

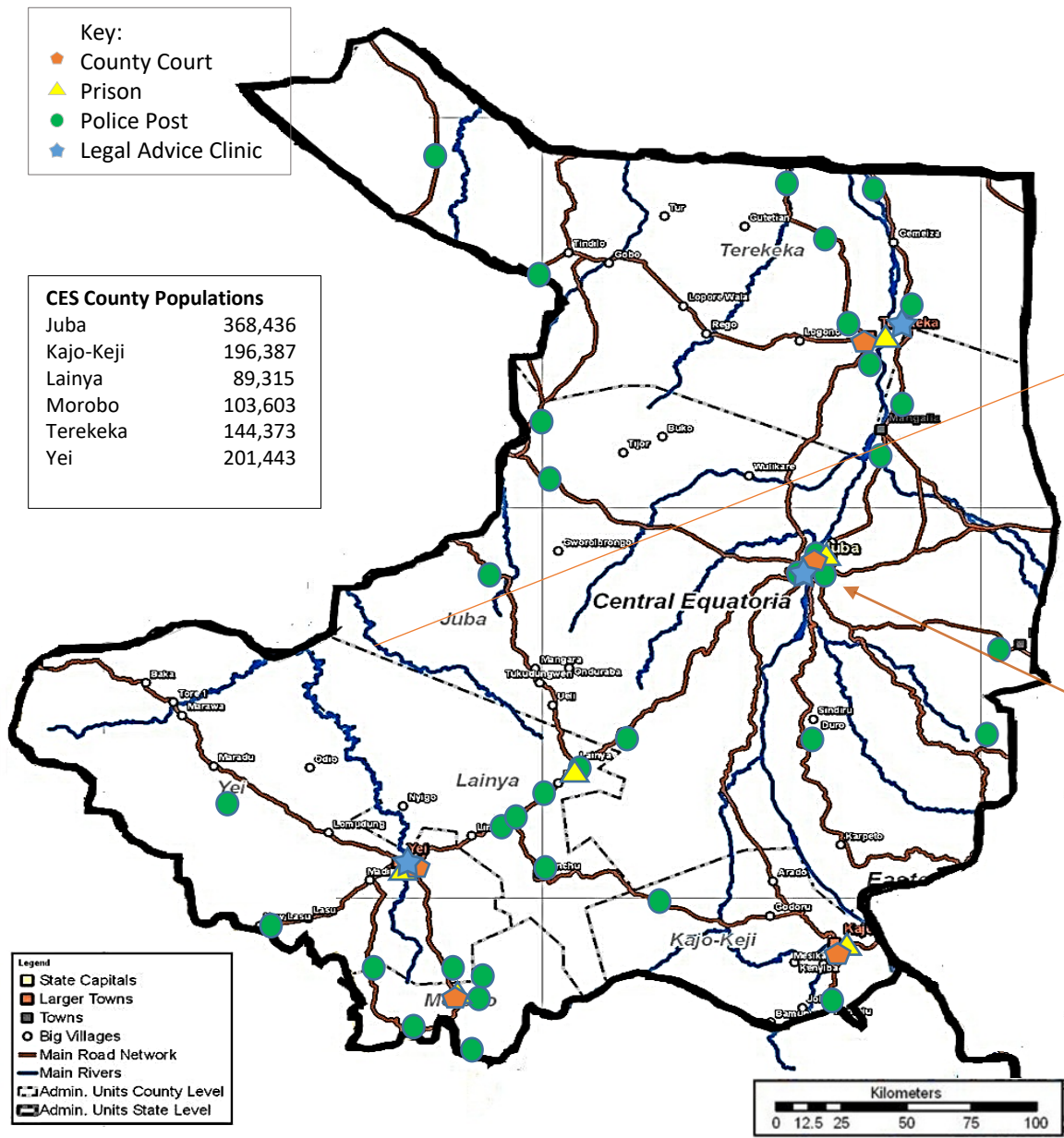


JUSTICE SNAPSHOT OF CENTRAL EQUATORIA STATE



Produced by
the Governance and Justice Group

in association with
South Sudan Law Society



What does this show?

