA, 1998). Domestic violence, in this context, is defined as bodily, sexual, emotional or economic abuse where such conduct may cause any type of feeling of abuse. The DVA is an indication of the significance that the South African government accords to DV in its obligation to address this issue. Once a DV case is filed by any party affected, the accuser becomes the complainant (victim) and the alleged abuser becomes the respondent (offender).

The DVA prescribes that a Peace Officer may without a permit to arrest; arrest any respondent at the scene of an incident of DV that he or she suspects of having committed an offence surrounding an element of violence against the victim (RSA, 1998). This section proceeds to define how the offender faces the consequences and that a DV case will be opened and passed to a court for a decision. According to Artz (2011: 3) the DVA aims to create a domestic remedy that is accessible, affordable and ensures that DV victims receive significant protection. Findings from a study conducted in Bellville in the Western Cape on the impact of DVA on women, revealed that although the DVA provides the police with duties and responsibilities, victims of DV still experience problems with implementation of the DVA due to police attitudes (Matthews and Abraham, 2001: 2).

Even when victims file DV cases, these are often withdrawn. A 2008 study on why DV victims withdraw from the criminal justice process uncovered the prevalence of DV among women. It showed that one out of ten women experience DV for 10 to 20 years of their lives and that 64 percent of women applied for PO (Artz, 2011:6). Findings from that study indicate that one reason DV victims withdraw from the criminal justice system is that they are often vulnerable to more violence or even to death if they proceed with the cases (Artz, 2011:6). Another reason that DV victims often withdraw from the criminal justice system is a lack of understanding of court processes and procedures and lack of comprehension of the English language (Morei, 2014:937).

The processing of DV cases forms the main focus of this dissertation. The process of reporting DV is next discussed and other processes and procedures of administration of the South African court system are subsequently discussed in section 2.4.

2.2.1.1 The process of reporting domestic violence

The diagram below outlines the process of reporting DV abuse from the beginning until the case is referred to a court for judgement.



Fig: 2.1 Process of reporting DV extracted from Domestic Violence Act, Act 118 of 1998 (RSA 1998; Naidoo, 2006: 78)

After the experience of DV, the victim may report the case to the South African Police Service (SAPS) where a criminal charge is laid and then referred to court (RSA, 1998). The case is then referred to the clerk of the court (COC) section where the matter gets enrolled and referred before the DV Magistrate who may then issue a PO (Naidoo, 2006: 78).

The DVA authorises issuing of POs in relation to DV and for matters connected therewith (RSA, 1998). The issue of the granting of POs by the magistrates

becomes crucial and requires smooth administrative handling in order for the process to be effective and to serve the intended purpose. In accordance with the DVA, the COC performs clerical work in the DV section of the Ntuzuma Magistrates Court and that COC is appointed in writing by the magistrate in terms of section 13 of the Magistrates Courts Act, Act 32 of 1994 (RSA,1994).

The COC cannot perform the duties of processing DV cases even if he/she is permanently employed, if he/she is not appointed in writing by the magistrate in terms of section 13 of the Magistrates Courts Act 32 of 1994 (RSA, 1994). Having clarified the operation of the DVA, the following section explores the IPOs and the POs that are authorized pursuant to the DVA, analysing their application and their effect.

2.2.1.2 Protection Orders and Interim Protection Orders of the Domestic Violence Act 116 of 1998

A PO is an injunctive order issued by the court to impose limitations on a person's future behaviour (Tai, 2000: 1292). Section 7 of the DVA (RSA, 1998) indicates that the court may disallow the perpetrator from engaging in any performance of DV and from entering the victim's residence. In terms of the DVA, the victim of DV may in a prescribed manner apply to the court for a PO where an IPO may be granted temporarily and after an enquiry a final order which is the PO may be granted against the respondent to prohibit the respondent from committing any act set out by the order (Morei, 2014: 933). Morei argues that the warrant of arrest is also issued concurrently with the PO and it is brought into effect so that if the respondent breaches any provision of the order, he/she may be found guilty of infringement and may be sentenced to imprisonment or fined. In other words, while the DV application initiates a civil proceeding, violation of a PO makes the case a criminal matter.

According to Section 2 of the DVA any applicant may apply to the court for an IPO (RSA, 1998). If the court is satisfied that there is evidence that the respondent has committed an act of violence against the complainant, the court can issue an IPO against the respondent (RSA, 1998). An IPO is an order made by the DV court against the respondent not to abuse the victim in a specific way with immediate effect and should the respondent continue with the abuse, the PO is then granted against the respondent. Alternatively, if the respondent does not

appear on the court date, the court issues a PO against the respondent which becomes final and effective.

A 2008 study by (Artz, 2011:8) earlier referenced revealed that women do not return to courts to finalize POs for which they have applied because of a number of administrative reasons. These include the court not providing them with a copy of the PO and not informing them of the return dates. Hence litigants think they do not have to come back to court, their cases get struck off the roll for unknown reasons or their cases keep getting postponed for another date; they begin to lose confidence in the criminal justice system (Artz, 2011: 8). According to the DVA, when a court issues a warrant of arrest, it is also issued to the respondent and it remains in force until the PO is set aside or cancelled (RSA, 1998). A PO can be set aside upon the complainant's written notice for the PO to be cancelled, provided the court is content that it is for a good reason. (RSA, 1998).

A study conducted in Vhembe, found that different types of violence were significantly reduced over time after the issuing of IPOs and POs (Peltzer, Pingpid, McFarlene and Banyini, 2013: 492). These results suggest that not only do IPOs and POs address different forms of DV but they also represent a strong intervention. Therefore, it can be argued that POs and IPOs are a key to eliminating or reducing DV abuse when properly enrolled and imposed. Stoever (2011:318) supports this viewpoint, arguing that after abused women seek help from the justice system by filing for a PO, they experience lower levels of DV abuse including intimidation, bodily abuse, stalking and other abuses irrespective of the result of the case, so long as the process is administered efficiently and correctly. Similarly, Spooner (2009:378) argues that POs have been the best instrument through which to fight DV abuse since the 1980s, highlighting the importance of the IPOs and POs. In contrast, Morei (2014:933) contends that the DVA is failing to address the issue of DV.

The following section explores the Promotion of Justice Act (PAJA) and how it affects DV victims in terms of transparency and administrative justice.

2.2.2 Promotion of Administrative Justice Act 3 of 2000 (PAJA)

The PAJA was passed in 2000 to encourage administrative justice within the framework provided by the South African Constitution in 1996 (RSA, 2000). The

DVA was passed to substantiate the right to objective administration of justice as specified in the South African Constitution, Section 33(i) Bill of Rights which indicates that all individuals have the right to unbiased, legitimate and rational administration of the law if they are harmed through DV (RSA, 1996). That is the main reason for there being DV courts that specifically deal with the violation of human rights to ensure that justice is served to victims and perpetrators alike. The courts should ensure that all administrative issues are met in order for DV victims to feel comfortable with the proceedings when they approach the court for assistance.

The PAJA (RSA 2000) has massive significance for citizens of the country because it teaches administrators to act in a manner that is fair and respectful of citizen`s rights. It is a complex legislation that gives effect to the right of access to information. The PAJA (RSA, 2000) sets out the circumstances under which anyone can request information from the state and private bodies (RSA, 2000). The PAJA is undergirded by the South African Constitution and the goals and objectives of the DOJ & CD, Section 32 (a) of the Constitution entitles citizens to the right of access to any material or evidence obtained by the government and any evidence by any other person that may be needed for the implementation of any rights (RSA, 1996). Furthermore, Section 195 (g) of the Constitution elaborates on transparency, pointing out that it is essential to safeguard transparency so as to deliver to the public accessible and precise information (RSA, 1996).

In the DOJ and CD strategic planning goals and objectives, goal number 5 emphasises compliance with PAJA for public engagement which indicates the importance of this legislation within the justice system. Objective number 18 alludes to the full implementation of the participatory programmes and PAJA (Department of Justice and Constitutional Development, 2013:31). Yet Artz`s (2011: 8) study found that victims of DV are denied access to information about their cases, such as copies of POs and written notification of return dates. These administrative issues impede DV case processing and defy constitutional mandates, objectives of the DOJ & CD as well as legislative prescripts such as PAJA. In the interest of transparency and access to information, court administration should ensure that all victims are catered for and provided with information they need in the courts. The next section explores human rights laws with regards to DV victims.

2.2.3 Human Rights Law and Victims of Violence

International human rights laws and principles can provide a major basis of motivation for social change (Roure, 2009:69). According to the South African Constitution Section 34, all individuals can participate in any argument that can be fixed through the presentation of a ruling decided in an unbiased public trial in a court of law (RSA, 1996). Handling of DV cases harks back to the issue of the human rights of DV victims. This aspect unpacks human rights issues that should be taken into cognizance when DV takes place. The state must ensure that it puts in place constructive measures to ensure that all individuals have access to their own rights. According to the South African Constitution Section 33, every individual has a right to any clerical material which is official, normal and practically fair (RSA, 1996). It further states that all individuals have the right to have a diverse view which can be resolved in an unbiased public inquiry in a court of law (RSA, 1996).

These constitutional provisions underline the central role that the law can and should play in tackling DV; engaging with the law in such complex social situations that can raise various issues. McQuigg (2010: 345) argues that the law and the judicial processes struggle to address major social problems. The scholar further contends that legislation on such issues can grossly devastate lawyers and overrate the role that they can play in such contexts. The concern for useful judicial processes extends beyond access to information and the role of people to availability of places. In other words, this situation is compounded by the fact that court facilities are inadequate and insufficient. The aim of the DOJ and CD to provide excellent court facilities to match the population growth is not met by budgetary allocations. This places additional burdens on the DOJ and CD's capacity to supply excellent facilities to litigants, including DV victims (South Africa Department of Justice and Constitutional Development 2013: 55).

The over-reliance on judicial proceedings to handle DV cases increases fear of litigants concerning the effectiveness of resorting to the courts for societal problem-solving, even though freedom from violence is a human right. While there is an increasing understanding of the privileges of individuals, as regulated in the South African Constitution, the Bill of Rights can be interpreted in at least two different ways. On the one hand, some people believe that voicing their constitutional rights through referring the matter to court for an opportunity to be

heard is working for them in terms of achieving their goal. On the other hand, service delivery disputes are voiced by people venting their frustrations on the state that has been unable to deliver improved facilities or effective administrative practices.

Human rights can be seen as one of the few ethical visions recognised internationally (Thomas & Beasley, 2014: 37). Domestic violence violates the principle of human dignity that lies at the heart of this vision. Thomas and Beasley (1993:38) believe that it is not always easy to regard DV as a human rights issue under international law although the global human rights community tries to do so. Nevertheless, DV is a global issue that is often handled on a national level. The next section further discusses human rights and DV in South Africa.

2.3 Human Rights and Domestic Violence in South Africa

According to the speech made by the then Deputy President Thabo Mbeki at the National Conference on Women and Domestic Violence in 1995, roughly 30 percent of all cases of violence brought to the attention of the SAPS are domestic in nature (Bendall, 2010:100). Seedat et al (2009:1011), suggests that poverty and inequality are critical shared dynamics that contribute to South Africans' burden of violence. These scholars further argue that alcohol, drugs and youth unemployment are the main cause of violence. Violence abridges human rights of security and safety.

One of the DOJ and CD's values is adherence to the culture of human rights. The 2011/12 crime report of the SAPS shows that severe crime occurrences including DV cases was reduced by 11 per cent when compared with the 2010/11 statistics and that the ratio of severe crimes per 100 000 of South Africans reduced by 1.9 per cent, in comparison to the 2009/10 report (Department of Justice and Constitutional Development, 2013:19). The tendency then shows that serious crime has diminished since then but more than two million cases of crime are still brought to SAPS yearly. This leads to a great number of cases being sent to courts (Department of Justice and Constitutional Development, 2013: 19). The post-apartheid South African government introduced the DVA to address DV in the country. Its purpose is to offer DV victims immediate and on-going protection from DV abuse and to introduce measures that ensure relevant organs of state,

including the court system, give full effect to the provisions of the DVA (Vetten, 2005:4).

Yet DV against women remains common in South Africa. It is estimated that one in four females are in an abusive relationship (Bendall, 2010:100). While McQuigg (2010:351) estimates that one female is murdered by a partner every six hours, Morei (2014:928) contends that DV has such severe consequences for South African society that a female is murdered by her male partner every six hours. One of the examples of women killed by their partners referred to by Morei (2014:928) is the killing of Reeva Steenkamp by her Olympian Gold Medallist partner Oscar Pistorius. According to Bendall (2010:100), women in South Africa feel that they are mainly still under the absolute control of males and often simply consent to being victims.

The DV situation in rural areas is severe. Artz as cited in (Vetten, 2005:7), indicates that about 80 per cent of females living in rural areas experience DV and most of the occurrences are not reported. The DV in rural areas is perpetuated by issues of gender and race as well as by questions of cultural norms and morality (McQuigg, 2010: 356). Males often operate on the premise that they are more powerful than females hence they abuse them. In response to this main problem the constitutional courts have been very prepared to use human rights standards to advance the criminal justice system in relation to violence against females (McQuigg, 2010: 356). Magistrate courts were also introduced to assist citizens at community level in dealing with the reporting of DV. The 1999 study conducted by Artz as cited in Vetten (2005:6), in rural areas in the Southern Cape shows that most women face many challenges when trying to seek help with DV issues. Amongst these challenges are limited means of transport services to access courts, slow response from police services with few socio-cultural and economic support services to abused women. During this study, there were also interviews conducted with 23 women who had obtained POs. Those respondents highlighted police negligence, difficulties in finding money to pay documents to be served on the respondent, and lack of information regarding court processes. Respondents also mentioned that they sometimes withdraw their cases as they experience the court process as too devastating (Vetten, 2005:6).

According to Gauthier (2010: 1376), in Canada many DV cases do not result in convictions as 52 per cent of DV cases are dropped by prosecutors as there is no

guilty plea and victims often fail to appear and give testimony. Gauthier reminds us that there are few studies conducted on DV in Canada. In his study conducted in Canada in 2001 at the court of Montreal, he explores why charges were dropped in DV cases and, as pointed out earlier, he concluded that this may be caused by victims refusing to testify because of the fear of retaliation or lack of support from court administration (Gauthier, 2010: 1376).

McQuigg (2010:351), comments that the SAPS estimate that only one out of 35 rape perpetrators are brought to justice and that there is an awareness of the fact that if a female, who experienced abuse reported this abuse, she may be subjected to intimidating responses from the perpetrator or his family. According to a paper presented at the XI International Symposium on Victimology at Stellenbosch in 2003 the DVA was introduced in 1998 by the state in an effort to deal with problems of DV, and with the aim of affording women protection from DV by creating commitments framed within the law to protect women as far as possible (Peacock, 2003: 13 -18). Besides permitting victims to acquire a PO against offenders, the DVA (RSA, 1998), also stipulates the duties of the SAPS officials in DV cases. These include confirming the complainant's direct protection, locating of medical assistance or shelter for the battered victim, and also advising the victim of her or his rights to open a criminal case so that the offender can be put behind bars (DVA, 1998).

Human rights law is operative in improving the way in which role players in the criminal justice system answer to cases of violence against victims (McQuigg, 2010: 253). In South Africa human rights assurances are in place as mentioned in section 9 of the South African Constitution. Thus according to article 39 (1) it is clear that DV flies in the face of the South African Constitution, therefore the justice system has to guarantee that victims get satisfaction and quick assistance through Magistrates court services without fail (RSA, 1996). Yet the on-going severity of DV in RSA suggests that court administration may be perceived as deficient. The following discussion explains the court system and its administration.

2.4 Administration of the South African Court System

Courts are self-governing and subject only to the requirements of the law. Court administration can be defined as the creation of all means to ensure service

provision and the effective operation of the courts and their procedures (Baker and Scheye, 2009: 285). According to section 195 (d) of the South African Constitution, court administration should be practical and should operate without pressure, favour or biasness (RSA, 1996). Court administrative processes include a chain of cross-cutting ideas amongst various levels of internal employees and community members under the jurisdiction of the court. The public administration processes and measures of the court serve a state function of administration of justice.

According to the South African Constitution Section 171, all courts work in terms of countrywide legislature, their judgments must be delivered in terms of the national legislation (RSA, 1996). The three spheres of government which are the judiciary, the legislature and the executive, play an important role in the South African justice system and so the court role players enable the court system to address legal issues in an appropriate manner (Ross, 2011: 342). The court environment also enables courts to address issues relevant to each offender. This provides not only thorough sentencing and treatment but may also discover key people to help protect victims from possible severe escalation of abuse (Ross, 2011: 342).

Court administration may be governed by the nature and purpose of a particular court. For example, Quinn (2009:58), explains criminal justice reforms in the United States in the context of problem-solving courts. These are courts that address social issues such as drug addiction and DV. Quinn (2009:68), argues that these courts have been less successful than expected, that victims' voices are silenced by court practices, and that women's problems are often made worse rather solved since they still face retaliation by perpetrators, and loss of socio-economic support if their partners are incarcerated. In South Africa, the violation of a PO escalates to a criminal offense by the perpetrator. Therefore, the Ntuzuma Magistrates Court can be seen as a problem-solving court for both family matters and DV cases. The application of the DVA in DV courts to protect victims against offenders qualifies the DV court as a problem-solving court as it mainly focuses on social distresses of the community. However, whether it is successful as a problem-solving court is under-studied. To determine the usefulness of the Ntuzuma Magistrates Court's DV section as a problem-solving or speciality court, it is important to understand its administration and case processing as sought by this study. Quinn (2009:81-82), calls for "better informed, more balanced, and

truly thoughtful discourse about problem-solving courts” to inform decision-making on development and administration of specialty courts. The same is true for South Africa.

Courts rely on managerial practices to develop its administrative frameworks in response to the growing demands of the community (Ambach and Rackwitz, 2013:120). Therefore, the organogram as discussed in Chapter Four, Figure 4.1 clearly illustrates the hierarchical levels of officials specifically at the Ntuzuma Magistrates Court where the study is centred. According the DOJ and CD`s vision when it comes to court administration, it aims at a transformed and accessible justice system that stimulates and safeguards collective justice and the regulation of law. The DOJ and CD`s mission is to provide apparent, approachable and accountable justice services for all. In relation to the 2030 National Development Plan (NDP), its main goals are establishment of the criminal justice system, quick finalisation of cases and access to justice for all. This amounts to countering the factors that hinder the processing of cases timeously by the courts to ensure that justice is served.

In any event, service delivery and situations affecting service recipients thwart court administration. These include failure by the court to provide detailed explanations of judgments to the people involved in the case, their nominated representatives, observers and others involved (Baker, 2009: 293), and language barriers as well as lack of provision of sign language interpreters for deaf women (Vetten, 2005:10). Victims of DV find the court administration procedures and processes too overwhelming rendering them unable to understand or cope with administrative requirements (Vetten, 2005:6). In addition, poor staff attitudes caused by overwhelming workloads contributes to the administrative process being slow which results in long queues and victims not being provided with sufficient information to understand documents or administrative processes (Vetten, 2005:6). These factors adversely affect court administration.

According to Baker (2009: 293), one of the main objectives of court administration is to ensure the best credible use of court time, and that the remaining work should be allocated as speedily, and as skilfully as possible. Baker further claims that the concepts of court processes originate from the work of the dominant theorists of public administration namely; Henri Fayol, Fredrick Taylor

and Max Weber (Baker, 2009: 298). These theories and their work are explored below

2.5 Theories of Public Administration and Management

According to Wren (2009:215), Fayol clarified a theory as a collection of beliefs, guidelines, approaches and processes tested and checked by common practice. A theory is also sets of organised concepts that represent a disciplined view of phenomena by specifying relations among variables (Creswell, 2013:51). In this context of public administration and management, theories assist in explaining events.

This dissertation engages with organisational theory, using the organisation of Ntuzuma Magistrates Court as its focus. This theory reveals how and why particular practices surface, and we can trace the impact they have on the effectiveness and efficiency of court practices. Organisational theory shows how leaders need to apply critical thinking to address particular situations. In an organisation, members of the staff are linked together in the administrative structure in a hierarchical form as suggested by Max Weber in his theory of bureaucracy. Staff members are grouped together with the aim of having them perform certain activities within particular sections, departments or disciplines. The way in which work is divided in the Ntuzuma Magistrates court is illustrated in the organogram in Chapter Four, Figure 4.1. Figure 4.1 illustrates how work is divided at the Ntuzuma Magistrates Court particularly in the DV section where the study focuses so as to examine whether court administration is effective. Figure 2.2 shows a few theorists of public administration. These are used in the study to discuss court practices.

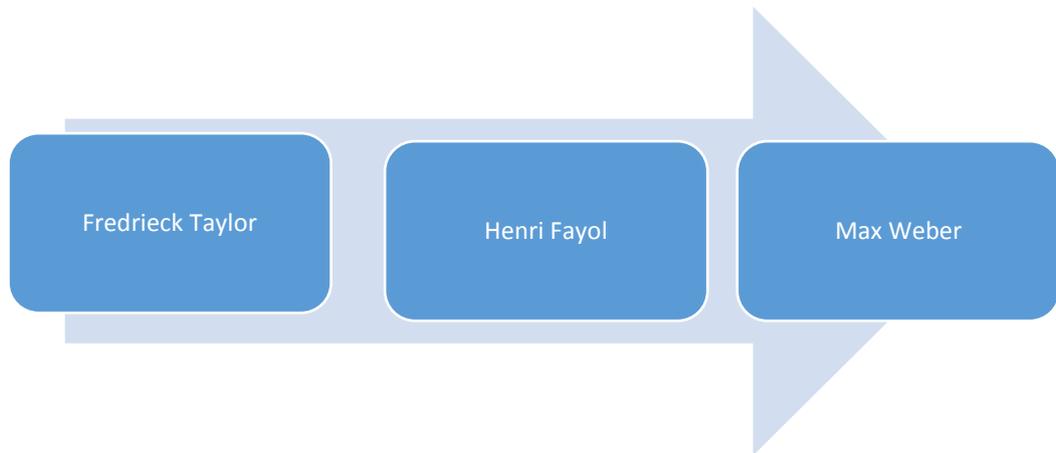


Fig: 2.2 Theorists of Public Administration
Adapted by researcher from Rohman, 2012:38.

A comparison of Fayol, Frederick Taylor and Max Weber is warranted. Organisational theories advanced by Taylor and Weber are each compared to theories posited by Fayol since Fayol's principles of management are significant to this study. Fayol and Taylor believe that suitable administration of employees and other assets is the main strategy to organizational success (Rohman, 2012: 38). Both theorists recommend a systematic method of managing based on a categorised separation of work. Fayol mentions the need for clearly defined lines of power in practical management whilst Taylor highlights reinforcement of inter-related work procedures (Rohman, 2012:37). Taylor specifies that managers should not only serve and reassure workers, but should also require control of their emotional approaches and performance on the basis of systematic values so as to improve operational output. Fayol notes the need to promote workers' capabilities, to inspire and train them, and to suitably remunerate eagerness, initiative and success (Rohman, 2012:38).

According to Rohman (2012:39), Fayol emphasises the administration of the organisation as a whole, while Taylor stresses the administration of effective work. Fayol deals with generic management issues whilst Taylor was concerned with initial line managers and the systematic method. Rohman subscribes to the view of administration from upper level to lower level as illustrated in the Ntuzuma organogram in Figure 4.1. The division of work involves the concept of specialisation of labour which holds the advantage of increasing productivity and of reducing waste (Schimmoeller, 2012:32). Sakowski (2010:206), states that division of work decreases the amount of effort for any person or group and that this develops with practise and familiarity. Taylor examines management from the

lowest to the highest level. Fayol's main concern was to advance the management of the whole organization while Taylor was concerned with refining the supervision of individual jobs. Fayol's administrative theory has a wider purpose than Taylor's systematic administration (Rohman, 2012:39).

Turning to Max Weber, he uses the term bureaucracy to refer to what he regarded as the most current and efficient method of organising as he believed that the world is tremendously biased and subject to class preference (Wren, 2009:229). Weber uses the term 'organisation' to refer to a network and division of authority. Weber also mentions that the goal of bureaucracy is to maximise efficiency of administration in such a way that employees could learn to accomplish their duties optimally. Weber believed that bureaucracy has both advantages and disadvantages. Advantages include the division of labour, managerial hierarchy, formal selection and career orientation (Wren, 2009:231). Its main disadvantage is that observance of rules and other controls can become ends in themselves, to the disadvantage of the organisation. An extreme commitment to rules and other controls may lead to situations in which past decisions are repeated without question (Wren, 2009:232). These theorists discussed above have different but compatible ideas about the optimal ways of organising work processes. These processes form the standard of best practice explored here.

Figure 2.3 illustrates the components of management accordingly and each will be discussed in relation to this study.

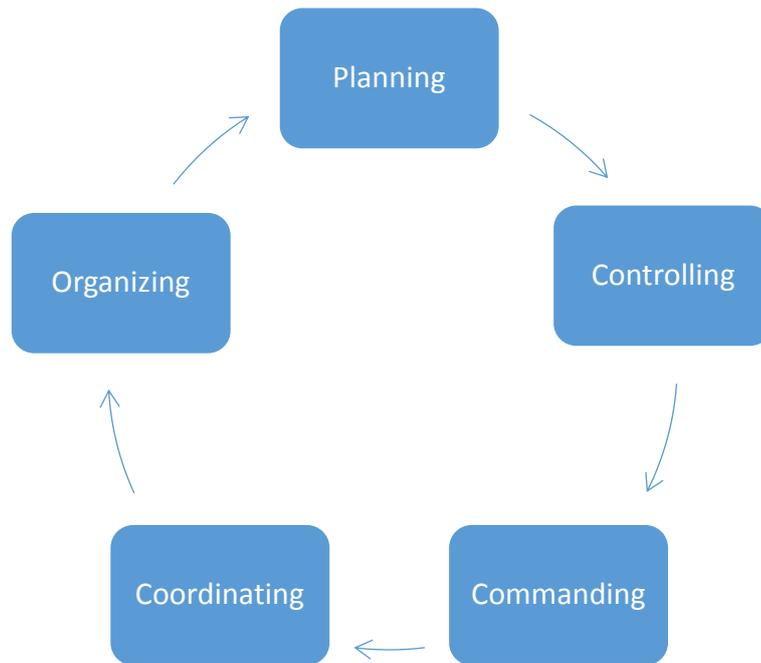


Fig: 2.3 Fayol`s Components of Management (Pryor,2010:492)

Planning involves the anticipation of possible forthcoming issues and the provision of the means to deal with these issues. Organising, on the other hand, is about building up the structural, material and human resources in which plans are efficiently prepared and carried out (Wren, 2011:99). Organising is the second factor that Fayol identified as being part of the manager`s job and he says organising means providing an organisation with everything it needs to accomplish its objectives (Wren, 2011:223).

Coordination of the administration is a useful managing principle to achieve good results. According to Wren (2011: 226), coordinating is to direct, supervise and facilitate work and its success. According to Fayol, controlling is to identify errors and to correct them in order to prevent recurrence (Wren, 2011: 227). Fayol further says that effective control should be based on swift action with sanctions if the need should arise. Court personnel should be properly controlled in order to be effective when processing cases. Control should be in place to stimulate better planning, and to simplify and reinforce an organisational structure while making coordination possible. According to Fayol, controlling consists of the on-going regular, confirmation of strategy execution, commands issued, and principles. It applies to all procedures and its objective is to recognise weaknesses and problems in such a way that they can be corrected and their repetition avoided (Wren, 2011: 227).

Commanding is to manage the activity among the personnel. Fayol, in his traditional work highlighted the significance of agreement and understanding throughout the hierarchy of seniors. In commanding, goals are created at the upper level of the hierarchy, whilst engagements to implement them are applied at the lowest level and in between there are numerous levels of implementation within the hierarchy. At each level superiors provide commands to subordinates. Wren (2011: 351), refers to the Mintzberg study about five managers at work and, based on this research, he established an alternative view to Fayol's traditional model. Although the research alluded to elimination of the traditional view of Fayol's five elements, it provided the best contemporary commentary on the work of Fayol and it correlated various administration philosophies (Wren, 2011:351). In coordination, officials in the organisation are linked to each other in the administrative structure, meaning that each section must have a section head to which all personnel in that section report. While this subsection discussed Fayol's components of management, the next subsection discusses his principles of management. Fayol's principles of management provide the broad context from which a concise conceptual model will be adapted.

Henri Fayol discusses fourteen principles of management by which an organisation should be guided. In order for an association to be effective, division of work, authority and responsibility, discipline, unity of command, unity of direction, subordination of individual interest, remuneration of personnel, centralization and decentralization, span of control, order, equity, scalar chain, stability of tenure of personnel and *esprit de corps* need to be seriously exercised (Wren, 2011: 217). These principles form a conceptual framework for organizational, administration and management. These principles are next discussed in alphabetical order.

Table 2.1 Fourteen Principles of Management	
Authority and Responsibility	Order
Centralization and Decentralization	Remuneration of Personnel
Discipline	Scalar Chain
Division of Work	Subordination of Individual Interest

Esprit de Corps	Stability of Tenure of Personnel
Equity	Unity of Command
Initiative	Unity of Direction

Source: Wren, 2011: 217

In this study, the principles of management are used in terms of relevance to the effectiveness of processing DV matters at the Ntuzuma Magistrates Court. The principles of management briefly provide a guide to the significant role that needs to be played by the management in identifying strengths and weaknesses in the work plan to address identified needs. These principles relate to the study because during the processing of DV cases the principles of management should be used as a guide to lead the whole process. This is of benefit to the community who receive DV services from the court as it helps them overcome the victimization involved in DV. The following principles of management are therefore briefly discussed using the different authors' perspectives.

Fayol as cited in (Mahmood, Bhasharat and Bashir, 2012:517), defines authority as the right to give commands while responsibility involves accountability. Whilst authority can be delegated to junior staff there is a responsibility to accomplish the work in the manner required and fixed by the authority (Schimmoeler, 2012:32). Organisations, however, should guard against managers' exploitation of influence. Centralisation refers to a focus of authority in one place or at one level in the organisation and decentralisation means the spreading of power to the lower levels of administration within an organisation. Fayol is of the opinion that an organisation must struggle to achieve a balance between centralisation and decentralisation. This principle essentially states that too much centralisation leads to organizational incompetence and so too does too much decentralisation. Organisations must be able to achieve a balance between centralisation and decentralisation. A very good method to manage centralisation is to make higher level executives responsible for determining plans and for implementing strategies. In this way senior executives can make informed judgements regarding the plans to be executed by junior level executives.

Turning to discipline and division of work, discipline means obedience, respect for authority and observation of recognised rules and implementation of rules and administration of penalties (Schimmoeler, 2012:32). Together with good managers

at all levels, organisations need a set of strong positive procedures aimed at attaining good employee self-control and obedience. Fayol strongly believes in the division of work which deals with connection between structure and functions (Wren, 2009:218). It is noted that as a result of the specialisation that derives from division of work, jobs are performed more quickly because employees do not lose time shifting from one activity to another (Schimmoeller, 2012:32). Division of work proposes that work can be accomplished more efficiently if it is separated into reduced components. In the case of the Ntuzuma Magistrates Court, specifically in the DV section where the study is centred, work is divided according to the specialized body of knowledge and expertise. Managers have the power to transfer their administrative tasks and to give directions so that tasks will be achieved more efficiently.

Espirit de corps, equity, initiative and order are interconnected. *Espirit de corps* includes staff motivation and morale. The preservation of high motivation and unity among personnel is the key to establishing staff loyalty. Management should act in such a way as to build agreements and unity in the organisation and they should use oral communication to increase speed and clarity while raising the *esprit de corps* and morale to increase productivity (Schimmoeller, 2012:34). All employees are entitled to be treated equally when equity is concerned so as to ensure that justice is served (Bhasharat and Bashie, 2012:518). Staff motivation and the perception of equitable treatment could lead to willingness for staff to take initiative. In every organisation, managers should encourage staff to take initiative in order to render improved services at all times. The principle of order holds that an employee should receive orders from one base only to avoid misperception with different managers managing the different divisions which could detract from staff morale and initiative. Similar activities can be placed together under one senior or under one plan of action to ensure order (Sakowski, 2010:206).

Next, remuneration of personnel must act as a source of fulfilment and as a means of motivation for the employees (Wren, 2011: 357). The basis for compensation of employees must be understandable to both the employee and the organisation and it should be effectively motivational. Most organisations are involved in giving rewards based on performance. This is termed a 'performance management system' (PMS). This helps inspire personnel to give of their best. This principle of PMS deals with the rewarding of personnel for the work performed. According to

Fayol maintains that reimbursement should be reasonable, comprehensible, and agreed upon by all the involved parties (Wren, 2011: 356).

Taken together, scalar chain, subordination and stability of personnel tenure allow for integrated management of information and people. The scalar chain principle refers to the communication channels used in the organisation. This normally involves cascading information from a higher level to the lowest position in the organisation. It basically refers to observing protocol within the chain of management. Equity is obtained from executives being generous and fair towards their personnel which leads to committed and faithful work performance. Subordination of individual interest mainly refers to the benefits of the organisation which should be given first preference rather than the individual interest as the objectives of each organization is to provide quality services to the people. Stability of tenure of personnel alludes to salaries that should be given according to the duration of services rendered by an employee to the organisation (Bhasharat and Bashie, 2012:518).

According to Fayol (in Rohman, 2012:36), the purpose of commanding is to set the human organization in motion towards its purposes. Fayol (in Rohman, 2012:36) further believes that to command effectively, the executive must know the employees, and they should find ways to remove employees with deficient ability to set a good example. Wren (2009:218), argues that, to promote unity of command, an employee should accept orders from a single higher authority while Sakowski (2010:206) also says that a one-person-one-superior policy should apply. According to Schimmoeller (2012:33), a group of activities should support the same plan and should be supported by an appropriate organisational structure that leads to unity of direction. In relation to the Ntuzuma Magistrates Court, work is also grouped according to the plan it supports and each section has its own senior who provides direction and takes responsibility.

This study is concerned with the processing of DV cases. Domestic violence cases are processed on behalf of victims. South Africa is comprised of a multitude of ethnicities and cultures. The country recognises eleven (11) official languages therefore, the question of cultural competency on the part of the judicial system is raised. The concept of cultural competence is next discussed.

2.6 Cultural Competence

The term culture is defined by different scholars according to how they understand it. Culture for most theorists is the sets of ideas, beliefs, values, behaviours, symbols and rituals shared by a group (Penceliah 2011:48). It is important to promote a relationship between cultural differences and staff attitudes in the workplace. It is vital for the court to take cultural differences of community members into account when processing cases (Penceliah 2011:48). Cultural values, customs and traditions can certainly influence the attitudes and behaviour of leaders in significant ways. Culture can also be seen as a learned set of shared values created mutually by individuals that affects the behaviour of a group of people (Boone, 2014:2). According to Boone (2014:3), culture is a self-motivated system of importance involving well-articulated hopes, principles and instructions accepted by consenting members of a group that enables members to relate to each other and to the entire society. Culture can also be defined as the inherited standards, concepts and conduct of living which are accepted by a collective of individuals within society while cultural awareness is the self-consciousness of one's own cultural environment (Kawar, 2012:105). Cultural awareness involves the acknowledgement of one's biases, prejudices, and assumptions about individuals who are different. This acknowledgement is foundational to adopting a cultural competence perspective (Tusan and Obialo, 2010:39).

Not unlike culture, cultural competence is also subject to a number of meanings. According to a 2009 study conducted by Balcaza and Taylor-Ritler, cultural competence relates to when employees recognise cultural beliefs and differences with the ability to adjust and provide effective interventions for people from various cultures (Balcaza and Taylor-Ritler, 2009:1159). The process of becoming culturally competent is a persistent process which results in an improved awareness of individual cultures. Tusan and Obialo (2010:39), argue that there are key components involved in cultural competence and they are: awareness of one's own culture, attitudes towards cultural differences, knowledge of different cultural practices and cross-cultural communication. Cultural competence mainly speaks to the changing attitude and behaviours of employees when interrelating with other people who are culturally different from themselves. Furthermore, one of the objectives of this study is to discover why cultural competence should be taken

into account in the processing of DV cases in the Ntuzuma Magistrates Court. Processing of court cases can be a challenge in the absence of culturally competent approaches to citizens such as taking into account citizens' mother tongue through provision of a court interpreter at all times during the court proceedings as well as dress code in the court rooms during the proceedings. In contrast to cultural competence, cultural imposition is the tendency of an individual or organisation to enforce their beliefs, values, and patterns of behaviour on another culture (Kawar, 2012:105). The impact of culture (whether cultural competence or cultural imposition) on leadership and organisational processes seems to be a concern as leaders are the ones who must give directives on issues of culture (Penceliah 2011:49).

The South African population is extremely varied in language, and in social and spiritual groupings (Strydom and Roodt, 2006: 203). Victims of DV are of a variety of races and ethnicities and they have constitutional rights to access justice and fairness. Recognition of cultural diversity is therefore essential. The South African Constitution in Chapter 2 makes provision for safeguarding culture and for the granting of recognition to all cultures (RSA, 1996). The South African Constitution also defends the right to follow different value systems and beliefs (RSA, 1996). According to Penceliah (2011: 57), a leader should have a good understanding of and be familiar with the values of employees within the organization. The organisations need to take cognisance of cultural dynamics when processing DV cases in order to ensure cultural competence is adhered to in the organization (Balcaza and Taylor-Ritler, 2009:1159).

In terms of the court system, Boone (2014:5), questions that if a DV magistrate does not take cognisance of an individual's particular culture and background how can such a magistrate assist the individual who does not fully comprehend the justice system, the rights of people and the legal processes available in terms of his/her culture? The magistrate cannot respond to and rectify injustices, thereby contradicting the requirement of equal access to the justice system and equal management under the law.

This study tangentially examines how culture and law relate to each other through cultural competence in relation to the processing of DV cases. How is cultural diversity considered in court by the magistrate and other court officials, are the victims allowed to dress up in their cultural attire during court proceedings?

Are litigants allowed to perform their cultural rituals as part of preparing for court and during the proceedings? What does the South African Constitution say about their culture, and is their mother tongue respected during the process? These are questions of cultural competence of an organisation. For example, in some cultures, it is considered rude to stand while adults are sitting down. If you consider how the victim testifies in court, they sometimes stand in the witness box while the magistrate and other officials are sitting down. Would that not be hindering the smooth running of the process as the victim might feel uncomfortable testifying while standing, resulting in not saying what he/she wants to say freely? It seems that cultural competence should play a role in court administration.

Returning to Fayol's principles of management, a number of these principles along with cultural competence form the basis of the conceptual framework underpinning this study. The study is guided by these principles in dealing with the operation the Ntuzuma Magistrates Court where principles of management should be in place at all times. Although Fayol introduced fourteen principles of management, this study focuses on only a few of the principles reflected in Table 2.1. From the broader model, the researcher narrowed this down to four relevant components that guide the study. These principles of management are: division of work, staff morale, cultural competence and victim services. While the division of work principle is self-evident, the component of staff morale is drawn from the principle of *esprit de corps*. Fayol's principle of equity, for the purposes of this study is broken down into 'victim services' and 'cultural competence'. The latter two components are relevant for a study on DV case processing since client service should be undergirded by equity and in a country of human diversity, such as South Africa. Hence, cultural competence in a public organisation is worthy of study. The conceptual model guiding the study is further discussed in the next section.

2.7 Conceptual Model

The conceptual model consists of four components extracted from the broader conceptual framework embodied by Fayol's fourteen principles of management as analysed by Schimmoeller (2012:32), and adapted by the researcher.

