



Reducing prison violence: implications from the literature for South Africa

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Reducing prison violence: implications from the literature for South Africa

Introduction

Few would argue that prisons are violent places and South Africa is no exception. Prisoners face a substantial risk of being coerced, assaulted, raped and even killed at the hands of prison officials and fellow prisoners. Officials also face a substantial risk of violent victimisation by prisoners. Even though the Correctional Services Act and case law¹ are clear that it is the duty of the state to ensure safe custody and to maintain standards of human dignity, violence and the threat of violence forms an integral part of the prison experience and is, as White argues, a sustaining component of the punitive function of imprisonment (White, 2008, p. 738). This finds expression in a public expectation that prison must be tough, painful and unpleasant, and if a prisoner is assaulted or raped the attitude may very well be that “it is part of prison life”.

South Africa’s prison system with roughly 165 000 prisoners and 237 prisons presents increasingly complex problems in respect of affordability, service delivery, management and governance. The prison population continue to climb and so does the budget, but there have been few indications that the prison system is achieving the desired results, such as rehabilitation and safe custody. It is therefore with good reason that imminent scholars have concluded that the modern prison has become increasingly difficult to manage and indicative of this is the fact that in published research there are now more than 500 recommendations aimed at making prisons safer and more humane environments (French & Gendreau, 2006, p. 186).

In the past 15 years the Department of Correctional Services (DCS) has faced numerous challenges whilst trying to re-invent itself. This has not been an easy road and in many regards the route to penetrative transformation has been beleaguered with distractions; many of them the Department’s own making. Amongst all the strategic objectives towards transformation and the distractions, the most important objective of any correctional system may have lost focus, namely to detain prisoners under safe and humane conditions. This, very explicitly, means that individuals, when imprisoned, must not only be safe but they must also feel safe. Regrettably this is not the case and thus the need for this paper to take a closer look at violence in South Africa’s prison system. This is done by reviewing the literature on prison violence to gain a deeper understanding of the problem and also to establish whether there have been any effective measures implemented elsewhere to reduce prison violence. Based on these a number of recommendations are made to improve prison safety in South Africa.

¹ See *Whittaker and Morant v Roos and Bateman* 1912 AD 92.

Prison violence in South Africa

Prior to 1990 very little is known about prison violence in South Africa and historical accounts such as that provided by Steinberg in *The Number* provide some insight into the dynamics of prison violence, specifically within the context of ritualised gang violence (Steinberg, 2004). Earlier works have also reflected on the use of violence and torture by authorities on prisoners (Foster, Davis, & Sandler, 1987).

In the post-1994 era more and also more accurate information on prison violence has become available due to greater transparency facilitated by the 1994 and 1996 Constitutions, the appointment of the Jali Commission of Inquiry (Jali Commission, 2006) and the establishment of the Judicial Inspectorate for Correctional Services.² Access to prisons by researchers and the media have also improved significantly, which also contributed to a larger body of information on prison violence being available. The fact that more information is available enables a closer a description of the nature, extent and incidence of violence in South Africa's prisons. There remain, however, large gaps in the available data as will be described in more detail in this report.

The first issue is to clarify what is meant by "violence" or "violent incidents" in a prison setting. Official statistics from the DCS and the Judicial Inspectorate for Correctional Services (JICS) refer firstly to "deaths due to unnatural causes" as opposed to "deaths due to natural causes". Unnatural causes include murders, suicides, and accidents. It should, however, be added that a prisoner may die due to so-called natural causes (e.g. Aids related illnesses) but that HIV was initially contracted as a result of being raped in prison; the distinction between natural and unnatural causes then becomes unclear. Similarly, a prisoner may die due to, for example, diabetes or asthma because he was not receiving proper care from the DCS. From a human rights perspective such a death was not the result of natural causes. It is therefore foreseeable that the number of prisoners dying from unnatural causes may indeed be higher if more thorough investigations are done of all deaths recorded as due to "natural causes" and some will be reclassified as due to "unnatural causes".

The second category of data is "assault" which is sub-divided into inmate-on-inmate assaults, official-on-inmate assaults, and inmate-on-official assault. However, a review of previous annual reports of the DCS reflects that these categories have not been applied consistently to organise the data on assaults. All three categories were reported on from 1994 to 1999/2000, but from 2000/1 to 2002/3 only two of the categories were reported on (inmate-on-inmate assaults and official-on-inmate assaults) and from 2003/4 to 2007/8 all assaults have been lumped into one category. From the DCS annual reports it is evident that the available data will only provide a superficial and crude description of the extent of violence in South African prisons. The categories used as well as their inconsistent use have also not assisted in refining the description of violence in prisons and have rather obfuscated the issue by lumping all assaults into one category.

² The Correctional Services Amendment Act (25 of 2008) changed the name of the Judicial Inspectorate of Prisons to the Judicial Inspectorate for Correctional Services (JICS) and it will be referred to as such below.

Apart from deaths and assaults, a less frequent category of violent incidents are large scale prison disturbances, which can be sub-divided; firstly, into protest actions or prison riots by prisoners and, secondly, mass assaults by officials on prisoners. In the run-up to and aftermath of the 1994 elections there were several large scale protest actions by prisoners at several prisons across South Africa, resulting in the deaths of 38 prisoners. The protests occurred against the background of uncertainty about prisoner participation in the first democratic elections and thereafter about rumours suggesting a general amnesty for all prisoners (Dissel, 2003, p. 31). After 1994 such incidences have been few and far between and the most recent was at Kutama-Sinthumule prison in Limpopo province in March 2006 when prison warders went on strike and prisoners protested about the lack of services and set fire to a unit in the prison (Hlatshwayo & Van Zyl, 2006). In respect of mass assaults, these appear to occur with higher frequency than prison riots. A recent example is the assault and subsequent deaths of three prisoners by a group of warders at Krugersdorp prison in April 2007. Three of the warders were subsequently convicted of murder and sentenced to lengthy prison terms (Chelemu, 2009). A similar incident was reported from St Alban's prison involving the mass assault of prisoners, where after they were denied access to medical care and legal representation during June 2005. A senior DCS official admitted to the UN Committee against Torture in November 2006 that the assaults did in fact take place (Muntingh, 2008).

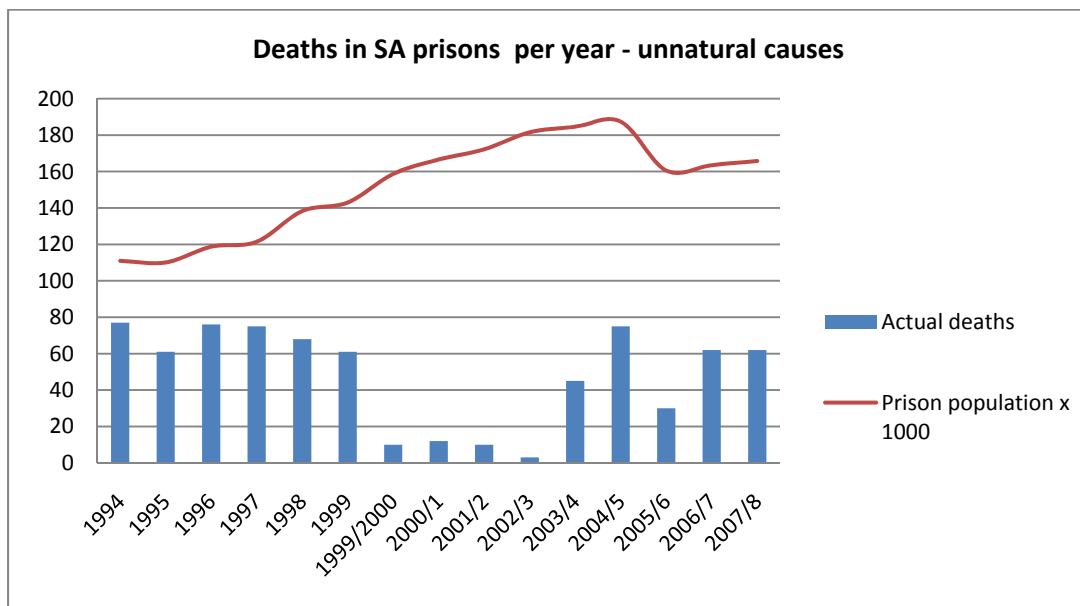
Information and statistics about assaults are subject to a number of limitations. Prisoners may not be keen to report an assault to DCS officials, especially if the assault was committed by an official. The DCS internal complaints and requests mechanism to which prisoners are entitled to have daily access has been described by the South African Law Society as neither independent nor impartial, and the overall impression is that it is ineffective, discourages prisoners from making complaints, and that there is seldom feed-back on complaints lodged. It is also noted that when prisoners make complaints, they are in real fear of reprisals from warders and/or colluding prisoners (Law Society of South Africa, 2004, p. 6). The other avenue of complaint is the JICS and in 2005 it recorded 7 425 complaints from prisoners alleging assault from either a fellow prisoner or an official (Judicial Inspectorate for Correctional Services, 2009). In the comparable period (2005/6), the DCS recorded only 2 001 assaults (including assaults by prisoners on officials) (Department of Correctional Services, 2006). While the figures from the JICS only reflect complaints alleging assault and which have not (yet) been confirmed, it must be assumed that an accurate figure lies, at least, somewhere between the DCS and JICS figures. In respect of the JICS figure it must be noted that Independent Correctional Centre Visitor (ICCV) positions are often vacant for lengthy periods and complaints at those prisons will then not be recorded. A more accurate figure of actual assaults may in fact be higher. It must also be accepted that not all prisoners who have been assaulted will indeed complain to either an ICCV or to the DCS. Gear, in her study at Boksburg Youth Correctional Centre, found that 25% of respondents in the study who had not reported their most recent experiences of assault said this was because they did not believe that reporting victimisation would make a difference and 20% feared retaliation if they reported an assault (Gear, 2007, p. 2). The categorisation of all assaults into one category also provides little assistance in coming to a more accurate description of the nature of violence in prisons. No additional information is provided in respect of prisoner profiles, the use of weapons, the alleged perpetrators or other variables.

