

THE JUDICIAL INSPECTORATE FOR  
CORRECTIONAL SERVICES

# QUARTERLY REPORT

1 April – 30 June 2018

INSPECTING JUDGE:  
JUSTICE JOHANN VAN DER WESTHUIZEN



# JICS

Judicial Inspectorate for  
Correctional Services







# THE JUDICIAL INSPECTORATE FOR CORRECTIONAL SERVICES **QUARTERLY REPORT**

1 APRIL — 30 JUNE 2018





## SUBMISSION

### To

**Adv. Michael Masutha,**  
MP, Minister: Justice and Correctional Services

**Mr. Thabang Makwetla,**  
MP, Deputy Minister: Correctional Services

**Dr. Mathole Motshekga,**  
MP, Chair: Parliamentary Portfolio Committee on  
Correctional Services

### CC

**Mr. Arthur Fraser,**  
National Commissioner: Correctional Services

### By

**Justice Johann van der Westhuizen,**  
Inspecting Judge for Correctional Services

### On

**1 August 2018**

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## LIST OF ABBREVIATIONS

<b>IJ</b>	Inspecting Judge
<b>CSA</b>	Correctional Services Act 111 of 1998
<b>JICS</b>	Judicial Inspectorate for Correctional Services
<b>DCS</b>	Department of Correctional Services
<b>CFO</b>	Chief Financial Officer
<b>CEO</b>	Chief Executive Officer
<b>NMR</b>	Northern Management Region
<b>CMR</b>	Central Management Region
<b>KZNMR</b>	KwaZulu-Natal Management Region
<b>WCMR</b>	Western Cape Management Region
<b>ECMR</b>	Eastern Cape Management Region
<b>AC</b>	Area Commissioner
<b>CC</b>	Correctional Centre
<b>ISS</b>	Integrated Security System
<b>MIS</b>	Management Information System
<b>ICCVs</b>	Independent Correctional Centre Visitors
<b>PCN</b>	Public Calling for Nominations
<b>MSSD</b>	Minimum Standard of Service Delivery
<b>VC</b>	Visitors Committee
<b>PMDS</b>	Performance Management Development System
<b>SCOA</b>	Standard Chart of Accounts
<b>SMR</b>	Strategic Midterm Review
<b>CMCs</b>	Case Management Committees
<b>HOC</b>	Head of Centre
<b>VCCO</b>	Visitors Centre Coordinators



*As captured in the words “our dignity” in its logo, JICS views the constitutionally guaranteed right of all of us to human dignity as inextricably linked to the dignity of inmates.*

**Justice Johann van der Westhuizen**  
Inspecting Judge

## FOREWORD BY THE INSPECTING JUDGE

This quarterly report on activities of the Judicial Inspectorate for Correctional Services (JICS) for the period 1 April to 31 June 2018 is submitted to the Minister of Justice and Correctional Services, the Deputy Minister of Correctional Services and the Chair of the Parliamentary Portfolio Committee on Justice and Correctional Services, in compliance with the Correctional Services Act (CSA) 111 of 1998.

The previous quarterly report for the period 1 January to 31 March 2018 was submitted on 5 June 2018 to the Ministry and to the Parliamentary Portfolio Committee on Justice and Correctional Services.

The contents of this report speak for themselves. A few aspects mentioned, but also going slightly wider than the time period, are highlighted here.

### Capacity

In 2016 and repeatedly afterwards the Inspecting Judge (IJ) and Chief Executive Officer (CEO) of JICS were informed by the National Treasury that the budget of JICS was “ring-fenced”. Early this year JICS was informed of what appeared to be a budget cut of almost 29 % for the 2018 to 2019 financial year. Initially some DCS officials defended this apparent cut and explained that it was related to the general cut of approximately 2, 4 % across all government departments.

At a meeting with the Minister and senior DCS officials in February 2018, the Chief Financial Officer of DCS stated that the apparent major cut was “an error” which had already been corrected. After several meetings between JICS and DCS officials it became clear that, while JICS estimated and asked for R72 832 000, 00, a total of R71 341 000, 00 was allocated.

