



MINISTRY OF JUSTICE AND CORRECTIONAL SERVICES: REPUBLIC OF SOUTH AFRICA

Media Statement by the Minister of Justice and Correctional Services, Mr. Ronald Lamola (MP)

Deputy Minister for Justice, Mr John Jeffery

The National Commissioner of Correctional Services, Mr Arthur Fraser

The Acting Director-General of the DoJ&CD, Adv JB Skosana

Leadership of POPCRU

Officials from Correctional Services

Ladies and gentlemen of the media

Thank you for attending this media briefing – especially on a public holiday.

This day stems from our difficult past as a nation. Post 1994, we have dedicated this day to reconciling our differences as a nation. On this day we are required to unify the nation and honestly reflect on whether we are committed to building one united nation.

Our white paper on Corrections implores us to facilitate reconciliation with individuals who offend the community. It states the following:

“The Department must address the reconciliation of the offender with the community and heal the relationship with victims. This includes restoration of trust and or loss where applicable, as an integral part of rehabilitation and reintegration. Non reconciliation with the community increases the risk of recidivism and the offender remains alienated from the community.”

Ladies and Gentlemen

Where our courts have handed down sentences, justice must be served. We will never compromise on incarcerating offenders who have been sentenced to imprisonment by our courts.

We are committed to create safer and secure communities. Therefore, we will never sacrifice public safety as we have made it our mission to securely incarcerate hardened criminals and those who are considered to be a danger to society. Our facilities such as the recently opened C-Max Correctional Centre at Kgosi Mampuru (the second) Management Area in Tshwane enable us to achieve this objective.

In our correctional facilities, there are offenders whose offences range from serious and violent crimes to minor economic offences. Some offenders, if they had the means to pay their fines, they would not even be in our correctional facilities.

Our correctional facilities should therefore not only be seen as buildings to keep offenders away from society, but also as correctional centres that rehabilitate offenders through programmes in order to reintegrate them back into their communities as law abiding and responsible citizens.

We have taken into consideration all the relevant facts that led to the incarceration of certain offenders. When offenders are placed at correctional facilities, individual correctional sentence plans are formulated for each and every one of them.

These plans focus on the behaviour of offenders which must be corrected and goals are set which each offender must complete for him or her to be effectively rehabilitated.

Our correctional facilities have played a pivotal role to rehabilitate offenders. It is thus important that ex-offenders do utilise the second chance by means of ploughing back into society through the skills that they would have acquired.

Amongst our ex-offenders, we have successful business persons and those who have found gainful employment in various sectors of the economy upon their release. Let me take this opportunity to congratulate one of our rehabilitated offenders, Blessing Ngobeni, for recently winning the Standard Bank young artist award for visual art, the past and the future.

Blessing Ngobeni spent six years in our correctional facility, and that is where he found art through the Tsoga (wake up) arts project. He is a good example of a person who grabbed his second chance upon release, his art work is making waves across the globe.

Yet there are also those who are released from correctional centres who tell us that they often experience discrimination, stigmatization, a denial of work opportunities and prevention to participate in community structures. This contribute towards re-offending and does not help to reintegrate offenders into society. We call upon society to reconcile with these individuals and to play an active role as citizens to collectively reintegrate and rehabilitated individuals.

Release from correctional facilities

There are various ways in which inmates are released from our centres.

1. A person who has completed his/her sentence.
2. A person who is released on parole- people on parole are still under our supervision through community corrections.
3. Remission of sentence, this is where the President uses the powers vested on him by the constitution and the correctional services act to grant remissions which effectively means cutting the sentence short. It also means it fast tracks the dates upon which an inmate will be placed on parole, subject to meeting a set criteria.
4. Medical parole – is a release granted to offenders on medical or humanitarian conditions governed by the Correctional Services Act.
5. A presidential pardon
The President can grant a pardon on various grounds to inmates inside and outside our centres. It should be noted that since 1994, a sitting President has not yet exercised his powers to grant a presidential pardon to a person inside our centres, it has been granted to people who are outside on various grounds, it is a power visited upon on very exceptional circumstances.

