



South African National
Preventive Mechanism

*Towards a society
free of torture*

THE CONDITIONS AND TREATMENT OF PEOPLE IN POLICE CUSTODY IN SOUTH AFRICA

Report on visits to police stations
by independent custody visitors
2019-2020

2021



Acknowledgements

The National Preventive Mechanism (NPM) is grateful to the support of the African Policing Civilian Oversight Forum (APCOF), the European Union and the Sigrid Rausing Trust in making this publication possible.

The NPM would also like to acknowledge David Bruce for the analysis and writing up of the results and Jo Ackermann for the assistance in the analysis of the 2020 data.

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Abbreviations

APCOF	the African Policing Civilian Oversight Forum
CSC	Community Service Centre
EU	European Union
HRO	Human Rights Officer
LVS	Lay Visitor Scheme
NPM	National Preventive Mechanism (established in terms of OPCAT)
OB	Occurrence Book
OPCAT	Optional Protocol to the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment
SAHRC	the South African Human Rights Commission
SAPS	South African Police Service

1. Background

Between 2017 and 2020 the African Policing Civilian Oversight Forum in partnership with the South African Human Rights Commission and with support from the European Union and Sigrid Rausing Trust developed and piloted a system of independent custody visits to places of detention under the management of the South African Police Service (SAPS). The initiative was carried out to develop and build capacity required by the newly appointed National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) to provide a systematic and holistic independent monitoring capacity for all places of detention.

Independent monitoring promotes procedural and custodial safeguards of persons in contact with or in conflict with the law, and who are deprived of their liberty by the SAPS, are upheld and protected and in so doing reduces the risks to torture cruel and inhumane treatment or punishment.

The project was undertaken in several phases. **Phase one** included a comprehensive modelling of a system for the regular and independent statutory and civilian monitoring of police cells. The draft study was presented and discussed in a multi-stakeholder workshop, and now informs the piloting and rollout of the system. **Phase two**

involved the development of implementation tools, including (a) monitoring tools; (b) protocols on access and reporting; (c) training for independent visitors; and (d) securing agreement with partners at the SAHRC and the SAPS on key capacity development needs for a successful system of independent police cell monitoring. **Phase three** piloted the action at identified police stations. This included identifying one pilot police station per province; conducting introductory awareness-raising at the pilot stations; identifying, recruiting, training and accrediting independent lay visitors; supporting the initiation of regular cell visits; and receiving and analysing reports. **Phases four and five** provided for an evaluation/assessment of the pilot independent police station visitors scheme and the opportunity to fine-tune methodology and training. **The final phase** included the rollout of the independent police station lay visitors scheme through a process of identifying stations for incremental rollout.

2. Introduction

Every day across South Africa, thousands of detainees are held in police stations and court cells under the management of the South African Police Service (SAPS). If SAPS figures for persons arrested and charged are used as an indicator, anything between 1.1 million and 2.8 million people are arrested in South Africa each year (see Table 1). A large proportion of these people are held in police custody.

Table 1: Number of people arrested, and arrested and charged, by South African Police Service

	2014/15	2015/16	2016/17	2017/18	2018-19	2019-20	2020-21
Arrests for all crimes¹	1 707 654	1 638 466	1 626 628	1 610 782	1 501 802	1 133 891	2 797 097
Persons arrested and charged²	1 660 833	1 556 794	1 510 940	1 467 217	1 360 319	798 672	1 713 424

Independent custody monitoring systems provide for independent visitors to inspect facilities for the purpose of ensuring that detained people are being humanely treated. In particular they are supposed to serve as a mechanism to ensure prevention of torture. They are also concerned with broader issues to do with the treatment of people in custody including treatment that may be considered to be cruel, inhuman or degrading.

Schemes of this kind, sometimes called lay visitor schemes (LVS), exist in various countries. For some years there has been mechanisms for the inspection of prisons in South Africa³, but there has been no system focused on inspecting the conditions under which people are held in police custody in the country. However, since 2019, South Africa has begun to make provision for a broader system, providing for all custody facilities in the country, including police stations, to be subject to scrutiny.

The central aim of the LVS is to reduce the risk of abuse of persons held in police custody. Once fully operational, the LVS will provide for regular and unannounced visits of police stations across South Africa by trained and accredited individuals, who will conduct visual cell inspections and paperwork checks using a survey specially designed for this purpose. The data generated by the LVS will provide an insight into problem areas requiring attention by SAPS and its stakeholders, as well as good practice in custody management by police at station level.

National Preventive Mechanism

This report deals with the results of a preliminary set of independent visits to SAPS custody facilities that were conducted during 2019 and 2020. The first of these visits in June 2019, coincided with the ratification by the South African Government of the Optional Protocol to the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on 20 June 2019.⁴

The ratification triggers an obligation on South Africa to maintain, designate or establish a National Preventive Mechanism (NPM) - an entity with the power to monitor places of detention for the purpose of preventing torture and other cruel, inhuman or degrading treatment or punishment. The South African government has designated the SAHRC as the NPM coordinating body and it is now tasked to ensure the regular and independent monitoring of all places where persons are or may be deprived of liberty in South Africa.

Focus of this Report

This report provides data on 106 independent custody monitoring visits that were conducted at police stations in South Africa between June 2019 and December 2020.⁵

After providing an overview of the SAPS custody facilities that were visited and a profile of the custody population in these facilities this report focuses on findings emerging from the visits in relation to the following:

- Allegations of torture or assault;
- The general condition of custody facilities including amongst other issues the provision of water and sanitation;
- Number of cells and overcrowding;
- Separation of people in custody and the manner in which cells are used to manage those in custody;
- Other aspects of custody conditions such as the cleanliness of facilities, the availability of bedding and the provision of medical care to people in custody;
- Compliance by police with the regulatory framework regarding people in custody.

In discussing the issue of torture the report partly relies on data from the independent custody monitoring reports. It also makes use of data from the Independent Police Investigative Directorate (IPID) that has recently been made publicly



available.⁶ The report highlights the role that IPID data can play in informing the approach to independent custody visits under the auspices of the NPM.

3. Data collection

The visits were conducted under the auspices of the SAHRC and its additional mandate as coordinator of South Africa’s NPM.⁷ The visits were carried out by Human Rights Officers (HROs) employed by the SAHRC. The questionnaires were transcribed to an app based system that ensured automatic encoding. Ahead of the visits the HRO were trained and accredited by the SAHRC.

Related to the fact that this report reflects the developmental stages of the independent police custody monitoring system, the HROs made use of three different survey instruments during the

various rounds of the survey. The instruments used from November 2019 onwards were developed by APCOF in cooperation with the SAHRC and the SAPS. Though the instruments were not identical there was a certain level of consistency between the questions asked. However not all questions were contained in all versions of the survey. The data that is reported is mainly from 99 visits that were conducted between November 2019 and December 2020.

A copy of the most recent instrument being used is attached as Appendix 1.

The visits were conducted between **June 2019** and **December 2020**. The provincial distribution of visits is reflected in **Table 2** below. The total number of police stations visited was **102** as four stations were visited **twice**.⁸

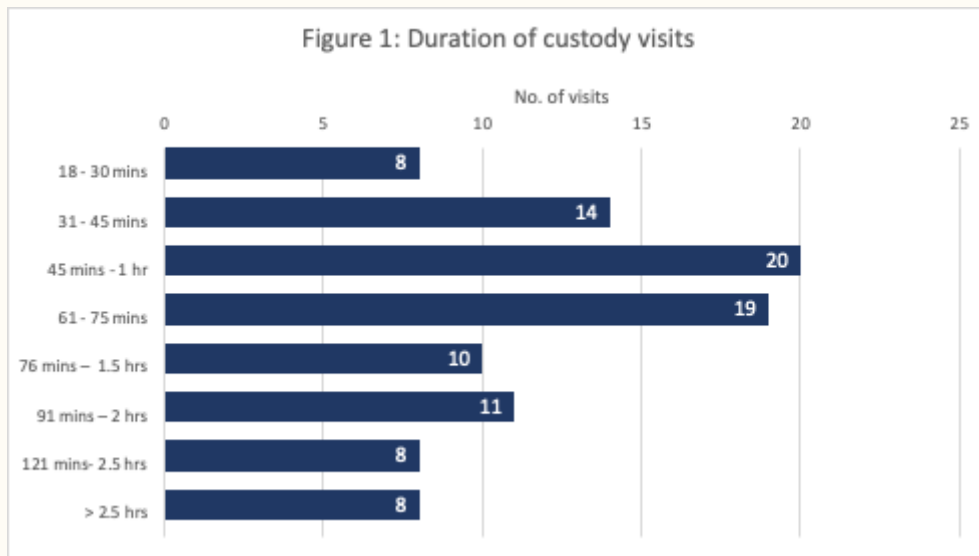
Table 2: Provincial distribution of visits by independent custody visitors⁹

