

'It's frustrating to us as ICCVs':

The role and functioning of Visitors' Committees of the Judicial Inspectorate for Correctional Services

Sonke Gender Justice on behalf of the Detention Justice Forum



**DETENTION
JUSTICE FORUM**

“Mr XX said that the head of the Centre is always not available when they [ICCVs] want to discuss the matter with him, and it’s frustrating to us as ICCVs”

Extract from minutes of a Visitor’s Committee Meeting in the Western Cape, September 2014

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LIST OF ABBREVIATIONS:

| | |
|------|---|
| CSA | Correctional Services Act |
| DCS | Department of Correctional Services |
| HO | Head Office |
| HoCC | Head of Correctional Centre |
| ICCV | Independent Correctional Centre Visitor |
| IJ | Inspecting Judge |
| IPID | Independent Police Investigative Directorate |
| JICS | Judicial Inspectorate for Correctional Services |
| LASA | Legal Aid South Africa |
| NPA | National Prosecuting Authority |
| RM | Regional Manager (JICS) |
| SAPS | South African Police Service |
| VC | Visitors' Committee |
| VCCO | Visitors' Committee Coordinator (JICS) |

Effective independent oversight of places of deprivation of liberty is crucial to the prevention of torture and other ill-treatment. Furthermore, oversight bodies could identify immediate and systemic problems that need to be addressed by prison management, in order to improve the general treatment of those being detained. In South Africa, the Judicial Inspectorate for Correctional Services (JICS) is the body that has been established to oversee all correctional centres across the country. It was formally established on 1 June 1998, in terms of section 25 of the Correctional Services Act (CSA) and its objective is “to facilitate the inspection of correctional centres in order that the Inspecting Judge (IJ) report on the treatment of inmates in correctional centres and on conditions in correctional centres.”¹

JICS has a robust mandate which includes full access to correctional centres and all related information. Through the establishment of Independent Correctional Centre Visitors (ICCVs), JICS aims to ensure that there are laypersons monitoring each correctional centre on a regular basis. (It should be noted that there is often a significant number of correctional centres without ICCVs due to staffing shortages).² JICS’ reach into all correctional centres nationwide and the frequency of its visits (it interviews 25% of inmates each month³) is unparalleled in the arena of prisons’ oversight.⁴

With its wide access and statutory independence, JICS has the potential to play a vital role not only in ensuring that conditions of detention and the treatment of inmates are monitored and made public,⁵ but also in advocating for the resolution of these complaints and ensuring better conditions and treatment of inmates. Without JICS, human rights abuses within prisons would go largely unreported.

There are substantial challenges hampering JICS from effectively executing its mandate, most importantly, its lack of functional independence. While granted formal independence by the CSA, JICS’ budget comes from the Department of Correctional Services (DCS), its CEO is appointed by DCS, and misconduct by the CEO is referred to and handled by DCS. Lastly, JICS’ communications and technology are managed by DCS. With such dependence on DCS, it is a herculean task for ICCVs on the ground to conduct their work with the independence they require and without being co-opted by the very system they are meant to monitor.⁶

Within the context of these challenges, JICS is often unable to uncover major systemic challenges inside correctional centres. For example, sexual abuse of inmates is documented in research to be endemic to life in South African correctional centres.⁷ DCS itself reported 600 complaints of rape between 2010 and 2013, yet JICS only recorded a single complaint pertaining to sexual abuse in 2012-2013.

The focus of this report, however, is on one particular element within the structure of JICS, namely the Visitors’ Committees (VCs).

VCs are critical spaces to examine because they serve as a window not only into how ICCVs function inside correctional centres, but how complaints they are unable to independently resolve are handled by JICS. In this way, VCs shed important light on the nature of complaints being handled and how effective JICS is in resolving them. VCs are also critical because one of their functions is to “extend and promote the community’s interest and involvement in correctional matters”⁸.

As such they are a venue for community organisations, NGOs, and key stakeholders within the criminal justice system (i.e. the South African Police Service (SAPS), National Prosecuting Authority (NPA), and Legal Aid of South Africa (LSSA)) to work together with and support JICS and DCS in resolving complaints inside correctional centres.

This report follows a short monitoring project that aimed to assess the role and functioning of VCs, particularly given their important function as a link between ICCVs and their managers, the JICS Head Office (HO), the DCS and the community. Through monitoring of the functioning of VCs, additional insight was provided into the general functioning of JICS. Recommendations for the strengthening of VCs aim to contribute to the overall strengthening of JICS in order to ultimately improve the treatment of inmates and their conditions of detention.

2

METHODOLOGY

Following desktop research and attendance at one Visitors' Committee (VC) meeting at Drakenstein Correctional Centre, two monitoring forms were developed to assist in the analysis of both regular VC meetings and stakeholder meetings (available in the Annexes). Four monitors in different locations selected seven VCs in all four management regions of JICS (North, East, Central and South).

The VCs selected for monitoring were:

- Leeuwkop and Boksburg (Northern Management Region)
- Pollsmoor and Drakenstein (Southern Management Region)
- Pietermaritzburg and Durban Westville (Eastern Management Region)
- Klerksdorp (Central Management Region)

The monitors were deployed by Sonke Gender Justice and Footballers for Life on behalf of the Detention Justice Forum (DJF), a coalition that aims to promote the rights and well-being of detainees in South Africa.⁹

The monitoring period was from 1 June until 5 September 2013, with the aim to attend three consecutive VC meetings per location. Due to limitations described below, a total of 15 VC meetings were monitored. Information was collected by sitting in on meetings and, where necessary, posing additional questions to ICCVs and Visitors' Committee Coordinators (VCCOs). Specific ICCV and VCCOs names have been excluded from this report and all findings are presented in terms of general trends and anecdotes.

