

JUDICIAL INSPECTORATE FOR CORRECTIONAL SERVICES

ANNUAL REPORT FOR THE PERIOD 01 APRIL 2013 TO 31 MARCH 2014

Submitted to the Honourable Mr. Jacob Gedleyihlekisa Zuma

President of the Republic of South Africa

and

The Honourable Adv. Michael Masutha

Minister of Justice and Correctional Services

and

The Honourable Mr. Thabang Makwetla

Deputy Minister of Correctional Services

by

The Inspecting Judge

Judge Vuka Eliakim Maswazi Tshabalala

(in compliance with section 90 (4) of the

***Correctional Services Act 111 of 1998*)**

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Acronyms / Abbreviations

AA	Appropriation Act 9 of 2008
AG	Auditor General
BBBEEA	Broad Based Black Economic Empowerment Act 53 of 2003
BCEA	Basic Conditions of Employment Act 75 of 1997 (as amended)
CEO	Chief Executive Officer
CGE	Commission for Gender Equality
CJA	Child Justice Act 75 of 2008 (as amended)
CMC	Case Management Committee
CMR	Central Management Region of the Inspectorate
COIDA	Compensation for Occupational Injuries and Disease Act
Constitution	Constitution of the RSA Act 108 of 1996
CPA	Criminal Procedure Act 51 of 1977 (as amended)
CSA	Correctional Services Act 111 of 1998, as amended
CSO	Civil society organisation
CSPB	Correctional Supervision and Parole Board
CSPRI	Civil Society Prison Reform Initiative
DCS	Department of Correctional Services
Department	Department of Correctional Services
DPSA	Department of Public Service and Administration
DPW	Department of Public Works
DRA	Division of Revenue Act 6 of 2011 (as amended)
EC	Eastern Cape Management Region of the DCS
EEA	Employment Equity Act 55 of 1998
EMR	Eastern Management Region of the Inspectorate
EST	Emergency Support Team
FS/NC	Free State / Northern Cape Management Region of the DCS
GP	Gauteng Province Management Region of the DCS
HA	Health Act 61 of 2003 (as amended)
HCC	Head of Correctional Centre
ICCV	Independent Correctional Centre Visitor
ICRC	International Committee of the Red Cross
Inspectorate	Judicial Inspectorate for Correctional Services

IPID	Independent Police Investigative Directorate
JICS	Judicial Inspectorate for Correctional Services
KZN	Kwa-zulu Natal Management Region of the DCS
LMN	Limpopo, Mpumalanga, North West Management Region of the DCS
LRA	The Labour Relations Act 66 of 1995
MAB	Medical Advisory Board
MSSD	Minimum Standards of Service Delivery
MTEF	Medium Term Expenditure Framework
NCCS	National Council for Correctional Services
NPA	National Prosecution Authority
NMR	Northern Management Region of the Inspectorate
OHSA	Occupational Health and Safety Act 85 of 1993 (as amended)
OPP	Office of the Public Protector
PAIA	Promotion of Access to Information Act 2 of 2000 (as amended)
PAJA	Promotion of Administrative Justice Act 3 of 2000 (as amended)
PCN	Public Calling for Nomination
PFMA	Public Finance Management Act 29 of 1999, as amended
PMDS	Performance Management and Development System
Portfolio Committee	Parliamentary Portfolio Committee on Correctional Services
PPFA	Preferential Procurement Policy Framework Act 5 of 2000 (as amended)
PSA	Public Service Act 147 of 1999, as amended
SAHRC	South African Human Rights Commission
SAPS	South African Police Services
SAQA	South African Qualification Authority
SASSETA	Safety and Security Sector Education and Training Authority
SCOPA	Standing Committee on Public Accounts
SDA	Skills Development Act 97 of 1998 (as amended)
SITA	State Information Technology Agency
Sonke	Sonke Gender Justice Network
SMR	Southern Management Region of the Inspectorate
UK	United Kingdom
VC	Visitors' Committee
VCCO	Visitors Committee Co-Coordinator
WC	Western Cape Management Region of the DCS

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Foreword by the Inspecting Judge

In line with the statutory obligation bestowed upon me in terms of sections 90 (4) of the Correctional Services Act 111 of 1998, as amended, I herewith present my Annual Report for the period 01 April 2013 to 31 March 2014. It gives me immense pleasure to provide the President of the Republic of South Africa, the Honourable Jacob Gedleyihlekisa Zuma and the Minister of Justice and Correctional Services, the Honourable Advocate Michael Masutha, and his deputy, the Honourable Thabang Makwetla, my report on the work of my office during the preceding year. The report covers the period when former Minister for Correctional Services, the Honourable Sibusiso Ndebele and his deputy, the Honourable Dr Ngoako Ramathlodi held office and with whom I enjoyed a warm and cordial relationship. The former National Commissioner, Mr Tom Moyane and his successors who acted in his position, Messrs Jolingana and Modise are also thanked.

The constitutional function of parliamentary oversight by the Portfolio Committee on Correctional Services was well served by its constituent members and ably led by its chairperson, the Honourable Vincent Smith, MP. Their critique and suggestions on the work of the Department of Correctional Services (“DCS”) and the Judicial Inspectorate for Correctional Services (“the Inspectorate”) is indispensable in a constitutional democracy like ours. I thank them for their contributions, many of which have assisted my office to reflect on how we improve on the state of corrections in our country. In response to our call for a review of the Inspectorate’s independence of the Department and its strengthening, the debates by organs of state and civil society were welcomed. Our plea is that finality be brought to the model most suitable for my office. I am committed zealously to guard the independence of the Inspectorate and fulfil my core function and ensure that all inmates receive the protection of the basic rights as enshrined in our Bill of Rights, the Correctional Services Act and international human rights law. I compliment the dedication of the Independent Correctional Centre Visitors’ (“ICCVs”), members of my staff and all others who assisted me in ensuring that the afore-mentioned is attainable.

In my first Annual Report in 2011 /2012 I endorsed the transformation that the office had begun with the opening of offices in Durban, Bloemfontein and George to compliment those in Cape Town and Pretoria. My office has advised the Department to budget for additional offices to match its 6 regional offices so that ICCVs and my staff can travel shorter distances than they currently do and also to enhance the efficiency of liaison between my office and that of the DCS. I am of the view that my offices must as far as possible be located within the communities it serves and allow ICCVs, many of whose offices are

located within correctional centres and who share telephones and computers with DCS officials to be able to work in better conditions and with enhanced independence.

The recent merger of the Justice and Correctional Services ministries, I believe, will ensure better co-ordination and enhanced collaboration within the Justice, Crime Prevention and Security cluster, and will focus on areas of common interest and maintain adequate synergies that the Inspectorate regards as lacking. I look forward to an interactive working relationship with the new Ministry and Portfolio Committee.

Our inmate population, unfortunately, indicates no significant decrease despite the decrease in the number of remand detainees. It is however important to mention that not all correctional centres are overcrowded and that the treatment of inmates and conditions under which they are held are generally satisfactory. Of course there are centres which do not meet the required standard; where overcrowding remains a significant problem. Effective management strategies should continuously be implemented, introduced by centre management to alleviate the situation which inmates face. Emphasis must be placed on ensuring that progressive improvement within our correctional centres occurs and that we transform them all as model institutions where inmate rights are enjoyed to the fullest and are consonant with the best international norms.

The Department's introduction of the electronic monitoring tagging system to sentenced inmates is to be welcomed. More, however, needs to be done about the number of remand detainees. In 2013 I hosted a conference on remand detainees and overcrowding in collaboration with NICRO. I supported the idea that their electronic monitoring tagging system, once piloted, could serve as an alternative to pre-trial detention and will assist with the overcrowding problems in our correctional centres.

During 2013 I was called upon to testify in 3 extradition hearings in the United Kingdom. The standing and importance of my office as an independent oversight mechanism is well established internationally. In my previous Annual Reports (2011/2012 and 2012/2013) I reported that the plight of children within our centres was a concern to me. In this report, I provide an overview of the findings of the research survey I commissioned. The survey was conducted in collaboration with the Civil Society Prisons Rights Initiative ("CSPRI") that is associated with the Community Law Centre at the University of the Western Cape and one of the most active organisations in the area of corrections in South Africa. A comprehensive publication of the findings of the research will be published shortly.

My Inspectors have, during the course of the year, identified 2 areas which cause me concern.

The first relates to the plight of inmates who have been diagnosed with a mental disorder and more particularly where, but for an appropriate and specialist mental health care facility, they are unfortunately kept in our correctional facilities. Inmates deemed “State Patients” continue to be held in our correctional facilities. An urgent call is made to the Department of Health at national and provincial level to make available premises at which these vulnerable inmates can be kept and treated.

The second, and equally pressing, problem is the number of instances where inmates have complained of the methodology employed by the Emergency Support Team, commonly called the EST. Whilst search and seizure operations in any correctional facility are necessary, these have, in instances, been carried out in a manner in which inmates have been seriously injured, their dignity infringed and possessions confiscated without just cause. I am also concerned that, whilst the rules require that these operations be video-taped, they were not. With the recent promulgation of the Prevention of Combating and Torture of Persons Act, 13 of 2013 I call on the Department to review the role, accountability and methodology used by the EST.

I trust that this report serves the correctional family well and that the work of my office is adequately presented.



V.E.M TSHABALALA

Inspecting Judge

Judicial Inspectorate for Correctional Services



Statement by the Acting Chief Executive Officer

It is a great pleasure to present the Inspectorate's 2013/2014 Annual Report. The report articulates the work of the Inspectorate in line with our reporting obligations in terms of sections 90 (4) of the Correctional Services Act 111 of 1998. It has been a progressive year for the Inspectorate as we strive to report effectively within the powers bestowed upon us, mindful of the limited capacity and operational challenges experienced since restructuring. I assumed the position as Acting Chief Executive on 4 September 2013. This year has had its challenges as we had planned to employ additional permanent staff as per the new approved structure. Our staff complement as at 31 March 2013 stands at 45 permanent and 38 contract employees. This remains a huge concern for us due to the undue strain placed on existing staff members. Notwithstanding this, we strive to deliver the best that we can.

For the year, I attended various operational meetings with designated senior Department of Correctional Services (DCS) delegates. Most of the meetings dealt with the post establishment of the Inspectorate. The objective was to ensure that in the 2014/2015 financial year the organisation would be able to fund and fill all vacant posts on the new structure. As an organisation, we started to reflect on the existing structure and whether this would meet the continuing demands of the organisation. In addition to the new post establishment, a need has been established for more employees. In order to conduct greater oversight and support to ICCVs across the country, it is clear that the Inspectorate's management regions (the Inspectorate currently has four regions) should be aligned with the Department's six management regions. There is a need to strengthen our internal policies to ensure better implementation with due regard to the size and complexity of our organisational structure. In terms of the strategic direction of the organisation there is a need better to align our internal policies with those of other organisations similar to the Inspectorate. A typical example of this would be Independent Police Investigative Directorate (IPID), it being an oversight body, and a government component having to comply with public sector legislation. Furthermore, the Inspectorate has identified a need to conduct its own internal audits. This will strengthen governance and empower staff members to perform better.

Staff members travel enormous distances throughout the country owing to the remote location of some correctional facilities. They have dedicated much hard work throughout the year. Since the restructuring of the organisation, many employees have sacrificed their personal lives to ensure that the organisation is visible across the country. The dedication and hard work of employees is evident from the figures

presented in this report. During the year under review we managed to conduct better Annual Report stakeholder engagements. During the presentation of our Annual Report 2012 /2013 to stakeholders across the country it provided the opportunity for them critically to engage in the content of our reports and provided us with valuable insights from the communities' perspectives thus facilitating the improvement of our services. One of our priorities as an organisation is to ensure that there is an ICCV for every correctional centre. The ICCV post establishment as at 31 March 2013 is 93 % filled. The Inspectorate conducted 91 inspections and 20 investigations. The Legal Services Directorate dealt with 1 115 complaints and received 588 reports of natural deaths and 46 reports of unnatural deaths, 8 397 reports of segregations, 191 reports of use of force and 271 reports of the use of mechanical restraints.

The Inspectorate was required to testify as to the state of our correctional facilities in extradition hearings in three cases. Our quarterly and annual reports are very important documents and our testimony to the state of correctional facilities is imperative to the criminal justice sector across the world and provides independent views on our criminal justice sector.

I hope the debate on strengthening our independence continues to ensure full financial independence from the Department; the same department we are obligated to report on. We hope also to glean information from other international jurisprudence, and to study their prison oversight mechanisms in order to determine effective models that we can implement within our justice system. We are very grateful to be given an opportunity to report in this Annual Report on the state of children and youth under the age of 21 in our correctional centres. This survey was conducted in collaboration with the University of the Western Cape, Community Law Centre - Civil Society Prison Reform Initiative (CSPRI) using the ICCV legislative monitoring tools.

Herewith I present to readers a brief overview of the content of our 2013/2014 Annual Report. The Annual Report contains five chapters. Chapter one introduces the statutory mandate, vision, mission and values of the Inspectorate. Chapter two provides an overview of the operational management of the Inspectorate and covers human resources and development and financial and supply chain management. Chapter three reports on the inspections and investigations, the complaints and mandatory reports dealt with for the year under review. Chapter four reports on the community oversight and stakeholder engagement which deals mainly with the work of the ICCVs. Chapter five highlights the findings of the survey on children and youth in correctional centres.

Lastly, I would like to thank all staff members for their dedicated support throughout the year. Without their hard work and dedication, this report would not be possible.



Mr Michael Masondo
Acting Chief Executive Officer
Judicial Inspectorate for Correctional Services

CHAPTER ONE: STATUTORY MANDATE OF THE INSPECTORATE

1. Introduction

Chapter one of the Annual Report provides an overview of the Inspectorate’s statutory mandate and provides information on the vision, mission, and values of the organization.

2. Statutory Mandate of the Inspectorate

The Inspectorate draws its primary mandate from the Correctional Services Act 111 of 1998, as amended (“CSA”). Chapter IX of the CSA establishes the Inspectorate as an “independent office under the control of the Inspecting Judge.”¹ It further provides that the “object of the Judicial Inspectorate is to facilitate the inspection of correctional centres in order that the Inspecting Judge may report on the treatment of inmates in correctional centres and on conditions in correctional centres.”² The powers, duties and functions of the Inspecting Judge³ are to:

- Inspect or arrange for the inspection of correctional centres and remand facilities in order to report on the treatment of inmates in correctional centres and remand facilities and on conditions and any corrupt or dishonest practices in correctional centres and remand facilities⁴
- Deal with complaints received from specific sources and allow for exceptional cases where it will deal with complaints received directly from an ICCV⁵
- Submit a report on each inspection to the Minister and Portfolio Committee on Correctional Services⁶
- Submit an annual report to the Minister and the President.⁷
- Conduct an investigation by having an enquiry and holding hearings⁸
- Assign functions to inspectors (except in conducting a hearing) and make rules not inconsistent with the Act.⁹

The CSA also makes provision for the appointment of a Chief Executive Officer, staff and assistants¹⁰ and source of funding of the organization.¹¹

¹ Section 85 (1) Correctional Service Act 111 of 1998, as amended

² Section 85 (2) Correctional Service Act 111 of 1998, as amended

³ Section 90 Correctional Service Act 111 of 1998, as amended

⁴ Section 90 (1) Correctional Service Act 111 of 1998, as amended

⁵ Section 90 (2) Correctional Service Act 111 of 1998, as amended

⁶ Section 90 (3) Correctional Service Act 111 of 1998, as amended

⁷ Section 90 (4) Correctional Service Act 111 of 1998, as amended

⁸ Section 90 (5) Correctional Service Act 111 of 1998, as amended

⁹ Section 90 (7) & (9) Correctional Service Act 111 of 1998, as amended

Chapter X of the CSA provides for the appointment of Independent Correctional Centre Visitors (“ICCVs”) and the establishment of Visitors Committees (“VCs”).¹²

The statutory provisions governing the appointment of ICCVs¹³ states that:

- The CEO in consultation with the Inspecting Judge to appoint an ICCV for each correctional centre and to hold office in accordance with the requirements of the CEO.¹⁴
- The powers, functions and duties of ICCVs which include, amongst others, to: be given access to any part of the correctional centre and any document or record requested, deal with complaints of inmates through: regular visits, interviewing inmates in private, and both the recording of complaints in an official diary and discussion of them with the Head of the Correctional Centre; the reporting of all unresolved complaints to a VC, if one has been established at the ICCV’s centre, or to the Inspecting Judge.¹⁵

Statutory provisions establishing VCs¹⁶ provides for:

- The establishment of VCs by the Inspecting Judge for a particular area consisting of ICCVs appointed to correctional centres in that area.
- The VC to meet at least quarterly to, amongst others things: consider unresolved complaints in order to seek resolution, submit the unresolved cases to the Inspecting Judge, and promote community interest and involvement in correctional matters.

3. The Constitution of the Republic of South Africa, Act 108 of 1996

The premise for establishing the above statutory provisions incorporating the Inspectorate emanates from section 35 (2) of the Constitution which stipulates that *“everyone who is detained, including every sentenced prisoner, has the right to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment;”*¹⁷ and *“to communicate with, and be visited by, that person’s spouse or partner; next of kin; chosen religious counselor; and chosen medical practitioner.”*¹⁸ The

¹⁰ Section 88A Correctional Service Act 111 of 1998, as amended

¹¹ Section 91 Correctional Service Act 111 of 1998, as amended

¹² Section 90 (2) Correctional Service Act 111 of 1998, as amended

¹³ Section 92-94 Correctional Service Act 111 of 1998, as amended

¹⁴ Section 92 Correctional Service Act 111 of 1998, as amended

¹⁵ Section 93 Correctional Service Act 111 of 1998, as amended

¹⁶ Section 94 Correctional Service Act 111 of 1998, as amended

¹⁷ Act 108 of 1996, Section 35 (2) (e)

¹⁸ Act 108 of 1996, Section 35 (2) (f)

following are some constitutional provisions in the Bill of Rights that protect the rights of all people including inmates and remand detainees:

Equality	Human dignity
Life Freedom and security of the person	Slavery, servitude and forced labour
Privacy	Freedom of religion, belief and opinion
Freedom of expression	Freedom of association
Political rights	Citizenship
Environment	Property
Housing	Children
Health care, food, water and social security	Cultural, religious and linguistic communities
Education	Language and culture
Access to information	Arrested, detained and accused persons
Access to courts	Just administrative action

4. **Other Legislative Provisions Guiding the Inspectorate**

The Inspectorate is further guided in its work by the following legislation:

- The Promotion of Administrative Justice Act 3 of 2000 (as amended)
- The Criminal Procedure Act 51 of 1977 (as amended)
- The Health Act 61 of 2003 (as amended)
- The Child Justice Act 75 of 2008 (as amended)
- Promotion of Access to Information Act 2 of 2000 (as amended)
- The Public Service Act 103 of 1994 (as amended)
- The Employment Equity Act 55 of 1998
- The Labour Relations Act 66 of 1995
- The Basic Conditions of Employment Act 75 of 1997 (as amended)
- The Skills Development Act 97 of 1998 (as amended)
- The Occupational Health and Safety Act 85 of 1993 (as amended)
- The Compensation for Occupational Injuries and Disease Act 130 of 1993 (as amended)
- The Public Finance Management Act 1 of 1999 (as amended)
- The Preferential Procurement Policy Framework Act 5 of 2000 (as amended)
- The Broad Based Black Economic Empowerment Act 53 of 2003
- The Division of Revenue Act 6 of 2011 (as amended)
- The Appropriation Act 9 of 2008

5. Mission, Vision and Values

The Inspectorate for is an independent statutory body established to facilitate the inspection of correctional centres in order that the Inspecting Judge may report on the treatment of inmates and on conditions in correctional centres.

Figure 1: Logo of the Inspectorate



The above logo summarizes the work of the Inspectorate. The magnifying glass conveys the Inspectorate's oversight function. The symbols under the magnifying glass stand for the various rights to which inmates are entitled and access to which the Inspectorate seeks to monitor.

Vision:

The Inspectorate's vision is *"to embody independent oversight of correctional centres for the advancement of human rights for all inmates."*

Mission:

The Inspectorate's Mission is to:

- acquire up-to-date, accurate and reliable information regarding the conditions prevailing in correctional centres, and the treatment of inmates in such centres;
- facilitate inspections relating to the treatment of inmates and to conditions in correctional centres in order that the Inspecting Judge may report to the Minister of Correctional Services and the Portfolio Committee on Correctional Services on these;
- submit an annual report to the President and the Minister;
- prevent human rights violations through the monitoring of mandatory reporting systems;
- maintain an independent complaints system;
- ensure and maintain the highest standard of corporate governance in accordance with best practices;
- promote and facilitate community involvement in correctional matters through the appointment of Independent Correctional Centre Visitors and external stakeholders; and
- promote transparency regarding the activities of the Inspectorate.

Values:

The Inspectorate embraces the following values in carrying out its mandate:

- Sound communication: The Inspectorate aims to listen to, receive, filter, analyse and transmit information related to correctional matters in sound manner.
- Ethical practices: In dealing with the public, colleagues and inmates, the Inspectorate aims to cultivate a culture of mutual respect, objectivity, transparency and integrity.
- Independence: The Inspectorate aims to carry out its work in an unbiased and impartial manner.
- Accountability: The Inspectorate aims to take ownership of its functions and responsibilities.
- *Batho Pele* principles: The Inspectorate aims to render its services in line with *Batho Pele* principles.
- Teamwork: The Inspectorate aims to foster good working relations with all stakeholders in order to enhance service delivery.

6. Strengthening the Inspectorate's Independence

The Inspectorate is a statutory body, established in terms of the CSA. The object of the Inspectorate is to facilitate the inspection of correctional centres in order that the Inspecting Judge reports on the conditions in correctional centres and the treatment of inmates in correctional centres.¹⁹ Evident from the statutory provisions are the restrictive mandate and limited powers bestowed upon the organization compared with that of other national oversight mechanisms. Over the years the Inspectorate has come under scrutiny for not having full independence from the Department it is mandated to report on, and for its unenforceable findings. More importantly, the ability of the Inspectorate effectively to fulfill its mandate is impeded by its situational analysis. This refers to the current extent to which the Inspectorate is dependent on the financial and administrative support of the Department it is mandated to oversee. The CSA states that the Department is responsible for all the expenses of the Inspectorate.²⁰ In order to ensure effective oversight of correctional facilities, institutional independence is an important consideration. In a parliamentary portfolio committee report on oversight and accountability, the following was mentioned regarding the importance of institutional independence: *"In the first place, to make institutions dependent on budget allocations received through the very departments that they are required to monitor is not desirable. Secondly, these institutions must be seen by the public to be independent and free of the possibility of influence or pressure by the executive branch of the government. Approval by the executive of budgets, or other issues such as staffing, is thus inconsistent with independence, as well as the need to be perceived as independent by the public when dealing with*

¹⁹ Section 85 (2) Correctional Service Act 111 of 1998, as amended

²⁰ Section 91 Correctional Service Act 111 of 1998, as amended

their cases."²¹Over the years the Inspectorate has requested a larger budget by the Department for the effective functioning of the organization. This is evident from the various reporting documents to parliament.²² The Inspectorate remains of the view that our independence is of paramount importance and that it should in no way be jeopardized. We need to find ways to strengthen the Inspectorate's structural situational analysis and needs with due regard for relevant legislation and existing case law on the matter. The constitutional rights of inmates to conditions of detention consistent with human dignity are of paramount importance and should always be guarded and protected by institutions that are structurally stable and independent of the same institutions they seek to protect them from and oversee.

²¹ H Corder, S Jagwanth and F Soltau Report on Parliamentary Oversight and Accountability (June 1999), 56. Available at <http://www.pmg.org.za/bills/oversight&account.htm>

²² See Inspectorate's website for reporting documents. Available at <http://Judicialinsp.pwv.gov.za>

CHAPTER TWO: ADMINISTRATION

1. Introduction

Chapter two of the Annual Report provides an overview of the administration of the organisation which deals mainly with human resource and development and finance and supply chain management of the Inspectorate. This chapter provides an overview of the Inspectorate's human resource and development and finance and supply chain management activities for the period 01 April 2013-31 March 2014.

2. Human Resource and Development

The Sub-directorate: Human Resource and Development manages all labour and human resource matters of the organisation. This includes, amongst others: managing the post establishment; training, development, performance management and disciplinary matters of all employees. Whilst ensuring that the above aims are addressed, the position can be quite challenging as a result of limited capacity within the Sub-Directorate and the organisation as a whole. Below we highlight the Inspectorate's post establishment and all human resource items for the period under review.

2.1 Post Establishment of the Inspectorate

The Inspectorate has 45 approved and funded posts on the fixed establishment. Only one (1) post on the fixed establishment was vacant as at 31 March 2014. The Inspectorate has 38 additional contract posts to address the immediate needs of the organization. Most of the contract positions are in line with the new approved post establishment of the organisation. (2012 Post Establishment)The table below provides an overview of the post establishment of the organisation.

