



**SUBMISSION TO THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL,  
SUMMARY OR ARBITRARY EXECUTIONS**

On Deaths in Custody in South Africa

By

Just Detention International – South Africa

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## **Introduction**

Sexual violence is a crime, whether it's committed in the home, in the community, or in a detention facility. South Africa's prisons are rife with violence and rape. In some cases, the perpetrators are prison staff—the very people responsible for keeping incarcerated people safe. Sexual abuse in prisons and other closed settings is also recognized in international law as a form of torture. Sexual abuse in detention, regardless of the perpetrator, represents a government's failure to uphold its responsibility to keep people in detention safe.

## **Background to Just Detention International - South Africa**

Just Detention International-South Africa (JDI-SA) is a health and human rights organisation that seeks to end sexual abuse in all forms of detention. JDI-SA participates in legislative and policy reform processes; works inside prisons to train and provide technical assistance to staff; raises public awareness on the problem of sexual abuse in detention; and builds support for survivors of this violence. Our work is based on the core principle that when a government takes away someone's liberty, it takes on an absolute responsibility to keep that person safe. No matter what crime someone may have committed, rape is not part of the penalty.

## **Purpose of Submission**

1. We note with great concern the increase in deaths by suicide by incarcerated people in Department of Correctional Services (DCS) facilities over the last few years, and especially in the 2021/22 period<sup>1</sup>. Deaths by suicide accounted for 50% of unnatural deaths. The DCS annual report for this period notes that people with mental illnesses, a history of self-harm, traumatic life experiences, and a background of disadvantage are at a higher risk of harming themselves<sup>2</sup>. DCS indicates in the 2021/22 annual report that it plans to curb deaths by suicide by training officials, screening incarcerated people, improving communication between officials, creating a positive environment and adequate connections with mental health services, and debriefing in case of suicide occurrence. However, the department has made similar declarations in the past, which do not appear to have led to effective action. There is a need to assess whether these measures are being implemented, and if so, whether methods applied to do so are effective. In addition, the department must implement, and regularly review, update, and monitor existing policies, such as the Policy to Address the Sexual Abuse of Inmates in DCS Facilities (hereafter, the Policy), as a means of curbing incidents of deaths by suicide.
2. DCS officials lack training on identifying, managing, and supporting people with mental illnesses and/or in distress. In addition, victims of sexual abuse in DCS facilities, as well as DCS staff, have indicated that it is common practice for DCS to respond to sexual abuse by removing the survivor from the cell, without consulting them, to place them in a single cell for "their safety." While well intentioned, this practice is frequently experienced by survivors as punishing, rather than supportive, and may lead to, or intensify, suicidal thoughts. DCS staff require training on basic identification and support of people with mental illnesses or disabilities, or in distress; and manifestations of trauma.

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<sup>1</sup> Department of Correctional Services (2022) Annual Report 2021/2022. Pretoria: Department of Correctional Services, p. 27

<sup>2</sup> Ibid—, pg. 65

3. The Policy requires that proper health and risk assessments are done in consultation with the incarcerated person, when they arrive at prison facilities, so as to minimise sexual abuse of vulnerable people, as well as ensure that those with pre-existing mental health conditions receive proper, gender affirming, health care services and treatment plans. Incarcerated people, even those who do not have a mental illness, experience significant stress as a result of incarceration, prison conditions, separation from family and social support, and fear or experience of sexual and general violence in facilities. Conditions and stress levels tend to be even more severe in awaiting trial facilities. DCS must ensure that incarcerated people receive the support they need, and where there is limited capacity in the department, the Policy requires that DCS collaborate with outside counselling organisations to provide support to those in need.
4. Over the years, JDI-SA has received accounts from survivors, underscoring how experiences of sexual abuse and torture may lead to suicide amongst incarcerated people. DCS annual reports continue not to disseminate data on reports of sexual abuse in its facilities. This erases the problem of sexual abuse from published DCS data and hinders understanding of potential causes of deaths in custody. Data collection, dissemination, and analysis is vital for identifying links between discrimination and general or sexual violence experienced in DCS facilities. Moreover, resultant trauma that often goes unaddressed, leads to thoughts of suicide for many incarcerated people. Given that incarcerated people with mental illnesses are also among the most vulnerable to sexual abuse in prisons and other closed settings, coordination of efforts is needed to address both issues.
5. Finally, DCS, in accordance with the Correctional Services Act, 111 of 1998, as amended (CSA), is required to report all deaths in its custody to the Inspecting Judge for Correctional Services. However, incongruencies in the numbers of unnatural deaths recorded in DCS annual reports<sup>3</sup> and the Judicial Inspectorate's annual reports<sup>4</sup> in the past, suggest that this does not always happen. DCS needs to address the challenges the department faces, not only in preventing unnatural deaths in its facilities, but in responding to them. This includes the need for absolute transparency from the department via the meeting of its legal obligations to investigate and report all deaths in its facilities to the Inspecting Judge and in its annual reports.

## Conclusion

Thank you for the opportunity to make this submission. In summary, we underscore: the need for implementation of the Policy to Address the Sexual Abuse of Inmates in DCS Facilities, regular reviews and assessments of policy and management tools and their implementation; training of DCS officials on supporting incarcerated people with mental illnesses, disabilities, or people in distress, including survivors of sexual abuse; providing psychosocial support to incarcerated people; the urgent need for the collection and dissemination of qualitative, disaggregated data on sexual abuse in DCS facilities and deaths by suicide; and the strengthening of transparency and oversight in DCS facilities. We hope the Special Rapporteur will incorporate these issues into their observations on South Africa.

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<sup>3</sup> Department of Correctional Services (2018) Annual Report 2017/2018. Pretoria: Department of Correctional Services, p. 56.

<sup>4</sup> Judicial Inspectorate for Correctional Services (2018) Annual Report 2017/18. Pretoria: Judicial Inspectorate for Correctional Services, pg. 52.