- Police on security footing protecting main arteries
- Police presence limited at payam / boma level where most people live
- Statutory courts only at county level (and none in Lainya)
- Legal aid clinics in Juba Yei and T'keka

So something bad happens to villager A: what does s/he do? Who does s/he trust? How does s/he access justice?

The Justice Snapshot shows what *is* happening at boma, payam, county levels across the justice system by triangulating:

- **Institutional data** (infrastructure, resources, case management, governance)
- **Citizen and Court User surveys** (customary + stat. courts) (on fears, wants, access points and enforceability of rulings: choices and reasons for them)
- **Practitioner surveys** (Chiefs, police, prosecutors, legal service providers, court administrators, judges, prison officers: challenges they confront daily in performing their work)

Malakia
Gudele
Mudiria
Kator

Implications for ATJP

- It provides government and donors with a baseline
- It gets government investing in its own data and
- shifts institutions/ministries to evidence based policy/budget/reform planning
- It identifies blockages, gaps, shortfalls, stresses on the justice chain
- It provides a 'go-to', updateable, open resource for users, practitioners, government, donors, academics, international NGOs, UN, etc.
- It establishes an open source monitoring and evaluation tool.

Availability of statutory justice & legal services in CES

Counties	Juba	K-K	Lainya	Morobo	T'keka	Yei
Police Posts in each payam	X	√	√	√	√	√
Public Prosecuting Attorney (PPA)	√	X	X	X	X	√
Lawyers	√	X	X	X	X	√
Legal Aid Clinic (LAC)	√	X	X	X	√	√
Paralegals	√	√	X	X	√	X
County Court	√	√	X	√	X	√
Prison	√	√	√	√	√	√

Sources: County interviews, observations, July 2015

So what?

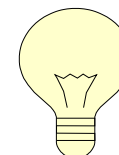
What do people do to access justice outside Juba and Yei, which are the only counties with a complete set of statutory justice services available?

ATJP implications

- Political interference in justice delivery and need for EU / DFID engagement at political level
- The triangulated data informs areas of geographical focus and initial deployment of resources
- User / citizen surveys will inform the types of services of which people are in need

What about the court in T'keka?

The practitioners said the judge was chased away by the County Commissioner



Why is there no police presence in payams in Juba County?

Police say there is a police presence in each payam but a spot-check outside Juba in one payam showed no police post or presence. The map (from police) also raises a doubt about a police presence in each Payam (→ The JS cross-checks national data in representative sites)

P O L I C E

Police	Stations in capital	Officers in capital (estimated)		Posts per payam	Av officers per payam	Police officer per 100,000	Reported crime rate per 100,000	n vehicles	Adequate Fuel	Adequate paper / forms
		m	f							
Juba	4	-	-	-	8	-	5437	-	-	-
Kajo-keji	1	67	8	1	-	-	202	1	-	-
Lainya	-	-	-	1	-	-	403	1	No	Yes
Morobo	3	50	0	1	7	82	124	2	No	No
T'keka	1	14	1	1	3-5	38	629	0	-	-
Yei	4	28	5	1	5-6	29	479	1	No	No

Source: observations in each county and interviews with serving police officers, July 2015. Reported crime rate per 100,000 extrapolated from South Sudan Police Service Quarterly Crime Statistics, Jan-Mar 2013. UN recommended ratio police per 100,000: 222

So what?

- How can police respond to crime/protect people/gather intelligence when they are thinly spread on the ground?
[UN recommended ratio: 222 per 100,000]
- How can police investigate without cars, fuel or adequate stationery?
- How can police respond to SGBV with such low numbers of women officers?

What do the police say about key challenges?

- 1) poor training in laws
- 2) lack of transport + basic infrastructure / resources (forms/stationery)
- 3) low salaries

ATJP implications

Lobby for improved terms and conditions for police

Use of data to build partnerships across the justice system

Identification of activities that assist police, for instance, by enlisting paralegals to:

- support police with forms
- provide training (esp as concerns compounding offences and diversion of offenders)
- support police in tracing of parents in juvenile cases, tracing of witnesses for courts
- facilitate bail through the PPA and links to families/communities to stand surety/bond etc

