

NICRO SUBMISSION ON THE DCS ANNUAL REPORTS 2009/10- 2013/14

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“Injustice anywhere is a threat to justice everywhere.” –Martin Luther King, Jnr.

Introduction

1. NICRO would like to thank the Portfolio Committee on Justice and Correctional Services for the opportunity to make this submission. It has been a great opportunity to have also worked closely with the previous Portfolio Committee on Correctional Services for the past four years.
2. Minister Masutha, stated that, “Correctional Services is a far cry from the prison system inherited from the apartheid regime in 1994.” As much as progress have been made towards this by the DCS, and yes we do need to be a society that celebrates achievements, grave challenges remain, and we cannot rest or be overly excited about the achievements until all inmates and our society are safe and that every person in the Republic is able to enjoy the rights and freedom outlined in our Constitution. Hence by opening quote, that injustice anywhere (even for one person) is a threat to justice everywhere (and for all). For many Correctional centres (prisons) remain places of humiliation, torture and horror.
3. Ideally prisons should be places of healing and rehabilitation, allowing people the opportunity to grow and change their lives around, and become productive citizens that contribute in a positive and meaningful way. Yet in SA, prisons are known as universities of crime, and large numbers of people return to society from prison often worse than they went in. The lack of safety and security in prisons can lead to grave threats to the life and dignity of prisoners. In order to ensure safety and personal security in prisons, we need prison and warders must exercise effective control over the prison. The Bangkok rules and the European rules bear reference.
4. It is NICRO’s concern that the DCS is still not fully achieving its legal mandate (we also acknowledge that their mandate is affected by other stakeholders in the Criminal Justice system and the social cluster. However what the DCS can take responsibility for is the levels of non-compliance with legislation and policy and issues of impunity over the years. The Correctional Services Act has been in existence for over 15 years.
5. Regarding the overall performance of the DCS and also specifically with regard to rehabilitation and reintegration, having participated in this Committee over four years, we believe that there has to some innovation or something that causes a radical shift in Correctional management, to achieve the goals of rehabilitation and reintegration. We just cannot be doing the same thing each year and expecting a different result-this is referred to as insanity. We need to have a different way of turning this around, otherwise each year we see these small incremental increases, and sometimes decreases in targets.
6. What we need perhaps is to step out of the operational, stuck in the detail mode for a while, and reflect on the type of society we want to create, and then decide on a strategic and decisive way forward. What we need is to rethink how we look at crime and punishment in SA. Using the biblical scripture on, ‘putting new wine into old wineskins...causing the skins to burst,’ is the paradox of the South African justice system. We are putting in restorative justice, rehabilitation and a service orientation, into the old retributive, punishment, militaristic, security focused, use of violence to prevent violence approach to justice. It’s time we decide what lens will we choose to look at crime and justice through –we cannot have both! To begin we need to better understand why we have such excessive levels of violence, and why are children and youth ending up in our correctional centres? NICRO together with the CSVR, The University of the Witwatersrand Psychology Department, Masakhane Development solutions have embarked on a workshop series to understand, “The Psychology of Violence in SA.”

7. Given the excessive levels of violence and recidivism, we would have to be direct and bold, and say, the Prison system in South Africa is not working. This could be said for the prison system around the world. One of the key challenges is the prison structure and environment. At the beginning of this year, NICRO together with some like-minded individuals started exploring alternative prison models. We would like to present some ideas to the Committee at a later date. Expenditure on Corrections alone is increased from R13 687.3 billion in 2009/10 to R18748.10 billion projected for 2013/14. Increasing expenditure of this nature on Corrections is not sustainable for South Africa.
8. Submissions to the Portfolio Committee on Corrections over the past four years have included:
 - DCS Annual report 2009/10
 - DCS Annual report -2010/11
 - JICS Annual report -2010/11
 - DCS Strategic Plan and Annual Performance Plan -2011/12
 - NICRO submission on implementation of the Jali Commission recommendations, 23 August 2011
 - DCS Annual report -2011/12
 - JICS Annual report -2011/12
 - DCS Strategic Plan and Annual Performance Plan -2012/13
 - The 2012/13 Annual Reports of the Department of Correctional Services
 - The Judicial Inspectorate For Correctional Services, Annual report 2012/13,8 October 2013
 - On the Draft White Paper of the Department of Correctional Services on Remand Detention Management in South Africa, 30 November 2012
 - Improving the functioning of JICS, 25 October 2012
 - DCS budget vote, 2012/13 DCS Budget vote 21, Strategic plan 2013/14-2016/17, Annual performance plan 2013/14
9. NICRO has made a number of recommendations in the past five years, many of which have been acknowledged but remain outstanding.
10. NICRO has also embarked on a campaign to review the legislation for Criminal Records in South Africa, which appears to be one of the factors preventing the effective reintegration of ex-offenders, and impacting recidivism levels. We are hoping to present to this committee shortly.
11. For this submission NICRO was asked to focus on the DCS Performance (based on the Annual Reports from 2009/10 to 2013/14) on Rehabilitation and the Reintegration of Offenders.

General comments

12. Concerning is the Auditor-General's reference to the poor integrity and management of the information within DCS (pg92, 93 AG's report). We see in the report that 75% of performance indicators for rehabilitation were not well defined, because management was not adequately trained on the requirements of the FMPPI (pg92). That proper performance planning and management practices had not been developed and implemented to provide for the development of performance indicators and targets included in the annual performance plan. The strategic plan did not form the basis of the Annual report. Hence, a total of 100% of the reported objectives were not consistent with those in the approved strategic plan. And that there was not an adequate review of the annual report before submission for approval (pg93). The reliability of reported performance information was questionable. According to the AG, significantly important targets with respect to the rehabilitation programme was misstated, which was said to be due to a lack of monitoring of the completeness of source documentation in support of actual achievements and frequent review of validity of reported achievements against source documentation. There were also material inconsistencies in other information included in the annual report. This makes it very difficult for us to assess the actual performance of the DCS w.r.t rehabilitation. The DCS certainly need to improve on

proper performance planning and management practices, as well as the quality of information management, -poor data means poor planning. This is actually proven in that the AG's figure for the inmate population was 148,210 as of the end of March 2014, and the JICS figure¹(pg37) for the same period was 154648 (The AG also reported that on page 27 of the Annual report indicates that the numbers of offenders at the end of the financial year is 148,210. The AG reported that this was inconsistent with the number of offenders of 157,969 on sub-programme security management, as disclosed on page 42 of the Annual Report).