It is against this background that His Excellency, President Cyril Ramaphosa, has today during the Day of Reconciliation Commemoration in Bergville, Kwa-Zulu Natal, announced a decision to remit the sentence expiry dates of specific categories of sentenced offenders, probationers and parolees across all correction facilities in the country.

The decision taken by the President is in-line with established international practice and informed by powers given to him by section 84 (2)(j) of the Constitution, which provides that

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“The President is responsible for pardoning or reprieving offenders and remitting any fines, penalties or forfeitures.”

International Norms:

Remission of sentences are not unique to South Africa. In recent months we have seen countries like Thailand, Ghana and Kenya using this as a policy tool to reduce the sentences of offenders who are deemed to have been rehabilitated.

Remissions also assist in alleviating overcrowding in our facilities. However, we must stress that remissions are not a solution to overcrowding.

Through policy reforms, we will ensure that our criminal justice system does not criminalise poverty, most of the people whose sentences will be remitted are individuals who could not afford to pay a fine and bail.

Noted, overcrowding of correctional facilities is fuelled by large numbers of remand detainees who cannot post bail, repeat offending by people who because of their criminal records, cannot find work after their release and by the overuse of short sentences.

It is important to note that President Ramaphosa made the announcement while we are commemorating Day of Reconciliation and also celebrating 25 Years of Democracy. This should remind all of us of the progress we have made, and continue to make, in promoting national unity and reconciliation in a democratic South Africa.

Previous Remissions

Presidential remissions in South Africa were last exercised in 2012 when former President Jacob Zuma granted special remissions in celebration of Freedom Day on 27 April 2012 where a total of 45 033 offenders (19 695 sentenced offenders and 25 338 probationers/parolees) were released in a project that was concluded on 6 July 2012.

On 30 May 2005, former President Thabo Mbeki also granted special remissions to 65 837 offenders, of whom 31 865 were sentenced offenders and 33 972 probationers and parolees, and they were released over a period of three to nine months.

Remissions were also granted on 10 May 1994 at former President Nelson Mandela's Inauguration and again on 27 April 1995 on the first anniversary of South Africa's freedom. It was again granted on 18 July 1998 on Mandela's 80th birthday. The previous remissions were granted to coincide with key national days and this one is no different.

In the previous remissions, in 2005 (0.24%) in 2012 (0.25%) less than 1 percent of the remitted individuals reoffended.

South Africa's offender population, as at end of November 2019, is as follows:

- 163 015 across the country's 243 correctional centers - for both sentenced and remand detainees.
- 70 930 parolees and probationers under the system of community corrections - these are offenders who are no longer in correctional facilities but are already in communities.

Therefore, this says that the total offender population is 233 945. What should be noted is that more than two-thirds (71,3%) of beneficiaries to be considered for the 2019 presidential review of sentence expiry dates are already in communities as parolees and probationers, and not in correctional facilities.

In terms of inmates within correctional centers, less than 10% (8.99%) of the total inmate population of 163 015 will be considered. Of those to be considered in correctional facilities, the greater part of the eligible 14 647 inmates are closer to their parole consideration dates.

Therefore, should they be granted parole, they will be released into the system of community corrections as parolees and will be closely monitored by correctional services officials until their sentence expiry dates.

To this end, the 2019 special remissions project is targeting approximately:

- 84.7% of probationers, already in communities **and not in correctional facilities** (11 556 out of the total probationers of 13 644);
- 48.98% of parolees, already in communities and not in correctional facilities (24 833 out of the total parolees of 50 700);
- 51.30% of the total community corrections population, already in communities and not in correctional facilities (36 389 out of the community corrections population of 70 930);
- 8.99% of South Africa's total inmate population in correctional centers (14 647 out of the inmate population of 163 015); and
- Less than one third (21.81 %) of South Africa's total offender population (51,036 out of the offender population of 233 945).

