

EFFECTIVE COUNTERMEASURES AGAINST OVERCROWDING OF CORRECTIONAL FACILITIES

Vanna L. Lawrence*

I. INTRODUCTION

Jamaica's strides towards developed country status have been hampered by deteriorating economic conditions which have been blamed for an increase in the country's crime rate. In 2005 the country was named by researchers as the "murder capital of the world", as approximately five people were killed daily (<http://www.bbc.com.uk/>). This rapid increase in serious crime has led to hardened public opinion about the treatment of offenders. Public opinion polls have reflected that the average Jamaican believes justice is best served when offenders receive long periods of incarceration. This places pressure on the criminal justice system to maintain the confidence of the people and results in longer periods of incarceration being given. The relative costs associated with maintaining inmates however, make alternatives to imprisonment a great priority.

The cost of maintaining custodial vs. non custodial offenders, 2008 (Exchange rate J\$88: US\$ 1)

INMATES	\$689,644.87 per person per annum
JUVENILES/ CHILDREN	\$622,930.83 per person per annum
REMANDEES	\$480,032.99 per person per annum
NON CUSTODIAL CLIENTS	\$69,854.90 per person per annum

Since 18 September 1962, Jamaica has been a United Nations (UN) member state. The country and its legislators have taken decisive steps to ensure that the criminal justice system upholds principles stipulated by the UN. Principles related to the treatment of offenders are reflected in laws, rules and standard operational procedures in the various agencies of the state.

II. THE CURRENT SITUATION

The criminal justice system in Jamaica consists of the Jamaica Constabulary Force (police), the courts (judiciary/magistrates) and the Department of Correctional Services (correctional facilities and probation/community services). Members of staff of the Department of Correctional Services, Jamaica (DCSJ) interface with the entire criminal justice system. Probation Officers interact with offenders from the pre-trial phase, Correctional Officers administer inmate management and Probation Officers again offer through care and after care services.

A. Pre-Trial

Every effort is made to ensure that suspects are not detained for unduly long periods while an investigation is in progress. The law empowers the police, within reason, to offer "station bail" to the suspect before he or she is brought before the court for the offence. This suspect is released upon his or her own recognizance if charged for minor offences or may be bailed by other person(s) using surety, where doubt exists.

In the event that station bail is not granted, the suspect may not be remanded for longer than a period specified by law, without being charged. If the suspect is charged, he or she must then be brought before the court. The judiciary herein possesses the discretion to offer bail to the suspect based upon prevailing circumstances. In some cases, if there is not sufficient evidence against the suspect the case will be adjourned *sine die* (without a further date being given).

* Director, Human Resource Development/Training, Correctional Service of Jamaica.

B. Trial

Within the Jamaican criminal justice system, like others, the proof of guilt remains the burden of the prosecution. Every suspect is presumed to be innocent until proven guilty. When proven guilty, a social enquiry report is requested at the discretion of the magistrate. Social enquiry reports usually assist in the area of sentencing.

Social enquiry reports seek to detail the background situation of the offender, which may have led to the committal of his or her crime (criminogenic factors). The Probation Officer is the authorized official who is delegated this function. The Probation Officer utilizes his or her professional knowledge to interpret the results of his or her investigations and makes recommendations for various sentencing options. Some magistrates will not sentence an offender until they have this expert report as it is sometimes used to guide even the length of sentences given.

It is mandated by law that social enquiry reports are requested and utilized for the sentencing of all child offenders. This strategy has led to an effective reduction in the number of children incarcerated as it is usually found that other social factors have contributed to the manifested behaviour. Many children therefore receive non-custodial sentences or are released without receiving an order of the court. Social enquiry reports are however not always requested for the sentencing of adult offenders and thus do not assist in diverting these cases from the possibility of incarceration.

