

**Violent Incarceration - The Relationship between Assault and
Overcrowding in South African Prisons**

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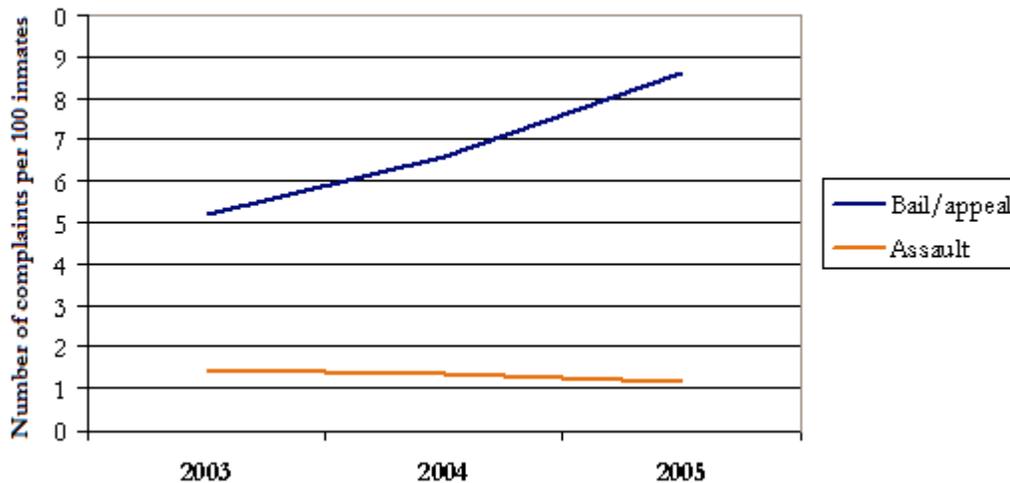
Imprisonment is the physical hindrance of motion, not the repudiation of human dignity or worth. The South African Bill of Rights gives inmates an unambiguous legal right to safety, but some political leaders nevertheless doubt their right to humane detention. Reverend Kenneth Meshoe, president of the African Christian Democratic Party (ACDP), argues that "Life in prison should never be [more] comfortable than in the squatter camp." ²Such utterances ignore not only the Bill of Rights and established jurisprudence, but also the known consequences of ill treatment during imprisonment. The reality is that most inmates will one day return home and assault during imprisonment is likely to exacerbate domestic violence, ³increases the likelihood that inmates will suffer from Post-Traumatic Stress Disorder (PTSD), ⁴ and contributes to the spread of HIV/AIDS.⁵

This study investigated the link between overcrowding and reported assault in South Africa's prisons. It draws on data previously published by the Law Society of South Africa, as well as statistics supplied by the Department of Correctional Services (DCS). While data were too limited to draw statistically significant conclusions, available evidence suggests that less supervision, i.e. more inmates per warder, may lead to higher levels of reported assault.

The current state of assault and overcrowding in South African prisons

Violence is severely underreported, but the Judicial Inspectorate of Prisons (JIOP) nevertheless collects and records complaints from inmates, including assault complaints. The number of assault complaints reported to the JIOP declined from 1.45 per 100 inmates interviewed in 2003 to 1.18 in 2005⁶. Assault complaints have also fallen in relative importance to other problems. Graph 1 shows the absolute increase of bail and appeal complaints alongside the decline in reported assault per 100 inmates. The rise in other complaints shows that lower reported assault complaints is not simply the result of an overall trend of less-thorough reporting by JIOP.

