



Research Paper No. 9

A Study of Best Practice in Prison Governance

by

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Cape Town

2005

This publication was funded by the Open Society Foundation (OSF) and the Ford Foundation.

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The aim of CSPRI is to improve the human rights of prisoners through research-based lobbying and advocacy and collaborative efforts with civil society structures. The key areas that CSPRI examines are developing and strengthening the capacity of civil society and civilian institutions related to corrections; promoting improved prison governance; promoting the greater use of non-custodial sentencing as a mechanism for reducing overcrowding in prisons; and reducing the rate of recidivism through improved reintegration programmes. CSPRI supports these objectives by undertaking independent critical research; raising awareness of decision makers and the public; disseminating information and capacity building.

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1.0 Introduction

The incidence of mismanagement and corruption highlighted by the Jali Commission and other official enquiries has raised serious questions about the governance of correctional institutions in South Africa. These concerns, raised by politicians, academics, the media and the general public, however, tend to be strong in indignation and weak on recommendations as to how the governance of these institutions might be improved. In part, this stems from the fact that understandings of prison governance are limited to critique of the administrative regime in place. Overlooked is the fact that the effective governance of any correctional institution is a function not only of the state's administrative efficiency, but also of the extent to which society, at large, understands, and engages in, the challenges faced in combating crime and in incarcerating and rehabilitating offenders. These relate to issues of socio-economic development, to policing, judicial reform and, crucially, to the extent to which civil society is engaged in oversight of the prison system, both monitoring progress and supporting initiatives to improve the system of correctional service.

Conventionally the incarceration of offenders has been influenced by four criteria: firstly, the state's and (ostensibly) the public's desire to exact retribution and to punish offenders, secondly, the state's desire to deter offenders and would-be offenders from future criminal activity, thirdly, to protect society from offenders (particularly violent ones) and fourthly, to rehabilitate and reintegrate them back into society. The relative weight assigned to each of these four dimensions of imprisonment is, invariably, a function of the socio-political climate prevailing in society at any given time. Thus, in a climate where crime (and especially those against the person) is rampant, there are frequent calls from the public, endorsed by politicians, to 'get tough with criminals'. In such a context, emphasis is invariably placed on the first three dimensions of imprisonment, namely punishment, deterrence and the protection of society. Where the emphasis on these three elements is especially strong, it can serve to negate the goal of reintegration, virtually in its entirety. Yet it remains a truism, that a failure to create a prison environment, which is conducive to the preparation of offenders for reintegration into society, is a serious and costly omission. The costs of recidivism to society are high, both in monetary terms (the costs of re-incarceration as well as the direct cost of criminal activity) as well as in terms of human suffering. The extent to which prisons are able to effect the difficult task of rehabilitating offenders and preparing them for reintegration into society, is a function of the system of governance in place.

Good prison governance is to a large extent determined by the existence of an enabling policy framework, necessary resources and the extent to which prison management has the ability to implement these policies on a day-to-day basis in a transparent, accountable and ethical manner. In the context of this research, however, the notion of governance is understood to encompass not only issues of administrative efficiency and probity, but also the extent to which the basic human/constitutional rights of offenders are recognised and respected. This relates both to the manner in which offenders are treated in the prison system and the opportunities which they are afforded to re-orientate their lives towards a more constructive future in society.

Despite the fact that prisons in South Africa, and elsewhere, fall under the constant scrutiny of the media and feature prominently in divergent political debates, little is generally known about the factors which contribute to a well governed correctional institution. As Coyle observes "(T)he success of the prison is often measured in the eyes of the public by the absence of failure. A prison is

¹ Prof Chris Tapscott is Dean of the Faculty of Economic and Management Sciences at the University of the Western Cape. He has done extensive research on governance in the public sector.

successfully managed when there are no escapes or riots.”² Recognising the challenges which face prison management across the country (including staff shortages, prison overcrowding, and a lack of adequate amenities), this investigation set out to identify those aspects of prison governance which are being performed well in selected correctional institutions across the country, with a view to promoting their introduction throughout the prison system.

1.1 Objectives of the Research

The following objectives were outlined for the research project:

- To identify jointly with the Department of Correctional Services seven prisons in South Africa (two private and five government-run) that are “better” governed and managed.
- To describe and analyse these prisons to identify the critical factors that contribute to, and result in, better governed prisons.
- To draw lessons and experience from the analysis that could be applied and incorporated into South African prison management.

In part due to the costs of constructing new state prisons and in part as a consequence of the need to develop more effective models of custodianship, South Africa, has in recent years experimented with the concept of privatised prisons. While the idea of privatised correctional services is not unproblematic (not least because the state is seen to transfer responsibility for the punishment and rehabilitation of offenders to profit oriented companies),³ it is also evident that the management regimes under which such entities operate can provide for more cost-effective and better run prisons. In assessing practices in the two private prisons, cognisance was taken of the fact that the contractual arrangements under which these institutions operate, provide them with distinct advantages over state prisons. Amongst the most obvious advantages is the fact that the prisons accommodate the precise number of offenders for which they were designed and their staff-to-offender ratios remain constant and appropriate. Furthermore, the prison buildings and facilities are both modern and appropriate to the objectives of security and offender rehabilitation. Nevertheless, the investigation set out to establish those elements of private prison management which could be introduced into state prisons without excessive costs.

A comprehensive review of the efficacies of the management and administrative systems in place in state prisons would require considerably more insight and detail into the working of the Department of Correctional Services than the brief of this investigation allows. That stated, it became apparent during the course of this research, that some of the systemic constraints extant in state prisons alluded to above, in some instances, precluded the establishment of best practices in specific spheres of operation. Where such best practices were not evident, or where these were only apparent in the private prisons, the report advances a number of recommendations, which could serve to improve the overall governance of state prisons.

1.2 Methodology

The research undertaken relied on several sources of information, both primary and secondary. In addition to secondary published material (including official policy and legislation), the investigation relied extensively on information generated during a series of visits to state and private prisons situated across the country.

Together with a working group from the Department of Correctional Services (DCS) in Pretoria, the following state prisons were selected from a list of centres of excellence: Johannesburg Youth Prison (Gauteng), Drakenstein Youth Prison, Goodwood Maximum Prison, Malmesbury Medium Prison (Western Cape) and Westville Youth Prison (KwaZulu Natal). The two private prisons, Mangaung (run by GSL Solutions) in Bloemfontein in the Free State and Kutama-Sinthumule (run by the South

² Coyle, A. (2002a) *Managing prisons in a time change* (International Centre for Prison Studies, London) p.42.

³ See Harding, R., (1979) *Private Prisons and Public Accountability*, (Oxford University Press, Buckingham) for a discussion of some of these concerns.

African Custodial Services Pty Ltd) in Makhado in Limpopo Province, were also selected for the investigation.

The working group also developed a framework for the assessment, which encompassed several themes, namely human resource management, (including staff recruitment, training, reward and retention practices) offender life and rights (including overcrowding, grievances and rehabilitation) and prison management and financing (including asset management and recapitalisation and communications systems.

Empirical information was generated through a series of key informant interviews with senior prison management and with staff (warders, social workers etc.). These interviews were guided by a questionnaire schedule. Focus group discussions were also conducted with offenders (between 5 and 7 in number) who had had experience of living in more than one prison.

1.3 International Best Practice

A review of the international literature reveals the fact that there are considerable similarities in the form and scale of challenges which face prison authorities in many parts of the world. These include rapidly increasing prison populations, overcrowding, understaffing, and limited access to resources. In societies which have undergone major political and social transformation (such as those in the former Soviet bloc), these challenges are most acutely felt. Despite these similarities, however, the diversity of administrative systems and socio-cultural contexts internationally is such, that there is no universal model of best governance.

At the same time, although there is a vast international literature on correctional institutions, their objectives and their treatment of offenders, relatively little systematic analysis has been undertaken on the factors which contribute to good prison governance. As Coyle⁴ affirms, while there is a wide literature on the theory and practice on the management of large public institutions, such as schools and hospitals, comparatively little has been written about the management of prisons. "This", he maintains, "is partly because the world of prisons itself remains relatively closed. It is also because until quite recently it was not acknowledged that there is a particular set of skills required to manage prisons properly."⁵ In the past, he asserts, basic legal or administrative skills (whether acquired through the civil service or through the military), were deemed sufficient experience to manage a prison. And yet, while there are some generic management and administrative skills which apply to the running of prisons, there are also required skills which are particular to these institutions.

There are, notwithstanding, a number of international policy instruments which provide guidance on the treatment of offenders and, in so doing, which provide indicators for appropriate management outcomes. Amongst the most prominent of these are a number of United Nations instruments which include the Standard Minimum Rules for Treatment of Prisoners (1957); the Code of Conduct for Law Enforcement Officials (1979); the Standard Minimum Rules for the Administration of Juvenile Justice (1985); the Body of Principles for Protection of All Persons under any form of Detention or Imprisonment (1988); and the Basic Principles for the Treatment of Prisoners (1990). Although these international instruments do not have the force of law, they have been accepted in principle by the overwhelming majority of states, including South Africa.

Despite the existence of these normative instruments, much of the character of a penal system including its governance, in practice, is shaped by the society at large. Politicians, responding to the demands of the public, in particular, can influence both the resources allocated to correctional services, the level of public oversight, as well as the types of treatment meted out to offenders. Where the popular demand is for punishment, rather than rehabilitation, this is reflected both in sentencing regimes and in the management of correctional centres, where the focus is frequently on security and retribution.

⁴ I am indebted to Andrew Coyle, from whose two excellent texts on prison management, namely *Managing Prisons in a Time of Change* (2002a), op. cit. and *A Human Rights Approach to Prison Management*, (2002) (International Centre for Prison Studies, London), a number of the ideas in this section of the report have been derived.

⁵ Coyle, A. 2002a, op. cit. p.17

During the past decade there has been a significant increase in prison populations in many countries around the world. In Europe the growth has been over 20% in almost all countries and at least 40% in half of these. During the nineties, the prison population in the United Kingdom increased by 76%, in the Netherlands by 89%, while Argentina, Brazil, Colombia, Mexico, Australia and the United States experienced growth of between 50 and 85%.⁶ (Walmsley; 2002: 3; 2003:70)

In analysing the factors giving rise to the growth in prison populations, criminologists distinguish between what they term 'deterministic' reasons and 'policy driven' reasons. (Walmsley; 2000:2) Deterministic explanations consider such factors as changes in the crime rate, changes in demography, in the social economy, in unemployment, and poverty. Policy-driven explanations, on the other hand, attribute the size and growth of the prison population to the consequences of legislative measures, the criminal justice system and the courts in particular. According to Coyle, the widespread increase in prison populations globally, has not been linked to any obvious increase in crime rates or detection rates. To the contrary, he asserts, "(i)t has largely been a matter of judges sending an increasing proportion of offenders to prison for longer periods. In other words, courts have been making greater use of imprisonment as punishment." (Coyle; 2002:27)⁷

In many countries, and particularly those in the developing world, an increase in prison populations has not been accompanied with equivalent increases in resources to accommodate or administer correctional centres. The consequence has been an increase in prison overcrowding with a host of accompanying difficulties which impact on both the administration of the prison and on the welfare of offenders. Reflecting patterns which are all too familiar in the South African context, Walmsley states:

"When there is growth in prison numbers the staff-prisoner ratio falls. Staff are rarely recruited speedily enough to maintain that ratio at a satisfactory level. Reduced staff-prisoner ratios are likely to mean less effective supervision by staff and less time for them to organise activities and to ensure that the institution is run in a positive way which maximises the chances of successful reintegration into the community on release. Treatment programmes, including pre-release courses, are likely to be negatively affected. Further, the reduced staff-prisoner ratio and increased tension and violence by prisoners are likely to have a harmful effect on staff in terms of increased stress and sickness levels." (Walmsley: 2003:73)

Although there is no international consensus on the recommended living space necessary for individual offenders (estimates of appropriate floor space vary from four to nine square metres per person), it is widely recognised that there are other factors which can aggravate or mitigate the impact of overcrowding. Thus, the amount of time that offenders are expected to spend locked up in their cells can lessen or increase the adverse impacts of overcrowding. Similarly, access to ablution facilities (and privacy in the usage of sanitary facilities in particular), to exercise and to other out-of-cell activities can all serve to lessen the impact of overcrowding. However, where staff shortages curtail the amount of time spent out of the cells the impact of overcrowding and limited facilities are felt most adversely.

Although some countries, such as the United States, have responded to an increase in prison populations with the construction of a spate of new institutions, both state and privately run, there is a broader international view, certainly held in Europe and in many other parts of the world, that the construction of more prisons alone, will not resolve problems of overcrowding. As Stern has observes, it is not possible to "build your way out of overcrowding"⁸ and a range of other measures are clearly required. This, as indicated above, is due in part to the fact that the increase in prison

⁶ Walmsley, R. "Global incarceration and prison trends", *Forum on Crime and Society*, No.1-2 Dec 2003, p.73

⁷ The exceptions to this trend, have been the United States and to a lesser extent Canada, where an increase in prison populations has been accompanied with an overall decrease in crime. See Shaw, M, van Dijk, J., and Rhomberg, W., "Determining Trends in Global Crime and Justice: An Overview of Results from the United Nations Surveys of Crime Trends and Operations of Criminal Justice Systems" *Forum on Crime and Society*, No 1 and 2, December 2000. The costs of imprisonment is, nevertheless, in both financial and social terms, high in the USA. With just under 5% of the world population, the United States has 23% of the world's prison population. Coyle, A., op. cit. 2002a, p.33.