L E G A L S E R V I C E P R O V I D E R S

Legal service providers	Public Pros. Attor. (PPA)	Lawyers		n LAC	n Paralegals	Population
		Lic	Un-lic			
Juba	22	370+	-	2	-	368,436
- MoJ	6				0	
- Malakia	2				0	
- Gudele	4				0	
- Kator	-				0	
- POC3	0	0		2	45	28,663
Kajo-keji	0	0	0	0	5	196,387
Lainya	0	0	0	0	-	89,315
Morobo	0	0	0	0	-	103,603
T'keka	0	0	0	1	45	144,373
Yei	2	1	4	1	0	201,443

Source: Visits to courts and POC3, interviews with Bar Association and MoJ and legal service providers in each county, July 2015. Population figures: SS National Bureau of Statistics.

So what?

- How can people access legal advice when the lawyers are out of reach and the very few 'legal aid clinics' are in the towns?
- How can people lodge a criminal case when the PPAs are unavailable in most counties?
- How can those accused of serious offences have a fair trial when they are unrepresented?

What practitioners say are key challenges?

- 1) PPAs stay in police and do not present cases in court
- 2) Confusion with / delay in licensing of lawyers
- 3) Public unaware of Legal Aid Centres
- 4) Legal representation 'rarely' available in statutory courts
- 5) High-turnover of paralegals

ATJP Implications

- Absence of legal services in criminal cases, open space for **ATJP** to fill
- Joined up approach to data collection invites joined up thinking in justice delivery and better communication, co-operation and co-ordination
- Reappraisal of paralegal role in providing first [legal] aid services in light of promising regional practices
- Use of surveys to identify those services
- Possible support to defence lawyers to provide representation in dp cases at minimum
- In line with regional developments, strategic use of legal aid centres as hubs for legal services staffed by a single lawyer (under government funded independent legal aid directorate), serviced by paralegals out in the communities who refer the [few] serious cases to the hub (and lawyer) and facilitate the resolution of simple/minor cases locally (compoundable).

C O U R T S

County Courts	n court rooms	n judges		n clerks	Case flow & management	n judges per 100,000
		m	f			
Juba	13	27	16	5	-	14.4
• Malakia	1	2	1	0	-	
• Gudele	6	15	7	4	-	
• Kator	1	3	0	1	-	
• Mudiria	5	7	8	-	-	
Kajo-keji	1	1	0	-	-	0.5
Lainya	0	0	0	0	-	0
Morobo	2	2	0	-	-	1.9
T'keka	1	0	0	1	-	0
Yei	2	5	0	-	-	2.5

Source: interviews and observations at each court site, July 2015. No data on civil/criminal cases pending at end 2014, new cases, cases disposed, cases pending.

So what?

- Why so many judges to one court in one site and none in another?
- Why so many judges in Juba?
- If there is a court in T'keka, why is there no judge?
- Why is case management data unavailable?
- Why is the number of admin staff to manage court/service public so low?
- Why is there no security at courts?

What practitioners (judges) say are key challenges?

- 1) Lack of space / court rooms
- 2) Political interference
- 3) Lack of security for judges
- 4) Prisoners are not being produced at court from prison court (in Juba)

ATJP implications

- EU/DFID political engagement on interference
- Improving case management by settling minor and simple matters locally
- Priority need for mobile courts to Lainya and Terekeka (currently unserved by statutory court)
- Place paralegals in court precincts to assist members of the public
- Paralegals with prison officers identify cases not produced from prison and organise mobile court follow-up or other

P R I S O N S

Prisons	Walled	Adeq Electricity	Adeq water	Food x3 p/day	Escapes last 2 y	Assault staff last 2 y	ICRC access	Total n prisoners	% remand	% women	% u18	n prisoners per 100,000
Juba	√	√	√	√	√	√	√	1305	45	7	-	Central prison
Kajo-keji	X	X	X	X	√	X	√	84	33	6	-	43
Lainya	X	X	X	X	√	X	√	30	17	20	-	34
Morobo	x	x	x	x	√	X	√	63	38	13	-	61
T'keka	X	X	X	X	√	X	√	69	51	17	-	48
Yei	√	√	√	√	√	X	√	165	28	8	-	82

Source: SS Prison Service, 15 July 2015

So what?