The following are the categories for the 2019 Special Remissions:

- ❖ This special remission of sentence will not be applicable to any sentenced offender, probationer, parolee or day parolee who is serving for :
 - Sexual offences
 - Murder and attempted murder
 - Armed robbery
 - Certified as mentally ill and is detained in accordance with the Mental Health, 2002 (Act 17 of 2002);
 - Sedition, High treason, sabotage and terrorism;
 - Offenders declared as dangerous by the court in terms of Section 286 A of the Criminal Procedure Act, 51 of 1977;
 - Sentenced to life imprisonment;

- Any escaped/absconded offender who evaded the justice system after being released on bail pending appeal and was still at large on 16 December 2019.
- Violations under the Domestic Violence Act, 1998 (Act No 116 of 1998); and
- Child abuse.

As a responsive government, we have deliberately excluded these types of offences from the special remission process, because we understand the sensitivity they are carrying in our society.

Offenders who are classified to be of low risk will receive an additional 12 months, notably offenders for violent crimes who have served almost the minimum required time for parole consideration will only be granted 12 months special remission.

The process will include all Justice, Crime Prevention and Security (JCPS) Cluster Departments, including the South African Police Service (SAPS) and the Department of Home Affairs (DHA) who will be verifying the details of every eligible offender.

This process is estimated to run from the date of pronouncement by the President, in a phased approach, until successful completion in order to ensure the smooth reintegration of offenders into society and it is envisaged that the process will commence with the release of women, children, youth and people with disabilities and will then move on to other categories of offenders.

Attendance of a pre-release programme by offenders will also be a pre-requisite before any release. Furthermore, sentenced offenders who may not have participated in other relevant programmes will be prioritized for such pre-release programmes before being considered for release.

The Risk and Relapse Probability Report is one of the key tools that is going to be utilized to assess and mitigate any risk associated with reoffending.

The JCPS Cluster Technical Task Team has been established to focus, amongst others, on looking at the list of offenders who are foreign nationals that are to be considered for remission.

This Technical Task Team will manage the review of the citizenship status granted to foreign nationals to be done by the Department of Home Affairs as well as verification of fingerprints and DNA analysis (to be done by the SAPS).

The process of granting these remissions of sentences will be fair, non-discriminatory and transparent. The remissions are also done within the context of Government's overall programme of strengthening the criminal justice system.

It is worth noting that South Africa adopted the revision of the Standard of Minimum Rules for Treatment of Prisoners, which are called the Nelson Mandela Rules. This has enabled us to speed up transformation towards a peoples' developmental correctional system, consistent with various international principles and guidelines and fully aligned to the UN and African Human Rights declarations and protocols.

To give effect to these rules, the rehabilitation and social reintegration of South Africa's offender population is being accelerated across all correctional facilities.

As a country, we pride ourselves in establishing a correctional system whose purpose is not only to punish, but also to rehabilitate the offender, to protect the public, to promote social responsibility and to enhance the human development of offenders in order to avoid repeat offending.

In conclusion, Correctional Services has made significant strides in redefining the purpose of corrections in South Africa. We appeal to all South Africans to work together with the Department to reintegrate offenders who will benefit from this remission process back into society.

We acknowledge that it is often difficult and challenging to strike a balance between forgiveness and justice.

According to a paper titled Forgiveness and Justice published by Professor Worthington Everest et al, the following is observed;

“Most psychologist agree that forgiveness does not imply forgetting, condoning, or excusing offences. Forgiveness does not necessarily imply reconciliation, trust or release form legal accountability. Instead, many psychologists contend that forgiveness involves a conscious decision – while acknowledging the seriousness of the wrong – to release or forego bitterness and vengeance”.

The paper goes on to argue that: ***“Ideally, offenders will appreciate expressions of forgiveness assuming that they acknowledge some responsibility for wrongdoing, perpetrators may feel grateful to receive forgiveness – especially if forgiveness seems undeserved. The resulting feelings of gratitude or perhaps guilt at being over-benefited may motivate offenders to reciprocate the goodwill through improved behaviour.”***

Our stalwart for freedom and democracy, Tata Nelson Mandela, once said:

“In the end, reconciliation is a spiritual process, which requires more than just a legal framework. It has to happen in the hearts and minds of people.”

I thank you.