Table 1: Post Establishment as at 31 March 2014

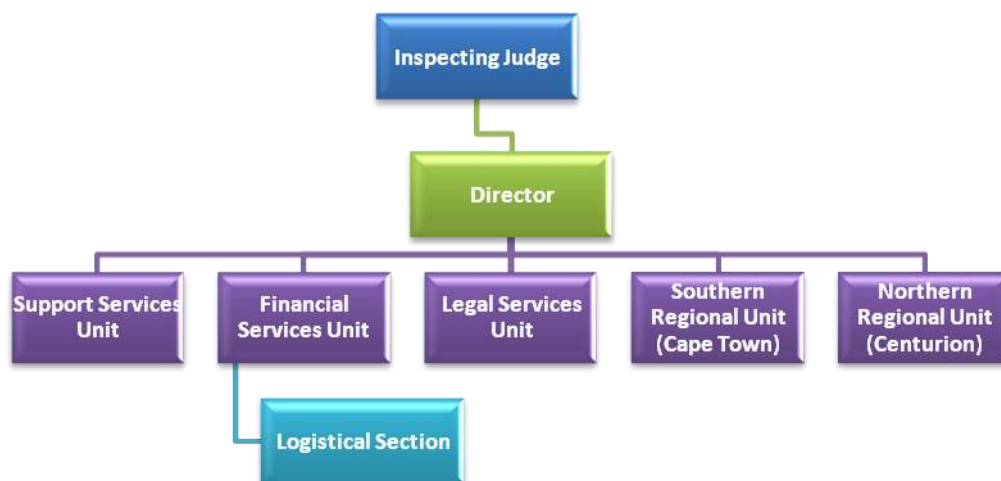
Posts	Number of Posts	Salary Level
Inspecting Judge	1	-
Deputy Commissioner (CEO)	1	14
Director	1	13
Deputy Director	3	11
Assistant Director	8	9
Managers	9	8
Administrative support staff	22	2 - 7
Staff on fixed term contract	38	5 and 6

As can be seen from the above table, the ratio of employees on contract constitutes almost half of the employees on the permanent or fixed post establishment. (Approximately 46%) This situation remains a pressing issue for the organisation.

2.2 Update on the Organisational restructuring process of the Inspectorate

As noted in the Inspectorate's 2012/2013 Annual Report the Minister of Correctional Services²³ approved the new post establishment which paved the way for a restructuring process.²⁴ Further noted in the Annual Report was the lack of funding that was made available for vacant posts.²⁵ To date, the Department has not committed itself to providing the additional funding for all vacant posts on the new structure. The Inspectorate has no option but to continue appointing employees on a contractual basis. In the interim, valuable employees with institutional knowledge are lost due to the temporary nature of their employment and prospects of fixed employment elsewhere, notwithstanding the fact that the organisation has invested a lot of time in equipping them with the knowledge in the area of corrections and human rights. The situational analysis continues to dampen the *morale* of all staff members who are executing the duties of other functionaries where those posts are not filled by contract or permanent employees. The figures below provide an overview of the old and new endorsed organisational structure of the Inspectorate.

Figure 2: Organogram of the Inspectorate as at 2011

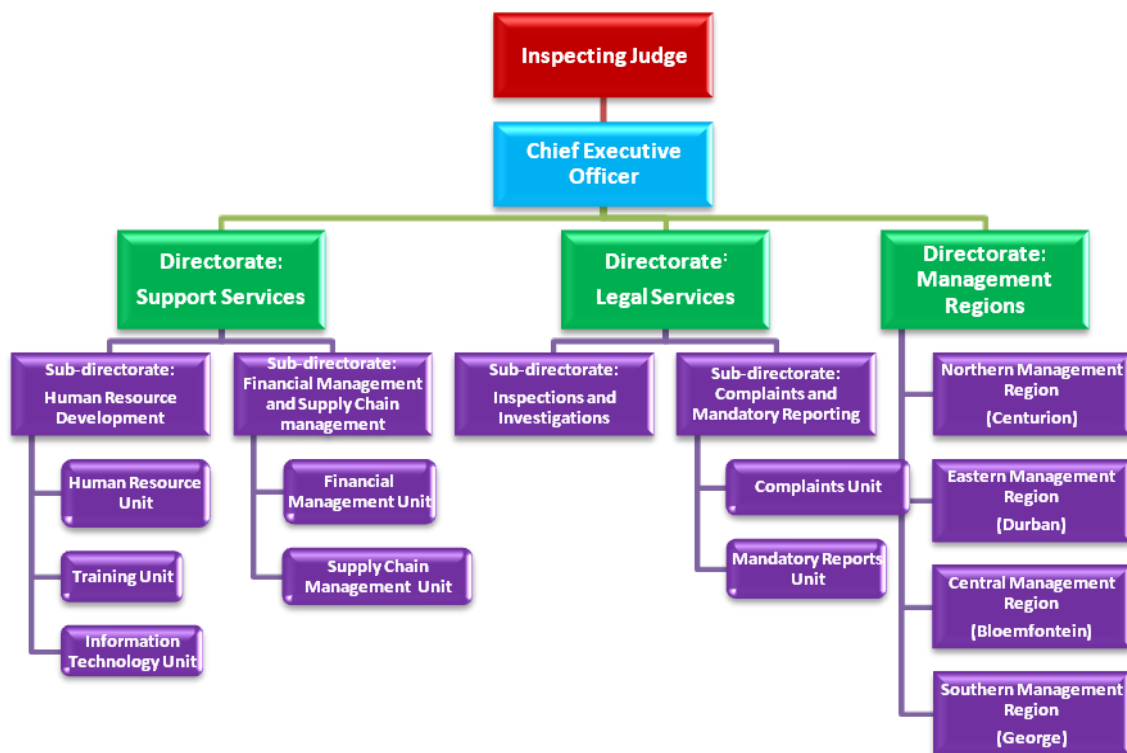


²³ The Honourable J Sibusiso Ndebele

²⁴ Inspectorate 2012/2013 Annual Report see page 14

²⁵ Inspectorate 2012/2013 Annual Report see page 14

Figure 3: Organogram of the Inspectorate as at 2012



The table below provides an overview of all posts on the new post establishment with reference to posts that are: filled (F), vacant (V) or vacant posts filled on contract (F/C).

Table 2: New post establishment

Office of the CEO / Inspecting Judge	Directorate: Support Services	Directorate: Legal Services	Directorate: Management Region
Judge: Personal Assistant (V) (F/C)	DD: Financial Management (V)	DD: Inspections & Investigations (V)	DD: EMR (V)
Judge: Secretary (V)	DD: HR Management and Development (V)	ASD: Inspections & Investigations (F)	DD: SMR (V)
Judge: Messenger/Driver (V) (F/C)	ASD: HR and Performance Manage (F)	Regional Inspector: NMR (V) (F/C)	DD: CMR (F)
CEO: Personal Assistant (V)	ASD: Financial Management (F)	Regional Inspector: CMR (V) (F/C)	DD: NMR (F)
CEO: Secretary (V)	ASD: SCM (V)	Regional Inspector: EMR (V) (F/C)	ASD: EMR (F)
ASD: Internal Audit (V)	Senior State Accountant (F)	Regional Inspector: SMR (F)	ASD:SMR (F)
ASD: Policy and Research (F)	State Accountant (F)	DD: Complaints and Mandatory (V)	ASD: CMR (V)
Assistant Research (F)	2 x ICCV payment clerks (F)	ASD: Complaints (F)	ASD: NMR (V)
Director: Management R (F)	Senior Provision Admin Officer (F)	ASD: Mandatory Reports (F)	VCCO: SMR (V)(F/C)
Secretary (F)	2 x Provisioning Admin clerk (1F, 1V)	Legal Admin Officer: Complaints (V) (F/C)	3 x VCCO: SMR (F)
Director: Legal Services (V)	Admin Officer: Transport (F)	Legal Admin Officer: Mandatory (V)(F/C)	2 x VCCO: EMR (V)(F/C)
Secretary (V)	ASD: Information Technology (V)	Admin Clerk: I & I (V) (F/C)	2 x VCCO: EMR (F)
Director: Support Services (V)	Network Controller (V) (F/C)	Admin Clerk: C & M (V) (F/C)	2 x VCCO: NMR (V)(F/C)
Secretary (V)	ASD: Training (V)	Admin Clerk: C & M (V) (F/C)	2 x VCCO: NMR (F)
	Senior Admin Officer: ICCV (F)	Admin Clerk: Mandatory (V) (F/C)	2 x VCCO: CMR (V)(F/C)
	Senior Training Officer: NMR (F)		2 x VCCO: CMR (F)
	Senior Training Officer: CMR (F)		
	Senior Training Officer: SMR (F)		
	Senior Training Officer EMR (F)		

The Inspectorate submitted its 2014/2015 budget for the funding of the posts on the new approved organisational structure. The above structure filled and funded would bring about better operational

prospects for the organisation. Since the last job evaluation process and up until the endorsement of the new structure above, additional pivotal posts continue to be identified. There is a need for a job evaluation of all posts by the Department of Public Service and Administration (DPSA). The new structure makes provision for only four Inspectors nationwide. Effectively our main objective is reporting on the treatment of inmates and the conditions of correctional centres and remand centres. This is impossible with only four Inspectors. Other posts subsequently identified include that of Communications, Legal Advisory and General Administrative Clerks across all directorates. Ancillary to the above, the Inspectorate's ultimate goal is to align its management regions with that of the Department. The Inspectorate has four management regions. The Department has six management regions. The result of this is the long commutable time by employees between correctional centres. A strategic planning session will be hosted to discuss the prospects of further expansion after finalisation of the funding allocation for the above structure.

2.3 Disciplinary Matters

There were two disciplinary trespasses for the period ending 31 March 2014. The table below illustrates the type of misconduct and the sanction applied. Furthermore, one senior official was placed on special leave with compensation on 12 September 2013 pending the outcome of a formal disciplinary hearing. As at 31 March 2014, this process has not been finalised.

Table 3: Disciplinary Matters 01 April 2013- 31 March 2014

Sanction	Number	Type of misconduct
Final written warning	2	1. Misuse/abuse of movable/immovable property of the State 2. Bringing the name of the Inspectorate into disrepute

2.4 Update on Leave

Employees' leave is managed by the Sub-Directorate: Human Resources and Development. The table below provides an overview of the leave taken for the period under review.

Table 4: Leave statistics 01 April 2013- 31 March 2014

Type of Leave	No. of days
Vacation leave	1313
Sick leave	602
Family Responsibility Leave	64
Study Leave	111
Special Leave	143
Sports leave	8

2.5 Demographic composition of the Inspectorate

As at 31 March 2014, the racial composition of the Inspectorate is 61.25% Black African, 33.75% Coloured, 3.75% White and 1.25% Indian. The gender distribution is 46.25% female and 53.75% male.

2.6 Staff Training and Development

One hundred and ninety eight thousand rand (R198 000) was allocated for staff training and development for the 2013/2014 financial year. One hundred and eighty three thousand seven hundred and forty three rand (R183 743) was spent for the year on staff training and development. The table below provides an overview of staff training and development for the year under review.

Table 5: Staff Training and Development 01 April 2013- 31 March 2014

Training course	Training type	No. of delegates
Orientation programme (Logistics, Finance and HR)	Internal	4
Logis: Automated Cost Centre Course	Internal	2
Logis: Asset Balancing	Internal	1
Persal/HR Administration	Internal	3
Logis System Controllers	Internal	1
Mentorship programme	External	1
Logis Asset Management	Internal	1
Policy Development	External	8
Persal Personnel Administration	Internal	1
Logis: User Workshop	Internal	2
Logis: Annual closure training	Internal	2

2.7 Performance Management and Development System (PMDS)

The Inspectorate complied with the PMDS process in respect of all employees on the fixed post establishment. All employees submitted their performance assessments and have been evaluated and moderated. The tables below provide an overview of the number of employees that benefited from the performance assessment rewards and pay progression per salary level for the assessment period April 2012 to 31 March 2013.

Table 6: Performance assessment rewards Salary level 2 – 11

Salary Levels	No. of employees assessed	No. of employees qualifying for performance awards
Levels 2 – 7	21	3
Level 8	9	2
Level 9	7	2
Level 11	3	1

Table 7: Pay progressions

Salary Levels	No. of employees qualifying for pay progression
Level 2	1
Level 5	2
Level 6	9
Level 7	5
Level 8	6
Level 9	6
Level 11	2

3. Finance and Supply Chain Management

The Sub-Directorate: Finance and Supply Chain Management manages the budget and the supply chain management of the organization. The Sub-Directorate also manages the financial payment of ICCVs who are independent contractors. In accordance with the CSA, the Department is responsible for all expenses of the Inspectorate.²⁶ The Inspectorate therefore relies on the allocation of funds by the Department in order to fulfill its mandate. The Inspectorate submits its budget and adjustment budget to the Department and complies with all prescripts in this regard. In this respect, the Inspectorate is dependent on the Department to provide the necessary funding to function effectively and efficiently as an organisation. Further below we provide an overview of the budget and expenditure and supply chain management for the period under review.

3.1 Budget and Expenditure 2013/2014

The Department's budget vote for 2013/2014 was R18, 748,493 billion.²⁷ The Inspectorate was allocated a budget of R31 666 600.00 for the 2013/2014 financial year. This amount represents 0.17% of the Department's budget. The budget allocation represents an overall decrease of 0.52 % on the previous financial year as can be seen in the diagram presented below.

Table 8: Budget allocation 2011/2012 - 2013/2014

	2011/2012	2012/2013	2013/2014
Budget Allocation	R21 291 000.00	R31 832 500.00	R31 666 600.00
% Increase / Decrease to previous financial year	13.18%	33.11%	- (0.52%)

²⁶ Section 91 Correctional Service Act 111 of 1998, as amended

²⁷ See: <http://www.pmg.org.za/report/20130508-minister-and-department-correctional-services-2013-strategic-plan>

The expenditure for the financial year amounted to R36 780 635.30. The expenditure in the current year represents an overall increase of approximately 14.84% from the previous financial year. The Inspectorate exceeded its budget by the amount of R5 114 035.30 for the 2013/2014 financial year due to the insufficient budget allocation needed to fund contract positions in line with the new post establishment which ultimately will meet the operational needs of the administration. Major increases occurred under the item "Compensation of Employees" in particular the line item "Salaries ICCVs & Contract Staff." The total expenditure for the line item amounted to R17 240 638.98. The total amount spent on contract workers amounted to R6 932 173.20 and payments made to ICCVs amounted to R10 308 465.78. This major increase is attributed to the annual salary adjustments of all employees including contract employees constituting approximately 46% of the staff compliment employed in line with increasing staffing needs of the organisation. The creation of additional ICCV posts, the increase in their annual payment rate and the prompt filling of the ICCV post, establishment including the posts not previously filled in the 2012/2013 financial year, contributed substantially to the increased costs under this sub-item. The table below provides an overview of the expenditure pattern of the Inspectorate over a three year period.

Table: 9: Expenditure 2011/2012 - 2013/2014

	2011/2012	2012/2013	2013/2014
COMPENSATION OF EMPLOYEES	R 20 368 250.63	R 24 854 192.92	R 30 763 994.45
SALARIES: PERMANENT STAFF	R 10 097 816.21	R 12 251 234.57	R 13 523 355.47
SALARIES: ICCVs & CONTRACT STAFF	R 10 270 434.42	R 12 602 958.35	R 17 240 638.98
GOODS & SERVICES	R 3 805 955.63	R 6 467 313.75	R 6 016 640.85
COMMUNICATION	R 398 344.52	R 191 994.69	R 332 453.98
TRAVEL & SUBSISTENCE	R 1 986 269.80	R 2 975 901.65	R 3 050 402.15
LEASES: DOMESTIC EQUIPMENT	R 29 591.04	R 205 351.38	R 237 548.58
STATIONERY & PRINTING	R 333 354.37	R 256 560.12	R 171 758.70
VENUES & FACILTIES	R 165 766.80	R 61 138.90	R 163 390.30
OTHER	R 892 629.10	R 2 776 367.01	R 2 061 087.14
TOTAL EXPNDITURE	R 24 174 206.26	R 31 321 506.67	R 36 780 635.30

The table below provides a detailed breakdown of the line items included under "Other" which fall within Goods & Services, totalling R 2 061 087.14. Evident from the table below are the increased costs under fleet services owing to the maintenance and repairs of all vehicles within the organisation during the financial year.

Table 10: Breakdown of “Other” expenditure

RESETTLEMENT COST	R 145 068.01
ADVERT: RECRUITMENT	R 83 282.71
BURSARIES (EMPLOYEES)	R 67 772.00
TRAINING & STAFF DEVELOPMENT	R 183 743.00
COMP HARDWARE & SYSTEM	R 185 044.37
DESKTOP	
VEHICLES	R 262 060.00
FLEET SERVICES	R 714 354.54
OTHER	R 419 762.51

3.2 Supply Chain Management

Supply Chain Management provides logistical, transport, property and information technology support to the organisation. This involves support being provided in the procurement of goods and services, the management of assets, assisting with property procurement and the management of the fleet of vehicles of the organisation. The information technology of the organisation focuses mainly on all hardware and software support to the organisation.

3.2.1 Transport Management

The Inspectorate currently has 20 vehicles on its inventory list. Four vehicles have been identified for disposal due to being older than 10 years and extremely high mileage. Once additional vehicles are purchased, these vehicles will be disposed of. The fleet of vehicles the Inspectorate has is insufficient to meet the operational needs of the organization. The Inspectorate borrows vehicles from the various DCS management regions to fulfill its operational requirements from time to time. We are dependent on the allocation of funding by the Department to purchase vehicles. Only once funding is allocated to the Inspectorate to purchase vehicles, will we be able to increase our fleet of vehicles. Detailed information on the Inspectorate’s vehicle fleet is provided in the diagram below.

Table 11: Inspectorate's fleet of vehicles 2013/2014

Management Area /Region	Total Vehicles as at 01 April 2013	Total Vehicles Purchased	Vehicles Disposal 2013/2014	Total Vehicle Transferred	Total vehicle as at end 2013/2014
HEAD OFFICE	3	2	0	3	2
INSPECTING JUDGE OFFICE	1	0	0	0	1
NORTHERN REGION	6	0	0	0	6
CENTRAL REGION	4	0	0	0	4
EASTERN REGION	4	0	0	0	4
SOUTHERN REGION	4	0	1	0	3
TOTAL	22	2	1	3	20

Three vehicle-related incidents or accidents were reported for the period under review. All three incidents involved employees of the Inspectorate who were liable for the damages to the State vehicles. The Inspectorate is following a recovery process in this regard.

3.2.2 Property Management

The Department of Public Works (DPW) is responsible for assisting with the allocation and or procurement of office space for the Inspectorate. As at 31 March 2014, there has been no finality in the allocation of office space for all offices of the organisation. Most of the Inspectorate's regional offices have short-term lease agreements and, in some instances, none. Management hopes to meet with the DPW to establish the status of all office space of the organisation in due course. The table below provides an overview of the property procurement status of the organisation as at 31 March 2014.

Table 12: Update on property procurement as at 31 March 2014

OFFICE / REGIONAL MANAGEMENT AREA	BRIEF DESCRIPTION OF OFFICE SPACE	FORMAL LEASE AGREEMENTS & PERIOD OF LEASE I.E. SHORT /LONG TERM	STATUS UPDATE AS AT 31 MARCH 2014
Office of the Inspecting Judge	KZN: Durban - Two office spaces allocated within the DPW KZN Provincial building for: 1) the Inspecting Judge and 2) His secretary	No Lease agreement	The Inspecting Judge is temporarily allocated within the KZN DPW Provincial Building until such time that DPW furnish the Eastern Management Region with suitable office space. Once the EMR is allocated office space, the Inspecting Judge will be billeted in the same building.

Headquarters	WC: Cape Town- One floor of the Standard bank Building in the CBD.	Lease agreement expired on 31 May 2010. Short: Month to month	The head office is on a month to month contract and awaits DPW to sort out lease agreements with the landlord of the building.
Eastern Management Region	KZN: Durban - Office space allocated within the building of the DCS: Community Corrections.	No Lease agreement	Regional office is currently housed in temporary office space in the DCS: Community Corrections until the procurement process, which is being conducted by the Department of Public Works, has been concluded.
Northern Management Region	GP: Centurion - Offices allocated at Momentum Tuinhof Karee (West Block) Centurion.	Short: Month to month Lease agreement expired 31 March 2013.	Department of Public Works is still looking for premises. The Regional Manager and Acting CEO are in contact with Public Works in this regard.
Southern Management Region	WC: George - Temporary office space allocated in the Nedbank Centre in York Road. The office moved to the adjacent office space at the beginning of March 2014 which has more space. The office space allocated however still does not accommodate all the needs of the regional office.	Yes. Short term lease agreement of 6 month expiring on 31 August 2014	Regional offices are currently housed in temporary accommodation until the procurement process, which is being conducted by the Department of Public Works, has been concluded.
Central Management Region	Bloemfontein: Temporary office space allocated in the DPW office in President Brand street.	No lease agreement. This is an interim arrangement in which the DPW allocated 6 offices to the Inspectorate.	Regional offices are currently housed in temporary accommodation until the procurement process, which is being conducted by the Department of Public Works, has been concluded.

3.2.3 Information Technology

Information technology (IT) of the organisation covers all computer software and hardware-related areas (i.e. trouble-shooting, desktop support, software support, etc.). The Inspectorate is dependent on many transversal systems of the Department (i.e. BAS, LOGIS, PERSAL). The Department thus holds the administrator rights to most of the systems the organisation uses. The Inspectorate's email domain falls under that of the Department. The internet access is also centrally controlled by the Department. The State Information Technology Agency (SITA) provides the Head Office IT support on all hardware and

software-related matters and the Department provides support on all network-related matters. On 10 February 2014, the Inspectorate appointed an IT technician at head office to streamline certain requests or problems that the IT technician is able to assist with. The Department assists the regional management areas of the Inspectorate with all IT support (hardware, software and network) upon the request of the Regional Managers to the nearest Department management area.

4. Conclusion and Recommendations

In order to effectively fulfill our mandate, it is imperative that the Inspectorate's new post establishment be fully funded. The allocation of PERSAL numbers to new posts is important because without PERSAL numbers, the Inspectorate cannot advertise posts. The recommendation to the Department is therefore to prioritize the Inspectorate within its budget and provide funding and allocate PERSAL numbers to fill vacant posts. Emanating from previous discussions on the independence of the Inspectorate, it is clear that there should be an organizational shift which allows for the Inspectorate's funding to be allocated directly from Treasury. In the interim, the Inspectorate's management should be given a platform to substantiate the need for its budget allocation to Treasury. Notwithstanding this, the Inspectorate's management should also be included in all internal processes of the Department when the allocation of funding is made.

CHAPTER THREE: INSPECTIONS, INVESTIGATIONS, COMPLAINTS AND MANDATORY REPORTING

1. Introduction

Inspections, investigations, complaints and mandatory reporting fall within the Directorate: Legal Services. Three units contribute to overseeing this programme, namely: Inspections / Investigations, Complaints and Mandatory Reporting. From its inception,²⁸ the directorate has derived its strategic objectives²⁹ from that of the Inspectorate as a whole. These objectives are:

- The collection of accurate, reliable and up-to-date information³⁰
- Conducting inspections³¹ and investigations³²
- Prevention³³ of any violations of inmate rights through a system of mandatory reports by dealing with deaths in custody, segregation, mechanical restraint and use of force
- Maintaining an independent complaints monitoring system³⁴
- Maintaining the highest standard of good governance, which includes an efficient administration³⁵

The overarching goal of the programme, namely that all inmates are treated and held under conditions consistent with the Bill of Rights, the Correctional Services Act, 111 of 1998 (“CSA”) and international norms and standards, is predicated upon these variables:

- A stable human resource environment³⁶
- From the Department of Correctional Services; a nationally-managed standard i.r.o. the provision of information / documentation / feedback to the Inspectorate³⁷

²⁸ June 2011. See background to its formation in the Inspectorate’s Annual Report 2011 /2012 and 2012 /2013

²⁹ See Chapter 1 of this report and previous reports regarding the Inspectorate’s strategic objectives

³⁰ The purpose being to report to the role-players in the criminal justice sector on the areas identified by the Inspectorate which require attention; be they legislative, policy, administration or management change

³¹ These are conducted in terms of a pre-determined yearly plan or when specifically identified issues arise

³² *In loco* investigations, akin to, for example, that performed by the Independent Police Investigative Directorate (IPID). It must be noted that the powers of IPID are more extensive than that provided for the Inspectorate.

³³ Prevention by pro-active monitoring extends to the obligations of the ICCV

³⁴ The functions and duties of the ICCV is to oversee compliance by the department of its obligations i.t.o. amongst other provisions sections 21, 30, 31 and 32 of the Correctional Service Act 111 of 1998 (as amended) which sets out the manner complaints are to be dealt with and the Department’s mandatory reporting requirements

³⁵ Guided by the values in Chapter 10 on Public Administration of the Constitution Act 108 of 1996

³⁶ See page 30 pertaining to Legal Services specifically and more generally i.t.o. the Inspectorate at pages 13 and 14 as well as 17 to 19 of our Annual Report 2012 /2013. See also the various submissions made to the Portfolio Committee for Correctional Services available at www.pmg.org.za which relate to our organisational structure, funding, operational and administrative support sought from the Department

- The continuous and closer management of Independent Correctional Centre Visitors (ICCV) by our regional officers; their training and improved reporting³⁸
- Keeping abreast of policy, legislative and environmental changes, and adjusted strategy where necessary³⁹
- Fraternal organs of state complimenting the Inspectorate's work⁴⁰
- Complimentary enquiry by organs of civil society⁴¹, including universities and research institutes⁴²
- Our own obligations in ensuring the maintenance of a high standard of effective service delivery which progressively improves the rights of all inmates⁴³

Regarding our human resources, the situation reported in our previous annual report remains the same. Of our staff compliment of 16 countrywide 5 are on the permanent staff establishment and the balance are on short-term fixed contracts. In the preceding 2 years, 7 contractees have resigned at various times within the complaints component for permanent positions within the public sector. This has had a major impact on our ability to deliver the intended service.