- Human rights issues concerning conditions in 4 of 6 county prisons
- Prisons are not secure (each has recorded an escape in past 2 years)
- Prisons are not violent (except Juba, no assaults recorded on staff)
- Prisons are not hiding anything (ICRC access to all)
- Terekeka increasing remand population because no judge to hear cases
- Currently low populations (save Juba) but high proportion of women (adultery cases)

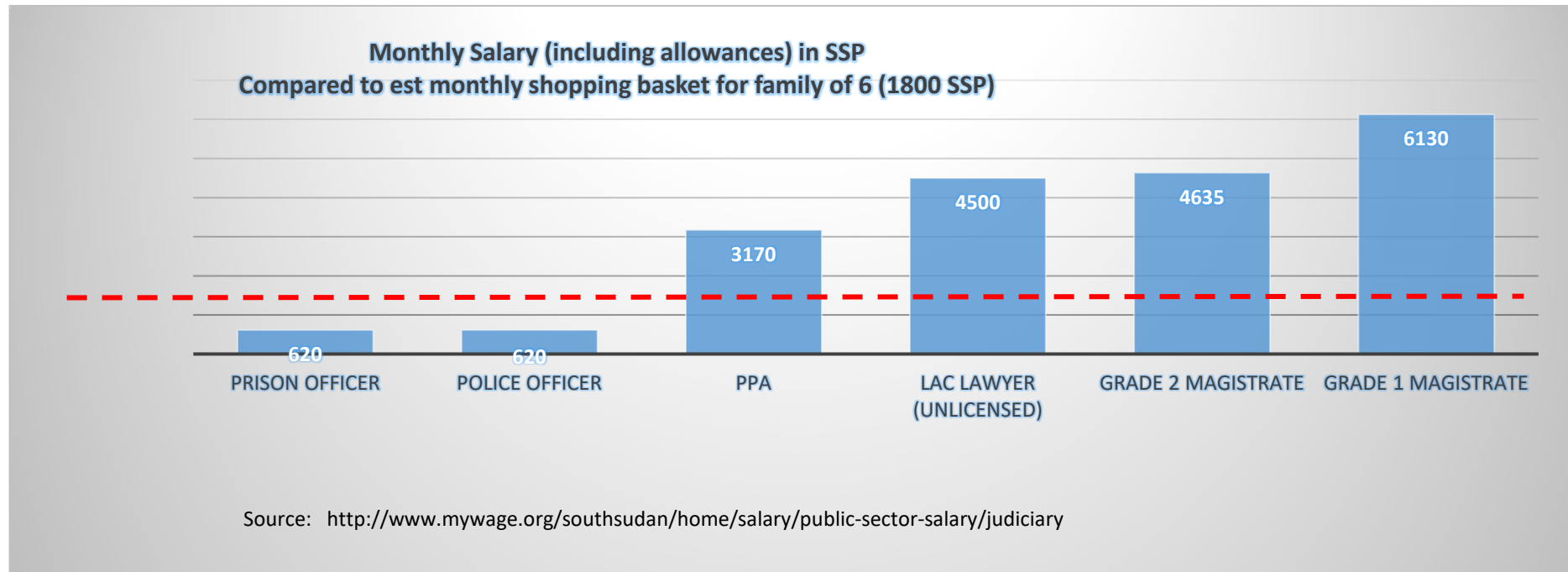
What prison officers say are key challenges?

- 1) The farms are far from the Prison
- 2) Prisons are built from local materials
- 3) No transport for prisoners to and from hospital, farms and courts
- 4) Lack of allocated budget for rehabilitation programmes
- 5) Inadequate water and electricity supplies in county prisons.

ATJP implications

- Clarify data on prison populations and issues around overcrowding, sentencing, observance of custody time limits
- Prison data used to co-ordinate diversion responses upstream
- Develop paralegal as link between outside and prisons (prisoners to families and parties involved to compound cases; and prisons to courts)

Susceptibility to corruption...