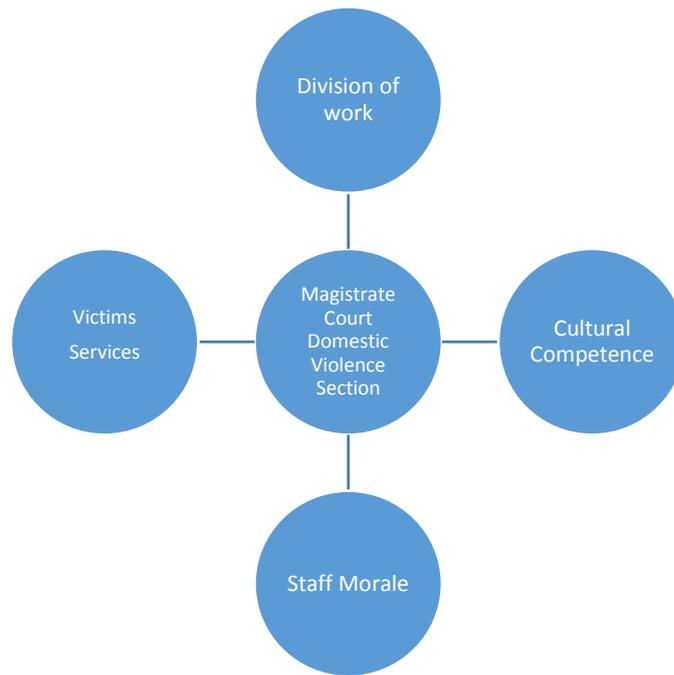


Fig: 2.5 Principles of Management (adapted by the researcher from Schimmoeller, 2012:32)

Each component is explained in detail as follows:

2.7.1 Division of work

The division of work is an idea of speciality of labour with the advantage of increasing productivity and reducing waste (Schimmoeller, 2012:32), while Sakowski (2010:206), states that division of work decreases the amount of effort required from any person or group and this develops with practise and familiarity. Taylor argues that previously the officials did all work and he believes that work should be divided between the officials and the management. He strongly believes in the sharing of work which is a division of work (Schimmoeller, 2012:32). Division of work proposes that work can better be achieved if it is done more excellently and if it is divided into smaller components.

2.7.2 Staff morale

Staff morale relates to the employee`s confidence and performance in the workplace. Staff performance is very important for organisational accomplishments and there are various factors that regulate staff performance which includes job security, workload and absenteeism (Zaheer, Rahman and

Khan, 2010:151). It is always thoughtful for the management to build direction and unity in the organization so as to raise self-confidence of employees within the workplace (Potgieter, 2011:395). According to Zaheer et al (2010:152), *esprit de corps* relates to work and unity in the organization thus it is important for the employees to work as a team to achieve the objective of the organisation.

The advocacy/participatory worldview underlying the study helps generate understanding regarding staff as well as litigants. This worldview advocates for helping marginalised people while empowering them so as to be free from inequality and oppression (Creswell, 2013:9). Staff can either be oppressed, marginalised or empowered by organisational management. The advocacy participatory philosophy creates room for discussion on transformation that includes turnaround strategies to lift staff morale while enhancing employee performance. Litigants or victims can be either empowered or disempowered by the effect of staff morale during service delivery.

2.7.3 Cultural competence

Cultural competence, as discussed earlier, refers to readiness to participate in activities of determining the recognised prejudices of traditional practices and willingness to accept individuals from other cultures (Balcaza and Taylor-Ritler: 2009, 1159). The study then seeks to investigate how culture and law relate to each other through cultural competence in relation to the processing of DV cases. Since advocacy/participatory philosophy focusses on the needs of groups and individuals who are oppressed, marginalised or alienated, it is useful in examining sensitivity towards cultural needs of the community in the aspect of DV case processing (Creswell, 2013:9). This is particularly true in the South African environment given the colonisation and apartheid legacy.

2.7.4 Victim Services

Victims who receive slight or no support from the police, prosecutors, and judges find themselves hindered by the criminal court system and its inefficient treatment of DV cases (Lippman, 2013: 1423). According to (Lippman, 2013: 1423), prior to 1994, DV victims were restricted to filing a claim against an abuser either in a family court or in a criminal court within 72 hours after an act of DV. Furthermore, long delays and adjournments within the criminal court system also

constrained victims' access to justice. The advocacy/participatory worldview emphasises the need to give voice to the desires of groups and individuals in the society who would otherwise be marginalised (Creswell, 2013:9). Hence, the needs of community members should take priority when it comes to administration of DV cases.

Citizens should always be permitted to access public services aimed at securing a good quality of life. It is worth asking whether citizens as clients, experience satisfaction with service delivery from the public service sector and what their level of trust is in the public service (Lippman 2013: 1424). It is important to place victims at the centre of the criminal justice system. Victim services are thus not only remedial but also a precautionary measure in dealing with crime. Citizens sometimes feel that violation of a PO is not given preference when it comes to applications to a court of law. Many courtrooms were also designed in a manner that is sometimes unfriendly to victims and victims are required to enter and exit through the same doors with the perpetrators, making them more exposed to extortion (Lippman, 2013: 1423). Victims' emotional well-being and intention to use the judicial system are influenced by their experiences in the court environment (Cattaneo and Goodman, 2011:481).

From the research findings, it will be determined how these areas of the conceptual model are treated in order to formulate recommendations based on the problem statement.

2.8 Chapter Summary

The chapter explored constitutional mandates and legislative frameworks relevant to DV while reviewing literature that highlights previous scholarly research conducted on DV and court administration. The significance of the DVA, PAJA and the process of filing a DV application was set forth. This Chapter discussed DV in the context of human rights. It covered the South African court administration before examining public administration and management theories. The chapter drew to a close with an identification of the conceptual framework and an outlined explanation of its components. This is the model that drove the study underpinned by the advocacy/participatory worldview which was also discussed in this chapter. Chapter 3 follows with an explanation of research methodology employed in the study.

Chapter Three

RESEARCH DESIGN AND METHODS

3.1 Chapter Introduction

This Chapter briefly outlines the research design and methods utilized during the study. It explores the research design, philosophical worldview adopted as well as the research strategy. The case study, site and participant selection are also outlined followed by sampling and data collection methods. Data analysis is highlighted – including content, matrix and thematic techniques. This is followed by data quality control with emphasis on concepts useful for qualitative studies. Ethical considerations are presented along with limitations of the study. The chapter concludes with a chapter summary.

3.2 Research Design

According to Creswell (2013:3), research design is a plan of how the researcher intends to conduct the research study and signals how data should be collected to achieve the research objectives and answer the research questions. Yin (2014:45), points out that a research design is supposed to symbolise a logical set of statements for each step of the research project. Designing is when you start with a determination and then plan how to achieve it (Thomas, 2011:26). Other components of research, such as research strategy, sampling techniques, and data collection and analysis are then aligned with the research design.

This study employed an exploratory qualitative research design being directed by the problem statement and the objectives of the study. Qualitative research designs seek to find out, *inter alia*, the importance of individual or collective perspectives and values that impact upon a social or human problem (Creswell, 2013:4). In this case, the processing of DV cases at Ntuzuma Magistrates Court was under study. The philosophical worldview is next identified.

3.3 Philosophical Worldview

A philosophical worldview is a basic set of attitudes that guide action and general direction in response to the world as well as to the nature of the research (Creswell, 2013: 6). The advocacy/participatory worldview underpinning the study was briefly discussed in the previous Chapter, while additional detail and justification for the selection is provided here. According to Creswell (2013:10) the advocacy/participatory worldview involves empowerment and a change of position. It contains elements that may change the lives of the participants and the community in which they live. Creswell (2013:6), further argues that the aim of an advocacy/participatory worldview is to create a political argument and discussion so that change will arise. This worldview was selected because it aims at empowering the marginalised and alienated groups within the community when it comes to receiving justice at its best and to give a voice to the victims of DV regarding the court services standards. The advocacy/participatory worldview was also chosen in an effort for staff at the DV section of the Ntuzuma Magistrates Court to articulate their perceptions of court administration and justice service delivery. This worldview supports a practical approach that engages the participation of individuals and groups to increase understanding of the real life phenomenon of court administration.

3.4 Research Strategy

Research strategy refers to types of qualitative, quantitative and mixed methods models that provide a route for procedures in a research design (Creswell, 2013: 11). During this research study, the researcher employed a case study as the enquiry strategy. Yin (2014:16) points out that a case study is a practical inquiry that examines existing experience within real life. Hence, case study strategy is used when the researcher examines in-depth an event, activity, process, or people (Creswell: 2013:13). A case study takes into account, from various perspectives, the complexity and uniqueness of a particular organisation, using different methods to generate an in-depth understanding of a specific topic (Simons, 2009:21; Thomas, 2011:1). In a case study, the researcher focuses on the process of tracing information using data sources such as interviews, focus groups and documentary evidence (Gibbert, 2010:712). It is used in many situations to contribute to our understanding of individual, group, organizational, social, political and related phenomena (Yin, 2014:4). The case study method is generally the kind of research that concentrates on looking at issues in detail without seeking to generalise findings (Thomas, 2011:1). In this study the case study strategy was

determined justifiably suitable for exploring the activity of DV case processing in its natural setting, namely, the Ntuzuma Magistrates Court. It was also selected since in-depth analysis is sought by examination of the views of staff and DV victims on DV case processing. The unit of analysis consisted of individual from two stakeholder segments – court personnel and DV victims.

3.5 Case, Site and Participant Selection

This section explains the selection of the case, the site and the participants for the study.

3.5.1 Case selection

Case selection refers to choosing a case or population of the study. According to Herron and Quinn (2014:3), case selection must be guided by the measures to be used and the decision regarding case selection must be decided as early as possible during the study. This then alludes to the fact that selection must be assessed in terms of its ability to achieve the research objectives and answer the research questions. The study aimed at looking at the effectiveness in processing of DV cases by the Ntuzuma Magistrates Court. Ntuzuma Magistrates Court was chosen as a case because it is involved in DV case processing. This allowed the researcher to focus on the steps needed to develop good research around a case-based approach (Collinson and Rugman, 2010:442). The Ntuzuma Magistrates Court is situated in the Ntuzuma area and services the INK area which is Inanda, Ntuzuma and KwaMashu. The court deals with family, criminal and sexual offenses matters. Only DV cases are the subject of this study.

3.5.2 Site Selection

Site selection refers to the location of the study. Choosing Ntuzuma Magistrates Court was relevant as the main focus was on services rendered by court personnel to the community. Ntuzuma Magistrates Court was also suitable since it is situated in the INK area, drawing from multiple communities. There are different types of courts rendering court services to the community at Ntuzuma Magistrates Court. Figure 3.1 presents the different types of courts at the Ntuzuma Magistrates Court including the DV court where the study is centred.

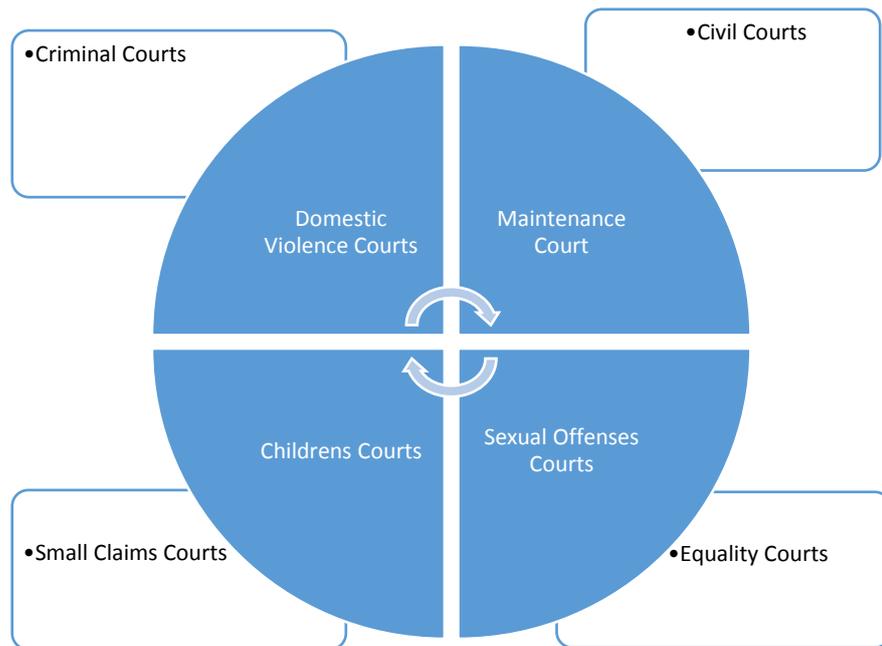


Fig: 3.1 Types of courts at the Ntuzuma Magistrates Court
 Source: Adapted by researcher from court documents

At the Ntuzuma Magistrates Court the DV section is in operation from Monday to Friday and it deals with more than 50 cases a day and about 1000 cases a month. The personnel involved in processing cases are the magistrates (Judiciary), the court interpreters, the administration clerks, legal practitioners, SAPS officials (court orderlies) and sometimes other stakeholders such as social workers. Some of these personnel were recruited as study participants, which is next discussed.

3.5.3 Participant Selection

Participant selection is the process of determining who will participate in the research study when collecting the data. Respondents were chosen from the community who receive DV court services from the Ntuzuma Magistrates Court. The community members who received services from the DV section of the court were selected as explained in section 3.7.2. The court officials who are rendering services at the Ntuzuma Magistrates Court also participated in the study. The breakdown of the respondents is as follows: two DV clerks, two DV court interpreters, two DV magistrates and one focus group from the INK community consisting of eight community members. The mentioned officials were chosen to participate during the study because they form the team of court officials at the DV court. The number of participants included in the study is shown in Table 3.1.

3.6 Sampling

Sampling involves a determination of how many people will participate in a study and the strategies for inclusion of participants. Two sampling strategies are probability and non-probability sampling. Each is described in turn.

3.6.1 Probability and Non-probability Sampling

3.6.1.1 Probability sampling

According to Babbie and Mouton (2001) as cited in Creswell (2009: 173), probability sampling is when the sample signifies the selected population. It does not have to be representative in all aspects; it can be limited to only those features relevant to the specific study. Probability sampling has the advantage of eliminating prejudice in the selection of cases. Probability sampling is commonly associated with quantitative research and techniques of probability sampling include random sampling and stratified random sampling (Creswell, 2009: 173).

3.6.1.2 Non-Probability Sampling

Non-probability sampling strategy is often associated with qualitative research, where the researcher's purpose is to get an in-depth narrative and understanding of the phenomenon under study. Non-probability does not focus on knowing more about a specific population as much as it is concerned with obtaining in-depth knowledge from and about a small group of particular knowledge holders (Uprichard, 2013:3). Techniques of non-probability sampling include purposive sampling and convenience sampling. In this study, purposive sampling was employed. This technique was used so that the researcher could approach individuals who hold knowledge about DV case processing – whether court officials or community members. For example, all community members did not have an equal chance of participating in the study. Rather, they could only participate if they lived in the INK area and had experience of using the services of the DV court. In purposively selecting court officials, the researcher specifically chose two magistrates who deal with DV matters at the Ntuzuma Magistrates Court. There are only two courts that deal with DV matters and one magistrate is dealing with each of those courts, so those two magistrates were included in the study. There are also two court interpreters who work in each of the DV courts and

four administration clerks who work in the DV section. Both court interpreters and two of the administration clerks were also purposively selected. Table 3.1 shows the sampling of respondents.

Table 3.1 Sampling Table of Respondents		
Stakeholder Segment	Target population	Sample Population
Domestic Violence Court Magistrates	2	2
Domestic Violence Court Clerks	4	2
Domestic Violence Court Interpreters	2	2
Focus Group – One group from Inanda, Ntuzuma, KwaMashu (INK Area)	People who live in INK and experience DV services at Ntuzuma Magistrates Court	8
Total number of study participants		14

This table displays the sample group with stakeholders as the units of analysis from the court where the study is based. Fourteen individuals participated in the study. Data collection methods applied to the sampling population are next discussed.

3.7 Data Collection

Data refers to a collection of structured information usually the results of experience, observation and research (Yin, 2011:130). The tools used to collect data for this study were documentary evidence, a focus group and semi-structured interviews. Table 3.2 outlines the participants and the details of the interviews. This is followed by a discussion of how the data collection tools were used.

Table 3.2 Data collection process
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PARTICIPANTS	DETAILS
Administration Clerks	Interviews were conducted with 2 Admin Clerks on the 27/06/15 at the Ntuzuma Magistrates Court.
Court interpreters	Interviews were conducted with 2 Court Interpreters on the 18/07/15 at the Ntuzuma Magistrates Court.
Magistrates	Interviews were conducted with 2 DV Magistrates on the 20/07/2015 at the Ntuzuma Magistrates Court.
Community Members	Focus group was conducted with 8 INK community members receiving services at the Ntuzuma Magistrates Court on the 02/04/15 at Sithabile primary school, Inanda.

The data collection tools were decided upon and drawn in advance of the study. The tools were designed in accordance with the research questions and research objectives as well as the conceptual model guiding the study. Multiple sources of data were collected in an effort to subsequently triangulate the data.

3.7.1 Documentary evidence

Documentary research is broadly defined as any pre-existing transcribed material that was not prepared precisely in response to some requests from the investigator (Ahmed, 2010:2). It refers to written documents that may take the form of textbooks, articles, notes and any minutes of meetings (Petty, Thompson & Stew, 2012:381). In this study, documentary evidence included the Department of Justice and Constitutional Development Strategic Plan 2013 – 2018 and descriptive statistical data from court reports as explained further in Chapter 4. These reports are compiled and retained as part of the records of the Ntuzuma Magistrates Court.

3.7.2 Focus group

A focus group is an acknowledged data collection tool for qualitative research in a situation where the group dynamics is thought to be an overriding factor. Focus groups are increasingly recognised as a valued data collection tool for qualitative research, particularly in situations where the group dynamic is thought to be significant (Thomas

& Quinlan, 2014:3). Focus group interviews provide the researcher with important visions into research questions through participant discussion (Del Rio-Roberts, 2011:312). Focus groups help researchers to make contact with the different forms of expression people use in daily dealings. In this sense, focus groups often uncover levels of understanding that remain untouched by other data collection techniques. Focus groups are an economical way of data collection. On the one hand, focus groups increase the number of study participants. On the other hand, focus groups provide the reinforcement for discussion and arguments of specific and significant issues, as participants are able to respond to ideas they would likely not have encountered individually (Onwuegbuzie, Leech & Collins 2010:712).

In this study, the focus group tool was selected because it was believed both individual contributions in a group setting and the interaction among participants about services received from the DV court would shed light on court administration in a collective way. Focus group recruitment strategies included the use of flyers with research details where community members were invited to voluntarily participate in the study. Flyers were posted on the walls around the Ntuzuma Magistrates Court. Flyers were also distributed to municipal ward councillors during the stakeholders' meeting to ensure that the invitation was extended to everyone who met the criteria and was interested in participation. The relevant ward councillor also encouraged community participation.

The researcher facilitated one focus group with a group of eight community members who reside in the INK area. Demographics of focus group participants are provided in Chapter 4. The discussion was conducted in the isiZulu language, as the participants were all isiZulu-speaking people. This was done to put participants at ease and to encourage their inputs without fear and prejudice. The consent form and its contents were presented and explained and agreement to participate in the study obtained. Open-ended questions were used during the discussion in the form of a dialogue where everybody was given a chance to respond. The focus group guide is attached as Appendix B1 and B2 (in English and isiZulu). Responses were captured with a tape recorder for later transcription. The Sneller Recording Company in Durban, KwaZulu-Natal accomplished both the transcription and the language translation from isiZulu to English.

3.7.3 Semi-Structured Interviews

A semi-structured interview schedule was employed guiding the interview process. This type of interview is a flexible and significant tool to narrow down the number of voices and the way people make sense of their experiences (Rabionet, 2011:563, 564). The advantage of this type of interview is that the researcher is able to follow up on particular interesting facets that emerge in the interview and the participant is able to make fuller representation. For this study, the researcher conducted six interviews with the court officials on different dates as shown in Table 3.2. During the interviews with court officials, open-ended questions were used to allow probing on certain issues that emerged. The interview questions are attached as Appendix C. Participants were given the opportunity to choose their preferred language during interviews. All respondents desired that interviews be conducted in the English language, with which the researcher complied. In light of agreement from interviewees, the interviews were tape recorded and later transcribed by the Sneller Recording Company.

3.8 Data Analysis

According to Creswell (2013:183), the process of qualitative data analysis involves making logic out of text and collected data. This involves preparing of data for analysis, conducting different kinds of analyses and creating an understanding of the larger meaning of the data. It is an on-going process involving frequent reflection on the data. This involves collecting open-ended data based on questions asked (Creswell, 2013:184). Patton as cited in De Vos et al (2011:432), states that qualitative data analysis transforms data into findings. This involves reducing the volume of raw information, identifying important outlines and constructing an outline for communicating the principle of what the data discovered. This research study employed a number of data analysis techniques associated with qualitative research designs; namely content, matrix and thematic analysis. This is discussed further in the following paragraphs.

3.8.1 Content Analysis

For qualitative research, content analysis is a data analysis technique that helps describe the features of what is expressed in a document, including examining who says what and to what effect (Lewis, Zamith and Hermida, 2013: 5). Coding of terms and meanings is part of content analysis. Coding is the part of analysis that pertains specifically to the naming and categorising of phenomena through close investigation of data. During open coding, data are broken down into parts, closely examined and compared for similarities

and differences. Coding involves applying a name or a code to each of the collected segments or data.

In this study, documentary evidence was subjected to content analysis. For primary data analysis, the researcher followed a number of planned steps to reduce data. First, the researcher developed a template that matched questions from the interview schedule and the focus group guide with the research questions and research objectives. These are attached as Appendices D and E respectively. It was believed that data from certain interview and focus group questions were more likely to respond to particular research questions and objectives. Second, this assisted the researcher with assigning codes to certain segments of data in the transcripts from interviews and focus groups to begin to make meaning of the content and to categorise data. Third, identity codes were assigned to participants as shown in chapter 4. This was done to protect confidentiality and anonymity while preserving which respondents made which statements. Finally, based on the content categories that evolved during data reduction, the researcher began to construct matrices, which are further explained in the next section.

3.8.2 Matrix Analysis

Matrix analysis refers to a process whereby reduced and categorised data are drawn into tables with designated columns and rows. The information in column headings or the first column are designed in correspondence with reduced data inserted across rows. The column headings or row headings are in accordance with concepts or themes arising from data analysis in relation to the study topic. This is done while maintaining significant yet streamlined information derived from study participants (Abdi and William, 2010:4). Matrix analysis can be used in conjunction with content and thematic analysis to reduce, present and analyse data. Working from the transcripts, the researcher used manual colour coding to distinguish similar and different responses in reference to the questions posed in the data collection tools and questions and objectives set by the research study as a whole. For example, matrices were employed to discover how the philosophical worldview of advocacy/participatory interacts with the conceptual model, based on participant responses as shown in Chapter 4. In addition, matrices were used as a template to categorise responses while maintaining the meanings derived from participants.

Matrices allowed the researcher to understand responses by simplifying the responses into categories that speak first to the questions posed in the data collection tools. Then,

having already matched questions from the data collection tools to the broader study research questions and research objectives, the researcher was able to discern which data were most likely responsive to which lines of inquiry. In other words, all responses from all interviewees to a single interview question were placed into a single document. Manual colour coding was next used to highlight similar and different responses. This assisted in reducing the data collected into meaningful data that could be further categorised. For example, matrix analysis was used to show the interaction between the conceptual framework which was advocacy/participatory worldview based on reduced data depicted in cells of the matrix. Matrix analysis also helped the researcher to advance the reliability and trustworthiness of the data as a matter of data quality control. The matrices containing categories aligned with participant responses enabled themes to emerge that are next discussed.

3.8.3 Thematic Analysis

According to Vaismoradi (2013:400), thematic analysis is a self-determining qualitative description approach for identifying, analysing and reporting themes within the collected data. Thematic analysis is a search for themes that become known as being important to the explanation of the occurrence. Thematic analysis seeks to discover the themes relevant in a text at different levels (Bauer and Biquet, 2014:4). The process involves the identification of themes through careful reading and re-reading of the data. Themes are refined further into themes that are specific enough to be separate (non-repetitive), and broad enough to summarise a set of ideas contained in numerous text sections. The first step in thematic analysis is to reduce the collected data. This is done by dividing the text into controllable and meaningful text parts, with the use of a coding background – this was also part of the content analysis phase. Both content and thematic analysis are used in concurrence with theoretical or conceptual interests guiding the research questions, on the basis of relevant issues that arise in the text itself, or on the basis of both. Once all the text has been coded, categories are developed and themes are extracted from the coded text sections (Bauer and Biquet, 2014:4).

In this study, the researcher used content analysis and matrix analysis to pave the way to thematic analysis. The categorical codes accomplished through content analysis, the manual colour coding of responses to indicate similarities and differences in responses as well as outliers that were unaligned with most responses (as evidenced by transcripts), and the compiling and aligning of categories and participant responses into matrices

allowed themes to emerge. While the themes emerged toward the end of the reiterative data analysis process, the themes are presented near the outset of Chapter 4.

3.9 Data Quality Control

Scholars differ on how data quality control should be perceived and handled in qualitative research (Yilmaz, 2013:318; Ali & Yusof, 2011:26; Lewis 2009:1). Moving away from the concepts of reliability and validity associated with quantitative research, Lincoln and Guba (1985) as cited in Yilmaz (2013:320), point to credibility, transferability, dependability and confirmability as concepts more useful in qualitative research. Each of these is discussed in turn.

3.9.1 Credibility and trustworthiness

Credibility of a study refers to the trustworthiness of the findings from the viewpoint of the participants, researchers and readers alike (Tracy, 2010: 842). For a study to be credible and trustworthy, the reader is entitled to a description of people and activities studied to understand events revealed by data. This means the description should be accurate and the researcher should indicate any underlying biases (Yilmaz, 2013:321). Yilmaz (2013:321), further contends that certain components of a research study such as “systematic data collection procedures, multiple data sources, triangulation” can contribute to the credibility and trustworthiness of a study. The credibility of a study is further determined by observation that enables researchers to gain deep understanding of the phenomenon being studied and this can be done through peer debriefing to test the visions and ideas with colleagues outside the context of the study (Petty, Thompson & Stew, 2012:383). In this study, the researcher established and followed procedures for data collection and used multiple forms of data analysis to meaningfully interpret data while retaining meanings intended by the participants. In section 3.11 (Limitations of the Study) the researcher indicates that she is employed by the Ntuzuma Magistrates Court but that the interviewees do not report to the researcher. As a court manager, the researcher has observed court operations and administration. To advance credibility of the study, colleagues were debriefed to test their thinking and ideas through presentation of an outline of the research study. A study is credible when others external to the study recognise the findings.

3.9.2 Transferability

Transferability refers to the degree to which the results of a qualitative research study can be transferred to other contexts with other participants (Anney, 2014: 277). Transferability can occur when the researcher is able to provide data that readers can assess as relevant in the other contexts. In qualitative studies, findings are specific and do not aim at generalising the findings. Transferability is referred to as analytical or theoretical and the responsibility to determine transferability rests with those who might apply the findings to their own surroundings (Petty, Thompson & Stew, 2012:383).

3.9.2 Dependability and confirmability

Dependability and confirmability in qualitative research are similar to reliability as perceived in quantitative research studies. Dependability is enhanced when the selection of research design, research strategies and data collection and analysis methods and techniques are fully explained and justified by the researcher (Yilmaz, 2013:321). There are different procedures and protocols a researcher can employ to ensure the reliability and dependability of a study. These include checking of transcripts to make sure that they do not contain obvious mistakes and a shift of the meaning during the process of coding (Creswell, 2013: 190). In Chapters 1 and 3 the researcher tried to explain and justify the components of the research design and methods, including the philosophical worldview underlying the study. In Chapter 2 the researcher tried to briefly apply the philosophical worldview to components of the conceptual model identified to guide the study, based on the research problem. In Chapter 4 research procedures and protocols are shown through data analysis. All of this was done in an effort to advance dependability of the study and its findings. In addition, transcripts were checked and rechecked while listening to tapes over and over again as a private company transcribed the tapes and the researcher sought to ensure accuracy.

Confirmability means that there is an 'audit trail' during which an auditor reviews the research methodology and evaluates whether findings from a study are logically grounded in the data collected and analysed during the study (Yilmaz, 2013:321). While the researcher did not appoint an auditor for the study, other master's student colleagues reviewed the 'audit trail'. Moreover, the researcher's supervisor reviewed the work and in early stages when there was a lack of clarity regarding the 'audit trail' the researcher was required to revisit the work and ensure that findings were grounded in the data

collected, analysed and interpreted. Toward that end, the steps the research followed were documented and different data sources were utilized to ensure accuracy, consistency, dependability, credibility and confirmability. Multiple sources of evidence lead to triangulation of data that is next discussed.

3.9.4 Triangulation

According to Kolb (2012:75), triangulation is a practice used to increase reliability of interpretation of data by using various methods of data collection. Triangulation usually depends on the convergence or divergence of data gathered by different methods. It can also be achieved using the same method gathered over time. The aim of obtaining triangulation is the improvement of credibility, trustworthiness and confirmability of the study (Kolb, 2012: 75). The benefits of triangulation are that it increases assertion in data collected, creates original ways of understanding experiences and it also reveals unique findings with clearer consideration of how the research problem can be addressed (Abiodun, 2014:75). In this study, three sources of evidence were triangulated, namely documentary evidence, interviews and a focus group discussion.

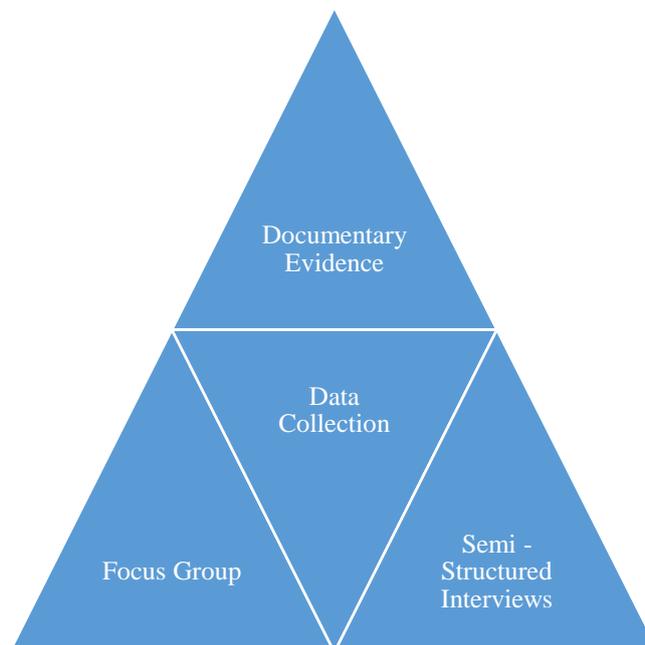


Fig 3.2 Created by the researcher showing how data were collected

These sources of evidence were explained earlier in this chapter. By triangulating these three different sources of evidence the researcher was able to discern to

which extent findings from the various sources converged or diverged as further discussed in Chapter 4. The next section explores ethics taken into consideration for the study.

3.10 Ethical Considerations

There are ethical issues that need to be considered before pursuing a research study. The main ethical procedure during data collection involves gaining the agreement of individuals in authority in the form of a gatekeeper's letter to provide access to study participants at research sites (Creswell, 2013:90). Establishing the ethical guidelines is vital when intruding upon the lives of others during research interviews, especially the lives of colleagues and community members. Ethical and moral issues have to be taken into consideration as well as observance of protocol (Rabionet, 2011; 565). The following are some of the procedures that the researcher considered when preparing for and used when conducting this research study.

For focus group participants, prior to the research study process, a meeting was held with the participants to discuss the ethical issues pertaining to the study. This gave the researcher the opportunity to introduce herself, build rapport with the participants and it provided a chance to explain the aim of the study. Participants were informed of the authority in terms of the ethical clearance from the university as well as the authority from the ward councillor who oversees the INK community.

On the day of the focus group, the consent forms were discussed and they were distributed in both isiZulu and English. Sarandakos (2005) as cited in Creswell (2013: 89), says that the researcher needs to develop an informed consent form for participants to sign before they engage in the study. This form acknowledges that participants' rights will be protected during data collection. Obtaining voluntary informed consent from the participants, involved having them sign a form to say that they understood the purpose and the nature of the study and that they were willing for the focus group to be recorded (Yin, 2011:46). No one should be forced to participate in a research study; participation should be voluntary [(Neuman, 2000) as cited in (Creswell, 2013: 92)]. In order for the research participants to make a well-informed decision, they were provided with all the information about the research process that may influence their decision. Participants did not object

to the signing of consent forms and they were very excited and said they were happy to be part of the study and history of the university through their participation. In addition, the participants were made aware that they would be at liberty to withdraw from the research study at any time. The researcher gave the participants the opportunity to ask questions before the commencement of the focus group.

Before the onset of the focus groups and interviews, participants were assured of confidentiality and anonymity, verbally and in writing on the consent form. According to Yin (2011:46), assuring confidentiality about participants' identities in the entire study is vital. The ethical codes indicate that researchers must determine their ability to guarantee confidentiality and anonymity, to guard against any type of harm to participants and to inform participants of any restrictions. Participants have the right to privacy in order to protect their confidentiality. All possible means of protecting the privacy of respondents was applied. Focus group participants were reminded not to call each other's names during the session. Privacy of court personnel was protected during interviews as no one was allowed in the interview room except participants only.

3.11 Limitations of the Study

There were a number of limitations to the study. First, conducting the research was not an easy experience for the researcher. Therefore, there were some frustrations due to limited research experience. Second, there was limited information available from different sources on court administration in RSA, including literature and the internet. Third, the study was not externally funded and was entirely self-funded by the researcher. This financial challenge was compounded by cancellation of data collection sessions. For example, arranging interviews with court officials for interviews was not easy as court officials are always busy attending to cases and members of public, the appointments were kept being postponed due to interviewee unavailability. Moreover, focus group members did not arrive at the venue on several occasions as some were employed and some were self-employed – unable to miss work although they had committed to focus group attendance. As a result, focus group sessions were postponed due to unavailability of a sufficient number of participants. That was costly and inconvenient for the researcher since leave had to be taken with the employer

when attending to the interviews and refreshments were to be provided for each meeting.

Fourth, the researcher works in the organisation where the research study was undertaken. During the interviews with court personnel, the researcher made sure that bias was avoided. The court officials interviewed do not report directly to the researcher but to another supervisor. However, at times it felt as if court personnel were not revealing all the information as they felt it could be used against them. This was the case even though the researcher explained to them that the study had no bearing on their work relationship but that it was for the benefit of the court users and the DOJ & CD as a whole. That having been said, some court officials used the platform to address their frustrations with the administrative processes which then prolonged the interview discussions, which on the one hand was also seen as a limitation. On the other hand, it was a benefit since the outlet of their frustrations produced data to address the research questions and objectives.

Fifth, the population sample of the INK area consisted of only a Black population with no other racial group with which to compare the findings.

Finally, time was one of the most acute limitations during the process of data collection as the researcher was in full-time employment, holding a managerial position, which demands much of her time.

3.12 Chapter Summary

The Chapter outlined the design and methods employed during the research process. It identified the research design, philosophical worldview and research strategy that assisted the researcher in carrying out the research study. The case, site and participant selections were covered and the sampling strategy indicated. The data collection methods and events in the field were then highlighted and the combination of data analysis techniques employed discussed. Data quality control was presented and ethical considerations were also covered. The chapter drew to a close with an indication of the limitations of the study and is concluded by this summary. The following chapter presents the findings that arose out of the research study through the analytical framework.

Chapter Four

DATA PRESENTATION, ANALYSIS AND DISCUSSION

4.1 Chapter Introduction

This chapter presents and analyses data that were collected during the research study. According to Creswell (2013:183), the process of data analysis involves making sense out of text and collected data. Toward that end, the context of the Ntuzuma Magistrates Court covered secondary data in interrelating documents and reports. This is followed by the section on primary data analysis. Themes that emerged from the study are discussed in relation to the research objectives. Interaction between emerging themes and the conceptual framework is considered. This is followed by a presentation and interpretation of data deduced from transcripts of interviews and focus groups with the aid of matrix analysis. Taken together, focus group and interview data allow for exploration of the administration processes and experiences of significant role players, including INK community members as well as court officials who render services of DV case processing services to that community. Primary data are shown in matrices with narratives before and after matrices and the literature is interrogated in relation to data presented. This is done to show that the research objectives are achieved and questions are answered. Data are then triangulated before the chapter is concluded by a summary.

4.2 Context of the Ntuzuma Magistrates Court

The study was conducted at the Ntuzuma Magistrates Court which is situated in the Ntuzuma area under eThekweni municipality in ward 42 in the province of KwaZulu-Natal. The court provides services to three neighbouring areas; namely Inanda, Ntuzuma and KwaMashu collectively known as the INK area. The area is comprised of both formal and informal human settlements. The Ntuzuma Magistrates Court is comprised of different courts rendering various services to the INK community. The DV court is one of those courts and this is where the study was centred. The DV court is in operation

from Monday to Friday and it deals with more than 50 cases a day and about 1000 cases a month. Tables 4.3 to 4.6 illustrate the number of cases the court dealt with during the months of January to November in 2014 and 2015. The personnel involved in processing of cases are the DV magistrates (judiciary), the court interpreters, administration clerks, legal practitioners, SAPS officials (court orderlies) and sometimes-other stakeholders such as social workers. However, only magistrates, court clerks and interpreters participated in the study. The study seeks to discover, *inter alia*, the factors that facilitate or hinder the processing of DV cases at the Ntuzuma Magistrates Court. At the Ntuzuma Magistrates Court work is divided according to sections and areas of expertise in a hierarchical order as argued by Wren (2009: 206). The division of work is a concept that involves assigning separate tasks to individual specialists with the purpose of producing better work as illustrated by the organogram in Figure 4.1.