As repeatedly stated earlier, JICS accepts the general cut across the board. It is problematic though that DCS appears to have decided unilaterally to allocate R64 561 000, 00 to the item “Compensation” and R6 780 000, 00 to “Goods and Services.” This figure includes allocation for Transfers and Subsidies as well as Machinery and Equipment. For “Compensation” JICS requested only R64 416 000, 00; and DCS allocated R145 000, 00 more than JICS needed! However, for “Goods and Services.” JICS requested R8 416 000, 00. DCS only allocated R6 780 000, 00. This is R1 716 000, 00 (22%) less than requested!

JICS was not consulted on this decision. This is unacceptable. Unilateral interference with JICS' budget seems to continue.

The allocation impacts very seriously on the operations of JICS, including the ability to travel to correctional centres far from JICS offices. In spite of the fact that this problematic issue has been raised repeatedly, the situation is still the same. The practice and apparent attitude of DCS hold potential for the serious and deliberate undermining of JICS, its independent role, and its mandate to oversee the treatment of inmates in correctional centres.

JICS experienced problems with feedback from DCS on much needed vehicles. We initially requested ten vehicles. After DCS had indicated that this was not affordable, JICS requested five plus a replacement for the vehicle of the IJ, purchased in 2013 for Inspecting Judge Tshabalala and since used by three judges. Then JICS further reduced our needs by agreeing to three operational vehicles, plus one for the IJ. For more than three months, from 9 March 2018, no feedback was received from DCS on the urgent need for vehicles.

On 19 June 2018 the National Commissioner of DCS agreed to allocate R1 000 000 to JICS, to purchase five vehicles for its operations. In a letter it was stressed: "Please be advised that this once-off allocation for 2018/19 from reprioritised savings and no carry through will be provided"

The letter signed by the National Commissioner also stated: "With regard to the request for the procurement of Judge's vehicle you are advised to hire the vehicle using your 2018/19 budget baseline" This effectively means that the BMW GT purchased five years ago for Judge Tshabalala with now more than 150 000 kilometres will never be replaced. To hire the equivalent of the present BMW will cost approximately R2640.00 and R3660.00 per day or R79, 000.00 to R110, 000.00 per month. A new BMW in the same category costs between R625 000 and R850 000. JICS has no funds for this. Constitutional Court judges are currently entitled to a vehicle of R1 300 000 from the GFleet. The fact that the SCA requires JICS to be headed by a judge implies the independence, fairness, status, and benefits of a judge. At a meeting with the Minister on 6th August, which the National Commissioner attended, the Minister stated clearly that the benefits of the IJ do not depend on the budget of DCS, but on the rules

applicable to judges. Aspects of the budget were also discussed and progress was made, with the intervention of the minister.

### **Accommodation**

In previous reports the dire situation regarding office space for the Head Office and Northern Management Region (NMR) of JICS was mentioned. A long term solution is still not in sight. Tender processes have failed. The procurement of long term accommodation for the head office and NMR of JICS, which has been on the agenda from before April 2016 when I was appointed as IJ, seems to be "dead" at this stage.

At the end of June 2018 the JICS Head Office temporarily moved into the 27th and 29th floors of the SALU building in Pretoria, where the Ministry is housed. The Ministry's support is much appreciated by JICS. However, much renovation still needs to be done and essential furniture is awaited.

### **Independence**

As stated in the earlier reports, the non-governmental organisation, Sonke Gender Justice, is busy with litigation against the President, Minister, National Commissioner and IJ, as respondents, attacking the constitutional validity of the CSA, in so far as it deals with JICS. The application is set down for hearing in November 2018.

A significant degree of consensus that JICS should indeed enjoy greater independence and perhaps be transformed into a "government component" has been reached. Processes in this regard, involving several government departments, have been making very slow progress.

### **Themes**

As stated before, JICS is working on "thematic reports" with regard to problematic issues that seem to be systemic rather than ad hoc, in addition to the reports on specific inspections, required by the CSA.

