

SUBMISSION BY THE CIVIL
SOCIETY PRISON REFORM
INITIATIVE TO THE
PORTFOLIO COMMITTEE
ON CORRECTIONAL
SERVICES ON THE
CORRECTIONAL SERVICES
BUDGET VOTE 2009/10,
VOTE 18

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INTRODUCTION

The Civil Society Prison Reform Initiative (CSPRI) is a project of the Community Law Centre at the University of the Western Cape and was established in 2003. CSPRI focuses on prisons and corrections, with the aim of improving the human rights situation in South African prisons through research-based lobbying and advocacy, and collaboration with civil society structures. By stimulating public debate and participation in government structures, the aim is to influence the development of appropriate human rights oriented transformation in South African Correctional Services.

We wish to express our gratitude to the portfolio Committee on Correctional Services for the invitation to make a submission on the 2009/10 budget vote. This is always a highlight on the calendar.

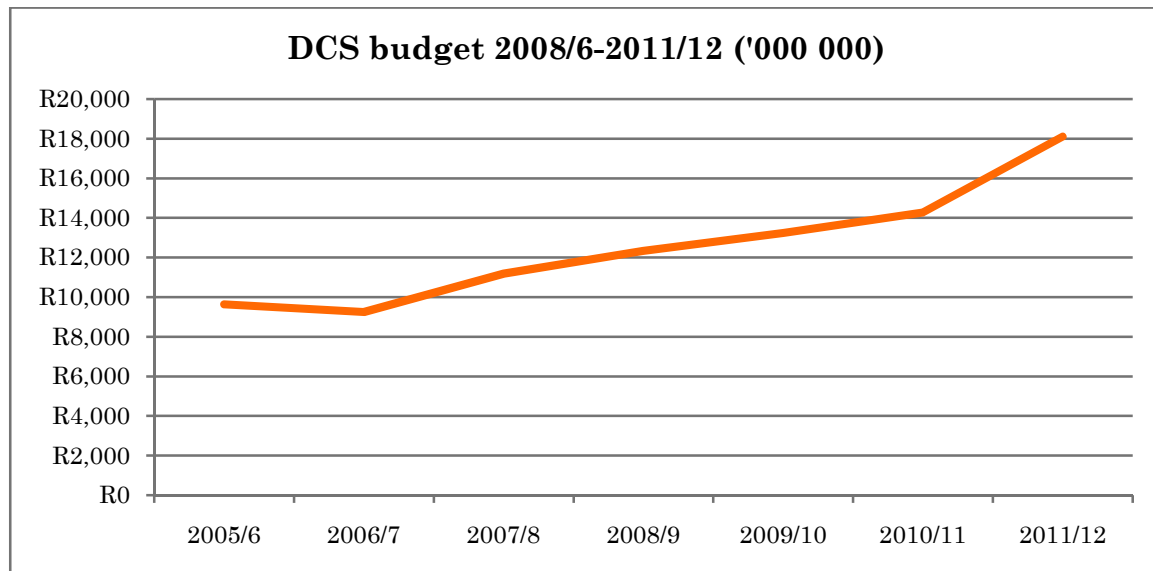
We would also like to make use of this opportunity to wish the Portfolio Committee on Correctional Services all the best during its term in office. This is a demanding portfolio and we would like to assure the Committee of CSPRI's continued support for prison reform in South Africa.

It is furthermore noted that at the time of preparing this submission that the DCS strategic plan was not available. This places obvious limitations on the extent to which the budget vote can be analysed.

THE SIZE OF THE BUDGET

After a slight decrease in 2006/7 the DCS budget continued its steady increase and, based on the available information, the budget will by 2011/12 increased by 88% from its 2005/6 level, as shown in Figure 1 below.

Figure 1



The size of the DCS budget should also be seen in relation to other national budgets and for comparative purposes the Departments of Education, Justice and Constitutional Development, and Safety and Security were selected. At the level of the budget vote of R13,238 billion, the Correctional Services budget will be:

- 53% of the Education budget
- 109% of the Justice and Constitutional Development budget, and
- 26% of the Safety and Security budget.

Using the information in the budget vote, it is possible to calculate a rough estimate of the cost of imprisonment.¹ For 2009/10 it will cost the tax payer:

- R198 per day per prisoner, or
- R72 358 per prisoner for the year.