Perhaps more importantly, no information is provided by either the DCS or the JICS on the result of investigations into alleged assaults and deaths due to unnatural causes.

Despite these limitations in respect of the available data it is important to reflect on the quantitative nature of reported and alleged violence in South Africa's prisons.

In respect of unnatural deaths in custody, an overview is provided in Figure 1. Although questions can be asked about the accuracy of the data, it is apparent that the deaths due to unnatural causes are predominantly incident-driven and not linked to other structural features such as the size of the prison population and possible overcrowding of prisons. The graph in Figure 1 does not demonstrate any clear relationship in this regard.

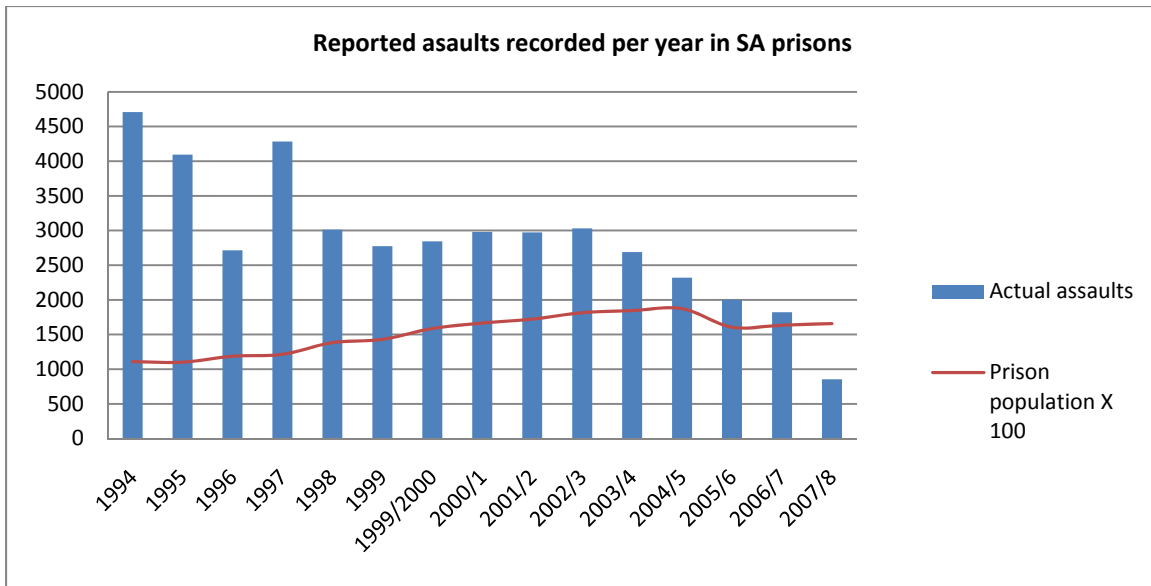
Figure 1³



The number of assaults recorded per year by the DCS in relation to the average prison population in custody is shown in Figure 2. At its highest, more than 4 500 assaults were recorded in a year (1994) followed by the 1997 total of 4 283. On average 2 873 assaults were recorded per year or 7.8 per day. The size of the prison population, and thus overcrowding, does not appear to have a direct association with the number of assaults recorded by DCS. The relationship between overcrowding and violence will, however, be explored in more detail in this report.

³ Data for this graph was collected from the respective annual reports of the DCS for the period 1994 to 2007/8.

Figure 2



Reference was made above to the complaints recorded by the JICS alleging assaults by either a fellow prisoner or an official. The total number of complaints of this nature recorded per year for the period 2005 to 2008 is presented in Table 1. It should be emphasised that the number of complaints recorded by the JICS is a direct function of the number of ICCVs it has in place at South Africa’s 237 prisons and from 2006 to 2007 there was a substantial and increasing number of ICCV positions vacant which explains the drop in the number of complaints recorded (Parliamentary Monitoring Group, 2007). On average the JICS recorded 4 920 complaints per year alleging assault; or 13.5 per day over the period. This is nearly double the average number of assault cases recorded by the DCS.

Table 1. Complaints recorded by the JICS alleging assault, 2005 to 2008⁴

Province	2005	2006	2007	2008
Eastern Cape	1 058	1 150	386	271
Free State	1 044	698	284	726
Gauteng	780	62	354	481
KwaZulu-Natal	1 277	2 336	628	516
Limpopo	265	32	197	415
Mpumalanga	248	33	113	364
Northern Cape	298	142	89	205
North West	695	176	63	113
Western Cape	1 760	314	300	1 803
Total	7 425	4 943	2 414	4 894

Despite the shortcomings in the data presented above, a number of conclusions can be drawn. Firstly, prison violence, as reflected in the number of assaults and unnatural deaths in custody, is common in

⁴ Data presented in this table was supplied by the Judicial Inspectorate for Correctional Services.

South Africa. The consistently high number of deaths and complaints of assaults recorded by both the DCS and the JICS over several years indicate that violence is a “normal” feature of the South African prison system. Secondly, in emphasising its pervasiveness, a more detailed analysis of the complaints recorded by the JICS show that there are very few (17 out of 237) prisons where no complaints of assault were recorded. On the other hand, the ten prisons at which the highest numbers of complaints of assault were recorded accounted for 30 percent of all complaints of assaults recorded by the JICS. These prisons are: Durban Medium A; Voorberg Medium B; Drakenstein Medium A; Nongoma; Durban Medium C; Kroonstad Medium B; Pollsmoor Medium A; Kroonstad Medium; Lusikisiki; and St. Albans Medium B. This indicates that violence may be concentrated in particular prisons and that the reasons for this require further investigation. Thirdly, there is good reason to accept that the available data is in all likelihood an under-count of the extent of violence and coercion in South Africa’s prisons due to the lack of confidence that prisoners have in the DCS internal complaints mechanisms, the availability of ICCVs and, if both of these are indeed in place, fear and intimidation which may prevent prisoners from reporting violent and/or coercive victimisation.

Understanding prison violence

In this section a review of the literature is presented focusing on the research that has been undertaken to gain a clearer understanding of prison violence.

Models for understanding

There is, as Homel and Thompson observe, no overarching theory of prison violence but influential schools of thought have emerged and two well-established models can be distinguished (Homel & Thompson, 2005). The *deprivation model* argues that the prison environment and deprivation of liberty result in deep psychological trauma and that for reasons of psychological self-preservation prisoners create a deviant prison subculture that promotes violence. The *importation model*, on the other hand, focuses on what prisoners bring into the prison in the form of their personal histories, personal characteristics and social networks, including associations with criminal groups. Even though the empirical research supports both models, there has been an increasing acknowledgement of the critical importance of specific attributes of the social and physical environment of the prison and the “minutiae of the average prison day” (Homel & Thompson, 2005). How the prison is organised and how individuals interact with one another shape a dynamic environment and the role of specific situational factors in mediating violence have emerged as crucial to understanding prison violence. There have thus emerged two additional theoretical positions in the form of the *transactional model* and the *situational model* (Homel & Thompson, 2005).

Research on the transactional model demonstrates a set of complex interactions of individual prisoner characteristics and the prison environment and, based on empirical research, it has been concluded that prisoners behave differently in different prison settings (Homel & Thompson, 2005, p. 3). This is

important because it implies that the variables that increase the risk for violence can be changed and that it should not be assumed that they are inflexible and outside of the control of prison managers. In this regard, particular mention is made of an institutional variable measuring a defiant or compliant attitude of prisoners towards the prison regime and it was found that if the prison lacked order, prevented prisoner autonomy and used severe punishments even older, normally compliant prisoners were likely to be defiant and non-compliant (Homel & Thompson, 2005, p. 3).

The situational model had its original focus on using the physical and security environment to reduce violence but this approach has undergone an expansion since the 1990s by authors such as Bottoms, Homel and Wortley. The situational model, as developed by Wortley, now distinguishes between situational precipitators and situational regulators in a two-stage model.

In the first stage of the model, a range of psychological processes are proposed that may actively induce individuals to engage in conduct that they may not otherwise have performed. The behaviour may be avoided entirely if relevant precipitators are adequately controlled. In the event that behaviour is initiated, then, in the second stage of the model, performance of that behaviour is subject to consideration of the consequences that are likely to follow. The absence of appropriate disincentives or constraints will permit or encourage behaviour while appropriate disincentives or constraints will prevent or discourage behaviour. (Wortley cited in Homel and Thompson, 2005).

Situational precipitators include: (1) environmental cues that prompt the individual to behave antisocially, which can be controlled by such means as “controlling triggers”; (2) environmental cues that exert pressure to misbehave, which can be controlled by such means as “reducing inappropriate conformity”; (3) environmental cues that reduce self-control and allow individuals to engage in behaviour that they would otherwise self-censure, which can be controlled by means such as rule setting or clarifying responsibility; and (4) environmental cues that can produce emotional arousal that provokes a violent reaction which can be controlled by reducing frustration, for example reducing overcrowding (Homel & Thompson, 2005, p. 4).