C. Post-Trial Measures

The various laws of Jamaica place within the judiciary the authority to dispose of cases in a number of ways that would divert the offender from a period of incarceration. These non-custodial sentences may have a mandatory period of supervision or may allow the person to bear the burden of his or her own recognizance. These include:

- Suspended Sentences (with, or without supervision)
- Fines
- Probation Orders
- Community Service Orders
- Curfew Orders
- Electronic Monitoring
- Combination Orders i.e. Community Service Order with supervision
- Mediation Orders

(The Criminal Justice (Reform) Act, 2002, Sections 4 – 16)

Probation Officers also initiate other diversion and preventative programmes which are given credence by the court and are sometimes made a condition of the sentence. For example: the Trelawny Rehabilitation of Youth (T.R.Y.) programme, the Brothers for Change (domestic violence prevention) programme, Educational programmes, and Adult/Juvenile division programmes.

The judicial system bears the added pressure of reassuring the public that justice has been served. Based upon the gravity of the offence and the discretion of the court, some offenders will be sentenced to a period of incarceration. Current assessment of the inmate population shows that although the majority of inmates are serving sentences of fewer than three years, there remain an alarming number of offenders who will remain in correctional facilities for prolonged periods, thus contributing to overcrowding in particular correctional facilities.

Chart 1:

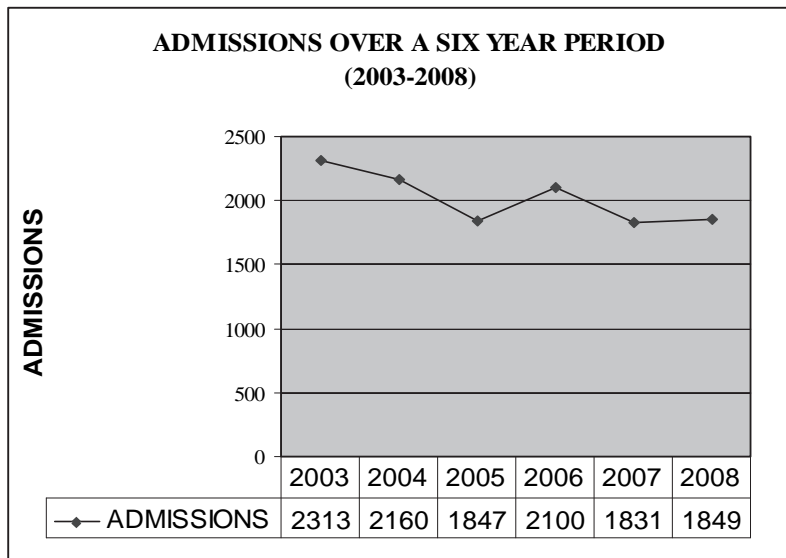


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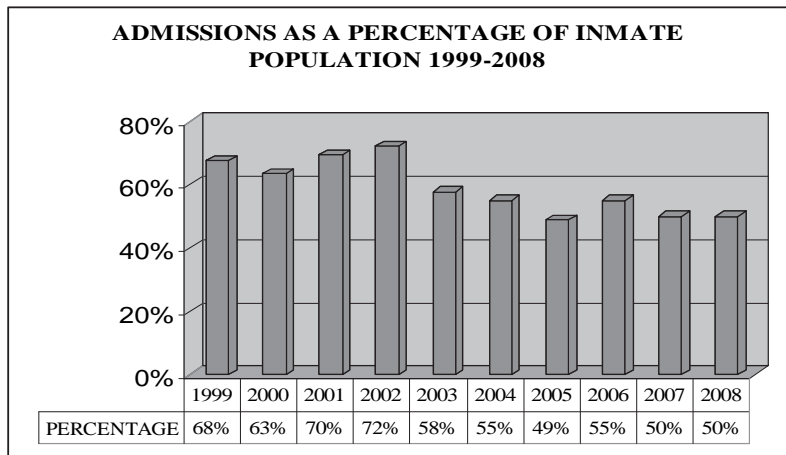


