

**SUBMISSIONS BY THE CIVIL SOCIETY PRISON REFORM INITIATIVE:  
DEPARTMENT OF CORRECTIONAL SERVICES 2010/2011 ANNUAL REPORT**



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## **1. Inmate Composition**

There is a notable absence in the DCS Annual Report of 'Composition of Inmates.' In the previous Annual Report, the following categories of inmates were recored:

- i) women in DCS facilities, sentenced and unsentenced;
- ii) children in DCS facilities, sentenced and unsentenced;
- iii) inmates in custody per crime category; and
- iv) the length of detenion of remand detainees.

Information of this nature is critical to the evaluation of the performance of DCS. It is also essential for the purposes of research and understanding the nature of crime and rehabilitation. It is recommended that the Portfolio Committee request DCS to explain the absence of such statistics from the Annual Report.

## **2. Torture and Assaults**

The problem of assaults in prisons has gained much publicity in the last year, with numerous allegations of torture having been reported in the media. One particular incident involved the use of electric shock equipment.<sup>1</sup> To date, DCS has not reported on the purported investigation that subsequently took place. In addition, DCS has also failed to report on the *McCallum* case: a matter involving a mass assault in 2005 at St Albans Prison which was communicated to the UN Human Rights Committee (HRC). The HRC found that McCallum's right to be free from torture, protected by Article 7 of the International Covenant on Civil and political Rights, had been violated. It required that the state was required to "provide the

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<sup>1</sup> "Prison torture claims probed" Reported by IOL, 19 July 2011, <http://www.iol.co.za/news/crime-courts/prison-torture-claims-probed-1.1101901>

author with an effective remedy, including a thorough and effective investigation of the author's claims falling under article 7, prosecution of those responsible and full reparation, including adequate compensation.' It also stated that the state was under an obligation to prevent similar violations in the future.

There has been a significant increase in the number of assaults in prisons. The Report explains that the reason for the variance is the 'under-reporting' by offenders in previous years. However, there is no evidence of 'under-reporting,' in the report, nor is there any explanation by DCS as to why this would be the case in the 2010/2011 financial period.

It is recommended that the Portfolio Committee engage with DCS regarding the 'pending investigations' against the alleged perpetrators of 'torture' and assault that have emerged in the past year, as well as the state's progress in implementing the award in the McCallum case. It is also recommended that the Committee examine the DCS's proposed policy to prevent torture, if any, a measure required by the UN Convention against Torture. Article 2 of UNCAT obliges States Parties to take a range of measures to prevent torture. Article 10 gives direction to this provision by requiring that information and education regarding the absolute prohibition of torture be communicated to correctional officials as part and parcel of their general training regime. It is therefore recommended that the Portfolio Committee question DCS regarding any training that is occurring in this regard.

### **3. Unnatural Deaths**

Incidences of 'unnatural deaths' have increased by one. Although this is not a significant increase, the Report states, simply, that 'strategies' will be reviewed in the next financial period. Given the gravity of the problem, we recommend that the Committee press the Department to provide more detail on the proposed manner with which the problem will be dealt.

### **4. Alleged Tender Fraud**

In September 2009 a report detailing alleged corruption on the part of Bosasa (In particular, its subsidiary Sondolo IT) and DCS was forwarded to the Department from the Special Investigations Unit. To date, DCS has not been forthcoming regarding the status of this report, the alleged 'corrupt' tender awards to Bosasa, or any details on its relationship with this company. It is recommended, therefore, that the Committee examine this issue with the Department and request a detailed report-back on the status of any investigations against this Company, its employees, or any civil actions against the company that may be pending.

### **5. Remand Detention**

Overcrowding and the lengthy periods of detention remain a serious problem in DCS remand facilities. The Department's plans for the reduction in remand detainees is still unclear. Based on media reports, it seems that DCS intends to 'establish' remand detention centres. It is not clear whether these will be built, or simply expanded and/or refurbished. If they are to be built, the following needs to be addressed:

- 1) How many remand centres will there be per province, or per court district?
- 2) Will transport to and from such remand centres need to be arranged?
- 3) If a remand centre is a significant distance from the court, what arrangements will be made for visits to remand detainees and legal consultation?

The Report also refers to the 'Bail Protocol.' Again, it is unclear what this is. It is recommended therefore, that the Committee request the Department to provide more detail on this and how it is intended to improve the problem of overcrowding. In addition, we recommend that the Committee request from the Department, information regarding the review of the detention period of all remand detainees who have been detained for more than two years, as required by the Correctional Services Amendment Act.

The Department has referred, on a number of occasions, to the "White Paper on Remand Detention." This has yet to be released into the public domain. It is requested therefore that the Committee request the Department to release the White Paper so that the public may be informed in greater detail of the Department's plans for the 'management of remand detainees.'

## **6. Claims against the Department**

The amount in claims against the Department is R1,332,356, only slightly lower than it was the previous year. This is an exorbitant amount and a very poor reflection on the conduct of the officials in the Department. It is recommended that the committee call on the Department to explain what measures are being taken to prevent the incidences resulting in such claims, particularly in respect of bodily injury/assault, deaths in detention, pain and suffering, and unlawful detention.