



**REPORT ON INSPECTIONS OF COURTS:  
DEPARTMENT OF JUSTICE AND  
CONSTITUTIONAL DEVELOPMENT**

**KWAZULU-NATAL PROVINCE**

**FEBRUARY 2012**

## FOREWORD

During 2010, the Public Service Commission (PSC) conducted inspections in the Department of Police focusing on detective services. One of the key findings of the inspections was the delay in the finalization of cases in the courts which led to a backlog<sup>1</sup>. Given the crucial role played by the courts in effecting justice, the Public Service Commission (PSC) decided in 2011 to conduct service delivery inspections of the courts in the Department of Justice and Constitutional Development (DoJ&CD). The purpose of these inspections was to determine the reasons for the backlog of cases at the courts, especially those cases that require detective service. Furthermore, the inspections sought to assess adherence of the courts to service delivery principles of *Batho Pele* as a key strategy for the transformation of the Public Service delivery.

In South Africa, the courts are central to the delivery of justice, since the judicial authority lies within the court system. In this regard, the DoJ&CD is mandated amongst others, to ensure that the courts system is administered efficiently and effectively to facilitate the resolution of cases. Furthermore, the DoJ&CD is responsible for ensuring that justice is realised by providing an appropriate environment in terms of the establishment of courts and the operations thereof to deliver a fair, equitable and accessible system of justice for all. The delivery of justice is performed with multiple stakeholders, amongst others, the Judiciary and the National Prosecuting Authority (NPA).

The inspections of the courts, led by a Public Service Commissioner found that the perennial human and infrastructural constraints facing the courts have contributed to the backlog of cases, while the unavailability of an efficient case management system to monitor cases has prevented the effective mapping of progress on backlog cases.

It gives me pleasure to present the report on inspections of the Regional courts conducted in KwaZulu-Natal Province. The PSC is of the view that the findings and the recommendations contained in this report will help the Department and its stakeholders in improving service delivery at the courts.

**MR B MTHEMBU**

**CHAIRPERSON: PUBLIC SERVICE COMMISSION**

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<sup>1</sup>The Republic of South Africa. Public Service Commission. Report on Inspections of Detective in the Department of Police (Unpublished). 2010/11.

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## LIST OF ACRONYMS

AO	Accounting Officer
CFM	Case Flow Management
CFMMC	Case Flow Management Monitoring Committee
DoJ&CD	Department of Justice and Constitutional Development
DPR	Daily Production Report
EA	Executive Authority
NPA	National Prosecution Authority
OPSC	Office of the Public Service Commission
PSC	Public Service Commission
SAPS	South African Police Service

## 1. INTRODUCTION AND BACKGROUND

Improving service delivery for the citizens of South Africa remains a key priority for the government. To this end, the government has outlined twelve outcomes in order to fulfil its mandate of delivering services to all. Therefore, various government departments are required to put systems and processes in place to ensure that these outcomes are achieved. However, the activities and achievements directed at attaining such outcomes need to be assessed on a regular basis. In this regard, the Public Service Commission (PSC) has put in place a range of monitoring mechanisms that can be used to establish the progress that is being made in improving service delivery in the Public Service. One such mechanism involves the inspections of service delivery sites. Through inspections, the PSC observes, collects information and obliges officials of Departments to account for the state of affairs at the service delivery sites under their jurisdiction. Subsequently, the PSC advises on the necessary steps to be taken to improve service delivery.

In conducting inspections, the PSC is mandated by section 9 of the Public Service Commission Act (1997) which provides that *“the Commission may inspect departments and other organizational components in the Public Service, and has access to such official documents or may obtain such information from Heads of those departments or organizational components or from other officers in the service of those departments or organizational components as may be necessary for the performance of the functions of the Commission under the Constitution or the Public Service Act<sup>2</sup>”*.

In line with the above-mentioned mandate, the PSC developed a Protocol on Inspections<sup>3</sup>. The purpose of the Protocol on Inspections is to assist the PSC to conduct inspections in a meaningful and objective manner, which is important for both the integrity of the inspection process and the quality of the reports that are subsequently generated.

Guided by the Protocol, the PSC has since 2006/2007 been conducting inspections of service delivery sites in various departments and the following departments were inspected:

- National Department of Home Affairs and Labour, Housing (Gauteng) and Social Development (Free State) in 2006/2007.
- Departments of Education in eight provinces and National Head Office in 2007/2008.
- South African Police Service in 2008/2009.
- Departments of Health in all provinces in 2009/2010.

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<sup>2</sup>Republic of South Africa.Public Service Commission.Public Service Act. 1997.

<sup>3</sup>Republic of South Africa.Public Service Commission.Protocol on Announced and Unannounced Inspections.2007.

- National Department of Police in 2010/2011.

