



## **Justice for Breakfast: administrative inefficiencies in Gauteng's courts**

**11 September 2013**

### **Outcome Report**

*The inability to locate crucial documentation, from charge sheets and dockets to court transcripts, remains a major obstacle in the administration of effective and speedy justice. Over the past two years, applications for assistance with missing transcripts have been a very common request for the Wits Justice Project. Missing transcripts issues are second only to requests for assistance with leave to appeal, and transcript irregularities are often found to be part of other problems that inmates request assistance for.*

*In light of these requests for assistance, the Wits Justice Project and the Crime, Policing and Criminal Justice Programme at Wits P&DM co-hosted a round-table that brought a range of stakeholders together to discuss administration in Gauteng's courts. Several operational issues came to the fore in the discussion that examined the causes of administrative malfunction:*

#### **Outsourcing transcription: challenges and progress made?**

If the Department of Justice and Constitutional Development (DoJCD) are out-sourcing transcribing and recording of court records, it is up to them to provide these service providers with a bench-mark of the quality expected. The problem is that poor quality or missing records can be remedied if the person in question has the financial resources to pay expensive lawyers' legal fees. Poorer people cannot afford to hire lawyers to help them remedy their situations, so poor court record-keeping weighs heaviest on the socio-economically disadvantaged.

Staff motivation and attitude is important. People responsible for the capturing, transcribing and safely maintaining records of criminal proceedings (from police dockets to court records) must understand the importance of their work – administrative errors can have real and tragic consequences. Administrative staff are not seeing the bigger picture – they are not seeing the impact of their work and what they are doing. As one attendee stated: "We need a Human Resources system that recognises the value of administrators, which would result in less demoralisation from staff". A suggestion here was encouraging clerks and other administrative staff to visit prisons and undergo sensitisation training.

In terms of administrative inefficiency, it is not always the people at fault, but the fact that South Africa's systems for record-keeping are inefficient. As one attendee stated: "You can conduct as much

training as you like, but it all depends in the system you have to work with – if the system is poor, there is not much to work with then”.

This problem is compounded by the fact that compliance with management policies is poor. Management and monitoring is crucial, and people who are violating or not complying with management policy should be named and shamed – or better trained. In Gauteng, the situation is that people have often been moved into management positions without adequate training. Good departments are good because they have excellent accountability.

### **Staff ratios and complexities of service provision in courts**

In terms of staff ratios for administrative support, it is impossible to ascribe a generic figure to this, as it is a much more complex matter than simple statistics. What is needed is to address support staffing levels on a court by court basis, regarding each court’s specific needs. It is also important to note that great performance relies on individual will and the court environment, not only statistical staff ratios. It is also important to note that along with staff support, modernisation of court systems can help with efficiency – and the DoJCD highlighted the fact that digitisation and modernisation are in the pipeline for our courts.

### **Missing transcripts and the efforts to recover these**

The missing transcripts issue has been high on the priority list for the DoJCD. The problems began in 2006, when there was a transition of service providers. During the transition of court records from one provider to the next, there was an IT glitch: the server containing the court records from the outgoing service provider crashed.

The DoJCD then began the lengthy process of attempting to recover these lost records. Firstly, there was an audit of how many cases had been lost; and an IT team was put together to attempt recovery. Unfortunately, the newly recovered server also crashed. At the current time, the DoJCD has a record of all the cases that have been affected by these IT problems and they have restored functionality to the server, and progress is being made in dealing with backlogs. Of the cases affected by the server crash, 80% have been reconstructed, and the DoJCD has partnered with all stakeholders, including LegalAid South Africa, to assist in dealing with the backlogs by prioritising those cases which have been delayed.

### **Relationships among stakeholders**

It was emphasised that it is important to keep the Judicial Inspectorate of Correctional Services (JICS) and the Department of Correctional Services in the loop, as they can be instrumental in passing information and updates on to inmates, who are otherwise unclear and uninformed about changes and progress in court record procedures. It was also stressed that a missing transcript should not be

treated as a “get out of jail free” card, and all stakeholders must be informed that due legal process must be followed.

In terms of punitive measures for court transcription service providers, the DoJCD reported that financial penalties are built into the service level agreements, and contacts have been cancelled based on poor performance, so court record transcribing services are being held accountable.

An over-arching change that could benefit the storage and management of court record would be an alteration in the legislation that allows the destruction of hard copies of court records if soft copies are appropriately provided. This would assist with clearing space and avoid the time delays of searching for hard copy records by hand – the DoJCD is focused on using technology to assist, but these things do take time and money.

A further comment was regarding the gap in communication between the DoJCD and a wide range of non-government stakeholders. It was agreed that this communications gap would need to be addressed by further interactions and meetings. It is also important to develop two-way path of communication between government and non-government stakeholders in the criminal justice system. It was also highlighted that the media has a strong role to play in responsible court reporting and information dissemination.

A final suggestion was using current ICCVs to train as community advice officers and paralegals. There was a concern that ICCVs may not have a broad enough knowledge base to take on a new role, and it was suggested that there is space for both professions.