*Current rates of exchange to the South Sudanese Pound: Official SSP3: USD1 - Unofficial (street) SSP11:USD1

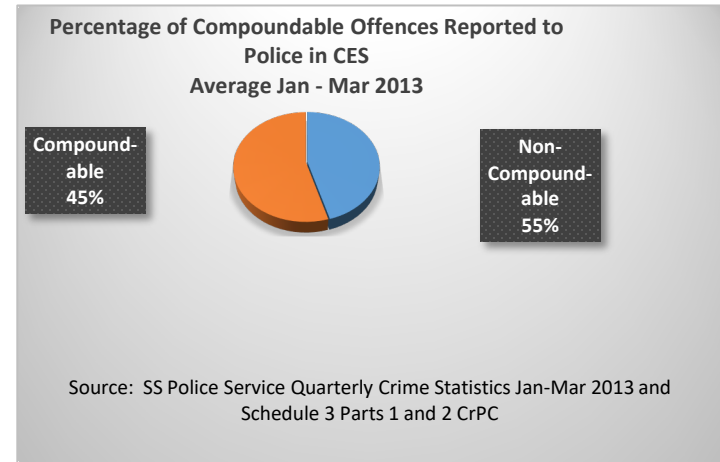
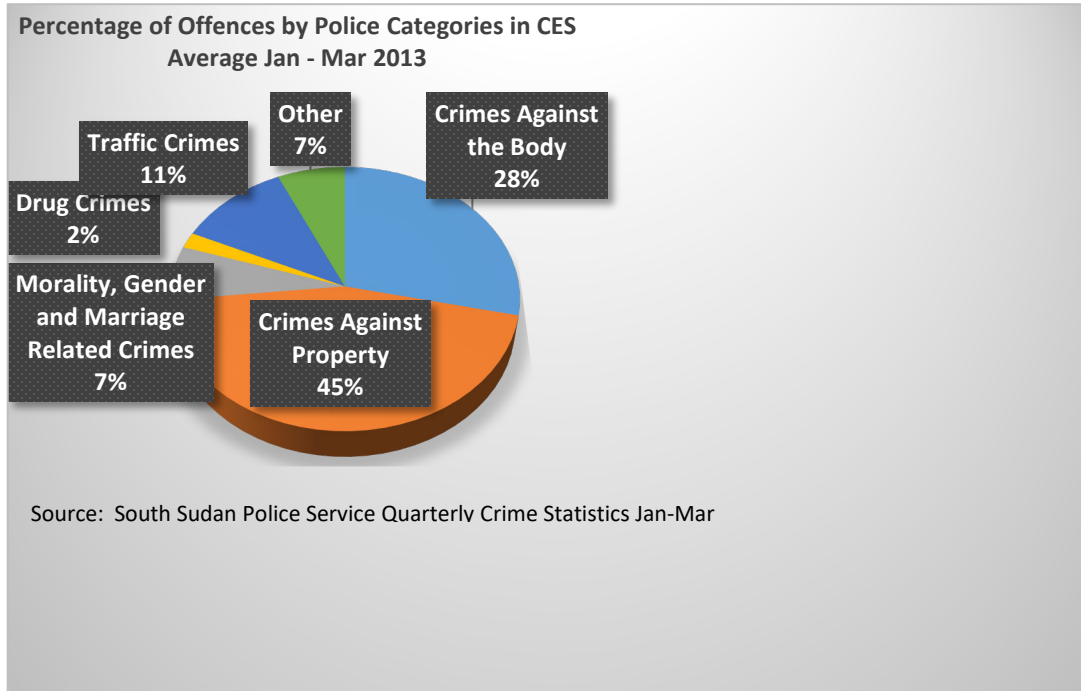
So what?

Prison / Police officers cannot cope with monthly outgoings on a basic salary

ATJP implications

- Monthly shopping baskets useful measure for policy makers + **ATJP** risk measurement
- Link to transaction costs of accessing justice in customary law courts and statutory courts + potential indicator for **ATJP**

TYPES OF CRIMINAL CASES



So what?