The on-going discussions with the Ministry, DCS with the parliamentary oversight by the Portfolio Committee has borne fruit; we can report on an improvement in liaison between the Inspectorate and the Department. However, whilst discussions take place no progress ensues, the Inspectorate being entirely in the hands of the Department regarding funding and post creation. At the end of each quarter,

³⁷See our comments at pages 30 and 31 in the Inspectorate's Annual Report 2012 /2013 and at pages 24 and 61 of the Inspectorate's Annual Report 2011 /2012. At the end of this chapter we recommend amendments to the regulations which are lacking i.r.o the obligations of the DCS *vis a vis* the Inspectorate

³⁸The ICCVs training comprises 2 phases, the 1st comprising an introduction to the operations within the correctional environment and the rules and procedures pertaining to monitoring, and, at the 2nd level dealing with requests, complaints, inspections, investigations, mandatory reports at a substantive level. The latter training is provided by the Directorate Legal Services. Organisations like Sonke Gender Justice and others have assisted in areas within their expertise

³⁹Examples being the provisions relating to medical parole, remand detention, the "Torture Act".

⁴⁰In this regard we appreciate the liaison between the Inspectorate and Legal Aid South Africa i.r.o. remand detainees. More, we submit, is required on a specific focus by the South African Police and National Prosecuting Authority in the instances where criminal liability arises within correctional centres. See previous Annual Reports on criminal prosecutions and inquests (Annual report 2011 /2012 at page 41 and 2012 /2013 at page 52 as amended). The South African Human Rights Commission, for example, can complement our work i.r.o. issues of health care, natural deaths and others areas within their expertise. The frequency, causes and provincial jurisdictions where natural deaths occur provides a further area where the Department of Health and Social Development should have an interest, inmates being an intrinsic part of our public health and social services. Dialogue between the Inspectorate and these organisations will be initiated on areas of mutual co-operation

⁴¹For example we appreciate the work undertaken by NICRO, CSPRI, SONKE GENDER JUSTICE, APCOF and others

⁴²In the area of custodial deaths where medical experts can look into the constitutional requirement of "adequate health care"; where medical expertise is required

⁴³Mindful of section 7 (2) of the Bill of Rights requiring that "the state must respect, protect, promote and fulfil the rights in the Bill of Rights

a report is provided to the national and regional office-bearers of the Department. Our respective offices are in the process of remedying the situation by negotiating a memorandum of understanding, its purpose being to improve the timeous response by the Department to provide investigation reports and other documents so that we can make findings and recommendations in areas we find wanting.

It remains a priority for the ICCV system to evolve into a more skilled oversight medium. To this end the Directorate: Management Regions, under whose jurisdiction the visitors' fall, held a workshop in January 2014 with the legal services component. A set of goals was agreed upon which would improve on the ICCVs knowledge and ability to deal at a substantive level with their oversight function and reporting obligations.

The most important policy and legislative changes are those relating to remand detainees, medical parole and the provisions relating to the criminalisation of torture. We have already implemented a strategy for focusing on these areas.

The use of audio-visual close-circuit cameras⁴⁴ in appropriate areas of a centre without impinging on the rights to privacy of inmates was debated by the Portfolio Committee in which the Inspectorate participated as did others. No decision was taken into its use; efficacy and whether it would pass constitutional muster. It is the Inspectorate's view that further consultation and debate should continue; the benefits of the use of CCTV in appropriate circumstances will greatly assist the Department to compliment the human resources available and contribute to all inmates, and indeed officials the rights to life, bodily integrity and dignity. In centres, which are over-populated or are structurally unable to closely monitor inmates coupled with a deficit of staff an investment in technology, is a solution. Privacy rights in a public institution are amenable to reasonable and justifiable limitations and a workable balance between the competing rights can be found. It may be prudent, as a suggestion, for the provisions of section 84 (2) (c) of the Constitution that authorises the President to refer a bill to the Constitutional Court to determine its constitutionality after the legislative process⁴⁵ has been completed to be considered as well as other legislative means envisaged by the constitution.

The areas of mutual co-operation between fraternal organs of state and civil society have borne considerable fruits, ranging from support to constructive critique. Over and above meeting with these organisations, the role of the Portfolio Committee has been extremely helpful, in particular where public

⁴⁴See for example the Legacy Report of the committee adopted on 12 March 2014, committee minutes of 30 May 2012 "Use of Closed Circuit Television (CCTV) in Correctional Centres – interaction with civil society organs as well as those of 19 June 2103 in which the South African Human Rights Commission expressed its views on the subject

⁴⁵This will include public participation as envisaged by section 59 of the South African Constitution, Act 108 of 1996

submissions and hearings have been held. The Department's white paper⁴⁶ and indeed the Government's National Development Plan views corrections in a holistic manner, corrections being a societal responsibility. To this end the Inspectorate regards such liaison as important.

The core functions of the Inspectorate in ensuring that the Department incarcerates inmates and maintains their conditions in accordance with the law, falls within the purview of the ICCV⁴⁷ and the Legal Services. In this chapter the work of the Complaints, Mandatory Inspections / investigations units is discussed. We remind readers that this chapter must be read in conjunction with our quarterly performance reports tabled before the Portfolio Committee, for a composite view of our work.

2. Overview of the operations of Directorate: Legal Services

The format of this report follows that previously adopted. We are now in position to provide a schedule on our findings⁴⁸. Unfortunately, due to a combination of factors, including our human resources problems and our dependency on the Department to provide its investigations reports, results in an inevitable lag in time, the consequences of which is that finalisation in some matters cannot be reported for the period under review. We intend publishing separately a report on our findings on a half-yearly basis. The foregoing does not relate to our inspections and investigations, both areas on which we report for the 2013 /2014 period.

Our findings focus on allegations of assault involving officials and, more particularly, where the latter formed part of the Emergency Support Team (EST) for the period 2012 / 2013.⁴⁹ Fortunately, no deaths resulted from these actions as in previous reporting periods. The Inspectorate's focus on homicides⁵⁰ can reasonably be inferred to have achieved the result that officials were not complicit in the homicide of any inmate. We must compliment the Department for ensuring that their obligation to ensure the safe custody and right to life of all inmates, in this instance, has been carried out.

A narrative report is also made of our findings in respect of suicides by hanging for the period 2012 / 2013. The circumstances surrounding these incidents provide the Department with our view on weaknesses in their monitoring duties to prevent self-harm by inmates.

⁴⁶White Paper on Corrections in South Africa, February 2005

⁴⁷The ICCV are dealt with separately

⁴⁸Notwithstanding that the powers, functions and duties of the Inspecting Judge precludes him from binding the Department to accept our findings and to take remedial action; the role of the Inspectorate is merely to report , the Department has not materially disputed any of our findings. Its implementation of course is monitored.

⁴⁹See our quarterly reports for the status of similar matters for 2013 /2014

⁵⁰See the following Annual Reports of the Inspectorate: 2010 / 2011, 2011 /2012 and 2012/2013

Statistical data remains vitally important since they constitute baseline figures from which we can determine targets and they draw attention to areas of improvement or decline; an insight into whether the allocation of human and financial resources is correctly determined, and so forth.

The table below records the number of cases dealt with by the Directorate: Legal Services for the year. Each of these areas is dealt with below.

Table 13: Matters dealt with by D: LS

Inspections	91
Investigations	20
Complaints	1115
Unnatural deaths	46
Natural deaths	588
Segregations	8397
Mechanical restraints	271
Use of force	191

3. State of Correctional Centres

3.1 Inmate population, overcrowding and effective management

The inmate population in South Africa has been characteristically one of the highest per capita in the world as has been written about in numerous publications including in the Inspectorate’s Annual Reports.⁵¹ It is accepted that the over-population of inmates per available infrastructure is a problem in certain centres and then, within such centres, largely in the communal cells and, in some instances, single cells where inmates are “doubled-up”⁵² or even “tripled⁵³-up.” These conditions are unacceptable and have been found to be so during our inspections⁵⁴ around the country. In other instances, the inmate population is within acceptable standards, not only in terms of design but also locality⁵⁵ and strategies to reduce overcrowding have been satisfactorily addressed.

The Special Care Units, the hospitals and clinics and sections designated to hold vulnerable inmates or those segregated for disciplinary purposes, are examples of areas within a centre in which inmates are held according to acceptable standards. An example of such a centre is Johannesburg Medium A; a large remand detention facility which was the subject of an enquiry by the courts in the United Kingdom, a

⁵¹See www.judicialinsp.pwv.gov.za for previous reports

⁵²2 per single cell

⁵³3 per single cell

⁵⁴See further commentary under Inspections below

⁵⁵The larger urban centres are generally more overcrowded

matter wherein the South African government sought the extradition of 3 persons⁵⁶ alleged to have committed offences in South Africa. The court heard the testimony of a British expert, appointed by the defence, who inspected the centre, as well as the testimony of the Inspecting Judge and the National Manager: Legal Services, and found in favour of extraditing the three. The central thrust of the case was the conditions at Johannesburg Med A, and in particular, the single cell section. The South African correctional regime was thoroughly tested in that case and passed the mark in the international arena.

When the question of overcrowding is raised, the unacceptable and deleterious effects thereof must be properly weighed against the specific circumstances. In the Johannesburg instance, the management is proactive in reducing the numbers and ensuring that the facility is satisfactorily run. During our interviews with Heads of Centre during our inspections, the most often-cited problem is that of overcrowding and the shortage of staff. Whilst in some cases this is true, insufficient emphasis is placed on the principles of effective management and the employment of best practices. When studying the phenomenon of overcrowding⁵⁷ the prism has not narrowed to a view as to whether the Department's management is continuously innovative. We must accept that the building of more prisons is too costly and that the reduction of the inmate population to acceptable levels is a medium to long term goal. The *status quo* in respect of numbers will remain for the near future. During our inspections, we place much emphasis on how effectively the overcrowded centres are managed to contextualise the refrain of Heads of Centre regarding their key problems. A holistic and balanced approach is required to address overcrowding.

We illustrate the numbers and composition of the inmate population of both remand detainees, who decreased by 4460 from 2013 to 2014, and sentenced offenders to show that the population shifts on a year-to-year basis reflects some change; though not in a materially significant manner.⁵⁸ The inmate population (sentenced and remand) as on 31 March 2014 amounted to 154 648.

⁵⁶Westminster Magistrates Court – SA Government vs Hamilton, Heesom and Vernon judgment handed down on 28 March 2014. The matter is on appeal.

⁵⁷The analysis, in respect of remand detainees must focus on the roles of the police, prosecuting authority and the courts, for example, preventing premature and unnecessary arrests; the prosecution seeking alternatives to running full trials (plea-bargaining) to the courts closely supervising their court roles (refusing unnecessary postponements requested by the prosecution or defence).

In respect of sentenced offenders the sentencing framework, non-custodial sentences, the parole regime must all work efficiently and seamlessly integrate.

⁵⁸The decrease must over the forthcoming years show a sharper drop; the challenge of the Department's Remand Detention Branch administering the new legislation being the litmus test in respect of remand detainees

Figure 4: Year by year comparison of sentenced offenders and remand detainees

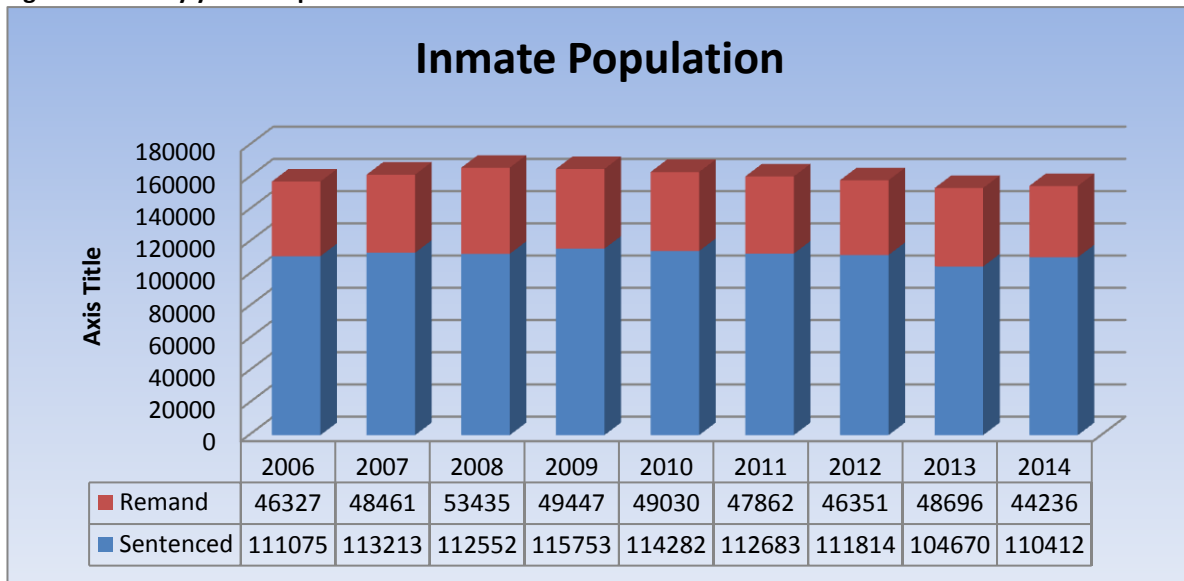
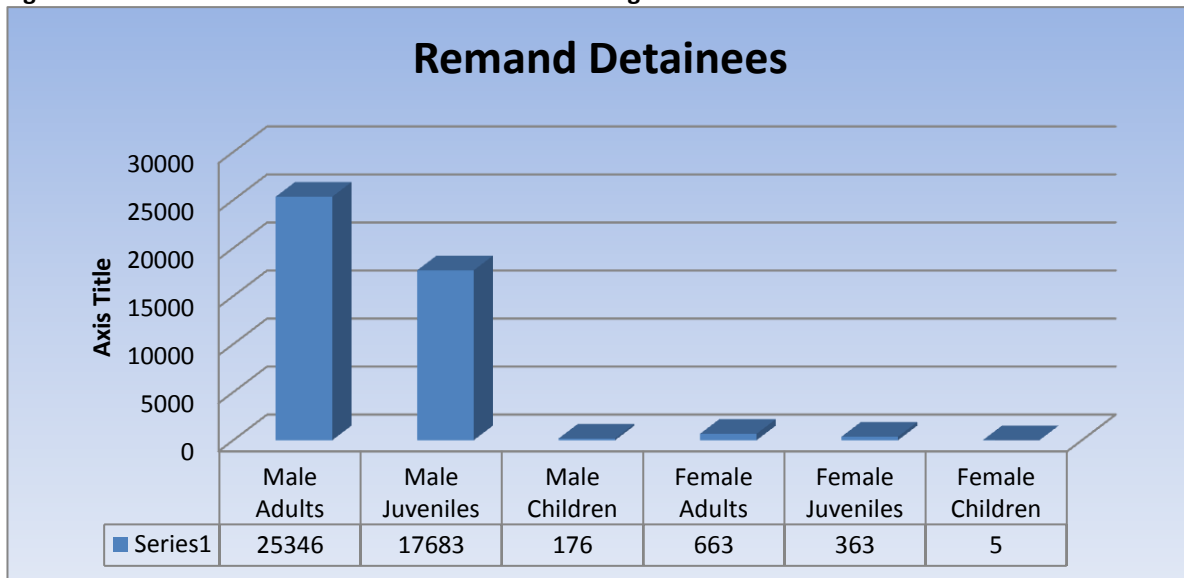


Figure 5: Remand detainees as on 31 March 2014 totaling 44 236

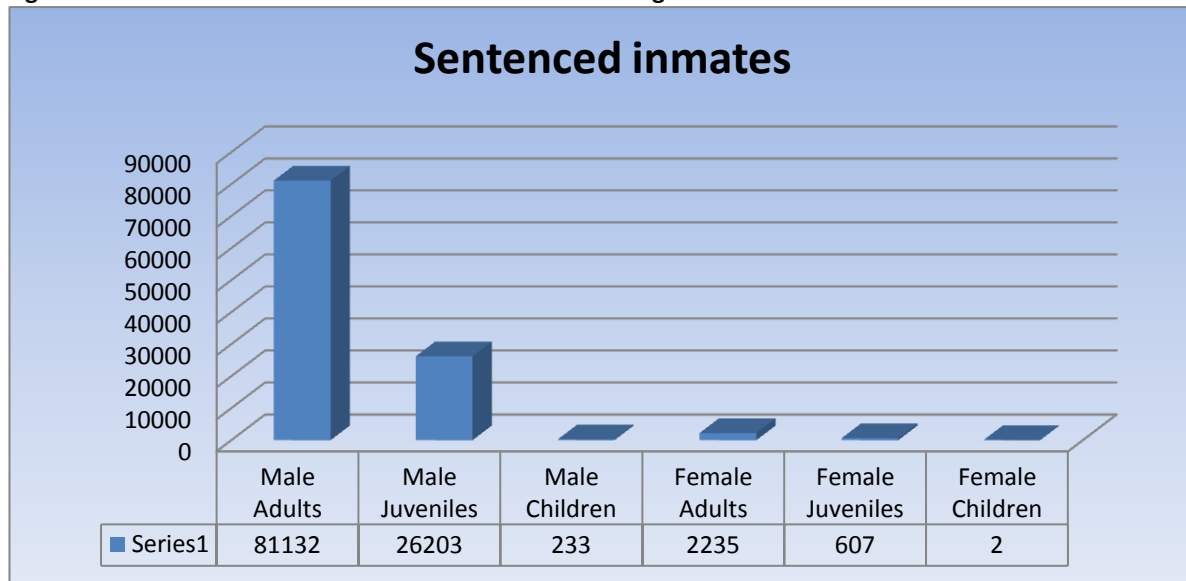


In respect of the juvenile / child⁵⁹ category, our general population figures and those in detention show a similar trend; we are a country inhabited by many young people⁶⁰. The combined figure for children and juveniles on remand is 18 227 representing 41% of the remand population. The Inspecting Judge, elsewhere in this report, provides an overview on research undertaken by CSPRI in conjunction with the Inspectorate on this target group. Of course the 25 346 male adult inmates also constitute an area which the Correctional Matters Amendment Act, 5 of 2011 dealing with remand detainees, must show success and which we will monitor closely and report on next year.

⁵⁹ A category considered by as vulnerable inmates by virtue of their age

⁶⁰ www.statssa.gov.za

Figure 6: Sentenced offenders as on 31 March 2014 totaling 110 412



In respect of sentenced offenders, the juvenile / child category comprises 27 045 representing 24% of the sentenced offender population. Comparatively, these categories are similar to those reported in the previous period, i.e. 26 282.⁶¹ We inspected Durban Juvenile on 19 March 2014, for example, and found that the centre held 564 juveniles and 14 children. A functional education system⁶² and recreational⁶³ regime existed. The Department of Social Development held an office within the centre and offered a range of social services, including the fostering of familial relationships. The Durban Juvenile inspection is illustrative of a centre which is satisfactorily managed and which is able to address the rehabilitation and ultimate release of juveniles /children expeditiously, and thereby continuously reduces this population. Similar centres will be inspected during this period.

It appears that our minimum sentencing legislative framework will continue to result in offenders serving lengthy periods in incarceration, requiring the Department to create and maintain the infrastructure and serve the needs of these inmates. The importance of the parole regime, including the efficient functioning of the Case Management Committees, the Correctional Supervision and Parole Board, the Medical Advisory Board, National Council for Correctional Services and Minister, the latter in respect of those serving life sentences and their efficient functioning, is vitally important to address the sentenced offender numbers.⁶⁴

⁶¹See page 37 of the Inspectorates Annual Report 2012 /2013

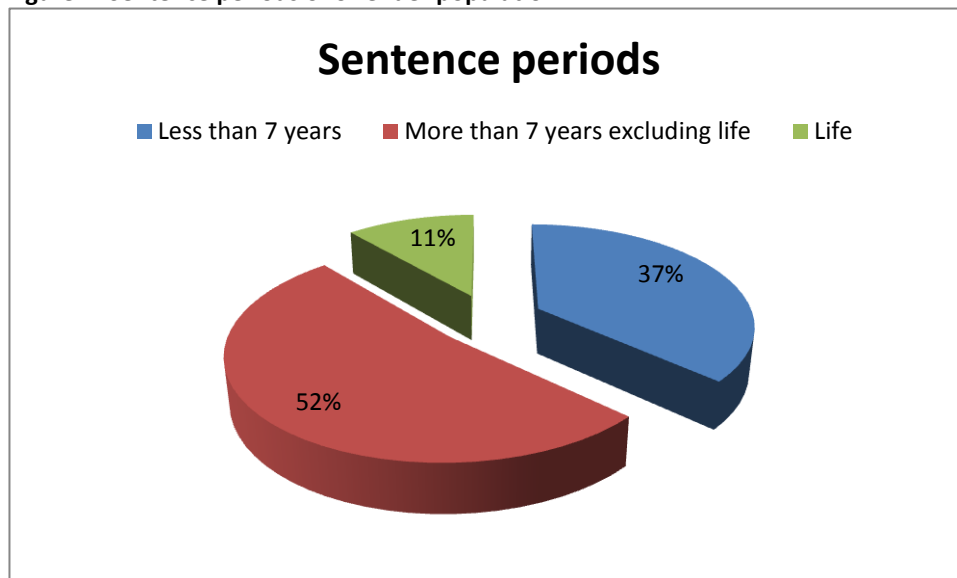
⁶²Adult Basic Education (90 students), grades 10 to 12 (144 students) was being taught and vocational training in sewing, carpentry and electrical engineering was offered.

⁶³Soccer, volleyball and karate as well as traditional dancing and so forth

⁶⁴See Sections 42, 74,75,79,83 and 84 of the Correctional Service Act 111 of 1998, as amended.

The graphic below illustrates the challenge facing the parole regime, in particular the population serving in excess of 7 years, including lifers. These currently comprise 63 % of the offender population.⁶⁵

Figure 7: Sentence periods of offender population



The challenge for the Department in respect of parole is illustrated by reference to their Annual Report 2012 /2013 in the programme, Social Integration.⁶⁶ In terms of the performance indicator relating to the percentage of eligible cases considered by the Parole Board, the actual performance did not meet the target; the reasons therefore cited as insufficient post structure of the CMC's which resulted in a backlog of cases.⁶⁷ In respect of requests and complaints recorded by the ICCV, a high percentage of matters concerned inmates' querying their eligibility for consideration for parole.⁶⁸

In respect of the medical parole regime the broadening of the opportunity to be favourably considered for release is a further area that requires attention.⁶⁹ During our inspections, we found that the medical staff was, in many cases, not aware of the amended provisions. The Department has indicated that the total medical releases for 2013 /2014 were 20.⁷⁰ The figure is low and our view is that much effort is required by the Department and ourselves to ensure that the administrative processes are fluid and efficient. The Inspectorate has prioritised this area for the 2014 /2015 period.

⁶⁵As at 31 March 2014

⁶⁶See pages 77 to 80 of the Department of Correctional Services 2012/2013 Annual Report

⁶⁷See page 78 of the Department of Correctional Services 2012/2013 Annual Report

⁶⁸23 469 cases of parole queries. See Chapter 4 of the report.

⁶⁹See section 79 of the Correctional Service Act 111 of 1998, as amended read with regulations 29A and 29B generally broadening the threshold from the final phase of a terminal illness to include physical incapacity resulting in severely limiting daily activity or inmate self-care

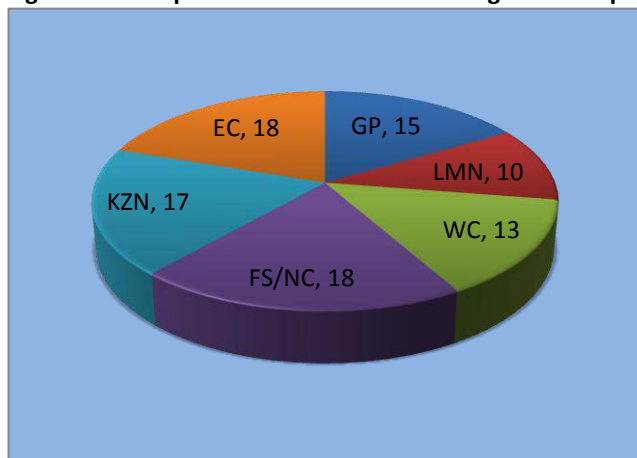
⁷⁰Provided in May 2014

4. Inspections⁷¹

An inspection⁷² in loco, comprises one of a general nature in which an inspector interviews officials, inmates and the ICCV and then tours the centre to observe and study the facility, and peruses the written records with a view to recording his / her own observations. The objective is to independently corroborate the oral representations made by the interviewees.⁷³ A formulaic approach⁷⁴ is adopted, with the necessary adaptations to suit the particular circumstances of a facility, so that a year-on-year comparative study can be made and compared of the areas inspected. Complimenting these standard inspections are the monthly assessments reports by the ICCV in the form of “mini-inspections⁷⁵” in which they highlight their observations and experiences at centre level.

Ninety one (91) inspections were conducted throughout the country. The spread of inspections over the Department’s regions was a goal we set in the previous financial year when the KZN (8) and EC (11)⁷⁶ were jurisdictions that had received less attention than the other regions. We have achieved a more even spread in this period as illustrated below with 17 inspections in KZN and 18 in the EC.

Figure 8: 91 Inspections illustrated according to the Departments regions⁷⁷



⁷¹To be read for further detail with our quarterly reports

⁷²As authorised by section 90 (1) of the Correctional Service Act 111 of 1998, as amended. Where necessary inspections with a specific focus or a survey is conducted; for e.g. health care in 2011 /2012 and 2012 / 2013 in respect of parole

⁷³The methodology is explained at page 41 of the Inspectorate’s Annual Report 2012 /2013

⁷⁴A pre-set questionnaire is used. This is set out at page 41 of the Inspectorates Annual Report 2012 /2013

⁷⁵“Mini-inspections” have been revised since 1 April 2014. The previous requirement was to provide the ICCV with latitude to report widely which was found to have failed to provide focused attention to agreed areas of concern without further management. The new approach still allows their independence but with the additional requirement of covering a set of minimum areas of inspection

⁷⁶See the Inspectorate’s Annual Report 2012 /2013 at page 40

⁷⁷Centres per DCS regions – EC (45), GP (26), KZN (42), LMN (39), WC (42) and FS/NC (49)

In respect of the most common problems found by our inspectors, the buildings and the maintenance thereof was either dilapidated and requiring major repair or that the progress in renovations was slow. A large percentage of infrastructural and maintenance fell within the responsibility of the Department of Public Works and over which the Department had little or no control. The shortage of professional staff, which affected services to inmates, in particular in the area of medical, and social services, raised concerns. Large numbers of nurses and social workers need to be recruited. Rehabilitation programmes and their insufficiency were encountered mainly in the smaller centres where programmes were offered by staff from larger centres in close proximity. We encountered instances where centres were not properly or adequately serviced in respect of fire-fighting equipment, nor were all officials trained to attend to emergency situations. The requirements of the Occupational Health and Safety Act, 85 of 2010 is an area that the Department ought to audit as matter of urgency.

