



Africa Criminal Justice Reform  
Organisation pour la Réforme de la Justice Pénale en Afrique  
Organização para a Reforma da Justiça Criminal em África

## Resources on South African criminal justice system

### PRISONS

#### **Fact Sheet 18: A guide to reading government annual reports (2019)**

Government departments use annual reports to report on their performance against set objectives stated in their Annual Performance Plans (APP) and the Medium-Term Expenditure Frameworks (MTEF). Annual reports also serve the function of promoting accountability and transparency which should improve trust and confidence in government's ability to deliver on services. It is especially for civil society organizations that annual reports can be invaluable when holding government accountable. There are, however, certain challenges that readers of annual reports encounter, most notably the fact that annual reports are generally long and complex. Furthermore, the issue of erroneous and intermittent reporting is cause of concern when it comes to analyzing an annual report. This fact sheet serves as a guide on how to read government department annual reports and highlights key issues to consider.

This document can be accessed here: <https://acjr.org.za/acjr-publications/guide-to-reading-annual-reports-2019-9-5.pdf/view>

#### **Report: Liberty not the only loss - The Socio-Economic Impact of Remand Detention in the Western Cape (2019)**

The report provides results from a study on the socio-economic impact of remand detention on accused persons held at Pollsmoor Remand Detention Facility (RDF) and Pollsmoor Female, in the Western Cape, South Africa. The study relied on interviews with visitors to detainees, on official data relating to inmates and visitors, as well as on Western Cape aggregate remand data. The study found that the number of people detained on remand in the Western Cape is disproportionately high compared to the rest of the country and is on the increase. It is estimated that one in every 50 adult men is admitted to remand detention per year in the Western Cape, bringing with it the attendant social and economic costs. Further, more than half are detained from only six police stations. This points to targeted and inconsistent policing. The evidence in the study suggests that the criminal procedural system metes out a disproportionate 'punishment' in the form of infringement of the socio-economic rights of the families of detainees, regardless of guilt or innocence. The study recommends a number of interventions to seek to ensure that remand detention is used only for short durations or when absolutely necessary, thereby minimising socio-economic harms.

This document can be accessed here: <https://acjr.org.za/resource-centre/liberty-not-the-only-loss-report.pdf>

#### **Report: Solitary Confinement - A review of the legal framework and practice in five African countries (2018)**

South Africa abolished provisions on solitary confinement in 2008 and provides for laws on segregation in accordance with strict conditions. Despite this, super-maximum-security facilities are being used to keep inmates in conditions of effective prolonged solitary confinement. This report reviews the legislation on the use of solitary confinement of prisoners in prison facilities in South Africa and four other African jurisdictions and measures it against the safeguards in the United Nations Standard Minimum Rules for the Treatment of Prisoners ("the Mandela Rules").

This document can be accessed here: <https://acjr.org.za/solitary-confinement-2018.pdf>

**Submission: *Submission on “Position Paper: A Revised Parole System for South Africa” (2018)***

The DCS Position Paper: ‘A Revised Parole System for South Africa’ makes a number of proposals for change relating to the structure of parole Administration. ACJR submits that although law reform may solve some problems raised in the position paper, it is not the only problems facing the parole system. The problems in the parole system relate to, amongst others, poor planning, inadequate training, poor management, supervision, and a lack of accountability. Changing the legislation will have little impact unless training, supervision and management are not addressed in advance.

This document can be accessed here: <https://acjr.org.za/resource-centre/acjr-submission-parole-2018.pdf>

**Fact Sheet 5: *The right to a fair trial of the hearing impaired (2018)***

The judgement of *Kruse v S* (Case no. A 100/2018) is summarised, highlighting the importance and duty of a presiding officer to ensure that all accused persons, including hearing impaired individuals, are able to participate meaningfully in their trial. The presiding officer must consider whether the accused is sufficiently conversant with the language in which evidence is given and, if necessary, employ the services of a competent interpreter to assist the accused. Failure to do so amounted to a serious irregularity justifying the setting aside of a conviction.