⁸ Stern. V., "Address by Baroness Vivien Stern to the Second Pan-African Conference on Penal and Prison Reform in Africa", Ouagadougou, Burkino Faso, 18-20 September 2002

populations, in most countries, is not directly linked to an increase in crime but to changes in sentencing regimes and to inefficiencies in the administration of justice, especially with respect to awaiting trial detainees. The construction of additional prisons, thus, is seen as a costly, and often ineffective, way to address crime. It is also clear that the majority of those who end up in prison come from the poorest and most disadvantaged segments of society, and their incarceration is often due to poor or non-existent legal representation or to an inability to pay fines. The literature, consequently, is replete with debates on alternatives to incarceration, including diversion (especially for young offenders), non-custodial sentencing, and the abolition of minimum sentencing regimes, amongst others

Attempts at prison reform frequently follow periods of major political transformation, as was the case in many former Eastern Bloc countries as well as in Latin America and Africa. Amongst the most common characteristics of this reform process, have been the efforts to demilitarise systems of prison administration and to introduce a form of civilian management. The experience of these countries, which generally aspire to conform to international norms, has seldom been an unproblematic one. For many prison officials, the experience is a profoundly unsettling one that raises uncertainty about their status and conditions of service.⁹ The replacement of uniforms and redefinition of the roles that accompanies demilitarisation has also often led to a loss of morale and discipline amongst custodial staff. The process has also led to unanticipated staff shortages. This is due to the fact that staff working under a military structure can be ordered to work additional hours without additional pay. Under a civilian structure, staff working additional hours must either receive overtime pay or equivalent time off. The introduction of a civilian structure, consequently, often necessitates a significant increase in staff or a significant increase in over time pay which both place considerable strain on national budgets.¹⁰

Prison reform in many countries has seen the importation of new forms of public management into the running of prisons. These output and target based systems, common in the administration of other parts of the civil services, have frequently brought greater efficiencies in the use of resources and in the maintenance of standards. However, as Coyle has pointed out, too excessive a focus on performance targets can reduce the management of a prison to that of a factory, oriented in the first instance to production efficiencies. "The management of prisons", he maintains, "is primarily about the management of human beings, both staff and prisoners. This means that there are issues that go beyond effectiveness and efficiency."¹¹

Irrespective of whether prison systems are well established or in transition, there is a broad consensus in the literature that the sound management of correctional centres and, in particular, the effective introduction of reforms, is contingent on the quality of leadership shown by prison managers. Above all, there is a recognition that there is a need for leaders with integrity and with the ability to inspire and motivate staff to carry out their work with commitment and professionalism. Because prisons are, by nature, hierarchical, the character and culture of an institution is inevitably shaped by its leadership. Where the leadership is strong, has integrity, managerial skill and vision, this is conveyed to all levels of the prison administration. Conversely, where leadership is ineffectual or corrupt, this weakness pervades all strata of the prison management, diminishes the prospects for initiative and increases the likelihood of maladministration and mistreatment of offenders.

Transmission of the ideals of prison management is best effected through close and frequent communication between managers and staff. Typically, however, junior officials are not extensively involved in shaping a new service. As a consequence, many become uncertain and apprehensive about change. This can lead to resistance, apathy or resignation from the service. Where staff, at all levels, are actively involved in conceptualising and directing change, the prospects for reorienting the culture and behaviour of the institution are greatly enhanced. A degree of trust in the competence and integrity of subordinates on the part of management is essential if new practices are to be introduced in a sustained way.

Of central importance to the process of prison reform is the need to change the attitudes of staff. For many, accustomed to a particular administrative order, reform is not readily embraced. More

⁹ Coyle, A. 2002a, op. cit., p. 52.

¹⁰ Barclay, A.; 2003, "Demilitarisation" in *Prison Services in Central and Eastern Europe*, (Position Paper, International Centre for Prison Studies, London), p. 3.

¹¹ Coyle, A., 2002a, op. cit., p. 71

problematic is that a small number of recalcitrant officials can exert an undue influence on their colleagues and on the culture of an entire prison. In that regard, experience has shown that it is not necessarily those with the longest service who are most resistant to change. Surveys of prison staff in England and Wales, for example, found the most negative reaction to change coming from staff aged 31 to 35 years with five or less years service.¹²

Changing the attitude of staff is a process, which takes time. As indicated, sound leadership is instrumental in reorienting the thinking of staff and in developing a new way of working. Of equal importance, is the recruitment and training of prison officials. In many countries, prison officials do not have the same status as their counterparts in the police or the military. At the same time, the expectations of prison officials is lower and the qualifications and experience required of them is less than in other sectors of the civil service. The literature points to the need to professionalise correctional services throughout. This entails the development of prison work as a profession, requiring both generic and specialised skills. This needs to be taken into consideration in the recruitment of staff (where psychological profiling and other measures of aptitude are applied) and in the process of their training.

While training and leadership is of central importance in promoting new attitudes, it is also evident that measures need to be in place to ensure compliance with the directives issued by prison management and to ensure that the custodial staff adhere to the codes of ethical and administrative practice. Where discipline amongst staff is lax and where managers are incapable or unwilling to take action against transgressors, the overall management of an institution is likely to be severely compromised. As a consequence, where prison managers have developed the practice of regular visits and regular interaction with both custodial staff and with offenders, they are more likely to develop a real understanding of the culture of the institution and of the extent to which national objectives are being implemented and the extent to which national objectives are being met. In the final analysis, the policies introduced during a period of reform can only ever be, as good as the officials who implement them.

A further dimension of the reform process, which is often overlooked, is the need to integrate the process of restructuring with changes in other sectors of the criminal justice system. If this does not take place, and if, due to inadequate police work, awaiting trial detainees languish for long periods prior to their appearance in court, if magistrates and justices persist in sending large numbers of minor offenders to prison, if legislators insist on long mandatory sentences, and if social welfare services are unable to support programmes of reform and rehabilitation, the prospects for meaningful prison reform are likely to be limited.

In a similar vein, the image of prisons conveyed to society at large by the media, serves to shape public perception (including the perceptions of politicians) and influences the way in which the reform process is supported. While civilian oversight and accountability are integral components of penal systems in a democracy, it is also certain that this process can be counter-productive. As Coyle asserts:

“(A) news editor who is short of a story to print can always fill several columns with a report about conditions in a local prison. Depending on the nature of the readership, the story may refer to the prison as a holiday camp, where prisoners are given better accommodation than law-abiding citizens and are able to enjoy many luxuries. Or it may go to the other extreme and describe prison as a concentration camp, where brutal guards continually repress prisoners and deprive them of basic human rights. At one level, such superficial considerations can be dismissed as being of no great significance. At another level, they are very important since the perception which the public has of how prisons are run is immediately influenced by what they read in the newspapers, hear on the radio or see on television.”¹³

In addition to the need for transparency in the management of prison, is the need to communicate the philosophy and objectives of a correctional service to the society at large. Above all, there is a need to generate an understanding of the fact that prisons do not exist in isolation from the rest of society,

¹² Coyle, A., 2002a, op. cit., p. 79.

¹³ Coyle, A., 2002a, op. cit., p. 41.

but rather they represent its deepest social dilemmas. As such, the improvement of prison governance should be the concern of all segments of society and not just that of prison managers.

As a microcosm of the broader society, the correctional services in South Africa have undergone dramatic institutional change during the course of the past decade. This, *inter alia*, entailed a precipitous shift from a militaristic administration to a civilian mode of governance,¹⁴ and a commitment to “full compliance with the provisions of the Constitution of South Africa as well as international instruments in relation to the honouring of the basic human rights of offenders, limited only where justifiable and necessary within a correctional environment.”¹⁵ The process of transformation has not been unproblematic and many of the challenges outlined in the review above have been experienced in one form or another.¹⁶ That stated, it is evident that some progress has been made in forging a new system of corrections which aims to balance safe and secure custody with the promotion of social responsibility and human development in an ethical context. The section which follows, entails a review of some the challenges facing state prisons and the measures introduced to ameliorate shortcomings and to promote best practices in prison governance.

2.0 Human Resource Management

It is axiomatic, as seen in the preceding section, that the effective utilisation of human resources is a key element in the management of any custodial institution. The manner in which prison staff are recruited, trained and rewarded will have a major impact on the manner in which they conduct their duties and the commitment and professionalism which they bring to their work. Similarly, shortages of staff, poor working conditions and ill-discipline are likely to present serious challenges to any institution seeking to establish itself as a centre of excellence. The DCS Annual report for 2003/04 states in this connection that the “Department still has an enormous task of capacity building to ensure maximum compliance with policies, especially at the correctional centre level. The enormous need for capacity building can be ascribed to uncertainties arising from transformation.”¹⁷ Discussion in this section focuses on human resource management in the state and private prisons and on existing and emerging best practices.

2.1 Staff Shortages

All of the state prisons visited reported shortages of staff and, particularly, shortages of custodial staff (55% vacancies at Drakenstein Prison) and professionals such as social workers, nurses and other remedial specialists.¹⁸ Some prisons, such as Malmesbury, also reported vacancies in their management echelon. Shortages occur as a consequence of normal staff attrition, including death¹⁹, medical boarding, resignations (the assumption of more lucrative appointments elsewhere) and transfers (especially by staff wanting to return to their home regions). Significantly, however, most prison managers reported that shortages ensued from the fact that their staff establishment is based on the number of offenders which the prisons are built to accommodate, rather than the number which they actually accommodate. It is also evident that, as a consequence of the process of restructuring underway in many prisons, staff are repositioned or else are transferred elsewhere. The ensuing vacancies are not always filled, resulting in further staff shortages. Managers stated that there were long delays in filling vacancies and this placed considerable strain on remaining staff. This was in part due to communication delays between national and regional human resource structures in advertising and filling vacancies.

¹⁴ For a discussion of this process, see Dissel, A. and Ellis, S., (2003), “Reform and Stasis: Transformation in South African Prison”, (Centre for Study of Violence and Reconciliation, Johannesburg <http://www.csvr.org.za/papers/papadse.htm>).

¹⁵ Department of Correctional Services, 2005, *White Paper on Corrections in South Africa*, Pretoria, p. 18.

¹⁶ See Sloth-Nielsen, J., (2003), “Overview of Policy Developments in South African Correctional Services”, (CSPRI Research Paper Series, No 1, July 2003).

¹⁷ DCS, 2004, *Annual Report for the 2003/04 Financial Year*, p. 18.

¹⁸ This confirms the Department’s own findings that there is “a serious shortage in respect of all professional posts required to ensure effective rehabilitation of offenders.” *Ibid.* loc. cit.

¹⁹ Prisons in KwaZulu Natal reported high staff fatalities as consequence of AIDS.

Staff shortages have a compounding effect on all aspects of prison life, and not least on the performance of warders' work. Thus, for example, offenders taken to court to answer to further charges must be escorted by an appropriate number of warders. This practice further exacerbates the workload and stress levels of the warders who remain to oversee a unit. It was reported that severe staff shortages lead to stress symptoms and burn out on the part of many warders. Notably, several offenders interviewed in this investigation reported that staff shortages adversely affected the way in which warders conducted their duties and interacted with inmates.

In the case of the two private prisons, Kutama-Sinthumule reported just six vacancies in the preceding year, while Mangaung reported none. These vacancies were ascribed to normal staff attrition in that they amounted to less than 2% of the total establishment. Employees who left were reported to have done so, either because they had been dismissed for gross misconduct, or because they were seeking more lucrative posts elsewhere (this applied, in particular, to professional staff).

While all state prisons experienced staff shortages, it was evident that the negative impacts of these shortages were mitigated in some correctional centres by more effective utilisation of existing personnel and, as will be discussed, by strengthening their morale.

Best practices

- *As part of their contractual obligations, the private prisons must ensure that they have a minimum number of staff, in all requisite occupational categories, on duty during each shift. In order to meet this obligation, GSL, in particular, maintain on file a pool of trained and certified custodial officials, who are appointed as and when vacancies arise. This practice obviates the need for protracted recruitment processes and ensures that vacancies are filled immediately.*
- *The private prisons attribute their low turn over of staff to the fact that they offer competitive salaries, to good working conditions, to sound management and administrative practices, to employee support services and to the high staff morale which ensues.*

Recommendations

- In view of the fact that staff compliments are based on the optimal rather than actual numbers of offenders in an institution, it is proposed that an audit be undertaken of staff/offender ratios in all state prisons. Based on this investigation, budgetary provision will need to be made to recruit additional personnel to alleviate some of the chronically understaffed institutions. In recognition of this need, the 2005 White Paper asserts that the Department's human resources provisioning strategy "must be informed in part by recognition of the principle of a sound staff offender ratio appropriate for the security risks attached to the management of a particular correctional centre."²⁰
- Staff shortages could be significantly alleviated through a reduction in the number of offenders incarcerated in state prisons; this objective could be achieved through various means including non-custodial sentencing, the waiving of mandatory minimum sentences etc. Again, this need is acknowledged by the White Paper, which speaks of the need for a review of "sentencing options and alternatives to incarceration, desired and appropriate rehabilitation routes, and appropriate 'release policy' options for particular categories of offence."²¹

2.2 Recruitment Practices

Recruitment of staff in state prisons is undertaken nationally by head office in Pretoria and new employees are then assigned to individual institutions according to the perceived need – this is normally undertaken on an annual basis. Regional offices, however, can (and do) facilitate the recruitment process by inviting the management of individual prisons to participate in the interview process. Entry-level recruitment is, in fact, undertaken regionally, although DCS headquarters

²⁰ DCS, 2005, op.cit. p.62.

²¹ DCS, 2005, op.cit. p. 53.

determines the numbers of appointments that can be made. Prison managers reported that they had some say in the selection of these positions. However, several managers stated that the recruitment of staff, particularly professional staff, was delayed by headquarters and this aggravated staff shortages.