The need to properly investigate the physical conditions of correctional facilities, including the failure to repair, maintain and upgrade essential spaces and mechanisms like kitchens, cells, locks, water pumps and concrete floors has strongly presented itself during recent oversight visits at Elliotdale in the Eastern Cape, Tswelopele in the Northern Cape and in KwaZulu-Natal. These conditions constitute serious security, health and other risks, to officials as well as inmates.



DCS officials in some centres complain more than inmates about the conditions of facilities. The coordination between DCS and the Department of Public Works appears to be unsatisfactory. JICS is preparing a report on the state of facilities; and is considering an enquiry in terms of section 90(5) and (6) of the CSA, read with sections 3, 4, and 5 of the Commissions Act 8 of 1947.

There also seems to be a shortage of prison uniforms and especially shoes, even in winter, at several of the correctional centres we visited, which presents a health risk.

Other thematic reports in the making deal with violence and the legality of supermax facilities.

Overcrowding remains a very serious problem at the core of many concerns about South African correctional centres. After having been favourably impressed by an initiative led by the Chief Magistrate of Durban and his colleagues in KwaZulu-Natal, I am giving renewed attention to the issue.

#### **A luta continua!**

As captured in the words “our dignity” in its logo, JICS views the constitutionally guaranteed right of all of us to human dignity as inextricably linked to the dignity of inmates.

Despite concerns, JICS continues to embrace its mandate with pride and enthusiasm.

The Ministry and DCS are thanked for their support and cooperation. Matters of concern regarding DCS will be pursued with vigour, respect, and integrity.

**Johann van der Westhuizen**

Inspecting Judge

8 August 2018





# PART A: PERFORMANCE INFORMATION AND OVERSIGHT REPORT

## Performance Information

In terms of section 90(3) of the Correctional Services Act (CSA) 111 of 1998, the Inspecting Judge (IJ) must report on each inspection to the Minister and the Parliamentary Portfolio Committee on Justice and Correctional Services.

The IJ and the Ministry have agreed that reports on inspections will be submitted quarterly. When necessary, reports on specific inspections will be submitted. The submission of this quarterly report to the Minister, Deputy Minister and Portfolio Committee is in compliance of the aforementioned section.

As a matter of courtesy and for the purposes of effective remedial action and cooperation, the report is also submitted to the National Commissioner of Correctional Services.

## Inspections

Thirty inspections were conducted by the Judicial Inspectorate for Correctional Services (JICS) inspectors, and nine by the Inspecting Judge during the first quarter for the period 1 April – 30 June 2018. The 30 inspections are as per the JICS national inspection plan. JICS is currently in the process of engaging DCS regarding its findings and recommendations.



Figure 1: Inspections (30 conducted)

## Inspections: Overview, findings/recommendations/critical interventions

For a synopsis of inspections conducted for the quarter, please refer to the regions where the inspections were conducted.

## Reporting of Inspections to IJ/Minister/Other

Zero reasons, see above.

## Observations/Visits by IJ/Judges/Magistrates

Zero reasons, see above.

### Inspections by the IJ:

For inspections by the IJ, Johan Van Der Westhuizen, see annexure A.

### Investigations

Seven investigations were conducted during this quarter. Refer to regions for further details.

**April:** No investigations were conducted.

**May (4):** Mdantsane CC Malmesbury CC Rooigrond Medium A CC King Williams Town CC

**June (3):** Leeuwkop Medium Kgoši Mampuru II Local Krugersdorp Correctional Centre

### Reporting of Investigations to: IJ/DCS/DM/Minister or Other

There have been zero reports for the quarter.

