

A justice department in major disarray will be unable to fulfil its lofty financial year goals

By **Glynnis Breytenbach** - DA Shadow Minister of Justice and Constitutional Development

The Department of Justice and Constitutional Development has declared the year 2022 / 23 “a year of the Community”. This will reportedly culminate in the roll out of an extensive community outreach programme to interact with communities about justice services and issues of constitutionalism, promotion of human rights and respect for the Rule of Law.

For the 2022 / 23 financial year and over the medium term the Justice Department’s projected performance and expenditure is shaped by a focus on increasing access to its services and strengthening the fight against maladministration and corruption.

These are lofty ideals, indeed they are laudable ideals, ideals that we naturally support. Putting South Africans first, lowering the crime rate and deploying the many corrupt cadres to jail. Sounds wonderful.

But then, Honourable Members, there is a huge gap between having wonderful plans on paper, and actually implementing them.

The Portfolio Committee has been engaging with the Department for some years now on various challenges, including the decline in the Department’s performance, accompanied by qualified audit opinions in respect of the Vote account and pre-determined objectives over the past five financial years. The position is so bad that the Committee has recommended the involvement of the Public Service Commission to investigate the root causes of the challenges and identify possible solutions.

The increase in Court backlogs in both the district and the regional courts, described by the Department as insurmountable for the past two years, remains a serious challenge, and no progress is noticeable in this regard. Court hours continue to dwindle, and unless much needed discipline is imposed, the backlog will simply continue to spiral uncontrollably. Cases are increasing and will increase exponentially when the matters emanating from the Zondo Commission are trial ready. Our courts are simply not going to be able to deal with the massive amount of work generated. One cannot lose sight of the fact that the backlog is ever increasing with just the ordinary criminal matters being generated, and that these cases cannot be shifted aside to accommodate the massive scale corruption, fraud, theft and money laundering prosecutions that must follow Zondo. There simply is no possibility of the SAPS, the NPA (including the ID, which still has a limited lifespan and must end in less than 2 years) and the Courts dealing with it all.

The run of the mill cases must be dealt with expeditiously, those are the cases that carry the interests of ordinary citizens, and cannot be left aside to deal with State Capture. The only possible way out of this massive deluges of criminal cases is to form a new Chapter 9 institution, along the lines of an Anti-Corruption Commission, and given the autonomy, security of tenure, budget and capacity to properly investigate and prosecute the matters generated by the Zondo Commission and State Capture.

The growing inefficiency of our Court system is exacerbated by internal failures of the Department, such as failure to ensure effective contract management, which has resulted in the breakdown of court recording systems – for which the contract expired some time ago, with nothing in its place, and the failure of CCTV systems countrywide. Of course, the total failure of the Department of Public Works to carry out any discernable maintenance of any court buildings must get an honourable mention.

The ransomware attack in September 2021 impacted negatively on service delivery, we still do not know why there was insufficient protection against such an attack, nor do we know precisely what information was compromised, nor what became of it. The Information Regulator has indicated that the Department was less than ideally co-operative in this regard, and one must wonder why.

The Service Delivery of the Department is left wanting on so many levels. We are constantly inundated with complaints and requests for assistance with services or lack thereof from the Masters' Offices countrywide, and oversight visits made it very clear just how shocking the service delivery is. Long queues form from the early hours in the morning, elderly people and pregnant women are forced to stand on pavements for hours, often repeatedly, before they are fortunate enough to be attended to. The systems are down more days than they work, and the offices are closed to the public from 13h00 daily. It is simply untenable that citizens are treated in this fashion.

While the oversight visits also revealed some very pleasant surprises of outstanding service delivery, these were very limited and isolated. Generally speaking, the visits revealed crumbling infrastructure, total lack of maintenance, poor accommodation and a sad lack of the tools of trade, poor or no stakeholder management and shockingly inadequate contract management. Court staff and officials are literally left to their own devices, with no functioning land lines, no internet access, no or very limited access to proper libraries and law reports and inadequate support staff. The department is, quite frankly, a rather depressing mess. This decline is hardly surprising however, when one takes into account that the Minister thought it was more important for him to attend an ANC event in East London rather than be present at the Committee on the 6th of May for the presentation of the budget and annual performance plan. His attention is clearly elsewhere.

Much is made of the newly-enacted swathe of gender-based violence legislation. Our committee worked very hard to ensure that this very important legislation was finalised and passed in good time, often sitting late into the night. Having done so, no one should assume that legislation, even good legislation, is the answer to the ever increasing scourge of gender based violence. Clearly, a strong and positive approach by the criminal justice system must act to discourage and deter, but then we are confronted with the type of occurrences that took place in the past few weeks.

The murder trial of Bongani Ngadleka, accused of stabbing to death Phelokazi Mqathanya was delayed once again in Khayelitsha, because the court ran out of photocopying paper and could not supply a copy of the docket. In Wolsley, an accused, and an illegal immigrant, in an attempted murder trial, allegedly for stabbing a guest house owner 10 times, was released on warning AFTER the State had opposed bail. Needless to say, he did not appear on the next

date, but did subsequently allegedly kidnap and rape a minor, and is now in hospital after the community exacted their own revenge.

So, Honourable Members, while the Minister galavants, the justice department is in a serious state of decline, and the criminal justice system is in serious trouble. The Masters' Office is a shambles, the State attorney is in no better a state. Consequence management is a pipe dream, and there is no evidence that contract management has received any attention, despite a litany of disasters. It will require serious, and constant attention and a firm hand on the tiller to set it on the path to recovery. Given the Minister's current preoccupation with Party business, there can be no guarantee that this will be achieved.

I thank you.