

**MINUTES OF THE PIJS MEETING HELD ON
25 FEBRUARY 2005 AT THE KHAYA LEMBALI AT 09:00**

Attendance

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Gumede	Marcus	KZN Law Society	031 3053824	031 3049657	mbgumede@sai.co.za
Jappie	Judge A N		031 3625836	031 3058883	
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Mabaso	Mr T C	Mag. Court Durban	031 3024159	031 3681366	tjagesar@justice.gov.za
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Sejosengwe	Memme	DOJCD	012 3151197	012 3151410	msejosengwe@justice.gov.za
Sibeko	Eric	NPS	031 3024223	031 3324966	esibeko@justice.gov.za
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1. OPENING REMARKS AND WELCOME

Judge Jappie welcomed all. It was mentioned that the Law Society and Bar need to be urged to attend these meetings.

2. APOLOGIES

Mr J Manuel; Mr Mhlongo; Mrs Gwala; Mr B A Ntanjana;

3. ACCEPTING OF MINUTES OF PREVIOUS MEETING

The minutes were accepted as a true reflection of the proceedings at the previous meeting, but for:

- Ø Judge Theron being a lady [page 9]
- Ø Adv Gey van Pittius did render apologies for not attending the previous meeting. [Page 2]

4. ACCEPTING OF AGENDA

The Agenda was accepted by all present.

5. MATTERS ARISING FROM MEETING DATED 30 JULY 2004

5.4 CCTV LINKAGE

Mrs van Rooyen noted that no comments with regard to the access of members of public to the prison facility had been received. Feedback was given regarding a recent workshop held at Pinetown, at which the proposed CCTV Linkage was widely discussed and tested – it was noted that

- Ø Mr Boardman indicated that the CCTV tender closed on 18 February 2005;
- Ø On 24 March 2005 the particulars of the successful bidder will be communicated;
- Ø On 08 April 2005 the contract will be signed and
- Ø Video postponements should be conducted by the end of April 2005.

The venues for the linkage will be F-Court at Pinetown court, Court 10 at Magistrate Durban and 2 Offices on the 3rd floor Medium A at Westville Prison. Day runs, etc will have to be run before the video postponements will be fully operational.

5.8 OVERCROWDING OF PRISONS

There was some discussion around the issue of prison overcrowding and it was noted that although there are numerous ad hoc initiatives to deal with overcrowding, there seems to be no collective plan to deal more effectively with the problem. In discussion a number of issues were raised:

- the lack of proper provisions for juveniles in the existing facilities make it difficult for juveniles to be sent to prison. The standards do not meet with requirements of the Constitution. Correctional Services and Social Welfare must take note of this issue.
- The Department of Education should be invited to join hands with the other role players involved with this issue especially around the issue of a reform school since one hasn't been available to the province since 1998.
- Many of the "juveniles" within the system are not in fact juveniles, in fact ±20 % of "Juveniles" appears not to be juveniles.
- The sentencing of a number of juveniles and adults to 5 days imprisonment - emanating from petty offences in the Community Courts - has had a negative effect on the overcrowding of prisons. Judge Jappie highlighted the fact that there are so few sentencing options for juveniles.
- Age assessments need to be done as early as possible during the proceedings. In some instances no meetings take place between Correctional Services officers and Magistrates to discuss these issues.
- It was suggested that an audit should be conducted to assess that true numbers of juveniles in the system and that this requires the combined efforts of SAPS, the Court and the Correctional Centres. Since this seems to be a problem throughout the system it might be worth setting up a sub committee.

Ms Batohi said that a directive would be sent out to Prosecutors noting that if they receive a docket in respect of an accused under 18 and are suspicious about the correct age they should request an age assessment at the District Surgeon.

Ms Sejosengwe suggested that this issue should be incorporated into the Case Flow Management document.

Following this discussion a task team was set up as follows:

Judiciary:	Mr Mabaso/ Mr Ngcobo;	Court services:	M Sejosengwe, D Boardman
Prosecutors:	A Kistnasamy	Correctional Services:	Regional Head;
Social Welfare:	Mr Mqadi	SAPS:	Commissioner Brown

The date of the first meeting was set for 14 March 2005 at Kaya Lembali at 09:00 and Ms Batohi asked that at the first meeting a status report providing numbers of juveniles in all facilities including secure facilities be presented and Commissioner Brown will check on the availability of District Surgeon facilities. It was agreed that the attendance of the Department of Education should be sought.

Mr Ntshangase also suggested that once the committee is up and running, judicial sub-clusters be formed and these should become part of Case Flow Management. IPT agreed to distribute the Correctional Services action plan regarding prison overcrowding.

There was a further discussion around the ongoing problem of transporting of the prisoners to court and the impact on court hours. While a human resource shortage seems to be the biggest contributor to this problem, Judge Jappie requested SAPS to follow up and address the issues relating to the transport of Prisoners. Ms Batohi noted that this tiresome problem will always be present, but that we will have to work smarter to manage.

