



TRANSFORMATION OF LEGAL PROFESSION: BRIEFING PATTERNS

**Presented by DG
Department of Justice and Constitutional
Development**

CONTENTS

1. Introduction
2. Strategic Plan and Objective
3. Transformation and Objectives
4. Briefs to Counsel for 2013 to 2016
5. Payments to Counsel for 2013 to 2016
6. Management of Statistics
7. Current status
7. Future Enhancement



INTRODUCTION

- The DOJCD provides, among others, litigation and legal advisory services to Organs of State nationally and provincially. These services are rendered through the Offices of the State Attorneys countrywide.
- The office of the State Attorney is created in terms of the State Attorney Act, 1957 as amended and therefore, the services rendered are in line with the provisions of the said Act.
- The function of the State Attorney is to perform in court or in any part of the country work on behalf of Government of the Republic that is by law, practice or custom performed by Attorneys, Notaries or Conveyancers.



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INTRODUCTION cont...

- There are twelve (12) State Attorneys offices, situated in all the provinces except Mpumalanga.
- Three (3) offices in Eastern Cape; two (2) in Gauteng, two (2) in Limpopo and one in each of the provinces.



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STRATEGIC PLAN & OBJECTIVE

- State Attorneys key performance indicators and targets are linked to the Strategic Plan, Strategic Objectives of the department and the National Development Plan (NDP) 2030 Vision:
 - Chapter 13 of NDP: Building a Capable State
 - Chapter 15 of NDP: Transforming Society and Uniting the Country.
- The strategic objective of State Attorneys is to improve the management of litigation on behalf of the state to reduce costs and transform the legal profession.
- Turnaround in State Attorney Offices is therefore one of the priorities of (DOJCD).



TRANSFORMATION

- In terms of the DOJ&CD policies on transformation, State Attorney's key performance indicator is that 76% percentage of value of briefs be allocated to PDIs.
- State Attorneys are committed to promote the equal distribution of briefs to PDIs taking into account; qualification, skills and experience.
- The briefing policy (still draft) will give effect to the above.
- The empowerment of female practitioners remains a specific focus area in order to redress the imbalances of the past, therefore Preference to be given to female PDIs.



TRANSFORMATION OBJECTIVES

- Advancement and transfer of skills by way of exposure to all areas of legal work to PDI's to broaden the pool of qualified legal practitioners and judiciary.
- The transfer of skills between skilled private practitioners and those practitioners who are still at developmental stage is not only imperative, but also beneficial to the state and the country.
- Government is committed to exposing legal professionals to skills development programs by acceleration of projects targeting PDIs and women in particular.



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LITIGATION TURNAROUND STRATEGY

- We have acknowledged the criticism levelled against the State Attorney, and we have reflected on our internal shortcomings. We have prepared a Litigation Turnaround Strategy for 2016-2020.
- The Strategy aims to create a platform that will guide the transformation of the State Attorney Office into a legal firm of choice.
- The Strategy should be read together with the Briefing Policy, Mediation Policy and Management of Legal Costs in State Litigation, all of which
- In the final analysis, the strategy aims at creating the State Attorney as a center of excellence in the provision of State Legal Services.



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LITIGATION TURNAROUND STRATEGY

The key pillars of this Strategy are aligned to the goals set out above:

1. Human capacity management and development
2. Strengthening legislation, policy frameworks, guidelines and processes
3. Management of litigation costs
4. Use of technology and systems
5. Stakeholder Management
6. Mechanism of briefing/instructing practitioners (Counsel and Attorneys)
7. Creating areas of specialisation (Strategic focus areas for government: economy/commercial, ADRM, Fee Moderation Unit)
8. Monitoring, Evaluation and Feedback



LITIGATION TURNAROUND STRATEGY



STRATEGIC GOAL 3

TRANSFORMATION OF THE LEGAL PROFESSION IN LINE WITH NATIONAL IMPERATIVES

This strategic goal has significance for this meeting. I will refer to those aspects relating to attorneys, but bear in mind that the broader aim is to transform the legal profession at large. In this regard we aim to achieve a:

- a) Fully representative profession that is in line with the aspirations of the majority of South Africa
- b) Provide opportunities for training for future members of the Judiciary
- c) Provide the opportunity to empower the Previously Disadvantaged Counsel

As part of this strategic goal, private attorneys will play a significant role. We have recognised the crucial importance of empowering Black female attorneys, and have therefore included the target to increase the percentage of mediation cases allocated to attorneys in particular Black female attorneys from 10% in 2016 to 50% in 2020.

