



# **A PRACTICAL GUIDE**

## **COURT AND CASE FLOW MANAGEMENT**

For Regional And District Criminal Courts  
In The South African Lower Court Division



**the doj & cd**

Department:  
Justice and Constitutional Development  
**REPUBLIC OF SOUTH AFRICA**



**A PRACTICAL GUIDE**  
**COURT AND CASE FLOW MANAGEMENT**

For Regional And District Criminal Courts  
In The South African Lower Court Division

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Justice College





## **COURT AND CASE FLOW MANAGEMENT ....**

... is a simple phrase adopted to propagate a collection of principles and practices associated with constituting, supporting and managing both the criminal courts and those cases which flow through them.

These principles and practices belong to everyone associated with criminal courts and cases, but more so to the judges, magistrates, prosecutors, legal representatives and administrative practitioners involved at the heart of administering justice through the courts.

### **THIS GUIDE ....**

... has been compiled by magistrates in collaboration with the Department of Justice & Constitutional Development, National Prosecuting Authority, South African Police Service and Legal Aid South Africa, as well as with representatives from all other institutions involved with the criminal courts. It is an enhanced version of the previous edition published in 2006.

### **USING THIS GUIDE ....**

The guidelines seek to address issues pertinent to improving and maintaining the effective and efficient operation of criminal courts in the Lower Court jurisdiction in South Africa, in the interests of the proper administration of justice. Consequently, the purpose of the manual is to provide all involved in the Criminal Justice System with the necessary information about Court and Case Flow Management (CFM) so that they can design and implement CFM plans for their courts to improve service delivery.

The information presented in this guide explains:

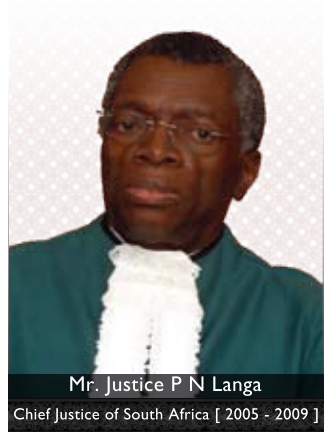
- What CFM is.
- Why it is important.
- The various structures involved with CFM.
- How to identify CFM related problems in the system and at court level.
- The necessity for a CFM plan and what it should incorporate.
- How to implement, monitor and maintain these plans.
- How to improve each court's case management effectively through use of CFM plans.
- Specific roles and responsibilities of the various role players.

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# FOREWORD

**The Honourable**  
**MR. JUSTICE P N LANGA**  
**Chief Justice of South Africa**  
**2005 - 2009**



It is a common human trait to build upon the foundations laid by pioneers in order to enhance and strengthen the utility of their works. This guide is a manifestation of that trait, because it is an expanded version of a previous guide.

It is to be expected that in the process of a developing democratic society, the attainment of a transformed criminal justice system will be accompanied by challenges that face every participant in that system. Judicial officers in the lower courts face the challenge to play an active role in ensuring the independence, impartiality, dignity, accessibility and effectiveness of the courts. This guide provides a broad framework for the realisation of these constitutional imperatives, each of which guarantees the right to a fair trial and the timely disposition of cases. Equally important is the constitutional obligation on all organs of state to assist and protect the courts to ensure that these objectives are always fulfilled. It is for judicial officers, where circumstances demand it, to take appropriate action to ensure that there is no breach of these obligations.

The guide is also designed to empower the reader or user with the requisite information on whose function it is to do what; how the system works and what the objective of each activity is. What this guide demonstrates is that the system depends, for its efficacy, on independence. No participant can function optimally without others.

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That is why the system has been likened to a chain – any weak link breaks the chain. Diligence in adhering to the guide will ensure that each link in the chain will remain strong.

I commend every individual who participated in the development and production of the guide. I have no doubt that it will be a useful and helpful companion to those whose task it is to give effect to the values of the Constitution.

A handwritten signature in black ink, appearing to read 'P. N. Langa', written in a cursive style.

**P N Langa**

Chief Justice of the Republic of South Africa

**T C MABASO**  
**Chief Magistrate, Durban**

*Chairperson of the Judicial Lower Court Management  
Sub-Committee on Court and Case Flow  
Management, South Africa*



The initial Court and Case Flow Management Guidelines published in 2006 was a major step in inculcating a culture of co-operation amongst the various role players in the Criminal Justice System (CJS) in the lower courts. The previous guidelines it must be said are equally applicable today as they were in 2006.

With the benefit of hindsight and the ever increasing challenges in our CJS, it has become necessary not only to enhance the court and case flow management guidelines, but also to redirect our focus in certain respects, for example in the training, education and development of all role players and the vexed issues of participation, cooperation and accountability.

In this regard a case flow chart has been incorporated in these guidelines with events and suggested time stipulations with the specific objective of creating uniformity and acceptable standards of service delivery. The flow chart is expected to assist in implementing the guidelines and effective trial roll planning.

The time guidelines serve as the basis for analysing current case flow practices and determining the processing events and times that should be implemented to dispose of cases within such parameters. Reference is also made to the various court and case flow management structures, their formation and purposes.

Court and case flow management must be viewed as a non-negotiable response



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to the people's quest for justice as envisaged by Sections 34 and 35 (3) of the Constitution.

Today, the law's delay is widely perceived as intolerable, inexcusable and unacceptable. And rightly so. A country that constitutionally entrenches a fair and speedy trial must live up to its demands. It is a contemporary public perception that justice delayed is indeed justice denied and it is no exaggeration to assert that the existing performance levels of the CJS, notwithstanding limited successes, illustrates this negative image of the law.

It has been said that while slow justice is bad, hasty injustice is an inadmissible substitute. We must of course guard against this and strike an acceptable balance.

We should redouble our efforts to redeem the position. The empowering of all role players through education, training and development is crucial in improving the Criminal Justice System's performance and is fundamental to effective Case Flow Management. Several core competencies have been identified to enhance court performance and are referred to in these guidelines.

In a developing democratic legal system the legitimacy of the Judiciary depends in no small measure upon the public's understanding of and confidence in the judicial process. It is hoped that the Criminal Case Flow Chart will also educate members of the public on the workings of the courts in our CJS.

More however must be done to train, educate and develop all role players as well. Understandable courts, skilful community outreach and informed public information improve court performance and enhance public trust and confidence in our CJS. Unnecessary and often misunderstood delays erode confidence in our Criminal Justice System. The degree of judicial tolerance for adjournments and inefficient trial roll planning have been identified as key variables in effective case management.

The expectations and standards called for in these guidelines will however only be effective to the extent that they are followed. This requires compliance enforcement and calls for accountability by role players for non compliance.


The ability to monitor case progress is essential for sustaining an effective case management system. The monitoring process should encompass individual reporting on court aggregates and exceptions, utilising information to identify problems, resolve impasses, anticipate and address future problems and ensure sufficient follow-up. We are after all collectively accountable to members of the public we jointly serve.

Knowledge in the form of statistics and management information is a crucial component in understanding exactly what is going on and where to develop and focus initiatives or interventions. Utilising information available from the various computer systems can assist each role player to actively manage their own process issues and jointly develop strategies to address challenges. Although court and case flow management is led by the judiciary, it is indeed a shared responsibility.

Poor case flow management should be no more acceptable than poor case presentation.

We must all strive to become the change we want to see.

On behalf of the Lower Court Judiciary, I wish to extend our heartfelt appreciation and gratitude to all of those who participated in developing these guidelines. I am also particularly grateful for the support of the Honourable Chief Justice of South Africa and the Chief Director for Court Services of the Department of Justice and Constitutional Development, for their supportive contributions appearing in this manual.



**T C Mabaso**

Chairperson

*Lower Court Management Sub-Committee on Court and Case Flow Management*



**MEMME  
SEJOSENGWE**  
**Chief Director:  
Court Performance**

*Department of Justice & Constitutional  
Development*



The vision of the Department is to uphold and protect the Constitution and the rule of the law, to render accessible, fair, speedy and cost-effective administration of justice, in the interest of a safer and more secure South Africa.

The core mandate of the Branch: Court Performance is to provide effective and responsive management support for judicial decision-making process within the court environment. The strong co-operative working relationship between the Judiciary and the Department of Justice and Constitutional Development (DOJCD) in their complementary roles is fundamental to the delivery of court services to the public.

Because of the inter-dependence of the judicial and executive accountability, the administrative support provided by the Department should facilitate and ensure a cost effective, timely, publicly credible and impartial dispute resolution process.

CFM has been recognised as a service delivery improvement project with an annual allocation of funds to support its activities. An intensive engagement on CFM by the Branch: Court Performance with the Lower Court Judiciary ensued, which laid a foundation for the institutionalisation of CFM in SA. A decision was subsequently taken by the Lower Court Management Committee (LCMC) in June 2003 to support the implementation of CFM in all the lower courts.

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An LCMC sub-committee on case flow management was established to assess and guide the approach towards the implementation of CFM in the lower courts within the following terms of reference:

- to sensitise all role players on the implementation of case flow management.
- to discuss the guidelines in order to streamline the processes and to implement bench marks.
- to stimulate partnerships and consensus on case flow management.
- to collect data on barriers and shortfalls for the reduction thereof.
- to compare standards of case flow at different courts and encourage sharing of ideas.
- to encourage uniformity on case flow management at lower court level.
- to introduce training and research on case flow management draft.

These guidelines have been developed as an integration of the above processes' actions, best practices and lessons learnt thus far to optimise Case Flow Management in our court system. It should be recognised that CFM is a continuous process and the purpose of these guidelines is to provide magistrates, court administrators and other staff in the court with necessary CFM related information to assist them design, implement and sustain case CFM practices within their respective courts.

The information presented in this guide will guide each user to understand:

- What case flow management is.
- Why case flow management is important.
- What a case flow management plan should cover.
- How to develop and implement a case flow management plan.
- How to monitor and successfully maintain the operation of a case management system and case flow management plan.
- Roles and responsibilities of the various stakeholders in the criminal justice value chain.

The Department also developed a computer generated Case Management system (ICMS) to assist and enable courts locally to manage their daily CFM operations.

A sincere word of thanks is extended to the CFM sub-committee and all other officials within the criminal justice value chain who were selflessly committed to ensuring the finalisation of these enhanced guidelines which reflect an outstanding example of a synergised and partnership approach to the implementation of a service delivery improvement initiative within the criminal justice environment.

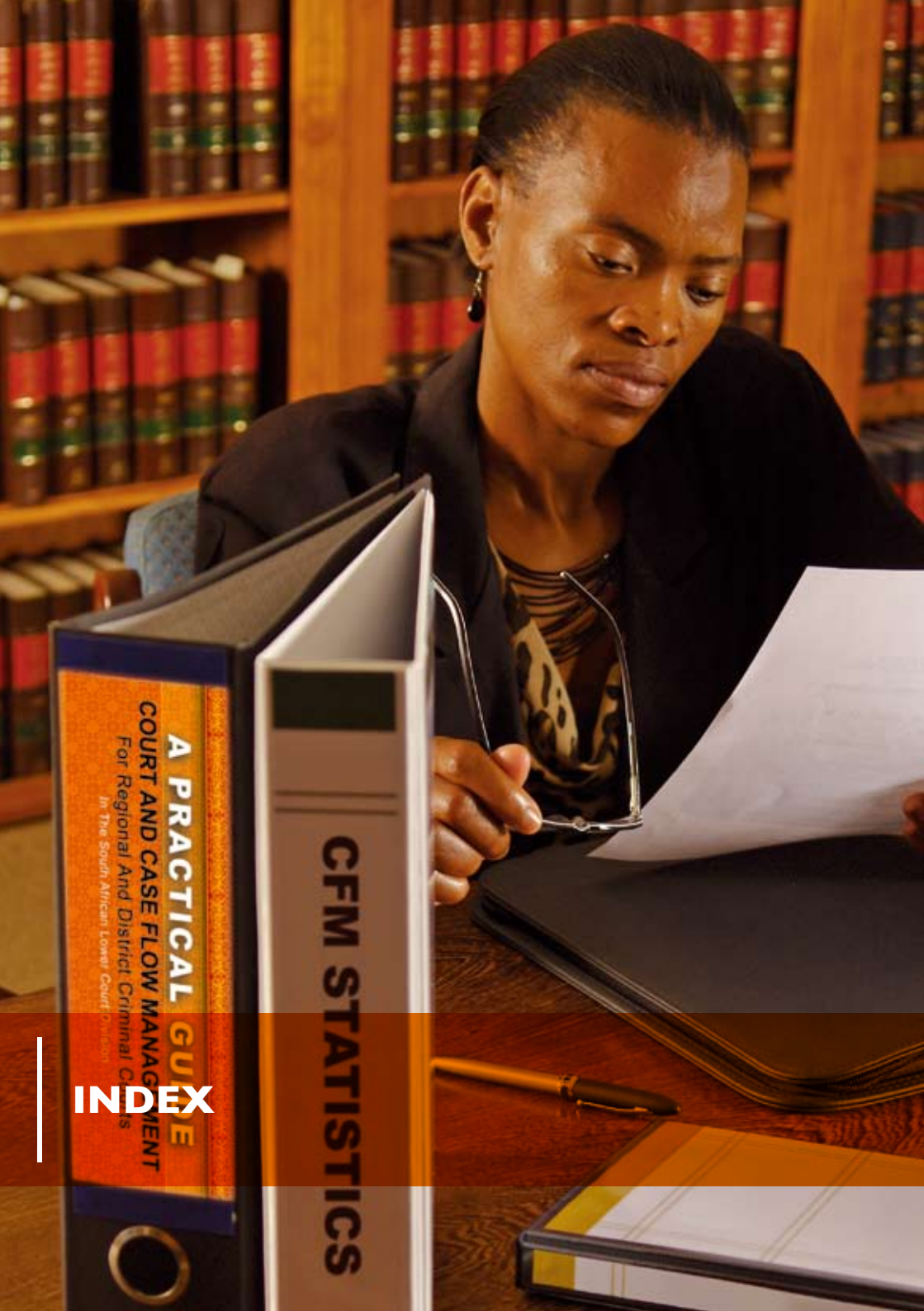


**Memme Sejosengwe**

*Chief Director: Court Performance*

**Department of Justice & Constitutional Development**





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**CFM STATISTICS**

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## **ABBREVIATIONS**

AG	Admission of Guilt
ADR	Alternate Dispute Resolution
ATD	Awaiting Trial Detainees
ATDMC	Awaiting Trial Detainee Monitoring Committee
AVR	Audio Visual Remand
CAM	Coordinator's Area Meeting
CCFM	Court and Case Flow Management
CFM	Case Flow Management
CFMMC	Case Flow Management Monitoring Committee
CJF	Child Justice Forum
CJS	Criminal Justice System
CPA	Criminal Procedure Act, No 51 of 1977
CSS	Court Support Services
DCS	Department of Correctional Services
DOJCD	Department of Justice and Constitutional Development
HRM	Human Resources Management

**ABBREVIATIONS**

ICMS	Integrated Case Management System
IJS	Integrated Justice System
LASA	Legal Aid South Africa
LCMC	Lower Court Management Committee
LCMF	Lower Court Management Forum
LSSA	Law Society of South Africa
NGO	Non-Governmental Organisations
NICFMSC	National Integrated Case Flow Management Steering Committee
NPA	National Prosecuting Authority
NPS	National Prosecution Services
PIJF	Provincial Integrated Justice Forum
RCP	Regional Court President
RCPF	Regional Court President Forum
SAPS	South African Police Services
SLA	Service Level Agreements

## **DEFINITIONS/DESCRIPTIONS**

### **1. Court and Case Flow Management**

This is the umbrella phrase which best encapsulates the totality of all that is embodied in the principles and practices which these guidelines seek to address. Courts and cases are included for the sake of completeness and to emphasise the entirety of purpose.

### **2. Case Flow Management**

This is really just an abbreviated version of the full title (above), and places in a nutshell what this is all about. This phrase is chosen throughout the manual because of its brevity and for convenience, and does not detract from overall intention to provide guides for the betterment of managing courts and cases.

### **3. Guide, manual**

This publication was originally issued as a useful set of guidelines to assist relevant parties with an integrated approach to the application of court and case flow management. It has since grown in stature and has become a useful manual, promoting consistency through its application. Guide, guidelines, manual and publication are used interchangeably – all bear the same ordinary purpose as intended here and in the contents.

### **4. Correctional centres**

Different wording is used in statutes and elsewhere to describe places of confinement for persons detained pending trial or to serve sentence. Prison, jail, place of detention or correctional centre all refer to the same place within the context of this manual – there are no such separate institutions in South Africa, except for a limited number of places of safety for children. Correctional centre is used more frequently in keeping with the departmental title of the government institution responsible for detaining persons in conflict with the law.

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## **5. The Travers Judgment**

A judgment clarifying certain issues pertaining to court and case flow management and is referred to in this manual. Full reference is Travers versus National Director of Public Prosecutions and others 2007 (3) SA 242 (T).

## **6. Litigating parties**

In criminal matters and within the context of the manual, litigating parties include members of the prosecution services and legal representatives for the defence.

## **7. Coordinators/Regional Court President Representative**

A regional magistrate delegated by the Regional Court President at the various regional court seats to assist the RCP in the administration and management of CFM and related issues.

## **8. Court hours**

In the context of court and case flow management, court hours refers to the time spent in court during court sessions.

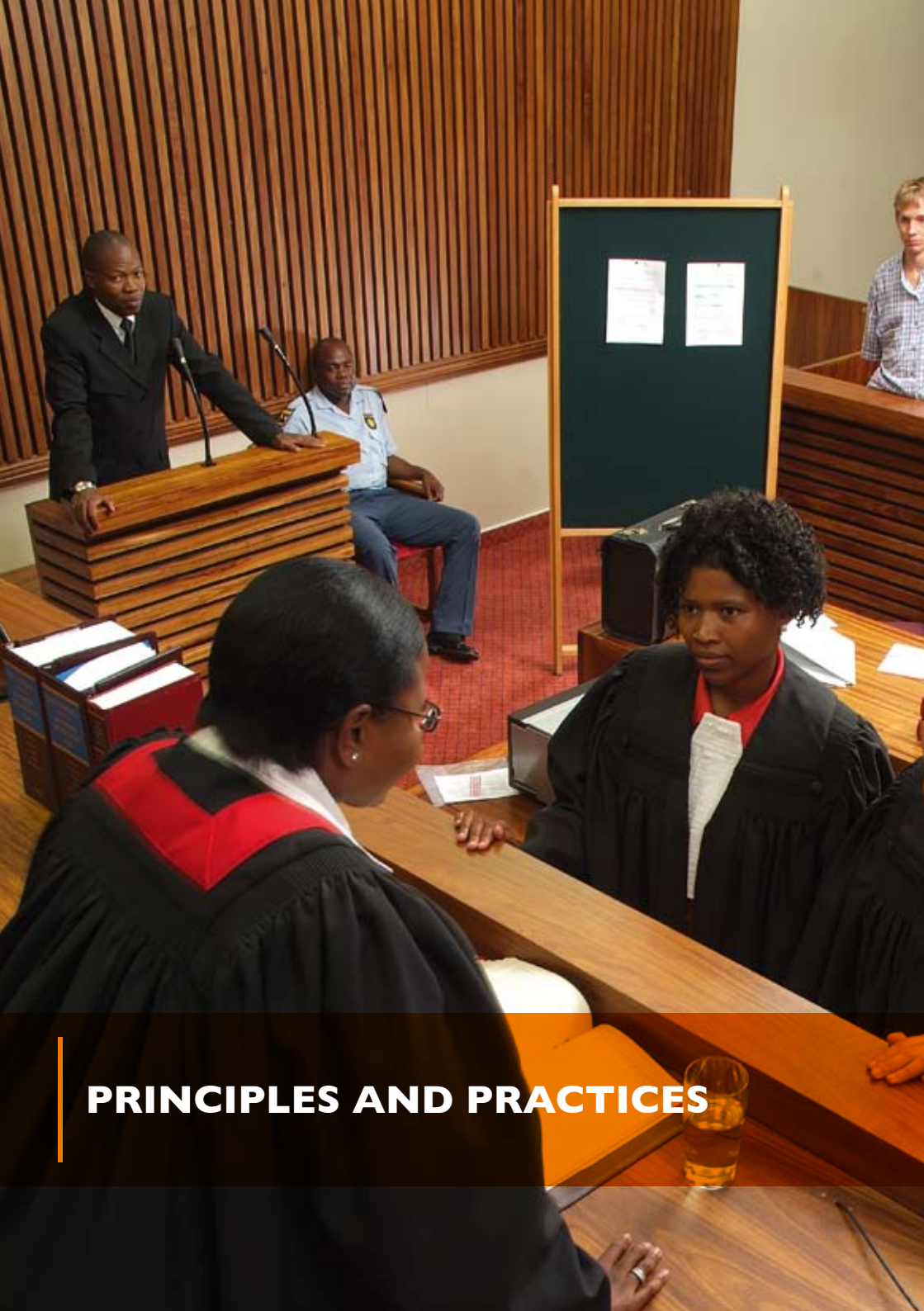
## **9. Office Hours**

The office hours at Magistrate's Courts throughout South Africa are from 07h45 to 16h15 daily (weekends and public holidays excluded).