The PSC's 2010/2011 financial year inspections conducted in the Department of Police focused on detective services. One of the key findings of the inspections was the delay in the finalization of cases in court which led to a backlog<sup>4</sup>. In order to consolidate its findings in this area, the PSC decided in 2011/2012 financial year to conduct inspections in the Department of Justice and Constitutional Development (DoJ&CD). The purpose of these inspections was to determine the reasons for the backlog of cases at the courts, especially those cases that require detective services and to assess the adherence of the courts to the service delivery principles of *Batho Pele* as a key strategy for the transformation of Public Service delivery.

## 2. THE AIM AND OBJECTIVES OF THE INSPECTIONS

The broad aim of the inspections is to assess the quality of services rendered to the public, the state of the facilities and the conditions at the service site. It is also the objective of inspections to determine if government departments are achieving the required service standards intended to meet the needs of the people of South Africa. The following table shows the broad objectives of inspections as provided by the PSC Protocol on Inspections as well as specific objectives of these particular inspections in the Department of Justice and Constitutional Development.

**Table 1: Objectives of inspections**

Broad objectives of inspections as provided for in the Protocol on inspections	The specific objectives of these inspections
a) To determine the service delivery challenges facing the Departments. b) To report serious concerns about the quality of service delivery and compliance with <i>Batho Pele</i> requirements. c) To afford the PSC an opportunity to observe the extent to which services are rendered to citizens. d) To engender a sense of urgency and seriousness among officials regarding service delivery. e) To introduce objective mechanisms of identifying both weaknesses and strengths in improving service delivery. f) To carry out investigations of serious failures as	a) To determine the reasons for the backlog of cases at the courts, especially those cases that require detective services. b) To determine whether the courts comply with the implementation of the <i>Batho Pele</i> principles. c) To gather first-hand information regarding the state of service delivery and the functioning of the courts as service delivery sites of the DoJ&CD.

<sup>4</sup>Republic of South Africa.Public Service Commission. Consolidated Report on Inspections of detective Services: Department of Police. 2010.

pointed out by inspections. g) To improve service user care relations in order to improve a user-oriented Public Service.	
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### 3. SCOPE AND METHODOLOGY

#### 3.1 SCOPE

The inspections sought to determine the reasons for the backlog of cases at the courts, especially those cases that require detective services and to assess the adherence of the courts to the service delivery principles of *Batho Pele* as a key strategy for the transformation of the Public Service delivery. The inspections were conducted at the Pietermaritzburg and Port Shepstone Regional Courts on the 02 and 04 October 2011. **Table 2** below shows the list of the inspection sites (courts) visited, names of officials that met with the inspection team and their respective institutions as well as the dates on which inspections were conducted.

**Table 2: Inspection sites**

Inspection sites	Name of Officials	Institution	Date
Pietermaritzburg Regional Court	Captain SW Govender	SAPS	02/10/2011 and 02/11/2011
	Candice Govender	Admin Clerk	
	Johann Senekel	Regional Court	
	Simphiwe Shelembe		
	M Alexander	NPA – SPP	
	P van der Merwe	Department of Correctional Services	
	N Mdluli	Department of Social Development	
	D Manickum	Court Manager	
	JT Ngema	Area Court Manager	
	CJB van Vureen		
	N Lutchmann	Correctional Services	
	C Greyling		
	SA Mngomezulu	Regional Magistrate	
	XM Soyizwaphi	SPP – PMB	
	K Leat	Regional Court PMB	
Port Shepstone Regional Court	Mr Mzuzu Qulo (Area Court Manager) Mr Ganger (Court Manager)	Port Shepstone Regional Court	4/10/2011

## 3.2 METHODOLOGY

To initiate the inspection process, letters were sent to the Executive Authority (EA) and the Accounting Officer (AO) of the DoJ&CD informing them about the PSC's intention to conduct inspections in the courts. Furthermore, letters were also sent to other stakeholders such as the National Prosecuting Authority (NPA) and the Magistrates Commission.

This was to ensure that their views on the matter of backlog of cases at the courts were obtained during the inspection process.

The PSC conducted both announced and unannounced inspections. The announced inspections focused on the backlog of cases at the courts, whilst the unannounced inspections focused on the compliance of the courts with the *Batho Pele* principles. In the case of **announced** inspections, preliminary discussions were held with officials of the DoJ&CD to obtain their inputs on the PSC's data collection tool and also seek their assistance with the logistics of the inspections, especially the coordination of the stakeholders. Furthermore, this was to ensure that all the required information would be made available at the time of the inspections.

**Unannounced** inspections were conducted after the announced inspections. Unannounced inspections provide the most representative picture of the daily operations and practices of a service delivery site. The inspection team comprised the PSC Commissioner and the OPSC officials. The Commissioner played a leading role in the inspections process. PSC-designed data collection tools were used to guide and to gather information during the inspections.