I must add that the strategy is inclusive of private attorneys.

This intention to include Black attorneys, and in particular Black female attorneys will be carried through in other areas of our work.



BRIEFS: 2013/14



SEX	REGION	AFRICAN	COLOURED	INDIAN	WHITE	Grand Total
FEMALE	Eastern Cape	42	11	13	21	87
	Free State	4		1	8	13
	Gauteng	408	12	30	72	522
	KZN	163	3	240	5	411
	Limpopo	9				9
	North West	36			11	47
	Northern Cape	4	3		10	17
	Western Cape	94	94	47	37	272
	FEMALE Total		760	123	331	164
MALE	Eastern Cape	364	27	25	66	482
	Free State	58			32	90
	Gauteng	952	15	21	236	1224
	KZN	260	30	131	24	445
	Limpopo	39			2	41
	North West	81		2	32	115
	Northern Cape	30	1		9	40
	Western Cape	45	150	32	73	300
	MALE Total		1829	223	211	474
Grand Total		2589	346	542	638	4115



BRIEFS: 2014/15



SEX	REGION	AFRICAN	COLOURED	INDIAN	WHITE	Grand Total
FEMALE	Eastern Cape	54	16	52	46	168
	Free State	1	1	2	8	12
	Gauteng	359	15	16	74	464
	KZN	156	6	258	11	431
	Limpopo	24			4	28
	North West	55		2	11	68
	Northern Cape	8		1	5	14
	Western Cape	105	121	73	33	332
	FEMALE Total		762	159	404	192
MALE	Eastern Cape	496	89	108	275	968
	Free State	26			10	36
	Gauteng	802	19	55	128	1004
	KZN	261	31	147	12	451
	Limpopo	105			8	113
	North West	86	1	3	19	109
	Northern Cape	17	1		2	20
	Western Cape	65	147	60	88	360
	MALE Total		1858	288	373	542
Grand Total		2620	447	777	734	4578



BRIEFS: 2015/16 Q1-3



SEX	REGION	AFRICAN	COLOURED	INDIAN	WHITE	Grand Total
FEMALE	Eastern Cape	115	26	38	62	241
	Free State	2			5	7
	Gauteng	169	3	20	30	222
	KZN	210	17	163	9	399
	Limpopo	39			2	41
	North West	42	5	1	3	51
	Northern Cape	15		4	13	32
	Western Cape	98	92	55	21	266
	FEMALE Total		690	143	281	145
MALE	Eastern Cape	406	30	90	147	673
	Free State	42		1	8	51
	Gauteng	382	6	30	90	508
	KZN	200	30	166	14	410
	Limpopo	108	3	2	4	117
	North West	48			8	56
	Northern Cape	16			3	19
	Western Cape	73	86	41	42	242
	MALE Total		1275	155	330	316
Grand Total		1965	298	611	461	3335



COUNSEL PAYMENTS: 2013/14



Sex	Region	African	Coloured	Indian	White	Grand Total
Female	Eastern Cape	R 3 405 403.62	R 1 226 245.81	R 3 462 514.97	R 4 082 640.83	R 12 176 805.23
	Free State	R 411 854.65			R 1 065 943.00	R 1 477 797.65
	Gauteng	R 41 590 094.81	R 1 173 032.00	R 17 489 034.03	R 11 316 761.09	R 71 568 921.93
	KZN	R 4 949 940.17	R 568 316.00	R 5 087 704.03	R 81 900.00	R 10 687 860.20
	Limpopo	R 719 505.79			R 39 029.90	R 758 535.69
	North West	R 2 935 168.50		R 83 200.00	R 211 770.00	R 3 230 138.50
	Northern Cape	R 1 705 977.27	R 16 900.00	R 22 572.00	R 284 639.33	R 2 030 088.60
	Western Cape	R 3 477 279.09	R 3 975 599.60	R 3 367 649.71	R 1 223 336.21	R 12 043 864.61
Female Total		R 59 195 223.90	R 6 960 093.41	R 29 512 674.74	R 18 306 020.36	R 113 974 012.41
Male	Eastern Cape	R 50 408 327.03	R 4 323 960.74	R 4 248 375.10	R 27 896 986.80	R 86 877 649.67
	Free State	R 5 169 685.00	R 477 309.50	R 1 167 360.00	R 3 552 722.87	R 10 367 077.37
	Gauteng	R 187 260 870.58	R 2 092 909.04	R 23 644 131.78	R 99 048 990.69	R 312 046 902.09
	KZN	R 7 004 073.89	R 271 167.00	R 10 953 738.08	R 2 362 118.75	R 20 591 097.72
	Limpopo	R 5 998 599.92	R 8 208.00		R 321 014.34	R 6 327 822.26
	North West	R 18 262 013.39		R 1 486 928.54	R 3 496 678.72	R 23 245 620.65
	Northern Cape	R 8 690 886.72			R 2 690 808.24	R 11 381 694.96
	Western Cape	R 11 242 459.79	R 21 875 761.62	R 3 825 666.59	R 20 118 848.00	R 57 062 736.00
Male Total		R 294 036 916.32	R 29 049 315.90	R 45 326 200.09	R 159 488 168.41	R 527 900 600.72
Grand Total		R 353 232 140.22	R 36 009 409.31	R 74 838 874.83	R 177 794 188.77	R 641 874 613.13