Province	Total	%
Eastern Cape	10	9.4
Free State	10	9.4
Gauteng	9	8.5
KwaZulu-Natal	8	7.5
Limpopo	16	15.1
Mpumalanga	15	14.2
North West	9	8.5
Northern Cape	17	16.0
Western Cape	12	11.3
TOTAL	105	100.0

in Figure 1¹⁰, 42 (43%) lasted an hour or less and 40 (41%) lasted for between an hour and two hours. A total of 22% of visits (22) took no more than 45 minutes. Eighty-four percent of visits (82) were completed in no more than two hours. The shortest visit (18 minutes) was at Durban Central police station, while the longest (at least according to data recorded) was at Bhekithemba police station in Umlazi. The recorded time for the

visit was four hours and forty-three minutes.

Virtually all visits were conducted during daylight hours. Potentially the time of visits is significant. For instance, one HRO commented on one of the visits that ‘I believe during the night there are issues that are happening at this station when it comes to detained people. I believe my visit should be at night.’



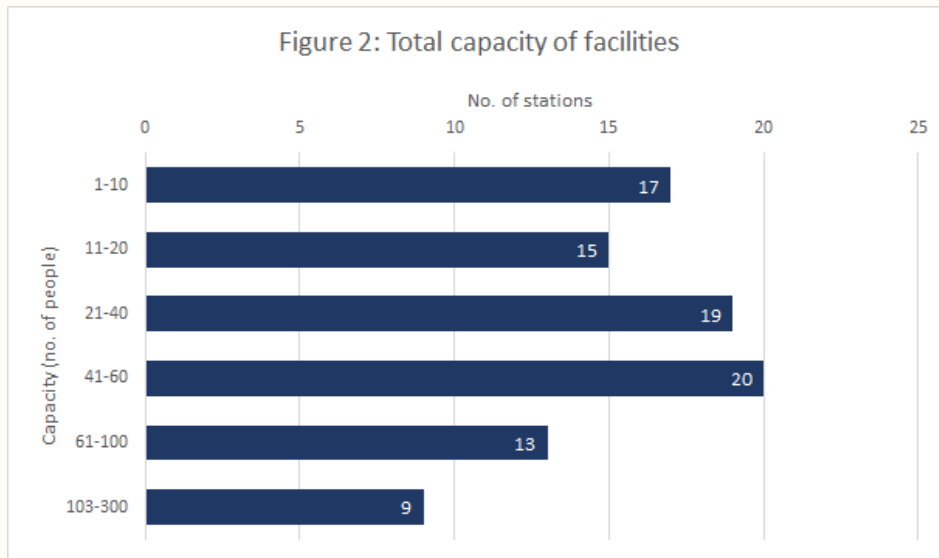
4. Overview of SAPS custody facilities that were visited

The custody facilities at different police stations vary substantially in terms of the number of cells and the number of people who may be held at the station and in the individual cells.¹¹ (It is not clear to what degree these assessments of cell capacity reflect consistent application of police standards regarding the number of people to be held in police custody).¹² In terms of the number of cells at each station and the capacity of each cell:

- The average number of cells per station was 8 (7.6). Three police stations had zero cells as a result of the general state of disrepair. Twenty-two (22) stations had between two and three cells. Sixty-four (64) stations had between four and 13 cells. Four (4) stations had 20 cells or more (Mmabatho, 20; Bhekithemba, 22; Klerksdorp, 30; Pretoria Central, 42).

- There were apparently significant differences in the size of cells and related to this, the average number of people that could be held in a cell at each station. At Kimberley, Galeshewe and Mbekweni it was reported that cells had a capacity of 20 people, while at Brixton the average capacity per cell was said to be 16. At 25 stations the average capacity per cell was said to be between 10 and 15 people. At another 29 stations, capacity per cell is reported to be between 5 and 9. Between 1 and 4 per cell was reported at another 21 stations.¹³

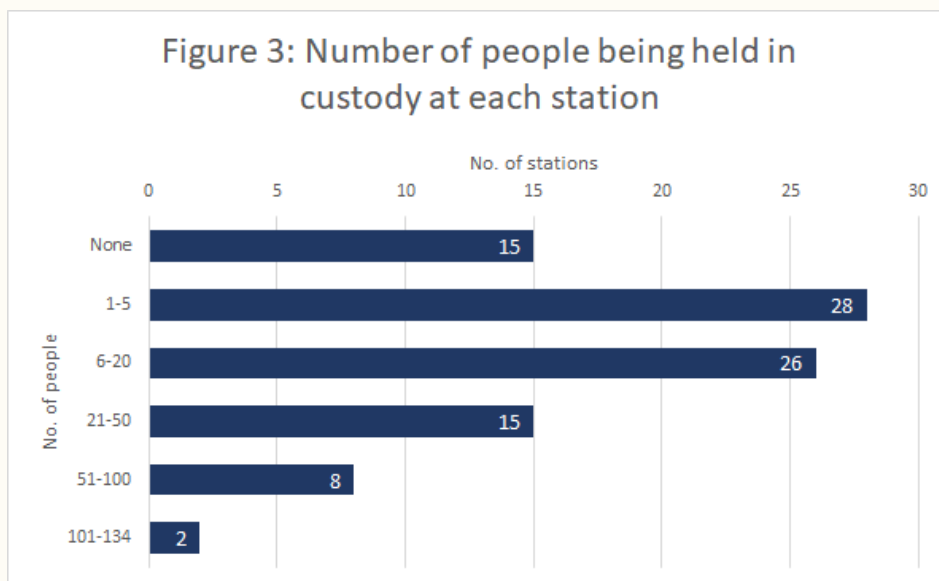
- The overall capacity of the custody facilities at each station is reflected in Figure 2.¹⁴ Both Klerksdorp (30 cells) and Mmabatho (20 cells) reported being able to hold 300 people. Pretoria Central, the station with the largest number of cells (42) reported being able to hold 150. Ficksburg also reported being able to hold 150. Other stations with a large overall custody capacity included Musina (120), Brixton (126), Bela-Bela (135), Galeshewe (160) and Kimberley (220).



Of the stations visited, 25% (25 stations) were in metropolitan areas and 75% (76 stations) were in non-metropolitan areas.¹⁵ At 38 stations it was reported that there were additional people who were being held at the stations but were not currently in custody. There were 463 people across all stations in this category. Six (6) of these stations were amongst the 15 stations that had no person in custody at the time of the visits. Table 2 provides a synopsis of key points from the above. Reasons for people not being in custody might include that they are attending court, have been taken out by detectives for investigative purposes, are receiving medical attention, or are attending visits with a legal practitioner or next of kin.

5. Profile of the custody population

Figure 3 provides an overview of the number of people being held in custody at 94 of the stations. At 15 of the stations, there was no-one in custody at the time of the visit (at three of these stations, the custody facilities are no longer in use – see the following section).



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100



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For the 76 stations where there was at least one person in custody, the average number of people in custody was 21. Most, and possibly all stations,¹⁶ had at least one adult man in custody. At 43 stations (42%) at least one of the men being held was accused of violent crime. A similar number of stations (42) had one or more women in custody.