3

LIMITATIONS

The project aimed to ensure VC meetings in all management regions of JICS were monitored. While in a few locations three VC meetings could be attended,¹⁰ in other locations meetings sometimes did not take place as scheduled or dates were changed and monitors could not attend. Information is, therefore, in certain cases based on attendance of only one VC meeting.¹¹ Particularly the functioning of stakeholder meetings could not be monitored adequately given the short period of time available for this project. Monitors, however, generally collected additional information through further conversations with VC members regarding the general practice of the VC.

Another limitation is that there were no interviews with inmates or DCS officials. Subsequent research examining their perspectives would be valuable to this area of work.

4

BACKGROUND: THE ROLE AND MANDATE OF VISITORS' COMMITTEES

Visitors' Committees bring together a number of ICCVs from the same correctional centre or region. The official mandate of VCs is reflected in section 94(3) of the CSA and is further explained in the JICS Independent Prison Visitor Manual (IPV Manual).¹² The CSA states that the main functions of the VC are to:

- Consider unresolved complaints by remand detainees and sentenced inmates with a view to their resolution;
- Submit to the Inspecting Judge (IJ) those complaints which the VC cannot resolve;
- Organise a schedule of visits;
- Extend and promote the community's interest and involvement in correctional matters; and
- Submit minutes of meetings to the IJ.

In order to fulfil their task, the IPV Manual prescribes that VCs should meet at least monthly,¹³ while section 94(2) of the CSA prescribes meetings should take place at least quarterly. The VC meetings are also used for handling administration and as a tool for management of ICCVs by their supervisors. In order for the VCs to run properly, ICCVs forming a VC elect a chairperson and secretary, whose roles should, according to the IPV Manual, rotate on a six monthly basis.

The powers, functions and duties of ICCVs are set out in section 93 of the CSA. One or more ICCVs (depending on the size of the correctional centre population) should be appointed to each correctional centre. The CSA states that ICCVs shall deal with the complaints of inmates through:

- regular visits;
- interviewing inmates 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 (HoCC), or the relevant subordinate correctional official, with a view to resolving the issues internally.

ICCVs must be given full access to the correctional centre and relevant documents and records. Unresolved complaints are reported to the VC and, in cases of urgency or in the absence of such a committee, to the IJ of JICS.¹⁴

ICCVs should be "public-spirited persons of integrity, interested in the promotion of the social responsibility and human development of prisoners."¹⁵ It is further expected that ICCVs facilitate and promote the community's interest and involvement in correctional matters.

ICCVs are supervised by VCCOs working under the supervision of a Regional Manager (RM). JICS is divided into four management regions (North, East, Central and South).

a. Attendance

The VC meetings generally take place on a monthly basis and are attended by all ICCVs of that particular correctional centre/region, as well as the VCCOs. One of the functions of the RMs is to visit all of their VCs during the financial year. The purpose of these visits is to do an audit on the effectiveness of the VCs and to evaluate the outcome of the office bearers training.¹⁶ RMs can, however, participate in more than one VC meeting a year, depending on the circumstances.

There appears to be a difference in practice regarding the attendance of VCs by DCS officials. While in many locations DCS officials are always invited to attend the VC meetings, the VC at Pollsmoor, for instance, noted that they only invite specific DCS officials when there are particular issues to discuss with the official concerned.

Certain VCs and JICS HO members expressed the belief that it is mandatory for HoCCs to attend VC meetings or to send an official representative, mandated to make decisions and commitments on behalf of the HoCC. While it may not be mandatory, JICS has indeed explicitly requested attendance of HoCCs or delegates at VC meetings, including in the last two Annual Reports.¹⁷

However, in most locations monitored, HoCCs rarely attended these meetings in person and delegated officials could often not speak on behalf of their HoCC. Some ICCVs and VCCOs stated they considered this a lack of interest and commitment from the side of the HoCCs.

The attitude of HoCCs towards VC meetings differs from one location to another, as do efforts from ICCVs and VCCOs to increase their involvement. While DCS officials other than HoCCs are usually present at VC meetings, they often rotate. The need to repeat issues previously discussed, as well as agreements made, can hinder efficiency.