Table 14: Findings made by inspectors where attention is required

Infrastructure / maintenance	44 instances
Staffing	18 instances
Insufficient programmes	16 instances
Occupational health and safety	15 instances

Schedule 1: Selection of inspection findings⁷⁸

#	Date inspected	Centre	Main findings	DCS reaction
1	3/4/2013	Hoopstad	Fire-fighting equipment not serviced. Hot water not available in sections.	Confirmation received from the centre that the fire-fighting equipment was subsequently serviced, new geysers purchased and hot water was available
2	4/4/2013	Odendaalsrus	Fire-fighting equipment not serviced. Severe overcrowding. Children in juvenile unit.	Confirmation received from the centre that the fire-fighting equipment was subsequently serviced and remand detainees were referred to court and overcrowding was reduced from 99 % to 35 % in August 2014. A cell was allocated in order to separate children.
3	15/7/2013	Sada	Water shortage caused by municipality service	Situation improved after negotiations with local municipality. Water is available on a daily basis but is still affecting ablution and hot water system due to the low pressure. Urns were bought to ensure inmates had hot water.

⁷⁸Space does not allow the recording of our findings in all 91 inspections. For a more detailed exposition see our quarterly performance reports

4	2/9/2013	Ermelo	<p>Educator post vacant, not funded.</p> <p>3 State patients incarcerated</p>	<p>Management motivated that a security post be converted to an educationist post. Currently 2 qualified officials render programmes.</p> <p>Inmates were taken on 2/2/14 for observation at the mental hospital and returned. Provincial mental health facilities not adequate.</p>
5	02/10/2013	Grahamstown	<p>Some fire extinguishers were found used but not refilled.</p>	<p>12 extinguishers were identified and replaced. Stricter control measures on the use of extinguishers were implemented.</p>
6	17/10/2013	Jansenville	<p>No programmes or activities available to keep inmates busy.</p>	<p>Currently Department of Social Development visits twice a week. Church services and indoor games are available</p>
7	9/7/2013	Bethlehem	<p>Extractor fan in the kitchen out of order.</p> <p>Programmes not available to inmates (educational and rehabilitation)</p>	<p>The matter was reported to the Department of Public Works to rectify.</p> <p>A meeting was held with role players and idleness of inmates addressed. Programmes commenced.</p>
8	22/5/2013	Waterval Medium B	<p>Fire-fighting equipment not serviced</p> <p>Visit area inadequate</p>	<p>Fire-fighting equipment still not serviced – reported to the Regional office by HCC.</p> <p>Construction of a visitor's area has been registered on the Capital Project priority list since 2013.</p>
9	22/5/2013	Barkley East	<p>Inadequate rehabilitation and educational programmes.</p> <p>Inmates not receiving sufficient recreational activity.</p> <p>Rotten fruit distributed.</p>	<p>Inmates receive social work and correctional rehabilitation programmes, but there are still no educational programmes as there is no post for an educationist.</p> <p>Inmates are now receiving more than the minimum 1 hour exercise a day.</p> <p>Inmate's subsequently receiving fresh fruit and measures have been implemented to prevent a repeat of the incident.</p>
10	8/7/2013	Harrismith	<p>Shortage of staff including custodial, social work and educationist.</p> <p>No educational programmes offered to juvenile inmates.</p>	<p>Advised that posts of educationist were abolished.</p> <p>No positive reaction from the Department.</p>
11	19/01/2014	Zeerust	<p>Currently no permanent nurse</p>	<p>Despite several follow up requests</p>

			<p>employed at the centre.</p> <p>Linked to the finding above, the Injury Register (G 336) is not kept up to date as inmates with injuries are taken directly to the nearest public hospital.</p> <p>The visiting area (for both contact and non-contact visits) is inadequate; visits taking place in conditions where privacy was not afforded.</p>	no communication from Department has reached the Inspectorate ⁷⁹
12	18/4/2013	Stutterheim	Contact visiting area is inadequate due to lack of space.	Centre declared a national monument and therefore no structural alterations are allowed. 76 % over-populated and programmes unable to be presented due to the infrastructure.
13	28/6/2013 and 2014	JHB Med A	B block is closed for renovations exacerbating the overcrowding of the centre.	B block opened after renovations (certain cells still not fit for occupation).
14	29/5/2013	St Albans Med B	<p>Overcrowded by 56%. Management and staff appear overwhelmed and demoralized. Gangsterism also prevalent and exacerbates the situation.</p> <p>Inmates sleep on the floor with no mattresses. 3 inmates share 1 bed in instances.</p> <p>The PE centre is in the process of being renovated.</p>	<p>150 inmates transferred to Goedemoed to relieve overcrowding</p> <p>RAMP at PE is handled by DPW and time of completion not certain</p>

⁷⁹On 5 August 2014 (during the time of writing of this report), we received confirmation from the Department that a nurse was appointed and the injury register updated. We were furthermore advised that Zeerust was to be rebuilt and that in the interim visitors were accommodated within the reception / release office

5. Investigations⁸⁰

Twenty investigations were conducted; a schedule whereof indicating our findings, is tabulated below.

Schedule 2: Overall investigations with findings and status

Centre	Investigation focus and findings
Odi	25 year old offender who was addicted to "Nyaope" (Woonga), sentenced to fine of R1000 alternatively 5 months imprisonment for setting fire to his single cell. He barricaded the door, preventing officials from entering. Found that no fire hose in unit and officials not trained in the use of a fire-extinguisher; buckets of water were used to extinguish the flames. Half an hour passed before the stand-by nurse arrived and inmate transferred to a public hospital. Inmate subsequently passed away and the matter is under investigation.
Kgosi Mampuru II Management Area Pretoria Central	Allegation by one inmate that access to computers for study purposes and conditions in communal cells not conducive to study purposes. Found that centre possessed a computer room with 15 desktop computers and a printer; internet access with supervision. Study in computer room adequate. In some cells the atmosphere was not conducive to study in privacy. Additional single cells for study purposes recommended. Inmates also requested to follow the procedure and register their needs and be cognizant of the rules. The matter is finalised.
Goodwood	Investigation of allegation of assault of inmate complaining of asthma for which he was treated. No evidence of assault. Inmate found not to be adhering to rules of prison including not attending medical sessions when required. The matter is finalised.
Johannesburg Medium C	Attempted suicide whilst in segregation cell. Inmate found in possession of contraband (SIM and memory cards as well as keys to handcuffs) and disciplined and demoted. Psychiatric treatment received and inmate placed in a cell with a fellow inmate as means to monitor him. Inmate under suicide watch.
Kirkwood / Somerset East	Use of force. Gangsters of the "28" gang gathered (some 76 of them) and refused to take meals. Officials employed force to bring the situation under control. No evidence that complainant was assaulted or injured. Others received treatment. Inmate (s) provided opportunity to prefer criminal charges. The matter is finalised.
Mangaung	See schedule "EST investigations"
Klerksdorp	Assault and homicide – gang violence. Found that various derelictions of duty by officials who were not stationed at their posts despite representing same by signing registers. Lack of security and movement control of inmates by negligent officials. Gang fight broke out 28 August 2013 with resultant death and injuries. The matter is under investigation.
Kgosi Mampuru II Central	Allegations of inhumane treatment of inmates in the workshop. Inmates interviewed averred that the complainant misrepresented their views and purpose of the collective complaint. Found that safety shoes were not provided to all inmates and DCS were requested to remedy the situation.
Durban Med B / Ebongweni / Kokstad / Waterval	See schedule "EST investigations"

⁸⁰ For more detail read our quarterly performance reports

Mangaung / Waterval Med B / Goedemoed / Klerksdorp / Johannesburg Medium B and C / Groenpunt / Colesburg	See schedule "EST investigations"
Goodwood	Sexual assault reported to the Department after the alleged incident. Medical treatment, including for a mental related disorder, thus delayed; inmate advises he is currently receiving treatment and refuses to divulge details of perpetrator or to lay criminal charges. The matter is finalised.
Losperfontein	See schedule "EST investigations"
Helderstoom Medium	Allegations of an assault and inadequate medical treatment by nursing personnel. Appears that inmate fell from his bed onto toilet bowl and forensic report discounts assault. Allegations of dereliction of duty by nursing personnel. Matter under investigation.
Mount Ayliff	Allegations of faeces in drinking water – service delivery by Local Municipality as well as several assaults by officials and no medical treatment received. Inmates, at the time of the investigation did not prefer criminal charges. Investigation continues.
Idutywa	Assault officials on inmates. Departmental investigation requested including immediate medical treatment not received and SAPS charges not laid. The Inspectorate's enquiry continues.
Boksburg	Assault. Differing versions by inmate and officials as to whether necessary or reasonable force was used or inmate assaulted. Matter under investigation.
Mogwase	See schedule "EST investigations"
St Albans Medium A, Medium B and Maximum	See schedule "EST investigations"
Kgosi Mampuru II Central	Assault – inmate on inmate. Found that inmate assaulted on 2 occasions by different inmates, both identified by "26" gang tattoos. The movement of inmates not adequately controlled particularly in communal sections and at the gates. DCS investigation report requested and awaited.
Pollsmoor Med B	Allegations of verbal abuse of inmate by an official brought to our attention by the ICCV. The ICCV mediated the matter with the parties and had the Head of Centre transfer the official. Internal enquiry by the Department to take corrective action by the Department. The matter is finalised.

		services. DCS took over the centre when Mangaung staff went on an industrial action. Mangaung investigation report by DCS awaited by the Inspectorate.
Losperfontein	Allegations of torture during a searching operation by the Regional EST.	<ol style="list-style-type: none"> 1. EST officials from the LMN Region conducted a search at Losperfontein CC on 12/12/2013. 2. Inmates were asked to declare contraband in their possession and inmate TM declared that he was in possession of cell phone and R50 cash. 3. He was then removed from the unit and allegedly tortured (shocked) with an electric anti-riot shield until he pointed out some 10 inmates who also had cell phones in their possession. 4. This resulted in 8 cell phones found and confiscated. 5. TM was not taken to hospital afterward and he cannot identify his assailant as he did not wear a name tag. 6. No video footage of the search was made contra to the orders regulating EST operations.
St Albans Medium A, B and Maximum	Mass assault of inmates by EST officials	<p>A search and seizure operation by a National EST was conducted at St Albans Medium A, Medium B and Maximum between 28 February 2014 and 2 March 2014. During the search cell phones, drugs, money, knives and other unauthorised items were found and confiscated. Inmate's personal items were also lost and damaged.</p> <p>58 offenders complained to the Inspectorate that they were assaulted during the operation.</p> <ol style="list-style-type: none"> 1. No inmates are (as yet) charged for the possession of contraband. 2. Four inmates at Medium A who were (according to DCS) "drunk" on the night their cell was searched were placed in segregation immediately after the search. They were already returned to general population during the investigation. The segregation was not reported to the Inspectorate as required in terms of section 30 of the CSA 111/1998 as amended (CSA) and the inmates have not been charged to date. 3. No inmates were transferred to other centres as a result of the search. 4. No use of force reports were forwarded to the Inspectorate as required by section 32 of the CSA to indicate that lawful minimum force was used by EST officials. 5. Inmates injured during the operation were taken to the various clinics and seen by nurses. Nurses at Medium B indicated that they observed no visible injuries on inmates despite the fact that inmates with bruises were observed by the investigators and photographed. 6. Some inmates in Medium A were referred to public hospitals as a result of injuries sustained during the searches. 7. There is prima facie evidence that inmates were assaulted and tortured during the EST operation mainly to obtain confessions of the possession of contraband and/or to get information regarding the ownership or whereabouts of contraband from inmates. 8. The EST had a list of names of gang leaders who they targeted and assaulted/tortured for information on the whereabouts of contraband. 9. Video footage taken at the kitchen of Medium B of a part of the operation via BOSASA CCTV

		<p>cameras disappeared off the system and could not be retrieved. Confirmation that BOSASA officials in the kitchen viewed the footage and this was witnessed by inmates.</p> <p>10. The EST did not video the operation as per standard operational procedures.</p>
Mogwase	EST, disrespect by officials and remission of sentence.	<ol style="list-style-type: none"> 1. Range of complaints by inmate including EST action on 22 January 2014 in which inmates unlawfully injured. 2. Further allegations that inmate's visitors were treated with disrespect and his request for remission of sentence on the grounds of finding a cellular phone in terms of section 80. Found that the allegations of assault, <i>prima facie</i>, had merit to investigate further. The lack of courtesy by officials to families was also echoed by other inmates and DCS advised to ensure that its officials showed courtesy. Insufficient evidence found to corroborate the veracity of remission application.

6. Scope of inmate's complaints and requests

Individual complaints are dealt with by 2 complimentary structures, the ICCV and Visitors Committee at centre level and by the Complaints Unit at the Inspectorate's head office in Cape Town. The powers, functions and duties of the unit derive from those of the Inspecting Judge.⁸² The ICCVs derive their authority from section 93 of the CSA. These sections read together deal with the process of dealing with complaints.⁸³ This chapter deals with matters by the Complaints Unit.

6.1 Requests and complaints

The progress in this unit has been severely hampered by the resignation of 2 lawyers and 5 administrative staff over the past 2 years.⁸⁴ Nevertheless, the unit has maintained its focus on assaults by officials on inmates, sexual assaults, health care, parole and transfers. From the period 1 April 2014 the category of torture⁸⁵ has been added. The unit is designed to receive urgent and serious complaints immediately from ICCV and also from the public and other government departments. It also deals with matters on its own volition. During the 2013 /2014 period it received and dealt with 1115 complaints, a negligible increase overall from that received previously. The table below illustrates the nature of the complaints and the number of cases dealt with.

Table 15: Requests and complaints dealt with by the Complaints Unit per quarter

	Q1 Apr-Jun	Q2 Jul-Sept	Q3 Oct-Dec	Q4 Jan-Mar	Total
Appeal	21	18	20	5	64
Assault (Inmate on Inmate)	20	14	8	7	49
Assault (Official on Inmate)	15	22	24	48	109
Assault (Sexual)	5	3	1	1	10
Bail	0	1	7	2	10
Communication with Family	1	5	9	3	18
Conditions	15	7	7	7	36
Confiscation of Possession	5	5	7	5	22
Conversion of Sentence	1	5	0	1	7
Corruption	1	1	3	1	6
Food	2	0	10	8	20
Health Care	30	26	27	15	98
Hunger strikes	1	0	4	1	6
Inhumane Treatment	2	3	11	7	23
Legal Representation	6	2	19	4	31

⁸²See section 90 (2) of the Correctional Service Act 111 of 1998, as amended

⁸³See Chapter 4 of this report

⁸⁴As at June 2014 it comprised only 2 staff

⁸⁵In line with the Prevention of Combating and Torture of Persons Act 13 of 2013. "Torture Act"

	Q1 Apr-Jun	Q2 Jul-Sept	Q3 Oct-Dec	Q4 Jan-Mar	Total
Medical Release	2	1	3	1	7
Parole	34	26	29	26	115
Re-Classification	8	8	3	9	28
Rehabilitation Programmes	5	5	9	8	27
Remission	0	2	2	0	4
Torture	0	0	1	0	1
Transfer	49	65	58	71	243
Other	23	27	115	16	181
TOTAL	246	246	377	246	1115

These types of matters received are varied. In respect of the categories, appeal, bail and legal representation, cases by and large fall outside of the scope of the Department and, in turn, the Inspectorate's core mandate, and are referred to the Legal Aid South Africa. Transfers, other,⁸⁶ parole constitute the majority of complaints. Our focus in respect of transfers is on those cases where inmates are not voluntarily, or by their own request, transferred. The test in these matters entails a number of factors, including whether the transfer would not adversely affect the inmates rehabilitation journey, whether the transfer was properly considered when the reasons are cited as for security purposes and in instances where the transfer is merely a decision tantamount to effecting a disciplinary measure. In the latter instance, the Department would be in breach of the procedures regarding disciplinary action.⁸⁷

Parole matters vary from mere requests from inmates to confirm whether their dates for release are correct to complaints regarding the CMC or CSPB and whether these bodies had correctly considered their cases. Many inmates would be anticipating release and thus would be seeking the assurance of the Inspectorate that the Department's decision was correct. In dealing with parole matters we have found that the Department must, as a rule, provide inmates with written decisions and the reasons for those decisions as many are orally provided.⁸⁸ We discuss assaults and health care below. These categories form part of our primary focus areas.

⁸⁶Other refers to matters outside of our jurisdiction or where sufficient detail is not provided by the complainant

⁸⁷See sections 22 to 24 of the Correctional Service Act 111 of 1998, as amended

⁸⁸See section 42 (3) of the Correctional Service Act 111 of 1998 (as amended) which requires the CMC to inform the inmate of its report to the CSPB. The entire regime from admission, drafting of the sentence plan and decisions of the CMC or CSPB should continuously be discussed with the inmate and provided in writing. Written explanations will assist in the inmates understanding.

6.1.1 Assaults by officials

The focus on assaults perpetrated by officials upon inmates is an area that was reported on during the 2012 /2013 year when we recorded 99 such allegations. Not all the allegations were evidentially proven. We were unable to make findings in cases where insufficient evidence was at hand, inmates had withdrawn their complaints and where during our enquiry the allegations of assault were found to have been a reasonable and necessary exercise of the use of force.⁸⁹

We firstly record our findings for the 2012 /2013 period in which we found that the Department's Emergency Support Team (EST) was found to have acted unlawfully in one degree or another.

In each of these matters the Inspectorate's findings were provided to the inmate and HCC. It is incumbent on the Department either to put into dispute our findings which it had not, and use its managerial powers to discipline its officials. This report is unable, for want of space, to record in detail all matters.

In 2012 /2013 the Inspectorate reported on 99 instances of assaults that were received. To this end the Inspectorate received 97 investigation reports and made 46 adverse findings.

Table 16: 2012 / 2013 assault findings

	GP	LMN	KZN	EC	WC	NCFS	TOTAL
Assaults Reported	15	9	15	20	19	18	99
Adverse findings by JICS	12	2	6	14	6	6	46

Of the 46 adverse findings we made, we provide herewith a schedule of those in which the EST⁹⁰ was implicated. In the 6 cases below we provide a sample of the allegations and our findings, suffice to report that these provide evidence that the EST security regime had acted in a manner that is inconsistent with the respect for the rights of inmates.

⁸⁹ In line with the provisions of section 32 of the Correctional Service Act 111 of 1998, as amended

⁹⁰ Emergency Support Teams are either locally based or for larger security operations ordered by the national or regional management

Schedule 4: Findings i.r.o. EST related matter 2012 /2013

19/11/2012	MM 211067886 R-991-2012	Burgersdorp – EC	Inmate positively identified during an identity parade EST official Mr C as perpetrator of an assault on him during a search operation on 11 September and 30 October 2012. SAPS case was opened and Inspectorate found sufficient evidence to find that DCS should charge Mr C for misconduct. Matter brought to Inspectorate’s attention by the HCC who was complimented for reporting on his own volition.
20/08/2012	NT 211094541 R-710-2012	Dundee - KZN	Allegations of assault on 19 March 2012 of remand detainee who was slapped by EST official Mr M. Other EST members joined in by kicking and assaulting him several times during a search where dagga was found. Inmate could not identify by name the other perpetrators and requested an identity parade. The inmate states that he reported the assault to the HCC. He sustained injuries to the chest and received medical assistance only a week after the incident. He was denied opportunity to open a case with SAPS and was told that the EST head would be consulted first. Incident was witnessed by fellow-inmate. Incident reported by the HCC. Inspectorate found, in concurrence, with Departmental investigation, that perpetrator should be placed before a disciplinary committee and criminal charges preferred by inmate.
18/07/2012	JO 541774 R-663-2012	Pretoria Central - GP	Allegations of assault on 16 July 2012 by officials after fight between inmates. Found that the extent of the force used by security officials was excessive and that after the situation was brought under control, assaults occurred. 5 inmates were injured in various degrees and medical treatment received. Centre’s investigation concurred with Inspectorate’s that officials were guilty of misconduct. Allegations that a death had occurred were unfounded.
06/08/2012	CN and 16 others 212355888 R-607-2012	Krugersdorp – LMN	ICCV reported that on 27 July 2012 inmates were assaulted by EST officials during a search and seizure operation during which contraband was found. Departmental investigation found that no officials were liable. Inspectorate studied the DCS report and the allegations that batons and open hands were used on inmates and denied by officials. Medical evidence was not provided and our investigation lacked the corroboratory evidence to support the statements by inmates as to the nature and extent of their injuries. A definitive finding could not be made and the Department was requested to hold a hearing on the basis of 12 inmates’ statements which presented a <i>prima facie</i> case and that oral evidence in an enquiry should take place.
18/07/2012	ST 202880236 R-540-2012	Rooigrond Med A – LMN	Alleged that on 12 April 2012 inmate and 3 others, MM, TM and EL were transferred to Groenpunt Maximum Centre. 4 EST officials M1, M2, S and L took him from his cell where he was choked, assaulted and undressed in front of female officials. The inmate indicated this occurred at Medium B between the reception and lecture hall. Alleged that on route to Groenpunt Maximum centre, officials stopped at Lichtenberg CC where further assaults took place and again at the Potchefstroom Police Academy and there they were slapped several times. The 7 officials who were allegedly involved in this assault were M1, M2, M3, M4, M5, S and L. Department denied the allegations and averred that inmate was instigating a possible riot. On arrival at Groenpunt Maximum Centre inmate allegedly consulted by official F who witnessed the injuries. No statement by official F was included in Department’s investigation and Inspectorate found the investigation deficient and should be re-opened.
12/06/2012	NO	Tswelopele – NC/FS	Inmate alleges officials S, B, R and M acted unlawfully and that he was assaulted by them and subsequently threatened and then transferred to Tswelopele CC. His personal possessions (bag, clothes, bank card and radio)

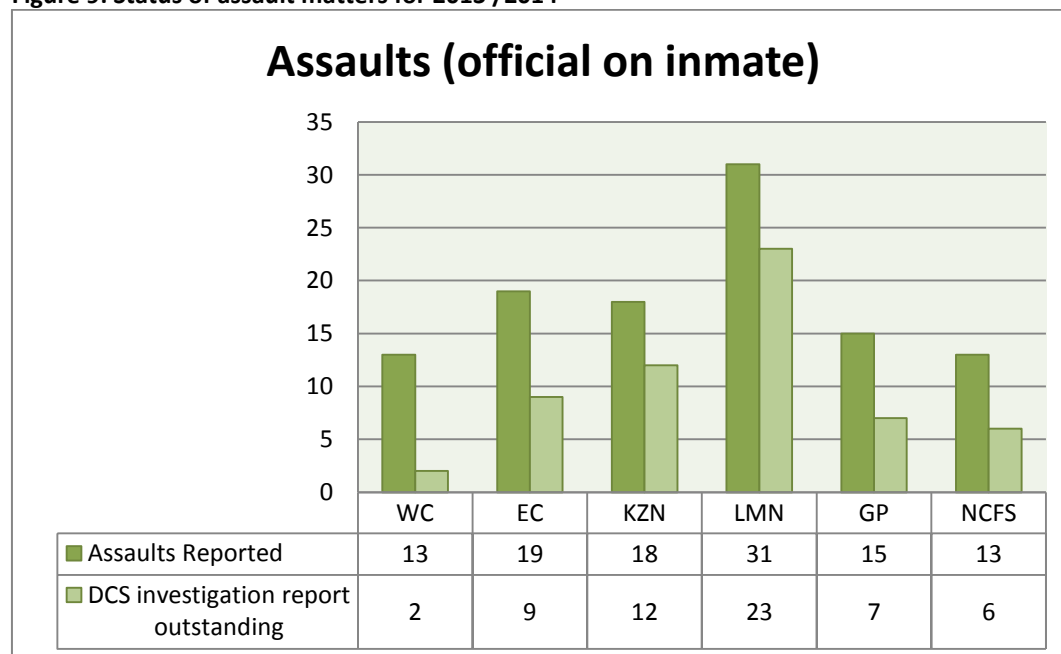
	208227229 R-461-2012		<p>were not returned. Official Mr B hit him with his fist several times in his face and thereafter stomped on his back with boots when a female official joined the assault. The inmate sustained injuries and was taken to the hospital by his unit manager but apparently received no treatment. Inmate requested to open a SAPS case but the investigating officer refused to take his case and recommended the matter be resolved between inmate and officials.</p> <p>Department averred that necessary force was applied as the inmate was physically and verbally threatening. Material factual disputes and insufficient corroboration to prove inmate's version. Found that Department failed to report the use of force as required by section 32 of the CSA.</p>
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For the current period the table below reflects the 30 incidents, whereafter an EST operation the Inspectorate received complaints. A *prima facie* case exists for further enquiry into whether the actions constituted a lawful use of force, exceeded the legal parameters of necessity and reasonableness or constituted an assault.⁹¹ These matters are currently being dealt with.⁹² The further allegations and circumstances in the 109 assault complaints are also reflected in the table.