COUNSEL PAYMENTS: 2014/15



Sex	Region	African	Coloured	Indian	White	Grand Total
Female	Eastern Cape	R 3 625 784.80	R 1 958 952.64	R 4 041 936.36	R 3 473 932.35	R 13 100 606.15
	Free State	R 294 027.35	R 118 170.00	R 38 859.78	R 1 394 792.02	R 1 845 849.15
	Gauteng	R 41 720 380.36	R 2 072 633.25	R 20 158 508.68	R 11 824 638.41	R 75 776 160.70
	KZN	R 3 563 239.12	R 778 131.62	R 5 841 283.57	R 25 300.00	R 10 207 954.31
	Limpopo	R 1 388 516.92			R 99 708.00	R 1 488 224.92
	North West	R 1 973 239.30		R 154 830.00	R 170 420.00	R 2 298 489.30
	Northern Cape	R 2 624 392.54		R 112 521.98	R 544 951.20	R 3 281 865.72
	Western Cape	R 4 095 551.08	R 4 201 574.32	R 1 993 106.81	R 889 051.97	R 11 179 284.18
	Female Total		R 33 607 287.56	R 8 542 823.95	R 17 064 221.63	R 10 523 105.92
MALE	Eastern Cape	R 59 947 903.30	R 5 658 615.10	R 6 670 735.99	R 34 444 576.96	R 106 721 831.35
	Free State	R 5 671 143.41	R 139 232.00	R 1 920 174.00	R 3 902 366.92	R 11 632 916.33
	Gauteng	R 169 487 062.64	R 3 428 897.38	R 16 519 270.83	R 82 280 219.27	R 271 715 450.12
	KZN	R 6 889 308.60	R 957 664.07	R 11 160 980.10	R 2 841 620.82	R 21 849 573.59
	Limpopo	R 8 787 338.51	R 34 041.00		R 1 524 288.06	R 10 345 667.57
	Limpopo	R 684 308.00			R 42 298.00	R 726 606.00
	North West	R 14 890 717.85		R 645 906.77	R 4 340 804.85	R 19 877 429.47
	Northern Cape	R 8 248 378.58	R 11 628.00		R 3 168 573.34	R 11 428 579.92
	Western Cape	R 10 389 226.89	R 16 316 789.83	R 4 620 671.62	R 21 204 396.67	R 52 531 085.01
	Western Cape	R 280 944.00	R 1 687 029.00	R 856 149.00	R 1 841 163.00	R 4 665 285.00
MALE Total		R 285 276 331.78	R 28 233 896.38	R 42 393 888.31	R 155 590 307.89	R 511 494 424.36
Grand Total		R 347 105 978.90	R 39 946 107.31	R 75 930 915.18	R 175 288 943.64	R 638 271 945.03