The situational model makes a valuable contribution to understanding prison violence as it requires, firstly, an enquiry into the potential precipitators of violent behaviour, and then a response in a manner that should not in itself give rise to violence. “Hard control” practices, which are often the focus of prison managers, frequently have the opposite effect: instead of reducing the opportunity for violence, it creates opportunities for violence (Homel & Thompson, 2005, p. 4).

Facilitators of prison violence

From the literature on causes of prison violence it is evident that there is no single factor that causes prison violence and that a deterministic approach would lead to a superficial understanding of prison violence and disorder, and ultimately to incorrect responses. Rather, it appears to be the interaction of structural features, situational contexts and individuals themselves that lead, in some instances, to violence. Even accounts of prisoners’ understanding of prison violence point in the direction of the

complexity of this phenomenon; they identified overcrowding, access to weapons and drugs, gang activity and staff attitudes as the main causes of prison violence (Kuyler & Van den Berg, 2008, p. 172).

Responses to an abnormal environment

The prison environment places a range of limitations on individuals that are alien to life outside prison and in this sense one can refer to it as an abnormal environment. The closeness of the prison environment also coerces individuals into relationships and interactions where a sense of the self needs to be maintained. How prisoners see themselves (their self-narrative) appears to be an important factor in their responses to the prison environment and more particularly their responses to the behaviour of other prisoners (Butler, 2008). Individuals who are insecure in their identity (or self-narrative) tend to be more likely to “use aggression as a compensatory tool to boost their ego and/or social status” (Butler, 2008, p. 858). On the other hand, individuals who are secure in their identity would be “less inclined to use aggression as a defence mechanism as their positive relationships with others provide them with a sense of self-worth and self-confidence” (Butler, 2008, p. 858). In the prison environment aggressive responses may thus be an important mechanism to demonstrate “toughness” and “manliness” to protect the self-identity and attain or preserve social status (Butler, 2008, p. 867). In addition to these individual responses to the prison environment, violence in prisons is not only accepted, but demanded, maintained and produced by the process of institutionalisation (Goulding, 2007, p. 402).

These findings point to the importance of seeing prison violence, as will be further alluded to below, not as a linear consequence of a set of variables, but rather as a result of complex interactions of individual psycho-social experiences (and responses) in particular situational contexts. It should therefore be clear that different individuals will respond differently to imprisonment and that differences could further emerge based on the situation in a particular prison setting.

Management culture

There is increasing evidence that poor prison management is a significant factor in contributing to prison violence and at times even promoting individual and collective violent behaviour (Homel & Thompson, 2005, p. 4). Homel and Thompson report on a study done by Reisig (1998) which compared the control, responsibility and consensual models of prison management. The control model is rules-based and is rigorously enforced to control behaviour. The responsibility model, on the other hand, affords prisoners a high degree of responsibility over the order of the prison and requires management to exercise minimum control. The consensual model is an integration of the two other models. The evidence indicates that prisons applying the responsibility and consensual models reported lower levels of all forms of violence and disorder than prisons applying the control model (Homel & Thompson, 2005, p. 5). It must be noted that the reliability of the research on which this conclusion was based had been called into question by other authors, although Byrne and Hummer do support a conclusion of a similar nature (Byrne & Hummer, 2008, p. 56). The three models differ in respect of eight dimensions, being:

- organisational communication;
- personal relations;
- inmate-staff communication;
- discretion;

- regimentation of inmate lives;
- response to inmate rule violations;
- response to inmate disruptiveness; and
- inmate participation in decision-making (Byrne & Hummer, 2008, p. 55).⁵

A range of specific management-related factors contributing to violence were also noted in the research: security lapses, lack of prison officer discipline and morale, officers' inability or unwillingness to intervene in instances of victimisation and violence, poor grievance and dispute resolution mechanisms, the formation of gangs and cliques, prisoners relying on violence or aggression for self-protection, staff violence for control of prisoners, deterrence and payback (especially where officers feel justified in taking matters into their own hands because the administration provides limited protection from attack) (Homel & Thompson, 2005, p. 5).

Staff culture

In its final report the Jali Commission observed: "The Commission is very concerned that in the Department [of Correctional Services] there is almost a culture of contempt for the administration of justice as members consider themselves above the law" (Jali Commission, 2006, p. 349) and further "the evidence before the Commission, however, supports that officials have very little regard to any statutory provisions" (Jali Commission, 2006, p. 373). The first three chapters of the Jali Commission's final report are indeed devoted to describing "the existing culture of lawlessness" (Jali Commission, 2006, p. 349). The Jali Commission's focus on staff culture was not unwarranted and this focus has been supported by the academic literature (Liebling, 2008) (Byrne & Hummer, 2008) (Liebling, 2004).

The work by Liebling is instructive in this regard and she argues that there is; firstly, a collective working personality of officer culture among prison officials in general, and that this working personality is related to the nature of the occupation, containing both positive and negative traits. Secondly, individual prisons differ significantly in the exact shape that this culture takes, with reference to the degree, intensity and form of negative traits of staff culture. Culture, in this sense, refers to a shared set of assumptions, values, beliefs and attitudes expressed by officials, directly or indirectly and which shape their actions to a greater or lesser degree (Liebling, 2008, p. 106). It is in this way that one can talk of "different ways of doing things" at one prison which is different from another prison.

For example, the attitude of officials who regard prisoners as "dangerous subjects" who need to be controlled and policed was formative of how prisoners are treated and it was found that these officials generally did not treat prisoners with respect (Liebling, 2008, p. 117). The research by Liebling also demonstrated that the amount of power that officials have to exercise their duties was of lesser importance, but the way in which the power is used and how this is experienced ("how it feels") by prisoners are of critical importance (Liebling, 2008, p. 117). Prisoners often assert that officials play an active role in causing violence and disruption by provoking prisoners and behaving in a manner that would solicit an aggressive response (Goulding, 2007, p. 401).

⁵ A more detailed comparison of the two models is presented in Table 2 below.

Overcrowding

To many the link between prison violence and overcrowding is self-evident, but the research conducted on this is inconclusive and the studies that have been conducted were mostly not of a sufficiently rigorous nature (Byrne & Hummer, 2008, p. 47). An earlier study by Ekland-Olson investigating large scale prison disturbances did not find support for overcrowding as the major cause of prison violence but rather found support for the theory that the mode of social control was the driving factor (Ekland-Olson, 1986). Studies on overcrowding have nonetheless linked it with a range of adverse outcomes for prisoners such as increased self-injury, heightened stress levels and perceptions of aggressive behaviour in other prisoners, increased drug use, and higher levels in inter-prisoner violence (Byrne & Hummer, 2008, p. 47). It then appears, based on the available evidence, that overcrowding creates the environment for other adverse consequences which in turn have a closer link with prison violence. Other research supports this notion, arguing that overcrowding is mediated by inmate turnover, type of inmate management and programme availability (French & Gendreau, 2006, p. 188). From this it is argued that inmate perceptions of feeling overcrowded rather than actual spatial density would be a better predictor for misconduct (French & Gendreau, 2006, p. 188).

Whether prisons are large or small have not been found in the literature to be a reliable indicator of violence in the prison or behaviour after prison (Homel & Thompson, 2005, p. 5).

Architectural design

Most of South Africa's prisoners are housed in communal cells, an architectural inheritance from the previous regime. This feature has often been blamed for violence and frustration amongst prisoners, as well as facilitative of gang activities. Architectural design of this nature, some dating back to the turn of the previous century, presents managers with the challenge of managing a 19th century prison in the 21st century (Peguese & Koppel, 2003, p. 82). There is no doubt that single cells greatly reduce the risk for violence, except for suicide and self-harm. Prisoners in communal cells are, on the other hand, difficult to supervise adequately and the cell structure creates opportunities for prisoner-on-prisoner violence and prisoner-staff violence (Homel & Thompson, 2005, p. 5). In communal cells it is more difficult to identify prisoners responsible for violent and disorderly acts, but also make it difficult for staff to intervene when they are outnumbered by prisoners (Peguese & Koppel, 2003, p. 82). Communal cells are also more likely to have "blind spots" creating more opportunities for illegal acts and handling of contraband than in single cells.

"New generation" prison design promotes a podular design that limits unprotected spaces and enhances direct supervision. Results from prisons where these designs have been implemented are promising, but caution should be exercised in interpreting these results, as the architecture should be seen linked to the management practices, staff skills and other situational factors (Homel & Thompson, 2005). The podular design facilitates active supervision and engagement between prisoners and staff, and these have been associated with lower levels of violence and disorder. However, the low warder-to-prisoners ratios often found in South African prisons does not assist with the proper and active supervision of prisoners; it is not possible for a one or a small number of warders to maintain adequate supervision over large numbers of prisoners. This problem is further exacerbated by staff absenteeism (Office of the Inspecting Judge of Prisons, 2008, p. 15). It is not feasible at this stage to replace all communal cells in

South Africa with single cells or podular designs and other measures therefore need to be developed to counteract the risks for disorder and violence associated with communal cells.

Staff experience and training

It is reported that there is no clear relationship between staff experience and prisoner-prisoner violence but evidence shows that there is a relationship between staff experience and prisoner-staff violence (Homel & Thompson, 2005, p. 6). It appears that inexperienced officers are more likely to become involved in a violent incident as they are perceived by aggressive offenders as “ambiguous” in making decisions (Homel & Thompson, 2005, p. 6). Experienced officers have a clearer understanding of roles and appropriate responses to testing situations.