Graph 1. Reported assault and bail/appeal complaints per 100 inmates interviewed

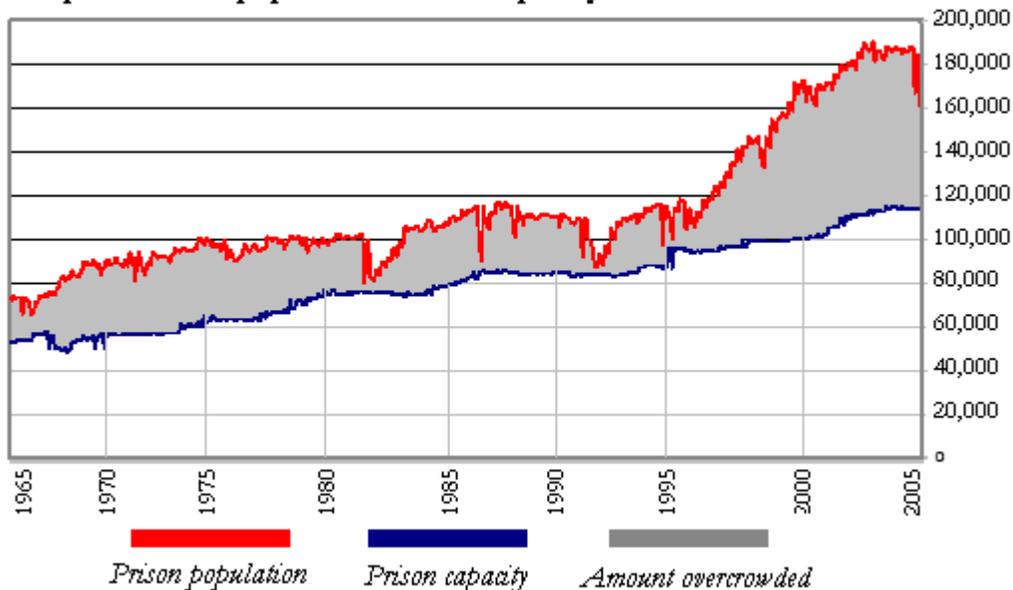


Compiled with information from JIOP Annual Reports 2003-04, 2004-05, 2005-06

Reported assault decreased nationally, but the level of reported violence is not uniform across the provinces. According to JIOP figures, Gauteng had the least reported inmate-on-inmate as well as warder-on-inmate assaults in 2005, indicating that Gauteng either had the least prison violence or inmates were less inclined to report complaints of assault to the JIOP. The Western Cape had the most reported inmate-on-inmate assault complaints as well as the most total reported assault complaints, while Limpopo, Mpumalanga, and the North West had the most reported warder-on-inmate assault complaints.⁷

South African prisons, built to house no more than 114,559 inmates, were on average filled to 144.89% of capacity in 2008. National efforts over the past three years to reduce overcrowding have lowered the prison population by about 20,000 inmates, from 187,446 in January 2005 to 165,987 in January 2008.⁹ Despite recent improvements, South Africa's prisons are significantly more overcrowded today than they have been since 1965. From 1965 to 1997, overcrowding remained relatively constant, but increased sharply since the introduction of South Africa's minimum sentencing legislation: the Criminal Law Amendment Act (105 of 1997). Graph 2 shows the widening gap between the number of inmates and national prison capacity.

Graph 2. Prison population versus capacity from 1965 to 2005



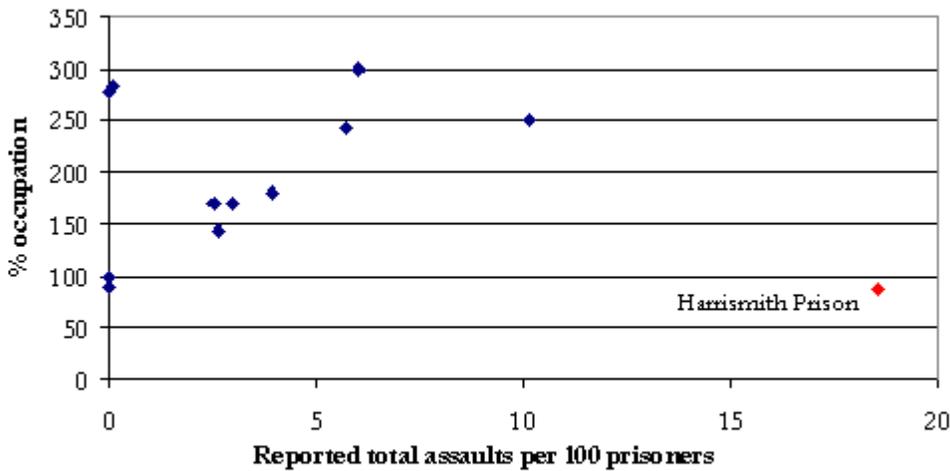
Graph derived from an image in JIOP Annual Report 2006-07, p.30

The link between overcrowding and violence

As prisons become more overcrowded, inmates tend to report higher levels of assault. Graph 3 compares the level of overcrowding and the corresponding annual number of reported assaults per 100 inmates at 11 prisons across South Africa.¹⁰ This prison-by-prison comparison clearly shows the positive relationship between reported assault and overcrowding. Harrismith is a distinct outlier, but at the time of inspection, the prison was undergoing massive renovations that explain the discrepancy.¹¹