It was maintained that the national recruitment of staff could lead to distortions in the demographic composition of prison workers. This is evidently the case where representatives of a particular racial or even ethnic group are not recruited in numbers proportionate to the offenders in the institution. Alternatively, staff recruited nationally sometimes cannot speak the prevailing languages of the region and this can limit their capacity to communicate with inmates. Perhaps the most significant drawback of this process, however, stems from the fact that staff (particularly custodial staff) who are recruited from out-side the region, frequently request transfers back to their home areas. It was reported that when these requests are turned down for operational reasons, some staff resign, while others remain but become de-motivated.

The two private prisons are responsible for the recruitment of their own staff. Advertising is undertaken both regionally and nationally but the recruitment process differs from those of state prisons in two significant ways. In the first instance, prospective employees choose to apply to a specific institution and are aware of its location (i.e. in either Bloemfontein or Makhado); as a consequence they are less likely to feel dislocated to the extent to which some state officials appear to be. In the second instance, since the possibility of a transfer to another institution does not exist, there appears to be less anxiety at the fact that staff are not living close to their homes.

Kutama-Sinthumule and Mangaung prisons are able to fill vacant posts quickly, both because the lines of communication are short (i.e. they are not routed via regional or national offices), and because (in the case of Mangaung) they are able to recruit from a reserve pool of applicants who have already been properly vetted and trained. As a consequence of this, the resignation of staff leads to relatively minimal disruption of the prison services.

Best practices

- *Mangaung prison maintains a reserve pool of suitably qualified, trained and vetted applicants to replace those who resign.*
- *As part of the recruitment process, Mangaung prison conducts psychological assessments of prospective staff as well as thorough medical examinations and security checks.*
- *The recruitment of staff is subject to the completion of Mangaung's training and to DCS certification in specified professional posts. This differs from the practice in the DCS, where staff are trained after they have been recruited.*

Recommendations

- Recruitment of staff to state institutions should, as far as possible, be undertaken on a regional basis, according to prescribed budgets and norms. In order to achieve this objective, the human resource management capacity of regional headquarters will need to be strengthened.
- Recruitment policy should be linked to succession planning; in other words, recruitment processes should be proactive rather than reactive, anticipating that a proportion of staff in different positions will resign, retire or die in any given year and that they will need to be replaced.

2.3 Staff Retention and Succession Strategies

The retention strategies implemented by different state prisons varied significantly. While some officials indicated that there was little that could be done to retain staff under current circumstances, other reported that they have attempted to develop an *esprit de corps* amongst their workers as a means to retain their services. Drakenstein prison, for example, maintains a subsidised staff club, which organises events aimed at building team spirit and a sense of community amongst employees.

By insuring that grievance procedures are properly adhered to and employees concerns, where possible, are addressed quickly and fairly, Drakenstein prison has found it possible to avoid certain types of staff resignation.

Attempts are also made to reward good performance through the award of merits bonuses and other awards (although, as shall be seen, the award of merit bonuses has often proven to be problematic). The conducting of regular and careful quarterly assessment is also seen an effective way to strengthen staff retention, in that it provides regular feedback to members and permits them to raise concerns in a more systematic way. When staff members resign some prisons managers (for example, at Drakenstein Youth) conduct exit interviews in an attempt to determine the factors which precipitated the resignation and, where possible, to address them.

In general, however, prison managers interviewed stated that both staff recruitment and staff retention were constant challenges. Although a substantial number of resignations related to employees dissatisfaction with remuneration and working conditions', it was also evident that a degree of unhappiness stemmed from the human resource practices in place. This has been an outcome of the process of institutional transformation which has been under way in the Department for much of the past decade. Thus, for example, it was reported that in certain instances staff resignations were triggered by a moratorium on promotions (pending restructuring). This situation limited opportunities for succession planning and led to frustration amongst employees. Some managers reported that the absence of a clear career path served to demoralise staff. It was stated that the perception that promotion was slow, led some individuals to view an appointment in Correctional Services as merely a stepping stone to a career elsewhere in government or in the private sector; such officials, it was maintained, generally lacked a strong commitment to their work. At the same time, because there is no formalised succession planning in place, the filling of senior posts occurs in an unstructured way, in that the staff remaining are simply invited to apply for the vacancies which arise. This process, however, does not necessarily lead to the appointment of officials most suited to senior positions.

The private prisons follow a more systematic approach to staff retention and succession. Both have formal succession plans in place, which readily allow officials to apply for more senior positions in the organisation. In addition, regular interaction with and feedback to staff, assists officials to plan their careers more systematically. Mangaung prison, for example, maintains a Performance Development Plan for each employee in the institution; this assists officials to improve their performance and also assists management to identify staff who demonstrate potential for promotion to more senior positions. Such individuals are subjected to leadership training programmes, which prepare them for more senior office. Although good working conditions and competitive salaries are of importance, the management of the private prisons stressed the fact that the continuous training and development of staff, as well as the recognition of outstanding performance perhaps played a more significant role in the retention of officials.

Best practices

- *The establishment of clear career paths and the provision of continuous training, as occurs in the private prisons, assist both in retaining staff and in identifying future leaders.*
- *Continuous engagement with staff (and particularly feedback on performance) allows managers to establish employee dissatisfaction at an early stage and to deal with concerns before they lead to resignation. As was evident in the case of Drakenstein Youth prison, this practice can be introduced without any additional costs or resources.*
- *Exit interviews provide managers with the opportunity to understand why staff are leaving and, where feasible, to address the issues raised.*

Recommendations

- Although remuneration and working conditions are not the sole determinants of employee satisfaction, both managers and staff cited these factors, as major contributors to the high

turn over of prison staff. As such, a review of the conditions of prison staff would appear to be an issue of considerable importance in establishing a more stable cadre of custodial staff.²²

- A strategy for the introduction of succession plans should be introduced into all state prisons; this will need to be accompanied by appropriate forms of training.
- Prison managers and section heads need to provide regular feed-back on performance to their team members, through monthly consultations that deal with performance, planning, development and career issues.

2.4 Staff Motivation

The motivation of staff and the maintenance of morale are of central importance in any large institution and, not least, in those where staff operate under conditions of physical and psychological stress. The most prominent formal method of staff motivation in the state prisons visited, is the operation of a merit award system. The awards are made annually and are based on the assessment of an employee's superiors, conducted over the duration of the year.

Assessments are undertaken quarterly by a committee of senior correctional officers acting on the advice of an employee's supervisor. The review is undertaken on the basis of key performance indicators established for each employee in specified key performance areas. It was stated that the assessments are sometimes undertaken in a perfunctory manner (that is the process was not thorough and assessors seems to be going through the motions), and feed back to employees was limited.

The merit system, in its design, it intended to encourage excellence and reward good performance. In practice, prison managers stated that the award system, as currently implemented, generally acted as a disincentive to staff and, in some instances, adversely affected morale. This was due to the fact that only 25% of the total staff complement is eligible for the annual award (in the form of a cash reward). It was stated that staff complained about favouritism in the award process and that they maintained that a key factor in the adjudication of winners was the nature of the relationship between an official and his/her superior, rather than the actual quality of work performed. It was also mentioned that, in the interest of equity, prison management usually tried to distribute awards across different departments and across employment levels. This practice meant that, irrespective of how well a unit, as a whole, was operating, only a select few were eligible for an award. This resulted in resentment, which often undermined team spirit.

Managers who reported success in motivating staff, stated that this was achieved through constant personal interaction with officials. In other words, the motivation of staff was a function of management leadership, rather than the existence of formal mechanisms to encourage greater productivity.

The private prisons also implement merit assessment policies. The intent of these policies, as in the case of state prisons, is to recognise and reward improvement and hard work. However, unlike the state prisons, which recognise individual achievement alone, the private institutions (and Mungaung in particular) reward entire departments as well as individual categories of individuals. Minimum standards of delivery are set by the Board of Directors and staff are encouraged to accept responsibility for delivery of the targets set in an annual competition known as the Directors' Challenge. In addition, awards are made at the level of individual units (e.g. Custodial Officer of the month) to further encourage employees to perform at their best.

²² This need has been acknowledged by the White Paper, which asserts that: "The organisational culture of the Department has to be centred around people. This means that there is a particular focus on: their behaviour; the way they approach their work; the way they individually and collectively as basic work units solve emerging organisational problems; and the way they are rewarded." DCS, 2005, op. cit. p. 61, para.8.6.3

Best practices

- *Motivation of staff in state prisons was achieved through constant personal interaction between managers and officials.*
- *In the two private prisons, the criteria for merit awards are explicit and employees receive constant feedback on their performance. Although not all staff receive merit awards annually, there is no quota on the number who can receive awards.*
- *Merit awards are made to units or departments, which have performed well as a whole; this practice stimulates teamwork and collective pride in the work done.*
- *In the private prisons, small awards (employee of the month) are made during the course of the year and these recognise and reinforce good performance as and when it occurs.*

Recommendation

- The merit assessment system currently being implemented in state prisons should be reviewed to ascertain whether, in its current form, it does, in fact, serve to motivate staff and fairly reward good work.

2.5 Staff Training

In addition to the induction courses received by new recruits, all of the prisons visited offered in-service training programmes to their staff in one form or another. These ranged from administrative training on unit management, financial management, leadership logistics, to specialised course on the management of offenders, including programmes on sexual offenders, conflict and trauma, aggression and drug abuse, amongst others. The programmes offered are either directed by DCS head quarters in Pretoria (but sometimes involving other state departments), or else are presented by various NGOs. The impact of this training, according to prison officials, depends to a considerable extent on the administrative and managerial environment in which the training is conducted. Where prison management is able to create an environment which is receptive, the prospects for the take up of ideas and methods introduced through training is much greater. However, it was reported that some of the training programmes offered are too generalised, and are often not specific to the working environments and operational needs of the staff undergoing them.²³

It was further stated that training is not always introduced systematically. Thus, for example, in section/units where there are severe staff shortages, managers cannot afford to release warders for training of any sort. In addition, members of a particular unit are seldom, if ever, able to undergo training as a group or even in quick succession of each other. As a consequence, the impact of training tends to be reduced, as staff who have received training tend to be out of synch with others in their units.

Senior staff, in all state prisons visited, receive training on national policy, including instruction on the 2003 Draft White Paper on Corrections²⁴ in South Africa, the Labour Relations Act 66 of 1995, the Promotion of Administrative Justice Act 3 of 2000, and the Fire Arms Control Bill of 2000, amongst others. These courses are presented by the South African Management Development Institute (SAMDI), and by a range of other service providers from both the government and the NGO sectors. It was stated that the new system of Unit Management places particular demands on managers and that further training is required to equip unit managers to meet the challenges which confront them. It was also suggested that training should be more closely linked to the actual resources (in terms of both staff and facilities) available in a prison rather than to the ideal. Thus, for example, warders reported that they struggled to implement all the facets of Unit Management due to staff shortages. As a consequence, problems tended to be delegated upwards, thus effectively defeating one of the prime objectives of Unit Management.

²³ The White Paper specifies the need for “specialist bridging training of professional staff whose professional training has not addressed practice within a correctional centre environment”, and “training for correctional officials who work with special need groups of offenders; and functional training.” DCS, 2005, p. 62, para. 8.8.2

²⁴ At the time of the research the final White Paper on Corrections had yet to be released.

Reflective of the society at large, prison managers, from time to time, confront instances of ethnic and racial tension amongst staff, which impact adversely on prison management and, in particular, on relations with offenders.²⁵ The team building exercise undertaken by the Drakenstein prison contributes to a more cohesive workforce and assist in addressing inter-racial tensions at the same time. However, as a microcosm of the broader society, it is recognised that overcoming the racial divisions of the past will take time. This reality is recognised by the White Paper, which states that '(t)he history of South Africa, combined with tensions in the Department in the early years of democracy require careful consideration of the manner in which equity and unity issues are combined within the Department's human resource strategy.'²⁶ There is, consequently, a strong need for continual team building programmes as well as training in diversity management amongst senior staff.

In a similar vein, effective management of offenders requires both sound administrative procedures as well as a good psychological understanding of the behaviour of different types of offenders. It was stated that some warders were in need of training to assist them both to understand and manage different categories of offenders, including violent inmates, gang members, and juvenile offenders.

The private prisons as indicated, provide both pre-service as well as in-service training. The former is undertaken prior to formal appointment, while the latter is undertaken on an ongoing basis. The training undertaken is prescribed in the contractual arrangements entered into with the DCS, but it must also comply with national legislation. All custodial staff must complete a comprehensive induction course and must demonstrate their competence in the fields covered. In addition, personnel in specialist positions must undergo thorough assessment before they can be certified as Correctional Officials by the DCS.

Once inducted, each staff member is expected to undergo a specific number of hours of training annually, covering both new aspects of work as well as refresher courses. The training, which is offered by private providers, aims to incorporate international best practices, and to cover such fields as hostage taking, diversity management and life skills. Specialised leadership training is presented to prison managers both to support existing senior staff and to prepare a new cadre of leaders.

The White Paper proposes the preparation of a human resource development strategy which will address training at different levels of the administrative hierarchy and which will support the professionalisation of the Department. These training programmes will be mandatory for all staff, and will include specialist training for correctional officials who work with offenders with special needs.²⁷

Best practices

The majority, but not all, of the best practices listed below, were to be found in the two private prisons, and in Mangaung prison in particular.

- *All employees in private prisons must undergo 40 hours of refresher and continuous training every year. This includes 8 hours refresher training in control and restraint, 8 hours on security awareness, 4 hours each on stress management and gang management as well as department specific training.*
- *Training is delivered according to an annual plan and according to identified needs within specific job profiles. The training offered is also linked to the personal development of staff (particularly in the case of potential leaders).*
- *Training is undertaken in both the classroom as well as in units, thus reinforcing the learning experience. Employees also receive departmentally specific training to assist them in performing their duties.*
- *The Mangaung prison offers Motivational Supervision sessions to managers and supervisors to assist them to complete departmental plans and to address other issues of concern.*

²⁵ For a discussion of this issue, see Dissel, A, and Kollapen, J., (2002), "Racism and Discrimination in the South African Penal System", (Research Report, Centre for the Study of Violence and Reconciliation, Johannesburg).