## **10. Judicare**

This is an extension of the legal aid system whereby private practitioners are contracted by Legal Aid South Africa to supplement their services.





# PRINCIPLES AND PRACTICES



## **INTRODUCTION**

This guide is designed to serve as a practical aid to all participants in the Criminal Justice System on how cases should be managed more effectively from enrolment to conclusion.

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The guide itself and the recommendations contained herein were agreed upon by representatives of the judicial Lower Court Management Committee in consultation with role-players. All agreed that the current state of case management in the Criminal Justice System and the delays in dispensing justice one way or another needed improvement if the common goals of efficiency and effectiveness were to be met.

Our CJS has been hampered for too long by unnecessary delays, resulting in a loss of confidence and human rights violations.

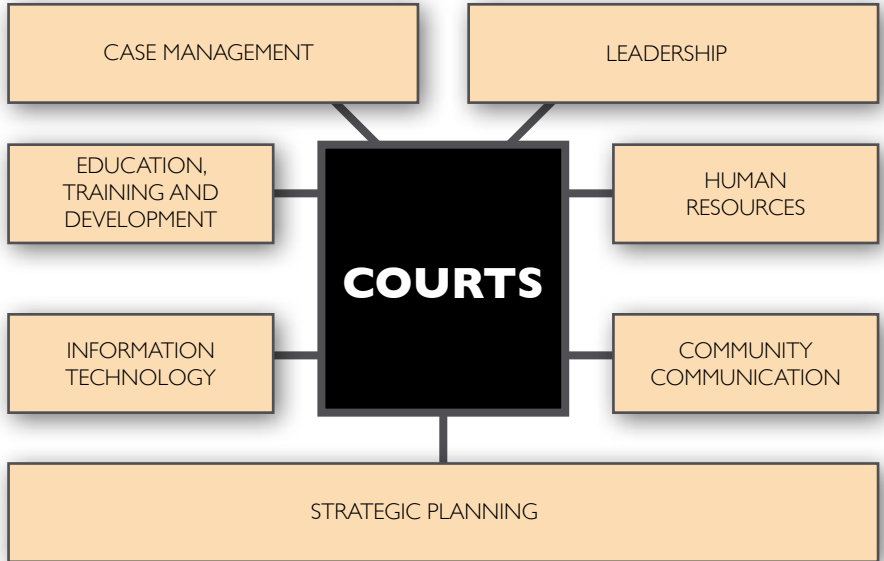
The recommendations in this guide are designed to enable each role player within the system to be aware of the objectives of their role and perhaps, more importantly, how their roles, or a failure to perform their roles, can impact on the other role players and thus often create problems when they do not conform satisfactorily.

The law and practices change from time to time. It is therefore imperative that these guidelines be seen as a practical living document to influence the achievement of satisfactory standards at any given time. This enhanced manual is primarily a tool to help ensure that criminal cases are dealt with in the shortest possible time and in a fair and transparent manner. It should not be seen as replacing, but rather adding to, other initiatives to make the CJS more efficient.

A well managed court system recognises the progressive need to co-ordinate and align responses to criminal justice issues in keeping with the demands of present day developments and circumstances. Courts can and should implement initiatives and reforms in a collaborative fashion without risking judicial independence. By seeking stakeholder input and commitment, courts must provide effective leadership in developing a responsive and efficient court system that anticipates and meets the challenges of the day.

## CORE COMPETENCIES

Court and case flow management relies on several factors of practice to succeed. These considerations are deemed to be core competencies making up the foundation on which CFM is built and sustained. These are depicted graphically in the diagram below.



Each of the seven factors is on its own a fundamental element of CFM and should be geared towards the ultimate – and common - goal of improving justice delivery. Consequently, all the elements are interdependent within the context of the criminal justice system as a whole, relying on role players responsible for any activities emanating therefrom to adopt an integrated approach in all aspects of functionality.

The principles and practices described in this manual are built on these competencies. It is of utmost importance that all the relevant role players continuously respond with diligence, industry and in an integrated manner to ensure the success thereof.

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## **OBJECTIVES**

The main objectives of CFM are to:

1. Secure the commitment from all role players in the application of an integrated case flow management system as a standard practice.
2. Inculcate a culture of commitment and effective leadership in all components towards the fulfilment of these objectives.
3. Foster accountability by implementing mechanisms to ensure compliance with performance standards for all the role players.
4. Adopt measures to ensure that judicial officers manage court proceedings and maintain control of case flow.
5. Establish case flow management structures at all relevant levels under the leadership of the judiciary.
6. Develop a custom of practices which are less tolerant of delays in the CJS.
7. Ensure timely conclusion of cases consistent with circumstances of the case.
8. Regard every court appearance as an opportunity to finalise a matter.
9. Contribute to the reduction of the number of awaiting trial detainees.
10. Enhance public confidence in the judicial system and to ensure that justice is equally and timely available to all persons.
11. Ensure that these objectives are met by ongoing consultation with and education, training and development of all role-players.

## **BASIC ELEMENTS AND CONSIDERATIONS TO ENHANCE THE EFFECTIVENESS OF COURT AND CASE FLOW MANAGEMENT**

The Criminal Justice System is a complex web of practices requiring input from many stakeholders. CFM consequently comprises of a multitude of factors, the consideration and application of which will depend on dynamics and circumstances existing from place to place and from time to time.

With these complexities in mind, the following basic elements and considerations are considered to be of utmost importance towards enhancing the overall effectiveness of court and case flow management and should result in marked improvements in the operating effectiveness and efficiency of criminal courts in South Africa.

1. Every magistrate's office must have a case flow management plan. (*See page 18*).
2. Prescribed court hours are from 09h00 to 16h00, with relevant adjournments in between.
3. As a standard practice, all courts must begin at 09h00 – judicial officers should ensure compliance and deviation from this must be dealt with in open court.
4. It is essential that the heads of the judicial, prosecuting and administrative components notify each other before 08h30 on each court day of any circumstance which may affect the normal operation of the courts.
5. It is furthermore essential that contingency arrangements be expedited by the responsible component in the event of the above, and be relayed to the other components without delay.
6. Consultations by and between litigants and with witnesses should not take place during court times, except with the leave of the court.
7. Witnesses and accused persons should be subpoenaed or warned for court for 08h30.
8. A sufficient number of cases must be scheduled for each day to ensure optimal utilisation of prescribed court time.
9. Court schedules should be planned to include a mixture of custodial, non-custodial, defended and undefended cases to facilitate the management of daily court sessions.



10. At centres where there are more than one court, the drawing of cases between courts should be sanctioned by the judicial head of court or his/her duly delegated authority and must be facilitated where possible in order to maximise the use of all court time.
11. Legal practitioners should be permitted to schedule more than one case on the roll of a specific court for any one date, provided that they not be committed to appearances in any other court on the same date.
12. Witnesses and all officers of the court may not be excused from attendance at court except with leave of the court.
13. Persons required to appear in court in any capacity may not arrange with the prosecution or defence representatives to appear at their convenience.
14. Prosecutors should present a synopsis of the matters that have been enrolled for the day in open court at 09h00.
15. In order to facilitate effective daily court roll management, cases ought to be dealt with in the following order:
  - postponements
  - first appearances
  - bail applications
  - guilty pleas
  - sentences
  - part heard matters
  - oldest trials
16. In addition to the above, cases involving the following must be prioritised:
  - juveniles
  - detainees
  - witnesses and/or accused persons from out of town.
17. It is essential for judicial officers to effect professional discipline in courts in respect of these and other matters set out in this guide, to give proper meaning to effective and efficient court and case flow management.
18. The judiciary must convene regular meetings to deal with CFM issues.
19. Relevant statistics must be compiled and utilised to facilitate effective case flow management and processes – particularly for the purpose of analysing court performance by role players in the application of case flow management.

20. Vacation leave or any absence from office must be co-ordinated by the court manager through the use of a central court planning diary to ensure the minimum disruption of court rolls. Managers in the various sectors are furthermore encouraged to develop and implement a leave/absenteeism policy to facilitate proper forward planning of court sessions.
21. Management within the various components must ensure that the filling of vacancies is continuously prioritised.
22. Co-ordinated, ongoing training must be provided to magistrates, litigating parties and support services personnel to secure consistent and uniform interpretation and implementation of court and case flow management. The heads of all these components and other functionaries must ensure that on-going training of all staff within their respective components takes place.
23. It is essential to provide sufficient logistical and personnel resources to ensure sustained court and case flow management.
24. The urgent production of a single diary format, especially for use in criminal courts throughout the country, to enhance case scheduling and the allocation of court time.
25. Ensure the optimal utilisation of audio-visual remand systems where available.
26. Proactive action is necessary to deal with children in conflict with the law in line with CFM objectives (*see for instance, Child Liaison Officer on page 59*).
27. The implementation of a standing national co-ordinating committee led by the judiciary to monitor the progress of court and case flow management implementation and to deal speedily with future amendments to the court and case flow management guidelines.

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## **CASE SCHEDULING**

Firm trial dates and limited adjournment policies are key variables in effective CFM. Scheduling of cases is a function inherent to the judicial responsibilities of judicial officers. On application by the parties before court, a judicial officer will exercise this responsibility in scheduling each case for forthcoming appearances in court and ensure that it is recorded in a court diary.

The expectation should be that a matter set down for trial is more likely than not to begin on its first scheduled trial date. Realistic trial settings are necessary to ensure that excessive postponements do not occur. At the least, the expectation must be that the trial date is reliable. Judicial officers not only have the right to insist that parties are prepared to present and argue cases when they come to court, but also have a duty to the parties and the public to insist they are:

1. The allocation of courts and cases is a judicial function and Judicial Heads of Courts should develop and maintain a policy framework in this regard.
2. A sufficient number of cases must be scheduled for each day to ensure the optimal utilisation of prescribed court time.
3. Cases that have to be re-scheduled for any reason whatsoever should be prioritised.
4. Diaries for the ensuing year must be allocated by the administrative component by August of each year to, and be maintained in, each court.
5. Clerks of Court must support Judicial officers by maintaining these diaries in court.
6. Court diaries should contain at least the following information:
  - Case number
  - Name(s) of accused
  - Charge
  - Reason for enrolment
  - Legal representative
  - Estimated duration of enrolment.

7. It is the duty of the judicial officer in the court, on any given day, to ensure that the diary is maintained. If courts are combined for any reason, the judicial officer should ensure that the respective diary for each court is properly maintained.
8. Prosecutors must maintain their own diaries.
9. The court diaries and those kept by prosecutors must include appropriate references to part-heard cases, as well as periods when the magistrate or prosecutor normally assigned to that court will be unavailable.
10. In the postponement of cases, it should be borne in mind that adjournments should be kept to a minimum and the periods should be relevant to the purpose of the adjournment.
11. Litigating parties are encouraged to bring an application to adjourn a trial at the earliest reasonable opportunity and not wait until the trial date, should they be of the opinion that the matter cannot or is unlikely to proceed on the scheduled date.
12. While sufficient cases should be scheduled to ensure the optimal utilisation of available court hours, cases which, however, have to be postponed, should be accorded the necessary empathy and preference should be given during re-scheduling.
13. It is generally accepted that District Courts in South African circumstances should on average finalise two to three cases per day.
14. Notwithstanding, it is appreciated that circumstances may cause deviations from this. Scheduling should take these factors into consideration.
15. A reasonable expectation would consequently lean towards the finalisation of approximately 40 to 60 cases per month in the District Courts.
16. Before a matter is adjourned for trial, the court must require of the parties to confirm that they are in fact ready to proceed with the hearing - a form relating to this trial readiness enquiry is provided in this manual. **(See page 100).**
17. A court's consideration of adjournments should however not be excessively rigid or governed by arbitrary rules, but it should create the expectation that events will occur when scheduled.

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## **COURT AND CASE FLOW MANAGEMENT STRUCTURES**

Although the general principles of CFM are fairly well documented and established **structures** throughout South Africa to maintain consistent, effective management of the courts and case flow are mostly varied, fragmented and not properly keyed into getting the job done properly.

Any business operation - no less the operating systems for administering courts and cases - requires planned, co-ordinated structures that complement each other whilst focussing on the overall core business. Court and case flow management, in this context, essentially deals with "business operations" and it follows that structures to support these business operations must be established and maintained.

It must be emphasised that these functionaries, while directly linked to the leadership and management roles of the judiciary, do not detract from their adjudication independence, and serve to integrate all the relevant role players to achieve the respected service expected of courts.

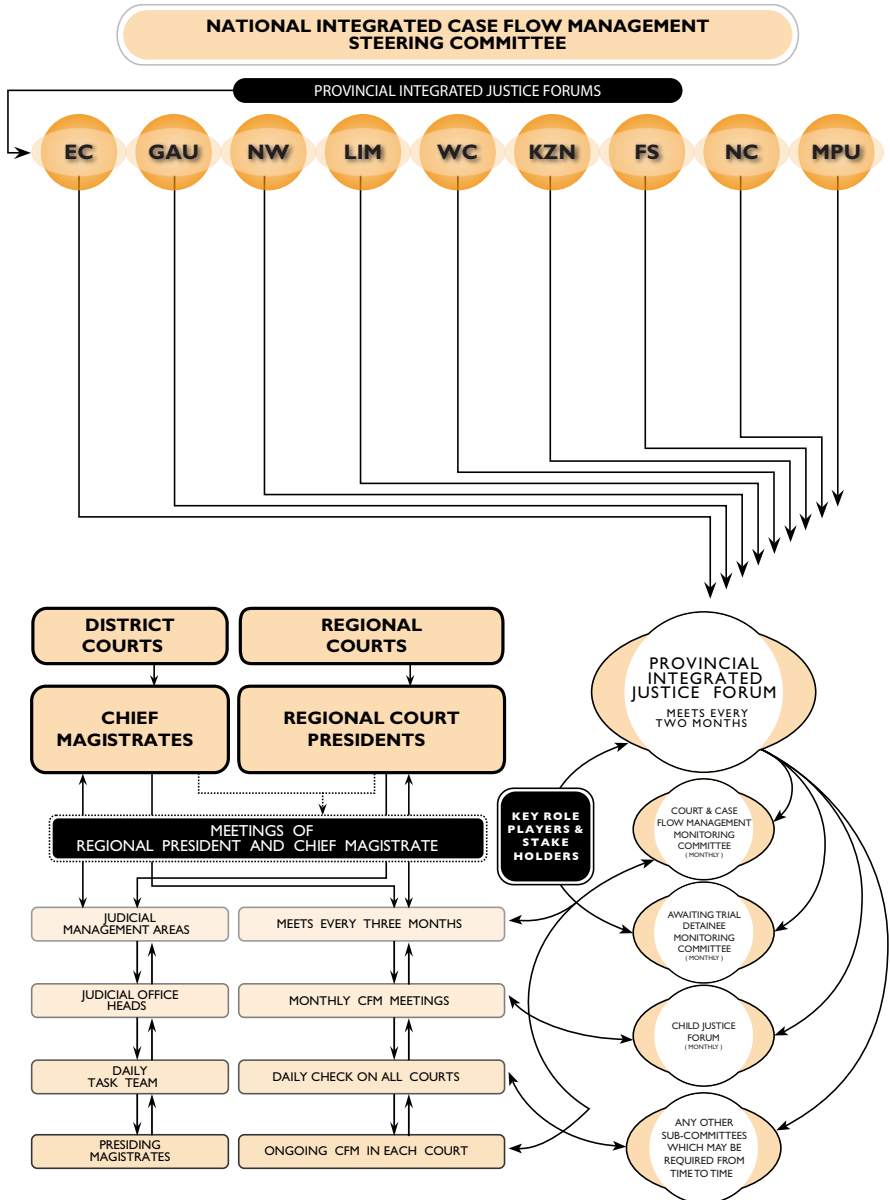
These structures are furthermore supplementary to the fundamental structures already in place - departments or offices of the police, prosecution, court support, legal fraternity and social services, to name a few.

Several CFM forums and task teams have indeed already been established in recent years to continuously focus on the management of courts and the flow of cases. These have been very successful.

However, we need to build on these successes and ensure that there is a consistent framework of such structures throughout the country, engaging all role players in a fairly similar pattern of practices connected with managing courts and cases. The end result will without doubt be a better co-ordinated criminal justice system - from the most remote Magistrate's Office through to national level, and vice versa.

The diagram hereunder illustrates graphically the explanation of the supporting structures:

## COURT AND CASE FLOW MANAGEMENT STRUCTURES



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## **I. Regional Courts**

### **a. Decentralised Regional Court CFM Forum (also referred to as the Coordinator's Area Meeting - CAM)**

These forums at Regional Court level are to meet with all role players involved in Regional Court CFM.

All decentralised regional courts (the CAM's) should meet regularly and should be attended by senior area managers from all relevant organisations. Standard items on the agenda at these meetings must include at least the following:

- Production of statistics.
- Analysis of statistics.
- Awaiting trials detainees.
- Case backlogs.

This forum is responsible for the resolution of CFM problems in its area and the submission of minutes and reports arising from meetings and interventions.

### **b. Regional Court Divisions (provincial CFM forums)**

Each Regional Court President will be responsible for convening regular meetings with provincial representatives of all relevant role players to discuss and resolve CFM issues.

## **2. District Courts**

### **a. Daily CFM Operations Task Teams**

All courts need to be continuously managed - *on a hour-to-hour, day-to-day basis* - whether at so called "one-man stations" or at complex multi-court establishments. This essential monitoring and trouble-shooting function is the very foundation of Court and Case Flow Management and must be adequately catered for in Local CFM Business Plans (see also below under *LCFMF* and under *Local CFM Plans*). Task committees comprising of, at the very least, a member of the judiciary, court support service and prosecuting authority must effectively team up **every day** to check on court requirements and operations from as early as the start of official office hours,

in order to co-ordinate prompt and effective management response in this regard. To facilitate this exercise, a pro forma daily CFM management sheet is provided in this guide, including most common factors to be considered when carrying out this task. (See page 108).

In regions where smaller establishments exist, outlying courts must be grouped together under the daily scrutiny of a Daily CFM Task Committee, supervised by and reporting to the Judicial Head of the region or sub-region. This may necessitate regular telephonic or internet contact as all the role players will not be located together - requiring role players at remote areas to maintain a daily communication service with them.