Table 3: Profile of police stations visited and people held

Overview of stations visited	Total	%
Number of visits to police stations between June 2019 and December 2020	106	-
Number of police stations visited	102	-
Provinces in which stations were situated	9	-
Of the 105 stations:¹⁷	25	25%
• Stations in metropolitan areas		
• Stations in non-metropolitan areas	76	75%
Custody population¹⁸		
Stations where no-one was being held in custody	15	15%
Stations where at least one person was being held in custody	84	85%
Total number of people held at the 84 stations at the time of the visits	1,644	-
Additional people who were not in the cells at the time of the visits but were reported to be held at those stations	463	-
Out of 84 stations where at least one person was being held:	18	-
• Average number of people in custody per station		
• Stations with at least one male adult in custody ¹⁹	102	100%
• Stations with at least one female adult in custody	42	41%
• Stations with at least one man accused of violent crime	43	42%
• Stations where there were children being held in custody (either with their mothers or as a result of alleged crimes committed by them)	6	6%

At five police stations (7% of the 84 with at least one person in custody), there were children (under 18) being held in custody. The eight children being held at these stations included three who were being held in connection with alleged crime. Five children were in custody as a result of their mothers having been arrested (Table 4).

Table 4: Children in police custody

Police station	Infants or children detained with their mothers		Children detained for alleged crimes		Total
	Female	Male	Female	Male	
Tzaneen	2	1			3
Hazyview	1				1
Mfuleni	1			1	2
Philippi East				1	1
Cala				1	1
Total	4	1	0	3	8

In 19 (23% of 84 cases with at least one person) cases it was reported that the custody population includes “remand detainees such as persons awaiting trial who have been denied or are unable to pay bail but are not already serving another sentence” while in five cases those being held in police custody are reported to include “sentenced offenders”. No reports indicated that transgender, transsexual or intersex adults or children were being held in custody.

Data on other features of the custody population highlighting potential vulnerability to death in custody²⁰ are reflected in Table 5. As indicated it is fairly frequent for people in custody to have injuries or an illness that requires medical attention, or to be on medication. In addition, at 12 stations (14% of those with at least one person in custody) police reported that one or more people in custody were regarded as presenting a risk of escape or a potential danger to other persons in custody. There were a few cases where people were identified as ‘visibly under the influence’ of alcohol or other substances.

Table 5: Features of the custody population (as reported to custody visitors by SAPS)²¹

	Yes
There are people in custody with injuries that require medical attention	20
There are people in custody suffering from any illness that requires medical attention	26
There are people in custody suffering from any illness or condition that requires medication	24
There are people in custody who are visibly under the influence of alcohol or other substance with a narcotic effect	6
There are people in custody who is identified as presenting a high risk of escape or danger to other prisoners	12
There are people in custody who are identified as at high risk of suicide	1

A further point that is of interest is that at one station it was reported that one of the people in custody was identified as presenting a risk of suicide. Suicide is one of the major contributors to deaths in custody and it is likely that people are taken into custody who are identifiable as at risk of suicide (they may have already attempted suicide or threatened suicide prior to or during arrest for instance).²² SAPS National Instructions do provide that personal belongings that may be used for purposes of suicide should be removed from all persons in custody²³ but they do not provide for other special measures (such as frequent visits) to persons who are potentially a suicide risk.

6. Allegations of assault or torture

The original motivation for the NPM, and the custody monitoring system that is linked to it, is above all to prevent torture or other cruel, inhuman or degrading treatment of persons in custody. There were **30 stations** where allegations of assault or torture were alluded to.

As reflected in Table 6, police at **24 stations** appear to have responded affirmatively to at least one of three questions on torture.²⁴ At six other stations that are not listed in Table 6, allegations of torture or assault are referred to elsewhere in the report submitted by the HRO. These stations were **Calcutta, Elliot, Pretoria Central, Klerskdorp, Kwa Thema²⁵, and Tonga.**

Table 6: Reported affirmative SAPS responses to questions about torture

Station	Province	Have any complaints of torture been made against members working at this station?	Have any allegations of torture against members at this station been reported to IPID?	Have any disciplinary steps been instituted against a SAPS member/s in respect of allegations of torture?
Amanzimtoti	KZN		✓	
Augrabies	Northern Cape	✓	✓	✓
Batlharos	Northern Cape	✓	✓	
Brixton	Gauteng	✓	✓	✓
Campbell	Northern Cape	✓	✓	✓
Dewetsdorp	Free State	✓	✓	✓
Douglas	Northern Cape		✓	
Galeshewe	Northern Cape	✓	✓	✓
Honeydew	Gauteng	✓	✓	
Kakamas	Northern Cape	✓	✓	✓
KaMhlushwa	Mpumalanga	✓		
Kenhardt	Northern Cape		✓	
Kuyasa	Northern Cape	✓	✓	
Lwandle	Western Cape	✓	✓	✓
Mbekweni	Western Cape	✓	✓	✓
Mfuleni	Western Cape	✓	✓	
Milnerton	Western Cape		✓	✓
Modimolle	Limpopo	✓	✓	✓
Noupoort	Northern Cape	✓	✓	✓
Preiska	Northern Cape	✓	✓	
Sunnyside	Gauteng		✓	
Tableview	Western Cape			✓
Warrenton	Northern Cape			✓
Wrenchville	Northern Cape	✓	✓	✓
Total		17	21	14

In the case of KaMhlushwa the responses, if accurately recorded, appear to indicate violation of the law as no action was reported to have been taken after the allegations were received. Comments in the report indicate that the detainee was 'beaten during arrest' (in addition the detainee alleged that he had been denied access to medical care).

At a number of stations police indicated that allegations of assault that were received generally indicated that people had been assaulted during or shortly after arrest, or otherwise outside of the station, and did not generally refer to assaults that were alleged to have taken place at police stations (Honeydew, Milnerton, Pretoria Central, Sunnyside, Tonga).



At Calcutta it is reported that a detainee 'was injured during arrest by another station'. At Elliot one of the people in custody complained 'of police brutality in Queenstown' a few days prior to the custody visit. The case(s) of torture recorded at Wrenchville was/were also related to violence during arrest.

In the case of Augrabies, it was noted that two members of the SAPS are currently in suspension as a result of allegations. When it comes to Mbekweni, the member in question was apparently transferred to a different station. According to one station manager interviewed during an inspection, the cases taken to IPID were always 'won' by the SAPS.

Independent Police Investigative Directorate data on allegations of torture

Reports provided by custody visitors can serve as an important source of information about the treatment of persons in custody but there are other sources which should be used to supplement the information held by the NPM. One important source for supplementary information on the treatment of people in police custody is data held by the Independent Police Investigative Directorate (IPID). Legislation requires IPID to investigate all deaths in police custody as well as complaints of torture against the SAPS.²⁶ The police are also required to report all cases of this kind to IPID.

In October 2021, the journalism project Viewfinder published a database of IPID cases covering the April 2012 to March 2020 period.²⁷ This data on cases received by IPID is now in the public domain. Table 7 provides the names of stations for which 9 or more cases of torture were recorded by IPID. It should be noted that most of the cases that IPID receives are reported to it by the SAPS. Some cases that should be classified as cases of torture, are classified by the SAPS as cases of 'assault' and are therefore not reflected as cases of torture in IPID data. In addition to this, complaints of torture (whether recorded as torture

or assault) are sometimes reported at police stations but are linked to SAPS specialised units (such as the Tactical Response Team) that have been working in the area. They may also deal with allegations against SAPS members at another police station. The fact that reports are linked to the name of a station does not necessarily mean that it was personnel from that station that were implicated.

Table 7: Stations with 9 or more cases of torture as recorded by the Independent Police Investigative Directorate, April 2012-March 2020

Station	Province	Number of cases of torture reported to IPID April 2012-March 2020
Phoenix	KwaZulu-Natal	27
Osizweni	KwaZulu-Natal	25
Hazyview	Mpumalanga	21
Umlazi	KwaZulu-Natal	21
Empangeni	KwaZulu-Natal	19
Umkomaas	KwaZulu-Natal	18
Durban Central	KwaZulu-Natal	17
KwaMsane	KwaZulu-Natal	16
Msinga	KwaZulu-Natal	16
Ezakheni	KwaZulu-Natal	13
Mtunzini	KwaZulu-Natal	12
Nquthu	KwaZulu-Natal	12
Esikhaleni	KwaZulu-Natal	11
Jozini	KwaZulu-Natal	11
Mhala	Mpumalanga	11
Clocolan	Free State	10
Kanyamazane	Mpumalanga	10
Bergville	KwaZulu-Natal	9
Emanguzi	KwaZulu-Natal	9
KwaMbonambi	KwaZulu-Natal	9
Nongoma	KwaZulu-Natal	9
Ulundi	KwaZulu-Natal	9
Vryheid	KwaZulu-Natal	9

As reflected in the above Table, a very high proportion of cases of torture that are reported to IPID, are reported by police stations in KwaZulu-Natal. By implication they concern police stations or units in KwaZulu-Natal. This motivates that the alleged use of torture by police in KwaZulu-Natal is itself an issue that merits investigation.