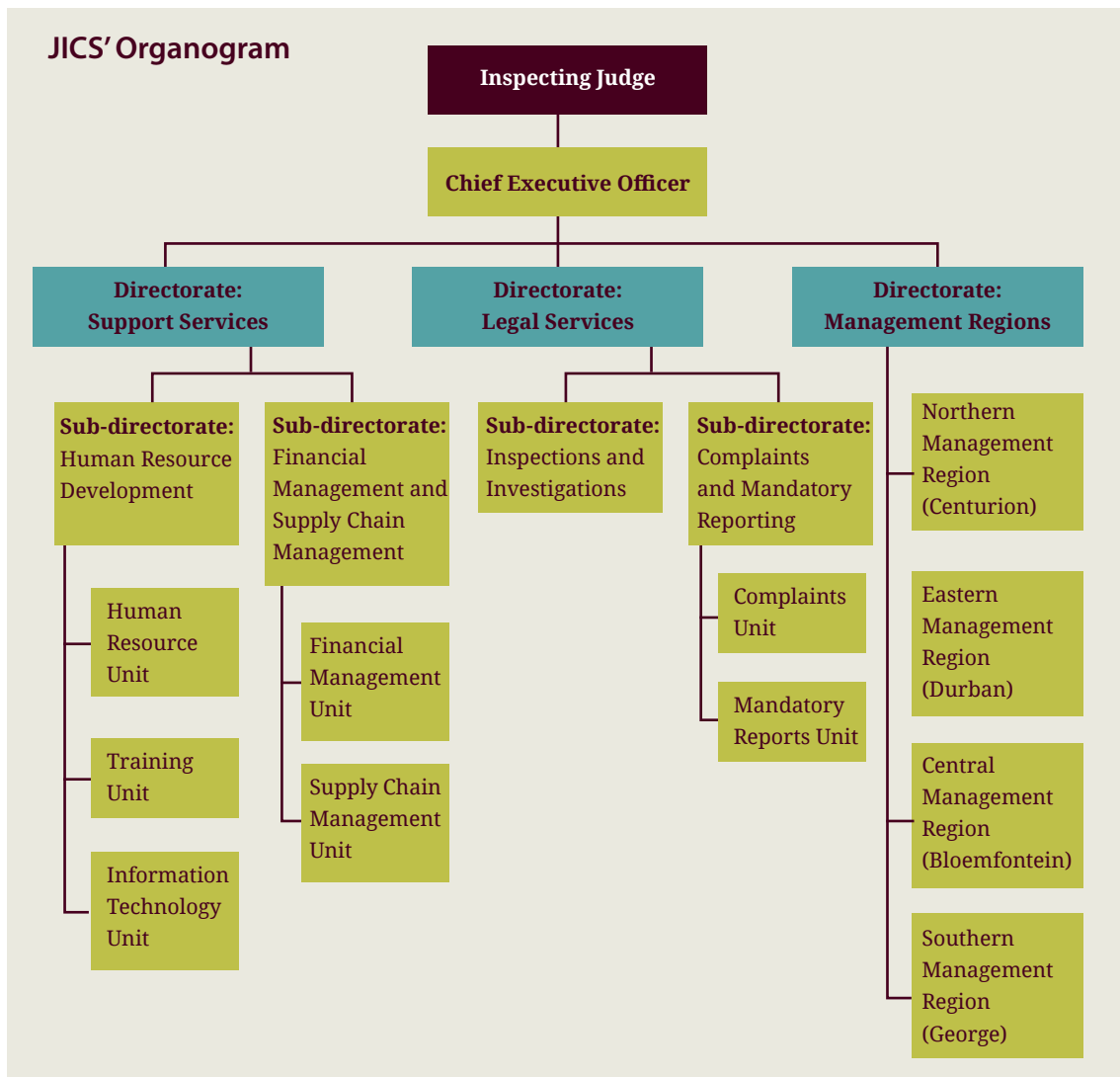
In some locations, most notably in Pietermaritzburg and Durban Westville, VC meetings are often attended by Legal Aid South Africa (LASA). Community representation is often solely linked to recruitment of new ICCVs, rarely to connecting VCs with community members and organisations in order to address substantive issues of treatment of inmates. Generally, it can be said that the regular monthly meetings are rarely attended by actors other than JICS and DCS. This issue is further discussed under stakeholder and community engagement.

b. Resolution of complaints

According to sections 94(3) of the CSA and 9.3 of the IPV Manual, unresolved complaints should be discussed at the VC meetings with a view to their resolution. In order to do this effectively, it is important that ICCVs understand the procedures at hand and that all relevant parties cooperate to this effect.

i. Procedure

When ICCVs receive complaints from inmates they first attempt to resolve these internally with the responsible DCS officials, particularly the HoCC. When the complaint cannot be resolved at that level, the ICCV brings it to the VC for advice from other ICCVs, the VCCO and DCS officials present. The VC will decide on how to move forward on the complaint at hand. If this plan of action remains without result, complaints can be forwarded to the Legal Services Directorate at JICS HO for intervention at a higher level.



ii. Complaints received

Complaints discussed in the meetings that were monitored mainly pertained to ill-treatment by DCS and police officials, transfers, health care and nutrition. In most cases, a clear way forward was proposed by the VC. Individual complaints relating to specific situations could often be resolved. Complaints related to transfers to other correctional centres and appeals to sentences often fell outside the mandate and powers of ICCVs. Inquiries can be made and advice given, but the ultimate responsibility for transfers and appeals lies with DCS and the judiciary respectively.

Several systemic problems were picked up, involving for instance health care and lack of maintenance of facilities. While different steps were identified to try and address these issues, ICCVs expressed frustration with non-responsiveness of DCS to suggestions and requests made to them.

Several complaints regarding alleged ill-treatment by DCS officials and one case concerning an arresting officer were discussed.

ICCVs stated that complaints about assault, committed by officials and other inmates, are often withdrawn for fear of reprisals. ICCVs who pursued the resolution of these cases have also been transferred to other correctional centres due to these fears.

While JICS can conduct its own investigations into cases of ill-treatment by DCS officials, it is of the utmost importance that an effective criminal investigation is launched as well. According to ICCVs, however, this was often not the case. The role of SAPS in this is further discussed in section 5(b)(v) below.

iii. Support from Visitors' Committees Coordinators, Regional Managers and JICS Head Office

Regional Managers attend VC meetings sporadically, while VCCOs are always present. The role played by the VCCOs differed per VC. It is the responsibility of a VCCO to:

- provide support to ICCVs and VCs;
- conduct performance audits and inductions of ICCVs;
- facilitate payment of ICCVs and the performance of administrative duties; and
- monitor the resolution of inmates' complaints and mandatory reports.¹⁸

While 'monitoring' resolution can be interpreted as a step away from active involvement, most VCCOs played an active role in the resolution of complaints, with some exceptions. VCCOs are appointed out of the pool of existing ICCVs. As such, VCCOs have experience in navigating DCS' systems and are in a position to offer guidance, particularly to newer ICCVs who may be overwhelmed by their duties. VCCOs who did provide guidance during this monitoring project, proposed further action to be taken and committed to raising issues at higher DCS levels or within JICS in order to ensure that necessary action is taken.