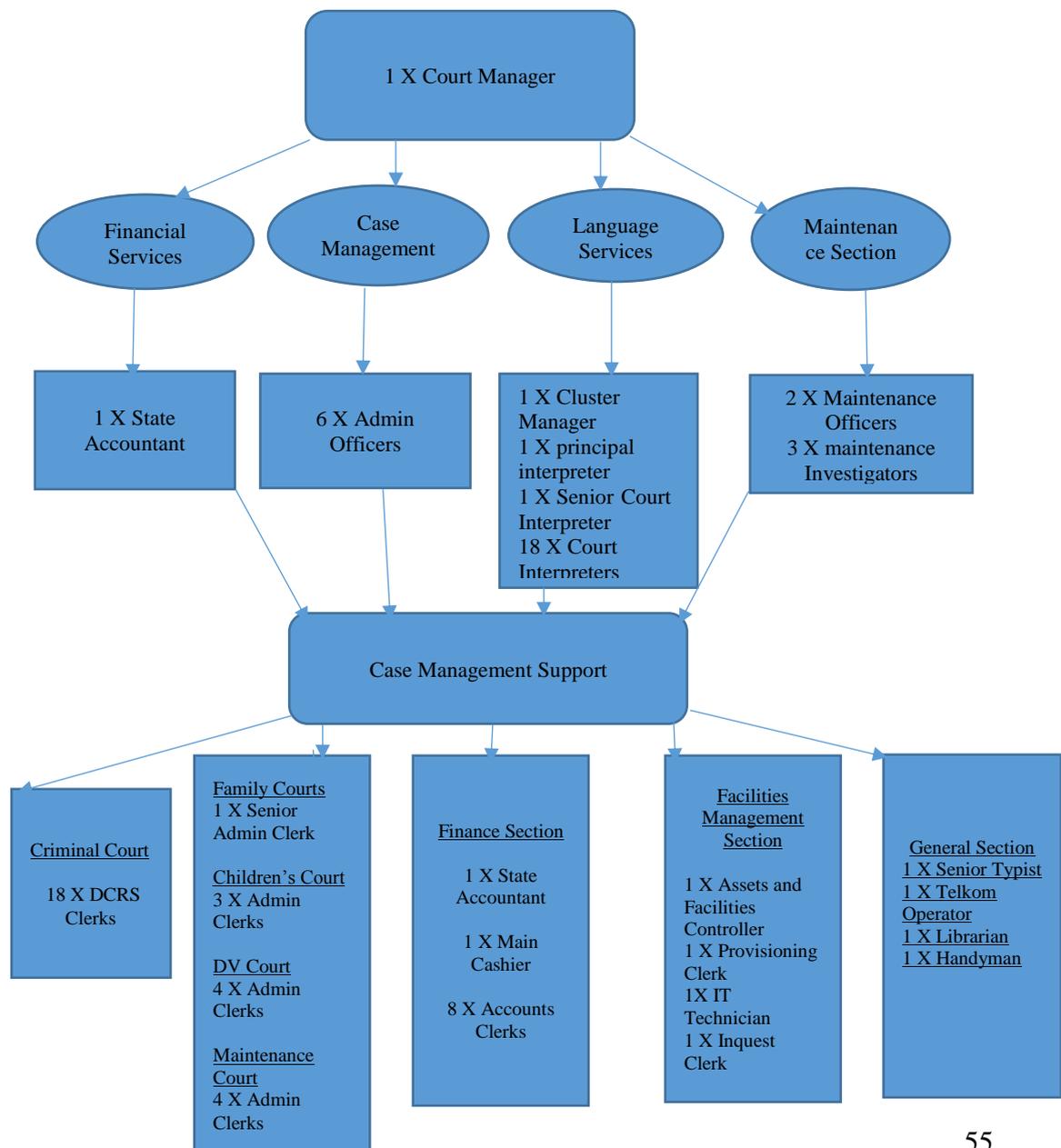


Fig: 4.1 Ntuzuma Court Organogram
 Source: Blue Print Human Resources 2014/2016

Figure 4.1 indicates how work is separated at the Ntuzuma Magistrates Court which according to sections. Authority involves determining guidelines and instructions for junior staff whereas responsibility means accomplishing the work in the manner expected and fixed by the authority (Schimmoeler, 2012:32). At the Ntuzuma Magistrates Court authority starts from the senior management down to the junior staff who take the responsibility to accomplish work. Secondary data are next discussed.

4.3 Secondary Data Presentation and Analysis

As part of the documentary evidence mentioned in Chapter 3, the following subsections explain the evidence as to how the DOJ and CD vision and mission relates to the study, the descriptive statistical data are then presented comparatively for the years 2014 and 2015.

4.3.1 The DOJ and CD Vision and Mission

Planning means equally to measure the forthcoming issues and to make arrangements that accommodate those issues while organising is about building up the structure, material and human resources with which plans are efficiently prepared and carried out (Wren, 2009:99). The DOJ & CD's main focus is on planning so as to meet its objectives. Its goals and objectives are in line with the NDP and the South African Constitution. Below is the alignment between these documents for the purposes of this study. Table 4.1 shows the interconnection between goals and objectives with the DOJ & CD with the South African Constitution and the NDP.

Table 4.1 Alignment of DOJ & CD Goals and Objectives with the Constitution and the NDP			
DOJ & CD Goals	DOJ & CD Objectives	RSA Constitution	RSA NDP

To provide transparent, responsible and accountable justice for all	To ensure an accessible justice system which promotes social justice, human rights and freedoms	Section 34 entitles everyone to have any disputes that can be resolved by the application of law decided in a fair public hearing before a court. Section 12 provides for the right to freedom and security.	Strengthening the criminal justice System. Providing access to justice. A quick finalisation of cases.
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Source: DOJ & CD Strategic Planning 2013/2018; South African Constitution (RSA, 1996); NDP vision 2030 (2013:22).

As Table 4.1 shows, the aim of the DOJ and CD is to provide transparent, responsible and accountable justice for all whereas the objectives aim to ensure an accessible justice system that promotes social justice, human rights and freedoms. The South African Constitution alludes to ensuring the right to fair justice, the right to freedom and security as well as the right to be free from all kinds of violence. The NDP seeks to strengthen the criminal justice system by ensuring access to justice for all as well as the quick finalisation of cases brought before the judiciary. As a whole, these three documents promote access to justice, accountability of relevant arms of state and effective administration of justice as well as freedom from violence. Having illustrated the interconnection between DOJ and CD's goals and objectives, the South African Constitution and the NDP, the following discussion further outlines the strategic goals and objectives of the DOJ and CD in relation to the study followed by the statistical data from the Ntuzuma Magistrates Court for the years 2014 and 2015. Table 2.4 specifies the strategic goals of the DOJ & CD according to its strategic plan.

Table 4.2 Strategic Goals and Objectives of the DOJ & CD in relation to the study	
Goals	Objectives

<ul style="list-style-type: none"> • Goal 1 – enhanced organizational performance on all aspects of administration. • Goal 2 – courts to improve the finalisation rates in respect of family courts. • Goal 5 – Compliance with PAJA and public engagement. 	<ul style="list-style-type: none"> • Objective 3 – improved effectiveness of support services. • Objective 5 – improve human resources service delivery. • Objective 9 – develop policies to protect and improve the rights of vulnerable groups. • Objective 10 – increase promotion of family cohesion through mediation services. • Objective 11 – increased access to justice services to historically marginalised communities. • Objective 18 – full implementation of participatory programmes and PAJA.
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Source: DOJ & CD Strategic Planning 2013/2018 (pp 30-31, 37-38, 40-41, 49)

These goals and objectives are subsequently discussed in relation to data collected from the focus groups and semi-structured interviews. These goals, including enhancing performance in all aspects of administration, quick finalisation of cases, and community engagement are of interest in determining whether DV case processing is effective. The objectives that allude to the marginalised and vulnerable groups relate to the choice of the advocacy/participatory philosophical worldview guiding the study. The documented goals and objectives allow the researcher to evaluate the documentary evidence against results of primary data and make informed recommendations and conclusions against the backdrop of statistical data next discussed.

4.3.2 Statistical Data

The Ntuzuma Magistrates Court personnel prepare monthly reports about new applications and return court rolls. The reports also show case outcomes. However, this is not yet available as an automated database (Foster, 2013:3). Therefore, the researcher read through reports to obtain the statistics provided. The statistics are descriptive of the number of cases handled on a monthly basis and not for inferential consideration. It should be noted that the months included are January to November because the month of December is a short month with public holidays and less cases are then dealt with during the month of December. Tables are to be read in conjunction with figures to see the monthly breakdown of DV applications and return court rolls during 2014 and 2015. Hence, the data presented includes the number of new case applications as well as the

total number of cases enrolled in the court, month to month for each year along with disposition of the cases.

Table 4.3 and Figure 4.2 show case intake while Table 4.3 also shows the number of IPOs granted, ‘notice to show cause’ cases heard and the number of cases dismissed.

Table 4.3 2014 New Applications											
Month	JA N	FE B	MAR	APRIL	MA Y	JUN E	JUL Y	AU G	SEP T	OC T	NO V
Total case intake	576	549	463	443	547	419	586	460	424	424	285
Interim Protection Orders granted	302	263	262	253	284	343	250	417	218	262	85
Notice to Show Cause	433	280	211	202	151	199	163	185	166	211	217
Dismissed	11	06	08	08	08	05	06	21	13	06	35

Source: 2014 monthly statistics reports compiled by Ntuzuma Magistrates Court.

Figure 4.2, similar to Table 4.3, indicates the total case intake per month in different colours for each month for ease of comparison.

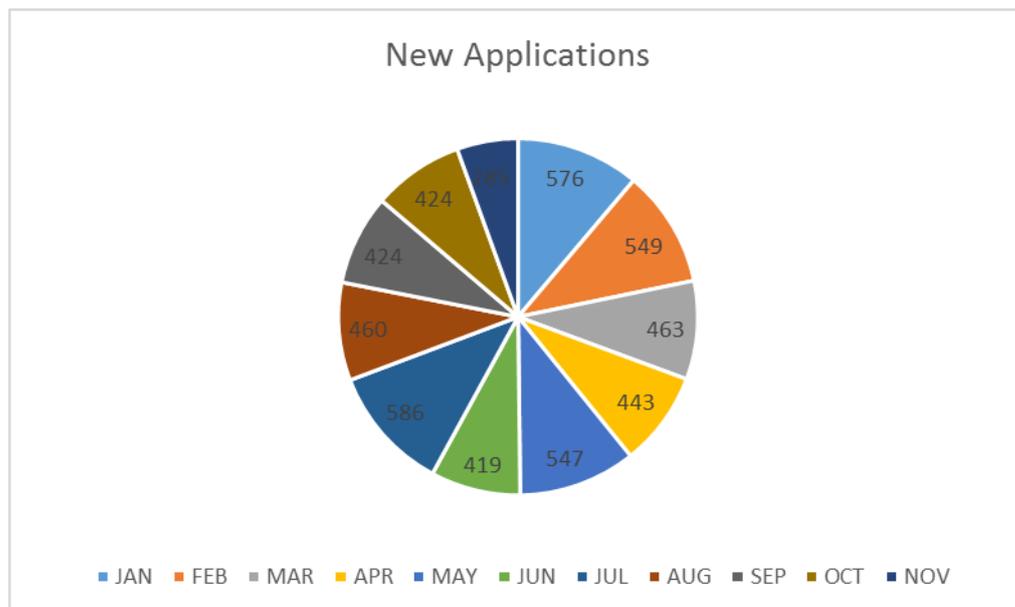


Fig: 4.2 2014 New Monthly Domestic Violence Applications

Source: 2014 monthly statistics reports compiled by Ntuzuma Magistrates Court.

In addition to the statistics shown in Table 4.3 and Figure 4.2, the Ntuzuma Magistrates Court also compiles reports that show how many cases were returned, month to month. These are the cases still being processed. In Table 4.4, the first row as signalled by the name of the first column shows the total number of cases on return roll. The subsequent rows, identified by headings in the first column delineate the disposition of cases month by month, relative to the number of cases on the return court roll.

Table 4.4 2014 Domestic Violence Return Court Roll											
Month	JAN	FEB	MAR	APRI L	MA Y	JUN E	JUL Y	AU G	SEP T	OC T	NO V
Total on Return Roll	508	256	335	756	684	707	448	402	371	465	347
Withdrawn/SOR	05	03	11	22	40	31	03	08	10	06	11
Confirmed	60	25	24	100	51	120	90	77	84	99	100
Set aside	199	94	110	232	391	276	223	170	164	239	149
Dismissed	122	90	99	112	43	111	15	57	08	12	58
Postponed	122	44	91	290	159	189	117	142	105	109	29

Source: 2014 monthly statistics reports compiled by Ntuzuma Magistrates Court

In other words, Table 4.4 sheds light on the total number of cases that were on the 2014 return court roll, it further indicates the total number of cases that were withdrawn, confirmed, set aside and dismissed. Figure 4.3 indicates the total number of cases dealt with monthly with different colours to highlight the monthly statistics.

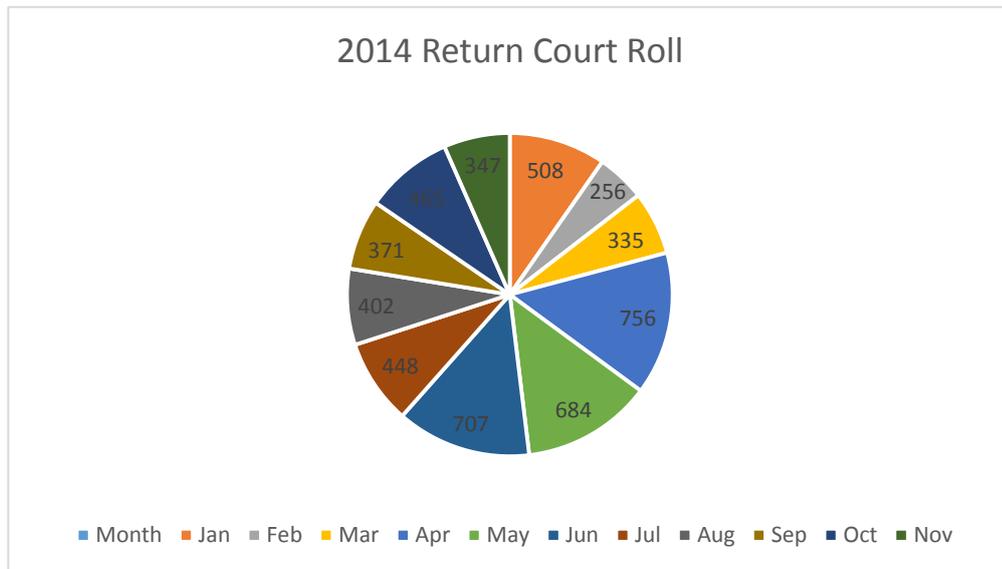


Fig: 4.3 2014 Monthly Return Court Roll
 Source: 2014 monthly statistics reports compiled by the Ntuzuma Magistrates Court

This descriptive statistical information is also provided for the year 2015. On the one hand, Table 4.5 reflects the new applications that were dealt with in 2015 from the IPO granted, to notice to show cause and dismissed cases from month to month. On the other hand, Figure 4.4 shows case intake in a pie chart to present monthly case intake.

Table 4.5 2015 New Applications											
Month	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
Total Cases	352	419	407	506	315	372	393	498	367	757	390
Interim Protection Orders granted	266	212	183	210	164	204	224	265	197	253	237
Notice to Show Cause	72	207	218	292	143	152	102	185	162	143	142
Dismissed	14	0	06	04	08	16	04	06	02	01	06

Source: 2015 monthly statistics reports compiled by Ntuzuma Magistrates Court

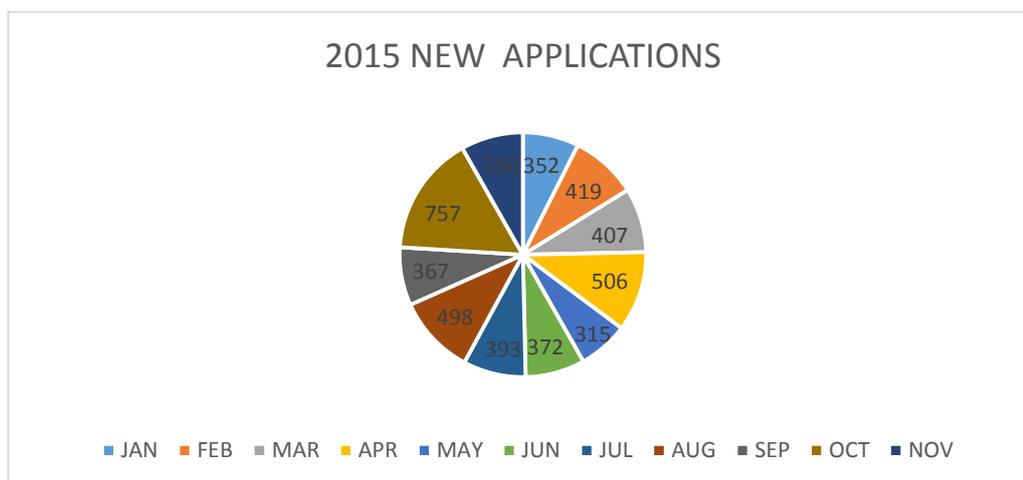


Fig: 4.4 2015 New Monthly Domestic Violence Applications
 Source: Extracted from 2015 monthly statistics reports compiled by Ntuzuma Magistrates Court

As indicated earlier, the Ntuzuma Magistrates Court is faced not just with new applications but also with the monthly return roll of cases not yet finalised. Table 4.6 shows the return court roll for 2015. It reflects case dispositions relative to the number of cases on the return roll in a given month.

Table 4.6 2015 Domestic Violence Return Court Roll											
Month	JAN	FEB	MAR	APRIL	MAY	JUNE	JULY	AUG	SEP	OCT	NOV
Total on Return Roll	460	549	682	569	692	372	319	498	323	352	304
Withdrawn	08	204	270	223	167	96	147	151	151	44	85
Confirmed	94	82	95	87	28	87	108	87	112	112	149
Set aside	304	201	270	223	167	96	147	217	151	128	27
Dismissed	8	0	-	4	08	16	04	06	02	02	06
Postponed	46	62	47	32	52	02	57	37	60	59	37

Source: 2015 monthly statistics reports compiled by Ntuzuma Magistrates Court

Table 4.6 should be read in relation to Figure 4.5 that highlights the return court roll information in a pie chart. The different colours represent different months.

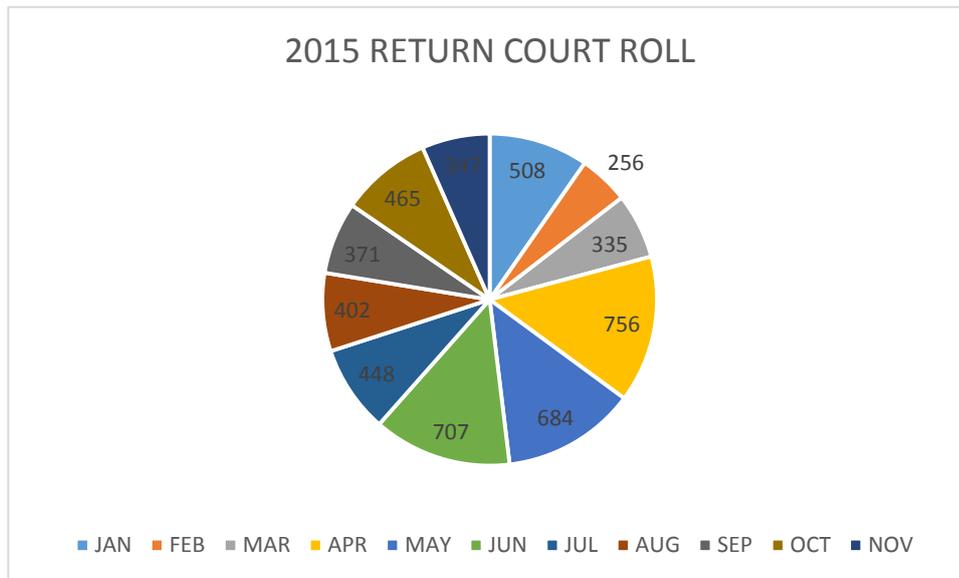


Fig: 4.5 2015 Monthly Return Court Roll
 Source: 2015 monthly statistics reports compiled by the Ntuzuma Magistrates Court

Statistics from 2014 and 2015 in respect of the new application cases dealt with in the Ntuzuma Magistrates Court shows that there is a high rate of DV in the area serviced by the court, which is the INK area. Often, an increase from one month to another is compounded by the fact that earlier cases may not have been resolved. In the absence of an automated system that tracks each case, it is difficult to assess how long it generally takes a case to be finalised. However, these statistics show the high volume of cases. Simultaneously, as shown in the organogram depicted in Figure 4.1, there are eight (8) individuals handling these cases – 2 magistrates, 4 administrative clerks and 2 interpreters. Since interpreters are not involved in every case, these means that 6 individuals are responsible for processing DV cases in Ntuzuma Magistrates Court. These descriptive statistics are presented to show the number of cases handled on the one hand and the number of individuals handling these cases on the other hand. These statistics from court reports also provide a background for interpreting and understanding responses obtained during interviews and focus groups. In addition, documentary evidence, including the aims of DOJ & CD in relation to the RSA Constitution and NDP as well as statistics from court reports helps identify factors that facilitate or hinder DV case processing which is one of the objectives of this study. Primary data are next presented and analysed.

4.4 Primary Qualitative Data Presentation and Analysis

During the research, data were collected using focus groups and semi-structured interviews in addition to the documentary evidence examined. Table 4.7 illustrates the focus participants' age, race, gender, status and their location of residence.

Table 4.7 Focus group demographic data					
Participant s	Age	Race	Gender	Employment Status	Location of Residence
1	42	African	Male	Self employed	Inanda
2	38	African	Female	Unemployed	Ntuzuma
3	40	African	Female	Unemployed	KwaMashu
4	45	African	Male	Employed	Inanda
5	46	African	Female	Employed	Ntuzuma
6	40	African	Male	Unemployed	KwaMashu
7	38	African	Female	Employed	Inanda
8	42	African	Male	Employed	Ntuzuma

Source: Focus group participants during 2015 fieldwork

Table 4.7 shows that focus group participants are drawn from all three sub-areas that comprise the INK area, they are all African, and an equal number of male and female. The age of participants ranges from the late thirties to mid-forties. More than half the participants are employed. While specific demographic information regarding interviews is unavailable, they have been employed by the DOJ and CD between ranges of three to eleven years. With the demographics of focus group participants and duration of employment of court personnel in mind, the rest of this section is divided in subsections of data presentation as further explained in section 4.4.1.

4.4.1 Data Presentation and Analysis

A number of steps were followed in early stages of data deduction. This was described in Chapter 3 and included a table that aligned research objectives and research questions with specific questions from the focus group guide and interview schedule as shown in Appendices D and E respectively. This was done to project which data from which aspects of the data collection tools would most likely respond to which research objectives and research questions. Once this was accomplished, data corresponding to each interview question, for example, was copied and pasted into a separate document and manual colour coding was used to identify the similarities, differences and outliers in participant responses. As explained in Chapter 3, these data reduction processes helped the researcher analyse the content of transcripts, construct matrices and generate themes emerging from data. This subsection helps navigate the balance of the upcoming subsections. Although themes emerged late in the data reduction process, Section 4.4.2 first depicts the interconnection between the emerging themes and research objectives and questions (Table 4.8). Section 4.4.3 then discusses the interconnection between the conceptual framework guiding and the philosophical worldview underlying the study based on reduced raw data (Matrix 4.1). This is followed by an indication of how the components of the conceptual framework seem to relate to emerging themes (Table 4.9). Matrices are distinguished from tables in that matrices contain data obtained during from fieldwork and deduced through a combination of content, matrix and thematic analysis as explained in Chapter 3. Section 4.4.4 concludes this sub-section with a series of matrices depicting data from focus groups and interviews in relation to the research objectives of the study.

4.4.2 Emerging Themes in relation to Research Objectives and Research Questions

The interaction between the focus group and interview data together with the philosophical worldview underlying the study assisted the researcher to identify the following four themes.

Theme 1: **Case withdrawals** detract from the effectiveness of justice service delivery.

Theme 2: **Community engagement** in the government sector plays a vital role as it helps to address issues through outreach programmes before those issues become citizen complaints. Community engagement could help avoid case withdrawals.

Theme 3: **Cultural competence** is important to be taken into account in any organisation for good service delivery. Cultural competency can facilitate community engagement.

Theme 4: The slow pace of **finalisation of cases** raises a concern from both the community and court personnel.

Even though themes are often broader than the aims of the study, Table 4.8 illustrates the seeming linkages between emerging themes with research objectives and questions.

Table 4.8 Interaction between the emerging themes of the study with research objectives and research questions		
Emerging themes	Research objectives	Research questions
Case withdrawals	Determine factors that facilitate or hinder the processing of DV cases at the Ntuzuma Magistrates court.	What are the factors that facilitate or hinder the processing of DV cases at the Ntuzuma Magistrates Court?
Community engagement	Explore how the experiences of the INK community can improve court administration. Examine how stakeholders perceive the application of the DVA in processing DV cases in the Ntuzuma Magistrate Court	How can the experiences of the INK community about court services improve court administration? How do stakeholders perceive the application of the DVA in processing DV cases in the Ntuzuma Magistrate Court?
Cultural competence	Identify factors that indicate why cultural competence should be taken into account when processing DV cases.	Why should cultural competence be taken into account in processing DV cases?
Finalisation of cases	Determine factors that facilitate or hinder the processing of DV cases at the Ntuzuma Magistrates court.	What are the factors that facilitate or hinder the processing of DV cases at the Ntuzuma Magistrates Court?

Source: Planning stages and data analysis of the study.

The emerging themes with research objectives and research questions have been aligned above to illustrate the interconnection between them. Cultural diversity in RSA alludes to why cultural competence needs to be taken into account in processing DV cases. The South African population is extremely diverse and social variety should be accompanied by an investigation into greater security for language, social and spiritual groups (Roodt, 2006:2013). Community engagement relates to the experiences of the INK community in that they indicated that lack of community engagement leaves them marginalised and

unaware of court processes, practices and procedures. Such community engagement could improve court administration so that the court becomes a problem-solving court (Quinn 2009:58). Participatory programmes are likewise an objective of the DOJ and CD; namely objective number 18 (DOJ and CD, 2013/2018:49).

According to goal number 2 of the DOJ and CD (DOJ and CD 2013/2018:2), courts must improve the finalisation rates in respect of court cases which could avoid case withdrawals. Earlier studies have shown that DV victims withdraw DV cases in part because of lack of transparency, lack of information on return dates and other administration reasons (Artz 2011; Vetten, 2005; Matthews & Abraham, 2001).

The next section examines the interconnection of the conceptual framework and the philosophical worldview as well as the interrelationship between the conceptual framework and emerging themes.

4.4.3 Interconnection of Conceptual Framework, Philosophical Worldview and Emerging Themes

The conceptual framework draws on Fayol’s principles of management and they include the division of work, victim services, cultural competence as well as staff morale for this study. These components of the conceptual framework can be seen as shaped by the advocacy/participatory philosophical worldview. This worldview focuses on the needs of the marginalised and alienated groups and individuals with an emphasis on empowerment (Creswell, 2013:10). It is more practical than other worldviews as it engages the participation of individuals and groups as envisaged by the DOJ and CD goals and objectives. Matrix 4.1 on overleaf, illustrates how the researcher linked the components of the conceptual framework and the elements of the philosophical worldview in relation to the study based on data from respondents.¹

Matrix 4.1 Interconnection of conceptual framework and the advocacy/participatory worldview.				
Elements of Advocacy/Participatory Worldview	Four components of conceptual framework			
	Division of Work	Cultural Competence	Staff morale	Victim services

¹ FG followed by a number, indicates a focus group participant. As to interviews, DVM followed by a number means a DV court magistrate. AC and a number is the code for administrative clerks and INT and a number is the code for a court interpreter. The numbers correspond with participant identities.

Oppression and alienation	Staff shortage contributes to staff oppression and aloneness AC001, INT 002.	Being refused services when dress code is not proper for court amounts to oppression FG002, FG003, FG007, FG008.	Bad staff attitude contributes towards us feeling oppressed and marginalised FG 001, FG002, FG003, and FG004.	Cases not finalised within the expected time, a long time waiting for assistance when getting to court and lack of information about court processes and procedures FG002, FG003, FG005, FG006.
Empowerment	Work gets allocated to each individual qualified to do the work. FG002, FG003, FG004, FG005, FG006, FG007, and FG008.	Sensitivity to community cultural differences and more flexibility in the court. FG001, FG004, FG005.	Staff to be trained and debriefed regularly as they deal with sensitive issues on a daily basis to empower and provide psychological support to the applicants. FG002, FG003, FG004, FG007, FG008	Provision of educational projects to the community teaching the community about court processes and procedures. Conducting community outreach programmes to address issues pertaining to court services FG003, FG004, FG006, and FG008. Dealing with court material in preferred languages FG002, FG005.

Source: Transcripts data from focus groups and semi-structured interviews.

As shown in Matrix 4.1, during the focus group interview and the individual interviews, participants were given the opportunity to voice their opinions and the voice of the participants becomes the voice of change to be advanced with others not to others (Creswell, 2013:10). Victim services by and cultural competency of the court could give voice to DV victims as a way of overcoming oppression, alienation and marginalisation. A lack of victim services is a hindrance to the criminal justice system (Lippman, 2013:1423). Cultural competency means that victims would come to know that cultural values and beliefs held by community members are respected by the court (Penceliah, 2011: 48; Maluleke, 2012:2). The court experience then becomes an empowering one providing litigants with a state of well-being (Cattaneo & Goodman, 2010, 484). This is also in accordance with the South African Constitution section 15(3) which provides for

and protects the right to culture (RSA, 1996). Similarly, court personnel could be relieved of oppressive workloads and isolation through sufficient staffing and an effective and efficient division of work that in turn builds confidence and staff morale (Wren, 2011:218). Another mechanism of staff empowerment is team spirit (Zaheer et al, 2010:152), sustained by self-confidence (Potgieter, 211:395).

While Matrix 4-1 examined the relationship between the conceptual framework and the philosophical worldview of the study, Table 4.9 demonstrates the interconnection between the conceptual framework and emerging themes. The interconnection is suggested in column three of the table and further discussed after Table 4.9.

Table 4.9 Interconnection between the emerging themes and conceptual framework		
Emerging themes of the study	Conceptual Framework	Interconnection
Case withdrawal	Staff morale	When cases get withdrawn by complainants, staff get discouraged resulting in their morale deteriorating.
Community engagement	Victim services	If the community is involved in court matters, victims are satisfied with the processes.
Cultural competence	Cultural competence	If the workplace considers cultural differences, victims acknowledge that cultural diversity is being given priority when it comes to court processes.
Finalization of DV cases	Division of work	Case is finalised on time when work is divided amongst the staff resulting in positive output.

Source: Adapted from Fayol's principles of management (Schimmoeller, 2012:32) and data analysis.

Table 4.9 shows that the conceptual framework helped guide the study to the emergent themes. From the FG data collected, it appears that citizen trust in court service delivery is in question (Lippman (2013: 1424). They seem dissatisfied with the court services. As Lippman (2013:1423) contends victims who receive slight or no support from the police, prosecutors, and judges find themselves hindered by the criminal court system and its inadequate treatment of DV cases. To overcome this, focus group participants suggested

that the court embark on conducting community outreach programmes or projects to educate the community about DOJ and CD court services. Community engagement seems related to victim services (FG001, FG003, FG004). According to data collected from FG interviews, the court is not culturally sensitive when it comes to community members' dress code as it requires them to dress in a way that suits the courts (FG 003, FG004). This has a bearing on cultural competency (Balcaza and Taylor-Ritler, 2009:1159).

Staff morale appears related to the issue of case withdrawals just as division of work seems tied to protracted delay in case finalisation. Staff morale is denigrated when litigants withdraw cases despite the time staff invest in processing cases. Yet litigants seem to withdraw cases or allow cases to be dropped from the rolls due to lack of victim services that educate communities. While Baker (2009:293), argues that the main objective of court administration is to maximise use of time and to resolve cases as quickly as possible, data from this study reveal that this is difficult in the Ntuzuma Magistrates Court. Data from this study show staffing constraints at the DV court prevent prompt finalisation given the large number of new applications every month and the high number of cases remaining on the court return roll each month as discussed earlier in this Chapter. Although division of work (Schimmoeller, 2012:32), proposes that work can be performed more effectively if it is divided into smaller elements and shared amongst the officials; FG participants noted that division of work among staff becomes meaningless when there is absenteeism among the small number of DV court staff.

4.4.4 Presentation and Analysis of Primary Data in Relation to Study Objectives

This dissertation aims to achieve four research objectives and answer four corresponding research questions. The upcoming matrices reflect data that led to the emergence of the four themes were discussed earlier. Now deduced data are presented and analysed with respect to each research objectives. Matrices 4.2 to 4.4 illustrate responses relevant to research objective one. Data in Matrix 4.5 addresses research objective two while matrix 4.6 depicts data relative to research objective three. Finally, data in Matrix 4.7 help achieve the fourth objective of the study. Simultaneously, data in all matrices aid the answering of the research questions. The narrative in between the matrices interprets and interrogates literature reviewed in Chapter Two in relation to the data presented.

Drawing from focus group and interviews, matrix 4.2 identifies the factors that hinder DV case processing.

Matrix 4.2 Factors that hinder domestic violence case processing		
Research objective one	Focus group responses	Interview responses
To determine the factors that hinder the processing of DV cases in the Ntuzuma Magistrates Court?	<p>The processing of DV cases is slow and cases take too long to be finalised. There is insufficient staff capacity. FG 007, FG001, FG003</p> <p>The community is not educated about the DV court operation. FG002, FG005</p> <p>Officials do not understand their roles and responsibilities and staff development is needed. FG008, FG004</p> <p>Sensitivity towards community cultural needs. FG006</p>	<p>Staff shortage. AC002, DVM002</p> <p>Large number of applications received daily. INT003</p> <p>Case withdrawals DVM002, INT003</p> <p>Absenteeism of both parties on the court dates. DVM001, AC002</p> <p>Respondent's refusal to sign return of service documents. AC001</p> <p>Non-compliance with granted court orders. AC001</p> <p>Non-attendance of concerned parties on court dates. AC002</p>

Source: Focus groups and semi-structured interviews.

On the one hand, in Matrix 4.2, focus group responses clearly show that there are contributing factors that lead to their dissatisfaction with DV case processing. These include community perceptions of lack of unity of command in that staff are seen as not being set in motion to accomplish organisational purposes (Rohman, 2012:36). Although constitutional courts have tried to use human rights standards to advance the justice system (McQuigg, 2010:356), the fact that community members believe they are uneducated about court operations suggests that further community education is necessary. On the other hand, court officials bring to bear action or inaction by DV victims that hinder DV case processing. When litigants fail to appear in court or otherwise fulfil their responsibilities to advance DV cases, court officials are prevented from actualising goals and objectives of the DOJ and CD. For example, objective nine of

the DOJ and CD (DOJ and CD 2013/2018:40), provides that policies must be directed toward improving lives of vulnerable groups while objective eleven aims to increase access to justice. Yet if litigants do not take advantage of these opportunities presented by the DV court, as suggested by the court official who participated in the study, these justice objectives cannot be achieved. All respondents mention issues of staff shortage and protracted finalisation of cases while court officials complain about case withdrawals. The need to address these issues is confirmed by literature (Artz, 2011:8; Vetten, 2005:6).

Matrix 4.3 presents factors that facilitate domestic violence case processing according to community members.

Matrix 4.3 Factors that facilitate domestic violence case processing	
Research objective number one	Focus group responses
To determine the factors that facilitates the processing of DV cases in the Ntuzuma Magistrates Court?	<p>Proper information to be given to the community when approaching DV court to speed up the process FG003, FG004</p> <p>The staff must go out to the community educating them about the DV court operations, FG001, FG003, FG004, FG006, FG007</p> <p>Some officials have good attitude FG005, FG007, FG008</p> <p>Sensitivity towards community cultural needs. FG006, FG001, FG004</p>

Source: Focus group during fieldwork.

The views of community members whose voices are raised in Matrix 4.3 support the position of Vetten (2005:6) that DV victims lose confidence in the justice system when they are not provided with sufficient information. The call from community members that the DV court provides them with legal awareness comports with the access to justice mandates shared by the DOJ and CD, the RSA Constitution and the NDP as discussed earlier in Table 4.1. The fact that some staff has good attitudes towards DV victims is indicative of the victim services as envisaged by Lippman (2013: 1424).

On overleaf, the last Matrix in the trilogy of matrices directed toward research objective and research question one deals with staff morale and DV case processing. The first row

of responses indicates factors that facilitate DV case processing in a way that uplifts staff morale while the second row reveals factors that hinder DV case processing so as to diminish staff morale.

Matrix 4.4 Staff morale and domestic violence case processing		
Research objective one	Interview responses	
To determine the factors that facilitates the processing of DV cases in the Ntuzuma Magistrates Court?	<p>I understand my roles as the clerk. AC001, AC002.</p> <p>I am aware of my responsibilities. INT001, INT002</p>	<p>We always try to handle cases effectively even though there is not enough staff but we try our best, there is always room for improvement AC001, INT001</p> <p>We do not normally receive complaints but receive compliments AC001, INT001.</p>
To determine the factors that hinder the processing of DV cases in the Ntuzuma Magistrates Court.	<p>Case withdrawals DVM002, INT003</p> <p>Staff shortage AC002, DVM002.</p> <p>Large number of applications received daily INT003</p>	<p>Absenteeism of both parties on the court dates. DVM001, AC002</p> <p>Respondent's refusal to sign return of service documents. AC001</p> <p>Non-compliance with granted court orders. AC001</p>

Source: Extracted from semi-structured interviews.

As Zaheer (2010:151), points out staff morale relates to the employee`s confidence and performance in the workplace which includes job security, workload and absenteeism. Management should build coordination and unity in the organization so as to raise confidence of staff within the workplace (Potgieter, 2011:395). This is suggested by responses by court personnel such that they understand their responsibilities and perform as best they can despite staff shortages in line with *esprit de corps* to work cohesively in the workplace (Zaheer et al, 2010:152). While Schimmoeller (2012:32, 33), contends that once an adequate division of work is appropriated and supported by an organisational structure that provides unity of direction, and even though the Ntuzuma Magistrates Court organogram (Figure 4.1) shows such an organisational structure around which activities are planned, these data indicate otherwise. Case withdrawals,

staff shortage and high volume of cases pre-empt any advantage of effectiveness to be gained from division of work and a supportive organisational structure. Instead, these factors hinder DV case processing despite a well-intentioned division of work and hierarchical organisational structure.

The last three matrices helped achieve the first research objective and answer the first research question of this study by identifying factors that facilitate or hinder DV case processing. The discussion now turns to the second research objective of this study.

Matrix 4.5 aligns objective number two with FG participants’ responses in terms of how court administration can be improved.

Matrix 4.5 Community perceptions on court administration improvement		
Research objective two	Focus group responses	
Explore how the experiences of the INK community regarding the services from the DV section in the Ntuzuma Magistrates Court can improve court administration.	<p>The court must engage in community outreach programmes and attend community meetings to educate the community about court services. FG003, FG001</p> <p>Provision of court materials should be written in both isiZulu and English language talking about court services. FG004, FG 005</p>	<p>The court needs to increase staff capacity to finalise cases speedily. FG001</p> <p>Proper information should be given to us to fast track the process. FG003, FG004, FG006, FG007</p>

Source: Focus group during fieldwork.

Matrix 4.5 points to the need for a culturally competent justice system that engages the community and educates them about the court services. This minimises the lack of knowledge among community members about their legal rights and court processes

which leads them to withdraw cases or not attend to their cases during the court dates. This shows that while the DOJ and CD as well as the RSA Constitution and various policy frameworks are geared toward access to justice and improvement of court administration, these efforts have not yet been fully materialised as indicated by focus group responses. Nevertheless, the deliberation in matrix 4.5 aids achievement of the second research objective and research question as to how experiences of the INK community members can improve administration at the Ntuzuma Magistrates Court. Experiences of INK community members show that the court should provide community outreach, timely dispose of cases and exercise cultural competency to improve court administration.

Data in Matrix 4.6, on overleaf, connects research objective number three with participants’ responses in terms of stakeholder’s perceptions of application of the DVA. It should be noted that responses of court officials differ from those of INK community members.

Matrix 4.6 Stakeholder perceptions of application of the DVA		
Research objective three	Court officials	Community members
To examine how stakeholders, perceive the application of the DVA in processing DV cases in the Ntuzuma Magistrates court.	It protects people of all colours. DVM001	We are turned away by SAPS for dress code. FG001, FG005, FG008.
	The DVA is a protection mechanism and it acts as a guide. DVM002	DV cases take too long to be finalised. FG001, FG005, FG008.
		We believe that the DVA is not protecting us from the abuse. 6 out of 8 FG participants.

Source: Interviews and focus group during fieldwork.