At larger offices with multiple court operations and where all relevant role players are together, the Daily Task Committees should perform this function through on-site visits to each court on the establishment, alternatively, through daily co-ordinated meetings of the committee members.

### **b. Local Case Flow Management Forums**

Local CFM Forums are the next upward level in the CFM structure, to engage all role players involved with or contributing to the management of courts and cases. These forums have already been established at most Magistrate's Offices in South Africa and fall under the auspices of the Judicial Heads of Office who usually chair the meetings. However, there are offices which do not subscribe to this essential practice and indeed, even where instituted, many such forums are inconsistent in meeting and/or effectiveness.

It is considered obligatory in terms of effective CFM that **all** Magistrate's Offices have an LCFMF, and that **it meets no less than once a month**. Standard items on the agenda at these meetings must include at least the following:

- Production of statistics.
- Analysis of statistics.
- Awaiting trials detainees.
- Case backlogs.



- Discussion of above.

This forum is also responsible for the development and maintenance of a Local CFM Plan, and the provision of minutes and reports arising from meetings and interventions. (A further guide to these forums in respect of the agenda, noting attendances, keeping minutes, developing action or intervention plans and time frames, etc, is contained on pages 60-62 in this guide).

### **3. Area CFM Forums**

All Magistrate's Offices in South Africa are organisationally grouped into regions (or clusters), and similarly, sub-regions (sub – clusters). It follows that the next level in the CFM management system are forums to oversee CFM in these regions.

These forums are ideally based at sub-region (sub-cluster) level to deal with issues on a broader basis than the local committees attached to individual Magistrate's Offices. They also coincide with the management hierarchy and are thus more pertinently the domain of Judicial Sub-Region Heads (Senior Magistrates) and are attended by the likes of Chief and Senior Public Prosecutors, Area Court Managers and area managers from the other role player organisations.

Whilst not detracting from the importance of business, these forums may be less substantial in composition and meet less frequently than those at the coal face (the LCFMF's). Present circumstances dictate that these forums should meet at least once every three months.

### **4. Provincial CFM Forums**

#### ***a. District Courts***

The administrative regions in each province are headed by a chief magistrate duly appointed by the Minister in consultation with the Magistrates Commission. Consequently the local magistrate's office and sub-region structures fall within the ambit of the overall provincial leadership and management of such judicial heads. The fullest extent of court and case flow management for the lower courts will therefore be achieved when the regional court president and cluster head of each province/

region exercise this leadership through their own “provincial forum”, meeting perhaps 2 or 3 times per year, or on an *ad hoc* basis when the need arises. It is at this provincial level that the judicial heads would engage with provincial heads of the other sectors when necessary.

### **b. Provincial Integrated Justice Forums**

Some provinces in South Africa have for some time now developed standing committees to monitor and engage on issues pertinent to the functioning of the criminal justice system in their regions. These committees engage all relevant role players at the highest provincial level and meet under the auspices of the judiciary - usually chaired by the Judge President of the province or a representative from his/her office. As these committees deal primarily with matters related to the Lower Courts, Regional Presidents and Chief Magistrates represent their constituents of the judiciary at the most senior level; whilst Regional DOJCD Heads, provincial Directors of Public Prosecution, provincial Commissioners of Police, and Heads of Government Departments, are indicative of the seniority of representation for other sectors.

The following list illustrates participating sectors in these forums:

- Regional Judiciary.
- District Judiciary.
- National Prosecuting Authority.
- South African Police Service.
- Local Government.
- Provincial Department of Transport.
- Legal Aid South Africa.
- Law Society.
- Bar Council.
- Correctional Services.
- Department of Health.
- Department of Education.
- Department of Social Development.
- Department of Justice and Constitutional Development.
- Non-Governmental Organisations.

- Community Police Forums.
- Safety and Security Liaison.
- Business Against Crime.

*(This is not an exhaustive list)*

These committees are essentially **Provincial Integrated Justice Forums** and are so termed for the purpose of Court and Case Flow Management. In line with present practices, it should be expected that these forums meet at least once every three months.

The extent and depth of matters under constant review by the provincial forums will often necessitate satellite working groups to engage more closely on selected matters for the forum. This may take the form of ongoing sub-committees or short term task groups. The earlier diagram includes several such sub-committees by way of example. One such sub-committee which is strongly recommended as an essential permanent working group, reporting to the PIJF, is one to regularly and consistently monitor the effect and efficiency of court and case flow management throughout the province (sub-paragraph (c) hereunder).

### **c. Provincial CFM Monitoring Committees (CFMMC's)**

CFMMC's have already been established in several provinces in South Africa to monitor case flow management. These forums have proved to be extremely effective in this respect. It follows that they should be established in all provinces. The Case Flow Management Monitoring Committees comprise of at least the following role players:

- Lower Court Judiciary.
- Department of Justice and Constitutional Development.
- National Prosecuting Authority.
- Legal Aid South Africa.
- South African Police Services.
- Correctional Services.

These committees are chaired by the Regional Court President/Judicial Head of the region. The purpose of the CFMMC's is to monitor and evaluate all matters relevant

to the functioning and efficiency of courts, and to implement interventions where necessary. The CFMMC's must also provide feedback to the PIJF's on the status and efficacy of court and case flow management in the province and any projects that are aimed at improving the functioning of the courts.

## **5. National Integrated CFM Steering Committee**

In addition to local and provincial CFM forums, there exists at present a national integrated case flow management steering committee comprising representatives from the relevant sectors of the criminal justice system at national level. This committee meets at regular intervals to liaise on issues of strategic importance to the country within the context of crime and the courts, and can thus be viewed as the topmost structure in court and case flow management structures in South Africa.

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## **A COURT AND CASE FLOW MANAGEMENT PLAN**

Each magistrate's office must have a plan to deal with issues pertaining to court and case flow management in the district courts. This plan needs to be devised in consultation with the other role players in the area and must be reduced to writing. The plan should generally include at least the following aspects:

1. **A problem statement** defining the problems, issues or challenges
2. **An action plan** setting out:
  - proposed solutions and/or corrective measures
  - together with time frames
3. **Assigning responsibilities** to individual representatives from member groups.

Such plans for each office should be reviewed frequently, but be renewed at least once annually. CFM plans will in effect be the "terms of reference" for monthly CFM meetings at each office.

### ***Developing A CFM Plan***

The duty rests on Judicial Heads to introduce the Case Flow Management concept to all local role players and stakeholders within the criminal justice value chain in their regions and workshops are the ideal way of bringing everyone on board. Where these have not already taken place, they should be planned and implemented without delay.

A workshop will set the basis for forward application of case flow management in the area and secure a better understanding and commitment from role players. An agenda would include, for instance the following:

1. A presentation of statistical data reflecting the statistical performance of the courts, with particular emphasis on backlog cases.
2. An assessment of the statistical data to identify problem areas.
3. An examination of the steps involved in the flow of cases at any point from enrolment, through trial to post-judgment and sentencing stages, in order to identify any problems in this regard.

4. A review of all the major areas of present concern in the criminal justice system - awaiting trial detainees, non-payment of bail, children in conflict with the law, alternative dispute resolutions, etc – to ensure that appropriate attention is given to each area of concern.
5. A reflection on the activities of role players to determine whether there are needs for improvement, particularly when related to an identified problem.

The problems, challenges and the action plan of solutions and time frames, should be reduced to a written CFM Plan for the Magistrate's Office, requiring specific representatives to be accorded with responsibilities of maintaining and reporting on the action plan and progress during the year. In effect, the CFM Plan sets out the long term strategy and goals of the particular office in respect of monitoring, managing and improving the flow of cases at the particular office.

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## MONITORING PROCESS

Local court and case flow management meetings must be held at least monthly to address operational issues.

However, at offices where more frequent meetings are required to deal with court and case flow management issues, it is strongly recommended that weekly meetings take place for this purpose. Furthermore, because case flow management is an ongoing process where problems should be identified and solved sooner rather than later, *ad hoc* meetings often take place and should continue to take place for this purpose – in addition to weekly or monthly meetings.

One of the prime objectives of court and case flow management is to involve all relevant role players in these forums as equal partners. It is therefore encouraged that as far as possible, all such role players are invited, and do attend, case flow meetings. Notwithstanding, the absence of any role players or any difficulty to attend meetings consistently should not prevent such meetings from taking place.

Case flow meetings essentially involve a monitoring process through the involvement of all role players - by examining and discussing any factors affecting court functioning and productivity on a regular basis. This process obviously starts at office level and opportunities are provided to solve issues locally and as quickly as possible at these meetings. Serious matters which cannot be resolved in this manner need to be escalated thereafter through the relevant case flow management structures.

It is essential that there be uniformity and consistency in these practices. This will not happen unless court and case flow management is continuously monitored and driven from the top down, i.e. by management and supervisory personnel. It is also essential that all such meetings be constituted through judicial heads of offices and be attended at all times by senior management/supervisory personnel.

All case flow meetings must be reflected through formal minutes containing the names of attendees, the agenda and discussions, as well as agreed actions/interventions with time frames and responsibilities, arising from the meetings. (Refer to pages 60-62

which should be used to record the minutes). The standard agenda items reflected in the annexure must be discussed at every meeting.

These minutes must be kept on file at every office.

Copies of these minutes must be submitted to the Judicial Head of the sub-region who must in turn combine all copies of these minutes in respect of the various offices within their respective sub-regions and submit them to the Judicial Head of the region in the form of an analysis report incorporating at least outstanding court rolls, court occupancy, matters outstanding for 6 months and longer and judicial absence from office. Attendees of the meetings are obliged to forward the minutes to their respective heads if such heads did not themselves attend the meeting and to make them available to appropriate persons when necessary (Please also refer to responsibilities defined under Judiciary).

Minutes of all CFM meetings must be forwarded to all role players as soon as possible after each meeting. It is the responsibility of attendees at meetings to provide copies of minutes to their respective institutions.

The Area Court Manager must ensure that copies of the minutes of all CFM meetings within their area of responsibility are combined in a report and submitted to the Regional Head, DOJCD.

CFM meetings should be scheduled in advance annually and published for the information of all stake-holders at the end of each year for the following year.

The effective utilisation of statistics is crucial to monitor CFM. One cannot effectively manage what cannot be measured and in this regard statistics must be regularly analysed and only in this way can corrective and preventative steps be taken. Statistics are an important tool to monitor the progress of case flow in courts, the creation of posts within the various functionaries and the productivity of all staff.

Role players will find the various reports generated by the administrative support services at all offices (through the ICMS) indispensable when analysing statistics and monitoring courts and cases. Clerks can provide print-outs of the reports as and



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when required. The manual for the ICMS explains the objectives and benefits of each of the 13 reports. It can be accessed on the Department's site (DJINI, go to Branches, then go to Court Services and then to Programme 2 – Court Performance).

There is no reason why statistics between the different functionaries in respect of actual court hours should be dissimilar and we must strive for uniformity in this regard. Importantly, incorrect/unreliable statistics result in inappropriate decisions being made. Leave schedules of staff within the different functionaries can be properly planned by utilising information in the ICMS and the central court planning diary. Some specimen forms included in this guide have been provided as examples of daily, weekly or monthly monitoring processes already utilised in various offices around South Africa.

## **CRIMINAL CASE FLOW CHARTS**

The flowcharts which follow will assist with the implementation and interpretation of case management. The time frames suggested serve as the basis for analysing current case flow practices and determining the processing of events that should be implemented to dispose of cases within reasonable periods. Although the scheduling of case events must be based on the characteristics of individual cases, the courts should strive for consistency.

A

**SECURING ATTENDANCE OF ACCUSED AT COURT**

(Sec 37 CPA)

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**ARREST<sup>1</sup>  
Sec 40 CPA**

- Police Station
- Charged
- Rights explained
- Discretion of police to issue written notice to appear in court Sect 56 CPA
- Police consider bail
- Offences other than those referred to in Part 2 or 3 of Schedule 2 Sect 59 CPA
- Prosecutor can fix bail in consultation with I/O Schedule 7 offences Sect 59 A CPA
- Police may release on warning if not offence mentioned in Parts 2 or 3 of Schedule 2 Sect 72(1) CPA

**SUMMONS  
Section 54 CPA**

A/G included<sup>2</sup>  
Payment of AG  
Sect 57(1)(a) CPA  
End of matter

**WRITTEN NOTICE  
Section 56 CPA**

A/G included  
Payment of AG  
Sect 57(1)(b) CPA  
End of matter

No A/G fixed  
— or A/G not paid  
— or A/G set aside  
Sect 57(7) CPA  
**Proceeds to Court**

Police may investigate and refer matter to prosecutor for decision.

If decision is to prosecute....

Arrest or summons methods can be used to secure attendance at court



1. See *Louw & Another - vs Min of Safety & Security 2006(2)SACR 178 TPD*. In consequence, the National Commissioner of police issued directives on the 9/5/05 to all police officers regarding arrest and detention of suspects (under reference 26/5/11) to arrest as a last resort.

2. Payment of A/G fine amounts to a plea of guilty and, in law, generally to a conviction of the offence in respect of which the A/G has been paid: *NGJ Trading stores (Pty) Ltd – vs – Guerreiro 1974(4) SA 738(A)*. Court must examine A/G and may set aside same and direct ordinary prosecution if not within determination or not in accordance with Justice. (Sec 57(7)CPA.)

**B**

## **FIRST APPEARANCE AT COURT**

(First opportunity of judicial oversight over actions of police/prosecutors/arrest by private persons)

**As soon as reasonably possible but not later than 48hrs of arrest.  
Sec 50(1)(d)(ii) CPA**

**Under 14 yrs maximum 24hrs to be brought to court. Sec 29(5) CSA 8 of 1959.**

**14 days in respect of summons. Sec 54(3) CPA**

1. Police must inform guardian/parent of arrest of minors immediately upon arrest (Sec 50(4) CPA).
2. Police must inform probation officer/correctional official of arrest of minor as soon as possible following arrest. (Sec 50(5) CPA).
3. Court must raise the issue of diversion in respect of minors in appropriate cases.<sup>3</sup>
4. If bail granted by police or prosecutor court may reconsider same/amendment of conditions. (Sec 59(2), Sec 62 and Sec 63 CPA).
5. Refer juvenile to children's court if appropriate. (Sec 254(1)CPA).
6. Consider capacity of accused to understand proceedings/language. (Sec 77 CPA and Sec 35(3)(k) of the Constitution).
7. Consider peremptory requirements of charge sheet and charges (Sec 76(2), 80 and 84 CPA and Sec 35(3)(a) of the Constitution).
8. Consider recusal at earliest opportunity and inform accused of right to apply for bail/plead guilty/not guilty.<sup>4</sup>
9. Explain rights to legal representation, inform accused of charges, minimum sentences if applicable and any potential competent verdicts.<sup>5</sup> (Sec 35(1)(e) of the Constitution).

3. *S - vs - Z en Vier Ander sake 1999(1)SACR 427(E)*. In the draft child justice bill, it is envisaged to make it compulsory for the prosecutor to consider diversion in certain cases and, if not, for the court to hold a formal enquiry to consider diversion.
4. *State versus Basson 2004[1] SACR 285[C.C]*
5. *State vs Tshidiso 2002[1] SACR 2007[W]*

## B continued

### FIRST APPEARANCE AT COURT

(First opportunity of Judicial oversight over actions of police/prosecutors/arrest by private persons)

1. Remove from roll if entered in error, not properly before court, etc.
2. Withdrawal of charges
3. Possible constitutional challenge to lawfulness of detention - Sec 35(2)(d) of Constitution

4. Estimate age of accused – Sec 337 CPA
5. Enquire from parties if Admission of Guilt or Alternative Dispute Resolution (incl. diversion) has been considered - in appropriate cases
6. Possible release of minor into custody of parent / guardian
7. Consider application in chambers for HIV testing of alleged sex offenders – could be brought before charges are brought against accused – Sec 30 & 32 of SOA
8. Consider bail or release of accused on warning – Sec 60 & 72 CPA

9. Unopposed bail - no bail hearing - but if schedule 5 or 6 offence, evidence must be adduced
10. Opposed bail - bail hearing - if schedule 5 or 6 offence, evidence must be adduced - Sec 60(11)(a) & (b) CPA<sup>6</sup>
11. Adjourn for not longer than 7 days at a time for bail application on specified grounds i.t.o. Sec 50(6)(d) CPA
12. Court postpones bail hearing if insufficient or unreliable evidence at hand – Sec 60(3) CPA<sup>7</sup>
13. If notice of appeal to refusal of bail served – furnish reason for refusal forthwith – Sec 65(2) CPA

14. Adjourn for further investigation – Sec 168 CPA

15. Transfer to court having jurisdiction to try matter at request of state – Sec 75 CPA<sup>8</sup>
16. Possibility of adjournment for pre - trial conference, or plea agreement i.t.o. Sec 105A CPA

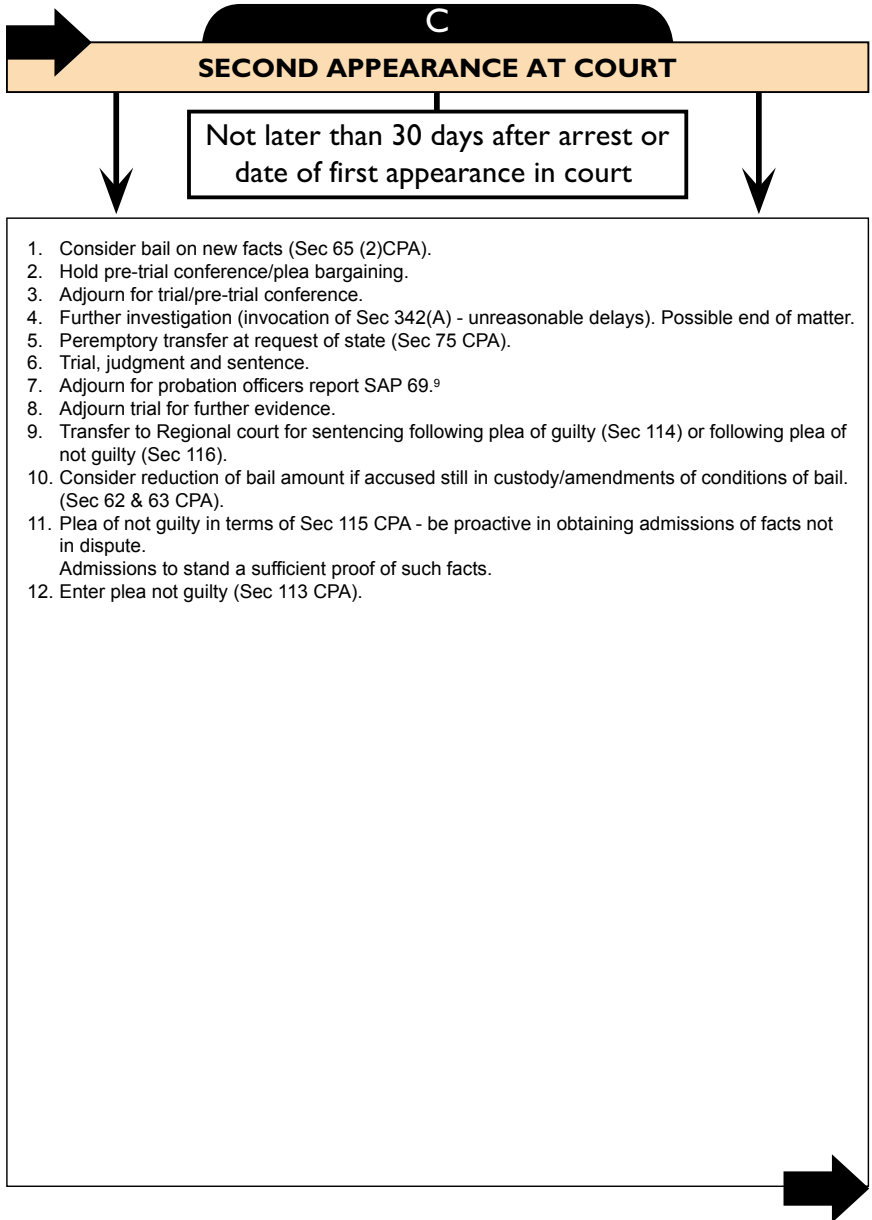
17. Plea – Sec 112(1)(a), 112(1)(b), 112(2), 115, 115(A) of CPA applied
18. Transfer to Regional Court for sentencing following plea of guilty – Sect 114 CPA
19. Invoke sect 113 CPA – admissions stand as sufficient proof of facts admitted

20. Adjourn for trial

6. *State vs Mabena & others 2007 [1]SACR [SCA]*

7. *Such adj compulsory if court is of opinion that it does not have reliable or sufficient information or evidence or lacks certain important information to reach a decision on the bail application*

8. *Peremptory transfer as word "shall" is used.*



9. A full bench of the T.P.D has now decided that it is not unconstitutional to question an accused, prior to imposing sentence about his/her previous convictions and to take any convictions so disclosed into account in the sentencing process, even if the state does not prove any previous convictions (State versus Elias Chauke – case no:908/02 T.P.D [unreported as yet]). It is however strongly suggested that the State be required to verify any previous convictions so disclosed by the accused.