### Complaints

Statistics of all matters dealt with by the Complaints Unit

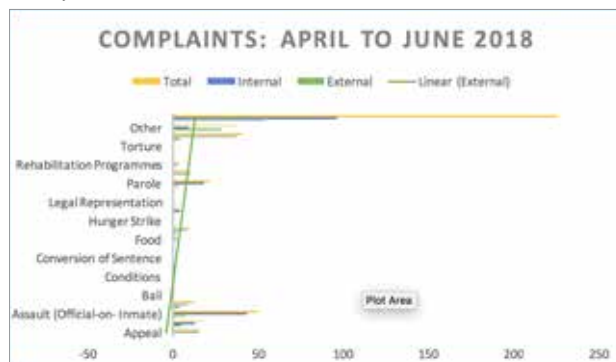


Table 1: All complaints April – June 2018

**External Referrals: 54**

**Internal Referrals: 171**

**Total: 225**

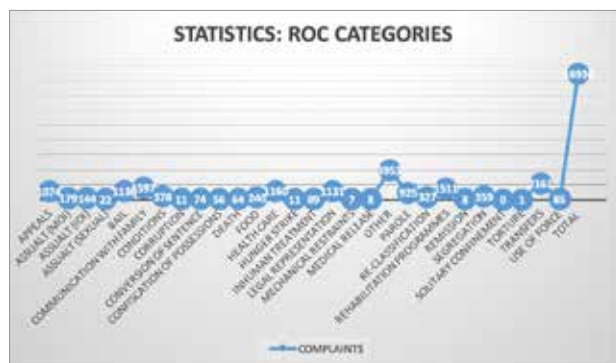


Table 2: Statistics of Complaints as Per Category (April to June 2018)

Table (2) above are categories of the various complaints received overall and figure (2) is a depiction of the percentage of complaints received per region.

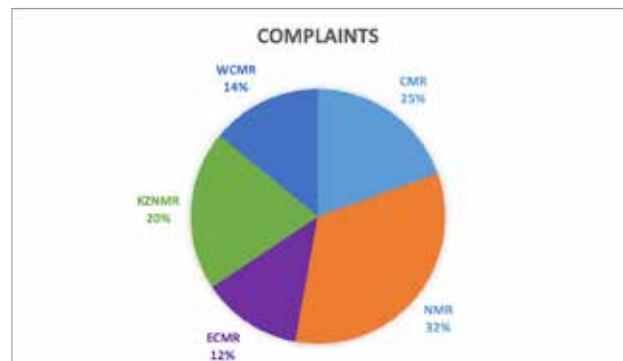


Figure 2: Complaint percentage received as per Regions

### Deaths

These are categorized as follows: unnatural deaths, vulnerable deaths, and natural deaths.

#### Unnatural deaths

Twenty four unnatural deaths were reported for the quarter of April – June 2018 as a result of the following:

##### Assault

Inmate on inmate (4): Eastern Cape (1); LMN (1); Western Cape (2)

##### Suicide (7)

NCFS (2); Western Cape (1); Gauteng (3); KZN (1)

##### Unnatural causes other (13)

NCFS (1); Gauteng (2); KwaZulu- Natal (2); LMN (3); Western Cape (3); Eastern Cape (2).

#### Vulnerable deaths

The Inspectorate also monitors and reports on vulnerable deaths, which consist of deaths of females, juveniles, children and babies. There were no vulnerable deaths reported during this quarter.

#### Natural deaths

No quarterly (April – June 2018) information could be retrieved due to dysfunctional MIS System.

### Segregations

No quarterly (April – June 2018) information could be retrieved due to dysfunctional MIS System.

### Mechanical restraints

No quarterly (April – June 2018) information could be retrieved due to dysfunctional MIS System.

\*Take note that the mandatory unit usually provides a brief description on the mechanical restraints of juveniles. All mechanical restraints are reported to the Inspectorate. No incidents for the use of mechanical restraints on juveniles were reported.