Table 17: Assaults for 2013/2014 reflecting allegations or circumstances under enquiry

	GP	LMN	KZN	NC/FS	WC	EC	TOTAL
NO MEDICAL TREATMENT	4	2	9	4	0	1	20
ASSAULT BY EST	2	20	1	3	1	3	30
SAPS CASE OPENED	6	22	5	5	7	8	53
DCS I/R OUTSTANDING	7	23	12	6	2	9	59
DISCIPLINARY ACTION RECOMMENDED BY DCS	0	2	0	4	1	2	9

Figure 9: Status of assault matters for 2013 /2014



⁹¹ With the promulgation of the Torture Act the enquiry will extend to whether its provisions were breached.

⁹² The progress in these matters are reflected in our quarterly reports

6.1.2 Health care

The constitutional obligation that provides, inter alia, for adequate health care⁹³ read with the provisions of the legislative regime⁹⁴ and policy framework pertaining to health care is varied; and in a confined environment the management of disease prevention, the treatment of illnesses is exacerbated. The purpose of our general survey reported in 2011 /2012 was to obtain an overall picture of the issues involved. A particular focus on health-related complaints was initiated by the unit, guided by the number of matters recorded by the ICCVs. The graph below records the matters received either directly by our office or as not resolved at centre level. The 98 matters received are negligible compared to what was expected. Together with our revised inspections and additional training to ICCVs we intend to introduce a further nuanced approach to these complaints and proactively guide the ICCVs.

Figure 10: Health Care 2013/2014

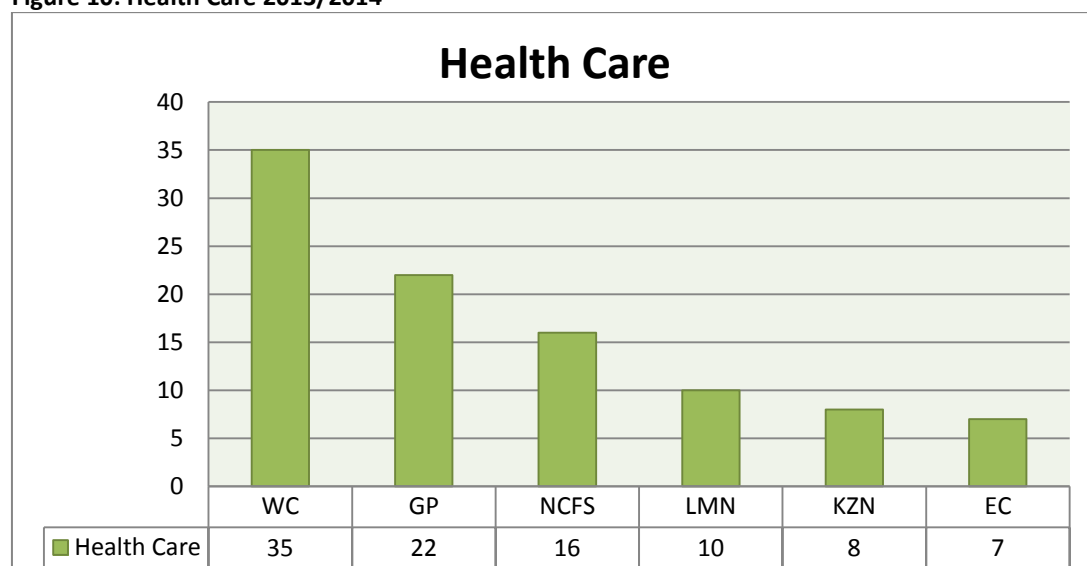


Table 18: Nature of complaints received i.r.o. health care

Request for private health care	2
ARV – HIV/TB related treatment	14
Failure to provide medical treatment	21
Inadequate medical treatment	21
Mental disorder	3
DCS erroneously report	10
Other	27

⁹³Section 35(2)(e) of Chapter two of the South African Constitution, Act 108 of 1996

⁹⁴The Correctional Service Act 111 of 1998 (as amended), Health Act 63 of 2003, Mental Health Care Act, 17 of 2003, etc

Mental health is an area, that during our inspections, into which we routinely enquire. The medical staff are interviewed and is requested to provide their statistics regarding those patients who are considered mentally ill and whether they receive treatment for this condition. The central thrust of our enquiry is whether, in their opinion, particular inmates ought not to be incarcerated and /or are termed “state patients”. The Department’s statistics record the following state patients per region.⁹⁵

Table 19: Number of State patients per DCS region

Eastern Cape	32
Gauteng	1
KwaZulu-Natal	2
LMN	26
NC /FS	22
Western Cape	0
TOTAL	83

The plight of State Patients being incarcerated in correctional centres is a concern that requires the Department of Health and DCS to find an urgent solution to.

7. Mandatory Reporting

The objective behind the legislature making it obligatory for HCC to report on deaths⁹⁶ in custody, segregations,⁹⁷ mechanical restraints⁹⁸ and the use of force⁹⁹ are based on the provisions of the Bill of Rights. Human dignity,¹⁰⁰ the right to life,¹⁰¹ freedom and security of the person¹⁰² and to conditions of detention that are consistent with human dignity¹⁰³ are the core provisions. The reciprocal duty on the Inspectorate to whom these reports are provided is to ensure that all instances are in fact reported. The Department in turn being obliged to provide a full substantive and justifiable explanation. At the next level the Inspectorate is obliged to adjudicate whether the action by the Department was merited.

In previous reports¹⁰⁴ we called on the Department’s managers to report in a manner which affords the Inspectorate sufficient detail. By way of example the occurrence of an unnatural or sudden death may require that an in loco investigation commence immediately. Similarly, where the extent of the force that

⁹⁵ Provided by the Office of the COO on 12 August 2014

⁹⁶ Section 15 of the Correctional Service Act 111 of 1998 (as amended) read with regulation 9

⁹⁷ Section 30 read, only regulated insofar as pertains to section 30 (1) (b) dealing with inmate discipline in regulation 14

⁹⁸ Section 31 of the Correctional Service Act 111 of 1998 (as amended) read with regulation 18

⁹⁹ Section 32 of the Correctional Service Act 111 of 1998 (as amended) only regulated insofar as the instrument or weapon used in regulations 19, 20 and 21

¹⁰⁰ Section 10 of the South African Constitution, Act 108 of 1996

¹⁰¹ Section 11 of the South African Constitution, Act 108 of 1996

¹⁰² Section 12 of the South African Constitution, Act 108 of 1996

¹⁰³ Section 32 (2) (e) of the South African Constitution, Act 108 of 1996

¹⁰⁴ See for example at page 53 of the Inspectorate’s Annual Report 2012 /2013 as well as at Chapter 3 of the Inspectorate’s Annual Report 2010 /2011.

was applied results in injury to an inmate the Inspectorate can ensure that immediate medical attention is provided. Lastly, inmates possess a statutory right to appeal to the Inspecting Judge any segregation or mechanical restraint, the duty then requiring a decision within 72 hours of receipt of the appeal.

For the current period the Department has maintained a satisfactory reporting ethos in respect of unnatural and natural deaths. However, in respect of mechanical restraints and the use of force HCC report minimally, requiring our Mandatory Unit to enquire further, placing a huge and unnecessary administrative burden on the 3 persons who comprise the unit. We repeat the call for officials to meet our requirements and for senior managers or auditors to focus its attention in this area.

We submit that the regulations which are silent on the duties in respect of the mandatory reports be amended to include specific procedural and minimum reporting obligations by the Department. Regulating this area and its stricter management by the Department's regional offices will likely improve on what has been a less than satisfactory situation.

Below we report on the number of mandatory reports within the correctional centres and also per the Departments 6 regions. The purpose is to provide an overview territorially with a view to eliciting a comparative observation. Having regard to the right to privacy enjoyed by each inmate not to disclose his or her HIV/Aids related illness and to exercise the right not to be tested the question whether a nexus exists between imprisonment and contracting an HIV/Aids related illness¹⁰⁵ is one that can only be answered by hypothesis and then compared to medically certified cases of natural deaths. The Inspectorate views this as an important area for research by experts.¹⁰⁶

The finalisation of our findings in respect of unnatural deaths is dependent on the receipt of a medico-legal post mortem report and the Departmental findings¹⁰⁷ that are compared to those the Inspectorate itself investigates.¹⁰⁸ Resultant is that for the period 2013 /2014 we are unable to provide our substantive findings. We record though that for this period the continual decline has seen that 46 such deaths occurred, of which at the time of writing included 10 for which we are unable to make even a *prima facie*

¹⁰⁵By sexual violence, gang activity or consensual intercourse

¹⁰⁶HIV /Aids in Prison – Problems, Policies and Potential by KC Goyer was published in 2003 (ISS Monograph Series No. 79) and which researched only Westville Medium B

¹⁰⁷ The progress in receiving these are recorded in our quarterly performance reports to the Department and the Portfolio Committee for Correctional Services

¹⁰⁸Our limited investigative staff and human resources deficit exacerbates the problem of our being to conduct *in loco* investigations in all unnatural deaths; same being confined to instances of homicides

finding for want of the medico-legal post mortem report. We annex a schedule of our findings to date for the 2012 / 2013 period pertaining to suicides by hanging. We firstly tabulate the major findings where the obligation of the Department and/or its officials was not adequately met and thereafter a narrative schedule of each matter.

Table 20: Summary analyses of findings i.r.o. suicides for 2012 /2013

1. Inmates left unattended /unsupervised for long periods either in a single cell or the shower area (1, 2, 5, 6, 7, 8, 10, 12, 13,14, 15)	11 of 17 – 68 %
2. No assessment as required by s 6(5)(b) (2, 4, 5, 7, 10, 13, 14, 15, 16)	9 of the 17 – 53 %
3. Dereliction of duty – non compliance with B-order, Health policy (1,7,8,9,11,13,14,17)	8 of 17 – 47 %
4. Segregated inmates not reported to JICS i.t.o. s30	5 of 17 – 29 %

It is disconcerting that 68 % of suicides occurred during the period when an official was not monitoring the deceased. Whilst we are of the view that it is not unreasonable to accept that all inmates cannot be monitored directly on a 24-hour basis, the core requirement of the statutory obligation to ensure the safe custody of each inmate requires that custodial officials’ monitoring plans leave as few opportunities as possible for inmates to engage in the taking of their lives. In the Modderbee matter, the Department’s duty to monitor the inmate and place him on “suicide-watch” failed and the omission constitutes in the least, gross negligence on their part.

The provisions of section 6(5) (b) of the CSA are peremptory and buttressed by the corresponding regulation. It is of great concern to the Inspectorate that the Department has breached the provisions of section 6(5) (b) of the CSA in 53 % of the matters.¹⁰⁹In each of these matters, the Department was duly informed.¹¹⁰ We call for an immediate and urgent audit by the Department to act decisively to remedy the status quo. In our Annual Report 2011 / 2012 we found in our survey on health care that 38 % of inmates were not examined at all within the stipulated period of 24 hours on admission.¹¹¹ In the cases where officials were derelict in their duties, we found in eight of the 17 matters that the officials had not followed the Department’s own B- orders and or the Department’s health policies. In five of the 17 matters, we found that the Department’s officials had breached section 30 of the CSA by not reporting the matters to the Inspectorate.

¹⁰⁹ Section 6(5) (b) of the Correctional Services Act 111 of 1998 as Amended, states that as soon as possible after admission, every inmate must undergo a health status examination, which must include testing for contagious and communicable diseases as defined in the Health Act 63 of 1977.

¹¹⁰ To the Head of Centre, Area and Regional Commissioner

¹¹¹ See the Inspectorate’s 2011/2012 Annual Report.

Schedule 5: Findings i.r.o. of suicides for 2012 / 2013

No	Name / reg. no / case no.	Correctional Centre	Cause of death	Alleged circumstances and findings
1.	SL Sentenced 208295235 D-222-2012	Boksburg Juvenile	Suicide-Hanging	<p>The Department reported that on the evening of 17 April 2013 the deceased committed suicide by hanging himself in his single cell at about 22h00. He hanged himself next to the grill door with a t-shirt and shoe laces tied to a hook mount to the wall. The department further reported that the deceased had been placed in segregation on the morning of 17 April 2013 after it was discovered that he had locked another inmate in an office where medication was kept and that he was also in possession of hospital keys. His segregation was not reported to the Inspectorate.</p> <p>Inspectorate found that the department breached B-order 2 chapter 5 which deals with the control of keys and states that: under no circumstances may a prison key be handled by prisoners; it also breached section 30 of the CSA 111 of 1998, by not reporting segregation to the Inspecting Judge. It was not recorded if the inmate was assessed by a medical practitioner before being segregated or whether he was visited by a correctional official every four hours and/ or the Head of Centre a least once a day.</p>
2.	AO 212700291 Sentenced D-314-2012	St. Albans Med. A	Suicide Smoke inhalation	<p>Remand detainee was housed in a special care unit. On the 9 /6/2012 he set his mattress and bedding alight; officials tried to assist but were unable to; He died as a result of smoke inhalation. The inmate was detained in a single cell as it was alleged that he had raped another inmate. The Inspectorate has noted that the inmate's segregation was not reported.</p> <p>Inspectorate found that the department did not comply with section 6(5) (b) of the CSA 111 of 1998 when he was admitted to the centre, i.e. he did not undergo a health assessment; also breached section 30 of the Correctional Services Act 111 of 1998, segregation not reported to the Inspecting Judge and also no indication as to whether the inmate was assessed by a medical practitioner before being segregated or whether he was visited by a correctional official every four hours and /or the Head of Centre a least once a day; the deceased, a juvenile, was kept in a special care unit with adults and maximum offenders.</p>
3.	LX 206402108 Sentenced D-340-2012	Malmesbury Med. A	Suicide-Hanging	<p>On 25/6/2012 at approximately 11h10 an official found the inmate hanging in the laundry of B flank, Unit 5. The inmate was found hanging with a cord around his neck which was tied to the light fitting in a communal cell.</p> <p>The Inspectorate concurred with the Department's investigator's recommendations that certain officials be charged for dereliction of duties. E.g. leaving the unit without authorization, etc</p>

4.	OO 212428307 Remand Detainee D-381-2012	Modderbee	Suicide-Drug Overdose	<p>Remand detainee OO attempted to commit suicide on the 17/07/2012; he was admitted to Tambo Memorial hospital, then discharged on the 19/07/2012 and readmitted at the Centre hospital. He was then found dead in his cell by the professional nurse.</p> <p>Inspectorate found that the Department did not comply with section 6(5) (b) of the CSA 111 of 1998 when he was admitted to centre, a proper health assessment was not conducted; the DCS did not interview fellow-inmates, but only interviewed officials, the inmate was not immediately referred to the centre hospital. Post-mortem and toxicology reports still outstanding</p>
5.	MN 211797527 Remand Detainee D-410-2012	Vereeniging	Suicide-Hanging	<p>Remand detainee hanged himself in the shower with a cord from his jacket which he extended by using sheets. Deceased was found by a fellow offender who alerted other offenders in the communal cell. Deceased left a letter stating that he could not deal with imprisonment.</p> <p>Inspectorate found that the department did not comply with section 6(5) (b) of the CSA 111 of 1998. When he was admitted to centre he did not undergo a proper health assessment; also found that the deceased was a very quiet person who also did not register complaints with the unit manager; found that the officials at the centre were not aware that the deceased had tried to commit suicide when detained by SAPS and had also tried to escape.</p>
6.	WC 211044212 Remand Detainee D-466-2012	Boksburg	Suicide-Hanging	<p>It was reported that on the morning of 24 August 2012 at about 01h25 the deceased was found hanging in the shower with a belt tied to the bars in front of the bathroom window.</p> <p>The Inspectorate concurred with the Department's investigators that the DCS had provided the inmate with social worker assistance after he had complained of lack of communication with his family. He had been encouraged to communicate with his family in writing. DCS negligence not found.</p>
7.	NM Remand Detainee 212953064 D-516-2012	Pollsmoor Female	Suicide -Hanging	<p>Deceased was a 22 year old remand detainee housed in B4 - Unit. She returned from the medical parade and was placed in single cell 03. The inmates in the single cells were let out for exercise, but she requested to remain in her cell, as she was not feeling well. An official returned to the single cell block and inspected the cells. She found the inmate hanging from the window frame and requested assistance from the HCC & Registered Nurse. No vital signs could be detected by the nurse and ER 24 was contacted. ER 24 declared the inmate dead upon their arrival.</p> <p>Inspectorate found that the department complied with section 6(5) (b) of the CSA 111 of 1998. A health assessment was conducted and inmate had been referred to a psychologist and psychiatrist who found the inmate suffered from post-natal depression, was sad, withdrawn and suicidal; however the DCS did not follow its Healthcare Policy and Procedure Manual under Suicide: Prevention and Management. Paragraph 2.35 of the policy deals with a</p>

				<p>multidisciplinary approach in orientating and training officials and inmates about factors leading to suicide, suicide prevention and how to recognize a person with suicidal tendencies/ideas. It further notes that all depressed, suicidal or mentally imbalanced patients must, as far as possible, not be detained in a single cell and if this cannot be accommodated in a communal cell an official must be specifically allocated to guard him/her around the clock.</p>
8.	<p>BM</p> <p>Remand Detainee</p> <p>211074161</p> <p>D-538-2012</p>	<p>Helderstroom Maximum</p>	<p>Burn wounds</p>	<p>It was reported that on the afternoon of 17 July 2012, the deceased, together with 3 other inmates refused to eat and they gave their reasons to the officials. On the 18 July 2012, the inmates further refused to eat their breakfast and supper; they requested to see the HCC. The HCC requested that the inmates be ready from him for the 19 July 2012; on the 19 July 2012 whilst the Head of Centre was in a meeting with staff the deceased set his single cell alight.</p> <p>Inspectorate found that the HCC took undue time to address the inmates who had embarked on hunger strike: the departments Health Care Policy and Procedures Manual indicates inmates who are on a hunger strike should be assessed by a health practitioner as soon as possible, and be interviewed by the HCC.</p>
9.	<p>VM</p> <p>206067654</p> <p>Sentenced</p> <p>D-539-2012</p>	<p>Mangaung</p>	<p>Suicide -Hanging</p>	<p>The deceased was housed at Wolds unit, Street 05, cell 05 where he was sharing a cell with another inmate. The deceased committed suicide by hanging himself from the window of the cell; he used bedding to hang himself.</p> <p>The Inspectorate concurred with the DCS's investigation that found that the contractor breached clause 20 of the Concession Contract and Emergency Order No 3 namely by failing to comply with operating procedures by not getting into the cell immediately when they became aware of a suicide and resuscitating the inmate, failing to preserve the crime scene and failing to inform the controller within an hour of the incident.</p>
10.	<p>B L</p> <p>212415482</p> <p>Remand Detainee</p> <p>D-581-2012</p>	<p>Middleburg Centre of Excellence</p>	<p>Suicide-hanging</p>	<p>Deceased was a remand detainee. He was admitted to the centre on the 17/10/2012. On the 19/10/2012 at about 02h05 the deceased committed suicide by hanging himself with bed sheets in the shower behind the curtain in the communal cell. On the 18/10/2012 deceased had complained of stomach ache and vomiting; he was attended to by the nursing sister and received medication.</p> <p>Inspectorate found that the department did not comply with section 6(5) (b) of the CSA 111 of 1998. When he was admitted to centre he did not undergo a proper health assessment; no outcome of the assessment to detect if inmate was suicidal or not.</p>

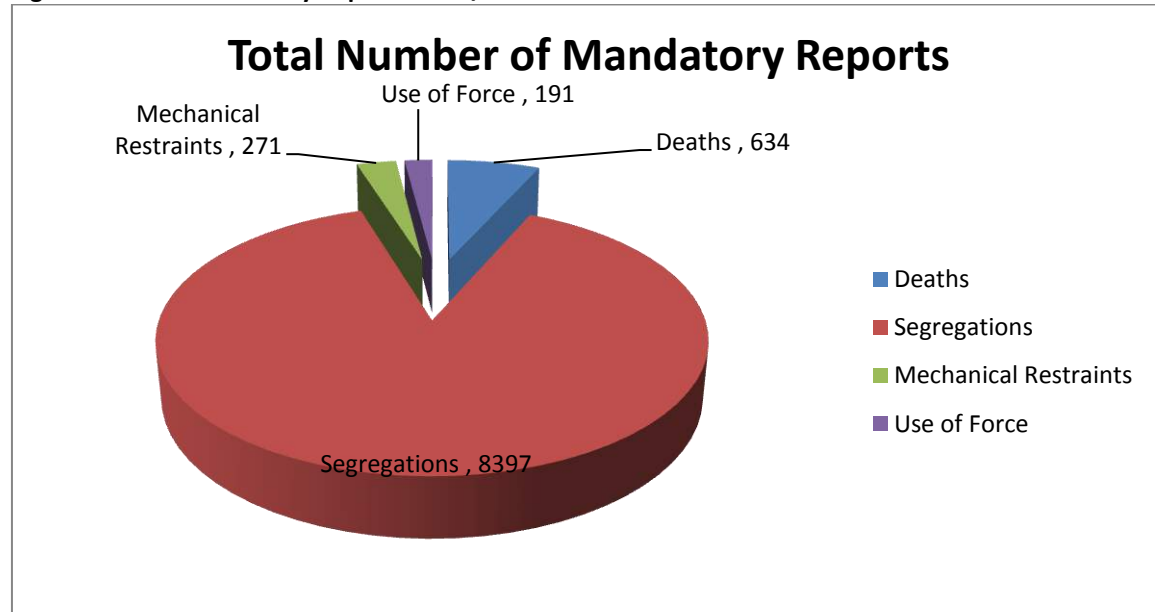
11.	J M 210797502 D-648-2012 Sentenced	Vereeniging	Suicide- Drug overdose	<p>The inmate took an overdose of epileptic medication. He was referred to the public hospital after being stabilized at the centre hospital.</p> <p>Inspectorate found that the inmate had complained before the lockup bell and he was instructed to go back to his cell. It was found that; his complaint was never taken after the inmates had been locked up; that the inmate was allowed to keep his medication; that the DCS did not follow its Health Care Policy and Procedure under paragraph 2.28 that deals with Medication management and which states that inmates who are on medication for self-administration must at all times acknowledge receipt of their medication on the G335(a) card and the nurse must record that the inmate has been counselled and provided with all the necessary information; that the deceased's G335 (a) was not completed to indicate that the inmate was receiving medication and was self administering.</p>
12.	N N 207435981 D-735-2012 Sentenced	Modderbee	Suicide-Hanging	<p>It is alleged that, on the morning of 28/12/2012 during unlocking, everything was in order. After submitting the totals of the inmates in the cell, all the Units were ordered to recount as the numbers did not balance. During recounting officials found the inmate in single cell 4 hanging from two steel beds which had been raised against the wall.</p> <p>Inspectorate found that the inmate was depressed; he experienced problems with his family; that the psychiatrist had reported that the inmate's problem should be treated as a societal problem and must not be linked to any psychiatric illness, that the deceased's single cell had two beds instead of one, that the beds were not bolted to the ground. Post mortem and toxicology report still outstanding.</p>
13.	J M 208223738 Remand Detainee D-62-2013	Grootvlei Max	Suicide-Hanging	<p>The deceased was a parole breaker. He was admitted to the centre on the 02/02/2013 and he committed suicide by hanging himself with a bed sheet on the 02/02/2013 in a single cell. He was discovered in the morning during unlocking at about 07h30.</p> <p>Inspectorate found that the DCS did not follow its Health Care Policy and Procedures under paragraph 2.12 that deals with inmates who are intoxicated on admission which states that all inmates showing signs of intoxication on admission should be referred to the Correctional Centre health facility for immediate assessment and further management; proper health assessment in terms of section 6(5) b of the CSA 111 of 1998 was not conducted; also breached section 30 of the CSA 111 of 1998, segregation not reported to the Inspecting Judge and also not clear if the inmate was assessed by a medical practitioner before being segregated or not; visited by a correctional official every four hours and or the HCC a least once a day and also recommended that officials be disciplined. Found that the department had not put in place measures to assess parole breakers who were admitted to the centre during weekends.</p>

14.	D VW 213913535 Remand Detainee D-83-2013	Johannesburg Med. A	Suicide Self mutilation	<p>It was reported that the remand detainee was admitted on the 7 February 2013. On 9 February 2013 at approximately 15h50, the remand detainee used a large piece of glass from a cell window which he had broken, to cut his throat causing extensive wounds to his oesophagus. Other remand detainees attempted to stop him but were unsuccessful. Officials were alerted by the inmates as to what was happening.</p> <p>Inspectorate found that the Department did not comply with section 6(5) (b) of the CSA 111 of 1998 when he was admitted to centre he did not undergo a proper health assessment; remand detainee was high risk but not handled as such, the officials did not follow their own protocol and procedures to ensure the safe custody of inmates, no attempts were made at a contingency plan, found that officials dealing with high risk inmates should continuously undergo training and HCC/ Area Commissioner should review and update contingency/ emergency plans. The contents of the plans must be discussed with officials on a monthly basis and form part of their training.</p>
15.	A B 213976303 Sentenced D-91-2013	Pollsmoor Med. B	Suicide- hanging	<p>It was reported that the deceased inmate was sentenced on the 12/02/2013 for an effective five years. On the 16/02/2013 at about 06h19 during the unlocking of the inmates in Unit B1 the deceased was found hanging from a belt and a television cord inside his single cell. The inmate was in a crouching position on his knees with his face downwards. It was further reported that the inmate had no medical history and that he was in good health.</p> <p>Inspectorate found that the DCS did not comply with section 30 of the CSA 111 of 1998; segregation not reported to the Inspecting Judge, no not clear if the inmate was assessed by a medical practitioner before being segregated or not;, visited by a correctional official every four hours and/ or the HCC a least once a day; the DCS did not comply with section 6(5) (b) of the CSA 111 of 1998; when he was admitted to centre he did not undergo a proper health assessment;, no reasons were given to place the inmate in a single cell; hat inmates who stayed in the single cells next to the deceased cell had not been interviewed.</p>
16.	E T 212384791 Sentenced D-106-2013	Makhado	Suicide - hanging	<p>It was reported that the inmate had hanged himself with a shoe lace in the communal cell. Inspectorate found that the Department did not comply with section 6(5) (b) of the CSA 111 of 1998; when he was admitted to centre he did not undergo a proper health assessment, that the first entry in the inmate's medical history chart (G 335 (b)) was the date of his death, it shows no entries prior to that date; that no statements were taken from the officials who had assisted at the time of the incident; that the deceased had been incarcerated for eight (8) months and thirteen (13) days and not once did he have a complaint or request to see the medical staff and/or social worker. The post mortem report is still outstanding Recommended that the DCS should keep the matter open until such a time as the post mortem is available.</p>

