**4. BUDGETARY REVIEW AND RECOMMENDATION REPORT OF THE**

**PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON**

**DEPARTMENT OF CORRECTIONAL SERVICES’ PERFORMANCE IN 2015/16,**

**AND THE FIRST QUARTER OF THE CURRENT FINANCIAL YEAR, DATED 26**

**OCTOBER 2016**

The Portfolio Committee on Justice and Correctional Services, having considered the performance of the Department of Correctional Services, and Judicial Inspectorate for Correctional Services, reports as follows:

**1. INTRODUCTION**

1.1. The Money Bills Amendment Procedure and Related Matters Act (Act 9 of 2009) provides for, amongst others, a parliamentary procedure to amend Money Bills. The procedure grants parliamentary committees greater opportunity to influence the allocation of funds to the departments they oversee. Section 5 compels the National Assembly to, through its committees, submit annual Budgetary Review and Recommendation (BRR) reports on the financial performance of departments accountable to Parliament. The BRR report must be informed by a committee’s interrogation of, amongst others, national departments’ estimates of national expenditure, strategic priorities, measurable objectives and forward-funding needs; National Treasury-published expenditure reports; the relevant annual reports and financial statements; the Auditor General of South Africa’s (AGSA) audit findings; as well as observations made during all other oversight activities.

1.2 In addition to its other obligations, the Portfolio Committee on Justice and Correctional Services (the Committee) oversees the Department of Correctional Services (DCS) and the Judicial Inspectorate for Correctional Services (JICS) and their efforts to deliver on their respective mandates. To this end, the Committee monitors the implementation of, and adherence to policies such as the white papers on Corrections and Remand Detention; compliance with applicable legislation; adherence to principles of good governance, and sound financial management; and service delivery in line with their mandates, strategic objectives, and government policies and priorities.

1.3 In preparing to report on the DCS and JICS’s financial and service delivery performance in the period under review, the Committee drew on, amongst others, previous reports and recommendations related to their service delivery and financial performance; the DCS’s 2015/16 Annual Report and Financial Statements, the JICS’s 2015/16 Annual Report, as well as briefings by the Minister of Justice and Correctional Services, the DCS, the JICS and the Auditor General of South Africa (AGSA).

1.4 The report should be read with our reports on the DCS’s 2015/16 and 2016/17 budgets. This report comprises four parts: an overview of the DCS’s performance in 2015/16 (Part A); an overview of the JICS’s performance in 2015/16 (Part B); and, finally, our observations and recommendations (Part C).

1.5 Owing to time constraints the Committee could not interrogate the information tabled in relation to the DCS’s performance in the first quarter of the 2016/17 financial year. The quarterly report will be reported on at a later stage.

**PART A: DEPARTMENT OF CORRECTIONAL SERVICES’ PERFORMANCE IN 2015/16**

According to section 2 of the Correctional Services’ Act (Act 111 of 1998) (the Act), the DCS contributes towards maintaining and protecting a just, peaceful, and safe society, by enforcing court-imposed sentences in the manner prescribed by the Act, detaining inmates in safe custody while promoting social responsibility and the human development of all offenders and persons subject to community corrections.

**2. STRATEGIC GOALS IN THE YEAR UNDER REVIEW**

**2.1 2015/16 Financial Year**

* + 1. As summarised in our report on the DCS’s 2015/16 budget, the DCS’s strategic planning is underpinned by the objectives outlined in the 2005 White Paper on Corrections and the White Paper on Remand Detention of 2014. It is also informed by the government-wide Medium-Term Strategic Framework (MTSF), which seeks to implement the National Development Plan’s (NDP) Vision 2030. According to its 2015/16 to 2019/20 strategic plan, the DCS’s mission is to contribute to a just, peaceful and safer South Africa through the effective and humane incarceration of inmates, and the rehabilitation and social reintegration of offenders. In addition, it is also to ensure the achievement of the MTSF and the NDP’s strategic outcomes of ensuring that all people living in South Africa are and feel safe.
    2. In the 2015/16 to 2019/20 period, the DCS aims to develop and implement the following policies: Policy on the Provision of Palliative Care**;** Policy on Correctional Sentence Plans and programmes for offenders incarcerated for 24 months or less and; Policy on Electronic Monitoring, which deals with the placement of eligible accused persons and sentenced offenders under electronic tagging.
    3. The DCS’s main objectives for the period are: increasing the percentage of sentenced offenders participating in correctional programmes from 68 per cent in 2015/16 to 80 per cent in 2019/20; reducing parole violations from 5 per cent in 2015/16 to 3 per cent in 2019/20; and reducing the number of probation violations from 6 per cent in 2015/16 to 3 per cent in 2019/20.

**3. FINANCIAL PERFORMANCE**

3.1 The DCS received a budget of approximately R20, 588 billion in 2015/16. As in the previous years, most of the expenditure—in 2015/16, about R13, 155 billion—went towards compensation of employees. Unlike in the previous year, the DCS succeeded in spending its entire budget and reported over-expenditure of R121 000. The AGSA ascribed the over-expenditure to additional payments that were made towards the Independent Development Trust’s capital works projects owing to a cost adjustment provision for the installation of security fences.

3.2 The DCS did not report any unauthorised expenditure in 2014/15, but incurred R121 000 such in 2015/16 owing to the failure to adhere to key pieces of legislation.