Vulnerability to violence

Vulnerability to violence is also associated with the profile of prisoners in respect of age, race, gender, and sexuality. The profile of prisoners who are most vulnerable to sexual victimisation has been well described in the literature (Man & Cronan, 2002). Targets are usually those who are least able to defend themselves, lack credibility by prison staff or are disliked by inmates and staff, and those who are easily ostracized (Dummond, 2006, p. 151). The female role is also forced upon the new-comer, or the weaker prisoner by more articulate, experienced, and stronger prisoners (Dummond, 2006, p. 151). Lack of knowledge of the prison and gang system, youth, economic circumstances, weaker physical attributes, reluctance to engage in violence, conviction for a crime lacking the element of violence, and aesthetically pleasing looks, and identifying as homosexual or transsexual are all factors which contribute to a prisoner’s risk profile and possible forced assignment to a feminised identity (Man & Cronan, 2002) (Gear & Ngubeni, 2002). These characteristics may also to a greater or lesser extent be generalised to refer to vulnerability to violence in general and not only to sexual violence.

Gang membership

Prison gangs are often singled out as the main architects of prison violence in South Africa and there is no doubt that they are often responsible for the most deadly violence in the prison system. However, not all violence in prison is committed by gangs and it must also be acknowledged that the prison gangs have, particularly in prisons where they are powerful, an important governing function over the prison population and will, to some measure, regulate the use of violence. Moreover, the relationship between gang membership and violence is also a more nuanced one and a simple association does not explain this relationship. Research on gang affiliation and violence in the US makes three important observations (Gaes, Wallace, Gilman, Klein-Saffran, & Suppa, 2001). Firstly, certain gangs show a higher probability for violence and misconduct. Secondly, membership does increase violence and other forms of misconduct but this must be seen against the extent to which a prisoner is embedded within the gang. Gang embeddedness, which distinguishes whether an individual is a core or peripheral member, is important as core members are more likely to commit violent acts than peripheral members, and peripheral members more so than unaffiliated prisoners. Thirdly, it was consistently found that time spent in a gang reduced the probability of violent and disorderly conduct. The reason for this is not entirely clear; it may be a consequence of “gang burnout” or that long-time gang members gradually

move into more senior positions where their status within the gang and the prison hierarchy are more secure and they are not required to assert themselves violently in order to maintain their position.

Individual profiles

Research has been done on prisoners' individual profiles to assess whether certain individuals, based on demographic characteristics, present a higher risk for violent and disorderly conduct in prison. It has been generally found that male prisoners commit more violent acts than female prisoners (Harer & Langan, 2001, p. 513). Using a logistic regression analysis of demographic-, offence- and sentence-related data available at conviction and admission in a large sample of maximum security prisoners, Cunningham, Sorensen and Reidy investigated the prediction of violent and aggressive behaviour (Cunningham, Sorensen, & Reidy, 2005). Consistent with earlier research, it was found that a younger age, lower education (as an indicator of community stability), prior imprisonment and serving a determinate sentence were related to the risk of violent behaviour in prison. It was in particular a determinate sentence of six to ten years that was associated with an increased risk of violent behaviour. Somewhat surprisingly, being sentenced to death and life imprisonment were risk-reducing factors as well as having a prior probated sentence, although the reason for the latter is unclear (Cunningham, Sorensen, & Reidy, 2005, p. 46). Similar findings were also made regarding prisoners serving life without parole sentences in the U.S. (Cunningham, Reidy, & Sorensen, 2008). Using these characteristics to predict violent and disorderly behaviour in future prison populations is, however, a less than exact science and the same authors found a 48 percent false positive rate using the assessment tool they developed. The false positive rate is not inconsistent with other findings (Davies & Dedel, 2006) but predicting violent and aggressive behaviour by means of individual risk assessment tools appears to be an endeavour with moderate success (Auerhahn, 2006). Error rates as high as 95 percent in predicting future dangerousness has also been reported, indicating the lack of reliability in using risk assessment tools of this nature (Cunningham, Sorensen, & Reidy, 2005).

The age variable is also important in respect of the profile of the prison population in a particular prison and there is support for age heterogeneity; a greater age range within a particular population appear to bring about, over the medium term, a reduction in violent and disorderly conduct (Mabli, Holley, Patrick, & Walls, 1979, p. 182).

A conflict-centred approach

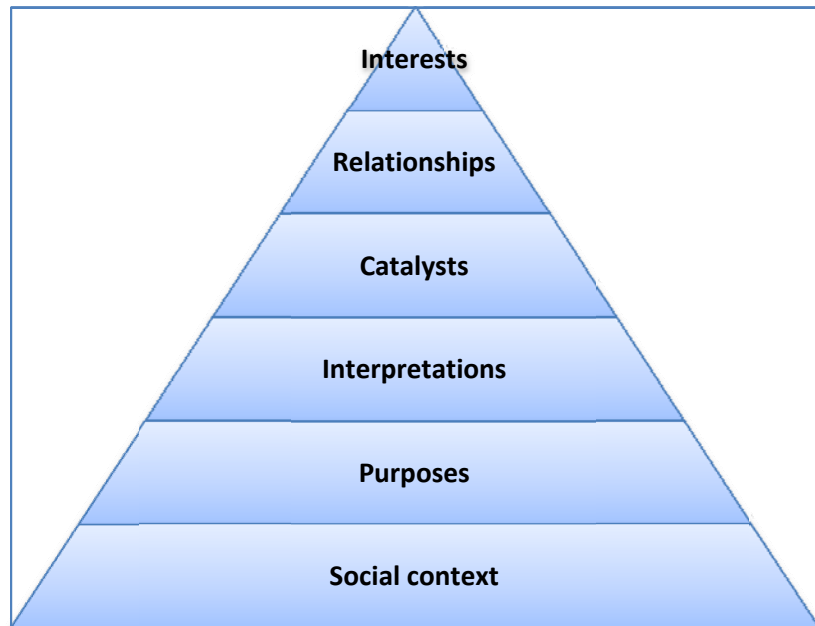
In the preceding section attention was paid to the different drivers of violence in prisons as identified in the literature, but these do not explain how violent incidents themselves can be explained and deconstructed. If violent and disorderly conduct is recognised as the result of conflict, it provides a useful conceptual framework for not only understanding such incidents better, but also for possibly preventing future incidents. Edgar explains it as follows: "Conflict refers to a clash of interests, situations in which parties pursue competing interests and needs in uncompromising ways. In this sense conflict is

endemic in prison. Conflict may lead to violence, or it may be resolved before it escalates. A conflict centred approach to reducing violence builds on the recognition that prisons generate conflict, between prisoners and managers, between managers and staff, and among prisoners” (Edgar, 2008, p. 182). The same author identifies four aspects that increase the risk of conflict in prisons:

- Deprivation of material goods – the prison regime controls prisoners’ access to resources and the perceived cost of material goods (e.g. phone cards, cigarettes, and extra food) and deprivation is therefore amplified. Consequently there is competition for material resources.
- High risk of victimisation - there is a high risk of theft, robbery and assault in prison, and a “pre-emptive strike” is often the chosen response in order to prevent victimisation.
- Loss of personal autonomy - since prisoners’ lives are controlled by officials, or inmate structures, prisoners become sensitive to the balance of power and the amount of control they have over their own lives.
- Lack of non-violent routes for resolving conflict - most prisons lack the mechanisms and structures to resolve disputes peacefully; disputes normally result in win-lose outcomes (Edgar, 2008, pp. 185-186).

Edgar (2008) presents the conflict pyramid developed by Edgar, O’Donnell and Martin (2003) which sets out the conceptual framework for conflict in prisons as shown in Figure 3.

Interests comprise material goods (e.g. cigarettes, phone cards and drugs) and values (such as respect, privacy, and loyalty) play an important role. Relationships refer to social distance (e.g. are the prisoners close acquaintances or strangers) between the parties as well as the balance of power between prisoners. Catalysts are the tactics and measures employed by prisoners when in dispute with other prisoners, such as verbal threats, accusations and



invasions of personal space. Conflicts are further shaped by the interpretations of the parties’ actions. Purposes refer to the intentions of the person who used force. Lastly, conflicts occur in particular social and situational contexts, which affect the likelihood of a dispute escalating into physical violence.

The value of the conflict pyramid lies, firstly, in providing the analytical means to understand a particular violent incident and, secondly, to develop preventive responses. The visible facts about a particular violent incident may in fact obscure the true underlying reasons for the incident and may easily be

dismissed as “two prisoners fighting over a phone card”. The material interests that set off a violent altercation may have been preceded by threats or an invasion of personal space as the catalyst, and this may indeed have happened over time. The manner in which two prisoners “interpret” each other, their identities in prison and each other’s purposes play an important role in deciding on a course of action; the one may be perceived as a gang member against whom you must stand your ground or forever be labelled as weak. Lack of familiarity and social distance, or loyalty to a certain group is relationship-information relevant to the conflict. Two prisoners from opposing gangs may resort to violence in order to protect the status of the gang. The prison setting itself is a social context that generates conflict for the reasons outlined above.

Responses to managing prison violence

Three approaches to managing prisons

In responding to prison violence, prison managers need to understand their own approach to management as there are three distinct styles discernible. In a 1987 study Dilulio distinguished between three basic approaches towards prison management; being the control model, the responsibility model and the consensual model: “The qualitative differences between Dilulio’s approaches to prison management reflect specific assumptions prison executives make concerning the proper use of administrative restraints to control and facilitate cooperation among prison staff and inmates.” (Reisig, 1998, p. 230). The control and responsibility models are at opposite ends of the spectrum. For example, control model managers assume that rigid administrative and formal restraints should control nearly all aspects of prison life. Responsibility model managers argue that the maintenance of order should be pursued by as little as possible official control mechanism and creating maximum opportunities for prisoners to govern themselves. Somewhere in between these two approaches, lie the consensual model prison managers who incorporate features of both models. While Dilulio was critical of this approach (the consensual model) it is argued by Reisig that “instead of restricting managerial decision making to an a priori set of guiding principles, consensual model managers are more apt to remain flexible and to respond to dynamic conditions in and outside the immediate prison setting by modifying existing policies and practices within broad parameters (e.g., legal) as they attempt to discover ‘what works’”. (Reisig, 1998, p. 230). According to Dilulio’s analysis the control and responsibility models differ on eight dimensions as set out in Table 2 (Reisig, 1998). These are important to distinguish for developing a particular management strategy.

