



**CSPRI SUBMISSION ON THE ADMINISTRATION OF  
CORRECTIONAL SUPERVISION AND PAROLE –  
CHALLENGES, SUCCESSES AND FUTURE  
DEVELOPMENTS**

**SEPTEMBER 2016**

**Contact details:**

Prof LM Muntingh

Dullah Omar Institute

University of the Western Cape

[lmuntingh@uwc.ac.za](mailto:lmuntingh@uwc.ac.za)

## Contents

Introduction.....	3
Facts and figures .....	4
Legal requirements.....	5
Objectives of community corrections .....	6
Challenges faced by former prisoners.....	7
Measuring performance .....	8
Recommendations.....	11

## Introduction

1. This submission deals with correctional supervision and parole and is made in response to a call for submissions from the Portfolio Committee on Justice and Correctional Services. The submission will not deal with medical parole as there is too little information in the public domain to make an assessment if the current system is working or not.
2. A number of basic observations need to be made at the outset. Community corrections refer to the parallel and very similar systems of parole and correctional supervision. The major difference is that correctional supervision is a sentence imposed by a court whereas parole is not a sentence, but a conditional release from a sentence of imprisonment.
3. To distinguish between offenders placed under the two systems, the terms ‘parolee’ and ‘probationer’ are used respectively. The conditions for release are similar with a few differences, but are in essence the same, namely a conditional release mechanism that rewards good behaviour and thus an important tool in the hand of DCS officials. In the absence of such a mechanism there would be little incentive for good behaviour as all prisoners would remain in custody until the expiry date of sentence, save for those serving life imprisonment.
4. It is our submission that parole and correctional supervision are positive attributes of the South African correctional system and should be maintained and expanded. Effective and efficient post-release support is essential to reducing the risk of re-offending. However, this is an aspect of DCS operations that have been severely neglected from a strategic as well as budgetary point of view.
5. The Correctional Services Act created a procedure whereby offenders serving a sentence longer than 24 months are regularly seen by the Case Management Committee (CMC) and that such offenders are assessed in due course by the Correctional Supervision and Parole Board (CSPB) to be considered for release on parole.<sup>1</sup> Offenders serving sentences of less than 24 months are handled administratively and it is the Head of Centre (HOC) than makes the decision to release on parole or not. These are generally referred to as ‘non-board cases’. It can furthermore be concluded that a large proportion of releases, if not the majority, are non-board cases and thus not subject to the more stringent requirements applicable to CSPB cases. However, parole must be regarded as the total picture of board and non-board cases.
6. The DCS Strategic Plan read together with the annual reports set out the plans and targets for the medium term as is generally required across the public service. The Auditor General has in recent years included performance targets in his audits and the results are not particularly encouraging in the case of DCS. In his 2011/12 report he noted that there are numerous

---

<sup>1</sup> Section 42.

problems with the quality of the information that was presented and made some critical remarks in this regard: “Treasury Regulation 5.2.4 requires that the strategic and annual performance plan should form the basis for the annual report, therefore requiring the consistency of indicators between planning and reporting documents. A total of 22% of the reported indicators were not consistent with the indicators as per the approved strategic and annual performance plan. This is due to the lack of alignment between the Strategic Plan indicators and the Annual Performance Plan indicators.”<sup>2</sup>

7. The 2014/15 report by the Auditor General expressed substantive concerns about the validity of information in the Annual Report regarding the performance of the Incarceration and Rehabilitation Programmes; non-compliance with material legislation; accuracy of financial statements; strategic planning and performance management; internal auditing; failure to constitute an audit committee; control of irregular expenditure; revenue management; filling of vacancies; poor leadership of the accounting officer; and weak financial and performance management.<sup>3</sup> The alignment between the Strategic plan and the annual Report as well as the accuracy of information are issues of grave concern due to their impact on planning and monitoring.
8. In the absence of valid, reliable and comprehensive information it is extremely difficult to monitor performance, but more importantly to plan. There are significant information gaps in the current framework and the annual reports have over the years become even less informative with specific reference to quantitative information. Moreover, important policy changes, or at least the assessment of current policy, should be based on empirical evidence. This approach has been observed to be lacking in the Department’s strategy development.