3.2 In 2014/15, irregular expenditure had increased from approximately R43, 2 million in 2013/14 to R164 million. In 2015/16 that figure rose to R219, 3 million. R106 million was due to non-compliance with the State Information and Technology Act, No 88 of 1998 in relation to the Integrated Information Management System (IIMS) which is provided for under Budget Vote 21 of the Department of Justice and Constitutional Development)[[1]](#footnote-1) and R102 million which was attributed to non-compliance with bidding requirements. The AGSA ascribed the increase to the DCS management’s failure to review the processes that are in place to ensure compliance with legislation, Treasury Regulations and Practice Notes.

3.3 There was a sharp decrease in fruitless and wasteful expenditure from R27, 7 million in 2014/15 to R1, 7 million in 2015/16. R1, 6 million of the total amount resulted from interest charges on overdue accounts. The AGSA attributed the fruitless and wasteful expenditure to the DCS’s failure to hold officials accountable, mainly as a result of the long delays in finalising investigations.

3.4 The DCS collected revenue from, amongst others, fines, penalties, sale of capital assets, and financial transactions in assets and liabilities. In 2015/16 departmental revenue decreased by about R100 000 to R129, 317 million.

3.5 With regards to goods and services, expenditure increased to R6.1 billion. The amount spent on consultant services decreased from R40, 5 million in 2014/15 to R29 million in 2015/16.

3.6 Claims against the DCS decreased from R155, 8 million to R58, 7 million. They include claims for damages (R17, 264 million), bodily injury/assaults (R11, 5 million); and rape (R20, 4 million). R26, 1 million in liabilities was paid, cancelled and/or reduced in 2015/16.

**4 PERFORMANCE ACROSS PROGRAMMES**

**4.1 Programme 1: Administration**

4.1.1 The *Administration*programmecomprises the *Management, Finance, Corporate Services, Ministry, Internal Audit, Office and Residential Accommodation* sub-programmes. It received a final appropriation of R4, 015 billion and spent it all, an improvement on the programme’s spending in the previous financial year. The programme had a total of 14 targets and only seven were achieved.

4.1.2 Some of the targets that were not achieved include: the percentage of South African who perceived the performance of the DCS positively[[2]](#footnote-2), the rolling out of the IIMS and LAN infrastructure to 25 per cent of correctional facilities and community corrections offices[[3]](#footnote-3), the percentage of security upgrades to the Virtual Private Network (VNP) of correctional centres[[4]](#footnote-4), the percentage of unnatural deaths received, analysed and reported on within 30 days by the Judicial Inspectorate of Correctional Services (JICS)[[5]](#footnote-5), the percentage of cases against the DCS successfully defended[[6]](#footnote-6), and the percentage of funded positions filled[[7]](#footnote-7).

4.1.3 The DCS aimed to successfully defend 75 per cent of cases filed against it, but only succeeded to defend 64.6 per cent- winning 41 and losing 23 of the 64 cases concluded in 2015/16. This failure to achieve the 75 per cent target was attributed to lack of capacity to assess and screen cases on receipt by the legal services division.

4.1.4 The DCS had set out to fill 98 per cent of all its posts, but could only fill 91 per cent, leaving a vacancy rate of 9 per cent as compared to 8.65 per cent in the 2014/15 financial year. According to the DCS, the worsening vacancy rate was due to resignations resulting from speculation on the tax/pension reforms.

4.1.5 For the first time since 1994, the DCS achieved an unqualified audit outcome. The AGSA did however identify four areas of emphasis of matter: restatement of corresponding figures; payables; impairments; and significant uncertainties with regard to contingent liabilities. These are elaborated on in paragraphs 6.1.1 to 6.6.3.

4.1.6 The table below shows the programme’s indicator targets and their achievement under the various sub-programmes.

|  |  |  |
| --- | --- | --- |
| **Sub-programme** | **Achieved** | **Not achieved** |
| **Management** | * percentage of correctional centres, and community corrections offices provided with servers, and to which Voice-Over Internet Protocol (VOIP) - infrastructure had been roll-out. * percentage of officials found guilty of corrupt activities; * percentage of correctional facilities (and PPPs) inspected on the conditions and treatment of inmates by JICS | * percentage of finalised legal cases successfully defended; * percentage of surveyed people rating correctional services performance positively; * development and implementation of an integrated communication and marketing strategy; * percentage of correctional facilities and community corrections offices to which the IIMS and Local Area Network (LAN) infrastructure were rolled-out; * percentage of security VPN upgrades to correctional centres*.* * percentage of unnatural death reports received, analysed and reported on within 30 days by the JICS. |
| **Corporate Services** | * number of officials trained in line with the Workplace Skills Plan (WSP); * percentage of management areas to which the Integrated Employee Health and Wellness (IEHW) programme has been rolled-out. | * percentage of posts filled per financial year. |
| **Finance** | * Percentage of allocated budget spent per year * Number of audit qualifications |  |

**Table 1: Programme 1 summary of performance targets**

**4.2 Programme 2: Incarceration**

4.2.1 The *Incarceration*programmecomprises the *Security Operations, Remand Detention, Facilities*, and *Offender Management* sub-programmes. The programme received a final appropriation of R12, 464 billion. There was an over-expenditure of R121 000 in relation to this programme, resulting in final expenditure of R12, 465 billion. This programme had thirteen targets, of which only five (35 per cent) were achieved.