It is not the intention of this submission to dwell on the numbers in the budget, but it is important to note the enormous costs involved in imprisonment. In the current economic climate, it must be asked whether South Africa can continue to imprison at the current rate of more 340/100 000 of the population.² The cost of imprisonment cannot be seen detached from the socio-economic challenges South Africa is currently facing. In the past 12 months the economic environment has changed dramatically resulting in significant job losses and

¹ Please note that payments for capital assets (R1.299 billion) are excluded from the calculation.

² As at the end of December 2008 the prison population stood at 164 975. The total South African population was taken 48 million for the purposes of this calculation.

South Africa now finds itself, as many other countries, in a recession. Increased unemployment will contribute to poverty and other social conditions that are often associated with crime. These realities cannot be ignored when discussing the budget allocation for the Department of Correctional Services (DCS). The planned construction of four new public private partnership prisons under a 25-year agreement will place a significant burden on the tax payer under the current tough economic conditions. It may also take away funds from government initiatives that may indeed have prevented crime in the first instance.

This is not an argument to justify the detention of prisoners in sub-standard conditions in order to save money, but rather to promote the use of alternatives to imprisonment in order that the total number of prisoners can be reduced in the short to medium term. The current legislative and policy frameworks make ample provision for alternatives to imprisonment but these are under utilised for a number of reasons, budget allocation being one of them. A renewed and aggressive focus on these options is well overdue.

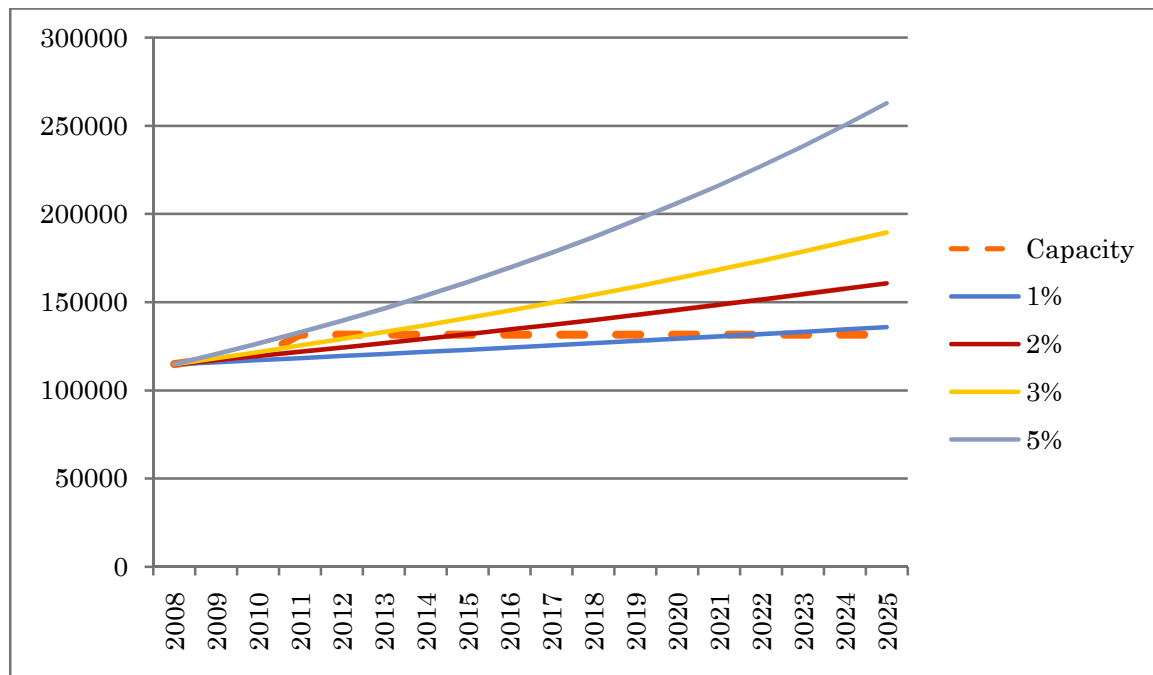
THE SIZE OF THE PRISON POPULATION

In its 2008 submission to the Portfolio Committee on Correctional Services on the budget vote, CSPRI discussed projections around the size of the prison population in a fair amount of detail. Projecting the size of the prison population is important because it is one of the major cost drivers for the DCS. Government has embarked upon a review of the criminal justice system and this should, if implemented successfully, result in more successful prosecutions that are finalised in a shorter period than is currently the case; this will not help the problem of prison overcrowding – in fact it may have the opposite effect. Unless there are specific measures in place to ensure that imprisonment is used sparingly, and the size of the prison population carefully controlled, the impact of an improved criminal justice system may in fact be an increase in prisoner numbers; a worsening of conditions of detention and the working environment of DCS officials.

