



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA

# The Right of Access to Health Care for Inmates in Detention

## Part 2: Oversight Findings and Recommendations

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## List of abbreviations

ART:	Antiretroviral Therapy
ARV:	Antiretroviral
BRRR:	Budgetary Review and Recommendation Report
CPA:	Criminal Procedure Act
CSPB:	Correctional Supervision and Parole Board
CSA:	Correctional Services Act
DCS:	Department of Correctional Services
DoH:	Department of Health
DPW:	Department of Public Works
EC:	Eastern Cape
FS/NC:	Free State and Northern Cape
HCT:	HIV Counselling and Testing
HIV:	Human Immunodeficiency Virus
HOC:	Head of Centre
ICCV:	Independent Correctional Centre Visitors
ID:	identification document
JICS:	Judicial Inspectorate of Correctional Services
JIP:	Judicial Inspectorate of Prisons
KZN:	Kwazulu-Natal
LMN:	Limpopo, Mpumalanga and North-West
MDR:	Multi-drug resistant
MOU:	Memorandum of Understanding
NGOs:	Non-governmental organisations
PPP:	Public Private Partnership
RD:	Remand Detainee
SLA:	Service Level Agreement
SAHRC:	South African Human Rights Commission
SANICD	South Africa's National Institute for Communicable Diseases
SAPS:	South African Police Service
STI:	Sexually transmitted infections
TB:	Tuberculosis
VC:	Visitors Committee
VCT:	Voluntary Testing and Counselling
WC:	Western Cape
XDR TB:	Extreme Multi-drug resistant TB

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# Chapter 1

## INTRODUCTION

### 1.1 BACKGROUND

This paper is Part 2 of a two stage examination of the implementation of health care in correctional centres. Part 1 provides a comprehensive overview of the policy and regulatory framework governing the provision of health care in correctional centres. Part 2 provides a summary of the numerous health-related findings and recommendations made over the past ten years by the various oversight structures responsible for overseeing the functioning of the Department of Correctional Services (DCS).

Part 2 was prompted by the release in 2016 of the report by Judge Cameron of the Constitutional Court of South Africa on his findings and recommendations following his visit to the Pollsmoor Correctional Centre in April 2015 (the Cameron Report). The Cameron Report illustrates that the health risks in correctional centres, particularly in those plagued with high overcrowding rates such as Pollsmoor Correctional Centre, have not been alleviated despite many recommendations made over the years to the DCS by the relevant oversight bodies.

This compilation of health-related findings and recommendations can be used by the Members of the Portfolio Committee on Justice and Correctional Services, and the Select Committee on Security and Justice (as well as the relevant Health committees) to increase systematic and effective parliamentary oversight specifically in the area of monitoring health care provision in correctional services.

### 1.2 POLLSMOOR CORRECTIONAL CENTRE: A CASE STUDY IN A FAILURE TO TAKE REASONABLE CARE

Pollsmoor Correctional Centre is an example of a correctional centre that has been under severe strain for a number of years due to overcrowding.

In March 2015, in response to a request for information on healthcare services, the DCS provided the following information in respect of Pollsmoor:<sup>1</sup>

- There were eight (8) vacancies in 2014/15 (nurses, doctors, dentists)
- An infection control committee has been established
- There is no shortage of medication

<sup>1</sup> Department of Correctional Services (2015a).



- In response to the judgement in the case of *Lee v Minister of Correctional Services*, the Centre management was implementing the Guidelines for the management of TB, HIV and sexually transmitted infections.
- Environmental health officers inspected the facility monthly
- Overcrowding is managed
- Unit managers ensure hygiene practices are implemented in cells
- Soap and toothpaste are distributed to inmates on a monthly basis
- Ecto-parasites are managed and centres are disinfected on a monthly basis
- Ultra Violet lights are installed
- Fumigation occurs
- Health education is provided

This information provided by the Department is, however, directly contradicted by the information provided in the reports of the Constitutional Court Judges, who since 2010 have been highlighting significant challenges at the facility, in particular in respect of overcrowding, staff shortages and environmental conditions, all of which impact on health.

In 2010, Justice Froneman expressed concerns about too few staff, overcrowding and unsanitary conditions. The Judge recommended that immediate attention should be given to increasing staff numbers and steps should be taken to increase Pollsmoor's capacity to deal with prisoners. In 2012, Justice Skweyiya also expressed concern about overcrowding, understaffing and poor environmental conditions.

However, it is the information provided in Justice Cameron's Report, following his visit in April 2015, (a month after the responses were received from the Department) which is of particular concern. This Report identifies as 'profoundly disturbing' the extent of overcrowding, unsanitary conditions, sickness, emaciated physical appearance of the detainees, and overall deplorable living conditions. The Report also identifies other factors impacting the health of, particularly remand detainee inmates, including, understaffing, ecto-parasites, lack of essential medical supplies and stock-outs of certain drugs. None of these issues raised in Judge Cameron's report are identified as challenges in the responses received from the DCS.

Subsequent to the Report released by Justice Cameron in September 2015 and also in apparent contradiction with the information provided by the Department in March 2015 the National Commissioner reported that a rat infestation, causing the death of two Pollsmoor Correctional Centre inmates from leptospirosis,<sup>2</sup> had forced the Department to move inmates to other correctional centres or other sections of Pollsmoor. After an inspection of the facility, South Africa's National Institute for Communicable Diseases (SANICD) said overcrowding, inadequate waste management and blocked drains contributed to the infestation.<sup>3</sup> If, indeed, as the Department had indicated in its responses, environmental health officers inspected the facility monthly; overcrowding was being managed; unit managers were ensuring hygiene practices are implemented in cells; the centre was being disinfected on a monthly basis; and fumigation and health education were taking place then why were inmates contracting and dying from leptospirosis?

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<sup>2</sup> The Centre for Disease Control defines leptospirosis as a bacterial disease that affects humans and animals. It is caused by bacteria of the genus *Leptospira*. The bacteria that cause leptospirosis are spread through the urine of infected animals, such as rats, which can get into water or soil and can survive there for weeks to months. Without treatment, leptospirosis can lead to kidney damage, meningitis (inflammation of the membrane around the brain and spinal cord), liver failure, respiratory distress, and even death. (Accessed at <https://www.cdc.gov/leptospirosis/infection/index.html>)

<sup>3</sup> Sonke Gender Justice (2015).



The conditions of detention at Pollsmoor Correctional Centre, which are clearly not consistent with human dignity and have a significantly negative impact on the health of inmates, have also been highlighted by the Constitutional Court in December 2012, in the judgement of Dudley Lee. The apparent failure of the Department to respond to these endemic issues has given rise, not only to an outbreak of leptospirosis but also to further litigation, namely:

- (i) An application in the Western Cape High Court in December 2015 by Sonke Gender Justice and Lawyers for Human Rights. This application was brought against the Government of South Africa as well as the Head of Pollsmoor Remand Detention Facility and the Court was asked to intervene to ease overcrowding and inhumane conditions at the 52-year-old prison. As of 1 February 2016, Pollsmoor Remand Detention Facility was operating at around 309 per cent capacity, accommodating 2 985 more detainees than approved. The applicants argued that overcrowding as well as poor hygiene leads to the spread of infections and that 'these conditions are a violation of detainees' constitutional rights to human dignity and to be free from cruel, inhuman or degrading punishment'.<sup>4</sup> On 5 December 2016 the Western Cape High Court declared that Government's failure to fulfil its obligations in terms of the Correctional Services Act was unconstitutional. This was because Government had failed to provide the constitutional and legislative standard of core services, including nutrition, accommodation, exercise, ablution facilities and health care services to awaiting-trial inmates at Pollsmoor. The Court ordered the Government to:
  - Show, by 21 December 2016, why the Court should not order it to reduce overcrowding at Pollsmoor Remand Detention Facility to 120% of its approved accommodation capacity.
  - Develop and file a comprehensive plan, by 31 January 2017, including timeframes for its implementation, which addresses and will put an end to: "*the deficiencies in the provision of exercise, nutrition, accommodation, ablution facilities and healthcare services to the inmates of Pollsmoor Remand Detention Facility; and the deficiencies identified in Prison Visit Reports by Justice Cameron, dated 27 July 2015 and 13 August 2015 (the Cameron Report)*".<sup>5</sup>
- (ii) A Western Cape High Court judge ruled in December 2015 that Ms Nassiera James (34) can sue the Minister of Correctional Services on the basis of 'vicarious liability'. James is claiming damages from the state after she allegedly contracted tuberculosis while serving nine months at Pollsmoor prison in 2009.<sup>6</sup>

Pollsmoor management was clearly not conforming either to the minimum standards for conditions of detention as required by the international conventions to which South Africa is a signatory or to its own Constitutional provisions and domestic legislative framework. It is only after the release of the Cameron Report in September 2015 that conditions at Pollsmoor Remand Detention Centre and Women's Centre started to improve.

In its written feedback to the Select Committee dated 19 August 2016<sup>7</sup>, JICS stated that it had conducted inspections at Pollsmoor on 29 and 30 June 2016, during which it found that although hygiene was still lacking, the DCS had commenced with renovations at the Centre. Nevertheless, JICS was concerned about the fact that the three meals required in terms of the law were still being

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<sup>4</sup>Sonke Gender Justice Overcrowding And Inhumane Conditions In Pollsmoor Remand Detention Facility (Accessed At <http://www.Genderjustice.Org.Za/News-Item/Overcrowding-And-Inhumane-Conditions-In-Pollsmoor-Remand-Detention-Facility/>)

<sup>5</sup> Sonke Gender Justice v the Government of the Republic of South Africa and the Head of Pollsmoor Centre Remand Detention Facility (Western Cape High Court)

<sup>6</sup>Schroeder F (2015).

<sup>7</sup> Judicial Inspectorate for Correctional Services (2016b).



served twice a day (instead of three times a day). This required inmates to take bread back to their cells, which left uncovered, would again attract rats, flies and cockroaches.

JICS reported to the Select Committee on Security and Justice on 24 August 2016<sup>8</sup> that (a) the Inspecting Judge for Correctional Services, Justice Johann van der Westhuizen, and a JICS delegation had visited Pollsmoor on 21 January 2016, (b) JICS subsequently accompanied the (i) South African Human Rights Commission on 25 February 2016 and (ii) Public Service Commission on an unspecified date in 2016 on visits to Pollsmoor.

JICS noted an improvement in conditions in the section of the remand facility discussed in the Cameron Report – the area had been re-painted, cleanliness and hygiene had improved, assaults by officials had decreased and inmate complaints were generally attended to. However, challenges still remained in respect of poor plumbing, exercise and the provision of meals for inmates. Overcrowding levels were still excessive and the inmate to DCS official ratio was too high. Unless the remand population numbers were drastically reduced these problems would persist. JICS noted that despite hot water geysers being available, overcrowded conditions meant that inmates had to take cold showers as the provisioning of hot water could not be maintained.

On 26 October 2016 the Select Committee on Security and Justice visited Pollsmoor Remand Detention Centre and the Women’s Correctional Centre to ascertain the DCS’s progress in implementing the recommendations of the Cameron Report.<sup>9</sup> The centres were noticeably clean and good hygiene practices were in place in the kitchen and with the preparation and distribution of food to inmates. Overall, the delegation was satisfied that most of the issues raised by Justice Cameron had been or were being addressed and commended the DCS in this regard. However, the Select Committee voiced concerns over remaining challenges and requested the Department to come up with solutions to *inter alia* (a) reduce the high levels of overcrowding (b) improve the frequency for washing inmates’ blankets and (c) address critical staff shortages reported by most DCS regions, including those for medical professionals.

### 1.3 CHAPTER OUTLINE

The paper is divided into six chapters:

<p><b>CHAPTER 1</b> <b>INTRODUCTION</b></p>	<p>Provides a background and rationale for this project.</p>
<p><b>CHAPTER 2</b> <b>FINDINGS AND RECOMMENDATIONS OF THE PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL</b></p>	<p>Provides a record of all health related findings and recommendations made by the previous Portfolio Committee on Correctional Services as well as the amalgamated Portfolio Committee on Justice and Correctional Services, to date, and the Select Committee on Security and Justice.</p>

<sup>8</sup> Judicial Inspectorate for Correctional Services (2016a).

<sup>9</sup> Draft Report of the Select Committee on Security and Justice on an Oversight Visit to Pollsmoor Correctional Facility, dated 1 November 2016.



<b>SERVICES (2005-2015)</b>	
<b>CHAPTER 3</b> <b>FINDINGS AND RECOMMENDATIONS CONTAINED IN THE CONSTITUTIONAL COURT JUDGES REPORTS (2010-2015)</b>	Provides a summary of the health related findings and recommendations made by the Justices of the Constitutional Court between 2010 and 2015, in their reports on visits to correctional centres.
<b>CHAPTER 4</b> <b>SOUTH AFRICAN HUMAN RIGHTS COMMISSION: REPORT OF THE NATIONAL PRISONS PROJECT (1998)</b>	Provides a summary of health related findings and recommendations contained in the Report of the National Prisons Project completed in 1998 by the South African Human Rights Commission (SAHRC).
<b>CHAPTER 5</b> <b>FINDINGS AND RECOMMENDATIONS OF THE JALI COMMISSION OF INQUIRY (2006)</b>	Provides a summary of health related findings and recommendations contained in the report of the Jali Commission of Inquiry completed in 2006.
<b>CHAPTER 6</b> <b>FINDINGS AND RECOMMENDATIONS OF THE JUDICIAL INSPECTORATE OF CORRECTIONAL CENTRES</b>	Provides a summary of findings and recommendations contained in the annual reports of the Judicial Inspectorate of Correctional Services (JICS).
<b>CHAPTER 7</b> <b>WAY FORWARD FOR PARLIAMENT</b>	Highlights suggested measures that may be taken by Parliament to ensure more effective oversight over health in correctional centres.



# Chapter 2

## PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES AND THE SELECT COMMITTEE ON SECURITY AND JUSTICE FINDINGS AND RECOMMENDATIONS (2005-2016)

This chapter provides an overview of the key health related findings and recommendations made by the former Portfolio Committee on Correctional Services, the current Portfolio Committee on Justice and Correctional Services and the Select Committee on Security and Justice in their oversight visits, as well as in the Portfolio Committee's Budgetary Review and Recommendation Reports (BRRR).

### 2.1 OVERSIGHT REPORTS

#### 2.1.1 PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES

2013

**Oversight visit to Correctional Centres in Eastern Cape, KwaZulu-Natal and Western Cape and Free State Provinces in July- August 2013:<sup>10</sup>**

#### **Findings from the East London Correctional Centre (Eastern Cape):**

- The hospital section in the Medium A centre had 15 nurses, and no permanent doctor but was visited by a sessional doctor once a week.
- The medical staff indicated that at times they felt unsafe owing to a lack of security staff available to work in the hospital section.
- The medical personnel at Medium A centre complained that the head of the centre at times put pressure on them to hospitalise inmates who did not require hospitalisation.
- The hospital section in the female centre did not have single cells, and therefore it was not possible to accommodate inmates with infectious diseases separately.
- The medication in the hospital at the female centre was poorly managed: the drug cabinet was not kept sufficiently secure, and medicine did not appear to be adequately controlled.
- Patients raised a serious concern about their safety at night: the intercom system was not working, and inmates only had a whistle to use to summon officials in case of an emergency.

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<sup>10</sup> Report of the Portfolio Committee on Correctional Services on Oversight undertaken in July and August 2013 to Correctional Centres in the Eastern Cape, KwaZulu-Natal, Western Cape and Free State Provinces (ATC 140226)



#### **Findings from Qalakabusha Correctional Centre (Kwazulu-Natal):**

- The centre had a hospital with 30 beds, and it was an accredited Antiretroviral (ARV) site. Although it did not have its own doctor, it received weekly visits from a sessional doctor.
- A physiotherapist visited twice a week whereas an optometrist, occupational therapists and audiologist visited the centre as required.
- The centre had no pharmacy, and medication was obtained from the pharmacy at the Durban Westville Correctional Centre.
- The clinic at the maximum juvenile centre had not been operational for two years. Juveniles who required medical attention were transferred to the centre's main hospital.

#### **Findings from Kroonstad Correctional Centre (Free State/Northern Cape):**

- The centre had two professional nurses, but did not have a doctor. A sessional doctor visited the centre twice a month.
- An external dentist provided dental services.
- The centre only had a sick bay, and no hospital or clinic. Inmates were transferred to the Thebe and Manapo hospitals where necessary, and those suffering from infectious diseases were accommodated in single cells.

#### **Findings from Harrismith Correctional Centre (Free State/Northern Cape):**

- The centre accommodated 197 inmates who were HIV positive of which 102 were receiving ARVs.
- The centre had nine inmates suffering from mental illness.
- The centre had a good working relationship with the Department of Health (DoH) who provided tuberculosis and HIV/AIDS management training to DCS nurses, performed medical circumcisions and provided dental services.
- The relationship between DCS and DoH has been formalised through a Service Level Agreement.

#### **Findings from Oudtshoorn Female Correctional Centre (Western Cape):**

- The centre had one nurse who attended to the needs of 77 inmates.
- The centre did not have its own doctor, but was visited by a doctor once a week whereas a dentist visited one a month, or as required.
- The centre did not have a hospital or a clinic that could accommodate patients. Those who needed observation were transferred to the local public hospital.
- There were nine (9) offenders who suffered from mental illness.
- The centre accommodated 12 HIV positive inmates of whom all were receiving anti-retroviral (ARV) treatment.
- The centre had a HIV-coordinator who provided services as required, as well as an HIV/AIDS support group.

#### **Findings from Goodwood Correctional Centre (Western Cape):**

- The centre had 62 sickbay beds but no pharmacy. Pharmaceutical services were provided by the Pollsmoor Management Area.
- Health risk assessments were done on admission, and the centre screened all new admissions, as well as those released, for tuberculosis.
- The centre had 10 nursing posts, of which 8 were filled.
- The Committee was informed that even if all posts were filled, the post establishment did not make sufficient provision to meet the centre's health care needs.
- A doctor visited the centre three times a week whereas the dentist visited once a week.



- The Committee was informed that one of the challenges experienced by nurses was that schedule 5 drugs received from Pollsmoor had no expiry date, which made it impossible to use them.

#### **Recommendations of the Committee:**

- The DCS was requested to provide the Committee with an update on efforts to allow auxiliary nurses to serve at correctional centres.
- The Committee also requested an update on how the existing and/or planned service level agreements between the DCS and DoH will address health care needs of inmates.

#### **Progress made**

There has not been any progress report presented to the Committee on the above-mentioned recommendations.

#### **2010**

#### **Oversight visits to Mangaung, New Kimberly and Grootvlei Correctional Centre in February 2010:<sup>11</sup>**

#### **Findings from Mangaung Correctional Centre (Free State/Northern Cape):<sup>12</sup>**

- The Mangaung Correctional Centre expressed concerns about its ability to implement ARVs to HIV positive persons, in line with the President's announcement on World AIDS Day 2009 that antiretroviral drugs would be available to all HIV positive persons with a CD4 counts of 350 or lower. The concern related to the implementation and costs associated with this pronouncement. At the time of the visit the DCS and G4S had not reached an agreement as to who should bear the cost of the implementation.

#### **Recommendations of the Committee:**

- The dispute between DCS and G4S about who should pay for the provision of ARVs to offenders should be resolved as a matter of urgency, to ensure that service delivery is not compromised.
- The Department of Health should also be negotiated with to determine to what extent it can assist to lower the DCS' costs in terms of health care provision.

#### **Progress made**

There has not been any progress report presented to the Committee on the above mentioned recommendations.

#### **2009**

#### **Oversight visits to Pollsmoor and Malmesbury Correctional Centres in the Western Cape in August 2009:<sup>13</sup>**

<sup>11</sup> Report of the Portfolio Committee on Correctional Services on its 2 and 3 February oversight visits to Mangaung, New Kimberly and Grootvlei Correctional Centres, dated 10 March 2010 (no details of this report on ATC)

<sup>12</sup> Mangaung Correctional Centre is a Public Private Partnership establishment with a partnership between DCS and a company called G4S.

<sup>13</sup> Report of the Portfolio Committee on Correctional Services on its 5 and 6 August oversight visits to Pollsmoor and Malmesbury Correctional Centres in the Western Cape, dated 17 November 2009 (no details of this report on ATC)



### **Findings from Pollsmoor Correctional Centre (Western Cape):**

- The Committee found that the hospital section was well equipped and fairly well managed.
- At the time of the visit, 58 sentenced offenders and 35 remand detainees were hospitalised. In addition, two wheel-chair bound sentenced offenders were permanently accommodated in the hospital section.
- Inmates with multi-drug resistant tuberculosis (MDR TB) were admitted to an isolation ward.
- Some of the inmates hospitalised were ill enough not to pose a threat to society and could have been conditionally released to the care of a hospice or their families. Detaining someone who was wheelchair-bound or so ill he or she could not function was contrary to the principle of humane detention.
- The Committee acknowledged that the cost of hospice care and the fact that many of the offenders' families are so poor they are unable to care for their relatives, makes conditional release nearly impossible.

### **Findings from Malmesbury Correctional Centre (Western Cape):**

- The Area's care programme comprises social work, psychological services, spiritual and moral development, health care and HIV/AIDS programmes. Although the intention to roll these out and deliver them is there, shortage of funds, particularly the very small allocation to the development programme was seriously impeding delivery.

### **Recommendations of the Committee:**

- The Committee recommended that inmates who are seriously ill and as such did not pose any threat to society should be conditionally released to hospices and the DCS should increase its efforts to build partnerships in that regard.
- The Committee was concerned about the spread of communicable diseases such as TB among offenders and remand detainees accommodated in extremely overcrowded cells.
- Many inmates complained that they were sometimes denied medical care and were at times not referred to a medical professional when they reported that they needed medical attention. The Committee recommended that the relevant legislative provisions and policies regarding care of inmates should be adhered to at all times and offenders who request medical care or lodge complaints during the daily requests and complaints roll call should be assisted.

### **Progress made**

There has not been any progress report presented to the Committee on the above mentioned recommendations.

### **2006**

### **Oversight visit to Correctional Centres in the Eastern Cape Province in August 2006:<sup>14</sup>**

#### **Findings from Eastern Cape centres:**

- Many professionals, including nurses, leave the Department of Correctional Services in search of better work opportunities, some being employed abroad and some returning to the Department of Health.
- Poor salaries and difficult working conditions for professionals have been identified as key reasons for the inability of DCS to attract and retain professional staff.

<sup>14</sup> Report of the Portfolio Committee on Correctional Services on its Oversight Visits to Prisons in the Eastern Cape Province, dated 29 August 2006 (no details of this report on ATC)

**Recommendations of the Committee:**

- The Department of Correctional Services should table before Parliament a retention and recruitment strategy for all staff of DCS (not only for professionals).
- The Portfolio Committee should be provided with a list of all vacant positions within DCS.