4.2.2 None of the targets under the sub-programmes: Security Operations, Facilities and Offender Management were achieved. These include crucial targets on reducing the number of escapes, preventing assaults of inmates and unnatural deaths, increasing the number of bed spaces by upgrading existing facilities and reducing overcrowding. Under this programme, all the DCS succeeded in achieving was to draft, submit and/or getapproved some policies and procedures on various areas of remand detention. The performance information relating to this programme should be read with some caution as the AGSA raised serious concerns regarding its usefulness and reliability.

4.2.3 The DCS had intended to reduce the percentage of the inmate population injured in reported assaults to 3.9 percent or below. By the end of the financial year, 5.43 per cent (8 801) of the total inmate population (161 984) had been allegedly injured in reported assaults. The DCS ascribed its under-performance to, in the main, overcrowding which frustrated inmates and was a breeding ground for gang activity. Other contributing factors included dilapidated infrastructure, the unfavourable staff-inmate ratio and the still-unresolved issues relating to the DCS’s shift-system. The DCS has proposed to design proactive programmes that will discourage violence and aggressive behaviour and to implement its gang management strategy in order to mitigate against the risk of violent assaults in its facilities.

4.2.4 The DCS had aimed to reduce the percentage of unnatural deaths in its facilities to less than 0,034. It did not achieve this target as 62 (0.038%) out of a total of 161 984 inmates died of unnatural causes in its centres in the year under review. The main causes of unnatural deaths were suicides through hanging and overdose. Twenty-five of the sixty-two unnatural deaths reported were due to suicide, ten were due to inmate-on-inmate assaults and one was caused by an official assaulting an inmate.

4.2.5 The DCS failed to reduce the number of inmates who escaped to 39 and below, as it had planned. It reported 71 escapes in the period under review. The under-performance was ascribed to the non-alignment of security infrastructure with the security risks; to the back-to-basics campaign and supervision by managers not yet having been effectively infused into daily operations; as well as to dilapidated infrastructure, the unfavorable staff-inmate ratio and an inefficient and ineffective shift system.

4.2.6 The DCS had intended to create 518 additional bed-spaces, but failed to create any. The main cause of the non-performance was due to the incompetence and subsequent liquidation of contractors that had been awarded the infrastructure-development tenders.

4.2.7 In relation to remand detention management, the DCS succeeded in developing five of the six policies it had intended to develop. Only four were approved. The Policy on Remand Detention was not approved; while the policy manual on the administration of state patients was not developed at all.

4.2.8 By the end of the period under review, the inmate population stood at 161 984, of which 45 257 were remand detainees. The inmate population was most dense in Gauteng (36 230), the Western Cape (29 872), KwaZulu Natal (29 253), Limpopo/Mpumalanga and North West (23 877) and Free State and Northern Cape (22 959). At 19 793 inmates, the Eastern Cape had the lowest population. The DCS did not succeed in reducing the inmate population to 31 per cent in excess of the official population capacity. By the end of the period under review, the percentage in excess of the official population capacity stood at 34 per cent. The under-performance is ascribed, by the DCS, to improved prosecution-success rate.

4.2.9 The table below lists the performance targets that were achieved, and those that were not achieved.

|  |  |  |
| --- | --- | --- |
| **Sub-programme** | **Achieved** | **Not achieved/ *Measured annually*** |
| **Security Operations** | * None | * percentage of inmates who escape from correctional and remand detention facilities per year; * percentage of inmates injured as a result of reported assaults in correctional and remand detention facilities per year. * percentage of unnatural deaths in correctional and remand detention facilities per year. |
| **Remand Detention** | * Approved Disciplinary Policy Procedure Manual for Remand Detainees * Approved procedure manual on privilege system * Development of Draft procedure manual on applications for bail review. * Development of procedure manual on temporary release of RDs to SAPS. * Percentage of remand detention facilities to which the Continuous Risk Assessment (CRA) was rolled out | * Approved Policy on Remand Detention Management * Development of Policy Procedure Manual on the Administration of State patients. |
| **Offender Management** | * None | * reduction in the percentage of overcrowding in correctional centres and remand detention facilities |
| **Facilities** | * None | * Number of new bed spaces created through construction of new facilities. * Number of new bed-spaces created by upgrading of existing facilities. |

**Table 2: Programme 2: summary ofperformance targets**

**4.3 Programme 3: Rehabilitation**

4.3.1 The *Rehabilitation*programme comprises of the *Correctional Programmes*, *Offender Development*, and the *Psychological, Social and Spiritual Services* sub-programmes. This programme received a final appropriation of approximately R1, 129 billion of which 100 percent was spent. This represents a significant improvement on the 91.9 per cent spent in 2014/15. This programme had nine targets and five (55 per cent) were achieved

4.3.2 The targets that were not achieved are ‘the percentage of incarcerated offenders and those sentenced to correctional supervision who are involved in Social Work services per year’, ‘percentage of offenders who participate in skills development and those who participate in educational programmes (Adult Education and Training (AET))’. Performance information in relation to this programme should be read with some caution given that the AGSA raised serious concerns about the reliability of the information reported.