Maltreatment of foreigners

At Klerksdorp and Pretoria Central there were complaints of unlawful detention of alleged illegal foreigners or other maltreatment. At Pretoria Central a detainee 'complained that she was kept in the detention cells for 9 days and she is frustrated that they should be sent to Lindela Repatriation Centre.' Another 'reported that they were told that they should have money for transport to go back home to Zimbabwe and that's when they can be assisted.'

7. Condition of custody facilities

An issue reported in many of the reports is the poor condition of the custody facilities at a significant number of police stations. This is important given the Convention against Torture under which OPCAT and the NPM falls is also particularly concerned with cruel and inhumane treatment or punishment. A total of 45% of reports (45 of 99) indicated that there were 'significant visible physical or other defects in the detention facilities'. As a result of the condition of the buildings and infrastructure some of these stations are no longer used to detain people or are only used as temporary custody facilities. In addition to the general condition of the buildings a major issue was also the access of people in custody to water and sanitation facilities or the condition of such facilities.

Dilapidated police stations and custody facilities

At the following seven stations the cells were generally regarded as not fit for use as detention facilities:

- **Dududu** – the cells have not been used since 2013 due to dilapidated infrastructure. Lack of water is also reported to be a problem.
- **KwaThema** – The police station is in a state of disrepair and is 'falling apart'. Cells were closed at this police station because of the poor building conditions. It is not only the custody facilities that are affected. Water leaks from roofs into the office during heavy rains. When it rains it seems that there is a danger of the ceiling collapsing threatening the safety of police officers working at the station. There used to be barracks where the police officers lived but the building was not safe. The conditions also impact on the morale of police officers working at the station.
- **Windsorton** – Cells described as 'in state where no one could stay in them'. Detainees are transferred to other stations nearby. They only use one cell to keep detainees who are going to appear in court. Otherwise cells are used for storage. The report also states that the station cannot be used as a detention facility due to 'water problems' in the area. Water is only available between 6 and 8 in the morning and 6 and 8 in the evening.
- **Honeydew** – as with Kwa Thema, the dilapidated condition of facilities impacts not only on the detention facilities but also on the working conditions of officers. The station is described as 'old and unmaintained' and the cells are described as 'unventilated' with some offices located right next to the cells. The ablution facilities are described as 'only one tiny hole in a corner. Officers share ablution with detainees.' The report indicates that the station is generally not suitable for women, whether they are SAPS members or people in custody.

- **Kenhardt** - the inspector urged the safety hazard of the state of the building and went so far as to see they think it should be demolished and rebuilt.
- **Batlharos & Wrenchville** – both stations were relying on Kuruman to house detainees because of the total state of disrepair of the stations. Detainees at Philipston were also transferred elsewhere due to the state of the station.

At the following stations some of the cells were described as unfit for use, amongst other problems identified:

- **Mmabatho** – Some cells could not be used because they were damaged. In addition the cells that are in use are dirty with blocked sewage pipes.
- **Skukuza** – the building is old and two of the four cells are in use and two dilapidated.
- **Warrenton** – the infrastructure of the station is generally old and unsafe. Conditions in the cells are described as ‘inhumane’ with leaking water resulting in wet floors. The report indicates that the conditions pose a risk to the health of detainees and officials who work at or near the cells. Some cells do not have lights. Similar conditions were observed at Mbekweni.
- **Ladybrand** – the ceiling in the passage is collapsing while the cells are described as ‘too dark with small windows’.
- **At Calcutta** (three out of six) and **Tonga** (one out of six) some of the cells were said to be in a state of disrepair. However at **Tonga** the three cells were said to be undergoing renovation.
- At **Rustenburg** some cells are leaking through the roof.

Access to water and sanitation

At some stations the dilapidated nature of the infrastructure was just one of several issues which created an overall impression suggesting that the custody facilities were unsuitable for use. This is highlighted in the report on Galeshewe

which states that ‘Cells are too dirty, blankets are too smelly, toilets are too dirty, showers are too dirty, the place where they receive water is so dirty. The condition of the cells during the visit was described as inhumane.’ Along with the dilapidated state of buildings the condition of the water and sanitation infrastructure and facilities at a number of stations was also a significant issue.

Table 8: Conclusions of custody visitors regarding water and sanitation (see Annex 2 for stations affected)

Few or no people in custody have access to running water or water provided by other means	9
Few or no people in custody have access to hot running water or hot water provided by other means	28
Few or no people in custody have access to flushing toilets and non-flushing toilets ²⁸	10
Few toilets or no toilets are clean and usable	32

As highlighted in Table 8, with the exception of nine cases, custody visitors generally came to the conclusion that people in custody had some access to water. However access to hot water was frequently a problem (28 cases). Possibly more serious was the toilet facilities with 32 reports indicating that few or no toilets were clean and usable and 10 indicating that people in custody appeared to have a general problem with access to toilet facilities. Problems with plumbing, the provision of water, and sanitation were widespread:

- At various stations including Amanzimtoti, Mmabatho, Waterpoort, Wierdabrug and Seshego there were complaints that toilets were blocked or otherwise not working. At Mbuzini it was reported that there are no flushing toilets. At Pretoria Central it was reported that some toilets are leaking into the cells because of blocked drainage. At Honeydew it was reported that the cells are not cleaned during weekends and the urine

overflows into offices. Dirty toilets were also a complaint at Kakamas and Kimberly and at Alldays, Botlokwa and Butterworth there were also complaints about toilets.

- Complaints about showers not working were made at Mfuleni, Seshego, Bethlehem and other stations. At Bethlehem, there were also complaints of blocked drains and a lack of hot water. At Campbell one of the problems highlighted was that the shower area was used by some detainees as a toilet.
- At Diepkloof, Swartruggens, Polokwane, Thohoyandou, Maleboho, Lutzville, Eshowe and other stations there were complaints of leaking water. At Maleboho the report indicated that 'water pipes are leaking to the floor and people in custody cannot sleep properly because the floor is wet'.

Issues to do with water and sanitation were also prominent at other stations. At Boitekong the shower was blocked while at Rustenburg the sewerage was blocked. At Polokwane there were also issues with the cleanliness of toilets and showers.

Several of the stations suffer from the water shortages in the areas in which they are located. These included stations in the Eastern Cape (such as Butterworth and Dutywa), Free State (Philippolis) and in the Northern Cape (such as Winterton). Dududu, though not currently operating as a custody facility, is reported also to have water problems though the nature of these problems was not clarified.

8. Number of cells and overcrowding

There were somewhere between 10 and 16 stations where it was reported that the number of people in custody was greater than the maximum number of people who were supposed to be held at the station.²⁹ In some stations (see for example Polokwane in Table 9) they were not overcrowded at the time of the visit to the station. However there were people who were being held at the station but who were not in the cells at that time. When these people returned to the cells (later in the day) the cells would become overcrowded.

Table 9: Examples of stations affected by overcrowding

Station	How many can be held at the stations?	The total number of detainees currently present in custody facilities at the time of inspection (+ additional people being held at station but not currently in custody)	% overcrowding when all persons are in custody
Butterworth	50	96 (+15)	122%
Cofimvaba	24	37	54%
Diepkloof	12	(+10)	58%
Elukwatini	20	54	170%
Elliot	30	30 ³⁰	
Hazyview Police Station	10	18 (+10)	180%
Polokwane Police Station	73	29 (+60)	22%
Seshego Police Station.	56	60 (17)	38%
Tzaneen Police station	74	134	81%



Police at 11 of the stations said that they frequently experienced overcrowding.³¹ In another 18 cases police said that the cells at the station occasionally became overcrowded.³² At one of the frequently overcrowded stations the SAPS member attributed this to ‘an instruction from the Provincial office that gave a target to arrest 20 illegal foreigners per week’ (the station has two cells). At another station overcrowding was attributed to ‘prisoners awaiting trial’. The SAPS member said that ‘correctional services has indicated they are overcrowded and cannot accommodate them and therefore they remain in police custody.’ At 19 of the stations the custody population was reported to include remand detainees.