**Progress made**

The Department of Correctional Services made a presentation to the Committee on 14 November 2014 on progress made in addressing observations and recommendations made by the Committee, however, their presentation did not touch on the specifics mentioned above.<sup>15</sup>

**2005****Oversight visit to Durban-Westville Correctional Centre in KwaZulu-Natal in October 2005:<sup>16</sup>****Findings from the Durban-Westville Correctional Centre:**

- Poor salaries and difficult working conditions for professionals have been identified as key reasons for the inability of DCS to attract and retain professional staff.
- HIV/AIDS is prevalent amongst the majority of inmates. Many of the female offenders admitted, even those who are pregnant, are diagnosed with HIV/AIDS.
- The growing number of inmates affected by HIV/AIDS in prison was identified as a key concern. Access to ARV treatment remains a problem in DCS.
- The shortage of nurses is exacerbated by the perception that the workload of nurses has increased with the advent of HIV/AIDS. The shortage of nurses means that in cases where there is only one nurse for the facility and when the nurse is on leave, correctional officials are tasked with distributing medicines and providing care to the patients.
- Many inmates enter the system with false names. To receive ARV treatment, an inmate must have an identification document (ID) and a confirmable address.

**Recommendations of the Committee:**

- The Portfolio Committee requests that the DCS have frequent interaction with the Department of Health to ensure the roll out of ARV treatment to inmates.
- Barriers to the acquisition of ARV treatment must be identified and solutions to this problem addressed, in conjunction with the Department of Health.
- The DCS must submit a report identifying barriers to access to treatment and solutions to the problem to the Portfolio Committee within three (3) months of tabling the report.
- The Committee should be provided with quarterly reports by the HIV/AIDS coordinator of the region on specific problems that inmates have.

**Progress made**

There has not been any progress report presented to the Committee on the above mentioned recommendations.

**Oversight visit to correctional centres in the Northern Cape in October 2005:<sup>17</sup>**

<sup>15</sup> Department of Correctional Services (2006).

<sup>16</sup> Report of the Portfolio Committee on Correctional Services on its visit to the Durban-Westville Correctional Centre in KwaZulu-Natal (no details of this report on ATC)

<sup>17</sup> Report of the Portfolio Committee on Correctional Services on its visit to Prisons in the Northern Cape (no details of this report on ATC)



### **Findings from the correctional centres (Northern Cape):**

- The Committee was concerned about the slow process of medical release of terminally ill inmates. The Committee noted that in many cases this has meant that seriously ill inmates die before their release was secured.
- The Committee was also concerned that many families did not want to take responsibility for terminally ill inmates who were released into their care.
- The Committee was informed that the shortage of nurses was exacerbated by the perception that the workload of nurses has increased with the advent of HIV/AIDS.
- The growing number of inmates affected by HIV/AIDS in correctional centres was identified as a concern. Nurses stated that many of the public hospitals were still making it impossible to ensure that infected inmates got access to ARV treatment.
- Nurses reported that lack of medicine at the centre hampered their work. Many inmates needed chronic medication, but because of shortages, inmates could not access their medication.
- Another concern noted by the Committee was the lack of awareness around HIV/AIDS. In many centres there was no visibility of posters or placards on HIV/AIDS and its consequences.

### **Recommendations of the Committee:**

- The Committee requested that the DCS have frequent interaction with the Department of Health to ensure the roll out of ARV treatment to inmates.
- Barriers to the acquisition of ARV treatment must be identified and solutions to this problem addressed, in conjunction with the Department of Health.
- The DCS must submit a report identifying barriers to access to treatment and solutions to the problem to the Portfolio Committee within 3 months of tabling the report.
- The Committee should be provided with quarterly reports by the HIV/AIDS coordinator of the region on specific problems faced by inmates.

### **Progress made**

There has not been any progress report presented to the Committee on the above mentioned recommendations.

## **2.1.2 SELECT COMMITTEE ON SECURITY AND JUSTICE**

**2016**

### **Oversight visit to Pollsmoor Remand Detention Centre and Women's Correctional Centre (Western Cape) on 26 October 2016<sup>18</sup>**

#### **Findings from Pollsmoor Correctional Centre (Western Cape):**

- TB Lights: These were installed in all areas as a preventative measure to combat the spread of tuberculosis.

<sup>18</sup> Draft Report of the Select Committee on Security and Justice on an Oversight Visit to Pollsmoor Correctional Facility, dated 1 November 2016.



- Exercise: Inmates were given 1 hour of exercise but due to overcrowding not all inmates received their hour of exercise every day. The facility managed to provide the hour of exercise every second day to inmates.
- Clothing, blankets and mattresses:
  - Clothing was washed on a daily basis. A number of domestic washing machines were bought solely for the purpose of washing remand detainee uniforms while bulk machines were used to wash blankets.
  - The biggest bulk washing machine has been out of order for two years due to the unavailability of parts in South Africa. The Department has to order the parts from overseas and was engaging with DPW in this regard.
  - Mattresses are not washed but replaced every two years. The Heads of Centres would carry out weekly checks to monitor and ensure worn-out items are replaced. As part of responding to the leptospirosis the entire remand detention facility was supplied with new mattresses.
  - The delegation was concerned that only 800 blankets were washed per month and calculated that with the current population an inmate's bedding would only be washed once every four or five months. The DCS reassured the delegation that the bigger laundry located in the female centre (which had been shut down by the City of Cape Town due to non-compliance with municipal by-laws) would be operational again by mid November 2016 as it was in the process of moving the machines away from the walls as ordered by the City. In addition, some of Pollsmoor's laundry was also sent to be washed in other prisons in the region with bulk laundromats.
- Food production and nutrition: The Centre provides three meals a day which are served twice a day. Nutrition services is outsourced to Bossasa but inmates assist with cleaning of equipment. The delegation visited the kitchen and observed that everything was clean and hygienic, the food was of a good quality and kitchen staff wore gloves and their hair was covered.
- Primary health care facility: The primary health care facility has 103 patients. It recorded 21 male circumcisions. It has 27 psychiatric patients and 13 infectious TB patients and a further 80 non-infectious TB patients. The health care facility has 12 staff members. One doctor attends Monday to Friday, an HIV doctor attends every Tuesday, and a psychiatrist attends every Thursday. A dentist also attends once a week.
- On 26 October 2016 there were 692 sentenced offenders in the women's centre which was severely overcrowded as it has bed space for 329 offenders.
- There were 341 female remand detainees.
- Communal cells were severely overcrowded. Cell 097 had only 43 beds but housed 105 females. It only had one toilet, one washbasin and one shower. There was no door or partitioning wall in the toilet for privacy.
- Since Justice Cameron's visit in 2015 efforts were made to move some female inmates to previously occupied male areas within the prison.

#### **Recommendations of the Committee:**

- Most of the Regional Commissioners reported a critical shortage of staff, especially medical professionals and nurses. The Select Committee requested the Department to provide a report on the filling of vacancies and assessment of what it has done to address this issue.
- The Committee recommended that remedial action be taken in order to assist managers who were unable or failed to fill vacant positions.



## Progress made

The delegation noted that most of the issues raised by Justice Cameron had been or were being addressed and commended the DCS in this regard. However, to date the DCS has not provided a progress report nor the information the Committee requested in its oversight report.

## 2015

### Oversight visit to Mthatha Remand Detention (MRD) and Mthatha Medium Correctional Centre (MMCC) in the Eastern Cape on 9 September 2015<sup>19</sup>

#### Findings from the Mthatha correctional centres (Eastern Cape):

- Poor state of the facility and poor maintenance of the facility: The facility was in a very poor condition with the delegation observing cracked and broken plaster, exposed plumbing, and damaged windows, leaking faucets and toilets and general unkempt conditions.
- Overcrowding of sections: A section of the facility was closed for repairs and the inmates were moved to share beds with another section thereby adding to the overcrowding concerns. The MMCC's population was 1 324 inmates as at 9 September 2015, whereas it had an approved accommodation for 720 inmates (183.37% overcrowded). The MRDC had an approved accommodation of 725, but housed 51 sentenced and 890 un-sentenced individuals (131.72% overcrowded).
- Members observed that 149 inmates shared one toilet and commented that this was a human rights abuse and criminal. Unit 3 was so overcrowded that inmates were only allowed outside for 30 minutes per day.
- Banned substances in cells: The delegation visited the juvenile detention section and observed messy conditions and an unmistakable dagga odour. A member of the delegation found rolled-up paper containing what looked like dagga.
- Essential broken equipment: The Unit 5 Cold Room was not in working order in the kitchen and had been out of service for months.
- Poor access control and guarding of facility: The access control system was not operational at the time of the oversight visit and many of the electrical components in the entire facility needed to be replaced.
- The window frames in Unit 5 were rusted and needed to be replaced. The ceilings were damaged / in a poor state and in some place the rafters were exposed.

#### Recommendations of the Committee:

- The Committee requested the Department to supply the Committee with the following information within 14 days after its adoption by the National Council of Provinces:
  - The Department must forward a breakdown of the posts and the length of time the posts have been vacant.
  - The Department must indicate whether the Area Manager has been appointed and whether the security personnel posts were filled.
  - The Department must indicate in a report the progress made to date with upgrading the facility, repair of the reticulation and sewerage system, the kitchen upgrade and cold room repair.

<sup>19</sup> Report of the Select Committee on Security and Justice on an oversight visit to the Mthatha Remand Detention and Mthatha Medium Correctional Centre of the Department of Correctional Services, Mthatha Eastern Cape, dated 10 May 2016.



- The Department must supply a breakdown of the prioritised national projects as identified by the Department's national facilities team.

### **Progress made**

To date the DCS has not provided a progress report nor the information requested by the Committee in its oversight report.

## **2.2 BUDGETARY REVIEW AND RECOMMENDATION REPORTS (BRRR)<sup>20</sup>**

### **2013/14 BRR Report<sup>21</sup>**

The 2013/14 BRRR of the Portfolio Committee on Justice and Correctional Services noted the following:

- Section 35(2)(e) of the Constitution obliges the State to provide adequate health care. This obligation is given effect in the provisions of the Correctional Services, Health and Mental Health Care legislation. Although DCS did not provide statistics in relation to its delivery of adequate health care services, the Judicial Inspectorate of Correctional Services reported that it had received only 89 health care-related concerns in 2013/14, and that this figure was much lower than expected. Of these, 21 concerns related to the failure to provide medical treatment, and an additional 21 to the provision of inadequate medical treatment. The JICSs comment that the complaints may be under-reported was a concern for the Committee, particularly given the constitutional obligation on the State to provide adequate health care.
- The DCS reported that it has met its target in relation to both the TB cure rate, and the provision of anti-retroviral therapy (ART). The spread of communicable diseases such as tuberculosis was exacerbated in confined and congested environments and therefore the work done in that regard should continue. In addition, more should be done to create an environment in which inmates feel able to report sexual offences. Unless such cases are reported, and trends in this regard monitored, it will not be possible to put preventative mechanisms in place to protect vulnerable offenders, and to prevent HIV and other infections.
- In 2013, the DCS indicated that the spending focus over the medium term would be on improving treatment for mental illness. According to the JICS 2013/14 Annual Report, the DCS had 83 state patients in their care. The Committee recognised that the situation was out of DCS' control and it was concerned that the DCS had neither the resources nor infrastructure to meet the needs of inmates with mental illnesses that could not be controlled. The Committee was further concerned that incarcerating such persons with other inmates and in the care of personnel that were not trained to manage such conditions placed the patient, other inmates and officials at risk.

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<sup>20</sup> This Committee was established only in 2014. Formerly, oversight over the Department of Justice was undertaken by the PC on Justice and Constitutional Affairs, while oversight over the Department of Correctional Services was undertaken by the Portfolio Committee on Correctional Services. These were amalgamated under one Committee, in line with the introduction of a single Minister for both the Department of Justice and the Department of Correctional Services. This section thus includes reports emanating from the two former Committees.

<sup>21</sup> Portfolio Committee on Justice and Correctional Services' Budgetary Review and Recommendation Report on the Department of Correctional Services Performance in 2013/14 and the First Half of the Current Financial Year, dated 29 October 2014 (no details of this report on ATC)

**Recommendations of the Committee:**

- The 2013/14 Budgetary Review and Recommendation Report of the Portfolio Committee on Justice and Correctional Services did not contain any specific recommendations in relation to health care or the Care Programme in general.

**2012/13 BRR Report<sup>22</sup>**

The 2012/13 BRRR of the Portfolio Committee on Correctional Services noted the following:

- The Department of Correctional Services managed to exceed most of its targets in relation to the Care Programme for 2012/13 financial year. The Committee was however, concerned about the management of mental illness, and communicable diseases in correctional facilities. The DCS Annual Report indicated that in the case of mental illness, 98.78% of those diagnosed received medical treatment. The Report also highlighted that the target in relation to the treatment of communicable disease, hypertension and diabetes could not be met most likely as a result of DCS' acute shortages of nurses.

**Recommendations of the Committee:**

- The 2012/13 Budgetary Review and Recommendation Report of the Portfolio Committee on Correctional Services did not contain any specific recommendations in relation to health care or the Care Programme in general.

**2011/12 BRR Report<sup>23</sup>**

The 2011/12 BRRR of the Portfolio Committee on Correctional Services noted the following:

- The Committee acknowledged that Section 12(1) of the Correctional Services Act (Act 111 of 1998) states that the Department must provide, within its available resources, adequate health care services, based on the principle of primary health care, in order to allow every prisoner to lead a healthy life. The Committee therefore recommended that the Care Programme should provide needs-based care initiatives aimed at maintaining the well-being of incarcerated persons.
- The Committee noted that in 2011/12, the target for inmates being tested for HIV, mentally ill offenders receiving treatment and the number of offenders participating in Care programmes were exceeded. It further noted that only 69% of inmates with CD4 counts below 350 received anti-retroviral treatment. In this regard, the DCS explained that the low performance could be ascribed to some offenders refusing to take treatment, while others were undergoing the treatment readiness counselling prescribed by the National Department of Health's anti-retroviral treatment guidelines, and therefore could not yet receive treatment.

**Recommendations of the Committee:**

- The 2011/12 Budgetary Review and Recommendation Report of the Portfolio Committee on Correctional Services did not contain any specific recommendations in relation to health care or the Care Programme in general.

<sup>22</sup> Portfolio Committee on Correctional Services' Budgetary Review and Recommendation Report on the Department of Correctional Services' Performance in 2012/13, and First Quarter of the Current Financial Year, dated 23 October 2013 (no details of this report on ATC)

<sup>23</sup> Portfolio Committee on Correctional Services' Budgetary Review and Recommendation Report on the Department of Correctional Services' Performance in 2011/12, and the First Quarter of the Current Financial Year, 23 October 2012 (no details of this report on ATC)



## 2.3 GENERAL AREAS OF CONCERN

The following is a summary of the key concerns raised by Parliamentary Committees over the past 11 years, with regard to the provision of health services in correctional centres:

- Acknowledgement that overcrowding is a key component of the spread of communicable disease in correctional centres, including TB.
- Insufficient professional health staff including nurses.
- Insufficient facilities particularly single cells to isolate inmates with infectious diseases.
- Insufficient pharmacies and poor management of medication.
- Insufficient resources, infrastructure and training to deal with mentally ill inmates.
- Complaints by inmates that their medical concerns are not effectively responded to.
- Difficulties in ensuring the medical release of terminally ill inmates.
- Particular problems in managing the treatment of HIV/AIDS.
- Status of service level agreements and relationship with the Department of Health.



# Chapter 3

## FINDINGS AND RECOMMENDATIONS CONTAINED IN THE CONSTITUTIONAL COURT JUDGES REPORTS (2010-2015)

Sections 99(1) and (2) of the Correctional Services Act 111 of 1998 provide that:

1. A judge of the Constitutional Court, Supreme Court of Appeal or High Court, and a magistrate within his or her area of jurisdiction, may visit a correctional centre at any time.
2. A judge and a magistrate referred to in subsection (1) must be allowed access to any part of a correctional centre and any documentary record, and may interview any offender and bring any matter to the attention of the Commissioner, the Minister, the National Council or the Inspecting Judge.

In 2009, the judges of the Constitutional Court instituted a system of visits to correctional centres which took effect from 2010. The judges aim to visit two correctional centres per year. The judges inspect the correctional centre and compile a report.

The reports are sent to the Minister for Correctional Services, the National Commissioner for Correctional Services, the Portfolio Committee for Justice and Correctional Services<sup>24</sup> and the Inspecting Judge for Prisons.

The objectives of the visits include the following:

1. For judges to inform themselves about conditions in the centres and how they work.
2. To help monitor and improve conditions.
3. To enable judges to serve where necessary and appropriate as a conduit for feedback to the inspectorate, the National Commissioner, the Minister and the Parliamentary portfolio committee.
4. To enable individual offenders to make reports and lodge complaints on the spot to the visiting judge, where appropriate confidentially, and to relay these to the SAPS, the National Director of Public Prosecutions, or to Legal Aid South Africa for action.

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<sup>24</sup> This Committee was established only in 2014 formerly, oversight over the Department of Justice was undertaken by the PC on Justice and Constitutional Affairs, while oversight over the Department of Correctional Services was undertaken by the Portfolio Committee on Correctional Services. These were amalgamated under one Committee, in line with the introduction of a single Minister for both the Department of Justice and the Department of Correctional Services.



These reports canvass a range of issues concerning prison conditions but this paper focuses on those related to health issues.

### 3.1 JUSTICE MOGOENG

#### NEW KIMBERLEY CORRECTIONAL CENTRE<sup>25</sup> (16 June 2010)

##### Occupancy

- The New Kimberley Correctional Centre can accommodate 3 000 offenders. On the day of the visit it had a population of 2 164 offenders.

##### Infrastructure

- The hospital has been custom built to cater for almost all the needs of offenders, complete with an x-ray machine and surgery facilities.
- The wards in the hospital can sleep up to 60 offenders.
- The wards were not built with toilet facilities in the room and are unsafe for the nursing staff who have to move offenders out of the rooms to the toilets during the nights.

#### OLD KIMBERLEY CORRECTIONAL CENTRE<sup>26</sup> (17 June 2010)

##### Occupancy

- The Old Kimberley Centre can accommodate 801 offenders. At the time of the visit it had a population of 938 offenders and was 17% overcrowded.

##### Infrastructure

- The Centre has a hospital, which also houses state mental health patients.
- Special cells are allocated for communicable diseases (e.g. XDR TB and Chicken Pox).

##### Human Resources

- The dentist visits once every two weeks.

##### Services

- The hospital only services male offenders. Female offenders are sent to an external hospital.
- The Old Kimberley Centre was accredited as an ARV site by the Department of Health in 2007.
- The facility gets the medical supplies that it needs as and when it needs them.

#### POTCHEFSTROOM REMAND DETENTION FACILITY<sup>27</sup> (8 June 2011)

##### Occupancy

- The Centre has an approved accommodation for 857 offenders, however, it can accommodate up to 1300 offenders.<sup>28</sup> On the day of the visit, the Centre had 1009 offenders/awaiting trial detainees.

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<sup>25</sup> Mogoeng (2010a).

<sup>26</sup> Mogoeng (2010b).

<sup>27</sup> Mogoeng (2011a).

<sup>28</sup> The centre accommodates maximum security offenders and awaiting trial detainees, who form the majority of the inmates, are treated as maximum security offenders



### **Infrastructure**

- The infirmary itself is utilised for inmates/detainees with minor health issues or who are recovering. Those in dire need of care are treated at a nearby hospital.
- There are 20 beds in the infirmary, and separate facilities for those with tuberculosis.
- The rooms in which the hospital is located are unsatisfactory. The ceilings and walls of the rooms have been damaged by water and have been in this dilapidated state for three years. This was reported to the Department of Public Works.

### **Human Resources**

- Only three (3) nursing positions are filled.
- Two hospital staff posts were vacant at the time of the visit.
- A doctor visits the centre on a Tuesday, Wednesday and Thursday.
- The staffing shortage was described as a “timebomb”. Significant person power resources were required when inmates had to go to hospitals outside the prison grounds.

### **Services**

- The Centre does not have the capacity to monitor seriously ill or injured inmates. They too have to be transferred to the public hospital.
- A substantial problem for the medical staff is the monitoring of the inmates’/detainees’ consumption of their medication. It is, by all reports, very difficult to ensure that the offenders take their medication, as prescribed.
- There were complaints from inmates of delays in receiving medical treatment.
- All medical facilities are located in the men’s section of the prison. Accordingly, it is not possible for women to be treated and segregated from the male inmates when they require medical attention.
- The hospital provides condoms which are used by inmates.

### **HIV/AIDS**

- The Centre is not an accredited ARV treatment centre. As a result, HIV positive inmates have to be transported to the public hospital to receive medication. A separate structure, which the Centre does not have, was required for the Centre to become an accredited treatment centre.
- There are approximately 50 inmates on ARV treatment.

### **TB**

- At the time of the visit, 8 patients had tuberculosis.

## **LOSPERFONTEIN CORRECTIONAL CENTRE<sup>29</sup> (9 June 2011)**

### **Occupancy**

- The Losperfontien Correctional Centre can accommodate 808 inmates. On the day of the visit the Centre had a population of 894 inmates and was 10.2% overcrowded.

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<sup>29</sup> Mogoeng (2011b).



## Infrastructure

- The Centre has a hospital and on the whole the hospital facilities appeared to be in an acceptable state.
- There are multi-patient wards and also isolation cells for inmates that are sick with highly infectious diseases, such as tuberculosis.
- There is a small examination room which is used for minor procedures.
- The main problem appeared to be significant damage caused by water to the hospital area and ward rooms, and an entire wall needed to be fixed because the dampness is a recurring problem.

## Human Resources

- There is approval for 14 health care positions. The hospital has six health care officials and had just appointed a further two (2).
- The position of pharmacist is vacant.
- A roving doctor works at the centre on Mondays, Tuesdays, and Wednesdays every week.

## Services

- The facility stocks small doses of medications for the inmates.
- The centre is not an accredited ARV distribution centre, HIV positive inmates have to be taken to the hospital to receive their medication.

## HIV and TB

- At the time of the visit there were 177 HIV positive inmates and 18 suffering from tuberculosis.

## 3.2 JUSTICE MOSENEKE

### JOHANNESBURG CORRECTIONAL FACILITY<sup>30</sup> (27 May 2010)<sup>31</sup>

#### Occupancy<sup>32</sup>

- There are currently approximately 6 000 male offenders who are awaiting trial. They are housed in a facility which was built to accommodate 2 630 offenders and the facility is devastatingly overcrowded.
- There are 1 040 offenders in the female section, 670 of whom are sentenced, and the facility was built for 605 offenders. Its maximum capacity is 1 100 offenders.