## 4. KEY FINDINGS

### 4.1 ANNOUNCED INSPECTIONS

The Department of Justice and Constitutional Development (DoJ&CD) aims to uphold the Constitution and the rule of law and render accessible, fair, speedy and cost effective administration of justice in the interest of a safer and more secure South Africa. On a daily basis, courts at various levels perform their functions, thus providing fair public hearings through independent and impartial tribunals/forums. However, the delay in the finalisation of cases (which leads to a backlog) compromises the efficiency of the courts in the delivery of services. The following findings highlight the case load and status of backlog cases at the regional courts, reasons contributing to backlog cases, the Criminal Justice System interventions on dealing with backlog cases and stakeholder relations at the Regional Courts visited.



#### 4.1.1 The Status of backlog of cases

The inspection team established that the case load at the Pietermaritzburg Regional Court varies from one month to the other. **Table 3** below shows the case load in the above-mentioned Regional Court for the period 2008, 2009 and 2010.

**Table 3: Case load at the Pietermaritzburg Regional Court for the period 2008, 2009 and 2010**

Month	2008	2009	2010
<i>January</i>	94	91	87
<i>February</i>	83	132	111
<i>March</i>	104	146	145
<i>April</i>	114	95	55
<i>May</i>	191	115	79
<i>June</i>	94	124	48
<i>July</i>	80	162	39
<i>August</i>	107	142	25
<i>September</i>	123	85	156
<i>October</i>	94	136	142
<i>November</i>	144	124	117
<i>December</i>	67	64	91
<b>Total</b>	<b>1295</b>	<b>1416</b>	<b>1095</b>

**Table 3** above confirms that the monthly case load varies from one month to the next in each year. Furthermore, the unevenness of the case load becomes erratic in certain months such as in May and June in 2008 and, August and September in 2010. As a result, there is no particular pattern that can be deduced from the figures to explain the cause of the unevenness. Unfortunately, at the time of the inspections, information pertaining to the percentage of cases that were concluded per annum in the Pietermaritzburg Regional Court was not available for the period under review. The inspection team established that for such information to be extracted from the system it would require an official to be drawn from their normal duties and be given the task to analyse all the cases for each year. It was also established that the court was understaffed and could not afford to take any official of the court and require of him/her to undertake a task that is outside his/her duty. It was further argued that even if the human resource could be available, it would take an inordinate amount of time to get the percentage of cases that were concluded per annum. The inspection team found that the data collection and management system for cases was not designed to differentiate between old and new cases. As a result, it was not possible to determine cases that were nine months old as backlog cases and the finalisation thereof. The finding suggests that the court has not been monitoring the case load for the three year

period. As a result, it would be difficult to determine progress, especially in the eradication of backlog cases for the said period.

On further probing, the inspection team established that since April 2011, the court worked towards achieving certain targets for withdrawal of cases (3%), finalisation rate of cases (0.7%), conviction rate of cases (74%) and backlog cases (25%). **Table 4** below shows the performance of the court in relation to the set targets.

**Table 4: Regional Court performance against targets**

<b>Regional Courts</b>	<b>Withdrawal rate</b>	<b>Finalization rate</b>	<b>Conviction rate</b>	<b>Backlog%</b>	<b>Clearance ratio</b>
<b>Target</b>	<b>3%</b>	<b>0.7%</b>	<b>74%</b>	<b>25%</b>	<b>Positive ration +0%</b>
<b>July 2010</b>	<i>Nil</i>	<i>Nil</i>	67.8	<i>Nil</i>	0.0
<b>April 2011</b>	<i>N/A</i>	0.3	75	51	8.7
<b>May 2011</b>	<i>N/A</i>	0.4	67.5	49.3	-11.9
<b>June 2011</b>	2.7	0.3	58.6	44	-5.4
<b>July 2010</b>	2.4	0.4	78.5	41	5.0
<b>August 2011</b>	3.8	0.3	67.2	44	0.5
<b>September 2011</b>	3.0	0.4	86.0	41.3	-4.7

**Table 4** above shows the performance of the regional court against target over a period of seven months. As shown from the table above, given the withdrawal target of 3%, the court has only during August 2011 exceeded the target and during September 2011 met the set target. On enquiry as to the reason for this poor performance the inspection team was informed that amongst others, prosecutors are not enforcing proper case flow management principles. For example, cases that ought to have been finalised at pre-trial also find themselves in court only to find that the complainant accepts the apology of the accused, sometimes after two sessions or so.

The target of finalised cases of 0.7% was also not achieved by the court. Failure to finalise cases on time, especially the 9 months period at regional court, leads to such cases being declared backlog cases. Although this court was able to exceed its conviction rate of 74% in three of the seven months, its inability to reach the target in four of the seven months resulted in a negative impact on the overall conviction rate for the said months. The inspection team learnt that in the main this was attributable to human resource a constraint which is also evinced by existence of vacant permanent as well as contractual posts.

Importantly the table also shows that the court failed to keep the number of backlogs on or

below the norm of 25%. This, amongst other things, confirms that poor performance of courts in respect of reaching the targeted finalization rate has a direct negative effect on the backlogs. While it is noted that there is a steady decline of backlogs from 51% to around 41% over a period of six months, it is clear that backlogs persist to present a challenge for the Department, a factor which calls for a decisive, robust and purposefully directed decision towards addressing the backlogs. Current arrangements do not seem effective enough to address the challenge of backlogs.

