

CSPRI SUBMISSION ON THE CORRECTIONAL SERVICES BUDGET VOTE, VOTE 21, 2011/12



Introduction

This submission comments on the Department of Correctional Services Budget Vote (Vote 21) for 2011. There was limited time to study the latest Strategic Plan (2011/2 – 2015/16) and the Estimates of National Expenditure (ENE) for 2011.

The overall thrust of the submission argues for:

- Performance indicators that reflect performance accurately;
- Basic compliance with the Correctional Services Act with a particular emphasis on meeting the minimum standards of humane detention in all facilities at all times;
- A review of the appropriateness of the White Paper's focus on rehabilitation as a suitable response to the challenges facing the DCS, and
- The rendering of basic education, training and release preparation services to all offenders.

Performance indicators

1. The 2011 Estimates of National Expenditure (ENE) lists selected performance indicators for the DCS, as shown below in Table 1 below.¹ The purported purpose of these indicators is to provide a bird's eye view of the DCS's performance across its seven programmes. However, closer examination raises the question whether this is indeed the case. For example, in respect of health care, only one indicator is noted, namely the percentage of eligible inmates on ARV treatment. Since an estimated 19.8% of the total inmate population is HIV positive² and it is only a proportion of these individuals who would qualify for ARV treatment, the indicator tells indeed

¹ Estimates of National Expenditure Table 21.1 p. 4

² Department of Correctional Services. (2008b). *Unlinked, anonymous HIV and syphilis surveillance study among staff employed by, and offenders in the custody of the Department of Correctional Services in South Africa*. Pretoria: Lim'Uvune Consulting, p. 3

very little about the state of health care in the prison system. Similarly, the fourth indicator reads “Percentage of offenders serving sentences longer than 24 months who have sentence plans”. While having a sentence plan is a legal requirement for that sentence category³, the fact that an offender has a sentence plan, does not mean he or she is receiving any services - it only means that the sentence plan form has been filled out.

2. The results presented under the sixth (literacy training) and seventh (skills development training) indicators illustrate this clearly. Less than 4100 offenders were involved in literacy training in 2009/10 and less than 6900 in skills development programmes in 2010/11. Combined this constitutes 11.2% (or 11 338) of the offender population serving sentences of longer than 24 months⁴ while it is reported that 60 910 offenders had sentence plans.
3. The eighth indicator (under the Social Reintegration Programme) measures the extent of compliance with parole conditions. While this may be a useful figure to know, it does not address the social reintegration of released offenders and the broad range of known needs and challenges facing released prisoners.

Table 1

	Indicator	Programme
1	Percentage of inmates who escape from correctional and remand detention facilities per year	Security
2	Percentage of inmates assaulted in correctional and remand detention facilities per year	Security
3	Percentage of overcrowding in correctional and remand detention facilities per year	Corrections
4	Percentage of offenders serving sentences longer than 24 months who have sentence plans -cumulative	Corrections
5	Percentage of inmates with CD4 count below 350 who are on ARV treatment - Cumulative	Care

³ Section 38 Act 111 of 1998

⁴ The March 2010 statistics were used for this calculation as supplied by the Judicial Inspectorate for Correctional Services.

	Indicator	Programme
6	Percentage of eligible offenders who participate in literacy programmes as per their sentence plans per year	Development
7	Percentage of eligible offenders who participate in skills development programmes as per their sentence plans per year	Development
8	Percentage of parolees without violations per year	Social Reintegration
9	Ratio of incarcerated offenders with sentences of 24 months and less to probationers	Social Reintegration

4. In view of the above it is submitted that the DCS reviews the indicators in Table 21.1 in order to give a proper reflection of the Department's outputs. To this end the following are noted

- The indicators should speak to the overall aims and outputs of the Department as set out in the Correctional Services Act
- The indicators should address the level of legislative compliance
- The indicators should address identified priorities
- The indicators should aim to measure outcomes and not activities
- The indicators should cover the full range of DCS programmes adequately.