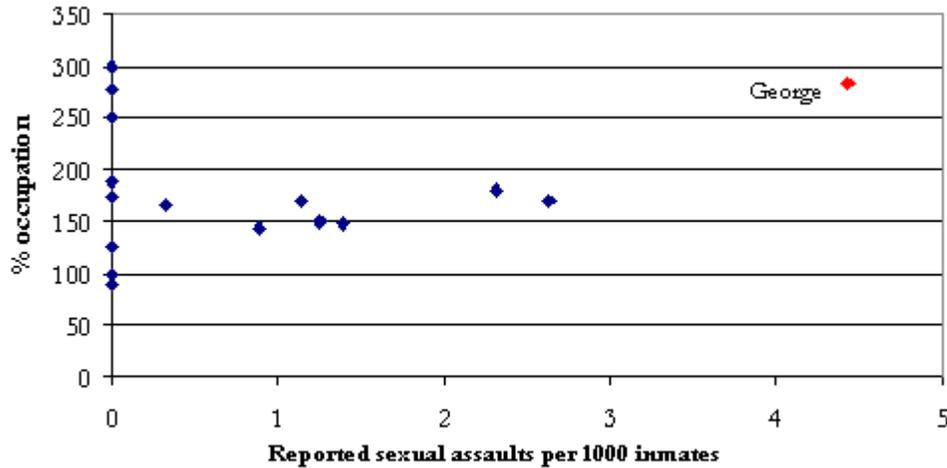
Measuring the relationship between sexual abuse and overcrowding is significantly more difficult than doing so for general assault. Sexual assault is much less often reported. Reports are so few and far between that it is not possible to draw any statistical conclusions, but the minimal data available show some consistency with a positive relationship between overcrowding and sexual assault. Graph 4 shows the 15 prisons for which reported sexual assault and overcrowding data were available. The positive relationship shown in Graph 4 below is almost entirely driven by one data point, George prison.

Graph 3. Total reported assault by % occupation



Compiled with information from the Law Society of South Africa's 2003 prison inspection report and statistics provided by DCS

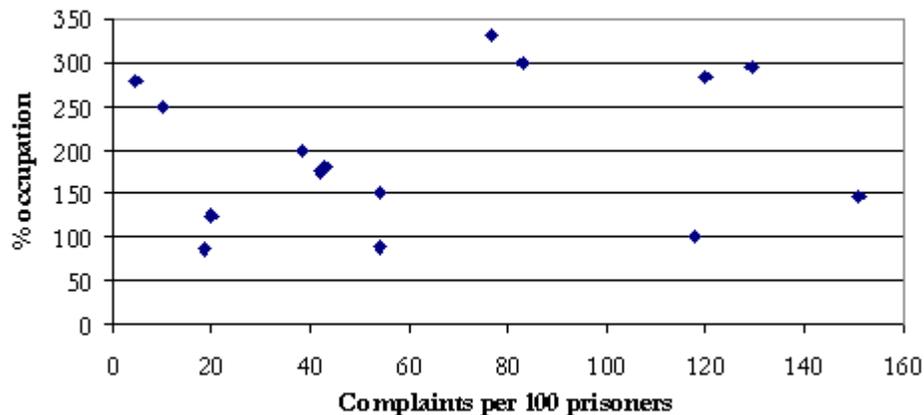
Graph 4. Reported sexual assault by % occupation



Compiled with information from the Law Society of South Africa's 2003 prison inspection report and statistics provided by DCS

The modest relationship between reported sexual assault and overcrowding, as well as the more significant link between total reported assaults and overcrowding, appear more meaningful when compared to the relationship between complaints of all types and overcrowding. Graph 5 compares total complaints and the level of overcrowding at selected prisons across South Africa. Whereas sexual assault and general assault had modest but noticeable relationships with overcrowding, the number of total complaints appears to have no relationship at all. Therefore, it is not that inmates complain more about everything when held in more crowded conditions, but rather there is something unique to assault that creates a correlation with overcrowding.