In the meetings monitored, three complaints were forwarded to JICS HO for intervention at a higher level, including one incident of alleged ill-treatment by a DCS official. While a number of ICCVs expressed satisfaction with the support from JICS HO, others felt there was often a lack of follow-up to cases being forwarded to the Legal Services Directorate of JICS.

iv. Cooperation with DCS

Cooperation by DCS in the resolution of complaints is crucial. It is therefore of great importance that HoCCs take their participation in these meetings seriously and that they attend personally or send authorised replacements with sufficient seniority to facilitate problem-solving with JICS.

Presence of DCS in VC meetings varied greatly between the different VCs. While some VCs reported to have ongoing support from the relevant HoCCs, none of the VCs monitored confirmed regular attendance by HoCCs. For instance in Drakenstein and Boksburg, numerous invitations by VCs and discussions between JICS and DCS still did not lead to HoCCs being present and/or sending representatives with the proper mandate, leading to great frustration among the VC members.

Most VC meetings were regularly attended by other DCS members, although not usually by the same ones. Continuity is key, while clearly for certain specific complaints the presence of the member directly in charge of that particular issue can be useful.

Involvement and support from DCS appears to differ greatly per VC – some positive and some very negative. In certain VCs, DCS members played a significant role in the resolution of complaints, bringing suggestions based on their knowledge and experience and/or offering direct assistance. DCS officials have a greater knowledge of systems and procedures inside the correctional centres than ICCVs, and offer relevant insight for resolving complaints. In other VCs, DCS members showed little interest in assisting ICCVs and, with that, the inmates who bring the complaints. Without support and buy-in from HoCCs, it is not surprising that their subordinates express a lack of interest. DCS management needs to play a stronger role in ensuring cooperation of their members and especially HoCCs with the VCs.

ICCVs also face a challenge when DCS officials make certain commitments but do not follow through. The ICCVs can only continue to push for DCS to honour its commitments, but their influence is clearly limited.

v. Cooperation with SAPS

For inmates to have an opportunity to open a criminal case with SAPS it is important they have access to the police when necessary. VCs generally reported no problems with getting SAPS officials to come to correctional centres to take statements and open cases. In some correctional centres, SAPS officials are regularly present to provide inmates with this opportunity. Some inmates, however, reported having problems when having to rely on DCS officials to call in SAPS, especially with regard to complaints against DCS members themselves.

Several ICCVs expressed serious doubt with regard to the actual investigation of cases, stating there is often a lack of follow-up of inmates' complaints, both in cases of inmate-on-inmate and official-on-inmate violence. ICCVs expressed frustration with the response of SAPS and generally felt powerless in this regard.

The section on stakeholder and community engagement below further discusses general cooperation with SAPS, including their level of participation in VC and stakeholder meetings.

c. Support function

ICCVs all consider the support from other ICCVs and their supervisors to be very valuable. The VC meetings do not only provide support in the resolution of specific complaints. ICCVs face many challenges in their daily work, which can also put psychological pressure on them. With the work often being complicated and stressful, the VC meetings can function as a sounding board, a debriefing space, and as a support group for ICCVs and others who work in correctional centres.. The role of the VCCO in providing this kind of support is also of great importance. While most VCCOs appear to take an active approach in this, it is important for RMs to monitor the functioning of VCCOs in this regard.

d. Stakeholder and community engagement

Section 94(3)(d) of the CSA provides that one of the critical functions of the VC is to extend and promote the community's interest and involvement in correctional matters. The IPV Manual further explains that this can be performed by a) submitting proposals on behalf of persons and/or organisations in their local community to attend VC meetings, and (b) inviting community leaders and other stakeholders to VC meetings. Examples provided are community leaders and representatives, SAPS members, prosecutors, magistrates, DCS officials and other stakeholders.¹⁹

According to JICS, engagement with stakeholders is done through public ICCV nomination meetings, through direct stakeholder engagement and through community outreach.²⁰ Ahead of appointing ICCVs, the IJ calls for nominations and consults community organisations.²¹ The information collected during the monitoring period and from the JICS Annual Reports indicates that the VC meetings most often involving some form of community engagement are the ICCV nomination meetings. The 2011/2012 Annual Report, for instance, reported that 47 nomination meetings were held across the country, resulting in 1223 nominations for a total number of 306 posts.²²

In April 2012, the number of Visitors' Committees increased from 28 to 50. According to JICS, this was motivated by "the need to promote community involvement in correctional matters at community meetings and engage more effectively with stakeholders, such as the DCS, that attend these meetings."²³ In a report later that year to the Portfolio Committee on Correctional Services on the impact of ICCVs, JICS stated they did not capitalise on the fact that ICCVs are nominated by community organisations. The report noted that "[t]his is seen in the attendance of stakeholders attending VC meetings. This is contrary to the spirit of the [CSA] of encouraging community interest in correctional matters."²⁴ From the information collected in 2013, it appears this continues to be true at present.

With regard to direct stakeholder engagement, JICS lists a number of stakeholders with whom VCs and JICS HO have built collaborative relationships.²⁵ While this list is rather extensive, it does not include any information on the efforts made by VCs themselves to establish and strengthen these contacts. Most contact with NGOs appears to be initiated by NGOs themselves that show interest in the work of JICS. NGOs offer resources to JICS and VCs and could be a useful avenue through which to share information and conduct supplemental trainings for ICCVs.²⁶ NGOs that provide services to inmates in specific DCS management areas could ensure that ICCVs are capacitated in their specific areas of work, i.e. concerns of youth in prison, inmate health, etc., and build relationships with JICS through participation in VCs. NGOs can further provide support through (shadow) reporting to the public, Parliament and the Government, advocating for further strengthening and equipping of JICS.