4.3.3 The DCS had planned to enroll 548 offenders in Further Education and Training (FET) programmes, and 11 007 in AET programmes. While participation in FET programmes was exceeded by more than 100 per cent, the AET targets could not be met owing to learners dropping out of the programme, and a fire that erupted at the Glencoe Correctional Centre.

4.3.4 The DCS did not meet targets set in relation to social work-services. Instead of the targeted 67 per cent, only 49.40 per cent of offenders benefited from such services.

4.3.5 The table below lists the performance targets that were achieved, and those that were not achieved.

|  |  |  |
| --- | --- | --- |
| **Sub-programme** | **Achieved** | **Not achieved/ *measured annually*** |
| **Correctional**  **Programmes** | * percentage of sentenced offenders provided with correctional programmes per year | None |
| **Offender Development** | * Grade 12 pass rate obtained per academic year * Number of offenders who participate in Educational programmes per the Daily Attendance Register per academic year (AET and FET- January to November) –**FET**. * Percentage of offenders who participate in skills development programmes measured against the list of offenders registered for participation as per enrolment register.(**Skills Training and TVET College**) | * Number of offenders who participate in Educational programmes per the Daily Attendance Register per academic year (AET and FET- January to November) –**AET.** |
| **Psychological,**  **Social and Spiritual**  **Services** | * percentage of inmates involved in psychological services; * percentage of inmates who benefit from spiritual services | * percentage of incarcerated offenders and those sentenced to correctional supervision who are involved in Social Work Services per year |

**Table 3: Programme 3: summary of performance targets**

**4.4 Programme 4: Care**

4.4.1 The *Care* programme comprises of the *Nutrition Services*, *Hygiene Services*, and *Health Services* sub-programmes. The programme received a final appropriation of 2.088 billion, and succeeded in spending its entire budget.

4.4.2 Three (60 per cent) of the five targets were met under this programme. Some of the key targets which were not reached are described below. Performance information in relation to this programme should be treated with some caution as tests performed by the AGSA found performance information to be unreliable against the DCS’s predetermined objectives.

4.4.3 The DCS did not succeed in meeting its target of providing fifteen per cent of inmates with therapeutic diets. Only 9, 06 per cent received such meals. The under-performance was ascribed to inconsistent efforts to control, monitor and evaluate therapeutic diets.

4.4.4 With regard to the TB cure rate, the DCS did not manage to achieve the 85 per cent target – it only succeeded to reach 83, 43 per cent.

4.4.5 The table below lists the performance targets that were achieved, and those that were not achieved.

|  |  |  |
| --- | --- | --- |
| **Sub-programme** | **Achieved** | **Not achieved** |
| **Health Services** | * percentage of inmates currently on Antiretroviral Therapy (ART); * percentage of inmates tested for HIV who know their results | * tuberculosis (new pulmonary) cure rate of offenders |
| **Nutritional**  **Services** | * None | * percentage of therapeutic diets prescribed to inmates |
| **Hygiene Services** | * number of management areas with contracted health care waste services | * None |

**Table 4: Programme 4: summary of performance targets**

**4.5 Programme 5: Social Reintegration**

4.5.1 The *Social Reintegration* programme comprises the *Parole Administration*, *Supervision*, *Community Reintegration*, and *Office Accommodation: Community Corrections* sub-programmes. As in the previous financial year, the DCS succeeded in spending 100 per cent of the final appropriation of R890, 964 million allocated to the programme.

4.5.2 The DCS succeeded in meeting five (71 per cent) of the seven targets set in relation to this programme. The target in relation to the number of victims and offenders who participated in restorative justice programmes was not met. Although 491 more victims than the targeted 6 000 had participated in the programmes, only 3 630 of the targeted 76 985 offenders had participated. The under-performance in attributed to difficulties in tracing victims and a lack of buy-in from offenders as well as victims.

4.5.3 The table below lists the performance targets that were achieved, and those that were not achieved.

|  |  |  |
| --- | --- | --- |
| **Sub-programme** | **Achieved** | **Not achieved** |
| **Parole Admin** | * percentage of offenders’ profiles submitted by the Case Management Committee (CMC) that were considered by CSPBs | * None |
| **Supervision** | * percentage of parolees without violations per annum; * percentage of probationers without violations per annum | * percentage of persons (parolees, probationers and awaiting trial persons) placed under the electronic monitoring system |
| **Community**  **Reintegration** | * percentage of parolees and probationers reintegrated into communities through the halfway house partnership | * number of victims, parolees and probationers who participated in Restorative Justice programmes (Victim Offender Mediation, and Victim Offender Dialogue) |
| **Office Accommodation** | * number of new service points established in community corrections | * None |

**Table 5: Programme 5: summary of performance targets**

**5. AUDIT COMMITTEE FINDINGS**

**5.1 Background**

5.1.1 Audit committees are established in accordance with provisions of the Public Finance Management Act and Treasury Regulations. As an oversight body they provide independent oversight of departmental governance, risk management and control processes.

5.1.2 Previously we had reported that the DCS had a history of challenges with regards to its relationship with its audit committees. The AGSA reports that although the relationship between the DCS and the current Audit Committee is of concern, it has improved since 2014/15.

**5.2 Findings**

5.2.1 The Audit Committee reported improvements in the DCS’s overall control environment, and was satisfied with efforts to resolve the 2015/16 audit findings.