#### **4.1.2      *Reasons for backlog of cases Availability of resources***

The inspection team established that there were various challenges that contributed to the backlog of cases at the Regional Courts. The following shows some of the challenges that contributed immensely to the case backlog.

##### **4.1.2.1      Human Resource Constraints**

When the issue of addressing backlogs was first mooted within the DoJ&CD, the Pietermaritzburg cluster in particular was promised that it would have two prosecutors per court. However, as things stand there is one prosecutor per court. Yet the national guidelines provides for 2 prosecutors per court irrespective of the number of cases on the roll. This has not happened and has a direct causal link to the continued existence of backlog cases. In addition, the situation puts a severe strain on the insufficient human resources of the prosecutions.

To alleviate the foregoing situation the Pietermaritzburg Regional Court relies on backup from district courts, an action which comes with its own challenges. One such challenge is that prosecutors from the district courts are inexperienced for the intricate and complex cases of the Regional Courts. Invariably this has a negative impact on the quality of justice served to victims of crime.

##### **4.1.2.2      Unavailability of Witnesses**

Witnesses are key to proceedings in any court case. In this regard, the Pietermaritzburg Regional Court services both urban and rural areas. Witnesses from rural areas in particular are normally faced with poor transport system. As a result most witnesses wake up at 2:00 in the morning to board three taxis to court. By the time they arrive in Pietermaritzburg those witnesses are exhausted and lack the required concentration when testifying in court. In certain instances witnesses simply absent themselves without any explanation, or they just disappear. This results in cases being postponed. Consequently cases are kept on the roll for

over nine months, which results in them falling into the backlog.

#### **4.1.2.3 Poor Infrastructure**

It was further found that two prosecutors share one cubicle as an office for consultation purposes. On enquiring as to the reason for this it was found that the building was designed on the assumption that prosecutors do not need office space as they ought to spend most of their time in court. As a result pre-trial consultation, which is required for each matter that is scheduled for trial, does not happen. This also gives rise to certain cases that could have been resolved through mediation remaining in the court roll and getting presented in court. Such cases also contribute to backlogs.

The inspection team found that as a response to the chronic need for office accommodation for prosecutors and other services, the DoJ&CD has built makeshift prefab offices in the most inappropriate areas of the regional courts. For example, at the Pietermaritzburg Regional Court these prefabs have been constructed at the front entrance of the building. These additions hardly have any privacy as they are used by more than one official at a time. The structures themselves are unhygienic and unsafe as the building has poor ventilation. During flu seasons officials are exposed to the flu virus easily, resulting in sick leave that could have been avoided. Consequently the backlog increases. While personal privacy and professional ethics are undermined, human dignity of all the people that use these prefab facilities is compromised. It is common cause that a workplace that is dirty, unhygienic, noisy and has inadequate ventilation will seriously impede effective and efficient service delivery.

At both sites the inspection team found that there have been discussions about a new court building being constructed. But nothing has been realised on account of budget constraints. There were also unproven discussions that the backlog courts are soon to be discontinued on the basis that the Department has run out of funds to continue funding these courts. It was also found that unfortunately management responsible for decisions in respect of continuation or otherwise of the backlog courts are silent on the matter. All these issues taken together affect the morale of the staff of the courts, a factor that has a negative impact on the efficacy with which backlog should be addressed.

The inspection team was also informed that the centrally controlled air conditioning system was usually inoperative most of the time. As a result courts function under unbearably hot conditions as there are no windows to assist in such instances. This leads to magistrates having to cut short the time for each trial to avoid working under unfavourable conditions that may result in decisions that undermine the quality of justice the courts dispense to complainants.

#### **4.1.2.4 Increase in Criminal Cases**

Additional causes of backlog relate to the unexpected population increase which has led to an increase in criminal incidents. The population around both sites that the inspection team inspected has increased phenomenally since the regional courts were built 14 years ago. This has resulted in a proportional increase in crime based on the fact that crime tends to fester in densely populated areas, yet there has not been an increase in the resource base of the regional court to ensure that it responds to the corresponding increase in crime. Currently the court handles an average of 100 cases per month, resulting in increased backlogs.

#### **4.1.3 *The Criminal Justice System (CJS) Backlog Intervention***

##### **4.1.3.1 Case Flow Management**

The inspection team established that a Case Flow Management Monitoring Committee (CFMMC) exists and is chaired by the Regional Court President. The team was informed that CFMMC is composed of the Departments of Justice & Constitutional Development, Correctional Services, Social Development, South African Police Service (SAPS), the National Prosecuting Authority and the Legal-Aid SA. Furthermore, due to the nature of the information shared at the Committee, which is highly confidential, civil society organizations are not allowed to sit in the CFMMC.