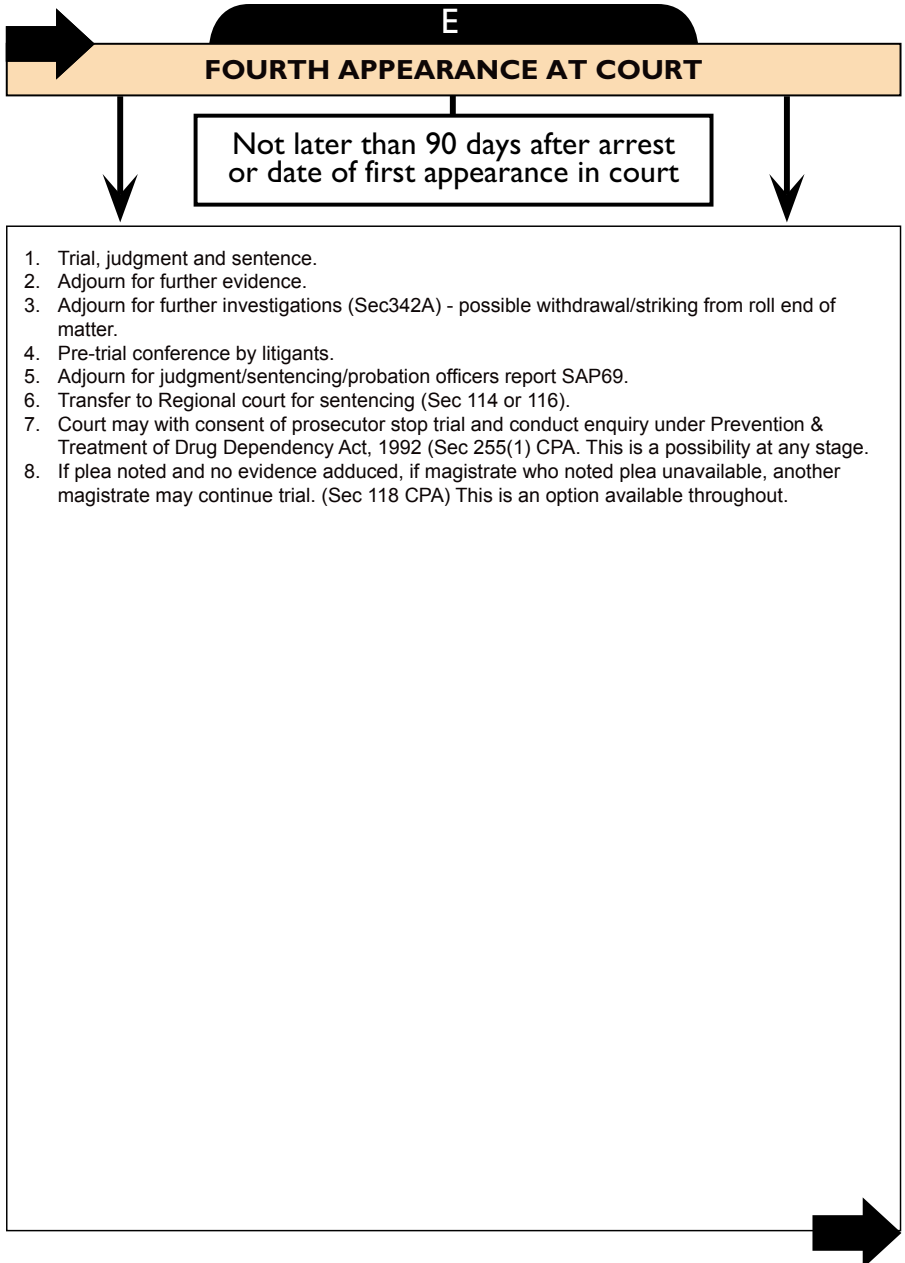
D

## THIRD APPEARANCE AT COURT

Not later than 60 days after arrest  
or date of first appearance in court

1. Trial, judgment and sentence.
2. Adjourn for further evidence.
3. Hold pre - trial.
4. Adjourn for judgment, sentencing, probation officers report/SAP 69.
5. Transfer to Regional court for sentencing (Sec 114 or 116 CPA).
6. Transfer to Regional court /High Court (Sec 75 CPA) at request of state.
7. Adjourn for further investigation (invocation of Sec 342(A) – unreasonable delays (possible withdrawal/striking from roll - end of matter.<sup>10</sup>
8. Correction of plea of guilty to not guilty and vice versa with leave of court.

<sup>10</sup> If delay prima facie found to be unreasonable court must [no discretion] invoke section 342A CPA and investigate cause of delay. See also *Sanderson versus A/ G Eastern Cape* 1998 [1] SACR 227 [C.C.] and *State versus Khan* [1998] Jol 98[w].



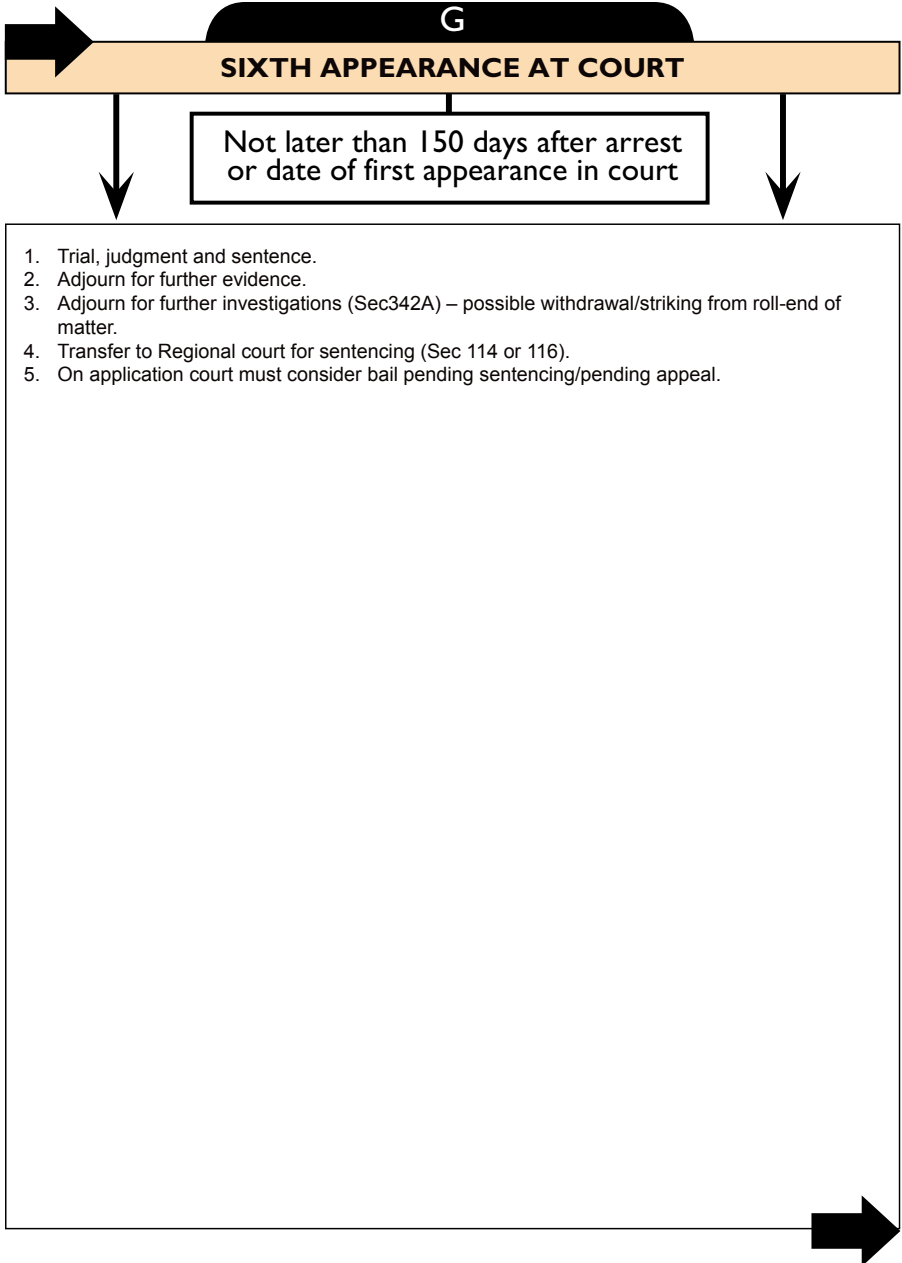


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**FIFTH APPEARANCE AT COURT**

Not later than 120 days after arrest  
or date of first appearance in court

1. Trial, judgment and sentence.
2. Adjourn for further evidence.
3. Adjourn for further investigations (Sec342A) - possible withdrawal/striking from roll-end of matter.
4. Pre-trial conference by litigants.
5. Adjourn for judgment/sentencing/probation officers report SAP69.
6. Transfer to Regional Court for sentencing (Sec 114 or 116).
7. If transfer to High Court, ensure indictment and notice of trial served on accused at least 10 days before date appointed for the trial or such shorter period if accused consents. (Sec 144(4)(a) CPA).



**SIXTH APPEARANCE AT COURT**

Not later than 150 days after arrest  
or date of first appearance in court

1. Trial, judgment and sentence.
2. Adjourn for further evidence.
3. Adjourn for further investigations (Sec342A) – possible withdrawal/striking from roll-end of matter.
4. Transfer to Regional court for sentencing (Sec 114 or 116).
5. On application court must consider bail pending sentencing/pending appeal.

H

## SEVENTH APPEARANCE AT COURT

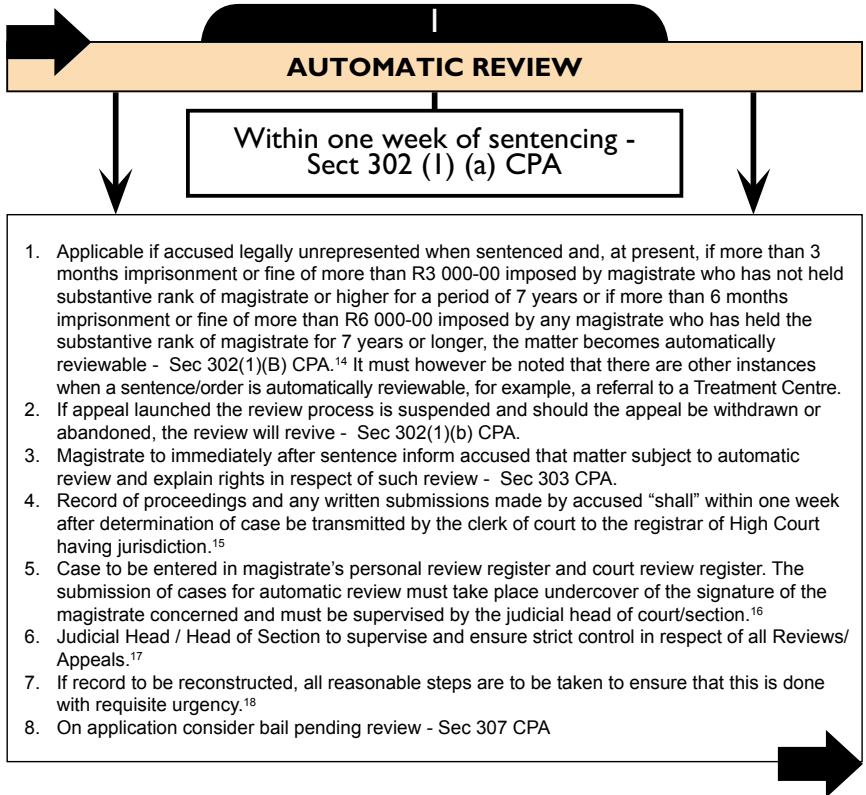
Not later than 180 days after arrest  
or date of first appearance in court

Maximum reasonable postponement period :  
District Courts - 180 days (6 months)  
Regional Courts - 270 days (9 months)

Cases on the court roll after these periods are considered  
to be backlog cases requiring prioritisation

1. Finalise trial, judgment and sentencing.
2. Transfer to Regional court for sentencing (Sec 114 or 116 CPA).
3. Application for leave to appeal against sentence/conviction to be lodged immediately or within 14 days of decision or on good cause shown within longer period. Such application must be considered as soon as possible. (Sec 309(B) CPA).<sup>11</sup>
4. Explanation of rights of appeal/review (Sec 309B CPA).
5. On application consider bail pending appeal/review (Sec 307(2) CPA).
6. Refuse or grant leave to appeal/condonation.
7. Furnish written reasons if required.
8. If convicted of offence causing damage or loss of property (including monies) and with consent of injured party, court may award compensation (Sec 300 CPA).
9. In sentencing primary caregivers court must properly consider rights of children.<sup>12</sup>
10. Forfeiture of articles to state and disposal orders (Sec 34 & 35 CPA).
11. Consider committal to treatment centre (Sec 296(1) CPA).
12. Consider application for deferment of fine (Sec 297(5) CPA).<sup>13</sup>
13. If Regional Court not satisfied that plea of guilty or admission correctly recorded by District Court it shall enter a plea of not guilty and proceed with trial. (Sec 114(3) CPA).

11. Should the trial court unreasonably delay a decision on an application for leave to appeal, such delay may be regarded as a constructive refusal of the application, see *New Clicks SA [Pty] Ltd - versus Minister of Health and another* 2005 [3] SA 238 [SCA].
12. In terms of Section 28[2] of Constitution in all matters concerning children the rights of children shall be of paramount importance. In *State versus M and Centre for Child law* 2007 [2] SACR 539, the court had to consider whether the sentencing court paid sufficient attention to such right when imposing imprisonment on the primary caregiver. It is submitted that such right should by necessary implication also be considered [amongst various others] when deciding whether or not to grant bail to a primary caregiver and the quantum thereof. See also *State versus Petersen* 2008 [2] SACR 355[C].
13. An accused has a right to have his ability to pay a fine in instalments, or the deferment thereof, considered by the court, consequently, he/she also has a right to be informed of these sentencing options and a failure to inform the accused thereof is an irregularity. *State versus Maluleke* 2002[1] SACR 26[T].



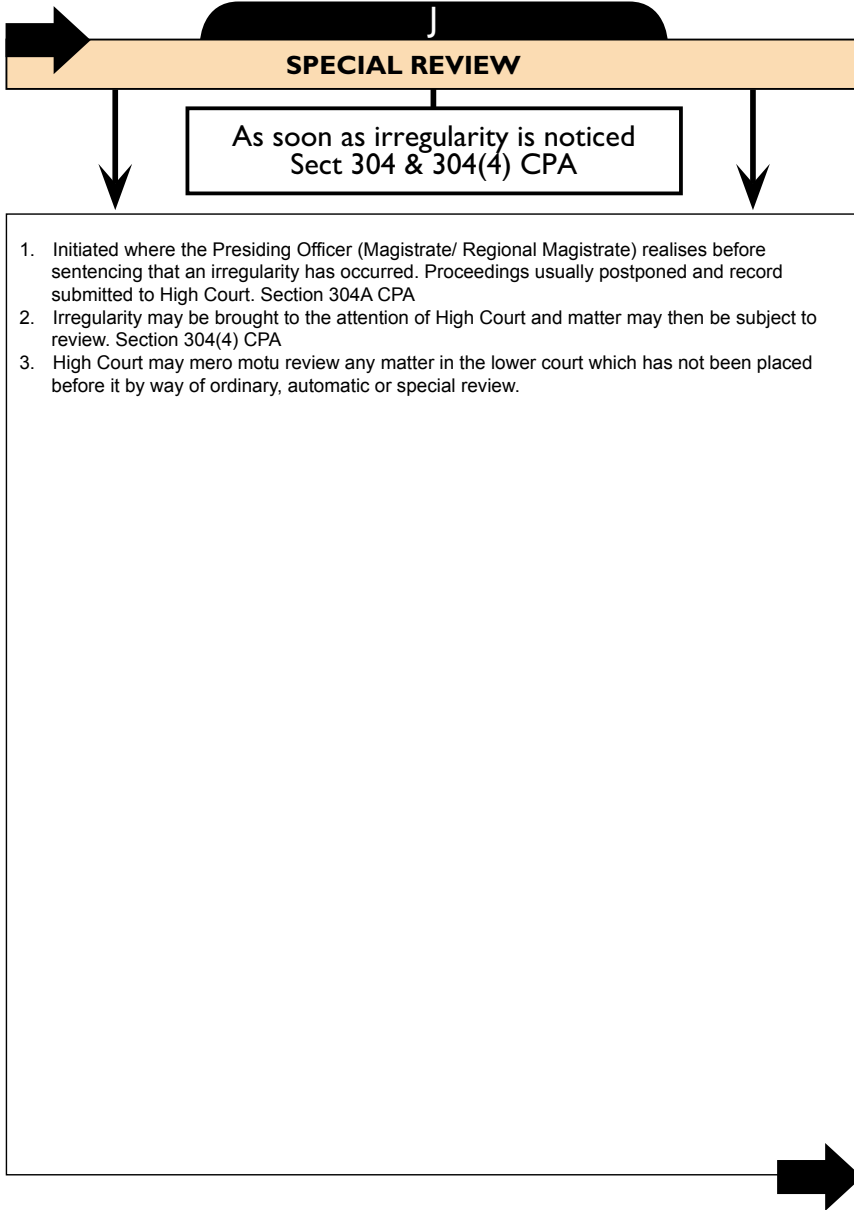
14. No distinctions made between suspended and unsuspended sentence.