As shown in Matrix 4.6, INK community members respond in alignment with Morei (2014:933) and Stoever (2011:318), that the DVA is failing to address the issue of DV and therefore failing to protect victims from DV. In contrast, court stakeholders are of the view that the DVA is a protective measure. This disjuncture is worthy of further

inquiry. As to achieving the third objective and answering the third research question of this study, it appears that both have been accomplished. According to the findings of this study, the perceptions seem to be stakeholder-specific.

Matrix 4.7 deliberates on cultural competence in relation to research objective number four.

Matrix 4.7 Cultural Competence		
Research objective four	Community members	Court officials
To identify factors that indicate why cultural competence should be taken into account in the processing of DV cases in the Ntuzuma Magistrates Court.	The court is considerate when it comes to our cultural needs. FG002, FG005	The DV court is sensitive to community cultural needs. AC001
	The court sometimes does understand our cultural backgrounds and makes exceptions. FG003, FG 005, FG002	The court does not discriminate against any culture. AC002
	Other court officials turn us away to go and change clothes when we are not dressed properly for court, which is time consuming. FG 007, FG 008	As interpreters, we always ensure that when interpreting during the court setting, culture does not influence our work. INT003 The DV court is a flexible court since it deals with family issues hence cultural sensitivity is not really a problem. INT004
	We are not told about the rules of the court and only find out about certain cultural things that are not permissible in court. FG001, FG002, FG006, FG004	Cultural difference does not play a role in deciding the matter. DVM001 The court supports with court interpreters to satisfy the language barrier therefore community cultural needs are met .DVM002

Source: Focus group and interviews during fieldwork.

Matrix 4.7 on cultural competence shows how FG participants and semi-structured interviewees view cultural sensitivity in relation to the research objective number four. It

is worth mentioning that there is a relationship between cultural differences and attitudes in the workplace and it is important for the court to take cultural differences of the community into account when processing cases (Penceliah 2011:48). Cultural values, customs and traditions can influence the attitudes and behaviour of leaders in significant ways but it should not influence the outcome of a DV case. Data in matrix 4.7 reveal that FG participants have mixed views on the cultural competence of the Ntuzuma Magistrates Court as do court officials. While some INK community members believe that the court considers cultural diversity, others do not. As to court officials, only one respondent indicated sensitivity to cultural needs while another perceives that providing an interpreter is sufficient to meet cultural needs and still others indicate that cultural difference does not influence their work or that a flexible court is tantamount to cultural competency. This is a matter that requires broader and deeper inquiry into the role of cultural competence in a problem-solving court as discussed by Quinn (2009:81-82). To some degree, taking cultural diversity into account when processing DV cases seems to be a challenge when all responses are taken into consideration. Nevertheless, the factors revealed by study participants as well as DOJ and CD goals and objectives and constitutional and policy mandates (Table 4.1) against the backdrop of the diversity of the South African population do indicate why cultural competence should be taken into account when processing DV cases. Hence, this assists with achieving the fourth and final research objective and answering the corresponding research question of this study.

The triangulation of data follows to conclude the chapter.

4.5 Triangulation of the data

The diagram below specifies the three different data collection tools employed during the study as discussed in chapter 3 under the sub-topics 3.7.1 to 3.7.3 and how data collected enabled the researcher to draw recommendations and conclusions from the findings. Figure 3.2 is reinserted here for ease of reference with the results from the triangulation discussed below in relation to the literature.

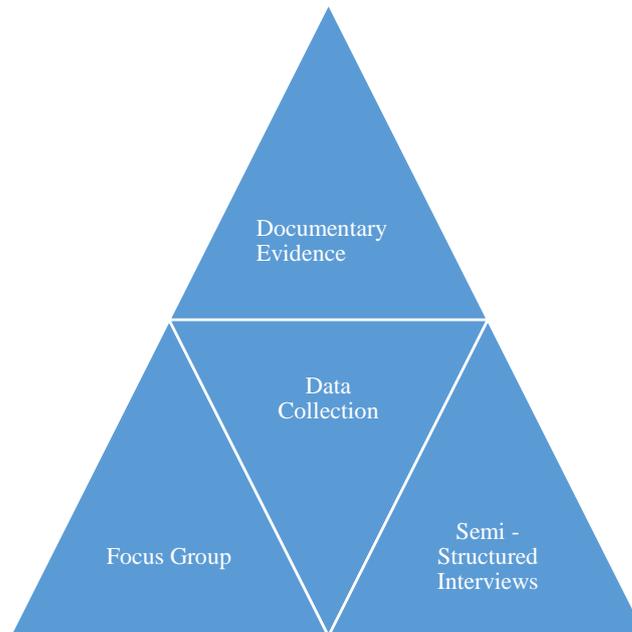


Fig 3.2 Created by the researcher showing how data were collected (Creswell, 2013: 179)

The benefits of triangulation are that it increases the reliability of the data collected, it creates original ways of understanding experience and it also reveals unique findings with clearer consideration of the research problem (Abiodun, 2014:75). As shown in this chapter, the researcher made use of data from the DOJ & CD 2013 – 2018 strategic plan as well as reports on statistical data of the Ntuzuma Magistrates Court as part of documentary evidence in the study (Petty, Thompson & Stew 2012:381). The goals and the objectives of the DOJ & CD were discussed in relation to the South African Constitution, NDP (Table 4.1) and this documentary evidence was juxtaposed against primary data.

The findings from the documentary evidence, focus groups and interviews, at times converge with literature. The ineffective administrative processing of DV cases with reference to case finalisation and insufficient personnel to administer court processes seem to be a challenge recognised by all study participants (Vetten, 2005; McQuigg, 2010; Artz, 2011). However, while focus group data revealed that finalisation of cases is very slow due to ineffective court administration, court officials indicate that litigants thwart court administration.

Interview and focus group data diverge on the issue of case withdrawals, community access to justice, community engagement and cultural competence of the Ntuzuma Magistrates Court. Court officials are highly concerned with case withdrawals which

demotivates staff (Gauthier 2010: 1377); while case withdrawals are not mentioned by INK community members. Focus group data indicate that access to justice is still a challenge. Some of the court documents are not written in a preferred language so as to allow people to understand the court services. In contrast, court personnel did not see community access to justice as a problem.

Community members are very concerned about the lack of community engagement about legal rights and court processes (Morei, 2014:936), while interviewees are not. Community members recommended the court embark on community outreach programmes to take justice to the community. Documentary evidence such as constitutional mandates and the DOJ & CD strategic plan converged with these concerns of INK community members in terms of community engagement and access to justice. However, court officials did not mention community education or engagement during interviews. There seems to be an unrecognised link between court personnel and community members in terms of how lack of community education and engagement may influence case withdrawals and case finalisation. As to cultural competency court officials tend to believe that the court is culturally competent but most community members do not share this view.

There was a disjuncture between primary data from court respondents and secondary evidence from the DOJ and CD. Data collected from court personnel point to staff shortages as leading to the slow finalisation of cases. Whereas, goal number 2 of the DOJ and CD's strategic plan delineates that courts should improve case finalisation rates and, according to objective number 5, human resources are to be deployed to ensure justice delivery, yet this goal and objective do not seem to be actualised. There is a mismatch between intentions of the strategic plan and real-life occurrences on the ground at the Ntuzuma Magistrates Court. Case finalisation remains delayed at Ntuzuma Magistrates Court, in part, due to staff shortages, despite the DOJ and CD goal and objective to the contrary.

4.6 Chapter Summary

This chapter discussed the background of the Ntuzuma Magistrates Court where the study was conducted. The chapter provided secondary evidence of descriptive statistics on court intake and return court rolls for the months of January to November in 2014 and 2015 to demonstrate the high volume of cases handled by a small number of staff. It also

discussed the DOJ and CD strategic plan in relation to the RSA Constitution and NDP. The chapter then highlighted emerging themes from the study and showed how the conceptual framework and philosophical worldview interconnect based on data from participants. Primary data were presented through a series of matrices comprised of reduced data that addressed the research objectives and questions while interrogating literature from Chapter 2. Triangulation of data was followed by the chapter summary. Chapter five is next presents the summary of findings, conclusions and recommendations to conclude the dissertation.

Chapter Five

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter discusses the summary of the findings from the previous four chapters taken as a whole. It begins with a recapitulation of research objectives and research questions. The chapter then delineates particular findings and conclusions associated with each of those findings. Indication is made as to how research objectives were achieved and research questions answered with reference to various chapters on which such indication is based. From the findings of the

study, the relevant evidence-based ideas were formulated to promote the effectiveness of processing DV cases at the Ntuzuma Magistrates Court, which are shown in this Chapter as overarching recommendations. The chapter then proceeds to suggest that findings from this study have contributed to the body of knowledge on administration of DV case processing, including ideas for future research. A summary of this chapter concludes the dissertation.

5.2 Recapitulation of Research Objectives and Questions

Before summarising the findings and conclusions drawn from the study it is worth revisiting the research questions and research objectives. The following Table indicates the research objectives and the research questions for this study.

Research Objectives	Research Questions
To determine the factors that facilitate or hinder the processing of DV cases in the Ntuzuma Magistrates Court.	What are the factors that facilitate or hinder the processing of DV cases in the Ntuzuma Magistrates Court?
To explore how the experiences of the INK community regarding the services from the DV section in the Ntuzuma Magistrates Court can help to improve court administration.	How can the experiences of the INK community regarding the services they receive from the DV section in the Ntuzuma Magistrates Court help to improve court administration?
To examine how stakeholders perceive the application of the DVA in processing DV cases in the Ntuzuma Magistrates Court.	How do stakeholders perceive the application of the DVA in processing DV cases in the Ntuzuma Magistrates Court?
To identify factors that indicate why cultural competence should be taken into account in the processing of DV cases in the Ntuzuma Magistrates Court.	Why should cultural competence be taken into account in the processing of DV cases in the Ntuzuma Magistrates Court?

The above table outlines the research objectives and the research questions of the study. The conceptual model that includes the division of work, staff morale, victim services and cultural competence to achieve study objectives and to answer the research questions informed the objectives and execution of the study. As an enabling and change-oriented philosophy, the advocacy/participatory worldview were employed. This approach aimed at addressing how oppressed, alienated and marginalised INK community members could be empowered and freed from DV through services of the Ntuzuma Magistrates Court. Similarly, advocacy/participatory philosophy was projected to understand how court staff morale could be heightened through performance and confidence in carrying out duties related to DV case processing through adequate division of work. The advocacy/participatory worldview assisted the researcher to accomplish the objectives of the study.

Certain findings were revealed and conclusions made. These are subsequently summarised, often with sub-headings based on themes that emerged from the study or components of the conceptual model; but always in relation to the research objectives and research questions. Reference is also made to the chapters that led to the particular findings and conclusions.

5.3 Summary of Findings and Conclusions

This study was designed to examine the effectiveness of DV case processing in the Ntuzuma Magistrates Court. Findings and conclusions made follow.

Finding: Factors that facilitate or hinder DV case processing in the Ntuzuma Magistrates Court

These factors are shown in Table 5.1.

Table 5.1 Factors hindering/ facilitating the processing of DV cases in the Ntuzuma Magistrate Court	
Factors that could facilitate the processing of DV cases	Factors hindering the processing of DV cases
❖ Finalization of cases within expected time.	❖ Slow finalization of DV cases. ❖ Shortage of court personnel.

<ul style="list-style-type: none"> ❖ Filling of vacant posts timeously. ❖ Planning of work for the day so as to manage daily workload. ❖ Ongoing debriefing session to provide support to court personnel. 	<ul style="list-style-type: none"> ❖ Large volume of applications received daily. ❖ Decreased staff morale.
<ul style="list-style-type: none"> ❖ Educating the community about court services. ❖ Community awareness about the importance of case finalization. 	<ul style="list-style-type: none"> ❖ Case withdrawal. ❖ Lack of knowledge about court procedures and processes.
<ul style="list-style-type: none"> ❖ Regular outreach programmes. ❖ Engagement with the community receiving DV services from the Ntuzuma Magistrates Court. 	<ul style="list-style-type: none"> ❖ Lack of community engagement. ❖ Lack of citizen knowledge about court procedures and processes.
<ul style="list-style-type: none"> ❖ Clarifying the court etiquette in the dominant language and to make it available to the community for their easy reference. 	<ul style="list-style-type: none"> ❖ Insufficient cultural diversity. ❖ The use of preferred language in court during the proceedings. ❖ Court etiquette versus cultural behaviour. ❖ Sensitivity to cultural diversity within the court environment.

The above-mentioned factors are discussed in Chapters 2 and 4 while Chapter 3 provides the research methodological steps taken during the study. Evidence presented in Chapter 4 indicates that DV case processing is ineffective despite best efforts of limited staff members. The factors geared toward facilitation in Table 5.1 shed light on how to address the research problem of ineffective DV case processing. From the analysis and discussion of the study, these findings are further explored in the next two sub-sections.

5.3.1 Factors that could facilitate the processing of DV cases

Based on the findings there are more factors that could facilitate the DV case processing than there are factors currently facilitating DV case processing. As to current factors facilitating DV court processing, Chapter 4 clarifies that the limited number of employees are managing as best they can under the circumstances. Factors that could facilitate the DV case processing, according to data presentation and interpretation in Chapter 4, include providing the community with proper information when approaching the DV court to speed up the case processing. Literature review and data interpretation in Chapters 2 and 4 respectively, indicate the need for staff to conduct community outreach programmes that spur awareness of legal rights and advance community education about the DV court operations and services rendered. Other facilitating factors for effective DV case processing, are court officials' conveyance of a good attitude when rendering services as well as sensitivity towards cultural distinctions and belief systems. This is supported in Chapters 2 and 4. Again, Chapter 3 describes the research design and methods used to obtain and analyse data presented in Chapter 4.

5. 3. 2 Factors hindering the processing of DV cases

The study reveals that DV cases are not finalised in expected time at the Ntuzuma Magistrates Court due to the ineffective administrative issues such as shortage of court personnel, the large volume of applications received on a daily basis as well as a lack of knowledge about court procedures and processes on the side of the community. As shown in Chapter 4, INK community members raised concern that their DV cases take too long to be finalised with no valid reasons as to why this is so. The processing of DV cases at the Ntuzuma Magistrates Court is hindered by the fact that this court receives a large number of applicants daily with insufficient staff capacity. Hence the process is delayed which then leads to the slow finalisation of cases. This statement is supported by the statistical data that is collected at the Ntuzuma Magistrates Court indicating the total number of cases dealt with per month as shown in Chapter 4.

Conclusion: Factors that facilitate or hinder DV case processing in the Ntuzuma Magistrates Court

The Ntuzuma Magistrates Court is a government organization designed to assist the community to resolve issues of DV in order to ensure justice for all. This previously discussed findings have assisted with the achievement of research

objective one and answering of the corresponding research question concerning factors that facilitate or hinder the processing of DV cases at the Ntuzuma Magistrates Court. However, it is also concluded that it will be better to effect communication with affected parties regarding the hindrances, if there are any, during the court process.

Finding: Case Withdrawals

The study reveals in Chapter 4 that DV cases are withdrawn after being opened by INK community members. Community members do not seem to realise the time and effort expended on processing of a case once a PO application is made. The rate of case withdrawal is supported by the statistical data collected at the Ntuzuma Magistrates Court, which indicates the total number of cases withdrawn from January to November in 2014 and 2015. The statistics are depicted in Tables 4.4 and 4.6. Many applicants change their minds during the court process and withdraw the charges, they become overwhelmed by court processes and requirements, or they experience language and other barriers. Irrespective of the perceived reason for withdrawal, court staff members see this as wasted time when the court is forced to strike a case off the court roll after arrangements have been made to ensure that such cases are enrolled for a particular day. This disturbs the effectiveness of case processing. The bases for this finding are contained in Chapters 2 and 4 and empirical research process in Chapter 3.

Conclusion: Case Withdrawals

This finding reflects the fact that court users or community members lack knowledge of the court processes hence they open DV cases and later withdraw them not realising what this means to court administrators. There is a disjuncture between court and community as the two entities seem locked in unawareness that there may be a relationship between delivering court outreach programmes and minimising case withdrawals once community understanding about court practices and procedures are expanded. In addition, case withdrawals could indicate that the DVA is inadequately protecting victims meaning that victims may lose faith in DVA implementation. This finding addresses the first and second corresponding research objectives and questions. On the one hand, it signalled case withdrawal as a factor that hinders DV case processing. On the other hand, it addresses how awareness of INK community member experiences could improve court

administration. In other words, case withdrawals mean that DV case processing may not be benefiting litigants and is in need of change.

Finding: Victim Services

The study reveals that community members that receive services from the Ntuzuma Magistrate court are not engaged in issues pertaining to court services. Community members felt that they are left out in court affairs whereas it directly involves them, as they are the beneficiaries of court services. The study also finds that staff shortage affects staff morale despite the best-laid plans for division of work and supportive organisational structure. Data further show that staff shortage, diminished staff morale and ever-increasing workloads inhibit the ability of staff to address victim services. These findings are borne out of Chapters 1, 2 and 4 and empirical research steps outlined in Chapter 3.

Conclusion: Victim Services

It can be concluded from this finding that the community could play an important role in court administration. Community members seek to play an active role in court processes and wish to be educated on how to do so. They are the ones who receive services rendered by the court and it is vital for the court to promote a good relationship between the court and community members. From the perspective of staff availability for service provision, it is further concluded that staff shortage disrupts the flow of victim services, despite the goals and objectives of the DOJ & CD strategic plans to provide human resources to meet service demands. The above stated findings and these related conclusions have achieved the research objective aimed at exploring how the experiences of the INK community regarding the services from the DV section in the Ntuzuma Magistrates Court can improve court administration. This finding and related conclusions also answer the corresponding research question since community engagement and empowerment could improve court administration.

Finding: Cultural competence

The study reveals competing stakeholder-specific perceptions of cultural competence of the Ntuzuma Magistrates Court. Community members feel that cultural diversity at the Ntuzuma Magistrates Court is not given very much

attention. Community members, through focus group interviews raised concern that they are discriminated against with regard to their cultural needs at times. This not only inconveniences them with specific reference to the issue of preferred language and dress code, but could also indicate contravention of constitutional mandates. In contrast, court officials believe that the Ntuzuma Magistrates Court exhibits cultural competence since, *inter alia*, language interpreters are provided and a litigant's culture does not interfere with court decision-making. It is not the aim of this study to resolve this apparent conflict between court and community perceptions. Rather, the study sought to identify factors as to why cultural competency should be taken into account during DV case processes. It was found that the diversity of the South African population, the need to engage communities in transparent court processes, the need to administer justice in a fair and just manner in accordance with constitutional mandates, policy frameworks and DOJ and CD strategic planning are among the factors that indicate why cultural competence should be taken into account during DV case processing. The elements of this finding are contained in Chapters 1, 2 and 4. Chapter 3 lay the foundation for this finding by establishing on how the study would generate such a finding.

Conclusion: Cultural competence

Based on this finding, it can be concluded that, from the perspective of community members, culture is not taken into significant account in the Ntuzuma Magistrates Court as opposed to the South African constitutional entitlement to protection of right to culture as specified in section 15(3), 30 and 31(RSA,1996). Based on this finding, it can be concluded that, from the perspective of court personnel, cultural competence is demonstrated by the Ntuzuma Magistrates Court. In view of all evidence adduced by this study and taken as a whole, it is concluded that there are significant factors as to why cultural competence should be taken into account during DV case processing, as detailed in the preceding subsection that discusses the factors. This finding and the third conclusion just mentioned achieve the research objective geared toward identifying factors that indicate why cultural competence should be taken into account in the processing of DV cases in the Ntuzuma Magistrate Court. This also answers the corresponding research question. Against the backdrop of the foregoing findings and conclusions, overarching recommendations are next set forth.

5.4 Overarching Recommendations

The following recommendations are made in accordance with the findings, conclusions and objectives of the study. It is worth mentioning that the conceptual model and philosophical worldview assisted with the discovery of findings and conclusions on which these recommendations are based.

5.4.1 Withdrawal of DV cases at Ntuzuma Magistrates Court

- The court must embark on conducting community outreach programmes to educate the community about court services and court processes.
- The court officials must frequently attend community meetings or *Izimbizos* to explain to the community not just the importance of opening a DV case when there is DV abuse but also about DV case processing so as to minimise the rate of withdrawal of DV cases once opened.
- The court must distribute the court pamphlets written in both isiZulu and English explaining court services to the community.
- The DOJ and CD or the DVA must have penalty provisions to lodge against litigants who open cases and later withdraw them as this disturbs the effective administration of court cases.

5.4.2 Staff Morale and DV case processing at the Ntuzuma Magistrates Court

- When applicants enter the DV court, protective measures must be undertaken by the court to promote finalisation of cases. How can that be ensured? It can be ensured through inducting and debriefing of staff on a monthly basis.
- There should be on-going specialised training sessions and workshops for DV staff members about how to deal with DV cases efficiently.
- Qualified officials should be hired with tertiary qualifications in the field of Law and Public Administration to conduct training and staff development programmes that equip officials to be effective when handling DV cases.
- Court management should increase the staff capacity in the DV section in order to avoid long queues and community members waiting for the entire day to get assistance.

- Staff rotation should be implemented more frequently as DV deals with sensitive matters that affect the staff's emotional well-being. Specialised training on specific aspects of the execution of the staff duties and responsibilities necessary to implement the DVA need to be addressed by the DOJ and CD. The training needs to focus on the interpretation of the provisions of the DVA in relation to the rules of the court.
- While the DV court currently has social workers on staff to effect mediation as an intervention strategy, use should be made of non-governmental organisations qualified to partner with the DOJ and CD in line with departmental goals and objectives reflected in its strategic plan. This could divert DV cases from the DV court and the criminal justice system to community-based mediation intervention – possibly by trained community-based paralegals who work in the South African DV mediation arena.
- Court officials should not influence applicants from seeking PO and urging parties to reconcile as a remedy prior to approaching the court for assistance as this also creates delays in finalising the cases.
- Additional magistrates need to be supplied in the DV court to reduce the workload so that the DVA can be practically applied in each and every case, thereby promoting access to justice for all.
- Surveys should be conducted with the INK community to evaluate the court performance with the aim of improving service delivery.
- Monitoring and evaluation tools should be in place to monitor whether the DVA and other existing systems that assist DV victims are benefiting the community. This way, identified gaps or ineffectiveness is overcome by new strategies. One of the tools that the DOJ and CD currently use to monitor the services as per their service standard is a quality assurance programme. Every quarter the quality assurance team visits the courts to monitor the service standards with the aim of putting effective measures in place. It is now a question of whether this quality assurance programme is benefiting the community as end-users of service delivery. It is therefore recommended that the quality assurance programme that is in place be more fully utilised as an evaluation and monitoring tool moving forward.

5.4.3 Cultural competence in DV case processing at the Ntuzuma Magistrates Court

- Cultural differences should not play a role in determining case outcomes thus the normal rules of court should be strictly applied.
- The dress code in DV court should be more relaxed as applicants at times have no time to wear expected attire due to the urgency of appearance in court or because of applicants' cultural beliefs.
- Court officials should not chase away applicants because of the way they are dressed as that creates delays when cases have to be postponed for another date.
- Display of courtroom rules including dress code should be made visible in the DV court to educate the applicants about the court rules and procedures. These rules should be available in at least English and isiZulu languages.

5.3.4 Victim Services by the Ntuzuma Magistrates Court regarding DV cases

- The process of DV case procedures in court should be explained clearly to applicants by the court staff, in the preferred language of the applicant.
- Length of time spent serving applicants must be qualitatively improved to avoid leaving applicants in queues for a long time, which detracts from service delivery.
- The remanding of DV cases to another date due to various reasons takes far too long and the DV court needs to expedite all DV cases as it poses a life threat to complainants.
- Staff members must not display bias and prejudice in dealing with applicants in the DV section. They must remain neutral throughout the process.
- Domestic violence officials need to take complaints seriously and to deliver in accordance with the DVA requirements. Court personnel need to display heightened attention to executing tasks more efficiently so that survivors of DV are not subjected to secondary victimisation while seeking assistance from the DV court.

With the findings, conclusions and recommendations in mind, the next section discusses the significance of findings from this study to the body of knowledge on court administration.

5.5 Significance of the Findings to the Body of Court Administration \ Knowledge.

This subsection discusses the significance of findings, conclusions and recommendations to the body of knowledge on court administration. It also provides visions of future research. The problem of what appears to be ineffective administrative DV case processing gave rise to the need for this study. These findings contribute to the body of knowledge on court administration, with specific reference to the South African context, in a number of ways. First, the findings and conclusions highlight the broader picture in respect of how the court works to ensure access to justice for all. The findings reveal that there are administrative issues which need clear follow-up and resolution as well as implementation strategies to address the research problem which is the ineffective administration issue. This is a useful contribution because unless such issues are empirically determined, they escape resolution.

Second, delineated recommendations based on empirical evidence substantiate how implementation strategies could be executed. Third, this study integrated constitutional mandates, policy frameworks and DOJ & CD strategic planning with the empirical evidence presented. According to the South African Constitution, every human being has a right to have any disputes that can be resolved by the application of law decided in a fair public hearing before a court (RSA, 1996). The Constitution further stipulates that justice should be accessible to citizens without any factors hindering that access or impeding quality service delivery to the community. Section 12 of the South African Constitution also stipulates that everyone has the right to freedom and security (RSA, 1996). Therefore, courts within the DOJ and CD are mandated to ensure just and fair services to citizens through ensuring that cases are finalised within the expected time as the NDP also reiterates. This advocates for quick finalisation of cases to mete out justice. Moreover, the issue of meeting the DOJ and CD's goals and objectives of ensuring an accessible criminal justice system that promotes social justice, human rights and freedom. These goals and objectives as well as providing transparent, responsible and accountable justice for all could be facilitated if recommendations from this study are followed. The DOJ and CD's court administration vision aims at a transformed and accessible justice system that stimulates and guard collective justice and the regulation of law while the mission is to provide apparent, approachable and accountable justice services for all. This study contributes evidence of how constitutional mandates and DOJ and CD's vision and mission could be advanced.

Fourth, findings from this study contribute the community perspective on improvement of court administration. The study did this, in part, by employing the advocacy/participatory worldview designed to empower oppressed, marginalised and alienated communities. The apartheid legacy finds a large number of South African citizens disempowered. To overcome this state of affairs, community members should be informed of the court processes and procedures through involvement in outreach programmes and projects aimed at addressing DV in the community. These should be introduced and implemented in accordance with the findings, conclusions and recommendations of this study.

Fifth, outcomes of this study contribute knowledge on the value of cultural competence in court administration. While cultural differences should not play a role in deciding a case and the normal rules of court should be strictly applied to all, court administration should invariably consider cultural competence when meeting citizen service delivery needs. This includes the need to exercise sensitivity towards community cultural beliefs, irrespective of personal beliefs of court officials.

Sixth, evidence from this study contributes to advancing the need for stakeholder participation in service delivery. Justice delivery should not be left to the courts alone. Rather, this contribution to the body of knowledge on court administration shows the need for a court initiative inclusive of other actors in the DOJ and CD in DV matters such as social workers, community police forums, non-governmental organisations and the community at large in the form of a justice forum. This is to table issues of dissatisfaction whereby relevant stakeholders address these issues with their respective constituencies and report back to the justice forum mainly for the benefit of the community members receiving DV services in courts.

The justice forum would help improve court administration in a participatory way and serve as vehicle for action research through which further research studies on court administration could be undertaken. Yet another matter for future research is discovery of pragmatic monitoring and evaluation tools to facilitate effective court administration. Results from the implementation of such tools could be used to design and establish a policy framework that makes provision for DV courts to implement constitutional mandates and strategic initiatives that ensure that functioning of the DV court benefits marginalised communities.

5.6 Chapter Summary

This chapter established how the data collected and analysed assisted in achieving the research objectives addressing the defined research questions. It discussed the findings and the conclusions drawn from the study while outlining the overarching recommendations in relation to findings and conclusions. The study recognises that there is a problem of ineffective administration of DV cases at the Ntuzuma Magistrates Court thus recommendations to address this issue were made in this chapter. This chapter, as well as the broader dissertation acknowledged that marginalised communities that seek relief from court services are at times denied access to justice – according to INK community participants. This is the case despite the DOJ & CD's objectives of ensuring an accessible justice system which promotes social justice, human rights and freedom for all. This chapter highlighted the significance of the findings, conclusions and recommendations of this study to the body of court administration knowledge. Finally, this chapter and the dissertation are concluded by this chapter summary.

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Invitation to participate in a research study

- Do you live in the INK community?
- Have you received services from the Ntuzuma Magistrate Court regarding domestic violence?

If you answered 'yes' to both of these questions
You are invited to participate in a
Focus group interviews for the research study

We want to know your experiences with the Ntuzuma Magistrate Court

Contact: Nonhlanhla Mbambo at 072 44 27495 for reservations
MPA Candidate,
School of Management, Information Technology and
Governance, Discipline of Public Governance

Date: 15 February 2015
Place: Inanda Amatikwe, Area 8
Time: 11h00 to 12h30

Participation is voluntary and confidentiality will be strictly maintained.
Refreshments will be served



Isimemo sokuba yingxenye yocwaningo

- Kungabe uhlala endaweni yaka INK (Inanda, Ntuzuma naKwamashu)?
- Kungabe sewake waluthola usisizo mayelana nezinkinga zezodlame lwemindeni enkantolo kaMantshi yase Ntuzuma?

Uma izimpendulo zakho zingu yebo kuyona yomibili lemibuzo, uyamenywa ukuba ube yingxenye yezingxoxo ngenhloso yokuthola isisombululo.

Sifuna ukwazi uvo lwakho nangesipiliyoni sakho ngenkantolo kaMantshi iNtuzuma

Imininigwane: Nonhlanhla Mbambo at 072 44 27495
ngeminingwano yokuhlangana
Isitshudeni se MPA
Isikole sokuphathwa, ulwazi nobuchwepheshe
nokululekwa komphakathi.

Date: 16 February 2015
Place: Inanda Amatikwe, Area 8
Time: 11h00 to 12h30

Siyathanda ukukwazisa ukuthi ukuba yingxeny yalolucwaningo akuphoqiwe kusuka othandweni, imfihlo ngokuyobe kuxoxwa iqinisekisiwe futhi kuyoba nokokuthiba indlala ngesikhathi izingxoxo ziqhubeka.

Siyabonga!!



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FOCUS GROUPGUIDE FOR INANDA, NTUZUMA AND KWAMASHU (INK) CITIZENS

ENGLISH

Name of Researcher : Nonhlanhla Cynthia Mbambo

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Title : The processing of Domestic Violence matters by the Department of Justice and Correctional Services: The Case of Ntuzuma Magistrates Court in KwaZulu-Natal.

PURPOSE OF THE STUDY

- Discover the factors that hinder or facilitate domestic violence (DV) case processing in Ntuzuma Magistrates Court?
- Examine perceptions of the community on services rendered by the Domestic Violence section of the court?
- Explore how experiences of the Inanda, Ntuzuma, and KwaMashu (INK) community regarding the services they receive from the Domestic Violence section in the Ntuzuma Magistrates Court improve court administration?
- Inquire into whether and if so, how cultural competency is taken into account in the processing of DV cases in the Ntuzuma Magistrates Court?

RESEARCH QUESTIONS

1. What are the factors that facilitates or hinder the processing of DV cases in Ntuzuma Magistrates Court?
2. How do stakeholders perceive the application of the DVA in processing DV cases in Ntuzuma Magistrates Court?
3. How can the experiences of the INK community regarding the services they receive from the DV section in the Ntuzuma Magistrates Court improve court administration?
4. Why should cultural competence be taken into account in the processing of DV cases in the Ntuzuma Magistrates Court?

SUB QUESTIONS FROM MAIN RESEARCH QUESTIONS

- How long do you wait before getting assisted when you visit court for DV related matters assistance?
- Do you think court officials understand their duties that they are expected to perform in the DV section at Ntuzuma Magistrates Court, if yes give an example of when you observed that, and if no why?
- At Ntuzuma Magistrates Court work is separated according to each official`s expertise in order to render quality service to the community and for the smooth processing of cases, what are your views with that statement and do you think it is practised accordingly, if yes kindly explain briefly of your experience and if No what how do you think the court can improve in order to facilitate the smooth processing of cases?
- How would you describe the attitude of the court officials at Ntuzuma Magistrates Court in DV section with regards to their job performance, customer service and job satisfaction?
- As the citizen of the INK area, do you think the processing of DV cases at the Ntuzuma Magistrates Court are done accordingly in order to meet your needs, how? And if no what would you suggest the court personnel improve so that the processing of cases is done accordingly?
- Culture is considered as the inherited values and practices shared by people of the same social group (Kawar, 2012:105). Would you say at the Ntuzuma Magistrates Court DV section, cultural diversity is considered during the processing of cases mainly the use of preferred language, dress code and other cultural practices? If yes please briefly explain and if no what do you think should be done in order to address the issue of cultural diversity among the citizens receiving services at the court.

- With regards to your own experience of court administration at the Ntuzuma Magistrates Court, would you say the whole administration processing done according to what you expect it to be, if yes please support your answer and if no, what would you think should be done differently to ensure proper administration of court is followed?

THANK YOU FOR YOUR PARTICIPATION!!!



**UNIVERSITY OF
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FOCUS GROUPGUIDE FOR INANDA, NTUZUMA AND KWAMASHU (INK) CITIZENS

ISIZULU

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Isihloko socwaningo : Indlela eqondile yokuqulwa kwamacala okuhlukumezeka kwezemindeni umnyango wezobulungiswa nokuthuthukiswa komphakathi: Udaba lwasenkantolo kaMantshi yase Ntuzuma.

INHLOSO YOCWANINGO

- Ukuthola izimo ezibangela ukungahanjiswa kwahle kohlelo lezokusebenza ekuquliseni amacala aphantsi nodlame lwemindeni enkantolo kamantshi yase Ntuzuma.
- Ukuhlola imibono ehlukeneyo yamalunga omphakathi ngosizo abalithola enkantolo kaMantshi yase Ntuzuma emacaleni okuhlukumezeka kwezemindeni.
- Ukubheka ulwazi oludlule lwamalunga omphakathi wase Inanda, Ntuzuma nakwa Mashu singalekelela kanjani ukwenza indlela yokusebenza yezinkantolo zemindeni ibe ngcono.
- Ukuthola ukuthi amasiko amalunga omphakathi ayabhekela yini uma kusetshenzwa enkantolo ka mantshi yase Ntuzuma kakhulu kazi enkantolo yezodlame lwemindeni.

IMIBUZO YOCWANINGO

1. Yini ewunobangela wokungahambisi kahle ukuqulwa kwamacala enkantolo kamantshi yase Ntuzuma kwezodlame lwemindeni?
2. Bayibona kanjani abasebenzi basenkantolo kaMantshi indaba yokufakwa kwezicelo zomthetho wokuhlukumezeka komndeni?
3. Lungasiza kanjani ulwazi asedlule kulo amalunga omphakathi wase Inanda, Ntuzuma nakwa Mashu ukuthuthukisa indlela yokusenzaenkantolo kaMantshi yase Ntuzuma?
4. Yinindaba kumele kunakekelwe amasiko amalunga omphakathi uma kuqulwa amacala enkantolo kaMantshi yase Ntuzuma kwezodlame lwemindeni?

IMIBUZO EHLAZIYWE KWIMIBUZO YOCWANINGO

- Ulinda isikhathi esingakanani ukuze uthole usizo uma uze enkantolo kamantshi yase Ntuzuma yezodlame lwemindeni?
- Ucabanga ukuthi abasebenzi base nkantolo bayawuqonda yini umsebenzi wabo okumele bawenze enkantolo yezodlame lwemindeni? Uma uvuma nikeza isilinganiso la owake wabona khona lokhu kwenzeka, kodwa uma uphika, uphikiswa yini?
- Enkantolo kamantshi yase Ntuzuma umsebenzi uhlukenisiwe kubasebenzi ngendlela umsebenzi afunde ngayo nangolwazi analo ngalowomsebenzi ukuze kusetshenzwe kahle ukunikeza amalunga omphakathi usizo okuyilo oludingekayo, ucabanga ukuthi lendatshana iyiqiniso, yini eyenza ubonekanjalo kodwa umalokhu okushiwo indaba kungesilo iqiniso sicela usinike isizathu ukuthi yini ubona sengathi akusilona iqiniso nokuthi yini engenziwa ukushitsha isimo sibe yilesa osifisayo?
- Ungayichaza kanjani indlela abasebenzi abaziphatha ngayo uma besebenza enkantolo kamantshi yase Ntuzuma kwezodlame lwemindeni, indlela abenza ngayo umsebenzi wabo nendlela abakusiza ngayo uma uzofuna usizo, engabe ubabona bengabantu abawulangazelele umsebenzi wabo? Uma kunjalo ngicela uchaze ngalokhu kodwa umakungenjalo chaza ukuthi yini ndaba usho njalo.
- Njengomhlali waka INK ucabanga ukuthi ezokusebenza kwenkantolo ekuqulweni kwamacala ezodlame lwemindeni enkantolo yase Ntuzuma kuyazinelisa izidingo zakho, uma kunjalo kuzinelisa kanjani, futhi uma kungenjalo yini ocabanga ukuthi ingenziwa abasebenzi noma ngashintshwa ukuze zineliseke izidingo zakho?
- Amasiko athathwa njengento etholakala kwinhlonipho nokwenza ngokubambisana kwabantu abaqhamuka osikweni olufanayo. Lamagama ashiwo umbhali ogama lakhe kungu (Kwar, 2012:105). Njengomhlali waka INK othola usizo enkantolo kamantshi yase Ntuzuma

ungakubalula ukuthi amasiko ayanakekelwa uma kusetshenzwa ukuqulwa kwamacala enkantolo yezodlame lwemindeni uma kuza olimini ofisa lukhulunywe enkantolo ngesikhathi kuqulwa icala, indlela yokugqoka uma uze enkantolo nokunye okuphathelene namasiko akho? Uma kunjalo nikeza umzekelo kodwa uma kungenjalo yini ocabanga ukuthi ingenziwa ukunakekela amasiko amalunga omphakathi?

- Mayelana nolwazi osudlule kulo ngokusebenza kwenkantolo, ungasho nje ukuthi ukusebenza kwenkantolo yonkana kuyawusiza umphakathi nezidingo zawo kuyazibhekela? Ukusho ngani lokhu? Uma kungenjalo, yini ocabanga ukuthi umnyango wezokubulungiswa nokuthuthukiswa komphakathi ungakwenza ukushintha isimo ukuze usizakale umphakathi waka INK?

SIYABONGA UKUBA INGXEENYE KWAKHO KULOLUCWANINGO

INTERVIEW QUESTIONS WITH REPOSSES

Interview QUESTIONS	STAKEHOLDER AC001	STAKEHOLDER AC002	STAKEHOLDER INT003	STAKEHOLDER INT004
1. Can you tell me how effective is the administration system for dealing with domestic violence matters and explain the process from when the domestic violence clients arrive in domestic violence court/section?	The system is not hundred percent effective,	The system is effective even though not according to what it should be,	I can say the system is effective	Err the system is effective
2. Do you as the court official understand your duties and responsibilities in DV section/court?	Yes we do understand them,	Yes I understand my roles and responsibilities as a Clerk of the Court.	I do understand my duties as a court Interpreter a	I understand my duties very well as a court Interpreter
3. In terms of cultural differences among the citizens that you are serving on a daily basis in court, as an official what do you do to ensure that citizens cultural needs are met without discrimination, for example the use of their preferred language, dress code and other cultural practices.	Ok there are cultural differences in communities but we as Administration Clerks do not discriminate against any culture.	At domestic violence court, we service people from different cultural backgrounds hence we do not discriminate against any culture.	As the Interpreter you get to know the culture that is most dominating in that area and begin to be sensitive to it	In terms of dress code some ways of dressing up are not permissible in courts
4. Do you think all domestic violence cases are handled effectively in accordance with what the act says	All domestic violence matters are handles effectively according to the act in such a way that before the decision	Domestic violence cases are handled well as per the directives but not as effectively as its is expected to be and	Well, most of the things are done accordingly.	Yes things are done in accordance with what the act says, even though not up to an expected way.

