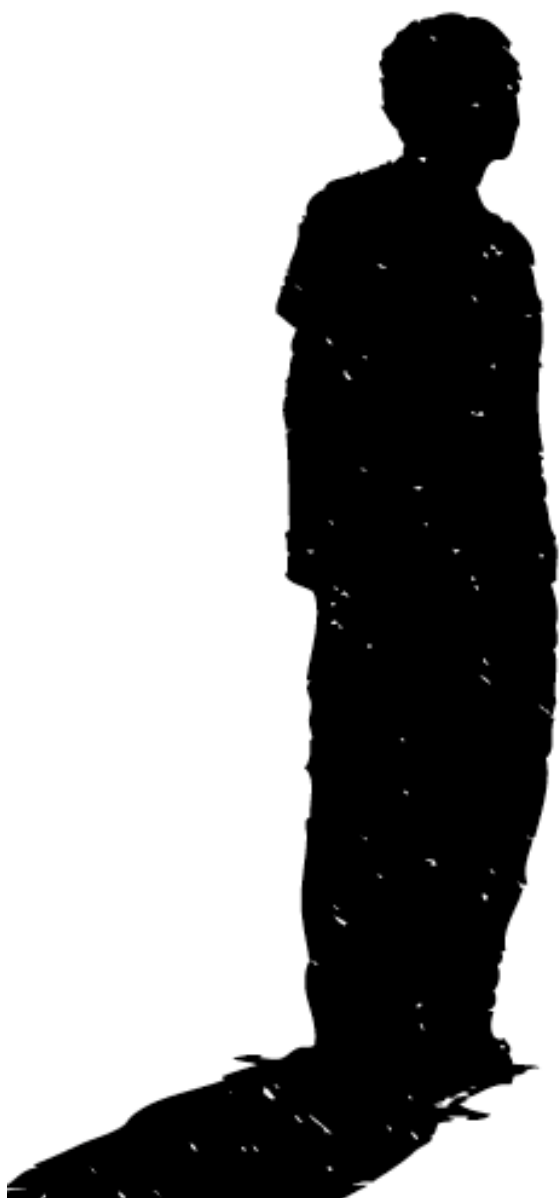




2012 Annual Plan



I. Context

A critical yardstick for measuring the success of any democracy is the functioning of its criminal justice system: how crime is investigated, prosecuted and punished within the frameworks of the country's constitution and of international human rights law.

Crime has been described as “one of the scars that blemish the face of post-apartheid South Africa”¹ and the causes of and remedies for the problem have long been debated. In particular, the prison system has often been criticised for its inefficiency and systematic failures, which have led, in some instances, to violations of basic human rights. The former Inspecting Judge, Judge Deon van Zyl, described the situation as follows²:

The transformation of the correctional system, from its pre-democratic emphasis on retributive justice and the “warehousing” of detainees to its new democratic focus on restorative justice directed at rehabilitation and reintegration of offenders, is no simple task. It is in fact complex and onerous in that the new dispensation did not simply sweep away the previously existing infrastructure and replace it with one appropriate to corrections as envisaged in the White Paper on Corrections in South Africa (2005).

In its 2010/2011 Annual Report³, the Judicial Inspectorate for Correctional Services gave the number of inmates in the country as 160 545. Of these, 47 880 (30%) are remand detainees and have been behind bars, some for years, waiting for their trials to begin or reach conclusion. Yet approximately 2 in 5 of these inmates will eventually be acquitted. This means that a staggering number of innocent people are being deprived of their freedom.

Many of these detainees are eligible for bail, but cannot afford to pay sums as small as R1,000. As a consequence ordinary people, potentially innocent of any crime, languish in appalling conditions in prisons across South Africa – not for days, weeks or months – but for years. On the issue of bail, Judge Deon van Zyl, says⁴

It is also in conflict with one of the most fundamental constitutionally protected human rights, namely the right to freedom and security of the person as provided in section 12 of the Constitution, more particularly section 12(1)(a) which states that no one should be “deprived of freedom arbitrarily or without just cause”. Imposing a bail amount which the accused will clearly not be able to pay must be regarded as “arbitrary or without just cause”.

The serious failures of the criminal justice system in South Africa – including unreliable forensic processes and structures, inefficient court processes such as lost transcripts and backlogs – increase the chances of miscarriages of justice.

¹ Mashele, Prince. *Criminal Injustice in South Africa*; Institute for Security Studies, 2009.

