



CSPRI SUBMISSION ON THE STRENGTHENING OF THE JUDICIAL INSPECTORATE FOR CORRECTIONAL SERVICES

INTRODUCTION

1. CSPRI is appreciative of the opportunity to provide input regarding the strengthening of the Judicial Inspectorate for Correctional Services (JICS). We are of the opinion that, generally, the ability of the JICS to effectively promote and protect the rights of inmates depends on the extent to which it is independent of political and executive influence. Accordingly, this submission focuses on the financial and administrative aspects of the JICS as well as the nature and objects of its legislative powers.
2. The practice of foreign jurisdictions will be described in relation to both independence and legislative authority. England and Wales and Canada both serve as important examples of institutionally stronger establishments that, as a result, have greater capacity than the JICS to protect the rights of inmates. A number of points raised in this submission have already been raised in the recent submission on the JICS 2011/12 annual report and are included here as they are relevant to the independence of the JICS.
3. We note with approval that the JICS 2011/2012 Annual Report (the Report) (pg 13-4) reflects on past discussions on the independence of the JICS and that it has met with the Chief Directorate of the Independent Police Investigative Directorate (IPID) in response to the Portfolio Committee's suggestion that it do so. The Report also states that the JICS "will embark on further engagement" with the Department of Public Service and Administration (DPSA) regarding the organizational independence of the JICS. CSPRI is supportive of such engagement.
4. When assessing the independence of the JICS one should keep in mind the results that one would ultimately want to see from an oversight structure of this nature. The large number of complaints recorded by the Independent Visitors, particularly those in relation to assaults,

indicates that there are a range of fundamental problems within the prison system. Moreover, the range of persistent problems within DCS relating to human rights violation and governance problems further affirm the position that this Department finds it difficult to take instructions and advice or assistance from external institutions. In this regard, the Jali Commission stated:

“This is a sad state of affairs because it is this very attitude that discourages any input from people who might be experts in other areas, which would be of assistance to the Department. The Department cannot operate in isolation. It is not an island but an integral part of the South African society. The manner in which it conducts its affairs has a bearing on the lives of all South Africans, who expect the Department to consult and interact with experts and relevant stakeholders to ensure that correctional facilities in our country are competently run so that they compare with the best in the world.”¹

5. Whether the powers of JICS remain by and large restricted to making recommendations or are expanded to make more binding decisions will largely determine how rapidly or not the human rights situation in our prisons improves. It is CSPRI’s position that JICS must promote transparency and accountability in the prison system by dealing with complaints promptly and effectively and that the DCS be held accountable when it fails to take measures against frequently reported problems. Moreover, it is unacceptable that the DCS Head Office continues to ignore, year after year, the recommendations made by the Inspecting Judge. In consequence, the unavoidable conclusion is that the rank and file of the Department continues to act with impunity.
6. Effective independence is furthermore established by results that are objective and founded in law and in this instance results that actively improve the situation of prisoners and protect their rights as enumerated in the Constitution and the Correctional Services Act. Independence is therefore a function also of knowledge and expertise and an oversight institution such as JICS needs to demonstrate this in a tangible way and provide the intellectual leadership on human rights and the prison system.

INDEPENDENCE

The value of independence

7. A vitally important aspect of any oversight mechanism is its independence from the institution or organization it intends to assess and freedom from “undue political

¹ The Jali Commission Report p. 945

interference”.² Corder points out that institutional independence has two facets:

“In the first place, to make institutions dependent on budget allocations received through the very departments that they are required to monitor is not desirable. Secondly, these institutions must be seen by the public to be independent and free of the possibility of influence or pressure by the executive branch of government. Approval by the executive of budgets, or other issues of staffing is thus inconsistent with independence, as well as the need to be perceived as independent by the public when dealing with their cases”.³

8. The Constitutional Court in *New National Party of South Africa v Government of the Republic of South Africa*⁴ stated that independence (in respect of the Independent Electoral Commission) required *both financial and administrative independence*.
9. Likewise, if the JICS is to function effectively and with maximum impact, then it is important that steps be taken to safeguard its long-term independence. Meaningful independence is necessary not only to ensure that the JICS is in a position to freely disseminate its findings and lobby with civil society for particular reforms, but to ensure for public confidence and trust.⁵ Its performance must ultimately be measured against the objective criteria of prisoners’ rights in the Constitution and the Correctional Services Act