²⁶ DCS, 2005, op cit. p. 62 para. 8.9.2.

²⁷ Ibid, loc. cit. para, 8.8.

- *Specialist training is offered in diversity management.*
- *Training material is available on CD Rom for study and revision in the employee's own time.*

Recommendations

- A review of the training programmes offered in state prisons, together with an assessment of courses delivered by the two private prisons, would afford the DCS an opportunity to develop and cost the human resource development proposed in the White Paper.²⁸
- Since Unit Management represents a corner stone of current state prison management, additional attention should be paid to training in this field.

2.6 Working Days Lost

All state prisons reported significant numbers of working days lost annually and principally through sick leave. Whilst the sick leave taken was attributed to a range of ailments typical of the population at large (including influenza, bronchitis etc.), it was noteworthy that a substantial number of days were lost as a consequence of stress-related complaints. While some of the determinants of stress related to the personal circumstances of staff (debt, death in the family, emotional problems etc.), the bulk were related to work-induced stress. The latter were stated to be caused by fear of personal safety (where staff have suffered violence from offenders), to poor working relations with other staff, and to over work (where staff shortages are severe).

A lesser number of days are lost due to absenteeism, most of which is attributed to indiscipline, as well as to personal circumstances, which are also stress related. Days lost to industrial action were minimal in all prisons visited and those that were, were generally a consequence of action dictated by national unions, rather than by direct action against the management of an individual prison. This is in part due to the fact the grievances raised by unions are endemic and occur throughout the state prison system (for example, those related to overcrowding, understaffing, wages etc.) Prison management in the prisons visited, stated that their working relationships with unions were generally positive.

The number of disciplinary cases instituted annually against staff members varies significantly according to the size of the prison and the management regime in place. The majority of offences relate to transgression of the disciplinary code, including insubordination, negligence, and arriving late for work. More seriously, a number of transgressions involved warders smuggling contraband articles to offenders.

Prisons such as Drakenstein and Goodwood which reported having reduced staff indiscipline, did so by maintaining close and constant contact between management and staff.

A number of prison managers interviewed stated that they struggled to enforce the disciplinary code in their institutions. New recruits, it was maintained, were the biggest transgressors, suggesting that the recruitment process in place is not sufficiently thorough or that induction training which they receive is inadequate. In two of the state prisons it was reported that there had been instances where disciplinary cases were not followed through to their conclusion. Either there had been delays in the initiation of disciplinary proceedings, which led to cases being dropped²⁹, or infringements of the disciplinary code were overlooked. In both instances, it was reported, disciplinary standards were eroded and the morale of those staff who adhered to the rules, was undermined. The effects of ill-discipline are recognised in the 2005 White Paper, which asserts that "(t)he very nature of the

²⁸ DCS; 2005, op. cit. p 62, para. 8.8.

²⁹ Disciplinary hearings are supposed to take place within 30 days of an alleged offence and formal disciplinary proceedings must be instituted within three months. Failing that, the charges must be dropped. See Section 7.4 of the Regulations of the Correctional Services Act of 1998, *Government Gazette*, No. R.914, 30 July 2004.

correctional system requires that a strict code of behaviour be supported by a clear and effectively enforced disciplinary code with effective disciplinary procedures.³⁰

Best Practices

- *Mangaung prison presents specialist training on the management of discipline. The training includes the following elements: conducting proper confrontations; the determination of guilt; mitigating and aggravating factors; deciding on the appropriate penalty; and the formulation of charges.*
- *The private prisons report a zero tolerance approach to staff indiscipline; this was stated to be of central importance in establishing the culture of an institution. The need to set examples against inappropriate behaviour is constantly stressed.*

Recommendations

- It is evident that the alleviation of staff shortages as well as a reduction in prison overcrowding will play a significant part in reducing the number of days lost through stress and stress-related disorders. The introduction of a seven day working week and the recruitment of additional staff, as proposed by the DCS, will also make an important contribution to this goal.
- Adherence to the staff disciplinary code will need to be emphasised more emphatically in the training received by new members in state prisons. Particular attention will need to be drawn to the dangers, which ill-discipline gives rise to in a prison environment, not least being the undermining of authority and the encouragement of corrupt practices.³¹
- As a matter of urgency, senior prison managers should be offered training on the importance of maintaining discipline and, in particular, on the corrosive impact of ill-discipline on the institutional culture of their institutions. Training should include aspects of labour law as well as formal induction into the steps which must be followed in instituting disciplinary proceedings and, importantly, in concluding cases expeditiously.

2.7 Staff Security

All prisons have measures in place to ensure the security of staff while they are conducting their duties. These include formal safety practices such as the “buddy” system, which sees the pairing of staff members on duty, the regular searching of inmates, the provision of safety equipment, the appropriate classification of inmates (for example, separating those with a propensity for violence), and the institution of emergency practices. The extent to which these measures are effective, is a function of the administrative practices in place to ensure that safety practices are adhered to on a consistent basis.

It was reported that security is compromised by staff shortages. This often results in warders working alone in a section, rendering them vulnerable to assault. In state prisons cameras are located in strategic places, but these are too few to provide full coverage of the institution. It is also evident, from the situation of some cameras, that their focus is more on the prevention of escapes than on staff security per se.

The training of prison staff includes the subject of staff security, but it was not evident that this training was followed up in a systematic way. Similarly, it was not clear whether some of the measures in place to protect staff (including the use of intelligence to forewarn of impending assaults and the relocation of offenders when attacks are anticipated), are the outcome of training or of hard won experience on the part of custodial staff.³²

³⁰ DCS; 2005, op. cit., p.63, para. 8.10.1.

³¹ Recognising the need to improve discipline, the 2005 White Paper proposes: “tightening of management systems; integrity testing and vetting of personnel; increased compliance with policy and controls; and internal investigation and sanction, as well as referral to external law enforcement agencies where appropriate.” DCS, 2005, op.cit., p.63 para. 8.11.1.

³² Custodial staff stated that attacks against staff are seldom spontaneous and are usually preceded by rumour and talk amongst offenders. Depending on the quality of their relations with offenders and

Managers in state prisons reported that the classification and separation of potentially violent offenders is one of the most effective ways of protecting staff from attacks. This practice, together with close interaction with offenders, serves to forewarn staff of impending violence.

The two private prisons (and most notably Mangaung prison) have in place extremely structured systems to ensure the security of their staff. Some of these relate to the design and construction of the prison and their introduction would likely incur significant costs were they to be introduced into state correctional institutions, in the short run at least. These include centrally operated electronic access control systems (implying that warders carry no keys), CCTV coverage of selected areas, metal detectors and X-rays. It is also certain, nevertheless, that many of the measures in place rely more on sound management and administrative practices than on expensive equipment. These include compulsory training on security management (topics include intelligence gathering, control and restraint, gang management etc.), frequent testing of emergency procedures, rigorous searching of all persons entering and leaving a prison as well as regular searching of prison cells.

Threats to staff security, nevertheless, are ever present in all prisons, due to the endemic culture of gang violence, which (in the case of the numbers gangs) prescribes attacks against warders as a component of induction into gang life and as a means of advancement in the gang hierarchy.³³ Nevertheless, vigilance, strict adherence to security protocols together with other measures in gang management (to be discussed below) can considerably reduce this risk.

Best practices

- *All of the prisons visited relied on intelligence, gained from inmates, to forewarn them of impending attacks on staff. This necessitates good working relations and the establishment of trust between warders and offenders.*
- *Searching of visitors, as well as all personnel, entering and leaving the prison is conducted extremely thoroughly.*
- *Prison managers classify and separate potentially violent inmates.*
- *The movement of inmates around the prison is strictly regulated and monitored at all times.*
- *In Mangaung prison warders have panic buttons, either carried separately or built into their two-radios. Similar panic buttons are carried by some, but not all, warders in Drakenstein prison.*
- *A zero tolerance approach is adopted towards all inmates who display aggressive tendencies. That is to say, any behaviour, which is deemed to contravene the offender disciplinary code (including abusive language or physical threats to warders), is not permitted and disciplinary procedures are instituted immediately.*
- *In the private prisons, Emergency Support Teams are on standby 24 hours a day to handle all physical confrontations with inmates, and to ensure that only approved measures to restrain violent offenders are followed.*
- *Prisons stock all the necessary security equipment (helmets, utility and bullet proof vests, riot shields etc.) to deal with incidences of violence.*

2.8 The Role of Unions

At least three unions are active in the prisons visited, namely the Police and Prisons Civil Rights Union (POPCRU) and the Public Servants Association (PSA) and the Democratic Nursing Organisation of South Africa (DENOSA), and prison managers uniformly reported that their interactions with these unions were positive. That is to say, the unions not only represent their

the intelligence which is communicated to them, warders are able to take proactive measures to avoid such attacks.

³³ See Steinberg, J., (2004) *Nongoloza's Children: Western Cape prison gangs during and after apartheid*, (Centre for the Study of Violence and Reconciliation, Braamfontein), and *The Number*, (Jonathan Ball Publishers, Johannesburg and Cape Town, 2004a), for a detailed analysis of this phenomenon.

members in disciplinary hearings, but they also represent a sounding board for management on the satisfaction levels of prison staff.

Drakenstein prison invites union representatives to attend management meetings and discussions on the running of the prison and on working conditions of the staff. This openness, it was reported, fostered good working relations with shop stewards.

The most common concerns raised by the unions were reported to relate to wages, overcrowding, staff shortages and staff security. It was stated that where there had been instances of industrial action, these had been initiated at the national level and had simply been followed through at the level of individual prisons. Nevertheless, most prisons reported that they had contingency plans in place in the event of a comprehensive strike.

The private prisons also reported good working relations with the unions, having entered into Collective Bargaining and Organisational Rights agreements with them. It was reported that regular consultation sessions and an open door policy with unions led to a harmonious working relationship. It was reported that Mangaung prison has had no form of labour unrest since it was opened in 2001.

Best practices

- *Regular consultations with unions and their active engagement on key aspects of prison management leads to sound labour relations and minimises the prospects of industrial action at the level of individual prisons.*

3.0 3.0 Offender Life and Rights

The section which follows, details various aspects of offender life, including their physical and mental wellbeing. Discussion focuses on the extent to which offender rights are respected and the provision is made for their rehabilitation into society.

3.1 Overcrowding and Prison Design

In all state prisons visited the overcrowding of offenders was reported to be a problem, by both staff and inmates themselves. The extent of overcrowding varied from 13% in Malmesbury, to 41% in Drakenstein and 116% in Johannesburg Youth prison. Despite the fact that a number of new prisons (both state and private) have been constructed during the course of the past decade, managers of state prisons reported that there had been a progressive increase in problems of overcrowding during this period. Prison managers stated that they had limited say over the number of offenders they accommodated, and awaiting trial detainees were often brought unannounced to their institutions. The impact of overcrowding is felt throughout the prison system and places pressure on management and administrative practices as well as on the welfare of offenders themselves.

Overcrowding, moreover, tends to have a multiplier effect, aggravating staff shortages and resource constraints and exposing weaknesses in administrative practice. It was evident, for example, that overcrowding, in combination with staff shortages, is a primary source of stress amongst prison staff. There is, furthermore, a correlation between the levels of offender overcrowding and sick days taken annually. Thus Malmesbury Prison, with only 13% overcrowding lost an estimated 7.6 working days per staff member per annum over the past three years, whilst Goodwood (with 35% overcrowding) and Drakenstein (with 41% overcrowding) respectively lost 26 and 33 days per member per annum over the same period. In the two private prisons the days lost per staff member per annum over the past three years were 7 and 10 respectively. Moreover, it would appear that the offender-warder ratios, per se, are not the most significant precipitators of stress amongst staff, as the two private prisons have higher prison-warder ratios than the state prisons visited. The critical factor in the equation, it would appear, is the extent to which there is overcrowding of offenders.

Over and above the physical discomfort to inmates which arises as consequence of overcrowded accommodation and facilities, excessive numbers of inmates limit prospects for the implementation of effective programmes of rehabilitation. With limited resources and staff and with excessive numbers of offenders, prison officials are simply unable to deliver a comprehensive programme of rehabilitation and are compelled to focus on a restricted number of activities. Linked to this, overcrowding also impinges on the basic human rights of offenders, not least in limiting their personal space and privacy, but also in restricting opportunities for physical and mental stimulation.

Westville prison, and, to a lesser extent, Drakenstein, have attempted to ameliorate the adverse affects of overcrowding by ensuring that offenders are kept busy through a range of activities (including sporting and cultural activities) which reduces the amount of time which they must spend in their cells.

Prison overcrowding is further aggravated by the design of prisons themselves. Several of the prisons visited were not being used for the specific purposes for which they were designed. Thus, the Johannesburg Youth prison was initially built as a transfer station, Goodwood Maximum, was designed to house medium term offenders, and Westville Youth prison was designed to accommodate offenders other than the young. As a consequence, neither the lay out of the prison nor the facilities available facilitate the processes of rehabilitation. In contrast, the design and occupancy levels of the two private prisons lend themselves directly to the objectives of both rehabilitation and security.