Police say property crime is most commonly reported

Police say almost half the crimes reported in CES in this quarter were compoundable – could be settled between the parties

Drug related crime appears very low in CES

Crimes appear under-reported (see next slide)

ATJP implications

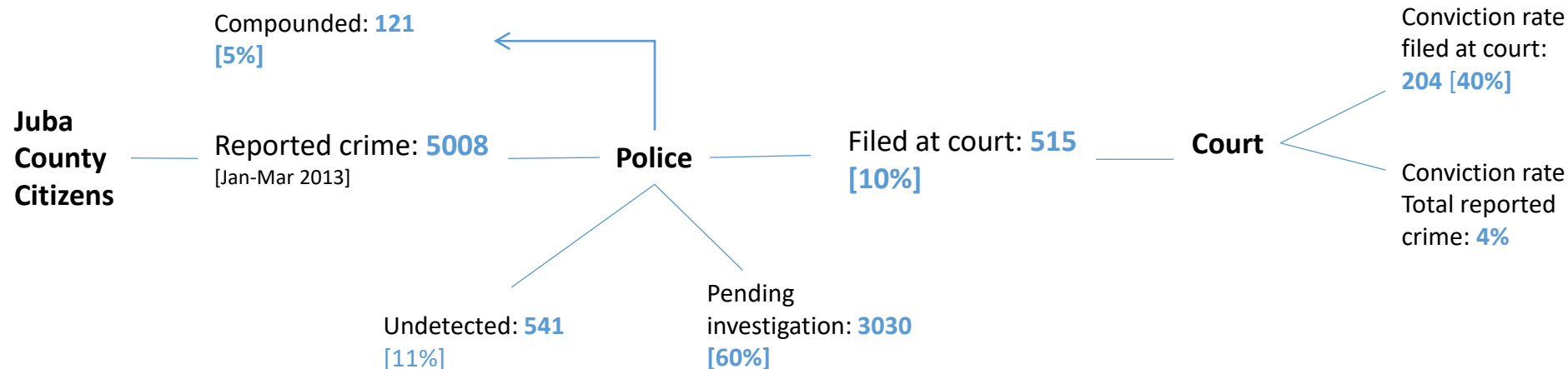
Citizen/Court User/Practitioner surveys include questions such as:

- What do people say are the most common crimes in their boma/area?
- What reasons do people give for: doing nothing / reporting to TAs / not going to police?
- What are the principal fears/causes of insecurity in any given boma/area?
- What are the reasons for not compounding more offences?

Answers to these kinds of questions inform **ATJP** responses (legal awareness – paralegal action – mediation services)

Caseflow in Juba County

Source: SS Police Service Quarterly Crime Statistics, Jan-Mar 2013



So what? In the first quarter of 2013, in Juba, of all crimes reported **88%** were not dealt with by police in a timely way

ATJP implications

Case management goes to systemic efficiency and quality/effectiveness in processing criminal / civil caseloads. In criminal matters, the JS triangulates police/prosecution/courts data with Court Users and Practitioner Surveys; in civil matters, the JS triangulates courts data with the surveys

- evidence-based indicators for **ATJP** in each geographical location.
- prioritised set of activities for **ATJP**
- better information on sequencing of these activities for **ATJP**

COURT USERS SURVEY

COURT USER & PRACTITIONER SURVEY	Av time to resolve case	Av caseload pcm	Av costs: travel, court fee, court summons, police costs				% Cases initiated by women	% women on bench	% understood what happened
			Trav	Fee	sum	Pol			
A Court	< 1 week	3 -12	60	100	5 - 10	-	-	12%	92%
B Court	< 1 week	6- 12	80	10 – 300	10 -25	20	-	11%	79%
C Court	< 1 week	5- 12	90	540 - 1500	20 - 40	-	-	17%	91%
Statutory Court	> 2 weeks (1+ years common)	10 – 15 in counties (unknown in Juba)	130	-	50	120	-	44%	59%

Source: interviews outside court of sample court users, complainants, defendants and witnesses: **A Court** – n: 20 (m) - n: 19 (f); **B Court** –n: 20 (m) - n: 16 (f); **C Court** –n: 11 (m) - n: 12 (f); **County Court** –n:17 (m) - n: 12 (f)

So what? A Court User Survey (all courts) + court case records go to access: speed of proceedings, distance to court, costs of proceedings / travel, understanding of proceedings and satisfaction with service (enforceability)

ATJP implications

Findings from the data collected indicate what works and what does not, points of pressure and points of confusion, major gaps and/or failings of the system. The data inform the identification of **ATJP** inputs needed and indicators of measureable impact in, say, improving access to justice (eg by reducing transactional costs, improving speed and understanding – enforcement of judgment requires a separate discussion).