The team was further informed that the Committee deals with issues that pertain to the management of cases at the courts, backlogs and challenges that lead to poor productivity of the courts. It also transpired that there are local CFMMCs at the courts which are chaired by Magistrates. The said committees find solutions to the blockages and challenges in the justice system. The inspection team was informed that problems that are not resolved at the local level are escalated to the provincial CFMMC. They ensure that the courts work in accordance to the Case Flow Guidelines. Furthermore, the committee works in accordance with Outcome three of the Ministers Delivery Agreement.

The judiciary, as part of the CFMMC, informed the inspection team that during the initial stages of the backlog project there was a review committee which was specifically tasked with the responsibility of dealing with the matter of backlog cases. Over time the review committee disbanded as a result of other demands to its members. As a result of its disbandment, performance with respect to backlogs dropped. A feeling was expressed that this review committee should have been made permanent as opposed to temporary. It should also have been constituted by a permanent team other than seconded members from different stakeholders.

#### **4.1.3.2 Management of Court Time**

The inspection team learnt that the Regional Courts have a Daily Return of Judicial and Court Hours register that each magistrate fills in. The purpose of the register is to capture and manage time taken in court for each case and to account for reasons for delay/withdrawal that each trial experiences on a daily basis. The verdict of each case that is concluded is also indicated. In this way management is able to determine reasons for all cases that are delayed up to 9 months and beyond which ultimately increase the backlog.

As a strategy to determine productivity of each court, the team found that the judiciary keeps a Daily Production Report (DPR) which is used to capture, amongst other things, the number of cases and details of each case that is presented to court on each day. The team found that the DPR also captures reasons for delay, for withdrawal and, the nature of sentence in cases where sentence was passed. A close examination of the number of cases that were presented to court on one day revealed that out of 12 cases, 5 were postponed for further investigation whilst the rest of the cases were postponed for various reasons. The number of cases that were postponed in the above example confirms the notion that detective services bring premature cases to court. This also attests to lack of pre-trial consultation at which stage such cases should have been picked up and referred back for further investigation before they are committed into the court roll.

The team was informed that the DPR feeds into the Daily Return of Judiciary Work and Court Hours which indicates, amongst other things, daily time management for each case, the number of new and old cases as well as the total time the court spent on each case. Close analysis of this information showed that while 6 hours court occupancy per day is the prescribed norm, the average number of sessions per court, all things being equal, ranges between 3 and 4 per day based on the average time of court occupancy of 4.35 hours per day. Implicit in this finding is that given the circumstances under which courts operate it is

clear that the conditions outlined above obstruct the court from reaching the norm of court occupancy of 6 hours per day.

#### **4.1.3.3 Stakeholder Relations**

The team was informed that the relationship between the prosecutors and the detective services remains on a good although prosecutors are not always available for pre-trial consultation and possible mediation where necessary due to pressure of work. The unavailability of prosecutors to conduct pre-trial consultations weakens the critical communication that should exist between the detective services and prosecution. This invariably leads to ineffective and inefficient discharge of DoJ's & CDs mandate with respect to outcome three since some cases are postponed for further investigation and therefore increase the backlog cases.

#### **4.1.4 Reasons for Cases Struck Off the Roll and Withdrawal Thereof**

The inspection team was informed that the process of obtaining further information on cases that have been postponed for further investigation often takes too long, yet those cases cannot be struck off the court roll until such time that it is clear that information is unavailable at all. The team learnt that in such cases magistrates use their discretion to strike the case off the roll for reasons that it has been postponed for too many times. The Judiciary also informed the team that criminal cases are governed by various pieces of legislation, each with its own intricacies. As expected, each piece of legislation has its own conditions which must be fully complied with before a case can be set for a hearing or struck off the roll.

Therefore, the efficacy of courts is largely dependent on the quality of evidence contained in the investigation report before court and the extent to which there has been pre-trial consultation amongst stakeholders. Except in the registers, the data management system that the Regional Courts uses does not provide for information on the number of cases that are postponed for any reason. To extract that information from the register would be laborious as it would require analysis of registers of each day for each court. This in turn reflects negatively on the management of stats by the courts.

Pertaining to reason for striking cases off the roll the inspection team was informed that in most first petty crimes, offenders are warned and discharged. This helps towards the reduction of cases that may ultimately increase the backlog. The team also learnt that in drunken driving cases, with specific reference where human injury or death was the result, the blood sample results may take up to six months to return from the forensic laboratory. As a result of this delay the magistrate may refuse to make any further remands and eventually



the matter gets struck off the roll. In other cases witnesses relocate while forensic investigations are proceeding. When such cases ultimately come to court and witnesses are no longer available, they are struck off the roll. Some of these reasons corroborate findings of inspections that the PSC conducted in the detective services.