13. Not much reference except in the AG's report is made to gang violence or The Gang Management Strategy.
14. Re-offending makes a significant contribution to crime and the extent of victimisation in South Africa. Repeat offending is often the result of failed offender re-entry and re-integration.
15. The wasteful and fruitless expenditure, of R43 million is still a concerning figure, and it is not the first time we see this. It appears to be a pattern over a number of years. Is it being managed better? There has to be increased accountability and responsibility taken in this area. Public resources must be used efficiently and economically.
16. We were glad to see the DCS efforts, as observed in the Annual Report 2013/14, that consideration was given to those inmates serving 24 months and less for correctional supervision and bail. However NICRO remains concerned about custodial sentences that are given by magistrates and judges that are for less than two years. We do understand that some of these offenders may be recidivists, but cannot non-custodial options be considered for those serving sentences of 24 months and less, at a court level. Does the Minimum sentencing legislation a role to play in this. These inmates who serve less than 24 months do not even have access to Correctional Sentence Plans who are only presently developed for inmates serving more than 2 years? Does this mean we are just warehousing this category of offenders, with no opportunity for reintegration. NICRO has raised this in previous submissions² to the Portfolio Committee on Correctional services. Greater campaigning for alternatives to incarceration is critical and the role of the judiciary and magistracy is key to this. What is also required is early intervention, including local communities and families to be equipped with more effective mediation and conflict resolution skills, so that less people end up in the criminal justice system.
17. NICRO also supports JICS's views (in Annual Report 2011/12pg32) that, overcrowding not be used as a general justification for "inadequate treatment or undignified conditions of detention. In our submission on the 10 October 2012 to the Portfolio Committee for Correctional services we, also agreed with JICS that, the standard of liability within the DCS be raised, and that "good governance, accountability and responsiveness are required from decision-makers to achieve constitutionally sound standards of detention.
18. The issue of the unreasonable delays by The Department of Public Works as also been a trend over the years, and must be addressed as these delays impacts the status of overcrowding, and conditions in correctional centres.
19. The previous Minister of Correctional Services, in the Strategic Plan 2013/14-2016/217 document alludes to the US governments, Second Chances Act 2007, and states that we can learn much from this Act, and that the DCS intends to pilot programmes based on these principles. A Brief overview of the Second Chances Act is discussed in this paper, referring particularly to the Grant making tool, as well as incorporation of EBP's. The DCS has mentioned that they are exploring a model that can look at funding to NGO's. To date no further progress has been noted.
20. NICRO would like to raise the issue of the sexual abuse/rape of inmates. We are aware that the DCS had issued a Policy to Address Sexual Abuse of Inmates in DCS Facilities and also

¹ JICS Annual Report, 2013/14

² In JICS Annual report 2011/12, pg 4

that the Correctional Services Act has been amended to include the screening of incoming inmates for vulnerability to sexual violence (section 38(k)). However we are still yet to see an implementation plan to the Policy, and if the implementation of the Policy has commenced; and whether a tool has been developed to screen incoming inmates for sexual violence. This has to be tabled as a matter of urgency, as sexual assault in our correctional centres are rife.

21. We need to measure, collect, analyze, and disseminate recidivism data? There was a tool that was being developed by the SAPS Record centre a few years ago??
22. We need to manage Gang violence in correctional centres –short, medium to long term. The DCS are apparently looking at Gang management strategies, but the Annual reports are actually silent on what this entails. These strategies must be brought before the committee to deliberate on, given that the personal safety and security of inmates and warders are being threatened daily by gang violence.

Rehabilitation and Reintegration of offenders

23. I think we are all very well aware that the Recidivism rate/Reoffending rate in South Africa is very high. We do not have exact figures but anecdotal estimates have shown 60-80% of ex-inmates return to prison, which may imply that re-offenders account for the majority of the prison population. An indicator used by the DCS is recording ‘the number of prison violations by parolees’, show that on average 10,000 parolees are violating parole conditions annually. In 2011/2012, -11276 violations were recorded; in 2012/13, -9607; and in 2013/14,-9935 are projected. Given these huge numbers it is fair to say that we(particularly the DCS) is failing in rehabilitating and effectively reintegrating offenders into their families, communities and broader society.
24. Hence we have to ask ourselves the question what we can do differently. It is also a fair proposal to look at what research has shown to work? What will make rehabilitation and social reintegration work in SA? Has evidence based practice (EBP) principles in rehabilitation and reintegration in SA been consulted and tested?
25. According to Domurad & Carey (2010:7) the evidence from research is clear and compelling regarding recidivism reduction, which demonstrates that a 30% reduction in recidivism is possible if current knowledge-“evidence-based practices”-is applied with fidelity (Domurad & Carey, 2010:7). While there are hundreds of studies relevant to effective offender re-entry, the research conclusions of Domurad & Carey(2010:8-9), CORE EBP Findings, are perhaps the most clear and fundamental to the work performed by correctional professionals and their partners aimed at reducing the likelihood that offenders released from correctional facilities will re-offend in the future.
26. With EBP, no longer is the challenge in understanding what we need to do to positively influence offender behavior; instead the challenge is doing it. Practically speaking, adopting an evidence-based practices approach would mean restructuring the way we do business –in our correctional facilities, in parole and correctional supervision, and among judges and prosecutors -and others(in fact the whole of the CJS and other departments and agencies-whole of society approach)- so that organizational structures and cultures enable rather than hinder the implementation of programmes and services that are known to reducing criminal behavior(Domurad & Carey, 2010:7). The DCS planning documents allude to integrated service delivery and corrections is a societal responsibility, and we believe EBP is the basis upon which we should collaborate.
27. The approach to offender management and rehabilitation and the reintegration of offenders must be based on evidence –based practice. Governments around the world are moving to align their programmes and services with what is known as Evidence –Based Policy and

Practices (EBP)³. Starting in the medical profession two decades ago, EBP asserts that public policy and practice must be based on the best available scientific evidence in order to be effective in the achievement of its goals and to be efficient in the use of taxpayers' money. Failure to match services to rigorous evidentiary standards not only wastes precious public resources but can lead to an exacerbation rather than the improvement of the problems and issues that government is attempting to address (Domurad & Carey, 2010:2). Neither the White Paper on Corrections nor the Departments plans make mention of Evidence Based Practice (EBP) in the rehabilitation and reintegration of offenders, and based on this report it is not clear if these are indeed being employed. Evidence-based principles for effective Rehabilitation and Reintegration –key to reducing recidivism and enabling the effective reintegration of the offender. Subsequently development of National norms and standards based on evidence-based practice is needed to build quality, effective and hence credible offender reintegration services.