If the prison population is to increase even moderately over the next 16 years the problem of overcrowding may be so severe as to threaten the implementation of the White Paper, as demonstrated in Figure 2. It shows four different rates of increase for the sentenced prison population over the next 16 years at 1 per cent, 2 per cent, 3 per cent and 5 per cent per year. Bearing in mind that current capacity is 115 000 and plans are afoot to increase it to 131 493 over the MTEF, the projections show that only an increase of marginally above 1% per year can be afforded in respect of existing and planned capacity.³ In view of these projections, the conclusion remains the same as in the 2008 submission: “Under these circumstances it is evident that the plans to create more capacity through prison construction will be a constant, but unsuccessful, game of ‘catch-up’.”

³ Linear projections such as those in Figure 2 should be treated with caution and seldom turn out to be correct. However, they do serve to illustrate the impact of growth in the prison population in relation to available and planned capacity.

Figure 2



MEETING THE MINIMUM STANDARDS OF HUMANE DETENTION

In its 2007/8 annual report the Judicial Inspectorate reported on its inspection of infrastructure. The findings are in some cases startling and the following are noted:

- prisoners at 21 prisons are required to eat with their hands and are not issued with eating utensils and containers;
- at several prisons surveyed, prisoners are required to sleep on the floor, share beds with other prisoners or are issued with inadequate bedding;
- searches are conducted in a dehumanising manner and male prisoners are required to strip naked in front of staff and other prisoners with no privacy afforded;
- there are no facilities in 94% of prisons to separate prisoners with contagious diseases;
- only 56% of prisons are equipped, on a limited scale, with classrooms;
- only 40% of prisons are equipped with workshops but only 2% of sentenced prisoners are involved in production workshops;
- while 72% of prisons have dining halls, the majority are not used for their intended purpose and meals are taken in the cells;

- more than 40% of prisons are without libraries whilst access to adequate reading material is a Constitutional requirement.⁴

While plans are afoot to build new prisons at great cost, some of the existing facilities are apparently without the most basic requirements to meet the minimum standards of humane detention. We urge the Committee to engage the DCS on these infrastructure shortcomings and how these will be addressed in the medium term.

PERFORMANCE AND OPERATIONS INDICATORS

The *Selected performance and operations indicators* (p. 391) make a useful contribution to measuring the performance of the DCS and the Department is encouraged to expand these indicators. A few comments are, however, necessary in respect of the targets set in relation to the indicators.

Engaging prisoners in programmes and employment

The budget vote reports that in 2008/9 1735 prisoners were engaged in literacy programmes and in 2009/10, 2082 will be involved, which will increase to 2633 by 2011/12. Given that there are approximately 115 000 sentenced prisoners, this target appears to be extremely low since it is generally accepted that the literacy rate amongst prisoners is substantially lower than in the general population.⁵

It is our submission that these targets are too moderate and that the DCS should redirect its focus to ensure that all sentenced prisoners have access to literacy training. Moreover, if prisoners are illiterate that they be compelled to undergo literacy training as provided for in the Correctional Services Act.

The budget vote reports on a large numbers of prisoners (41 635) who participated in skills development programmes. It is, however, not clear what these skills were and how long the training programmes lasted.

The budget vote reports on a total of 20 174 work opportunities created for prisoners in 2007/8. It is, however, not reported for how many hours per day in a given week or year these work opportunities occupied prisoners or what the nature of the work was. It should not be assumed that these work opportunities occupied prisoners for eight hours a day at least five days week.

In view of the above observations, it is submitted that a real effort must be made to combat idleness and boredom within the prison system through education activities and work opportunities. The Department has at its disposal a keen work force to enable it to make not only a contribution to its own operations but also to contribute to the benefit of all South

⁴ Office of the Inspecting Judge of Prisons, *Annual Report of the Judicial Inspectorate of Prisons 2007/8*. Cape Town: Office of the Inspecting Judge of Prisons, 2008.

