

Address by the Minister of Justice & Correctional Services,

Adv. Michael Masutha, MP

**Work Session with Correctional Supervision and Parole Boards
(CSPBs) and Case Management Committees (CMCs)**

Tshwane

24 November 2014

Programme Director: Mr. James Smallberger

**Acting National Commissioner, Mr. ZI Modise, and his team of
Senior Managers**

Chairperson of the NCCS, Judge Desai and other NCCS present

Chairpersons of CMCs and CSPBs

Distinguished Guests

I am pleased that we are finally having this opportunity to formally engage and discuss parole with the leadership of the Department of Correctional Services, the National Council for Correctional Services, and most importantly, the Chairpersons of the Correctional Supervision and Parole Boards and Chairpersons of the Case Management Committees.

I sincerely hope that at the end of the two day workshop, we will all be reading from the same script as we jointly contribute in clarifying what our policies, laws, and communities expect from all of us who are involved in decisions to grant, deny, or revoke parole.

Let me state from the outset that I am alert to the goodwill and hard work of many CMCs and CSPBs and how CSPBs are achieving commendable results in an environment where crucial HR matters remain unresolved. I am aware of court awards granted in favour of Chairpersons of CSPBs, and have been informed that there are differing

legal opinions on the matter, hence it remains under review. My office is also seeking legal opinion with the view of arriving at a lasting, sustainable solution to these institutional challenges that are impacting on your performance and wellbeing.

Ladies and gentlemen,

We must all depart from this gathering rekindled with a new sense of purpose and urgency to serve our communities with the integrity, diligence, and distinction that they deserve.

The subject of parole and its management is particularly dear to my heart. In a country like ours which is founded on the rule of law, parole goes to the very heart of the administration of justice. This authorized conditional release of an offender under state and community supervision before the expiry of a sentence, speaks to our society's collective imagination and attitude to the role of incarceration and our society's faith in the rehabilitation mandate of correctional institutions.

Given that South Africa has the longest history of parole in the continent, and one of the oldest in the world, we should at some point become the respected professional voice of parole and the citadel of parole best practice in the world.

We need to pay attention to the available records and institutional memory on parole evolution over the past century and draw the lessons that can ensure we deliver justice to both the victims of crime and those that we have rehabilitated in our correctional facilities.

We can become the model of parole administration and supervision if we all begin to take our responsibilities more seriously, execute our policies with vigour, and keep highlighting parole administration and community corrections as being at the core of the organization's key strategic objective of rehabilitation and reintegration.

Our community supervision must be seen as an essential part of our national crime reduction strategy. This calls for a principled, focused strategy to address criminogenic risk factors of the individual and related communities to make gains in reducing crime. Our success will place supervision in the forefront of our criminal justice system.

In our department, we hear more about the sentencing plans of offenders, but not enough about supervision plans of parolees. What philosophy informs our supervision plans and what resources are available to implement and enforce prosocial behavior of the parolees?

Compatriots,

Parole has been part of the South African penal system since the Prisons and Reformatories Act 13 of 1911. This Act provided for a remission of sentence and introduced a system of early release. Subject to good behaviour in prison, prisoners were released early on probation with supervision, either directly into the community or through an interim period in a work colony or similar institution.

The Prisons and Reformatories Act did not, however, clearly state the aim of imprisonment and little attention was paid to the rehabilitation or treatment of prisoners. If time permitted, we would have delved in detail about how the 1947 Landsowne Commission Report on Penal and Prison Reform and the United Nations Standard Minimum Rules for Treatment of Prisoners influenced the new Prison Act (Act 8 of 1959) which began to openly state that the aims of imprisonment were rehabilitation and uplifting of prisoners.

Ladies and gentlemen,

The introduction of the Constitution of South Africa (Act 108 of 1996), which included a Bill of Rights that made special reference to the rights of prisoners, resulted in the Department of Correctional Services embarking on creating a new legislative framework. In October 2004 the new Correctional Services Act 111 of 1998 was implemented in full.

This Act represented a total departure from the previous Correctional Services Act 8 of 1959, and embarked on a modern, internationally accepted correctional system, designed within the framework of the 1996 Constitution.

The Department of Correctional Services published a White Paper on Corrections during 2005. In it, the core business of the Department is stated as “correcting offending behavior, rehabilitation and correction as a societal responsibility”.

