

CHAPTER 2

THE INTEGRATED JUSTICE SYSTEM PROJECT

IJS objectives, benefits and aims

In terms of a November 1998 report by the Integrated Justice System User Board, the main objective of the Integrated Justice System (IJS) is to transform the criminal justice system “into a modern, efficient, effective and integrated system”.³¹ Achieving this objective will bring about the following benefits:³²

- reducing the cost of the criminal justice system;
- providing information on criminals and crime where and when it is needed;
- identifying persons with histories of prior criminal activity quickly and reliably;
- providing mechanisms to identify repeat offenders, to expedite their arrest and prosecution;
- automatically notifying stakeholders in the criminal justice system when repeat offenders enter the criminal justice process;
- basing decisions on bail, community diversion, prosecution, sentencing and incarceration on accurate and timely information; and
- channelling relevant information to crime victims.

According to Business Against Crime (BAC), the implementation of the IJS will provide South Africa with a world-class criminal justice system; “one that will lead to swift and appropriate punishment of criminals, serve as a deterrent to crime, and that will ultimately contribute substantially towards ridding South Africa of unacceptable levels of crime”.³³

Background to the IJS

National Crime Prevention Strategy

The criminal justice enterprise includes most of the work of the South African Police Service, the Department of Justice (including the National Prosecuting Authority), the Department of Correctional Services; and those aspects of the programme of the Department of Welfare that concern victims, youth crime

prevention and juvenile justice (this is a relatively small proportion of the work of the Department of Welfare). Each of these departments receives its own budget allocation; each has its own minister and director-general. Historically, each department tended to focus on its own priorities, and there were significant problems at the interfaces between them. Some of these problems were identified by the National Crime Prevention Strategy (NCPS).

Business Against Crime has long been involved in attempts to reform the criminal justice system in South Africa.³⁴ BAC was established in 1996 when then president Nelson Mandela invited business to join hands with the government in the fight against crime. BAC was founded on the belief that collective application of resources provided by individual companies to address problems within the criminal justice system would be more effective than individual efforts.

Working relationships with provincial governments and provincial heads of departments within the criminal justice system necessitated the establishment of BAC on a provincial basis. BAC Eastern Cape was established in March 1997, its board members being drawn from business, local and provincial government, the criminal justice system and civil society.³⁵

Soon after the adoption of the NCPS by the government of national unity in May 1996, BAC assisted the NCPS implementation structures with an investigation into blockages in the criminal justice system. The investigation was conducted by Andersen Consulting in late 1996, and produced a report which highlighted two sets of possible areas for intervention. One set was referred to as the 'A' list of critical priorities for intervention. Many of the items on that 'A' list were issues that needed to be addressed across *all four* criminal justice departments – *enterprise-level* issues – such as management of people and information, human resource development, and IT infrastructure.

Integrated Justice System

At the end of 1996, government made some funds available to assist with the reform of the criminal justice system, and some of the items on Andersen's 'A' list were selected for implementation. Among these was an investigation into the enterprise-level process and information management in the criminal justice system – which became known as the *Integrated Criminal Justice System (IJS)* initiative.

To transform the criminal justice system into an effective and integrated system, an IJS-User Board was established in early 1997, on which senior

members of the four aforementioned government departments were represented. This was followed by the establishment of the IJS-Project Office, staffed by facilitators of the core departments and professionals seconded by BAC. According to the BAC-appointed IJS Programme Director, Hardie Fourie:

The IJS is not an IT system. It is a business re-engineering enterprise: one business with four business units (four government departments). This understanding is vital, otherwise there will be fierce competition between the four departments over the budget. The aim of the IJS is to provide a management system to manage this “enterprise” like a good business.

The goal is to manage an offender and his or her case through the system in order to achieve swift and efficient justice. The criminal justice system should be a deterrent to crime, but the deterrent effect only comes about if suspects are brought to book rapidly. This will, eventually, bring about a reduction in crime, although such a reduction is also dependent on other factors such as low unemployment, growing the economy, etc.³⁶

Mulweli consortium

In February 1998 a comprehensive six-month investigation was initiated by a group of consultants, the Mulweli Consortium, to consider how an integrated criminal justice system should function and how the criminal justice system could be transformed. The approach taken was to review the business processes involved in managing an offender in his or her journey through the criminal justice system.