Financial independence

10. Financial independence requires that an organization be in a position to acquire funds whenever necessary in order to perform its statutory duties. Jagwanth notes that both the guarantee of and the source of funding are crucial. If funding is sourced from the same organ that is the object of oversight, the independence of the oversight body and the perception thereof may be compromised.⁶ In *New National Party*, the Constitutional Court noted that an arrangement whereby a “government department makes funds available from its own budget to a public entity for the performance of certain functions...is fundamentally inappropriate when applied to independent institutions...”⁷ Accordingly, the Court stated, it was for parliament, and not the executive arm of government to provide for funding...⁸

²*Glenister v President of the Republic of South Africa and Others* 2011 (3) SA 347 (CC) at para 188.

³H Corder, S Jagwanth and F Soltau *Report on Parliamentary Oversight and Accountability* (June 1999), 56. Available on the web at: <http://www.pmg.org.za/bills/oversight&account.htm> See also Jagwanth S. (2004) *A Review of the Judicial Inspectorate of Prisons in South Africa*, CSPRI Research Paper, Bellville: Community Law Centre.

⁴121 1996 (6) BCLR 489 (CC).

⁵Jagwanth, p. 38.

⁶Jagwanth, p. 37-8.

⁷At para 89.

⁸ Id.

11. Although section 85(1) of the Correctional Services Act 111 of 1998 (the Act) guarantees the independence of the JICS, section 91 states that it is the Department that is responsible for all the expenses of the Judicial Inspectorate. The esteem in which judges are held brings credibility and a measure of independence to the Office. This safeguard remains fragile, however, for it is reliant on an individual and not in the Office itself.⁹
12. The budget of the Judicial Inspectorate should not be linked to the Department, but should come directly from Parliament or be transferred from the executive in such a way that it would ensure, in the opinion of the Inspecting Judge, the independent and effective functioning of the JICS. This change would require an amendment to section 91 and 88A(1)(b). We recommend, therefore, that this be proposed to the Department.

Administrative Independence

13. Administrative independence “implies control over matters directly connected with the functions that such institutions must perform.”¹⁰ In relation to the JICS, this means, at least, control over the processing of applications for the appointment of staff and separate administrative systems. Unless efforts are made for administrative separation, there is the danger that an independent body is merely perceived as a directorate of the parent department both by the department itself as well as staff in the office, and the user public.¹¹
14. A 2004 report on the Office of the Judicial Inspectorate, based on interviews with staff of the Judicial Inspectorate, members of civil society, Chapter Nine institutions, senior staff of the Department of Correctional Services and Members of Parliament, stated the following:

“A persistent concern raised by those interviewed was whether and the extent to which the Inspectorate was truly independent of the Department of Correctional Services. The concern arose from both the administrative and financial link between the Inspectorate and the DCS, as well as the fact that some staff of the Inspectorate were drawn from the ranks of DCS officials. Some expressed concern about the degree of independence of the IPVs, who some prisoners saw as being too close to prison officials. The perception that the Inspectorate was not independent of the DCS, or that it was a part of the DCS, was commonly held.”
15. We recommend, therefore, that where administrative independence is lacking, that the requisite action be taken, be it through legislative amendment, or operational processes.

⁹Jagwanth supra at 48.

¹⁰ Id.

¹¹ Id.

The Independent Police Directorate Act

16. As the Annual Report acknowledges, the IPID Act, in certain respects, serves as an excellent comparator. It is therefore worth emphasizing the following provisions from the IPID Act, which, ultimately, we hope the Correctional Services Act will emulate:

- Section 3(3): The Directorate is financed from money that is appropriated by Parliament.
- Section 4(1): The Directorate functions independently from the South African Police Service.
- Section 4(2): Each organ of state must assist the Directorate to maintain its impartiality and to perform its functions effectively.

