

## **Submission to the Portfolio Committee on Correctional Services on the DCS Strategic Plan 2013/2014 – 2016/2017 and Annual Performance Plan 2013/2014**

Just Detention International (JDI) and Sonke Gender Justice (Sonke) welcome the opportunity to make a submission on the Department of Correctional Services (DCS) Strategic Plan for the 2013/2014 – 2016/2017 period. We represent a partnership between two NGOs that are working together to end sexual abuse in DCS facilities and to promote the health rights of inmates, particularly focusing on the prevention of HIV. Sexual abuse of inmates is a widespread and devastating feature of life in DCS facilities and dramatically increases the likelihood of HIV transmission within correctional centres. HIV prevalence estimates from the DCS and Institute for Security Studies are 19.8% and 40% respectively.<sup>1</sup> Nearly half of all inmates surveyed by the Judicial Inspectorate for Correctional Services (JICS) in 2007 reported that sexual abuse happens “sometimes,” “often”, or “very often”.<sup>2</sup> This submission focuses on aspects of the Strategic Plan and Annual Performance Plan pertaining to these issues.

### **1. Sexual abuse receives no mention in the Strategic Plan or Annual Performance Plan**

Despite an increasing body of evidence that has developed over the years regarding the severe problems of sexual abuse happening in DCS facilities (including substantial claims brought by former inmates against the DCS for rapes during incarceration) and on-going offers from civil society organisations to assist DCS in building solutions to the problem, it remains invisible in the Department’s Strategic Plan and Annual Performance Plan.

This is of grave concern. We believe that the plans should set specific targets for the reduction of sexual abuse. These should be included - for example - in the Strategic Plan under the sections outlining the departmental strategy to ensure effective security, the protection of the inmates’ human rights<sup>3</sup>, in the strategic objectives under Programme 2, “Incarceration”<sup>4</sup> – and in the corresponding parts of the Annual Performance Plan. The performance indicators included to measure levels of violence also make no mention of sexual violence, but are restricted to “assaults on inmates” and “gang-related incidents”.<sup>5</sup> Indeed, more generally, statistics on the reported rapes and sexual assaults of inmates in DCS facilities remain unavailable to the public, and are rather

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<sup>1</sup> Muntingh, L. (2008). “The prevalence of HIV in South Africa’s prison system: some, but not all the facts, at last.” *CSPRI Newsletter* 26 May 2008; Schalkwyk, A. “Killer Corrections: AIDS in South African Prisons,” *Harvard International Review*, Spring 2005.

<sup>2</sup> p 33, JICS Annual Report 2007/2008.

<sup>3</sup> p 12, Department of Correctional Services Strategic Plan 2013/2014 – 2016/2017 [hereafter DCS Strategic Plan].

<sup>4</sup> p 17.

<sup>5</sup> p 27.

merged into the general “assault” category. This is despite numerous calls to DCS to gather and make available this information. These statistics should be disaggregated and reported as a separate category so as to build our understanding of the problem, identify it as a worthy and deeply serious issue, and establish a basis from which to measure its prevalence – all critical steps towards addressing the problem.

**2. We urge DCS to incorporate the adoption of the *Framework to Address Sexual Abuse of Inmates in DCS Facilities* into its planned policy initiatives.**

The *Framework* has been awaiting final DCS approval since December 2010 and its adoption and implementation is required in order for DCS to meaningfully address the abuse of inmates in its facilities. In a positive development, in March this year, JDI and Sonke had a meeting with senior management at the DCS Head Office. There, commitments were made to move the *Framework* forward. To support these efforts, we urge DCS to prioritise the *Framework* as one of the “Planned Policy Initiatives” listed in the Strategic Plan.

**3. There is no information on the development of the screening tool required by the *Correctional Matters Amendment Act of 2011* to assess vulnerability of newly sentenced inmates to sexual abuse.**

The development and implementation of this screening tool is important for preventing assaults on inmates and would address an important component of the *Framework* discussed under point 2, but this is not mentioned. It should be highlighted as one of the new requirements under the *Correctional Matters Amendment Act of 2011* in both the Strategic Plan<sup>6</sup> and Annual Performance Plan<sup>7</sup> which deal with implications of the Act but fail to mention this important development.

**4. The lock-up practice, minimal inmate supervision, and responses to emergencies need to be addressed.**

As noted in the JICS 2011/2012 Annual Report, there is a staffing crisis which leaves skeletal staffing in some facilities, resulting in inmates being “only cursorily monitored” for long periods of time.<sup>8</sup> As noted numerous times by members of this Committee, response processes in cases of emergency are typically lengthy, cumbersome and may be fatal. Efforts are underway between DCS management and organised labour to agree on hours and ideal shifts to enhance the implementation of the 7 Day establishment<sup>9</sup>, and a task team has been created to finalise all outstanding labour-related matters.<sup>10</sup> However, it is unclear whether the shift models being negotiated seek to remedy the daily lock-up practice whereby dramatically reduced staffing leaves inmates virtually unsupervised from mid-afternoon until the next morning (as well as on weekends with reductions in centre-level staff). This practice combined with the substantial challenges staff face in dealing with emergencies, puts inmates at greatly increased risk of violence, causes immense stress for inmates and staff, and contributes to staff demoralisation.