Policy development and re-alignment of the budget

5. The 2005 White Paper on Corrections in South Africa (the White Paper) places "rehabilitation at the centre of all Departmental activities in partnership with external stakeholders". Five years after its adoption as the central policy framework document of the DCS, it is necessary to, firstly, gauge progress made in respect of the 20-year vision articulated in the White Paper, and secondly, to ask if the White Paper is indeed good and appropriate policy for the South African prison system. The White Paper describes itself as a "policy framework" (para 1.2.3) and thus sits presumably at a higher level than what is ordinarily understood to be policies. However, even at this level it is required that it sets a particular standard and is developed according to the principles of good policy-making. Failure to do so would mean that the omissions and shortcomings in the policy framework would therefore be replicated in sub-ordinate policies.

6. A recent assessment of the White paper drew the following conclusions.⁵
- Based on an objective set of criteria it was found that the White Paper falls short in substantive ways of the requirements of modern policy-making. Five years after its adoption, results in respect of the rehabilitation-vision remain unknown and elusive. The JICS estimates that only 15% of sentenced prisoners are involved in some form of treatment programmes and labour.⁶ For the overwhelming majority of sentenced prisoners the White Paper has not lived up to expectations. While it may be argued that to re-invent the South African prison system is a goal not to be achieved within five years, it should also be asked if the White Paper provides the correct response (i.e. rehabilitation) to the challenges faced by the prison system.
 - The main challenges to the prison system are defined in the White Paper as being overcrowding; the state of DCS infrastructure; institutional “prison culture”; corruption; training for the new paradigm, and “structuring [the department] for the new paradigm”. Conspicuously absent from this list is human rights violations and an explicit mention of meeting the minimum standards of humane detention. Presumably the latter can be read into challenges around infrastructure and overcrowding. These are significant challenges, yet the White Paper gives scant attention to human rights issues and deals in far more detail with rehabilitation. Moreover, compliance with the Correctional Services Act is not a stated outcome of the White Paper, although several selected references to the Act are made. It is therefore not surprising that the DCS finds itself continuously in litigation.⁷
 - The White Paper says little about implementation and while this is not a fundamental shortcoming, it should have articulated the pre-conditions or requirements for implementation. If rehabilitation is indeed the core business of the Department, the White Paper should have articulated in more tangible terms what is in fact required with reference to staff skills, required staff categories, and infrastructure. After five years it remains unknown to what extent the necessary pre-conditions for implementation have been met.

⁵ Muntingh L (2010) *Is the White Paper on Corrections in South Africa good policy?* Paper delivered at IS Conference 9-10 December 2010, Johannesburg.

⁶ JICS Annual Report 2009/10 p. 23

⁷ There are currently claims against the DCS involving nearly R900 million. (DCS Annual Report 2009/10)

- In view of the above, it is required to re-visit the White Paper and pay particular attention to compliance with the Correctional Services Act; ensuring that knowledge informs the policy development process and that there is extensive consultation with stakeholders.

7. It is by now commonly accepted that since 2005 the DCS has not been able to align the budget to the White Paper. A more accurate description of this is that there has been virtually no change in the proportional distribution of the budget across the seven programmes since 2007/8, as indicated in Table 2 below.⁸ Moreover, the planned estimates of expenditure until 2013/4 also indicate no substantive shift in expenditure. This is especially true for the four programmes that are closely aligned to the White Paper, being Corrections, Care, Development and Social Reintegration.

Table 2

PROGRAMME	2007/8	2008/9	2009/10	2010/11	2011/12	2012/13	2013/14	AVERAGE
ADMIN	25.7	25.9	25.7	26.6	26.9	27.2	27.2	26.5
SECURITY	33.6	35.5	35.3	34.0	33.8	33.6	33.8	34.2
CORRECTIONS	8.2	8.0	9.2	9.6	9.3	9.1	9.0	8.9
CARE	11.4	10.5	11.3	11.5	11.2	11.2	11.1	11.2
DEVELOPMENT	3.3	3.5	3.2	3.7	3.4	3.3	3.3	3.4
SOCIAL REINTEGRATION	3.3	3.3	3.4	3.6	3.5	3.4	3.4	3.4
FACILITIES	14.6	13.3	11.9	11.0	12.0	12.3	12.2	12.5
TOTAL	100	100	100	100	100	100	100	

8. It is CSPRI's submission that a substantial re-think is required in respect of the strategic priorities and more particularly the appropriateness of the White Paper to guide the transformation of the prison system. It is furthermore submitted that the focus should rather be placed on compliance with the Correctional Services Act, and more particularly meeting the minimum standards of humane detention. Detention under humane conditions and a management approach overtly focussed on human rights are clear measurable outcomes for any prison system. More importantly, these

⁸ The calculations are based on the figures presented in Table 21.2 of the 2011 Estimate of National Expenditure.

are achievable goals given the resources available to the Department. These are also pre-conditions to be met for any rehabilitation work to be done.