INTERVIEW QUESTIONS WITH REPOSSES

<p>so as to benefit the citizens of INK area? If yes, briefly explain why you say so and If No, what is not done accordingly?</p>	<p>is taken by the magistrate</p>	<p>sometimes the parties involved are referred to court social workers with the aim of resolving the matter.</p>		
<p>5. What are the challenges encountered in domestic violence section/court that might hinder the processing of domestic violence cases?</p>	<p>The main challenge is when the respondent does not come to court on a set date. That is the main reasons why cases take long to be finalised.</p>	<p>It is mainly when the respondent does not come to court on a set date</p>	<p>Firstly the large number of applicants received on daily basis contributes to the process being slow</p>	<p>The most challenge is the large number of applicants received on daily basis and due to insufficient staff capacity the process becomes slow</p>
<p>6. What do you think should be put in place to improve the quality of services rendered in domestic violence section by administration to ensure that the department of Justice is rendering quality of service and promoting access to justice to the citizens?</p>	<p>If the court can open during the weekends in order to assist the public members but for few hours maybe close at 12h00 that could improve the quality of service.</p>	<p>Additional staff capacity as the domestic violence courts deals with volumes of people daily</p>	<p>Educating the public about the department's engagement in domestic violence.</p>	<p>The court should increase public engagement through outreach programmes,</p>
<p>7. Would you say domestic violence matters are handled effectively at this court, explain why? If No what do you think is not done accordingly so that it can be improved?</p>	<p>I think domestic violence cases are not handled effectively as we sometimes get complaints from the public.</p>	<p>Yes they are handled effectively as there are less complaints or public dissatisfaction at domestic violence courts.</p>	<p>I would say yes, even though there is still room for improvement.</p>	<p>Yes they are but still to be improved every now and then after measures are put in place</p>

INTERVIEW QUESTIONS WITH REPOSSES

8. Do you receive complaints from the community about poor service in your section, if so what kind of complaints do you normally get? If No would you say the court provides quality of service to domestic violence victims?	Yes even though not most of the time	We hardly receive complaints except those few that will complain about the process being slow to finalise their cases	For poor service, the complaints that I have noted and received from the public are in relation to impatience	Yes at times you will find one of those people who will complain about the fact that they have come early to court but only get assisted few minutes later,
9. To conclude what would you say it contributes to the delays if there are any in finalising domestic violence cases in court?	It only come about when the Social Workers do not submit the reports with feed back to court on time for the magistrate to make a final decision.	Shortage of Magistrates and Administration Clerks and the late submission of Social Workers reports for the magistrate to make a final decision	Non attendance of parties during the court date.	The delays are caused by the various reasons; which includes the parties not coming to court during the court date
INTERVIEW QUESTIONS	STAKEHOLDER DVM001	STAKEHOLDER DVM002		
1. The Domestic Violence Act, Act no 116 of 1998 (DVA) was enacted in 1998, what is your opinion of the act, its content and its application in courts?	It helps as it protects people of all colours in the domestic violence court and it is applied according to its section.	The act is a protect mechanism and it assist us with guidance and how it can be applied.		
2.	I can say ensuring fairness is a challenge at times.	Its giving a fair judgement.		
3. What are your views on taking into account citizen`s cultural diversity during court proceedings? Do you as the Magistrate ensure	cultural differences in terms of appearance, does not play a significant role in deciding on the matter as the court is inquisitorial in nature thus the normal rules of	Cultural diversity particularly appearance, is not playing any role in deciding on the case as the court mostly uses the act in deciding the outcome.		

INTERVIEW QUESTIONS WITH REPOSSES

<p>that language used in courts is a preferred language for both the parties involved, in terms of dress code what does the court say considering cultural diversity among the community? And how do you handle cultural differences in your court room during the proceedings. For example, in other cultures it is considered rude to look at adults straight to their eyes when talking to them, others cover their hair and face except the eyes, some carry traditional weapons and other traditional things to courts. How do you handle those issues as a DV Magistrate?</p>	<p>court are not strictly applied.</p>			
<p>4. In terms of the Domestic Violence Act, Act no 116 of 1998(DVA), do you think the act make provisions for the citizen's satisfaction when it comes to domestic violence cases outcomes?</p>	<p>Yes the act does have the provision which includes the issuing of interim orders and protection orders in orders for the applicant to be protected against the domestic violence abuse</p>	<p>Yes the act does support the victims by providing the protection.</p>		

INTERVIEW QUESTIONS WITH REPONSES

<p>5. In terms of resources to implement the act, is your court able to operate timorously and smoothly? If No, what are the challenges and if yes, are you able to start your court on time and finalise matters within the expected period of time?</p>	<p>The courts are run smoothly and promptly.</p>	<p>According to my observation, the court is run efficiently</p>		
<p>6. In terms of the Domestic Violence Act, One of the roles of the Domestic Violence Magistrates is to issue Protection Orders if they are satisfied that the accused has committed an act of domestic violence. Do you think your roles and responsibilities as the Magistrate are clearly outlined in accordance with the acts and prescripts?</p>	<p>Yes they are clearly outlined because the act is the guiding tool when it comes to handling of domestic violence matters</p>	<p>Yes the role of a Magistrate is clear and the act itself assists as a guiding mechanism when dealing with domestic violence matters.</p>		
<p>7. What do you think the</p>	<p>Trained court officials and enough</p>	<p>I think staff training to develop and keep</p>		

INTERVIEW QUESTIONS WITH REPONSES

administration section should improve in DV section to ensure that quality service delivery is maintained at all time?	resources that is user friendly.	them informed of the new developments. And also maybe provide those in house debriefing where they are taught how to treat members of the public accordingly (Batho Pele).		
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INTERVIEW QUESTIONS FOR THE COURT OFFICIALS (DV ADMINISTRATION CLERKS AND DV COURT INTERPRETER)

Name of Researcher : Nonhlanhla Cynthia Mbambo

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Title : The processing of Domestic Violence matters by the Department of Justice and Correctional Services: The Case of Ntuzuma Magistrates Court in KwaZulu-Natal.

PURPOSE OF THE STUDY

- Determine the factors that facilitate or hinder the processing DV cases in Ntuzuma Magistrates Court?
- Explore how the experiences of the INK community regarding the services from the DV section in the Ntuzuma Magistrates Court can improve court administration?
- Examine how stakeholders perceive the application of the DVA in processing DV cases in Ntuzuma Magistrates Court?
- Identify factors that indicate why cultural competence should be taken into account in the processing of DV cases in the Ntuzuma Magistrates Court?

INTERVIEW QUESTIONS

- ❖ **MAIN QUESTIONS:** What are the factors that facilitate or hinder the processing DV cases in Ntuzuma Magistrates Court?

- ❖ How do stakeholders perceive the application of the DVA in processing DV cases in Ntuzuma Magistrates Court?

SUB-QUESTIONS

1. How effective is the administration system for dealing with domestic violence matters and explain the process from when the domestic violence clients arrive in domestic violence court/ section?
2. Do you think all domestic violence cases are handled effectively in accordance with what the act says? if Yes, briefly explain why you say so and If No, what is not done accordingly?
3. What are the challenges encountered in domestic violence section that might hinder the facilitation of domestic violence process?
4. Why should cultural competence be taken into account in the processing of DV cases in the Ntuzuma Magistrates Court?
5. What are the systems that are in place to improve the quality of services rendered in domestic violence section to ensure that the department of Justice is rendering quality of service?
6. Would you say domestic violence matters are handled effectively at this court, explain why? If No what do you think can be put in place to ensure effective implementation?
7. Do you receive complaints from the community about poor service in your section, if so what kind of complaints do you normally get? If No would you say the court provides quality of service to domestic violence victims?
8. What would you say it contributes to the delays if there are any in finalising domestic violence cases in court?

THANK YOU FOR YOUR PARTICIPATION!!!



**UNIVERSITY OF
KWAZULU-NATAL**

**INYUVESI
YAKWAZULU-NATALI**

INTERVIEW GUIDE FOR COURT OFFICIALS (DOMESTIC VIOLENCE MAGISTRATES)

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Title : The processing of Domestic Violence matters by the Department of Justice and constitutional Development: The Case of Ntuzuma Magistrates Court in KwaZulu-Natal.

PURPOSE OF THE STUDY

- To discover the factors that hinder or facilitate domestic violence (DV) case processing in Ntuzuma Magistrates Court?
- To examine perceptions of the community on services rendered by the Domestic Violence section of the court?
- To explore how experiences of the Inanda, Ntuzuma, and KwaMashu (INK) community regarding the services they receive from the Domestic Violence section in the Ntuzuma Magistrate Court improve court administration?
- To inquire into whether and if so, how cultural competency is taken into account in the processing of DV cases in the Ntuzuma Magistrates Court?

RESEARCH QUESTIONS

1. What are the factors that facilitates or hinder the processing of DV cases in Ntuzuma Magistrates Court?
2. How do stakeholders perceive the application of the DVA in processing DV cases in Ntuzuma Magistrates Court?
3. How can the experiences of the INK community regarding the services they receive from the DV section in the Ntuzuma Magistrates Court improve court administration?
4. Why should cultural competence be taken into account in the processing of DV cases in the Ntuzuma Magistrates Court?

SUB QUESTIONS FROM MAIN RESEARCH QUESTIONS

1. The Domestic Violence Act, Act no 116 of 1998 (DVA) was enacted in 1998, what is your opinion of the act, its content and its application in courts?
2. In terms of your job satisfaction and job performance what do you consider the most challenging part when it comes to you giving the judgement for a particular DV case? Does the above mentioned influence your judgement? if yes how? And if no why?
3. In terms of the Domestic Violence Act, Act no 116 of 1998(DVA), do you think the act make provisions for the citizens satisfaction when it comes to domestic violence cases outcomes?
4. What are your views on taking into account citizen`s cultural diversity during court proceedings? Do you as the Magistrate ensure that language used in courts is a preferred language for both the parties involved, in terms of dress code what does the court say considering cultural diversity among the community? And how do you handle cultural differences in your court room during the proceedings. For example, in other cultures it is considered rude to look at adults straight to their eyes when talking to them, others cover their hair and face except the eyes, some carry traditional weapons and other traditional things to courts. How do you handle those issues as a DV Magistrate?
5. In terms of resources to implement the act, is your court able to operate timorously and smoothly? If No, what are the challenges and if yes, are you able to start your court on time and finalise matters within the expected period of time?
6. In terms of the Domestic Violence Act, One of the roles of the Domestic Violence Magistrates is to issue Protection Orders if they are satisfied that the accused has committed

an act of domestic violence. Do you think your roles and responsibilities as the Magistrate are clearly outlined in accordance with the acts and prescripts?

7. What do you think the administration section should improve in DV section to ensure that quality service delivery is maintained at all time?

THANK YOU FOR PARTICIPATION!!!

THANK YOU FOR YOUR PARTICIPATION!!!

FOCUS GROUP GUIDE WITH RESPONSES

FOCUS GROUP QUESTIONS	FG001	FG002	FG003	FG004	FG005	FG006	FG007	FG008
1. How long do you wait before getting assisted when you visit Ntuzuma court for domestic violence related assistance?	I normally do not wait for longer than 10 minutes.	I wait for a long time since the magistrate sometimes takes long to hear the case.	The Administration Clerks takes long when asking questions about why you came to court before taking your application to the magistrate	I do not wait for long; they only take few minutes to attend us.	I wait for a longer period and sometimes you come in the morning and they only attend to you in the afternoon.	As they make you wait before they assist you sometimes you wait for the whole day.	I normally wait for a while before getting the assistance.	I do not wait for long.
2. Do you think court officials understand their duties that they are expected to perform in the DV section at Ntuzuma Magistrate Court, if yes give an example of when you observed that, and if no why?	They know about their work judging from how they assist you when approaching the court.	Some of them don't seem to understand it well because when you ask them things they do not give you proper answer.	They do not know their work. One day one Clerk gave me the wrong form to complete.	They know their work.	Some of them know their work.	Some know their work very well and some do not know it.	I think Interpreters do not know their work as they sometimes interpret something that was not said by the court.	They do not know their work and they are always absent from work then you will find few of them working which contributes to the slow processing of the cases.
3. At Ntuzuma Magistrate Court work is separated according to each official's	I do not think so since the Interpreters do not interpret	Yes it is divided but due to staff absenteeism work gets shared	Yes it is divided even if it looks as if one staff member is overwhelmed with	Yes it is divided according to their educational qualifications and	Work is divided at the domestic violence court each official deals with	Yes it is divided but it is not clear who is responsible for	Yes according to my observation, it is divided.	I think it is divided accordingly.

FOCUS GROUP GUIDE WITH RESPONSES

<p>expertise in order to render quality service to the community and for the smooth processing of cases, what are your views with that statement and do you think it is practised accordingly .</p>	<p>t accordingly since they sometimes interpret what is not said.</p>	<p>amongst the available staff.</p>	<p>work.</p>	<p>experience.</p>	<p>a particular task.</p>	<p>what since they do not inform us</p>		
<p>4. How would you describe the attitude of the court officials at Ntuzuma Magistrate Court in Domestic Violence section with regards to their job performance, customer service and job satisfaction ?</p>	<p>They do not talk well with us; they only say things the way they like. They do not respect the elderly people and that shows they do not take their work seriously.</p>	<p>They do not even wear their name tags where the public will know who they are.</p>	<p>They do not assist you when you want someone to assist with the opening of protection order, especially when you are illiterate and cannot complete the form.</p>	<p>They do not perform their work well hence they require training.</p>	<p>Some of them have good attitude and some of them don't have good attitude when it comes to handling us.</p>	<p>They do not wear their staff name tags where we can be able to see who they are so that we can report them when they mistreat us.</p>	<p>They have good attitude but not all of them.</p>	<p>Some of them have good attitude of wanting to ensure that you get assisted.</p>
<p>5. As the citizen of the INK area, do</p>	<p>It is not done accordingly to</p>	<p>The court must have pamphlet</p>	<p>Court staff to go out to the community</p>	<p>The court must engage in outreach</p>	<p>The court must have material and</p>	<p>The court must go out to</p>	<p>The court must write all domestic</p>	<p>The court to conduct community programmes with the aim of teaching</p>

FOCUS GROUP GUIDE WITH RESPONSES

<p>you think the processing of DV cases at the Ntuzuma Magistrate Court are done accordingly in order to meet your needs, how? And if no what would you suggest the court personnel improve so that the processing of cases is done accordingly?</p> <p>6.Would you say at the Ntuzuma Magistrate Court DV section, cultural diversity is considered They do not explain court rules to us and we only find out when we are entering the court room that we are not supposed to wear</p>	<p>what we as the community want Community members to be educated about the court services through outreach programmes.</p> <p>The court is considered</p>	<p>s distributed talking about their services written in both IsiZulu and English language to accommodate everyone.</p> <p>The court staff members turn you</p>	<p>y and attend community meetings where they will explain how the court works</p>	<p>programmes teaching the community about the court services.</p>	<p>burners talking about court services in both English and isiZulu language.</p> <p>They sympathise with us when there is death in the family and give us another date unlike criminal courts.</p>	<p>the community and talk about court services because most community members do not approach courts due to lack of knowledge about the court services.</p> <p>They sympathise with us when there is death in the family and give us another</p>	<p>violence prescribed court documents including protection orders in both English and isiZulu language for our convenience.</p> <p>The court staff members sends you away to go and change when you are not dressed properly</p>	<p>the community about court services and bring justice to the community.</p> <p>SAPS officials are also the ones who insist in turning us away when you are not dressed properly whereas the magistrate does not have a problem with any dress code.</p>
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FOCUS GROUP GUIDE WITH RESPONSES

<p>revealing clothes. during the processing of cases.</p>	<p>rate when it comes to our culture</p>	<p>away when you are not dressed properly for the court whereas they do not explain these things to us.</p>	<p>The court understands our cultural backgrounds as they are able to accommodate your needs when it comes to culture.</p>	<p>The court is able to postpone our cases on that basis to give us time to continue with the funeral</p>		<p>date unlike criminal courts.</p>		
<p>7. With regards to your own experience of court administration at the Ntuzuma Magistrate Court, would you say the whole administration processing done according to what you expect it to be</p>	<p>I will not say the process is done according to what I expect since cases take long to be finalised</p>	<p>The court is not doing too badly but it needs to improve through provision of educational programmes of the community on how the court operates.</p>	<p>The administration system is doing just fine but needs to improve since the administration staff is the ones who contribute in a slow process by not giving proper information to us.</p>	<p>From my own experiences, the court needs to go out there and educate us about how they operate and what are the required documents to bring when we want to come to court.</p>	<p>The administration system of the court is slow hence cases are not finalised on time</p>	<p>The court needs to engage the community members through attending of community meetings where they will explain the court services to us.</p>	<p>The administration system is not too bad there is still a room for improvement especially on the part of community education on how to handle domestic violence.</p>	<p>The court needs to put more effort on educating the community about domestic violence since some people do not understand the difference between abuse and corrective measures.</p>

Factors that hinder domestic violence case processing		
Research objective one	Focus group responses	Interview responses
<p>To determine the factors that hinder the processing of DV cases in the Ntuzuma Magistrates Court?</p>	<p>The processing of DV cases is slow and cases take too long to be finalised. There is insufficient staff capacity. FG 007, FG001, FG003</p> <p>The community is not educated about the DV court operation. FG002, FG005</p> <p>Officials do not understand their roles and responsibilities and staff development is needed. FG008, FG004</p> <p>Sensitivity towards community cultural needs. FG006</p>	<p>Staff shortage. AC002, DVM002</p> <p>Large number of applications received daily. INT003</p> <p>Case withdrawals DVM002, INT003</p> <p>Absenteeism of both parties on the court dates. DVM001, AC002</p> <p>Respondent's refusal to sign return of service documents. AC001</p> <p>Non-compliance with granted court orders. AC001</p> <p>Non-attendance of concerned parties on court dates. AC002</p>

Matrix 4.3 Factors that facilitate domestic violence case processing	
Research objective number one	Focus group responses
To determine the factors that facilitates the processing of DV cases in the Ntuzuma Magistrates Court?	<p>Proper information to be given to the community when approaching DV court to speed up the process FG003, FG004</p> <p>The staff must go out to the community educating them about the DV court operations, FG001, FG003, FG004, FG006, FG007</p> <p>Some officials have good attitude FG005, FG007, FG008</p> <p>Sensitivity towards community cultural needs. FG006, FG001, FG004</p>



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Vol. 402

CAPE TOWN, 2 DECEMBER 1998

No. 19537

KAAPSTAD, 2 DESEMBER 1998

OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1551.

2 December 1998

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 116 of 1998: Domestic Violence Act, 1998.

No. 1551.

2 Desember 1998

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 116 van 1998: Wet op Gesinsgeweld, 1998.

Act No. 116, 1998

DOMESTIC VIOLENCE ACT, 1998

GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)
(Assented to 20 November 1998.)*

ACT

To provide for the issuing of protection orders with regard to domestic violence; and for matters connected therewith.

PREAMBLE

RECOGNISING that domestic violence is a serious social evil; that there is a high incidence of domestic violence within South African society; that victims of domestic violence are among the most vulnerable members of society; that domestic violence takes on many forms; that acts of domestic violence may be committed in a wide range of domestic relationships; and that the remedies currently available to the victims of domestic violence have proved to be ineffective;

AND HAVING REGARD to the Constitution of South Africa, and in particular, the right to equality and to freedom and security of the person; and the international commitments and obligations of the State towards ending violence against women and children, including obligations under the United Nations Conventions on the Elimination of all Forms of Discrimination Against Women and the Rights of the Child;

IT IS THE PURPOSE of this Act to afford the victims of domestic violence the maximum protection from domestic abuse that the law can provide; and to introduce measures which seek to ensure that the relevant organs of state give full effect to the provisions of this Act, and thereby to convey that the State is committed to the elimination of domestic violence,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—

- (i) “arm” means any arm as defined in section 1(1) or any armament as defined in section 32(1) of the Arms and Ammunition Act, 1969 (Act No. 75 of 1969); (xxiii) 5
- (ii) “clerk of the court” means a clerk of the court appointed in terms of section 13 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), and includes an assistant clerk of the court so appointed; (xvi) 10
- (iii) “complainant” means any person who is or has been in a domestic relationship with a respondent and who is or has been subjected or allegedly subjected to an act of domestic violence, including any child in the care of the complainant; (xv)

- (iv) "court" means any court contemplated in the Magistrates' Courts Act, 1944 (Act No. 32 of 1944) or any family court established in terms of an Act of Parliament; (xiii)
- (v) "damage to property" means the wilful damaging or destruction of property belonging to a complainant or in which the complainant has a vested interest; (iii) 5
- (vi) "dangerous weapon" means any weapon as defined in section 1 of the Dangerous Weapons Act, 1968 (Act No. 71 of 1968); (xi)
- (vii) "domestic relationship" means a relationship between a complainant and a respondent in any of the following ways: 10
- (a) they are or were married to each other, including marriage according to any law, custom or religion;
- (b) they (whether they are of the same or of the opposite sex) live or lived together in a relationship in the nature of marriage, although they are not, or were not, married to each other, or are not able to be married to each other; 15
- (c) they are the parents of a child or are persons who have or had parental responsibility for that child (whether or not at the same time);
- (d) they are family members related by consanguinity, affinity or adoption;
- (e) they are or were in an engagement, dating or customary relationship, including an actual or perceived romantic, intimate or sexual relationship of any duration; or 20
- (f) they share or recently shared the same residence; (x)
- (viii) "domestic violence" means— 25
- (a) physical abuse;
- (b) sexual abuse;
- (c) emotional, verbal and psychological abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment; 30
- (g) stalking;
- (h) damage to property;
- (i) entry into the complainant's residence without consent, where the parties do not share the same residence; or
- (j) any other controlling or abusive behaviour towards a complainant, where such conduct harms, or may cause imminent harm to, the safety, health or wellbeing of the complainant; (ix) 35
- (ix) "economic abuse" includes—
- (a) the unreasonable deprivation of economic or financial resources to which a complainant is entitled under law or which the complainant requires out of necessity, including household necessities for the complainant, and mortgage bond repayments or payment of rent in respect of the shared residence; or 40
- (b) the unreasonable disposal of household effects or other property in which the complainant has an interest; (v) 45
- (x) "emergency monetary relief" means compensation for monetary losses suffered by a complainant at the time of the issue of a protection order as a result of the domestic violence, including—
- (a) loss of earnings;
- (b) medical and dental expenses; 50
- (c) relocation and accommodation expenses; or
- (d) household necessities; (viii)
- (xi) "emotional, verbal and psychological abuse" means a pattern of degrading or humiliating conduct towards a complainant, including— 55
- (a) repeated insults, ridicule or name calling;
- (b) repeated threats to cause emotional pain; or
- (c) the repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the complainant's privacy, liberty, integrity or security; (vi)
- (xii) "harassment" means engaging in a pattern of conduct that induces the fear of harm to a complainant including— 60

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- (a) repeatedly watching, or loitering outside of or near the building or place where the complainant resides, works, carries on business, studies or happens to be;
- (b) repeatedly making telephone calls or inducing another person to make telephone calls to the complainant, whether or not conversation ensues; 5
- (c) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant; (xx)
- (xiii) "intimidation" means uttering or conveying a threat, or causing a complainant to receive a threat, which induces fear; (xiv) 10
- (xiv) "member of the South African Police Service" means any member as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995); (xvii)
- (xv) "peace officer" means a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); (xxii) 15
- (xvi) "physical abuse" means any act or threatened act of physical violence towards a complainant; (vii)
- (xvii) "prescribed" means prescribed in terms of a regulation made under section 19; (xxi)
- (xviii) "protection order" means an order issued in terms of section 5 or 6 but, in section 6, excludes an interim protection order; (iv) 20
- (xix) "residence" includes institutions for children, the elderly and the disabled; (xxiv)
- (xx) "respondent" means any person who is or has been in a domestic relationship with a complainant and who has committed or allegedly committed an act of domestic violence against the complainant; (xviii) 25
- (xxi) "sexual abuse" means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant; (xix)
- (xxii) "sheriff" means a sheriff appointed in terms of section 2(1) of the Sheriffs Act, 1986 (Act No. 90 of 1986), or an acting sheriff appointed in terms of section 5(1) of the said Act; (ii) 30
- (xxiii) "stalking" means repeatedly following, pursuing, or accosting the complainant; (i)
- (xxiv) "this Act" includes the regulations. (xii)

Duty to assist and inform complainant of rights

35

2. Any member of the South African Police Service must, at the scene of an incident of domestic violence or as soon thereafter as is reasonably possible, or when the incident of domestic violence is reported—

- (a) render such assistance to the complainant as may be required in the circumstances, including assisting or making arrangements for the complainant to find a suitable shelter and to obtain medical treatment; 40
- (b) if it is reasonably possible to do so, hand a notice containing information as prescribed to the complainant in the official language of the complainant's choice; and
- (c) if it is reasonably possible to do so, explain to the complainant the content of such notice in the prescribed manner, including the remedies at his or her disposal in terms of this Act and the right to lodge a criminal complaint, if applicable. 45

Arrest by peace officer without warrant

3. A peace officer may without warrant arrest any respondent at the scene of an incident of domestic violence whom he or she reasonably suspects of having committed an offence containing an element of violence against a complainant. 50

Application for protection order

4. (1) Any complainant may in the prescribed manner apply to the court for a protection order.

(2) If the complainant is not represented by a legal representative, the clerk of the court must inform the complainant, in the prescribed manner—

(a) of the relief available in terms of this Act; and

(b) of the right to also lodge a criminal complaint against the respondent, if a criminal offence has been committed by the respondent.

(3) Notwithstanding the provisions of any other law, the application may be brought on behalf of the complainant by any other person, including a counsellor, health service provider, member of the South African Police Service, social worker or teacher, who has a material interest in the wellbeing of the complainant: Provided that the application must be brought with the written consent of the complainant, except in circumstances where the complainant is—

(a) a minor;

(b) mentally retarded;

(c) unconscious; or

(d) a person whom the court is satisfied is unable to provide the required consent.

(4) Notwithstanding the provisions of any other law, any minor, or any person on behalf of a minor, may apply to the court for a protection order without the assistance of a parent, guardian or any other person.

(5) The application referred to in subsection (1) may be brought outside ordinary court hours or on a day which is not an ordinary court day, if the court is satisfied that the complainant may suffer undue hardship if the application is not dealt with immediately.

(6) Supporting affidavits by persons who have knowledge of the matter concerned may accompany the application.

(7) The application and affidavits must be lodged with the clerk of the court who shall forthwith submit the application and affidavits to the court.

Consideration of application and issuing of interim protection order

5. (1) The court must as soon as is reasonably possible consider an application submitted to it in terms of section 4(7) and may, for that purpose, consider such additional evidence as it deems fit, including oral evidence or evidence by affidavit, which shall form part of the record of the proceedings.

(2) If the court is satisfied that there is *prima facie* evidence that—

(a) the respondent is committing, or has committed an act of domestic violence; and

(b) undue hardship may be suffered by the complainant as a result of such domestic violence if a protection order is not issued immediately,

the court must, notwithstanding the fact that the respondent has not been given notice of the proceedings contemplated in subsection (1), issue an interim protection order against the respondent, in the prescribed manner.

(3) (a) An interim protection order must be served on the respondent in the prescribed manner and must call upon the respondent to show cause on the return date specified in the order why a protection order should not be issued.

(b) A copy of the application referred to in section 4(1) and the record of any evidence noted in terms of subsection (1) must be served on the respondent together with the interim protection order.

(4) If the court does not issue an interim protection order in terms of subsection (2), the court must direct the clerk of the court to cause certified copies of the application concerned and any supporting affidavits to be served on the respondent in the prescribed manner, together with a prescribed notice calling on the respondent to show cause on the return date specified in the notice why a protection order should not be issued.

(5) The return dates referred to in subsections (3)(a) and (4) may not be less than 10 days after service has been effected upon the respondent: Provided that the return date referred to in subsection (3)(a) may be anticipated by the respondent upon not less than 24 hours' written notice to the complainant and the court.

(6) An interim protection order shall have no force and effect until it has been served on the respondent. 5

(7) Upon service or upon receipt of a return of service of an interim protection order, the clerk of the court must forthwith cause—

(a) a certified copy of the interim protection order; and

(b) the original warrant of arrest contemplated in section 8(1)(a), 10
to be served on the complainant.

Issuing of protection order

6. (1) If the respondent does not appear on a return date contemplated in section 5(3) or (4), and if the court is satisfied that—

(a) proper service has been effected on the respondent; and 15

(b) the application contains *prima facie* evidence that the respondent has committed or is committing an act of domestic violence,
the court must issue a protection order in the prescribed form.

(2) If the respondent appears on the return date in order to oppose the issuing of a protection order, the court must proceed to hear the matter and— 20

(a) consider any evidence previously received in terms of section 5(1); and

(b) consider such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceedings.

(3) The court may, on its own accord or on the request of the complainant, if it is of the opinion that it is just or desirable to do so, order that in the examination of witnesses, including the complainant, a respondent who is not represented by a legal representative— 25

(a) is not entitled to cross-examine directly a person who is in a domestic relationship with the respondent; and

(b) shall put any question to such a witness by stating the question to the court, and the court is to repeat the question accurately to the respondent. 30

(4) The court must, after a hearing as contemplated in subsection (2), issue a protection order in the prescribed form if it finds, on a balance of probabilities, that the respondent has committed or is committing an act of domestic violence.

(5) Upon the issuing of a protection order the clerk of the court must forthwith in the prescribed manner cause— 35

(a) the original of such order to be served on the respondent; and

(b) a certified copy of such order, and the original warrant of arrest contemplated in section 8(1)(a), to be served on the complainant.

(6) The clerk of the court must forthwith in the prescribed manner forward certified copies of any protection order and of the warrant of arrest contemplated in section 8(1)(a) to the police station of the complainant's choice. 40

(7) Subject to the provisions of section 7(7), a protection order issued in terms of this section remains in force until it is set aside, and the execution of such order shall not be automatically suspended upon the noting of an appeal. 45

Court's powers in respect of protection order

7. (1) The court may, by means of a protection order referred to in section 5 or 6, prohibit the respondent from—

(a) committing any act of domestic violence;

(b) enlisting the help of another person to commit any such act; 50

(c) entering a residence shared by the complainant and the respondent: Provided that the court may impose this prohibition only if it appears to be in the best interests of the complainant;

(d) entering a specified part of such a shared residence;

(e) entering the complainant's residence; 55

(f) entering the complainant's place of employment;

- (g) preventing the complainant who ordinarily lives or lived in a shared residence as contemplated in subparagraph (c) from entering or remaining in the shared residence or a specified part of the shared residence; or
- (h) committing any other act as specified in the protection order.
- (2) The court may impose any additional conditions which it deems reasonably necessary to protect and provide for the safety, health or wellbeing of the complainant, including an order—
- (a) to seize any arm or dangerous weapon in the possession or under the control of the respondent, as contemplated in section 9; and
- (b) that a peace officer must accompany the complainant to a specified place to assist with arrangements regarding the collection of personal property.
- (3) In ordering a prohibition contemplated in subsection 1(c), the court may impose on the respondent obligations as to the discharge of rent or mortgage payments having regard to the financial needs and resources of the complainant and the respondent.
- (4) The court may order the respondent to pay emergency monetary relief having regard to the financial needs and resources of the complainant and the respondent, and such order has the effect of a civil judgment of a magistrate's court.
- (5) (a) The physical address of the complainant must be omitted from the protection order, unless the nature of the terms of the order necessitates the inclusion of such address.
- (b) The court may issue any directions to ensure that the complainant's physical address is not disclosed in any manner which may endanger the safety, health or wellbeing of the complainant.
- (6) If the court is satisfied that it is in the best interests of any child it may—
- (a) refuse the respondent contact with such child; or
- (b) order contact with such child on such conditions as it may consider appropriate.
- (7) (a) The court may not refuse—
- (i) to issue a protection order; or
- (ii) to impose any condition or make any order which it is competent to impose or make under this section,
- merely on the grounds that other legal remedies are available to the complainant.
- (b) If the court is of the opinion that any provision of a protection order deals with a matter that should, in the interests of justice, be dealt with further in terms of any other relevant law, including the Maintenance Act, 1998, the court must order that such a provision shall be in force for such limited period as the court determines, in order to afford the party concerned the opportunity to seek appropriate relief in terms of such law.

Warrant of arrest upon issuing of protection order

8. (1) Whenever a court issues a protection order, the court must make an order—
- (a) authorising the issue of a warrant for the arrest of the respondent, in the prescribed form; and
- (b) suspending the execution of such warrant subject to compliance with any prohibition, condition, obligation or order imposed in terms of section 7.
- (2) The warrant referred to in subsection (1)(a) remains in force unless the protection order is set aside, or it is cancelled after execution.
- (3) The clerk of the court must issue the complainant with a second or further warrant of arrest, if the complainant files an affidavit in the prescribed form in which it is stated that such warrant is required for her or his protection and that the existing warrant of arrest has been—
- (a) executed and cancelled; or
- (b) lost or destroyed.
- (4) (a) A complainant may hand the warrant of arrest together with an affidavit in the prescribed form, wherein it is stated that the respondent has contravened any prohibition, condition, obligation or order contained in a protection order, to any member of the South African Police Service.

(b) If it appears to the member concerned that, subject to subsection (5), there are reasonable grounds to suspect that the complainant may suffer imminent harm as a result of the alleged breach of the protection order by the respondent, the member must forthwith arrest the respondent for allegedly committing the offence referred to in section 17(a). 5

(c) If the member concerned is of the opinion that there are insufficient grounds for arresting the respondent in terms of paragraph (b), he or she must forthwith hand a written notice to the respondent which—

- (i) specifies the name, the residential address and the occupation or status of the respondent; 10
- (ii) calls upon the respondent to appear before a court, and on the date and at the time, specified in the notice, on a charge of committing the offence referred to in section 17(a); and
- (iii) contains a certificate signed by the member concerned to the effect that he or she handed the original notice to the respondent and that he or she explained the import thereof to the respondent. 15

(d) The member must forthwith forward a duplicate original of a notice referred to in paragraph (c) to the clerk of the court concerned, and the mere production in the court of such a duplicate original shall be *prima facie* proof that the original thereof was handed to the respondent specified therein. 20

(5) In considering whether or not the complainant may suffer imminent harm, as contemplated in subsection (4)(b), the member of the South African Police Service must take into account—

- (a) the risk to the safety, health or wellbeing of the complainant;
- (b) the seriousness of the conduct comprising an alleged breach of the protection order; and 25
- (c) the length of time since the alleged breach occurred.

(6) Whenever a warrant of arrest is handed to a member of the South African Police Service in terms of subsection (4)(a), the member must inform the complainant of his or her right to simultaneously lay a criminal charge against the respondent, if applicable, and explain to the complainant how to lay such a charge. 30

Seizure of arms and dangerous weapons

9. (1) The court must order a member of the South African Police Service to seize any arm or dangerous weapon in the possession or under the control of a respondent, if the court is satisfied on the evidence placed before it, including any affidavits supporting an application referred to in section 4(1), that— 35

- (a) the respondent has threatened or expressed the intention to kill or injure himself or herself, or any person in a domestic relationship, whether or not by means of such arm or dangerous weapon; or
- (b) possession of such arm or dangerous weapon is not in the best interests of the respondent or any other person in a domestic relationship, as a result of the respondent's— 40
 - (i) state of mind or mental condition;
 - (ii) inclination to violence; or
 - (iii) use of or dependence on intoxicating liquor or drugs. 45

(2) Any arm seized in terms of subsection (1) must be handed over to the holder of an office in the South African Police Service as contemplated in section 11(2)(b) of the Arms and Ammunition Act, 1969 (Act No. 75 of 1969), and the court must direct the clerk of the court to refer a copy of the record of the evidence concerned to the National Commissioner of the South African Police Service for consideration in terms of section 11 of the Arms and Ammunition Act, 1969. 50

(3) Any dangerous weapon seized in terms of subsection (1)—

- (a) must be given a distinctive identification mark and retained in police custody for such period of time as the court may determine; and
- (b) shall only be returned to the respondent or, if the respondent is not the owner of the dangerous weapon, to the owner thereof, by order of the court and on such conditions as the court may determine: 55

Provided that—

- (i) if, in the opinion of the court, the value of the dangerous weapon so seized is below R200; or 60
- (ii) if the return of the dangerous weapon has not been ordered within 12 months after it had been so seized; or

(iii) if the court is satisfied that it is in the interest of the safety of any person concerned,
the court may order that the dangerous weapon be forfeited to the State.

Variation or setting aside of protection order

10. (1) A complainant or a respondent may, upon written notice to the other party and the court concerned, apply for the variation or setting aside of a protection order referred to in section 6 in the prescribed manner. 5

(2) If the court is satisfied that good cause has been shown for the variation or setting aside of the protection order, it may issue an order to this effect: Provided that the court shall not grant such an application to the complainant unless it is satisfied that the application is made freely and voluntarily. 10

(3) The clerk of the court must forward a notice as prescribed to the complainant and the respondent if the protection order is varied or set aside as contemplated in subsection (1).

Attendance of proceedings and prohibition of publication of certain information 15

11. (1) (a) No person may be present during any proceedings in terms of this Act except—

- (a) officers of the court;
- (b) the parties to the proceedings;
- (c) any person bringing an application on behalf of the complainant in terms of section 4(3); 20
- (d) any legal representative representing any party to the proceedings;
- (e) witnesses;
- (f) not more than three persons for the purpose of providing support to the complainant; 25
- (g) not more than three persons for the purpose of providing support to the respondent; and
- (h) any other person whom the court permits to be present:

Provided that the court may, if it is satisfied that it is in the interests of justice, exclude any person from attending any part of the proceedings. 30

(b) Nothing in this subsection limits any other power of the court to hear proceedings *in camera* or to exclude any person from attending such proceedings.

(2) (a) No person shall publish in any manner any information which might, directly or indirectly, reveal the identity of any party to the proceedings.

(b) The court, if it is satisfied that it is in the interests of justice, may direct that any further information relating to proceedings held in terms of this Act shall not be published: Provided that no direction in terms of this subsection applies in respect of the publication of a *bona fide* law report which does not mention the names or reveal the identities of the parties to the proceedings or of any witness at such proceedings. 35

Jurisdiction 40

12. (1) Any court within the area in which—

- (a) the complainant permanently or temporarily resides, carries on business or is employed;
- (b) the respondent resides, carries on business or is employed; or
- (c) the cause of action arose, 45

has jurisdiction to grant a protection order as contemplated in this Act.

(2) No specific minimum period is required in relation to subsection (1)(a).

(3) A protection order is enforceable throughout the Republic.

Service of documents

13. (1) Service of any document in terms of this Act must forthwith be effected in the prescribed manner by the clerk of the court, the sheriff or a peace officer, or as the court may direct. 50

(2) The regulations contemplated in section 19 must make provision for financial assistance by the State to a complainant or a respondent who does not have the means to pay the fees of any service in terms of this Act.

Legal representation

14. Any party to proceedings in terms of this Act may be represented by a legal representative. 5

Costs

15. The court may only make an order as to costs against any party if it is satisfied that such party has acted frivolously, vexatiously or unreasonably.