17.	L E 213214964 Unsentenced D-108-2013	Grahamstown	Suicide hanging	It was reported that the inmate was found by a fellow inmate hanging from the bathroom window frame at about 05h00 on the morning of 24th February 2013. Inspectorate found that only one official was patrolling two units at night, found that the department did not follow its B-orders namely B-Order 2 chapter 12 section 6 which deals with night visits. Post mortem report still outstanding.
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7.1 Overview of deaths, segregations, mechanical restraints and use of force

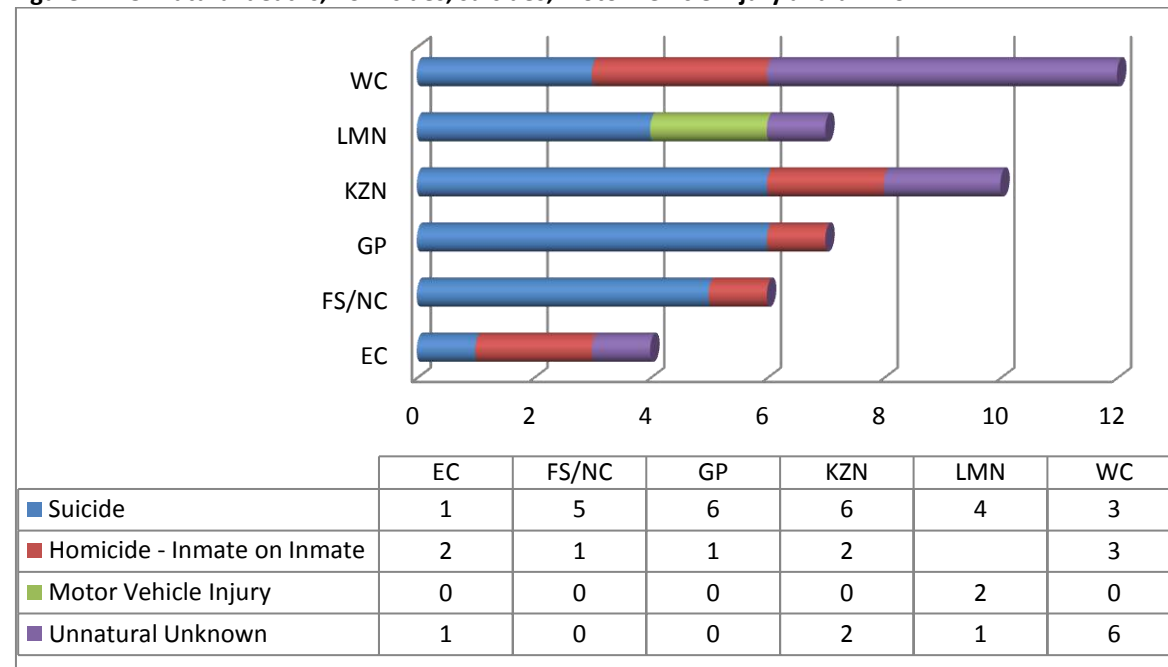
Figure 11: Total Mandatory Reports 2013 / 2014



7.1.1 Unnatural deaths

Of the 46 deaths which have not been certified as arising from natural causes, and thus not subjected to an enquiry in terms of the Inquests Act, 58 of 1959 are included 10 matters which are classified as “unknown”. These are so classified since they are still subject to certification by a medico-legal expert.

Figure 12: Unnatural deaths, homicides, suicides, motor vehicle injury and unknown



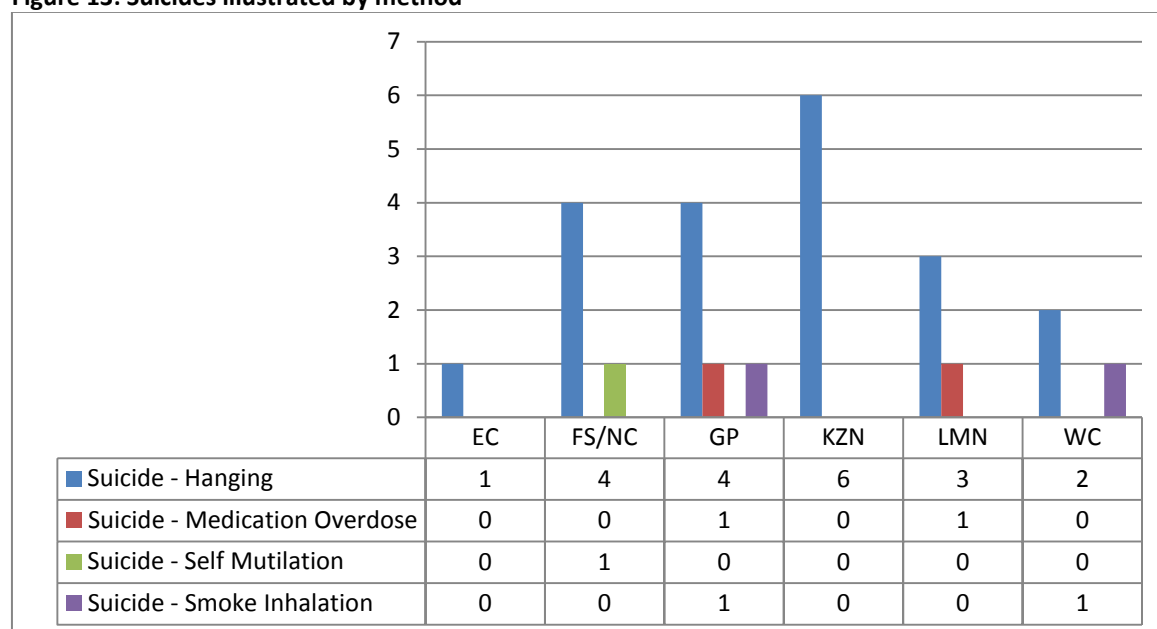
Suicides

The majority of unnatural deaths during this period were as a result of a suicide, which comprised 25. Twenty of those were caused by hanging. The illustrations below provide an overview of these instances per the DCS management regions.

Table 21: Suicides by hanging (Sentenced and Remand)

Region	Sentenced	Remand
KZN	6	0
GP	1	3
FS/NC	3	1
LMN	3	0
WC	1	1
EC	1	0

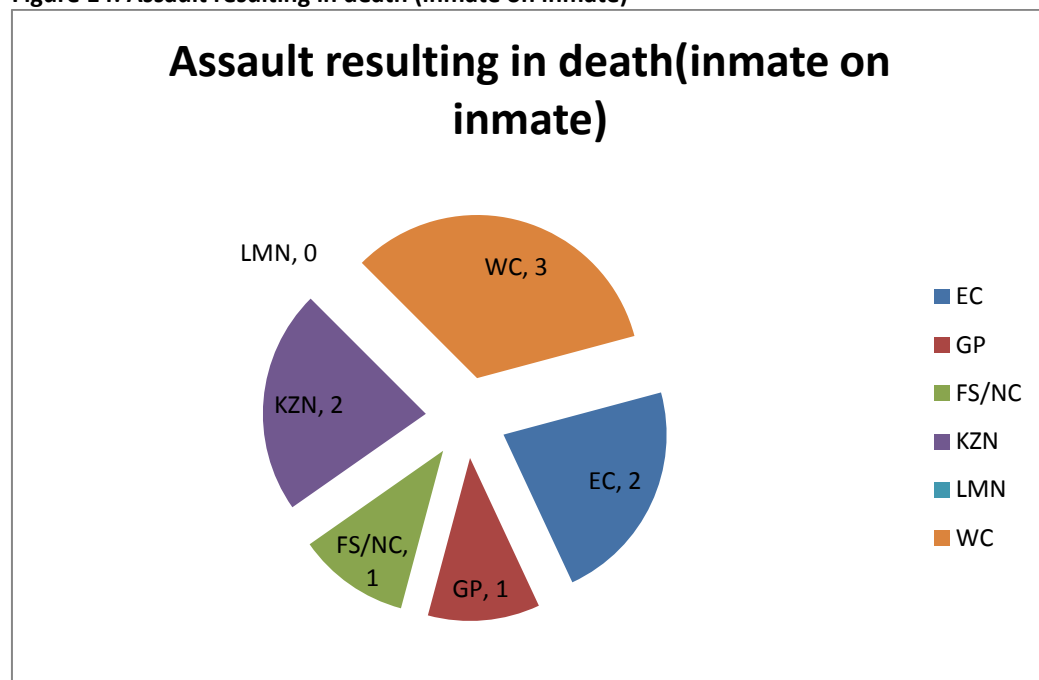
Figure 13: Suicides illustrated by method



Homicides

The graph below indicates the number of deaths as a result of violence per the DCS management region. Nine deaths occurred as a result of inmate-on-inmate violence, 1 less than the 10 reported in the previous year.

Figure 14: Assault resulting in death (inmate on inmate)



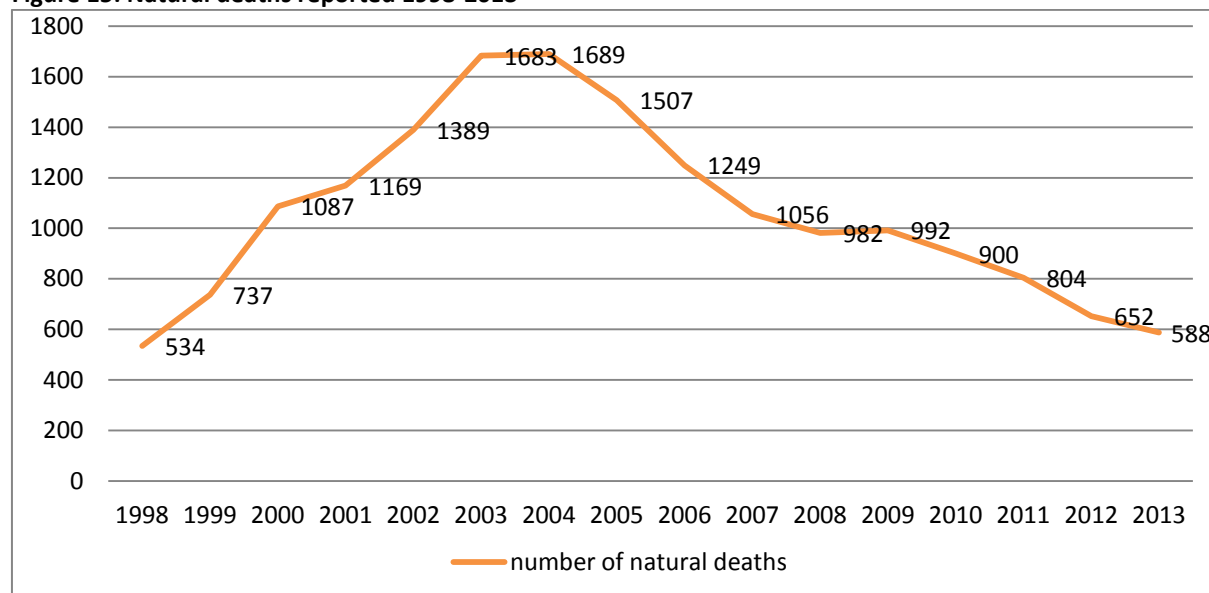
These incidents occurred amongst sentenced and remand detainees and with a variety of weapons including self-made knives, broken shards and isinjumbane.¹¹²

7.1.2 Natural deaths

In the previous year, 652 natural deaths were reported and in the current there were 588, comprising 425 sentenced and 163 remand detainees. The graph below depicts the number of natural deaths in correctional centres since 1998. It peaked in 2003/2004 and then declined. The decline is generally proportional to the inmate population.

¹¹² Sock containing either a padlock or bones of meat.

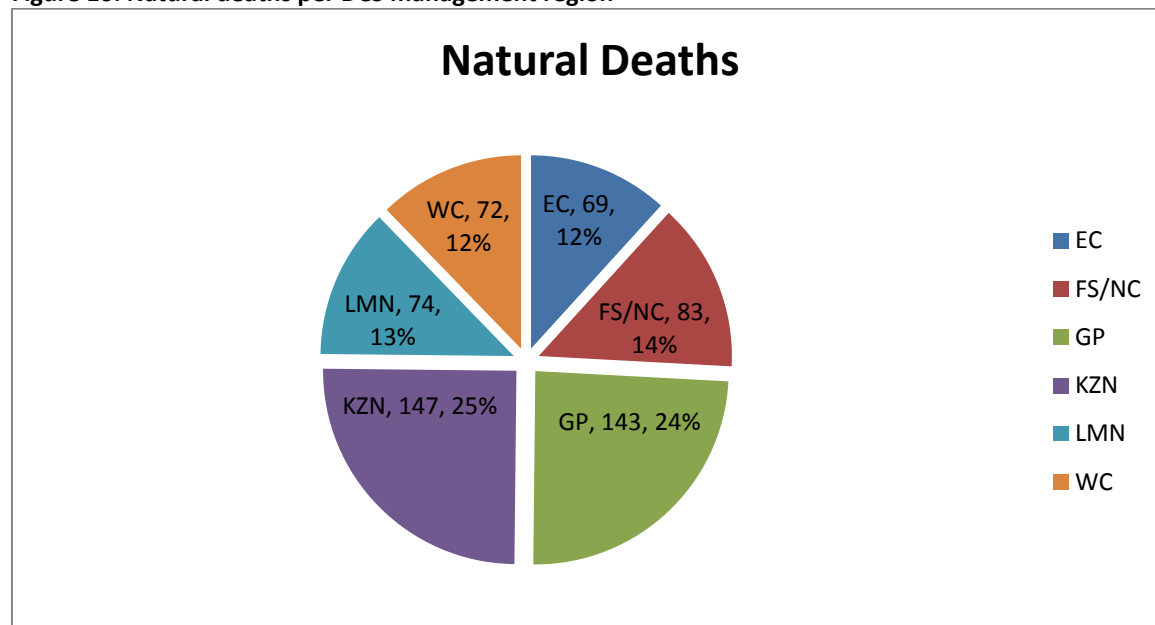
Figure 15: Natural deaths reported 1998-2013



Natural deaths per region

The highest number of deaths was reported in the KZN region with 147, and then GP with 139. The EC region recorded the lowest number of deaths with 69. The graph below depicts the number of deaths per the DCS management region.

Figure 16: Natural deaths per DCS management region



Causes of natural deaths per DCS management region

The table below indicates the most common causes of deaths in correctional centres per region and the average period in custody.

Table 22: Natural Deaths – Cause and average period in custody

Sentenced Inmates			Remand Detainees		
Region	Causes of Death	Period in custody	Region	Causes of Death	Period in custody
EC	TB HIV Related Pneumonia Meningitis	Ranged from 1 day to 8 years.	EC	TB HIV Related Respiratory Failure Meningitis	Ranged from 5 days to 3 years.
FS/NC	TB Pneumonia HIV related	Ranged from 1 day to 9 years.	FS/NC	TB Retroviral diseases Pneumonia	Ranged from 3 day to 1 year 8 months.
GP	TB Renal Failure Meningitis Retroviral HIV related	Ranged from 1 day to 7 years.	GP	HIV related TB Renal failure	Ranged from 2 day to 2years.
KZN	Pneumonia HIV related Respiratory Failure	Ranged from 3 days to 13 years.	KZN	TB Pneumonia Meningitis	Ranged from 6 days to 7 months.
LMN	Pneumonia Meningitis	Ranged from 1 day to 15 years.	LMN	TB Pneumonia	Ranged from 1 day to 4 years.
WC	TB Cancer Cardiac Failure	Ranged from 1 day to 5 years.	WC	TB Meningitis	Ranged from 1 day to 8 months.

Medical Release

The Inspectorate observed during its verification of natural deaths that inmates had died whilst their application for medical release was still following the Department's administrative processes. The table below illustrates the number of applications received per the DCS management region.

Table 23: Medical release applications

Sentenced inmates		Remand Detainees	
Region	Medical Release App	Region	Medical Release App
EC	3 were in process	EC	None
FS/NC	4 were in process	FS/NC	None
GP	2 were in process	GP	None
KZN	3 were in process	KZN	1 was in process
LMN	1 was in process	LMN	None
WC	2 were in process	WC	None

7.1.3 Segregation

For this period we received 8397 reports of segregations of which 32 were appeals, majority being from the Manguang correctional centre. The figures below firstly, illustrates the number of appeals in proportion to the number of reports received for the preceding years and secondly, illustrates the reason for the segregation per the DCS management region.

Figure 17: Segregation Reports and Appeals 2009 / 2010 – 2013 / 2014

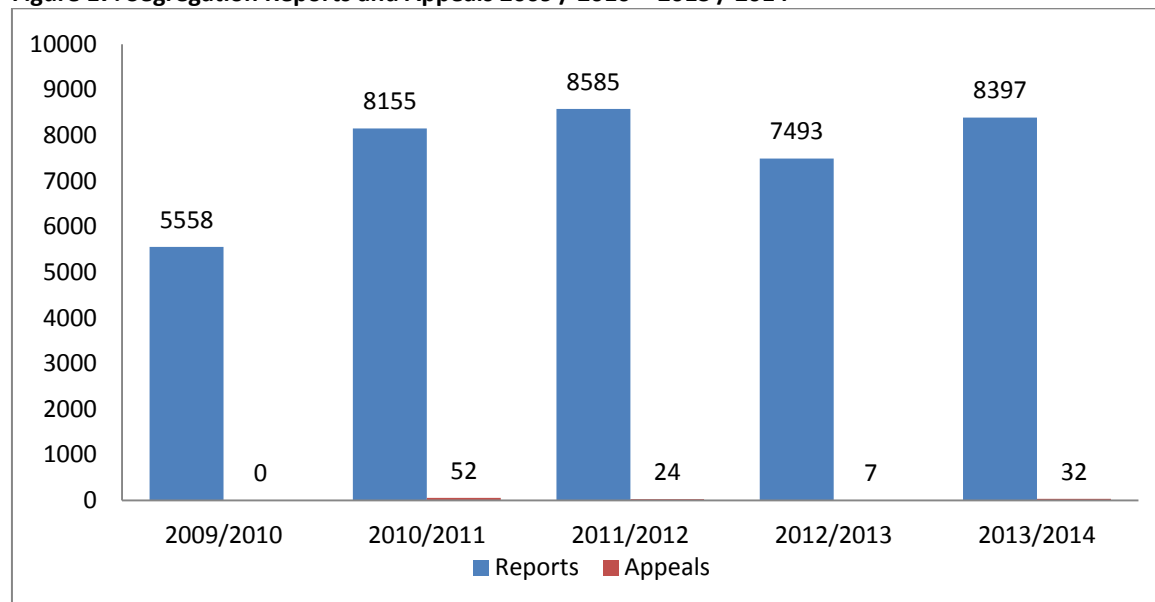
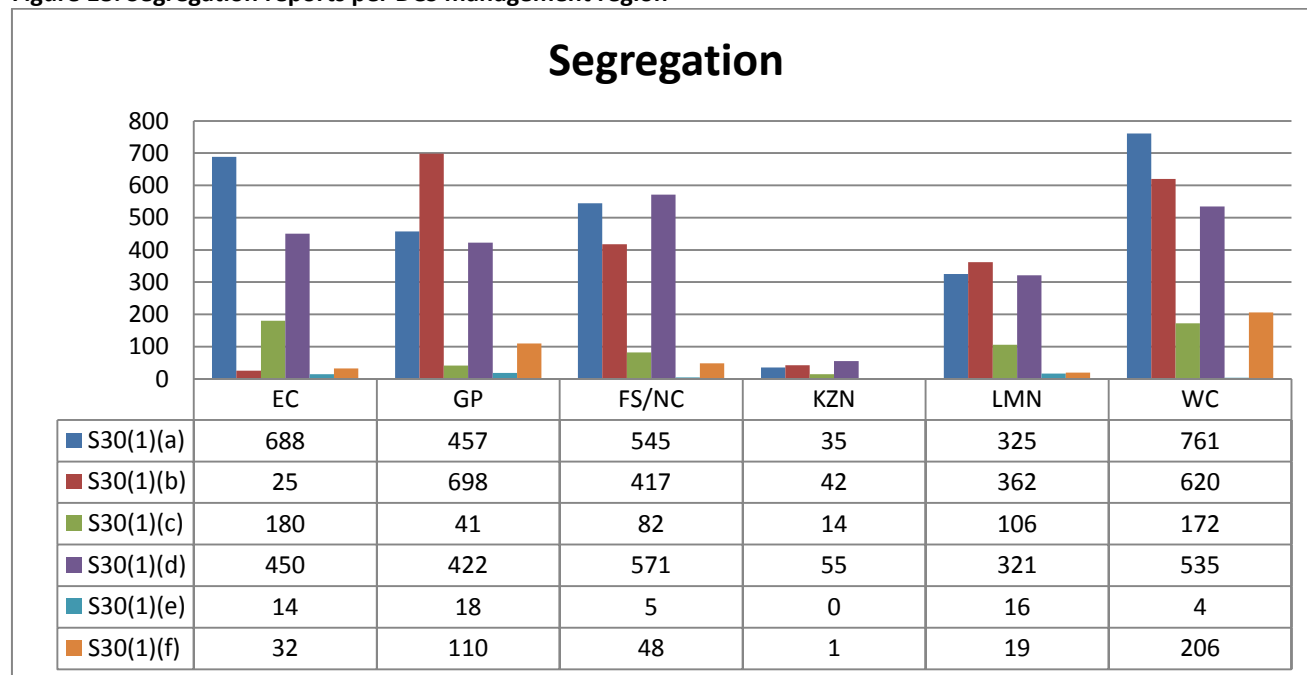


Figure 18: Segregation reports per DCS management region



7.1.4 Mechanical Restraints

In the current year the Inspectorate received 271 reports of mechanical restraints, an increase from the 207 reported in the previous year. The graphs below depict the number of mechanical restraints reported from 2009/2010. It is noted that the Inspectorate previously received 7 appeals in the 2010/2011 year.

Figure 19: Mechanical Restraints reported from 2009/2010 to 2013/2014

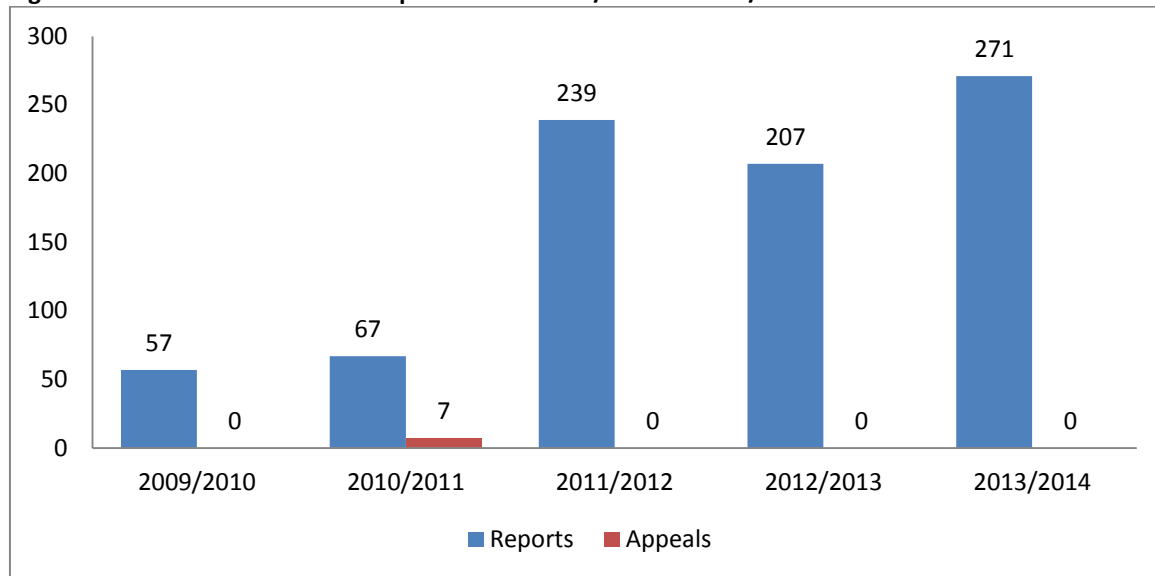
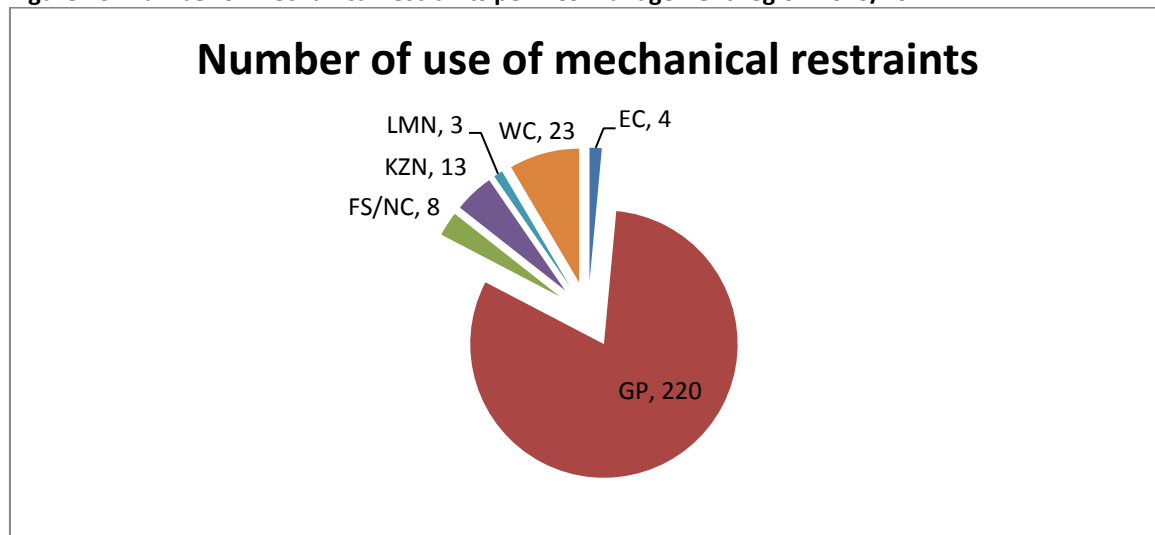


Figure 20: Number of mechanical restraints per DCS management region 2013/2014



7.1.5 Use of force

In 2012/2013 we reported 83 cases of use of force by officials. For this period a sizable increase of 191 use of force cases was reported. We illustrate below the reported use of force over a 4 year period per the DCS management regions.