9. Separation of people in custody and use of cells

SAPS custody regulations provide for separating certain categories of persons from each other. However the ability of SAPS personnel to comply with these provisions is influenced by the number of cells and the capacity of the cells at each police station. In line with SAPS regulations regarding the management of custody provide in strict terms that women and men are to be separated from each other³³ and that children are to be separated from adults³⁴. However in respect of other categories (for example: persons arrested on the same charge, sentenced offenders and persons in custody awaiting trial, persons with psychosocial and intellectual disabilities or mental health care users, disabled persons, and transgender, transsexual or intersex persons) the provisions are more flexible and generally require that this should be done where reasonably possible.³⁵

As indicated there were 15 stations that had only two (5) or three (10) cells. At Campbell it was reported for instance that ‘There are only 3

cells at the station, 1 for females and 2 for males. Since there are 3 cells it makes it difficult for the station to separate hard core criminals to petty crimes but most people detained at the station are for minor crimes’.

The overwhelming majority of custody detainees were adult men but women were also held in police custody at approximately a third of stations.³⁶ Evidence from the visits suggests that women are always separated from men. Apart from children who are with their mothers (frequently infants) children are also routinely detained separately from adults (see NI2 of 2010, Section 3(4)). The practice is much more inconsistent in respect of the following categories:

- Persons arrested on the same charge.
- Men accused of violent crime are sometimes separated from other male accused. Out of 33 cases, in 15 (45%) it was reported that men accused of violent crime are separated from other men in custody while in 18 (55%) it was reported that men accused of violent crime are not separated from other male accused. At Kakamas it was reported for instance that male ‘hard core criminals’ are kept separate from other men in custody.³⁷ It appears that less emphasis is placed on ensuring that women accused of violent crimes are separated from other women.
- Mental health care users or persons with psychosocial and intellectual disabilities were kept separate from others at Maleboho, Mmabatho and Thohoyandou but apparently not at Botlokwa (where the five cells were already nearly full to capacity) or Polokwane.³⁸ The report for Badplaas notes that ‘The station has three cells only. During the inspection it was discovered that a mentally ill person was moved from his cell to accommodate a female detainee in the cell where he had been detained. The station said the mental health care user or person with psychosocial and intellectual disabilities is in the cell with others for a few hours, waiting for another station to come and collect him.’

In relation to questions about the detention of alleged undocumented foreigners answers were variable.

- Some stations said that they try to ensure that alleged undocumented foreign nationals are kept separate from other persons in custody. For instance at Tableview it was reported that ‘the foreigners arrested here are kept in a separate cell regardless of the offence.’ At Waterpoort it was reported that they generally try to keep undocumented foreigners in a separate cell but when the number exceeds the capacity of the cell then they are mixed with other detainees.
- At some stations they are not separated. For instance at Galeshewe and Dutywa it is reported that ‘immigration law offenders’ are not separated from other detainees.
- At some stations reference was made to the fact that there is a station in each cluster which is supposed to provide custody facilities for undocumented foreigners. At Philippi and Khayelitsha in Cape Town reference was made to this.

10. Other aspects of the treatment of persons in custody

General lack of cleanliness

At 35 (34%) stations the custody visitors disagreed (23) or strongly disagreed (12) with the assertion that ‘most cells were clean and sanitary’. At Griekwastad for instance the report remarked that custody facilities ‘are too dirty for humans to be detained.’ At Modimolle the inspector noted that the walls were dirty.

At two stations (Tableview and Tonga) the reports noted that the stations, including custody facilities, were very clean.

Dirty and inadequate bedding

At many stations it was reported that bedding that was provided was dirty or otherwise inadequate. At 19% of the stations (20) the custody visitors disagreed (8) or strongly disagreed (12) with the assertion that there were ‘adequate blankets, mats or other bedding materials for persons in custody. At 36% of stations (38) the custody visitors disagreed (25) or strongly disagreed (13) with the assertion that ‘blankets mats or other bedding materials appear to be clean’. At Pudumong for instance it was said that the blankets were worn out and dirty. At Waterval Boven it was reported that blankets are not washed regularly while at Wynberg it was said that they are only washed once per month. At Warrenton it was reported that blankets appeared to have last been cleaned a long time ago and that mattresses were in a bad state. At Elukwatini, Seshego and Hazyview it was reported that detainees do not have enough blankets.

Exercise

In general it was reported that police stations had an area which was available for people to exercise in and that the area was open to the sky. However in only 40 cases were there people using the exercise area at the time of the custody visit (though the reasons for this are unclear). At three stations (Elukwatini, Butterworth and Tsomo) it was reported that, due to the risk of escapes, the exercise area was not used or that ‘no exercise rights are granted’. At Rustenburg it was reported that detainees in Rustenburg are only allowed access to the exercise area once a week.

Medical care and medication

As highlighted in Table 5 (above in the section on the profile of the custody population) SAPS members at a substantial number of stations indicated that there were people who required medical attention or medication amongst the custody population. Custody visitors received some complaints at various stations about access to medical care (e.g. Klerksdorp) or medication (e.g. Pudumong, Mthatha

Central). A detainee at Elliot complained about inadequate medical care while at Queenstown police station.

In another instance, it was implied that the medical health of a detainee was negatively affected by a lack of food provisions (Cala station: “Need more food rations for medication purposes”). Regarding complaints about food see also below on ‘other complaints’.

Cold

It should be noted that this report was based on visits to people in custody that were conducted during summer. The reports on visits that were conducted during the winter, people in custody complained of cold especially at night. (Stations where this was an issue were: Rustenburg, Polokwane, Seshego).³⁹ An aggravating factor which might increase exposure to cold is whether or not cells have windows with glass panes. Reports for eight of the visits during the November to February round indicated that most cells did not have windows with glass panes.⁴⁰

Other complaints received by custody visitors

Custody visitors also received some complaints at various stations about:

- Not being allowed to contact next of kin or receive visitors (the latter at Maleboho).
- Food (Alldays, Hazyview, Calcutta, Komtippoort). These complaints were generally about the type of food provided. At Komatipoort the complaint was ‘about getting two meals during lunch, one is for lunch and one for dinner. One for dinner is no longer fresh during dinner time.’ At Westville and Maleboho there were issues with ‘expired food’. It may be noted that, as reflected in Table 10, police indicate that food is the subject of complaints quite frequently.
- Toiletries (Elukwatini, Milnerton, Thohoyandou, Malelane).

11. Complaints received by police

During the visits one of the senior officers in charge was asked about the types of complaints that are most common. Responses to these questions are reflected in Table 10.

Table 10: Responses from senior SAPS members regarding the most common types of complaints that are received from people in custody (multiple responses allowed)

Type of complaint	No.
Treatment by police	22
Custody conditions	37
Food received in custody	25
Conduct/behaviour of other persons in custody	12
Other (if selected provide details below)	12
There are sometimes complaints but don't know or find it difficult to say what the common types are	11
There are no complaints from people in custody	26

Additional issues highlighted under ‘other’ included complaints regarding:

- Access to medical care;
- Access to telephones;
- Not appearing in court promptly.

12. Police complaints about custody conditions and their work

At some police stations, police had their own complaints about the conditions of the custody and the nature of their work.

- At a station in the **Northern Cape**, some of the members expressed frustration from feeling underappreciated by their superiors. They also complained of a high workload due to a lack of resources and manpower. The inspector noticed that a single officer was responsible for overseeing the cells as well as the front office, to which the officer responded was “the norm”. The same officer stated that “there were issues of corruption that made the cluster commander to [sic] decide to use this particular police station as their cells”.
- At **Kenhardt**, officers complained of feeling unsafe due to a lack of security resources at the station, such as security cameras.
- At **Noupoort** police said that the distance between the cells and the Community Service Centre (CSC) puts their ‘lives in danger’.