Comparative analysis

England and Wales

17. Three institutional bodies exercise various aspects of oversight in prisons in England and Wales. Her Majesty's Chief Inspectorate of Prisons (HMCIP) is responsible, primarily, for inspecting prisons and publishing reports, which include information on the treatment of prisoners and conditions of detention.¹² The Prison Ombudsman investigates complaints from prisoners. Independent Monitoring Boards, staffed by (voluntary) lay persons, have access to prisons at all times and interview prisoners and correctional officials to ensure that prisoners are being cared for decently and with humanity.

18. All three of these institutions are financially and operationally independent from the Prisons Authorities.¹³

Canada

19. The Correctional Investigator, established by the Corrections and Correctional Releases Act, is the government agent primarily tasked with the investigation and resolution of complaints from prisoners. Its functional mandate is broader than that of the South African and English systems, meaning that according to its establishing legislation, its powers of enquiry are set out specifically and are broader than those of its English and South African counterparts..

¹²Section 5A Prisons Act 1952; <http://www.justice.gov.uk/about/hmi-prisons>,
<http://www.justice.gov.uk/about/imb>

¹³Terms of Reference, no. 12, available at <http://www.ppo.gov.uk/terms-of-reference.html>

20. The Correctional Investigator receives funds from the Governor in Council and is financially and operationally independent from the Federal Correctional Service of Canada.¹⁴

HUMAN RIGHTS VIOLATIONS AND THE COMPLAINTS SYSTEM

21. As stated in the Act, the Inspecting Judge, besides being empowered to visit and inspect prisons, is also empowered to “deal” with a complaint referred to him or her from the National Commissioner, the Minister, the Visitors Committee or an Independent Visitor (IV).¹⁵ Moreover, for the purpose of conducting an “investigation,” the Inspecting Judge “may make any enquiry and hold hearings.”¹⁶
22. In the event that a serious incident occurs involving the injury, assault or death of a prisoner, the Inspecting Judge would be notified via the mandatory reporting system and thereafter empowered to “deal” with such a complaint which may or may not require the investigative processes set out above and, where relevant, in terms of the Commissions Act 8 of 1947.
23. Ultimately, a finding by the Inspecting Judge that the criminal liability of the Department or a member of the Department should be investigated by the SAPS and the National Prosecuting Authority would be conveyed in the form of a recommendation to the Department itself and thereafter reported to the Portfolio Committee.
24. By contrast, the IPID Act stipulates that any deaths in police custody, deaths as a result of police action or any complaint of torture or assault against a police officer in the execution of his or her duties *must* be investigated by the Directorate.¹⁷ Furthermore, the IPID Executive Director “*must* refer criminal offences revealed as a result of an investigation, to the National Prosecuting Authority for criminal prosecution and notify the Minister of such referral.”¹⁸
25. Many of the complaints that the JICS receive concern serious human rights violations, such as assault, torture and attempted murder. Since the 2009/2012 Report, JICS has been providing more detailed information on unnatural deaths in custody, more specifically, on the results of investigations into these deaths. The 2011/2012 Report states:

“In respect of criminal investigations and disciplinary proceedings, the 2010/2011 Annual Report indicated that a number of homicide cases that year had not yet been finalised. The Inspectorate followed up on these cases. SAPS closed the files in the majority of those

¹⁴Corrections and Correctional Releases Act, section 157.

¹⁵Section 90(2).

¹⁶Section 90(5).

¹⁷Section 28(1) IPID Act.

¹⁸Section 7 IPID Act.

cases, and where matters were referred to the National Prosecuting Authority (NPA) for prosecution, the NPA returned a *nolleprosequi*.e. they declined to prosecute.”¹⁹