#### Environmental conditions

- 76 inmates occupy a cell that was built to accommodate 38 inmates with one toilet, a shower and a basin.
- There are three (3) people sleeping in one bed and because the cells are overcrowded inmates sleep on the cold cement floor. The blankets, sheets and the cell itself are not clean and this has a negative impact on inmates health in general.
- This section of the Centre was not clean, there were leakages of water from broken pipes, unpleasant smells and dirty floors.

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<sup>30</sup>Moseneke (2010).

<sup>31</sup> Male Awaiting Trial

<sup>32</sup> The structure of the prison is made up of the following sections, Medium A, Medium B, Maximum and Female section.



### Exercise

- The offenders remain in the cells throughout the day. The only exercise they get is when they go to court or collect their food.
- The officials mentioned that they qualify for exercise but it is neither practical nor possible for them to be allowed to do so because there are so many of them.

## 3.3 JUSTICE BRAND

### MOSSEL BAY CORRECTIONAL CENTRE FOR THE YOUTH<sup>33</sup> (19 October 2010)

#### Occupancy<sup>34</sup>

- There are 522 inmates (433 sentenced inmates and 89 inmates awaiting trial), all of whom are male. The facility is considered to be at capacity at 346 prisoners. It has an absolute maximum capacity of 606. The Centre is currently 150.9% overpopulated.

#### Infrastructure

- The Centre hospital currently has 14 beds although 20 patients can be accommodated. If necessary, patients can also be placed in single cells if they have an infectious disease.

#### Environmental conditions

- One toilet and one shower are available in a cell of up to 30 people, and the bathrooms are in a state of disrepair.
- There was chipped paint on the walls of the Centre and the cells were not well-maintained. The chipped paint is problematic due to risks concerning asbestos and lead paint.

#### Human resources

- There are three nurses, two social workers, and one teacher.
- There are no psychologists or psychiatrists at the Centre. There is a psychiatrist in George who treats inmates at the Centre.
- An outside doctor comes regularly to the hospital.

#### TB

- Most sick patients are infected with tuberculosis. The standard procedure is to quarantine TB-infected inmates for six months.
- Some of the juveniles became infected with TB at the Centre while others contracted it before entering the Centre.

#### HIV/AIDS

- There are 10 HIV positive patients and one (1) is on ARVs because he is in poor condition.
- Inmates are offered an HIV test upon entry to the Centre and regularly thereafter.
- 40-55 HIV tests are conducted each month.
- HIV positive patients are placed on a high-protein diet.

#### Recommendations:

- Additional funding is required for the proper maintenance of the facility. Greater efforts should be undertaken to promote proper sanitation and cleanliness at the Centre.

<sup>33</sup> Brand (2010a)

<sup>34</sup> This is a juvenile detention centre for youth between the ages of 16-25 years old.



## OUDTSHOORN CORRECTIONAL CENTRE (FEMALE UNIT)<sup>35</sup> (20 October 2010)

### Occupancy

- There are 78 females imprisoned in total, 64 of those having been sentenced and 14 of those awaiting trial. The total capacity for the Centre is 87 inmates, it is therefore currently under-capacity.

### Infrastructure

- The building is entirely inadequate to function as a prison as it is too old, the space is limited and no construction can be done as it is a heritage building.

### Human resources

- There is one (1) nurse. Some of the inmates complained that the nurse sometimes refused to give them medication.
- There are no doctors, psychiatrists, social workers or psychologists on site.

### Environmental conditions

- The building also provided considerable problems for the mothers and babies who do not have sufficient warmth in the winter and who experience over-heating during summer.
- There is a serious lack of showers. This clearly causes sanitary problems but the officials are unable to remedy the problem as, due to the heritage status of the building, no more showers can be built inside the cells and on the site itself.
- Daily supplies are sometimes not available for all of the inmates including sanitary towels. Several inmates complained that they had resorted to using toilet paper to protect themselves during menstruation in the absence of sanitary towels.

### HIV

- There are 12 HIV patients in the Centre, two (2) of whom are receiving anti-retroviral treatment.

## OUDTSHOORN CORRECTIONAL CENTRE (MALE UNIT)<sup>36</sup> 20 October 2010

### Occupancy

- The facility has a capacity of 300 inmates. On the morning of 20 October 2010, the facility had a total of 436 inmates (123 awaiting trial and 313 sentenced). It was 45% overcrowded.

### Human resources

- There are three nurses serving the male section of the prison.
- A doctor visits the facility clinic every Tuesday and is on standby in case of an emergency.
- A dentist visits the facility once a month.

### HIV

- HIV is a problem in the Centre. There are currently seven (7) HIV positive inmates who have a specially prescribed diet. There have been two (2) HIV-related deaths in the past

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<sup>35</sup> Brand (2010b).

<sup>36</sup> Brand (2010b).



year and there are more HIV positive inmates now than at the beginning of the year. Condoms are available and testing is provided on a regular basis. An HIV clinic worker also comes every two months.

#### **TB**

- Five (5) inmates have TB and are being treated in the Centre.

#### **Recommendations:**

- Overcrowding is a problem. There is a need to facilitate more space for the inmates.

### **3.4. JUSTICE CAMERON**

#### **MAKHADO CORRECTIONAL CENTRE<sup>37</sup> (27 January 2010)**

##### **Medical Supplies**

- Since the beginning of January, the head pharmaceutical supplies office in Pretoria has experienced a shortage of various medications because of a lack of pharmacy personnel. The shortage has impacted on prisoners on chronic medication, including high blood pressure.

##### **HIV/AIDS**

- There were two offender deaths in the last year, one of which was due to HIV-related causes. Fifteen people have been tested for HIV this month. There are approximately 25 prisoners on ARVs.

#### **Recommendations:**

- There is a need for a radical up-scale of HIV testing. Judge Cameron requested two officials to agree publicly to be (confidentially) tested, to encourage inmates and officials to test. It was notable that several offenders spoke openly about having HIV and about being on ARVs. This was a welcome indication of de-stigmatising openness (as well as a sobering indication of how deeply the epidemic has struck).

#### **GROENPUNT CORRECTIONAL CENTRE<sup>38</sup> (15 April 2010)**

##### **Personnel**

- The centre is short-staffed, especially when it comes to nurses.
- There is a shortage of co-ordinators to run HIV support groups. Two officers were transferred to the hospital from area headquarters to run the support services, but they were re-transferred because of shortage of personnel.

##### **HIV/AIDS**

- The hospital Section head, confirms that they have rapid tests for HIV in stock.
- Currently, there are 108 inmates on ARVs.
- Condoms are available in all units.

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<sup>37</sup> Cameron (2010a).

<sup>38</sup> Cameron (2010b).



## BARKLY WEST CORRECTIONAL CENTRE- NORTHERN CAPE<sup>39</sup> (14 June 2011)

### Human Resources

- The Centre's doctor and dentist have resigned leaving the Centre without these services. A local doctor has agreed to assist the Centre, but only in the case of emergencies.

### HIV/AIDS

- For a time, the Centre could not send blood specimens to the laboratory for analysis because of collection problems. The laboratory did not collect specimens because it claimed the Department owed it money. This was a nationwide problem. At the time of the visit the issue had been resolved and the inmates' specimens for CD 4 T cell analysis were due to be collected.
- There are six inmates with HIV. They are not on ARVs because their CD 4 counts have not reached the level specified for medication. Only 15 inmates have tested for HIV.

### Recommendations:

- Justice Cameron made a personal plea to all inmates and staff to ascertain their HIV status. He also urged Centre personnel to be far more proactive, in accordance with national strategy, in strongly encouraging uptake of voluntary HIV testing.

## KURUMAN CORRECTIONAL SERVICES<sup>40</sup> (14 June 2011)

### Infrastructure

- The Hospital Unit has roughly 20 beds.
- There are also separate cells in the infirmary for inmates who are mentally unstable. These are strictly monitored by specialists, including trained psychologists.

### Human Resources

- There is a good medical staff complement with four qualified and capable nurses but no doctor. Inmates are examined by a nurse, who determines if a doctor or a specialist is needed.
- Officials take offenders to a local Kuruman hospital. Trips to the doctors are undertaken with great caution for obvious security reasons.
- The Hospital Unit gets all medical supplies from a dispensary in Kimberly, but when they need medication immediately they obtain it from local vendors.

### HIV/AIDS

- The Centre has a few inmates who are living with HIV.
- Thirteen of them are admitted in the Hospital Unit and seventeen are on ARVs.
- Three (3) patients started ARV treatment in the prison.
- Prison officials encourage voluntary HIV testing and counselling but will not give out the test without the inmate's consent.
- The clinic also does voluntary HIV testing once a month.

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<sup>39</sup> Cameron (2011a).

<sup>40</sup> Cameron (2011b).

**Recommendations:**

- Justice Cameron strongly encouraged a more proactive approach in encouraging prisoners and staff to access HIV testing, in accordance with the national campaign of HCT (HIV counselling and testing). He further urged immediate revision of the approach to condom availability, in accordance with national policy.

**KUTAMA SINTHUMULE CORRECTIONAL CENTRE<sup>41</sup> (24 April 2012)****Infrastructure**

- A 50-bed hospital,
- Each of the Blocks (Blue, Green and Yellow) has its own small clinic.

**Human Resources**

- There are two full-time doctors on site.

**Services**

- Dental, X-ray, and emergency facilities.
- Where the infirmary is unable to provide treatment, use is made of medi-clinics nearby.

**HIV/AIDS**

- There are approximately 258 identified cases of ARV treatment.
- About 681 offenders are living with HIV.
- Approximately 35-40 people are tested each month.
- Approximately one-quarter to one-third of the inmate population has been tested, using rapid tests.
- Individuals are able to start ARV treatment when their CD-4 count has reached approximately 300-350, an improvement from past practice, when the count requirement was 250.
- The Centre states that it encourages frequent HIV testing, but does not “force” anyone. Condoms are available in the hospital.

**TB**

- Fourteen offenders are receiving TB treatment.

**BOKSBURG CORRECTIONAL CENTRE<sup>42</sup> (22 July 2014)**

The visit was prompted by concerns expressed by non-governmental organisations (NGOs), and reported in the media, that HIV and TB medications at Boksburg and Modderbee Correctional Centres were not adequately and regularly supplied to the prisoners, and claims that warders sell the medication for the two conditions. The inspection focused on these assertions, rather than a general prison inspection.

**Infrastructure**

- There is an onsite clinic that offers most primary health services but also utilises referral hospitals in the area such as Tambo Hospital.

<sup>41</sup> This is a public/private correctional centre in Makhado/Louis Trichardt. Cameron (2012).

<sup>42</sup> Cameron (2014a).



### **Human Resources**

- It was reported that there is always a nurse on standby- day and night- to attend to any offender's needs.
- There is no full-time, qualified pharmacist.

### **Services**

- Due to a high turnaround requirement for HIV treatment, on-site provision has been available since December 2008, although the rollout of this service was gradual while training of health professionals was being completed.
- Offenders who required more extensive health care were often referred to Tambo Hospital.
- There is a pharmacy and a surgery where circumcision procedures are performed.

### **Medical Supplies**

- The pharmacy staff cited the supply chain management system as a major area of concern because there have been delays in the orders for ARVs and other necessary drugs. Facility staff frankly conceded past problems in processing pharmacy orders, with resultant stock-outs and treatment lapses and interruptions. The staff noted that it often takes up to eight weeks for orders to be processed.
- The cause of the delay was identified as the personnel responsible for the processing of the orders.
- Other issues included the payment of the accounts of pharmacy staff, the transfer of funds and logistical arrangements for delivery which are not timeously done.
- The pharmacy staff noted that it was concerning that schedule V drugs were not kept in a locked box.
- The staff also mentioned that nurses do not always come to pick up the prisoners' prescribed drugs if they are busy.
- The inspection team was troubled to discover that the drug Isoniazid-used for TB treatment- was totally out of stock. This was even though offenders were in need of the drug. The pharmaceutical staff revealed that in such circumstances they make alternative arrangements for emergency supplies from other facilities in Johannesburg.

### **HIV/AIDS**

- HIV testing is voluntary. But offenders are encouraged to test, to ensure that those with HIV who need treatment receive it promptly.
- About 419 prisoners have tested positive. About 300 are receiving ARV treatment. It was noted that offenders remain reluctant to come forward to be tested. Although testing is encouraged, offenders often present themselves only after they start showing symptoms of opportunistic infections like TB.
- Guidelines on HIV treatment - ARV treatment is provided from the on-site pharmacy per doctor's prescription for each patient. The patients are placed on the first-line regimen, but if they are unresponsive or develop resistance they are placed on the second- or third-line regimen. ARV treatment commences when the prisoner becomes symptomatic (judging from a clinical assessment) or has a CD4 count of less than 350.
- By far the most vigorous complaint was about the disbanding of the prison's HIV/AIDS support group, called Siyanakekela.



### **Recommendations:**

- It is recommended that direct, hands-on management intervention be applied to resolve unnecessary personnel-related delays in processing pharmaceutical orders.
- It is evident that the supply of drugs requires further action. There appears to be a continuing risk, of moderate to grave proportions that the pharmacy could run out of medicines, with the result that prisoners default on their treatments. The pharmacy's supply chain process is an obvious but remediable weakness. There is an urgent need to resolve poor coordination between the pharmacy staff and the prison staff responsible for authorising prescription orders. In particular, the officials who provide authorisation must be held accountable. Decisive managerial supervision is required to eliminate unnecessary delays.
- Support groups in prisons can be critical to ensuring HIV and TB prevention, testing and treatment, as well as stigma reduction. The BCC must support the newly reconstituted Siyanakekela support group and should work to resolve any issues that may arise.

### **BCC management was afforded an opportunity to respond to the draft report as above. Their response is set out below:**

- The specific anti-TB medication is now available on uninterrupted basis after proper interventions with the service providers.
- The campaigns have been improved. There has been increased awareness raising amongst the offender population of Health Voluntary testing and counselling and health promotions services offered.
- The hindrances in processing of requisitions for pharmacy and drugs have been addressed to ensure that there are no blockages in the supply chain system. These have been re-addressed with all the relevant role-players to prevent stock outs and non-availability of medication to offenders.
- The Therapeutic diet preparation has been addressed with managers in charge of food preparation to ensure that offenders receive the diets not in accordance with their illnesses.
- The Heads of Correctional Centres also undertook that during searches, no medication of offenders would be destroyed and confiscated without the involvement of health professionals.
- The HIV/AIDS offenders support group is now fully functional and consists of offenders from various sections and the group is working efficiently.

### **MODDERBEE CORRECTIONAL CENTRE (22 July 2014)<sup>43</sup>**

The visit was prompted by concerns expressed by NGOs, and reported in the media, that HIV and TB medication at Boksburg and Modderbee Correctional Centres were not adequately and regularly supplied to the prisoners, and there were claims that warders sell the medication.

#### **Occupancy**

- Modderbee Correctional Centre (MCC) is a medium-security prison in Ekurhuleni Metropolitan Municipality in Gauteng. It houses 4 500 sentenced male offenders and 1 300 awaiting-trial detainees. MCC also houses 300 juvenile offenders.

#### **Infrastructure**

- There is an on-site medical unit.

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<sup>43</sup>Cameron (2014b).



### **Human Resources**

- The medical unit is staffed by two medical doctors, 24 nurses, two psychologists, two social workers and one lay counsellor. There are also a number of spiritual caregivers.
- The staff were concerned about the shortage of counsellors: MCC has only one. There is a shortage throughout the provincial Department of Health because the NGOs that employ them have lost funding.
- Efforts were made by the MCC to obtain pharmacist assistants on 12-month contracts but no interviewee accepted the offer.

### **Environmental conditions**

- The prison facility generally, and the medical unit specifically, was clean and hygienic.

### **Services**

- There is no on-site pharmacy, pharmaceutical needs are supplied by the Boksburg Correctional Centre (BCC) pharmacy, which supplies all five centres in the Boksburg and Modderbee Management Areas. MCC occasionally has recourse to private pharmacies, when necessary, for acute medication needs.
- The delays in the prompt supply of ARVs and other medicines to BCC have affected the MCC, whose staff must place orders with BCC immediately or risk a shortage. Thus far, there has been no total failure to supply ordered treatments although there is often a delay. The staff requested an on-site pharmacy at MCC, and have begun trying-with difficulty- to hire pharmacists for that purpose. MCC offenders are supplied with their prescription medication by the BCC pharmacy.
- To prevent transmission of HIV and others sexually transmitted infections condoms are distributed in each section.

### **HIV/AIDS**

- Offenders with HIV are provided with ARVs in accordance with national guidelines: treatment commences when the offender either develops symptoms (as established from the clinical picture) or has a CD4 count of less than 350.
- The HIV health programs and services at MCC are rendered in accordance with the National Policy on Health as approved by the Department of Health. HIV counselling and testing services are provided on-site.
- Offenders with HIV routinely receive a special, high-protein diet.

### **TB**

- All incoming and outgoing offenders are screened for TB by asking five questions. If the questions reveal possible TB infection, the offender is sent for a sputum test.
- Incoming prisoners who test positive for TB are separately accommodated for an initial two-month phase, where they are monitored and guided to ensure they adhere to their prescription medication.

#### **Recommendations:**

- Although no evidence was established to indicate the sale of ARV and TB medications by warders and/or nurses, the MCC management is asked to remain vigilant to ensure that this does not happen.
- There are impressive basic HIV and TB prevention, testing and treatment activities at MCC. Judge Cameron observed no defaults in the treatment of prisoners with HIV, but remained



concerned about past delays and about the disruptions in the medication supply chain. These have forced correctional staff to come up with creative solutions to ensure that no offenders have treatment interruption. The Judge endorsed efforts by the MCC management to employ an on-site pharmaceutical assistant at the MCC, and ultimately to create an on-site pharmacy.

### POLLSMOOR CORRECTIONAL CENTRE<sup>44</sup> (23 April 2015)

#### Occupancy

- Pollsmoor Correctional Centre has five demarcated facilities: a remand detention facility for awaiting trial prisoners; Medium A, Medium B, and Medium C which houses sentenced prisoners; and a female facility, and two community corrections offices. There are over 8 000 inmates. It is extremely overcrowded at over 300% capacity.
- Pollsmoor female facility currently houses 787 inmates but has capacity for only half this number.

#### Environmental conditions

- The extent of overcrowding, unsanitary conditions, sickness, emaciated physical appearance of the detainees, and overall deplorable living conditions were profoundly disturbing.
- There is an average of 65 inmates per cell.
- Detainees are forced to share single mattresses, often on triple bunk beds.
- Those who are unable to secure a bed have to sleep on the floor.
- There are no sheets on the beds.
- Inmates reported that bedding and mattresses have never been washed.
- Inmates complained of skin boils, scabies and severe itchiness. Some detainees displayed rashes, boils, wounds and sores. The doctor, as well as several nurses, reported that scabies is a major and frequent medical problem. The best form of prevention for scabies is a warm bath – but the doctor said the lack of hot water and clean bedding in cells exacerbates this problem.
- The ablution facilities were deplorable. 50 to 60 people are forced to use one toilet and one shower. The toilets had no seats, and the showers lacked shower heads. No privacy is possible.
- The drains in the first three cells visited were blocked. And the toilets did not flush. Inmates are forced to flush the toilet with buckets.
- Inmates are also forced to use the sink to bathe. And it appears they are also forced to use it to urinate. It appeared to leak and smelt of urine.
- Plumbing problems were noted. The shower will not drain. It is so problematic detainees are restricted from taking showers. Often, the shower drain is completely blocked. There was no hot water in the cell.
- Even in the middle of the day, the cells were dark, dingy and cold.
- There is hardly any natural light. And artificial lighting in the cells is inadequate. Several windows are also broken.
- The thickness of the air and lack of ventilation was palpable.
- Inmates lack access to any cleaning supplies. This, coupled with extreme overcrowding, inevitably leads to filthy living conditions.

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<sup>44</sup>Cameron (2015).



- Women's Remand Detention Centre. The remand cell visited was in as poor a condition as the male remand cells. 94 women were crowded into a poorly aerated room. The women shared beds or slept on the floor on thin mattresses. The mattresses were stinking. There was no working toilet, a clogged sink drain and only cold water. They showed us tattered and torn sheets and blankets, which were infested with lice. They noted that the cell was also infested with cockroaches.

### Human Resources

- There are 28 nurses to service the entire prison population of 8 000, with nine vacancies. Seven nurses are on duty per shift.
- The medical unit is the remand centre's distribution hub for medication. It is staffed by one doctor, a dentist, a number of nurses and TB/HIV care association staff members.
- There is only one pharmacist and one assistant currently working at the pharmacy. Dr Michaels described this as "inadequate" for the number of offenders needing medication. This problem is exacerbated by the fact that the pharmacy services a number of other correctional centres in the Cape Town area, including Malmesbury and Goodwood. According to Dr Michaels, there is "a great need for additional pharmacy staff."

### Services

- The medical unit was busy. Detainees and inmates awaiting treatment were held in adjoining cells or stood along the corridors, some sitting or lying on stretchers on the floor.
- On arrival, detainees are searched, fingerprinted, and undergo a medical screening.
- A nurse also does a physical examination and conducts a risk assessment, with alert look-out for existing injuries.
- As part of the medical screening, a professional nurse uses an x-ray machine to screen for tuberculosis (TB). If a person has signs and symptoms of TB, they are kept isolated from the other detainees and further medical intervention is done.
- Newly admitted detainees are offered a "rapid test" for sexually transmitted diseases (STDs) and HIV. Thereafter, TB, STD and HIV screenings are offered on a six-month basis and on release.
- The nurse on duty at the time helpfully pointed out that in tandem with testing services, counsellors from non-profit and non-governmental organisations are available to provide on-site counselling.
- Pollsmoor's onsite pharmacy serves all five facilities, as well as Malmesbury and Goodwood correctional centres.
- Dr Michaels reported that he is unable to work effectively. He lacks essential supplies and medicine – in particular bandages, injections, gloves, drips and essential ointments to treat skin infections.
- There are delays in furnishing medication. He writes 30 to 40 prescriptions per day, including for chronic medication. At a minimum, there is a three to four-day delay until the medication is actually received from Pollsmoor's onsite pharmacy.
- The problem stems from Pollsmoor pharmacy's insufficient stock. There is also a shortage of staff at the pharmacy. He said that some weeks the stock levels are so low that the most basic consumables, such as needles, gloves, bandages and gauze are not available. He diligently places orders every month, but receives less than what he orders. "The problem is a lack of resources that must be sorted out" in order to provide the detainees with minimum health care services.
- The pharmacist, Mr Cassim, and his assistant explained that medical stock is provided through public procurement processes and contracts with wholesalers. Supplies often run



out. This forces the pharmacy to procure supplies from retail pharmacies in the area, in particular Alphapharm and Helderberg pharmacies. This means there is unlikely to be a complete “stock out”. However, it is preferable to procure the drugs through government contracts because the unit price is cheaper.