CITIZENS' SURVEY

Community perceptions of safety and security	Always or Usually Feel Safe in Community During Day	Always or Usually Feel Safe in Community at Night	Always or Usually Feel Safe in Home During Day	Always or Usually Feel Safe in Home at Night
Total	49%	39%	67%	31%
Women	51%	40%	66%	29%
Men	46%	37%	69%	34%

Source: sample surveys across 6 counties. Total n: 70 (m: 35 - f: 35) - July 2015

So what?

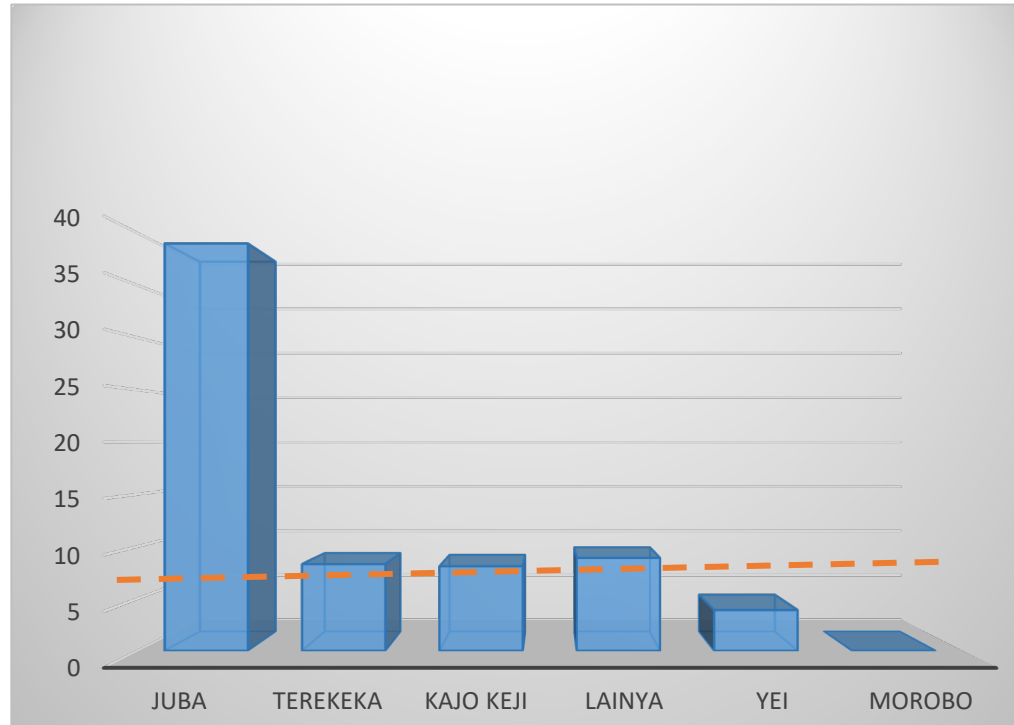
A representative citizen's survey aims to disclose people's fears and justice needs (the needs/priorities of women will be different from men)

ATJP implications

- **ATJP** is a response to the unmet needs of South Sudanese people, esp the poor in rural areas (83% population)
- Our assessment of legal services currently provided is that they are a) not fit for purpose; b) not responsive to the needs of people.
- ➔ **a citizen survey (taken with institutional data, court user and practitioner survey data – as well as research on local justice) will inform:**
 - **ATJP** both of the type of community-focused legal services most needed and provide an evidence base for identifying indicators of progress/impact; and
 - Government and other donor agencies/implementing partners of needs in justice services not addressed under **ATJP**.

Homicide rate as proxy for violent crime

Homicide Rate per 100,000 compared to World Mean: 7



Source: extrapolated from SS Police Service Quarterly Crime Statistics, Jan-Mar 2013

So ... 'ordinary crime' appears low

BUT

serious & violent crime in some areas
may be very high

ATJP implications

Cases of homicide likely to increase → dp cases
→ pressure on government to execute convicted
accused (very few of whom are represented at
trial)

What is to be ATJP's response?