26. It appears, therefore, that over the last three years, there has not been a single criminal prosecution of a Departmental official implicated in the death of a prisoner. In November 2011 CSPRI submitted to the Portfolio Committee on Correctional Services that even though the descriptions provided in the JICS annual reports are brief, a number of traits are clear when officials are implicated in the deaths of prisoners:²⁰they were the result of aggravated assaults inflicted either as punishment or in retaliation for an assault on an official and were committed by groups of officials on single prisoners. In several of the cases it was noted that the assaults continued after the prisoner was subdued and/or the situation stabilised, thus exceeding the use of minimum force requirements in the Act.²¹ The most common weapon used by officials was a baton (tonfa), but prisoners were also subjected to kicks, teargas and electroshock equipment.²² In a number of cases the deceased was denied prompt medical attention even though the Act is clearly states that any prisoner who is subjected to the use of force must immediately undergo a medical examination.²³ It is also apparent that when disciplinary action was taken against officials, the proceedings took extremely long to be finalised, that the charges were inappropriate,²⁴ and that the sanctions imposed were relatively light.²⁵

27. In light of this, the results of investigations reported in the 2011/2012 Report offer little reason for optimism, but rather, the sense that the prevailing lack of criminal investigations serve to perpetuate impunity. While there may be legitimate reasons why the Director of Public Prosecutions (DPP) declines to prosecute, the lack of transparency in this regard does

¹⁹Office of the Inspecting Judge (2012) Annual Report of the Judicial Inspectorate for Correctional Services, Cape Town, p. 53.

²⁰ Submission by CSPRI to the Portfolio Committee on Correctional Services, PMG Report on the meeting of the Portfolio Committee on Correctional Services of 30 November 2011.

<http://www.pmg.org.za/report/20111130-stakeholder-hearings-prevalence-torture-correctional-centres>

²¹s 32 of the Correctional Services Act.

²² The appropriateness of having and using electroshock equipment in prisons is increasingly under question. (Omega Research Foundation and the Institute for Security studies (2011) Submission on the Prevalence of Torture in Correctional Centres, Jointly Submitted to the Portfolio Committee on Correctional Services, PMG Report on the meeting of the Portfolio Committee on Correctional Services of 30 November 2011.

<http://www.pmg.org.za/report/20111130-stakeholder-hearings-prevalence-torture-correctional-centres> Accessed 21 December 2011.)

²³s 32(5) of the Correctional Services Act.

²⁴ Even though little information is provided on the charges against implicated DCS officials, it appears that these are lesser charges such as misconduct, disregarding security rules, negligence, falsifying registers and altering the scene of a crime.

²⁵ The following sanctions were imposed in respect of the cases reported in 2009/10: one month suspended without pay – 8 officials; final written warning – 4 officials; written warning – 2 officials; demotion – 1 official; and dismissal – 1 official.

little to support the accountability of the Department or the role JICS. Such issues are not limited to deaths in custody, but are also relevant in respect of assaults.

28. The lack of transparency is also problematic in respect of investigations purportedly undertaken by the Department and SAPS into unnatural deaths in custody. Indeed, the lack of prosecutions indicates that such investigations are not particularly thorough or sufficiently independent.
29. Given the clear duty to detain all inmates in “safe custody whilst ensuring their human dignity...”²⁶, internal Departmental investigations into deaths and serious assaults (implicating officials) for disciplinary purposes should not take precedence over investigations for determining criminal liability. Moreover, any direct involvement of the Department in criminal investigations (where it would interview witnesses, alleged perpetrators and assess physical evidence) goes against the internationally accepted requirement that such investigations must be conducted by impartial and independent authorities.²⁷ (The UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions²⁸ provide useful guidance in respect of investigations of deaths in detention. Such deaths include political assassinations, deaths from torture or ill-treatment in prison or detention, death that results from enforced "disappearances," deaths resulting from the excessive use of force by police, executions without due process, and acts of genocide.²⁹ Principles 9 – 17 are set out in the attached Annexure).
30. By virtue of the fact that the alleged perpetrator is an employee of the Department, the Department is implicated because the death in question indicates a material failing or neglect on the part of the Department to provide safe custody and uphold the right to life.
31. Although there is little recent information available on the role of SAPS in investigating crimes committed in prisons, the Jali Commission’s final report made a number of observations and identified three impediments to effective investigations:
- continuous interference by DCS staff in investigations;
 - investigations not being done in confidence due to the presence of DCS officials and their knowledge of the prisoner and the complaint, and

²⁶Section 2(b) of the Act.