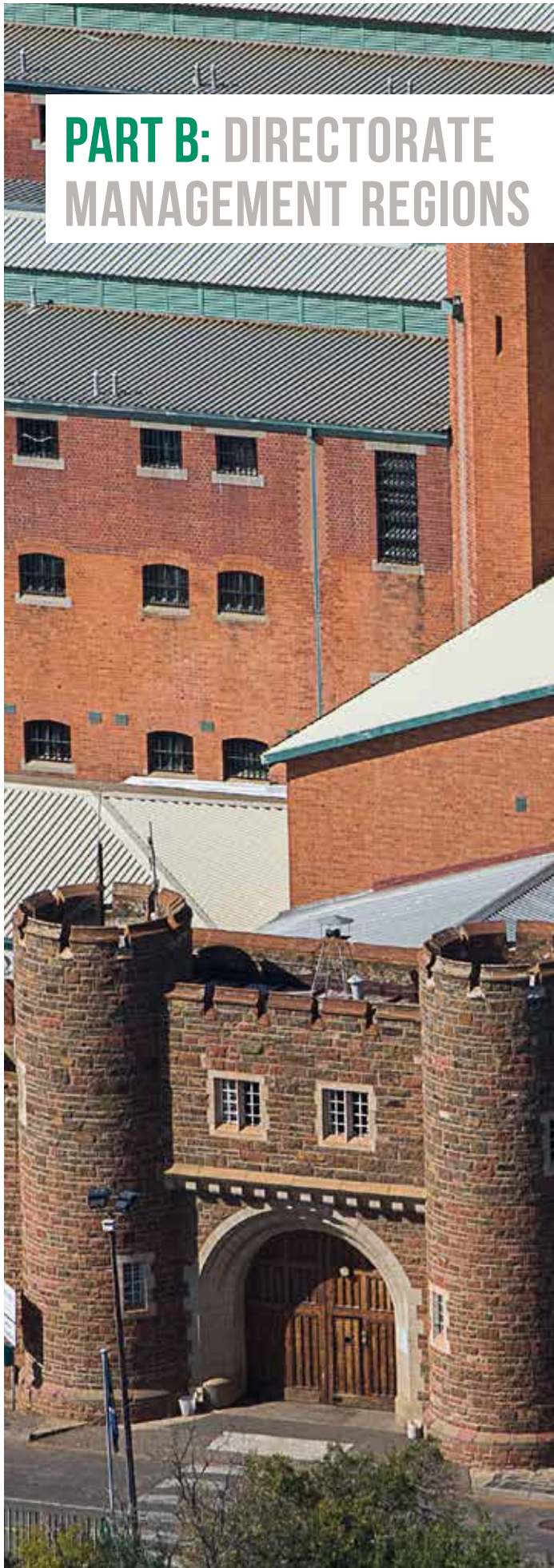
### Use of force

No quarterly (April – June) information could be retrieved due to dysfunctional MIS System. Numerous requests were made to DCS to have the MIS restored/fixed, but this request has been in vain.

**Total number of reports: 0**







# PART B: DIRECTORATE MANAGEMENT REGIONS

## Independent Correctional Centre Visitors (ICCVs)

(Sections 92 and 93 of the CSA No. 111 of 1998)

### Public Calling for Nominations (PCN) Meetings

No public calling for nominations in this quarter.

### ICCV Interviews

No interviews held in this quarter.

### Training of ICCVs

No ICCVs trained in this quarter.

### ICCV Performance Audits Conducted

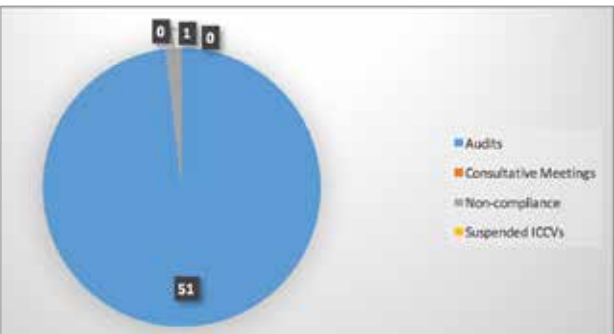


Table 6: Audits conducted

In line with the Public Finance Management Act of 1999, ICCVs must undergo performance audits as per the JICS Performance Audit Plan. Performance audits are twofold: it focuses firstly on financial accountability with the aim of good governance standards, and secondly on developing and empowering ICCVs. The graph illustrates the number of audits (51) conducted during this quarter, with zero consultative meetings, one non-compliant and zero suspended ICCV.

### Minimum Standard of Service Delivery (MSSD)



Table 7: MSSD

On a monthly basis ICCVs are required to submit their mini-inspection reports which form part





of their MSSD. During the site visit, the ICCV is expected to visit all communal cells, special care units, hospitals, kitchens and any other area within the correctional centre where inmates work or sleep.