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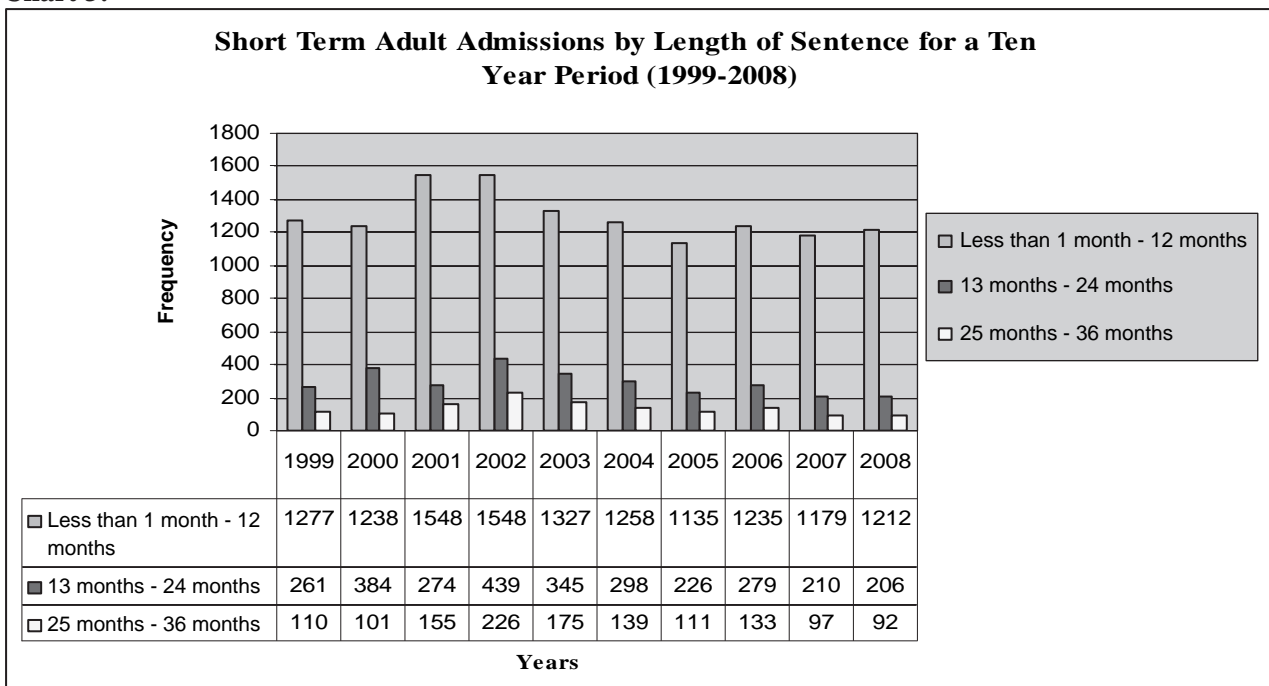
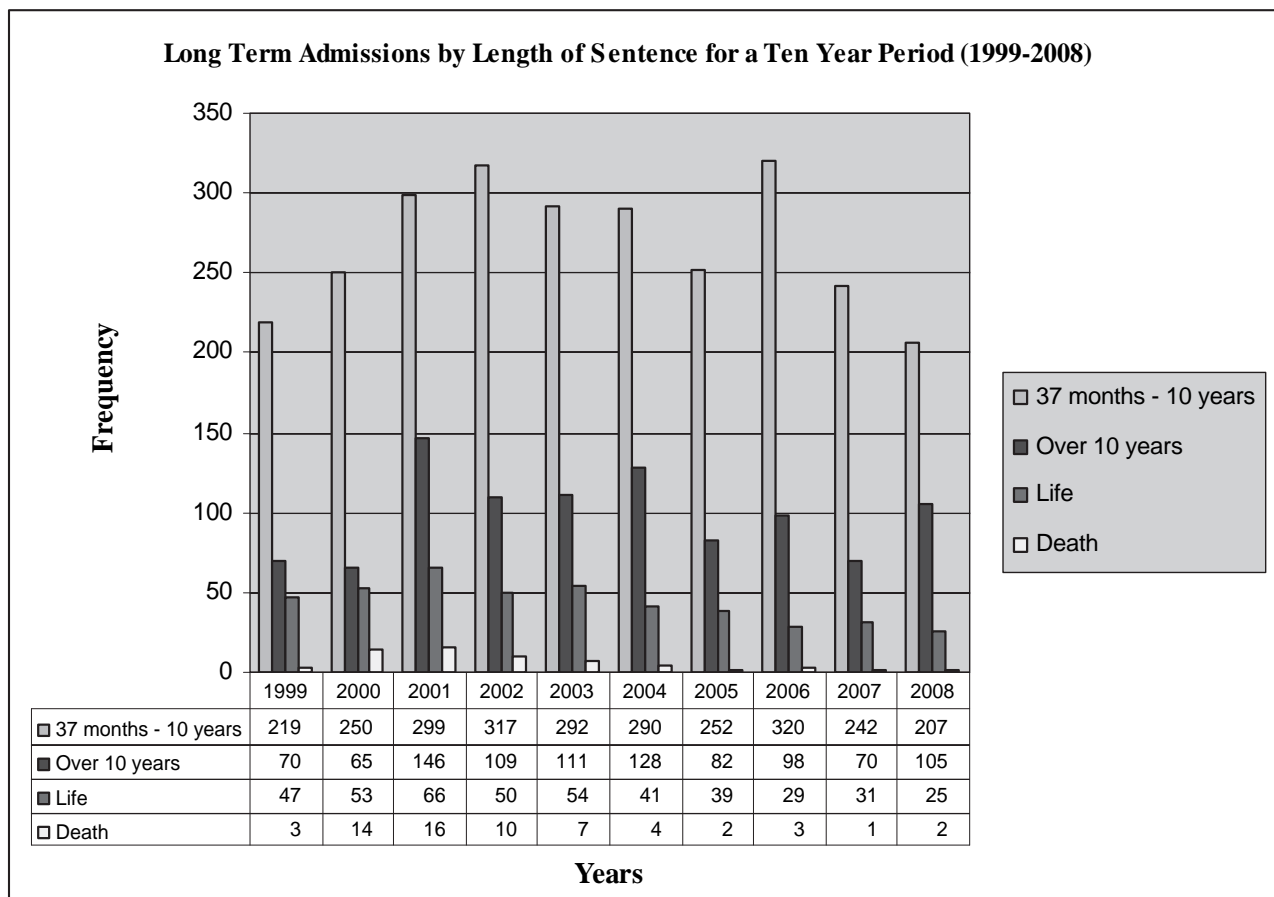