13. Compliance by police with the regulatory framework regarding people in custody

Importance of data on police compliance with the regulatory framework

The current approach to independent police custody visits is partly based on the understanding that the current SAPS regulatory framework for the management of persons in custody ‘places strong emphasis on the rights of detained persons and on their humane treatment’ and that the regulations in this regard are ‘reasonably comprehensive’. The approach taken is, therefore, that ‘evidence that there is a high level of compliance with this regulatory framework would be a strong indicator that SAPS management of custody facilities supports the humane treatment of persons in custody and does not facilitate torture and abuse.’⁴¹

The independent custody visits are therefore intended to assess compliance by police with the regulatory framework regarding the management of persons in custody. The survey instrument is thus supposed to serve a dual purpose. On the one hand, it is intended to serve as a framework for assessing the conditions under which people are being held and the manner in which they are being treated while in custody. On the other hand, it is supposed to serve as an instrument for assessing whether or not police are complying with the regulatory framework regarding the management of persons in custody.

Numerous questions in the survey instrument are intended to assess police compliance with the regulatory framework. These include questions on:

- Separation of categories of persons (these provisions are partly intended to promote the safety of persons in custody);
- Accommodation, bedding, toilets, washing and exercise facilities;
- Provision of the Notice of Constitutional Rights;
- Recording of information in the Occurrence Book regarding the details of those admitted to custody, access to legal assistance, communication with next of kin, searches of people in custody, the use of restraints, the rights of children in police custody, medical treatment, and other issues;

- The completeness of information recorded in the Custody Register; including information on issues such as confiscated property, and the provision of meals.

Information illustrating compliance or non-compliance

One illustration of the information on compliance with regulations that can be provided by the survey is the information on compliance with the provisions regarding the Notice of Constitutional Rights. Every person who is admitted to custody is supposed to be issued with a Notice of Constitutional Rights (SAPS 14A). At virtually all stations there was a register containing the notices,⁴² and at almost all stations the responses indicated that copies of the register had been signed.⁴³ However, there was one indication that there may not be consistent compliance with the provisions of the standing orders pertaining to the issuing of the notice. Standing orders provide that a copy of the notice ‘must be handed over to the person in custody who may take the Notice with him or her into the detention facility’.⁴⁴ However, at 15 stations responses indicated that this had not been complied with.⁴⁵

Problems with data on compliance

Data on information recorded in the Occurrence Book (OB)

The SAPS standing orders provide that specific information about each person in custody should be recorded in the Occurrence Book (OB) when they are admitted to police custody. Data that is supposed to be recorded includes information on the name of the SAPS member effecting the arrest, the name of the detainee, the reason for the arrest, and ‘whether the arrested person has any visible injuries or is, in the opinion of the community service centre commander, sick or under the influence of intoxicating liquor or any other substance with a narcotic effect.’⁴⁶ A revised version of the standing order that came into force in 2019 provides that the entry must

also include information on the age and gender of the detainee, the case number (if there is one), as well as any medication that they are using.⁴⁷ Table 11 reflects the data recorded by means of the survey instrument on questions to do with whether this data was recorded in the OB.

Table 11: Data on persons admitted to custody as recorded in OB, according to reports of custody visitors.

	All	Some	Few	Unclear/ don't know
Name of SAPS member effecting arrest	87	9	0	4
Name of detainee	91	4	0	5 ⁴⁸
Age of detainee	63	12	0	25
Gender of detainee	70	12	1	17
Reason for arrest	85	4	1	10
CR/CAS number, if available	89	6	1	4
Any recorded injuries, illness or evidence of intoxication of arrestee ⁴⁹	41	12	8	25
Any required medication of detainee	40	10	9	41

There is at least some information that it appears reasonable to raise questions about. For instance:

- If there are a number of people being held at a police station, it is probably unusual that all of them should have recorded ‘injuries, illness or evidence of intoxication’. Yet 41 of the reports submitted by custody visitors indicate that ‘all’ of the entries for people admitted to custody record information of this kind. These included at least 23 stations where five or more people were being held in custody.

- Likewise, it is probably unusual that all of a number of people being held in police custody should be receiving medication. Yet 40 of the reports submitted by custody visitors indicate that 'all' of the entries for people admitted to custody record information of this kind. These include at least 20 stations where five or more people were being held in custody.

It therefore appears reasonable to ask questions about the plausibility of some of the information recorded, and therefore about the level of care taken by some of those who recorded this information in assessing the information in the OB. Other questions about the reliability of information and the plausibility of information emerge from responses that appear mutually contradictory. Problems of this kind were especially pertinent to questions about the recording in the OB of information on access to legal assistance, communication with next of kin, and personal searches.⁵⁰ A very high proportion of these questions were answered in a manner that was inconsistent with other answers provided.⁵¹

Other problems with the accuracy of information recorded

Other examples of inconsistent information included information on:

- Allegations of torture or assault;⁵²
- The profile of the custody population;⁵³
- Intoxication;
- Whether people were being held in restraints.⁵⁴

Possible reasons for problems with data recording

It is not clear what the reasons are for these problems with the data, but they may include issues of training and supervision, as well as the clarity of some of the instructions in the survey instrument.

A further contributing factor may be that in some cases visitors may have conducted the visits in

a manner that was unduly hasty. As reflected in Figure 1 Forty-two (42) visits lasted an hour or less (42%), and fourteen of those visits lasted between half an hour and 45 minutes. A total of 22% of visits (22) took no more than 45 minutes. Eight visits in total were only 18-30 minutes long. The shortest visit (18 minutes) was at Durban Central police station. As reflected further in this report, there were significant problems with the quality of data recorded during a large number of the field visits. The limited time spent on some of the visits is likely to have been a contributing factor to the problems with data quality.

14. Conclusion

This report highlights key data collected during an initial phase of independent custody visits conducted in terms of a partnership between the South African Human Rights Commission (SAHRC), with support from the European Union (EU) the Sigrid Rausing Trust and its technical partner, the African Policing Civilian Oversight Forum (APCOF). During the period from June 2019 to December 2020, 106 visits were carried out at 102 police stations. Visits were carried out at police stations in all provinces in South Africa.

Information relating to assault or torture

The data that has been collected during these visits highlights some key risk areas for the treatment of persons in custody. The concern to prevent torture is the key motivation for the creation of the NPM and the independent police custody monitoring system and the report indicates that there were 30 stations where allegations of assault or torture were referred to by police or people in custody.

One key conclusion in this regard is that information collected during visits to police stations should be supplemented by data from the Independent Police Investigative Directorate (IPID). IPID directly receives complaints of torture and is responsible for investigating these cases.

However, torture cases are frequently difficult to investigate. Even where there is a substantial basis for an allegation, the investigation does not necessarily result in the SAPS members who were allegedly involved being identified, or facing criminal or SAPS disciplinary prosecution.

Data that indicates that a police station is frequently linked to allegations of torture, cannot be used to prosecute members of the SAPS for torture. However it should be taken to indicate that there are grounds for examining how policing is conducted at the station in question. Moreover the large number of allegations of torture in KwaZulu-Natal that are reflected in IPID data suggests strongly that the alleged use of torture by police in KwaZulu-Natal is itself an issue that merits overall investigation by the NPM.

Other issues regarding conditions in police custody

In addition to discussing allegations of torture or assault the report also discusses data from the custody visits on other issues of concern relating to the conditions under which people in police custody are held and the manner in which they are treated. These included:

- The general condition of custody facilities including amongst other issues, the provision of water and sanitation;
- The issue of overcrowding;
- The separation of people in custody and the manner in which cells are used to manage those in custody in line with standards provided in SAPS National Instructions;
- Other aspects of custody conditions such as the cleanliness of facilities, the availability of bedding and the provision of medical care to people in custody;
- Compliance by police with the regulatory framework regarding people in custody.

Examples of some of the key statistics on these issues, to be found in the report, are reflected in Table 12.