²⁷UNCAT art 13 and 14. The UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989.

²⁸ Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989

²⁹ United Nations (1991) *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, New York: United Nations, p. 3.

- intimidation of witnesses and victims by DCS officials.³⁰

32. Given the lack of successful prosecutions described above, there is reason to believe that problems persist with the manner in which SAPS investigates such cases, whether this is the result of interference by DCS officials or collusion between SAPS and DCS officials is open to speculation.

33. The current situation with regard to the investigation of deaths in custody is unsatisfactory and requires urgent attention. Unless drastic changes are made to the current investigation regime it is unlikely that more successful investigations and prosecutions will take place. Importantly, it is ultimately in the interests of the Department that deaths and assaults are properly investigated and the perpetrators held criminally responsible.

34. JICS has a limited role when it comes to the investigation of deaths and assaults in prison. The Act states that “any death prison must be reported forthwith to the Inspecting Judge who may carry out or instruct the Commissioner to conduct any enquiry.” Although the Inspecting Judge may hold an inquiry for the purpose of conducting an investigation, he or she may only deal with complaints referred by the National Commissioner, the Visitors Committee, the Minister and, if urgent, an IV.³¹

35. We recommend, accordingly, that the Committee conduct its own investigation into the problem and call on the NPA, SAPS, the Department and the JICS to provide clarity on how investigations are being conducted, the problems in investigations, how decisions to prosecute or not are made, and the current lack of criminal prosecutions implicating DCS officials in the deaths of prisoners.

36. In addition, we recommend that the following legislative amendments be considered:

- that upon receipt of reports on deaths, incidences of serious assault and torture, the JICS conduct its own investigation into the incident and report its finding to the SAPS directly along with its recommendation as to whether the matter should be criminally investigated by the SAPS;
- that the Department be prohibited from conducting any internal investigations into deaths and assaults until the JICS and SAPS have completed their own investigations;
- that JICS has the authority to provisionally suspend DCS officials or has the authority

³⁰ The Jali Commission Report p. 424-425

³¹ Section 90(2) and (5) of the Act.

to instruct the Commissioner to suspend officials implicated in an on-going investigation;

- that the JICS publish the findings and recommendations of all its investigations into deaths, serious assaults and torture; and
- that the results of investigations and prosecutions be published annually by JICS, including the reasons why the DPP has declined to prosecute where such a decision was made
- that the DCS National Commissioner explains on an annual basis what actions it has taken to implement the recommendation of the JICS, or alternatively the reasons why it was decided not to implement one of or more recommendations.

Comparative analysis

England and Wales

37. The Ombudsman may investigate, *inter alia*, decisions and actions (including failures or refusals to act) relating to the management, supervision, care, and treatment of prisoners in custody, by prison staff...”³² It is empowered in terms of its Terms of Reference to enjoy access to prisons “for the purpose of conducting interviews with employees and other individuals, for examining documents (including those held electronically), and for pursuing other relevant inquiries in connection with investigations”³³
38. At the conclusion of its investigation, the Ombudsman may make recommendations directly to the any of the following, relevant authorities: the Secretary of State for Justice, the Home Secretary or the Secretary of State for Children, Schools and Families or to any other body or individual the Ombudsman considers appropriate given their role, duties and powers.” There is no statutory provision, however, directing the prison authorities to implement any recommendations.
39. In addition, the Ombudsman is required to reply in writing to all those whose complaints have been investigated and advise them of any recommendations made. Moreover, the relevant government must reply within four weeks to recommendations from the Ombudsman.
40. The Ombudsman must investigate the circumstances of unnatural deaths and must aim to establish the following:

³²Terms of Reference, no. 9, available at <http://www.ppo.gov.uk/terms-of-reference.html>

³³Terms of Reference, no. 12, available at <http://www.ppo.gov.uk/terms-of-reference.html>

- a. the circumstances and events surrounding the death, especially regarding the management of the individual by the relevant authority or authorities within remit, but including relevant outside factors;
- b. examine whether any change in operational methods, policy, practice or management arrangements would help prevent a recurrence;
- c. in conjunction with the National Health Service where appropriate, examine relevant health issues and assess clinical care;
- d. provide explanations and insight for the bereaved relatives; and
- e. assist the Coroner's inquest fulfil the investigative obligation arising under Article 2 of the European Convention on Human Rights ('the right to life'), by ensuring as far as possible that the full facts are brought to light and any relevant failing is exposed, any commendable action or practice is identified, and any lessons from the death are learned.

