



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



Prosecutors Matter

Magistrates' Perceptions of Prosecutors

Survey Analysis
22 February 2023



UNIVERSITY of the
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Survey of Magistrates' Perceptions 2022



JUDGES
MATTER

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Introduction

- Interpretation of perception Surveys
- Victims of Crime Survey 2003
 - Satisfaction with courts
 - 41 Percent
- Victims of Crime Survey 2007
 - Satisfaction with courts
 - 63 Percent
- *Murder rate 2003*
 - *42 per 100 000*
- *Murder rate 2007*
 - *37 per 100 000*

Methodology

- Self completion online survey
 - Dispersed IP address
 - Geographic representation of respondents
 - Incidental nature of questions
 - High survey response rate
 - 230 responses
 - Approximately 10 percent of magistrates
- Generalisable? Probably
- Questionnaire: statements made, agree / disagree / don't know

'Prosecutors treat court users with respect'

- Respect is crucial to trust and the operation of the CJS
- Where people are treated with respect, the outcomes are more acceptable to them, even if unfavourable
- **Results: 61% agreed, one third disagreed**
- Encouraging result on which to build

'Prosecutors ensure justice is done'

- Prosecutors' duty is not to obtain a conviction, but to ensure justice
- Prosecutors have a great deal of discretion
- **Results: 48% agreed and 42% disagreed**

'Prosecutors are corrupt'

- Concerning if magistrates held this view
- **Results: 20% agreed, 45% disagreed, 35% don't know**
- What is driving perceptions?
 - Only 11% said they (or a magistrate they know) was offered a bribe in last two years – not the primary driver
 - Unnecessary postponements, incompetent case presentation and the failure to present evidence?

Criminal Justice System Perceptions

- ‘How many of magistrates/ prosecutors/ police etc. do you think are involved in corruption, or haven’t you heard enough about them to say?’
- 83% said that some/most/all **police** were corrupt
 - 27% of respondents saying that most or all police members were corrupt.
 - No respondent was of the opinion that no SAPS members were corrupt.
- 63% think some/most/all **prosecutors** are corrupt
 - 2% none
- 48% some/most/all of their **magistrate colleagues** were corrupt
 - 6% none

'Prosecutors are biased'

- Prosecutors are constitutionally enjoined to carry out their functions without fear, favour or prejudice.
- **Results: One third agreed**
- **Correlation between perceptions of bias and perceptions of corruption**
 - **Strongest correlation in survey**

'Prosecutors are competent'

- **Results: 59% disagreed, 37% agreed**
 - **District court magistrates were less likely to think prosecutors are competent than regional court magistrates**
 - **Correlation of bias perception and not competent perception**
 - **Better educated more likely to think not biased and competent**
 - **More experience more likely to think biased and incompetent**

'Prosecutors request postponements too easily'

- **Result: 81% agree**
- **Correlation between this perception, and perceptions of incompetence and corruption**

Gauteng

- Little difference on most measures
- Slightly better scores
- **Nationally 20% agreed “prosecutors are corrupt”.**
- **If Gauteng is excluded only: 16.5%.**
- **Gauteng respondents alone: 25.4%**
- Significantly higher proportion of Gauteng magistrates agreed with the statement that ‘prosecutors are corrupt’.
- Given the small differences between Gauteng and the other provinces in other respects, the difference in the perception of corruption is striking.

Conclusion

- Reason for optimism and cause for concern.
- Linkages between various perceptions suggests that interventions to address one perception will likely affect others.
- Addressing the issue of postponements will likely reduce perceptions of bias and corruption (and may actually reduce actual biased and corrupt tactics).
- Negative perceptions too high at present.
- More widespread perceptions of corruption in Gauteng independent of linkages to other perceptions, suggests a corruption-specific intervention is needed in that province.