- Mr Cassim explained the pharmacy frequently runs out or is in shortage of TB, hypertension, and diabetes medication. There is also a consistent shortage of Vitamin B6.
- The team was told that a stock auditor, who serves Pollsmoor, as well as other centres in the area, should, in the ordinary course, visit each centre at least once per month to see how much stock is used and what is needed. However, the pharmacist expressed concern that no stock auditor has visited Pollsmoor for a long time. This was a very important concern. It must be addressed, since pharmacy stock shortages are not uncommon. Often there are no stocks of penicillin, so he is forced to provide alternatives.
- The pharmacy staff were asked why it takes up to two weeks to deliver prescriptions to the facilities within Pollsmoor. The response was understaffing.

#### **HIV/AIDS**

- 276 inmates are currently on antiretroviral treatment (ARVs).
- Awaiting trial (remand) detainees continue their treatment at primary healthcare facilities.
- When asked, the team was told that a large number of detainees require ARVs but are yet to be diagnosed.

#### **Recommendations:**

- The medical treatment is patently inadequate. Both medical staff and detainees complained of a lack of basic medical supplies and medication. There is often an extensive delay before medication is received. Detainees complained they are unable to see nurses and doctors when they are sick to get a proper diagnosis and treatment. In the rare chance they go the medical unit, they complain of rushed treatment and inadequate care. Detainees complained that staff fail to take them to the hospital when they need heightened care. It was recommended that the following immediate measures be taken to improve the condition of detainees and inmates at Pollsmoor Correctional Centre:
  - Physical Exercise. Justice Cameron noted and urgently endorsed the Regional Commissioner’s instruction that detainees must be let out of their cells for exercise for at least one hour every day. This needs immediate attention under section 11 of the Correctional Services Act.
  - Medical Access. Detainees in need of medical treatment must be given expedient access to medical staff. They must also be given outside treatment when appropriate and needed. Detainees said their complaints about illness are largely neglected. They often are not able to see a nurse or doctor; and even when given the opportunity, the staff is not attentive and rushes through an examination. Even in cases when their illnesses are severe, Pollsmoor personnel do not allow them to seek treatment at a hospital.
  - Medication. Basic medical supplies and medication are insufficiently supplied. The Department’s stock auditor must visit Pollsmoor immediately and regularly thereafter to address the shortage of medical stock. Delivering more ward stock to be kept in a secure and locked place may lessen the waiting period. Alternatively, better systems to anticipate orders, especially where demand is predictable, should be designed. Likewise, the Regional Commissioner’s instruction about increasing access to medication must be supported. The Department of Correctional Service must provide an adequate amount of medical supplies and



medication. The Judge also supports his idea about convening a medical staff meeting to brainstorm ways of improvement. Faster turnaround time for prescriptions is essential.

- Beds and Structural Factors. Each detainee must be provided with a bed. No detainees should have to share a bed and no detainees should sleep on the floor.
- Filthy Blankets. Each detainee must be given a clean blanket upon arrival. Blankets must be regularly washed in order to kill germs and curb infections.
- Hot Water must be available for each detainee to take a warm shower once per day. This is also imperative for hygiene and to fight rampant infections such as scabies.
- Sinks, Showers and Toilets. More working showers and toilets must be made available. One shower and one toilet for 50 to 60 people is unacceptable. That they are mostly in unfit condition only makes the situation more deplorable.
- Lights and Ventilation. Burned out light bulbs must be changed, and more lights should be installed. There must also be improvement to airflow and ventilation. If the bulbs are used for ulterior purposes, an alternative solution must be found.
- Hygiene Items. Detainees should have access to soap and other basic hygiene supplies.
- Campaigns to promote testing for HIV, STDs and TB screenings should be directed at remand detainees, with appropriate counselling.
- Increased Access to Nurses, Doctors and Dentists. An increase in the number of medical staff and pharmacy staff should be a priority.

### 3.5 JUSTICE FRONEMAN

#### POLLSMOOR CORRECTIONAL CENTRE<sup>45</sup> (30 April 2010)

##### Occupancy

- Pollsmoor is designed to accommodate 4 336 inmates. At the time of the visit there were 7 264 inmates. Of these 5 069 were awaiting trial detainees.

##### Infrastructure

- The hospitals visited at the various centres were clean and appeared in good order.

##### Human Resources

- There were, however, fairly general complaints about a lack of attention to health complaints by inmates. It is difficult to assess the validity of these, but it is clear that there are not enough medical staff members available.

##### Environmental conditions

- The condition of the cell was representative of others in the Centre. It was designed for about twenty people, but housed about eighty people.
- There is only one toilet in the cell. ATD conditions of detention are worse than those of convicted offenders. Their cells are shockingly overcrowded, resulting in worse sanitary conditions, less individualised attention in relation to health and other complaints, and fewer opportunities to take part in sport and leisure activities.

##### Recommendations:

- Immediate and urgent attention should be given to increasing staff numbers, especially health and medical staff.

<sup>45</sup> Froneman (2010a).



- The reality is that Pollsmoor will always have a large number of awaiting trial detainees because of its location in the Cape Peninsula. Steps need to be taken to increase Pollsmoor's capacity to deal with these large numbers.

### **PORT ELIZABETH CORRECTIONAL CENTRE (NORTH END)<sup>46</sup> 7 June 2010**

#### **Environmental conditions**

- The major problem at the Centre is the dysfunctional plumbing and sewerage system. The Centre is an old building, built in 1948, and desperately needs renovation, particularly in relation to its plumbing system.
- The toilets, showers and washing facilities in the different units are in a poor state. Management is acutely aware of this, but unfortunately it is not directly within their power to fix the problem. The Department of Public Works (DPW) is responsible for fixing the problem. In 2009 a costing exercise was done and DPW promised that renovation would start in 2010.

#### **Human Resources**

- The hospital has six nurses and one assistant.
- A doctor from Livingstone Hospital visits the Centre once a week on Thursdays.

#### **Services**

- In emergencies inmates are taken to Livingstone Hospital.
- No major problems were reported except for inevitable delays in obtaining medication from St. Albans Correctional Centre.

#### **HIV/AIDS**

- HIV positive inmates (currently four of them) are placed on the HIV programme and receive medication and counselling. There is no ARV site and inmates have to go to the site at St. Albans.

### **GRAHAMSTOWN CORRECTIONAL CENTRE<sup>47</sup> (8 June 2010).**

#### **Occupancy**

- On 31 May the Centre exceeded its capacity by 171.4 %. The overcrowding is exacerbated by the fact that the Centre serves nine different areas within the Eastern Cape region.

#### **Infrastructure**

- The Centre has a well-run health care service.

#### **HIV/AIDS**

- As the Centre is not an accredited ARV centre, offenders that are on ARV treatment are transferred to Middledrift Correctional Centre, which has been earmarked as the accredited ARV centre.

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<sup>46</sup> Froneman (2010b).

<sup>47</sup> Froneman (2010c).



## MDANTSANE PRISON, EASTERN CAPE<sup>48</sup> (20 June 2012)

### Occupancy

- There is a total number of 1 351 offenders, however, the Centre should hold only 582 offenders. There is approximately 232% overcrowding.

### Infrastructure

- The hospital is designed to accommodate only 20 inmates (as there are only 20 beds). There are 4 single cells which are used to cure patients with infectious diseases (such as TB and chickenpox).
- Each of the two wards that were inspected had 8 beds. One of these wards had 4 extra mattresses on the floor for epileptic patients. The four single cells were also inspected. The hospital was also undergoing renovations.
- There is insufficient space. At the time of writing this site visit report, 25 offenders were at the hospital. Overcrowding is therefore a problem.

### Human Resources

- There are 5 nurses in total and 4 custodial members staffing the gate to the hospital.
- The offenders require close monitoring, especially those with diabetes, patients who have recently begun antiretroviral treatment, and epileptic offenders (who require floor beds). The shortage of staff therefore poses a problem.
- There are problems with the psychiatrists. At the time of writing this site visit report there were 6 mentally disabled offenders who were kept at the hospital so that the nurses could keep them stabilised. The problem is that the Centre has only attending psychiatrists who visit the Centre on a 6-monthly basis. The offenders are also referred to Fort England / Cecilia Makhiwane hospitals to receive psychiatric help.

### Services

- The majority of treatment is in respect of diabetes, 'new TBs (offenders newly infected with TB), offenders who are newly on antiretroviral treatment and epileptics. A doctor visits the Centre every Wednesday.
- The dentist that usually goes to the Centre has recently left and the officials are currently trying to find another dentist.
- If a specialist is required, the offender is sent to a public hospital in the area (such as Cecilia Makhiwane Hospital).

### TB

- TB is escalating.

### HIV/AIDS

- The number of offenders receiving antiretroviral treatment is increasing, as offenders who are already on the treatment are admitted into the Centre. The HIV rates are also increasing within the Centre.

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<sup>48</sup> Froneman (2012a).



## MIDDLEDRIFT CORRECTIONAL CENTRE<sup>49</sup> (21 June 2012)

### Occupancy

- The overcrowding figure, before the anticipated new unit is built, stands at 214%.

### Infrastructure

- There is a hospital section.
- This section does contain single cells which were empty.

### Services

- Where necessary, patient offenders are referred to the provincial hospital. Offenders are charged for care as if they are private patients. Tariffs can be extremely high, and the Department of Correctional Services is required to foot the bill from its general budget.

### HIV/AIDS

- The Centre has an HIV Wellness Centre which does not form part of the Hospital Section.
- All offenders on ARV treatment are transferred to the HIV Wellness Centre.
- According to officials, HIV rates have remained constant in the Centre

## IDUTYWA CENTRE OF EXCELLENCE<sup>50</sup> (11 June 2014)

### Occupancy

- The Centre is meant to hold 100 offenders but there are currently 140 persons being held.

### Infrastructure

- The medical area is quite run down and there are very few beds.
- Another problem is the lack of privacy. The office and examination room is not private. There is an internal divider that separates this enclosure, but its steel door is open to viewing from the outside and the walls do not go to the roof. This is unacceptable.

### Environmental Conditions

- The cells are severely overcrowded and they smell quite bad. There are no single cells, and only 6 large cells which are overcrowded. Offenders are separated according to age, smokers and non-smokers, type of sentence and troublesome offenders.
- The bathrooms were clean but too small to service the number of inmates for each cell. One toilet and shower serve the whole unit.
- There is also some serious leaking in some of the cells and flies and cockroaches are visible.
- No running water, no warm water and the toilets do not flush. Inmates have been forced to use buckets to wash themselves. It seems that the Department of Public Works investigated the problem. Direct water supply to the facility has been established, but due to problems with the internal plumbing system it has not yet been possible to establish an operational system inside the facility.

### Human Resources

- There is a nursing sister in charge who works between 7h00-16h00.

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<sup>49</sup>Froneman (2012b).

<sup>50</sup> Froneman (2014a).



- There is nobody on site at night.
- There is doctor who comes in once a week on a Tuesday.

### **Medical Supplies**

- One of the big challenges is that medical supplies come from East London which may create logistical difficulties for regular access to medicine (especially chronic medication).

### **Nutrition**

- The nurse noted that one of her big challenges relates to therapeutic diets. The Department has capped the number of inmates who are allowed to be on a therapeutic diet at 10%. The persons currently on a special diet are HIV+ persons, diabetics, and high blood pressure patients. However, with the cap that has been introduced she will be forced to remove some people from the list of offenders who receive therapeutic diets.

## **MTHATHA (WELLINGTON) CENTRE OF EXCELLENCE<sup>51</sup> (10 June 2014)**

### **Occupancy**

- The Centre was built to hold 720 inmates, it currently has 1 335 sentenced offenders and 13 remand detainees. There are thus at least 500 inmates over the capacity of the Centre. The awaiting trial facilities are over-crowded by 32%.

### **Infrastructure**

- The medical facility has 15 beds.

### **Human Resources**

- There are seven nurses, one permanent doctor and one sessional doctor.

### **Medical Supplies**

- A major challenge is that medical supplies are received from a pharmacy in East London because there are no government-approved pharmacists in Mthatha at present. This process usually takes about two weeks, which has the unfortunate consequence of a prolonged waiting period.

### **Services**

- There is a new initiative, introduced by the Department of Health, to perform medical circumcisions to reduce the risk of inmates contracting sexually transmitted diseases. To date, six circumcisions have been performed. On the whole, the medical wing is well-kept: the bedding is changed daily and the food looked fresh and nutritious.

### **Mental health**

- Psychiatric patients (including state patients) are incarcerated in the same facilities as other offenders not mentally afflicted when they ought to be placed in separate centres that can cater specifically for their needs.

### **HIV/AIDS**

- There are 191 HIV-positive offenders and 155 inmates with full-blown AIDS.

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<sup>51</sup> Froneman (2014b).



### **Recommendations:**

- A more effective way of sourcing medical supplies is urgently needed.

### **KIRKWOOD CENTRE OF EXCELLENCE<sup>52</sup> (8 June 2015)**

#### **Occupancy**

- The Centre is approved to hold 738 offenders. However, the Centre is currently at 147% capacity as a result of renovations to a number of correctional facilities in the Eastern Cape. There was a total of 1 160 offenders, comprised of 1 098 sentenced male offenders, 27 sentenced female offenders, 23 male remand detainees and 12 female remand detainees.

#### **Infrastructure**

- The nursing sisters indicate that they do not have enough space to accommodate the sick offenders. Given that the consultation rooms are shared, there is little privacy for the patients.

#### **Human Resources**

- The medical wing had one manager and four nursing sisters (although the Centre should have five). Their main duty is to provide the offenders with primary health care services and medication. They need two more nursing sisters but there is no space to accommodate them.
- There is currently only one doctor who reports on Thursdays for set hours. This is not frequent enough.
- The nursing sisters indicated a need for a visiting dentist.
- The medical wing requires a manager to supervise the administration in the section, as the nursing sisters need to concentrate on the provision of health care services.
- The medical wing works closely with the Department of Health that provides personnel (from the TB/HIV Care Association) to assist with testing and screening for, as well as the treatment of, Tuberculosis (TB) and HIV/Aids.
- The Department has initiated a training programme for the nursing sisters to ensure that their diplomas are upgraded to degrees. One nursing sister has undergone the programme and has received her degree from the University of the Free State. The others are also looking forward to participating in this programme.

#### **Services**

- When the nursing sisters are faced with medical emergencies, they struggle to get assistance from doctors from the local hospital. They will usually phone casualty and alert the hospital to the incoming offender.
- Previously, TB and HIV/Aids patients were sent to St Albans for treatment; however, the Centre is now able to initiate and provide the required treatment internally. The TB/HIV Care Association has assisted in relieving the burden that the nursing sisters faced with regards to the treatment of TB and HIV/Aids. They assist in the testing of new offenders as well as the staff members. TB and HIV/Aids testing is also done on the release of an offender. The TB/HIV Care Association also does follow-ups with the released patients to ensure that they are adhering to their treatment. They also educate the offenders about sexually transmitted diseases, as well as provide non-adherence counselling to offenders, document statistics and ensure that the offenders have access to adequate treatment.

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<sup>52</sup>Froneman (2015).



- The provision of ARVs to HIV positive offenders has been fast-tracked and the Centre does not have to take the ill patients to St Albans for the provision of the ARV medication any longer. All medical personnel have been trained to administer ARVs and there is also a mentoring programme being run.
- As the Centre does not usually house women, it is not well-equipped to deal with women's health issues. There is also little privacy for female offenders in the medical wing. However, the nurses treat the female offenders separately from the men, but their privacy cannot be guaranteed.
- Access to medication can be problematic. The prescriptions have to be sent to St Albans because they do not have an assistant pharmacist to dispense the medication. The offenders, therefore, cannot access the medication immediately. Prescriptions are sent to St Albans on Thursday and collected the next day. There was a complaint from inmates that medication was not readily available and that offenders do not receive their medications on time.

#### **HIV/AIDS**

- There are currently 82 patients at the Centre that are on ARVs. On the day of the visit, there were 10 offenders who were to be introduced to ARVs.

#### **TB**

- 600 patients underwent x-ray analysis to ensure that they did not have TB. There is a mobile x-ray facility which comes to the Centre to x-ray the rest of the offenders.

#### **Mental health**

- The Centre does receive psychiatric patients. This is a big challenge as policy states these offenders cannot be detained alone or in a single cell, or together with other psychiatric patients. They must be housed together with the other offenders.
- The nursing sisters indicated that they cannot administer psychiatric treatment to the offenders. They require a visiting psychiatrist at the Centre.

### **3.6 JUSTICE JAFTA**

#### **GROOTVLEI CORRECTIONAL CENTRE<sup>53</sup> (19 July 2010)**

##### **Occupancy**

- Medium A houses 1 709 inmates, 893 of which are awaiting trial adults; this represents an overcrowding rate of 192%.

##### **Infrastructure**

- The hospital section was essentially a few cells which had been converted into sick bays or hospital wards for ailing inmates.
- Inmates that required highly specialised care are normally sent to external hospitals for treatment.
- There is a ward for very ill patients – at present only one inmate occupies this ward, another ward is designated for TB patients (12 in total, 4 of which have MDR and no EDR patients). The Centre stated that it has a system in terms of which all TB patients treated in its hospital are, upon their release, issued with the letter that will allow them to continue with their

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<sup>53</sup> Jafta (2010).



treatment at their local hospital or clinic. These inmates' details are also forwarded to the Department of Health, so that the latter department can follow up on and track the progress of the inmate once they have been released from the facility.

- In the psychiatric ward many of the beds were broken.

### **Environmental conditions**

- One toilet and one shower is available in a cell of up to 60 people and the bathrooms are in a state of disrepair.

## **HEIDELBERG CORRECTIONAL CENTRE<sup>54</sup> (15 June 2011)**

### **Occupancy**

- The Boksburg Management Area comprises three (3) correctional centres; Centre A which was initially supposed to house two thousand and fifty-nine (2 059) sentenced and unsentenced inmates but currently houses approximately three thousand, eight hundred and thirty-three (3 833). Centre B, which was supposed to house two hundred and forty-one (241) inmates but currently houses approximately three hundred and seventy-seven (377) and lastly, Centre C which was supposed to house four hundred and seventy-five (475) sentenced and Awaiting Trial Detainees but currently houses one thousand and forty-three (1 043) which is about two times the initial capacity.

### **Infrastructure**

- The hospital is divided into two areas having the general ward and the isolation cells which are used for accommodating patients with contagious illnesses.
- The hospital has eight (8) beds.
- The hospital at times has to take the offenders to an outside clinic for ARV's and other medications as a result of the shortage of resources experienced by the Centre.

### **Human Resources**

- The Centre has three (3) nurses instead of the eight (8) that they are required to have.
- The Commissioner mentioned that the hospital is also experiencing a shortage of staff. The number of patients consulting per day at times rises to approximately 80 offenders and this is strenuous given the shortage of staff.
- The Commissioner mentioned that this situation could be remedied if the Department of Health and Social Development would be willing to assist by facilitating the health and medical issues in the Centres.

## **MODERBEE CORRECTIONAL CENTRE<sup>55</sup> (16 June 2011)**

### **Conditions of detention/environmental health issues**

- The total number of the inmates at the Centre was four thousand nine hundred and fifty-seven (4 957). The total approved capacity is two thousand four hundred and ninety-two (2 492). This makes 199% overcrowding at the centre.

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<sup>54</sup>Jafta (2011a).

<sup>55</sup>This is a medium security convicted offenders, awaiting trial detainees and awaiting trial juveniles. Jafta (2011b).



### **Infrastructure**

- There is a consulting room for the doctor who comes twice a week.
- There is a local clinic which is also utilised by the Centre. The Centre currently uses three different private pharmacies as there is a problem with procurement from the Boksburg distribution centre.

### **Human Resources**

- Psychologists, physiotherapists and General Practitioners attend twice a week.
- The Centre also experiences problems with maintaining nursing staff, who feel they are over-worked and could receive the same pay for less work outside the Centre.

## **3.7 JUSTICE KHAMPEPE**

### **WITBANK CORRECTIONAL CENTRE<sup>56</sup> (28 June 2011)**

#### **Occupancy**

- As at 31 May 2011, Witbank did not suffer from overcrowding in respect of sentenced adults, and operated at 98% of its capacity. However, the Centre suffers from overcrowding in respect of its sentenced juveniles, and unsentenced adults and juveniles at the following capacity percentages: 158% (sentenced juveniles); 187% (unsentenced adults); and 229% (unsentenced juveniles).

#### **Infrastructure**

- The hospital has 28 beds.

#### **Human Resources**

- An assistant nurse is always in attendance for the medical needs of the offenders.
- A doctor visits the hospital on Wednesdays and Fridays weekly.

#### **Services**

- Offenders who suffer from serious ailments are referred and transferred to a nearby wellness clinic and other public hospitals.
- Those with infectious diseases are designated their own rooms but the rooms are not secured in such a way that diseases cannot be passed to fellow offenders, as required by the regulations. This is a serious concern.
- The inmates also complained that the hospital nurses do not render proper health care services. In this regard, they complained that they were not properly examined by these nurses and most times their medical complaints were disregarded. Some did not have access to their prescribed ARVs.

#### **HIV/AIDS**

- There is no provision for ARVs at the hospital. The patient offenders are taken to a nearby hospital “as and when it is necessary to do so” to collect their ARVs, as the Centre is not authorised to dispense ARVs.

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<sup>56</sup> Khampepe. (2011).



## **Mental Health**

- There is a great concern that offenders with mental illnesses are kept in ordinary cells without appropriate medical and psychiatric assistance.

## **THOHOYANDOU CORRECTIONAL CENTRE<sup>57</sup> (24 April 2012)**

### **Occupancy**

- Despite being approved to hold 1 044 inmates; the actual total number of inmates is 1 795. This amounts to overcrowding of 171.93%.

### **Environmental conditions**

- Male juvenile section. The lack of access to water in the taps and functioning toilets is creating significant discomfort and imposes a significant health risk. In addition, it is in itself an affront to the inmates' dignity.
- Medium A Section. There is no regular running water and this affects the most basic hygiene needs of the inmates.
- Medium B Section. A sanitation crisis has existed amongst the inmates due to the lack of water, resulting in many of them being forced to grind their own faeces in order to ensure its passage down the drain in their cells. The stench of faeces is in the air. The main issue is undoubtedly the water crisis and the impact that this has on sanitation and hygiene. Some inmates complain that the toilets had not been properly functioning since 2005.

### **Human resources**

- The Centre does not have a single psychologist.

### **Services**

- The clinic is aimed at catering for the management and treatment of HIV, asthma and TB. However, the inmates complained that it often ran out of medication (especially asthma pumps), with one female detainee being told to 'drink water' to deal with her asthma attack. They also raised concerns that ARV treatment usually ran out and they had to wait for two weeks without medication.

### **Nutrition**

- Women's section. The provision of an insufficient diet that inhibits good health in contravention of section 8 of the Correctional Services Act ("the Act") and the regulations.
- It is also a concern that pregnant detainees are not given adequate nutrition to promote good health and some children are not getting access to baby formula.