- Paralegal access to police to deter confession evidence
- Paralegal support in case preparation
- Contracts with lawyers to represent accused at trial and on appeal

RSS Justice system in law

A,B,C Courts no criminal jurisdiction except when customary interface and referred to it by statutory court (s98(2) LGA)

Rural
C
O
M
M
U
N
I
T
Y
Urban

Family feuds
marriage
local admin
s101, LGA

A Court

Major customary disputes
+ minor public order
s100, LGA

B Court

X-cultural civil
criminal referred from stat cts
S99 LGA

C Court

Appeal →

Appeal →

Appeal ←

Referral ←

Police

Payam / County level
If no Public Prosecuting Atty
can send to C Court

PPA

If no County Court judge available
can send to C Court

Town Bench Court

('A' and 'B' Courts)

Customary civil, excise, rates,
service-related disputes, public
order (s102, LGA)

Appeal to County Court ↑

Supreme Court

Juba

Appeal Court

3 regions: Upper Nile (Malakal)
Central / Western states (Rumbek)
Equatorias (Juba)

High Court

State (10)

Special Court

Eg: Mobile Court

County Court

County (79)

Magistrate Grade 1: SDG 5000 /
7 years + delegated powers
Magistrate Grade 2: SDG 2500 / 3 years

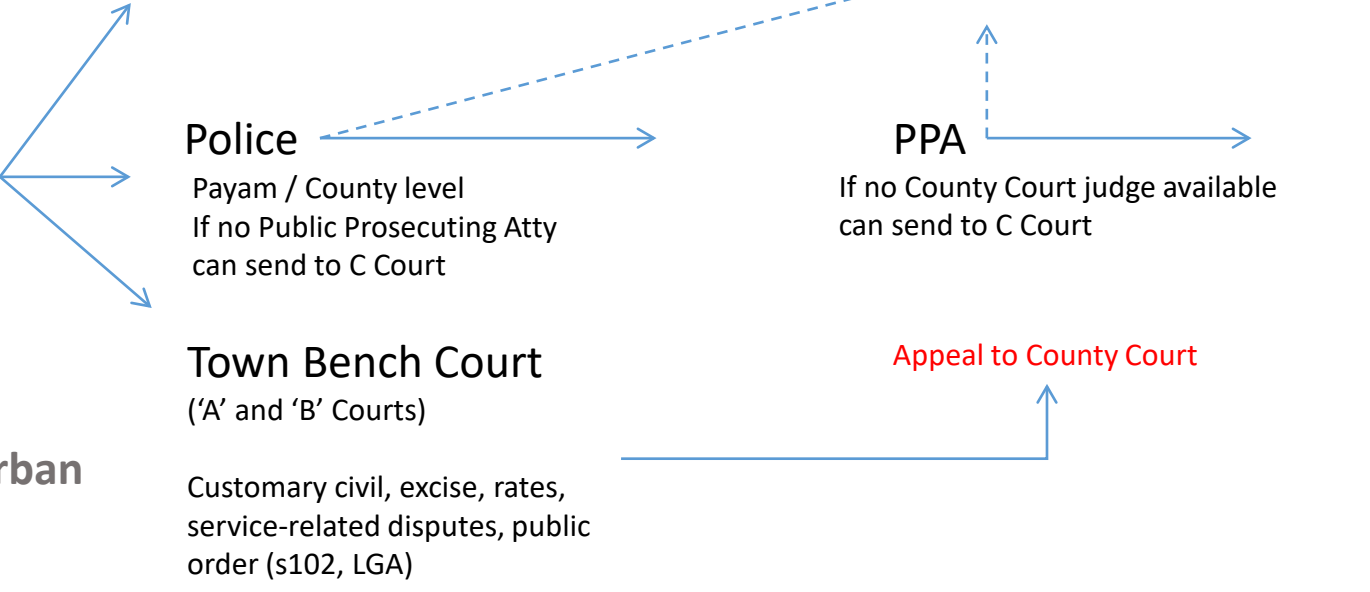
Appeal lies up to
the superior court

Payam Court / 'B' Court

SDG 300 / up to 12 months imprisonment

Prison

Remand in prison max 6 m (s100, CrPC)
Production every 15 days (s185(2) CrPC)



Justice System In Practice (Yei and Juba)

Extracted from socio-legal research, Dec, 2015