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<sup>6</sup> p 8-9.

<sup>7</sup> p 8.

<sup>8</sup> p 35, JICS Annual Report 2011/2012

<sup>9</sup> p 29, DCS Annual Report, 2011/2012.

<sup>10</sup> p 13, DCS Strategic Plan.

In the Strategic Plan, the “Situational Analysis” of the “Strategic Overview” outlines a multi-pronged security strategy, which includes 5 pillars, viz: “personnel security”, “management of security information”, “standard operating procedures for security in centres”, “security technology” and “physical security”. Specifically, the “management of security information” pillar is described as including, “the management of inmate identification through the automated personal identification system (APIS) for inmates, the establishment of a gang-management unit, the establishing of properly capacitated Emergency Security Teams, and improved incident management and reporting “ (p12). This is encouraging and the realisation of these elements could have a substantial and positive impact on problematic lock-up practices. However, no further information is given on how and when these goals are to be achieved: they are not dealt with in the strategic objectives nor performance indicators, suggesting that they are not a prioritised part of the strategy.

We urge the DCS and the Portfolio Committee to include clear targets and indicators to address the lock-up practice and dire problems in emergency response.

#### **5. The management of TB in DCS facilities**

TB is the leading cause of death in correctional facilities<sup>11</sup> and we welcome the goal to increase the TB cure rate. It is not clear however whether the intention exists to also increase TB testing – an essential element to tackling TB.

#### **6. The HIV policy needs to be updated to ensure that lubricants, along with condoms, are available to all inmates.**

Lubricants are necessary to prevent condoms from tearing during anal intercourse and thus essential to their efficacy. To make the distribution of condoms a more fruitful expenditure, lubricants must be provided for in the Department’s HIV policy. The review of the HIV policy should be listed in the Strategic Plan’s “Planned Policy Initiatives”.

#### **8. Improving remand detention systems and policies.**

We welcome the inclusion of plans to improve the systems and policies of remand detention – indeed urgently required. In this regard, we refer the DCS and the Portfolio Committee to research, recently completed by JDI, which could assist in these endeavours. The research, focused on staff’s handling of violence in the sections where they work, reveals crucial issues for attention in the management of remand detainees and that currently jeopardise inmate and staff safety. The research report has been submitted to DCS for the Department’s approval prior to publication.

#### **9. Human rights**

In the Strategic Plan the “Situational Analysis” of the “Strategic Overview” refers to a strategy to ensure the appropriate protection of the human rights of inmates<sup>12</sup>, and appropriate care for special categories of inmates (such as children, women, mentally-ill and disabled inmates), stating that this is a strategy cutting across all programmes. However, this is the only mention of this strategy. We are concerned that unless specific targets and indicators are stipulated, it could fall off the agenda.

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<sup>11</sup> JICS Annual Report 2011/2012

<sup>12</sup> p 12 -13 DCS Strategic Plan.

The incarceration of numerous mentally ill inmates who should not be in prison at all but rather receiving care in specialised institutions, is also of grave concern. While we recognise that this situation is largely caused by factors beyond DCS's control, we urge DCS to engage with relevant government structures to address this situation.

**10. Independent and effective oversight of DCS should be a priority for the Department as reflected in its Strategic Plan and Action Plan.**

An effective and fully independent oversight mechanism for DCS will help increase the Department's accountability to its human rights mandate. Although JICS is meant to be independent from DCS, without a separate budget under its own control, JICS' independence does not exist. We acknowledge that it will take time to realise the reform required to make JICS fully independent. However, until this reform can occur, there should be clear guidelines on the proportion of the DCS budget set aside for JICS. This should be considered by the Portfolio Committee and DCS, and incorporated into the Department's Strategic Plan.

We thank the Portfolio Committee for the opportunity to make this submission.

Contacts:

**Sasha Gear**

Programme Director  
Just Detention International  
Tel: 083 565 7318  
E-mail: [sgear@justdetention.org](mailto:sgear@justdetention.org)  
Website: [www.justdetention.org](http://www.justdetention.org)

**Emily Keehn**

Policy, Advocacy & Research Specialist  
Sonke Gender Justice Network  
Tel: 072 225 6041  
E-mail: [emily@genderjustice.org.za](mailto:emily@genderjustice.org.za)  
Website: [www.genderjustice.org.za](http://www.genderjustice.org.za)