The problem of prison overcrowding has been acknowledged in the 2005 White Paper, we states that the DCS "regards overcrowding as its most important challenge. It does not only have significant negative impacts on the ability of the Department to deliver on its business, but constitutional provisions also oblige Government to act urgently on the matter."³⁴

Best Practices

- *Among the state institutions visited, Malmesbury prison stood out, both for the design and lay out of buildings and for the fact that it most closely approximated optimal levels of inmate occupancy.*
- *The two private prisons accommodate the exact number of offenders for which they are designed. This state of affairs permits prison officials to focus on their core business of security, deterrence and rehabilitation.*
- *Some prisons (notably Westville) have attempted to ameliorate the adverse effects of overcrowding by ensuring that offenders are engaged in a wide range of activities which keep them out of their cells.*

Recommendations

- It remains an incontrovertible fact that overcrowding undermines most aspects of good prison governance. While the construction of new state prisons will go some way to alleviating problems of overcrowding, it is also certain (as in the case of staff shortages) that additional measures in the criminal justice system will be necessary to reduce the number of offenders entering correctional institutions. These would include removal of mandatory minimum sentencing, diversion of young offenders, and the reduction of time spent awaiting trial.

3.2 Offender grievances

As might be expected, all prisons reported that inmates had lodged a range of complaints over the preceding twelve months. The most prominent of these related to their limited contact with family members and their requests for transfers. Other complaints revolved around the lack of sporting and

³⁴ DCS, 2005, op.cit. p. 13, para.9.

recreational facilities (inmates complained of boredom), limited work opportunities; lack of and poor service from providers (social workers, teachers etc.), delays in sentencing, the behaviour of warders and the behaviour of other offenders. The grievances varied in their seriousness, from the spurious (offenders, for example, protesting the length of their sentences), to those relating to their access to services and facilities, as well as those relating to physical assault. All grievances, however trivial, are formally recorded.

The offenders interviewed in the state prisons during the course of this investigation, generally stated that the grievances which they raised were not adequately addressed. Prison managers, in contrast, maintained that they responded to those grievances, which they felt they could address (for example, moving a offender who had claimed to have been assaulted), but they were not in a position to address such problems as overcrowding, limited infrastructure and the absence of entertainment facilities.

Visits to the state prisons by Independent Prison Visitors (IPVs) from the Office of the Inspecting Judge were generally welcomed by prison officials and by the offenders themselves. However, some offenders interviewed stated that whilst they appreciated such visits they were not always satisfied with the outcome of the complaints they had lodged with the IPVs. Nevertheless, it was also asserted that the IPVs at least perform an oversight role, which helps to reduce the possibility of abuse, either by prison staff or by other offenders.

The private prisons also reported that they received a wide range of offender complaints, both serious and trivial. Mangaung prison stated that it was official policy that offenders would receive feedback on their complaint within 24 hours. It was also stated that the prison had instituted a confidential access system, which allowed offenders to lodge complaints anonymously and without fear of retribution; this might apply, for example, when a offender wished to lodge a complaint of corruption or assault against a warder. The confidential complaints box may only be accessed by the director of the prison.

Best practices

- *The establishment of a rapid response system to complaints (but which does not necessarily imply their rapid resolution), facilitates communication between staff and offenders and ensures that grievances are being taken seriously.*
- *The establishment of a confidential complaints system will ensure that staff cannot conceal serious grievances lodged against them. This system will also encourage offenders to expose corruption without fear of victimisation.*
- *Visits by Independent Prison Visitors assists redress of offender grievances and a measure of independent oversight in state prisons.*

3.3 Tracking of recidivism

The management of all state prisons reported that while they were aware of high levels of recidivism, (estimates varied from 40% to 75%), they have no formal means of tracking the history of offenders. This is due to the fact that no national database of offenders exists in the Correctional Services.³⁵ Thus, while prisons can, and do, track individual offenders who return to their institutions as repeat offenders, they have no means of tracking the progress of offenders who are sent to other prisons. In addition, individual prisons have no means of linking their databases to those of the South African Police Service or to the courts, in order to maintain an effective tracking system.

Although the two private prisons (both maximum security institutions), have not been operating long enough to build up data bases on repeat offenders, it is likely, if the status quo remains, that they will experience similar difficulties in tracking recidivists who have been admitted to other institutions. This

³⁵ The 2005 White Paper states, in this regard, that "The rate of repeat offending ... in South Africa is widely acknowledged to be unacceptably high. This deduction is, however, not very reliable, as there is currently no reliable system for monitoring repeat offending or analysing the trends in this regard." DCS, 2005, op. cit. p.77, para.9.18.2.

problem is compounded by the fact that all offenders who are eligible for release from the private prisons are transferred to state prisons six months prior to the time.

Best Practice

- *As a consequence of the systemic constraints outlined above, there are currently no best practices in tracking recidivism in either the state or private prisons.*

Recommendations

- As information on recidivism is essential in measuring the effectiveness of rehabilitation programmes, it is recommended that efforts should be made, in the first instance, to ensure that appropriate electronic databases are installed in all state prisons. The costs of such an exercise would not be exceptional, as most prisons already possess some computer hardware.
- In the second instance, it is recommended that these databases should be linked to the regional and national headquarters of the DCS as well as to the South African Police Service and regional and national courts. The installation of such a network would necessitate the requisite training of officials, as well as the installation of appropriate security measures.

3.4 Personal rehabilitation programmes

All of the prisons visited delivered rehabilitation programmes of one form or another. Here a distinction is drawn between programmes which aim to reorient the self-perception and world outlook of offenders, and those which provide them with skills to begin a new life.³⁶ These life skills programmes are offered by prison staff themselves or by external service providers (including individuals contracted by the state and NGOs). The extent to which individual prisons are able to offer rehabilitation programmes, however, is generally a function of the facilities, resources and staff available as well as the general level of offender overcrowding. That stated, it was evident that some prison managers and their staff had managed to overcome the shortage of facilities and resources in their efforts to create a physical and social environment which is conducive to offender rehabilitation.

Officials in several prisons (Goodwood, Westville and Drakenstein in particular), have encouraged offenders to paint the prison walls creatively. In so doing, the artwork has made the prison surroundings appear less austere and less forbidding.

Warders in the Drakenstein Youth prison introduced plants, birds and tortoises into a section cell yard and, in so doing, created a more hospitable living environment. Both offenders and warders reported that this initiative has lowered tensions amongst the offenders, who now have the opportunity to nurture and care for something other than themselves.

A number of prisons have focused their efforts on reorienting the attitudes of offenders as the starting point for rehabilitation. Thus Goodwood prison has introduced an innovative programme on restorative justice. This involves interaction between offenders and victims and their respective families. The initiative, known as the New Beginnings Programme, assists offenders to assume responsibility for their actions and to acknowledge the consequences of their actions on others. The programme is currently being rolled out to at least ten more prisons in the region.

Pre-release programmes represent a critical component of an offender's reintegration into society. Prisons such as Goodwood and Drakenstein place considerable emphasis on offenders establishing support systems with their families during the lead up to their release. This process includes organised visits to families and weekend release programmes. Officials at Drakenstein prison maintain a database of available jobs, and arrange job interviews for released offenders. Over and

³⁶ This is, however, purely a heuristic distinction, as life orientation and skills training form part of a whole.

above programmes alerting inmates to the dangers of HIV/AIDS and sexually transmitted diseases (discussed below), prisons provide programmes on alcohol and drug abuse. These are delivered by a variety of different providers including religious groups and NGOs, and are given special emphasis in the period leading up to a offender's release.

Contractually, the private prisons are obliged to return all inmates to the state prison system six months prior to their release. This provision leads to a discontinuity in the pre-release training and support offered to offenders. It is also questionable whether a shift from an extremely well resourced and un-crowded institution to one less well endowed, will assist offenders to leave prison with a positive frame of mind.

Best practices

- *Programmes on restorative justice assist offenders to take responsibility for their actions and to recognise the hurt and damage which they have inflicted on others.*
- *The creation of more hospitable physical surroundings can be achieved at low cost, but creates an environment which is more conducive to rehabilitation.*
- *Pre-release programmes which assist offenders to re-establish links with their families improve the prospects for their reintegration into society.*

Recommendation

- Consideration should be given by DCS to permitting the private prisons to manage the rehabilitation of offenders up until the time of their release.

3.5 The management of sexual activity in prison

Although sex between offenders is officially discouraged, prison officials conceded that consensual sexual activity is inevitable in such institutions. Of particular concern, however, is the transmission of sexually transmitted diseases (STDs) and HIV/AIDS. All prisons visited reported that they currently held inmates infected with HIV and that they had lost others who had died of AIDS. It was stated that in view of the high incidence of HIV infection nationally, it is inevitable that incoming offenders, infected with the virus, will bring the disease into prisons.

All the prisons visited reported that they run awareness programmes to alert offenders to the dangers of HIV/AIDS and STDs. Such programmes are delivered by prison staff, by a variety of NGOs and by inmates who have undergone specialists training. Typically, offenders are alerted to the dangers of HIV/AIDS on admission to a prison and, thereafter, they are encouraged to attend instructional programmes on the disease which are presented periodically. Prisons also solicit the assistance of NGOs and religious organisations, in their efforts to raise awareness of the dangers of unprotected sex and HIV/AIDS.

Drakenstein and Westville Youth prisons have introduced peer facilitation programmes as a means to alert young offenders to the dangers of HIV/AIDS. In these programmes, offenders are trained to transmit ideas about the dangers of unprotected sex to other inmates and to stress the importance of abstinence. This information, which encourages healthy lifestyles, is transmitted through formal group instruction, through the medium of drama and through one-on-one counselling.

All prisons supply condoms, which are readily available to inmates. One prison visited, however, made condoms available on request. The latter policy, however, was felt by some warders to act as a deterrent to the usage of condoms, as offenders (especially younger ones) are embarrassed to openly announce their intentions.

The private prisons adopted similar measures to prevent STDs and HIV/AIDS, including the counselling of new inmates on induction, the running of ongoing AIDS awareness programmes and the distribution of condoms. Both prisons also attempt to identify potentially vulnerable individuals and to separate them from known bullies and those with known negative sexual tendencies. In

addition, a Personal Officer scheme permits officers to discuss sensitive sexual issues with offenders in a one-on-one situation. Offenders who claim to have been sexually assaulted are given counselling and are issued with anti-retroviral drugs. Anti-retroviral drugs are also issued to the alleged perpetrator.

Best practices

- *All offenders are provided with counselling on the dangers of STDs and HIV/AIDS during their induction into a prison.*
- *Ongoing AIDS awareness programmes ensure that offenders are constantly aware of the dangers of unprotected sex.*
- *Peer facilitators (in the state prisons) and Personal Officers (in the private prison) facilitate one-on-one discussions on intimate sexual matters.*
- *Condoms are made readily available to all inmates.*
- *Potentially vulnerable offenders are profiled and separated from known sexual predators.*
- *Offenders who have been sexually assaulted are given counselling.*
- *Both the victim and the alleged perpetrator are issued with anti-retroviral drugs.*

3.6 The management of children and youth

Four out of the seven prisons visited accommodated children and juvenile offenders, the youngest of whom were 14 years of age. These prisons all had in place measures to ensure that young offenders are totally separated from adult offenders. Measures are also in place to separate children and youth by age according to the following cohorts: 14 to 17 years; 18 to 20 years; and older than 20 years of age. It was stated that this separation was necessary as bullying and recruitment into gangs is a constant danger for younger offenders. It was reported that this process was not always successful as it is, at times, difficult to determine the ages of older children, either because they don't know their own birth dates or because they falsify their ages.

In the prisons in which children are accommodated, managers expressed concern at the fact that many of the very young were incarcerated for extended periods for relatively minor offences. This was due, in part, to delays in trial dates and to the fact that their families lack the finances to post bail for them. Such children are especially vulnerable to abuse and corruption by older inmates.³⁷ As a consequence, three prisons (Drakenstein, Westville and Johannesburg), involved unsentenced children in ongoing rehabilitation and peer counselling programmes. It was reported, nevertheless, that most warders do not receive training specific to the management of children juvenile offenders, although it was evident, from offenders interviewed, that many officials had managed to establish a positive rapport with young offenders and, reportedly, had succeeded in reorienting their approach to life.

In all of the youth prisons visited, NGOs, such as Kulisa³⁸ and NICRO, were involved in programmes supporting the reintegration of young offenders into society. Although not run exclusively for young offenders, NICRO's "Tough Enough Programme", assists pre-release offenders with the development of a variety of life skills. Importantly, the programme is also extended to post-release offenders for a period of up to nine months. This latter initiative provides continuing support to ex-offenders as they strive to reintegrate into their families and communities.

³⁷ The 2005 White Paper states that "children should not be in correctional centres and should as far as is possible be diverted from the criminal justice system. Where this is not an option, they should be accommodated in secure care facilities that are designed for children." DCS, 2005, op. cit. para. 11.2.2.

³⁸ For a more detailed discussion of the programmes, see Muntingh, L., "Reintegration", in Sloth-Nielsen, J. and Gallinetti, J. (eds), (2004), *Child Justice in South Africa, A Guide to Good Practice*, (Community Law Centre, UWC, Cape Town).

Khulisa works with both sentenced and un-sentenced children, offering a four part programme aimed at improving offenders' self image, their accountability for their actions, their leadership skills, as well as providing training, learnership and work opportunities following their release from prison. A significant dimension of the Khulisa programme is the fact that it is facilitated by mentors, who are either current or former offenders. These facilitators have an insider's understanding of the challenges which face young offenders, and the programme reports a high level of success.

Best Practices

- *Children and youth are completely separated from adults in all their activities.*
- *Children and youth are separated by age cohorts.*
- *Rehabilitation programmes are offered to unsentenced offenders.*
- *NGOs such as Khulisa and NICRO, provide programmes which support the reintegration of young offenders into society. The NICRO "Tough Enough Programme" involves both pre- and post-release offenders.*

Recommendations

- Legislative changes are required to divert the majority of very young offenders from incarceration in prison.
- Specialist training in the management of juvenile offenders should be offered to those operating in youth prisons.