Appeal and review 10

16. The provisions in respect of appeal and review contemplated in the Magistrate's Courts Act, 1944 (Act No. 32 of 1944), and the Supreme Court Act, 1959 (Act No. 59 of 1959), apply to any proceedings in terms of this Act.

Offences

17. Notwithstanding the provisions of any other law, any person who— 15

- (a) contravenes any prohibition, condition, obligation or order imposed in terms of section 7;
- (b) contravenes the provisions of section 11(2)(a);
- (c) fails to comply with any direction in terms of the provisions of section 11(2)(b); or 20
- (d) in an affidavit referred to section 8(4)(a), wilfully makes a false statement in a material respect,

is guilty of an offence and liable on conviction in the case of an offence referred to in paragraph (a) to a fine or imprisonment for a period not exceeding five years or to both such fine and such imprisonment, and in the case of an offence contemplated in 25

paragraph (b), (c), or (d), to a fine or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Application of Act by prosecuting authority and members of South African Police Service

18. (1) No prosecutor shall— 30

- (a) refuse to institute a prosecution; or
- (b) withdraw a charge,

in respect of a contravention of section 17(a), unless he or she has been authorised thereto, whether in general or in any specific case, by a Director of Public Prosecutions as contemplated in section 13(1)(a) of the National Prosecuting Authority Act, 1998 35

(Act No. 32 of 1998), or a senior member of the prosecuting authority designated thereto in writing by such a Director.

(2) The National Director of Public Prosecutions referred to in section 10 of the National Prosecuting Authority Act, 1998, in consultation with the Minister of Justice and after consultation with the Directors of Public Prosecutions, must determine 40

prosecution policy and issue policy directives regarding any offence arising from an incident of domestic violence.

(3) The National Commissioner of the South African Police Service must issue national instructions as contemplated in section 25 of the South African Police Service Act, 1995 (Act No. 68 of 1995), with which its members must comply in the execution 45

of their functions in terms of this Act, and any instructions so issued must be published in the *Gazette*.

(4) (a) Failure by a member of the South African Police Service to comply with an obligation imposed in terms of this Act or the national instructions referred to in subsection (3), constitutes misconduct as contemplated in the South African Police 50

Service Act, 1995, and the Independent Complaints Directorate, established in terms of that Act, must forthwith be informed of any such failure reported to the South African Police Service.

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(b) Unless the Independent Complaints Directorate directs otherwise in any specific case, the South African Police Service must institute disciplinary proceedings against any member who allegedly failed to comply with an obligation referred to in paragraph (a).

(5) (a) The National Director of Public Prosecutions must submit any prosecution policy and policy directives determined or issued in terms of subsection (2) to Parliament, and the first policy and directives so determined or issued, must be submitted to Parliament within six months of the commencement of this Act. 5

(b) The National Commissioner of the South African Police Service must submit any national instructions issued in terms of subsection (3) to Parliament, and the first instructions so issued, must be submitted to Parliament within six months of the commencement of this Act. 10

(c) The Independent Complaints Directorate must, every six months, submit a report to Parliament regarding the number and particulars of matters reported to it in terms of subsection (4)(a), and setting out the recommendations made in respect of such matters. 15

(d) The National Commissioner of the South African Police Service must, every six months, submit a report to Parliament regarding-

- (i) the number and particulars of complaints received against its members in respect of any failure contemplated in subsection (4)(a);
- (ii) the disciplinary proceedings instituted as a result thereof and the decisions which emanated from such proceedings; and 20
- (iii) steps taken as a result of recommendations made by the Independent Complaints Directorate.

Regulations

19. (1) The Minister of Justice may make regulations regarding— 25

- (a) any form required to be prescribed in terms of this Act;
- (b) any matter required to be prescribed in terms of this Act; and
- (c) any other matter which the Minister deems necessary or expedient to be prescribed in order to achieve the objects of this Act.

(2) Any regulation made under subsection (1)— 30

- (a) must be submitted to Parliament prior to publication thereof in the *Gazette*;
- (b) which may result in expenditure for the State, must be made in consultation with the Minister of Finance; and
- (c) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding one year. 35

Amendment of section 40 of Act 51 of 1977, as amended by section 41 of Act 129 of 1993 and section 4 of Act 18 of 1996

20. Section 40 of the Criminal Procedure Act, 1977, is hereby amended by the addition in subsection (1) of the following paragraph: 40

“(q) who is reasonably suspected of having committed an act of domestic violence as contemplated in section (1) of the Domestic Violence Act, 1998, which constitutes an offence in respect of which violence is an element.”.

Repeal of laws and savings

21. (1) Sections 1, 2, 3, 6 and 7 of the Prevention of Family Violence Act, 1993 (Act No. 133 of 1993), are hereby repealed. 45

(2) Any application made, proceedings instituted or interdict granted in terms of the Act referred to in subsection (1) shall be deemed to have been made, instituted or granted in terms of this Act.

Short title and commencement

50

22. This Act shall be called the Domestic Violence Act, 1998, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

STRATEGIC PLAN

2013–2018



the **doj & cd**

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



Department of Justice and Constitutional Development
Strategic Plan 2013–2018
MARCH 2013

RP85/2013

ISBN: 978-0-621-41690-9

OFFICIAL SIGN-OFF

It is hereby certified that this Strategic Plan:

- was developed by the management of the Department of Justice and Constitutional Development, under the guidance of the Minister of Justice and Constitutional Development, Mr Jeff Radebe, MP;
- takes into account the relevant policies, legislation and other mandates for which the Department of Justice and Constitutional Development is responsible; and
- accurately reflects the strategic goals and objectives that the Department of Justice and Constitutional Development will endeavour to achieve over the period 2013–2018.

Mr Johan Johnson

Acting Chief Financial Officer

Signature: _____



Ms Lebogang Mphahlele-Ntsasa

Chief Director: Strategy, Monitoring and Evaluation

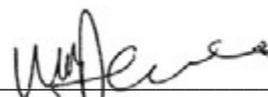
Signature: _____



Dr Khotso De Wee

Chief Operating Officer

Signature: _____



Ms Nonkululeko Sindane

Director-General: Justice and Constitutional Development

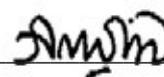
Signature: _____



Mr Andries Nel, MP

Deputy Minister of Justice and Constitutional Development

Signature: _____



Approved by

Mr Jeffrey Radebe, MP

Minister of Justice and Constitutional Development

Signature: _____

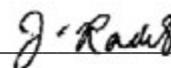


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ACRONYMS AND ABBREVIATIONS

ACCC	Anti-corruption Coordinating Committee
ACTT	Anti-corruption Task Team
ADRM	Alternate Dispute Resolution Mechanism
AFU	Asset Forfeiture Unit
CARA	Criminal Assets Recovery Account
CJRP	Civil Justice Reform Programme
CJS	Criminal justice system
DCS	Department of Correctional Services
DOH	Department of Health
DIRCO	Department of International Relations and Cooperation
DoJ&CD	Department of Justice and Constitutional Development
DPW	Department of Public Works
DSD	Department of Social Development
EFT	Electronic Fund Transfer
ENE	Estimates of National Expenditure
GCIS	Government Communications and Information System
GRAP	Generally Recognised Accounting Practice
HANIS	Home Affairs National Identification System
ICMS	Integrated Case Management System
ICT	Information and communication technology
IJS	Integrated Justice System
ISCCJ	Intersectoral Committee on Child Justice
ISM	Information and System Management
IT	Information technology
JCPS	Justice, Crime Prevention and Security
JEI	Judicial Education Institute
JMIS	Justice Management Information System
KPI	Key Performance Indicator
LASA	Legal Aid South Africa
MACC	Minimum Anti-corruption Capacity
MOVIT	Master's Own Verification Information Technology
MTEC	Medium-term Expenditure Committee
MTEF	Medium-term Expenditure Framework
MTSF	Medium-term Strategic Framework
NACF	National Anti-corruption Forum
NGO	Non-government Organisation

NDP	National Development Plan
NMSS	National Maintenance Signage System
NPA	National Prosecuting Authority
NPS	National Prosecution Service
NRSO	National Register for Sex Offenders
OCSLA	Office of the Chief State Law Advisor
OSD	Occupation-specific dispensation
PAIA	Promotion of Access to Information Act
PAJA	Promotion of Administrative Justice Act
PDI	Previously Disadvantage Individuals
PEAS	Paperless Estate Administration System
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
PFMA	Public Finance Management Act
PMIS	Property Management Information System
PPP	Public-private Partnership
PPPFA	Preferential Procurement Policy Framework Act
PRVG	Promotion of Rights of Vulnerable Groups
SAHRC	South African Human Rights Commission
SAJEI	South African Judicial Education Institute
SALRC	South African Law Reform Commission
SANDF	South African National Defence Force
SAPS	South African Police Service
SARS	South African Reserve Service
SCA	Supreme Court of Appeal
SCOA	Standard Chart of Accounts
SITA	State Information Technology Agency
SIU	Special Investigating Unit
SLA	State Law Advisor
SONA	State of the Nation Address
SSA	State Security Agency
TPF	Third Party Funds
TRC	Truth and Reconciliation Commission
UNDP	United Nations Development Programme

FOREWORD BY THE MINISTER

During the 2012/13 financial year, the National Development Plan 2030, which focuses the efforts of South Africans to address the key challenges of poverty, inequality and unemployment, was unveiled. In this document, imperatives are set out for the Justice, Crime Prevention and Security (JCPS) Cluster, which, among others, include strengthening the criminal justice system, strengthening governance and the rule of law, and the role of the judiciary in the developmental South African state. The department's leadership will, with the collaboration of cluster departments, ensure alignment to this plan from the 2014/15 financial year and, most importantly, ensure the implementation of initiatives that will enable government to reach its identified goals.

There has been an increase in the number of reported sexual offences cases, which, in part, shows the willingness of victims to bring perpetrators to book. This effort by members of the public should be encouraged so that this heinous crime can be drastically reduced. The department will prioritise sexual offences by re-establishing dedicated sexual offences courts throughout the country. Some of the courts will be ready to operate at the beginning of the 2013/14 financial year, whereas some will be designated in subsequent years. It is envisaged that this effort will assist in the efficient finalisation of cases and improve efforts to address this scourge.

With regard to the level of crime in general, the drop in the number of reported incidents is a consolation to members of the public. However, the degree of violence that is associated with these crimes is unacceptable. The department will continue with its efforts to improve collaboration with cluster departments and to modernise information and communication systems to assist in better coordination. The Ministry is pleased that a number of modernisation projects, such as electronic docket sharing, are showing good progress and that more are being undertaken.

As part of this modernisation process, the department will continue to put effort into developing Integrated Case Management Systems (ICMS) and other initiatives in key priority areas of the department, which include improved services in the offices of the Masters of the High Court, improved maintenance services, and improved governance and administration towards an unqualified audit opinion.

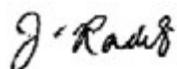
The department undertook to strengthen the legislative framework in which the justice system operates. In this regard, the Constitution 17th Amendment Act was finalised during the 2012/13 financial year and the Superior Courts Bill was approved by the National Assembly. The Legal Practice Bill, on the other hand, is being considered by Parliament. These endeavours are aimed at consolidating the outstanding aspects relating to judicial reform, and rationalising the courts and the legal profession with a view to establishing a judicial system suited to the requirements of the Constitution. The department has published a discussion document on the transformation of State Legal Services, and part of this effort includes improved management of litigation against the state. In the 2013/14 financial year, efforts will be put in place to appoint a Solicitor-General, who will oversee all legal services of the state, and assist in improving the quality of services offered to the state.

There have been improved efforts in tracing outstanding individuals who qualify for reparations through recommendations made by the Truth and Reconciliation Commission (TRC). This process is almost complete. However, there are indications that consultations with members of the public will continue to discuss certain issues around community rehabilitations. We will finalise regulations regarding housing, basic education and higher education to give victims or their dependants access to these services through the President's Fund.

The department will continue to prioritise service delivery in relation to its core functions in different programmes. The Court Services Programme entails the facilitation of the resolution of criminal, civil and family law disputes through the provisioning of accessible, efficient and quality administrative support to the courts. Programme 3 relates to State Legal Services, and covers legal and legislative services that are rendered to government, as well as the supervision of the administration of deceased and insolvent estates, the registration of trusts and the management of the Guardian's Fund. Programme 4 deals with the National Prosecuting Authority (NPA) and prioritises the coordination of a professional prosecuting service, including the removal of profit from crime by the work of the Asset Forfeiture Unit (AFU) and the protection of certain witnesses. Programme 5 includes the provision of transferred funds to the South African Human Rights Commission (SAHRC), the Office of the Public Protector (OPP), Legal Aid South Africa (LASA) and the Special Investigating Unit (SIU).

The budget cuts have resulted in the rationalisation or postponement of projects in all areas of the department. However, areas of increased pressure into the 2013/14 financial year include spending on security, which is necessary to protect and secure members of the public, officials and property, the support of the commission on Strategic Defence Procurement Packages and the Farlam Commission, which are necessary initiatives in support of our constitutional democracy, and capital expenditure to build and improve court infrastructure. Despite this challenge, the department will continue to stay within the allocated budget.

It is my pleasure to indicate that I endorse this Strategic Plan and commit myself to ensuring its implementation.



MR JT RADEBE, MP

MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

PART A: STRATEGIC OVERVIEW

1. INTRODUCTION

This document sets out the Department of Justice and Constitutional Development's Strategic Plan 2013–2018 as revised for the 2013/14 financial year.

Government has implemented an outcomes-based approach to planning for the effective management of its various programmes. This outcomes-oriented approach measures the impact of government's programmes and is designed to ensure that government is focused on achieving the expected improvements in the lives of South Africans. In line with this, government has identified 12 priority outcomes as key focus areas for the period ending in 2015.

During the 2013/14 financial year, the department will focus its planning efforts on aligning its strategy with the National Development Plan (NDP) 2030, and putting plans in place to implement initiatives mentioned in the State of Nation Address (SONA).

The department's Strategic Plan sets out its policy priorities, programmes and project plans for the current five-year planning cycle, within the scope of available resources. It also indicates its commitment to the following, among others:

- Ensuring that everyone in South Africa is and feels safe.
- Developing policies for protecting the rights of vulnerable groups and victims in society.
- Prioritising access to justice services for people in poor and rural areas.
- Promoting access to Justice by the finalisation of court cases, as well as an increased use of alternative dispute resolution mechanisms, the diversion of cases and the use of restorative justice processes.
- Administering deceased and insolvent estates efficiently.
- Providing appropriate legal advice and litigation services to organs of state.
- Advancing and promoting constitutional development and the rule of law.
- Promoting legislation to transform the state and society, and meet the needs of society.
- Managing all funds under the auspices of the department, including the Criminal Assets Recovery Account (CARA), the Guardian's Fund, the President's Fund and Third Party Funds.
- Creating and promoting the creation of more jobs within the justice sector in line with government's priorities.

The department will also continue with the implementation of activities of Government Outcome 3 (All people in South Africa are and feel safe). Deriving from this mandate, the cluster delivery agreement that was signed by the Justice, Crime Prevention and Security (JCPS) Cluster ministers on 24 October 2010 and the accompanying implementation plan constitute an important part of the department's Strategic Plan.

In addition to the delivery of Government Outcome 3, the following three key priorities that were identified during the 2011/12 financial year continue to receive special attention:

1. Good governance and clean administration demonstrated by receiving a 'No Audit Qualification' in 2012/13
2. Service turnaround in Maintenance Services
3. Service turnaround in the Master's Branch

The strategic plan details the goals and objectives the department has set to achieve over the next five years within the scope of its constitutional and legislative mandate. Part A provides a general background on the department, its policy and legislative mandates, the organisational context and the four goals that have been formulated, while Part

B details the strategic objectives and five-year targets, arranged according to programmes.

Note: The detailed information on the annual and quarterly targets is available in the department's Annual Performance Plan.

2. MISSION, VISION AND VALUES OF THE DEPARTMENT

2.1 Vision

A transformed and accessible justice system that promotes and protects social justice and the rule of law.

2.2 Mission

To provide transparent, responsive and accountable justice services for all.

2.3 Principles and values

- Commitment to constitutional values and a culture of human rights
- Promotion of the rule of law
- Batho Pele
- Good governance
- *Ubuntu*
- Professionalism and continuous improvement
- Transparency

3. LEGISLATIVE AND OTHER MANDATES

3.1 Constitutional mandates

The department's mandate, deriving from the Constitution, is twofold. On the one hand, it seeks to provide a framework for the effective and efficient administration of justice. On the other, it seeks to promote constitutional development through the development and implementation of legislation and programmes that seek to advance and sustain constitutionalism and the rule of law. At the same time, it seeks to provide an enabling environment for the judiciary and constitutional institutions to exercise their constitutional powers and functions freely and independently. This is done through the implementation of programmes to deepen and nurture our constitutional democracy.

3.2 Legislative mandates

The department derives its statutory mandate from various statutes and subordinate legislation. The following are categories of functions, emanating from different legislative instruments, which are relevant to the department:

- Legislation providing for the establishment and functioning of the superior courts, magistrates' courts and special courts (the Constitutional Court Complementary Act of 1995, the Supreme Court Act of 1959, the Magistrates' Courts Act of 1944 and the Small Claims Court Act of 1984).
- Legislation providing for the appointment of judges and other judicial officers, their conditions of service, discipline and training (the Judges Remuneration and Conditions of Employment Act of 2001, the Judicial Service Commission Act of 1994 (as amended), the South African Judicial Education Institute Act of 2008 and the Magistrates Act of 1993).
- Legislation providing for the establishment and functioning of the National Prosecuting Authority, the Special Investigating Unit and the Asset Forfeiture Unit, the conduct of criminal proceedings, the investigation of organised crime and corruption, and the forfeiture of assets obtained through illicit means (the National Prosecuting Authority Act of 1998, the Criminal Procedure Act of 1977, the Prevention of Organised Crime Act of 1998, the Special Investigation Units and Special Tribunals Act of 1996 and the Witness Protection Act of 1998).
- Legislation providing for the establishment and functioning of bodies responsible for legal aid, law reform and rule-making (the Legal Aid Act of 1969, the South African Law Reform Commission Act of 1973 and the Rules Board for Courts of Law Act of 1985).
- Legislation providing for the appointment of masters of the high courts and the administration of the Guardian's Fund and deceased and insolvent estates (the Administration of Estates Act of 1985 and the Insolvency Act of 1936).
- Legislation regulating the provisioning of legal advisory services to government departments (the State Attorneys Act of 1957).
- Legislation relating to the promotion, protection and enforcement of certain human rights (the Promotion of Administrative Justice Act of 2000, the Promotion of Access to Information Act of 2000, and the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000).
- Legislation pertaining to the protection of vulnerable groups (the Child Justice Act of 2008, the Children's Act of 2005, the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007, the Maintenance Act of 1998 and the Domestic Violence Act of 1998).
- Legislation providing for support to Chapter 9 institutions (the Human Rights Commission Act of 1994 and the Public Protector Act of 1994).

3.3 Policy mandates

3.3.1 Alignment with the National Development Plan

President Jacob Zuma appointed the National Planning Commission in May 2010 to draft the vision and the National Development Plan for consideration by Cabinet and consultation with various stakeholders. The National Development Plan is the blueprint for eliminating poverty and reducing inequality in the country by 2030 through uniting South Africans, unleashing the energy of its citizens, growing an inclusive economy, building capabilities, enhancing the capacity of the state and leaders working together to solve complex problems. Of the five priorities that underpin government's Programme of Action, safety and crime prevention – as an output of the National Development Plan – are directly attributed to the justice sector, in particular the JCPS Cluster. Furthermore, the justice sector contributes indirectly to the other priorities of government, namely education, health, unemployment, and rural development and land reform.

The National Development Plan set out that by 2030, South Africans should feel and be safe. This vision can be achieved if there is a well-functioning criminal justice system in which the police, the judiciary and the correctional service can work together to ensure that suspects are caught, prosecuted, convicted if guilty, and securely incarcerated.

The following are the main goals of National Development Plan that directly relate to the department and the JCPS Cluster:

- Strengthening the criminal justice system – The ultimate goal is the achievement of a single, integrated, seamless and modern criminal justice system, with a single set of objectives, priorities and performance measurement targets.
- Strengthening judicial governance and the rule of law – The finalisation of the legislative framework affirms the Chief Justice as the Head of the Judiciary. The concomitant establishment of the Office of the Chief Justice to provide the Chief Justice with the requisite capacity to perform this function is a cutting-edge example of the department's judicial transformation discourse. One of the key deliverables in the National Development Plan is the implementation of the Seven-point Plan, which was adopted by Cabinet in 2007. The Seven-point Plan is aimed at addressing key issues that negatively affect the justice system. Many of the initiatives, such as the Regional Court Protocol, the Case Finalisation Protocol and the Trial Efficiency Court Protocol, have been implemented through the JCPS Cluster and the Outcome 3 delivery agreement. However, more effort will be exerted to fully implement and monitor all the seven points of the plan.
- Access to justice – Inaccessible courts, caused by – among others – the legacy of the past demarcation and skewed distribution of courts, exorbitant costs for obtaining legal service and overstretched court rolls (causing inordinate delays in the finalisation of cases), are among the myriad of factors that present major barriers to accessing justice, resulting in the weakening of the rule of law. Processes are under way to review the alignment of the magisterial districts with municipal boundaries, where this is desirable and feasible to enhance access to justice.
- The role of the judiciary in our constitutional democracy – There is a need for an ideal 'South African judge' to encompass a range of qualities and attributes, including a progressive judicial philosophy and an understanding of the socioeconomic context in which the law is interpreted and enforced.
- Investment in our economy – This has remained resilient amid global turmoil and can only thrive in an environment that is characterised by the rule of law.

3.3.2 Justice, Crime Prevention and Security Cluster delivery agreement

The Government's Programme of Action, adopted by the JCPS Cluster in July 2009, which was reinforced by the signing of the cluster delivery agreement by the JCPS Cluster ministers in 2010, underpins the JCPS strategy of fighting crime and corruption, which is one of the key priorities adopted by government. Through its leadership of

the JCPS Cluster, the Minister, supported by the department, monitors and coordinates the overall implementation of the strategies and activities of the cluster to realise the attainment of Government Outcome 3. The year 2013 is significant in that it is the fourth year of the Fourth Administration. It is also the pre-election year. It is therefore important for the JCPS Cluster to review its performance and the impact of its interventions in the last four years. This review, which is underway, will complement the review of the entire Government Programme of Action that is being undertaken by the Ministry of Performance Monitoring and Evaluation in the Presidency.

The overall reduction in the different types of serious crimes, in particular, attests to the effectiveness of the strategies that have been put in place to realise Government Outcome 3. It is not only necessary to sustain the gains achieved, but also to surpass the targets that the cluster has set for itself. This will be achieved through the following:

- Greater coordination and interaction between the JCPS Cluster members and the aligned role-players to mount a united front against crime and corruption.
- Prioritisation, finalisation and implementation of the Social Crime Prevention Strategy and the Restorative Justice Strategy.
- The continuation of focused crime reduction activities by law enforcement agencies, coupled with dedicated prosecution and court-related activities.
- Finalisation of the baseline report on corruption and specific activities to help combat corruption within the JCPS Cluster, in general, through a rationalised and integrated approach across the various cluster departments.
- Implementing measures to address the outcome of the survey dealing with crime perceptions by victims of crime.
- Strengthening border management.
- Enhancing measures to protect the identity of South Africans.
- The finalisation and implementation of the Cyber Security Policy.
- The rollout of the integration of information and communication technology (ICT) systems across the cluster to enhance seamless crime fighting.

The cluster has established an Anti-corruption Task Team (ACTT), which is working in collaboration with other government institutions (for example, the Governance and Administration Cluster, National Treasury and the Department of Public Service and Administration) to fight corruption.

Technology and modernisation programmes are continuing in the cluster, and include a focus on the alignment and integration of systems in the JCPS Cluster for improved service delivery. In addition to the improved collaboration between the JCPS Cluster departments, the cluster is striving towards maximising the utilisation of the collective capacity in its institutions.

Monitoring and reporting requirements, the establishment of proper baselines and the automation of monitoring systems will continue during 2012.

3.3.3 The Constitution as the basis for the transformation of the justice system

In the South African context, the transformation of the legal system, which includes the transformation of the justice system, is mandated by the Constitution. The Constitution, which is the supreme law of the land, is the source and foundation of policies geared towards improving the effectiveness and efficiency of the administration of justice and the transformation of the judiciary, as well as the legal profession. Fundamental policy initiatives contemplated for implementation in the current Medium-term Strategic Framework (MTSF) cycle focus, among others, on the following areas:

- Transforming the judiciary, including institutional reforms to enhance the capacity of the Office of the Chief Justice to perform its constitutional mandate.
- Strengthening the independence and accountability of the National Prosecuting Authority (NPA) by providing, among others, a legislative framework that enhances its governance and accountability.
- Strengthening our constitutional development portfolio.
- Reviewing the civil justice system to improve access to justice and address the weaknesses in the civil justice value chain.
- Addressing the department's capacity to provide quality legal advisory services, including the rationalisation and consolidation of the Office of the State Attorney and the department's other functionaries that provide legal advisory services to the state.

Substantive progress has been made with regard to the following initiatives:

(a) Transformation of the judicial system

The *Discussion Document on the Transformation of the Judicial System and the Role of the Judiciary in the Developmental South African State*, which was published by the Minister in February 2012, brought to the surface important aspects that require policy and legislative interventions in order to realise the goals set out in the Constitution. An important consequence of the discussion document is its acknowledgment of the need to assess the impact of the decision of the Constitutional Court and the Supreme Court of Appeal on the transformation of society. This assessment was approved by Cabinet in November 2011. The envisaged assessment will also assist in identifying challenges, including the capacity that the state requires to implement legislation and court decisions that are geared to advance the socioeconomic transformation of the South African society. The research institution(s) that undertake this enormous and important task will be appointed before the end of June 2013.

The enactment of the Constitution seventeenth Amendment Bill by the National Assembly in November 2012, which was later accented into law by the President in February 2013, is an important milestone in the South African judicial landscape. The promulgation of this act (the Constitution seventeenth Amendment Act), which is likely to happen early in the 2013/14 financial year, affirms the Chief Justice as the Head of the Judiciary and confers upon him or her, among others, the responsibility of developing and monitoring the implementation of norms and standards for exercising the judicial functions of all courts. This act also empowers the Chief Justice to exercise oversight over the judiciary in respect of both the lower and superior courts. The Office of the Chief Justice, which was proclaimed by the President in 2010 as a separate government department, was established to provide the Chief Justice with the necessary administrative capacity and strategic support to enable him or her to perform the new functions and powers contemplated in the Constitution seventeenth Amendment Act. These functions and powers are amplified in the Superior Courts Bill, which was passed by the National Assembly in November 2012 and is expected to be approved by the National Council of Provinces during the 2013/14 financial year.

The Secretary-General, who is the administrative head of the Office of the Chief Justice, has been appointed to oversee the newly established department. Necessary memoranda of understanding and protocols are being put in place to ensure that functions and responsibilities that are performed by the department in terms of the existing legislation and policies and that fall under the mandate of the Office of the Chief Justice, in terms of the Presidential Proclamation, are transferred to the Office of the Chief Justice pending the amendments to the legislation concerned. These responsibilities include the judicial governance functions listed in the Constitution seventeenth Amendment Act and the Superior Courts Bill, as well as administrative functions emanating from the Judicial Service Commission Act of 1994 as amended, the Constitutional Court Complementary Act of 1995 and the South African Judicial Education Institute Act of 2008. Responsibilities relating to the governance of the judiciary and the lower courts, and rules relating to the case flow management processes will be transferred to the Office of the Chief Justice incrementally.

Judicial governance and regulatory arrangements are being strengthened to enhance judicial independence and accountability. This is aimed at establishing and maintaining an independent, effective and efficient judicial system. The Code of Judicial Conduct and the Regulations on Judges' Registrable Interests (required by the Judicial Service Commission Act of 2008, as amended) are fundamental to the establishment of an accountable and responsive judiciary as the third branch of the state alongside the legislature and the executive. The Code of Judicial Conduct, which serves as a prevailing standard for judicial conduct, and the Regulations on Judges' Registrable Interests, which guarantees the impartiality and integrity of judicial processes, was approved by Parliament during October 2012 and is now enforceable. Parliament is still considering the Regulations on Judges' Registrable Interests, which is expected to be finalised soon.

The South African Judicial Education Institute (SAJEI), which has the legislative mandate of providing judicial education to aspiring judicial officers, as well as continuing education to serving judicial officers, has commenced operations. This institute is governed by a council chaired by the Chief Justice and constituted by representatives of the judiciary, the Minister or his or her nominee, nominees of the legal profession, deans of the law faculties of South African universities and representatives of the House of Traditional Leaders. A Medium-term Expenditure Framework (MTEF) budget for the institute amounts to R33.6 million for 2012/13, R35.3 million for 2013/14 and R37.0 million for 2014/15.

(b) Re-alignment of magisterial districts with municipal districts

The department continues to implement programmes that seek to correct the old magisterial districts that were based on the racial and geopolitical boundaries of the defunct self-governing and independent states (homelands) and the former RSA territory. The two-pronged programme firstly seeks to transform the branch courts that were built in the traditional black areas and rural villages into proper, adequately capacitated courts to meet the needs of the post-1994 democratic society. The transformation of the branch courts entails the rehabilitation of the substandard branch courts, conferring on them adequate jurisdiction and providing them with sufficient capacity to function as fully fledged courts. Twenty-four of the 90 branch courts were identified for rehabilitation into full-service courts by 2014. Of these 24 branch courts, 15 were converted into full-service courts in August 2009 and a further four were converted during 2011. Additional funding is being sourced to upgrade and convert the outstanding six branch courts by 2014, with half of these courts envisaged for completion in 2013.

The significance of the conversion of branch courts into full-service courts is the elimination of the current fragmented system in terms of which communities in the traditional black areas and rural villages only have access to services relating to the adjudication of criminal cases in the local courts in their vicinity. In order to access services relating to civil matters, including maintenance, small claims courts and deceased estates, members of these communities must commute to cities and towns far from their villages. This programme will continue until all the branch courts have been upgraded to provide full court-related services.

The second outcome of the rationalisation of the areas of jurisdiction of the courts relates to the alignment of the magisterial districts with the municipal boundaries that were established under the new constitutional dispensation. In terms of this programme, the 387 magisterial districts proclaimed prior to 1994 are being rationalised to enhance access to justice. The rationalisation of the magisterial districts is guided by the 234 municipalities that were rationalised by the Municipal Demarcation Board following the objective, fair and equitable demarcation process that is required by the Constitution. The department has, with the assistance of the Municipal Demarcation Board, drawn comprehensive and accurate maps depicting the current 387 magisterial districts. These maps have been revised to reflect the changes that were effected by the Municipal Demarcation Board in relation to the 287 municipalities. A detailed discussion document containing the new proposed areas of jurisdiction of the courts, accompanied by the revised maps, was compiled for consultation with the Magistrates Commission, the Judicial Service Commission, the judiciary and other relevant stakeholders. A final report emanating from these consultations, accompanied by a social impact analysis report relating to the proposed changes, will be submitted for the Minister's approval during the 2013/14 financial year. The recommendations of the rationalisation of areas of jurisdiction of the courts, subsequent to their approval by the Minister and Cabinet, are envisaged for implementation in the 2013/14 financial year. From the investigation undertaken by the department, of the 387 magisterial districts, 177 are not aligned to

municipal boundaries. The process of aligning these 177 misaligned magisterial boundaries is being implemented incrementally. Implementation will commence in Gauteng as the pilot phase from May to August 2013 and will then be rolled out to the other provinces. A total of 80 magisterial boundaries across all provinces are earmarked for alignment with municipal boundaries during the 2014 MTEF cycle. The process of aligning magisterial districts with municipal boundaries is consistent with the National Development Plan's vision of redressing the legacy of inequality and deprivation occasioned by the racially-based spatial planning of the past.

(c) Review of the civil justice system

Cabinet has approved a document dealing with some of the issues relating to the transformation of the judiciary, the separation of powers and the interdependence and collaboration between the three branches of government to ensure the advancement of the Constitution and the constitutional principles.

While the transformation of the lower courts remains a medium- to long-term project, intermediate legislative interventions have been implemented to address some of the pressing gaps in the lower courts.

As part of continuing efforts to improve the civil justice system (CJS), various new or additional small claims courts were established during the 2012/13 financial year to bring the number of these courts to 224. The target is to establish a small claims court for each of the 387 magisterial districts by 2014, subject to the rationalisation of the areas of jurisdiction of the lower courts, as explained above. The reason for the slow pace of the establishment of these courts is the lack of an adequate number of legal practitioners with appropriate experience who are willing to be appointed as commissioners. Legal Aid South Africa (LASA) has agreed to avail its lawyers with sufficient experience to address the shortage of commissioners. Through these interventions, it is hoped that the immediate challenges that confront these important courts, which are geared towards ensuring that the poor and the indigent have equal access to justice, will be resolved.

Other initiatives that are being undertaken under the Civil Justice Review Programme (CJRP) are the harmonisation and rationalisation of the rules of all courts with a view to simplifying complex court processes and procedures, and the institutionalisation of alternative dispute resolution mechanisms, diversions and mediation to enhance access to justice.

As part of the CJRP, the Rules Board for Courts of Law (Rules Board) is reviewing court-connected mediation rules, which the Minister referred back to the Rules Board to be adapted to a voluntary mediation programme. The initial mediation rules submitted by the Board in June 2012 were compulsory in nature. The Minister referred them back to the Rules Board after the legal opinion, which was sought by the department, suggested that in the absence of an Act of Parliament sanctioning such rules, they were likely to be challenged on constitutionality grounds. The voluntary-based court-connected rules are expected to be resubmitted to the Minister by the Rules Board before the end of the 2012/13 financial year. The department plans to implement these rules on a pilot basis at the start of the 2013/14 financial year, subject to approval of these rules by the Minister.

3.4 Relevant court rulings

No court rulings are expected to have a major impact on the operations of the department.

4. SITUATIONAL ANALYSIS

4.1 Environmental scan

4.1.1 The Socioeconomic environment

(a) Demographics

According to Statistics South Africa's census of 2011, the country's population stood at 51.7 million people. The figures show that the South African population had grown by 11.2 million (almost 28%, from 40.5 million in 1996 to 51.7 million in 2011) since the previous census. Approximately 26.6 million (51.3%) are female, while Africans are in the majority at 41 million, making up 79.2% of the total population. The continuous growth in population has resulted in a greater demand for services and resources in general, specifically with regard to the services of the department and the JCPS Cluster.

Gauteng and KwaZulu-Natal are the provinces with the highest populations. Together, their populations make up almost 47% of the country's total population. This might be translated into a large number of cases from these two provinces. The population of the Northern Cape is approximately 1.2 million (2.3%) and it remains the province with the smallest share of the South African population. Almost 34.6 million people (66.9%) are 34 years of age and younger.

The migration of people from neighbouring countries and the rest of the continent to South Africa, as well as internal migration between provinces, has a negative effect on planning, the availability of services and resources, and the ability of municipalities and government departments to deliver services. For the period 2006–2011, it is estimated that approximately 215 000 people migrated from the Eastern Cape. Limpopo is estimated to have experienced a net migration from the province of just over 140 000 people. During the same period, Gauteng and the Western Cape are estimated to have experienced a net inflow of migrants amounting to approximately 367 100 and 95 600 respectively. Increasing numbers of legal and illegal immigrants resulted in many communities requiring additional resources to provide for interpretation and translations in the affected courts.

According to the United Nation Development Programme (UNDP) report of 2007, South Africa was in 81st place out of 150 countries with a literacy rate of 88.7%. Its ranking fell to 106th internationally in 2010, with a literacy rate of 88%. In 2012, the ranking fell significantly to 136th place with a literacy rate of 86.2%. Since 1970, no country has seen a decrease in literacy or year of schooling. The educational gender gap is also narrowing. Over the past decades, the enrolment of girls has increased when compared to that of boys. The census 2011 also indicated that 23.4 million people have matric and post-matric qualifications.

A disparity still exists between urban and rural areas in the availability and the delivery of services. The department is attempting to address this disparity by prioritising previously disadvantaged areas in terms of infrastructure spending.

(b) Economy

The global economic crisis has had a negative impact on South Africa. South Africa experienced a recession in December 2008 after 15 years of continuous economic growth. In March 2009, the South African economy started to shrink. It only started to recover in the third quarter of 2009. For three years (from 2008 to 2011), revenue collected was less than the revenue target. In 2007/08, revenue collected was R15.8 billion less than the target; in 2008/09, it was R16.9 billion less than the target; and in 2009/10 revenue collected was R60 billion less than the target. As a result of these shortfalls in revenue collection, less funding is available to the department to provide the services that are required.

The impact of the global economic crisis also affected commodity prices, such as crude oil. This has led to the inflation rate rising beyond the set target (between 3 and 6%). Higher inflation has the implication of increased costs to provide the services of the department and an increased level of unemployment in the country.

According to Statistics South Africa, the unemployment rate has always been above an average of 20%, even though the country's economy was seen to be growing over the last 10 years, except in 2010 when it experienced the economic recession. Relatively high levels of poverty and unemployment resulted in an increasing need for the free services offered by Legal Aid South Africa. Social problems are prevalent as a result of economic strain, moral decay, increased crime and corruption, and family violence.

The above factors point to the following:

- An increase in demand for maintenance services, including the investigation of defaulters
- An increase in civil matters (default judgments)
- An increase in sexual offences and domestic violence
- An increased demand for the services of the Master of the High Court (insolvencies and sequestrations)
- An increased case load emanating from state litigation and environmental crimes, such as rhino poaching
- An increase in the demand for legal assistance in criminal matters for those who cannot afford it

(c) Environment

Criminal offences relating to the environment (for example, abalone depletion and the poaching of rhino horn) are on the increase, leading to additional pressure on the criminal justice system. Areas prone to drought, floods and other severe weather events are likely to see their migration levels increase, thus also increasing the demand for justice services.

(d) Increased human rights awareness

There is a growing awareness of the rights of the people, as contained in the Constitution, in particular. The Bill of Rights is translated into two types of action: more people are taking government to court to exercise their constitutional rights, and more marches and service delivery protests are being held by people trying to exert pressure on government to deliver. The demand for services generated by the population growth has not been matched by the growth in the budget, and this puts a lot of pressure on the department's ability to deliver quality services.

With regard to implementing the recommendations of the Truth and Reconciliation Commission (TRC), non-governmental organisations (NGOs) have and continue to severely criticise government for adopting the closed-list approach, which limits assistance/benefits to TRC-listed victims, while leaving out all other victims of gross violations of human rights. NGOs have indicated that the approach adopted by government is not in line with the purpose of the act and they have rejected the closed-list approach.

This has impacted on progress towards the finalisation of the regulations, as NGOs feel that government should opt for an open-list approach and work on how these regulations will cater for all victims of gross violations of human rights.

4.1.2 Legal and justice environment

(a) Crime statistics

The 2011/12 crime report of the South African Police Service (SAPS) indicates that serious crime incidents decreased by 11% compared to 2010/11 statistics and that the ratio of serious crimes per 100 000 of the population decreased by 1.9%, in comparison to the 2009/10 report. This trend shows that serious crime has continued to decline since

2002/03. However, more than two million incidents of crime are still reported to the SAPS annually. This leads to a large number of cases flowing to the courts.

(b) Criminal justice system

The implementation of the Cabinet-approved JCPS Seven-point Implementation Plan, which followed the Criminal Justice System Review, is continuing. The Seven-point Implementation Plan has been incorporated into the JCPS Cluster delivery agreement and substantial progress has been made in various areas, such as improved coordination across the criminal justice system, an improvement of court processes and the development of various protocols aimed at enhancing access to justice services.