5.2.2 Progress made in relation to stabilising the internal control environment notwithstanding, the Audit Committee remained concerned about: the reliability and usefulness of performance information; record-keeping; the development and implementation of information technology strategies/solutions and infrastructure; human resource management; compliance with laws and regulations; contract and procurement management; debtors’ management; and irregular, fruitless and wasteful expenditure.

5.2.2 The Internal Audit unit had completed 12 audits in 2015/16 i.e. 75 per cent of the number of audits it had planned. The under-performance was ascribed to capacity-constraints and deficiencies within the unit. In addition to all the areas of concern identified above, the Internal Audit unit reported concerns in relation to contingent liabilities; asset and inventory management; reconciliation of suspense accounts; health care services; rehabilitation programmes; and the budgeting process. The Audit Committee is not satisfied with controls within the department.

5.2.3 Although the DCS had complied with Treasury Regulations and the Public Finance Management Act (the PFMA) as far as monthly and quarterly performance reports were concerned, the Audit Committee was not satisfied with their content and quality.

**6. FINDINGS OF THE AUDITOR GENERAL OF SOUTH AFRICA\**

**6.1 Opinion**

6.1.1 The Committee congratulates the DCS on achieving its first unqualified audit opinion in 22 years. The AGSA attributed the improvement to greater leadership stability and a commitment to action plans to resolve prior qualifications.

6.1.2 The AGSA reported a number of findings, in the main, related to the quality and reliability of performance information, and the overall usefulness of the reported information. These are elaborated on in paragraphs 6.2.1 to 6.6.2 below.

**6.2 Pre-determined objectives**

6.2.1 With regard to the DCS’s pre-determined objectives, the AGSA found that for programmes *Incarceration*, *Rehabilitation* and *Care*, there was insufficient appropriate evidence to support the reasons provided for the difference between planned targets and actual achievement.

6.2.2 Measured against the evidence provided, the performance information reported in relation to all three programmes was unreliable.

**6.3 Compliance with laws and regulations**

6.3.1 The National Commissioner did not always ensure that the DCS maintained effective, efficient and transparent systems of risk management and internal controls as required by the PFMA.

6.3.2 Systems to collate and report performance information were found to be inadequate.

**6.4 Procurement and contract management**

6.4.1 Departmental employees failed to comply with Treasury regulation 16A8.4 which required employees to declare private or business interest in contracts awarded, and disclose when family members, partners or associates had a private or business interests in contracts awarded by the department.

6.4.2 The DCS failed to comply with Treasury regulation 16A6.3(e) which required mandatory IT-related goods and services to be procured via the State Information and Technology Agency (SITA).

6.4.3 The DCS failed to comply with Treasury regulation 16A6.1 which required that goods and services with a transaction value above R500 000 be procured through a competitive bidding process.

6.4.4 The DCS failed to comply with section 2(1)(f) of the Preferential Procurement Policy Framework Act and the Preferential Procurement Regulations which required that contracts should be awarded to bidders who had scored the highest in the bid evaluation process.

**6.5 Governance**

6.5.1 The AGSA found that although the DCS had an internal audit function, it remained ineffective.

**6.6 Financial management**

6.6.1 The DCS failed to comply with section 38(1)(c)(ii) of the PFMA or Treasury regulation 9.1.1, which require that steps be taken to prevent irregular, fruitless and wasteful expenditure. The DCS incurred R219, 3 million in irregular, and R1, 7 million in fruitless and wasteful expenditure.

6.6.2 There were no internal controls in place to detect unauthorised, irregular and fruitless, and wasteful expenditure. Ninety-seven per cent of the irregular expenditure was detected during the audit process. All unauthorised, irregular and fruitless and wasteful expenditure was under investigation/had been investigated.

6.6.3 The AGSA also found that:

- information, especially relating to predetermined objectives was not always readily available;

- accurate and complete financial and performance reports were not prepared regularly, and were not supported by reliable information;

- the financial statement and other related information were not adequately reviewed to ensure their accuracy and completeness; and

- monitoring of compliance with laws and regulations was inadequate.

**PART B: JUDICIAL INSPECTORATE FOR CORRECTIONAL SERVICES**

**7. BACKGROUND**

**7.1. Mandate**

7.1.1 According to section 85(1) of the Act, the JICS is an independent office under the control of the Inspecting Judge. The JICS is mandated to facilitate inspections of correctional centres, in order for the Inspecting Judge to report on the treatment of inmates, and conditions of incarceration.

7.1.2 Additionally, the Inspecting Judge has powers to inspect correctional and remand detention centres; investigate complaints; conduct investigations; and make rules consistent with the legislation.

**7.2 Mission**

7.2.1 The JICS’s mission includes preventing human rights violations through the monitoring of mandatory reporting systems, maintaining an independent complaints system; and promoting transparency regarding its activities.

**8. PERFORMANCE IN THE YEAR UNDER REVIEW**

**8.1 Administration**

*Leadership*

8.1.1 The JICS operated without the leadership of an inspecting judge for most of the period under review. The new Inspecting Judge, Judge Johan van der Westhuizen, was appointed just after the start of the 2016/17 financial year. At the time of reporting the long-vacant chief executive officer-position had been advertised but not yet filled.

*Human Resource Management*

8.1.2 Of the posts on its fixed establishment only 44 were approved and funded. Forty-three were filled at the end of the period under review. The JICS reported that it has been granted 42 additional posts (from those in the DCS’s establishment) of which 24 had been advertised. The remaining 18 would be filled as soon as negotiations with the DCS and National Treasury had been concluded.