This document can be accessed here: <https://acjr.org.za/resource-centre/acjr-factsheet-5-kruse-v-s.pdf>

**Fact Sheet 4: *Expungement of a criminal record - Crimes committed by a child (2018)***

The expungement of a criminal record is the procedure which results in the lawful clearance and removal of a criminal record from an individual’s record on the South African National Criminal Register. This allows a person to carry on with his/her life without a criminal record being an obstruction to employment opportunities or a source of discrimination. This factsheet highlights the requirements and procedure to apply for the expungement of a criminal record for children and adults if the person was a child at the time of the crime being committed.

This document can be accessed here: <https://acjr.org.za/resource-centre/acjr-expunge-child-v-3-1.pdf>

**Fact Sheet 3: *Expungement of a criminal record - Crimes committed by an adult (2018)***

The expungement of a criminal record is the procedure which results in the lawful clearance and removal of a criminal record from an individual’s record on the South African National Criminal Register. This allows a person to carry on with his/her life without a criminal record being an obstruction to employment opportunities or a source of discrimination. This factsheet highlights the requirements and procedure to apply for the expungement of a criminal record for adults.

This document can be accessed here: <https://acjr.org.za/resource-centre/acjr-expunge-adult-v-4-1.pdf>

**Fact Sheet 6: *Indefinite imprisonment in South Africa: The difference between life and indefinite imprisonment (2017)***

It is often assumed that life imprisonment means the prisoner will be imprisoned for the rest of his or her life. Technically, this is correct; however, the law still affords a prisoner sentenced to life imprisonment the opportunity to be released on parole, after serving a mandatory minimum period of time before he or she can be considered for parole and if placed on parole then he/she will be on parole for the rest of his or her natural life. A prison sentence to an indefinite period means exactly that, a sentence to prison - indefinitely. But a sentence to indefinite imprisonment can only be imposed by a court if a person has been declared a dangerous criminal.

This document can be accessed here: <https://acjr.org.za/resource-centre/factsheet-6-indefinite-imprisonment.pdf>

**Report: *A Guide to the Rights of Inmates as described in the Correctional Services Act and Regulations (Revised 2017)***

The Correctional Services Act (111 of 1998) was promulgated in 2004 creating a rights-based framework for South Africa’s correctional system. This guide, originally published in 2006, has been updated to incorporate the changes to the 1998 Correctional Services Act following legislative amendments. The purpose of this guide is to describe in an accessible and user-friendly format the human rights framework pertaining to inmates in South Africa based on the Constitution, Correctional Services Act and the Regulations accompanying the legislation.

This document can be accessed here: [https://acjr.org.za/resource-centre/prisonersrights\\_text\\_jan2018-with-cover.pdf](https://acjr.org.za/resource-centre/prisonersrights_text_jan2018-with-cover.pdf)

**Journal Article: *Ten years after the Jali Commission: Assessing the state of South Africa's prisons (2016)***

In 2001, then President Thabo Mbeki established the Jali Commission of Inquiry into Corruption and Maladministration in the Department of Correctional Services ('Jali Commission'). The Jali Commission was appointed when it became clear that the state had lost control of the Department of Correctional Services (DCS). The article explores advances that have been made in regaining control and addressing corruption and maladministration in the DCS. It also highlights serious and persistent challenges which remain a decade on. The article focuses on policy development, the performance of the DCS against set targets, governance and human rights violations. The overall impression gained is that many of the problems identified by the Jali Commission 10 years ago are still present in the prison system. While overcrowding is largely a problem created outside of the department's control, rights violations such as assaults by officials, inter-prisoner violence, access to healthcare and other support services are very much within the department's control.

This document can be accessed here: <https://acjr.org.za/resource-centre/ten-years-after-the-jali-commission-the-state-of-south-africas-prisons.pdf>

**Submission: *Submission on the Administration of Correctional Supervision and Parole – Challenges, Successes and Future Developments (2016)***

In this submission, ACJR emphasises that parole and correctional supervision are positive attributes of the South African correctional system, and should thus be maintained and expanded. Effective and efficient post-release support is essential to reducing the risk of re-offending. However, this is an aspect of the Department of Correctional Services operations that the submission highlights as having been severely neglected from a strategic and budgetary point of view.