9. While it is highly desirable that a prison system should rehabilitate offenders, the realities of the South African prison system and the capacity of the DCS must be accepted. It is in this sense that the focus for the next five years should be on detention under humane conditions and a management approach overtly focussed on human rights.

Programme 1 Administration

10. The budget of the programme Administration will grow by nearly 80% from 2007/8 to 2013/14. This programme also has the second largest share of the total budget at 26.5% on average, as shown in Table 2 above.
11. The line item “Office accommodation” in Table 21.4 of the ENE shows that this increased from R531 981 000 in 2009/10 to R1 140 776 000 in 2010/11; an increase of 114.4%. There is, however, no explanation in the accompanying narrative for this. This line item then continues to increase at 22%, 13% and 8% in the following years. Given the substantial increases, it is submitted that the Committee seeks clarification from the Department of this.
12. In recent years the DCS has spent a considerable amount of money on information technology (IT) and it is foreseen that this trend will continue in the years to come. It is estimated that an additional R460 million will be spent on IT infrastructure over the next three years. Together with this should be read the IT support services procured through consultants which is grouped under the total costs for consultants being in excess of R104 million per annum.
13. It is submitted that the Committee should seek clarification from the Department on the intended impact of this significant expenditure. This should be seen within the context of the Auditor General’s continued qualified audits of the Department and more particularly the adverse opinion it gave in respect of the performance information system: *“The quarterly reports of the department did not track progress against targets as per the approved strategic annual performance plan and therefore did not facilitate effective performance monitoring and evaluation, as required by*

Treasury Regulation 5.3.1.”⁹ The Auditor General is even more specific and notes that the Department does not have “effective, efficient and transparent system and internal controls regarding performance management, which describe and represent how the institution’s processes of performance planning, monitoring, measurement, review and reporting will be conducted, organised and managed, as required in terms of section 38(1) (a) (i) and (b) of the PFMA”.¹⁰

Programme Security

14. On 1 March 2011 the DCS informed the Portfolio Committee that 15 of 80 (18.75%) of the electronic access control systems were functional.¹¹ This follows after the Sondolo IT contract expired at the end of April 2009.¹² The fact remains that a considerable amount has been spent on security related IT and that nearly two years later less than 20% of this is functional.
15. This gives rise to grave concerns about the Department’s ability to identify suitable IT support systems that will indeed be supportive of its functions in a sustainable manner. It should also be noted that since April 2009 it appears that escapes had continued to decline, save for the Harrismith mass escape where 41 prisoners escaped.¹³ From the available information it appears that this particular escape was linked to two officials who were subsequently dismissed from the DCS and that security technology would in all likelihood not have prevented the escape.¹⁴
16. In view of the events surrounding the electronic access control system, it is submitted that a moratorium should be placed on the inception and expansion of similar IT related projects until the current situation has been resolved. The key issue in this regard is the ability of the Department to identify the correct projects and, more importantly, to manage them in a manner that is prudent and do not amount to fruitless and wasteful expenditure.

⁹ p. 132

¹⁰ p. 131-2

¹¹ PMG Report of the Portfolio Committee on Correctional Services meeting of 1 March 2011.

¹² DA slates new prison tender cock-up, Politicsweb, 3 May 2009,

<http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page71627?oid=127395&sn=Detail&pid=71627>

¹³ PMG Report of the Portfolio Committee on Correctional Services meeting of 1 March 2011.