Site visit reports reflect the conditions under which the inmates are incarcerated, rehabilitation and other services that are available at any particular correctional centre. These reports are then sent to the Directorate Legal Services and Complaints Units, which follow up on matters that may warrant inspections or investigations.

### Stakeholder Involvement

(Section 94 of the CSA)

#### Visitors Committee (VC) Meetings

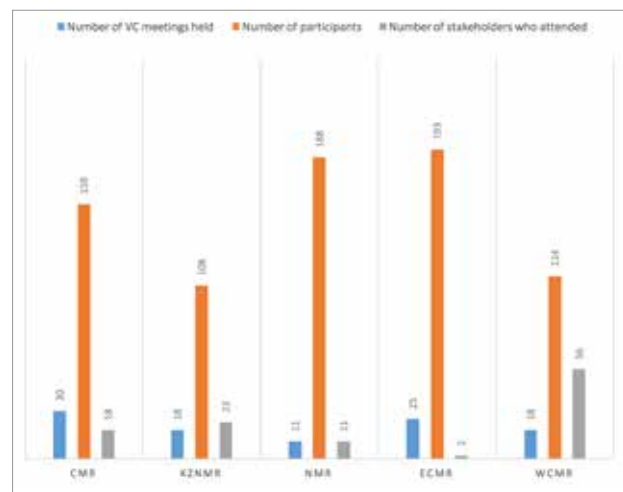


Table 8: Meetings and engagements

The Visitors Committee (VC) is a formal structure consisting of ICCVs of a particular management area. The VC is established in terms of Section 94 of CSA and its statutory powers and functions are as follows:

- To consider unresolved complaints and find a resolution,
- To submit complaints to the IJ which the committee cannot resolve,
- To organise and schedule visits,
- To extend and promote the community's interest and involvement in correctional matters, and
- To submit minutes of meetings to the IJ.

## PART C: HUMAN RESOURCES

### Organisational Structure

Approved structure as at 30 June 2018:

There are 87 approved and funded posts on the fixed establishment.

- Ten vacant positions, nine positions filled on fixed term contract employees.
- There are 23 additional fixed term contract positions on the post establishment.
- JICS vacancy rate as at 30 June 2018 is 11.6 %

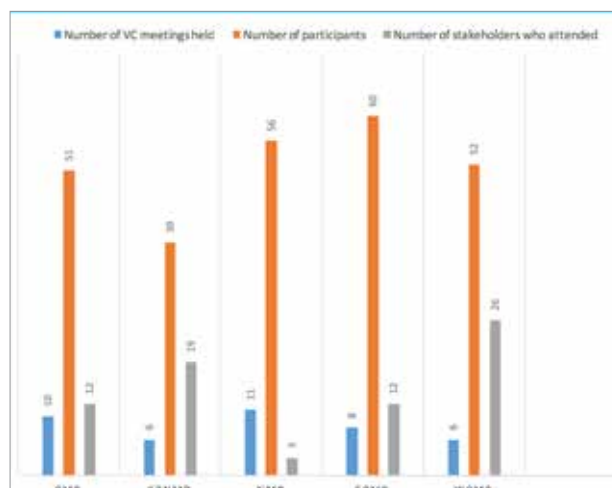


Table 9: ICCV Filled and Vacant Post Percentage

### Performance Agreements

#### 2017-2018

58 Booklets captured on PERSAL

#### 2018-2019

65 Booklets captured on PERSAL



## PART D: FINANCE

### Budget

Budget for 2018/2019 Financial Year as at 30 June 2018

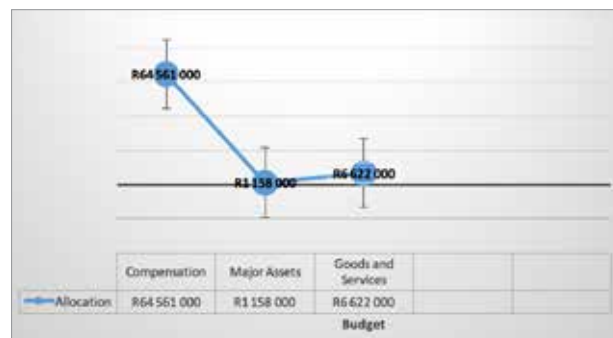


Table 10: Budget for 2017/2018 Financial Year

### Expenditure

The Expenditure for period 1 April 2018 to 30 June 2018 amounts to R 15 008 250, 74.