This document can be accessed here: <https://acjr.org.za/resource-centre/SUBMISSION%20ON%20COM%20CORR%20CSPRI.pdf>

**Submission: *Submission on strengthening the investigating, monitoring and oversight over the treatment of inmates and conditions of incarceration and remand detention (2016)***

In this submission, ACJR notes that legislative amendments safeguarding the long-term financial, administrative and operational independence of the Judicial Inspectorate for Correctional Services (JICS) are needed to strengthen the investigating, monitoring and oversight over the treatment of inmates and conditions of incarceration and remand detention. Moreover, JICS should be granted greater investigative powers similar to the police investigative body - the Independent Police Investigative Directorate (IPID).

This document can be accessed here: <https://acjr.org.za/resource-centre/submission-on-jics-final-sep-2016.pdf>

**Fact Sheet 2: *Understanding Oscar's sentence: Sentencing under Section 276(1) (i) of the Criminal Procedure Act (2015)***

The announcement of the release on correctional supervision of paralympic athlete and convicted killer Oscar Pistorius in August 2015 attracted significant media attention. For many, his release from prison was confusing because he was sentenced to a maximum of five years imprisonment for culpable homicide and in addition a concurrent three-year prison term, suspended for five years, for the separate offence of reckless endangerment for firing a firearm in a restaurant. However, after serving only ten months, he was about to be released. The factsheet unpacks the sentencing of Oscar Pistorius' sentence ('first sentence' or 'initial sentence' - pre-appeal) and examines the intersections between sentencing provisions in the Criminal Procedure Act 55 of 1977 and the Correctional Services Act 111 of 1998.

This document can be accessed here: <https://acjr.org.za/resource-centre/CSPRI%20Factsheet%202.pdf/view>

**Fact sheet 1: *Segregation and solitary confinement (2015)***

The Istanbul statement on the use and effects of solitary confinement defines solitary confinement as the physical isolation of individuals who are confined to their cells for twenty-two to twenty-four hours a day. Even though the disciplinary punishment of solitary confinement was removed from South African legislation in 2008, there is reason to believe that solitary confinement still occurs under the guise of segregation. Following the amendment of the Correctional Services Act, the legislation now states that in the event of serious and repeated transgressions, a prisoner may be placed in segregation "in order to undergo specific programmes aimed at correcting his behaviour", with a loss of gratuity up to two months and a restriction of amenities for up to 42 days. This fact sheet considers South African as well as international law on the issue of solitary confinement and segregation and submits that the

amendment to the legislation rid the prison system of the stigma associated with the concept of “solitary confinement” which is a practice that has been questioned and condemned internationally.

This document can be accessed here:

<https://acjr.org.za/resource-centre/CSPRI%20factsheet%20-%20Solitary%20confinement%20and%20segregation%20-1.pdf>

**Submission: *Submission to the Portfolio Committee on Justice and Correctional Services Strategic Planning: Challenges that undermine the effective functioning of the criminal justice system in South Africa (2015)***

This submission to the Portfolio Committee addresses challenges of long periods of pre-trial detention, low prosecution rates, human rights abuses in prison, sentencing reform and effective prison oversight in the South African criminal justice system. In order to address some of these challenges, ACJR recommends that the South African Police Service be engaged to move away from arrest as the mode of policing and improve in investigations for successful prosecutions; that the Portfolio Committee investigate the reasons for high withdrawals and low convictions rates; and lastly that the independence of the Judicial Inspectorate for Correctional Services be strengthened to prevent and investigate human rights abuses in prison.

This document can be accessed here: <https://acjr.org.za/resource-centre/cspri-submission-pcjcs-2015.pdf>

***ACJR is a project of the Dullah Omar Institute at the University of the Western Cape. We engage in high-quality research, teaching and advocacy on criminal justice reform and human rights in Africa. Our work supports targeted evidence-based advocacy and policy development promoting good governance and human rights in criminal justice systems. Our work is anchored in international, regional and domestic law. We promote policy, law and practice reform based on evidence. We have a particular focus on effective oversight over the criminal justice system, especially in relation to the deprivation of liberty. For more information, please visit our website at [www.acjr.org.za](http://www.acjr.org.za)***



Through engaged research, teaching and advocacy, the Institute supports processes in South Africa and the region to build inclusive, resilient states that are accountable to citizens and responsive to human rights. It aims to be the leading think tank on multi-level governance and human rights in Africa.