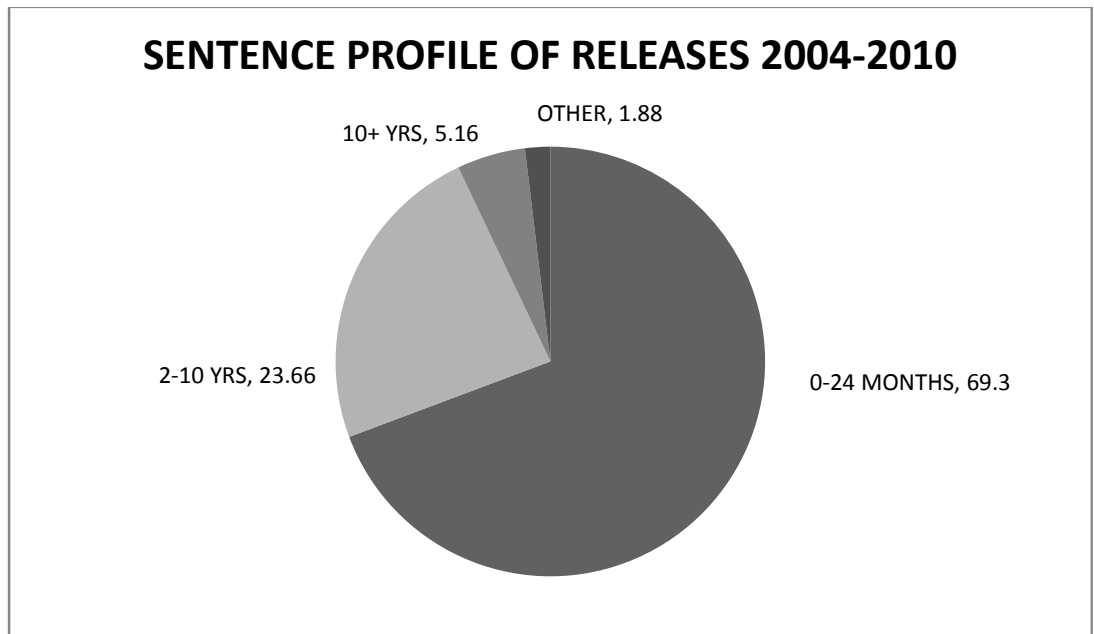
¹⁴ Two prisons officials sacked over Harrismith escapes, City Press, 2 June 2010,

<http://www.citypress.co.za/SouthAfrica/Two-prisons-officials-sacked-over-Harrismith-escapes-20100602-2>

Programme corrections

17. Problems around the indicator focussing on sentence plans have already been noted in the above and need not be repeated here. An additional matter is of greater concern. Following the 2008 amendment to the Correctional Services Act the required sentence length for a sentence plan to be developed was increased from 12 to 24 months. The true impact of this only becomes visible once the sentence profile of released offenders is analysed. Figure 1 below sets this out indicating that on average for the period 2004 to 2010, nearly 70% of released offenders served sentences of less than 24 months and thus did not require sentence plans. As a consequence of this, it must be assumed, they also did not benefit from any services that would have reduced their risk of re-offending.

Figure 1



18. The net effect is that the White Paper and its subsequent policies and procedures are aimed at having an impact on just less than 30% of the Department's annual output, namely sentenced offenders returning to their communities. If the White Paper is applicable to only 30% of the Department's output, it again confirms the lack of relevance of the White Paper's narrow focus on rehabilitation.

Comments on the Strategic Plan

19. The performance indicators in the ENE are derived from the performance indicators in the Strategic Plan and the comments made in paragraph 4 above, apply equally.
20. **Litigation:** On p. 21 reference is made to the success rate in litigation against the Department and that the aim is to increase this from 72% to 80%. While success in litigation is naturally desirable, it does not provide the full picture. The aim should rather be to avoid the costly process of litigation by complying with the applicable legislation in the first place. The Committee's attention is also drawn to Annexure 3B of the 2009/10 Annual Report where it is stated that claims to the value of R988, 558, 000 has been lodged in respect of "bodily injury/ assault".¹⁵ To date no public explanation has been provided in this regard.
21. **Safe custody:** Prison violence is a complex problem, but ultimately everything in a prison depends on management's actions. What management does may either inhibit or prevent violence and disorder, or it may in fact give rise to violence and disorder, especially if the actions of management are perceived to lack legitimacy. As much as prisoners do not volunteer to be imprisoned and that imprisonment will always contain an element of coercion, the actions of prison management and its officials should at least be perceived to be just, fair and legitimate by prisoners. It is in this sense that research on this concludes: *These include every instance of brutality in prisons, every casual racist joke, and demeaning remark, every ignored petition, every unwarranted bureaucratic delay, every inedible meal, every arbitrary decision to segregate or transfer without giving clear and well founded reasons, every petty miscarriage of justice, every futile and inactive period of time – is delegitimizing. The combination of an inherent legitimacy deficit with an unusually great disparity of power places a peculiar onus on prison authorities to attend to the legitimacy of their actions.*¹⁶
22. The Strategic Plan, on p. 23, lists two important indicators in respect of safe custody, namely the number of assaults on inmates and the number of unnatural deaths. This has been a long standing problem and has been raised by CSPRI on numerous occasions. The 2009/10 Annual Report of the Judicial Inspectorate for Correctional Services provides valuable information in respect of unnatural deaths and, importantly, revealed the high number of suicides in South Africa's prisons. It is, however, unclear what steps the DCS has taken to address safe custody in a sustained manner that is compliant with and supportive of a human rights based approach