COUNSEL PAYMENTS: 2015/16 Q1-3



Gender	Region	African	Coloured	Indian	White	Grand Total
FEMALE	Eastern Cape	R 4 543 176.96	R 1 885 095.41	R 3 860 943.92	R 5 111 921.52	R 15 401 137.81
	Free State	R 572 697.33	R 283 474.00	R 364 811.34	R 1 096 503.30	R 2 317 485.97
	Gauteng	R 35 244 499.47	R 2 399 571.96	R 11 704 341.34	R 9 939 299.52	R 59 287 712.29
	KZN	R 2 486 072.99	R 690 181.45	R 4 033 272.70	R 246 570.00	R 7 456 097.14
	Limpopo	R 1 630 047.17	R 0.00	R 30 750.00	R 58 720.00	R 1 719 517.17
	North West	R 6 225 821.18	R 19 650.00	R 518 736.40	R 166 202.00	R 6 930 409.58
	Northern Cape	R 2 183 771.58	R 0.00	R 224 789.08	R 205 528.50	R 2 614 089.16
	Western Cape	R 3 961 675.98	R 5 303 125.35	R 4 162 585.80	R 1 137 852.00	R 14 565 239.13
	Female Total		R 56 847 762.66	R 10 581 098.17	R 24 900 230.58	R 17 962 596.84
MALE	Eastern Cape	R 54 132 639.20	R 3 486 522.97	R 5 373 042.14	R 28 573 160.10	R 91 565 364.41
	Free State	R 6 113 657.68	R 223 473.82	R 60 790.50	R 3 247 467.35	R 9 645 389.35
	Gauteng	R 139 483 933.31	R 2 738 346.00	R 14 181 549.36	R 63 516 175.58	R 219 920 004.25
	KZN	R 5 215 140.29	R 1 645 570.06	R 8 417 250.38	R 1 334 818.52	R 16 612 779.25
	Limpopo	R 10 389 692.74	R 60 000.00	R 49 590.00	R 759 793.56	R 11 259 076.30
	North West	R 12 155 091.05		R 645 635.50	R 2 065 433.63	R 14 866 160.18
	Northern Cape	R 7 383 614.07	R 31 920.00	R 64 980.00	R 816 249.05	R 8 296 763.12
	Western Cape	R 9 855 767.63	R 14 777 443.21	R 3 847 669.08	R 13 709 855.19	R 42 190 735.11
	MALE Total		R 244 729 535.97	R 22 963 276.06	R 32 640 506.96	R 114 022 952.98
Grand Total		R 301 577 298.63	R 33 544 374.23	R 57 540 737.54	R 131 985 549.82	R 524 647 960.22



MANAGEMENT OF STATISTICS

- Statistics are collected and managed manually and online through a tool created by the National Operations Centre (NOC)
- Currently payments of counsel and success rate reports are drafted in each office and sent to National Office for collation and verification
- The current format for the collection of statistics does not include data on instructions given to attorneys. Our focus has been primarily to report on work outsourced to advocates, the reason being firstly, the State Attorney, themselves are attorneys and we want them to continue doing their work as such. In the long run, our strategy talks to the building of our own internal capacity. Secondly, our current Departmental Strategy and Annual Performance Plans has set targets for the briefing of advocates, and our efforts on the collection of data has been in this area. This does not mean, however, that work is not outsourced to private attorneys.
- Financial reports are drawn from BAS.
- Verified reports are then submitted to the ACLO office.



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CURRENT STATUS:

- Payment of Counsel
 - Payments of counsel are managed on NOC tool (Excel based database). Focus is on the amount paid, advocate paid, gender and race, percentage of value of briefs to females, percentage of value of payments to PDIs.
- Success rate
 - Success rate is also managed through the NOC tool. This contains the number and percentage of finalised damages claims with savings; and the percentage of money saved.
- Briefing of Counsel
 - Briefing of counsel statistics is managed manually
 - Office reports are consolidated by the ACLO office on weekly basis with effect from 1 October 2015. The focus is on the Advocate briefed, race and gender, percentage of briefs to female advocates and PDI's, total number and nature of briefs.



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FUTURE ENHANCEMENT

- A Reporting Console will be provided where all reports can be drawn as per 2016/ 2017 reporting requirements. This will be the single source of information for the State Attorneys Office.
- This new system of Reporting will be updated by MojaPay and BAS.
- All Statistical Reports particularly those pertaining to Case Load, PDI Allocations, PDI Payments will be drawn from the new State Attorney Management System.
- All Financial Reporting pertaining to litigation matters will also be drawn from the system based on the automated inputs received from MojaPay.



FUTURE ENHANCEMENT cont...

- All Performance reports will be generated from the State Attorney Management System i.e. case load per attorney, success rate, financial savings on settled matters etc.
- Duplications will also be detected so that 2 offices don't work on the same matter without agreement/ collaboration.
- NO Manual reporting will be required as ALL required information will be on the new State Attorney Management System and will be accessible from National Office as well as the Regions based on the level of access the user has on the System.





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THANK YOU