⁵ Illiteracy rates are estimated at around 24% of adults over 15-years old, or 6-to 8 million adults are not functionally literate (<http://www.southafrica.info/about/education/education.htm>)

Africans. The effective utilisation of technical workshops, production farms, and using prisoners as labour in infra-structural improvements to buildings and grounds all provide opportunities to keep prisoners busy and combat idleness and boredom, whilst at the same imparting useful skills and a work ethic.

Development of sentence plans

The sentence plan should form the basis for the Department's engagement with a sentenced prisoner and is therefore a requirement of the Correctional Services Act. Through a regrettable amendment to the Act, only prisoners serving sentences of longer than 24 months will now be eligible to have their sentences planned and structured according to a sentence plan. The Budget Vote states that there will on average be 100 882 such prisoners in custody per year. According to the Budget Vote only 2.8% of such prisoners currently have sentence plans and this will be increased to 5.6%, then 8.3% and in 2011/12 to 13.2%. The conclusion drawn from this is that by 2011/12 86.8% of sentenced prisoners entitled to a sentence plan by law will be without such a plan. In the absence of a sentence plan it is difficult to see how sentenced prisoners will receive the services they require to equip them to lead crime free and socially responsible lives after their release.

The shortage of social workers is often presented as a reason for services not being rendered but this requires closer inspection. The DCS currently has 602 funded posts for social workers of which 384 were filled according to the 2007/8 Annual Report of the Department. Worked out as ratio to the total number of sentenced prisoners, this amounts to one social worker for every 299 prisoners. If only prisoners serving sentences of longer than 24-months are used in the calculation, the ratio improves to one social worker to every 266 prisoners. Both these ratios are somewhat better than the social worker-to-prisoners ratio in the private prison, Kutama Sinthumule, where the ratio is reportedly 1: 333 and every prisoner has a sentence plan.

We urge the Committee to seek clarification from the Department in respect of this target and the scope for improvement.

PREPARING FOR RELEASE AND POST-RELEASE SUPPORT

In previous submissions to the Portfolio Committee on the budget vote, CSPRI has expressed concern about the small allocation in the budget towards the Social Reintegration Programme. Since 2003/4 the average proportional share of the budget allocated to this programme has been 3.2% per year.

In many ways the failure or success of interventions during imprisonment are made after release. Extensive research from other countries has repeatedly confirmed the importance of post-release support and community based programmes. CSPRI's own research with released offenders found that there is indeed little support available to them, even when they are released on parole. At policy level it appears that the DCS is neglecting this critical aspect of its mandate and consequently it is neglected in the budget allocation. This imbalance needs to be addressed as a matter of urgency.

HANDOVER REPORT

Each successive Portfolio Committee will develop its own style and strategic direction. It is also important to ensure that some sense of continuity is maintained and it is with this in mind that CSPRI draws the Committee's attention to a number of budget-related issues noted by the previous Portfolio Committee on Correctional Services in its hand-over report.

The first two matters raised in the hand-over report (outsourcing nutritional services and the PPP prisons) concerns private sector involvement in the correctional system. Both these instances of private sector involvement have led to a considerable amount of controversy. The recent lapsing of the Sondolo IT contract has again raised questions about the sustainability of outsourcing core services to the private sector. The role of the private sector in the correctional system needs to be analysed and discussed in a comprehensive manner involving the DCS and its stakeholders. We request that the Portfolio Committee takes a leading role in this regard.

In its 2008 submission on the budget vote CSPRI expressed concern about the confusing picture created by successive budget votes regarding the implementation of the seven-day establishment. The handover report also raises the seven-day establishment as an issue of concern. The current budget vote provides for an increase of R300 million per year to implement the seven day establishment. We urge the Committee to seek clarification from the DCS on this with regard to the time frame for the full and final implementation of the seven-day establishment at all correctional centres in South Africa.

The incarceration framework provided for in the Correctional Services Amendment Act may have significant budgetary implications. We wish to enquire regarding the progress in developing the incarceration framework and whether the impact of the framework on the budget has been taken into account by the Department.

CONCLUSION

The Correctional Services budget vote reflects similar patterns to previous years. The economic environment in which South Africa and the DCS is operating in has, however, changed dramatically since last year. This necessitates that the DCS must work smarter with available resources and increases the productivity of both staff and prisoners. The large scale spending on capital works and expensive equipment while neglecting services to offenders and released offenders is a worrying imbalance. Moreover, this level of spending may not be sustainable.