Graph 5. All complaints by % occupation from Dec 2002 - Nov 2003



Compiled with information from the Law Society of South Africa's 2003 prison inspection report

The rationale behind overcrowding-driven assault

Overcrowding makes adequate supervision of daily prison life nearly impossible, both in cells and the wider prison environment. Overcrowded prisons have less supervision as warders are asked to monitor two to three times the number of inmates they can adequately control. The influx of inmates and subsequent decline in supervision have flipped the balance of power and placed inmates largely in control of each other. Inmates are locked in their cells for longer periods, there are fewer opportunities for structured activities, and boredom takes over.

There are two dimensions of overcrowding that encourage assault. On the one hand, placing more men in the same number of cells creates harsh living conditions that ignite into violence and increase gang power. On the other, there is less supervision as the inmate population climbs faster than warder numbers. While the warder-to-inmate ratio and overcrowding both showed a fairly high positive correlation to reported assault, the limited number of observations only created a statistically significant correlation between the warder-to-inmate ratio and reported assault. Table 1 shows the pairwise correlation between overcrowding and reported assault alongside the correlation between the warder-to-inmate ratio and reported assault.¹²

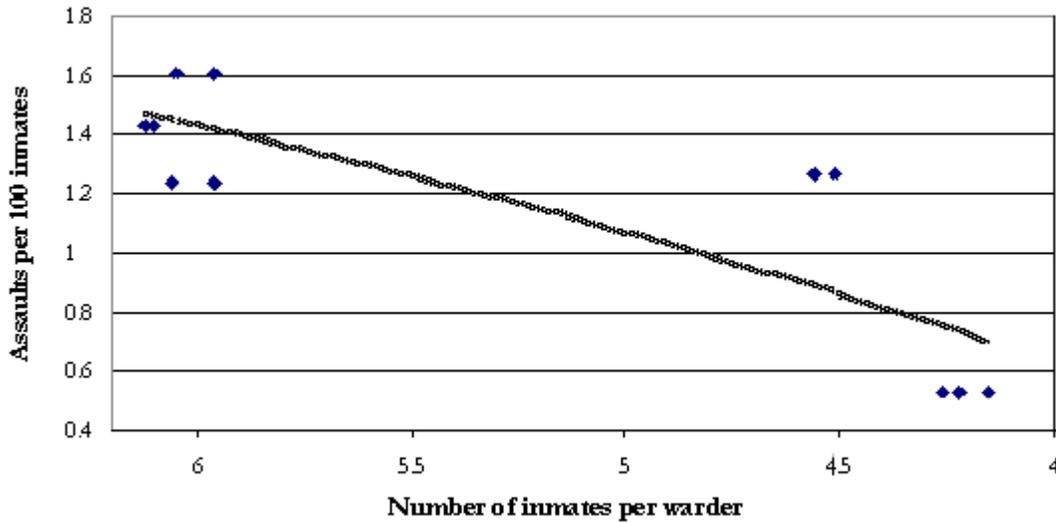
TABLE 1. A PAIRWISE CORRELATION OF REPORTED ASSAULT WITH % OVERCROWDING AND THE NUMBER OF INMATES PER WARDER

	All cases	Excluding Lichtenburg and Harrismith
% over capacity	0.35	0.46
Inmates per warder	0.77*	0.50
* statistically significant		

Nationally from 2003 to 2008, as the average number of warders increased in relation to the number of inmates, total reported assault per inmate fell. Graph 6 shows national changes in reported assault per 100 inmates with an improving warder-to-inmate ratio. As the graph shows, an increasing staff presence from 2003 to 2008 corresponds with a decreasing level of reported assault.