Table 2. Comparison between control and responsibility models

<i>Dimension</i>	<i>Control model</i>	<i>Responsibility model</i>
Organisation communication	Restricted to official channels of the administrative authority	More informal and takes place across different levels of

<i>Dimension</i>	<i>Control model</i>	<i>Responsibility model</i>
	system.	authority.
Nature of personnel relations	Relationship and forms of address between superiors and subordinates are formal.	Forms of address more informal, colloquial.
Nature and formality of prison-staff communication	Prisoners are expected to address staff as “sir” and not be familiar with officials.	Prisoners can address staff less formally and communication is less formal.
Discretion exercised by staff	Officials enjoy very little discretion and must work “according to the book”.	Officials are encouraged to use their discretion to get the best possible result.
Regimentation of prisoners’ lives	Every aspect of prisoners lives and daily routine is regimented into a routine.	Inmates are afforded the greatest level of freedom consistent with security requirements.
Reaction to prisoner rule violations	Rule violations are met with strict punishments.	Personnel do not react with formal sanctions for every rule violation.
Response to prisoner disruptions	The typical response is “swift official counterforce”.	More likely to negotiate with prisoners.
Prisoner participation in decision-making	Inmates are assumed to be unable to self-govern.	Efforts are made to give prisoners a greater voice in prison affairs.

Reisig undertook an empirical study to determine if the three models of management have an impact on the level of less serious and serious disorder in prisons and to test Dilulio’s conclusion that the control model was the most effective in reducing disorder (Reisig, 1998). He came to a substantially different conclusion, finding that the incidence of serious disorder was highest in prisons managed according to the control model, followed by the consensual model and responsibility model managed prisons.⁶ He did, however, not find a significant difference in respect of less serious disorder.

Inmate focused strategies

⁶ Serious disorder was defined as escapes, inmate homicides and forcible rape (Reisig, 1998).

A number of inmate-focused strategy options are outlined in this section and their efficacy assessed based on the extant literature.

Inmate classification and profiling

A distinction is made between external and internal classification; the former determines where an inmate will be housed and the latter determines the cell where the prisoner will sleep, the programmes he or she is assigned to, risk of escape and level of control (Byrne & Hummer, 2008, p. 52). While much has been made of prisoner classification as a response to managing violence and other risks (Gibbons & Katzenbach, 2006), very few empirical studies have been done. Logically and managerially it makes sense to group prisoners with similar profiles together and keep other categories apart, but as logical as they may sound the day-to-day situation at prison floor level is far more dynamic than the variables used in a classification system. For example, the DCS used a simple formula relying on three variables, namely sentence length, nature of the crime and number of previous convictions. In this formula, the sentence length is weighted and as a consequence of the lengthening of prison terms imposed in general (Giffard & Muntingh, 2007), the proportion of prisoners classified as maximum security also increased. The result was that maximum security prisons became overcrowded (Office of the Inspecting Judge of Prisons, 2007, p. 39). Furthermore, the variables used in this formula are weak predictors of violent and disruptive behaviour in prison and are rather extensions of the punitive component of the sentence imposed. Using these variables it then appears that a prisoner would be classified as, for example, maximum security not because of the potential management problems he or she may present through disruptive behaviour, but rather because of the sentence imposed and the crime that was committed (Byrne & Pattavina, 2007). From a violence reduction perspective, the DCS classification system is then of little value.

Empirical studies on classification systems in the U.S. have also not produced results affirming their value. Two separate studies placed randomly selected prisoners in different security settings to that in which they had been classified: medium category prisoners were placed in minimum security and maximum security prisoners were placed in medium security prisons. Neither of the studies found that there was an increase in misconduct, violence or disorderly behaviour (Byrne & Hummer, 2008, p. 52).

Two fundamental issues emerge from the debate on classification:

- (1) how to identify prisoners with a high risk for disruptive institutional behaviour at the internal classification stage; or which variables are used as objective and reliable predictors of violent and disruptive behaviour, and
- (2) how to respond proactively to those prisoners identified with risk factors associated with violent and disruptive behaviour (Byrne & Hummer, 2008, p. 53).

Even when using sophisticated assessment tools, these have been shown to be less than accurate with error rates ranging from 48 percent to 95 percent, as alluded to above.

In respect of classification systems it then appears that very little reliable research has been done to firstly identify the relevant variables in respect of violence prevention, although the following have been identified as known risk factors: age (young), gender (male), history of violence, history of mental illness,

gang membership, low programme participation, and recent disciplinary action (Byrne & Hummer, 2008, p. 53). However, it is unknown how prison managers should respond to these. Moreover, any classification must be evaluated within the context in which it is used and more specifically in relation to management practices and the availability of programmes to prisoners (Byrne & Hummer, 2008, p. 53).

When reviewing the statistics on assaults and unnatural deaths in South African prisons above there is no evidence that the current classification system made any contribution to creating safer prisons. The rate of assaults and unnatural deaths appear to be driven by factors other than the variables covered in the classification system. This is somewhat expected, as the classification formula does not use any of the variables that have been associated with violent and disruptive behaviour. Following from this it is recommended by Byrne and Hummer (2008, p. 59) that a new generation of classification systems need to be tested which “link an inmates’ risk level to specific in-prison treatment programming; these new classification systems would be designed to focus on offender change, rather than offender control, as the outcome of the classification decisions.”

Programmes for prisoners

It may not be anticipated that educational, vocational and rehabilitative programmes delivered to prisoners will have a positive effect on the level of violence in prisons as these are primarily aimed at reducing recidivism after release. Numerous studies have been conducted on establishing the most effective programmes in this regard, but fewer studies have been conducted on measuring their impact on prison violence (Homel & Thompson, 2005, p. 7). Based on several studies the same authors conclude tentatively that “programs that implement violence alternative training or other forms of treatment such as drug rehabilitation within a supportive and ‘opportunity enhancing’ environment of a specialist or rehabilitative unit are more likely to be effective in reducing prisoner violence” (Homel & Thompson, 2005, p. 7).

The considerable body of knowledge on what are effective programmes in this regard point to a number of principles, being:

- risk factors for further offending should determine the nature and intensity of programmes;
- programmes should target criminogenic needs, such anti-social attitudes and drug dependency;
- programme integrity must be maintained by adhering to the plan and using appropriately skilled staff;
- there must be responsivity between participants and facilitators by matching teaching styles with learning styles;
- treatment modality is important – interventions are skills-based, aimed at problem-solving, social interaction and includes a cognitive component to address attitudes, values and beliefs supporting offending behaviour;
- community-based programmes make a valuable contribution by assisting offenders after their release from prison (Dünkel & Van Zyl Smit, 2001, p. 822).

Research has similarly identified the characteristics of programmes that are not effective and these should be avoided. Cullen and Gendreau, in their review of correctional rehabilitation, found that

interventions that aim at greater control over offenders, and are regarded as by-products of the “get-tough-on-crime”-approach, are not effective in reducing recidivism. They report further that in the same manner that effective programmes are based on sound theory and empirically-tested methods and interventions, control-inspired interventions appear to be based on “a common-sense-understanding that increasing the pain and/or the surveillance of offenders would make them less likely to commit crimes” (Cullen & Gendreau, 2000, p. 154).

Further research findings lend solid and overwhelming support for providing prisoners with academic and vocational training programmes as a means to reduce violence and disorder in prisons. McCorkle et al report on a study of 317 U.S. state prisons where it was found that, “[E]ven after controlling for other institutional characteristics, prisons in which a large percentage of the prisoner population was involved in educational, vocational, and prison industry programs reported lower rates of violence against inmates and staff.” (McCorkle, Miethe, & Drass, 1995, p. 325) The same authors recommend that order in the prison was best achieved when prisoners were engaged in meaningful programmes that offered opportunities for self-improvement and not just a structured day-programme that kept prisoners busy. According to McCorkle et al meaningful programmes create something valuable that prisoners prefer not to lose through a violent incident: “To an inmate participating in such a programme, the immediate costs of aggression may be judged to [be] high: falling behind in the programme, the loss of an industry job, and the transfer to a more custody oriented prison. Participants in meaningful programmes would also be looking forward to release, and with new skills acquired, the chance of a fresh start. Weighed in the balance with their dreams, the momentary satisfaction derived from an act of violence would likely be discounted” (McCorkle, Miethe, & Drass, 1995, p. 328). The pervasive idleness and long lock-up periods characterizing South African prison life may then indeed be one the major risks to safe custody.

Homel and Thompson (2005, p. 8) reflect further on two other types of programmes: treatment programmes (e.g. cognitive behavioural programmes, violence alternatives and anger management); and substance abuse programmes. In respect of treatment programmes there is little evidence supporting in-prison violence reduction impact. Anger management programmes, based on evaluations of well-implemented programmes in Australian prisons, have shown a small but consistent impact on violence reduction. Based on other research findings they conclude that “[P]romising approaches appear to be multi-modal methods that utilise a broad range of behavioural, cognitive-behavioural and psychological skills training, or the siting of programs in a rehabilitation unit with an intensive dual program modality (group and individual sessions)” (Homel & Thompson, 2005, p. 8).