The investigation concluded that the criminal justice system was running out of capacity. There was an unacceptably high number of case withdrawals and undetected cases, and low conviction rates. Courts had huge backlogs of cases and prisons were overcrowded with an alarming increase in the number of awaiting trial prisoners.

The investigation identified numerous blockages which impeded the effective operation of the criminal justice system. These related to, among others, functional and business integration, policy alignment, timely access to criminal record history, timely notification of events, imbalances in the level of automation of departments and incompatible information technology, and a lack of quality information and information sharing.

Solutions were developed to deal with the blockages that impeded the creation of an integrated criminal justice system. The Mulweli Consortium's report to government contained:

- A new vision for the criminal justice system – which was significant as it was the first time a common vision had been proposed for all four departments.
- Business process and information models.
- Identification of the blockages that contribute most to the delays in the criminal justice process.
- An implementation approach for 96 quick-fix projects, 26 fast-track projects, and six enterprise-level projects.
- A financial analysis, suggesting that it would cost R2 billion to address all the problems in the criminal justice system.

On the basis of the Mulweli report, the IJS-User Board produced a report that was used to draft a cabinet memorandum proposing a government approach to criminal justice reform. Cabinet approved the IJS-User Board report in 1998. Six enterprise-level systems were identified as the minimum necessary components of an integrated criminal justice system:

- Identification services, allowing for the identification of people within the system.
- Criminal history information management, allowing for easy access to criminal record information by those components of the system which need it.
- Docket management by the police and the prosecution service.
- Event notification to reduce delays and non-appearances.
- Business intelligence to support the entire system.
- IT infrastructure to support the entire system.

Modular approach and 2000 Plus strategy

It was becoming clear that the Mulweli approach would be extremely expensive, as it envisaged a total replacement of existing IT systems. An alternative to the Mulweli approach had to be found. According to the IJS-User Board, "the only option available" was a *modular approach*, which would see different components of the criminal justice process being re-engineered in sequence, instead of attempting to overhaul or re-engineer the entire system

in one process.³⁷ Much of 2000 was spent re-conceptualising the IJS within this new modular approach, which was approved in August 2000.

Further restructuring processes in the departments and the refining of the modular approach led the IJS-User Board to produce a new vision for the IJS initiative – the “IJS 2000 Plus” strategy – in February 2001.

In the new “IJS 2000 Plus” strategy document, the collective mission of the four criminal justice departments is defined as follows:

To reduce crime. We are accountable to the public and the state, in rendering an accessible, fair, speedy and cost-effective system of justice, in the interest of a safer and more secure South Africa. We will achieve this by integrating the management of cases and offenders through the four departments, supported by the necessary enabling technologies.

The new IJS consists of the following elements:

- An *architectural plan* clearly defining the integration of the justice system. This architecture will have to take into account the existing systems within each department.
- A *virtual private network* for the four departments, to provide the necessary security and stability of the network.
- Providing access to *electronic (IT) infrastructure* in all four departments.
- A common method of identifying persons, cases and key business requirements in each of the departments. Central to this is the *Automated Fingerprint Identification System (AFIS)*.
- A court and case management system that includes docket management, case tracking facilities, event notification, inmate tracking and resource scheduling. This system is now referred to as the *mini-IJS* because it consists of the essential functions required within the IJS.
- *Data warehousing* facilities, supported by business intelligence functions.