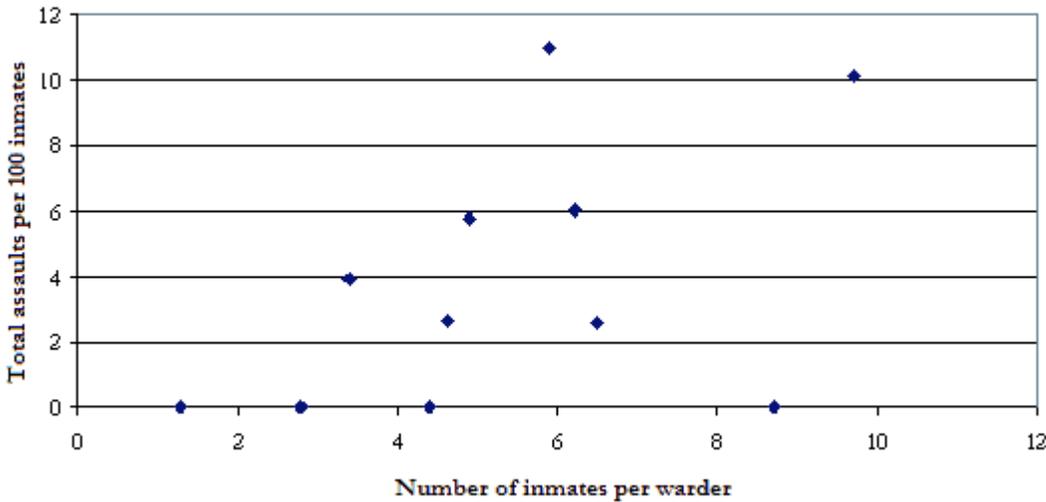
The relationship between fewer inmates per warder and fewer reported assaults is even more pronounced at the individual prison level. Graph 7 compares the number of inmates per warder to the number of reported assaults per 100 inmates at 11 prisons across South Africa.¹³

Graph 6. Nationally reported assault per 100 inmates versus warder to prisoner ratio from 2003 to 2008



Compiled with information from DCS Annual Reports 2002-03 through 2007-08 and JIOP Annual Reports 2002-03 through 2007-08

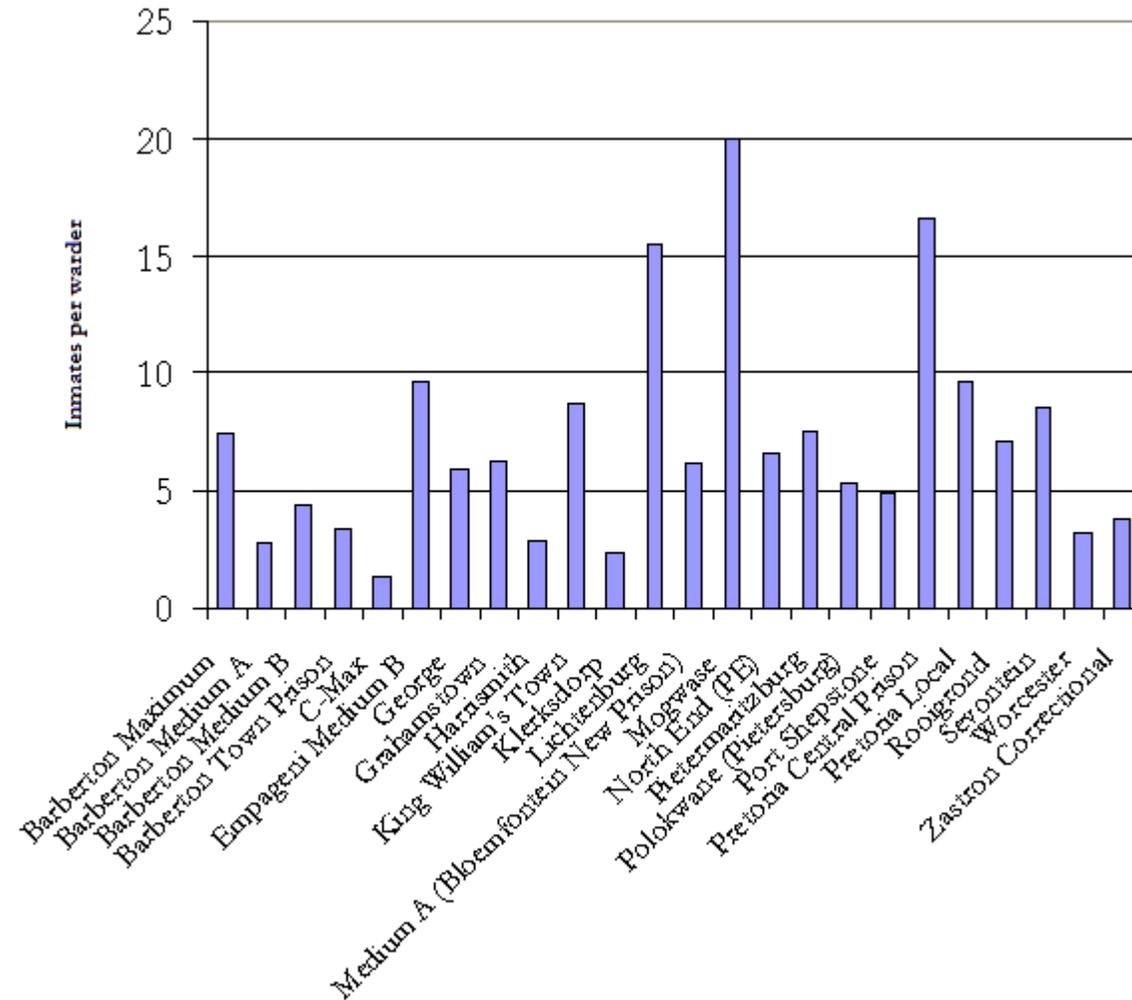
Graph 7. Reported assaults per 100 inmates versus warder-to-inmate ratios, excluding outliers