28. Substantial published research across multiple countries and correctional agencies has also demonstrated that a primary method to reduce prison misconducts and recidivism is through effective correctional programming (Andrews, Zinger, Hoge, Bonta, Gendreau, & Cullen, 1990; French & Gendreau, 2003; Losel, 1995, McGuire, 1995, 2002, in Serin, R.C, 2005:5). Therefore if prison administrators want to ensure safer institutions and communities, then they need to provide correctional programming opportunities consistent with evidence based practice. For prisons the pre-occupation with operational goals [admissions, transfers, accommodation, and the daily routine of prison (in which we seem to be stuck)], is understandable but can easily exhaust available fiscal and human resources. Such preoccupation leaves few resources left for the agency to meet its commitment regarding the broader goals of effective corrections and public safety. This however is a false economy since money spent on programming is cost effective (Aos, Phipps, Barnoski, & Lieb, 1999 in Serin, R.C, 2005:5). One possible strategy is to incorporate existing programmes that have been demonstrated to be effective in one setting for use in another. In this manner the initial set up costs are greatly diminished and staff benefit from the implementation lessons from other jurisdictions. NICRO would like to recommend for piloting one site that can incorporate and test these evidence based practice and using baselines and research evidence to test if it works. Surely we can start implementing at one setting and then transfer lessons and increase roll-out year by year. Staff needs to realise that meeting the competing goals of managing prisons and treating inmates (i.e. providing correctional programming) is actually consistent with their interest to have safer prisons and eventually lower rates of recidivism.
29. Correctional programming is often seen as a “getting soft” approach to crime rather it is holding inmates accountable for their criminal behaviour and providing ways for them to become pro-social (Serin, R.C, 2005:6). From a prison classification perspective, criminal risk information must be incorporated into standardized programme assignment decisions. For the past decade the most critical factors to be targeted in correctional programming have been described as criminogenic needs. Criminogenic need factors are changeable factors that when changed have an impact on the probability of future criminality. Criminogenic needs are factors that are correlated with recidivism (see Diagram 1). According to the Risk/Need model (Andrews & Bonta, 2003, in Serin, R.C, 2005:11) effective correctional programming should restrict programming to only consider criminogenic needs as treatment targets. Put any other way, it is inefficient and ineffective to target needs that will not reduce reoffending (i.e. self –esteem) (Andrews & Bonta, 2003, in Serin, R.C, 2005:11.)

³ **Evidence based knowledge** are conclusions drawn from research studies that have been replicated numerous times with defined, measurable outcomes, about the effectiveness of an intervention or process; **Evidence-Based Practices:** The application of empirical research to professional practice; **Evidence-based principles:** The eight “principles” of evidence-based practices that have been derived from the research on risk reduction.

30. Rehabilitation and reintegration of offenders are actually not separate from each other as the one affects the other, and should rather be seen on a continuum of through care from inside prisons to offenders returning back to society.
31. *‘Virtually all prisoners return to the community. It must be our aim to return them better equipped to cope with the demands of living in society and abiding by its rules.’ - J.J. Kennedy (1988). Walsh (2004:2) argues that “a corrections system that fails to provide proper preparation for release and adequate supervision of prisoners released into the community invariably fails as a correction system. Not only does faulty release practice and policy threaten the human rights of prisoners as well as victims of crime, it contributes to recidivism and undermines community safety.”*
32. Annual figures of returning offenders to the community? No accurate statistics available. 10’s of 1000’s of inmates released annually. DCS figure 2014/05 -15965-probationers; 47497-parole.
33. The Department of Correctional Services plays leading role in the rehabilitation and reintegration of offenders. Chapter 3 -White Paper on Corrections in SA- Corrections (which includes the rehabilitation and reintegration of offenders)says that Corrections is a societal responsibility, which has resulted in us seen our correctional centres being opening up to community organizations to offer programmes and services.
34. There are many organizations and individuals visiting centres across the country. These programmes have to be accredited, but it is not to our knowledge that these programmes are being accredited against evidence-based practice. How does one report on the performance of the DCS, when it is dependent on the success or not of so many programmes? How is it that they all fit together, so that collectively it is all functioning as a well oiled machine? Is there a Rehabilitation and Reintegration national strategy and how do we all fit in to it? Are these programmes monitored and their impact evaluated against EBP? There is at present great diversity in the range and quality of services rendered by CSOs. The quality of services needs to be improved and assured. It is of critical importance that clients, the public, government, and the donor community have confidence in the quality of projects and programmes rendered by civil society organisations in respect of ethics, principles and practice in the delivery of offender support services. The development of minimum norms and standards for services to offenders and former offenders will make a significant contribution to improving the quality of services. The National Network on Reducing Reoffending (NRR) has already started the process of developing standards and norms for offender support services.
35. Offenders face challenges of deinstitutionalization, (some dealing with after effects of victimization, dehumanization and trauma), stigmatization, and lack of education, employment, substance problems, other mental or physical health and relationship problems on their release. Some are not accepted by their own communities and families due to the harm they caused to them. There is general agreement on the main needs of, and difficulties experienced by, prisoners upon their release. They may be divided into three main categories:
- welfare needs, including income, housing, education and employment; health needs, including physical and mental health, and substance addiction; and psychosocial needs, including assistance to re-establish connections with family members, counselling, and attitudinal, motivational and life skills training. (Walsh 2004)
36. What works to prevent prisoners from re-offending may be distilled into five key principles (Walsh 2004). They are:
- the importance of through-care, that is, a consistent and progressive case management approach which begins with a person’s entry into prison and ends some time after release, once the person is able to live independently in the community;
 - the need for holistic aftercare services;
 - the need for pre-release transitional programs;, including Halfway house initiatives;
 - a preference for gradual release based on assessment via an objective and accurate classification instrument; and

- the need for specific programs and services to meet the special needs of differing offender groups
37. Rehabilitation affects reintegration. The inmates time in prison should be directed at addressing the causes underlying his/her offending behaviour. Successful outcomes in terms of prisoner release-most likely to be achieved if -effective through care model, incorporating case management and individualised program plans, is implemented. Aftercare, prefaced by a pre-release program-considered essential in assisting prisoners to reintegrate into the community. Importance of graduated release is stressed, & need to address the special needs of specific offender groups, including particularly young prisoners, women prisoners, prisoners with mental or cognitive impairment and Indigenous prisoners.
38. Causes underlying his/her offending behaviour (Diagram 1)

CRIMINOGENIC NEEDS AND IMPLICATIONS FOR INTERVENTIONS

Top 4 criminogenic needs

Criminogenic need	Response
History of anti-social behaviour	Build non-criminal alternative behaviour in risky situations
Anti-social personality pattern	Build problem-solving, self management, anger management, and coping skills
Anti-social attitudes and cognition	Reduce anti-social thinking; recognize risky thinking and feelings; adopt alternative identity/thinking patterns
Anti-social association, peers	Reduce association with anti-social others; enhance contact with pro-social others

CRIMINOGENIC NEEDS AND IMPLICATIONS FOR INTERVENTIONS

Next 4 criminogenic needs

<i>Criminogenic need</i>	<i>Response</i>
<i>Family/marital stressors</i>	<i>Reduce conflict; build positive relationships and communication</i>
<i>Lack of employment stability, achievement, educational achievement</i>	<i>Increase vocational skills; seek employment stability; increase educational achievement</i>
<i>Lack of pro-social leisure activities</i>	<i>Increase involvement in and level of satisfaction with pro-social activities</i>
<i>Substance abuse</i>	<i>Reduce use; reduce the supports for substance abusing lifestyle; increase alternative coping strategies and leisure activities</i>