SECTION 63A APPLICATIONS

Mr Mabaso indicated that he has three Magistrates available to look at these applications. Correctional Services indicated that they do not know of any problems, but they will check with Regional Office.

At Newcastle problems were experienced with officials interacting with Department of Correctional Services officials. In some areas there are no meetings taking place in order for the Department of Correctional Services officers and Magistrates can discuss these issues.

Mr Ngcobo explained that problems in Newcastle have been addressed and that they have been urged to hold Case Flow Management meetings.

10.3 IMPLEMENTATION OF CASE FLOW MANAGEMENT

There was some discussion around the implementation of case flow management and Ms Sejosengwe mentioned that the LCMC has taken the lead by developing a document which will be printed and released Nationally. This may be followed by further documents to enhance and complement the existing CFM document. Although though the Director-General Court Services will sign off the document; it will also have an impact on all the other pillars and at Provincial levels the effectiveness of Case Flow Management on the ground needs to be monitored. Ms Batohi suggested that it may be

useful to compile a list of all the offices/areas where Case Flow Management meetings are to be held and to analyse reports from those offices to identify problematic issues.

Ms Sejosengwe supported the need to monitor implementation and noted that the process underway at Stanger may be used as an example of such a process. These measures can be used and rolled out to other clusters.

Mr Boardman told the meeting that the CRMS [Case Roll Management System] in place at the 14 office in KZN will be replaced by the e-scheduler system. Change management workshops will be run at the 14 sites before the E-Scheduler system will be rolled out Nationally.

The meeting was asked to give a brief report as to how well CFM was being implemented –

- Mr Sibeko reported that Case Flow Management meetings are now held at Pinetown.
- At Pietermaritzburg CFM is running well;
- At Empangeni a workshop will be held on 04 March 2005;
- At Ladysmith a Workshop will be held for the Regional court and District court;
- Nqutu still poses to be a problem;
- At Regional level Newcastle is still experiencing problems, but in general things were coming on.

Following a discussion on the fact that Section 103 of the Firearms Act requires uniform implementation, Ms Batohi noted that the Firearms Amendments Act also impacts on Section 57A matters. It also affects the element of honesty, thus enquiries need to be held. The Director of Public Prosecutions will request an amendment to the existing legislation.

MATTERS ARISING FROM THE MEETING DATED 1 OCTOBER 2004

6. FINALISATION RATE OF ALL REGIONAL COURTS

Mr Sibeko reported that the NPA had conducted a Regional Court Audit at all big centres– see statistics attached “Regional Court Audit”.

This audit had found for example that S-Court is a matter of concern, as it had not been sitting for a period of for 3 months and these performance problems need to be solved collaboratively.

In discussion a number of contributing factors were identified including:

- The lack of a relief component for the Regional Courts impacts negatively on court dates
- At times other role players are not available, which requires courts to be combined. (It was noted that by combining courts, two courts are in fact affected negatively. It may be more advisable to let the outlying court without a Magistrate remain as is, instead of using a Magistrate from the 1st court and thereby jeopardising 2 courts. Mr Ntshangase noted that the outlying courts may have cases to be dealt with as a matter of urgency, and Ms Batohi suggested that such a matter may be moved to a court that is in session.)
- Mr Hahn, the S-court Magistrate, is also the Departmental Regional Court President, and he needs to at times tend to matters away from Durban court.

It was agreed that Ms Sejosengwe will meet with Mr Ntshangase and Mr Sibeko to identify underlying factors and to look for solutions. National office will engage with all Regional Court Heads Nationally.

Some concerns around the O-Distribution Court at the Regional Court Durban was discussed and it was agreed that the issue will be discussed outside of this forum between the parties involved in the O-Distribution Court.

Commissioner Brown noted his concerned with the number of matters remanded as no dockets are at court. The appointment of SAPS Court Managers has been in the pipeline for some time, and those statistics will enable him to prove the urgency of such appointments. It was agreed that any available stats would be given to him via Mrs Van Rooyen.

6. MATTERS ARISING FROM THE MEETING DATED 3 DECEMBER 2004

Mr Sibeko reported on behalf of Ms Kistnasamy that a two day workshop had been facilitated by Mr Boardman at Stanger.

34 people attended from all the pillars except for Legal Aid and Social Welfare. A Case Flow Management plan was collectively developed for Stanger utilising statistics emanating from the CRMS. Attendees were trained on methods of analysing and utilising the stats – see Stanger reports attached.

Ms Sejosengwe emphasised that the methodology used at Stanger court needs to be tested as a model to develop Case Flow Management. (It was noted that the electronical tool used is the CRMS, which will be replaced by the E-scheduler program).

Ms Batohi requested that the information captured at the 14 CRMS centres, once analysed should be channelled back to this forum as this is information that can be used as a tool to make informed decisions. Judge Jappie asked that this be presented at the next PIJF meeting.

8. HIGH COURT SUB-COMMITTEE

No sub-committee meeting has taken place. Advocate Engelbrecht will be replacing Advocate Williams as convenor although Advocate Williams will remain on the committee.