3.7 The management of gang activity

All of the prisons visited (both state and private) reported that gangs were active in their institutions, although the intensity of this activity varied. Estimates of the number of inmates who were gang members (or affiliates of gangs) varied from 40% to 70%. All of the most prominent prison gangs were reported to be represented, including the numbers gangs (26s, 27s and 28s), the Big Five and the Air Force. Based on a history that stretches back almost a century, the numbers gangs have evolved into highly structured and hierarchical organisations, governed by strict codes of behaviour and with a membership that traverses the country.³⁹ In prisons in the Western Cape it was reported that the interpenetration of street and prisons gangs had added a new and more unpredictable dimension to their behaviour, and this poses additional challenges to prison managers.

It is evident that communal cells and overcrowded prisons provide fertile ground for gangs, both to increase their membership and their power. This is especially evident where there are staff shortages, where remedial activities are limited, and supervision of offender activities is minimal. The collusion of prison officials (whether voluntarily or as a result of coercion) was reported to be a further challenge in combating the influence of gangs. It was stated that the power and influence of gangs revolves, in significant part, around their ability to control the distribution of illicit goods (drugs in particular) and in their capacity to peddle influence. Where this can be controlled, through strict control of access to the prison, through regular and thorough searches of the cells and prison precincts, through strict surveillance and through zero tolerance of corruption on the part of staff, the power of gangs is greatly reduced. It nevertheless must be noted, none of the prisons visited (including the private prisons) claimed to have succeeded in eradicating gang activity.

Amongst experienced warders there is generally extensive knowledge of gang lore and practice, and most recognise that the factors which give rise to gangsterism are complex and deeply rooted in the history and social economy of poor communities in South Africa. In view of this, most of those interviewed argued that the complete eradication of gang activity in prisons is an unlikely prospect in the short run, at least. Instead, warders reported that they focus their attention on containing the spread of gang membership and in limiting opportunities for gangs to extend their influence over prison life.

³⁹ See Steinberg, J., (2004a) *The Number*, op. cit.

In all the prisons visited, prison managers reported that they were pursuing a multi-faceted approach in their attempts to limit the spread and impact of gang activity. Recognising that gangs prey on the vulnerability of offenders, and especially first offenders⁴⁰, prison officials stated that a prime objective was to separate and, if possible, to isolate gang members in specific sections. The Unit Management system assists in this process, but its overall effectiveness is limited by staff shortages. It was further stated that attempts to protect inmates from gangsterism, were undermined by the fact that many were recruited into gangs (often by coercion) while they were awaiting trial and prior to their sentencing.

In all prisons, officials attempt to classify offenders during their induction into the institution. Many gang members are identifiable from their case files, while other sport tattoos depicting their gang identity and rank. However, it is not always possible to identify gangsters and prison officials must rely on intelligence from other offenders to assist them in this process. Intelligence is also used to forewarn warders of impending violence and of other illegal activity. In the private prisons, officials are able to monitor the phone calls of known gang members and to monitor their interaction with gangsters and other offenders.

In general, it was maintained, the more contact that warders have with offenders on a daily basis, the more possibilities exist for them to exert a positive influence on their lives and the greater the possibility they might be diverted from the gang activity. Offenders interviewed in the Westville and Drakenstein youth prisons, as well as in Goodwood prison, reported that interaction with sympathetic warders had played a major role in reorienting their lives away from the gangs. This process involved extensive one-on-one engagement with offenders as well as engagement with their families.

The establishment of “cash-free” systems in the two private prisons, although necessitating the installation of appropriate computer equipment and software, has greatly cut down opportunities for smuggling and other illegal activity. Under this system, all transactions in the prison shop as well as all phone calls and other sundry expenses are paid electronically by means of a offender’s access code. The extent to which offender are able to access funds is a function of the amount which they have deposited, and the number of points they have accrued through good behaviour (this is reflected in the status they have reached in the prison classification system). The same points system is used to reward positive behaviour through increased access to television, increased telephone calls etc.

Perhaps the most effective measure of reducing the impact of gangs, however, would appear to be the introduction of personal development plans for each offender, as is the practice in the two private prison. Under this system (which will be discussed in greater length below), offenders are assigned a schedule for the entire day, whether exercising, training in a workshop, attending religious services, or attending educational classes. Warders in these two prisons reported that keeping offenders active throughout the day, was a key factor in reducing the influence of gangs. Gang activity is further reduced by the fact that offenders are accommodated two to a cell, thus limiting the possibilities for gang organisation after lock-up. It is perhaps because of this, that significant numbers of gang members have requested to be transferred out of the two private prisons, despite the availability of excellent training and recreational facilities, good food and the absence of overcrowding. It is reported that most hardcore gang members find the highly regulated form of life in these prisons to be disempowering.

Best Practices

- *The operation of a “cash-free” prison (as in the case of Kutama-Sinthumule and Mangaung) requires the installation of appropriate computer hardware and software, but limits possibilities for smuggling and other corrupt dealings.*
- *The classification and separation of offenders assists in preventing the spread of gang membership.*
- *Strict control over the entry of drugs and other contraband into prisons limits the power of gangs to peddle influence*
- *The more offenders’ days are regulated and organised, the less likely they are to become engaged in gang activity.*

⁴⁰ New inmates are recruited through the combined effects of proffered protection and threats of violence.

- *Accommodating no more than two offenders in a cell cuts down the opportunities for gang organisation.*
- *Effective intelligence helps warders to anticipate and implement measure to prevent violence.*
- *Intensive personal interaction between warders and offenders, as well as with their families, assists in diverting gang members away from their gangs.*

Recommendations

- In view of the fact that many offenders are held for lengthy periods of time prior to their trial and sentencing, measures should be introduced at this stage to separate non-gang from known gang members.
- Large communal cells create opportunities for gang mobilisation and should be avoided in the construction of new prisons.
- Given the serious negative impact which gangs exert on prison life and security across the country, it is proposed that a national gang management should be formulated.⁴¹

3.8 Civilian oversight of prison administration

All prisons managers reported that they were receptive to independent prison visits and all reported that they had received a range of visitors in recent months.⁴² In addition to church groups and religious workers (who visit regularly and often on a daily basis), it was variously reported that the Inspector of Prisons, the Human Rights Commission, Lawyers for Human Rights, magistrates, NGOs, and members of parliament, amongst others, had paid visits to prisons. The private prisons, similarly, welcomed a broad range of visitors, including voluntary workers who supported various different programmes. For security reasons, some of these visits needed to be arranged in advance.

Best practice

- *Prison managers (both state and private) maintain a receptive approach to oversight by civilian organisations and facilitate their visits when these are requested.*

3.9 Management of prison escapes

Offender escapes did not constitute a serious problem in the seven prisons visited. During the preceding three years, Malmesbury, Goodwood and Kutama-Sinthumule had recorded no escapes, while Johannesburg Youth, Westville, Youth, Drakenstein Youth and Mangaung⁴³ had each experienced one escape.

It is evident that the prevention of escapes is as much a function of the physical security systems in place as the stringency with which security measures are adhered to on a day-by-day basis. It is also evident that the existence of strict security measures act as disincentive to offenders wishing to escape as well as to their accomplices. Amongst the measures deployed to prevent escapes, include electrified fences, surveillance cameras on both the inside and outside of the prison and, in the case of Kutama-Sinthumule, continuous vehicular patrols around the perimeter of the prison complex. The two private prisons have three levels of security (namely the prison perimeter, the housing sections and individual cells), whilst most state prisons have two levels.

It was also reported that some escapes had been facilitated by prison staff themselves, suggesting that the code of ethics instilled in them through training and practice is wanting. It is also evident that

⁴¹ The need for such a strategy is alluded to in the 2005 White Paper. DCS, 2005, op.cit. para. 10.6.2.

⁴² The Law Society of South Africa, in their prison report for 2003 affirm the openness of prison authorities to visits by organisations from civil society and state that "there is one element of these human rights prison visits that has not attracted the publicity it deserves: the continued and increased cooperation and enthusiasm shown by the Department of Correctional Services through the heads of Department of the various prison." Law Society of South Africa, *2003 Prison Report*, 2004, p.5 <http://www.lssa.org.za/Portal/uploads/prison%20report%202003.pdf>.

⁴³ The private prisons face a penalty of R300 000 for every escape from prison.

those official who assist offenders to escape do so in the belief that security systems can be evaded without the risk of their own exposure. Once again, this suggests that the deterrence of security measures has been undermined by lax adherence to procedure or general weaknesses in the security system as a whole.

Best practices

- *Strict searching (using metal detectors and body searches) of all persons entering and leaving the institution, including all echelons of the prison staff, as well as regular searching of cells.*
- *Regular surveillance of both the interior and perimeters of the prison (both measures requiring the necessary equipment).*
- *The operation of three levels of security in the private prisons lessens opportunities for offender escapes.*
- *Improved induction training on security issues, as well as the hosting of refresher courses on the means to prevent escapes.*
- *Regular maintenance of prison security equipment*

3.10 Case management

From the time of their induction into a prison, until the date on which they are finally released or transferred, the behaviour and activities of individual offenders are formally tracked through a case management process.⁴⁴ Each new inmate is assigned a Case Officer, who monitors his or her activity and provides feedback on progress. The behaviour patterns recorded through the case management system are instrumental in determining the grading of offenders, their privilege categories, as well as their prospects for parole. Ideally, the ratio of offenders to case officer should be 1 to 20. However, due to staff shortages, this ratio is sometimes as high as 1 to 50 (as in the case of Goodwood prison). In terms of DCS norms, each offender should be assessed every six months by a Case Management Team comprising, the case officer, a social worker and a senior correctional officer. The extent to which assessment takes place on schedule is variable. In some of the prisons visited, offenders maintained that the interval between assessments could be as long as twelve months. It was stated that the fulfilment of offender development plans is compromised by staff shortages and a lack of resources.

Similar procedures in case management are followed in the private prisons, although, in its entirety, the process is more structured. On arrival, new offenders undergo a thorough assessment in the induction unit, which determines their

individual needs.⁴⁵ On the basis of this assessment, personal development plans and sentence plans are drawn up for the offender. In terms of the contractual arrangements the prisons have entered into with the DCS, all offenders must be engaged in activities (work, education, sport, recreation etc.) for up to 40 hours a week. The personal development plans are aimed at addressing offending behaviour, social skills, vocational skills and education. The plans are computer based and prescribe a schedule of activities for each offender for every day of the week. According to contractual arrangements with the DCS, offenders are expected to be involved in activities for 40 hours a week. The personal development plans are accessible on line by the units, and by all professionals (social workers, educators etc.) working with the offender. The offender's performance is then reviewed every six months and inputs are received on all aspects of his or her behaviour (educational, social, psychological etc.).

Best practices

⁴⁴ The exception to this practice occurs in the management of offenders who have been sentenced to twelve months imprisonment or less as they are excluded from the case management process.

⁴⁵ In line with this practice, the White Paper proposes the development of an offender-specific Correctional Sentence Plan which will take into account the specific correctional settings in which offenders are situated. The plan would encompass security needs, needs of physical and emotional wellbeing, education and training needs, physical accommodation needs, and post release and after-care needs. DCS, 2005, op.cit. p. 69 para. 9.7.2.

- *The case management systems developed in the private prisons provide a structured programme for the rehabilitation of offenders.*
- *The personal development plans which offenders follow in these prisons, ensure that they are engaged in activities for 40 hours a week.*
- *All offender case files in the private prisons are stored in a computer database. The information contained in each file is comprehensive and in addition to details of sentencing and previous convictions, it includes data on a offender's dietary, religious persuasion, education and exercise regimes, and disciplinary record amongst others. The information is updated regularly and is accessible to different departments in the prison complex.*

Recommendation

- Some form of case management should be instituted to monitor the progress of offenders sentenced to twelve months imprisonment or less. This will assist in deterring such offenders engaging in gang or other forms of criminal activity.

3.11 The availability of medical facilities

The availability of medical facilities was variable in the state prisons visited. Whilst all had dispensaries, which distributed basic drugs, others had a sickbay and even a fully functional dental clinic. The frequency with which offenders are able to receive medical treatment was likewise variable, and some were able only to receive treatment by a doctor or dentist once a week. Nevertheless, all prisons reported that they had provisions in place to transport emergency cases to external medical providers.

The private prisons have extremely well equipped medical facilities. Each has a 50 bed hospital, clinics, a dispensary and a dental clinic. Kutama-Sinthumule also has a fully equipped emergency room. In addition, there are nursing stations, for the distribution of basic medicines, in each unit. Doctors pay regular visits to the prisons are on call for serious cases. Both prisons accommodate offenders with full-blown AIDS, although most are transferred to state hospitals before they die. Both offenders and staff reported that access to medical care was both quick and of a high standard.

Best practices

- *The medical facilities available in the private prisons ensure that offenders receive high quality medical care as requested. The ready access to medical care reduces anxiety amongst those who are sick.*
- *In addition to basic medicines, all state prisons have arrangements in place to ensure 24 hour access to external health providers (usually a local hospital) in the event of an emergency.*

3.12 The availability of educational/training facilities

All state prisons have teaching and training facilities, but managers reported they are generally too few to meet the needs of all offenders, and it was stated that their quality is often poor. The prisons visited typically have classrooms, a library, a workshop, and a computer room (although the computers are often dated). It was evident that the facilities available are insufficient to accommodate all offenders wishing to use them. Offenders access to the prison libraries varies and is conditioned by the availability of library staff. Nevertheless, the libraries visited were, for the most part, well stocked and had material appropriate for their readers. Thus all libraries held books in the vernacular of most of their inmates (including English, Zulu, Afrikaans, Sesotho and Xhosa).

All state prisons provide some form of training, including Adult and Basic Education (ABET), basic computing skills, craftwork etc. In four of the state prisons visited, however, offenders complained that there were insufficient teachers. It was also maintained that those who came, did so infrequently (sometimes only four times a month for three hourly sessions), whilst other had not prepared properly for their lessons. Notwithstanding these limitations, in all of the institutions visited, offenders at all

levels of education are actively attempting to improve their standing in life through continuing and further education.

