



CONSTITUTIONAL COURT OF SOUTH AFRICA

VISIT TO POLLSMOOR CORRECTIONAL CENTRE Justice Johann van der Westhuizen, Constitutional Court of South Africa 18 December 2012

A. *Background*

[1] On Tuesday 18 December Justice van der Westhuizen of the Constitutional Court, accompanied by his law clerks Ms Clare-Alice Smith, Ms Farnoosh Hashemian and Mr Amanda Mfuphi, conducted an inspection of Pollsmoor Correctional Centre, a prison in the Cape Town suburb of Tokai, in the Western Cape. It is one of the largest prisons in the Western Cape.

[2] The visit consisted of a briefing by personnel and a tour of certain facilities at the centre. The various units within the male adult section as well as the medical centre and isolation units were viewed. Inmates were addressed from the doors of their units, but none of the units were entered on the advice of the centre's personnel.

B. *Population and profile*

[3] Pollsmoor houses awaiting trial inmates and services 16 to 18 different courts in the area. 350 to 400 people are transported to courts daily by SAPS. Convicted inmates are sent to centres such as Helderstroom and Drakenstein. However, some sentenced offenders are currently at the centre. These include twelve offenders who are awaiting trial in further cases and a few medium classified offenders who work in the kitchens.

[4] On the morning of the visit the centre housed 3342 inmates. The centre is 208% overcrowded. This major challenge was stated to be the result of the fact that awaiting trial detainees can no longer stay in the police holding cells for more than 24 hours. There is a plan to build another building to contain a further 1000 beds in order to relieve the pressure.

[5] The correctional centre has a reputation for gangsterism and murders. However, staff informed us that since being converted from a maximum security prison to an awaiting trial only centre these problems have decreased. The last stabbing was in 2003. The current rejuvenation projects include work being done to the roof and kitchen of the prison. Painting of the prison is also being done.

C. *Management of units*

[6] Inmates are separated depending on whether or not they are suspected of gang activity. High-ranking gangsters are separated out from the rest of the prison population. New inmates are held overnight in a separate cell while being identified. Most inmates readily inform personnel that they are members of gangs. The prison contains two big courtyards. The different groups use the courtyards at different times. A library is available to all offenders.

[7] Some areas were empty at the time, because many inmates were at court. Each unit has a stated capacity of 28 inmates, but normally contain approximately 50. There is a toilet and a shower in each unit.

[8] The overcrowding in the units is obvious. From what one could tell through the doors of the cells, ventilation and lighting are poor with clothes being hung out to dry in much of the available space inside the unit.

[9] The hierarchy amongst the prisoners was noticeable. Prisoners were witnessed standing to attention as another prisoner talked. The “huisbaas” in the unit held the identity cards of others and presumably sets and enforces the rules of the room.

[10] A church service and bible study were being conducted at the time of the visit. The delegation was shown the rooms available to inmates to consult with their legal practitioners.

D. Nutrition

[11] Meal times for inmates are as follows:

- (a) Breakfast: 5h00 for those going to court that day and 8am for those who are not;
- (b) Lunch: 10h00-11h00 - this is a cooked meal.
- (c) Dinner: 14h30

E. Healthcare

[12] Eight insulin-dependent diabetics are currently housed at the centre. A large number of HIV positive inmates are detained at the centre. 94 inmates are currently on an ARV programme. Check-ups are conducted on Wednesdays. The hospital has one doctor, ten nurses and three medical clerks.

[13] TB screening measures are in place. Sputum tests are conducted and prisoners are tested for TB and will start treatment if they test positive. Infectious inmates are kept separately in a single cell for two weeks. The TB wards and treatment area were mostly empty at the time of the visit. The centre has a self-reporting system.

[14] The medical wing visited did not seem overcrowded and appeared well-maintained.

[15] Structured health programmes cannot be run in the centre – for example with those who suffer from diabetes and other diseases which need to be treated through lifestyle intervention – as the prisoners are only at the centre while awaiting trial.

[16] A major challenge is a shortage of nurses. Nurses would have to see 200 people a day in order to provide proper services to every inmate. The ability of medical staff to attend to the needs of patients is hindered by the fact that prisoners are often at court during the day. Almost every prisoner needs some form of medical treatment. Many inmates are going through acute drug withdrawal and require close supervision. Unfortunately the delegation did not have the opportunity to visit this aspect of the medical team's duties.

F. Feedback and general recommendations

[17] The disturbingly high level of overcrowding would not come as a surprise to those who are familiar with the state of prisons in South Africa. It is even more deplorable, though, when present in awaiting trial centres such as this. It is of concern that the plan to expand the centre by 1000 beds will not eliminate overcrowding. This means that the elimination of overcrowding is not even planned. As with most awaiting-trial detention centres there is a lack of structured activity at Pollsmoor. More of the access to work and development programmes available to sentenced offenders need to be integrated into programmes for awaiting-trial offenders.

[18] The responsibility to alleviate the numbers in these cells lies not only with those responsible for the detention of inmates, but with all involved in criminal prosecutions to ensure that the process is completed without unnecessary delay.

[19] The time between the last and first meal of the day is excessively long. All prisoners' meals should be evenly spaced. We were informed that diabetic inmates are given additional food in the evening.

[20] It is clear that the realities inside the centre are informed by the gang culture in the Western Cape as well as the high rate of drug dependency. Considering the long amount of time inmates are awaiting trial more programmes should be set up to deal with these issues.

[21] It has been noted in the media that there are problems cutting off communication between gang members in prison and those outside. This is an issue which must be addressed with urgency. The possibility of criminal prosecutions being undermined due to the intimidation of witnesses is a danger to the effective functioning of the criminal justice system.

[22] The personnel are lauded for the candid and committed way in which they address these challenges as well as the pride they take in the running of the centre.