Chart 4:



The Department of Correctional Services operates three reception facilities through which all inmates/offenders must enter the system. These facilities are: Tower Street Adult Correctional Centre, St. Catherine Adult Correctional Centre and Fort Augusta Adult Correctional Centre [for females]. Overcrowding within these institutions remains a growing concern.

IDEAL CAPACITY COMPARED TO ACTUAL POPULATION					
Institutions	Type	Classification	Ideal Capacity	Actual Population (31/12/08)	Remarks
Tower Street A.C.C.	Male	Max. (Reception)	850	1683	
St. Catherine A.C.C.	Male	Max. (Reception)	850	1238	
South Camp A.C.C.	Male	Maximum	250	240	
Tamarind Farm A.C.C.	Male	Medium	350	259	
Richmond Farm A.C.C.	Male	Low/Open	300	99	
Fort Augusta A.C.C.	Female	Max. (Reception)	250	148	
New Broughton S.R.A.C.C.	Male	Low/Open	50	18	
Horizon A.R.C.	Male/female	Max.	1036	484	Remand Centre
Juvenile Institutions					
St. Andrew J.R.C.	Male	Max.	48	45	Remand Centre

IDEAL CAPACITY COMPARED TO ACTUAL POPULATION					
Institutions	Type	Classification	Ideal Capacity	Actual Population (31/12/08)	Remarks
Hill Top J.C.C.	Male	Max.	98	110	
Armadale J.C.C.	Female	Max.	45	47	
Rio Cobre J.R.C.	Male	Max.	120	118	
Fort Augusta A.C.C.*				53	
Horizon A.R/C.C.*				36	
Montpelier J.C.R.C.**			250		
Total					
A.C.C. Adult Correctional Centre, J.C.C. Juvenile Correctional Centre, J.R.C. Juvenile Remand Centre A.R/C.C. Adult Remand /Correctional Centre, S.R.A.C.C. Sunset Rehabilitation Adult Correctional Centre					

Note:

* *Juveniles were housed in designated locations in adult correctional centres owing to overcrowding in juvenile facilities.*

** *The centre is being retrofitted and is therefore not yet operational.*

D. Current Effective Countermeasures against Overcrowding in Jamaican Correctional Facilities/ Institutions

1. Classification of Offenders: Classification by Age

The Corrections Act (1991) Section 177 (3) facilitates the classification of convicted persons during the period of incarceration in order to minimize the risk of contamination. The Superintendent of the institution classifies these inmates according to the following groupings:

1. *Young inmates class* – inmates under twenty-one years of age;
2. *Star class* – inmates over twenty one years of age who have been sentenced for the first offence and are not known to be habitually corrupt or of criminal intent;
3. *Ordinary class* – inmates not placed in the young inmates or star class.