However, a challenge remains with regard to insufficient courtrooms and court infrastructure that is not well maintained and is dilapidated in some regions due to financial constraints.

4.1.3 The information systems environment

A lack of adequate financial resources for information technology infrastructure investment has been a recurring problem in the department for some time. This has negatively affected the investment in information technology (IT). Under-investment in IT infrastructure had led to high operational risks, and slow networks.

The department also filled the position of the Information and Communication Technology (ICT) project manager during the 2011/12 financial year. Since the appointment of the ICT project manager, a number of developments have taken place that intend to improve IT services in the department. The department managed to develop the IT Plan and Strategy, which takes into account the need of the department to provide justice services efficiently and effectively.

4.2 Organisational context

The organisational context has been arranged under four areas: financial, internal processes, customers and people (human resources development).

4.2.1 Financial

The department received additional funding for court infrastructure in the 2012 MTEF and for the Thuthuzela care centres in the 2013 MTEF. However, the departmental operational budget was reduced by more than R2.7 billion, over the MTEF periods from 2009/10 going forward. Although the department implemented efficiency gains, such as reduced travel and subsistence, restricted furniture and equipment purchases and controlled telecommunication costs, this cut has resulted in major spending pressure across the organisation. Although spending adjustments have been made in line with the budget cuts, the areas below have been adversely affected.

(a) Information and communication technology

The department has identified the use of ICT as a strategic resource and enabler to function more effectively and efficiently. A number of key IT-related projects have been implemented through the years and a number are underway. Over the last few years, the department has developed an Integrated Case Management System (ICMS), which focuses on case registration, scanning and management reports. In the past year, the ICMS evolved into a fully fledged case management system, which includes the automation and monitoring of improved end-to-end business processes, with a special focus on the Master of the High Court and Maintenance Services, in line with the

department's strategic focus. Over the MTEF period, this approach will be extended to various components of the department.

The budget cuts have severely affected investment in ICT software and infrastructure. This has resulted in ageing and out-of-warranty servers, computers and printers. This brings about a high operational risk. Slow networks also have an adverse impact on the IT transaction process, resulting in slower turnaround times for services that are supported by ICT infrastructure. While the ICT software budget still remains a challenge, the department has been allocated a total of R100 million for 2012/13 and R110 million for 2013/14 to renew its IT infrastructure. The IT infrastructure budget will be used for server and computer renewals, and network optimisation to ensure a stable ICT backbone. The department also recognises the increase in mobile device usage (for example, tablets) and will investigate a mobile strategy in the next few years. However, due to budget constraints, the department will focus on stabilising its ICT backbone before investing in mobile technology.

(b) Escalating safety and security costs

The number of buildings and people that need protection has increased substantially in line with the increase in the demand for justice services. The department has also experienced various incidents relating to serious crime perpetrated against staff members or the public on its premises, such as intimidation, murder, the theft of state assets, the theft of case dockets and court records, escapes and robberies with aggravating circumstances. However, the budget for security has not increased at the same rate to meet all the demands.

There is an urgent need to increase security at the department's service points. This has drastically increased security costs. The security will be closely managed to ensure efficiency of service delivery while optimising costing.

(c) Infrastructure and the expansion of justice services

Prior to 1994, most of the court buildings were situated outside the townships and rural areas. When a decision was taken to expand services to previously excluded areas, the facilities were unsuitable, resulting in a need for major refurbishments.

The impact of this disparity in the provision of court facilities gave rise to the establishment of periodical courts. These courts were developed in an attempt to increase access to justice in those areas that only made provision for criminal courts. Today these courts sit on a daily basis, which is indicative of a need for this service.

The major challenge facing the department is to address the historical imbalances of the past in terms of court infrastructure. This challenge is complicated by the following additional realities that need to be addressed:

- Escalation of infrastructure costs above inflation, which means that the cash flow for building new courts is often insufficient, which results in postponements in the construction of envisaged courts.
- Balancing the need for additional courts with the maintenance and accessibility programmes of existing courts.
- Using the infrastructure budget for additional accommodation where necessary.
- The growth in the establishment and new areas of services.

To address the above challenges, the department will continue to explore alternative funding methods and public-private partnerships (PPP). This will be discussed with the Department of Public Works and National Treasury. There is a need for a major recapitalisation of the justice infrastructure in specifically identified areas.

(d) Litigation against the state

The department, through the Office of the State Attorney, provides legal services to national and provincial departments. A significant increase in litigation against the state has been noted as a result of the following factors:

- Progressive realisation by citizens of their rights.
- Opportunistic litigation against the state by certain legal practitioners who exploit loopholes in legislation, such as those seen in matters against the Department of Home Affairs (deportation matters and applications for identity documents) and the Department of Social Development (applications for social grants).
- A fragmented approach in the management of state litigation.
- The lack of an effective framework to invoke alternative dispute resolution mechanisms.

The transformation of the state legal service has been prioritised, and during the MTSF period, the following interventions will be implemented to curb the spiraling costs of litigation:

- Finalise the policy framework for the efficient management of state litigation.
- Capacitate and enhance the Office of the State Attorney by increasing resources (human resources, financial resources and infrastructure).
- Prepare and implement standardised fee structures for the payment of private counsel.
- Develop an alternative dispute resolution process to either avert litigation or enable the settlement of matters outside the formal court process.

(e) Other financial pressure points

Other areas that have been severely affected by budgetary constraints are the following:

- Increasing the establishment of lower courts and providing the judiciary with adequate tools of the trade
- Expanding the support personnel establishment in the courts (interpreters, financial officers and supply chain management staff), as well as staff to perform quasi-legal functions, such as issuing default judgments, court orders and warrants of execution
- The implementation costs of new and proposed legislation
- Document and record management
- Adequate provision of library services to the various courts and support to the judiciary
- The enhancement of constitutional development programmes

4.2.2 Internal processes

(a) Financial management

During 2009/10, a financial turnaround project was initiated to address some of these issues. This included, among others, the filling of posts and retaining key personnel in strategic positions, such as Finance, Internal Audit and Risk Management. Strategy is another area that needs to be fully capacitated to enhance planning and execution, as well as to monitor performance.

During the 2009/10 audit, the qualification from the office of the Auditor-General improved from five to only two issues: Third Party Funds (TPF) (a repeat qualification) and irregular expenditure (compliance with the Preferential

Procurement Policy Framework Act (PPFA). Indications are that the department may have a repeat finding on TPF for the 2010/11 financial year and in 2011/12 only on revenue from the TPF system. In 2010/11, the department was qualified on revenue from the TPF system and irregular expenditure, and in 2011/12 on Third Party Funds only. The department is, however, aiming to receive a 'No Audit Qualification' finding in the near future. Specific initiatives will be rolled out during the MTEF period to ensure that the department reaches its targets.

(b) Fraud and corruption

The department's Forensic Investigations Unit has experienced an increase in the number of fraud and corruption cases over the two financial years due to an increase in the number of awareness sessions on fraud and corruption matters. Consequently, the department has increased the capacity of the Forensic Investigating Unit. The increase in capacity is starting to bear fruits in the sense that number of finalised cases improved from 33% to 65% over the two financial years. The department had to increase capacity and is committed to the implementation of the Minimum Anti-corruption Capacity (MACC) requirements, which have been set as a public service anti-corruption standard, with the approval of Cabinet, to give effect to the Public Service Anti-corruption Strategy. The department has consequently conducted various activities to give effect to this, including the following:

- The department is reporting on its statistics and progress in relation to the above to the Office of the Public Service Commission on a regular basis.
- A number of perpetrators have been dealt with in accordance with the disciplinary code of the department and criminal elements have also been reported to the SAPS for further investigation and the taking of appropriate action.
- The department is involved in the anti-corruption structures of government, including the Anti-corruption Coordinating Committee (ACCC), the Governance and Administration Working Group on implementing the Anti-corruption Action Plan of the Public Service to address initiatives identified by government, and the National Anti-corruption Forum (NACF).
- The department also participated in the development of an anti-corruption course for anti-corruption practitioners in the public service. The course has been accredited at NQF Level 4 and is intended to assist officials in the department to implement measures for reporting, preventing, detecting and monitoring corruption-related behaviour.

The department has increased its investigating capacity to be able to meet the demand in this regard and will closely monitor its impact. Furthermore, the department will increase its capacity in enterprise risk management to be able to deal with fraud risk assessments and to conduct more environmental scans to assist individual managers to better manage their risks.

(c) Governance areas

The department has established a Compliance Unit in the Office of the Chief Operating officer. Its mandate will be to identify laws, regulations and internal control with which the department must comply, and test if they are being complied with. In cases of non-compliance, it will interact with the relevant managers to identify causes for the non-compliance and advise on how to deal with them. It will also advise on the establishment of systems and processes that will detect non-compliance and ensure that corrective action is taken.

4.2.3 Clients

(a) Enhancement of the Masters' services

The Office of the Chief Master piloted a Paperless Estate Administration System (PEAS) at its new office in Nelspruit.

It was also rolled out to the masters' offices in Durban, Johannesburg and Pretoria at the end of 2012. The plan is to roll out the system to the other offices and allow practitioners and members of the public to view estate information online.

Integrated Case Management System

The Intergrated Case Management System (ICMS) has been deployed to all 402 magistrates' offices that deal with deceased estates. Officials have been trained to capture and scan estate cases. More than 200 000 deceased estate cases have been captured on the system. Plans are underway to improve technology in the supervision of deceased estates.

The challenges related to fraud and corruption in the Master's environment relates largely to fraud with regard to the identity of beneficiaries when payments are claimed from the Guardian's Fund. When funds are received, it is invariably from a source other than the beneficiary. When payments are made, it is mostly to caretakers as opposed to the actual beneficiary of Fund. When the beneficiary claims the money, it is often the first time that he or she has interacted with the Guardian's Fund.

In addition to these challenges, the Master's Branch has had to rely on a manual card system. Some of these processes have been automated in terms of fund administration, but the accounting processes have not been automated. This interim period creates risks of fraud. Mitigation measures are being put in place in this regard.

(b) Maintenance Services

The main objective of the Maintenance Act, Act No. 99 of 1998, is to secure maintenance monies from parents and/or other persons legally required to support children. To facilitate the legal enforcement of maintenance for children, the Maintenance Act strives to facilitate the improvement of maintenance services in the maintenance courts. The maintenance courts provide support to obtain maintenance monies for children by way of the civil enforcement of maintenance orders, which can be obtained by way of an emoluments attachment order, a warrant of execution and/or a warrant of attachment of a debt owed by the maintenance defaulter. Recently, the courts have also started to enforce the attachment of a maintenance defaulter's pension money to ensure that maintenance monies are paid before the maintenance defaulter can disappear with his or her pension and leave the children stranded.

A turnaround plan for maintenance services had been implemented since 2011/12. This includes application procedures, application processing, payments and punitive measures for defaulting parents. As part of the turnaround maintenance plan the following has been archived:

- **Lean management process**

The department also piloted the lean management process and established the National Maintenance Signage System (NMSS) in nine courts during the 2013/14 financial year. These courts are KwaMhlanga, Thohoyandou, Emlazi, the Johannesburg Family Court, Phillipi, East London, Kimberley, Botshabelo and Molopo. Officials from these courts were also trained on the lean management process.

- **Audiovisual material for children and teenage witnesses**

The department has also initiated a process of the production of audiovisual material for children and teenage witnesses with Professional Emergency Care (PEC) and the Government Communication and Information System (GCIS). These were developed for the information screens that will be mounted in every waiting room. The aim is to create an empowering environment in the courts that educates maintenance clients of court services and their role as witnesses in court. Maintenance complaint management charts are mounted on accessible walls to guide clients on how to lodge complaints of unsatisfactory service with the pilot courts.

- **Mediation services**

The department introduced mediation services in the Maintenance Act to assist in resolving matters, reaching amicable solutions and granting orders before cases go to court in order to avoid unnecessary backlogs in the courts. The other main objective for the department was to provide an intensified skills programme on mediation interview skills in maintenance disputes, which aims to broaden officials' knowledge of effective resolution of maintenance disputes in a non-adversarial manner, and managing the time for the interview on mediation, taking into account that the main objective of the maintenance turnaround strategy is to reduce time spent on maintenance processes.

- **Braille**

Braille was introduced in the South African system to accommodate people with disabilities, as these services were not provided in courts. This was launched in two schools for the blind during December 2012.

- **Standardised signage**

The project is introducing the referral system in the courts to reduce and manage queues, which requires that offices must be clearly marked to avoid clients standing in wrong queues for a long time and not being attended to. It is therefore crucial to direct maintenance clients to relevant maintenance service points without any delay by using signage.

- **Electronic fund transfer**

Maintenance monies were paid in courts over the counter in cash, postal orders and/or cheques, and clients were supposed to collect their monies on specified dates. This consumed a lot of people's time, as they had to queue for a long time waiting for their monies to be paid out. Since the establishment of the new strategy, which required the directorate to reduce the turnaround time, electronic fund transfer (EFT) was introduced and the courts can now transfer funds directly to clients. The average turnaround time for money to reflect on people's accounts is four days.

- **Appointment of maintenance complaints managers**

The department was inundated with maintenance complaints, which made it impossible to manage them. In addition, complaints via the Presidential Hotline were not handled properly, as no one was assigned to deal with them. To avoid a duplication of complaints and complaints being misdirected, complaint managers were appointed.

(c) **The Case Backlog Project**

The case backlog reduction intervention, which is aimed at reducing the number of backlog cases in the regional and district courts, has provided additional capacity to backlog priority sites. The aim of this intervention is to ensure that the inflow of the number of new cases is balanced by the number of matters concluded. Backlog cases are all those cases that have been on the district court roll for longer than six months; on the regional court roll for longer than nine months, and on the High Court roll for longer than 12 months.

Through these court and other case flow management interventions, the countrywide situation regarding both the outstanding and the backlog cases (per court level) in the lower courts has improved significantly.

The allocation of funds for the case backlog reduction intervention from the 2011/12 to the 2012/13 financial years is set out in the table below.

Institution	2012/13	2013/14
Department of Justice and Constitutional Development	R77 200 000.00	R79 600 000.00
National Prosecuting Authority	R126 800 000.00	R134 400 000.00
Legal Aid South Africa	R31 900 000.00	R34 900 000.00
Total	R235 900 000.00	R248 900 000.00

There has been a decrease of 15.23% (5 322 cases) in the total number of backlog cases from 34 926 at the end of March 2012 to 29 604 at the end of December 2012. This was accompanied by a decrease of 2.89% (5 807 cases) in the number of all outstanding cases from 200 532 at the end of March 2012 to 194 725 at the end of December 2012.

The regional and district backlog courts have removed 17 425 cases from the court rolls since 1 April 2012 until the end of December 2012, comprising 13 137 cases finalised, 3 857 cases withdrawn and 431 cases transferred to higher courts.

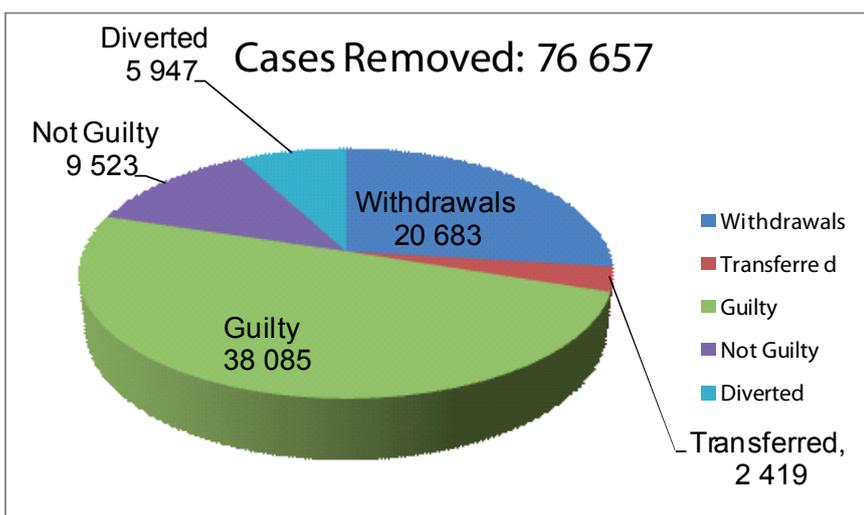
The statistics per court level are as follows:

- The regional backlog courts removed 6 609 cases, comprising 4 759 cases finalised, 1 545 cases withdrawn and 308 cases transferred externally.
- The district backlog courts removed 10 816 cases, comprising 8 378 cases finalised, 2 312 cases withdrawn and 126 cases transferred to other or higher courts.

Since the inception of the case backlog intervention in November 2006 until the end of December 2012, the Regional and district backlog courts have succeeded in removing a total of 76 657 cases from the court rolls, comprising 53 555 cases finalised, 20 683 cases withdrawn and 2 419 cases transferred to higher courts.

Cases removed indicates the total number of cases that the additional backlog courts dealt with through verdicts (guilty and not guilty), cases transferred to higher courts and cases withdrawn (for example, witnesses untraceable). The department provided resources in the form of infrastructure, personnel, the judiciary, finances, etc.

Cases disposed through the Case Backlog Project since 2006



(d) Service Charter and customer complaints

The Presidential Hotline was launched by the Presidency in response to the service delivery complaints that members of the public lodged against national, provincial and local government departments. The capacity for handling complaints received via the Presidential Hotline suggests good progress in the resolution rate. The majority of the cases received are related to appeals, maintenance and trial issues. The department is among the top five performers on the finalisation of complaints received on the Presidential Hotline.

In November 2011, the Minister of Justice and Constitutional Development approved a Service Charter and standards for the department. To ensure the implementation of the Charter, among others, the department embarked on the process of improving its processes at the courts using lean management – as an approach – with the ultimate aim of realising standards as set out in the charter. Fifty officials drawn from nine pilot courts across all provinces were trained, and the department continues to measure performance on the standards. A need to train more officials to facilitate the implementation of the service standards was identified, and plans to train 4 500 officials are underway.

To ensure that service users hold officials accountable for the level and quality of services rendered, information on the service standards will be distributed to all service delivery points through posters, booklets, information sessions, etc.

4.2.4 Human Resources Management

The department has prioritised its human resources capacity through a business partnerships model, where line managers are empowered to manage, monitor and evaluate human resources in the most efficient and effective manner. The outcome of this model is that the department is beginning to realise positive results through a reduction in human resources-related audit queries in areas of the management of service benefits and leave. In this regard, the compliance rate of leave management has increased from 72.5% to 77.1% between April 2011 and December 2011.

The departmental Human Resources Plan is being harnessed as a tool to inform the demand and supply of human resource requirements, and requisite skills and competencies as the department forges into the future.

One key strategic indicator is the reduction in the vacancy rate, which fluctuated between 9% in 2011 and 10% in January 2012. This fluctuation is an acceptable norm in a work environment where new posts are created and officials are leaving the department. Recruitment plans and strategies are regularly being monitored to ensure that the vacancy rate is kept below the 10% baseline for the public service. The department has placed its vacancy rate target at 10% to challenge all line managers to keep their vacancies low and to work towards achieving this target by 2017.

The appointment of women and people with disabilities to achieve employment equity targets remains a challenge. As at January 2013, 39% management positions were filled by women and only 1% of employees on all levels were disable persons. Increased effort and energy is being channeled into broadening recruitment strategies and to reaching out targeted groups.

While the labour relations environment in the department has had an undesirable impact with a high number of grievances and misconduct cases, promising strategies are being put in place where a dedicated official has been deployed to eliminate the high number of cases in these areas. As part of taking care of employees' health and wellness, the department is implementing successful programmes that contribute to increased productivity and improved quality of work life.

4.3 Stakeholders

The department has a wide spectrum of stakeholders and partners who jointly contribute to its vision of accessible justice to all. These stakeholders include civil society, the donor community, international stakeholders (the United

Nations and the African Union), the Parliament of South Africa, the Portfolio Committee on Justice and Constitutional Development, the JCPS Cluster partners, the media and Chapter 9 institutions.

4.3.1 The donor community

Every year, the department identifies unfunded priorities and requests donor organisations to assist with funding. An annual donor conference is held to provide feedback on donor-funded areas, to solicit additional funding for new unfunded priorities and to build relationships in areas of common interest.

The generosity of the donor community has made the following projects possible.

Branch	Donor and contact	Project title	Agreed amount	Contract end date
Corporate Services	European Union (1) Royal Netherlands Embassy (2)	Replacement of out-of-warrantee computers in North-West	R7.5 milliomm	30 March 2011
	European Union (1) Royal Netherlands Embassy (2)	Replacement of out-of-warrantee servers in the National Office	R3 milliomm	30 March 2011
	European Union (1) Royal Netherlands Embassy (2)	Development and implementation of organisational performance management blueprint for Strategy , budgeting and reporting	R3 milliomm	31 March 2014
	European Union (1) Royal Netherlands Embassy (2)	Capacity building training on the Customer Service Charter and excellence	R 2,253 milliomm	31 March 2014
	European Union (1) Royal Netherlands Embassy (2)	Women Lawyers Skills Development Training	R390 000	30 June 2013
Court Services	United Nations Office on Drugs and Crime	Strengthening the integrity and capacity of courts in South Africa	US\$510 400	28 November 2011
	European Union (1) Royal Netherlands Embassy (2)	Court Records Management Project	R5 milliomm	31 May 2012
	Government of Swiss Confederation	Reengineering of the small claims courts	R10 milliomm	31 March 2015
	The Federal Republic of Germany (GTZ)	Delivering justice and services	Technical assistance	December 2012
	European Union	Access to Justice and Promotion of Constitutional Rights Programme	€25 milliomm	31 November 2012

Branch	Donor and contact	Project title	Agreed amount	Contract end date
Office of the Director-General	United States Agency for International Development	Gender Justice Programme in three SADC member states (a preliminary study)	US\$150 000	31 November 2011
	United States Agency for International Development	Capacity and institution-building project for the Southern Sudan Judiciary and Legal Affairs	US\$150 000	31 November 2011

4.3.2 Chapter 9 institutions

The Constitution requires Chapter 9 institutions to be independent. Section 181(2) of the Constitution provides for the independence of the Chapter 9 institutions and section 181(3) requires that “other organs of state, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions”.

The Constitution and the national legislation of each institution sets out the appointment mechanisms, terms of office, mandates, powers, funding and lines of accountability of these institutions.

The expenditure of these institutions is defrayed from money appropriated by Parliament in the same manner and subject to the same laws as in the case of a national government department. It is customary to appropriate public funds through a government department. Since Chapter 9 institutions – like public entities – are not departments, they receive their funds through a government department. These funds are transferred into the bank accounts of the Chapter 9 institutions by the relevant departments. This only constitutes transfer payments to the relevant institutions and the executive authority of the department concerned does not have an oversight role to play in the respective institutions.

Chapter 9 institutions are invited to attend the Medium-term Expenditure Committee (MTEC) convened by National Treasury, to make submissions regarding their budgetary allocations. The Minister of Justice and Constitutional Development represents the interests of Chapter 9 institutions at Parliamentary level as the executive authority of these institutions. This, therefore, necessitates the need to interact with the Chapter 9 institutions on their strategic plans in order to ensure a better understanding of the work of these institutions without interfering with their independence.

It is important to note that while the strategic plans of the Chapter 9 institutions are developed independently of government, the work of these institutions complements the government’s Programme of Action in order to maintain synergy and strengthen constitutional democracy.

Following a decision by the Minister in 2010, the department established the Constitutional Development Branch. In compliance with section 181(3), read with section 196(3) of the Constitution, the branch will – through legislative and other measures – assist and protect Chapter 9 institutions that support constitutional democracy to ensure their independence, impartiality, dignity and effectiveness.

The department has undertaken to perform the following functions in respect of Chapter 9 institutions:

- Facilitating the budgetary process and assisting with the financial arrangements of Chapter 9 institutions
- Promoting proposals emanating from the reports of these institutions
- Ensuring compliance with section 181(3) of the Constitution
- Evaluating and investigating the legislation that establishes Chapter 9 institutions
- Promoting and maintaining communication channels between Chapter 9 institutions and government departments

4.3.3 International bodies

South Africa is a signatory to key international conventions and treaties such as The Hague Convention on international child abduction and other human rights-related treaties. On the African continent, it is involved in providing legal technical assistance to a number of countries. The department will continue to implement all policy and other initiatives in line with the international bodies and will continue to negotiate and implement speedier extradition on behalf of the people of South Africa.

4.4 Description of the strategic planning process

It is mandatory for departments to produce a five-yearly strategic plan at the beginning of the five-year political mandate. Following the national elections in 2009, senior managers of the department gathered in November 2009 to review the strategic plan of the department for the period 2010–2014. This meeting included the newly appointed Minister of Justice and Constitutional Development and the Chief Justice. The priorities stipulated by the Minister, cluster outputs and the core mandate of the department were included in the strategic plan that was approved by Parliament in April 2010.

In August 2010, a two-day workshop was held by senior management to begin the process of reviewing the strategy and begin the implementation of the new framework of strategic planning proposed by National Treasury. During this meeting, the strategic goals and objectives were confirmed. At the beginning of November 2010, a number of workshops were held, after which the different branches had to begin compiling the Annual Performance Plan. Contributions to the draft Strategic Plan and Annual Performance Plan were made during the two-day session held in February 2011, for finalisation and tabling in Parliament during March.

Workshops were held in July and November 2011 to review the plans for 2012/13. This Strategic Plan therefore takes into account the mandates, key challenges, risks and opportunities that were discussed by the department's senior management.

The Department of Justice and Constitutional Development' held a strategic review session from 29 to 31 October 2012. The purpose of this session was to review the Annual Performance Plan for 2013/14 and the Strategic Plan for 2012/17. At the end of the session, the department had revised its vision and mission. There were no major changes in the departments priorities and strategic objectives, some of the strategic objectives were rephrased as detailed in the Annual Performance Plan.

4.5 Strategic goals of the department

The key mandate of the department is to support the administration of justice and uphold the Constitution. This is done by implementing an effective and efficient court system and through the provision of quality legal services to the country citizens and the state. In addition to these goals, the department has to provide effective support services that are in line with good corporate governance and implement the transformational agenda of government on issues of access and the empowerment of previously disadvantaged individuals.

During the strategic planning session held in November 2012, an additional goal on the promotion of Constitution and its values was identified.

The five strategic goals of the department are as follows:

Goal 1	Enhanced organisational performance on all aspects of administration in line with set standards, and meeting and exceeding the needs and aspirations of key stakeholders.
Goal statement	Improved compliance with legal and good practice requirements in respect of governance across all branches and structures of the department towards an unqualified audit.

Goal 2	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.
Goal statement	Courts and justice service points supported to improve the finalisation rates, efficiencies and backlogs in respect of all criminal, civil and family matters.
Goal 3	Effective and cost-efficient provision of state legal services that anticipate, meet and exceed stakeholder needs and expectations.
Goal statement	The exposure of government to legal risk is reduced, citizens have access to quality guardian and probate services, the state has access to legal advice and services, and constitutional development is promoted.
Goal 4	Effective coordination of the JCPS Cluster in the delivery of Outcome 3.
Goal statement	Provision of effective coordination of the cluster to enable the achievement of the eight outputs that will result in the successful delivery of Outcome 3: "All people in South Africa are and feel safe."
Goal 5	Promotion of the Constitution and its values.
Goal statement	Compliance by government departments with the Promotion of the Administrative Justice Act (PAJA) is substantially improved, citizens are better informed on how to exercise their constitutional rights, public engagement with relevant stakeholders, civil society organisations and community-based organisations is improved through public participatory fora, and constitutional development is promoted.

PART B: STRATEGIC OBJECTIVES

5. PROGRAMME OBJECTIVES

This section covers the key priorities and strategic objectives of the different programmes, as well as the key performance indicators that have been identified to achieve the goals set for the Department of Justice and Constitutional Development.

The key priorities that have been identified are as follows:

PRIORITY 1: Good governance and clean administration, resulting in a 'No Audit Qualification' in 2012/13

Although audit outcomes have improved in the 2010/11 financial year, increased efforts are needed to achieve a 'No Audit Qualification' outcome. The department will improve and entrench financial management and other internal business processes.

PRIORITY 2: Service turnaround in Maintenance Services

A large proportion of clients who interact with the department require maintenance services. About 80% of Third Party Funds managed by the department are maintenance funds held on behalf of children. An improvement of services related to maintenance will assist parents (mostly mothers) who struggle to obtain maintenance for their children. Many of these parents are employed full-time and find it difficult to attend to maintenance processes during working hours.

A project has been initiated to examine the maintenance value chain, identify opportunities to improve services and make an impact on the lives of children. This includes application procedures, the processing of applications, making payments and instituting punitive measures for defaulting parents.

PRIORITY 3: Service turnaround in the Master's Branch

The Master of the High Court delivers services at a time when people are vulnerable. These services include the winding up of deceased estates, the administration of insolvent estates, and payments from the Guardian's Fund. The turnaround project will focus on both the softer issues of working with clients in distress and the hard issues related to the speedy finalisation of matters.

5.1 PROGRAMME 1: ADMINISTRATION

Purpose: Manage the department, develop policies and strategies for the efficient administration of justice and provide centralised support services. The table below shows the components of the programme.

Components of the Administration Programme

Subprogramme	Branch/area	Chief directorate
Minister	Ministry	Public Education and Communication
Deputy Minister	Public Education and Communication	

Subprogramme	Branch/area	Chief directorate
Management and Corporate Services	Office of the Director-General	Internal Audit International Legal Relations
	Office of the Chief Operations Officer	Risk Management Strategy, Monitoring and Evaluation Programme Management Support Truth and Reconciliation Commission Unit
	Corporate Services	Human Resources Management Office of the Chief Financial Officer Information and Systems Management Office of the Deputy Information Officer
	Justice College	Corporate Services Learning Faculty
Office Accommodation	All branches	

5.1.1 Strategic objectives

The list of strategic objectives and the key performance indicators in relation to Programme 1 are as follows:

Strategic Objective 1	Increased compliance with prescripts for good governance
Objective statement	Obtain a 'No Audit Qualification' in 2012/13 and sustain this through the MTEF period by addressing qualifications on Third Party Funds and irregular expenditure.
Indicator(s)	<ul style="list-style-type: none"> Percentage of activities on the approved audit action plan completed Percentage of audit projects on the approved audit plan completed by Internal Audit Completion of the monitoring report of the allocated CARA funds
Baseline(s)	<ul style="list-style-type: none"> 90.3% of activities in the approved Audit Action Plan completed in the 2011/12 financial year 82% of the approved audit plan completed in the 2011/2 financial year R 20 million distributed to beneficiary organisations in the 2011/12 financial year
Justification	This objective will contribute to the improvement of corporate governance and the management of state resources, thereby enhancing service delivery.
Links	<p><i>Strategic Goal 1:</i> Increased accountability, effectiveness and efficiency of the Department of Justice and Constitutional Development</p> <p><i>Priority 1:</i> Good governance and clean administration, resulting in a 'No Audit Qualification' in 2012/13</p>

Strategic Objective 1	Increased compliance with prescripts for good governance
Risk/risk factor analysis	<ul style="list-style-type: none"> • Inadequate financial management functionality for Third Party Funds, the Guardian's Fund and the CARA • Inadequate prevention, detection and reaction mechanisms in terms of financial non-compliance • Quality management systems may be inadequate to detect non-compliance timely
Risk mitigation	<ul style="list-style-type: none"> • Development and implementation of general ledger with accompanying information systems and accounting controls for Third Party Funds, the Guardian's Fund and CARA. This should also assist in the management of other related transactions e.g. South African Reserve Service (SARS) transactions and accounts pertaining to the Guardian Funds. • Automation of financial systems and training in these systems • Proper management of losses per codified instructions and prescripts and regular update of relevant policies • Full implementation of departmental prescripts and policies (departmental financial instructions, Departmental Financial Procedure Manual, Guardian's Fund Manual and Relevant Codified Instructions)

Strategic Objective 2	Reduction of fraud and corruption cases in the department
Objective statement	Conclude 70% of fraud and corruption cases within the first year of entry.
Indicators	<ul style="list-style-type: none"> • Number of fraud and corruption staff awareness workshops conducted • Percentage of new forensic investigations finalised (< 1 year) • Percentage of older forensic investigations finalised (> 1 year) • Percentage of integrity competence assessment of senior management completed and submitted to the State Security Agency (SSA) (vetting forms)
Baseline	<ul style="list-style-type: none"> • 21 fraud and corruption staff awareness workshops conducted in the financial year 2011/12 • 81% of new forensic investigations finalised (< 1 year) in the 2011/12 financial year • 74% of older forensic investigations finalised (> 1 year) in the 2011/12 financial year • 50% of integrity competence assessment of senior management completed (vetting) in the 2011/12 financial year
Justification	In addition to the Vote account, the department manages Third Party Funds, the President's Fund and CARA. The effective management of fraud and corruption is crucial in building credibility and improving public confidence in the department's ability to manage these funds.
Links	<p><i>Strategic Goal 1:</i> Increased accountability, effectiveness and efficiency of the Department of Justice and Constitutional Development</p> <p><i>Output 3 of Outcome 3:</i> Corruption in the JCPS Cluster combatted to enhance its effectiveness and ability to serve as a deterrent against crime</p>

Strategic Objective 2	Reduction of fraud and corruption cases in the department
Risk/risk factor analysis	<ul style="list-style-type: none"> • Inadequate implementation and communication of the Fraud Prevention Plan • Delay in finalisation of reported fraud and corruption cases • Lack of capacity (number of staff members and high staff turnover rate) • Lack of understanding of prescripts by other officials could also lead to unintentional misstatements
Risk mitigation	<ul style="list-style-type: none"> • Establishment of well-functioning regional anti-fraud and risk management committees • Improved management of conflict of interests and related party transactions • Capacitation of the relevant units to improve turnaround times in respect of investigations and ongoing training and awareness sessions regarding new prescripts or updates, and ethics management including fraud prevention plan • Automation of systems to reduce the chances of fraudulent or corrupt activities

Strategic Objective 3	Improved effectiveness of support services
Objective statement	Improve the effectiveness of support services by achieving the targets stipulated in the Annual Performance Plan.
Indicators	<ul style="list-style-type: none"> • Number of communication activities implemented in line with the integrated communication campaign • Percentage of Presidential Hotline cases finalised • Number of Service Delivery Improvement Plan (SDIP) progress reports
Baseline	<ul style="list-style-type: none"> • 80% of Presidential Hotline cases finalised within 30 days in the 2010/11 financial year. • 40 communication activities implemented in line with the communication strategy and departmental priorities
Justification	The department needs to provide a well-functioning justice infrastructure to enable the effective delivery of services. This objective to determine the extent to which support services such as communications assist the department to reach its goals.
Links	<i>Strategic Goal 2: Improved effectiveness and efficiency in the delivery of justice services</i>
Risk/risk factor analysis	<ul style="list-style-type: none"> • Lack of funding to fully implement service standards • Inadequate training of frontline personnel • Inadequate effort to resolve complaints
Risk mitigation	<ul style="list-style-type: none"> • Provide funding to ensure that there are proper facilities and that the facilities meet the standards of safety and security. • Conduct awareness sessions regarding the new service standards and quality statements. • Hold awareness sessions with stakeholders to resolve Presidential Hotline complaints.

Strategic Objective 4	Optimisation of ICT systems and infrastructure
Objective statement	Develop a fully functional ICMS (Masters, Maintenance and Trusts) and Third Party Funds management system by 2014/15.
Indicator(s)	<ul style="list-style-type: none"> • Phase 3A of ICMS Masters: Deceased Estates system completed by target date • Phase 2 of the Third Party Fund system completed by target date • Phase 1 of ICMS Civil: Lower Courts completed by target date
Baseline(s)	<ul style="list-style-type: none"> • ICMS Maintenance Courts (case processing) Phase 1 pilot completed in 2011/12 financial year • ICMS Masters: Deceased Estates Phase 1 pilot completed in the 2011/12 financial year
Justification	Modernisation of justice systems will enable the department to decrease the cost of services and improve reporting and the monitoring of services.
Links	<p><i>Strategic Goal 2: Improved effectiveness and efficiency in the delivery of justice services</i></p> <p><i>Priority 1: Good governance and clean administration, resulting in a 'No Audit Qualification'</i></p> <p><i>Priority 2: Service turnaround in Maintenance Services</i></p> <p><i>Priority 3: Service turnaround in the Master's Branch</i></p> <p>Civil Justice Reform Project (CJRP)</p>
Risk/risk factor analysis	<ul style="list-style-type: none"> • Inadequate human resources capacity allocated to projects • Delays in the procurement process • Inadequate funds for ICT system implementation and infrastructure stabilisation • Resistance to change management, resulting in inadequate use of systems
Risk mitigation	<ul style="list-style-type: none"> • Share procurement plan with all stakeholders, build ICT procurement capacity and monitor procurement processes. • Acquire and allocate the required human resources for project delivery. • Optimise the use of the budget (as allocated in the MTEF) to stabilise the IT infrastructure. • Provide adequate change management (training and communication) to end-users and establish formal end-user training competency in the Justice College to improve competencies in operational areas (branches) to lead and own projects, and monitor the use of implemented systems.

Strategic Objective 5	Enhanced of human resource capacity for service delivery
Objective statement	Improve human resources service delivery by achieving the performance targets as stipulated in the departmental Annual Performance Plan.
Indicators	<ul style="list-style-type: none"> • Vacancy rate • Percentage of grievance cases finalised • Percentage of misconduct cases finalised • Number of people trained in line with departmental objectives

Strategic Objective 5	Enhanced of human resource capacity for service delivery
Baseline	<ul style="list-style-type: none"> • 9.6% vacancy rate in the 2011/12 financial year • 40% of grievance cases finalised in the 2011/12 financial year • 48% of misconduct cases finalised in the 2011/12 financial year • 5 841 people trained in the 2011/12 financial year
Justification	The human resources service is a key enabling service to help the organisation achieve its objectives.
Links	<i>Strategic Goal 1:</i> Increased accountability, effectiveness and efficiency of the Department of Justice and Constitutional Development
Risk/risk factor analysis	<ul style="list-style-type: none"> • Inadequate capacity, skills and resources and a high staff turnover rate in specific areas (lack of retention strategy) • Possible non-compliance with the Employment Equity (EE) Policy • Delays in labour-related investigations and long-outstanding appeals
Risk mitigation	<ul style="list-style-type: none"> • Implement the Staff Retention Strategy where applicable and increase capacity for all the affected areas. • Increase the number of investigators and improve turnaround times in respect of corrective and resolution mechanisms. • Train supervisors and managers in areas from which the majority of grievances emanate and hold managers accountable

Strategic Objective 6	Completion of regulations to finalise the implementation of TRC recommendations
Objective statement	Finalise all outstanding individual reparations by 2012/13 and conclude all regulations for additional assistance by 2014/15.
Indicators	<ul style="list-style-type: none"> • Number of regulations for providing assistance to TRC victims gazetted and implemented. • Percentage of TRC victims' applications processed
Baseline	<ul style="list-style-type: none"> • Outstanding living and deceased beneficiaries given access to President's fund in the 2010/11 financial year • Two regulations approved for consultation in the 2010/11 financial year. (Regulations on Exhumation, Reburial and Symbolic Burials and Regulations on Basic Education, Higher Education and Health)
Justification	The finalisation of TRC recommendations is complicated by the traceability of victims, the family dynamics in cases where the initial beneficiaries are deceased and the reliance on other government departments (for example, Basic Education, Higher Education and Training and Health) to implement the recommendations. The finalisation of this process has become urgent.
Links	<i>Strategic Goal 1:</i> Increased accountability of the Department of Justice and Constitutional Development and improving the quality of life of the victims of apartheid.
Risk/risk factor analysis	<ul style="list-style-type: none"> • Delays in the finalisation of regulations and subsequent failure to provide victims with access to services. • Lack of cooperation among the relevant role-players for the purposes of finalising the regulations

Strategic Objective 6	Completion of regulations to finalise the implementation of TRC recommendations
Risk mitigation	<ul style="list-style-type: none"> • Continuous tracing of beneficiaries and next of kin by increasing cooperation among all relevant government departments, for example Rural Development and Land Reform, Social Development, Basic Education, Higher Education and Training, Military Veterans, Home Affairs and Health as well as the NPA • Consultation with civil society and relevant government departments

Strategic Objective 7	Improved coordination of the JCPS Cluster towards the delivery of Outcome 3
Objective statement	Coordinate quarterly cluster reports to the Presidency.
Indicator	<ul style="list-style-type: none"> • Number of JCPS Cluster reports finalised and delivered to the Presidency • Number of Integrated Justice System (IJS) quarterly progress reports
Baseline	Four cluster reports developed and submitted in the 2010/11 financial year
Justification	The department does not only contribute to the outputs of the cluster delivery agreement, but also coordinates the cluster deliverables at all levels in the cluster.
Links	<p><i>Outcome 3 of the cluster delivery agreement: "All people in South Africa are and feel safe."</i></p> <p><i>Strategic Goal 4: Effective coordination of the cluster towards the delivery of Outcome 3</i></p>
Risk/risk factor analysis	<ul style="list-style-type: none"> • Inadequate coordination among the relevant departments and availability of stakeholders • Delays in finalising the baseline reports and delays in target-setting
Risk mitigation	<ul style="list-style-type: none"> • Involve and engage the relevant departments to improve the coordination and reporting in the cluster. • Executive involvement at cluster level and monitoring the implementation of cluster resolutions.