There is also a clear difference in attitude towards working with CSOs from one VC to the other, with some VCs engaging more actively with the community while others retaining minimal contact. In any case, VCs generally indicated holding two stakeholder meetings per year, of which one is the standard annual meeting to present the JICS Annual Report in the last months of the calendar year.

While VCs are considered to be 'open to the public', meeting dates are not published within communities and VCs reported their meetings were generally only attended by those who were specifically invited (for the most part, VC members and designated DCS officials). The 'openness' of VCs is, contrary to the spirit of the CSA, therefore limited.

While specific stakeholder meetings often focus either on the presentation of the JICS Annual Reports or on a specific project (often instigated by CSOs), the monthly VC meetings can include representatives from, for instance, SAPS, the NPA and LASA. Cooperation with these stakeholders differs greatly from one VC to another, with one VC reporting to have invited SAPS regularly, without SAPS ever attending.

Presence of SAPS may not always be required, but it is certainly problematic when specific invitations are continuously ignored. Proper cooperation with SAPS and the NPA is particularly important in relation to complaints of ill-treatment or incidents of inmate-on-inmate or official-on-inmate violence.

Several VCs reported regular attendance of LASA representatives, which is particularly useful with a view to assisting inmates in need of different forms of legal advice.

e. Issues impacting the work of ICCVs

i. Access to correctional centres and information

It is crucial for an ICCV in the performance of their duties to have full access to all parts of a correctional centre and to all relevant documentation as envisaged in section 92(2) of the CSA. In our research, most ICCVs reported having full access to correctional centres, inmates and documentation. However, at times they reported having had difficulty accessing certain documents requiring explicit authorisation from HoCCs, although their access should be automatic and unrestricted.

There were also concerning reports of certain DCS officials 'misplacing' particular files of inmates and complaint forms of ICCVs and therefore deliberately obstructing their work. In one VC, an ICCV reported that such obstruction took place in response to efforts to resolve a complaint of official-on-inmate assault.

ii. Training

All ICCVs go through a basic introductory training programme, followed by an induction period at the start of their contract. In November 2011, JICS introduced additional paralegal training for all ICCVs, to be offered three months after the induction. This programme focuses on the rights of inmates; sections 15, 21, 30, 31, 32 and 90(2) of the CSA on the complaints and reporting system with reference to inmates; the White Paper on Corrections in South Africa; and the DCS B-Orders.²⁷ This training is a welcome introduction as most ICCVs are laypersons with little familiarity of pertinent laws and policies. However, most ICCVs reported they were not yet offered this training.

Several ICCVs felt the training provided did not prepare them adequately for their job in this difficult environment and expressed a need for additional training on issues such as mediation, conflict management, handling of stress and dealing with specific issues, such as health care and victims of violence. Cooperation with experienced civil society organisations with a view to improve ICCV training was generally welcomed.

In addition to the introductory and paralegal training programme, the office bearers of VCs (the Chairpersons and Secretaries) undergo training aimed at supporting them in the execution of their functions and duties. According to the JICS Annual Report, this training is also aimed at 'strengthening leaders in the communities, because ICCVs represent their community organisations and the community at large.'²⁸ Not much information, however, could be found on how exactly these office bearers play out their roles within their communities, apart from a few projects in some VC areas, such as a crime prevention initiative of Pollsmoor VC in cooperation with the Bonteheuwel Youth Correctional Development Network.

iii. General working conditions

The work of ICCVs is hampered by its administrative and functional dependence on DCS. ICCVs generally do not have their own office space, while some even reported having to interview inmates in a hallway, not having access to a private interview space.

Private spaces are critical for maintaining inmate confidentiality. In these conditions, it is not surprising that the most sensitive complaints, such as those pertaining to sexual abuse, are rarely reported to ICCVs.

ICCVs mostly do not have their own computers or phones and need to rely on DCS officials, including HoCCs, to give them access to DCS facilities. While most ICCVs reported that they were usually able to access these, others noted that this was problematic, created a delay in their work and hampered their independence. This is a serious issue as it creates a significant conflict of interest for ICCVs. It is difficult for ICCVs to process complaints against the very people they rely upon to complete their work.

Several ICCVs reported difficulties regarding transport to their respective correctional centres, having to rely on hitch hiking where there was no public transport. Transport costs are not covered. Given the fact that the financial compensation for the job is not very high, this can be problematic for some ICCVs.

The limit of three years per contract was generally considered too short, forcing ICCVs to quit or relocate just when they start to function with more ease.

This section provides a short overview of strengths and weaknesses identified, followed by recommendations directed at VCs, JICS as a whole, DCS and other stakeholders.

a. Strengths

- The VCs offer a forum for regular discussions among ICCVs, VCs and DCS officials. This is important for the purposes of debriefing, support, effective complaints resolution and open communication;
- VCs bring together ICCVs with their Managers on a regular basis and they therefore provide an excellent forum for VCCOs and RMs to provide support and give guidance to ICCVs;
- VCs provide an opportunity for increased cooperation with communities and civil society stakeholders to collectively address the poor conditions and treatment raised by inmate complaints; and
- VCs function as a filter between ICCVs and JICS HO, ensuring that most complaints are handled at a local or regional level, which means quicker handling of complaints and decreased workload for JICS HO.