Compiled with information from the Law Society of South Africa's 2003 prison inspection report and statistics provided by DCS

Warder-to-inmate ratios vary significantly among prisons. Graph 8 shows the number of inmates per warder at various prisons across South Africa from December 2002 to November 2003. Similar to DCS's reported warder-to-inmate ratio of 1 to 6.05 in March 2003, the average prison shown had 6.23 inmates per warder, with ratios ranging from 1.3 to 20.

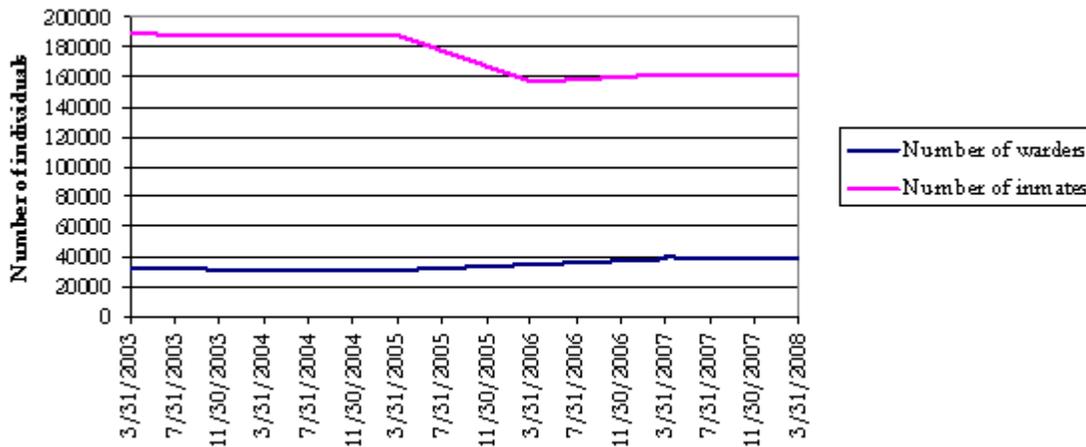
Graph 8. Warder-to-inmate ratios at prisons across South Africa from 2002-03



From 1998 to 2005, the inmate population increased three times faster than the number of prison staff.¹⁴ In the past five years, efforts to hire more warders and reduce the number of inmates have begun to close the gap. Graph 9 shows the changes in inmate and warder numbers from 2003 to 2008. A decline in the inmate population during 2005 brought the average number of inmates per warder down from 6.06 in March 2005 to 4.26 in March 2008, and while the absolute number of warders increased, a rising percentage of warder positions remained unfilled.¹⁵

As HIV/AIDS threatens DCS's future capacity, the warder-to-inmate ratio may increasingly be determined by the number of inmates. A 2007 study estimated that 9.98% of DCS staff is HIV-positive nationally, with a higher rate of 22.7% among employees in KwaZulu-Natal and 93.6% of all infected staff employed in direct offender management or support services.¹⁶ From 2001 to 2008, the percentage of employee terminations due to death hovered around 20% of total staff losses.¹⁷ While DCS has hired slightly more warders since 2005, employee numbers have not kept pace with the increasing number of posts required to successfully run the nation's prisons. From 2005 to 2008, the percentage of vacant warder positions steadily increased from 5% to 9.4%.¹⁸ Clearly, hiring new warders will not be an easy path to improve the warder-to-inmate ratio.

Graph 9. Changes in the number of warders and inmates from 2003 to 2008



Compiled with information from DCS Annual Reports 2003/2004 through 2007/2008 and JIOP Annual Reports 2003/2004 through 2007/2008.