Table 12: Selected key risk areas highlighted by reports submitted by custody visitors

	No	%
Stations where there were significant visible physical or other defects in the detention facilities (according to custody visitors)	45	45%
Few or no people in custody have access to running water or water provided by other means (according to custody visitors)	9	9%
Few or no toilets are clean and usable at the station (according to custody visitors)	32	31%
Men accused of violent crime are not separated from other male accused (out of 41 stations where men accused of violent crime were held)	21	20%
Stations where visitors disagreed or strongly disagreed with the assertion that 'most cells were clean and sanitary'	35	33%
Stations where visitors disagreed or strongly disagreed with the assertion that there were 'adequate blankets, mats or other bedding materials for persons in custody	20	19%
Stations where visitors disagreed or strongly disagreed with the assertion that 'blankets mats or other bedding materials appear to be clean'.	38	36%
Stations where police reported that the most common types of complaints are about custody conditions	37	35%

Consequences of poor maintenance of custody facilities

One major issue raised by the reports from custody visitors was that a substantial number of SAPS police stations, and their custody facilities, are affected by poor maintenance and are in a general state of disrepair. At seven police stations the level of neglect was so severe that the cells were said not to be fit for use as detention facilities. Many of these stations therefore tend to rely on being able to transfer detainees to other police stations. Considering the large number of people arrested by the police each year this is an issue that merits considerable concern.

As indicated in the report overcrowding is also a significant issue that is reported at a number of police stations. Police at 11 of the stations said that they frequently experienced overcrowding while at 18 stations police said that the cells at the station occasionally became overcrowded. Figures on the number of people in custody relative to the capacity of custody facilities indicated that ten (and possibly more) police stations were experiencing overcrowding at the time of the custody visits.

A further issue that is impacted by the maintenance of custody facilities and overcrowding is the ability of police to adhere to standards provided in National Instructions regarding the separation of different categories of detainees. As the report indicates police as a matter of course separate male and female detainees from each other. They also hold children (other than infants or other children who are with their detained mothers) in separate cells and seek to avoid holding children in police custody. However their ability to adhere to other guidelines, such as keeping people who are held on the same charge separate from each other, or separating those being held for alleged offences of violence separate from other people in custody, is more limited.

Evidently if the maintenance of stations and custody facilities continues to be neglected, overcrowding of custody facilities is likely to become more and more of a problem. In turn this will inevitably further detract from the ability of police to adhere to custody standards. This has implications for the safety of people in custody as well as for other issues of concern such as the ability of the police to ensure that people who are linked to the same crime do not conspire with each other to present a mutually agreed version of events to the authorities.

Issues concerning data collection

In addition to the issues above other general issues emerging from the analysis of the reports submitted by the custody visitors include that:

- Questions about the quality of data collection emerged as a concern in some instances. Training of custody visitors and other measures to ensure quality control in respect of data collected should be regarded as a priority for the NPM.
- Errors or omissions in questionnaire and technical problems in respect of recording data were also identified and should be addressed.
- There should be greater variation in the timing of visits with a focus on ensuring that more visits are conducted outside of daylight hours.

Annex 1: Stations visited by independent (SAHRC) visitors (June 2019 – December 2020)

Station	Date	Time visit started
Eastern Cape		
Butterworth	27-Jan	11:57
Cofimvaba		11:54
Dutywa	27-Jan	16:30
Ngcobo	28-Jan	15:15
Elliot	10 February	12:46
Tsomo	30-Jan	13:27
Free State		
Botshabelo	10-Dec	11:02
Dewetsdorp	3-Dec	13:19
Ladybrand	22-Nov	12:07
Philippolis	4-Feb	12:06
Gauteng		
Diepkloof	28-Nov	11:16
Hillbrow	30-Jan	
Honeydew	18-Dec	14:35
Yeoville	12-Nov	10:36
KwaThema	31-Jan	
Pretoria Central	22-Nov	10:44
Sunnyside	22-Nov	12:32
Wierdabrug	22-Nov	7:44
Brixton	12-Nov	15:01
KwaZulu Natal		
Amanzimtoti	6-Nov	9:42
Chatsworth	14-Nov	11:06
Dududu	13-Nov	13:33
Durban Central	20-Nov	15:11
KwaMashu	19-Nov	15:19
Westville	7-Nov	9:54
Bhekithemba	5-Nov	9:19
Limpopo		
Seshego	29 June	10h50

Station	Date	Time visit started
Witpoort	27 Aug	14h00
Tzaneen	25-Sep	11h55
Alldays	5-Nov	11:06
Giyani		14:57
Mahwelereng		
Maleboho	6-Nov	11:13
Musina	27-Nov	19:56
Polokwane	11-Nov	12:44
Seshego	12-Nov	12:23
Thohuyandou	27-Nov	15:56
Tzaneen	25-Nov	17:26
Watepoort	7-Nov	11:38
Polokwane	26 June	14h00
Mpumalanga		
Badplaas	4-Dec	13:06
Belfast	5-Dec	15:09
Calcutta	10-Dec	15:54
Elukwatini	4-Dec	14:59
Hazyview	9-Dec	11:30
KaMhlushwa	19-Nov	16:47
Komatipoort	20-Nov	11:11
Machadodorp	5-Dec	12:05
Malelane	20-Nov	14:36
Mbuzini	19-Nov	13:43
Ngondwana	5-Dec	9:33
Skukuza	9-Dec	13:50
Tonga	19-Nov	15:34
Waterval-Boven	5-Dec	10:59
Matsulu	20-Nov	16:25
North West		
Klerksdorp	21-Nov	10:15
Mmabatho	19-Nov	10:30
Pudumong	20-Nov	10:00
Swartruggens	19-Dec	10:11
Rustenburg	10 June	
Boitekong	26 June	14h00

Station	Date	Time visit started
Rustenburg	26 June	12h10
Northern Cape		
Botlokwa	13-Nov	10:46
Campbell	20-Nov	10:46
Douglas	19-Nov	9:24
Galeshewe	18-Nov	12:05
Griekwastad	20-Nov	13:00
Kakamas	28-Nov	10:51
Kimberley	22-Nov	10:47
Warrenton	21-Nov	11:52
Windsorton	21-Nov	14:19
Western Cape		
Khayelitsha	6-Dec	9:43
Kleinvele	9-Dec	12:16
Mfuleni	9-Dec	9:39
Milnerton	29-Nov	8:16
Philippi East	6-Dec	11:35
Tableview	28-Nov	10:31
Wynberg	20-Dec	12:03

Annex 2: Reports highlighting problems with water and sanitation

As discussed in section on access to water and sanitation (see Table 8 above).

Station name	Few or no people in custody have access to			Few toilets or no toilets are clean and usable
	Running water or water provided by other means	Hot running water or hot water provided by other means	Flushing toilets and non-flushing toilets	
Amanzimtoti		✓	✓	✓
Bizana		✓		
Bhekithemba		✓		
Botlokwa		✓		
Botshabelo		✓		
Butterworth		✓	✓	✓
Campbell				✓
Cofimvaba		✓		✓
Dewetsdorp		✓	✓	✓
Douglas				✓
Dududu			✓	✓
Dutywa		✓	✓	✓
Elliot				✓
Elukwatini			✓	
Giyani		✓		
Griekwastad	✓	✓		✓
Hanover			✓	✓
Harrismith				✓
Hazyview		✓		
Honeydew	✓	✓		✓
Kakamas				✓
Kenhardt	✓			✓
Kimberley			✓	✓
Klerksdorp		✓		✓
Koster		✓		
KwaMashu		✓		
Lutzville				✓
Lwandle	✓	✓		✓
Machadodorp		✓		
Mahwelereng				✓
Matsulu		✓		
Mbekweni			✓	✓

Mbuzini			✓	✓
Mmabatho				✓
Musina		✓		
Ngcobo		✓		
Noupoort	✓	✓		✓
Preiska				✓
Pudumong		✓		✓
Seshego	✓	✓		✓
Thohoyandou		✓		
Tsomo				✓
Warrenton			✓	✓
Waterpoort		✓	✓	✓
Wierdabrug				✓
Windsorton	✓			
Wynberg		✓		