b. Weaknesses

- HoCCs often do not attend VC meetings in person, suggesting that VC meetings are not considered a priority by many HoCCs, which hampers ICCVs' ability to resolve complaints;
- While at least some DCS officials generally attend the VC meetings, they often lack decision-making capacity, as they are not officially representing HoCCs;
- DCS officials are not always actively involved in complaint resolution;
- Efficiency varies between VCs, indicating a greater need for supportive supervision for ICCVs from RMs and VCCOs;
- The ability to help resolve complaints dealing with structural problems within correctional centres appears limited, given that certain complaints are brought forward repeatedly while no progress is reported;
- Engagement of other stakeholders and the community in the ongoing work of the VCs is generally limited;
- VCs alone cannot make up for the fact that ICCVs are not trained sufficiently to adequately handle all the different situations they face, ICCVs and VCCOs require additional training to be equipped to handle complaints and pursue them until they are resolved; and
- ICCVs are challenged with practical problems, such as transport and limited access to computers and phones (mainly due to dependence on DCS resources). VC meetings should be used to identify and address these problems.

c. Recommendations

i. Support by JICS HO, RMs and VCCOs

VCCOs play an important role in the functioning of VCs. Particularly, in locations where RMs do not attend VC meetings frequently, RMs should ensure VCCOs provide the necessary support to ICCVs in their work. Support is required to help ICCVs, many of whom are inexperienced and lack sufficient training, to be able to process difficult complaints from inmates, e.g. official-on-inmate assault complaints that receive particular push-back from DCS.

ii. Cooperation with DCS

Head Offices of DCS and JICS should work to increase the understanding by DCS officials of the mandate and role of JICS in order to stimulate cooperation with ICCVs, VCs and JICS as a whole. Positive and constructive input by DCS officials in VC meetings, particularly with resolving specific complaints from inmates, has an immediate impact on the effectiveness of their work and, with that, on the effort to improve conditions of detention and the general treatment of inmates.

All HoCCs should participate actively in VC meetings on a regular basis. When HoCCs are unable to attend, adequately senior representatives with a decision-making mandate should be appointed.

When commitments made by DCS officials to ICCVs are not implemented, Regional Commissioners and/or DCS HO should support JICS in their efforts to ensure follow-up. This is particularly pertinent for complaints pertaining to inmate assaults and deaths, in which the threat of reprisal constitutes a security risk for the ICCV pursuing the complaint, though this is not an ideal scenario. Ideally, ICCVs will be able to pursue all complaints safely, however the fact is that this security risk exists. These issues highlight major systemic problems with the set-up of JICS, mainly its functional dependency on DCS, and its lack of enforcement powers, all of which must be fixed to empower JICS to do its work effectively and independently.

iii. Civil society should get more involved

VC meetings are open to the public and thus present a valuable opportunity for civil society organisations to engage with JICS, provide input, and share knowledge, resources and capacity. JICS should share its VC schedules with stakeholders and invite their input to help resolve specific inmate complaints and to shadow report to the public and Portfolio Committee to help pinpoint areas where JICS requires support.

iv. Cooperation with other stakeholders

In order to effectively address individual complaints, particularly with regard to allegations of ill-treatment, active involvement of stakeholders such as prosecutors, judges, the police, legal aid lawyers and civil society organisations should be increased. Prosecutors and the police in particular should be engaged as follow through on investigation and prosecution regarding such complaints is required.

VCs should actively identify relevant partners in the implementation of their work and use stakeholder meetings for identifying and addressing trends and systematic problems in both policy and practice.

v. Training

Induction training provided for all ICCVs should be improved and expanded, including more attention on human rights issues, as well as dealing with difficult, sensitive and/or insecure situations.

The roll-out of the recently introduced paralegal training should be sped up to ensure ICCVs across the country understand the basics or the relevant legal provisions and are adequately equipped to provide assistance to inmates.

JICS should enhance cooperation with civil society actors who can provide and support training on a wide range of issues. For example, civil society organisations can support JICS with training ICCVs on specific topics, such as TB and other common health-related issues in prisons, in order to improve their processing of these complaints.

In order to improve engagement with external actors, ICCVs should be trained on ways and opportunities to involve local communities, civil society and other stakeholders, for example, by inviting organisations and individuals with expertise to share their knowledge and assist.

vi. Practical issues

The work of ICCVs is often impeded by practical obstacles, including limited access to phones and computers and internet. This results from lack of administrative independence from DCS and limited resources of JICS. The independence and effectiveness of ICCVs would increase if they had their own offices equipped with the necessary tools and materials. This underscores the urgency of statutory reform to ensure JICS' financial and administrative independence from DCS.

The assessment carried out by this project shows that the VCs play a significant role in the general functioning of JICS and the work of ICCVs. Their impact, however, is substantially stymied by their lack of independence and inadequate cooperation by DCS, SAPS and the judiciary. Serious consideration needs to be given to strengthening JICS so that it can effectively ensure safe custody of inmates in line with national and international standards.

ANNEX I

This monitoring form was developed in order to assess the role, functioning, relevance and impact of the Visitors' Committee (VC) meetings of the Judicial Inspectorate for Correctional Services (JICS). A number of VC meetings in different locations will be monitored in the months of June, July and August 2013. Monitors are encouraged to speak with participants after the meeting (or during, where possible) in order to collect information that could not be deduced from the meetings themselves. Do not document **confidential** information regarding inmates or pending complaints.