² Judicial Inspectorate for Correctional Services, Annual Report 2010/2011

<http://judicialinsp.pwv.gov.za/Annualreports/annualreport.asp>

³ Ibid.

⁴ Ibid.

II. Wits Justice Project

The Wits Justice Project (WJP) is a project of the Journalism Department of the University of Witwatersrand in Johannesburg, South Africa and aims to impact significantly on the lives of people by striving for changes in the criminal justice system.

Through the four arms of the project – journalism, advocacy, law and education – WJP strives to bring substantial changes to the law and its practice and the wider criminal justice system as a whole. It uses transparent activism to promote the foundational values enshrined in the South African Constitution and international and Human Rights law.

III. WJP Long-term objectives

The WJP looks to understand and investigate the reasons why justice is frequently delayed or denied, to raise public awareness of miscarriages of justice, and to produce compelling evidence of the need for reform. It is impartial and solutions-based and works within networks and partnerships at local, national and global levels.

Situated in the Journalism department, WJP also espouses core journalistic values in all its writing, research and advocacy work. These include a commitment to information dissemination that is accurate, fair and inclusive; a commitment to using a variety of communication platforms that access a broad cross-section of communities, and a commitment to public and open access to information in line with South Africa's Constitution.

The WJP aims to combine journalism, advocacy, law and education to make the criminal justice system work better for all.

The objectives of the WJP are

- *to be a leading authority on issues of the criminal justice system in South Africa;*
- *to creatively and effectively combine the use of journalism, advocacy, law and education to achieve its mission;*
- *to contribute towards the improvement of the criminal justice system in South Africa and its conformity with the Constitution and international law; and*
- *to assist individuals who are affected by miscarriages of justice.*

IV. Building on solid foundations

Established in 2008, and loosely based on the Innocence Projects in the United States, the WJP has established an excellent reputation, due to the high quality of its work and the passion for justice its staff clearly demonstrate.

In 2011 two major successes helped to cement this reputation. The first was the release on parole of Fusi Mofokeng and Tshokolo Mokoena. The WJP was instrumental in pursuing this case, where the two men had been wrongly convicted and had spent 19 years in prison as a result. The WJP continues to work on the case, helping the two men to seek a pardon and full exoneration.

The second achievement was the hosting of a high-profile conference on remand detainees. It was attended by 76 delegates, including Nosiviwe Mapisa-Nqakula, the Minister of Correctional Services, Andries Nel, the Deputy Minister of Justice, Patrick Hundermark, one of the executive directors of Legal Aid South Africa, Deon van Zyl, the (now former) inspecting judge of prisons, numerous prison visitors, Vusi Pikoli, the former NPA chief, and Vincent Smith, chairman of the correctional services portfolio committee. The conference was a landmark event, one of the first to explore the issues around remand detention in such depth.⁵

V. 2012 Annual Plan

A full plan of action for 2012 (see below) has been drawn up by the WJP team, which currently consists of:

- Anton Harber, professor and head of the Wits Journalism Department
- Nooshin Erfani-Ghadimi, project coordinator
- Carolyn Raphaely, senior journalist
- Ruth Hopkins, senior journalist
- Robyn Leslie, researcher
- Tshepang Sebulela, intern
- Grethe Koen, intern

The 2012 plan of action looks to further the vision of the WJP – to combine journalism, advocacy, law and education to make the criminal justice system work better for all – through the four long-term objectives described below.

- a. Objective One: to be a leading authority on issues of the criminal justice system in South Africa**

⁵ Wits Justice Project. Remand Detention: Challenges and Solutions, 2011

http://www.journalism.co.za/images/stories/2011Oct/Remand_Detention_Conference_WEB.pdf

This objective looks to place the WJP at the fore-front of organizations dealing with the criminal justice system. It mainly uses the journalism arm of the project, with the following list of planned outputs:

- A widely-distributed range of journalistic products, including print articles; documentaries; radio inserts/programmes; books and commentary and op-eds (on new legislation, policy etc.)
- New media content, for WJP web and social media sites (such as Twitter and Facebook).
- An anthology, showcasing the best of WJP editorial and research output in 2011, and another for 2012.
- A series of theme-based monographs on relevant topics, highlighting specific projects, research and stories.
- WJP has a distinct brand identity, leading to its recognition as an authority on the criminal justice system.
- A television documentary series (It Could Be You) with episodes based on WJP current research, case histories and advocacy, for broadcast in South Africa.

The final output, **a television documentary series**, is a major project, chosen because documentary filmmaking is an important method of bringing unacceptable situations to light, to educate the public and to raise awareness. It allows the use of in-depth investigative journalism which is at once in-depth, broad and personalised.