Endnotes

- 1 SAPS, Annual Report 2015-16, 108; SAPS, Annual Report 2017-18, 102; SAPS, Annual Report 2018-19, 129; SAPS, Annual Report 2020-21, 144.
- 2 SAPS, Annual Report 2015-16, 117; SAPS, Annual Report 2017-18, 89 and 112; SAPS, Annual Report 2019-20, 119; SAPS, Annual Report 2020-21, 146.
- 3 FN: JICS.
- 4 https://www.apr.ch/en/news_on_prevention/government-south-africa-ratifies-opcat.
- 5 Due to the fact that the report from Philippolis in the Free State was only submitted on the 5th of February and that from Elliott in the Eastern Cape was only submitted on the 10th of February, data from these stations is generally not included in the analysis in this report. Data from some reports that were submitted late in January 2020 have also not been included in analysis.
- 6 <https://policeaccountabilitytracker.co.za/>.
- 7 <https://sahrc.org.za/npm/index.php/about-the-npm>.
- 8 During the first round of visits, two visits were carried out at Rustenburg Police Station in North West. Polokwane, Seshego and Tzaneen police stations in Limpopo were all visited in both of the first two rounds. Otherwise, all stations were only visited once.
- 9 Visits were conducted at 106 stations but the total number recorded here is 105. At one station the province and name of station were not recorded.
- 10 Figure 1 deals with 98 visits for which this data was available.
- 11 Statistics in this report generally pertain to the 99 stations that were the focus of visits between November 2019 and December 2020.
- 12 Police guidelines are that there should be a minimum of 2,33 per person held in police custody.
- 13 Belfast was also reported to have a capacity of 0 but there appears to have been an error. The report also indicated that there were 9 people in custody.
- 14 The figure excludes Kwa-Thema where it was reported that no people could be held in custody. Belfast is also excluded as the data appeared to be inaccurate.
- 15 This does not include one station whose name and location were not specified.
- 16 Some reports provided conflicting information on this point. For example, the response regarding demographics of the detainees was there were 'Female adults' only. The report also answered the question about whether male and female detainees were separated with 'Yes'.
- 17 This does not include one station whose name and location were not specified.
- 18 November 2019 – December 2020 period only. The data pertains to 96 stations.
- 19 Data on this issue was inconsistent in some respects.
- 20 David Bruce, 2019, The risks of police custody – The potential for independent monitoring of police custody in South Africa, African Policing Civilian Oversight Forum, Research Paper, No 26, 7.
- 21 Based on 91 stations.
- 22 David Bruce, 2019, The risks of police custody – The potential for independent monitoring of police custody in South Africa, African Policing Civilian Oversight Forum, Research Paper, No 26, 7.
- 23 SAPS, National instruction 13 of 2019: Management of persons in custody of the South African Police Service, Section 24(4)(a).
- 24 Seven of the stations (Brixton, Campbell, Dewetsdorp, Galeshewe, Honeydew, Kakamas, Mfuleni) responded affirmatively to the first question and also indicated subsequent steps that they had taken including reporting the allegations to the Independent Police Investigative Directorate (IPID) as is required by law IPID Act, 1 of 2011, Section 29. At Mfuleni the report indicates that there were 'three cases of assault opened against the SAPS members that were recorded in the IPID Register'. The table may reflect problems with the understanding of questions or with the recording of responses. In respect of six stations, the data is puzzling as they report having taken action in response to allegations of torture but do not indicate that they have received reports of torture in response to the first question.
- 25 The report indicates that the station has a high rate of civil claims 'because of the poor treatment of police officers when arresting suspects'. The Station Commander indicated 'that in most cases they have to re-orientate

- Constables about discipline as they have no human rights training’.
- 26 Independent Police Investigative Directorate Act, 1 of 2011, Section 28.
- 27 Daneel Knoetze, Massive database of killings by police made public, Viewfinder, 20 October 2021, <https://viewfinder.org.za/massive-database-of-killings-by-police-made-public/>. The database can be viewed at: <https://policeaccountabilitytracker.co.za/>.
- 28 Based on 85 stations. One instrument which was used in 14 inspections at 14 stations did not address these issues in regard to non-flushing toilets.
- 29 There was inconsistent information in respect of nine of these stations (KaMhlushwa; Komatipoort ; Sunnyside; Durban central; Badplaas; Bela Bela; Eshowe; Bloemspuit). At Ficksburg, no overcrowding was reported except in a comment related to high rates of arrests of illegal immigrants because of Ficksburg’s proximity to Lesotho. Figures provided indicated that the stations were overcrowded, but in response to questions about whether the cells were currently overcrowded or not the report said that they were not overcrowded.
- 30 Although it appears that this station should not be considered as overcrowded, it was specified that cells with a capacity of 8 held 12 detainees, hence its inclusion in this section.
- 31 Frequently (9): Wynberg; Thohuyandou; Seshego; Polokwane; Ladybrand; Kleinvele; Honeydew; Hazyview; Botlokwa; Butterworth; Dutywa; Bloemspuit.
- 32 Occasionally (9): Wierdabrug; Warrenton; Tzaneen; Sunnyside; Pretoria Central; Phillipi East; Elukwatin; Diepkloof; Alldays; Eshowe; Elliot; Mahikeng; Bethlehem.
- 33 Section 13(1)(b).
- 34 SAPS, National Instruction on Children in Conflict with the Law (National Instruction 2 of 2010):
- 35 Section 13(1).
- 36 The figure is 30, but data at some stations is inconsistent (e.g. Mahwelereng).
- 37 The station also reported that persons arrested for drinking and driving are also kept separately.
- 38 At Ngcobo, there was only one person in custody and he was reported to be mentally ill or handicapped.
- 39 Report on visits to police stations by independent custody visitors – June to September 2019 (February 2020).
- 40 That is, eight reports indicated disagreement or strong disagreement in response to the question ‘Based on your inspection of cells did most cells have windows with glass panes’.
- 41 David Bruce, 2019, The risks of police custody – The potential for independent monitoring of police custody in South Africa, African Policing Civilian Oversight Forum, Research Paper, No 26, 3.
- 42 At Kwa Thema, which is not used as a detention facility, there was no SAPS 14A register. The responses from Botlokwa were unclear, with a comment in the section on the Notice of Constitutional Rights stating that ‘Saps14 was not readily available for viewing’, while response form also indicates that the visitor did inspect the register.
- 43 Apart from Kwa Thema, Mahwelereng also did not respond affirmatively to this question.
- 44 Standing Order (General) 361 Handling of persons in the custody of the Service from arrival at the police station, Section 7(9).
- 45 The stations were: Alldays; Amanzimtoti; Bhekithemba; Butterworth; Chatsworth; Dududu; Durban Central; Kwa Thema; KwaMashu; Mahwelereng; Maleboho; Ngcobo; Watepoort; Westville; Wynberg.
- 46 Standing Order 361 (G) – Handling of persons in the custody of the service from their arrival at the police station, Section 3(2).
- 47 SAPS, National instruction 13 of 2019: Management of persons in custody of the South African Police Service, Section 15(2).
- 48 Windsorton; Tzaneen; Kwa Thema; Hillbrow; Dewetsdorp.
- 49 Fourteen responses were not recorded in this table due to inconsistency in the instruments used.
- 50 For example, if one is asked to examine the entries in the Occurrence Register for five people in custody and then answer questions about how they have accessed their right to legal assistance, it does not make sense to say that in five cases there is no information about how they have exercised this right and to say that in five cases there is information about the legal practitioner that they consulted.
- 51 Responses to question on the exercise of rights to consult a legal practitioner were not inconsistent in 12 cases. Responses to questions on the exercise of the right to communicate with next of kin and regarding the searching of each person in custody on admission to custody were not inconsistent each in 11 cases.
- 52 Seven of the stations (Brixton, Campbell, Dewetsdorp, Galeshewe, Honeydew, Kakamas, Mfuleni) responded affirmatively to the first question and also indicated subsequent steps that they had taken including reporting the

allegations to the Independent Police Investigative Directorate as is required by law IPID Act, 1 of 2011, Section 29. At Mfuleni, the report indicates that there were 'three cases of assault opened against the SAPS members that were recorded in the IPID Register.' In respect of six stations, the data is puzzling as they report having taken action in response to allegations of torture but do not indicate that they have received reports of torture in response to the first question on this. In respect of KaMhlushwa, it appears likely that the information recorded on the survey instrument is not based on information from the SAPS but on other information received by the HRO at the police station.

53 For instance, in 31 cases the report indicated that the custody population included female adults and male adults. However, in two case, sresponses to the question 'are men separated' from women indicated that this was 'not applicable' suggesting that there were not both women and men in custody. It was also reported in two instances that the custody population included one or more blind people. However, in both cases responses to the question 'are disabled people kept separately from other people in custody' indicated that this was 'not applicable'.

54 See Waterpoort.



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