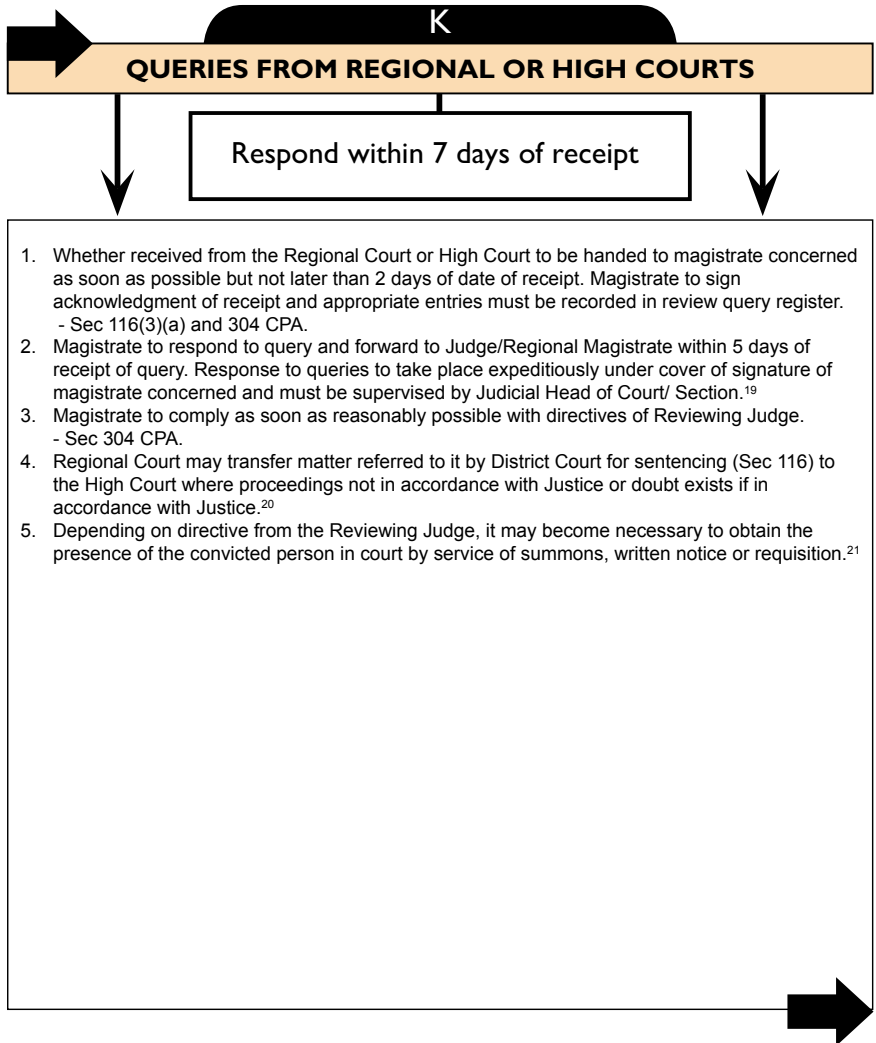
15. In practice in most regions serious administrative problems are often experienced in the transmission of the records for review to the High Courts. This may result in serious injustice to the accused whose sentence or conviction may be set aside or reduced by the Reviewing Judge: *State versus Ntantiso 2004 (1) SACR 171 (C)*. All Judicial Officers have a duty to ensure that appeals and reviews are submitted timeously to the High Court. A failure to attend to appeals and reviews expeditiously is not only an infringement of the rights of an accused person but could also have serious consequences for the Judicial officers concerned, See *State versus Lewies 1998(1) SACR 101(C)* and *State versus Joor [2003] JOL 12122 (C)*.

16. It is suggested that heads of court/section must at least once a week inspect the appeal and review control registers in their respective divisions and record that event by making a signed and dated entry in the Magistrates personal register. The review query registers must also be inspected at the same intervals. The primary purpose of this is to ensure that there are no unreasonable delays in such matters being placed before the appeal/ review court and it enables corrective steps to be taken at the earliest. This serves both as an internal monitoring mechanism and also as visible evidence thereof when subjected to external scrutiny. Most importantly it promotes the constitutional imperative that the trial of an accused should not only begin but also conclude without unreasonable delay.

17. The working relationship between the administrative staff and Judiciary is of vital importance to ensure the good administration of Justice. It seems from the various cases dealing with delays in transmission of records, the ultimate responsibility is that of the magistrate to ensure compliance and the working relationship between the court support services and Judiciary is of vital importance. In this regard the comments by Southwood J in *State versus Panganami Chilembe [case no A945/07] T.P.D.*, a judgment delivered on the 30 October 2007 bears reference: "the magistrate is hamstrung by an inefficient administrative staff. The system has clearly fallen short of what is required to ensure that as far as possible Justice is done. It is not just the Judicial Officers who must make the system work, it is also the transcription service and court staff. In this case the accused has needlessly served 6 months imprisonment." See also *State versus Christopher Mapu [Review no: 528/2000] ECLD*.

18. *State versus Joubert 1991 [1] SA 119 [AD]*. In *State versus Ntantiso & others 1997[2] SACR 302* duties of the magistrate are discussed when reconstructing the record.





19. A failure to refer a reviewable matter to the High Court within [7] days or to respond expeditiously to queries if it is impossible to comply with the statutory time period, may result in the various administrative functionaries responsible for the delay being held liable in delict to an accused who suffered prejudice as a result thereof, see *State versus Joors 2004[2] BCLR 21 7[c]* and the authorities cited therein. The comments made by Mavundla J in *State versus Alfred Rampadile [case no: A1 206/05]* Judgment delivered on 24 February 2006 T.P.D must be heeded to with regard to responses to queries from the High Court, namely, Magistrates must confine themselves to the issues raised and keep their bigotry to themselves and off the record.
20. With regard to the transmission of the record by the Regional Magistrate to the High Court, similar responsibilities are cast upon the Regional Magistrate and President of the Regional Court referred to in footnotes 15 - 18 above. There is no conceivable reason why this should not be the case.
21. This is to be done expeditiously having regard to the accused constitutional right in terms of Section 35[3][b] of the Constitution to have their trial begin and conclude without unreasonable delay. This right, without exception, must be considered at every stage of the criminal justice system and lies at the heart of court and case flow management objectives.

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## **INTERVENTIONS AND CONSIDERATIONS TO MINIMISE THE NUMBER OF AWAITING TRIAL DETAINEES**

1. Suspects should only be arrested if absolutely necessary and as far as possible where investigation is complete – the NPA and SAPS should ensure compliance with this.
2. Prosecutors should consider an increased use of summonses in terms of section 54 of the CPA to secure the attendance of accused at court - instead of, for instance, requesting warrants for arrest.
3. The use of written notices to appear in court in terms of section 56 of the CPA should be encouraged wherever appropriate.
4. Police officers must, wherever appropriate, consider *their* authority to release arrested persons on warning or on bail.
5. Arrested persons must be brought to court as soon as is reasonably possible after arrest and members of SAPS should not unnecessarily wait for the near expiration of the 48 hours period provided by the CPA.
6. Where accused are brought to court for first appearance, investigation officers must provide prosecutors with the necessary support/information regarding possible bail applications by these accused.
7. All role players must take note that it is not mandatory that bail applications be adjourned for periods up to 7 days.
8. Investigation officers must attend opposed bail hearings.
9. Where bail is granted – litigating parties and police officials should assist the court in ascertaining an appropriate and affordable bail amount.
10. Judicial officers are encouraged to play an active role in initiating bail applications as such applications are regarded as a priority given that this imposes on the liberty of the individual.
11. If bail has been fixed and the accused has not yet paid, the court must enquire into the matter prior to any further remands with a view to establishing whether the accused's incarceration is still necessary and in the interest of justice.
12. Consideration should be given to the increased use of pre-trial alternative dispute resolutions - not only for juveniles.

13. Should an accused not be in a position to pay bail, consideration must always be given for the possible release on warning together with placement under supervision of a correctional official in terms of section 62(f) of the CPA.
14. A weekly audit of prisoners who have not paid bail should be promoted to establish reasons therefor; with the view of assisting them to contact family or even a reduction in the amount of bail set.
15. Special bail courts should be implemented at the bigger centres to assist with the fast-tracking of bail applications.
16. An increased use by police, prosecutors and clerks of court of the procedure for admission of guilt and payment of a fine without a court appearance should, where appropriate, be promoted.
17. Plea bargaining is a useful tool to settle appropriate cases in a legitimate and acceptable manner and should be encouraged and promoted, particularly where the administration of justice is expedited.
18. Children in conflict with the law should be assessed immediately for possible placement in the care of parents or guardians or held in child care centres.
19. Cases involving an accused in custody longer than six months in the district court should, as a rule, be prioritised for finalisation.
20. All stakeholders are encouraged to visit prisons in their areas to remain aware of conditions.
21. Excessive prison populations should be continuously highlighted and discussed at case flow management meetings.
22. J50 warrants of arrest should only be requested/authorised in matters where it is clear that the attendance of the accused at court cannot be secured by any other means.



A photograph of a conference room. The walls are covered in vertical wood paneling. In the foreground, a wooden desk holds a black gooseneck microphone, a computer monitor, and some papers. The lighting is warm and focused on the desk area.

## **KEY ROLE PLAYERS AND RESPONSIBILITIES**



## **JUDICIARY**

From 1 September 2001, a separation of judicial and administrative functions occurred at courts countrywide. Such a step was necessary to enable magistrates to concentrate on their primary function, that is, to adjudicate on matters.

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## **REGIONAL COURT JUDICIARY**

### ***Regional Court Divisions***

Regional Court Presidents are to do everything reasonable and necessary to ensure adherence and compliance with these case flow management guidelines within their respective divisions. To this end RCPs are entitled to delegate regional magistrates to represent and assist in facilitating these duties. They are required to ensure that:

1. Case flow management structures are established.
2. Regular case flow management meetings are held.
3. Timely measures are taken by expeditiously appointing acting regional magistrates in vacant posts.
4. Where necessary motivations for the establishment of additional court rooms and resources are submitted.
5. There is oversight of the optimal utilisation of the current infrastructure/resources including the redeployment of judicial officers where necessary.
6. Statistics are collated for analysis.
7. Resolutions of court and case flow management meetings are implemented timeously.
8. Case flow management training takes place.
9. An allocation policy for new cases is in place in line with the Traverses' judgment.
10. Directives are issued.

### ***Decentralised Regional Court Seats (Coordination Areas)***

Regional Magistrates who have been delegated by the Regional Court Presidents as Coordinators/RCP representatives are to do all things reasonable and necessary to ensure adherence and compliance with these case flow management guidelines within the decentralised regional court seats. They are required to ensure that:

1. Case flow management structures are maintained.
2. Regular case flow management meetings are arranged and chaired by the coordinator/RCP representative, and copies of minutes are submitted to the regional court president as well as all regional magistrates within the decentralised area.

3. Statistics in respect of all courts in his/her area of responsibility are collated and submitted to the regional court president.
4. Statistics are analysed and interventions/corrective measures are in place, following the submission of the monthly statistics to the regional court president.
5. Directives from the regional court president are implemented timeously.
6. Resolutions taken at court and case flow management meetings are implemented.
7. Case flow management training takes place.
8. The allocation of cases where applicable, which must be done in a fair, equitable and transparent manner.
9. Assistance is rendered with regard to the management of case loads and case allocation, to arrange regular (at least once a month) diary meetings to expedite case cycle times in the respective courts.

### **Judicial Officers (Regional Magistrates)**

Judicial Officers are solely and directly in control of, and accountable for, the conduct of court proceedings. There can be no abdication of control of the court or shared responsibility regarding accountability for the conduct of court proceedings. All judicial officers must themselves organise their own courts, notwithstanding the fact that there are coordinators/RCP representatives. It is incumbent on all regional magistrates to assist and cooperate with the coordinators/RCP representatives at all times.

It is therefore necessary for Judicial Officers to take control of their courts ensuring discipline, respect and optimal utilisation of court time.

Court and case management of enrolled cases is inherently a judicial function. During proceedings officers of the court are subject to the judicial authority of the court and are accountable to it in terms of law.

It is consequently essential for Judicial Officers to:

1. Adhere to official office hours from 7h45 until 16h15.
2. Optimally utilise court hours and hold all role players accountable, in open court, for any deviations.

3. Ensure that, as a general rule, no cases are postponed unless a charge sheet has been completed.
4. Record the reasons for postponements with sufficient detail on the charge sheet.
5. Write legibly to prevent delays in deciphering court records.
6. Hold prosecutors and SAPS accountable for the conduct of the investigative process and to minimise delays in accordance with section 342A of CPA where applicable. Similarly, all role players must be held accountable for unreasonable delays during the conduct of court proceedings.
7. Schedule trials in collaboration with the relevant role players. Pleas ought to be recorded as soon as possible.
8. Ensure that court diaries are properly maintained.
9. Identify and prioritise all cases on the roll for over 15 months from the date of first appearance in any court.
10. Monitor and assess progress of the case at every stage of proceedings.
11. Encourage the use of pre-trial conferencing.
12. Promote the use of Alternative Dispute Resolutions [ADR] in appropriate cases, especially minors.
13. Ensure that judicial statistics are submitted timeously.
14. Prioritise all cases involving children and other vulnerable groups.
15. Report to coordinator/RCP representative when court roll has collapsed.
16. Require from prosecutors to present a synopsis of the matters that have been enrolled for the day in open court prior to the commencement of the proceedings.
17. Utilise court recording machines to ensure timeous, accurate and reliable recording of all criminal proceedings including adjournments.
18. Record court times in court book.
19. Uphold the decorum of the court.
20. Assist with managing case loads and case allocation, to attend regular (at least once a month) diary meetings to expedite case cycle times in the respective courts.

## **DISTRICT COURT JUDICIARY**

### ***District Courts Judicial Administrative Regions***

Judicial Heads of Administrative Regions (Cluster Heads) are to do everything reasonable and necessary to ensure compliance with these case flow management guidelines within their respective divisions/regions/sub-regions. They are required to ensure that:

1. Each magistrate's office has a case flow management plan in place and that it is maintained.
2. Case flow management structures are established.
3. Monthly case flow management meetings are held.
4. Timely measures are taken to facilitate the expeditious appointment of acting magistrates in vacant posts.
5. Where necessary to motivate for the establishment of additional court rooms and resources.
6. There is optimal utilisation of the current infrastructure/resources including the redeployment of judicial officers where necessary.
7. Statistics in respect of all the courts are collated for interpretation and presentation at the PIJF and other forums.
8. They attend the PIJF and CFM monitoring committees meetings.
9. Resolutions of court and case flow management meetings are implemented timeously.
10. Case flow management training takes place.
11. There is judicial control and leadership over the various litigant parties involved in court and case flow management processes.
12. An allocation policy for new cases is in place in line with the Travers' judgment

### ***Sub-Regions (District Courts)***

Judicial Heads of Administrative Sub-Regions (Sub-Cluster Heads) are to do all things reasonable and necessary to ensure compliance with these case flow management guidelines within their respective sub-regions (sub-clusters). They are required to ensure that:

1. Each court has a case flow management plan in place and is maintained.
2. Case flow management structures are established.
3. Monthly case flow management meetings are held.
4. Copies of minutes of CFM meetings in respect of all offices in their sub-regions are combined and submitted to the judicial head of the administrative region (cluster head) in the form of a report.
5. Timely measures are taken to facilitate the expeditious appointment of acting magistrates in vacant posts and such vacancies and acting appointments be reported to the judicial head of the administrative region.
6. Timely arrangements are made to cater for absence of magistrates from work.
7. Where necessary, motivations are submitted for the establishment of additional court rooms and resources.
8. There is optimal utilisation of the current infrastructure/resources including the re-deployment of judicial officers where necessary.
9. Statistics in respect of all courts in the sub-region are collated and submitted to the judicial head of the administrative region in terms of the Judicial Manual.
10. Statistics are analysed and interventions/corrective measures are in place, following the submission of the monthly statistics to the judicial head of the administrative region.
11. Directives from the judicial head of the administrative region are implemented timeously.
12. Resolutions taken at court and case flow management meetings are implemented.
13. Any absence from the office by judicial officers is timeously recorded in the central court planning diary to facilitate court and case flow management planning.
14. Peer review of all completed judicial work and that mentorship programmes in respect of case flow management take place.
15. Case flow management training takes place.

### ***Heads of Criminal Court Divisions (Larger Centres)***

The Heads of criminal court divisions at larger centres where Chief Magistrates are stationed, should assist the Chief Magistrate with everything reasonable and necessary to ensure compliance with these case flow management guidelines within their respective divisions. In particular, they are required to ensure that:

1. The office has a case flow management plan in place and is maintained.
2. Case flow management structures are established.
3. Monthly case flow management meetings are held and copies of the minutes thereof are submitted to the Chief Magistrate.
4. Timely measures are taken to facilitate the expeditious appointment of acting magistrates in vacant posts and such vacancies be reported to the judicial head of the administrative region.
5. Timely arrangements are made to cater for absence of magistrates from work.
6. Where necessary, submit motivation for the establishment of additional court rooms and resources.
7. There is optimal utilisation of the infrastructure and resources, including the re-deployment of judicial officers where necessary.
8. Statistics in respect of all courts in his/her area of responsibility are collated, analysed and submitted to the Chief Magistrate, and that interventions/corrective measures arising therefrom are implemented.
9. Directives from the Chief Magistrate are implemented timeously.
10. Resolutions taken at court and case flow management meetings are implemented.
11. Any absence from the office by judicial officers is timeously recorded in the central court planning diary to facilitate court and case flow management planning.
12. Peer review of all completed judicial work and that mentorship programmes in respect of case flow management take place.
13. Central review and appeal registers are implemented and that each magistrate has his/her own review and appeal register – these registers must be scrutinised at the very least once a month.
14. Registers/control sheets are maintained in respect of liberation warrants (J1), detention warrants (J7), and committal warrants (J3), and should be scrutinised at least monthly.
15. Case flow management challenges which cannot otherwise be resolved, are addressed through the appointment of an appropriate intervention team in consultation with the judicial head of court, to develop a solution.
16. Case flow management training takes place.



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## **Judicial Heads of Office**

Judicial Heads of Office are the judicial heads of all other Magistrate's Offices not included above. They are required to assist the heads of the administrative sub-regions (sub-cluster heads) with everything reasonable and necessary to ensure compliance with these case flow management guidelines within their respective divisions. In particular, they are required to ensure that:

1. Their offices have a case flow management plan in place and that it is maintained.
2. Case flow management structures are established.
3. Monthly case flow management meetings take place and copies of the minutes thereof are submitted the head of the administrative sub-region (sub-cluster head).
4. Timely measures are taken to facilitate the appointment of acting magistrates in vacant posts and that such vacancies and acting appointments are reported to the judicial head of the sub-region (sub-cluster head).
5. Timely arrangements are made to cater for absence of magistrates from work.
6. Where necessary, motivation is submitted for the establishment of additional court rooms and resources via the head of the administrative sub-region to the judicial head of the administrative region.
7. There is oversight of the optimal utilisation of the current infrastructure/resources supervised, including the rotation of judicial officers where necessary.
8. Statistics are compiled in respect of all courts at magistrate's offices and submitted to the head of the administrative sub-region.
9. Statistics are analysed and that corrective measures/interventions are implemented where necessary – reports in this regard should be submitted to sub-region judicial heads.
10. Directives from the judicial heads of the administrative regions/sub-regions are implemented timeously.
11. Resolutions taken at court and case flow management meetings are implemented.
12. Any absence from the office by judicial officers is timeously recorded in the central court planning diary to facilitate court and case flow management planning.

13. Central review and appeal registers are introduced and that each magistrate has his/her own review and appeal register – these registers must be scrutinised at the very least once a month.
14. Registers/control sheets are maintained in respect of liberation warrants (J1), detention warrants (J7), and committal warrants (J3) - these should be scrutinised at least monthly.
15. Case flow management challenges which cannot otherwise be resolved are addressed through the appointment of an appropriate intervention team in consultation with the head of court, to develop a solution.
16. They receive/submit other returns, reports, etc, as may be required or necessary.
17. Registers, rosters, etc., are maintained and scrutinised as required.
18. Peer review of all completed judicial work and that mentorship programmes in respect of case flow management take place.
19. Case flow management training takes place.