This classification aids rehabilitation efforts and may lead to early release, in those institutions in which space permits classification by grouping.

2. Classification by Risk Levels

Upon entry into an institution an initial interview is conducted with every offender in an effort to begin the process of diagnosis. For inmates who have been accompanied by a social enquiry report this process is even better assisted as the information garnered may be verified. The information received is used to complete the important process of risk assessment.

Within thirty days of entry into the institution the authorized official is expected to have collected sufficient information on the inmate to complete the Level of Service Inventory – Revised (LSI-R), risk assessment instrument. The Canadian developed LSI-R has proven to be useful at predicting the inmate’s risk of re-offending, and risk levels identified (low, moderate and high) are used to arrive at a treatment plan directed towards the rehabilitation of offenders and eventually toward conditional release programmes or full release programmes.

3. Classification by Institutions

Correctional facilities are rated by security levels according to the levels of risk of the inmate population. The Department of Correctional Services’ Standard Operational Procedures Volume 2 empowers the Director of Security to empanel a group of corrections professionals who utilize locally developed security classification methods to transfer inmates between security institutions. Male inmates may therefore be transferred from the highest levels of security classification (Tower Street Adult Correctional Centre, St. Catherine Adult Correctional Centre and Horizon Adult Remand Centre) to a medium level facility (South Camp Adult

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Correctional Centre, Tamarind Farm Adult Correctional Centre) and on to the lowest level (Richmond Farm Adult Correctional Centre & New Broughton Adult Correctional Centre [for inmates over 54 years old]) over time.

The transfer of inmates through these levels of correctional institutions has proved to be effective in reducing overcrowding. The situation is however affected by current practice which prohibits transfer of inmates serving sentences for certain violent crimes and those who have the greater part of their sentences still remaining. It should therefore be noted that some offenders who have been assessed and found to be of low risk levels remain within high risk facilities as this ensures public confidence in the judicial system and also in the agencies of the state entrusted with the responsibility for national security.

4. Remission of Sentences

The Chief Executive Officer/Commissioner of Corrections and his designates are empowered by The Corrections Act (1991) to exercise the privilege of remission of sentences under Sections 178, 179 & 180. The incarcerated time spent by an inmate may be remitted (shortened) if he or she has been sentenced to remain continuously in a correctional facility for a period not less than thirty days. The remission period may not exceed one third of the sentence for a first offender and one quarter of the sentence for subsequent offenders.

Remission of sentences may be gained by an inmate upon the conditions that he or she commits no breach/infraction and that he or her remains industrious during his or her period of incarceration.

For example: if an offender is sentenced to 12 months at hard labour for a first offence and he or she is found to be a model inmate, he or she would benefit from remission of one third of his or her sentence (four months). The inmate would therefore spend a total of eight months of the entire sentence and would be released as having completed his or her entire sentence.

RELEASE FROM ADULT INSTITUTIONS OVER TEN YEARS (1999 - 2008)

TYPES OF RELEASES	YEARS									
	1999	2000 unavailable	2001	2002	2003	2004	2005	2006	2007	2008
DISCHARGED	1752		1810	1939	1878	1802	1714	1512	1678	1582
FINE PAID	103		106	270	240	262	257	279	227	195
PAROLED	60		52	47	39	49	55	49	47	25
REPRIEVED	3		10	6	8	1	10	0	0	0
DEATH	11		40	16	7	5	19	14	16	21
QUASHED	6		32	9	4	10	4	11	8	6
EXTRADITED	0		0	0	48	6	3	5	11	55
RELEASE TO ATTEND COURT	12		7	10	78	41	49	88	138	97
TOTAL	1947	0	2057	2297	2302	2176	2111	1958	2125	1981

Remission of sentences, or the shortening of the term of incarceration imposed by the court, allows the DCSJ to effectively deal with the rising prison population. Despite this shortening of the period the frequency of inmates returning to facilities after having committed a previous offence continues to be low, although statistics for 2008 show a 7% increase in the readmission rate over the previous year.