The inspection team was informed that for the backlog courts to work as it was anticipated when the project was initiated, each court should be provided with two dedicated personnel from each of the stakeholders, especially in respect of SAPS, probation officers and correctional services as well as prosecutions. The team was informed that while there may still be reasons for postponement of cases as it is inevitable even in normal circumstances; with two prosecutors, it could be easy for one prosecutor to read the dockets thoroughly while the other is in court. Further that the project should have a start and an end date so that the focus is in addressing the backlogs and then close the sieve through which they come to pressurise regular courts.

## **4.2 UNANNOUNCED INSPECTIONS**

Unannounced inspections were conducted at the Pietermaritzburg and Port Shepstone Regional Courts. The main aim of the unannounced inspections was to determine the compliance levels of the service delivery sites (courts) with the implementation of the *Batho Pele* framework. The inspections were guided by the PSC-developed checklist which contained issues relating to the *Batho Pele* principles such as observing facilities, access to information, observing staff and general observations at the courts.

### **4.2.1 Observing Facilities**

According to the *Batho Pele* principle of Access, citizens should have equal access to the services to which they are entitled to. One measure of ensuring access is to adapt and improve the physical conditions of service delivery sites for easier accessibility. During the visits to the sites, the inspection team observed that on approach, the Regional Courts were clearly identifiable in terms of signage bearing the name of the Department. The inspection team observed that from the outside, both regional courts were accessible to service users. There was adequate provision for wheel chair users to access the regional courts. However, no evidence could be found that the receptionist could communicate effectively with the deaf and dumb. This implies that courts are not adequately resourced for members of this sector of the community.



On entrance into the buildings, the Pietermaritzburg Regional Court has an unmarked reception area at the foyer, while at the Port Shepstone, the reception office is clearly identifiable but written in English only. The inspection team found a schedule of services such as affidavits, certified copies that each reception area offers to the public, displayed on the wall but again written only in English. No evidence could be seen indicating accommodation for the blind in respect of services rendered except that a blind person would have to enquire from the receptionist. Clearly these courts are not capacitated to deal with the needs of the blind at their reception areas.

The Pietermaritzburg Regional Court building has two levels. The top part of the building is accessible through staircases and a lift. There are no wheel chair pathways internally. The inspection team was informed that wheel chairs users use lifts to get to courts on the first floor. The lifts were also found not to accommodate the blind as there is no voice that tells the difference between the basement, ground and upper floors. Clearly the building is not compliant with the requirements for accessibility to all citizens.

At Port Shepstone Regional Court, the whole facility is on the ground floor and most of the courts are accessible to all citizens with the exception of civil and maintenance administration offices that operate from prefabs that are located at the back of the facility. The prefabs have no waiting rooms for clients. As a result clients are exposed to all types of weather as they wait outside these offices without a shelter. All these prefabs were found to be inaccessible to people with disabilities as one has to climb a step or two to enter into each of the heavily over-crowded prefab office.

At Port Shepstone Regional Court, the inspection team found that in the maintenance claims office, the official sat sideways on her desk to perform her daily tasks as every little space under her table was occupied by piles and piles of boxes containing documents and files pertaining to her job. Clearly shortage of office accommodation in Regional Courts does not only affect prosecutors but all officials.

The team observed that one prefab structure has actually moved and is not in line with the struts on which it was placed. No evidence could be seen of any attempt to provide support to this prefab building so that its movement is at least arrested. This poses a security risk for the officials rendering services from this temporary building and to the public receiving such services. Upon enquiry as to the reason why a situation dangerous to human life is allowed to continue, the team was informed that the Department of Public Works, as custodian of Government office accommodation, has been informed over a number of times without any action on their part to intervene.

In addition to the foregoing findings, the inspection team also observed that the offices of management in the Port Shepstone Regional Court are completely inaccessible to wheel chair users as they are located on the lower end of the site which is only accessible through stair cases. Their offices are totally isolated from the rest of the facility, making it impossible for them to oversee the court operations unless they take a deliberate walk-about. This separation of their offices from the rest of the facility insulates them from daily challenges that staff experience. This prohibits management of this facility from responding to urgent matters with the necessary speed.

On both sides of the reception area of the Pietermaritzburg Regional Court there are makeshift offices. One is used by prosecutors and any of the stakeholders for the Justice Cluster for consultation purposes while the other is used as a children's witness facility and waiting area for child witnesses and consultation. Apart from being an eyesore these prefabs do not provide the required privacy. The team was informed that because of office space shortage, there usually is more than one consultation going on in this make-shift office at a time. The presence of these glibly constructed prefabs inside the Pietermaritzburg Regional Court attests to lack of office accommodation as well as attempts to improve the situation.

It was further found that at the Port Shepstone Regional Court there was no facility for consultation with child witnesses. As a temporary measure such consultations are conducted in an office shared with officials and divided by a filing cabinet. The officials informed the team that each time a child is being interviewed they have to leave their work stations in order to protect themselves from hearing the horror stories of the young victims, as well as to provide some sense of security and privacy to the child witnesses. Evidently both courts lack the required infrastructure for child witnesses. This has a negative impact on efficiency and effectiveness of the DoJ to discharge its mandate in respect of outcome three.