### **Children**

- Some mothers said they had gone several days without disposable nappies and were forced to use reusable towel nappies wrapped in plastic bags. There were also some children who had not completed their immunisations, despite being 14 months of age. This is a serious danger to the health of the infants. Female detainees were breastfeeding despite being on restricted rations. This obviously does not augur well for the welfare and good health of their babies.

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<sup>57</sup>Khampepe (2012).

**Recommendations:**

- The overall impression received from the visit to the facility was that it is problematically under-resourced. The Centre is overcrowded placing additional pressure on resources.

### 3.8 JUSTICE MOLEMELA

#### ZONDERWATER CORRECTIONAL CENTRE<sup>58</sup> (18 May 2015)

**Occupancy**

- The facility has two centres, Medium A which has a holding capacity of 877 inmates but currently houses 1 536 inmates (and is, as such 76% overcrowded), and Medium B which has a holding capacity of 795 inmates but currently houses 1 287 inmates, meaning that it is 61% overcrowded. The facility caters for male adult inmates only.

**Infrastructure**

- The hospital section is well maintained. The conditions are hygienic. It houses a mortuary, about four isolation cells where inmates with contagious diseases are kept temporarily until completion of their treatment and five ordinary cells where inmates on medication are kept.
- During our visit, there were five inmates at the hospital section waiting to be assisted. We were informed that one inmate who seemed to have better amenities than others was still awaiting trial and was being kept in the hospital section for security reasons.

**Environmental conditions**

- The cells are well maintained, clean, well-ventilated and secured.
- The communal cells have a carrying capacity of twenty inmates per cell. Due to overcrowding there are not enough beds for all inmates; some inmates sleep on foam mattresses in the corridors in-between beds. The overcrowding is to such an extent that there are thirty-two inmates in one communal cell, all sharing one toilet and a basin. This is a serious health hazard.

**Human Resources**

- There are only nine nurses instead of seventeen and one consultation room which caters for all the inmates. Patients have to wait for long hours outside before they are assisted
- The hospital section is under the oversight of two nursing sisters. They attend to about 30 patients or more, a day.
- A doctor and a dentist visit every Tuesday and Thursday. A list for those who need to consult with a doctor or dentist is prepared in advance.
- A social worker also visits every Thursday.
- Each section of the facility has a psychiatrist and psychologist appointed on a fulltime basis.

**Services**

- The hospital section does not have its own pharmacy. It depends on three pharmacies from Pretoria Central. Inmates with chronic diseases are taken to Pretoria Central.

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<sup>58</sup> Molemela (2015).

**Recommendations:**

- The problem of overcrowding of inmates in this correctional facility must be addressed. The Department of Correctional Services must consider the feasibility of extending the facility by building a few more blocks in the precinct.

### 3.9 JUSTICE B NKABINDE

#### UPINGTON CORRECTIONAL CENTRE<sup>59</sup> (25 October 2010)

**Occupancy**

- The Centre is supposed to facilitate 800 people but, as at 25 October 2010, the capacity was 937. The indication was, however, that overcrowding was not considered to be of grave concern. It must also be noted that during the inspection of the juvenile section, it was ascertained that the juvenile cells are made to house 40 people per cell and, at present, average only 27 people per cell.

**Human Resources**

- The lack of availability of specialised medical professionals to the Centre. This concern was raised, in the main, in connection with the lack of specially trained psychiatric medical professionals. It was stated that the Centre does not have its own specialised staff and that these medical specialists have to be outsourced.

**TB**

- One of the biggest medical concerns at the Centre is that of TB and, in particular, drug-resistant TB. The Centre indicated that it had an established and effective system for the treatment of HIV positive inmates.

**Mental health**

- An issue raised was that of the State Patients. The law, in terms of the sections 77 and 78 of the CPA and in terms of, inter alia, sections 1, 42, 46, 47 and 48 the Mental Health Care Act 17 of 2002 (Mental Health Act), refers to a “state patient”. The problem, from the perspective of the officials is that, while the Mental Health Act (read with the CPA) states that a person must be evaluated to ascertain his or her mental fitness, the evaluation has to be done by specialised, psychiatrically-trained medical professionals; of which the prison has none. Thus the evaluation of these state patients in Upington is a problem.

#### RUSTENBURG CORRECTIONAL CENTRE<sup>60</sup> (12 April 2011)

**Occupancy<sup>61</sup>**

- The Centre has approximately 444 sentenced offenders and 70 unsentenced offenders. There is no overcrowding at the Centre.

<sup>59</sup> Nkabinde (2010).

<sup>60</sup> Nkabinde (2011a).

<sup>61</sup> This correctional centre is a specialised centre in that it is the only juvenile correctional centre in the North-West Province.



### **Services**

- It was reported that offenders who are on chronic medication get treatment from external health facilities and once they receive their medication, it is kept at the prison clinic and dispensed to the offenders on a daily basis.
- It was also reported that the hospital had regular, once-a-month dentist visits from the Department of Health.

### **HIV**

- The Centre also has a Voluntary Testing and Counselling (VCT) programme for offenders. They indicated that VCT programme is very successful and a number of offenders have tested for HIV and started on Anti-retroviral treatment. The success of the ARV programme is a result of a collaborated effort on the part of the Department of Health, various Non-Governmental Organisations, Community Based Organisations and some private companies such as New Start.

## **MAFIKENG CORRECTIONAL CENTRE<sup>62</sup> (13 April 2011)**

### **Occupancy**

- Approved capacity was to accommodate 108 offenders. However, there were 145 offenders incarcerated on the Centre, thus signalling overcrowding by 37 offenders.

### **Infrastructure**

- Owing to its size, the Centre does not have a hospital; it has a sick bay instead. The sick bay is very small in size and is only staffed by one sister. Offenders use it to get medication for minor illnesses. For serious illnesses, they are transferred to external hospitals.

### **Human Resources**

- A concern was that when the sister is on leave, the sick bay is not staffed by anyone which in turn puts the health of the offenders at some risk.

### **HIV/AIDS**

- The health program is inclusive of HIV/AIDS and TB treatment. It was indicated that there are a number of offenders who are on ARV treatment and of those, none of them had a CD-4 cell count below 200 after being on treatment. Offenders in need of treatment access it from an external hospital due to the fact that none of the prison hospitals are accredited to dispense ARV medication. The presentation also indicated that offenders are encouraged to test and do test for HIV. There are some offenders who are accessing Health Care training. It was also indicated that the Centre distributes condoms.

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<sup>62</sup> Nkabinde (2011b).



### 3.10 JUSTICE TL SKWEYIYA

#### RIEBEECK WEST CORRECTIONAL CENTRE, WESTERN CAPE<sup>63</sup> (19 April 2013)

##### Occupancy

- The Centre's capacity was increased from 212 to 250 persons after its revamp. The inmate count was at 263 persons at the time of the visit, making the Centre overcrowded by 13 inmates.

##### Infrastructure

- The Centre has a small clinic that delivers essential primary healthcare.

##### Human Resources

- The clinic is run by two full-time nurses.
- A doctor is available once a week and, if necessary, inmates can be transferred to a public hospital in Malmesbury.
- Inmates have access to a psychologist once a week.
- The nurses complained that they were not being paid according to their qualifications, that is, the nurses were being paid according to the tariff for "General Nurses" when in fact they were specialised "Primary Health Care" Nurses.

##### Services

- The clinic was incredibly busy, it clearly lacked certain basic resources. The clinic was without a basic computer on which to input patient data. The old computer had broken during the previous year, and the sisters were unable to keep proper records of patients, or to communicate with other centres to make prescription orders etc. The sisters were in desperate need of a replacement computer.
- The nursing sisters were hamstrung by their inability to get adequate medication for inmates. The Centre was only provided with medication once a week (from Pollsmoor). In the event of not being able to wait, they would be required to visit pharmacies, resulting in further staff pressures and unnecessary costs. This problem is complicated by the fact that the Centre is located quite far from Cape Town

##### Recommendations:

- The clinic is in desperate need of a computer so as to keep up-to-date, and accurate patient records.

#### GOODWOOD CORRECTIONAL CENTRE, WESTERN CAPE<sup>64</sup> (18 April 2013)

##### Occupancy

- The Centre is an all-male facility that only accommodates persons over 21 years of age. The oldest detainee is 74 years old. The Centre is approved to house 2 115 detainees but, at the time of the visit, the Centre was overcrowded by 29.78%, with a total population of 2 745 detainees.

<sup>63</sup>Skweyiya (2013a).

<sup>64</sup> Skweyiya (2013b).



### **Environmental conditions**

- Overcrowding is particularly felt in sleeping facilities where detainees may push two beds together to accommodate place for three persons to sleep.

### **Human Resources**

- There is no full-time medical doctor at Goodwood Correctional Centre but a doctor visits three times a week.
- A dentist from the Department of Health serves the Centre once a week and is able to attend to about 25-30 detainees at a time. The Centre is considering using a private dentist as demand is high.
- A visiting psychiatrist from the Department of Health comes once a month.

### **Services**

- The sickbay delivers primary healthcare and has separate sections for detainees requiring isolation due to contagions.
- There is no pharmacy at the Centre and all medication must be requisitioned externally, usually from Pollsmoor Correctional Centre. The absence of a pharmacy makes it difficult to provide prescribed medications in time for ill detainees and the Pollsmoor Pharmacy itself suffers from capacity strain and slow turnaround.
- The Centre is described as heavily dependent on external service providers, including NGOs. The Health Services Manager noted further that it was not always possible under the current operational structure to separate or identify ill detainees.
- Condoms are freely available to detainees and awareness programmes for sexually transmitted infections and screenings are run by a health awareness group and some NGOs.
- For medical emergencies, the Centre makes use of private ambulance services provided by Netcare Limited. If necessary, referrals are made to Tygerberg or Karl Bremer Hospitals.
- There is no 24-hour nurse, but a nurse is always available on stand-by.
- The palliative care section which provided for detainees who were not terminal but who “needed extra care” was impressive. It was heartening to see that detainees in the section had been trained in the provision of care of others.

### **HIV**

- Voluntary testing for HIV is freely available at the Centre and there were, at the time of the visit, 180 known HIV-positive inmates.
- The sickbay in the Centre is not an accredited ARV Centre.
- ARV treatment is sourced from the pharmacy in Pollsmoor, although the Centre is increasingly using a local hospital to requisition the medication due to the distance and staff resources required to source medications from Pollsmoor.

### **TB**

- Offenders are not uniformly tested for Tuberculosis upon admission so there is no way to verify whether a detainee suffering from the disease contracted it in the Centre.
- From April 2013, however, compulsory Tuberculosis screening is expected to be conducted every six months, as well as before detainees are released.

### **Mental health**

- Medical staff expressed concern that detainees with mental health issues had high rates of recidivism due to there being no mental health assistance or safety net on their release.



## BRANDVLEI CORRECTIONAL CENTRE<sup>65</sup> (15 APRIL 2014)

### Occupancy

- The current offender population is 276. The total capacity of the facility is 348.

### Human Resources

- Nurses are present at the facility from Monday to Friday and there is a nurse on standby after hours.
- A doctor visits the facility twice a week. There is an emergency trolley and bed available.

### Mental health

- Mental health concerns are accommodated by means of a nurse or medical officer on duty, who writes a recommendation that an offender should see a psychologist. Offenders who are at a risk of suicide are housed in the special-care “observation cells”, where they may be monitored and given treatment.

### Services

- A variety of medical services are offered at the facility. Once a month, a medical officer visits to perform medical male circumcision on offenders who request it.
- Offenders undergo tuberculosis screening at admission and release, which has helped to control Tuberculosis infection in the facility.
- Offenders are tested for HIV if they so request, and are given pre- and post-test counselling. HIV infection is prevented by educational programmes, and by giving offenders access to condoms. The facility is able to accommodate an offender in a wheelchair, though there are presently none at the facility. The nurse on duty noted that drug use is not a problem. Drug abuse rehabilitation is primarily dealt with by social workers, with treatment given within the facility.

## 3.11 JUSTICE VAN DER WESTHUIZEN

### BAVIAANSPOORT CORRECTIONAL FACILITY<sup>66</sup> (14 April 2010)

### Occupancy

- The Medium Security section was built to house 703 inmates but is currently occupied by 1 050 inmates. Thus, the section is overcrowded by 49%.
- The Maximum security section was designed to accommodate 305 inmates and with 624 inmates, it is overcrowded by over 104% (one inmate was admitted at Kalafong Hospital).

### Infrastructure

- The hospital in the medium security section has one ward and 18 beds.
- The hospital in the maximum security section has ten beds, two bath tubs, a urinal and two toilets.

### Human Resources

- In the medium security section, a Sister is the head of the hospital and is working with three other nurses on a rotational system. At any given time, there are two nurses in attendance

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<sup>65</sup> Skweyiya (2014).

<sup>66</sup> Van der Westhuizen (2010).



at the hospital. A doctor from outside visits the facility every Monday and Thursday. Where necessary, the doctor may be called on any other day. In cases of emergency, patients are referred to external hospitals.

- In the maximum security section, the hospital is staffed with a manager and three nurses. A doctor comes once a week, every Tuesday.

### KNYSNA CORRECTIONAL CENTRE<sup>67</sup> (24 October 2011)

#### Occupancy

- The Centre was built to accommodate up to 179 inmates. On the morning of the visit 281 inmates were accommodated, representing an overcrowding rate of 157%.

#### Human Resources

- The Centre has two qualified nurses.
- A doctor visits the Centre every Thursday.

#### Services

- On the day of the visit, the clinic could not be accessed because they were offering circumcisions.
- When inmates require medical care that cannot be provided on-site, they are taken to the local hospital. When an inmate is in hospital it is the job of the staff at the Centre to monitor that inmate in a two-shift rotation.

#### HIV/AIDS

- Currently there are 26 patients with HIV/AIDS and 15 of whom are on ARV treatment.
- The patients with HIV/AIDS have the opportunity to participate in a specific programme run in conjunction with a local hospital.

### CALEDON CORRECTIONAL CENTRE<sup>68</sup> (25 October 2011)

#### Occupancy

- Approved lock-up capacity of 215 offenders. At the time of the visit there were a total of 459 inmates plus one inmate in hospital, representing an overcrowding rate of 214%.

#### Human Resources

- The clinic has two professional nurses.
- A doctor attends at the Centre every Monday, and a dentist attends once a month.

#### Services

- The Centre has a clinic that is stocked with basic medical supplies. The Centre does not have its own pharmacy. It uses the Department of Correctional Services pharmacy in Brandvlei.
- Inmates undergo a medical risk assessment upon admission. A nurse completes a Risk Assessment Form, which is standard to all correctional centres with the following information: (a) Whether the inmate suffers from any illnesses, injuries, disabilities, allergies or complaints; (b) Whether the inmate has recently had an operation; (c) Whether

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<sup>67</sup> Van der Westhuizen (2011a).

<sup>68</sup> Van der Westhuizen (2011b).



the inmate has any medical appointments; (d) Whether the inmate requires any medication or medical assistance device; (e) The inmate's emotional status; and (f) The name and contact information of the next-of-kin. The Risk Assessment Form is signed by both the health care worker and the inmate, and is kept in the inmate's medical file.

- The most common medical complaints are skin problems and tuberculosis.

#### **HIV/AIDS**

- As at 25 October 2011 there were nine HIV-positive inmates; however, this number fluctuates often due to the constant movement of inmates.
- ARTs are dispensed and administered directly at the clinic to those inmates who need them.

### **HELDERSTROOM MEDIUM CORRECTIONAL CENTRE<sup>69</sup> (18 June 2012)**

#### **Occupancy**

- The approved capacity of the Centre is 755 inmates but at the time of the visit, the Centre was hosting 1 154 inmates. On average there are currently 40-50 inmates in a cell with a capacity of 30 inmates.

#### **Infrastructure**

- The Centre has a clinic.

#### **Human resources**

- The clinic is staffed by three full-time female professional nurses.
- A doctor attends to the Centre once a week. The Centre had encountered problems with doctors coming to the Centre to see the patients and at one point only had a doctor willing to come from Cape Town. This had budgetary implications for the Centre as it had to pay for the doctor's travelling costs and ultimately the Centre could no longer afford it. However, as things stand, the Centre does have a doctor who attends the Centre once a week.

#### **Services**

- Inmates undergo a risk assessment upon admission. A nurse completes a Risk Assessment Form, which is standard to all correctional centres, with the following information: (a) Whether the inmate suffers from any illnesses, injuries, disabilities, allergies or complaints; (b) Whether the inmate has recently had an operation; (c) Whether the inmate has any medical appointments; (d) Whether the inmate requires any medication or medical-assistance device; (e) The inmate's emotional status; and (f) The name and contact information of the next-of-kin. The Risk Assessment Form is signed by both the healthcare worker and the inmate, and is kept in the inmate's medical file.

#### **TB**

- Some of the patients suffer from XDR and normal TB.

#### **HIV/AIDS**

- Currently they have 84 inmates on ARVs. Inmates that require ARVs are provided with such medication as well as TB medicines.

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<sup>69</sup> Van der Westhuizen (2012a).



## POLLSMOOR CORRECTIONAL CENTRE<sup>70</sup> (18 December 2012)

### Occupancy

- On the morning of the visit the Centre housed 3 342 inmates. The Centre is 208% overcrowded.

### Environmental conditions

- Ventilation and lighting are poor with clothes being hung out to dry in much of the available space inside the unit.

### Human Resources

- The hospital has one doctor, ten nurses and three medical clerks.
- 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 offenders are often at court during the day. Almost every offender needs some form of medical treatment. Many inmates are going through acute drug withdrawal and require close supervision.

### Services

- 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 offenders are only at the Centre while awaiting trial.

### HIV

- A large number of HIV positive inmates are detained at the centre. 94 inmates are currently on an ARV programme.

### TB

- TB screening measures are in place. Sputum tests are conducted and prisoners are tested for TB and will start treatment if they test positive. Inmates who have infectious diseases 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.

## 3.12 GENERAL AREAS OF CONCERN

The Constitution provides that detainees and sentenced prisoners have the right to “*conditions of detention that are consistent with human dignity, including at least exercise, and to the provision at State expense of adequate accommodation, nutrition and medical treatment.*” The Correctional Services Act (and accompanying Regulations and Standing Orders) provide that the health care provided to inmates must be preventive, promotive, curative and rehabilitative.

Since 2010, the Reports of the Constitutional Judges have highlighted significant challenges around conditions of detention and provision of health care services in a number of the correctional centres they have visited.

<sup>70</sup> Van der Westhuizen (2012b).



General areas of concern that emerge from the Constitutional Court Judges Reports include the following:

- A lack of standardisation. There is no consistency in ensuring conditions of detention are consistent with human dignity and the provision of adequate health services are standardised across the DCS facilities.
- Overcrowding is not being managed effectively in a number of centres. This has a direct effect on prison conditions which in turn affects the health of the inmates. This means the Department is failing in its duty in terms of the Correctional Services Act and accompanying Standing Orders to hold inmates in cells which meet the requirements prescribed by regulation in respect of floor space, cubic capacity, lighting, ventilation, sanitary installations and weekly inspections to ensure every cell conforms to minimum standards and general health conditions. These conditions in turn increase the risk of the spread of diseases such as scabies and TB.
- Infrastructure and poor maintenance in particular relating to sanitation, and plumbing. This in turn is negatively impacted by overcrowding.
- Shortages of medical staff (or failure to fill vacant posts).
- Shortages of medical supplies and stock outs.
- Lack of consistency in treatment of mentally ill offenders. This means the Department is failing in its duty in terms of the Correctional Services Act which provides that inmates suffering from mental or chronic illness or whose health status will be affected detrimentally or whose health status poses a threat to other inmates if detained in a communal cell must be detained separately, on request of the Correctional medical practitioner or registered nurse.
- Lack of consistency in the treatment for HIV/AIDs and treatment and prevention of the spread of TB. This, despite the existence of Guidelines for the Management of Tuberculosis, Human Immuno-Deficiency Virus and Sexually Transmitted Infections in Correctional Facilities (2013) and the judgement of the Constitutional Court in Lee v Minister of Correctional Services.
- Lack of accountability.



# Chapter 4

## SA HUMAN RIGHTS COMMISSION: REPORT ON THE NATIONAL PRISONS PROJECT (1998)

### 4.1 RATIONALE FOR AND AMBIT OF THE PROJECT

Almost as soon as it was established, the South African Human Rights Commission (SAHRC) began receiving complaints from hundreds of individuals, all alleging a violation of various rights enshrined in the Bill of Rights. An initial analysis of these complaints revealed that a substantial number of them emanated from offenders and that there was duplication with respect to complaints received. With the resources available at the Commission's disposal, it was practically impossible to investigate each individual complaint while attempting to prioritise complaints in terms of their seriousness. To try and deal with only those that were considered serious proved equally difficult.

After considering the matter, the Plenary Meeting of the Commission resolved to undertake a National Prisons Project that would seek to investigate the conditions in South African prisons<sup>71</sup> from a human rights perspective and report to Parliament on its findings and recommendations. Rather than deal with prisoners' complaints in a piece-meal and reactive fashion, the Project approach was designed to be proactive and to deal with prison issues comprehensively, while at the same time attempting a systematic approach to deal with the substance of the many complaints that were received by the Commission.

The Commission decided that prison visits, inspections and communications from offenders and staff were the primary tools used in the Project as well as the primary source of information used in compiling the report. Other reports including Annual Reports of the Department of Correctional Services, reports from NGOs and the media were also used as research and information material. Information from these sources used in the compilation of the report was duly acknowledged. The National and the Provincial Commissioners were informed of the intention of the Commission to visit the prisons and general details were provided about the project and how the visit was to be structured.

At the commencement of each visit a briefing meeting was held with the management of the prison. In some instances, area managers and Provincial Commissioners were present at the meetings. The briefing meeting was used to discuss the project, what was sought to achieve and to allay fears that the Commission had come to identify perpetrators of human rights violations and to deal with them. An inspection of the premises then followed and included all the available facilities,

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<sup>71</sup> Note that the terminology used in the Report of 'prison' (instead of 'correctional centre') is retained in this section.



including but not limited to medical and hospital, kitchen, education and recreation facilities and accommodation.

Each visiting team was headed by a Commissioner from the SAHRC and supported by one or more members of staff. The visiting teams compiled written reports on each visit based on their observations, discussions and consultations. At the same time, the letters and submissions received from offenders and staff were analysed and categorised in terms of various aspects of the prison regime and these were then incorporated into the written reports prepared by the visiting team.