Case management was identified as the vehicle to bring about a shift in emphasis in the core business. The Case Management Committee (CMC) derives its mandate from Section 42 of the Correctional Services Act. I hope that this gathering will examine the critical role of the CMC and how the work of the CMC as the engine of rehabilitation impacts risk assessment by the CSPBs and the NCCS when they take decisions to grant or deny parole.

In other words, what do we mean by correcting offending behavior and how do we assess our success during parole consideration?

What is the science behind this philosophy, and have we reviewed our work over the years to test whether or not we are successful in correcting the offending behavior?

What is the litmus test for a successful programme or treatment for an offending behavior?

What do our stakeholders and critics think of our programmes? What are offenders and ex-offenders saying about these programmes?

To what extent are our correctional officials advancing motivational interviewing strategies to communicate constructively with offenders? Are we providing our staff with techniques to focus on client-centred approaches that build trust and rapport?

The same and even more questions should be asked about the term “rehabilitation” and the popular phrase “corrections as a societal responsibility”.

What exactly is the role that we expect from our social partners as we reconstruct and reintegrate those that were in conflict with the law?

Do we accord the willing social partners an audience when they wish to engage with us, or we call upon them when we need them?

Who is responsible in the Department in promoting and managing stakeholder engagement, and who is promoting our message that corrections is everyone’s responsibility in other government departments as well as in the private sector?

What innovative programmes do we have in communities to ensure that there is a cushioned, soft landing for ex-offenders and that we assist them with a variety of treatment and skills programmes, work programmes, and business opportunities to minimize the risk of reoffending?

I have heard moving testimonies of ex-offenders and parolees who become a success after a life of imprisonment. I am, however, proposing that our success as a national Department cannot continue to be measured by a few encouraging anecdotes here and there.

We certainly need to be more systematic in our approach and must continuously revisit our strategic plan to ensure that we are all investing resources in the things that matter most in our core mandate, which is rehabilitation, social reintegration, and crime fighting. It is only when we have successfully reintegrated our ex-offenders, and when these ex-offenders and parolees become part of our army in the fight against crime that we can say we have utilized the limited state resources wisely to rebuild our nation.

One of the areas that I am concerned about is our assessment of the risk of reoffending when we consider parole. What I am picking up from research and profiles that I have evaluated, is that parole boards are not asking the same questions to offenders who have committed similar crimes. There is evidence where offenders with similar profiles get released on different dates because different parole boards have considered the similar facts on the profiles.

There must be a degree of uniformity and consistency in the decisions that we take. We can never erase the ingenuity and creativity of parole boards which are sensitive to local dialects and are familiar with local idioms and popular culture, but we must agree that we need to arrive at a point where we know that all offenders coming before the parole boards will be asked agreed-upon, standard questions as a measure of ensuring consistency and reducing the risk for reoffending.

Ladies and gentlemen,

I am astonished to learn that since the introduction of the community oriented parole system a decade ago, challenges that I am currently

picking up in the profiles of lifers were the same challenges that past Ministers of Correctional Services were raising. These impediments in parole consideration include the unavailability of police reports and sentencing remarks, lack of updated reports from professionals dealing with offenders, and the perennial lack of participation of victims of crime in parole hearings. I hope that this meeting, instead of restating these old problems, will provide possible solutions.

We need to have a caring approach towards offenders and must always demonstrate empathy with the victims of crime. We should fight prejudice against offenders and we must not be party to unjust actions that delay their stay in our facilities because we have not done our job on time or we have not provided resources to find the required documentation.

It is extremely unfair, as I have been informed, that there are centres where offenders are told by officials that they should raise money and ask their family members to locate sentence remarks.

Again, we cannot continue to solely rely on victim information on the offenders. We need to initiate the process of having a secured, computerized database system where information on victims and complainants will be stored.

With the merger of Justice and Correctional Services, we must all work together to improve the efficiency of parole administration and facilitate the reintegration of ex-offenders. How can Justice, for instance, assist in removing the barriers to reintegration of parolees and ex-offenders?

Ladies and gentlemen,

Five years ago, in July 2009, government launched the National Policy Guidelines for Victim Empowerment, intended to serve as a reference point for those involved in helping victims of violence, abuse and crime. The policy sought to give strategic direction on the development of management structures for effective co-ordination of the victim empowerment programme at all levels, as well as identify, and clarify, sector specific roles and responsibilities. The overall development

objective was to contribute to building safe and peaceful communities, strengthening the human rights culture and providing a more effective response to victims of crime and trauma.