#### Available Budget as on 30 June 2018

R 57 332 749.26

Commitments

R 1 737 477.46

#### Reasons for under spending by 4.24% on SCOA items

**Compensation of Employees: 18.80%**

**Ideal: 24.99%**

**Deviation: 6.19%**

Underspending due to recruitment and selection process not concluded yet of all vacant and funded posts.

**Goods and Services: 38.18%**

**Ideal: 24.99%**

**Deviation: -13.19%**

1. The over spending is due to backlog of LOGIS orders during previous Financial Year that could not be processed.
2. Commitments that could not be released in the previous financial year due to invoices not received yet.

**Capital Assets: 29.84%**

**Ideal: 24.99%**

**Deviation: -4.85%**

Overspending due to LOGIS orders for finance leases generated for the entire financial year. The number of photocopier machines is another reason for overspending, which negatively impacts on the budget considering the allocation.

## Fleet /Transport Management

Status of JICS Current Vehicle-fleet as at 30 June 2018.

Vehicle Fleet Summary: 24 Vehicles

### Challenges

Eleven JICS vehicles need to be disposed of, as they are beyond economical repair as per Transport Manual 7.1.1(a-c), however seven vehicles are still in a reasonable condition (high mileage) and operational.

### Possible Solutions

Once off budget allocation (R1 000 000) for the procurement of six vehicles was approved by the National Commissioner: Correctional Services on 2018/06/19.

### Fleet Operating Cost for period under review:

April 2018: Total – R65384.44

May 2018: Total – R40753.85

June 2018: Total - R 54735.84

The total fleet operating cost for the fourth quarter is R160 874.13.

## Property and Facilities Management

### New/Envisaged Property

- Northern Management Region, Eastern Cape Management Region, and JICS Pretoria Head Office earmarked for relocation.
- Pretoria Office relocated to temporary accommodation in the SALU Building.

### Lease Agreement (Labour Saving Devices)

JICS currently has five rental lease agreements for office space in the various JICS offices of (Cape Town, Bloemfontein, Durban, and Pretoria).

# ANNEXURE A

### Oversight Visits by the Inspecting Judge.

The following nine oversight visits were conducted during this quarter:

1. Ebongweni CC: 4 April 2018
2. Maphumulo CC: 6 April 2018
3. Stanger CC: 6 April 2018
4. Zonderwater CC: 20 April 2018
5. Baviaanspoort CC: 26 April 2018
6. Elliotdale CC: 8 May 2018
7. Tswelopele CC: 10 May 2018
8. Brandfort CC: 11 May 2018
9. Durban CC: 26 June 2018

The report for Elliotsdale is available below:

## Elliotsdale Correctional Centre

8 MAY 2018

### Introduction

The mandate of JICS is to exercise an oversight role over the DCS. JICS carries out this mandate by conducting inspections at correctional centres for reporting on the treatment and living conditions of inmates at correctional centres. This mandate is in terms of section 85(2) of the Correctional Services Act (CSA). Pursuant to this mandate, the IJ visited the Elliotdale correctional centre near Mthatha.

### Overview of the centre

The Elliotdale correctional centre is a medium category small centre. At a cursory glance, it was apparent that the fence around the centre was not well maintained, the building has not been painted in years, and there are visible cracks on the outside walls.

### Accommodation, inmates' profile and population

The centre has approved capacity for 49 inmates. The centre population on the 8th of May 2018 housed 48 inmates, thus experiencing no overcrowding. The lower risk inmates (males) are accommodated in communal cells.