Given that it was not possible to visit all the prisons in South Africa, a cross-section of prisons was selected using the following criteria:

- Geographical location: rural/urban
- Men's prisons
- Women's prisons
- Awaiting trial (remand detainee) facilities
- Juvenile prisons

The following prisons were visited:

*Western Cape: Commissioner R Kadalie*

- Pollsmoor Women's Prison
- George Prison
- Malmesbury Prison
- Brandvlei Maximum Prison
- Pollsmoor Maximum Prison

*Mpumalanga Province: Commissioner J Kollapen*

- Witbank Prison
- Bethal Prison
- Barberton Prison
- Standerton Prison

*Northern Province: Commissioner J Kollapen*

- Pietersburg Prison
- Thohoyandou Prison
- Nylstroom Prison

*North West Province: Commissioner P Tlakula*

- Brits Prison
- Rustenburg Prison
- Klerksdorp Prison
- Potchefstroom Prison
- Christiana Prison



- Central Prison (Mafikeng)

*Eastern Cape Province: Commissioner A Routier*

- St Alban's Prison
- Northend Prison
- Mdatsane Prison
- Fort Glamorgan Medium A
- Fort Glamorgan Medium C

*Gauteng Province: Commissioner H Suzman*

- Pretoria Prison
- Johannesburg Prison
- Baviaanspoort Prison
- Boksburg Prison
- Heidelberg Prison
- Vereeniging Prison
- Zonderwater Prison

*Kwa-Zulu Natal: Commissioner S Mabusela*

- Newcastle Prison
- Newcastle Youth Development Centre/Ekuseni Prison
- Durban-Westville Prison
- Empangeni Prison
- Etherebyshowe Prison

*Free State Province: Commissioner J Nkeli*

- Senekal Prison
- Brandfort Prison
- Grootvlei Prison
- Sasolburg Prison

## **4.2 OBSERVATIONS FROM PRISONS VISITED**

The following provides a summary of key observations and recommendations regarding health and health-related issues.

### **4.2.1 THE PHYSICAL ENVIRONMENT**

#### **Buildings and grounds**

The buildings and grounds of prisons visited range from 'clean and well-kept' to those that were in a serious state of disrepair. Prisons such as Mdantsane, Rustenburg, Christiana, Mafikeng and Klerksdorp were considered health hazards with poor or no lighting, leaking pipes, blocked drains and toilets, cracked and mouldy walls and poor fencing. Special mention was made of



Thohoyandou Prison in the Northern Province, as it is the prison that required the most attention and where there were more violations of the rights of prisoners than in any other institution visited in the province. The Christiana Prison had serious structural problems at the time of the inquiry. However, the Report states that construction of a new building was underway and it was hoped that the Department of Correctional Services would take advantage of the new premises and address the serious problems that besieged the old prison.

Barberton Prison had a serious problem with inadequate fencing around the prison. This facilitated the smuggling of dagga and alcohol into the prison as well as endangering members on night patrol. Malmesbury Prison was seriously overcrowded. However, in August 1997, construction of a new prison commenced in Malmesbury, to accommodate 900 prisoners. Meanwhile it appears that this has resulted in the under-resourcing of the existing prison, as no allocations have been made for improvements in the facilities.

### **Accommodation**

The Report states that when considering the statistics of prison populations, it is clear that there is a very serious overcrowding problem and concomitantly a breakdown of law, order and standards within the prison system. This is most evident in the makeshift arrangements to accommodate the large number of prisoners crowded into the cells. Where serious overcrowding exists, it follows that there is a lack of basic necessities such as toiletries, towels, blankets and sheets. In instances where provision is made, it is insufficient. At Rustenburg and Thohoyandou Prisons, due to overcrowding and the lack of accommodation, some prisoners sleep on cement floors. At Durban Westville, there are serious complaints of cell blankets being dirty, wet and lice-ridden.

It was of particular concern in prisons visited, in most instances, there was no provision of hot water, electricity or ventilation. At Newcastle and Eshowe Prisons for example, it was reported that there was no privacy in the toilets and showers, no hot water and no heaters. Many cells were dirty and smelt unclean, with some toilets not working, not working properly or leaking.

Some cells, especially in the male-sections had either poor or no lighting. The overcrowding rate of most prisons was so high that the situation is more than likely to deteriorate. Another issue of concern was that toilets as part of the cell are the norm in most prisons. When the toilets malfunction, there is an overall unpleasant effect on the entire cell. This lack of hygiene was a health threat and inmates do not have the necessary privacy for intimate functions. During the Commission's visits, they found that the majority of prisons suffered from conditions such as these, for example:

- At George Prison the excessive number of prisoners resulted in serious overcrowding to the extent that prisoners complained of insufficient oxygen in the cells. Prisoners in communal cells had to make use of one shower and one toilet that are in very close proximity to the beds. However, parts of the prison were recently upgraded and the new communal cells were an improvement as the toilets have been separated from the sleeping areas.
- The Mdantsane Prison was mouldy and cracking from water seepage. It was also infested with green flies because the municipality had placed its garbage dump 100 metres from the prison. The Commission intervened in this case and had the dump removed.
- Mdantsane Prison also had no beds for 323 prisoners who sleep on mats on the damp floors. In fact, during the inquiry it was found that the Eastern Cape Province had a shortage of over 1,800 beds for prisoners who are thus forced to sleep on mats on the floor.



- Pretoria, Vereeniging and Brits Prisons, in comparison, were considered to be relatively clean with little overcrowding. Most of the cells had television sets belonging to individuals and one big set for the common area.
- St Alban's Prison in East London and Bethal Prison in Mpumalanga were described as overcrowded, but mainly clean and adequate.
- Grootvlei Prison, a maximum prison, was reported to be very neat but had little physical space for prisoners. No overcrowding was noted even though the maximum prison houses 1 500 prisoners, the medium prison 295 and the female section 21 prisoners.

#### **Analysis and Recommendations of the SAHRC:**

Although the Constitution guarantees every sentenced prisoner the right to conditions of detention that are consistent with human dignity, including the provision, at state expense, of adequate accommodation, the conditions at the majority of prisons, in the Commission's view fell short of this constitutional obligation. The majority of prisons were so overcrowded and in such a serious state of disrepair that they not only pose a health hazard but also contribute to the high rate of escapes. The repair of prisons, like other government buildings, is the responsibility of the Department of Public Works, which, the Commission was informed, often took a long time to respond to requests for repairs. In their opinion, the inhuman conditions in which prisoners were accommodated contributed, to a very large extent, to the criminality found in the majority of prisons.

The following recommendations were made:

- While capital expenditure is limited and infrastructure development expensive and time-consuming to effect, the Commission believed that as a minimum the DCS should ensure that all prisons have hot water, electricity and sufficient ablution and washing facilities.
- Beds should ideally be provided, but where this is not possible immediately, sleeping mats and sufficient blankets should be available.
- Toilets and showers should be sufficiently removed from the sleeping quarters both for reasons of hygiene and to provide inmates with a sense of privacy.
- With regard to overcrowding, the Commission was of the belief the greater use of non-custodial sentences must be encouraged. In particular, the efficacy of imposing short sentences when other more effective measures are available needs to be brought home to judicial officers. The DCS could play a role in this regard in informing and educating judicial officers.
- The large number of awaiting trialists concerned the Commission, in particular those who have been granted bail but have not paid it. There was the need to review their matters either with a view to reducing bail or effecting their release on warning. The Commission emphasised that they were not dealing with persons who are dangerous or violent, but rather persons in respect of whom the Courts have already taken a decision to release by the granting of bail.

#### **4.2.2 KITCHENS AND FOOD**

There appeared to be no standard prison policy for dietary requirements. Differing dietary policies were the norm for each prison. The most common complaints received from prisoners were:

- not enough food,
- no provision for those who do not eat pork,
- dinner is served at 14h00 and no provision is made for evenings by which time everyone is hungry again,



- food ranges from poorly prepared or inedible, to insufficient or rotten.

The Commission's inspections found examples of both good and bad practice in respect of the diet of prisoners, as the examples below illustrate.

- At Durban Westville, prisoners complained that the food was inadequate, half-cooked, rotten, unhygienic and sometimes contained lice. An in-house shop was available to buy food but it was expensive. It was alleged that prisoners working in the kitchen sold meat and other foodstuffs to prisoners, thereby improving their financial situation. This was also an accusation levelled against members of Correctional Services. As a result of the sale of foodstuffs, some juveniles resorted to prostitution in order to secure themselves food privileges.
- At Baviaanspoort Prison, the prisoners grew their own vegetables and lucerne. They also kept pigs that were sold in exchange for eggs and chickens.
- Vereeniging, Brits, Bethal and Zonderwater kitchen facilities were considered to be clean with relatively good food.
- At St Alban's, there was a staff/visitors canteen where prisoners prepare excellent food and were trained for future catering jobs.
- In some instances, due to serious overcrowding in prison, (such as in Klerksdorp, Newcastle and Empangeni Prisons), there were no dining hall facilities for prisoners. At Potchefstroom Prison, meals were served at different times for different categories of prisoners. Because of serious overcrowding, the process of feeding prisoners took up to six hours to be completed.
- Where children were incarcerated, bread handed out at 15h00 hours, which was intended for supper, was frequently stolen by older, and especially larger children, who bully the younger ones.

#### **Analysis and Recommendations of the SAHRC:**

The majority of prisons were supplied with nutritious food such as vegetables, meat and bread. In many instances, however, the food was so badly prepared that it was hardly edible. Because of overcrowding and lack of facilities such as dining halls, the serving of meals on each day was a nightmare for prison officials who usually had to look after prisoners for up to six hours each day while they queue for food. Prisoners complained of inadequacy of food and of the irregular timing of their meals. Black prisoners complained of differential treatment between them and white prisoners who may be allowed food from their visitors.

The statement which was made by the Minister of Correctional Services on national television, to the effect that all prisoners would be allowed to receive food from their visitors or relatives, added to the confusion as to whether or not this was permissible. There had been, to the Commission's knowledge, no official communication in that regard by the Minister to prison officials. The Department also has to look into the issue of provision of special diets for prisoners who belong to certain religious groups e.g. Muslims, some of whom have complained that their dietary requests were not allowed.

The following recommendations were made:



- Mechanisms for food quality control were needed, as well as greater supervision over the food preparation process. These interventions would help to render the provision of more adequate and nutritious meals.
- In addition, consideration should be given to rescheduling meal times so that the last meal of the day is served as late as possible under the circumstances.
- Consideration should also be given to using private contractors in the supply and preparation of meals if this would avoid the theft and corruption associated with food provisioning and if it was cost effective.
- The use of courtyards and collapsible furniture should be investigated as a substitute for dining halls to ensure that meals can be enjoyed in dignity.

### 4.2.3 HEALTH FACILITIES AND SERVICES

#### Hospital and medical services

While most prisons had the necessary provisions for medical care, there was no standard procedure for the administration of health care or provision of medical personnel. For example:

- The Brits Prison medical facilities were reported to be clean and staffed by an auxiliary nurse with visits from the district surgeon twice a week.
- At the other end of the spectrum, Mafikeng prisoners complained that they receive no proper medical examination or treatment and that the doctor visited the prison hospital once a month.
- Klerksdorp and Potchefstroom prisoners alleged that the doctor only visits the prison once a week and when they are treated, they were given medicines that have passed the expiry date.
- Boksburg prison had a hospital for sentenced prisoners and a small hospital for awaiting trial prisoners. However, prisoners complained that there was a short supply of medicines and trained staff. Prisoners were often “dumped” in hospital to get well on their own.
- Heidelberg had both male and female sections in the hospital. Sick parades were held daily during the morning and afternoons but when a prisoner was sick and there was no sick parade, she/he had right of access to the hospital. Doctors visited the prison every Tuesday afternoon and there was access to a doctor 24 hours a day. A dentist at Boksburg Correctional Services rendered dental care every second week.
- The Vereeniging Prison report noted that the prison hospital was clean and well looked after and that doctors visited once a week but could be summoned at any time. The pharmacy was well equipped with medicines.
- Other prisons, such as Eshowe and Empangeni, complained of insufficient medicine and irregular medical check-ups.

There were a number of complaints of prisoners being denied access to private doctors or that access to doctors and medical treatment were withheld as punishment. Prisoners also complained that preferential treatment was given to white prisoners. Bethal Prison was found to have adequate medical provisions. There were two registered nurses and an auxiliary nurse. The doctor visited twice a week and the dentist once a week. Mdantsane prisoners alleged that staff were selling medicines to prisoners. Witbank prisoners complained that they do not have direct access to the doctor but have to go through the section head and thereafter the nursing sister.

While there may be some practical reasons for having such an arrangement, it must be ensured that such an arrangement does not lead to a situation where effective access to medical care is



blocked. At Thohoyandou Prison, it would appear that the stench in the cells has an adverse effect on prisoners' health, while other prisoners complain that the lack of adequate resources mean that only those who are seriously ill are given permission to seek medical attention.

At George Prison all prisoners complained of inadequate medical treatment. They claimed that the doctor who visits once a week does not take their complaints seriously. At Pollsmoor Maximum Prison the hospital staff reported that their statistics revealed that, on average, approximately 12 patients sustained injuries as a result of assaults inflicted by fellow prisoners. An additional 3 people allegedly sustained injuries as a result of assaults inflicted by members, while there were allegedly 20 people per month who arrived at the prison with assaults allegedly inflicted while in SAPS custody. These statistics could not, however, be regarded as reliable as discrepancies were identified during the visit. For example, one prisoner who sustained injuries allegedly inflicted by a member had the cause of the injury recorded as 'self-inflicted'.

### **Prisoners requiring special treatment (HIV/AIDS)**

There was a Correctional Services policy on HIV/AIDS and most prisons reported having prisoners with HIV/AIDS. However, the policy was not always effectively managed or understood. Generally speaking, prisoners were informed that they may request HIV testing. If they do so, they should be referred to a social worker for pre-test counselling. If the test result is HIV positive, there should be post-test counselling. There were no reported cases of complaints of HIV positive prisoners being separated from the rest of the prison population. Durban-Westville reported that most prisoners have not been tested, but those who have been tested were reportedly not happy with their treatment. Counselling was available, but through an outside organisation. East London Central Prison reported that prisoners were not tested without their consent and where tested without their consent, then only if symptoms are suspected. HIV prisoners were counselled but other inmates are not told of their condition.

On admission, prisoners received information on HIV; how it is transmitted; its effects; and advice on living with HIV/AIDS. While most prisons had a policy regarding condoms and these are freely available in prison, Klerksdorp Prison noted that, although condoms were freely available to prisoners (subject to them receiving counselling) most prisoners did not collect them for fear of being identified as being engaged in sodomy. Members of Correctional Services also believed that handing out condoms is tantamount to encouraging and permitting sodomy between prisoners.

Barberton prisoners complained about the attitude of the prison doctor who treated them in 'an inhuman fashion' as well as the adequacy of the treatment provided. There was a request that traditional healers be allowed to operate within the prison. At Pollsmoor Women's Prison, educational programmes on HIV were organised by the Health Department. HIV prisoners were not isolated and would only be granted the right to a single cell if a claim was justified in terms of a need for separation and security from other prisoners. At Pollsmoor Maximum Prison, there was no AIDS education and no distribution of condoms.



### **Analysis and Recommendations of the SAHRC:**

The majority of prisons had basic medical facilities that are largely sufficient for taking care of the medical needs of prisons. In prisons where there was a proper hospital, this was often used or misused by prisoners and prison officials alike, particularly with respect to isolation purposes. This practice put a strain on the availability of space, particularly for prisoners who have a genuine need for hospitalisation. Although prisoners living with HIV/AIDS were not isolated and in some prisons received counselling, there was no uniformity regarding the application of DCS policy. The provision of condoms and availability or quality of treatment for prisoners living with HIV/AIDS varied according to the prison investigated.

The following recommendations were made:

- The policy applicable to prisoners living with HIV/AIDS had to be re-examined and standardised. The sharp increase over the past year in the number of inmates who are HIV positive or living with AIDS and or Tuberculosis would inevitably place a heavy strain on the already burdened resources of the Department.
- Given the relationship between AIDS and Tuberculosis there was a need for more public health education and perhaps greater involvement in such provision by the Department of Health.
- Numerous complaints and requests were received regarding access of prisoners to traditional healers. This is an important aspect and the Commission recommends that the DCS agree in principle to allow prisoners to have access to traditional healers. The logistics of access and other related matters, such as medication allowable, consequences of treatment etc., could be the subject of discussions between the DCS and the Council of Traditional Healers.
- The Commission also noted that there was a large number of approved but vacant positions for nursing staff, and recommended that steps be taken to fill these posts so that the DCS can operate on its full complement of nursing staff. This step, it was hoped, would help to deal with the increased pressure that will invariably come with the increase in the number of prisoners overall, as well as the rapid increase observed with regard to HIV and tuberculosis cases.



# Chapter 5

## FINDINGS AND RECOMMENDATIONS OF THE JALI COMMISSION OF INQUIRY (2006)

The Jali Commission of Inquiry was appointed by the President by means of Proclamation No 135 of 2001 in accordance with and in terms of Section 84 (2) of the Constitution of the Republic of South Africa. The Commission's objective was to investigate the incidents of corruption relating to various matters including those relating to non-adherence to departmental policy and deviation from national norms and standards. It was also instituted to investigate incidents of violence or intimidation against employees of the Department which affect the proper functioning of the Department. Another cardinal area of its focus was to assess the extent of implementation of recommendations of past investigations relating to the Department.<sup>72</sup>

### 5.1 HEALTH FINDINGS AND RECOMMENDATIONS

With regards to TB, HIV and AIDS, the Commission found the following:

The Commission noted four aspects of sexual activity in Correctional facilities that have a significant effect on the spread of STIs and HIV. These are penetrative anal sex, rape, incidences of collusion of some DCS officials with group of inmates for sexual acts and incapacity of DCS to provide immediate medical care to victims of sexual assault.<sup>73</sup> Given this context, the Report stated that without an appropriate response to STIs and HIV in Correctional facilities, the probability of the epidemic inside DCS facilities is likely to increase, impacting on the public health of inmates.

The Report also acknowledged that most of the inmates come from a group of young, unemployed or uneducated black males who are impacted by harsh socio-economic factors which place them at high risk of contracting STIs and HIV.<sup>74</sup> To this end, the Report noted the significant rate of sexual violence in Correctional facilities emanating from various factors such as overcrowding and poor monitoring of inmates by DCS officials. The impact of sexual violence leads to substantial incidences of STIs including HIV especially amongst the men inmates.

The Commission also noted the DCS' shortcomings in implementing its own policies to help sexual victims with adequate support and punishing the perpetrators of these acts.<sup>75</sup>

SPECIFIC FINDINGS OF THE COMMISSION	SPECIFIC RECOMMENDATIONS
DCS "failed sexual victims in not implementing its own policies that relate to the assistance that	That a group of DCS members be nominated from each Correctional Centre to be trained as

<sup>72</sup> Jali Commission (2006).

<sup>73</sup> Jali Commission (2006).

<sup>74</sup> Jali Commission (2006).

<sup>75</sup> Jali Commission (2006).



SPECIFIC FINDINGS OF THE COMMISSION	SPECIFIC RECOMMENDATIONS
<p>should be rendered to them as well as the psychological service that should be available.”<sup>76</sup></p>	<p>rape counsellors. The training is critical to properly counsel inmates who suffer trauma of being raped.</p>
<p>It also found that DCS was not implementing its policies as desired, which impacts on the inmates not accessing their fully enshrined rights in DCS policies and the South Africa’s Constitution.</p>	<p>Another specific recommendation was that all newly recruited Correctional Services members, should be informed of the enormous diversity of inmates that will at some point be entrusted into their care. To this end, the curriculum of the aspirant Correctional Services members should include chapters/modules that address:</p> <ul style="list-style-type: none"> <li>• Diversity;</li> <li>• Sexual orientation;</li> <li>• Sexual practices;</li> <li>• Homophobia; and</li> <li>• Cultural differences.</li> </ul>
<p>It found that - it is DCS duty to uphold the norms of the Constitution and by so doing decrease the frequency of sexual assaults in Correctional Centres and protect inmates from such violent assaults.</p>	<p>It implored DCS to disseminate all policies effectively to all its members and to arrange a series of workshops where these policies are made known to all employees and what is expected of them.</p>
<p>It also found that “Correctional Services’ officials are well aware of the fact that sexual violence contributes to the incidence of HIV and AIDS in Prisons”, and that as of year 2002, DCS acknowledged the following factors as contributing to HIV in correctional centres namely:</p> <ul style="list-style-type: none"> <li>• Consensual sex;</li> <li>• Male on male rape;</li> <li>• Prevailing culture of violence in Prisons (including sexual violence); and</li> <li>• Overcrowding.</li> </ul>	<p>It also recommended that all first time offenders, when admitted to a Correctional Centre be put together in a cell for the first few days on their own. They should be not mixed with sentenced prisoner/s as is per practice. DCS personnel should orientate inmates and detainees about the existing gang activities and any other practices in Correctional Centres that could lead to sexual and other abuses.</p>
	<p>DCS is recommended to design rehabilitation programmes that are specifically and exclusively aimed at sexual offenders inside and outside Correctional Centres.</p>

<sup>76</sup> Jali Commission (2006).



SPECIFIC FINDINGS OF THE COMMISSION	SPECIFIC RECOMMENDATIONS
	<p>It is also recommended that sexually abused inmates are not put in solitary confinement nor segregated detention but rather are kept under observation in the prison hospital. If the victim cannot be accommodated within the prison hospital, consideration should be given to detaining the alleged perpetrators in single cells until the disciplinary matter is finalised.</p> <p>It is recommended that more psychologists be appointed to address the DCS' lack of counselling and trauma unit.</p>



# Chapter 6

## FINDINGS AND RECOMMENDATIONS OF THE JUDICIAL INSPECTORATE OF CORRECTIONAL SERVICES

The Judicial Inspectorate of Correctional Services (JICS) previously called the Judicial Inspectorate of Prisons (JIP) is an independent office under the control of the Inspecting Judge. The Correctional Services Act 8 of 1959 (as amended by the Correctional Services Amendment Act 102 of 1997) provided for the establishment of the Judicial Inspectorate, the appointment of an Inspecting Judge and Independent Prison Visitors (now called Independent Correctional Centre Visitors). The Inspectorate was formally established with effect from 1 June 1998, in terms of section 25 of the Correctional Services Act 8 of 1959 (as amended by the Correctional Services Act 102 of 1997). The Inspectorate's mandate was further defined in sections 85 to 94 of the Correctional Services Act 111 of 1998 ("CSA") which came into operation on 8 February 1999.<sup>77</sup>

The establishment of the Inspectorate seeks to give effect to the Bill of Rights in the Constitution, 1996<sup>78</sup> and in particular its provisions with regard to offenders.<sup>79</sup> The CSA provides for the custody of all prisoners under conditions of human dignity and for a policy that enables sentenced prisoners to become rehabilitated. The Judicial Inspectorate is an investigating and reporting authority with no disciplinary powers in respect of correctional officials or prisoners.