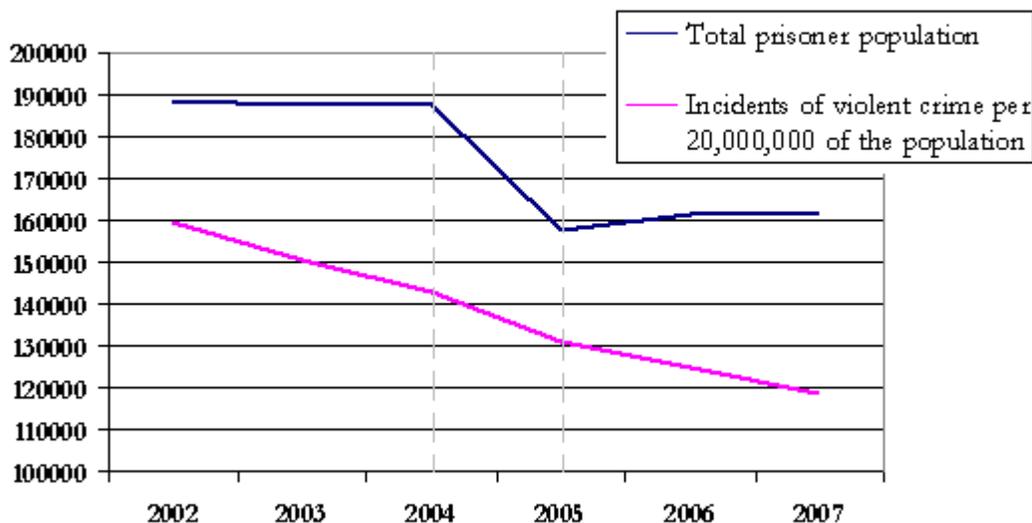
Tackling overcrowding

The South African government can address overcrowding in two ways, either by building new prisons - a strategy that has not been successful elsewhere in the world - or decreasing the number of inmates. Unless the DCS can overcome hiring barriers and build an effective strategy to combat AIDS-related deaths among officials, prison construction will not alleviate the underlying problem of poor supervision.

There are several ways the government can further reduce the size of the inmate population. The 1997 Criminal Law Amendment Act created minimum sentences that have accelerated inmate population growth since its adoption. The Act was repeatedly renewed until it became a fixed feature of the Criminal Procedure Amendment Act, even though available evidence suggests that violent crime changes independent of incarceration rates. Publicly available crime data, published by the South African Police Service (SAPS), suggests that incarcerating fewer individuals does not change the level of violent crime. Graph 10 shows SAPS statistics for the falling incidence of reported violent crime over time - including murder, rape, attempted murder, and assault with the intent to inflict grievous bodily harm - alongside the changing prison population.

If lower incarceration rates increase the prevalence of violent crime, then the drop in inmate levels from January to December 2005 should have caused a corresponding increase in violent crime. This did not happen. This evidence suggests that contrary to public opinion, incarceration rates and violent crime are not strongly correlated.

Graph 10. Changes in the prison population and the rate of violent crime nationwide



Compiled using information from 2007/08 S.A.P.S statistics and JIOP Annual Reports 2002-03 through 2007-08

The level of overcrowding in South Africa's prisons is both unnecessary and harmful. Whereas there is no noticeable relationship between incarceration and violent crime, available evidence suggests a link between overcrowding and reported assault in prisons. If DCS, Parliament, and the courts fail to reduce overcrowding in South Africa's prisons, violent abuse will continue and the system will fail to rehabilitate its offenders. Unless South Africa tackles the widespread problem of inmate assault, it will fail in its bid to reform individuals who have violated the law as well as protect those innocent of any crime.

¹ Cynthia Barmore graduated from Princeton University in 2009 with a B.A. in Public and International Affairs. She is currently working in Rome, after which she will return to Princeton University for her Master's in Public Affairs.

² Staff. (2009) 'ACDP confident it will run SA soon,' In Dispatch 3 March 2009, <<http://www.dispatch.co.za/article.aspx?id=297691> >.

³ Ghanotakis, E. (2007) 'Stop prison rape in South Africa,' In Agenda 74, p.76.

⁴ Kaminer, D. (2008) 'Risk for post-traumatic stress disorder associated with different forms of interpersonal violence in South Africa,' In Social Science & Medicine 67, p.1594.