*Financial Management*

8.1.3 The JICS’s budget is received through a transfer from the DCS’s vote. Although the JICS’s financial statements are audited, the AGSA is not required to report on their financial performance.

8.1.4 In 2015/16 the organisation received R48.37 million, the bulk of which went towards compensation of employees (R39.457 million). Owing to unresolved challenges around its establishment, the JICS under-spent on its compensation of employees budget by R8.7 million.

8.1.5 Expenditure on consultant services showed a marked decrease from R207 000 in 2014/15 to R29 000 in 2015/16.

*Information Technology*

8.1.6 As in previous years, the JICS relied on the DCS for use of the latter’s transversal systems. The DCS therefore holds the administrator rights to all the systems the organisation uses. In addition, the JICS does not have its own web domain or email system, but uses those of the DCS. Their hard- and software needs are met by the SITA.

* 1. **Inspections, Investigations, Complaints and Mandatory Reporting**

*Inspections*

* + 1. The JICS aims to inspect all 243 correctional and detention facilities in the country within a three-year cycle. In 2015/16 inspections decreased from 95 to 81. Key findings emanating from the inspections are discussed in paragraphs 9.1.2 to 9.1.8 below.

8.2.2 The report indicates that overcrowding continues to impact negatively on conditions of incarceration and detention. Centres in the Gauteng and Western Cape regions were the most overcrowded. Units that housed remand detainees were typically more overcrowded and in need of maintenance, than units that accommodated sentenced offenders.

* + 1. The large inmate population, staff shortages and an inappropriate shift system compromised the safety of both inmates and staff, particularly as gang activity is harder to detect in overcrowded conditions. The inmate: staff ratio also compromised the delivery of essential services such as exercise, rehabilitation and reintegration programmes, medical treatment as well as nutrition services.

8.2.4 The Act requires that inmates be provided with one hour of exercise per day. Although 50 per cent of the centres inspected exceeded the exercise-time, six centres reportedly only allowed inmates to exercise every few days. Forty-three per cent of the centres visited permitted only one hour of exercise time.

8.2.5 Seventy per cent of the centres inspected required urgent renovations and repairs. The JICS was aware of the challenges experienced with regard to the Department of Public Works’ service delivery, and recommends that small maintenance needs be attended to through the use of inmates who are skilled artisans.

8.2.6 The Act requires that inmates receive three meals per day, at set intervals. Sixty-four per cent of the inspections revealed that the DCS did not comply with this requirement: at 16 centres inmates received only two meals a day; and at 36 three meals were provided of which two were served at the same time.

8.2.7 Although the DCS’s *Operation Hira* had resulted in more professionals being recruited, the centres visited were still in dire need of educators. Only 46 per cent of the centres that were inspected employed permanent educators.

8.2.8 Thirty-five of the inspections were carried out at centres for sentenced offenders. Four of these inspections were at centres in rural areas and had an average population of 47 inmates. None of the inmates received corrective or educational programmes.

*Investigations*

8.2.9 Like the number of inspections, the number of investigations have also shown a decline from 20 in 2013/14 to 19 in 2014/15, and 2015/16 to 14. The majority of investigations—12—related official-on-inmate assaults. The remaining two were in relation to allegations of assaults at Pollsmoor and Boksburg.

*Complaints Management System*

8.2.10 The Act and regulations require that every inmate must, on admission and on a daily basis, be allowed to register complaints or make requests to the head of the centre (or a correctional official).

8.2.11 The JICS’s Legal Services Unit recorded 456 994 complaints in 2015/16, more a less the same number as in 2014/15. As in previous years, the complaints related, in the main, to transfers to be nearer family-support or to access education programmes; to professional health care services not being provided timeously and, in rural areas, the slow delivery of prescribed medications; and to appeals, bail and legal representation.

*Mandatory Reporting*

8.2.12 The number of unnatural deaths increased from 46 in 2014/15 to 62 in 2015/16. Most of the unnatural deaths occurred in the Gauteng region. Twenty-five of the unnatural deaths were due to suicide, mostly by hanging. Eleven homicides were recorded, ten of which were inmate-on-inmate.

8.2.13 The number of natural deaths decreased from 583 in 2014/15 to 511 in 2015/16. The report does not reflect on the causes of natural deaths.

8.2.14 Inmates who have been segregated may refer the matter to the Inspecting Judge for his decision within 72 hours. In 2015/16 the JICS received 12 678 such requests, an increase from the 11 130 received in the previous financial year.

8.2.15 The Act allows for the use of mechanical restraints to ensure the safety of inmates, preventing damage to state property, preventing escapes and on the request of the court. Heads of centres reported 315 incidents of the use of mechanical restraints, an increase on the 263 reported in the previous financial year.

8.2.16 Reports on the use of force increased from 461 in 2014/15 to 619 by the end of the third quarter of 2015/16. In the year under review the main reasons for the use of force included self-defence, defence of another person and protection of state property.

* 1. **Community Oversight and Stakeholder Engagement**

*Independent Correctional Centre Visitors*

* + 1. The JICS must maintain an independent complaints system which involves the community. They do so through the appointment of community-nominated independent correctional centre visitors (ICCV). Matters that cannot be resolved by the relevant ICCVs are referred to visitors committees. There were 50 visitors committees across the JICS’s four regions.