Offenders are able to develop a variety of artisanal skills in prison workshops. Thus, in the Malmesbury prison offenders are able to learn a variety of skills in the prison workshops (including carpentry and basic mechanics), in Westville Youth they can learn bricklaying and other building skills, and in Drakenstein they can develop agricultural skills.

Due to staff shortages, the lock up period in prisons varies from 12 to 14 hours a day. The time that offenders spend in their cells during this period is generally an unproductive one. It was reported that it is also during this period that gangs are most active in mobilising members and in planning activities.

Goodwood prison has embarked on a programme to train inmates to conduct continuing education programmes in their cells after lock up. Offenders who are interested in furthering their studies are placed in communal cells with like-minded inmates and receive instruction from one or more mentors. Over and above formal ABET courses and other levels of study, the programme also provides motivational videos and reading material, which encourages both self-awareness and introspection. The initiative extends training hours and protects offenders from coercion by gang members.

The educational and training facilities available to inmates in the private prisons are of a high standard. Each prison has ample classrooms (Kutama-Sinthumule has 36 while Mangaung has 16 plus 18 multi-purpose rooms), computer rooms (2 and 3 respectively) and each has 6 workshops and 2 gardens (for horticultural training). Formal educational training includes Adult Basic Educational Training (ABET) levels 1 to 4, secondary school grades and provision is made for distance learning at tertiary level. Daily newspapers are available to all inmates, thus encouraging reading skills and lessening their isolation from events in the outside world.

A range of vocational training is offered in the workshops, including tailoring, woodwork, leatherwork, metalwork, car mechanics, bricklaying, and candle making. The workshops are fully equipped and produce a range of clothing and other goods, both for use in the prison and for sale elsewhere. The skills learnt by offenders are such that they will be of value in securing jobs on their release. A shortcoming of the vocational training system, however, is the fact that offenders who have undergone training, do not get an opportunity to refresh their skills periodically. As a consequence, skills atrophy is inevitable, particularly among offenders serving long sentences.

A range of providers from government departments, religious organisations and NGOs assist in the delivery of educational programmes. The offender ability to access educational programmes facilitates the implementation of independent development plans by each offender in the institution.

Best practice

- *The training of offenders to act as tutors, allows learning opportunities to continue after lock up and assists in reducing gang activity.*
- *The provision of a broad range of formal and vocational learning opportunities provides an important platform for the rehabilitation of offenders, equipping them with skills to find gainful employment on their release.*
- *State prisons had librarians to assist offenders in their choice of literature' All libraries had literature in the vernacular of the region.*
- *Offenders in the private prisons have daily access to newspapers.*

3.13 The availability of recreational facilities

All state prisons have some recreational facilities, including sports fields, karem tables, table tennis, football, basketball and gymnasias. Cards and various board games are also available in all prisons. In general, there was a noticeable lack of facilities in the youth prisons visited (in Westville and Johannesburg in particular). In such prisons, inmates had no access to playing fields (games were played in a cemented courtyard). All offenders have access to television viewing. Typically televisions are located in a communal area in each unit, but in some of the prisons they are placed in the cells. In general, offenders interviewed in the state prisons complained that the recreational facilities available were inadequate. That stated, it was evident that the warders (particularly in the youth prisons) went to great lengths to organise recreational activities, including sporting and cultural events, for the inmates.

Westville Youth prison has no playing fields and limited recreational facilities. Despite these limitations, the staff regularly organise sporting and cultural events for the inmates. These include soccer, basketball and volleyball tournaments between sections, fashion shows, singing competitions and plays. Photographs in the recreational areas attest to the extent of inmate participation and the spirit in which events are entered into. All of the events organised assist offenders to focus their energies into positive activities.

Recreational facilities in the private prisons are of a high standard. In addition to a gymnasium, facilities exist for soccer, rugby, volleyball, basketball and table tennis. In each section there are televisions, a pool table and, in the case of Mangaung, a home gym set. Competitive sporting activities are organised between different sections in the prison. Adequate access to sporting and recreational facilities forms an integral part of an offenders personal development plan.

Best practices

- *Despite limited physical resources, warders in the youth prisons organise events which provide exercise and entertainment for the inmates.*
- *A wide range of recreational facilities in the private prisons permit inmates to remain physically active and to maintain a positive outlook.*

3.14 Food preparation

Food preparation in the state prisons visited is undertaken either by the institution itself or else the activity had been outsourced. In the first instance food is prepared by prison chefs (themselves inmates) under the supervision of a correctional officer, who is also responsible for ordering and stock control. In the second instance, management of the kitchens is sub-contracted out to a private company, although the food itself is still prepared by inmates. It was reported that the outsourcing of food preparation had led to a higher standard of meals as well as a decrease in theft and wastage of stock. It was reported that the meals served comply with balanced diets specified by the DCS. This means meeting the average daily nutrition targets of 2500 kilojoules for adult men and 2800 kilojoules for growing children.⁴⁶ Provision is also made for offenders with special dietary needs, as well as those, such as Moslems, with religious requirements. Where the prisons maintain their own gardens the quality of vegetables, at least, is very good. Offenders receive three meals a day and, depending on the prison, the last meal is delivered between 15h00 and 17h00.

The kitchen facilities and quality of food prepared within the two private prisons is exemplary. Standards of hygiene are high and, in addition to those with special needs, the general offenders receive a more diverse diet than in state prisons. High protein diets are offered to all offenders and

⁴⁶ It was reported that these average daily nutrition targets were being amended to comply with the South African Dietary Guidelines. In the past the daily nutrition provided was based on American guidelines.

not just those with special needs. In addition, Kutama-Sinthumule prison makes provision for a summer and winter menu. As in the state prisons, food is prepared in a central kitchen and is then dispensed through serveries located in each section. Chefs serve food through a small waist-high hatch, thus minimising the possibilities of favouritism in the allocation of food. A sample of each meal type served, is kept in a refrigerator for a period of three days, in the event of possible contamination. In Mangaung, bacterial tests are conducted on food and the samples are tested in laboratories at the University of the Free State. Sterilising agents are used in the dishwashing machines to minimise the possibility of the spread of disease. Inmates in both of these prisons spoke highly of the food which they received.

Best Practices

- *The outsourcing of food preparation in state prisons appears to have improved the overall quality of meals and has reduced stock losses.*
- *Prisons, and especially the private prison, cater for the special dietary needs of offenders.*
- *Food samples are retained for three days; in the event of any contamination of food, these samples can be analysed.*

4.0 Management and Finance

The management of budgets and the control of resources is vital to the effective functioning of all correctional institutions. The misuse of resources, poor financial control and planning, or the misappropriation of funds will inevitably impact of the functioning of prison system in some way. Conversely, effective budgeting, tight fiscal control and sound financial planning, will ensure that prisons and their inmates at least have the basic resources and amenities to sustain themselves.

4.1 Tendering and Procurement Policies

The tendering procedures and procurement policies followed in state prisons are prescribe by the Treasury's Procurement Administration System (PAS) manual. Tendering is generally undertaken through the regional offices, but tenders for large expenditures are managed by national headquarters. Tendering for capital works is undertaken by the Department of Public Works through the State Tender Board. The latter process is reported to lead to long delays in the delivery of supplies and capital goods, which, in turn, impacts on the effective running of prisons.⁴⁷ Some prison managers stated that the quality of goods received through regional tendering processes were not always up to standard and the prices appeared inflated. Prisons with there own workshops (producing clothing, blankets etc.) and gardens, are able to circumvent much of the procurement process.

The private prisons do not issue tenders, instead three quotations are obtained for every transaction (that is if the services or goods required are available from more than one supplier). Thereafter, the purchase is requisitioned and the order is approved by relevant senior officials. The procurement process is expected to comply with government policy on black economic empowerment. The selection of suppliers is based on their capacity to deliver high quality goods and services quickly. As a consequence, both prisons reported that procurement processes ran smoothly. In addition, sufficient stocks (of clothing, bedding, etc) is held to cover any shortfalls.

Best practice

- *The processes followed by the private prisons avoid delays in the purchase of goods and services and demonstrate the positive impacts on prison management of streamlined procurement systems.*
- *Private prisons carry additional stock to cover short-term shortfalls in goods.*

⁴⁷ The 2003/04 report by the Accounting Officer to the Executive and Parliament identified "Delayed tenders and contracts with regard to equipment (inmate tracking and information technology etc.) as one of the principle reasons for over and under spending." DCS, 2004, op. cit. para.4.1.1.

Recommendation.

- In view of the delays incurred in issuing national tenders, consideration should be given to decentralising this function to the regional level.

4.2 Budgetary Systems

Generally, managers in state prisons reported that they did not receive the full budget which they had prepared and submitted to regional headquarters. Nevertheless, a deviation of just 2% is permitted in annual budgets received. This led to problems in replacing obsolete equipment and in the general maintenance of the prison. Overcrowding and the need to accommodate awaiting trial detainees (brought in by the police), in particular, led to shortfalls in the availability of clothing and food. It was reported that prisons circumvent these problems by borrowing from neighbouring prisons. Despite such unfunded mandates, prison managers reported that they normally managed to operate within approved budgets. They do so by holding monthly financial meetings to monitor the rate of spending and to consider other aspects of the budget.

The private prisons reported that the budgets under which they operate are sufficient to cover normal operating costs as well as to repair or replace damaged equipment and to maintain the infrastructure of the prison. Managers at Mungaung prison maintained that it was company policy that damaged equipment should be repaired within twenty-four hours.

Best Practice

- *A well drawn up and balanced budget provides for the eventuality of equipment break down and the need to undertake ongoing maintenance of plant and buildings.*

4.3 Auditing Systems

In terms of the provisions of the Correctional Services Act of 1998, the DCS “must conduct an internal service evaluation by means of internal audits and inspections in order to assess and determine the level of compliance with legislation and practice.”⁴⁸ All state prisons reported that they are subject to these auditing procedures, conducted every six months by internal auditors from the regional offices and annually by the national office. Independent external audits are undertaken every two years. In addition, sections are subjected to regular spot checks. It was stated that with the switch to Unit Management, some of the responsibility for stock control had been decentralised to the sections and units. A major constraint to the effective auditing processes, however, remains the fact that none of the prisons make use of a management information system, to track expenditure against institutional objectives and strategies. Managers also reported that internal audits had sometimes found that their compliance with national policy and legislation had not yet reached the required standard.⁴⁹

The private prisons, operating under strict contractual agreements, have in place rigorous internal and external auditing systems. Amongst the company officials involved in the Mungaung internal audit process (albeit in different ways), are the supervisors, managers and heads of units, the internal audit department, the health and safety supervisor, the deputy director, director and board of directors, as well as the DCS controller responsible for contract compliance. Of interest is the fact that the audit does not solely assess the proper disbursement of funds and utilisation of resources, but also considers the extent to which compliance has been met in maintaining unit and financial

⁴⁸ DCS, 2004a, op. cit. para 2.6.1. B(d)

⁴⁹ The 2003/04 Report of the Audit Committee noted that: “in almost all reported instances of non-compliance, the weaknesses confirmed a lack of supervisory commitment on the part of management. DCS, 2004, op. cit, Report of the Audit Committee, para. 3.1.4. The 2005 White Paper proposes the development of a Risk and Fraud Management Strategy as a means to promote cost effective utilisation of resources and to address mal-administration and corruption. DCS, 2005, op. cit. p.13, para.10.

standards, health and safety, security, maintenance, and the delivery of services by all sub-contractors.

In addition to the scrutiny of a reputable chartered accounting firm, the external audit also entails oversight by range of other bodies, including the Office of the Auditor General, the Independent Prison Visitor, the Office of the Inspecting Judge, the Law Commission and others

Best Practice

- *Prison audits (both internal and external) are carried out in systematic fashion.*
- *The audits of private prisons include assessment of the extent to which they have met their contractual obligations in the maintenance of health and safety, security etc.*

4.4 Asset management and recapitalisation

The day-to-day maintenance of plant and equipment is undertaken by prison staff and, where this is not possible, by the Department of Public Works. Prison managers reported that the recapitalisation funds at their disposal were insufficient for their needs. It was stated that when staff were no longer able to repair equipment, delays were experienced before it was finally replaced. This is aggravated by the delays incurred during the procurement process.

It was reported that a process is currently underway to capture all fixed moveable assets (machinery and equipment) on a Web Asset Tool. The assets are captured on the Asset Tool at the actual invoice price as opposed to the average unit price (which has been the practice). This facilitates the process of asset depreciation and recapitalisation.

Within the private prisons all assets are capitalised and are depreciated over their life span. Depending on the nature of the asset, they are written off over either a three or five-year period.

Best Practice

- *All assets in the private prisons are capitalised and then depreciated over a period of three or five years. In this way, old equipment is replaced within an approved budgetary framework.*
- *The systematic capture of fixed assets in state prisons will facilitate the process of depreciation and capitalisation and should lead to more effective replacement of obsolete plant and equipment .*

4.5 Information systems

In general terms, all of the state prisons visited were under-resourced in terms of access to computer hardware and software. In some prisons, only senior management had access to a PC and e-mail. However, even where PCs were available, offender records were maintained in a manual database. This system presents complications when it comes to tracking offenders' progress and when linking information from other parts of the prison. It was noteworthy that the units themselves had no PCs and hence were not linked to the prison's data base. In effect, the manual upkeep of records limits the potential of the case management system.⁵⁰ Without electronic databases, it will not be possible to link files with the courts and police service. The control of stock is also compromised by the absence of electronic stock lists.