⁵ Bailey, Razaan. (2008) 'Prisons and HIV/AIDS,' In HIV/AIDS and Society in South Africa. Scottsville: University of KwaZulu-Natal Press, 167-182.

⁶ Compiled with information from JIOP Annual Reports 2003/2004 through 2005/2006.

⁷ The comparison uses reported assaults from 2005 and regional occupation data from January 2008, both published by JIOP. The prison population fluctuated little during that time, increasing from 157,402 in 2005 to 161,819 in 2007. While there could be potential problems with using data from different years, the small change in the national

prison population does not suggest that inmate distribution among regions would have changed.

⁸ Judicial Inspectorate of Prisons. (2008) Annual Report 2007/2008. p.21.

⁹ Judicial Inspectorate of Prisons. (2005) Annual Report 2004/2005. Section 7.1; Judicial Inspectorate of Prisons. (2008) Annual Report 2007/2008, p.21.

¹⁰ The number of reported assaults is an annual total. DCS provided annual statistics for Pretoria Central prison, including years 2006, 2007, and 2008. The number of assaults for 2006, for example, refers to assaults reported from January 2006 to December 2006. Data for the remaining prisons (including Barberton Medium A, Barberton Medium B, Barberton Town Prison, C-Max, George, Harrismith, King William's Town, Lichtenburg, Medium A Bloemfontein New Prison, Port Shepstone, and Pretoria Local) comes from inspections carried out by the Law Society of South Africa and refers to assaults reported between December 2002 and November 2003. Lichtenburg has been excluded from Graph 3 because the data appears unreliable. Data from Lichtenburg clearly supports a relationship between overcrowding and reported assault, but to a magnitude that is much higher than other cases and consequently obscures the graph. The difference in magnitude may be because Lichtenburg is significantly smaller than any other prison listed. Lichtenburg was built to hold 158 inmates, and it detained 465 in 2003. The particularly small space combined with a high level of overcrowding may have created either a more violent situation or an environment more conducive to reporting. Lichtenburg also had significantly more inmates per warder than any other prison. With 30 warders for 465 inmates, Lichtenburg had a warder-to-inmate ratio of 1:15.5, well below the second lowest ratio of 1:9.7 at Pretoria Local.

¹¹ Harrismith is the second smallest prison, built with the capacity to hold 210 inmates. It has the lowest degree of overcrowding of any prison listed but one of the highest levels of reported assault. At the time of inspection, Harrismith was undergoing massive renovations that required a majority of inmates to be transferred to nearby facilities. The temporary removal of inmates created one of the highest warder-to-inmate ratios, with 2.9 inmates per warder. The high number of assaults recorded at Harrismith may be related to the transitional nature of a prison under renovation, wherein warders were faced with a newly and dramatically reduced inmate population. When the Law Society of South Africa recorded inmate complaints, it indicated that the nature of complaints referred to warder assaults on inmates. Warders may have either more freely abused their power, indeed assaulting more inmates, or inmates may simply have been more willing to report abuse to independent investigators when placed in a small prison under renovation.

¹² All statistical analysis was done using Stata/SE 10.0.

¹³ Includes 2002-03 data from Barberton Medium A, Barberton Medium B, Barberton Town Prison, C-Max, Medium A Bloemfontein New Prison, Port Shepstone, Pretoria Local, King William's Town, and George. Also includes 2007 and 2008 data from Pretoria Central. The graph excludes Harrismith and Lichtenburg, as above.

¹⁴ Ntsobi, M. (2005) Privatisation of Prisons and Prison Services in South Africa: A research report submitted in partial fulfillment of the requirements for the degree of Masters in Administration in the School of Government. Cape Town: Faculty of Economic and Management Sciences, University of the Western Cape. p.71.

¹⁵ Compiled with information from DCS Annual Reports 2002/2003 through 2007/2008, and JIOP Annual Reports 2002/2003 through 2007/2008.

¹⁶ Lim'Uvune Consulting. (2008). 'DCS HIV Prevalence Survey 2006,' p.2
<<http://www.communitylawcentre.org.za/Civil-Society-Prison-Reform/publications/related-resources/archive-of-files/dcs-prevalence-survey-2006.pdf>>.

¹⁷ Compiled with information from DCS Annual Reports 2001/2002 through 2007/2008.

¹⁸ Compiled with information from DCS Annual Reports 2004/2005 through 2007/2008.

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