Substance abuse and addiction is common amongst prison populations; figures from the UK indicate that 60-70 percent of prisoners were using drugs prior to imprisonment (Social Exclusion Unit, 2002, p. 3). While drug taking may alter behaviour, drug smuggling in the prison environment also gives rise to an illicit economy with its own power dynamics. Focusing on substance abuse treatment is therefore a sensible response to reducing in-prison violence and disorder. The literature indicates that the most promising results in this regard have been achieved with prison-based therapeutic communities operated as segregated facilities within the prison, but that drug treatment as a stand-alone programme have shown limited results (Homel & Thompson, 2005, p. 8).

The external environment and contact with the external environment

The Correctional Services Act, in section 13, states that the DCS “must encourage prisoners to maintain contact with the community and enable them to stay abreast of current affairs”. The number and duration of visits are, however, limited according to a prisoner’s security classification. In the case of unsentenced prisoners there is no restriction on visits, although practical arrangements may limit the number of visits from family members.

The literature is scant on the effect of external events on prison violence. From the 1994 prison riots in South Africa one can deduce that large scale societal events may have an impact on prisons and in the event that prisoners aspirations are frustrated that this may increase the risk of violence. More focused and empirical research on the link between family visits and infractions is limited and while it is argued that family visits will reduce violent incidents, statistical proof has not been found, though interviews with prisoners revealed that regular visits assisted them to avoid misconduct (Wortley, 2002, p. 96). McCorkle et al did find some indication of a relationship between external conditions (increased unemployment in general society) and the incidence of prison violence (McCorkle, Miethe, & Drass, 1995, p. 325). In the U.S. it appears that parole boards are less likely to release offenders when there is a high unemployment rate and that this may lead to increased tensions inside prisons (McCorkle, Miethe, & Drass, 1995, p. 327).

In the post-1994 era South African prisoners have increasingly become aware and educated about their rights as prisoners as expressed in the Constitution, but more specifically about the provisions of the Correctional Services Act and, more recently, of the aspirations of the White Paper on Corrections. The risk is that prisoners may become frustrated at the gap between their rights and the reality, which may contribute to increased tension levels at operational level. Recent research on prisoners’ views described it as follows:

This [the White Paper on Corrections] has created many expectations that were often frustrated by the situation at ground-level. One participant described it as follows: *When you start reforming yourself, there is no support. The attitude of the warders does not support prisoners’ rights.* Participants also remarked on the attitude of the warders towards the new approach in DCS: *The acceptance of the new system [as policy position] was good but the warders did not accept it. The warders are not transformed.* Having a desire to transform oneself and “achieve rehabilitation” was well articulated by the [research] participants and the sense of frustration experienced through a lack of support and the attitude of officials must have been demoralising. (Muntingh L. , 2009, p. 12).

The influence of external conditions and also the effect of contact with the community appear to be a thoroughly under-researched topic, although it appears that it could be a sensible measure to increase

contact between prisoners and the community in order to counter the negative effects of institutionalisation.

Staff focused strategies

There is a view that holds that if one is able to change prison staff culture, then prisoner culture will follow (Byrne, Hummer, & Taxman, 2008, p. 139). The *White Paper on Corrections* devotes several pages to organisational culture and the ideal correctional official (Department of Correctional Services, 2005, pp. 114-123) and also makes the link between staff culture and inmate culture: "The essence of an effective organisational culture is the creation of an environment in which effective and sustainable rehabilitation takes place. Such an environment is one in which:

- offenders discard negative or harmful attitudes and behaviours;
- offenders replace such attitudes and behaviours with, or adoption of, useful attitudes, values and behaviours through active encouragement;
- the focus of employees are entirely geared towards the core business of an organisation;
- there are programmes and processes to help employees to take more initiatives, set more challenging goals, be more innovative, and become better leaders and managers;
- employees are assisted to take more responsibility for the success of their sections, correctional centres, Management Areas, as well as for the Department as a whole." (Department of Correctional Services, 2005, p. 115).

The question arising from this is: how is staff culture changed? Since 2003 the U.S. National Institute of Corrections (NIC) embarked on Institutional Culture Change Initiatives (ICCI). Interventions at nine sites implemented between 2003 and 2005 were evaluated by Byrne, Hummer, & Taxman (2008). The NIC-ICCI consisted of four programme components: (1) assessment of institutional culture; (2) promoting positive corrections culture; (3) strategic planning and management; and (4) leading and sustaining change. It is not necessary to describe the implementation of the ICCIs here in detail as this is done by Byrne, Hummer, & Taxman (2008) and the emphasis will be placed on the lessons learnt as well as some of the preliminary results. It is, however, important to note that while all nine sites completed component 1, three completed component 2, four completed component 3, and none completed component 4, save for a pre-test site.

The ICCIs firstly presented a number of conceptual framework problems:

- There is no empirical evidence to support a direct link between negative prison culture and prison performance, or that inmate culture is directly linked to the dominant staff or inmate culture;
- There was no clear definition of the specific problems to be targeted at the specific prisons, or a link demonstrated between the problems identified and the particular intervention;

- Components 3 and 4 (strategic planning and management, and leading and sustaining change) of the programme were at a “dosage level” too low for what is normally associated with this type of intervention, and
- There were no clear criteria established for the selection of the sites, the number of initiatives used at each site and the time/sequencing of the initiatives.

Despite implementation quality concerns as well as data collection problems, Byrne, Hummer, & Taxman (2008) found some encouraging evidence relating to staff attitudes and the incidence of prisoner misconduct (violent incidents and administrative violations). The data shows a drop in overall prisoner misconduct incidents immediately following the implementation of each new phase of the ICCI. However, the number of violent incidents remained relatively stable throughout the two-year period but administrative violations showed a significant decrease. It should be added that the effects of ICCI observed may indeed only be an initial impact and that more data over a longer time period will be required to assess sustained impact. It was consequently concluded that there remains little empirical evidence for a link between staff culture and inmate culture as a means to address violence in prisons (Byrne, Hummer, & Taxman, 2008, p. 161).

Changing institutional culture or even only introducing operational reforms is further undermined by staff and specifically leadership turnover. From the U.S. it is reported that state commissioners of corrections remain in these positions for three years on average and individual heads of centres only for slightly longer (Byrne & Hummer, 2008, p. 54). Frequent changes in leadership - each leader with a different style and different levels of knowledge and experience, add to the already volatile climate in the prison system.

Management strategies

Ultimately everything in a prison depends on management’s actions. However, what management does may either inhibit or prevent violence and disorder, or it may in fact give rise to violence and disorder, especially if the actions of management are perceived to lack legitimacy. As much as prisoners do not volunteer to be imprisoned and that imprisonment will always contain an element of coercion, the actions of prison management and its officials should at least be perceived to be just, fair and legitimate by prisoners. It is in this sense that Sparks and Bottoms conclude:

These include every instance of brutality in prisons, every casual racist joke, and demeaning remark, every ignored petition, every unwarranted bureaucratic delay, every inedible meal, every arbitrary decision to segregate or transfer without giving clear and well founded reasons, every petty miscarriage of justice, every futile and inactive period of time – is delegitimising. The combination of an inherent legitimacy deficit with an unusually great disparity of power places a peculiar onus on prison authorities to attend to the legitimacy of their actions. (Sparks & Bottoms, 1995, p. 60).

The closeness of prison life, the sharing of information between prisoners and the intertwined nature of prisoners' and officials' lives, creates a situation where the minutiae of daily interactions are analysed, mulled over and conclusions drawn by prisoners and officials alike. Any perception of unfairness or decision lacking legitimacy has the potential to escalate, or at least be used as further "proof" of the illegitimate prison regime. The issue of legitimacy is starkly demonstrated in the following extract from an interview with a South African prisoner:

The officers tell you that they don't want gangs and smuggling and that you must focus on your ticket (serving your sentence). When you get inside the section there are different groups [gangs] there. They see the new people coming in and they go and speak to them, wanting them to join their group. If you don't want to join them, then the problems start. They steal your things when you have had visitors. They treat you badly until you want to join. When you join, then there are other problems. If you join the 28s they will say that the general needs a wife. In the 26 they say we work with money. The Big 5 says that we don't want any bad things and if we see anything, we report it to the officials. I ended up not knowing myself. I went to the officials and told them that I have a problem; the gangs threatened me and I don't want to join the gangs. The officials said if I wanted protection from them (the officials) I must buy them something. I said I don't have any money, but they said I must make a plan. Fortunately I met a guy from my township; we knew each other from seeing, but not each other's names. He was high up in the 26 gang and said to me that I must never join the gangs. He used his influence with the officials to have me transferred to the School Section. It did take three weeks but he made it possible. (Muntingh, 2009, p. 10).

Building legitimacy through a particular management approach therefore becomes central to creating a safer prison environment for both prisoners and staff. There is, however, very little research available on the impact of management and leadership styles on violence in prisons (Byrne & Hummer, 2008, p. 54).

There is, fortunately, increasing consensus in the literature that the control model of prison management, emphasising formal rules and coercive practices, is less effective in controlling disorder and preventing violence than models emphasising responsibility and consensual approaches (Homel & Thompson, 2005, p. 9). Moreover, management approaches that minimise the deprivations of imprisonment (e.g. enabling maximum family contact) will reduce the incidence of disorder. It is ironic that the United Nations Standard Minimum Rules for the Treatment of Prisoners already recognised the importance of this principle in 1955.⁷

There is also growing evidence for a closer investigation of and sensitivity to the day-to-day events of prison life as a means of improving management and reducing violence and disorder. The daily interaction between prisoners and officials has already been described thoroughly by Liebling (2004) and Wortley has developed the situational model in detail (Homel & Thompson, 2005). While the initial

⁷ Rule 60(1) The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.

impetus for the situational model emphasised the physical reduction of opportunities for committing further crime in prison by improved physical features, deploying more officers, improved surveillance, and segregating certain categories of vulnerable prisoners (Edgar, 2008, p. 190), the situational model has increasingly incorporated features of a more social and psychological nature and now distinguishes between perceived risks, anticipated rewards, and inducing shame guilt or shame (Homel & Thompson, 2005, p. 3).