¹⁵ Dept of Correctional Services (2010) *Annual Report 2009/10*, p. 190.

¹⁶ Sparks, J., & Bottoms, A. (1995). Legitimacy and order in prisons. *British Journal of Criminology*, 46 (1), p.60.

to management. Given the seriousness of the problem, it is submitted that the Portfolio Committee requests the Judicial Inspectorate to conduct a thorough investigation, as provided for in section 90 of the Correctional Services Act, into safe custody with particular reference to assaults and unnatural deaths. The purpose of such an investigation would be to gain a greater understanding of the underlying causes and to develop recommendations for the Department.

23. **Work opportunities:** From previous annual reports it is clear that the manner in which work opportunities are counted is not the same from one year to the next. The targets for 2011/12 to 2015/6 increases from 37 379 to 45 4314.¹⁷ However, the 2008/9 Annual Report stated that 146 393 offenders were involved in work opportunities¹⁸ whereas the 2007/8 Annual Report states that 20 174 work opportunities were provided, of which the majority (52%) was provided by the private sector.¹⁹ No explanation was given for how the number of work opportunities increased from 20 174 to 146 393 in one year. In view of this, it is proposed that the DCS briefs the Committee on how a work opportunity is defined for the purposes of monitoring. Moreover, it should also be borne in mind that a work opportunity does not necessarily translate into actual work being performed. A more accurate measure in this regard would be to measure the number of hours (or work days) during which offenders were involved in performing labour. The measurement of this performance indicator would be further enhanced to specify the type of work being performed as this will enable an assessment of the extent to which the work performed was indeed meaningful or mere mundane repetitive labour.
24. **Release preparation:** The Strategic Plan states that between 60% and 65% of offenders with release dates will undergo a release preparation programme. Given the total number of releases provided (approximately 15 000 per annum), it is evident that this does not refer to all sentenced releases but only to offenders serving sentences of longer than 24 months.²⁰ The average number of all sentenced releases for the past five years is roughly 55 000 per annum, meaning that the true figure is that about 27% of released offenders will undergo a release preparation programme and that nearly three quarters of released offenders will not. As an absolute minimum, a basic release preparation programme should be provided to all offenders. It is unacceptable that the DCS is effectively ignoring nearly three quarters of its mandate in respect of sentenced offenders by not providing them with a basic release preparation programme.

¹⁷ Estimates of National Expenditure p. 24

¹⁸ Dept of Correctional Services (2009) *Annual Report 2008/9*, p. 51.

¹⁹ Dept of Correctional Services (2008) *Annual Report 2007/8*, p. 53.

²⁰ Statistics supplied by the Judicial Inspectorate for Correctional Services.

25. **Education and training:** On pages 27-28 there are a number of indicators relating to education and training. In general it must be said that the targets are very modest when assessed against a total offender population of 115 000. The performance indicators are also in themselves problematic as they do not measure the actual performance. Merely measuring that a person was involved in education does not measure if that person improved his or her skills or education. A far more accurate indicator would measure if the person improved his or her skills level from a lower to a higher level. For example, if a person entered prison being illiterate, is he or she literate upon release, or if they entered with a Grade 7 certificate, did they exist with a higher grade certificate? In view of this it is submitted that this set of indicators be revised to reflect education and training impact.
26. Given the presumably low levels of education and literacy amongst the prison population, it is submitted that the DCS must make basic literacy and numeracy education available to all prisoners, if not compulsory. It is furthermore submitted that the DCS enables and funds correspondence/distance education for as many offenders as possible. It should be an explicit aim of the DCS to ensure that every offender leaves prison better educated than what he or she came in as.

End.

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