While the Pietermaritzburg facility is 14 years old and therefore has modern architecture and ambience, it has many disadvantages that impact negatively on service delivery. Offices are overcrowded as support staff shares office accommodation while prosecutors share small cubicles. The building is declared smoke free but the public uses ablution facilities and passages for smoking purposes. This makes the place unhygienic since ventilation is also poor.

Public ablution facilities are inadequate as the place is patronized by large crowds of people. As a result at the time of the inspections, the toilets were not working and filled with nauseating stench that permeates the passages of the building. The team also found that there is one toilet for males and another for females. Staff informed the inspection team that they often find themselves being forced to either wait in a queue to access each toilet or

proceed to use the already overcrowded and often inoperative public ablution facilities in the common areas.

#### **4.2.2      *Observing Access to Information***

The Batho Pele principles of Access and Information require information to be readily available to customers to empower them and address their needs. The inspection team observed that while the reception area in Port Shepstone Regional Court is clearly identifiable for access to information pertaining to court, the inspection team found it too small to accommodate the numbers of people that approach courts from time to time. It does not allow more than three persons at a time, yet the space outside does not provide for clients that are waiting to enter and make inquiries. The Pietermaritzburg reception area is unmarked and people usually approach security to ask for information and are pointed to a queue that leads to the official in reception. The team observed that libraries of the two regional courts were not only small but also restrictive in that they were also used as offices. As a result of this there is no place for a researcher to sit and peruse books. This puts a restriction on access to information even to officials working in the courts.

#### **4.2.3      *Observing Staff***

As stated in the *Batho Pele* principles, Openness and Transparency are the hallmarks of a democratic government and are fundamental to the public service transformation process. As such, in terms of public service delivery, their importance lies in the need to build confidence and trust between the public sector and the public they serve. Wearing of name badges enables citizens to easily identify those who are supposed to serve them and increases access as well as empowering them in measuring the quality of the services provided. Staff appeared generally friendly and helpful, however, it was observed that the majority of them did not wear name tags. On enquiry it was found that some of them reported that they had forgotten them at home, while other staff complained that theirs had outlived their existence upon which they submitted requests for replacements that had not yet come.

Lack of office accommodation was the main complaint amongst many officials that the team interviewed. Officials informed the team that they have no common rooms to converge at tea and lunch times. This was evidenced by the fact that in the Pietermaritzburg Regional Court the team found as they were leaving the boardroom in which they had been conducting a meeting with officials, magistrates were waiting outside to get in and have their lunch. At the Port Shepstone Regional Court, interpreters who were crowded in a small office eating lunch, reported lack of canteens facilities or at least common rooms. This does not augur well for creation of collegiality in the work place.

The police at the holding cells at the Pietermaritzburg Regional Court informed the team that the area is unhygienic, with poor ventilation and is smoky since awaiting trial prisoners are allowed to smoke. Yet they are forced to drink their tea and eat their lunch in the same place. It is common cause that a place that is dirty, unhygienic and noisy, with inadequate ventilation such as the Pietermaritzburg Regional Court, will seriously impede effective and efficient public administration.

One official at the Port Shepstone Regional Court reported that the courtroom in which she works is not only unsafe for her but also unhealthy. There is no holding cell for prisoners whose trials are scheduled in that court. For that reason, awaiting trial prisoners come into court and sit on a bench along the wall inside the courtroom as the court is in session. She indicated to the team that the absence of security barriers between the magistrate's seat and the place which is occupied by awaiting trial prisoners in court often makes her feel vulnerable each time the cases are presided over. She further stated that the court's proximity to the police station mortuary also puts her health and the health of the public who attend cases in that court at risk since the smell of dead bodies often finds its way into the courtroom. In this regard, the court often functions under unproductive conditions as all windows and doors must always be kept shut even when air conditioning is out of order. Unfortunately these circumstances were only affecting this courtroom in particular and not the rest of the courtrooms at the regional court. As a result the official was of the view that she was being discriminated by being exposed to such working conditions.

Interpreters informed the team that their work is inhibited since libraries do not cater for other languages outside the eleven official ones. Yet the country has become internationally diverse in terms of languages. For instance, Swahili speaking persons also find themselves in court, a matter that requires that interpreters should also be au fait with the language. As a result some interpreters have taken it upon themselves to learn Swahili but they are frustrated since libraries do not accommodate such languages.

#### **4.2.4      *Talking to Citizens***

Citizens expressed deep dissatisfaction with the services they received from the Regional Courts. Others informed the inspection team that while they left their homes at 03:00 am in order to be in court at 9:00, they only discovered that their cases were scheduled after lunch. However, they find themselves having to wait the whole part of the morning and hope that when their case is heard, it will not take a long time that will infringe in their time for transport back home.