## Facts and figures

9. The annual reports of DCS give little information on the community corrections system. For example, no data is given on the number of probationers and parolees under supervision at a specific date or the average for the year. There is similarly no data on how many of such persons are released on parole and how many are under correctional supervision and more specifically under which particular provisions of the Correctional Services Act and Criminal Procedure Act. No information is also provided on how many releases are determined by CSPBs and how many are determined by the HOC. The most recently available data from 2007 indicate that there were a total of 52 718 sentenced releases or slightly more than 4300 per month. Of this group 70.1% served a sentence of less than 24 months and the decision to

---

<sup>2</sup> Department of Correctional Services *Annual Report 2011/12*, 2012, 105.

<sup>3</sup> Department of Correctional Services *Annual Report 2014/15*, 2015, 106-108.

release them was made by the HOC and not the CSPB. The implication is that the majority of parole releases are determined by the HOC, assuming that the proportion have remained by and large stable.

10. The 2014/15 Annual Report indicates that:

- in excess of 41 000 cases were placed before the CSPBs
- 98% of parolees and probationers had no parole or supervision violations
- 604 persons were electronically monitored
- 81 persons were placed in halfway houses
- 2212 victims and 23 943 offenders participated in restorative justice programmes.

The above listed quantitative data is indeed sparse for a programme that must play a central role in reducing crime through effective and efficient re-entry and reintegration. There is indeed a dire need for more information and research on the community corrections system and that such information should be available in the public domain.

## Legal requirements

11. The following sets out the basic legal requirements in respect of community corrections and should be used as the yardstick to measure the Department's performance.

- Offenders are released when their sentences have expired.
- All offenders must be considered for placement under community corrections when they have completed the stipulated minimum of the sentence.
- The consideration process for parole placement by the CSPB must comply with the requirements of the Promotion of Administrative Justice Act (PAJA)
- The SAPS must be offered the opportunity to provide inputs to the CSPB when the placement of offenders as specified by the Commissioner is considered.
- Victims must be afforded the opportunity to participate in CSPB meetings.
- Offenders must be placed under community corrections on the dates as approved by the HOC, CSPB, Minister or Court as the case may be.
- The HoCC must administer non-board cases (0-24 months) to be considered for release and placement under community corrections in accordance with PAJA.
- The Case Management Committee (CMC) provides the CSPB with the required information so that it may arrive at an informed decision when considering the approval or denial of possible parole.
- The Case Management Committee (CMC) provides the HOC with the required information so that he/she may arrive at an informed decision when considering the

approval or denial of possible parole for non-board cases. [See s 42 of Correctional Services Act]

- Supervision of the parolee by the Supervision Committee must be done in accordance with the Correctional Services Act.
- Correctional Officials must monitor the compliance of conditions imposed.
- Probationers and parolees are treated with respect, dignity and fairness
- Non-compliance with conditions by the parolee or probationer must be dealt with in terms of the Correctional Services Act.

## Objectives of community corrections

12. The objectives of community corrections are set out in section 50 of the Correctional Services Act and are:

(1) (a) The objectives of community corrections are—

- (i) to afford sentenced offenders an opportunity to serve their sentences in a non-custodial manner;
- (ii) to enable persons subject to community corrections to lead a socially responsible and crime-free life during the period of their sentence and in future;
- (iii) to enable persons subject to community corrections to be rehabilitated in a manner that best keeps them as an integral part of society; and
- (iv) to enable persons subject to community corrections to be fully integrated into society when they have completed their sentences.

13. The objectives clearly place an obligation on DCS to support parolees and probationers in a manner that would reduce their risk of reoffending and thus preventing further harm to society. As long as probationers and parolees remain under the control of DCS, they are the Department's responsibility in respect of these objectives. DCS is therefore not in position to argue that because they are no longer in custody, they become the responsibility of another arm of government in respect of their re-entry and reintegration needs.

14. Section 41 of the Correctional Services Act sets out the Department's duties in respect of 'Treatment, development and support services' to be rendered to sentenced offenders. It should be noted that parolees are also sentenced offenders and these duties apply to them equally. The duties are:

41(1) The Department must provide or give access to as full a range of programmes and activities, including needs-based programmes, as is practicable to meet the educational and training needs of sentenced offenders.