8.3.2 Of the 310 ICCV-posts on its establishment only 217 were filled by the end of the reporting period. In 2015/16 127 nominees were interviewed but only 28 were recommended for appointment.

**PART C: OBSERVATIONS AND RECOMMENDATIONS**

**9.1 Completeness and usefulness of tabled information**

9.1.1 Concerns about the completeness and reliability of the DCS’s performance information, as well as other reports tabled in Parliament and before the Committee are long-standing and recurrent.

9.1.2 Both the AGSA and the Audit Committee again raised serious concerns about the usefulness

and reliability of reported information. Performance indicators were not well defined, and the DCS did not have appropriate systems to collect, collate, verify and store performance information. Of concern is that as per the AGSA, information reported in relation to programmes core to the DCS’s function—Incarceration, Rehabilitation and Care—was unreliable.

9.1.3 We note that one of the main contributors to the unreliability of information, is that the DCS

still relies largely on manual systems. It still had no IT-system to connect all its management centres, areas and regions. In addition, the management regions had no dedicated persons to manage their regions’ performance information.

9.1.4 *We strongly recommend that efforts to develop or procure a reliable and secure IT-system to manage performance and other information across the DCS’s span of control be redoubled. This should be combined with interventions to capacitate all management areas and regions and with personnel to manage performance information. Training of all personnel responsible for preparing performance information would also be very crucial. All quarterly reports should henceforth include a detailed update on progress made, especially on the implementation of all the AGSA’s recommendations in this regard.*

**9.2 Audit plans**

9.2.1 *The Committee encourages the DCS to consider and implement all recommendations made by the AGSA. The development of audit action plans responding to the findings and recommendations would go a long way towards reducing the matters of emphasis and ensuring that the DCS sustains its positive audit outcome. The Committee should be provided with the Audit Action Plan, as well as quarterly updates on progress made in as far as implementing them.*

**9.3 Organisational structure**

9.3.1 During the 2015 BRR- process, the DCS had conceded that its overall organisational structure and management system required modernization in order to make it more efficient. The AGSA and the Executive Authority had agreed that the DCS’s current structure impeded management and control. At that time it was reported that a proposal to establish nine regions that mirrored South Africa’s provinces had been submitted to the Minister for his attention.

9.3.2 The Committee reiterates that in the absence of an organisational structure that allows for effective management and control, it was unlikely that the DCS’s governance and service delivery would improve. *As requested in the past reports, the Committee should be provided with a comprehensive report on the weaknesses of the current structure and how these would be addressed in the new organisational structure; progress made as far as seeking approval for the new structure; as well as a report on the financial and human resources that will be required to realise the new structure. In addition, all future quarterly reports should include a detailed assessment of the performance of each of the regions.*

**9.4 Financial Management**

9.4.1 The DCS incurred unauthorised expenditure to the amount of R121 000, and reported sharp increases in irregular expenditure. In both cases the expenditure was attributed to non-adherence to legislation, Treasury Regulations and Practice Notes. *We concur with the AGSA that the DCS should ensure that officials receive training in relation to compliance with the applicable legislation, regulations and practice notes. In addition the processes in place to ensure compliance should be reviewed on a regular basis.*

9.4.2 The Committee also notes the AGSA’s finding that investigations into irregular, fruitless and wasteful expenditure take unacceptably long, creating an impression that there are no consequences for permitting such expenditure to occur. *The Committee agrees that the DCS’s Departmental Investigative Unit (DIU) be capacitated to ensure that investigations are conducted thoroughly and finalised speedily.*

**9.5 Human Resource Management**

9.5.1 The Committee notes that at the time of reporting two regional commissioner-, three chief director-, and 17 director-posts had been vacant for longer than 12 months. In the period under review the DCS reported that the senior management services’ (SMS) vacancy-rate stood at 18 per cent. None of the vacancies were filled within 6 months, and only five were filled within 12 months of becoming vacant. The Committee notes that the AGSA reported that interventions are required to improve the DCS’s human resource management.

9.5.2 The Committee notes with concern the vacancy rates among critical occupations such as medical practitioners (61.1 per cent); educators (15.3 per cent); professional nurses (60.5 per cent); psychologists and vocational councilors (34 per cent); pharmacists (23 per cent) and social work and related professions (9.9 per cent). These professional services play a key role in ensuring inmates’ safe incarceration, their rehabilitation, and preparation for reintegration. A high number of vacancies in these areas compromises the DCS’s ability to deliver on its obligations.