Diagram 1- Criminogenic needs and implications for interventions

39. EVIDENCE-BASED PRACTICE (EPB): principles for effective PROGRAMME interventions in the rehabilitation and reintegration of offenders (Domurad & Carey, 2010:7).
- **Assess actuarial risk/ needs;**
 - **Enhance intrinsic motivation**(offenders need a clear set of goals to motivate them);
 - **Target interventions:**
 - i. Risk Principle:Prioritize supervision and treatment resources for high risk offenders;

- ii. Need Principle: Target interventions to criminogenic needs;
 - iii. Responsivity Principle: Be responsive to temperament, learning style, motivation, culture and gender when assigning offenders to programmes;
 - iv. Dosage: Structure 40-70% of high risk offenders' time for 3-9 months;
 - v. Treatment: Integrate treatment into sentence and sanction requirements;
 - **Skill train with directed practice (use cognitive behavioral treatment methods);**
 - **Increase positive reinforcement;**
 - **Engage ongoing support in natural communities;**
 - **Measure relevant processes/practices;**
 - **Provide measurement feedback.**
40. Offender's need - clear set of goals - to motivate them to change. This requires that they :
- have a certain release date, and set program requirements linked to tangible outcomes such as a progressive increase in liberty and participation in the community.
 - Should be protected from brutality and sodomy, and have access to drug treatment, medical treatment and counselling.
 - Should be able to increase their vocational opportunities through meaningful work and education.
 - Should be encouraged to address the causes underlying their offending behaviour in the context of an individualised case plan, implemented by a case manager who is understanding and encouraging, and does not perform security or disciplinary functions. Only then will 'correction' truly occur.
41. We are not sure if the Correctional Sentence Plan actually uses these criminogenic needs and whether the EBP are being applied in Correctional Programming. We find that the DCS Annual Report gives no details about the Correctional programmes or how they are run. More qualitative data should be included, besides reporting on targets and numbers. It is very difficult to measure the performance of the Rehabilitation and Reintegration programmes based on the information in the Annual report. Further one would have to look at impact evaluation reports, and no such information is included. There appears to be pockets of good work happening across the DCS, but it important that the good work be evaluated and research done, and that these be strengthened and the impact expanded across the system.
42. The A.G under departmental performance on Rehabilitation (pg28) that, "it is compulsory for all sentenced offenders serving a sentence of 24months and longer to attend correctional programme sessions. However we still hear that offenders have a choice to attend programmes. Some clarity is needed.
43. NICRO welcomes the electronic tagging system for sentenced offenders and supports the expansion of this system for remand inmates coupled with services as those provided by NICRO. NICRO is on record for offering to establish this type of programme for remand detention inmates. The NICRO initiative is also mentioned in the JICS Annual report 2013/14, pg10. Evidence based practice shows that this type of initiative is successful provided that this is coupled with community based rehabilitation programmes. (get a reference).
44. Staff shortages (get figures), particularly of professional and medical staff has continued to be trend across the years. From NICRO's point of view this impacts rehabilitation or the lack thereof significantly. We would like to also continue to encourage the DCS to also look at innovative partnerships with CSO's.
45. Mentoring is an important programme to support offenders in their journey through imprisonment and in reintegrating more effectively into society. Mentors can increase the life success of at risk individuals. There is no mention of mentoring programmes in the Annual Report, but NICRO together with a range of civil society organizations are exploring a large scale mentoring programme for inmates and ex-offenders. We will consult with the DCS.
46. We must not forget that crime is committed by human beings, who are connected to families and communities – not only must we incorporate families and communities into the fight against crime, but we must ASSIST and SUPPORT families in their endeavours to prevent

their members from committing crime. In a sense families are both victims and the origin of the perpetrators, and we need to show a deeper understanding of the challenges and difficulties those families, especially parents, face in providing nurturing, developmental and empowering environments for the raising of children⁴. Further programmes that facilitate contact and interaction and intervention with offenders and their families are key. The White paper for Families, commits the Department of Correctional services, to involve families in the rehabilitation and reintegration of offenders.

47. Despite The White Paper on Corrections putting rehabilitation at the centre of the Vision for Corrections in South Africa. The Budget for Rehabilitation was 5.32% of the total budget for the period 2013/2014. This is a reduction from previous years. Under-spending was noted for R47, 982. On page 62 of the report a radical shift in the budget allocation to the Rehabilitation, Care and Social reintegration programmes was recommended. We are not entirely sure how much an effective and cost efficient rehabilitation programme would cost to comment on this budget. EBP must be considered in planning and costing a rehabilitation service. We are also aware that spending is not as clear cut, as money for rehabilitation is also spent in other cost centres. The allocated 4% of the budget to social reintegration appears to have no variance in spending. Like with the rehabilitation budget, an EBP social reintegration model needs to be costed.

48. In the Annual Reports over the years performance indicators state that the DCS will facilitate effective rehabilitation of offenders by:

- *Ensuring that % of offenders with correctional sentence plans complete correctional programmes in... (although 97% of the target set was said to be achieved, in offenders 24 months and more having a Correctional Sentence Plan does not imply that the inmate will have access to correctional programming).*
- *87% of inmates who had correctional sentencing plans are said to have completed correctional programmes, but this does not necessarily mean they were rehabilitated.*
- *Ensuring that 100% of offenders with approved parole dates complete pre-release programmes as from 2013/14, compared to 20.5% in 2011/12 also does not mean offenders were rehabilitated.*

49. The issue NICRO has with these figures is that it is great to show improvement in access to rehabilitation, but it does not guarantee that effective rehabilitation will take place. These indicators do not measure changes in behaviour, attitudes or skills for that matter, and do not tell us if rehabilitation was successful or not.

50. Further education is likely to be a response to a criminogenic need and key to effective rehabilitation. The key to breaking the poverty trap is to increase educational levels, particularly higher education. In this year's Annual report⁵ 67.2% of inmates participated in educational programmes as stipulated in their correctional sentencing plans. While 28.7% participated in FET colleges programmes. More skills opportunities linked to jobs on release need to be made available, as many offenders struggle to get jobs upon release, even when they have studied and done skills programmes in correctional centres. The Criminal record is part of the problem that needs to be addressed, and as mentioned earlier NICRO has conducted a study with recommendations for a review of the present criminal record legislation. NICRO has also developed a Ex-offender Employment data base, where we include ex-offenders skills and education and training, and send it to employers who are positive towards giving ex-offenders a second chance.

51. Psychological treatment and services is likely to be need by the majority of inmates, yet 16% of inmates had access to psychological services for the period 2013/14, compared to 24% in 2012/13. We are actually seeing a decrease from the previous year.

⁴ NICRO press release Rights of Victims and inmates - are they mutually exclusive? September 2014.