- (2) (a) Sentenced offenders who are illiterate or children must be compelled to take part in the educational programmes offered in terms of subsection (1).  
(b) Such programmes may be prescribed by regulation.
- (3) The Department must provide social and psychological services in order to develop and support sentenced offenders by promoting their social functioning and mental health.
- (4) The Department must provide as far as practicable other development and support programmes which meet specific needs of sentenced offenders.
- (5) Sentenced offenders have the right to take part in the programmes and use the services offered in terms of subsections (1), (3) and (4).
- (6) Sentenced offenders may be compelled to participate in programmes and to use services offered in terms of subsections (1), (3) and (4) where in the opinion of the National Commissioner their participation is necessary, having regard to the nature of their previous criminal conduct and the risk they pose to the community.
- (7) Programmes must be responsive to special needs of women and they must ensure that women are not disadvantaged.

## Challenges faced by former prisoners

15. Returning prisoners typically face challenges in four dimensions:<sup>4</sup>

- *Issues facing individual returning prisoners:* Returning prisoners confront a range of personal issues that jeopardize their chances of succeeding in the community and avoiding reoffending. Substance abuse, mental illness, lack of accommodation, being HIV-positive or having Aids, being unemployed and having low educational qualifications are some personal challenges faced by released prisoners.
- *Impact of prisoner re-entry on families:* Returning parents have to resume or start assuming the role of parent in a family set-up that often faces significant challenges. Families may in themselves experience deep-seated problems and therefore have great difficulty in accepting a family member or parent that has been in prison. The incarceration of a parent remains an important indicator for future delinquency amongst children.
- *Impact of prisoner re-entry on communities:* There is increasing evidence that certain communities and indeed certain families contribute disproportionately to the prison population and that high incarceration communities are destabilized in a variety of

---

<sup>4</sup> Baer, D, et al (2006). *Understanding the Challenges of Prisoner Re-entry: Research Findings from the Urban Institute's Prisoner Re-entry Portfolio*. Washington: Urban Institute, p. 1.

ways.<sup>5</sup> The net effect is large numbers of predominantly young men circulating through the prison system on a continuous basis from these communities.

- *Challenges to prisoner re-entry*: “Returning prisoners confront a number of challenges that make it difficult for them to gain access to jobs, benefits, or services that might assist in their transition back into the community”.<sup>6</sup> Unlike the USA, there are few barriers that legally exclude released prisoners from state assistance, but poor support services, uncoordinated services or absence of services to released prisoners and their families remains a significant problem.

16. The strategic approach of DCS in respect of offender re-entry and reintegration should therefore clearly address the four challenge-dimensions listed above and the Correctional Services Act enables this through section 50 (the objectives of community corrections). It is submitted that the current approach does not, as it measures indicators that do not address the challenges faced by parolees and probationers. This is expanded on below.

## Measuring performance

17. Table 1 sets out the overall monitoring framework for the Community Reintegration Programme under which Community Corrections resort.

Table 1<sup>7</sup>

<b>Sub-programmes</b>	<b>Sub-programme purpose</b>	<b>Strategic objective</b>	<b>Performance indicator</b>
Parole Administration	Provide services related to the consideration of placement of offenders into community corrections by Correctional Supervision and Parole Boards and Heads of Correctional Centres.	Effective management and functioning of correctional supervision and Parole Boards.	Percentage of cases submitted by CMCs and considered by Parole Boards.
Supervision	Provide for the sound and effective administration and	Probationers and parolees are	Percentage of parolees without violations.

<sup>5</sup> Clear, T. (2007) *Imprisoning Communities – How Mass Incarceration Makes Disadvantaged Neighbourhoods Worse*. New York: Oxford University Press.

<sup>6</sup> Social, Economic and Workforce Programs Division (2004) *The Challenges and Impacts of Prisoner Re-entry*, NGA Centre for Best Practices.

<sup>7</sup> DCS (2015) *Annual Report 2014/15*, pp. 58-61.