### **Judicial Officers (District Courts)**

Judicial Officers are solely and directly in control of, and accountable for, the conduct of court proceedings. There can be no abdication of control of the court or shared responsibility regarding accountability for the conduct of court proceedings.

It is therefore necessary for Judicial Officers to take control of their courts ensuring discipline, respect and optimal utilisation of court time.

Court and case management of enrolled cases is inherently a judicial function. During proceedings officers of the court are subject to the judicial authority of the court and are accountable to it in terms of law.

It is consequently essential for Judicial Officers to:

1. Adhere to official office hours (7h45 until 16h15).
2. Adhere to court hours as prescribed by law (9h00 until 16h00).
3. Manage prescribed court time and hold all role players accountable, in open court, for any deviations.

4. Ensure that, as a general rule, no cases are postponed unless a charge sheet has been completed.
5. Record the reasons for postponements with sufficient detail on the charge sheet.
6. Write legibly to prevent delays in deciphering court records.
7. Hold prosecutors and SAPS accountable for the conduct of the investigative process and to initiate delay management in accordance with section 342A of the CPA where applicable. Similarly, all role players must be held accountable for unreasonable delays during the conduct of court proceedings.
8. Schedule trials in collaboration with the relevant role players, taking into account the various factors influencing the duration thereof.
9. Ensure that court diaries are maintained to ensure maximum utilisation of court hours.
10. Identify and prioritise all cases on the roll for over 6 months in the district courts and over 9 months in the regional courts.
11. Monitor and assess progress of the case at every stage of proceedings.
12. Encourage the use of pre-trial conferencing.
13. Promote the use of Alternative Dispute Resolutions (ADR's) in appropriate cases, especially minors.
14. Ensure that daily and monthly judicial statistics are submitted on time. In the case of daily statistics by not later than 9h00 on the following court day and in the case of monthly statistics not later than the first working day of the following month.
15. Inculcate a legal culture of less tolerance towards postponements.
16. Prioritise all cases involving children and other vulnerable groups.
17. Ascertain the intended plea of the accused at the earliest opportunity.
18. Report to the Judicial Heads of Divisions/Heads of Offices when court rolls have collapsed.
19. Utilise Section 35(2)(d) of the Constitution as a way of conducting a judicial screening process of a matter on the first appearance of an accused.
20. Ensure that any absence from the office by Judicial Officers is timeously recorded in the central court planning diary to facilitate court and case flow management planning.

21. Require from prosecutors to present a synopsis of the matters that have been enrolled for the day in open court prior to the commencement of the proceedings.
22. Request the prosecution and defence to address the court on the outline of their respective cases at the appropriate stages of the trial.
23. Promote the utilisation of the audio-visual remand system (AVR linkages) where available.
24. Utilise court recording machines to ensure timeous, accurate and reliable recording of all criminal proceedings, including adjournments.
25. Endorse the charge sheets appropriately in respect of filing and disposal instructions of all finalised matters.
26. Record court times in the court book.
27. Uphold the decorum of the court.



**COURT SUPPORT SERVICES**



## **COURT SUPPORT SERVICES**

The administrative component of the Department of Justice and Constitutional Development bears the responsibility of providing all support services to the courts and court personnel. As with other key role players, they are an integral component in the realisation of acceptable delivery in the criminal justice system. The department is required to provide all administrative services related to the functioning of the courts, and in particular those which may emanate from this document, in order to facilitate effective court and case flow management.

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### **DOJCD Court Support Services (National Office)**

This division of the national department has embarked on various programmes to ensure an improvement in the management of courts and cases, and it is expected that these efforts will continue to:

1. Facilitate the development, implementation and maintenance of a framework to ensure uniform CFM in the court system.
2. Design and develop appropriate HR structures to support CFM.
3. Facilitate the development of CFM support systems through the use of technology.
4. Render auxiliary services to CFM (Transcription services, revision of tariffs etc.).
5. Ensure that the National Integrated Case Flow Management Steering Committee(NICFMSC) is convened bi-monthly.
6. Ensure that role players from the various national departments and non-governmental sectors within the criminal justice value chain are represented on the NICFMSC.
7. Ensure that all national CFM projects are aligned.
8. Render administrative support to the NICFMSC.
9. Provide facilitation services at provincial level.

### **Regional Heads**

Pursuant to the goals and activities of the national department, it is expected that provincial Regional Heads of DOJCD will:

1. Facilitate the establishment of Case Flow Management Structures in the Provinces by the Judicial Heads.
2. Ensure that support is rendered to the Provincial Integrated Justice Forum and Provincial Case Flow Management Monitoring Committees (CFMMC) by:
  - Budgeting in respect of CFM activities.
  - Organising Case Flow Management meetings convened by the judiciary.
  - Providing secretarial services at Case Flow Management meetings (minutes, statistics etc).
  - Providing facilitation services if and when required.

3. Monitor adherence to the service level agreements with transcription services and with service providers in respect of digital court recording machines.
4. Expedite the appointment of suitably qualified persons as required by law to act as intermediaries in court.

### **Area Court Managers**

Area Court Managers are responsible for overseeing court management in offices grouped together on a geographical basis. They supervise Court Managers at every magistrate's office. Pursuant to the goals of DOJCD and CFM, Area Court Managers have a pivotal role to play in bringing about effective operation of courts through the provision of efficient court support services. In this respect, Area Court Managers are relied upon to ensure that:

1. Support is rendered to the Area Court and Case Flow Management Forums by:
  - Supervising Court Managers in respect of budgetary allocations
  - Organising CFM meetings convened by the Regional Court Presidents and/ or co-ordinators and/or Regional Court President representatives and/or Judicial Heads of Administrative Sub-Regions (Sub-Cluster Heads)
  - Providing secretarial services at CFM meetings.
  - Providing facilitation services if and when required.
2. The minutes of all CFM meetings are distributed to all role players.
3. The minutes of CFM meetings at Decentralised Regional Court Seats [Co-ordination areas] or Magistrate's Offices (LCFMF's) within their regions are collated and submitted to the Regional Head, DOJCD with a report in this regard.
4. Administrative support is rendered to the Decentralised Regional Court Seats [Co-ordination areas] Forum or Local Case Flow Management Forums.
5. Timely measures are taken to fill vacancies.
6. All things reasonable and necessary are done to support effective court and case flow management.
7. The appointment of suitably qualified persons as required by law to act as intermediaries in court is expedited.



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## **Court Managers**

There is a Court Manager at every Magistrate's Office. These managers play an indispensable role in the supervision of staff and services aligned with the functioning of courts. Their involvement in the day to day, hour by hour management of courts and cases is crucial to the overall effectiveness and efficiency of the system, In this context, Court Managers are expected to ensure that:

1. Courts are user friendly by:
  - Providing adequate directions to various court rooms and service points.
  - Establishing a clearly demarcated and easily identifiable help desk or information centre.
  - Staffing help desks with persons who can effectively communicate in the languages used by the majority of court users in a particular area.
  - Providing assistance to vulnerable groups, e.g. abused persons, children, victims of sexual abuse, etc.
  - Providing assistance to court users who are physically challenged and those who cannot read or write.
  - Managing communication and relations with internal and external stakeholders.
  - Coordinating and managing risk and security in the court.
2. A data base of all NGO's shelters, trauma and crisis centres, etc. is established, maintained and made available to victims /complainants.
3. All essential logistical requirements are available at Decentralised Regional Court Seats [Coordination areas] and Magistrate's Offices.
4. There is proper functioning of court rooms and infrastructure (electricity, water, sewerage, air-conditioning, etc.), as well as the good functioning of court equipment (e.g. computers, recording machines, etc.)
5. All administrative services related to the functioning of the courts is rendered.
6. Support at Decentralised Regional Court Seats [Coordination areas Local Case Flow Management Forums is provided by:
  - Organising CFM meetings convened by the judiciary.
  - Utilising budget allocations appropriately for this purpose.
  - Providing secretarial services at CFM meetings.
  - Providing facilitation services if and when required.

- Ensuring that copies of minutes of meetings are distributed to all role-players and that a copy thereof is submitted to the area court manager.
7. Adequate measures are in place for the safekeeping of court records (charge sheets and recordings, etc.).
  8. Criminal cases are captured timeously and maintained on the ICMS.
  9. Monthly court statistics are compiled timeously, collated and available/accessible to relevant managers.
  10. Court statistics are collated, prepared, analysed and presented at monthly local case flow management meetings, with special emphasis on matters previously identified as having caused disruptions to the functioning of courts.
  11. Negative trends, anomalies or matters requiring attention - as evident from the statistics – are identified and timeously reported to case flow management meetings, providing solutions where possible.
  12. There is effective communication with the Regional Court Presidents, Coordinators and Regional Court President representative and Judicial Heads of Office on any matter affecting the functioning of courts which requires urgent intervention.
  13. Communication is facilitated with SAPS and the departments of Correctional Services, Public Works, Social Welfare, Education, etc., on court related issues.
  14. Physical case audits are conducted when required.
  15. There is a process for the identification of cases requiring special attention and/or prioritisation (e.g. backlog cases) and whereby the affixing of red alert stickers for such cases is implemented.
  16. Language services are timeously rendered.
  17. All clerks operating the recording machines and clerks of court are duly sworn in before assuming duty.
  18. Diaries for the following year are made available to every court by at least August of each year.
  19. The matching of court records to dockets in respect of cases on the daily court rolls is facilitated.
  20. The information captured on the Integrated Case Management System is monitored and quality controlled. Regular physical audit of all outstanding cases should be done and spot checks from time to time.
  21. Clerks operating the electronic devices in court are properly trained
  22. Control registers are kept at a central point and regularly checked.

23. All sectors provide a provisional schedule of personnel allocations for the courts the year by 15 January of each year – indicating as far as possible the non-availability of personnel through training, vacancies, vacation leave, seminars, workshops, etc.
24. All sectors provide a schedule/roster of personnel allocations for the courts in respect of each month by the 15<sup>th</sup> day of each preceding month – updating changes which occur from time to time and which influences the overall planning and management of courts.
25. All sectors must inform the court manager timeously of any changes which occur from time to time during the month, which may impact on the management of the courts.
26. In line with the above three preceding paragraphs, a central court planning diary should be kept and maintained - to include absences of magistrates, prosecutors, interpreters and clerks of court which may affect operation, co-ordination, planning and management of courts.
27. Timely measures are taken to fill vacancies with regard to court support services.
28. A data base of all relevant non-governmental organisations in the area is compiled and maintained - including trauma and crisis centres, shelters, etc. - and to refer victims to such centres/shelters.
29. A list of lay assessors for the area is compiled and where necessary to submit same to the section heads.
30. Arrangements are made for lay assessors to attend court when required.
31. The payment of all deferred fines and compensatory orders is monitored.
32. Control registers in respect of liberation warrants (J1), detention warrants (J7), and committal warrants (J3) are implemented and maintained.
33. The facilities, physical resources, information and communications related to courts are managed.
34. Annual performance and statutory reports are compiled and submitted to the relevant users.
35. All things reasonable and necessary are done to support court and case flow management.
36. The appointment of suitably qualified persons as required by law to act as intermediaries in court is expedited.

**Clerks of Court /Assistant Clerks of Court**

These are officers of the court and their roles and responsibilities are of vital importance in ensuring the proper functioning of the courts. They are consequently required to do all things reasonable and necessary to ensure compliance with effective court and case flow management by:

1. Adhering to prescribed court hours (9h00 – 16h00).
2. Ensuring that matters are entered timeously in the Criminal Court book.
3. Ensuring that all new criminal cases are captured timeously on the Integrated Case Management System.
4. Ensuring that daily court lists are placed on the Notice Board to guide the public with regard to cases enrolled.
5. Supporting the judicial officer in court to maintain the court diaries, court statistics and case flow management in that court.
6. Matching the court dairies with the Integrated Case Management System court rolls.
7. Issuing all processes in consequence of judicial orders emanating from matters before the court.
8. Ensuring that the outcome of court hearings are captured timeously on the Integrated Case Management System.
9. Arranging for assessors/lay assessors.
10. Co-ordinating and requesting for and the receipt of pre-sentencing, probation, age assessments and other reports required by court.
11. Communicating court orders timeously to the appropriate recipients.
12. Complying with appropriate instructions given by the judicial officer.
13. Ensuring accused are given reminder cards of the next court appearance.
14. Facilitating the identification of cases for special attention as required.
15. Timeously supplying prosecutors with charge sheets for the day.
16. Identifying cases for special attention and/or prioritisation [backlog cases] by the affixing of red alert stickers.
17. Ensuring that electronic systems utilised in court are in proper working condition for quality recordings and at the earliest to report any faults to the service provider and other affected role players.

18. Ensuring that correct data is annotated at the beginning of each recording, and that cases are correctly saved.
19. Monitoring recordings properly through the use of head phones to ensure quality.
20. Writing out the detention warrants, warrants of arrest, committal warrants, warrants of removal, liberation warrants, etc.
21. Capturing payment of bail on the Integrated Case Management System and attach bail receipts to charge sheets.
22. Making arrangements with Correctional Services to obtain information with regard to awaiting trial detainees who paid bail at Correctional Services and to immediately update the Integrated Case Management system.
23. Ensuring that review and appeal records are properly prepared, timeously dispatched and the registers correctly maintained.
24. Ensuring that a system is in place to follow up matters that have been sent on appeal or review to the High Court and that orders or queries from the High Court are timeously communicated to the responsible judicial officer.
25. Following up matters where designations of Reform schools are awaited to ensure that children are not unnecessarily detained for lengthy periods of time.
26. Ensuring the safe keeping of court records.
27. Ensuring that there is proper filing and disposal of court records.
28. Ensuring that vacation leave or any absence from office is timeously communicated to the court manager for recording in the central court planning diary to facilitate court and CFM planning.
29. Recording court hours.
30. Maintaining the dignity and decorum of the court.
31. To notify the court manager in writing when the appointment of qualified persons as required by law to act as intermediaries in court is necessary.

### ***Language Services***

The provision of language services in South African criminal courts is essential in view of the multiplicity of indigenous and foreign languages experienced throughout – there are 11 official South African languages alone to cater for in court proceedings and associated services. The efficiency of court officers of the language service component is consequently vital to the effective administration of justice.

**Principle Interpreters** are responsible for ensuring that:

1. Interpreting services are readily and consistently available.
2. The service of interpreters is available to all litigants and litigating parties.
3. A data base of adequate foreign and other indigenous language interpreters [for indigenous languages not prevalent in that region], is compiled and maintained for the region.
4. Vacation leave or any absence from office of interpreters is timeously communicated to the Court Manager.

**Interpreters** allocated to the courts are required to:

1. Render all services as prescribed from time to time.
2. Adhere to prescribed office and court hours.
3. Ensure that any absence from office or the courts is timeously communicated to the Principle Interpreter.

### **Child Liaison Officer**

The CJS needs to adapt appropriately to the present needs of dealing with children in conflict with the law. There are many legislative and organisational moves afoot to deal with this. Notwithstanding, CFM needs to recognise these as a matter of concern requiring pro-active initiatives and activities.

For this reason, this guide seeks to address these challenges by **strongly** suggesting that the following **will** add value in dealing with children in conflict with the law. Provision should be made for Child Liaison Officers to be appointed to:

1. Ensure that all children who enter the justice system receive assistance at every stage of the legal process until reintegration into society.
2. Act as a link between the child offender and the police, probation officer, correctional supervision officer, practitioners from the justice centres, private legal representatives, the prosecution, the heads of facilities where children are detained, interpreters, the guardian or parent of the child and the court.

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3. Keep and update statistics as indicated by the Provincial Child Justice Forum, the DOJ&CD or the Judicial Heads relating to children in the justice system in their jurisdiction.
  4. Promote and advertise his/her office to the extent that all children in conflict with the law know of the existence of such office and further know how and where to contact the Child Liaison Officer.







**PROSECUTION SERVICES**

## PROSECUTION SERVICES

Besides the obvious role the prosecution service plays as one of the litigating parties in a criminal case, prosecutors play a key role in daily operational functioning of the courts by sourcing case dockets from the police services, deciding on whether or not to prosecute and then ensuring that cases are placed before the courts. A considerable amount of research and preparatory work follows in the build up to bringing the matter to finalisation.

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Whilst it is recognised that prosecutors generally carry a huge workload, this should not compromise the importance of the pivotal role of each prosecutor's participation in daily court operations. The courts consequently rely on prosecutors not only for a professional service as litigants on behalf of the State, but also as diligent and industrious stakeholders in various aspects related to court and case flow management.

The National Prosecution Authority has an extensive management component throughout the country to oversee this involvement by the prosecutors. These structures include a specialist component of the NPA which focuses on the lower courts. The NPA has for some time applied its energies vigorously towards a more efficient and effective operation of the courts through a multitude of well known initiatives, not least of all a comprehensive data base of court statistics to aid in the ongoing evaluation and betterment of overall prosecutors' performances in South Africa.

In recent years these efforts have been aligned with court and case flow management principles through specific goal orientated strategy planning. The significance of this is that all prosecutors are involved in CFM practices, from management at the top, down to all newcomers trained as aspirant prosecutors. Furthermore, court and case flow management is monitored consistently on a planned basis with regular feedback reporting, action planning and initiatives being implemented towards efforts to improve the functioning of courts.

These activities involve all of the following prosecutorial staff:

1. Directors of Public Prosecution in each Province,
2. Chief Prosecutors (regional managers),
3. Senior Public Prosecutors (area managers),
4. Control Prosecutors (office/sector managers) and all Prosecutors themselves.

Whilst it is clear that the NPA has done much to promote and practice CFM principles, the organisation concedes that it still has much to offer.

In order to render this service effectively and efficiently to the courts, the prosecution service must ensure that:

1. All prosecuting personnel are aware of the scope and ambit of CFM practices and principles, and are trained towards the effective application thereof.
2. CFM is monitored and managed.
3. CFM meetings at all levels are consistently attended by appropriate representatives.
4. Resolutions emanating from CFM meetings, pertaining to prosecution services, are acknowledged, implemented and appropriately reported on.
5. Court Managers are supported with regard to operational CFM matters emerging from these guidelines (such as the maintenance of a central court planning diary at each office to facilitate effective planning and management of the courts.
6. Pre-trial disposal of cases - including the use of alternative dispute resolution mechanisms - is actively explored and promoted, and that prosecutors are adequately trained and advised to utilise such measures and opportunities effectively.
7. A proper reception and distribution process is in place to effectively deal with all case dockets.
8. Docket screening processes are in place and are practised to prevent the unnecessary enrolment of cases.
9. Prescribed courts hours are adhered to (9h00 – 16h00).
10. Prosecutors are thoroughly prepared to present their cases to court.
11. Appropriate trial forums for cases are determined at the earliest opportunity.
12. Case allocation policies of the District and Regional Court Judiciary allocation policy and directives are strictly adhered to, in line with the Travers' judgment.
13. Charge sheets (J15's) are duly completed together with annexures adequately indicating the charges, before cases are placed before the court.
14. Protocol of court support services on dealing with charge sheets is adhered to.
15. Prosecutors are well prepared to advise the court at the start of daily proceedings in open court of an outline of the court roll, together with any factors which may affect, require prioritisation of, or otherwise influence the proceedings or any of the cases on the roll.

16. Section 150 of the Criminal Procedure Act is utilised where necessary or requested at the outset of trial.
17. The intended plea of the accused is ascertained at the earliest appearance.
18. Plea-bargaining processes are considered and utilised in appropriate cases.
19. Pre-trial conferencing with the defence is promoted and utilised as far as possible.
20. Admission of guilt fines in accordance with the provisions of Section 57A of the CPA are considered and set in appropriate cases.
21. Alternative dispute resolution processes - including diversion programmes, victim offender mediation, etc. - are considered for appropriate cases at the earliest possible stage.
22. A protocol for prosecutors on how to deal with requests for further particulars and discovery, exists and is adhered to.
  