Gender-based violence, particularly directed at women and children, remains a serious concern in South Africa and globally. The guidelines focused on the need to prevent victimisation, to protect and assist victims and to treat them with compassion and respect for their dignity.

However, five years later in South Africa, victims of crime are being failed more and more, and, through our actions and inactions, perceptions that our criminal justice system actually favours perpetrators are being reinforced.

Complainants often feel like powerless bystanders in the criminal justice system. I am not satisfied that the present level of checks, and balances, is sufficient to retain public confidence.

Therefore, as the Ministry of Justice and Correctional Services, we have made it clear that our role is to enable, encourage and support the effective participation of victims at all stages of the criminal justice process. Both the offender, and offended, have the right to a full service cycle in the system right until the offender is reintegrated back into society. It is not only the offender who must benefit from this service.

Concerns about the effectiveness of traditional criminal justice systems have given rise to different approaches to criminal justice. One such approach is Restorative Justice, a theory that focuses on reconciling, and reintegrating, offenders into society rather than on retribution. The theory relies on the idea that a well-functioning society operates with a balance of rights and responsibilities. When an incident occurs which upsets that balance, methods must be found to restore the balance so that members of the community, the victim and offender can come to terms with the incident and carry on with their lives.

In order for this to happen, the offender must accept responsibility for the fact that his or her behaviour has caused harm to the victim, and the victim must be prepared to negotiate restitution in terms of the offender's wrongdoing. In essence, restorative justice aims, as far as possible, to

'put right the wrong'. It is based on the idea that we are all connected, that crime is a violation of relationships and that such violation create obligations.

Victim-Offender Mediations, or Victim-Offender Dialogues, and family group conferences are two formal types of restorative justice programmes.

As early as 2001, this Department adopted the Restorative Justice approach as part of its mandate to rehabilitate and correct offending behaviour of inmates. Furthermore, the White Paper on Corrections (2005) makes provisions for the restorations of relations between offenders and those they harmed. We need to translate these ideals in the policies into Departmental programmes. These programmes must also recognize the importance and role of families in our rehabilitation and restoration mandate.

In our case, Correctional Supervision and Parole Boards (CSPBs), and Case Management Committees, also have a critical role to play in terms of restorative justice.

Section 299 A of the Criminal Procedure Act of 1977 affords rights to complainants to make representations in certain matters with regard to placement on parole.

In recent months, the number of profiles that have been returned from the Office of the Minister, because there is no evidence of representation of victims in parole process or there is absolutely no attempt to reconcile the offender and offended, have been concerning. We, therefore, hope that our interaction today will enable us to go back to the drawing board, and agree that it can no longer be "business as usual".

We should agree that victims have a role to play in the CSPBs, and our current system must be reviewed and tightened. We want to see a balance of perspectives on the CSPBs, and I think the role of victims is obviously a critical part of that. The broader point here is that the current system is not working well, and we all have a responsibility to make it work.

The NCCS does not have the advantage of seeing the offender during their consideration, but must rely purely on recommendations made by the CMC, CSPB and other relevant parties in order to arrive at an informed recommendation. In light of this, the role of the CSPB and CMC is not to be taken lightly.

It is crucial for victims of crime to be involved in parole processes. It is imperative that victims be prepared, and involved, when the perpetrator is to be released on parole. We must call on victims to participate in these processes, so that they are not surprised when they see perpetrators on the streets. We can't talk about perpetrators without talking about victims.

While we do not intend to put complainants through secondary victimization, it must be noted that for the complainants who are willing to participate, restorative justice processes overwhelmingly succeed in assisting the complainants find closure and healing. This forms part of government's overall development objective to contribute to building safe, and peaceful, communities by reducing crime and providing more effective, multi-sectoral and coordinated support to victims of crime. If the offended are still angry and aggrieved down the line, what has our system done to restore the imbalance? We work on the offender, but we do very little for the offended. As a department, we must do more for the offended.

Ladies and gentlemen,

It is our hope that our launch on Wednesday of the audio-visual system at parole offices will greatly assist complainants and communities who are far away from parole board hearings to participate in the proceedings of parole board hearings.

Tomorrow, as the world and our country formally begins the campaign of 16 Days of Activism for No Violence against Women and Children, our Department must work with our offenders, parolees, victims of crime, and our stakeholders in supporting victims of crime and fighting the scourge of child and gender based violence. This year's international

theme is “From peace in the home to peace in the world: Let’s challenge militarism and end violence against women.” Indeed, this is a call to action. I urge you to act now.

Thank you very much.