5.1.2 Resource consideration

The budget of Programme 1, as detailed in the Estimates of National Expenditure (ENE), is shown below. Although the budget has been increasing at a steady rate, it was not sufficient to cover all the needs of the department during 2012/13. Areas of funding pressures include the following:

- In some areas there are serious constraints in office accommodation and this impacts on the recruitment of staff
- Substantial increases in municipal services rates
- Escalating security costs

Budget for Programme 1

Administration

R million	Audited outcome			Adjusted appropriation	Medium-term expenditure estimate		
	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Ministry	33.7	35.7	36.3	36.5	38.5	40.7	43.0
Management	51.5	35.6	43.8	70.0	70.7	74.1	81.5
Corporate Services	455.4	580.0	760.7	663.2	683.3	720.8	756.0
Office Accommodation	448.9	669.4	600.9	694.2	742.2	786.7	822.9
Total	989.5	1 320.8	1 441.7	1 463.9	1 534.8	1 622.2	1 703.4
Change to 2012 budget estimate				(298.7)	(318.5)	(340.2)	(349.3)

5.2 PROGRAMME 2: COURT SERVICES

Purpose: Facilitate the resolution of criminal, civil and family law disputes by providing accessible, efficient and quality administrative support to the courts and to manage court facilities.

Components of the Court Services Programme

Subprogramme	Chief directorate
Courts	Court Operations (all courts)
Facilities	Facilities Management
Judicial and Court Administration	Promotion of Rights of Vulnerable Groups (PRVG)
	Policy Coordination and Research
	Regional Offices
Family Advocacy	Family Advocacy

5.2.1 Strategic objectives

The list of strategic objectives and the key performance indicators in relation to Programme 2 are as follows:

Strategic Objective 8	Improved finalisation of activities in support of Outcome 3
Objective statement	Promote activities relating to the achievement of the outputs relevant to the department (Output 1, 2, 3, 4, 5 and 8).
Indicator	Number of cases on the backlog roll
Baseline	32 902 cases on the backlog roll at the end of December 2011
Justification	All JCPS Cluster departments contribute to the achievement of government's outcome on safety and security.
Links	<i>Outcome 3 of the cluster delivery agreement: "All people in South Africa are and feel safe."</i> <i>Strategic Goal 2: Improved effectiveness and efficiency in the delivery of justice services</i>
Risk/risk factor analysis	<ul style="list-style-type: none"> Delays in the finalisation of the baseline reports and delays in target setting Inadequate coordination among relevant departments and availability of stakeholders

Strategic Objective 8	Improved finalisation of activities in support of Outcome 3
Risk mitigation	<ul style="list-style-type: none"> • Improve coordination in terms of cluster activities and related substructures. • Ensure continuous case flow management meetings.

Strategic Objective 9	Increased promotion and protection of the vulnerable groups
Objective statement	Implement of legislative initiatives and develop policies to promote and protect the rights of vulnerable groups.
Indicators	<ul style="list-style-type: none"> • Percentage implementation of the Maintenance Turnaround Project • Percentage of convictions recorded electronically on the National Register for Sex Offenders (NRSO) • Number of re-established sexual offences courts completed
Baseline	<ul style="list-style-type: none"> • 65% implementation of Year 1 of the Maintenance Turnaround Project in the 2011/12 financial year • 42 re-established sexual offences courts completed in the 2011/12 financial year • 70% utilisation of NRSO by courts (phase 1)
Justification	This objective will contribute to the protection and promotion of the rights of vulnerable groups.
Links	<p><i>Strategic Goal 2: Improved effectiveness and efficiency in the delivery of justice services.</i></p> <p><i>Priority 2: Service turnaround in maintenance services</i></p>
Risk/risk factor analysis	<ul style="list-style-type: none"> • Lack of organisational structure to fully meet the mandate demand • Inadequate measures to sustain the execution of the lean process management system as part of the Maintenance Turnaround Strategy in courts (Project Kha Ri Unde) • The need to create permanent posts and appropriate career paths for maintenance investigators and maintenance officers • Lack of the interface of electronic information systems between DoJ&CD, Department of Correctional Services (DCS), the SAPS, the Department of health (DOH) and the Department of Social Development (DSD).
Risk mitigation	<ul style="list-style-type: none"> • Revise the organisational structure to meet the numerical and skills capacity demands. • Establish and implement the sustainability plan for lean process management for Project Kha Ri Unde. Communicate the success of the projects and improvements in maintenance services. • Create permanent posts for maintenance investigators and maintenance officers and establish appropriate career paths. Verification of historic information captured against the source documents to ensure the accuracy and completeness of information on the NRSO.

Strategic Objective 10	Increased protection of the best interest of children and promotion of family cohesion through mediation services
Objective statement	Implement of policies and legislative initiatives to promote and protect the rights of vulnerable groups.

Strategic Objective 10	Increased protection of the best interest of children and promotion of family cohesion through mediation services
Indicators	<ul style="list-style-type: none"> Percentage of non-ligation family law matters mediated Percentage of family advocate court reports filed within 15 days of enquiry
Baseline	<ul style="list-style-type: none"> 31% of family law cases finalised during the 2011/12 financial year Average of 9.4% of family advocate court reports filed within 15 days of enquiry up to the end of the third quarter of the 2012/13 financial year
Justification	This objective will contribute to the protection and promotion of the rights of vulnerable groups.
Links	<i>Strategic Goal 2: Improved effectiveness and efficiency in the delivery of justice services</i>
Risk/risk factor analysis	<ul style="list-style-type: none"> Inability to locate children and ensure their safe return No bilateral agreements with neighboring countries Inadequate capacity and high staff turnover resulting in poor implementation of the Children's Act Inaccessibility of Family Advocate services due to small footprint in the provinces
Risk mitigation	<ul style="list-style-type: none"> Liaise with Interpol and international social services. Engage the Department of International Relations and Cooperative (DIRCO) in liaising with other international agencies. Monitor service standards set and address non-compliance or complaints. Consider job evaluation processes and the capacitation of Family Advocate services.

Strategic Objective 11	Increased access to justice services to historically marginalised communities
Objective statement	Increase access to justice services by building additional courts, converting branch courts and establishing of small claims courts and aligning magisterial districts to municipal boundaries.
Indicators	<ul style="list-style-type: none"> Number of branch courts converted to full-service courts Number of small claims courts established in magisterial districts Number of magisterial districts aligned to municipal boundaries Number of policy documents developed
Baseline	<ul style="list-style-type: none"> One new court building completed in the 2011/12 financial year (Kathlehong) 40% completion of the process of aligning magisterial district boundaries with local municipal boundaries in the 2011/12 financial year Three courts converted into full service courts in the 2011/12 financial year 23 small claims courts established in the 2011/12 financial year
Justification	The department needs to continue to find creative ways of using existing facilities to serve more people (efficiency) and to increase its reach in underserved communities.
Links	<i>Strategic Goal 2: Improved effectiveness and efficiency in the delivery of justice services</i>

Strategic Objective 11	Increased access to justice services by underserved communities
Risk/risk factor analysis	<ul style="list-style-type: none"> • Inadequate infrastructure for the courts and offices to function effectively • Use of heritage and old buildings that cannot be structured to the needs of the department • Long procurement and implementation processes by the Department of Public Works (DPW) • Unavailability of credible service providers (especially in rural areas). The historical imbalances in the provision of court infrastructure affect the number of courts that need to be converted to full-service courts.
Risk mitigation	<ul style="list-style-type: none"> • Subject to budget availability, allocate funds for the leasing or building of courts to improve infrastructure and consider alternative sources of funding for accommodation needs. • Continually use the established periodical courts to improve access to justice. • Conduct an accommodation audit and align accommodation with organisational structures and new legislative mandate. • Liaise with DPW to reduce sharing of premises so as to maximise the supply of justice services to meet the demand. • Ensure integrated, proactive and effective planning (engagement with other stakeholders like policy units, Family Advocates, the Master's Office, State Attorneys, NPA, Justice College, State Law Advisor (SLA) reform). • Develop Property Management Information System (PMIS).

Strategic Objective 12	Improved delivery of services at the courts
Objective statement	75% of default judgments by the clerk of the court and unopposed taxations processes within 30 days.
Indicator	<ul style="list-style-type: none"> • Percentage of default judgments performed by clerks of the court granted within 30 days (lower courts) • Percentage of unopposed taxations processed within 30 days from the date on which the matter is set down
Baseline	<ul style="list-style-type: none"> • Average of 56% of default judgments performed by clerks of the court granted within 30 days (lower courts) up to the end of the third quarter of the 2012/13 financial year. • Average of 70% of unopposed taxations processed within 30 days from the date on which the matter is set down up to the end of the third quarter of the 2012/13 financial year.
Justification	The department can deliver a number of services with little or no involvement of the judiciary and prosecution. It is important to ensure that the level of delivery of these services is properly monitored to assist with resource management and capacitation.
Links	<i>Strategic Goal 2: Improved effectiveness and efficiency in the delivery of justice services</i>

Strategic Objective 12	Improved delivery of services at the courts
Risk/risk factor analysis	<ul style="list-style-type: none"> • Non-compliance with standard operating model in the department • Inadequate training in quasi-judicial services • Potential for poor implementation of the service delivery improvement programmes due to lack of resources • Inadequate record and information management
Risk mitigation	<ul style="list-style-type: none"> • Continually engage officials at branch, regional and service-point level through service standards training, service charter awareness campaigns, SDIPs, etc. to entrench a common understanding of service delivery improvement programmes. • Continually implement service standards. • Phase in rollout of the offsite storage to critical sites.

5.2.2 Resource consideration

This programme represents about 70% of the departmental budget and is the core of the delivery of justice. Despite the size of the budget spent, the following spending pressures were identified:

- Financial constraints in the implementation of key legislation such as the Child Justice Act
- Insufficient capacity of the courts contributes to service delivery challenges
- Insufficient budget and cash flow to implement capital projects cannot address the growing service needs of the department

The budget for this programme, as detailed in the MTEF, is shown below.

Budget for Programme 2

Court Services

	Audited outcome			Adjusted appropriation	Medium-term expenditure estimate		
	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
R million							
Constitutional Court	70.8	74.7	91.0	125.7	124.0	130.2	136.4
Supreme Court of Appeal	20.6	13.5	20.9	20.0	20.4	21.8	23.5
High Courts	310.1	324.9	353.8	326.5	343.0	363.3	400.3
Specialised Courts	34.5	35.3	41.5	39.0	37.0	40.9	42.3
Lower Courts	2 644.1	2 740.8	2 911.4	3 286.7	3 600.2	3 830.7	4 081.4
Family Advocate	100.8	101.8	105.9	129.8	137.1	145.9	148.6
Magistrates Commission	9.9	9.4	10.4	12.0	13.3	14.3	17.1
Government Motor Transport	18.5	24.9	23.2	25.9	33.0	28.5	24.8
Facilities Management	590.1	624.1	700.4	1 005.8	1 161.7	1 241.4	1 202.6
Administration of Courts	329.8	335.6	361.5	406.1	392.7	406.8	423.7
Total	4 129.2	4 284.9	4 620.0	5 377.4	5 862.4	6 223.8	6 612.7
Change to 2012 budget estimate				92.8	253.8	271.7	274.8

The following courts are funded under the programme and the department offers the following services:

Court	Number	Province	Services
Constitutional Court	1	Gauteng	It is the highest court in all constitutional matters. It may decide only on constitutional matters and issues connected with these matters.
Supreme Court of Appeal	1	Free State	It hears and decides on appeals against any decision of a high court.
High Courts	14	All provinces except Mpumalanga	It deals with matters that are beyond the jurisdiction of the magistrate's courts (civil and criminal).
Regional magistrate's courts (criminal)	248	All provinces	It adjudicates over serious criminal matters.
Regional magistrate's courts (civil)	62	All provinces	It adjudicates over civil disputes of between R100 000 and R300 000, and family disputes (including divorce matters).
District courts	476	All provinces	It adjudicates over less serious criminal matters and civil disputes of less than R100 000 and family matters, including maintenance.
Small claims courts	218	All provinces	It adjudicates over civil disputes, the value of which is less than R12 000.

5.3 PROGRAMME 3: STATE LEGAL SERVICES

Purpose: Provide legal and legislative services to organs of state, supervise the administration of deceased and insolvent estates, as well as the liquidation of juristic persons, the registration of trusts and the management of the Guardian's Fund. This programme comprises the following components:

- *State Law Advisors:* Provides legal advisory services to the executive, all state departments, parastatals and autonomous government bodies
- *Litigation and Legal Services:* Provides services rendered by attorneys, and conveyancing and notary public services to the executive, all state departments and parastatals
- *Legislative Development:* Prepares and promotes legislation and conducts research
- *Master of the High Court:* Supervises the administration of deceased and insolvent estates, trusts, curatorship and the Guardian's Fund
- *Constitutional Development:* Promotes constitutional development and education in a culture of human rights.

5.3.1 Strategic objectives

The list of strategic objectives and the key performance indicators in relation to Programme 3 are as follows:

Strategic Objective 13	Increased efficiency in the provision of services to beneficiaries of the Guardian's Fund, trusts, and insolvent and deceased estates.
Objective statement	Achieve and sustain stipulated turnaround times in 90% of the cases handled by the Master's Office (Guardian's Fund, trust and curatorships, insolvencies and deceased estate.

Strategic Objective 13	Increase efficiency in the provision of services to beneficiaries of the Guardian's Fund, trusts, and insolvent and deceased estates.
Indicator	<ul style="list-style-type: none"> • Percentage of letters of appointment issued in deceased estates within 15 days from receipt of all required documents • Percentage of liquidation and distribution accounts in large estates (> R125 000) examined within 15 days from receipt of all required documents • Percentage of beneficiaries in receipt of services within 40 days (Guardian's Fund) • Percentage of certificates of appointment issued in all bankruptcy matters within 10 days from receipt of all required documents • Percentage of liquidation and distribution accounts in bankruptcy matters examined within 15 days from receipt of all required documents • Percentage of letters of authority issued in trusts within 14 days of receipt of all required documents • Percentage of Guardian's Fund money paid through the EFT system
Baseline	<ul style="list-style-type: none"> • 97.2 % of trusts finalised within 14 days in the 2011/12 financial year • 95% of small estates finalised within four months in the 2011/12 financial year • 49% of large estates finalised within 12 months in the 2011/12 financial year • 82.4% of beneficiaries of Guardian's Fund money receive services within 40 days in the 2011/12 financial year • 38% of insolvency and 62.2% of liquidation cases finalised within 15 months in the 2011/12 financial year
Justification	Increased finalisation of Master's office services is important to service delivery.
Links	<i>Strategic Goal 3: Transformed legal services to protect and advance the interests of government and the country's citizens, and promote constitutional development</i>
Risk/risk factor analysis	<ul style="list-style-type: none"> • Insufficient budget to provide resources to meet the demands • The network is slow and unstable
Risk mitigation	<ul style="list-style-type: none"> • Effective utilisation of systems should improve efficiency in delivering Masters' services in the Master's office. • Close interbranch cooperation should take place to seek solutions to network challenges.

Strategic Objective 14	Enhanced litigation services.
Objective statement	Improve the provision of legal services to state organs by achieving the service standards stipulated in the departmental Annual Performance Plan.
Indicator	<ul style="list-style-type: none"> • Percentage of briefs allocated to previously disadvantaged individuals (PDI) • Percentage of successfully concluded cases by the state attorneys

Strategic Objective 14	Enhanced litigation services.
Baseline	<ul style="list-style-type: none"> • 70% of the value of briefs allocated to PDIs in the 2011/12 financial year • Average increase of 33% of legal costs against the state in the 2010/11 financial year
Justification	This indicator will contribute to improving the quality and turnaround times of legal services offered to state organisations.
Links	<i>Strategic Goal 3: Transformed legal services to protect and advance the interests of government and the country's citizens, and to promote constitutional development</i>
Risk/risk factor analysis	<ul style="list-style-type: none"> • Potential for poor quality of legal services rendered • Possible lack of understanding by client departments of the work performed by the state attorneys resulting in an inadequate instructions • Client departments not issuing timeous and adequate or detailed instructions • Default judgments and non-compliance with prescripts (attorneys' clients) • High legal costs for the state due to the lack of a standardised fee structure for briefing of private legal practitioners and failure to tax bills
Risk mitigation	<ul style="list-style-type: none"> • Finalisation of the draft policy on briefing • Ensure implementation of the developed blueprint to manage state litigation nationally and provincially and to improve communication among government departments • Signing of service level agreements between clients and the State Attorney's Office • On-the-job training and mentoring (constant development of skills and continuous professional development is encouraged among all legal professionals)

Strategic Objective 15	Improve provision of legal advisory services.
Objective statement	Improve the provision of legal services to state organs by achieving the service standards stipulated in the departmental Annual Performance Plan.
Indicator	<ul style="list-style-type: none"> • Percentage of legal opinions finalised within 15 days of the date of entry into the register • Percentage of preliminary opinions on draft bills for Cabinet's consideration completed within 15 days of the date of receipt • Percentage of bills and other legal instruments scrutinised or certified within 20 days of receipt • Percentage of translations finalised within 55 days • Preparation of valid requests for extradition completed within two weeks (notification) and mutual legal assistance provided in criminal matters

Strategic Objective 15	Improve provision of legal advisory services.
Baseline	<ul style="list-style-type: none"> • 52% of legal opinions finalised within 21 days of their date of entry in the 2011/12 • 93% of translations finalised within 65 days in the 2011/12 financial year • 53% of preliminary opinions on draft bills for Cabinet's consideration completed within 15 days of the date of receipt in the 2011/12 financial year • 57% of bills and other legislative instruments scrutinised or certified within 20 days of receipt in the 2011/12 financial year • 87,2% of valid requests for extradition completed within two weeks in the 2011/12 financial year
Justification	This indicator will contribute to improving the quality and turnaround times of legal services offered to state organisations.
Links	<i>Strategic Goal 3: Transformed legal services to protect and advance the interests of government and citizens, and to promote constitutional development</i>
Risk/risk factor analysis	<ul style="list-style-type: none"> • Unavailability of specialised skills • Inadequate command and control measures (challenges with the Occupation Specific Dispensation (OSD)) • Inadequate supply chain processes • Inadequate human resource processes
Risk mitigation	<ul style="list-style-type: none"> • Office of the Chief State Law Advisor (OCSLA) to advise HR of the need of incorporating the drafting and translation of legislation as a module in undergraduate degree. • Check the performance standards to ensure that they are SMART.

Strategic Objective 16	Preparation of sound, effective and efficient legislation.
Objective statement	Develop legislation that facilitates effective and efficient justice services.
Indicator	Number of legislative instruments developed (number of bills developed, number of court rules developed and number of research papers developed)
Baseline	93% of legislative instruments completed in the 2011/12 financial year
Justification	Legislative Development assists with the processes and procedures to develop legislative instruments. These instruments allow for the transformation of the legislative framework and society in general.
Links	<i>Strategic Goal 3: Transformed legal services to protect and advance the interests of government and the country's citizens and promote constitutional development</i>
Risk/risk factor analysis	<ul style="list-style-type: none"> • Delays in the approval of the relevant legislation • Dependency on other role-players • Potential resistance from communities
Risk mitigation	Engage in wide consultation with civil society and relevant departments to ensure acceptance, as well as coordinated planning and execution.

Strategic Objective 17	Promotion of constitutional development and strengthening participatory democracy to ensure respect for fundamental human rights.
Objective statement	Full implementation of the participatory and constitutional advocacy programmes and PAJA by 2014/15.
Indicator	<ul style="list-style-type: none"> • Percentage completion of the project for improved access to justice, including restorative justice mechanisms for vulnerable and marginalised groups • Percentage completion of the project to increase awareness and knowledge of constitutional rights for vulnerable and marginalised groups • Percentage completion of the project to enhance participatory democracy through public policy dialogue and strengthening the capacity of community-based organisations • Number of activities towards the improvement in PAJA compliance
Baseline	<ul style="list-style-type: none"> • European Union Participatory Democracy Project launched (5% completion) • 100% implementation of the project for improved access to justice, including restorative justice mechanisms for vulnerable and marginalised groups in 2011/12 • 95% implementation of the project to increase awareness and knowledge of constitutional rights for vulnerable and marginalised groups in the 2011/12 financial year • 100% implementation of the project to enhance participatory democracy through public policy dialogue and strengthening the capacity of community-based organisations in the 2011/12 financial year • Five activities towards improving PAJA implementation in the 2011/12 financial year
Justification	The elevation of constitutional development has been identified as a priority for 2010/11. This branch will assist the state to grow the human rights culture that is an imperative for a well-established democracy.
Links	<i>Strategic Goal 3: Transformed legal services to protect and advance the interests of government and the country's citizens, and promote constitutional development</i>
Risk/risk factor analysis	<ul style="list-style-type: none"> • Capacity constraints and inadequate skills • Lack of budget to implement the protection of constitutional development and human rights
Risk mitigation	<ul style="list-style-type: none"> • Ensure funding is aligned with the mandate of the Constitutional Development Branch and its capacitation. • Hold Awareness sessions and/or training sessions on compliance with PAJA. This will assist in streamlining PAJA into the business processes of departments and other stakeholders in a broader sense. • Engage in wide consultation with civil society and relevant departments to ensure acceptance, as well as coordinated planning and execution.

Strategic Objective 18	Administration of the implementation of the Promotion of Access to Information Act (PAIA) of 2000.
Objective statement	Full implementation of the participatory and constitutional advocacy programmes and PAJA and the Promotion of Access to Information Act (PAIA) by 2014/15
Indicator	<ul style="list-style-type: none"> Percentage level of compliance with PAIA by the department Number of surveys on the implementation of PAIA conducted by public bodies
Baseline	95% compliance with PAIA by the department in the 2011/12 financial year
Justification	The administration and coordination of PAIA to all the public bodies and facilitation of the implementation of PAIA throughout the three spheres of government and other public bodies.
Links	<i>Strategic Goal 3:</i> Transformed legal services to protect and advance the interests of government and the country's citizens, and promote constitutional development
Risk/risk factor analysis	<ul style="list-style-type: none"> Client departments not issuing timeous and adequate instructions Limited number of qualified deputy information officers affects compliance with PAIA by other state organs and officials Incorrect description of records No or late responses by national and regional offices, court managers, clerks, registrars Transcription process takes time as the transcribers work on a first-come-first-served basis
Risk mitigation	<ul style="list-style-type: none"> On-the-job training and mentoring. Constant development of skills and continuous professional development is encouraged among all legal professionals. Send letters to the applicants/requesters advising them to provide correct description(s) of the records in order to locate the requested records. Send letters requesting transcription services to expedite the process.

5.3.2 Resource consideration

The budget shown in the table below has assisted in delivering the basic services required by Programme 3. However, the following shortfalls have been identified:

- Insufficient capacity to meet the legal service requirements of all state organs, including provincial and local governments, Chapter 9 institutions and other state-owned entities
- Increasing litigation costs
- Shortfall for participatory democracy programmes funded by the European Union

Budget for Programme 3

State Legal Services

R million	Audited outcome			Adjusted appropriation	Medium-term expenditure estimate		
	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
State Law Advisors	33.9	42.2	49.4	56.6	58.7	63.3	72.6
Litigation and Legal Services	215.3	243.1	267.5	277.8	311.4	327.5	349.6
Legislative Development and Law Reform	36.6	35.7	38.9	57.6	61.1	64.9	69.0
Master of the High Court	251.1	328.6	331.0	357.4	382.7	402.4	493.3
Constitutional Development	11.6	21.2	11.0	35.5	38.2	40.4	45.5
Total	548.6	670.8	697.7	784.9	852.0	898.5	976.1
Change to 2012 budget estimate				16.7	45.2	46.7	85.0

5.4 PROGRAMME 4: NATIONAL PROSECUTING AUTHORITY

5.4.1 Introduction

There are five subprogrammes of the National Prosecuting Authority, which contribute to the administration of justice in the country. These are as follows:

- *The National Prosecutions Service (NPS)* is primarily responsible for general prosecutions and the appeals that may follow. The NPS is also responsible for the resolution of criminal matters outside the formal trial process through Alternative Dispute Resolution Mechanisms (ADRM), the setting of admission of guilt for minor offences and consideration of dockets brought by the police where persons have not been charged.
- *The Specialised Prosecutions Service (SPS)* refers to specialised prosecution units dealing with priority crimes litigation, sexual offences and community affairs, and specialised commercial crime.
- *The Office for Witness Protection* provides for the protection, support and related services to vulnerable witnesses and related people in judicial proceedings.
- *The Asset Forfeiture Unit* seizes assets that are the proceeds of crime or have been part of an offence through a criminal or civil process.
- *Support Services* provides corporate support services, including finance, human resources, ICT, supply chain management and risk management

Although the NPA is funded through the Justice and Constitutional Development Vote account, with the Director-General as the accounting officer, the Constitution entrenches the independence of the prosecutorial decisions taken.

5.4.2 Objectives and measures

- Improve prosecutorial efficiency by increasing the number of cases finalised (excluding ADRM) from 350 910 in 2009/10 to 446 866 in 2013/14.
- Increase the use of alternative ways of delivering justice by increasing the number of cases finalised through ADRM from 118 631 in 2009/10 to 151 991 in 2013/14.

- Contribute to improving the effectiveness of the criminal justice system by ensuring that no witnesses are harmed or threatened while on the Witness Protection Programme over the medium term.
- Remove the proceeds of crime from the control of criminals by increasing the value of freezing orders (court orders to freeze an individual's assets) from R491 million in 2009/10 to R600 million in 2013/14.
- Contribute to combatting corruption in the JCPS Cluster by ensuring the conviction of 63 people and freezing assets to the value of R6 million by 2013/14.
- Contribute to improving investor perceptions, trust and willingness to invest by convicting and freezing the assets of 100 people who have assets of more than R5 million obtained through illicit means by 2013/14.

Budget for Programme 4

National Prosecuting Authority

	Audited outcome			Adjusted appropriation	Medium-term expenditure estimate		
	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
R million							
National Prosecutions Services	1 300.2	1 622.9	1 722.7	1 840.8	1 968.2	2 097.1	2 192.3
Specialised Prosecutions Services	269.2	207.0	229.1	237.9	294.3	317.0	334.7
Asset Forfeiture Unit	78.6	157.0	104.5	109.3	116.7	124.1	129.9
Office for Witness Protection	120.4	128.0	132.9	155.0	159.6	167.8	174.2
Support Services	419.8	380.4	426.2	496.8	511.5	530.1	526.3
Total	2 188.2	2 495.3	2 615.4	2 839.8	3 050.4	3 236.2	3 357.4
Change to 2012 budget estimate				24.0	85.8	91.0	67.6

5.5 PROGRAMME 5: AUXILIARY AND ASSOCIATED SERVICES

There are four entities funded through the Department of Justice and Constitutional Development's vote account. Two are Chapter 9 institutions: the South African Human Rights Commission and the Office of the Public Protector. The other two are public entities reporting to the Minister: Legal Aid South Africa and the Special Investigating Unit (Programme 5). These entities are fully independent and draw their mandates from legislation and the Constitution. For this reason, they discharge their mandates independently of the department.

Name of public entity	Mandate	Outputs	Current annual budget (R million)
Legal Aid South Africa	Provide legal aid to indigent people and legal representation at the state's expense to eligible people in terms of the Constitution	Finalisation of criminal and civil matters Provision of legal aid practitioners per court	1 360.7
Special Investigating Unit	Provide professional forensic investigation and litigation services to all state institutions at national, provincial and local level	Cash recoveries Preparation of cases for civil litigation, criminal litigation and disciplinary action	305.9

Name of public entity	Mandate	Outputs	Current annual budget (R'million)
The South African Human Rights Commission	Support constitutional democracy by promoting, protecting and monitoring human rights	Finalisation of human rights complaints Initiation of the litigation process for identified cases Submissions regarding proposed legislation Workshops and seminars to promote awareness on legislative matters	115.0
Office of the Public Protector	Investigate any conduct in state affairs or public administration that is alleged or suspected to be improper or to result in impropriety or prejudice	Investigate and finalise complaints levelled against public entities	199.3

6. LONG-TERM INFRASTRUCTURE PLAN

Over the MTEF period, a number of large departmental projects will be completed, including the following:

- Polokwane High Court: new high court
- Johannesburg High Court: additional accommodation
- Ntuzuma Magistrate's Office: new magistrate's office
- Katlehong Magistrate's Court: new magistrate's court

Provision has also been made to continue with the department's process of enhancing access to justice for disabled people in 2012/13, subject to construction and escalation costs. Construction will commence on new court facilities at the Nelspruit High Court, as well as the facilities at Port Shepstone, Orlando, Mamelodi, Richard's Bay, Plettenberg Bay, Jan Kempdorp, Garies, Bityi and Dimbaza, and extensions to existing court facilities at the Port Elizabeth High Court, as well as to the facilities at Soshanguve, Humansdorp, Calvinia, KwaMbonambi, Umtata, Whittlesea, Riversdale and Umbumbulu, among others.

Long-term infrastructure plan

Project name	Type of infrastructure	Current project stage	Standard Chart of Accounts (SCOA) items	Total project cost (R Million)	MTEF		
					2013/14	2014/15	2015/16
Nelspruit High Court	High court	Design	Non-residential buildings	560.0	21.2	264.0	82.0
Polokwane High Court	High court	Construction	Non-residential buildings	460.0	64.0	-	-
Ntuzuma Magistrate's Office	Magistrate's office	Construction	Non-residential buildings	267.9	140.0	-	-
Port Shepstone Magistrate's Office	Magistrate's office	Design	Non-residential buildings	226.8	195.2	47.0	48.1
Johannesburg High Court	High court	Construction	Non-residential buildings	333.8	66.3	-	-
Accessibility Programme Phase 2	High court	Feasibility	Non-residential buildings	100.0	114.5	100.0	104.6
Orlando Magistrate's Office (New Canada)	Magistrate's office	Feasibility	Non-residential buildings	209.9	5.0	10.0	93.8
Katlehong Magistrate's Office	Magistrate's office	Construction	Non-residential buildings	319.8	-	-	-
Mamelodi Magistrate's Office	Magistrate's office	Tender	Non-residential buildings	101.0	21.5	24.6	-
Booyens Magistrate's Office	Magistrate's office	Feasibility	Non-residential buildings	262.4	1.0	-	-

Project name	Type of infrastructure	Current project stage	Standard Chart of Accounts (SCOA) items	Total project cost (R Million)	MTEF		
					2013/14	2014/15	2015/16
Richard's Bay Magistrate's Office	Magistrate's office	Design	Non-residential buildings	155.0	5.0	15.0	99.4
Kagiso Magistrate's Office	Magistrate's office	Construction	Non-residential buildings	68.8	-	-	-
Colesberg Magistrate's Office	Magistrate's office	Handed over	Non-residential buildings	31.3	-	-	-
Plettenberg Bay Magistrate's Office	Magistrate's office	Design	Non-residential buildings	260.0	20.0	108.0	15.0
Jan Kempdorp Magistrate's Office	Magistrate's office	Design	Non-residential buildings	55.8	41.0	3.5	10.5
Hankey Magistrate's Office	Magistrate's office	Construction	Non-residential buildings	34.7	30.0	18.4	31.4
Tsakane Magistrate's Office	Magistrate's office	Construction	Non-residential buildings	18.6	-	-	-
Ekgangala Magistrate's office	Magistrate's office	Handed over	Non-residential buildings	20.8	-	-	-
Garies Magistrate's Office	Magistrate's office	Design	Non-residential buildings	25.0	-	-	-
Ashton Periodical court	Periodical Court	Handed over	Non-residential buildings	9.4	30.0	30.7	8.4
Lothair Periodical Court	Magistrate's office	Design	Non-residential buildings	7.4	-	-	-
Lutzville Periodical Court	Periodical court	Handed over	Non-residential buildings	11.8	6.1	0.7	36.6
Bityi Periodical Court	Periodical court	Design	Non-residential buildings	50.0	-	-	-
Dimbaza Periodical Court	Magistrate's office	Tender	Non-residential buildings	75.0	21.6	12.0	12.6
Bloemfontein Supreme Court of Appeal	Court of Appeal	Construction	Non-residential buildings	103.0	24.6	10.4	20.9
Pietermaritzburg Master's Office: Colonial Building	Master Office	Handed over	Non-residential buildings	125.9	-	-	-
Butterworth Magistrate's Office	Magistrate's office	Construction	Non-residential buildings	49.9	-	-	-
Stanger Magistrate's Office	Magistrate's office	Handed over	Non-residential buildings	52.5	-	-	-
Soshanguve Magistrate's Office	Magistrate's office	Design	Non-residential buildings	53.0	-	-	-
Port Elizabeth High Court	High court	Design	Non-residential buildings	79.6	14.7	21.2	24.1

Project name	Type of infrastructure	Current project stage	Standard Chart of Accounts (SCOA) items	Total project cost (R Million)	MTEF		
					2013/14	2014/15	2015/16
Thembaletu Magistrate Court	Magistrate court	Construction	Non-residential buildings	26.7	111.3	9.5	-
Humansdorp Magistrate's Office	Magistrate's office	Design	Non-residential buildings	16.3	-	2 912	-
Bredasdorp Magistrate Office	Magistrate office	Handed over	Non-residential buildings	20.4	-	2.9	-
Calvinia Magistrate's Office	Magistrate's office	Design	Non-residential buildings	13.2	-	-	-
KwaMbonani Periodical Court	Periodical court	Design	Non-residential buildings	13.8	10.7	9.5	-
Umtata Magistrate's Office	Magistrate's office	Design	Non-residential buildings	123.7	27.5	49.1	-
Cala Magistrate's Office	Magistrate's office	Design	Non-residential buildings	9.3	41.2	93.7	-
Tarkastad Magistrate's Office	Magistrate's office	Construction	Non-residential buildings	14.0	3.1	5.0	-
Schweizer-Reneke Magistrate Office	Magistrate's office	Construction	Non-residential buildings	14.1	2.1	2.0	-
Danielskuil Periodical Court	Periodical court	Construction	Non-residential buildings	10.0	0.2	50.0	-
Nyoni Periodical Court	Periodical court	Design	Non-residential buildings	13.8	-	-	-
Wolmaranstad Magistrate's Office	Magistrate's office	Design	Non-residential buildings	13.6	3.7	8.6	-
Bisho High Court	High court	Design	Non-residential buildings	8.3	5.0	1.5	-
Mount Ayliff Magistrate's Office	Magistrate's office	Design	Non-residential buildings	12.3		21.9	108.8
Barkley East Magistrate's Office	Magistrate's office	Design	Non-residential buildings	5.5	3.1	26.9	-
Whittlesea Magistrate's Office	Magistrate's office	Design	Non-residential buildings	39.2	3.0	3.4	-
Christianna Magistrate's Office	Magistrate's office	Design	Non-residential buildings	12.1	1.0	5.0	-
Fraserburg Magistrate's Court	Magistrate's court	Design	Non-residential buildings	7.6	11.0	5.0	-
Umbumbulu Magistrate's Office	Magistrate's office	Design	Non-residential buildings	18.3			-
Deben Periodical Court	Periodical court	Handed over	Non-residential buildings	3.6	14.5	3.6	-
Riversdale Magistrate's Office	Magistrate's office	Construction	Non-residential buildings	18.1	3.8	15.0	-

Project name	Type of infrastructure	Current project stage	Standard Chart of Accounts (SCOA) items	Total project cost (R Million)	MTEF		
					2013/14	2014/15	2015/16
Galvendale Magistrate's Office		Construction	Non-residential buildings	1.2			
Repairs and maintenance		Various	Non-residential buildings	190.8	1.2	45.0	
Upgrading, renovations and refurbishments		Various	Non-residential buildings	92.5	77.6	98.2	23.0
Various smaller courts		Design	Non-residential buildings	125.5			92.5
Various smaller courts		Construction	Non-residential buildings	52.3			125.5
Goodwood Magistrate Office	Magistrate's office	Construction	Non-residential buildings	145.5		76.2	52.3
Planning for various courts		Identification		72.3	10.0	10.0	125.5
Tshilwavhusiku Magistrate's Office	Magistrate's office	Design	Non-residential buildings	69.9		10.0	52.3
Tsineng Magistrate's Office	Magistrate's office	Identification	Non-residential buildings	49.2	10.0	24.0	35.6
Total					1 331 391	1 261 690	1 202 635

7. CONDITIONAL GRANTS

No conditional grants were issued by the department.

8. PUBLIC ENTITIES

Refer to Section 5.5

9. PUBLIC-PRIVATE PARTNERSHIPS

No public-private partnerships are funded by the department at the moment.

Department of Justice and Constitutional Development
Strategic Plan 2013–2018
MARCH 2013

RP85/2013
ISBN: 978-0-621-41690-9

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18 December 2014

Mrs Nonhlanhla Cynthia Mbambo 9900617
School of Management, IT & Governance
Westville Campus

Dear Mrs Mbambo

Protocol reference number: HSS/1630/014M

Project title: Effectiveness of processing domestic violence matters by the Department of Justice and Constitutional Development: The case of Ntuzuma Magistrate Court in KwaZulu-Natal

Full Approval – Expedited Application

In response to your application received on 11 December 2014, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol have been granted **FULL APPROVAL**.

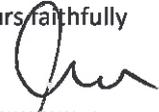
Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment/modification prior to its implementation. In case you have further queries, please quote the above reference number.

PLEASE NOTE: Research data should be securely stored in the discipline/department for a period of 5 years.

The ethical clearance certificate is only valid for a period of 3 years from the date of issue. Thereafter Recertification must be applied for on an annual basis.

I take this opportunity of wishing you everything of the best with your study.

Yours faithfully


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Dr Shenuka Singh (Chair)
Humanities & Social Sciences Research Ethics Committee

/pm

Cc Supervisor: Dr FA Ruffin
Cc Academic Leader Research: Professor B McArthur
Cc School Administrator: Ms Angela Pearce

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