9.5.3 The DCS still maintains that it is understaffed, and that it would require an additional 20 000 funded posts if it were to deliver on its mandate and meet the demands of the White Paper on Corrections in South Africa and the White Paper on Remand Detention. We still believe that in light of the economic environment, as well as the DCS’s perennial failure to fill vacancies, the DCS’s post establishment was unlikely to be increased. *We again recommend that, in the interim, all other avenues be explored to make the best use of its existing staff establishment. These should include the implementation of a practical and workable shift system; improved and more efficient recruitment strategies; amendments to the legislation that sees DCS employees being appointed in terms of different legislation; ensuring that most of its resources are deployed to its centres and that officials are provided with training and support to respond to the challenges experienced at centre-level. In addition the DCS should explore ways in which graduates may be absorbed through internships and partnerships with academic institutions.*

9.5.4 *The Committee should be provided with a detailed report on all SMS and critical vacancies as at 30 September 2016, including how long they had been vacant for, the impact the vacancies have had on operations, the reasons as to why posts could not be filled, and efforts underway to fill them. All future quarterly reports should include progress made as far as filling all vacancies.*

**9.6 Overcrowding**

9.6.1 The Committee notes with extreme concern that overcrowding continues to be a major and, seemingly, insurmountable challenge. Although the DCS cannot control the number of persons sentenced or remanded, it has a measure of control over the speedy delivery of infrastructure projects, over the handling of maintenance work, over the application of the bail protocol at centre-level, over the use of interventions such as the electronic management system, and ensuring an equal spread of the inmate population across its centres. All quarterly reports should include updates with regards to the implementation of interventions that can alleviate some of the pressures associated with overcrowding, as well as efforts underway to down-manage the inmate population.

9.6.2 The Integrated Justice System (IJS) should realise efficiencies across the justice-system, which will, in all likelihood, result in better management of the inmate population. In order for the DCS to contribute positively to the system, it must have a reliable inmate management system. *To this end, we encourage the DCS to accelerate efforts to procure the development and implementation of the long-awaited IIMS, and ensure that all officials are trained in how the system works and will benefit the department. All quarterly reports should henceforth include an update on progress made in this regard.*

**9.7 Rehabilitation**

9.7.1 *As stated in previous reports, the Committee believes that correctional centres should become centres of expertise targeting young offenders, in particular, for skills programmes that will assist in making them law-abiding and productive citizens, and arrest the rate of recidivism. Efforts to better utilise the DCS’s production workshops and agricultural land would allow for greater participation in skills development programmes. The proceeds from the sale of goods manufactured and harvested could be used to increase the DCS’s self-sufficiency and ability provide support services to ex-offenders upon their release.*

9.7.2 *We again emphasise that the DCS should partner with non-governmental, community- and faith-based organisations to deliver halfway houses and associated services in support of those ex-offenders and parolees who require such support.*

**9.8 Infrastructure and maintenance projects**

9.8.1 The Committee is concerned about the impact of slow and non-completion of renovation and infrastructure projects. The slow progress in the creation of additional bed-spaces, and the slow delivery of maintenance work impacts on conditions of incarceration and compromised safe, secure and humane incarceration as well as the safety of officials, not to mention the financial cost.

9.8.2 In April 2015, it was reported that the ministers for Public Works and Justice and Correctional Services would enter into bilateral engagements in the hope of addressing the infrastructural delays and challenges. In October 2016, we were informed that the talks were continuing between the deputy ministers in the two portfolios. Almost two years after the bilateral talks had commenced, no progress or meaningful outcomes could be reported. *The Committee should be provided with a report on the status of the bilaterals as well as interventions required should an impasse have been reached.*

**9.9 Judicial Inspectorate for Correctional Services**

9.9.1 *The Committee welcomes the appointment of the new Inspecting Judge, and looks forward to meaningful progress in efforts to address the challenges around the JICS’s operations, capacity and effectiveness. We look forward to the filling of the long-vacant CEO-post, and the finalisation of talks between the JICS, DCS and National Treasury around increasing the organisation’s staff establishment.*

**9.10 Future funding**

9.10.1 The Committee welcomes the DCS’s unqualified audit outcome and believes that this positive development should encourage further improvements in the DCS’s performance and service delivery.

9.10.2 Poor contract management, non-adherence to procurement laws and non-compliance with, for example, the Public Finance Management Act continue to have a negative impact on the DCS’s financial management. The under-performance in relation to sub-programmes *Facilities,* *Offender Management* and *Security Operations* indicate that conditions of incarceration are in fact becoming worse. The above, combined with the department’s inability to fill vacancies and the slow delivery of interventions and strategies that would improve its overall performance make it difficult for the Committee to support requests for additional funding. We are of the view that the DCS can do much more to ensure that the budget allocated to it is put to maximum use.

**Report to be considered**

1. See DCS Annual Report 2015/16, page 189. [↑](#footnote-ref-1)
2. The target for this performance indicator was 49% of people surveyed rating the DCS’s performance positively. Only 40.5% of the people surveyed rated the DCS positively, an 8, 5% underachievement and a regression from last year’s 44.25%. [↑](#footnote-ref-2)
3. The IIMS and LAN infrastructure was rolled out to only 18.6% (67/360) of correctional facilities and community corrections offices. This was, according to the DCS, due to delays in awarding the IIMS tender and the delayed cabling of LAN infrastructure owing to limited budget. [↑](#footnote-ref-3)
4. The Department had aimed to award a tender for the VNP security upgrades but could not do so as the National Treasury did not approve the funding due to limited funds. [↑](#footnote-ref-4)
5. This target was not achieved as the JICS only managed to analyse and provide feedback on 50% (28 of 56) of the reports. The JICS could not report on the other 28 cases as they were received late (on the last week before the financial year ended in March 2016) due to, according to the JICS, the dysfunctional electronic reporting system. In other words, for this target to be met, the DCS needs to submit cases to the JICS timeously. [↑](#footnote-ref-5)
6. See paragraph 4.1.4. [↑](#footnote-ref-6)
7. See paragraph 4.1.5 [↑](#footnote-ref-7)