23. Cases on the rolls more than 6 months in the District Courts, and more than 9 months in the case of Regional Courts, are identified and prioritised for attention.
24. Clear and comprehensive directives are provided to SAPS investigating officers.
25. Dockets are returned to investigating officers within 3 days of court appearances.
26. Trial ready dockets are retained wherever possible to facilitate timeous and effective case preparation.
27. The drawing of cases authorised by the judiciary between courts is facilitated in appropriate circumstances.
28. Separate (prosecutor's) court diaries are maintained.
29. Where it is known in advance that trial matters cannot or are unlikely to proceed on the scheduled date, affected parties are notified of this and that such cases are placed before the court at the earliest reasonable opportunity to be dealt with accordingly.
30. Prior permission of the judicial officer is obtained before excusing any parties from court.
31. Court Managers are informed timeously of any absenteeism of prosecutors which may affect the planning and management of courts.

Chief Prosecutors, Senior Public Prosecutors, Control Prosecutors and Court Prosecutors themselves will, under the auspices of the Directors of Public Prosecutions and in keeping with NPA policies, be expected to account for these activities at a local level.



**LEGAL REPRESENTATIVES**



A woman with dark hair, wearing a dark blazer and a patterned scarf, is seated in a courtroom. She is looking slightly to her left with a thoughtful expression. The background consists of dark wood paneling and a light-colored wall.

## LEGAL REPRESENTATIVES

The legal fraternity is an integral stake holder in the criminal justice system and the profession's role is indispensable to the efficacy of court and case flow management. Like the prosecutorial sector, all attorneys and advocates are officers of the court and are consequently responsible and accountable to courts in respect of persons and cases they represent.



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In recent years developments in the South African legal system have seen a marked improvement in the frequency of legal representation for accused in criminal courts. It stands to reason that members of this profession play a huge role in matters concerning the operational functioning of courts and the standards to be maintained therein.

Consequently, legal practitioners are expected to heed with professional commitment, CFM practices and principles in the interest of the proper administration of justice.

Whilst it is necessary to mention in this guide that issues such as touting at court, double booking and absenteeism from court sessions all impact to some degree on courts and cases, the manual seeks to focus on the practices and principles which legal representatives should avail themselves of towards an integrated approach in their contribution towards more effective court and case flow management. This sector already has many professional bodies - not least of all the National Council of the Bar, Law Society of South Africa, Legal Aid South Africa and others (see below) - which deal with elements of professional conduct and ethics that impact on daily court sessions.

All legal representatives and organisations are encouraged to participate in the structures and adhere to the practices set out in the manual with due consideration of the ultimate goals of CFM.

### **Organisations**

Organisations and institutions in the legal profession include, but are not limited to, the following:

- General Council of the Bar
- Constituent and associate bars of the general bar council.
- Law Society of South Africa (LSSA).
- Provincial law societies.
- Legal Aid South Africa/Justice Centres.
- Law clinics.

These organisations are expected to participate in court and case flow management structures at the appropriate level and should:

1. Ensure that the professions' rules conform to CFM objectives.
2. Take steps to ensure that CFM awareness is promoted within their respective organisations.
3. Incorporate CFM principles in the training of their members.
4. Add value and give feedback in matters regarding the efficacy of CFM.
5. Contribute to reports on case backlogs and suggest interventions.
6. Examine and take appropriate action with regard to legislation and the administration of justice where it pertains to CFM.
7. Make or join in making suggestions towards initiatives in furtherance of improving the management of courts and cases that flow through them.
8. Make or recommend changes to rules of professional etiquette and practice to enhance CFM.
9. Publicise the availability of legal aid services at each police station, court and prison.
10. Where a lack of capacity is reported, supplement services by using Judicare.

### **Legal Representatives In Court**

Legal representatives are accountable to court in respect of their representation of enrolled cases and must consequently take cognisance of CFM objectives and strive to meet these objectives.

Legal representatives should facilitate court and case flow management by adhering to the following rules/guidelines:

1. Adhering to prescribed court times (9h00 – 16h00).
2. Be fully prepared for court and not delay court proceedings with unnecessary requests for adjournments.
3. Be able to prove their right of appearance in court when requested to do so.
4. Be able to place the name and telephone number of the instructing attorney on record where counsel is instructed.
5. Refrain from double booking.
6. An earlier brief takes precedence over a later brief should any conflict arise in the performance thereof.
7. The court's diary takes preference over the diaries of litigating parties.

8. Complete all negotiations with the prosecutor before the court commences.
9. Avoid last minute plea negotiations after a case has been scheduled for trial. A case should be scheduled for trial only after all reasonable efforts to otherwise dispose of the matter have failed.
10. When scheduling cases for trial the legal practitioner is obliged to assist the court in providing all the information at his/her disposal that might possibly affect the arrangement.
11. Where it is known in advance that trial matters cannot or are unlikely to proceed on the scheduled date, affected parties must be notified of this and ensure that such cases are placed before the court at the earliest reasonable opportunity to be dealt with accordingly.
12. Avoid last minute withdrawals from trials. If a legal representative is unavailable to proceed with a trial, he/she must make timeous arrangements with the court and all relevant parties.
13. Issues in dispute should, if possible, be limited before the trial date.
14. Make proper and timely arrangements for presence of defence witnesses on trial date.
15. Engage in pre-trial conferences where appropriate.
16. Endeavour to use pre-trial disposal options, where applicable, in full e.g.:
  - Diversions
  - ADR's
  - Admissions of guilt
  - 105A of the CPA (Plea and sentencing agreements)
17. Make representations to the prosecuting authority as soon as possible where appropriate and ensure that the process does not unnecessarily delay the proceedings.





**SOUTH AFRICAN POLICE SERVICE**



## **SOUTH AFRICAN POLICE SERVICE**

It is trite that the role played by the South African Police Services is pivotal to the criminal justice system. Consequently, the effect that their services have on the effective administration of justice through the courts cannot be underestimated nor exaggerated. All investigation and related services by SAPS are required to be aligned with constitutional prescripts, not least of all the need to effect a speedy justice service through the courts. In this context, SAPS and its members are obliged to heed the principles and practices of court and case flow management.

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Commissioners of Police (National, Provincial and Station) are acknowledged as leaders in this regard. They are urged to do everything reasonable and necessary to ensure compliance by SAPS and its members with the guidelines set out in this manual, by ensuring that:

1. SAPS operational instructions and policies conform to CFM objectives.
2. There is active participation in CFM structures at all levels by relevant SAPS management members.
3. Resolutions of court and case flow management meetings are implemented timeously.

### **Detective Services**

The detective services of SAPS are responsible for initiating and maintaining investigation dockets.

All Detective Commanders are required to comply with standing orders, to wit SO 324, to oversee and endorse the quality of investigations before dockets are submitted to court. They should also provide guidance to investigation officers on ensuing investigations and monitor progress with investigations together with the timely submission of dockets to court. Detective Commanders play a pivotal role in meeting the objectives of CFM and in this regard must ensure that investigating officers adhere to the following:

1. Arrest must be considered as the last resort to ensure the attendance of an accused in court.
2. Persons arrested must be brought to court as soon as reasonably possible and members of the SAPS must not unnecessarily wait until the near expiration of 48 hours.
3. Dockets for new cases must be submitted by 07:45am on the day on which the new cases are to be enrolled – any deviation from this must be arranged with the prosecutors beforehand.
4. Dockets for remanded cases must be at court at least 3 days before the next court date.
5. Inform detainees of the availability of legal aid services as standard procedure.

6. Ensure that, in the case of juvenile accused, parents/guardians are present before court and that juvenile arrest reports are included in these dockets.
7. Communicate the arrest of the juvenile as soon as possible to the probation officers/correctional officers to enable them to compile a report for court.
8. If juveniles younger than 14 years are not released upon arrest, they must be brought to court within 24 hours of arrest.
9. Complete a bail report and attach it to section B of the docket together with the criminal profile of the accused. These reports must be available at first appearance.
10. Attend bail hearings when bail is opposed.
11. Address verification must be done before first appearance.
12. Comply with prosecution directives concerning investigation.
13. Expedite the availability of ballistic, forensic and other reports.
14. Ensure that subpoenas are served timeously and that returns of service are properly completed on the reverse sides thereof.
15. Investigating officers are to attend court on the day of trial to ensure the attendance of witnesses.
16. Where investigating officers are on leave or absent from duty, dockets still under investigation must be timeously re-assigned to other investigating officers to ensure adherence to court dates. Investigators are still required to attend court whilst on leave unless prior alternative arrangements have been made with the prosecutor.
17. Detective Court Case Officers are to ensure that all the requirements regarding effective and quality docket control are adhered to.

### **Forensic Science Investigations**

Forensic investigation is an important and indispensable part of modern day law and the frequency of its use in justice systems worldwide, no less South Africa, has increased rapidly in recent times. It is consequently necessary to place emphasis on attention to such matters by SAPS.

The Head of SAPS Forensic Laboratory is required to do everything reasonable and necessary to ensure compliance with these case flow management guidelines by:

1. Participating in the CFM structures.



2. Providing clear guidelines on the requirements for the submission of exhibits.
3. Ensuring that requests by the SAPS investigating officers are dealt with expeditiously.
4. Providing reports timeously as may be agreed upon at local CFM meetings.
5. Notifying the local CFM structures of problematic stations in terms of failure in adherence to procedures, policies, practices or resolutions of the CFM meetings.
6. Building and sustaining capacity to ensure that backlogs do not result.
7. Providing accurate statistics of all outstanding reports.

### ***Liaison Officers***

Police liaison officers are an integral part of the management of the flow of case dockets between SAPS and the courts. For this reason they are stationed at court establishments to provide an ongoing, hands-on service in this regard. It is required from liaison officers to do everything reasonable and necessary to ensure compliance with court and case flow management guidelines by ensuring that:

1. They maintain registers of dockets received at court and dispatched from court.
2. Dockets are received at least three days prior to the next court date.
3. Reports from the ICMS are utilised to ensure that the required dockets are brought to court timeously.
4. They identify dockets not delivered to court timeously and make immediate enquiries about these with the relevant police stations.
5. The processing of the dockets with short remand dates is prioritised.
6. They communicate with Senior Public Prosecutors/Control Prosecutors if the dockets are not received from prosecutors in time.
7. There is attendance and involvement at Case Flow Management meetings.

### ***Court Orderlies***

Court Orderlies are officers of the court. They work inside the court room and are responsible for the maintenance of order and safety of all persons in court during court sessions.

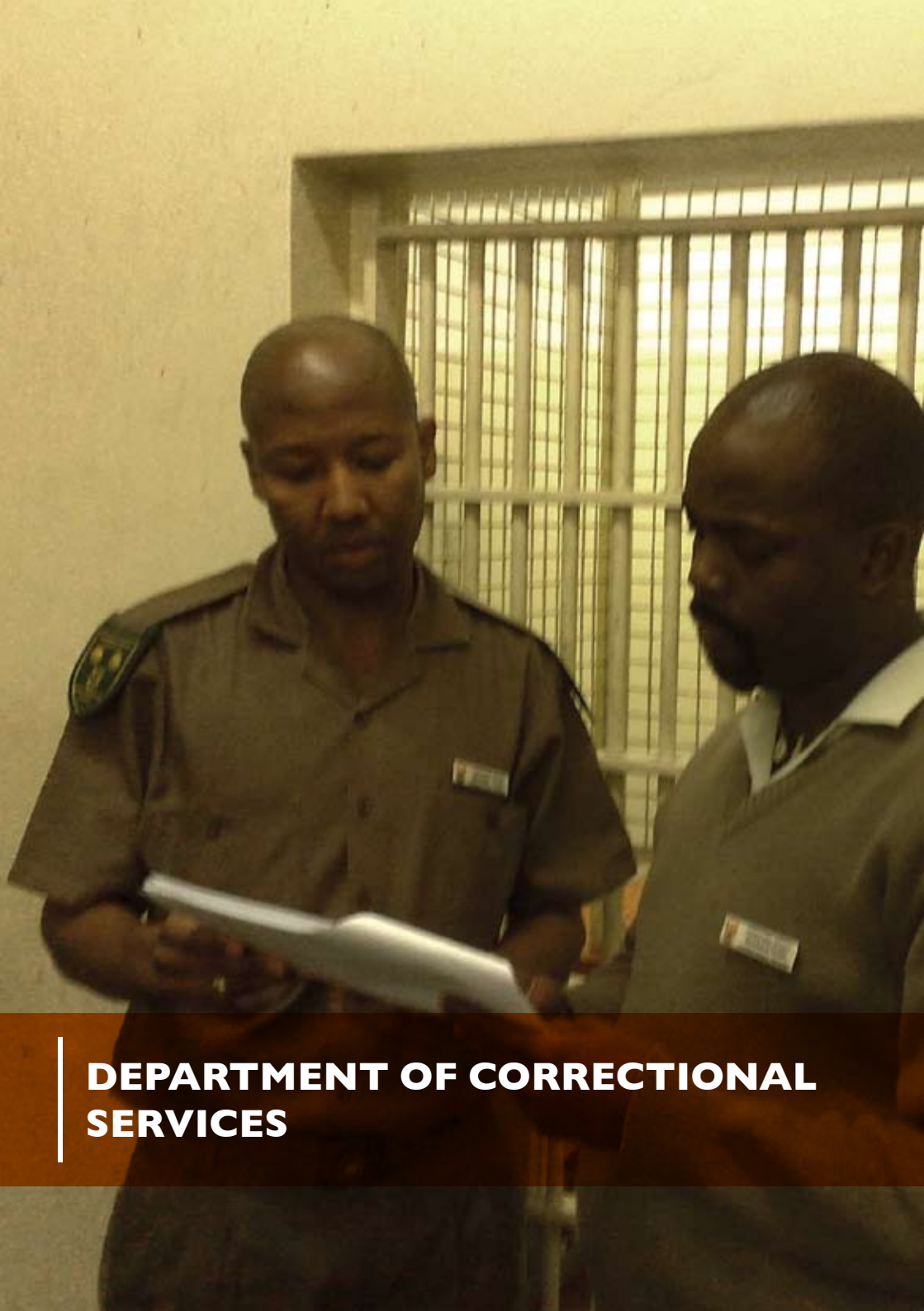
Court Orderlies are required to:

1. Wait for the Judicial Officer at the door of the court at the start of court sessions.
2. Call the court to order before the Judicial Officer enters and when the court adjourns.
3. Call the Judicial Officer to court subsequent to any adjournment.
4. Comply with appropriate instructions given by the Judicial Officer.
5. Ensure that minors are not in court unless required/permitted by the court.
6. Ensure the safety of the court room and environment, including the Judicial Officer, other officers of the court, accused and the public.
7. Keep all persons in court under observation to ensure silence and orderly conduct during hearings.
8. Call the names of accused and witnesses as and when they are required.
9. Hand charge sheets, documentation and exhibits to the Judicial Officer, court officers, accused and witnesses when required during court proceedings.
10. Remain in attendance in court whilst court is in session.
11. Ensure that all documentation (detention warrants, committal warrants, etc) is obtained from the clerk of the court before the end of the day's session.
12. Convey accused in detention between the courts and holding cells to facilitate their appearance in court.
13. Maintain the dignity and decorum of the court.

### **Other Law Enforcement Agencies**

It is acknowledged that there are many other law enforcement agencies - such as municipal police, provincial traffic authorities, nature conservation officials, immigration authorities, etc. - who are contributors to effective court and case flow management.

These agencies are also expected to do everything reasonable and necessary to comply with the court and case flow management guidelines, by ensuring that their operational instructions and policies conform to CFM objectives and that resolutions of court and case flow management meetings are implemented timeously.



**DEPARTMENT OF CORRECTIONAL  
SERVICES**

## **DEPARTMENT OF CORRECTIONAL SERVICES**

It is acknowledged that the Commissioners of Correctional Services (National, Provincial and Area) are major contributors to effective court and case flow management. They are required to do everything reasonable and necessary to ensure compliance with these case flow management guidelines within the Correctional Services by ensuring that:

1. There is active participation in CFM structures at all levels by the relevant Correctional Services management.
2. Correctional Services operational instructions and policies conform to CFM objectives.
3. Resolutions of court and case flow management meetings are implemented timeously.

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## ***Heads Of Correctional Centres***

Heads of Correctional Centres should adhere to CFM principles and align their facilities and services with the objectives of CFM through the following:

1. Active participation in the local CFM structures.
2. Ensure that resolutions of court and case flow management meetings are implemented.
3. Timely daily identification of awaiting trial detainees required at courts, including those who are requisitioned.
4. Liaise with SAPS regarding transportation of detainees between correctional centres and courts to ensure the detainees are at court timeously.
5. Make awaiting trial detainees readily available for transportation to courts by SAPS.
6. In respect of sentenced detainees, ensure that any prisoners required for appearance at court are transported to and are available at court before 9h00.
7. Notify the clerk of court as soon as possible of any circumstances where detainees/prisoners are unable to be brought to court.
8. Bear in mind that courts may be in session until late in the afternoon or even into the evening, requiring correctional facilities to receive detainees/prisoners after usual business hours.
9. Ensure that correctional supervision reports are compiled when requested and submitted timeously to the clerks of courts.
10. Provide statistics of awaiting trial detainees to the Regional Heads of DOJCD for each province before the 10th of each month.
11. Provide comprehensive lists of awaiting trial detainees in respect of whom bail has been set but not paid, to Regional Heads of DOJCD before the 10th of each month.
12. Provide comprehensive lists of juvenile detainees to the Regional Heads of DOJCD before the 10th of each month.
13. Utilise the provisions of section 63A of the CPA when necessary.
14. Promote and facilitate the use of section 62(f) of the CPA by providing relevant written recommendations to prosecutors.

15. Sufficient capacity should be created and maintained in support of correctional supervision sentences.
16. Promote the utilisation of the audio-visual remand system (AVR linkage) where available at courts in South Africa.
17. Ensure that alternative plans are in place to transport detainees to court immediately upon the failure of any AVR system.
18. Immediately notify relevant clerks of court of bail payments made at correctional centres.



**DEPARTMENT OF SOCIAL  
DEVELOPMENT**



## **DEPARTMENT OF SOCIAL DEVELOPMENT**

As indicated earlier in these guidelines under the provisions dealing with a Provincial Integrated Justice Forum, the involvement of this department in the Criminal Justice System is essential.