Monthly Visitors' Committee Meeting Monitoring Form

| | |
|-------------------------|---------------------|
| Name of monitor: | Date of VC meeting: |
| Monitor's organisation: | Location of VC: |

| Question | Y/N | Explanation |
|-------------------|--|-------------------|
| ATTENDANCE | | |
| 1 | Who is present at the current VC meeting? | |
| | ICCVs | How many ICCVs? |
| | Area Coordinator (AC) | |
| | DCS HoCC | How many HoCCs? |
| | Other DCS representative | What designation? |
| | Other (specify) | |
| 2 | Are meetings usually attended by the same DCS representatives? | |
| VACANCIES | | |
| 3 | Are there ICCV vacancies in this VC area? | |
| | If yes, how many? | |
| | How long has each vacancy been open? | |
| | Are there specific prisons that often have problems filling their ICCV position? If so, which ones? | |
| COMPLAINTS | | |
| 4 | Were unresolved complaints brought forward at the meeting? | |
| 5 | Did the ICCVs generally understand the policy and procedure on how to handle complaints? | |
| 6 | Were all complaints identified by ICCVs as 'unresolved' accepted as such by the VC? | |
| 7 | Did the discussion of the complaints lead to a clear approach to resolving the complaints? | |
| 8 | Did the Area Coordinator provide guidance on how to resolve complaints? | |
| 9 | Did the DCS representative(s) play an active role in the resolution of complaints? | |
| 10 | Did any other participant in the meeting play a role in the resolution of complaints? | |
| 11 | Were there complaints from inmates regarding the handling of cases by ICCVs? | |
| 12 | Were inmates generally satisfied with feedback provided to them? | |
| 13 | Which types of complaints were brought forward at the meeting? (please indicate the number of complaints per category) | |
| | Building maintenance | |
| | Transfers | |
| | Ill-treatment by officials | |
| | Health Care | |
| | Nutrition | |
| | Assault | |
| | Sexual abuse | |
| | Labour | |
| | Contact with the outside world | |
| | Other (specify) | |

| Question | Y/N | Explanation |
|--|-----|---|
| 14 | | |
| | | Were any complaints forwarded to the IJ/JICS Head Office? If yes, what type of complaints? |
| | | Building maintenance |
| | | Transfers |
| | | Ill-treatment by officials |
| | | Health Care |
| | | Nutrition |
| | | Assault |
| | | Sexual abuse |
| | | Labour |
| | | Contact with the outside world |
| | | Other (specify) |
| 15 | | Are the ICCVs satisfied with the support from the IJ/JICS HO in the resolution of complaints? |
| 16 | | Were there any types of complaints that were persistent in one of the correctional centres? |
| 17 | | Are any steps being taken to address the persistent complaints in question 16? |
| 18 | | If any of the complaints involved ill-treatment by an official (SAPS/DHA/DCS), was a formal complaint laid with SAPS/IPID/any other official investigative body outside DCS/JICS? |
| 19 | | Do SAPS officials have regular scheduled visits to the prison to conduct investigations? |
| 20 | | Does the VC believe inmates have adequate access to SAPS or other relevant bodies when they want to lay a complaint? |
| WORKING CONDITIONS | | |
| 21 | | Do ICCVs have any problems regarding transport to their posts? |
| 22 | | Do ICCVs have access to a computer in order to access their work e-mail and do other research? |
| | | If yes, whose computer? |
| 23 | | Do ICCVs have access to a phone for work related calls? |
| | | If yes, whose phone? |
| 24 | | Did ICCVs report any problems regarding payment of overtime? |
| 25 | | Do the ICCVs consider the 3-year limit on placement at one particular correctional centre a satisfactory duration? |
| TRAINING | | |
| 26 | | Do the ICCVs feel they have been adequately trained for their work? |
| | | If no, what training do they desire? |
| 27 | | Did the ICCVs receive the paralegal training in addition to their introductory training? |
| 28 | | Did the ICCVs receive any training from actors outside JICS? |
| | | If yes, who conducted the training? |
| | | What was the content of the training? |
| ACCESS TO CORRECTIONAL CENTRES AND RELEVANT INFORMATION | | |
| 29 | | Do the ICCVs have full access to all parts of their correctional centre? |
| 30 | | Do the ICCVs have full access to all records? |
| 31 | | Do the ICCVs have full access to internal policies, rules and regulations at their correctional centre? |
| 32 | | Have the ICCVs ever been denied access to see an inmate? |
| ADDITIONAL NOTES | | |
| | | |

| Question | | Y/N | Explanation |
|---|--|-----|-------------|
| 5 | Are meetings usually attended by the same representatives of abovementioned bodies? | | |
| 6 | Are stakeholder meetings advertised publicly? | | |
| | If yes, how are they advertised? | | |
| 7 | Has the VC identified additional community members whose participation would be beneficial? | | |
| 8 | Are the meetings considered open to the public, meaning that anyone can attend, without invitation? | | |
| 9 | Have stakeholders attended without invitation before? | | |
| OBJECTIVES | | | |
| 10 | What is the objective of this specific meeting? | | |
| COMMUNITY INVOLVEMENT | | | |
| 11 | Were community members actively involved in the meeting? | | |
| 12 | Are community representatives encouraged to take up an active role with regard to assisting (former) inmates? | | |
| 13 | If community members and/or NGOs are present, what was the purpose in attending? | | |
| Coordination between government bodies | | | |
| 14 | Do stakeholder meetings provide a forum for the coordination of government bodies (e.g. DCS, JICS, SAPS, NPA, IPID, SAHRC) for investigation of cases? | | |
| 15 | Are problems regarding investigation of ill-treatment discussed at the meeting? | | |
| OUTCOMES | | | |
| 16 | What were the outcomes of this stakeholder meeting? | | |
| 17 | Did the meeting increase cooperation between the community and the VC/JICS? | | |
| ADDITIONAL NOTES | | | |
| | | | |