Sub-programmes	Sub-programme purpose	Strategic objective	Performance indicator
	supervision of offenders placed under correctional and parole supervision in order to enhance public safety.	rehabilitated, monitored and accepted as law-abiding citizens by the communities.	Percentage of probationers without violations. Number of persons <sup>8</sup> placed under EMS.
Community reintegration	Provide and facilitate support systems for the reintegration of offenders into society.	Offenders are provided with access to restorative justice programmes.	Number of parolees reintegrated through halfway house partnerships. Number of victims and offenders who participated in restorative justice programmes. <sup>9</sup>

18. In the above, the four challenge-dimensions facing former prisoners were set out and need not be repeated here in full, being:

- Issues facing individual returning prisoners
- Impact of prisoner re-entry on families
- Impact of prisoner re-entry on communities
- Challenges to prisoner re-entry

19. If community corrections are to be effective, it needs to address these four challenge-dimensions and it will be shown below that it does not.

20. The first sub-programme purpose reads ‘Provide services related to the consideration of placement of offenders into community corrections by Correctional Supervision and Parole Boards and Heads of Correctional Centres’ and the indicator is ‘Percentage of cases submitted by CMCs and considered by Parole Boards’. This is a peculiar situation as no information is collected or presented on the performance of the CSPBs themselves. Moreover, the indicator requires that cases must be ‘considered’ by the CSPB but it does not define what ‘consider’ means and this is important because if the CSPB considers a case there must be a result and that result needs to be reported on.

21. There are various possibilities in this regard. For example, the CSPB may recommend release, or provide a future date to consider the case again, or it may be of the opinion that the file is incomplete. Even though it may have wanted to make a decision, it cannot due to a lack of

<sup>8</sup> Parolees, probationers and Awaiting Trial persons (ATPs).

<sup>9</sup> Victim Offender Mediation –VOM; Victim Offender Dialogues – VOD,

information. Anecdotally it is known that a substantive number of cases fall in this last category which, if confirmed by statistical data, would indicate significant problems in the workings of the CMCs. Moreover, providing information on the performance and decisions of the CSPBs may yield valuable information that can be used to improve the current system.

22. The second Strategic Objective reads ‘Probationers and parolees are rehabilitated, monitored and accepted as law-abiding citizens by the communities’ and the three accompanying indicators are:

- Percentage of parolees without violations.
- Percentage of probationers without violations.
- Number of persons placed under EMS.

23. It is evident that the indicators do not at all address the rehabilitation requirement. What a violation is, is not defined and may, presumably, range from an administrative transgression to a serious criminal offence, yet these are all lumped together. Committing or not committing a parole violation says nothing about whether a person has been rehabilitated and accepted by the community or not. Counting violations and number of people monitored electronically are not proactive and constructive interventions aimed at reducing the risk of offending as one would associate with rehabilitation, but rather a monitoring function. To be more precise, the number of violations only measures the level of compliance with community corrections conditions and says little, if anything, about rehabilitation and reintegration, or acceptance by society as law abiding citizens. The disjuncture between the Strategic Objective and the indicators are of concern as the White Paper on Corrections clearly place rehabilitation as the core of the Department and effective rehabilitation and reintegration extend well beyond the period of custody. Furthermore, the indicators do not measure what post-release support services are rendered to parolees and probationers, and whether such services are rendered by the Department, other government departments or civil society structures. In short, the current policy framework places rehabilitation at the centre of the Department’s activities, yet there is nothing in place to measure if this is reflected in performance.

24. The third sub-programme purpose is ‘Provide and facilitate support systems for the reintegration of offenders into society’ and the accompanying Strategic Objective is ‘Offenders are provided with access to restorative justice programmes.’ It is not clear how restorative justice interventions, especially when they are utilised whilst the offender is still in custody will provide and facilitate support systems for the reintegration of offenders into society. Again reference should be made to the four challenge-dimensions, which are far broader than what can even optimistically be expected to be addressed by restorative justice interventions. The conclusion is that the indicators do not measure (or does so in a very limited manner) the Strategic Objective.