Figure 21: Reported use of force 2009/2010 – 2013/2014

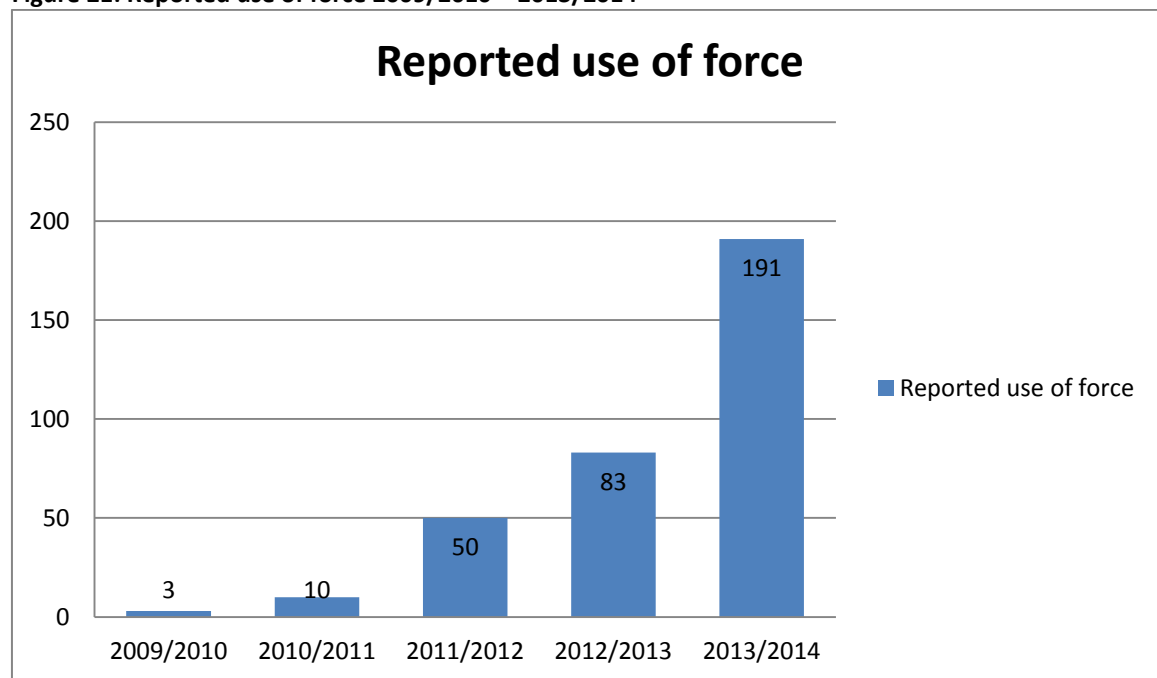
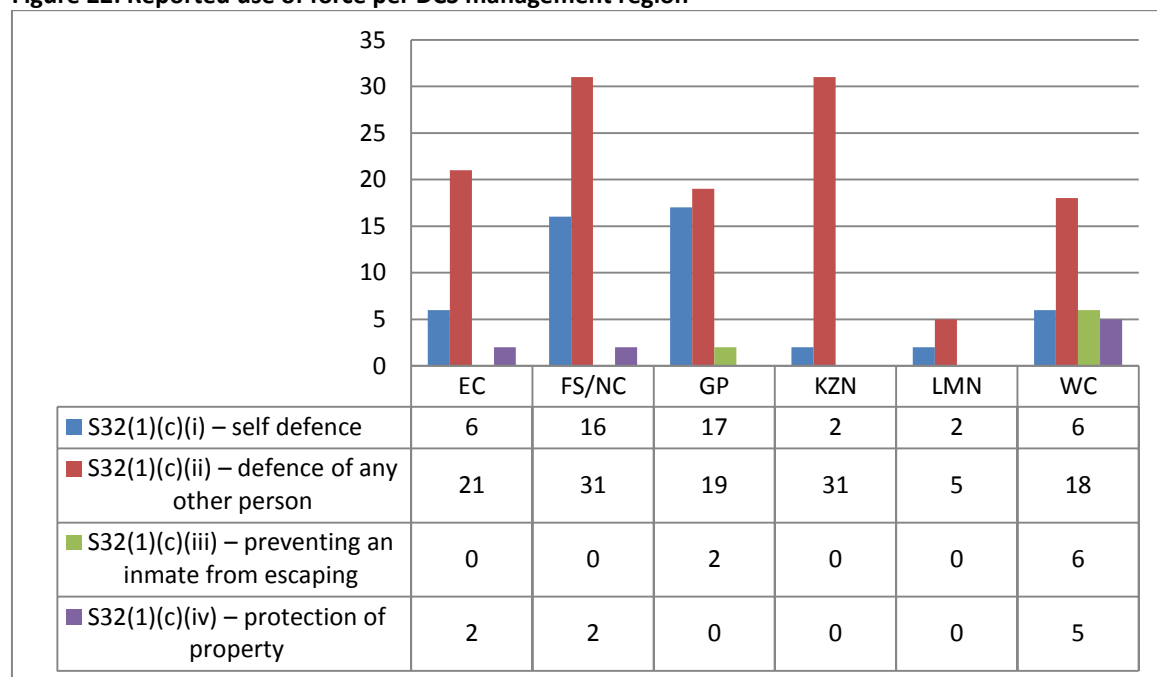


Figure 22: Reported use of force per DCS management region



8. Conclusion and recommendations

In the preceding paragraphs we have set out our main findings and the areas in which the Department ought to take heed of and remedy. We set out 4 specific recommendations –

- The urgent and comprehensive review of the role, functions, authority and methodology of the Emergency Support Team.
- The regulations promulgated under the Act be reviewed and amended to include the specific obligations of officials when dealing with or supplying information to the Inspectorate.
- A bill be drafted and debated regarding the suitability of the use of closed circuit television monitoring within correctional centres.
- The obligation placed on the Department's officials to assess on admission as required by section 6(5)(b) of the Correctional Services Act 111 of 1998 must be strictly complied with; non-compliance constituting misconduct.

CHAPTER FOUR: COMMUNITY OVERSIGHT AND STAKEHOLDER ENGAGEMENT

1. Introduction

One of the strategic objectives of the Inspectorate is to maintain an independent complaints system and to promote and facilitate community involvement in the appointment of Independent Correctional Centre Visitors (ICCVs). Chapter four aims to report on the Inspectorates independent complaints system at correctional centre level. It deals with community oversight by ICCVs appointed by the Inspectorate to monitor and attend to complaints of inmates at correctional centres. ICCVs are empowered with certain functions and duties in terms of the CSA.¹¹³ Section 93(1) of the CSA states that an ICCV shall deal with the complaints of inmates by regular visits, interviewing prisoners in private, recording complaints in an official diary and monitoring the manner in which they have been dealt with; and discussing complaints with the Head of the Correctional Centre or the relevant subordinate correctional official, with a view to resolving the issues internally.¹¹⁴ ICCVs form a fundamental part of the resolution of complaints process and assist the Inspecting Judge and the Inspectorate in its oversight responsibility towards monitoring the treatment of inmates and conditions in correctional facilities. The formation of Visitors Committees (VC) comprising ICCVs for specific geographic areas, as required by the CSA, contributes largely to the resolution of complaints and provides an interactive forum for community oversight and stakeholder involvement in correctional matters.

The ICCV independent complaint system falls under the Directorate: Management Regions of the Inspectorate. The Directorate is therefore responsible for ensuring the effective functioning of the ICCV and VC system by ensuring that there is an ICCV for each correctional centre nationally and that VCs meet at least quarterly to discuss unresolved complaints. The Directorate comprises a Director, four Regional Managers to manage the four regional management areas, VC Co-ordinators (VCCOs) who are responsible for supervising the work of ICCVs, Trainers to assist with the training of ICCVs and Administrative Clerks. Below we provide an overview of the independent complaints system for the period under review. This includes amongst others the post establishment of ICCVs, training of ICCVs, performance standards and audits conducted for the period under review. This section also reports on the progress in VC meetings and the number of unresolved complaints that were forwarded to the Directorate Legal Services Complaints unit. Towards the end of the report an account is given on the stakeholder engagements of the Directorate.

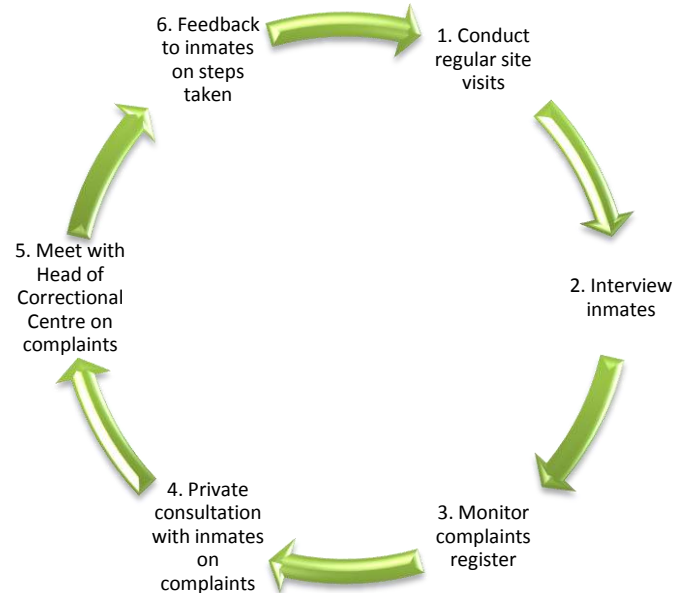
¹¹³ Section 93 Correctional Service Act 111 of 1998, as amended

¹¹⁴ Section 93 (1) Correctional Service Act 111 of 1998, as amended

2. Independent Correctional Centre Visitors (ICCVs)

The CSA provides that, “At the request of and in consultation with the Inspecting Judge, the Chief Executive Officer must, as soon as practicable, after publicly calling for nominations and consulting with community organisations, appoint an Independent Correctional Centre Visitor for each correctional centre.”¹¹⁵ ICCVs are independent contractors and are remunerated for the number of hours they perform their duties at a correctional centre. Section 92 (1) of the CSA entrusts the Inspectorate with the positive obligation of recruiting an ICCV to every correctional centre in the country. The accessibility of ICCVs services to inmates in correctional facilities play an important role in the advancement of our oversight role in correctional centres. Fundamentally, ICCVs’ statutory mandate is to facilitate and monitor the resolution of inmates’ complaints and requests during their visitations. The diagram below provides a brief outline of the powers, functions and duties of ICCVs.

Figure 23: Powers, functions and duties of ICCVs



Further below we provide a broad description on the above duties classified as the “minimum standards of service delivery” of ICCVs.

¹¹⁵ Section 92 Correctional Service Act 111 of 1998, as amended

2.1 ICCV Post Establishment

The Inspectorate continues to strive towards the objective of ensuring that there is an ICCV for each correctional centre. This objective has been given its highest priority. The Inspectorate created an additional nine ICCV posts during this year to ensure that we continue to meet the obligation of having an ICCV for every correctional centre. The Inspectorate currently has 309 ICCV posts on the post establishment. Nationally, as at 31 March 2014, there are 273 ICCVs. It is however important to bear in mind that although there are 273 ICCVs, there are some ICCVs that service two correctional centres and therefore this amounts to 288 ICCV filled posts across the country.

As at 31 March 2014, the ICCV post establishment is 93% filled. Filled posts refer to ICCV posts that are currently filled. Inactive posts refer to those posts that cannot be filled due to correctional centres that are temporarily closed for routine maintenance operations. Vacant posts refer to ICCV posts that are not filled for various reasons listed further below. The table below provides an overview of the post establishment as at 31 March 2014.

Table 24: ICCV post establishment as at 31 March 2014

POSTS	SMR	NMR	EMR	CMR	TOTAL	%
Filled posts	67	78	70	73	288	93%
Vacant posts	02	02	03	03	10	3%
Inactive posts	02	03	05	01	11	4%
Total no. posts	71	83	78	77	309	100%

With the current post establishment of 309, the ratio of ICCVs to inmates should be 1:500. With 288 filled ICCV posts, the ICCV to inmate ratio is 1:536.¹¹⁶

There are various reasons why ICCV vacant posts exist. The appointment of ICCVs is a huge administrative activity and the process can take a long time. ICCVs are appointed as independent contractors for a period of 3 years. They are not employees and are therefore not eligible for benefits such as pension, medical aid, housing, etc. Therefore some ICCVs resign for employment opportunities. Vacancies also exist due to correctional centres being temporarily closed for renovations. Once the correctional centre become operational (in other words, the renovations are done) the Inspectorate has to follow the administration process to appointment an ICCV to the centre. Amongst others, ICCVs contracts of service are also terminated by the Inspectorate for the submission of fraudulent claims or for not providing their

¹¹⁶ Refer to Chapter three of the Report for the inmate population.

services at correctional centres. The table below provides an overview of the ICCV vacancies as at 31 March 2014.

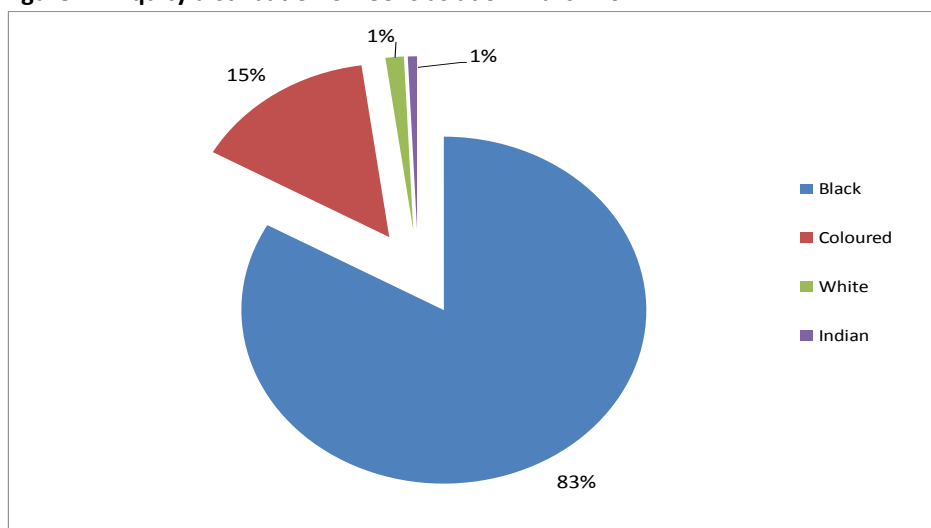
Table 25: ICCV vacancies as at 31 March 2014

CENTRE	POST NUMBER	PROVINCE	REASON FOR VACANCY
Bethal	MP07	Mpumalanga	ICCV contract expired
Bethulie	FS12	Free State	ICCV contract expired
Durban Medium B	KZN07	KwaZulu-Natal	ICCV contract expired
Klerksdorp	NW04	North-West	ICCV deceased
Krugersdorp	GP32	Gauteng	Inactive centre
Lusikisiki	EC15	Eastern Cape	ICCV contract terminated
Lydenburg	MP12	Mpumalanga	ICCV resigned
Patensie	EC20	Eastern Cape	Vacant because correctional Centre was inactive and re-opened.
Pollsmoor Maximum	WC40	Western Cape	ICCV contract expired
Polmeroy	KZN38	KwaZulu-Natal	ICCV contract expired
Van Rhynsdorp	WC29	Western Cape	Vacant because correctional Centre was inactive and re-opened.
Zastron	FS15	Free State	Vacant because correctional Centre was inactive and re-opened.

2.2 Equity and Gender status of ICCVs

The diagram below provides an overview of the equity distribution of ICCVs as at 31 March 2014.

Figure 24: Equity distribution of ICCVs as at 31 March 2014.



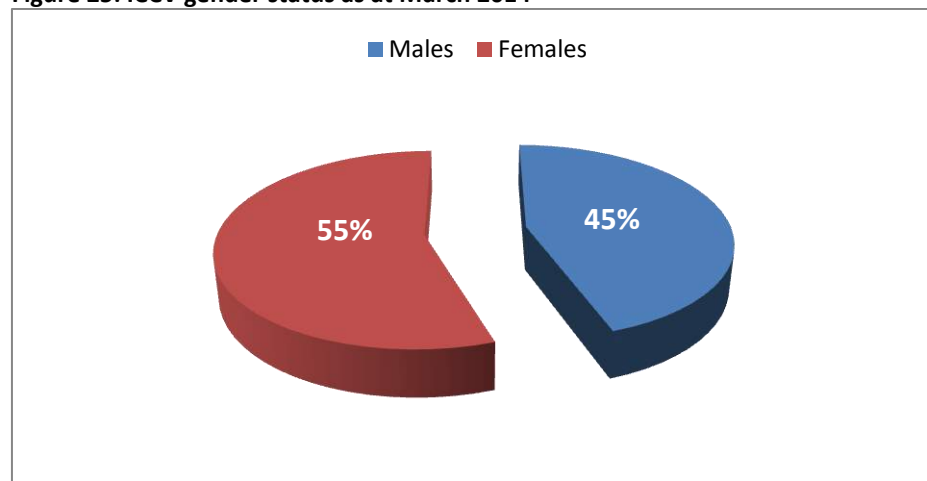
The table below provides a brief break-down of the equity distribution per management region of the Inspectorate.

Table 26: Equity distribution per management region as at 31 March 2014

RACE	NMR	SMR	EMR	CMR
Black	74	32	60	61
Coloured	0	30	3	7
Indian	0	0	2	0
White	0	3	0	1
Total	74	65	65	69

The table below provides an overview of the gender distribution of ICCVs as at 31 March 2014.

Figure 25: ICCV gender status as at March 2014



2.3 ICCV Training

Newly appointed ICCVs have to undergo introductory training. Regional trainers are employed to conduct training sessions with ICCVs. Existing ICCVs also undergo basic paralegal training which covers training on the applicable provisions in the Constitution, the CSA, the DCS B Orders and the Operational Manual of the Inspectorate. Sixty-seven (67) ICCVs received introductory training for the period under review. Seventy-three (73) ICCVs received paralegal training. Office bearers training is provided to ICCVs who are newly appointed Chairpersons and Secretaries of VC meetings. Forty-nine (49) ICCVs attended office bearers training for the period.

In the 2011 / 2012 Annual Report the Inspectorate reported on their intention to ensure that all ICCV training was accredited with the Safety and Security Sector Education and Training Authority (SASSETA) and furthermore to register and develop an occupational qualification for ICCVs. In order to comply with SASSETA accreditation requirements, the Inspectorate equipped its training staff as Assessors and Moderators to ensure compliance. The training programmes of the Inspectorate is not accredited hence the process to appoint accredited service providers to align all training material and programmes to

South African Qualification Authority (SAQA) approved unit standards. Unfortunately the lack of an adequate budget has delayed the implementation of the accreditation process.

2.4 Minimum Standards of Service Delivery (MSSD)

ICCVs are provided a contract of service delivery upon their appointment and are allocated a correctional centre to perform their duties (depending on the population of a correctional centre, ICCVs are allocated a specific number of hours to deliver service at a centre). In terms of the CSA ICCVs have various functions and duties in monitoring the treatment of inmates in correctional centres and the conditions in correctional centres. This is referred to as the minimum standards of service delivery (MSSD). In terms of the MSSDs, ICCVs are required to:

- conduct regular site visits,
- interview inmates in private,
- record inmate complaints and monitor the manner in which the complaint has been dealt with,
- discuss complaints with the HCC to resolve the complaint internally, and
- provide feedback to inmates.

The table below provides a brief description of each MSSD.

Table 27: ICCVs MSSDs

MSSD	DESCRIPTION
Site Visits	ICCVs conduct site visits of their allocated correctional centre. A monthly mini-inspection report must be submitted by the ICCV to the Directorate: Legal Services, Complaints Unit. The Complaints Unit has the responsibility to follow up on matters referred to in these reports, which may warrant inspections or investigations.
Interviews	ICCVs interview inmates and record all complaints registered by inmates in an official Index of Interview register. The objective is to interview 25% of the allocated population of inmates.
Monitor G365	ICCVs are responsible for monitoring the DCS registers. In terms of section 21 and section 90(2) of the Act, the Department must transfer all the complaints from the Index of Interview register and record them in the Departments official complaints register, which is referred to as the G365 register. The ICCV must then monitor the G365 register to ensure that inmates' complaints are addressed adequately.
Private Consultations	ICCV conducts private consultations with inmates, to address complaints registered in the G 365 that have not been resolved or not resolved adequately. The ICCV records these private consultations in a Record of Consultation register. These registers are referred on to HCCs or delegates. The ICCV also facilitates the resolution of these complaints between the Head of Correctional Centres and inmates.
VC meetings	The VC has four distinct functions, one of which is to discuss those complaints not resolved between the HCC and inmate. This is further elaborated below.

2.5 Requests and complaints dealt with by ICCVs

ICCVs are active in all centres and monitor the incidents in the centres daily, interview and consult with inmates and officials and successfully ensure that inmates' daily needs are attended to. The relationship between them and officials during periodical audits, inspections and managing of them are positive. Year-on-year we have reported on the number and categories of requests and complaints they have recorded or intervened in nationally. The table below provides an overview of the requests and complaints dealt with by ICCVs.

Table 28: Requests and complaints dealt with by ICCVs as at 31 March 2014

Complaints	2012/2013	2013/2014	Change	% Change
Corruption	1460	1048	-412	-28%
Assault (Inmate on Inmate)	6127	9096	2969	48%
Rehabilitation Programmes	29311	34470	5159	18%
Assault (official on inmate)	3370	4203	833	25%
Health Care	39380	52647	13267	34%
Bail	45572	46301	729	2%
Parole	23492	23469	-23	0%
Food	18478	22307	3829	21%
Medical Release	2316	950	-1366	-59%
Appeal	28014	28893	879	3%
Transfers	52560	60083	7523	14%
Legal representation	41420	39109	-2311	-6%
Communication with families	59347	68352	9005	15%
Confiscation of Possessions	5809	6437	628	11%
Inhumane Treatment	9581	8681	-900	-9%
Conversion of sentences	6161	4818	-1343	-22%
Conditions	32012	38733	6721	21%
Remission	6656	1319	-5337	-80%
Total	411 066	450916	39850	10%

The rate of change overall of a 10 % increase is significantly lower than the comparative figure between the 2012 / 2013 period where the increase was 25 %. It must be noted that the above data simply records the registering of a request or complaint and not a decision on the merits of the case. It speaks to their general vigilance in monitoring the Department's records and ensuring that the latter performs its duties in resolving the matter.

2.6 Performance Audits of ICCVs

ICCVs are remunerated for the work they do in accordance with their MSSDs. ICCVs are recruited from local communities and work independently of the organisation. VC Co-ordinators (VCCO) are employed to supervise their work and or performances on a monthly basis. Because they work independently, the Inspectorate performs bi-annual performance audits on their work. Inter alia, the performance audit aims to:

- Ensure financial accountability by verifying the time claimed by the ICCV during the month.
- Enhance the quality of the ICCVs work in correctional centres (i.e. ICCVs accessibility to inmates).
- Determine the credibility of statistics recorded by the ICCV in his or her monthly reports.
- Determine compliance with their MSSDs.
- Ascertain and strengthen relationships between the ICCV and HCC.
- Identify the training needs of the ICCV.

During the period under review 309 performance audits were conducted. Based on the findings of the performance audits and with due regard to the seriousness of the non-compliance found, the following corrective measures were implemented during the period under review: 12 consultative meetings were held to sensitize ICCVs on minor non-compliance issues, 6 ICCV contracts of service were suspended and 12 ICCV contracts were terminated.

3. Visitors' Committees (VC)

Section 94 (1) of the CSA states that “where appropriate, the Inspecting Judge may establish a Visitors’ Committee for a particular area consisting of Independent Correctional Centre Visitors appointed to correctional centres in that area.”¹¹⁷ VCs have been established nationally to assist with the resolution of complaints at correctional centre level.¹¹⁸ The main objective of a VC meeting is to deal with complaints and/or requests of inmates that were not resolved by the ICCV after exhausting all the internal processes of the Department at correctional centre level. VCs meet on a monthly basis although the CSA requires VCs to meet at least on a quarterly basis.