⁵ DCS Annual report, 2013/14

52. Access to social work services also decreased by close to 10% from the previous year.
53. Spiritual services increased by 6%.
54. Restorative justice appears to be impacting positively on rehabilitation efforts. I could not see a figure for how many restorative programmes were run with inmates, but noted 8 Victim Offender Dialogues that were conducted (pg53). Over the past years has seen an increase in RJ initiatives in the SA Correctional environment, and the DCS have been very supportive towards this.
55. It was encouraging to see 6 SLA's formed with Half way houses, as compared to the one in the previous year. As part of the through care system –Halfway houses is considered key for transitional services to offenders reintegrating into the community.
56. It was noted (pg61) that the DCS stated, 'the DCS realizes that the rehabilitation and reintegration objectives contained in the White Paper are undermined by its continued administrative challenges, and the poor leadership...as indicated in previous reports, leadership instability, lack of discipline and financial management seriously impede service delivery and must be addressed as a matter of urgency.' We trust further that EBP will be recognized and planned for.

Children in prison

57. This remains a grave problem as there are still children being held in prisons. It is NICRO's view that no child should be caged, and we advocate for alternatives. From the JICS report we see that children are also not always kept in the best conditions at all centres. In the words of a colleague from another organization we work with, *"It is not the prisons fault but the system that has failed again in youngsters getting to the point where there is no other place for them to go."* Child and Youth Care centres have also failed children, as they function as mini-prisons. We need to do whatever we can to ensure that children are not sent to prisons. Even Child and Youth Care centres have become mini-prisons. NICRO is at present exploring possibilities of research into Children in alternative care in South Africa, that will loom at Child and youth care centres, and children in need of care. Much more needs to be done to catch children earlier in the system before they come into the juvenile system, and to work with the risk factors that lead them into crime and violence. School and family interventions are critical. When a child commits a crime, it is the family and the society that actually should be seen to be responsible for this.

Offenders with mental illnesses

58. Do we have statistics about how many offenders there are in our correctional centres who have a mental illness, and whether these centres are equipped to deal with them, or is there a need for alternatives. The JICS reports show many instances where health assessments were not conducted. Mentally ill offenders can pose a threat to both the prison community and to themselves, and to the wider society when released. Therefore in prison and re-entry and after-care programmes for inmates must plan for the mentally ill offenders return to the community. **Mentally disordered offenders can be successfully reintegrated into their communities—if properly treated and given the right plan and support.**

The Role of the Correctional Official in rehabilitation

59. The Correctional Official plays a key role in rehabilitation, as outlined in the White Paper on Correctional services.
60. All correctional officials who interact directly with offender should be trained in restorative justice and on EBP on the rehabilitation and reintegration of offenders. 2013 was declared the year of the Correctional Official. In a previous submission⁶, we stated that we are hoping that

⁶ NICRO Submission, 10 April, 2013:2. DCS Budget Vote, 21, Strategic Plan 2013/2014, Annual Performance Plan 2013/14.

budgets will not be sent on grand certification ceremonies and events and that rather allocations be made to professionalize Corrections, train and up-skill staff (including training of the appropriate “use of force”), a focus on employee well being and motivating the Correctional official, as well as a huge focus on changing the culture and ethical conduct of a large component of staff of the DCS. It would be good to see a plan of how the Department will increase their focus on this valuable resource-what would be done differently and how much has been allocated to this.

61. Integrity should be placed high, the rule of law must be upheld; the rights and freedoms of all people are preserved; and authority must be exercised responsibly.
62. The correctional official can actually be that one significant role-model in that offender’s life.
63. Whereas we acknowledge the sterling efforts of those correctional officials who are true rehabilitators and have taken it to be a positive encouragement to offenders, and to help them be better individuals, we see in the Annual reports in the past four years other accounts of corruption, and non-compliance, and ill-treatment by Correctional officials.
64. We also acknowledge that Correctional officials work in a challenging environment and need as much support and encouragement themselves to stay motivated and inspired to be the rehabilitators they are called to be, as set out in the White Paper for Correctional services.

SOME MAJOR CHALLENGES

The Over-use of Remand Detention

65. According to the Open Society Justice Initiative, the arbitrary and excessive use of pre-trial detention is said to be the most over-looked human rights crisis world-wide. The Open Society Justice Initiative, in September 2014, published, “Presumption of Guilt: The Global Over-use of Pre-trial detention.” It reads that, “around the world, millions are effectively punished before they are tried. In South Africa, this truth rings out, where we have individuals in our Correctional centres awaiting trial for more than two years. There have been instances of cases of individuals having awaited trial for over 7 years. Even though the new White Paper on Remand detention allows for after two years for your case to be reviewed this is still an injustice. Justice delayed is justice denied. According to the Open Society report, the right to be presumed innocent until found guilty by a court of law is well established, yet this right is violated widely and often, in both the developed and undeveloped world, and the violation goes largely unnoticed. Further based on the Annual Reports of the DCS & JICS we in South Africa see many in remand detention that are subjected to torture, exposed to life threatening diseases, victimized by violence, and pressured for bribes. Remand detainees experience far worse conditions than sentenced offenders. The suicide rate among remand detainees are said to be three times higher than sentenced offenders, and 10 times more than the outside community. Further the lack of access to education (particularly for juveniles), and programming and recreation is evident.
66. According to the Open Society report the arbitrary and excessive use of pre-trial detention is a massive and widely ignored pattern of human rights abuse that affects millions of people across the world. They argue that, “no right is so broadly accepted in theory, but so commonly violated in practice, the global overuse of pre-trial detention is the most overlooked human rights crisis of our time. The report argues that, “given that the presumption of innocence is universal, detaining arrestees pending trial should be rare...many jurisdictions around the world violate the principle that pre-trial detention should be used sparingly, as a last resort.
67. Given this principal of not knowing whether they are truly guilty or not, the poor conditions and treatment of remand detainees in the JICS Annual report is concerning. Further it appears that remand detainees do not receive many of the services sentenced offenders do. The White Paper for Remand Detention is welcome, and we trust that this will bring in changes.

68. Cutting the number of remand detainees could also resolve prison overcrowding, limit the spread of disease, prevent further violence and death, interrupt the cycle of poverty, and promote development. (this is in own words).
69. Over-incarceration of remand detainees seems to also be a phenomenon in South Africa. Over the past five years SA incarceration rates have remained more or less stable. In the period 2013/14, the JICS reported a small decrease of 4460 remand detainee's.⁷ According to the JICS report⁸ the inmate population in South Africa has been characteristically one of the highest per capita in the world. In Africa SA boasts the highest prison population. The present prison population is 154648, and the remand detainees 44236. What is further alarming is the number of children in juveniles, in remand detention, which was reported in the JICS Annual report 2013/14 to be 41% of the prison population.