IJS Court Centre Project

The flagship court management project of the IJS is the Court Process Project. However, this project has a medium- to long-term implementation time frame. As an interim solution, a semi-automated court and case management system is being implemented at a number of courts where case backlogs are

unacceptably high. This initiative, termed the IJS Court Centre Project, aims to provide a single nodal point within a court from where the entire court process is managed. The primary objective is to reduce the average case cycle time.³⁸

The Court Centre Project had its beginnings in the late 1990s, when senior officials of the justice department, in conjunction with the US-based Bureau of Justice Assistance, sought to build trust in the criminal justice system by designing and implementing projects that made the criminal justice system more effective.³⁹ In the United States, the Bureau of Justice Assistance had demonstrated that New Yorkers, too poor to afford bail but with strong, verifiable ties to their communities, could safely be released before trial. This was done through a pilot Pre-Trial Services Programme in the city. Evidence of a viable alternative to bail changed the way judges in New York make release decisions in criminal courts, thereby reducing the awaiting trial population there.

One of the major problems besetting the South African criminal justice system is the high trial turnaround time and growing awaiting trial prisoner population. The solution was a Pre-Trial Services (PTS) Project and an Awaiting Trial Prisoner (ATP) Project for South Africa. Both projects brought together a team of professionals from various government departments at the court where the projects were running, and reviewed every new case individually to ensure that there was no outstanding information that would delay the court to reach a decision in respect of accused persons' right to be released pending their trial. This ensured that accused who did not pose a flight risk, a risk to witnesses or a risk to evidentiary material were released on bail at an amount which was affordable. Where possible, prosecutors and judicial officers were encouraged to set bail conditions that did not involve money for underprivileged accused.

Both projects were initially intended to be a "quick-fix" for the specific problems relating to awaiting trial prisoners. However, according to Elco van der Colff, director of the court efficiency programme of the IJS Programme Office, only about 10% of criminal cases involve awaiting trial prisoners, and the problem besetting the justice system was much wider than only the high awaiting trial prisoner numbers.⁴⁰ As a result the ATP Project evolved into the integrated Court Centre Project (CCP).

The CCP is made up of a number of separate but integrated services. It brings together representatives from each of the relevant criminal justice depart-

ments (safety and security, justice, correctional services and welfare) to create an integrated team that seeks to facilitate an expeditious court process. For example, if a prisoner does not arrive at court on time, the correctional services representative has the responsibility to follow up with the feeder prisons of the court at which the prisoner is kept. An experienced prosecutor and a SAPS official receive all dockets two days prior to the date of the hearing, and ensure that the dockets are ready for trial. If a police docket does not arrive at court, a representative from the police tracks down the docket at one of the local police stations.

A further service provided by the CCP is improved information management. A user-friendly and simple computer-based data capturing and data management programme is used to store and manage the case information contained in each docket and in the charge sheet. The system also manages the court rolls, and tracks and controls the awaiting trial period of incarcerated accused. One of the spin-offs of the electronic database is that clerks of the court no longer have to manually sift through charge sheets and court records at the end of every month to establish which cases are still outstanding on the courts' rolls. Through the CCP such information is available electronically and in "real time" at any time and on any day of the month. This assists managers with the management of court rolls, and allows for the identification of trends such as the number of juveniles standing trial, the length of the life cycles of cases and the number of dockets that are missing or have been tampered with.⁴¹

The CCP includes the establishment of reception courts, where all first appearances, remands, bail applications and guilty pleas are heard. This ensures that only trial-ready cases are dealt with in other courts.

The IJS Court Centre establishes and integrates the following aspects of court and case management:

- reception court;
- pre-trial services;
- bail applications;
- case fast-tracking;
- overcrowding of prisons;
- improved service delivery; and
- appropriate management of juvenile accused.