It was stated that the entire DCS information technology system was under review and that the Masters Systems Plan was being updated. This would see the rationalisation of operating systems and the database environment and the progressive development of a homogenous IT environment. It

⁵⁰ The Law Society of South Africa reportedly found similar shortcomings in record keeping in other state prisons. The Society's 2003 Prison Report state that "Inspection visits in 2003 revealed that there was a serious lack of record keeping within some correctional facilities. Not only records pertaining to the offenders but also records pertaining to the Department, such as the numbers of warders employed in a facility, disciplinary cases reported and those finalised." Law Society of South Africa, 2004, op. cit. p. 6.

was stated that the existing system was extremely heterogeneous and this posed a serious impediment to the integration of information networks in the Department.

The private prisons have highly sophisticated computer networks which, *inter alia*, control prison databases, offender development plans surveillance systems, and security systems. They are also central to the running of a cash-free system.

Best Practice

- *The availability of appropriate computer hardware and software systems, enables the private prisons to manage sophisticated databases and to plan and track the activities of individual offenders on a twenty four hour basis.*
- *The migration from a heterogeneous IT applications environment to a homogeneous environment is assisting the development of an integrated information network in the DCS.*

4.6 Communication systems

The frequency and effectiveness of communication between prisons and regional and national headquarters varies from prison to prison. Typically, communication is made by post, telephone, fax, e-mail and personal visits. Some prisons reported delays in feedback from regional offices and stated that this sometimes compromised effective operations (for example, when much needed stores are delayed by tendering procedures). In other prisons visited, however, communications with the regional offices were reported to be very strong, with at least weekly contact between them maintained. In the case of Westville, it was stated that prison managers also worked closely with local law enforcement agencies through an Area Coordinating Operations Committee. This assisted in the management of gangs, the prevention of escapes and the tracking of parole absconders. It was evident that the effectiveness of communications between prisons and regional offices was conditioned more by inter-personal relations than by shortcomings in the system of communications in place. In contrast, without exception, all of the state prisons visited reported that their communications with DCS headquarters were slow and that this led to delays in decision-making, and not least in the filling of vacant posts.

A further dimension of communication relates to that between Correctional Services, the media and the public. Although formal media communication strategies are formulated by head office in Pretoria, individual prisons do play an important role in communicating the objectives of the DCS. They can also serve as significant correctives to the public image of state prisons projected in representations to the Jali Commission. Thus, the Goodwood prison has received positive media coverage for its programme of restorative justice and Westville Youth prison has received favourable reports for its rehabilitative work with children and youth.

The private prisons reported very good levels of communication with both the regional and national offices of the DCS. Operational are held with DCS officials in Pretoria on a monthly basis. Regular contact with the DCS is necessary for contractual reporting, but the practice also ensures good information flows and further ensures that contentious matters are resolved quickly.

Best practices

- *Sound communications between regional offices of the DCS and prisons, facilitates effective management decision-making, and ensures the timeous acquisition of resources and appointment of staff.*
- *Good communications between regional and national offices of the DCS ensures that contentious matters are resolved before they become problematic.*
- *Individual state prisons have been proactive in generating positive media coverage for their programmes of rehabilitation.*

4.7 The implementation of national policy

It was reported that prison managers are introduced to all major national policies and legislation through various training processes. It was also stated that national policies were being implemented in prisons but not to the extent required. This was ascribed to the fact, that while many new national policies comply with international best practice, the prisons, themselves, lack the resources and administrative capacity to implement them. As a consequence, some national policies are only partially implemented. Thus, for example, Unit Management was being implemented in all the state prisons visited, but shortages of staff and offender overcrowding limit the impact of this approach. It is also evident that poor training and inadequate adherence to administrative procedure further serves to undermine the goals of Unit Management. Paramount in the new system is the management of time. It was stated that optimally, 50% of the offenders' time is spent on managing issues directly related to their physical well being (sleeping, eating, health, recreation, etc.), 25% is intended for special programmes, and 25% should involve case officers. Where there is a shortage of adequately trained case officers, or where time is not properly managed, offenders spend an inordinate amount of their time inactive, and a key component of the unit management philosophy is undermined.

The private prisons, in contrast, reported strict compliance with all forms of national policy, including those governing correctional services, labour relations, black economic empowerment, affirmative action etc. This is, in part, due to the fact that the contractual arrangements entered into with the DCS, prescribed severe penalties for failure to comply with national legislation and policy. Over and above the audit processes, referred to above, the private prisons are subject to the constant scrutiny of independent monitors from the DCS. These Correctional Services Controllers are located in the prisons and constantly report on compliance with contractual obligations as well as with national policy

5.0 Conclusion

This research initiative set out to examine best practices in the governance of five state prisons designated as centres of excellence, together with the two privately managed institutions. The investigation found that there is a range of best practices evident in the management and administration of both private and state prisons. Some of these practices relate to the effective way in which national policies are being implemented, while others reflected innovation on the part of individual prison managers and their members.

It was also apparent that the conditions under which some prison managers operate, precludes the possibility of best practice in certain areas of operation. Thus, the overcrowding of prisons and the ensuing staff shortages, compromise virtually every facet of prison governance, including the security of staff and inmates and the rehabilitation of offenders. It is also certain that offenders incarcerated under such circumstances are denied some of their fundamental rights. However, it would not be an overstatement to assert that very few of the shortcomings raised by staff and offenders during the course of this investigation have not been recognised and discussed, in one form or another, by the DCS in its 2005 White Paper.

The investigation also found that good governance of prisons is not necessarily a function of an abundance of resources, and inversely, poorly resourced prisons are not necessarily corrupt prisons. Thus, many of the best practices identified in state and private prisons were reflective of sound prison management practices rather than the availability of additional resources. Overwhelmingly the evidence of this investigation points to the fact that good prison governance is distinguished more by the quality of the leadership in place than by the quality of facilities.

While the physical amenities and resources available to private prisons render direct comparison with state prisons meaningless, it is evident that much of the success of the private prisons may be attributed to the management regimes under which they operate. This places considerable emphasis on the career development of staff and on a professional ethos. This approach helps to shape the institutional culture of the private prisons, to the extent where lax behaviour is censured, or disciplined, and excellence is readily awarded. The professionalism of an institution, once established, allows officials to "do the little things right"; these include routine adherence to security procedures, the maintenance of hygienic standards, and zero tolerance of inappropriate or corrupt behaviour among staff and inmates. It is evident that good governance, first and foremost, concerns

the effective management and motivation of prison staff. Significantly, the investigation found that many of the best practices introduced in the private prisons are cost effective and can be introduced into state prisons with major budgetary adjustments.

The 2005 White Paper embodies many of the best international practices espoused in various international instruments as well as those identified by independent commentators from academia, the non-governmental sector and elsewhere; this relates especially to the correction and rehabilitation of offenders. The White Paper is also remarkable open in its recognition and acceptance of the challenges which it faces in reorienting the organisational culture of state prisons, in addressing corruption and maladministration and in promoting a system of governance which is oriented to the rehabilitation and reintegration of offenders into society. Such openness in recognising systemic administrative shortcomings is a pre-requisite to the development of any learning organisation and augurs well for the future transformation of the DCS. The challenge in the years ahead will be to operationalise this vision. In that regard, the investigation found that many of the key elements of the White Paper are already being implemented in the state prisons visited, but it was also apparent that the process is uneven and unsystematic.

Overcrowding unquestionably challenges most aspects of good governance and presents a threat to the implementation of the White Paper. Proposals by the DCS to build a number of new generation prisons will go some way towards redressing this shortcoming. However, international experience has shown it is not possible to “build one’s way out of overcrowding” and other solutions to the problem are also required. To an extent, the effects of overcrowding can be reduced by limiting time spent in cells and by optimal usage of all available open space. More significantly, a reduction in overcrowding will require a review and reform of parole and sentencing regimes as well as improvements in the time in which cases are brought to court - in effect, a joint initiative of the police service, the judiciary (through the legislature) and correctional services. In fact, close engagement with the other structures in the Integrated Justice System and the Social Services Cluster, as advocated in the White Paper, is essential to the revitalisation of correctional services.

Success in achieving the objectives of the White Paper will also be determined, in large part, by the manner in which custodial and administrative staff are recruited, trained and retained. As the White Paper acknowledges, there is an urgent need for the stabilisation of staff structures and the establishment of career paths as a means to professionalizing correctional services and to retaining good staff. In part this will entail recruitment of additional personnel, but it will also imply systematic and ongoing training and, in particular, specialist training for specific categories of offenders (children, women etc.). It is also important that staff disciplinary codes are made explicit and discussed thoroughly with all levels of the prison administration. As part of this process, it is of critical importance that disciplinary measures are systematically enforced throughout the correctional services.

Similarly, greater civil society understanding of the role of correctional services needs to be promoted, both through direct engagement in service provision and oversight, and through DCS publicity. In particular, the case needs to be made that the correction and rehabilitation of offenders is the responsibility of the entire society. It also needs to be emphasised that, the negative media publicity aside, there are many hard working and conscientious staff working in the state prison system and more attention needs to be paid to their achievements. Similarly, there needs to be a better appreciation of the fact that the transformation of correctional services in South Africa, as is the case in most other sectors of the social and political economy, is a process which will take time to achieve. To that extent, the twenty year time frame set for the achievements of the goals of the 2005 White Paper is a realistic one. It is also certain that policy on correction will undergo further refinement as the process of democracy in South Africa evolves. In that respect, the words of Coyle are particularly apt:

“It has to be recognised that good prison management is dynamic. It is a continuous process rather than something that can be achieved once and for all and, very importantly, that it is a means to an end rather than an end in itself. To express this in different terms, it is a journey which never ends.”⁵¹

End

⁵¹ Coyle, A., 2002a, op.cit. p. 98

6.0 Bibliography

Barclay, A., (2003) "Demilitarisation" in Prison Services in Central and Eastern Europe", (Position Paper, International Centre for Prison Studies, London)

Coyle, A., (2002) *A Human Rights Approach to Prison Management*, (International Centre for Prison Studies, London).

Coyle, A., (2002a) *Managing prisons in a time change*, (International Centre for Prison Studies, London)

Department of Correctional Services, (1998) *Correctional Services Act*, Act 111 of 1998, Pretoria.

Department of Correctional Services, (2004) *Annual Report for the 2003/04 Financial Year*, Pretoria.

Department of Correctional Services, (2005) *White Paper on Corrections in South Africa*, Pretoria.

Dissel, A., and Jody Kollapen, J., (2002), "Racism and Discrimination in the South African Penal System", (Research Report, Centre for the Study of Violence and Reconciliation, Johannesburg).

Dissel, A, and Ellis, S., "Reform and Stasis: Transformation in South African Prison", (2003) (Centre for Study of V Violence and Reconciliation, Johannesburg
<http://www.csvr.org.za/papers/papadse.htm>)

George, A, (2003) "Crime pays: well, it does if you run the prison", *New Internationalist*, April 2003

Gillespie, K., (2003) "Correction: A Vision for Securing Democracy in the New South Africa", *GSC Quarterly*, 10 (Fall 2003).

Harding, R., (1997) *Private Prisons and Public Accountability*, (Oxford University Press, Buckingham).

High Commissioner for Human Rights, (1977), *Standard Minimum Rules for the Treatment of Prisoners*, (Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977).

Ignis, (2002), "Technical Review of the Public-Private Partnership Prisons Contracts" (PPP Prisons Task Team).

Jacobson, L., (2005) "Profitable Prisons", *The Big Issue*, Issue 92, Vol. 9

Judicial Inspectorate of Prisons, (2003). *Office of the Inspecting Judge, Annual Report 2002/2003 Offenders and Prisons*, (Cape Town)

Law Society of South Africa, (2003), *Prison Report*

Lefevere, P., (2003) "Mixing prisons and the profit motive: Southern Bishops criticize growing privatisation", *National Catholic Reporter*, 5 September 2003

Muntingh, L. (2004) "Reintegration", in Sloth-Nielsen, J., and Gallinetti, J, (eds), *Child Justice in South Africa, A Guide to Good Practice*, (Community Law Centre, UWC, Cape Town)

Painter-Morland, M., Mafunisa, J., Badenhorst, L., Richards, A., Zvekic, U., Gopane, T., Kitshof, R., Bodasing, I. (2003) "Focussed assessment of anti-corruption capacity within the Department of Correctional Services", (United Nations Office on Drugs and Crime, Department of Public Service and Administration, Business Enterprises University of Pretoria, Pretoria).

Shaw, M, van Dijk, J., and Rhomberg, W., (2000), "Determining Trends in Global Crime and Justice: An Overview of Results from the United Nations Surveys of Crime Trends and Operations of Criminal Justice Systems", *Forum on Crime and Society*, No 1 and 2, December 2000.

Sloth-Nielsen, J., (2003), "Overview of Policy Developments in South African Correctional Services", (CSPRI Research Paper Series, No 1, July 2003).

Sloth-Nielsen, J., and Gallinetti, J, (eds), (2004), *Child Justice in South Africa, A Guide to Good Practice*, (Community Law Centre, UWC, Cape Town)

Steinberg, J., (2004), *Nongoloza's Children: Western Cape prison gangs during and after apartheid*, (Centre for the Study of Violence and Reconciliation, Braamfontein).

Steinberg, J., (2004a), *The Number*, (Jonathan Ball Publishers, Johannesburg and Cape Town).

Stern, V., (2002) "Address by Baroness Vivien Stern to the Second Pan-African Conference on Penal and Prison Reform in Africa", Ouagadougou, Burkino Faso, 18-20 September 2002.

Walmsley, R., (2000), "Prison population size: problems and solutions", A paper presented at a Council of Europe seminar for Judges and prosecutors in the Russian Federation, Moscow, 11 October 2000.

Walmsley, R., (2003) "Global incarceration and prison trends", *Forum on Crime and Society*, No. 1 and 2., December 2003.