	2009	2010	2011	2012	2013	2014
Remand	49447	49030	47862	46351	48696	44236
Sentenced	115753	114282	112683	111814	104670	110412

Detrimental effect of mass incarceration

70. In the past decade imprisonment has become common-place, especially for the poor, marginalised, and those from fragile families, in our country. As incarceration rates soars it is the poor women and children that are most affected, been left to deal with loss of income, separation, stigmatization, increased expenses like visitation (often to correctional centres far from their homes), and then after years to deal with the return of ex-offenders to the family. Because family members of most inmates are already poor, the costs of having a family member in prison can be extremely high. Imprisonment diminishes the earning capacity of adult men, many of whom are fathers, comprises their health, reduces familial resources, and contributes to family break-up (Wildeman & Western, 2010:157). Incarceration also increases the risk of divorce and separation, linked to a fundamental change in the social experiences of children and increases in child aggression, and behavioural problems is noted, and further reduces the well being of fragile families. According to the authors it also adds to deficits of poor children and impacts on inequality transferred generationally. The authors argue that mass imprisonment may increase future racial and class inequality, and may lead to even more crime in the long term, thereby undoing the benefits of imprisonment. Mass imprisonment produces more vulnerable families and reduces the life chances of the children affected. It may also lead to incarceration becoming an inter-generational phenomenon. Research also shows the destabilizing effects of imprisonment on the life course of men. Research also suggests that the experience of imprisonment impacts mental and physical health. A brutal prison environment can impair mental health, which impacts labour market success, relationship stability and parenting quality. Research also shows parental criminality and incarceration, affects children's criminality (168). Although most research on consequences of parental incarceration focus on children's behaviour and aggression, other outcomes have included homelessness, foster care placements and infant mortality, and being severely marginalised in childhood and adolescence. Research also shows that formerly incarcerated men are also more likely to suffer various infections and stress related diseases (Wildeman & Western, 2010:165). By removing men from the labour market and marking them as criminal makes it much harder for them to acquire and use their skills in the market place, hence diminishing their earning capacity. Mass imprisonment lays the ground-work for a vicious cycle in which the criminal justice system does not diminish-and may even increase addiction, abuse and crime.

⁷ JICS Annual Report, 2013/14, pg 10

⁸ JICS Annual Report, 2013/14

71. What has caused us in SA to incarcerate so easily –rising crime rates-changes in the economic life of urban men with little schooling? Punitive turn in criminal justice policies?
72. The authors advocate for several policy reforms including reducing length of prison sentences for drug offenders and for parolees who violate the technical conditions of parole, reconsidering sentence enhancements for repeat offenders, and expanding support for prisoners and ex-prisoners. Ex-offender re-entry policies must start while inmates are still in prison. Evidence based practice show that substance abuse, education, training and work programmes are aimed at reducing recidivism. Re-entry programmes should also provide transitional services immediately after release for housing, treatment, education and training, and job placement. In particular transitional employment programmes that place former inmates to work on construction and community service projects have been found to reduce recidivism significantly several years after entry into the programme. Mentorship programmes that include family and friends enlisting directly to support ex-offenders in readjusting to the routines of society and participating in drug treatment programmes.
73. Punitive criminal justice not only failed to ameliorate the social problems, but has also achieved questionable success when it comes to enhancing public safety.
74. Taking full account of the negative social effects of mass incarceration shows that the costs of mass incarceration are far higher than the correctional budget suggests.

SOME SOLUTIONS...

Reducing remand detention and mass incarceration

75. The Minister pointed out to us in the report (pg 9) that the high numbers of remand detainees is a major concern, and solutions like electronic tagging, and legislation that allows the DCS to follow-up with cases in remand reaching two years, has resulted in a slight reduction in remand numbers. We commend the DCS on their efforts towards creating alternatives for inmates. A lot more is still yet to be done for establishing alternatives to incarceration.
76. We may have to also look at other issues, of police performance targets being the number of arrests and the National Prosecuting Authority measuring their performance by the number of convictions. Does this not impact the high inflow into our correctional centres?
77. We also need to re-look our still very punitive paradigm of justice. Ezzat. A. Fattah⁹ wrote that despite the manifest advantages and benefits shown by restorative justice in the country, we continue to imprison and punish far too easily. The author argued that the current punitive system of justice was imposed by the colonial powers, yet despite independence this system remains. Do we forget that Africa is the cradle of restorative justice? Yet the destructive and detrimental effects of punishment are too evident to ignore. The JICS Annual Report shows this evidence, and has done so for a number of years. The writing is on the wall –can we continue to ignore this blatant injustice. NICRO’s view is that more must be done to make restorative justice the dominant paradigm of justice in South Africa. This however requires a deeper understanding and entrenchment of restorative justice principles into every aspect of our justice system, and may imply possibly changes to criminal justice policy across the board. Restorative justice is not just a programme but a paradigm shift in how we see crime and punishment in South Africa. Fattah writes that the unanimous view for punishment to be morally acceptable in a democratic society it has to be proportionate to the injury or the harm done. NICRO’s view is that given the plight of sentenced, and remand detainees and children, outlined in the JICS and DCS Annual reports, that this may be a grave problem. The author also argues that in making the paradigm shift we can move from a guilt orientation to a consequence orientation thus removing the artificial boundaries of arbitrarily erected between civil and criminal law. We support the author’s view that this goal can be hopefully attained

⁹ Effat. A. Fattah. 2007:1. Is Punishment the appropriate response to gross human rights violations? Is a Non-Punitive Justice system feasible? CSVR.

by the implementation and full institutionalization of Restorative Justice. We believe that these kinds of paradigms are what are going to make the radical shift we need, to turn around the tide of high crime rates, and over incarceration.

Institutionalising Restorative Justice as a dominant paradigm in dealing with crime and punishment in SA

78. Restorative Justice emphasizes repairing the harm caused by crime, and balancing the rights of victims, offenders and communities.
79. A definition: RJ focuses on repairing the harm caused by crime and reducing the likelihood of future harm. It does this by encouraging offenders to take responsibility for their actions and for the harm they have caused, by providing redress for victims and by promoting reintegration of both within the community (Van Ness & Strong, 2002:9).
80. We need to have a RJ approach in South Africa that responds as restoratively as possible to all crime, all victims, and all offenders, in ways that facilitate healing, restoration and reconciliation, and builds more peaceful communities. To do this we need to change our lenses when it comes to how we look at crime and punishment.
81. It is indeed a mile stone that RJ is offered in correctional centres, and many strides have been taken by the DCS to expand the approach. However much more is needed, as pockets of good work is scattered across the country. Further collaboration and a coordinated response are needed to make it into a streamline approach.
82. In SA, we are still learning about where RJ works best...good research evidence is important if RJ is to provide better quality justice, it could be an investment worth making.
83. Further it is time to move RJ to a new level in South Africa. RJ within Corrections has been seen as a new programme, and sometimes we lose sight that actually Restorative Justice is a philosophy and a paradigm shift for the entire criminal justice system. RJ needs to also start earlier, in communities, at schools, at police level, within faith communities. "Dealing with conflict in a restorative way should be at the front end of the chain, with young children whose behaviour can be directed, as changing behaviour of adults proves difficult."¹⁰
84. Restorative justice programmes in prison settings in SA, is growing to become one of the most transformational offender rehabilitation and reintegration programmes, with a huge potential to interrupting the cycle of recidivism, if done properly and effectively.
85. There are a few Restorative justice practitioners working in correctional centres across the country and more needs to be done to better collaborate and coordinate the restorative justice response in the country. RJ requires partnership across the society. RJ programmes need to link with other correctional programmes and activities –continuum of rehabilitation, restoration and healing.
86. Some of the outcomes of RJ have been:
 - Inmates learn about themselves, and the history of their offending behaviour and the consequences of their crime(s);
 - They begin to develop victim empathy and come to understand the harm of their actions on their families, victims and communities;
 - Inmates learn conflict resolution skills and using more non-violent communication;
 - i. *"they are open sponges ready to drink."* (RJ facilitator)
 - Inmates learn skills on how to deal with strong emotions of jealousy, rejection, depression and hopelessness;
 - Mindset of offenders changing;
 - Restoring and reconciling families and the offender to the community;
 - i. family group conferencing can contribute to lessening the chance of reoffending even when other important factors such as adverse early ;