Others informed the inspection team that they were simply told to wait outside and the next thing they saw was the presiding magistrate and the court staff walking past them to their offices. They were never informed of the reason for waiting outside. Neither were they informed of the reason for the court officials simply walking away. They were not sure if the court officials would return at any time to attend to their matter.

At the Port Shepstone Regional Court, a mother who apparently had approached court for a maintenance matter complained to the inspection team that officials address her as if she knew the process. Information is not readily available for the public to read so that they can prepare themselves before approaching court for maintenance matters. The mother further observed that one only learns as the process proceeds because there is no person who is responsible for sitting first time clients down and take them through the motions.

Some of the citizens that were interviewed only had one contact with the receptionist who showed them the court in which their cases would be heard. Thereafter, citizens were found waiting outside the courts to be called in for their cases. All complained about the laboriously long wait they have to endure prior to their cases being heard. Others complained that they were returning for the third time after cases were postponed previously.

#### **4.2.5      *General Observations***

Both reception areas did not display the names of senior managers that are responsible for the management of the regional court. There were also no details of names of back office staff or telephone numbers for enquiry or in the event the client is dissatisfied with the information provided at reception desk. When the team requested for the Court manager in the Pietermaritzburg Regional Court the receptionist did not know the name but referred the team to an office upstairs and directed them to ask any official they meet.

Supply Chain Management is centralised in Durban. As a result regional offices forward their orders and requests for purchases of all stationary and work tools to DoJ&CD's headquarters. A request for supply of a toner by one official at the Port Shepstone Regional Court was found to have taken an inordinate amount of time to get a positive response. As a result the official who needed the toner was now dependent on printers of other officials. It is common cause that lack of such work tools dampens commitment and affects service delivery negatively.

While the administrative staff in Port Shepstone could recall most of the *Batho Pele* principles the inspection team found that there are no service standards by which regional office staff hold their head office counterparts to as internal clients. Lack of service standards

in a value chain between colleagues militates against effective and efficient delivery towards the fulfilment of outcome three.

The inspection team also found that the internal environment under which most of the officials operate is not supporting to good service delivery. Shortage of such basic tools of trade such as office accommodation, absence of child witness consultation rooms, including the inordinate amount of time it takes to obtain stationary items, all militate strongly against the ability of DoJ&CD to deliver outcome three.

While almost all officials that the inspection team interviewed informed them that there is talk of constructing a new building as a response to the pressure of lack of appropriate accommodation, it became clear that communication in this regard is sadly lacking. That means that management is not communicating any information on this matter to staff. Lack of communication on work place matters tends to discourage cooperation between and amongst colleagues and leads to lack of zeal and commitment.

## **5. RECOMMENDATIONS**

### **5.1 ANNOUNCED INSPECTIONS**

It is recommended that:

- **Post Structure:** The DoJ&CD should develop a distinct organogram or post structure for the courts in general to enable clear staffing arrangements and allocation of related resources. This should be done in consultation with all relevant stakeholders by April 2012.
- **Data management:** The DoJ&CD should ensure that data management is strengthened to provide quality and reliable data for monitoring performance of the court, especially with regard to backlog cases. This should cater for the needs of all stakeholders in order to avoid the duplication of performing this function by various stakeholders. In this regard, a plan should be put in place by April 2012.
- **Infrastructural Resources:** The DoJ&CD should urgently refurbish the Regional Courts and provide sufficient office accommodation for staff, especially prosecutors who are expected to render pre-trial consultation. This will enable the Courts to render services to the community. In this regard, a plan should be put in place by April 2012.

### **5.2 UNANNOUNCED INSPECTIONS**

It is recommended that:

- **Signage:** The DoJ&CD should ensure that on entering the buildings of the Courts, the reception desks should be clearly identifiable from a reasonable distance for all to see. Provision should also be made in this regard for people with disabilities. In this regard, a plan should be put in place by April 2012.
- **Accessibility:** The DoJ&CD should ensure that all courts at every level of every building used by Government are accessible to all citizens. Similarly, emergency exits should provide for all. In this regard, a plan should be put in place by April 2012.
- **Waiting areas:** The DoJ&CD should ensure that decent waiting rooms and areas for all citizens who visit courts are provided. In this regard, a plan should be put in place by April 2012.
- **Ablution facilities:** The DoJ&CD should ensure that the Courts are improved, especially with emphasis to the cleanliness of the ablution facilities. In this regard, a plan should be put in place by April 2012.

## 6. CONCLUSION

The inspections have become one of the PSC's methodologies of reinforcing accountability across the Public Service because they are a fact finding exercise meant to observe and obtain first-hand information on service delivery. The above findings reflect the discussions between the inspection team and the DoJ&CD and the NPA as well as the RCPF. In general, the findings show that the perennial human and infrastructural constraints facing the courts have contributed to the backlog of cases, while the unavailability of an efficient case management system to monitor cases has prevented the effective mapping of progress on backlog cases.

## 7. ACKNOWLEDGEMENTS

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