Canada

41. The Correctional Investigator is empowered to:

"to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner (of Corrections) or any person under the control and management of, or performing services for, or on behalf of, the Commissioner, that affect offenders either individually or as a group".³⁴

42. The Correctional Investigator may commence an investigation on the receipt of a complaint by or on behalf of an offender, at the request of the Minister or of his own volition. He/she has full discretion as to whether and how an investigation should be conducted in relation to any particular complaint or request.³⁵ During the course of an investigation, the Correctional Investigator may direct any person to furnish relevant information or any object or document as well as examine any person under oath. The Correctional Investigator is also empowered to enter any premises under the control of the commissioner for the purpose of carrying out an inspection.³⁶

43. Once the Correctional Investigator has concluded an enquiry, he/she can then decide the matter on the basis that the action was contrary to law or policy, or on a number of

³⁴Corrections and Correctional Releases Act, section 167.

³⁵Corrections and Correctional Releases Act, section 170.

³⁶Corrections and Correctional Releases Act, section 171-174

administrative law bases. The Correctional Investigator may make any recommendation to the Prisons Commissioner and Parole Board he/she deems appropriate, which may include:³⁷

- a. that reasons be given to explain why the decision or recommendation was made or the act or omission occurred;
- b. that the decision, recommendation, act or omission be referred to the appropriate authority for further consideration;
- c. that the decision or recommendation be cancelled or varied;
- d. that the act or omission be rectified; or
- e. that the law, practice or policy on which the decision, recommendation, act or omission was based be altered or reconsidered.

44. Although the recommendations are not binding, the Correctional Investigator is empowered to inform the Minister, if, after a reasonable time, that the Commissioner or Chairperson of the Parole Board, as the case may be, has failed to take adequate and appropriate action.³⁸

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³⁷Corrections and Correctional Releases Act, section 179.

³⁸Corrections and Correctional Releases Act, section 180.

ANNEXURE

- Principle 9: There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.
- Principle 10: The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify. The same shall apply to any witness. To this end, they shall be entitled to issue summonses to witnesses, including the officials allegedly involved and to demand the production of evidence.
- Principle 11: In cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles.
- Principle 12: The body of the deceased person shall not be disposed of until an adequate autopsy is conducted by a physician, who shall, if possible, be an expert in forensic pathology. Those conducting the autopsy shall have the right of access to all investigative data, to the place where the body was discovered, and to the place where the death is thought

to have occurred. If the body has been buried and it later appears that an investigation is required, the body shall be promptly and competently exhumed for an autopsy. If skeletal remains are discovered, they should be carefully exhumed and studied according to systematic anthropological techniques.

- Principle 13: The body of the deceased shall be available to those conducting the autopsy for a sufficient amount of time to enable a thorough investigation to be carried out. The autopsy shall, at a minimum, attempt to establish the identity of the deceased and the cause and manner of death. The time and place of death shall also be determined to the extent possible. Detailed colour photographs of the deceased shall be included in the autopsy report in order to document and support the findings of the investigation. The autopsy report must describe any and all injuries to the deceased including any evidence of torture.
- Principle 14: In order to ensure objective results, those conducting the autopsy must be able to function impartially and independently of any potentially implicated persons or organizations or entities.
- Principle 15: Complainants, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation. Those potentially implicated in extra-legal, arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations.
- Principle 16: Families of the deceased and their legal representatives shall be informed of, and have access to any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence. The family of the deceased shall have the right to insist that a medical or other qualified representative be present at the autopsy. When the identity of a deceased person has been determined, a notification of death shall be posted, and the family or relatives of the deceased shall be informed immediately. The body of the deceased shall be returned to them upon completion of the investigation.
- Principle 17: A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as

well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it.