¹⁰ Plaatjies, M. 2008(ii). A model for implementation of Restorative Justice in the South African Correctional System. PHD Thesis. UNISA.

experiences, other events which may be more related to chance, and subsequent life events are taken into account.¹¹

- The study found that, when compared to court, the effect of diversionary conferences is a 38% decrease for young violent offenders¹²
 - When compared to the two groups of probationers, the RJ participants showed significantly lower recidivism (14.1% vs. 56.3%).¹³
 - Improves self –esteem (UNISA research shows that enhancing self image of inmates is a crucial factor in rehabilitation) and belief in themselves, and offers hope for a different crime free future;
 - Inmates develop meaningful relationships and build trust with RJ practitioners, and individuals who journey with them;
 - Increased happiness among inmates;
 - Built trusting relationships –some have not had visits from families and friends over many years;
 - Identifying the root and contributory, risk factors of getting involved in crime
 - i. E.g Children learn how to respond to deprivation, depression, conflict and anger from their parents, who also never learned the language or the skills to cope.
 - ii. Historical factors such as Colonialism, apartheid, ongoing violence in our communities has impacted generations over the long term;
 - iii. Families and communities are exposed to continuous trauma.
 - They begin to show remorse and want to turn their lives around.
87. Some of the challenges are:
- The correctional environment and structure is not a conducive environment for RJ or for rehabilitation. The prison environment is dull-not a place where an individual can easily be stimulated to learn. It is a very depressing environment. The Minister in his opening address at the beginning of this Annual report said that Correctional centres must be places of new beginnings-the environment needs to reflect that. This environment cannot motivate inmates nor can it motivate staff. If we want to turn our correctional centres into centres of rehabilitation – we need to brighten the environment, allow more outdoor activity and exercise and meaningful work;
 - Prisons undermine the human dignity of the person;
 - DCS staff is meant to be rehabilitators, but there are some officials that do not treat the inmates with dignity and respect. It does appear that the DCS staff themselves also need support and intervention-even an RJ programme, to understand how to incorporate the principles of RJ into their role;
 - Broken and dysfunctional families need more structured intervention and support over the medium to long term;
 - Motivation – we need to be clear about why we are doing the programmes. Marketing and raising public awareness should never be at the expense of the individual, family and victim.
 - Idleness of inmates
 - i. Inmates need to work and exercise and find a purpose for getting up each morning.

¹¹ Maxwell, Gabrielle, and Allison Morris. 2001. "Family Group Conferences and Reoffending."

¹² Sherman, et. al. 2000. Recidivism Patterns in the Canberra Reintegrative Shaming Experiment

¹³ Bonta, James. Jennifer Rooney, Suzanne Wallace-Capretta. 1998. "Restorative Justice: An Evaluation of the Restorative Resolution Project."

- ii. This report talks about projects where inmates went out to the community to work...this is a key factor to facilitate successful rehabilitation and reintegration.
- Currently RJ very offender driven. Criticism can be that this must balance with services and support for victims, as well it being victim-driven.
- RJ processes must start earlier in the community, in the home, at schools etc.
- RJ programme need to be evaluated and research done over time to generate evidence that it works, and or what can be improved.
- Gap between theory and practice
 - i. a great number of RJ practitioners are not interested in its theoretical principles. In fact, it appeared that many believe that if practice is to move forward then it should only be informed by previous or additional practice and empirical evidence on ‘what works’. Others believe that there has been a lot done in the theoretical world of RJ, and that what is really needed now is to shift the focus to its actual application. On the other hand, theoreticians were accused of being distant or even detached from reality. They sometimes expound philosophies that do not take into account the day-to-day mundane problems of practice, and this usually results in producing theories that are weak in their applicability, or sometimes defective. Second, it identified four themes that appeared to be problematic in RJ’s development, and which occurred due to the discrepancy. These included: (a) the way RJ is understood and defined (b) the way it is funded by governmental and other private funding bodies (c) the way facilitators are trained and (d) the way programmes are put into practice, and the effect that the process has on the restorative nature of their outcomes. Finally, it made suggestions on how to bridge the gap between the theoretical and practical development of RJ, addressing the above four problematic themes.¹⁴
 - ii. the difference that exists between the practical priorities of the various schemes and mediation programmes and the abstract theoretical norms of RJ’s concept. In other words, a great number of the practical problems that are associated with the everyday application of RJ (a) are not dealt with by applying the theoretical principles that are available in the literature (b) are sometimes caused because people that implement RJ do not always use the principles in the first place (c) even if when some practitioners seek guidance from the theoretical work that has been done in the field or from empirical research on ‘what works’, the first is sometimes too distant from reality while the latter is not updated or well carried out. The result of this is having practice walking most of the times without theory by its side, and vice versa. One interviewee said: “My impression is that practitioners are leading practitioners...” while someone else claimed: “The RJ theory doesn’t suit practice...I think practice should be now driving evaluation and additional practice...theory is holding practice back¹⁵
 - iii. Lack of training of DCS officials in RJ and rehabilitation
 - We are not sure if there are uniform policies and procedures within the criminal justice system w.r.t RJ?
 - There is no one size fits all approach, so flexibility needs to be accommodated.
 - RJ as a condition of parole is problematic and victims are suspicious of the motives of the offender and refuse to participate. This is also unfair to the offenders if it affects

¹⁴ Theo Gavrielides. 2003. Restorative Justice Theory and practice: Mind the Gap!

¹⁵ Theo Gavrielides. 2003. Restorative Justice Theory and practice: Mind the Gap!

their release on parole. RJ must be done earlier, and should be included in the sentencing remarks of the sentencing judge, and in the Correctional Sentencing plan.

