



## correctional services

Department:  
Correctional Services  
REPUBLIC OF SOUTH AFRICA

### DCS respond to Thabo Bester's assertions

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31 July 2024

#### **Correctional Services on allegations by Thabo Bester regarding conditions of incarceration**

The Department of Correctional Services (DCS) derives its legal mandate from the Correctional Services Act, Act 111 of 1998. This Act stipulates that inmates must be treated equally and that their rights, as enshrined in the Constitution, are respected. Notably, there is no practice of solitary confinement in South Africa.

In May 2022, inmate Thabo Bester escaped from the Mangaung Correctional Centre. The escape was elaborately planned and well executed.

On 3 June 2024, in a pre-trial conference, Thabo Bester requested to address the Court following the withdrawal of his then legal representatives from record. In that address, Thabo Bester essentially admitted that he had escaped from custody. He went on to tell the Court about other details pertaining to the case. This was also live on television.

As DCS, it is clear that we are dealing with an inmate capable of engineering elaborate means to escape from lawful custody. Hence, we are duty-bound to employ strict security measures, within the confines of the law, in order to prevent any chance of him escaping once again.

Apart from these security measures aimed at preventing an escape, the Department has, since Thabo Bester's admission at Kgoši Mampuru II Correctional Facility, treated him in the same manner that it treats other inmates at the said facility.

The manner in which Thabo Bester has been treated is consistent with what is prescribed by the Correctional Services Act and the regulations promulgated under the Act ("the Regulations"). Basically, safe and humane custody of inmates is at the centre of the correctional system. The Act provides that the aim of a correctional system is to contribute to maintaining and protecting a just, peaceful and safe society by enforcing sentences of the courts in a manner prescribed by the Act and detaining all inmates in safe custody whilst ensuring their human dignity.

In terms of Section 4(2)(a) of the Act, the Department must take steps necessary to ensure the safe custody of every inmate and to maintain security in good order in every Correctional facility. Subsection (b) provides that the duties and restrictions imposed on inmates must be applied in such a manner that conforms to that post and should not affect an inmate to a greater degree or for a longer period than necessary.

DCS recognises that imprisonment does not strip an individual of all the rights and entitlements he/she would ordinarily have. However, in the context of imprisonment, some of those rights are given effect to differently where it is possible, practical and safe to do so, while others inconsistent with imprisonment do not enjoy recognition (for instance the right to liberty). Equally, the Department recognises that the conditions of detention of inmates should be consistent with human dignity including at least an opportunity to exercise and provision of adequate accommodation, nutrition, reading material and the opportunity to access legal advice.

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That said, inmates are not entitled to be imprisoned with all the comforts they have enjoyed before their incarceration. A Correctional Centre is not akin to one's own private residence. Therefore, those amenities that a person would ordinarily enjoy outside the Correctional Centre are not necessarily available in a correctional facility. That is an invariable consequence of being imprisoned.

**Solitary Confinement:**

It is incorrect and fallacious for Thabo Bester to say he is being kept in solitary confinement for twenty-three (23) hours per day and only allowed one hour of exercise. C-Max, at Kgoši Mampuru, is a high security facility. It comprises only of single cells. Hence, all inmates in the facility do not share a cell. Therefore, the impression created by Thabo Bester that he is in a single cell, as a form of solitary confinement, is, with respect, disingenuous.

Thabo Bester gets an opportunity to exercise for an hour every day. That is the minimum time of exercise permitted by Section 11 of the Correctional Services Act. The exercise always takes place in open air unless the weather does not permit. During the time allocated for exercising, an inmate has an option to participate in other recreational activities.

Thabo Bester and other inmates in C-Max are also afforded a reasonable opportunity to have telephonic contact with and to be visited by their families when such visits are properly arranged with the centre. Equally, Thabo Bester's assertion that he is segregated is not correct. The facility comprises only of single cells.

**Access to legal advice and representation:** Section 17 of the Correctional Services Act reaffirms the right of inmates to have access to legal rights and to prepare their defence.

Thabo Bester is asking for 'an in-person or physical legal consultations' of not less than 7 hours on prior arrangements and to allow him to use a laptop/tablet or any suitable gadget. He complains about a consultation using wall steel telephone whilst separated by a glass with his legal representatives is not meaningful.

Thabo Bester suggests that he should be afforded an opportunity to consult with his legal representatives in a specific office at the centre. With respect, there is no merit in Thabo Bester's request. To be succinct, the request is unreasonable. Thabo Bester's legal representatives can communicate with him during the consultation and take down the necessary notes.

A consultation with his legal representatives from 09:00 - 16:00 on a daily basis is neither reasonable nor practical. Kgoši Mampuru houses hundreds of inmates who also need to use the consultation rooms. The Regulations allow for consultations on a daily basis from 08:00 until 15:00 in the afternoon. Therefore, if Thabo Bester's request is acceded to, it will mean that one of the consultation rooms will be occupied by him the whole day.

Moreover, for the period 12 October 2023 until 16 July 2024, Thabo Bester made hundreds of telephone calls to various lawyers. A telephone call register is kept by the facility. During all these consultations and telephone calls, a correctional official is on site but not within a hearing distance. The inmate's privacy and legal professional privilege is respected at all times.

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Therefore, the centre has allowed Thabo Bester a reasonable opportunity to access legal advice and representation. All legal practitioners who made appropriate and reasonable arrangements to consult with him were permitted to do so.

In respect of the electronic gadgets/equipment, Thabo Bester's request cannot be accepted. That request will pose a security risk to the centre and might enable him to orchestrate another escape.

The use of hand and leg cuffs:

The use of hand and leg cuffs on Thabo Bester is justified under section 31 of the Correctional Services Act. Before his incarceration at Kgoši Mampuru, Thabo Bester had escaped from a maximum-security prison. Without a doubt, the Department is justified in having an apprehension that Thabo Bester might attempt to escape again.

Thabo Bester's assertion that he is always handcuffed when being transported between the centre and Court is false. During such transportation, only the legs are cuffed. The same applies when he is in the holding cells at Court. For security reasons, it is necessary for the legs to be cuffed when not in his cell.

**ENDS**

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