Some of the practical suggestions emanating from the situational model include:

- single-cell accommodation can reduce crowding and respect a prisoner's territory (precipitation-control), while "target hardening" a prisoner (opportunity reduction, or regulation-control);
- increasing prisoners' control over their environments can encourage compliance and reduce frustration (precipitation-control);
- small or subdivided prisons can reduce anonymity (precipitation-control);
- age-heterogeneous populations can reduce both inappropriate imitation and conformity (precipitation-control);
- increasing the number of female personnel may encourage compliance and reduce frustration (precipitation-control);
- elimination of blind spots may improve formal and natural surveillance (regulation-control) (Homel & Thompson, 2005, p. 8).

Edgar (2008) argues that the situational model can be combined with social crime prevention model, which is characterised by promoting a culture of non-violence aimed at enhanced legitimacy, whilst considering creatively how "situational" dimensions of the prison environment could be adapted to reduce opportunities for violence and disorder (Edgar, 2008, p. 191). Utilising the social dynamics and interests of sub-sets in the prison population productively and empowering prisoners to deal with risks for violence constructively have been used effectively in reducing violence (Sparks & Bottoms, 1995).

A Swedish study raises a further important point in respect of risk assessment tools and staff-prisoner interaction. The study, at a Swedish maximum security prison, used the HCR-20⁸ violence risk assessment scheme and investigated if institutional violence in a maximum security correctional institution could be prevented using comprehensive risk assessments followed by adequate risk management (Belfrage, Fransson, & Strand, 2004, p. 11). The study concluded that while risk factors were not reduced, the number of violent incidents was reduced and the authors offer three possible explanations. Firstly, because of the intensive risk assessment staff had more knowledge of the prisoners in their care and they were consequently better able to manage risks. Secondly, because of improved knowledge of the prisoners, staff members were able to formulate improved individual

⁸ The Historical, Clinical, Risk Management-20 (HCR-20) is an assessment tool that helps mental health professionals estimate a person's probability of violence. (Encyclopaedia of Mental Disorders at <http://www.minddisorders.com/Flu-Inv/Historical-Clinical-Risk-Management-20.html> , Accessed 18 September 2009.

responses. Thirdly, due to the project's interventions, the prisoners received more attention and this reduced the risk of violent and disorderly conduct (Belfrage, Fransson, & Strand, 2004, p. 19). Regardless of which of the three explanations - and possibly all three - carries more weight, they all point in a similar direction; namely, improved interactions based on knowledge between prisoners and officials. This has been pointed out by several authors as key to improving management and reducing the risk of violent and disorderly conduct (Edgar, 2008) (Liebling, 2004) (Sparks & Bottoms, 1995).

The use of risk assessment tools should, however, be used with caution, especially when management strategies are reliant on their results. Prisoner risk classification tools usually rely on objective demographic and related data such as age, sentence lengths, previous sentences and so forth. A study involving a total of 2 595 Missouri prisoners used a set of objective variables (age, education, prior record, offence and sentence) to predict retrospectively their involvement in violent and disorderly conduct in prison (Cunningham, Reidy, & Sorensen, 2008). The tool used was the Risk Assessment Scale for Prison (RASP). The results were, at best, not very useful from a management perspective as it indicated a false positive of nearly 50 percent for even the highest risk category of prisoners. The authors observe that "the occurrence of violence is not simply a matter of demographic characteristics or even personal violence proclivity" (Cunningham, Reidy, & Sorensen, 2008, p. 48), but is the result of the complex interaction between a range of variables in a particular power setting.

From the above a number of observations can be made in respect of management approaches to reducing violence in prisons. Firstly, because of the nature of the prison as an institution, management should be acutely aware of its own legitimacy deficit and thus be sure that its decisions and actions build legitimacy rather than eroding it further. Secondly, management approaches to reduce violence driven by the control model is not supported by the evidence and consensual approaches have yielded better results in creating safer prisons. Thirdly, the day-to-day relationship between staff and prisoners is central to creating safer prisons. How prisoners are treated, spoken to and interacted with have a material impact on levels of conflict and the potential for violence. Fourthly, the situational approach to managing conflict and violence holds significant potential for reducing violence in prisons. Fifthly, risk classification systems relying on objective indicators are not reliable and approaches to reducing violence in prisons should not depend on these.

Governance, policy and practice implications

By way of concluding this paper, this literature review is drawn upon to formulate a number of governance, policy and practice implications and recommendations to reduce prison violence.

Develop a violence reduction strategy

There is at this stage no evidence that the DCS has developed a strategy to reduce violence in South Africa's prisons. A more recent development is an initiative to develop a gang management strategy. However, such a strategy will be limited to the prison gangs and although they have an important

impact on the levels of violence in prisons, not all violence is committed by gang members, or is motivated by gang interests. Moreover, prison gangs are also involved in activities that are commercial in nature and not necessarily violent. The literature reviewed rather supports the development of total strategies to reduce the general incidence of violent and disorderly conduct in prisons. It is foreseeable that the role of prison gangs, as architects of violence, will be dealt with under such a comprehensive strategy, but the focus on a particular group may indeed detract from a more holistic approach to understanding prison violence and disorder. The literature reviewed also points in the direction of two key policy options: (1) Policies that assume that problematic behaviour in prisons is linked to individuals with certain problematic characteristics. The consequence of this assumption is the development of more sophisticated risks assessment tools, classification system and control techniques for high risk prisoners; and (2) Policies that are based primarily on the prevention of the emergence of problems in the general prison population through the provision of the same programmes to all prisoners and dealing with individual problems on an individual basis (Byrne & Hummer, 2008, p. 60). The evidence lends support to the second option as more effective in reducing violence; dealing with problems proactively and with a view to problem-solving rather than attempting to control behaviour.

The violence reduction strategy developed by HM Prison Service, referred to above, is instructive in providing guidance for such a strategy and deals broadly with the following:

- Assigning responsibility for reducing and managing violence in the prison service;
- The aims of managing of behaviour that escalates conflicts and causes violence;
- Prescribed follow-up action with prisoners involved in a violent incident;
- Cell-Sharing Risk Assessment (CSRA) and Risk Minimisation;
- The recording of information relevant to prisoner safety;
- Notification of offences under the relevant statutes;
- Prisoners whose behaviour is particularly difficult or disruptive ;
- Communicating the strategy to staff and other instructions relating to the management of prisoners;
- Strategy components;
- Consultation with stakeholders;
- Implementation;
- Monitoring and audit arrangements (HM Prison Service, 2006).

Developing and implementing such a strategy will not happen overnight and the necessary resources will need to be allocated and the full nature and implications of the strategy need to be understood. This will need to be incorporated into the strategic planning and budgeting of the DCS. It should be added that in the current strategic plan there is no single objective relating to the reduction of violence and the closest approximation of such as objective is the following: "To prevent persons incarcerated from participating in criminal activities & escaping, by providing an environment that ensures the safety of all persons entrusted to the Department's care as well as the safety of the public" (Department of Correctional Services, 2009, p. 48). The overt emphasis on security in the objective as well as the

associated performance indicators⁹ confirm that the approach to safety continues to focus on security measures; an approach not supported by evidence in the literature reviewed above.

Law reform

In the debate on prison violence, the assault of prisoners by officials is of particular concern. Despite the provisions of the Constitution guaranteeing the right to be free from torture and ill treatment as well as South Africa's ratification of the UN Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment (CAT), the statutes remain without legislation criminalising torture in compliance with Article 4 of CAT. This is a serious shortcoming, as has been commented on by the Committee against Torture in its Concluding Remarks on South Africa's Initial Report (UN Committee against Torture, 2006). Violence in prisons must be seen within the context of the absolute prohibition of torture and ill-treatment and the duty of the state to provide safe custody. Even if an act of violence is committed by a prisoner against another, the state is not absolved from liability as the state is responsible to maintain safe custody. In essence it means that if the state could have done something to prevent the violent incident, it should have done so.

The right to be free from torture and the right not be treated or punished in a cruel, inhuman or degrading way are non-derogable rights enumerated in section 12(1)(d) and 12(1)(e) of the Constitution. The international ban on the use of torture also has the enhanced status of a peremptory norm of general international law,¹⁰ meaning that as a peremptory norm, it

... enjoys a higher rank in the international hierarchy than treaty law and even "ordinary" customary rules. The most conspicuous consequence of this higher rank is that the principle at issue cannot be derogated from by States through international treaties or local or special customs or even general customary rules not endowed with the same normative force..¹¹

No state may excuse itself from the application of the peremptory norm. The absoluteness of the ban means that it applies regardless of the status of the victim and the circumstances, be it a state of war, siege, emergency, or whatever. The revulsion with which the torturer is regarded is demonstrated by the very strong judicial rebuke, condemning the torturer as someone who has become "like the pirate and slave trader before him – *hostis humani generis*, an enemy of all mankind",¹² and torture itself as an

⁹ The performance indicators relate to number of assaults, number of escapes, percentage of vetted personnel, and number of unnatural deaths.