ENDNOTES

- 1 Section 85(2) CSA.
- 2 In the years 2010, 2011, 2012, there were often ICCV vacancies for 20 to 30% of the posts. See e.g. JICS, *Annual Report 2010/2011*, p. 37 and *JICS, 1st Quarterly Report Financial Year 2012/2013*, p. 55. In March 2013, however, the number of filled posts was up to 94% JICS, *Annual Report 2012/2013*, p. 67.
- 3 JICS, *Annual Report 2011/2012*, at 67.
- 4 B. Hettinga, A. Mandlate and L. Muntingh, Survey of Detention Oversight Mechanisms Provided for in the laws of SADC Countries, Civil Society Prison Reform Initiative, 2011.
- 5 JICS reports are shared with the Parliament of the Republic of South Africa and with relevant authorities. While certain civil society actors make use of these public reports, more could be done by JICS itself to ensure the wider public is informed of JICS' findings and recommendations.
- 6 For in-depth analysis on issues affecting JICS' independence, see Keehn, Nyembe and Sukhija, *Evaluation of South Africa's Judicial Inspectorate for Correctional Services: Assessing its Independence, Effectiveness and Community Engagement*, Sonke Gender Justice, 2013. See also, Gallinetti J, *Report on the Evaluation of the Independent Prison Visitors (IPV) System*, CSPRI Research Paper Series No 5, May 2004; and Jagwanth S., *A Review of the Judicial Inspectorate of Prisons in South Africa*, CSPRI Research Paper Series No 7, May 2004.
- 7 Judicial Inspectorate for Prisons, Annual Report 2007-2008; S Gear, M Isserow and C Nevill, Situational Analysis of Boksburg Prison: Sexual Violence in Prison Pilot Project, Centre for the Study of Violence and Reconciliation, 2006, Judicial Commission of Inquiry into Alleged Incidents of Corruption, Maladministration, Violence or Intimidation in the Department of Correctional Services, Final Report, 2006.
- 8 Section 94(3) of the CSA and is further explained in the JICS Independent Prison Visitor Manual (IPV Manual).
- 9 See www.detentionjusticeforum.org.za.
- 10 Namely Boksburg and Durban Westville.
- 11 Namely for Klerksdorp and Drakenstein.
- 12 Judicial Inspectorate for Correctional Services, *Independent Prison Visitor Manual*, 7ed, at 35-37.
- 13 JICS IPV Manual 9, at 35.
- 14 Section 93 CSA: "Powers, functions and duties of Independent Correctional Centre Visitors: (1) An Independent Correctional Centre Visitor shall deal with the complaints of inmates by-
 - (a) regular visits;
 - (b) interviewing prisoners in private;
 - (c) recording complaints in an official diary and monitoring the manner in which they have been dealt with; and
 - (d) discussing complaints with the Head of the Correctional Centre, or the relevant subordinate correctional official, with a view to resolving the issues internally.(2) An Independent Correctional Centre Visitor, in the exercise and performance of such powers, functions and duties, must be given access to any part of the correctional centre and to any document or record.
(3) The Head of the Correctional Centre must assist an Independent Correctional Centre Visitor in the performance of the assigned powers, functions and duties.
(4) Should the Head of the Correctional Centre refuse any request from an Independent Correctional Centre Visitor relating to the functions and duties of such a Visitor, the dispute must be referred to the Inspecting Judge, whose decision will be final.
(5) An Independent Correctional Centre Visitor must report any unresolved complaint to the Visitors' Committee and may, in cases of urgency or in the absence of such a committee, refer such complaint to the Inspecting Judge.
(6) The Inspecting Judge may make rules concerning, or on the appointment of an Independent Correctional Centre Visitor, specify, the number of visits to be made to the correctional centre over a stated period of time and the minimum duration of a visit, or any other aspect of the work of an Independent Correctional Centre Visitor.
(7) Each Independent Correctional Centre Visitor must submit a quarterly report to the Inspecting Judge, which shall include the duration of visits, the number and nature of complaints dealt with, and the number and nature of the complaints referred to the relevant Visitors' Committee."
- 15 JICS IPV Manual 5, at 13.

- 16 JICS, *Annual Report 2011/2012*, at 68.
- 17 JICS, *Annual Report 2011/2012*, at 74 and *Annual Report 2012/2013*, at 71.
- 18 Vacancy for VCCO in Southern Management Region, issued in September 2012, available at <http://judicialinsp.dcs.gov.za/Projects/docs/201209/Visitors%20Committee%20Coordinator%20George.pdf>.
- 19 JICS IPV Manual 9.4, at 36.
- 20 JICS, *2011/2012 Annual Report*, at 69.
- 21 Section 92(1) of the CSA.
- 22 JICS, *2011/2012 Annual Report*, at 69.
- 23 JICS, *2011/2012 Annual Report*, at 68.
- 24 JICS, *Impact of Independent Correctional Centre Visitors*, submitted to the Portfolio Committee on Correctional Services on 16 October 2012.
- 25 JICS, *2011/2012 Annual Report*, at 70: "Visitors' Committees have over the years built very strong and collaborative relationships with various stakeholders who have shown interest in attending some of the VC Meetings. These include the DCS itself; Legal Aid South Africa; the National Prosecuting Authority; the National Institute for Crime Prevention and the Reintegration of Offenders (NICRO); Human Rights Commission; and various community NGOs, FBOs and CBOs. The Inspectorate has also collaborated with statutory and civil society stakeholders such as the National Prosecution Authority; the Public Protector; the Independent Complaints Directorate; the Civil Society Prison Reform Initiative; Sonke Gender Justice; Just Detention International - South Africa; the Open Society Foundation for South Africa; the South African Law Society; the President's Awards; Omega Research Foundation; Khulisa; and various local universities and academic associations with their own specialized units. The Inspectorate has also collaborated in inter-departmental consultation on OPCAT."
- 26 Indeed, JICS, Just Detention International, and Sonke Gender Justice have negotiated to roll-out training for ICCVs on sexual violence and HIV in prisons, as these issues are not addressed in standard ICCV training curricula.
- 27 JICS, *Annual Report 2011/2012*, at 65.
- 28 JICS, *Annual Report 2011/2012*, at 65.



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www.genderjustice.org.za