### Health care and hygiene

The centre has a clinic with one bed and is not in a satisfactory condition. There is one nurse and one social worker. Doctors, psychologists, and psychiatrists visit the centre on a needs basis. The centre accesses most of its medication from the pharmacy in East London.

The kitchen is in an unsatisfactory state. The floor around the drain area has crumbled and is a breeding ground for germs. The centre has not received a verification certificate in years. The tiling is damaged in the kitchen, however the inmates working there try to keep it as clean as possible. Flies and cockroaches were observed in the kitchen at the time of the visit and the cooling room had an unpleasant stench.

#### **Nutrition, exercise and education**

Inmates are served three meals a day as per section 8 of the CSA. The inmates did not complain about the food. The inmates receive exercise in the form of soccer and volleyball. There are no school facilities.

#### **Inspection of the building**

It must be highlighted that upon arrival at the administrative office, the IJ requested to use the bathroom facilities and was informed that there is no functional bathroom in the administration office. The HCC's designated house was offered as alternative there. The water that the centre is using is also being pulled by a pipe from this designated house. The HCC does not live in this house as it is not in a habitable state. The building is old and dilapidated.

The whole facility is in dire need of renovations. The walls are cracked and the IJ was informed that the ceiling leaks during rainy days. The centre has corrugated iron roofing. This corrugated iron is also derelict and poses a security risk. It would be possible for inmates to escape to escape through the roof.

The IJ was taken to one of the communal cells. In this particular cell, the toilet was leaking, however most of the showers and toilets in other cells are working. The toilet and the shower in each communal cell are separate from the cell and offers a measure of privacy to the inmates. The walls are cracked and the roof is leaking. The inmates complained that they experience shortage of blankets, more so now during the winter season. The single cells are used as store rooms because they don't get segregation requests at the centre. Some cells in the centre are not being utilized because they are totally inhabitable. The roofing is crumbling.

The clinic when visited, also has a leaking roof with cracked walls.

#### **Problems with the Department of Public Works (DPW)**

While the team was inspecting the kitchen, Mr Sivuka, the Director: Facilities at the regional office joined us.

Mr Sivuka explained that in September 2017, renovations were promised, but due to budget cuts, DPW was unable to go through with the project. Early this year, DPW and DCS had a meeting about the project and DPW assured DCS that this matter was of high priority in this 2018/2019 financial year, as they understood that the centre is an escape risk, due to its conditions. The project would therefore be fully funded in this financial year. Thus far, the design plans have been signed off and submitted to the Sketch Plan Committee, however no due dates have been provided. There is seemingly no official site handover date.

This project began in 2014 and evidently DPW is slow to assist DCS even though, according to Mr Sivuka, a portion of the DCS budget, as per the memorandum of understanding between DCS and DPW, is allocated to DPW by DCS to carry out these projects. DCS has a budget of R1 billion with which maintenance work can be funded, but the funds cannot be accessed. There is also a general shortage of artisans at the Mthatha and Sada Management Areas, which is causing a build-up of repair work at the affected centres (27 in total) in those management areas. This in turn has an effect on the humane conditions of detention of inmates. Mr Sivuka commented that it would be better if DCS could shift some of its budget from DPW and utilize their own qualified personnel to carry out these projects and properly service the correctional centres. It needs to be noted that the remuneration bill of DCS has escalated from R11 million to R62 million per annum in order to obtain these skilled professionals, but with no visible results as yet.

#### **Shoes**

The inmates expressed concern regarding the fact that they are not issued with shoes when they are admitted into the centre. This is alarming as there are prescribed shoes that the inmates are supposed to receive upon admission, but most of the inmates are not wearing them (see cover photo per illustration). Winter is approaching and the cells are cold. Some inmates cannot afford to buy themselves decent warm shoes.



### **Conclusion and recommendations**

This centre is not fit for inmates. It is a security risk and endangers the lives of both personnel and inmates.

It would assist if DPW could hasten the renovations project so that the centre can be fully functional. It is also recommended that DCS consider the suggestion by Mr Sivuka and shift some of its budget from DPW, in order to be able to service some of the centres themselves, with their own qualified personnel.