Sex	Re-Offenders Admitted To Adult Institutions By Sex 2003 - 2008					
	2003	2004	2005	2006	2007	2008
Male	550	628	437	487	371	499
Female	1	5	8	9	11	16
Total	551	633	445	496	382	515
Re-offending Rate	24%	29%	24%	24%	21%	28%

5. Parole

The Parole of Offenders Act (1979) allows an inmate not sentenced to life imprisonment or death to be able to apply for parole or early release. Every such inmate is informed of his or her Parole Eligibility Date (P.E.D) and is facilitated by Officers to make this application, regardless of his or her current risk level. Although parole is an effective strategy against overcrowding in correctional institutions in Jamaica, it is not always granted for reasons such as:

- the inmate’s risk level;
- the gravity of the offence committed;
- the period spent within a rehabilitative facility;
- the inmate’s expression/exhibition of being rehabilitated;
- the community’s readiness to receive the offender;
- the victim’s readiness to receive the offender;
- the report of his or her institutional conduct,
- the Parole Board’s discretion.

Parole Cases under Supervision (2007)

YEAR	PAROLEES ON SUPERVISION	PAROLEES RECALLED	RECALL RATE%
2003	162	0	0
2004	172	2	1.16
2005	182	1	0.55
2006	209	1	0.53
2007	163	0	0

6. Conditional Release

Conditional release refers to the temporary release of inmates or wards (children) from a correctional institution for a specified period. This is facilitated by the Corrections Act (1985) Part IV Section 58 – 63. Efforts towards population reduction are most obviously seen in the use of:

(i) *Hostel Placement*

Adult inmates are permitted to reside in half-way housing facilities on the outside of the correctional institutions. This helps reduce the difficulties of, and sets the stage for, community reintegration upon release.

(ii) *Home Leave*

Home leave is granted to low-risk adult and child offenders that they may return home for a specified period to spend time with family. Home leave for adults may not exceed seven days.

(iii) *Compassionate Release*

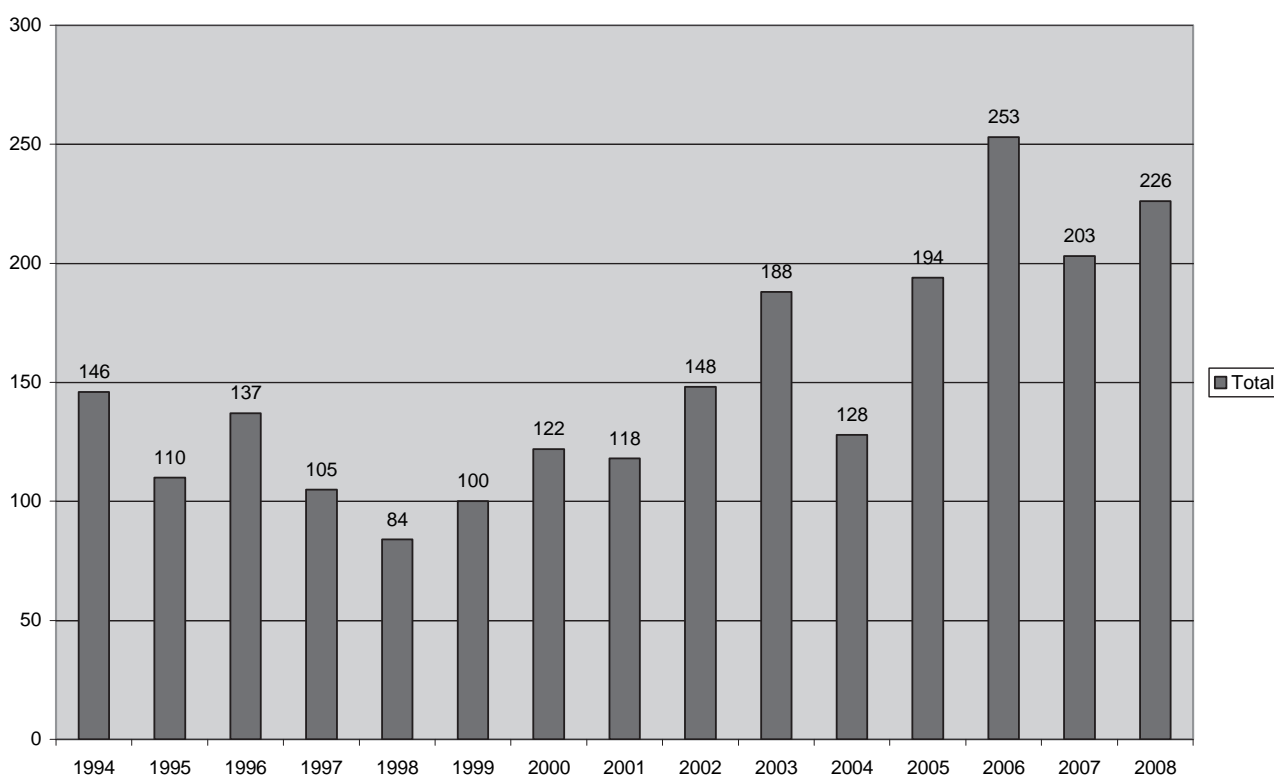
In the event that an inmate becomes indigent he or she may be released from the institution upon compassionate grounds. This is usually granted by a board/body outside of the Department of Correctional Services, Jamaica.