¹¹⁷ Section 94(1) Correctional Service Act 111 of 1998, as amended

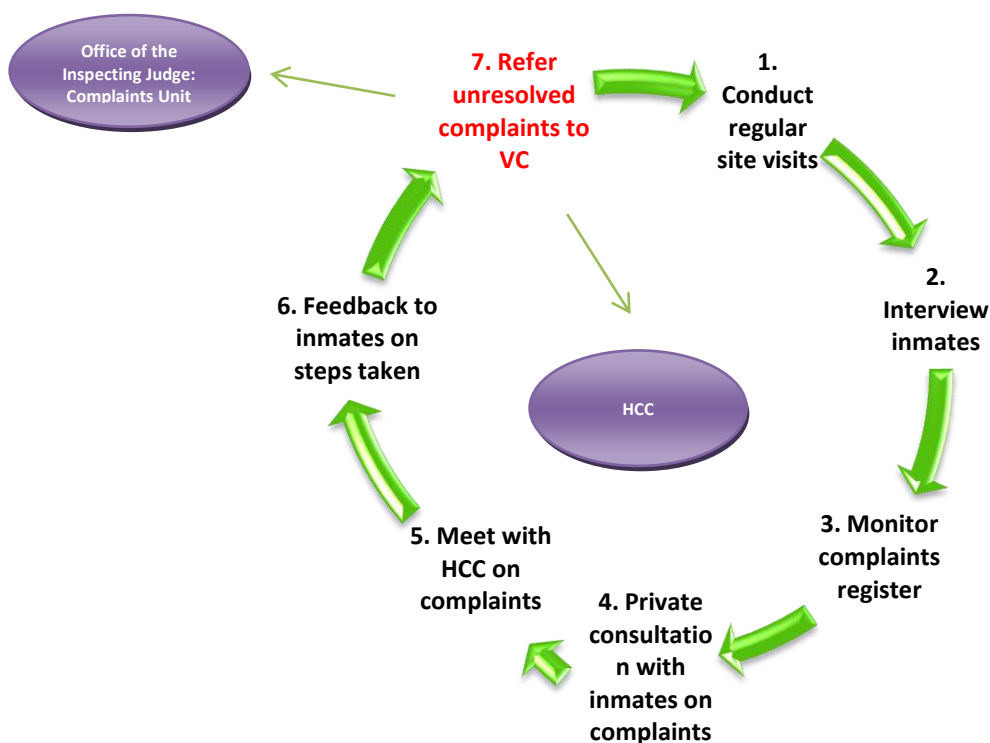
¹¹⁸ Section 94 Correctional Service Act 111 of 1998, as amended

The functions of VCs are to:

- consider unresolved complaints with a view to their resolution¹¹⁹
- submit to the Inspecting Judge those complaints which the Committee cannot resolve¹²⁰
- organise a schedule of visits¹²¹
- extend and promote the community’s interest and involvement in correctional matters, and¹²²
- submit minutes of meetings to the Inspecting Judge¹²³

All unresolved complaints or requests are referred to the VC meeting for discussion and recommendation. Depending on the outcome of the meeting the VC then decides if the complaint should be referred back to the HCC or forwarded to the Inspecting Judge (the Complaints Unit of the Directorate Legal Services) for further handling. The diagram below illustrates the afore-mentioned.

Figure 26: Illustration on the powers, functions of ICCVs and VCs



Each VC is constituted by ICCVs of a particular management area. A Chairperson and Secretary are elected amongst them to serve as office bearers of the Committee for 12 months in order to run the

¹¹⁹ Section 94 (3)(a) Correctional Service Act 111 of 1998, as amended
¹²⁰ Section 94 (3)(b) Correctional Service Act 111 of 1998, as amended
¹²¹ Section 94 (3)(c) Correctional Service Act 111 of 1998, as amended
¹²² Section 94 (3)(d) Correctional Service Act 111 of 1998, as amended
¹²³ Section 94 (3)(e) Correctional Service Act 111 of 1998, as amended

administrative operations of the VC. The Inspectorate has 49 active VCs nationally. There are 2 inactive VCs, namely: Gordonia and Beaufort West. Currently, these VCs are inactive because the Inspectorate is reviewing the demarcation of the VCs because of the logistical challenges in this area owing to the very remote location of correctional centres in this demarcated area making it very difficult for VC meetings to be held. The table below provides an overview of the VC demarcations nationally.

Table 29: VC demarcation

VISITORS' COMMITTEE DEMARCATION			
CMR	EMR	NMR	SMR
Bethlehem	Durban Medium B	Barberton	Brandvlei
Brandfort	Durban Medium A	Bethal	Drankestein
Goedemoed	Qalakabusha	Boksburg	George
Groenpunt	Ncome	Leeuwkop	Goodwood
Kimberley	Eshowe	Johannesburg Med A	Helderstroom
Klerksdorp	Glencoe	Johannesburg Med B	King Williamstown
Grootvlei	Umtata	Kgosi Mampuru Local	Pollsmoor
Odendaalsrust	Butterworth	Kgosi Mampuru Central	St Albans
Kroonstad	East London	Kutama-Sinthumule	Queenstown
Middleburg	Kokstad	Modderbee	Voorberg
Rooigrond	Pietermaritzburg	Witbank	Gordonia ****
Rustenburg	Lusikisiki	Zonderwater	Beaufort West ***
Vereeniging			

VC meetings are attended by various stakeholders and community organisations including representatives of the Inter-Justice Cluster. Most of the inmates' complaints are rigorously discussed and resolved at these meetings. VCs serves as a filter for ensuring that only complaints needing the final ruling of the Inspecting Judge are referred. All members who can make a valuable input and assist with the resolution of the complaints of inmates are welcome to participate. The Department's delegates are invited to attend VC meetings with a view to assist with resolving inmates' complaints and / or requests. There has been an improvement in the representation of DCS officials at VC meetings from previous years. The Inspectorate wishes to encourage HCCs or their representatives to attend more meetings to engage meaningfully on the complaints referred.

For the period under review, three hundred and forty-one (341) unresolved complaints were referred from VC meetings to the Complaints Unit of the Directorate Legal Services.

4. Stakeholder Engagement

Stakeholder engagement forms a fundamental part of the Inspectorate's operations. The Inspectorate regards stakeholder engagement as an interactive forum geared towards introducing the greater community into correctional matters in South Africa. The process of calling for nominations for the

appointment of ICCVs through a public meeting process is a manner of engaging with and involving community consultation in the appointment process of ICCVs. Another process is involving various stakeholders in the VC process. Employees of the Inspectorate’s management areas are also involved in community building and direct stakeholder engagements. Below a very brief overview is provided on the public calling for nomination meetings and some of the community and stakeholder engagement activities which employees facilitated or in which they participated.

4.1 Public Calling for Nomination (PCN) Meetings

Section 92 of the CSA states that the CEO must, after publicly calling for nominations and consulting with community organisations, appoint an Independent Correctional Centre Visitor.....”¹²⁴ Publicly calling for nomination (PCN) meetings are held nationally where ICCV vacancies exist. On a continuous basis the Inspectorate conducts PCN meetings to ensure that the ICCV post establishment is filled. One thousand three hundred and sixty-six (1 366) nomination forms were received for the year under review of which 100 ICCVs were appointed. At PCN meetings, the employees of the Inspectorate also interacted with communities and distributed Annual Reports and promotional items of the organization.

4.2 Direct Stakeholder Engagement

2012/2013 Annual Report Presentations

The Inspectorate’s 2012/ 2013 Annual Report was tabled in Parliament on 31 September 2013. After the tabling of the report, the organisation presented its report to stakeholders as part of its endeavours to extend and promote community interest in correctional matters. Presentations were held across the country at VC meetings. There were also larger annual stakeholder presentations which were held across the country at the locations presented in the table below.

Table 30: 2012/2013 Annual Report presentations

DATE	PROVINCE	VENUE
Monday, 25 November 2013	Western Cape	Good-wood Correctional Centre
Monday, 25 November 2013	North West	Mafikeng
Wednesday, 27 November 2013	Free State	Bloemfontein
Wednesday, 27 November 2013	Mpumalanga	Witbank
Thursday, 28 November 2013	Gauteng	Leeuwkop
Monday, 02 December 2013	KwaZulu-Natal	Durban
Thursday, 05 December 2013	Eastern Cape	East London Correction

There was extensive representation of the Department at the annual report stakeholder presentations. Many community based organisations and state institutions also participated. Amongst those that attended were representatives from Legal Aid South Africa, the Judiciary, the Department of Social and

¹²⁴ Section 92 Correctional Service Act 111 of 1998, as amended

Development; local municipalities, non-governmental organizations and members of the public. The Inspectorate wishes to expand on this event annually to ensure that much awareness is created of our reporting documents and more importantly the state of our correctional facilities. The Annual Report presentations are an important forum for communities and stakeholders to raise their concerns on correctional matters. Annual Report stakeholders events is one of many ways to transparently engage with a range of stakeholders , further garner positive recommendations and to work collaboratively with stakeholders to improve our oversight. The Inspectorate has addressed some concerns that were raised during these debates. This will only improve the organisation as a whole.

Community Initiative in the North West

The Central Management Region took the initiative during the month of March to target some schools in North West province that have problems with gangsterism and drug and alcohol abuse. Employees consulted the Department of Education to identify these schools. Three schools were identified. Employees of the Inspectorate arranged a motivational talk with the school children to encourage the youth not to engage in these activities and to complete their education live meaningful lives. All the ICCVs from the region were actively involved in the success of the event. The Department and other stakeholders were invited and also participated.

Collaborative human rights day stakeholder engagement

The Southern Management Region hosted a collaborative human rights day event in March 2013 together with the South African Human Rights Commission, the Commission for Gender and Equality, the Legal Aid South Africa and the Department. The main objective of the event was to inform inmates of the various human rights and statutory bodies set up to uphold human rights provide in the country. The presentations took place at the Oudtshoorn Correctional Centre in the Southern Cape, female and male correctional centres. With due regard for the fact that it is human rights day month, the event was restricted to an information session on the mandate of each organization and how they were able to assist inmates. The Department's willingness to assist and participate underlines their commitment to ensuring that inmates have access to information on their constitutional and statutory rights. It was a great opportunity for offenders to pose questions and to comment.

5 Conclusion and Recommendations

There has been a remarkable increase in participation at VC meetings by the Departments HCCs and Legal Aid of South Africa. The Inspectorate held regional stakeholders to present the 2012/ 2013 Annual Report in all the DCS Regions with success. These meetings will form part of the annual program of the

Inspectorate as it has provided an important platform to engage with various stakeholders and their contributions made during these sessions identified a need to improve our current operations.

As a Directorate we have reflected on the current reporting system of ICCVs and identified a need to modernize our information technology reporting system. The enhancement of an inmate's complaint management system will assist in translating the current manual system into an electronic record-keeping of all inmates' interviews and consultations by ICCVs at correctional centres and the records and minutes of VCs. Such a system will be able to provide a history of the complaints and analyze the different trends within the complaints systems.

There is a need to expand the Inspectorate's management regions with the Department's six management regions. Ultimately, the regionalization or decentralization of the Inspectorate necessitates a review of the VC structures. It is therefore recommended that the VCs be restructured to align it with the management areas of the DCS.

The current status of ICCVs as independent contractors must also be reviewed to consider appointing them as employees on either a permanent or a contractual basis. This is because of the various challenges of ongoing calling for nominations and lack of benefits afforded to them, and, more importantly, to avoid a high turnover rate of ICCVs.

CHAPTER FIVE: SPECIAL PROJECTS AND RESEARCH

1. Introduction

This Chapter of the report provides an overview of the Inspecting Judge’s special project and research on children and youth in correctional centres. Judge’s Tshabalala vision is to contribute to the development of children and young people, and to contribute to a safer environment within the broader society. Hence, the project was initiated to ensure a safe environment for children in correctional facilities. The special project which spanned a three-year period resulted in the development of the ICCV legislative monitoring tools (hereafter referred to as “children’s tools”) to monitor the conditions and treatment of children and youth in correctional centres. The children’s tools were used by ICCVs to conduct a survey in correctional centres.

2. Background to Special Project on Children and Youth

Emanating from the focus on children and youth in correctional centres the Inspectorate formed a partnership with the Civil Society Prison Reform Initiative (CSPRI).¹²⁵ The Inspectorate embarked on a project with CSPRI to develop the children’s tools and to monitor legislative compliance by the DCS regarding the treatment and conditions of detention of children and young people in correctional centres. For the purpose of the project, children are defined as persons below the age of 18 years and young people, or juveniles, as between the ages of 18 and 21 years. The project spanned three years as follows:

- Year 1: Designing of the ICCV legislative monitoring tools.
- Year 2: Piloting the ICCV legislative monitoring tools, final amendments and endorsements.
- Year 3: Conducting children’s survey using the ICCV legislative monitoring tools.

Over the past two years, the Inspectorate reported on the progress of the Special project and in particular the endorsement of the children’s tools. This chapter provides an overview of the research findings emanating from the research conducted using the children’s tools.

¹²⁵ CSPRI launched a report in 2012, entitled, “Report on Children in Prison in South Africa” Muntingh, L & Ballard, C. (2012). *Report on Children in Prison in South Africa*. Bellville: Community Law Centre

3. Overview on the Findings of the Children’s Survey

3.1 Purpose

The purpose of the survey is to report on legislative compliance by the DCS regarding the treatment and conditions of detention of children and juveniles in correctional centres.

3.2 Legislative framework

The CSA sets a clear framework regarding the treatment of all inmates and pays particular attention to the treatment of children.¹²⁶ The Constitution also sets out detailed rights for children with the overarching principle that in all decisions, the best interests of the child must be paramount and that detention must be a measure of last resort.¹²⁷ There is thus a clear obligation on the executive to treat children differently from adults. The legislation is less clear on the status of juveniles, aged 18 to 21 years, as they are in law adults, but the CSA gives some acknowledgement that the National Commissioner may detain certain categories of inmates segregated from the general population, and that this segregation may be based on age.¹²⁸ The Regulations to the CSA state that those inmates that are aged 18 -21 years should, as far as possible, be detained separately from older adults.¹²⁹ There is little doubt that this category of inmate remains vulnerable to influences from older inmates and that this may have a profoundly negative influence on their lives.

3.3 Scope of the Survey

The survey of centres detaining children and juveniles assessed compliance in respect of the following areas:

- a) Admission procedures
- b) Clothing
- c) Complaints mechanisms and resolution
- d) Conditions of detention
 - o Cell occupation
 - o Cleanliness and ventilation
 - o Access to water
 - o Conditions outside exercise
 - o Conditions: bedding
 - o Light in cells

¹²⁶ Section 19 of the Correctional Services Act 111 of 1998 as amended

¹²⁷ Section 28(1)(g) and 28(2) of the Constitution, Act 108 of 1996

¹²⁸ Section 7(2)(c) of the Correctional Services Act 111 of 1998 as amended

¹²⁹ Regulation 3(2)(h)

- o Ablution facilities
- e) Contact with the outside world
- f) Disciplinary procedure
- g) Access to education and access to a library
- h) Female inmates
- i) Inspection and oversight
- j) Compliance with mandatory reports
- k) Meals and diet
- l) Access to recreational activities
- m) Segregation of inmates
- n) Staff and ICCV training and placement
- o) Access to support services

Data using the checklist was collected from correctional centres as shown in the table below.

Table 31: Correctional centres surveyed

Unsentenced children	Sentenced children	Unsentenced juvenile	Sentenced juvenile
Barberton Town	Boksburg	Allandale	Bizzah Makhate
Bizzah Makhate	Brandvlei	Barberton Town	Boksburg
Boksburg	Cradock	Bizzah Makhate	Calvinia
Cradock	Ekuseni	Caledon	Cofimvaba
Durban	Emthonjeni	Calvinia	Cradock
Kirkwood	Kroonstad	Cradock	Drakenstein
Mosselbay	Leeuwkop	Durban	Durban
Pollsmoor	Pollsmoor	Empangeni	Ekuseni
	Piet Retief	Heidelberg	Thohoyandou
	Rustenburg	Kirkwood	Glencoe
		Kroonstad	Groenpunt
		Middelburg	Heidelberg
		Modderbee	Kirkwood
		Ncome	Kroonstad
		Newcastle	Kroonstad
		Nigel	Leeuwkop
		Oudtshoorn	Middeldrift
		Piet Retief	Modimolle
		St Albans	Mosselbay
		Thohoyandou	Nigel
		Vryheid	Pietermaritzburg
		Westville	Pollsmoor

Unsentenced children	Sentenced children	Unsentenced juvenile	Sentenced juvenile
		Witbank	Port Shepstone
		Worcester	Qalakabusha
			Rustenburg
			Springbok
			St Albans
			Witbank

The project also collected data by means of interviews and the target was to interview two inmates at each of the centres.

3.4 Overview of findings from checklist survey

The following provides an overview of the key findings from the survey with reference to the scope of the Checklist Survey mentioned in 3.3 above. A more detailed description of the full research report should be consulted to focus on specific centres of non-compliance.

a) Admission procedures

At the centres where children and juveniles are detained it was enquired how the DCS assisted children and juveniles to access legal assistance or to appeal against their sentences. At some centres it was reported that there was an interview with the child to determine if he or she wanted to appeal, while at others they are merely handed the forms and could then decide if they wanted to appeal. In respect of accessing legal assistance, there were similar inconsistencies. Prompt health status examinations following admission were found to be generally complied with bar a few exceptions. The CSA requires that new admissions undergo an orientation programme.¹³⁰ This was found to be complied with in respect of sentenced children and juveniles, but there is substantial non-compliance in respect of unsentenced children and juveniles. Section 38(1) of the CSA requires a sentenced inmate to undergo an assessment as soon as possible after admission. In this regard it was found that there is confusion amongst officials with some only assessing inmates who are sentenced to longer than two years and in one case only longer than five years.

¹³⁰ Section 6(4) (a) of the Correctional Services Act 111 of 1998 as amended on admission a inmate must be provided with written information in a language which he or she understands about the rules governing the treatment of the inmates in his or her category, the disciplinary requirements, the authorized channels of communication for complaints and requests and all such other matters as are necessary to enable him or her to understand his or her rights and obligations.

b) Clothing

Despite the amendment to the legislation that unsentenced inmates should also wear a uniform, this was generally found not to be the case. It is expected that the problem will be resolved once the new uniforms become available. Clothing for sentenced inmates was generally found not to be a problem.

c) Complaints mechanisms and resolution

Complaints mechanisms for families of inmates follow an inconsistent practice and it is not clear if there is indeed a prescribed procedure. It was found at a relatively small number of centres that there are unresolved complaints older than three months that were lodged with both the ICCV and DCS (the G365 register).

d) Conditions of detention

Cell occupation: Cell occupation rate measures as available square metre per inmate vary greatly, ranging from as low as 1 m² to as high as 16 m². It therefore follows that a substantial number of children and juveniles are detained under conditions that do not comply with the Department's minimum space norm of 3.344 m² per inmate. There appears to be a general trend that cells for unsentenced inmates are occupied at higher rates than for sentenced.

Cleanliness and ventilation: In general it was found that cells were clean and well-ventilated. At a small number of centres this was found not to be the case and there were reports of cockroach and lice infestations. Rubbish bins were available at most cells where children and juveniles were detained but at a number of centres rubbish bags are available but not placed in a bin.

Access to water: Access to clean drinking water was found not to be a problem at all the centres surveyed. However, a small number of centres reported problems with their hot water supply.

Conditions: outside exercise: The extent to which sentenced and unsentenced children and juveniles have access to outside exercise on a daily basis varies greatly, ranging from half an hour up to seven hours. The CSA requires a minimum of one hour's exercise per day, weather permitting.¹³¹ It should be emphasised that one hour is the minimum and in the case of children and juveniles all efforts should be made to exceed this minimum.

Conditions: bedding: At nearly all the centres surveyed children and juveniles slept on beds and were supplied with mattresses and blankets. At a few centres it was found that due to overcrowding the beds had been removed. The availability of sheets is a more general problem.

¹³¹ Section 11 Correctional Services Act 111 of 1998 as Amended

Light in cells: At nearly all the centres it was found that natural lighting is adequate and only one exception was found. Artificial lighting was not found to be a problem.

Ablution facilities: The ICRC standard is that there should be at least one toilet for a maximum of 25 persons in confinement settings. Generally this is complied with in respect of children but more substantive deviations were noted in respect of juveniles, with one centre having a ratio of 1 toilet for 44 inmates.

e) Contact with the outside world

Maintaining contact with their families by means of visits, telephone calls and letter-writing is essential to most inmates. The CSA places a special obligation on the DCS with reference to children in order to encourage and facilitate contact as far as possible.¹³² Access to telephones and the supply of the means to write letters were generally found not to be a problem. However, the fact remains that substantial numbers of children and juveniles were found not to have received any visitors in the three months preceding the data collection. The overall impression is that travelling distances to the centre involves substantial travelling costs and that this prevents visits or more frequent visits.

f) Disciplinary procedure

In respect of both children and juveniles it appears that disciplinary processes are handled in an informal manner and that a central register of disciplinary actions is not maintained at a large number of centres, although records may be kept on individual case files. The purpose of such a register would be to ensure that all incidents and their outcome are recorded in order to prevent that disciplinary action is taken in an informal and arbitrary manner.

g) Access to education and access to library

The CSA requires that all children of compulsory school-going age must be attending education programmes.¹³³ This means that children awaiting trial in a correctional centre must have access to attend educational programmes up to the age of 15 years or upon attaining the ninth grade of education.¹³⁴ With one exception, it was found that unsentenced children do not have access to education but for sentenced children, the situation looks somewhat better, but there is still not full compliance. Access to libraries is generally limited and for an inexplicable reason it was observed that unsentenced children are excluded from accessing the library at a number of centres.

¹³² Section 19(3) of the Correctional Services Act 111 of 1998 as amended

¹³³ Section 19(1)(a) of the Correctional Services Act 111 of 1998 as amended

¹³⁴ Section 3(1) South African Schools Act 84 of 1996

h) Female inmates

The number of female children and juveniles in South Africa's correctional centres is fortunately very limited, but they do present an extremely vulnerable group. It was found at all the centres detaining female children and juveniles that they are supplied with sanitary towels and have access to support services for victims of domestic and sexual violence. In the event of pregnancy, they also have access to pre- and post-natal services.

i) Inspection and oversight

The inspection of correctional centres by the Department's internal inspectorate is an important mechanism to monitor compliance with policies, procedures and standing orders. It was therefore enquired if the particular centre had been inspected in the past year. Responses ranged from no inspections, to annual to monthly inspections. The reasons for the great variation are not clear. Inspections by medical doctors of the sections where children and juveniles are detained appear to happen in the minority of centres. Such inspections are important to deal with preventive health issues and to maintain hygiene standards.

j) Compliance with mandatory reports

Compliance with mandatory reports in the case of death, use of mechanical restraints and the use of force is a long-standing concern of the Office of the Inspecting Judge. In respect of deaths there is general compliance, but in respect of the use of force and use of mechanical restraints there is indeed room for improvement.

k) Meals and diet

Despite the prescripts of the CSA regarding the mealtimes there is a substantial number of centres that do not comply especially with the maxim time lapse of 14 hours from the last meal of the day to the first meal of the next day.¹³⁵ In the case of children and juveniles a time lapse of longer than 14 hours is not in the best interest of their health and development. It is especially at these centres that inmates are required to take food to their cells for later consumption. This holds significant health risks as there are not proper storage facilities for food and this may attract insects such as cockroaches and flies.

l) Access to recreational activities

Recreational activities for unsentenced children and juveniles are severely limited and there is in general little to break the daily monotony and boredom of detention. The situation in respect of sentenced children and juveniles appears to be substantially better in respect of the range of activities available and

¹³⁵ Section 8(5) of the Correctional Services Act 111 of 1998 as amended

the amount of time allocated to this. However, there is substantial variation between different centres in this regard.

m) Segregation of inmates

Children are separated from adults although at a number of centres it was reported that children are not always separated from juveniles. Of more concern is the fact that when unsentenced inmates are transported by SAPS for court appearances that the separation requirements are not always adhered to.

n) Staff and ICCV training and placement

It is a reasonable expectation that DCS staff who work with children and juveniles, sentenced or on remand, receive some specialist training to meet the needs of this highly vulnerable group bearing in mind that children as young as 14 years may be admitted to a correctional centre. In general it was found that DCS staff had not received such training. A few centres reported that the section head had received training but not the staff. The same applies in respect of ICCVs.

o) Access to support services

Support services such as social work service and psychological services are generally available to sentenced children and juveniles. In respect of unsentenced children and juveniles, such services are generally available upon request or in the event of an emergency. It should be emphasised that children and juveniles on remand are in an extremely vulnerable position, especially if this is their first experience of detention. Much greater effort should be made to provide access to social work services through the DCS, Department of Social Development and civil society organisations. Access to structured programmes for unsentenced children and juveniles is virtually absent, but the situation looks significantly better in respect of sentenced children and juveniles. It is, however, noted that there are substantial inconsistencies in the range of programmes available at different centres.

4. Conclusion

At the beginning of the research survey, the Department committed itself to the project of the Inspecting Judge. They also committed to work with the Inspectorate in respect of the findings of the survey. The central finding from the survey is that there is in general inconsistency in the treatment and conditions of detention of both children and juveniles for both sentenced and unsentenced categories. The implication of this is that it is not the legislative and policy framework that determines operations at ground level, but rather the choices made by individual managers and officials in the DCS. Given that the CSA was promulgated in full in 2004, it is cause for concern that ten years later these inconsistencies remain and

that children and juveniles do not, at all centres, enjoy treatment and conditions of detention as prescribe by the CSA. It remains the situation that certain centres comply and sometimes even exceed the requirements set out in the Act, but at other centres there are areas of substantial non-compliance. The Inspectorate will hone into correctional areas that have not complied with legislative provisions with the DCS and work towards a solution to ensure compliance.