- The length of preparation can take time to properly prepare victims and offenders, which implies that the Victim Offender Mediation can sometimes only happen on release if the process was started later while the inmate was incarcerated.¹⁶
- RJ must not be seen as a separate programme but as an integral component of the sentencing plan that links with other programmes and processes offered inside the centre.
- VOM should be respected as a deeply personal and individual process and accepted that it may not be possible for all offenders and victims to go through this process.¹⁷

Creating Restorative correctional environments

88. The current facilities in correctional centres are not conducive to rehabilitation. We need to create environments that return good citizens. Changing the prison environment, culture, structure and role-modelling is key to this.
89. One of the radical shifts, which we mentioned needs to happen earlier in this report, is to change the present prison environment. NICRO together with a few partners are also exploring alternatives that look at changing the actual prison environment. A further formal consultation would be sought with the DCS once we have completed our research.
90. There is a general consensus that the prison system in SA is not working to effectively rehabilitate offenders and prevent recidivism. Even though there has been this expressed desire to implement restorative justice, as mentioned earlier much more needs to be done to institutionalise restorative justice as a dominant approach to crime and punishment in South Africa. A greater level of humane treatment and less institutionalization is needed. However the realities and environments on the ground do not facilitate this. The retributive and restorative paradigms are actually competing narratives. We need to develop an alternative prison model that creates a context for restorative practices that seeks to rehumanise the offender rather than continue the process of dehumanising the offender. Developing an alternative prison model however cannot be done in isolation of continued development and expanding on creating of alternatives to imprisonment; developing safe and caring communities, and as mentioned earlier changing the meta-narrative on crime and punishment. Current forms of incarceration tend toward confrontation, dominance and power assertion. Confrontation in itself is not wrong but has negative consequences, particularly among the younger cohort, in the context of dominance and power. Aspects we would like to see in an alternative model are the changing of the spaces that facilitate solitude, reflection, learning, service, work (sustainable practices e.g. working in gardens and farms, and work in communities for some offenders), cooperation and peace. It would still need to be in a secure setting but with a caring community of therapeutic support. The daily rhythms should include prayer/contemplation; work, learning and recreation. Teaching offenders how to live in community. It would be not just the daily practice that needs to be changed but the entire physical environment that requires a restorative focus-from the cells and the interior and exterior aesthetics. In short a total redesign and rethink of how we design prisons, with the hope that in the long run it will cost the tax-payer less(through sustainable practices), and is transformative both for the individual and for society. We are beginning to see this shift in thinking from others around the world too. Our idea was to have a pilot programme for juveniles, and then to evaluate its impact over the medium to long term.

¹⁶ Plaatjies, M. 2008(304). A model for implementation of Restorative Justice in the South African Correctional System. PHD Thesis. UNISA.

¹⁷ Plaatjies, M. 2008(320). A model for implementation of Restorative Justice in the South African Correctional System. PHD Thesis. UNISA.

91. Psychological and spiritual healing techniques inform the creation of healing environments in prisons that promote moral and social development in inmates, and the healing of shame, the source of much problematic behavior¹⁸.
92. Across the world there is a growing interest in unique programs that make dramatic changes in prison management. In Brazil, the Brazilian Association for Protection and Assistance to the Convicted (APAC) has made some interesting changes in prison management. The APAC methodology creates a strong community environment among prisoners and volunteers that fosters spiritual, behavioral and lifestyle changes.

Early intervention

93. We have to acknowledge that “Criminal justice reform alone will not solve the problems of school failure, joblessness, untreated addiction and mental illness that pave the way to prison.” We cannot try to resolve deep social problems with criminal justice policies¹⁹. Addressing these broad problems requires a greater social commitment to education (improved literacy and more schooling), social development public health and employment opportunities of low skilled men and women. Wildeman & Western (2010:157) argue that the criminal justice agencies are just residual sources social order and that the primary sources of order and stability-public safety in its widest sense –are the informal social controls of family and work. Hence broad social policies hold the promise of not only support improving the well being of fragile families, but the strengthening of families and providing of jobs and contributing to public safety.
94. We also have to teach conflict resolution skills at a community and family level, and start strengthening the family and stable work as informal social controls.

Concluding remarks

95. Previous recommendations to the PC: Correctional services were to receive regular reports from the Security and Justice Cluster, looking at the broader CJS issues. The previous committee did undertake to do this and invited other role-players in the CJS to the Committee to report. The new committee (Justice and Correctional services) is now better placed to do this²⁰. The social cluster sector should also be invited.
96. Another previous recommendation to the PC: Corrections was to examine the role of the Department of Health, and medical and nursing council’s w.r.t health care in correctional facilities. Health care continues to be one of the highest in number of complaints, and mentally ill people and state patients need to given attention.
97. Another previous recommendation was to follow-up on progress made on the Anti-gang strategy, as gang violence and criminal activity of gangs in correctional centres continues to be a serious issue. Both Annual reports do not speak sufficiently to this issue.
98. The issues of inmate’s rights and their personal safety and security must be taken seriously.
99. Institutionalizing restorative justice within the CJS, and incorporating RJ principles more broadly in dealing with crime and punishment is key. As mentioned in the introduction to this submission. We just cannot continue to put the new wine, of rehabilitation, restorative justice

¹⁸ Peters, Carol Anderson (2004). *Transforming and Restorative Justice and the Churches, vol. 1: Creating Healing Environments in Prisons* Newton Centre, MA: Boston Theological Institute. Downloaded 7 March 2005

¹⁹ Wildeman & Western, 2010:157, Incarceration in Fragile Families.

²⁰ Shadow legacy report -2004-2009, The Parliamentary Portfolio Committee on Correctional services, Open Society Foundation for South Africa.

into the old wineskins of a retributive justice system of punishment, excessive use of force, humiliation and torture.

100. Some of the other past recommendations relevant to the 2013/14 Annual report is to ensure that the DCS briefs the committee on :

- Its policy on compulsory programmes;
- Employment models used in other countries
- The review of the Inmate labour system

101. Close monitoring of this Committee on previous recommendations made to the DCS on the Annual reports is needed, so that the same problems do not keep recurring;

102. The Administration of Medical Parole needs to be urgently reviewed.

103. Way forward in implementation for Correctional Institutions with regard to EBP for effective rehabilitation and reintegration (Domurad & Carey, 2010:22-23):

- ✓ Engage leadership
- ✓ Involve Line staff
- ✓ Use an empirically based risk/need assessment tool(s)
- ✓ Provide training
- ✓ Focus on risk level and criminogenic needs
- ✓ Provide an array of evidence-based programmes
- ✓ Assure the quality of your efforts (assessment, case planning, cognitive behavioral training, motivational interviewing and core correctional practice)

104. It remains all of our aim to ensure that the rights and well-being of those who are detained, as enshrined under the South African Constitution, laws, and international human rights norms and standards, are respected and upheld. NICRO looks forward to continue to work with this Committee, the DCS, the JICS, the DJF, and other relevant stakeholders in realising this.

105. It is vitally important that we uphold our human rights. By doing so we strengthen our constitution and safe guard our democracy. NICRO continues to believe, wholeheartedly and with great passion, in reconciliation and healing, building a democratic society, strengthening a human rights culture and ensuring the advancement of a country and communities in which all South Africans feel secure and protected, and are able to access their rights. Working for rehabilitation of offenders, means working for the protection of the safety of citizens. That is our mandate!²¹

²¹ NICRO press release Rights of Victims and inmates - are they mutually exclusive? September 2014.

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