7. Licensing and Statutory Supervision

Licensing is similar to parole and is granted to child offenders living within institutions to facilitate a re-socialization within open society. Children qualify for this privilege by the behaviour exhibited and the support systems which exist at home and in the community. This reduction strategy provides many children the opportunity for early reintegration with families and the community.

Statutory supervision is a period of intense supervision which is provided by a Probation Officer to a child who was released from an institution before his or her 18th birthday. The institution's population is reduced as it is guaranteed that a child offender is being assisted/supported through the process of change. He or she may however be returned to the institution upon court action if he or she appears to be headed towards further re-offending.

JUVENILE ADMISSION OVER A FIFTEEN YEAR PERIOD (1994 - 2008)



8. Payment of Fines

The Magistrate may administer a sentence upon the offender which gives him or her the option of paying a fine or being confined. Many offenders are unable to pay these fines, regardless of how insignificant the amounts stipulated. The DCSJ, through its external alliance programme, has been able to secure assistance to have fines paid for many inmates, thus facilitating their release and a reduction in the inmate population.

9. Weekend Sentences

The Criminal Justice (Reform) Act (2002) Section 19 empowers the court to administer a short period of imprisonment upon an offender (a weekend sentence) not exceeding six months. A weekend sentence is served in incremental periods commencing at six o'clock in the evening of every Friday and ends at six o'clock in the evening of every Sunday.

Weekend sentences reduce the inmate population significantly as this period may also coincide with the absence of another inmate who is away on Home Leave. A sentence served on weekends essentially reduces the population for entire periods of four days. It is unfortunate however that this sentencing option is rarely utilized by magistrates.

10. Community Care, Through-care and After care by Probation Officers

Probation Officers represent the Community Services arm of the DCSJ. This arm is multi-faceted and provides services to the courts, community and the correctional centres. These services include:

- Social Investigations
- Public Education
- Parole Monitoring/Supervision
- Supervision of offenders on non-custodial sentences
- Administration of Reintegration/Aftercare – Statutory Supervision, Rehabilitation Grant
- Home leave – Wards and Inmates
- Conditional release programmes
- Persons Seeking Assistance
- School based programmes/activities
- Parenting Activities/Programmes
- Programmes – Challengers’ Camp, Brothers for Change, ‘TRY’
- Diversion – diverting some juvenile and adult cases from unnecessary court action
- Through-care
- Training of Social Work Students.

Probation Officers oversee a range of sentences that have either been administered by the court, mandated by other bodies or voluntarily undertaken by themselves.