Imprisoned children

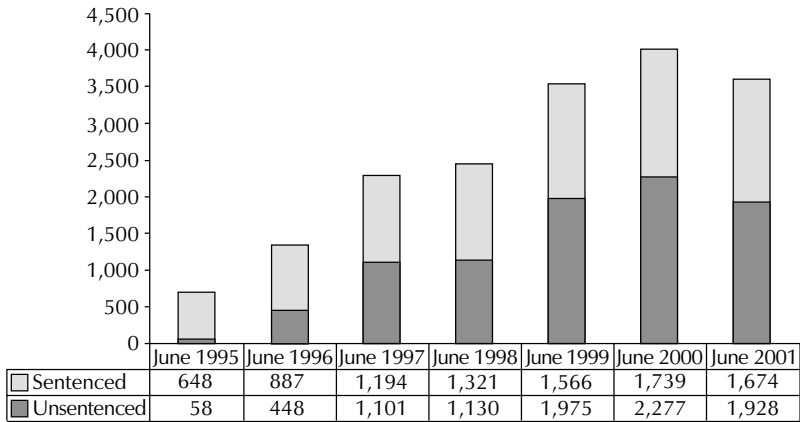
According to the Correctional Services Act of 1998 prisoners who are children (i.e. under the age of 18 years) must be kept separate from adult prisoners and in accommodation appropriate to their age.⁴² Every prisoner who is a child must be provided with social work services, religious care, recreational programmes and psychological services. Moreover, every prisoner who is a child and is subject to compulsory education must attend and have access to such educational programmes whilst incarcerated.⁴³

A 1996 amendment to the Correctional Services Act radically altered the manner in which unconvicted children can be detained awaiting trial.⁴⁴ According to the amendment, children under the age of 14 years may not be detained in a prison or police cell for more than 24 hours after being arrested, but must be placed in the care of their parent or guardian or in a place of safety.

Children between the ages of 14 and 18 years may not be detained in a prison or police cell for more than 48 hours, unless a judicial officer has reason to believe that the child's detention is necessary and in the interests of justice and the security of the public, and if no secure place of safety is available for the detention of the child within a reasonable distance of the court. However, children aged between 14 and 18 years must be detained in a prison if they are accused of having committed a serious violent crime, which would warrant such detention. Under such circumstances children detained in prison need to be brought before the court every 14 days for the court to reconsider its detention order. For a court to find that a child should be detained in prison, the prosecution must present oral evidence on the risk of the child absconding, the risk the child could pose to other children awaiting trial in a place of safety, and the disposition of the accused child to commit offences.⁴⁵

The 1996 law was intended to reduce the number of incarcerated children in South African jails. However, given the country's high crime levels, a lack of secure places of safety for unsentenced children, and the fact that some children are involved in the commission of serious and violent crimes, the law has not had its intended effect. Between June 1996 and June 2001, the number of incarcerated children increased from 1,335 to 3,602, or by 170%. The number of incarcerated unsentenced children increased from 448 to 1,928 over the same period, or by 330% (Figure 12).

Figure 12: Number of children (<18 years) in custody nationally, 1995–2001



The 1996 law significantly increased the workload of prosecutors, for a variety of reasons. Firstly, cases involving child offenders are often postponed to give the investigating officer enough time to locate their parents or guardians so that such children can be placed into their care. Under certain circumstances the prosecution also has to call the investigating officer to give evidence to the effect that the accused child’s parents or guardians are untraceable.

Secondly, where children are sent to prison awaiting trial, they have to appear in court at 14-day intervals, a process that further takes up the time of the court and the prosecution.

Thirdly, with age being a crucial determinant of whether an accused child is sent to prison or to a place of safety (or home with his parents), most adult accused with youthful looks claim to be under the age of 18 years. The prosecution then has to send such accused to the local district surgeon so that an age assessment can be performed on them. Should the accused dispute the district surgeon’s assessment, the prosecution has to lead the evidence of the district surgeon to convince the court of the correct age of the accused. As a disproportionately large proportion of accused are juveniles, prosecutors devote much time and effort on persuading judicial officers of the correct ages of accused persons.⁴⁶

Fourthly, many awaiting trial children escape from the places of safety to which they are allocated, or abscond from the care of their parents or guardians. Young accused are more likely to commit crimes (such as burglary, assault, robbery and shoplifting) in groups, compared to their adult counterparts. It is not unusual for the police to arrest a group of four or five children who are all suspects in the same investigation. If even one accused from such a group disappears, the whole case usually has to be postponed until the accused is found and re-arrested, by which time another accused from the same case might have disappeared. If even one of the accused from such a group is detained in a prison the case can be postponed for only 14 days at a time.