¹⁰ See the House of Lords decision in *A (FC) and others (FC) v Secretary of State for the Home Department* (2004); *A and others (FC) and others vs Secretary of State for the Home Department* [2005] UKHL 71 para 33. See also *R v. Bow Street Metropolitan Stipendiary Magistrate, Ex parte Pinochet Ugarte (No 3)* [2000] 1 AC 147, 197-199; *Prosecutor v Furundzija* ICTY (Trial Chamber) judgment of 10 December 1998 at paras 147-157.

¹¹ *Prosecutor v Furundzija* ICTY (Trial Chamber) Judgment of 10 December 1998 at para 153.

¹² *Filartiga v Pena-Irala* [1980] 630 F (2nd Series) 876 US Court of Appeals 2nd Circuit 890.

act of barbarity which “no civilized society condones”,¹³ and “one of the most evil practices known to man”¹⁴ and “an unqualified evil”.¹⁵

In the absence of such legislation, the obligation to put in place measures to prevent and combat torture and ill treatment (as required by Article 2.1)¹⁶ is diluted. It is therefore not surprising that the phrasing “torture, cruel, inhuman and degrading treatment or punishment” has not entered the policy jargon of the DCS and there is also no policy similar to that of SAPS in respect of the prevention of torture, cruel, inhuman and degrading treatment or punishment (Muntingh & Fernandez, 2008, p. 126). Article 10 of CAT is clear on the duty of the state to communicate the absolute prohibition of torture and ill-treatment to all officials, but there is little evidence to suggest that this is indeed done by the DCS.¹⁷ Having clear legislation on the prohibition of torture and communicating this to all officials of the DCS will be an important step to set the absolute minimum standards in respect of prisoner treatment. Arguments and assertions that prison staff do not torture or purposefully ill-treat prisoners must be dismissed as there is overwhelming evidence from recent cases as well as from the Jali Commission that torture and ill-treatment occurs.

Definitions

The DCS and the JICS report both on assaults and complaints of assaults recorded. However, neither institution provides a definition of how assault and, more generally, violence is defined. It is therefore not known whether the definitions employed by the DCS and the JICS are indeed the same, whether any definitions are used at all, or whether in the case of the JICS, it is the prisoner who defines what constitutes an assault. The role of the ICCV in redefining the complaint has also not been investigated and it is therefore not certain what the influence of the ICCV is in this regard. It has been reported (Venter, 2009) that in the case of DCS-reported assault cases the requirement is that there must be physical injury to the victim that requires medical attention. This appears to be a very high threshold and will not facilitate the collection of accurate data on the extent of violence and the consequent development of appropriate responses. Such a high threshold may actively discourage prisoners from lodging complaints of victimisation, but may also have the effect of trivialising complaints of victimisation that did not result in physical injury but may have been equally or more damaging in other respects.

¹³ *A (FC) and others v Secretary of State for the Home Department* para 67.

¹⁴ Para 101.

¹⁵ *Ibid* at Para 160.

¹⁶ Art 2.1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

¹⁷ Article 10.1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

The Prison Service for England and Wales defines violence as; “Any incident in which a person is abused, threatened, or assaulted. This includes an explicit or implicit challenge to their safety, well-being or health. The resulting harm may be physical, emotional or psychological” (HM Prison Service, 2006, p. 8). This inclusive definition enables a more progressive understanding of conflict and violence with the intention that incidents which may not constitute violence, but which may escalate into violence, are identified and reported. It is therefore important that the DCS and the JICS adopt a common definition of violence and reportable incidents so as to enable appropriate investigations and the collection of accurate data and the monitoring of trends.

Data collection

The data currently available on violence in South Africa’s prisons is at best superficial and very little can be learnt from what is available in the public domain. An effective response in reducing violence in prisons will be highly dependent on collecting accurate information on the extent of the problem and monitoring the results of interventions. The following are important gaps in the information:

- The nature of violence employed – use of weapons, extent of injuries (physical and emotional), individual and group involvement;
- The parties to the violent incidents – staff, prisoners, gang affiliation, age, gender, sentence status, sentence length, duration in custody, years of service (staff);
- The incidence of violence – frequency, geographical spread, distribution across security classification;
- Investigation of violent incidents – reported and unreported cases, results of investigations by respective agencies (DCS, SAPS and JICS);
- Support services rendered to victims of violence – service providers, nature of service, impact of support services and preventive measures.

Establishing transparency and accountability around prison violence

As noted above, very little information is available in the public domain about prison violence and only the most general aggregate statistics are made available by the DCS and the JICS in their respective annual reports. By collecting more information, as proposed above, more accurate data will become available to institutions with an oversight function, such as Parliament, as well as to civil society and the academic community for research purposes. The JICS has, in this regard, a particular duty to collect and disseminate information to a wider audience to promote transparency and accountability. Moreover, the JICS needs to actively monitor and report in detail on the incidence of violence in prisons. There is little doubt that since its inception the JICS has made numerous recommendations dealing with prisoner safety and the level of violence in prisons, but it has no power of enforcement and its recommendations are frequently ignored (Civil Society Prison Reform Initiative, 2009). Fortunately, as a result of the Correctional Services Amendment Act (25 of 2008) the JICS will now be required to also report to Parliament in addition to the Minister of Correctional Services (section 65). This will enable Parliament, through the Portfolio Committee on Correctional Services, to monitor the actions of the DCS in response to recommendations made by the JICS, but more importantly, these recommendations will then be in the public domain.

In addition to making available more comprehensive information on violent incidents, it is specifically required that when deaths and assaults have occurred that these be thoroughly investigated, as required by Articles 12 and 13 of CAT,¹⁸ and that such investigations, which are usually undertaken by SAPS and in terms of the Inquest Act (58 of 1959) be monitored by the JICS and their progress reported on to Parliament. It was with reference to the high number of deaths in custody and the apparent lack of investigations that the UN Committee against Torture expressed itself as follows:

The Committee is concerned at the high number of deaths in detention and with the fact that this number has been rising. The Committee is also concerned at the lack of investigation of alleged ill-treatment of detainees and with the apparent impunity of law enforcement personnel. The State party should promptly, thoroughly and impartially investigate all deaths in detention and all allegations of acts of torture or cruel, inhuman or degrading treatment committed by law enforcement personnel and bring the perpetrators to justice, in order to fulfil its obligations under article 12 of the Convention (UN Committee against Torture, 2006).

There will be little purpose in a departmental strategy to reduce violence if officials who make themselves guilty of gross human rights violations are not prosecuted and convicted. Demanding rigorous accountability of all officials and taking the appropriate measures when there are transgressions are key steps in building legitimacy for the DCS.

Monitoring performance and legislative compliance

The DCS announced its plans to develop a gang management strategy, formerly referred to as the “anti-gang strategy”, several years ago but active work on the plan only commenced in mid-2009. Despite the limitations of the proposed strategy as outlined above, it remains indicative of the Department’s intentions to deal with safety issues. A key requirement will be active and engaged monitoring of the Department’s performance in relation to its strategic framework and its compliance with the Correctional Services Act. This duty falls on the shoulders of Parliament. A review of the latest strategic plan of the DCS (2009/10-2013/4) shows that there are indeed several objectives¹⁹ that may contribute to creating safer prisons and which may be supportive of an overall aim to reduce violence in prisons, but these need to be implemented successfully and this requires active and thorough oversight from Parliament.

¹⁸ Article 12. Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13. Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

¹⁹ These relate to, amongst others, improving staff skills, knowledge and capacity; improvement of information systems; and improved educational, vocational and academic programmes.

Engaging prisoners in programmes and work

The pervasive idleness characterising South African prison life is often describe by prisoners as “eet en lê” (eating and sleeping) and the research discussed above have demonstrated that keeping prisoners actively engaged in meaningful programmes, services and education is, to date, the only empirically proven measure to reduce violence and disorder. The number of prisoners involved in work opportunities in prison is frighteningly low,²⁰ despite the requirement in the Correctional Services Act that at least sentenced prisoners should as far as is practicable be engaged in performing work.

Section 38 of the Correctional Services Act (as amended) requires that all sentenced prisoners must be assessed and for those prisoners serving a sentence of longer than 24 months, a sentence plan must be developed. The sentence plan must set out “the manner in which the sentence will be served” and based on the assessment which deals with the security classification, various needs identified (health, psychological, social, development, and reintegration), work allocation and allocation to a specific prison made. Prior to the 2008 amendment to the Act, prisoners serving sentences of longer than 12 months were entitled to a sentence plan. In the absence of a sentence plan it is unknown if prisoners serving sentences of less than 24 months will be entitled to any services, or whether they will at best benefit incidentally from services and work opportunities. The net result will be that a significant proportion of the prison population will be excluded from services. The 2009/10 Correctional Services budget vote sets the target for the development of sentence plans at 5 600 for 2009/10; this is 5.6 percent of the sentenced population (National Treasury, 2009, p. 391). This target is too low to have any noticeable impact on the large scale involvement of prisoners in programmes and services. A far more concerted effort is required, supported by the appropriate budget allocation, to engage the maximum number of prisoners in programmes and services. If need be, the services of external service providers must be procured.

Continued research

This literature review has shown that even in developed countries information on prison violence, and more specifically on what is effective in reducing prison violence, remains sketchy. Apart from contributing to this body of knowledge, it is important that South African research is conducted to inform policy and practice based on local research information. The DCS and the JICS needs to support and conduct research on prison violence. In addition to supporting research, it is also necessary to support pilot projects and innovations to reduce violence.

End.

²⁰ In 2007/8 less than 20 000 work opportunities were available to roughly 115 000 sentenced prisoners (Department of Correctional Services, 2008, p. 53). It is, however, unknown how many of these work opportunities provided labour full time over the year.

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