Statutory powers, functions and duties of the Inspecting Judge include:

- The inspection of correctional centres (Section 85(2)).
- Reporting to the Minister on the treatment of offenders and remand detainees in correctional centres and on conditions and any corrupt or dishonest practices in correctional centre. (Section 85(2)).
- Receive and deal with the complaints submitted by the National Council, the Minister, the Commissioner, a Visitors' Committee (VC)<sup>80</sup> and in cases of urgency, an Independent Correctional Centre Visitor (ICCV) or of his own volition deal with any complaint (Section 90 (2)). As all prisoner complaints, save in exceptional circumstances, must be submitted to the JICS via ICCVs, they form a vital link between the offenders and remand detainees, the Head of Correctional Centre and the Judicial Inspectorate.
- Make any enquiries and hold hearings at which sections 3, 4, and 5 of the Commission Act 8 of 1947, would apply for the purpose of conducting investigations (Sections 90(5 & 6)).
- Carry out or instruct the Commissioner to hold an enquiry into any death in the correctional centre (Section 15(2)).

<sup>77</sup> Proclamation R20 GG 19 February 1999.

<sup>78</sup> Constitution of the Republic of South Africa, 1996.

<sup>79</sup> The term "prisoner" was later replaced by "inmates" and the Inspectorate's name changed to the Judicial Inspectorate of Correctional Services due to amendments to the Correctional Services Act 1998, in 2011.

<sup>80</sup> The functions of the Visitors Committee are to consider unresolved complaints with a view to their resolution; submit to the Inspecting Judge those complaints which the Committee cannot resolve; organise a schedule of visits; extend and promote the community's interest and involvement in correctional matters; and submit minutes of meetings to the Inspecting Judge.



- Review all penalties of solitary confinement and confirm or set aside the decisions or penalties and substitute appropriate orders therefor (Section 25).
- Receive and deal with appeals from prisoners who are subjected to segregation (Section 30(6)).
- Receive reports, and deal with appeals from prisoners subjected to mechanical restraints (Section 31).

## 6.1 GROSS OVERCROWDING AND HEALTH CARE TREND ANALYSIS 1999 – 2014/15

Since its establishment in 1999, the JICS has dealt with thousands of complaints about conditions in correctional centres. In some centres “gross overcrowding” (sometimes more than 200 per cent) led to “detention under horrendous conditions” especially for remand detainees (RDs).<sup>81</sup> This, coupled with inadequate infrastructure / facilities like toilets, showers and beds and a shortage of doctors and nurses in most centres, and the fact that most offenders and remand detainees spend up to 23 hours per day in lock-up, created ideal conditions for the spread of contagious diseases like TB and HIV.

A study of JICS Annual Reports from 2000 to 2014/15 show that the number of so-called “natural” deaths (i.e. as a result of illness) in correctional centres, most of them HIV/AIDS-related, have shot up dramatically over the past 15 years.<sup>82</sup>

From 2000 to date the JICS has consistently bemoaned the severely overcrowded conditions in correctional centres which were mainly attributed to unacceptably high numbers of remand detainees (RDs). Despite a reduction in their number by the 2000 financial year, (through for e.g. the implementation of the s63A Bail Protocol which allows the head of a correctional centre (HOC) to apply in terms of s63A of the Criminal Procedure Act 71 of 1977 (CPA), for the release of certain inmates on bail where overcrowding has resulted in conditions which constitute a threat), overcrowding has remained a serious challenge. This is in part due to a steep increase in the number of sentenced prisoners serving long prison sentences as a result of implementation of the minimum sentencing legislation.

The JICS reported in its 2004/05 Annual Report that the DCS was not to blame for overcrowding, but that this was due to the “*operation of the criminal justice system from arrest to sentence and with legislation*”. At 31 March 2015 the prison population stood at 159 563 - sentenced offenders comprised 116 265 (73 per cent) and remand detainees 43 298 (27 per cent). Remand admissions averaged approximately 298 000 per year, while sentenced admissions exceeded 130 000 in 2014.

In addition to the establishing of a Remand Detention branch, which had assisted in the stabilising of the number of RDs at below 45 000, the JICS recommended that the DCS make more use of legislative provisions like section 63A of the CPA. Instead, HOCs appeared “*to not to want to admit that particular correctional centres or sections of them are overpopulated to such a proportion that a material and imminent threat to the human dignity, physical health or safety of an inmate accused*”

<sup>81</sup> Judicial Inspectorate of Prisons (2002).

<sup>82</sup> See Table 2 on p67 of this paper for a collation of statistics taken from the JICS Annual Reports.



exists” as it is likely such admission could be used against the DCS in a claim for damages on account of prison conditions.<sup>83</sup>

Health care in most correctional centres was in crisis due to a lack of medical staff, prison overcrowding, poorly resourced prison hospitals and operational inefficiencies. In 2006/07 the JICS reported that an investigation into health care at one of the biggest centres (not named in the Report) found that no records existed of patients, the dispensary was not operational and medication had expired.<sup>84</sup> Pregnant prisoners shared accommodation space with TB patients and had no access to gynaecological services. Only 10 of the 53 approved posts for nurses were filled and there were no nursing staff to attend to emergencies after hours. Prisoners with infectious diseases were not isolated from the general prison population and only limited medical screening of newly admitted prisoners took place. HIV/AIDS was a challenge and particular attention had to be given to address all the facets thereof. The JICS also reported that many prisons could not provide prisoners with the prescribed level of medical treatment due to the lack of qualified medical staff and inadequate medical facilities.

In 2009 disturbing media reports surfaced that sick inmates, some terminally ill, were allegedly cuffed to their beds simply because they posed security risks.<sup>85</sup> It is unclear whether the JIP engaged the DCS about these allegations as it did not pursue this matter in further reports on mechanical restraints. The JICS has over the years criticised the DCSs underreporting on the use of mechanical restraints to the extent that it acknowledged in 2009 that it could not provide a meaningful report about the use of mechanical restraints by the DCS.

According to a prison health care survey conducted in 2011/12 the DCS was in breach of its own policy as 38 per cent of inmates were not examined within 24 hours of admission, 29 per cent were not informed of their right to health care and 54 per cent did not receive immediate treatment.<sup>86</sup>

The courts too have on occasion been forced to intervene in the plight of prisoners to access adequate health care in line with the Constitution. Two landmark judgements in 2006<sup>87</sup> and 2013<sup>88</sup> respectively, ordered the DCS to provide access to anti-retroviral medication to prisoners, to take adequate steps to prevent the spread of tuberculosis and other infectious diseases, including the health screening of new inmates on admission in DCS facilities and “*implementing an effective and comprehensive TB prevention, diagnosis, treatment, care and support programme*”. The JICS concluded in 2012/13 that it was clear that the DCS has disregarded its findings and recommendations on health care.<sup>89</sup>

## 6.2. HEALTH CARE AND RELATED COMPLAINTS

In terms of its mandate the JICS must receive and investigate prisoner complaints. Most prisoner complaints are submitted via Independent Correctional Centre Visitors (ICCVs) employed by JICS who form an important link between offenders and RDs, HOCs and JICS.

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<sup>83</sup> Judicial Inspectorate of Prisons (2007).

<sup>84</sup> Judicial Inspectorate of Prisons (2007). p25

<sup>85</sup> Judicial Inspectorate for Correctional Services (2010). p33.

<sup>86</sup> Presence (2013).

<sup>87</sup> *N v Government of Republic of South Africa* 2006 (6) SA 543 (D).

<sup>88</sup> *Lee v Minister of Correctional Services* 2013 (2) SA 144 (CC).

<sup>89</sup> Judicial Inspectorate of Correctional Centres (2013).



In its first year of establishment the JICS received 968 complaints directly from prisoners, while ICCVs dealt with 5 709 complaints. The number of complaints multiplied dramatically over the years as the JICS capacity increased to deal with more complaints, but also due to persisting poor prison conditions. By 2015 the JICS had numbered its complaints according to clusters, with clusters Two and Four relating to Medical release complaints and Health Care.<sup>90</sup> In 2014/15 the JICS dealt with 63 845 cluster Two complaints of which 2 370 were about medical releases. It also dealt with 109 321 cluster Four complaints of which 57 175 related directly to health care, 18 541 were about food and 33 605 about prison conditions.

The table below reflects complaints about health care and medical releases between 1999 and 2015.

**Table 1: Health care and medical release complaints (1999/2000-2014/15)**

ANNUAL REPORT	HEALTH CARE COMPLAINTS	MEDICAL RELEASE COMPLAINTS	TOTAL COMPLAINTS
1999 (1 June 1998 to 1 Feb 2000)	942	unknown <sup>91</sup>	6 677
2000 (1 April 2000 to 31 Dec 2000)	unknown <sup>92</sup>	unknown <sup>93</sup>	75 683
2001/02	Between 5000 and 6000. <sup>94</sup>	unknown <sup>95</sup> (88 medical releases took place)	203 675 <sup>96</sup>
2002/03	17 764	unknown	198 893 <sup>97</sup>
2003/04	19 329	495 (117 medical releases took place)	155 721
2004/05	26 262 (most from Gauteng, KZN and WC)	1 489 <sup>98</sup>	350 611
2005/06	32 448 (most from FS)	1 458	429 700
2006/07	unknown	unknown	unknown <sup>99</sup>
2007/08	11 231 <sup>100</sup>	312	158 362
2008/09	18 758 <sup>101</sup>	764	260 268

<sup>90</sup> Judicial Inspectorate for Correctional Services (2015).

<sup>91</sup> In 1999 the JIP received 365 complaints about parole but the report does not state if and how many of this total included complaints about medical releases. This total is thus not included in the table.

<sup>92</sup> The Annual Report does not state how many of the total complaints were health-related.

<sup>93</sup> The Annual Report does not state if and how many of the total complaints included complaints about medical releases.

<sup>94</sup> The Annual Report reflects complaints in bar chart form without stating the exact totals. Health care complaints were the fourth highest complaints. It is not clear how many of the between 3000 and 4000 parole complaints related to medical release.

<sup>95</sup> It is not stated how many of the 9 671 complaints about parole related to medical releases.

<sup>96</sup> The JICS also piloted an electronic reporting system which reflected 3 965 complaints via IPVs (presumably part of the total complaints received in 2001/02).

<sup>97</sup> 3 734 complaints were referred by the South African Human Rights Commission, the Public Protector, the South African Prisoners Organisation for Human Rights and family members of prisoners.

<sup>98</sup> Section 79 of the CSA dealing with release of terminally ill prisoners came into effect on 31 July 2004.

<sup>99</sup> The Annual Report does not list the numbers per categories complaints nor the total number of complaints received as in previous reports.

<sup>100</sup> The condition of the health care facilities and the nature of the health services available to prisoners differed significantly from prison to prison. Some had fully equipped hospitals, including dental services, minor operation facilities, 24-hour aftercare and full-time doctors and nursing staff. Others had no hospital facilities and 17 prisons had no nursing staff.

<sup>101</sup> The JIP was concerned about the large number of complaints received about health care. The prison environment contributed to the rapid spread of contagious diseases such as TB, HIV/AIDS and the H1N1 flu virus. New admissions were still not properly screened for potentially infectious diseases or chronic medical conditions and needs. Most inmates were only given access to medical treatment after becoming seriously ill.



ANNUAL REPORT	HEALTH CARE COMPLAINTS	MEDICAL RELEASE COMPLAINTS	TOTAL COMPLAINTS
2009/10	22 053 <sup>102</sup>	748	276 636
2010/11	39 868	822	381 924
2011/12	34 261	851	425 312 <sup>103</sup>
2012/13	39 442	2 326 <sup>104</sup>	106 686
2013/14	57 273	957	452 031
2014/15	57 175	2 370	455 802 <sup>105</sup>

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Contrary to expectations that complaints would decrease over time as the DCS responded to JICS recommendations, the number of complaints only decreased in 2002/03, 2006/07 and 2012/13. The overall trend shows that complaints have increased, and dramatically so, reaching its peak in 2014/15. This casts the spotlight on the current unacceptable prison conditions, as featured in recent media articles about appalling conditions at Pollsmoor in particular, following the release of the Report by Constitutional Court Judge Cameron on his visit to Pollsmoor in April 2015.<sup>106</sup> The steep increase in health care complaints which peaked in 2013/14 and decreased slightly in 2014/15, correlates with the overall trend and speaks volumes about the current poor state of health care services in correctional centres.

### 6.3 REPORTED DEATHS IN CORRECTIONAL CENTRES

Deaths in prison fall under the mandatory reports that the DCS must provide to the JICS, and thus the statistics discussed here are based on the reports provided by the DCS.

**Table 2: Natural deaths and death rate (2000/01 to 2014/15)**

ANNUAL REPORT	NATURAL DEATHS	DEATH RATE PER 1000 PRISONERS
2000	1 087	Not reported
2001/02	1 169	Not reported
2002/03	1 389 (412 in Gauteng)	7.75 (FS:11.65;KZN:11.27)
2003/04	1 683 (389 RDs)	Not reported
2004/05	1 689 (373 RDs)	9.1 (FS and Gauteng highest)
2005/06	1 507	9.2 <sup>107</sup>
2006/07	1 249	8.3
2007/08	1 056	7
2008/09	982	Not reported

<sup>102</sup> In 2009/10 the JIP found that the two-shift system had a negative effect on staffing at operational levels within most correctional centres which in turn affected the treatment of inmates. The detention of inmates in facilities with dilapidated and unsuitable infrastructure posed serious health threats, while other facilities like Baviaanspoort Youth Centre had new "state of the art" hospital facilities that was not being used. Some facilities experienced a lack of fresh water, while the unavailability of pharmaceutical services at the Brandvlei Correctional Centre caused regular delays in the issue of medication to inmates, especially chronic medication.

<sup>103</sup> The total number of complaints in 2011/12 were inexplicably low compared to the previous years and even less than when the JIP was established in 1999.

<sup>104</sup> This was the most complaints received regarding medical releases to date and represents a 1,465 or 172 per cent increase compared to the previous year. This increase was attributed to amendments to the CSA.

<sup>105</sup> The highest total complaints and the highest complaints about medical releases since the JICS's establishment were received in 2014/15.

<sup>106</sup> See, for example, 'Conditions at Pollsmoor "profoundly disturbing", says judge', 4 September 2015. GroundUp. Available at [http://www.groundup.org.za/article/conditions-pollsmoor-profoundly-disturbing-says-judge\\_3276/](http://www.groundup.org.za/article/conditions-pollsmoor-profoundly-disturbing-says-judge_3276/).

<sup>107</sup> Surprisingly, the highest death rate was recorded at the private prisons (14.3per cent), followed by KwaZulu-Natal and Gauteng.



<b>2009/10</b>	992 <sup>108</sup>	Not reported
<b>2010/11</b>	592	Not reported
<b>2011/12</b>	804 <sup>109</sup>	Not reported
<b>2012/13</b>	652	Not reported
<b>2013/14</b>	588 (163 RDs)	Not reported
<b>2014/15</b>	583 <sup>110</sup>	Not reported
<b>TOTAL</b>	<b>16 022</b>	

Annual Reports of the JICS

The JICS differentiates between “unnatural deaths” caused by e.g. accidents, suicides, offender on offender violence or official on offender violence, and “natural” deaths caused by illness. The JICS found in 2008 that HOCs were incorrectly recording all deaths as “natural” with “*scant regard for the duty resting on them to provide such inmates with adequate medical care. For this reason the majority of deaths of inmates [were], wrongly...subjected to neither post mortem examinations nor independent inquests in terms of section 2 of the Inquest Act 58 of 1959 (as amended)*”.<sup>111</sup>

Regarding unnatural deaths, especially suicides, the JIP found that in some instances these could have been prevented or were due to the negligence or dereliction of duty of DCS officials in failing to provide access to medical care (either at all or timeously), and in other instances that there had been a link between the inappropriate use of segregation and the inmate’s death. The JIP recommended in 2008/09 that all deaths in custody should be subjected to a medico-legal investigation into the cause of death.

The discussion below focuses on natural deaths only as these are caused by illnesses. Prior to the DCS being ordered by the Court in 2006 to make antiretroviral medication available to prisoners, most deaths in prison were HIV/AIDS related, in which overcrowded conditions and inadequate health care in DCS facilities were contributing factors.

In 2000 there were 1 087 natural deaths in prison compared to 186 in 1995, representing a 584 per cent increase compared to a 38 per cent increase in the prison population over the same period. This trend continued in 2001 with the JICS recommending the amendment of section 79 of the CSA in order to allow terminally ill RDs to also qualify for compassionate release. Because section 79 of the CSA was not yet in operation, medical releases were done in terms of section 69 of the CSA which allowed for the placement on parole of prisoners who suffered from dangerous, infectious or contagious diseases, or whose physical conditions made their release “expedient”. Although the 88 medical releases in 2002 were almost double compared to 1996, the JICS felt that “more could be released bearing in mind the 1 389 natural deaths in prison in 2002. More use of the provisions for the release of terminally ill prisoners [was] called for, as well as putting into operation section 79 of the Act”.<sup>112</sup> Section 79 of the CSA finally came into operation on 31 July 2004. Nevertheless, only 4.5 per cent of all terminally ill inmates were released on medical parole after that.

<sup>108</sup> In 2009 the JIP was unable to make a final assessment of the circumstances under which natural deaths have occurred because many death certificates and supporting documentation were not yet received at the time.

<sup>109</sup> The JICS found that the rate of natural death increased 250 per cent with a 25 per cent increase in total population, confirming overcrowding as a contributing factor in natural deaths.

<sup>111</sup> Judicial Inspectorate of Prisons (2009).

<sup>112</sup> Judicial Inspectorate of Prisons (2003).



In 2009/10 the JIP reported on the number of natural deaths and death rates per clustered regions. The death rate was calculated according to population size which meant that facilities with small prison populations often had higher death rates than larger centres with high numbers of natural deaths. Thus, Bethlehem with a prison population of 149 had three deaths and a death rate of 20.13, compared to Johannesburg Management Area (A, B, Female) which had a prison population of 11 098 and 83 deaths, but only had a 7.5 death rate. In the bigger centres, the main cause of death was TB and 53.5 per cent of deaths occurred within the first year of incarceration. This was partly because inmates were still not adequately screened for pre-existing illnesses and partly because conditions were not adequately identified, dealt with or treated by the Department after an inmate's admission to a centre. The JICS also became aware of the deaths of three infants of female inmates at the Johannesburg and Durban Female Correctional Centres which were not reported in terms of section 15(2) of the CSA which also applied to the children of inmates detained in a centre together with their mothers.

An inquiry by the JICS into the progress in criminal investigations and disciplinary proceeding against DCS officials implicated in inmate deaths found that in 26 cases there had been no response from the DCS and in seven cases the response had been inadequate. Some cases were in various stages of the criminal justice system, but in at least three cases the NPA refused to prosecute. The JICS recommended that the DCS set up a liaison committee with the relevant role-players (SAPS, DOH medico-legal divisions, NPA and DOJCD) "to determine why custodial deaths [did] not receive the required attention".<sup>113</sup>

In 2011/12 the JICS found that the rate of natural death increased to 250 per cent for every 25 per cent increase in total prison population, which confirmed overcrowding as a contributing factor in natural deaths. TB, pneumonia and HIV/AIDS were the top three causes of natural deaths, despite TB being "highly treatable and preventable with appropriate management and health care", albeit "extremely difficult to manage in situations of overcrowding". Pneumonia too was treatable although more likely to spread in overcrowded spaces. The other causes of natural deaths were renal failure and respiratory failure. The prominence of renal failure was a cause for concern as this could be attributed to underlying conditions such as diabetes (which was treatable) or a sudden interruption in the blood supply to the kidney possibly as a result of physical assault (which was preventable).<sup>114</sup>

By 2012/13 natural deaths decreased slightly to 652<sup>115</sup> with trends showing *inter alia* that (a) most deaths were cancer, cardiac, pneumonia and TB related; (b) most of the deceased were previously treated at a DCS hospital and/or a public hospital and (c) the highest number of deaths was among sentenced inmates. Natural deaths continued to decline to 588 in 2013/14.

Regionally, the highest number of deaths occurred in KwaZulu-Natal (147) followed by Gauteng (139). The Eastern Cape recorded the lowest number of deaths (69). The main causes of death were still *inter alia* due to HIV, renal failure, cancer, pneumonia and TB. The JICS also found that 15 of the deceased had died while awaiting the outcome of their medical release applications. By 2014/15 the number of natural deaths have stabilised as only 583 were recorded, a slight change from the previous year. The JICS ascribed this to the stabilisation in the prison population. The highest numbers of deaths were reported in the Gauteng (131) and the Free State/Northern Cape regions (125). The Western Cape region had the lowest number of deaths (54). In 2014/15 the 32

<sup>113</sup> Judicial Inspectorate of Prisons (2011).

<sup>114</sup> Judicial Inspectorate of Correctional Services (2012).

<sup>115</sup> At the same time the number of unnatural deaths increased.



medical release applications were still being considered by the DCS – none of the applicants, however, were among the deceased.

#### **6.4 WOMEN AND HEALTH CARE IN CORRECTIONAL CENTRES<sup>116</sup>**

In 2014/15 the JICS reported on the 3 029 women in DCS facilities which represented 2.3 per cent of the prison population. Of this total, 1 089 were RDs and 1 070 (the vast majority) were under 21 years old. Only 22 of the 243 active correctional centres in South Africa house female inmates nationally. Within the 22 centres there are 16 sections/units that accommodate mother and baby units. The Correctional Services Amendment Act 25 of 2008 allows incarcerated mothers to stay with their babies in a correctional facility until the babies reach the age of two years. Where such facilities are not available closest to the mother's home, the mother is transferred, with her baby, to the nearest Female Correctional Centre with a mother and baby unit. By the end of 2014/15, there were 81 babies with their mothers in DCS facilities.

According to the JICS the overall conditions with respect to nutrition and medical care are adhered to by the DCS in accordance with the Act, as amended. Generally, the conditions in the female sections/units housing sentenced females were much better than those in the sentenced male sections. On the other hand, the remand female sections/units were less clean due to the female remand facilities being more overcrowded which also affected ablution facilities and overall hygiene. This had an impact on their general health and wellbeing. In 2014/15 inmates requested to be supplied with more varied forms of toiletries like roll-on and lotion more than once a month. Pregnant inmates requested more pillows and new mattresses to provide better support for their backs.

Primary health care services were made available for the prevention of diseases, promotion of health, management of acute and chronic communicable diseases such as HIV and STIs, and non-communicable conditions such as diabetes, hypertension, and mental conditions, affecting women and their babies, in line with the Department of Health's legislation, policies, guidelines and protocols. Other health care services provided for were parenting skills, expanded programme of immunisation, eradication of mother to child transmission of HIV, nutritional programme for the mother and baby which included breastfeeding and weaning. There was a specific meal plan for pregnant and breastfeeding women and their infants.