10. IMPLEMENTATION OF DIVERSION PROGRAM

There was some discussion around the problems prevailing at Stanger and Durban Magistrate's Court around the delays in the submission of pre-sentence reports. Social Welfare Reps agreed to request their Regional Office to address this problem. A list of the contact details of all Regional Offices will be provided at the next meeting. It was also noted that they are experiencing a serious staff shortage with only two probation officers per district. Furthermore, Probation Officers can often not perform their own work, but have to perform Administrative functions. There is a general shortage of probation officers in South Africa.

Advocate Blumrick mentioned that Umzimkhulu resides under the Eastern Cape's Social Welfare, yet it resorts under the KZN Justice system. Ms Batohi requested the Department of Social Welfare to review their demarcations, to include Umzimkhulu in the KZN Social Welfare.

The Department of Social Welfare is to look at staff establishments with the implementation of the Child Justice Bill and Ms Batohi suggested that Social Welfare meets with Advocate Blumrick to discuss these issues. Ms Sejosengwe acknowledged that the Child Justice Bill is a sensitive issue that will be addressed by Court Services.

11. RAMSGATE COURT SESSIONS [LETTER FROM JUDGE SHABALALA]

With regard to the travelling problems of the Court Interpreters, Mrs Venter explained that a vehicle was allocated to the interpreter in question. Mr Manual has ordered 16 vehicles of which 12 were approved to be delivered. In the interim transport will be arranged for interpreters.

4 Posts of interpreters will be available from 01.03.2005 of which 2 will be allocated to the High Court Pietermaritzburg.

NEW MATTERS**6. OVERCROWDING IN PRISONS**

Mr Mdluli stated that Section 63A should be vigorously applied. Lists of prisoners that were to be assessed for application of this section were completed and forwarded to Judge Shabalala to assist. It will have a positive impact. ±30 Juveniles with bail less than R1000 are at present in custody.

Overcrowding is a National program. Provisions are in place, but the impact is not really evident and the Minimum Sentence application has impacted negatively on overcrowding. Ms Batohi mentioned that maximum sentences have rocketed, but medium sentences [7-14 years came down].

9. IMPACT OF THE CHILD JUSTICE BILL

Advocate Blumrick voiced her concern that the necessary infrastructure may not be in place when this matter goes to parliament.

10. CONSULTATIVE WORKSHOPS ON THE DEVELOPMENT OF DIVERSION MINIMUM STANDARDS

Ms Blumrick pointed out that in respect of the Child Justice Bill uniform standards throughout KZN are not available, especially concerning children that had committed serious offences. It was also noted that the Child Justice Bill makes provision for certain departments to accept responsibility for certain aspects and it was important to ensure all departments are on board.

It is clear that the Department of Education should come on board, to ensure that they would be ready to cope with the influx of children. The Child Justice Bill poses to be a challenge to all stake holders.

12. GENERAL**12.1. J165 BENCH WARRANTS**

Mrs van Rooyen mentioned that it has come to her knowledge that the J165 Bench Warrants are cancelled and filed on dockets, if the execution thereof was unsuccessful. This results in case records at court remaining open, as they can only be disposed of once the Bench Warrant is returned. [Providing that no plea had been taken] Historically J165's were returned to the court if not executed, where after J50's were requested for.

Ms Batohi explained that the issuing of J50's posed to be a problem.

Commissioner Brown requested a report to be lodged on this issue.

12.2. PROGRESS REPORT ON CASE FLOW MANAGEMENT

Mr Mabaso informed the meeting that the latest statistics reveal that they are making progress with regard to Case Flow Management at Durban Magistrate's Court.

Mrs van Rooyen explained that the matters on the role for 6 months and longer have reduced in number and this could be attributed to the fact the Magistrates in court now take responsibility for their rolls.

12.3. ANTI-RAPE STRATEGY

There was some discussion around which would be the best forum to deal with the strategy most effectively: PIJF or sexual offences forum. The Anti-Rape Prevention strategy is only at National level and SOCA feels that it will be best practice to utilise the Anti-rape forum. A committee meets quarterly looking at the way that cases are dealt with, training, sites etc although they are battling to get Social Welfare, SAPS and Legal Aid on board to solve all the problems and issues of women and children.

Judges are concerned with the standard of matters and Mrs Batohi voiced her concern with the standard of prosecution of sexual offences in courts.

Advocate Blumrick explained that they attempt to address the issue with ongoing training. Doctors are called to testify in court, as documents are often incomplete. The matters are too many to take to high court and need to be dealt with in lower courts.

More enthusiasm from Legal Aid would be appreciated.

Judge Jappie enquired as to progress with regard to DNA and it was noted that there was no real development. Training needs to take place.

The Anti-rape strategy needs to be stressed. Commissioner Brown is not involved and would like the SAPS meeting and the Anti-Rape committee to be combined.

The next meeting is to be held on 10 June 2005 at the Hilton Hotel, Durban at 09:00

**JUDGE JAPPIE
CHAIRPERSON**

**P VAN ROOYEN
SECRETARY**