25. The 201/15 Annual Report also notes that 2212 victims were involved in restorative justice interventions and in excess of 23 900 offenders.<sup>10</sup> It is not clear how the number of victims relate to the more than ten times as many offenders. Fundamentally restorative justice interventions involve one-to-one interactions through a mediator, although variations are possible. The Department should be requested to provide more information on its approach to and interventions aimed at restorative justice. The available literature also indicates that while restorative justice has shown some promising results, many questions remain and that it is not a one-size fits all solution.<sup>11</sup>
26. The first indicator refers to halfway houses and two problems arise with this initiative. The first is that this is an expensive solution and the result is that only a limited number of parolees can thus be reached and it is therefore not surprising that in 2014/15 only 81 parolees were placed in halfway houses. Given that thousands of people are released on a monthly basis, halfway houses do not present a sustainable solution on any significant scale. Further, in August 2015 CSPRI submitted to the Portfolio Committee ‘despite the fact that halfway houses have not been shown to be effective in offender reintegration<sup>12</sup>, the DCS is persisting with this initiative.’ We remain of this view and propose that other community-based interventions should be developed from which a larger number of parolees could benefit.

## Recommendations

27. Earlier research by CSPRI<sup>13</sup> made the following recommendations in respect of post-release support:
- Successful re-entry will be improved if a comprehensive case management approach is followed that sees active involvement of the offender/parolee, officials, family members and community structures. Such an approach must be based on continuity in planning and monitoring from well before release until completion of parole/correctional supervision. In qualifying cases, such a release plan needs to be a natural product of the sentence plan.<sup>14</sup>
  - The case management plan must identify and address specific risk factors in the individual’s life that may place him at risk of re-offending.

---

<sup>10</sup> DCS (2015) *Annual Report 2014/15*, p. 60.

<sup>11</sup> Wood, W. (2015) ‘Why Restorative Justice Will Not Reduce Incarceration’ *British Journal of Criminology* (2015) 55 (5): 883-900.

<sup>12</sup> Latessa, E. (2012) *What Science Says About Designing Effective Prisoner Re-entry Programs*, Wisconsin Family Impact Seminars, ‘Pennsylvania Study Finds Halfway Houses Don’t Reduce Recidivism’ *New York Times*, 24 March 2013, [http://www.nytimes.com/2013/03/25/nyregion/pennsylvania-study-finds-halfwayhouses-dont-reduce-recidivism.html?\\_r=0](http://www.nytimes.com/2013/03/25/nyregion/pennsylvania-study-finds-halfwayhouses-dont-reduce-recidivism.html?_r=0)

<sup>13</sup> Muntingh, L. (2008) *Prisoner re-entry in Cape Town – an exploratory study*, CSPRI Research Paper No. 14.

<sup>14</sup> The Correctional Services Amendment Bill proposes that only prisoners who are serving a sentence of 24 months or longer will have a sentence plan. Prior to the amendment prisoners serving a sentence of 12 months or longer qualified for a sentence plan.

- The DCS should develop a detailed data base of community-based resources that may be of assistance to all ex-prisoners. Prisoners who are about to be released should be properly briefed on the nature and locality of such services in their area of residence.
- Families of prisoners need to be prepared for release and made part of the re-entry process.
- A more strategic and active approach needs to be implemented in respect of securing employment for released prisoners. This would address the following: ensuring that prisoners complete primary and secondary education as far as possible; training prisoners in marketable skills; linking (ex-)prisoners with potential employers; training prisoners in searching for employment; linking ex-prisoners with community-based resources that may assist them in finding employment; providing parolees and probationers with active support in securing employment, and assisting parolees and probationers with transport in their employment seeking efforts.
- Mental health assessments should be done during imprisonment and specifically prior to release. Prisoners should be made aware of symptoms of mental health problems and informed of available resources that are able to offer assistance.
- Substance abuse treatment must start prior to release and link individuals to community-based resources on an individual basis.
- Prisoners who are about to be released must undergo a thorough medical examination and receive the necessary services prior to release or be linked with the appropriate public health care services closest to them.
- Prior to release, it should be ensured that prisoners have an identity document. It should similarly be ensured that the prisoner and his family have access to social security benefits if they qualify.
- Parolees and probationers need to be properly educated about their community corrections conditions as well as problem-solving in this regard.
- A review of community corrections monitoring is required to investigate measures to remove hurdles to securing employment.
- Parolees and probationers should be compelled to participate in regular community-based support and development activities with a view to develop pro-social networks and access assistance.

28. It is furthermore recommended that the current community corrections system be subjected to an independent evaluation to accurately assess current performance with particular reference to reducing the risk of reoffending.

29. DCS should also present more detailed information on the functioning of the community corrections system and a number of the most obvious gaps have been identified in the submission.

End.