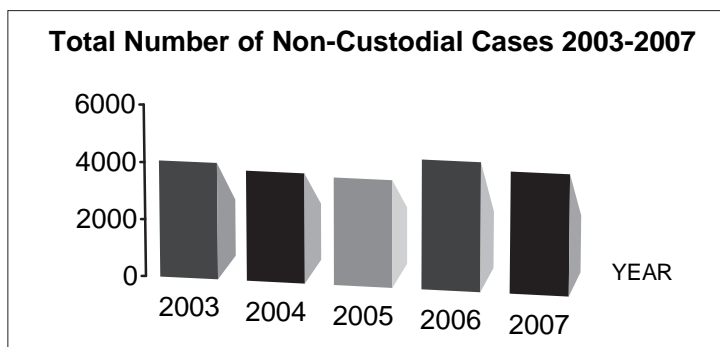
Probation Officers’ Caseload (2007)

Types of Order	Number of Cases
	2191
SUSPENDED SENTENCE SUPERVISION ORDER	380
COMMUNITY SERVICE	1427
PAROLE	163
SUPERVISION ORDER (JUVENILES)	14
VOLUNTARY SUPERVISION	66
TOTAL	4241

The services provided by Probation Officers in the community accounts for a vast amount of the DCSJ client base.

The DCSJ client base as of September 2008 is as follows:

Inmates	4145
Wards	412
Community-based Clients	4829
TOTAL	4829



Inmates and wards that are released from correctional institutions by means of reduction strategies are usually given the after-care support of Probation Officers. These officers are located across the island and offer in-depth supervision, counselling and community support for various categories of offenders. While being supervised some offenders learn acceptable social behaviour. Many decide never to re-offend, thus reducing the recidivism rate and by extension, the inmate population.

III. THE WAY FORWARD

A. Automatic Parole

At present inmates who have attained their Parole Eligibility Date (P.E.D) and are adjudged to be of low risk (to society and for re-offending) must apply to the Parole Board for consideration and a decision. Automatic Parole is pending legislation which will give discretionary powers to the Superintendent of the institution in which the inmate resides, under specific conditions, to grant parole to some offenders without making a submission to the Parole Board. It is believed that this will assist in reducing overcrowding, based upon a shorter transaction time.

B. Increased Number of Hostels

Presently there are no hostels/half-way houses for children. It is the Department's belief that this group of offenders will benefit greatly from behaviour modification, social skills training, vocational training and employment assistance in this setting. Negotiations are currently in progress to establish one child hostel using donor funding. With this in operation, some children will reside outside the institution even before their date of release.

C. Electronic Monitoring of Offenders

The pilot testing of Global Positioning System (GPS) assisted electronic monitoring devices was concluded in January 2009. The Government of Jamaica has received reports outlining the success of this pilot period and the benefits to be gained from observing the whereabouts of certain categories of offenders within the community. It is expected that electronic monitoring of offenders will be used to reduce the population within detention facilities as more offenders could be granted bail. It will also enhance the current Conditional Release programme as more inmates will be released from correctional facilities for longer periods.

D. Construction of a New 5,000 Bed Correctional Facility

The Government of Jamaica is in the process of seeking expressions of interest from companies to construct a new 5,000 bed correctional facility. This state-of-the-art facility will be one of the greatest countermeasures against the current overcrowding in the Jamaican correctional institutions as it will adequately accommodate the current inmate population. It is also expected that this institution will provide better facilities for rehabilitative efforts and thus will contribute greatly to the productivity of the society by the changes exhibited in inmates upon release.

IV. CONCLUSION

Like many other developing countries, overcrowding of correctional institutions does exist in Jamaica. This is however limited to high-risk/maximum security level institutions and is continually fuelled by the public's perception that lengthy periods of incarceration constitutes justice being served. The agencies of the state that are entrusted with the nation's security therefore have the added responsibility of ensuring that the treatment of offenders also meets the public's expectations. These expectations sometimes do not contribute to efforts directed at reduction strategies within correctional institutions.

Countermeasures against overcrowding are built into the criminal justice system and continue to be effectively applied. One of the most effective countermeasures against overcrowding currently used in the Jamaican context however has proven to be the rehabilitation of the offender, as he or she may benefit from early release and acquire the tools never to re-offend, thus not re-entering the criminal justice system and contributing to further overcrowding. In this regard, pending legislation and developments that will further prove to be beneficial towards rehabilitation and should be relentlessly pursued.

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