The WJP wishes to produce a 6 x 48min episode documentary series. The series will utilise current research, case histories and advocacy work carried out by the WJP. Each episode would deal with a particular case or situation as seen through an individual's eyes. As such, the series will be engaging, accurate, and character-driven. It will be a series that has integrity – making compelling prime-time viewing on an extremely relevant theme.

The timeframe for the documentary project is expected to be 12 months, with an approximate budget of R450,000 per episode.

b. Objective Two: to creatively and effectively combine the use of journalism, advocacy, law and education to achieve its mission

The WJP uses a methodology that makes it unique in South Africa: it combines the use of journalism, advocacy, law and education to further its aims. This allows a wider scope of methods to engage with the criminal justice system. The outputs projected for 2012 in this category are as follows:

- Established partnerships with relevant organizations and people, working to enhance the work of the WJP.

- Increased number of donors approached to fund both core and project activities.
- Published research papers, on relevant themes, under the WJP aegis.
- Teaching staff of the Journalism department assisted, as needed, with input to courses through presentations and lectures.
- A radio journalist is placed with the Radio Academy, to work on its legal show and to integrate WJP outputs into the show, where possible.
- WJP is better integrated into the teaching of investigative journalism by the Journalism department.
- Six-month internships are offered and run, both as teaching tool and human resource mobilisation.
- Events, seminars and workshops are hosted and attended, to increase advocacy opportunities on priority issues.

c. Objective Three: to contribute towards the improvement of the criminal justice system in South Africa and its conformity with the Constitution and international law

Partnerships with legal teams and experts will be the cornerstone of activities under this objective, aimed at producing the following outputs:

- Legal research, conducted with the Centre for Applied Legal Studies (CALS), on the conditions of awaiting trial detainees and on the effect of the current bail system on remand.
- Partnerships with other organizations or legal practitioners who are dealing with landmark cases, in order to provide support and the specialised knowledge of the WJP.
- WJP is granted access to prisons, detainees and prisoners as well as to relevant information, by the authorities.

As a major focus for 2012, the WJP decided to brief its legal partners, CALS on working on the first output described above (research on the conditions of awaiting trial detainees and on the effect of the current bail system on remand). It has also procured the *pro bono* services of well-known senior counsel Gilbert Marcus as well as other junior counsel experienced in constitutional matters, to give advice on these issues.

d. Objective Four: to assist individuals who are affected by miscarriages of justice

The WJP has established and maintained various forms of communications with people awaiting trial, or already in prison, who seek its help and advice. This includes postal and email

letters as well as phone calls. There are established processes and procedures to deal with these communications, which are increasing in volume and which already total least ten letters and fifty phone calls a week.

VI. Extended Team

The widening scope and range of activities being planned for the year by the WJP has necessitated a plan to extend the team. The four new posts are:

- **Client Liaison Officer:** to act as a liaison with those requesting assistance from the WJP (detainees, prisoners or their families).
- **Radio Journalist:** a half-time position to work with the Journalism Department's Radio Academy, specifically on its legal show, and to produce other relevant radio products.
- **Researcher:** although a researcher is already on staff for 9 months, it has been seen that a full-time position would be beneficial to the project, especially in terms of its credibility and standing.
- **Stakeholder Officer:** a half-time position to help keep in regular contact with important stakeholders (government, the legal fraternity, police services etc.) through networking and regular communication. This post would also be responsible for event management.

VII. Risk analysis

The 2012 plan of action has been devised in line with the above objectives, and given the immediate priorities of the WJP. However, whilst the WJP will pursue this plan of action with focus and determination, there are inherent risks and situations outside of its control which could impact on its ability to deliver on its objectives. These risks include:

- A lack of access to relevant information, to prisons and prisoners, and to remand facilities and detainees. Although gaining access has been prioritized (activity 3.3 below), the possibility that the WJP is denied this access would have severe consequences on its ability to carry out its objectives.
- Over-whelming requests for assistance from awaiting trial detainees or prisoners could mean a strain on already limited human and financial resources.
- Insufficient funding would result in some of the activities being curtailed, leaving some objectives unmet.
- There could be a lack of support from the public, who are often unsympathetic to the plight of those behind bars. This could hamper the success of both the advocacy and fundraising activities being planned.

- The complexities of the criminal justice system in South Africa, and of the work needed to help improve it, could find the WJP having to further widen its scope, leading to a shift in priorities and resources.