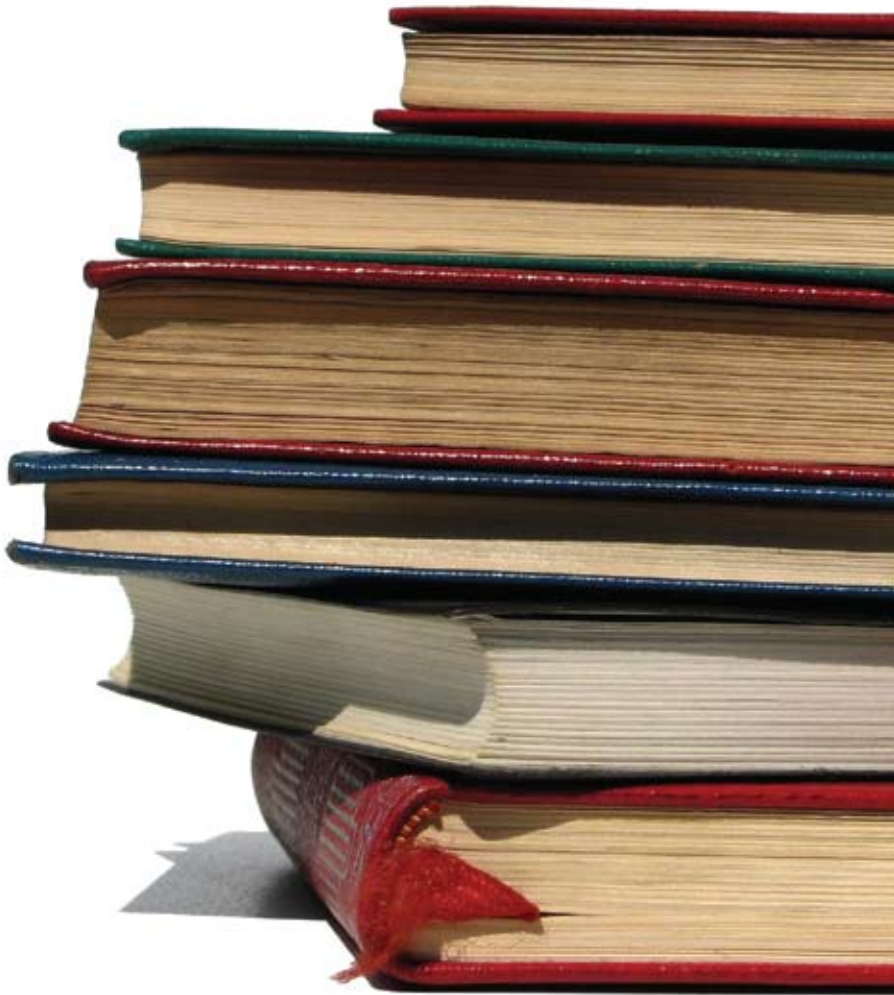


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The involvement of the Provincial Head of the department or his/her delegates will be required at court and case flow management meetings from time to time. The expertise of specially trained officers of this Department is necessary for the proper administration of justice. These officers are required to:

1. Compile and submit probation officers' reports timeously to the relevant clerks of court, as and when requested by courts.
2. Screen and assess juvenile offenders **prior to first appearance** in court as envisaged by Section 50(5) of the CPA, without delay, and to compile reports in this respect, to be submitted by 9h00 on the day of first appearance to the relevant clerks of court.
3. Ensure that reasonable steps are taken to determine the age of juvenile offenders before first appearance.
4. Notify Regional Heads of DOJCD before the 10<sup>th</sup> of each month of the existence and capacity of every place of safety in the province together with a comprehensive list of juveniles being detained.
5. Provide the Regional Heads of DOJCD and area court managers with a list (including addresses and contact details) of all NGO's, rehabilitation centres, shelters, trauma and crisis centres, etc. in each province, and to update this information as changes occur.





**DEPARTMENT OF EDUCATION**



## **DEPARTMENT OF EDUCATION**

As indicated in these guidelines under the provisions dealing with a Provincial Integrated Justice Forum, the involvement of this department in the Criminal Justice System is essential.

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The involvement of the Provincial Head of department or his/her delegates will be required at court and case flow management meetings from time to time. The expertise of specially trained officers of this Department is necessary for the proper administration of justice. This Department should:

1. Provide sufficient reform and industrial schools.
2. Provide the necessary educational facilities and programmes geared towards the upliftment of the individuals referred to these schools.
3. Ensure that there is active participation in CFM structures at all levels.
4. Ensure that its national instructions and policies conform to CFM objectives.
5. Ensure that resolutions of court and case flow management meetings are implemented timeously.
6. Provide the relevant clerk of court with information as to the various reform and industrial schools available and their occupancy rate.
7. Provide the relevant clerk of court with reports regarding non-compliance with any requirements relevant to the successful completion of the programme, including reports on any abscondments.





**DEPARTMENT OF HEALTH**

## **DEPARTMENT OF HEALTH**

The Department of Health, like all other departments, has a constitutional obligation in terms of section 165(4) of the Constitution to assist the courts to ensure their effectiveness.



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Officials in the Department must thus involve themselves at the appropriate levels within CFM structures. The Department's involvement in criminal cases mostly relate to very serious cases. It is therefore of the utmost importance that effective liaison between this department and the CJS be established at all levels.

**Blood alcohol reports:**

1. All the documentation in relation to the taking of blood samples are important and in fact possible exhibits in a criminal trial. The utmost care must be taken when preparing this documentation since any negligence or carelessness when completing such may lead to costly delays and injustice.
2. As a general rule, medical practitioners responsible for taking the blood sample must also complete a J88 (or other appropriate) form. This medical examination must concentrate on the suspect's state of sobriety and his or her ability to drive a motor vehicle with safety. Failure to perform this duty leaves the state with no other option but to wait for the return of the blood analyses from the laboratory in order to dispose of the case.
3. Documentation pertaining to blood samples must be taken and kept in triplicate.
4. Laboratories should ensure that contingency plans are in place to deal with heavy workloads and sudden higher influxes of work.
5. Turnaround time for laboratory reports should be decreased.
6. Expected turnaround times must constantly be communicated to CFM forums and any anticipated problems must be reported in time to plan around them.
7. Building and sustaining capacity to ensure that backlogs do not result.
8. CFM awareness should be cultivated amongst staff of all ranks.
9. Laboratories should be aware of local CFM expectations and the work load per court and plan and adjust their production accordingly.
10. Laboratories must keep a proper register to allow all the information relevant to a specific case to be traced.
11. Arrangements should be in place to enable the fast tracking of specific cases.
12. Processes should be established to make reports available electronically to the courts via the clerks of courts.

**Mental hospitals:**

1. The unavailability of beds is a major problem that contributes to case backlogs in courts countrywide. Mental hospitals should determine their lack of capacity in this regard and inform local CFM structures. They must indicate how and when they plan to address this problem and should ensure that contingency plans are in place to deal with heavy workloads and sudden higher influxes of work.
2. Turnaround time for reports should be decreased.
3. Expected turnaround times must constantly be communicated to CFM forums and any anticipated problems must be reported in time to plan around them.
4. CFM awareness should be cultivated amongst staff of all ranks.
5. Mental hospitals should be aware of turnaround time expectations (30 day committal period) and develop and sustain a plan of action in this regard.
6. Mental hospitals must keep a proper register to allow all the information relevant to a specific case to be traced.
7. Arrangements must be in place to allow for the fast tracking of specific cases.
8. Processes should be established to make reports available electronically to the courts via the clerks of courts.

**Medical Reports/Post Mortem Reports:**

1. Medical and post mortem reports and other documentation generated from hospitals, clinics and medical practitioners are of the utmost importance in the CJS. Murder, rape, culpable homicide, assault and child abuse cases are but few of the cases that rely heavily on the accuracy and timely availability of these reports to secure fair prosecutions. In addition to criminal trials, the CJS relies heavily on medical reports for fair and speedy results pertaining to inquests.
2. Heads of medical facilities should ensure that they participate in local CFM structures.
3. Turnaround time for reports should be decreased.
4. CFM awareness should be cultivated amongst staff of all ranks.
5. Medical facilities should keep a proper register to allow all the information relevant to a specific case to be traced.
6. Arrangements must be in place to allow for the fast tracking of specific cases.

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7. Medical facilities must ensure that proper training of the relevant staff component takes place to achieve CFM objectives.

***J88 Reports/Age determination***

1. Medical practitioners must complete J88 forms in legible handwriting (including the certificate in terms of section 212(4) and 213(3) of the CPA) or immediately arrange that the information be typed. This action may avoid additional postponements and may even avoid the practitioner being required to attend court.
2. J88 reports must be completed promptly and handed over to the investigating officer immediately to avoid postponements for that specific reason.
3. Arrangements must be in place to enable the fast tracking of specific cases.
4. Age determinations must be done as a matter of urgency and the findings handed over to the investigating officers immediately.



A close-up photograph of a person's hand holding a black pen and writing on a document. The document is orange and has some text on it. In the background, another person's hand is visible, gesturing. The lighting is warm and focused on the writing hand.

**FORMS TO ENHANCE  
CONSISTENCY AND EFFICACY OF  
CFM**

## **FORMS TO ENHANCE CONSISTENCY AND EFFICACY OF CFM**

The following forms are examples related to CFM principles and have been drawn from best practice. They may no doubt be utilised in their present form or adjusted to suit the needs of different Courts and Offices. It is however hoped that these would spark initiative with the principals and practices of these guidelines, and serve to maintain consistency.



*Pre-Trial Enquiry by the Court  
as to State Prosecution and Defence Readiness*

<b>Case No:</b>		<b>Yes</b>	<b>No</b>
1.	State is ready to set the matter down for trial ?		
2.	Accused/Legal Representative (see record) is ready to proceed to trial (Accused's rights have been explained and recorded when not represented)?		
3.	Accused/Legal Representative has copies of:		
	(a) Charge sheet?		
	(b) All documents/statements to be provided by the State Prosecutor?		
4.	(Accused in custody): Legal Representative has consulted with his/her client?		
<p>Comments .....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p style="text-align: center;">.....</p>			
<p>All of the above should be in the affirmative for a trial date to be set. Negative aspects may require short postponements</p>			

\_\_\_\_\_

Presiding Magistrate

\_\_\_\_\_

Date

# CASE FLOW MANAGEMENT CORRECTIVE MEASURES/INTERVENTIONS

ASSIGNED PERSON	TIME FRAME	NO.	CORRECTIVE MEASURES/INTERVENTIONS
<b>1. PRE-TRIAL STAGE</b>			
		1.1	<b>Timely availability of dockets on first appearance</b>
			• Dockets to be presented at Court before 08:15 on the day of first appearance
			• Prosecutors – report non compliance by investigating officers to Branch Commanders
		1.2	<b>Docket completeness:</b>
		1.2.1	• Face of docket: Correctness of charge
			a. To be completed properly by investigating officers
			b. Station Commissioners delegate to certify the completeness of dockets prior to presenting them to court
		1.2.2	<b>Part A of the docket: Elements of the crime</b>
			a. To be completed properly by investigating officers
			b. Station Commissioners delegate to certify the completeness of dockets prior to presenting them to court
<b>2. TRIAL STAGE</b>			
		2.1	<b>Subpoenas</b>
		2.1.1	Prosecutors request for issuing subpoenas
		2.1.2	J32 – Witness (Justice form fees involved/CoC have appointment/signature)
			a. Complete J32 as instructed by prosecutor in docket diary and confirm issuing of J32 in diary
			b. Provisionally completed by the SAPS liaison official and officially authorised by the CoC
<b>3. POST TRIAL JUDGMENT STAGE</b>			
		3.1	<b>Number of postponements for sentencing purposes</b>
		3.1.1	Probation officers reports



## CASE FLOW MANAGEMENT INFLUENCING FACTORS

PERFORMANCE AREA	NO.	INFLUENCING FACTORS	YES /NO
<b>1. Pre-trial Stage</b>	1.1	<b>Timely Availability of dockets on first appearance</b>	
	1.2	<b>Docket completeness</b>	
	1.2.1	• Face of docket: Correctness of charge	
	1.2.2	• Part A of the docket: Elements of crime	
	1.2.3	• First information of crime noted in the docket is accompanied by date	
	1.2.4	• Statement quality (Contact details)	
	1.2.5	• Statement of arrest on 1 <sup>st</sup> appearance	
	1.2.6	• Accused is linked to crime	
	1.2.7	• Position of the accused is noted in the investigation diary (Annexure C) of the docket	
	1.2.8	• Particulars of accused is completed	
<b>2. Trial Stage</b>	2.1	<b>Subpoenas</b>	
	2.1.1	• Prosecutors request for issuing subpoenas	
	2.1.2	• J32 – Witness (justice form/fees involved/ CoC have appointment signature)	
	2.1.3	• Serving of subpoenas – J32	
	2.1.4	• No return of service	
	2.1.5	• Returns incomplete	
	3.1	<b>Number of postponements for sentencing purposes</b>	
<b>3. Post Trial/ Judgment Stage</b>	3.1.1	• Probation officers reports	
	3.1.2	• Pre-sentencing reports	
	3.1.3	• Magistrates order/request/research	
	3.1.4	• SAP 69s	
	3.1.4.1	• Incorrect information in some instances	
	3.1.4.2	• Waiting too long/delay in obtaining	
	3.1.4.3	• Accused disputing	
	3.2	<b>Utilisation of Section 27b(1)(h) – Community Corrections</b>	

## CASE FLOW MANAGEMENT INFLUENCING VALUES

PERFORMANCE AREA	NO.	INFLUENCING FACTORS	INFLUENCING VALUE																
			1	2	3	4	5	6	7	8	9								
<b>1. Pre-trial Stage</b>	1.1	<b>Timely Availability of dockets on first Appearance</b>																	
	1.2	<b>Docket completeness</b>																	
	1.2.1	• Face of docket: Correctness of charge																	
	1.2.2	• Part A of the docket: Elements of crime																	
	1.2.3	• First information of crime noted in the docket is accompanied by date																	
	1.2.4	• Statement quality (Contact details)																	
	1.2.5	• Statement of arrest on 1st appearance																	
	1.2.6	• Accused is linked to crime																	
	1.2.7	• Position of the accused is noted in the investigation diary (Annexure C) of the docket																	
	1.2.8	• Particulars of accused is completed																	
<b>2. Trial Stage</b>	2.1	<b>Subpoenas</b>																	
	2.1.1	• Prosecutors request for issuing subpoenas																	
	2.1.2	• J32 – Witness (justice form/fees involved/ CoC have appointment signature)																	
	2.1.3	• Serving of subpoenas – J32																	
	2.1.4	• No return of service																	
	2.1.5	• Returns incomplete																	
	3.1	<b>Number of postponements for sentencing purposes</b>																	
<b>3. Post Trial/ Judgment Stage</b>	3.1.1	• Probation officers reports																	
	3.1.2	• Pre-sentencing reports																	

# MINUTES

## CASE FLOW MANAGEMENT MEETING HELD ON THE

OFFICE: \_\_\_\_\_ TIME: \_\_\_\_\_

CHAIRPERSON: Mr/Mrs \_\_\_\_\_

### PROCEDURAL

ATTENDANCE	APOLOGIES	NEXT MEETING
<u>Attendance:</u>	<u>Apologies:</u>	Please diarise:
<i>ISSUE/AGENDA</i>	<b>BACKGROUND/ DISCUSSION</b>	<b>ACTION/DECISION</b>
<b>1. Welcome &amp; Opening</b>		
<b>2. Adoption of agenda &amp; minutes</b>	2.1	
	2.2	
<b>3. Matters arising</b>	3.1	
	3.2	
<b>3. Matters arising</b>	3.3	
	3.4	
<b>4. Standard Items</b>	<b>4.1 Production of Statistics</b>	

<b>4. Standard Items</b>	<b>4.2 Analysis of Statistics</b>	
	<b>4.3 Awaiting Trial Detainees</b>	
<b>5. Standard Items</b>	<b>4.4 Case Backlogs</b>	
	<b>4.5</b>	
	<b>4.6</b>	
<b>5. Discussion</b>	<b>5.1</b>	
	<b>5.2</b>	
	<b>5.3</b>	
	<b>5.4</b>	
	<b>5.5</b>	
<b>6. General /Additions</b>	<b>6.1</b>	
	<b>6.2</b>	
	<b>6.3</b>	
	<b>6.4</b>	

<b>7. Closure</b>		
<b>8. Date of next meeting</b>		

**COURT TIMES – COURT** \_\_\_\_\_

**DISTRICT/REGION** \_\_\_\_\_

**DATE:** \_\_\_\_\_

<b>TIME COURT COMMENCED</b>	<b>TIME COURT ADJOURNED</b>	<b>REASONS [IF KNOWN]</b>	<b>TOTAL</b>
<b>TOTAL HOURS IN COURT</b>			

I \_\_\_\_\_ the undersigned do hereby certify the above is true and correct.

**DATED** at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_\_

\_\_\_\_\_  
**CLERK OF COURT**

# DAILY CFM SHEET

DATE.....

Names of Court Officials	Court	Comments	Status of the Court
Magistrate: _____ _____ _____ PP : _____ Sten : _____ Interp : _____ Orderly : _____		Machine working: _____ Personnel: _____ Time: _____	Trials: _____ Part-heards: _____ Pleas: _____ Judgments: _____ Sentences: _____ Bail appls: _____ Provs: _____ Ch-sheets o/s: _____ Dockets o/s: _____
Magistrate: _____ _____ _____ PP : _____ Sten : _____ Interp : _____ Orderly : _____		Machine working: _____ Personnel: _____ Time: _____	Trials: _____ Part-heards: _____ Pleas: _____ Judgments: _____ Sentences: _____ Bail appls: _____ Provs: _____ Ch-sheets o/s: _____ Dockets o/s: _____
Magistrate: _____ _____ _____ PP : _____ Sten : _____ Interp : _____ Orderly : _____		Machine working: _____ Personnel: _____ Time: _____	Trials: _____ Part-heards: _____ Pleas: _____ Judgments: _____ Sentences: _____ Bail appls: _____ Provs: _____ Ch-sheets o/s: _____ Dockets o/s: _____







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- Ms S R Monaledi, Regional Court President, North West Province: Member of the LCM Sub-Committee on Court and Case Flow Management
- Mr T C Mabaso, Chief Magistrate, Durban: Member of the LCM Sub-Committee on the Court and Case Flow Management.
- Mr T D Khati, Senior Magistrate , Bloemfontein
- Mr V Z Stander, Senior Magistrate, East London
- Mr R E Laue, Senior Magistrate, Durban
- Mr J C R Engelbreght, former Magistrate, Middleburg
- Mr E J Sibeko, Chief Prosecutor, Durban
- Mr R Sansom, Chief Prosecutor, Southern KwaZulu Natal
- A W Mudau, Magistrate, Polokwane
- Ms G Caine, Executive Director, IPT
- Ms I Matthews, Operations Director, IPT

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- Mr T C Mabaso: Chief Magistrate, Durban - Convenor and Chairperson, LCM Sub-Committee on CFM.
- Mrs S R Monaledi: Regional Court President, North West Province - Convenor and Chairperson, Judicial Education Committee.
- The Regional Court President's Forum
- Mrs V T Gqiba: Chief Magistrate, East London -Member of the LCM Sub-Committee on CFM.
- Mr V L Mphokane, Chief Magistrate, Mthatha – member of the LCM Sub-Committee on CFM.
- Mr D Nair: Chief Magistrate, Pretoria and Overseer
- Mr H J Jonker: Chief Magistrate, Johannesburg
- Mr C J Barnard: Chief Magistrate and Head of Quality Assurance Division of the Magistrate's Commission
- Mrs M K N Gwala: Regional Magistrate, Durban
- Mr B King: Senior Magistrate and Law Lecturer, Justice College
- Ms M Mamosebo: Senior Magistrate, Pretoria
- Mr P van Vuuren: Magistrate, Pretoria
- Mr I Khallil: Magistrate, Durban
- Ms M Sejosengwe: Chief Director, Court Performance, Department of Justice and Constitutional Development
- Mrs K B Shabalala: Regional Head, KwaZulu Natal
- Mr D Boardman: Department of Justice and Constitutional Development

- Mrs P van Rooyen: Department of Justice and Constitutional Development
- Commissioner P T Brown: Provincial Head, Detective Services, SAPS, KwaZulu Natal
- Superintendent P G Nair: Provincial Office, SAPS, KwaZulu Natal
- Mr R L Sansom: National Prosecuting Authority
- Mr E J Sibeko: National Prosecuting Authority
- Mr V Nair: Legal Aid South Africa
- Dr L King: Specialist Psychiatrist, Dept of Health, KwaZulu Natal

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## NOTES

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