The DCS worked with other stakeholders, including other government departments and NGOs, to provide health care services for the prevention of communicable and non-communicable conditions, pregnancy and post-partum care, including referral to specialists, and general promotion of health for women and their babies, including prevention of mother-to-child-HIV transmission, special diets for nursing mothers and children, vaccinations and health education.

Social work services and psychological services were also available upon request or referrals after proper assessments. Stakeholders and NGOs also assisted with the alternative placement of babies after leaving the DCS facilities at the age of two years, and tried to ensure contact between the mothers and their children.

Nevertheless, a few incidents of inhumane treatment that were reported in 2014/15 included instances where nurses at the clinics passed nasty remarks at offenders before attending to their

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<sup>116</sup> Judicial Inspectorate of Correctional Centres (2015).



health problems, the invasive manner of bodily searches in some centres that violated female inmates' right to privacy and dignity, and posed hygiene and health risks as scanners that came into contact with female genitalia were not sterilised after each use. The JICS expressed concern about the manner in which searches were allegedly conducted which was contrary to section 27(3) of the Correctional Services Act and Chapter 14 of the B Orders.

Other complaints related to the lack of a psychologist and the ratio of one social worker for 956 female inmates at the female section of the Johannesburg Correctional facility. Inmates at this centre also requested the installation of panic buttons in the sections housing pregnant inmates as pregnant inmates who go into labour at night often had to bang on prison doors to get the attention of staff members on duty. In some instances, they were not heard and ended up having to give birth behind bars with the assistance of fellow inmates.

By 20 March 2015 the DCS outlined the measures it has put in place regarding searches, namely, that (a) searching would be conducted by a correctional official of the same gender, (b) officials would be sensitised on body searching and continuous awareness would be done at parades with officials, (c) all searches would be conducted in private, (d) a manager would be present to manage the process during every search and (e) for body searches, including bodily orifices, the HOC or his delegate would be contacted for their approval.

By 31 March 2015, the DCS had however not yet responded to the request for the installation of panic buttons at centres housing pregnant females and the shortages of social workers and psychologists at the Johannesburg Female Correctional Centre.

In 2014/15 the Inspectorate reiterated its recommendations from the previous year that the DCS review its Emergency Support Team and ensure compliance with the requirement that inmates undergo health assessments. It also recommended that the Area Commissioner or delegate attend Visitors Committee meetings. As special considerations applied to women in correctional centres, the JICS recommended that the DCS take cognisance of international law in this regard as set out in its 2014/15 Annual Report.

## **6.5 MENTALLY ILL OFFENDERS / STATE PATIENTS<sup>117</sup>**

In 2007 the JICS found 1 363 prisoners in correctional centres who should have been held in more suitable accommodation for mentally ill prisoners. The practice of sending persons to prison when a care facility was available had to be discouraged. DCS had to be vigilant not to admit mentally ill prisoners that they were unable to care for.

In 2009/10 the JICS made several health-related findings after visiting selected correctional centres, one of which related to the detention of inmates who require specialised medical treatment for mental disorders at correctional centres which were unable to provide such treatment. The JICS recommended that alternative arrangements for treatment should be made in respect of such inmates.

In 2011/12 the JICS reported on suicides which remained the most common cause of “unnatural” deaths in correctional centres.<sup>118</sup> It found that, as in the past, there was question mark over the

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<sup>117</sup>Judicial Inspectorate of Prisons (2007).

<sup>118</sup>Judicial Inspectorate for Correctional Centres (2012).



large number of the 26 inmates who hanged themselves and the actions or lack thereof of the officials in question who ought to be brought to account. The JICS found that (i) where suicidal inmates had demonstrated a tendency to commit suicide or were known to be suffering from some or other form of mental illness or aberration, they should have been subjected to closer and more careful scrutiny and monitoring instead of simply placing them in a communal cell in the hope that being among other inmates would act as a deterrent, and; (ii) that the officials performing patrol duties should have been fully conversant with each vulnerable inmate's history and be properly trained in and briefed on the techniques of monitoring the health and foreseeable conduct of such an inmate. The DCSs "unit management" system, which was designed to place inmates in small groups so that each inmate's condition and peculiar circumstances could become known to the group and to the persons monitoring the group, could play an important role as it was aimed at strengthening inter-personal and communication skills among inmates, and between inmates and correctional officials, by subjecting them to regular briefings and instructive guidance.

In 2014/15 community stakeholder meetings organised by Visitor's Committees in the Eastern Cape dealt with a range of issues, including health care and mentally ill / state patients. During this period the JICS visited King William Town Correctional Centre amid concerns over its 28 mentally ill inmates, most of whom were on transit to Fort Beaufort hospital for observations. With the assistance of the DOH, 18 of the mentally ill inmates were transferred to Fort Beaufort Hospital. Seven inmates alleged to be mentally ill or state patients at Ermelo and Piet Retief Correctional Centres, were transferred to Witbank Hospital and Witkoppies in Pretoria after intervention by ICCVs, HOCs on the Bethal Visitors Committee and the DOH.

## 6.6. RECOMMENDATIONS

The following key health related recommendations have been made by JICS in its annual reports since 2000:<sup>119</sup>

### Recommendations by JICS

#### 2014/15:

- *Overcrowding:* The problem of overcrowding requires a diversified approach as several aspects in the correctional centre are critically affected due to overcrowding. Role-players in the Criminal Justice System Cluster sectors must work together in reducing overcrowding. SAPS must guard against unjustified arrests, courts to guard against postponements, and Legal Aid must assist with unaffordable bail. There is a need for coordinated programmes in communities within the Cluster. These would be necessary in the case of crime prevention programmes with Community Police Forums through the Visitors Committees.
- *Sexual assault:* Extend sexual assault training to DCS officials to enable them to identify and handle various types of complaints by inmates especially in dealing with the sensitivity that goes with matters of a sexual nature.
- *ICCV:* Modernisation of the information technology reporting system remains a high priority especially the enhancement of an inmate's complaint and request management system in order to translate the current manual system into an electronic record-keeping of all inmates' interviews and consultations by ICCVs at correctional centres. The JICS

<sup>119</sup> Note that the JICS has consistently made recommendations on measures to reduce overcrowding and that overcrowding has a direct relationship to health problems and the provision of health care in correctional centres. However, most of these recommendations are not included here.



appreciates the commitment made by the Ministry to review the current status of ICCVs as independent contractors.

- JICS reiterates its recommendations from the previous year that the Department (i) ensure compliance with the requirement that inmates undergo a health assessment; (ii) the Area Commissioner or delegate should attend the Visitors Committee meetings, (iii) special considerations apply to women in correctional centres and thus the DCS should take cognisance of international law in this regard.

#### **2013/14:**

- *Assessment:* Ensure compliance with the requirement that inmates undergo a health assessment.
- *Technology:* Review technology needs, particularly the suitability of closed circuit television (CCTV) and other technology in correctional facilities.
- *Reporting:* Clear regulations for DCS reporting obligations in all areas of the Inspectorate's functional work, e.g. uniform rules or time limits relating to inquiries and investigations.

#### **2012/13:**

- *Independence:* Strengthen the debate on the independence of the Inspectorate and implemented relevant measures identified to address structural concerns relating to independence and the strengthening of the Inspectorate's mandate.
- *Reporting:* DCS must ensure that its Regional Commissioners engage with the Inspectorate's monthly and quarterly reports and monitor and comply with requests to HOCs and Area Commissioners for reports, explanations or queries in respect of all matters reported therein.
- *Attendance:* DCS must ensure the attendance of its staff, more particularly the HOCs or their delegates, at monthly Visitors' Committee meetings.

#### **2011/12:**

- *Reporting:* DCS Management must assist the JICS to finalise its webpage so that HOCs could report electronically on the use of force.
  - The Regional Commissioners should monitor and scrutinise more closely JICS requests to HOCs and Area Commissioners for reports, explanations or enquiries made in respect of all matters, to enable the JICS to express its opinions sooner.
  - Senior management must manage and monitor health care services and submit regular reports to the Inspectorate.
- *Medical Vacancies:* The Department must either fill medical vacancies or manage the frequency of doctors' visits more closely.

#### **2009/10:**

- *Deaths:* DCS must set up a liaison committee with the SAPS, DOH medico-legal divisions, NPA and DOJCD "to determine why custodial deaths do not receive the required attention".
  - HOCs who report deaths to the JICS should also ensure that the designated certifying forms "G362" and "BI-1663", the latter being in support of an application to the Department of Home Affairs for the issue of a death certificate, are fully and properly completed.
  - DCS must instruct HOCs to treat the initial reporting of a death in the centre under their control as vital and essential for purposes of an exhaustive enquiry and not to delegate this task to administrative staff.



- All deaths in custody should be subjected to a medico-legal investigation into the cause of death.
- Regarding deaths and assaults of inmates by DCS officials, swift criminal prosecution should follow, especially where the level of violence constitutes cruel and inhumane treatment of inmates, if not acts of torture. The creation of a culture of impunity must be avoided at all costs.
- Amend section 15 of the CSA to provide that all deaths in correctional centres, regardless of whether or not they are certified as “natural” or “unnatural”, are subjected to a post mortem examination and independent investigation in terms of the Inquests Act.
- *Powers:* Revise the Inspectorate’s power to deal with complaints and provide clarity on the manner in which it should dispose of such complaints in order to deal with unresolved serious complaints of prisoners.
  - Extend the powers of the Inspecting Judge to enforce the findings of the Inspectorate.<sup>120</sup>
- *Mental health:* Make alternative arrangements for the treatment of inmates requiring specialised medical treatment for mental disorders who were detained at correctional centres that could not provide such treatment.
- *Overcrowding:* Revisit the space norms applicable to establishing the approved capacity of cells in correctional centres and recalculate these in accordance with more recent norms.
  - Consider a more equitable distribution of inmate numbers over all correctional centres by diverting inmates from the most overcrowded centres to other centres which are not overcrowded or are significantly less overcrowded.
  - The impact of overcrowding can be mitigated further by limiting the time inmates have to spend in their cells and allowing them to be outside while performing work or rehabilitation activities. No offender should be locked up in a cell for 23 hours per day and deprived of exercise and fresh air.
- *Assessment:* DCS must undertake an audit to ensure all inmates are assessed on their admission and regularly monitored thereafter.<sup>121</sup>
- *Physical infrastructure:* The immediate closure of the corrugated cell accommodation and the speedy replacement thereof with permanent cell accommodation.
  - Means should be investigated on ways to secure a sustainable supply of water.
  - The urgent repair of the ablution block at the Rustenburg Youth Centre.
- *Pollsmoor:* Investigate allegations of assault of inmates, some physically disabled, at Pollsmoor on 4 January 2009 by correctional officials and the unilateral transfer of some of these inmates to areas far from their families and other support structures. The affected inmates should be transferred back to Pollsmoor until the investigation is finalised.
- *Brandvlei:* Provide pharmaceutical services at Brandvlei Correctional Centre.
- *Baviaanspoort:* The “state of the art” hospital facilities at the Baviaanspoort Youth Centre should be put to use without delay.

<sup>120</sup> Various amendments aimed at strengthening the powers of the Inspectorate were introduced by Parliament on 1 October 2009, when the Correctional Services Amendment Act 25 of 2008, was proclaimed. It retained the status quo of a Judge heading the Inspectorate and require that all JICS reports must be submitted to the Minister and Parliament. Unfortunately, the amendments have not adequately addressed the issue of enforceability of JICS findings and recommendations.

<sup>121</sup> In 2010/11 the JICS reported that the DCS had showed a vast improvement in its assessment of RDs on their admission to a correctional centre. The recommendation of an audit, inquiry and rectification by the DCS be conducted in relation to officials not complying with the basic requirement that all inmates undergo a health assessment, as required in terms of s 6(5)(b) of the CSA, was still not done by the end of 2013/14.

**2008/09:**

- *Deaths:* All deaths in custody should be subjected to a medico-legal investigation into the cause of death.

**2007/08:**

- *Medical Parole:* Review section 79 of the CSA 111 of 1998, together with the policy and administrative rules to examine and evaluate whether they are consistent with humane detention, adequate medical (and other treatment) and consolatory and dignified death.
  - The review would include whether the (a) legislative threshold “final phases of any terminal disease or condition” is appropriate; (b) policy and/or administrative rules are cumbersome and delay releases; (c) Correctional Supervision and Parole Boards’ application of the statute and or policy has had a bearing on such releases; and (d) conditions under which such persons can be placed, e.g. release on condition that medical treatment is sought, are appropriate.

**2006/07:**

- *Medical Parole:* Avoid deaths in prison by making use of the provisions in the Act which allow for terminally ill prisoners to be placed on medical parole with conditions.
- *Hygiene:* Be more vigilant of the dangers associated with poor hygiene in a communal environment such as a prison.
  - Insistence upon and compliance by all prisoners with the requirements of personal hygiene should be the norm.
  - Identify and rectify the structural factors that lead to poor hygiene.
  - Provide all prisoners with clothing and bedding. The provisions of section 10(2) allow for an unsentenced prisoner to retain or acquire appropriate clothing and bedding of his/her own choice. This did not exclude the obligation of the DCS to provide when there was a need.
- *Admission:* As a minimum requirement, information brochures, in all official languages, which included information regarding the rules governing the treatment of prisoners, the authorised channels of communication for complaints and requests, the parole process, the role of the JIOP / IPVs and the right to medical treatment had to be handed out to all prisoners on admission to prisons.
- *Performance of staff:* Review performance levels among correctional officials and develop and implement measurable production / performance standards and minimum production targets.
- *Enquiry into health care:* Conduct a full enquiry into the health care of offenders in all centres

**2004/05:**

- *Medical Parole:* Avoid deaths in prison by making use of the provisions in the Act which allow for terminally ill prisoners to be placed on medical parole with conditions.

**2000/01:**

- *Medical Parole:* Amend section 79 of the CSA to allow terminally ill RDs to qualify for compassionate release.<sup>122</sup>

<sup>122</sup> The amended section 79 came into effect on 31 July 2004.



## 6.7 CONCLUSION

The fact that JICS cannot enforce any of its findings or recommendations has weakened its effectiveness. *“Most notable in this regard is the apparent disregard by the Department of a substantial number of the Inspectorate’s reports, which are seemingly being disposed of with little or no consideration of the issues dealt with or the findings or recommendations made therein....Serious cases involving assaults, deaths, suicides and similar events or activities occurring regularly in centres are not adequately investigated or otherwise addressed” which increased “despondency amongst role players”.*<sup>123</sup>

The JICSs call for the “quick-fix” solution of extending the powers of the Inspecting Judge to enforce the findings of the Inspectorate, with due consideration of its capacity, international conventions, best practices, costs and the current nature of the JICS as an independent monitoring and reporting body (and not simply an extension of the DCS) deserves serious consideration, considering the unacceptable overcrowded conditions in prison, the inadequate health care services and shortage of health personnel, and the high number of natural deaths in prison. This, however, should be accompanied by the recommended criminal justice reforms to further reduce the prison population to acceptable international levels.

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<sup>123</sup> Judicial Inspectorate for Correctional Services (2010). Annual Report for the period 1 April 2009 to 31 March 2010. p6



# Chapter 7

## WAY FORWARD FOR PARLIAMENT

Arising from the summary of the findings and recommendations of the oversight bodies including the Portfolio Committee on Justice and Correctional Services, the Constitutional Court judges, the South African Human Rights Commission, the Jali Commission and the Judicial Inspectorate of Correctional Services, the following suggestions can be made:

### **A: General reporting and follow up**

- In order to track the responses of DCS to the challenges identified in all these reports, feedback by the DCS on the findings of all Parliamentary Committee reports, especially the recommendations, should be obligatory and should be provided to the Portfolio Committee on Justice and Correctional Services and the Select Committee on Security and Justice.
- Reports of the Constitutional Court judges on their visits to correctional centres should be tabled in Parliament, for notification of the Portfolio Committee on Justice and Correctional Services and the Select Committee on Security and Justice. The DCS should be requested to respond to the finding and recommendations of these Reports.
- It should become a requirement for magistrates and High Court judges to visit correctional centres based on the example being set by the Judges of the Constitutional Court. This process should be driven by the Office of the Chief Justice under the National and Provincial Efficiency Enhancement Committees.
- The Portfolio Committee on Justice and Correctional Services should consider measures, including legislative amendments to the Correctional Services Act, to address the lack of enforcement of Judicial Inspectorate of Correctional Services findings and recommendations which has weakened its effectiveness.
- DCS should respond to the extent of enforcement and implementation of all health related recommendations made by JICS and provide reasons for the lack of implementation, where relevant.

### **B: Specific measures to improve the provision of health services to inmates**

A number of specific concerns have been raised in the various reports.

- A status report should be requested on each of these areas to ascertain the extent to which these issues have been resolved in the DCS or progress made.

These include:

**Standardisation:** A lack of standardisation is noted in the reports. There is no consistency in ensuring conditions of detention consistent with human dignity and the provision of adequate health services are standardised across the DCS facilities.



**Overcrowding:** There is widespread acknowledgement that overcrowding is a key component of the spread of communicable disease in correctional centres, including TB. Overcrowding is not being managed effectively in a number of centres. This has a direct effect on prison conditions which in turn affects the health of the inmates. This means the Department is failing in its duty in terms of the Correctional Services Act and accompanying Standing Orders to hold inmates in cells which meet the requirements prescribed by regulation in respect of floor space, cubic capacity, lighting, ventilation, sanitary installations and weekly inspections to ensure every cell conforms to minimum standards and general health conditions.

The problem of overcrowding requires an effective intersectoral Cluster approach. The DCS must enforce compliance by HOCs for greater use of initiatives to reduce overcrowding, like the S63A Bail Protocol, medical releases in terms of s79 of the CSA.

**Staffing:** The reports all point to insufficient professional health staff including nurses. There are shortages of medical staff (or failure to fill vacant posts). The DCS, DoH and the departments of Social Development, Public Services and Administration and other stakeholders should increase efforts to train and recruit medical and related personnel, especially doctors, nurses, psychologists and social workers. The National Treasury should be engaged about suitable funding models to offer further monetary incentives to attract suitable candidates.

**Health assessment:** Reports show that DCS does not always comply with the requirements that all offenders and RDs undergo a comprehensive health assessment on entry to the centre. All DCS staff, including non-medical and custodial staff, should be trained to identify inmates that pose health and suicide risks in order to prevent deaths in prison as well as the spread of contagious diseases, and manage chronic illnesses. Newly admitted prisoners should be screened for illnesses and inmates with infectious diseases should be isolated from the general prison population.

**Infrastructure constraints:** There are insufficient facilities, particularly single cells, to isolate inmates with infectious diseases. In addition, infrastructure and poor maintenance impacts in particular sanitation, and plumbing. This in turn is negatively impacted by overcrowding. At a minimum, reports suggest that the DCS should ensure that all prisons have hot water, electricity and sufficient ablution and washing facilities. Beds should ideally be provided, but where this is not immediately possible, sleeping mats and sufficient blankets should be available. Toilets and showers should be sufficiently removed from the sleeping quarters both for reasons of hygiene and to provide inmates with a sense of privacy.

**Pharmacies:** Many reports note the insufficient pharmacies and poor management of medication. There are shortages of medical supplies and stock outs.

**Mentally ill inmates:** Reports note insufficient resources, infrastructure and training to deal with mentally ill inmates and a lack of consistency in the treatment of mentally ill offenders. This means the Department is failing in its duty in terms of the Correctional Services Act which provides that inmates suffering from mental or chronic illness or whose health status will be affected detrimentally or whose health status poses a threat to other inmates if detained in a communal cell must be detained separately on request of the Correctional medical practitioner or registered nurse.



**Sexual assault:** Reports point to the problem of sexual assault in correctional centres and the need for DCS officials to be trained to identify and handle sexual assault in prisons. A recommendation has been made to install closed circuit television cameras that may assist partially in this respect. The following specific recommendations have been made: a group of DCS members be nominated from each Correctional Centre to be trained as rape counsellors. The training is critical to properly counsel inmates who suffer trauma of being raped; sexually abused inmates should not be put in solitary confinement nor segregated detention but rather should be kept under observation in the prison hospital. If the victim cannot be accommodated within the prison hospital, consideration should be given to detaining the alleged perpetrators in single cells until the disciplinary matter is finalised; all newly recruited Correctional Services members, should be informed of the enormous diversity of inmates who will at some point be entrusted into their care. To this end, the curriculum of the aspirant Correctional Services members should include chapters/modules that address: Diversity; Sexual orientation; Sexual practices; Homophobia; and Cultural differences. The DCS should disseminate all policies to all its members and to arrange a series of workshops where these policies are made known to all employees and what is expected of them. It also recommended that all first time offenders, when admitted to a Correctional Centre be put together in a cell for the first few days on their own. They should be not mixed with sentenced prisoner/s either as a monitor or a cleaner, as is practice. DCS personnel should orientate inmates and detainees about the existing gang activities and any other practices in Correctional Centres that could lead to sexual and other abuses

**Medical release:** Reports note difficulties in ensuring the medical release of terminally ill inmates.

**Health care complaints:** Reports note complaints by inmates that their medical concerns are not effectively responded to. JICS has noted the need to modernise the information technology reporting system in order to ensure electronic record keeping of all interviews and consultation by ICCVs at correctional centres. In addition, JICS has noted that the DCS must ensure that its Regional Commissioners engage with the Inspectorate's monthly and quarterly reports and monitor and comply with requests to HOCs and Area Commissioners for reports, explanations or queries in respect of all matters reported therein. Also, DCS must ensure the attendance of its staff, more particularly the HOCs or their delegates, at monthly Visitors' Committee meetings. Senior management must manage and monitor health care services and submit regular report to the JICS.

**HIV and AIDS and TB:** Reports note the lack of consistency in the treatment for HIV/AIDS and treatment and prevention of the spread of TB. This is despite the existence of Guidelines for the Management of Tuberculosis, Human Immuno-Deficiency Virus and Sexually Transmitted Infections in Correctional Facilities (2013) and the judgement of the Constitutional Court in *Lee v Minister of Correctional Services*.

**Relationship with Department of Health:** Reports point to inconsistency in the status of service level agreements and relationship with the Department of Health.

**Reporting on natural and unnatural deaths:** The DCS must enforce compliance by HOCs with mandatory reporting requirements in respect of all deaths in prison (including infants), and the use of segregation and mechanical restraints. All deaths in custody should be subjected to a medico-legal investigation into the cause of death. The DCS must provide regular feedback to the JICS in respect of disciplinary steps and criminal actions taken against DCS officials implicated in the



deaths of inmates in custody. The DCS should set up a liaison committee with the relevant role-players (SAPS, DOH medico-legal divisions, NPA and DOJCD) to ensure custodial deaths receive the required attention.

**Women:** The reports note that women have some unique health related needs. Special considerations apply to women in correctional centres and thus the DCS should take cognisance of international law in this regard. The DCS should install panic buttons in the sections of correctional facilities housing pregnant inmates and ensure that medical staff members are on duty and check up on such inmates at regular intervals during the day and night.



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