**11. REPORT OF THE PORTFOLIO COMMITTEE ON POLICE ON THE 2019/20 BUDGET VOTE 20, PERFORMANCE PLAN AND 2015/16-2019/20 STRATEGIC PLAN OF THE INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE (IPID), DATED 9 JULY 2019**

The Committee examined the Budget and Annual Performance Plan (APP) for the 2019/20 financial year of the Independent Police Investigative Directorate (IPID). The Committee reports as follows:

**1**. **INTRODUCTION**

The IPID Act, 2011 (Act No 1 of 2011) gives effect to section 206(6) of the Constitution, which makes provision for the establishment of an independent police complaints body. The objectives of the IPID Act are to:

* Align provincial and national strategic objectives to enhance the functioning of the Directorate;
* Provide for independent and impartial investigation of identified criminal offences allegedly committed by members of the SAPS and the Municipal Police Services (MPS);
* Make disciplinary recommendations to the SAPS resulting from investigations conducted by the Directorate;
* Provide for closer cooperation between the Directorate and the Secretariat; and
* Enhance accountability and transparency of the SAPS and the Municipal Police Services in accordance with the principles of the Constitution.

The IPID Act provided the Directorate with an extended mandate which focuses on more serious crimes committed by members of the SAPS and the MPS. It further obliges the SAPS and the MPS to report on matters that must be investigated by the IPID and regarding the implementation of disciplinary recommendations made by the IPID upon the completion of investigations.

In terms of section 28 (1) of the Act, the Directorate is obliged to investigate:

1. Any deaths in police custody;
2. Deaths as a result of police actions;
3. Complaints relating to the discharge of an official firearm by any police officer;
4. Rape by a police officer, whether the police officer is on or off duty;
5. Rape of any person in police custody;
6. Any complaint of torture or assault against a police officer in the execution of his or her duties;
7. Corruption matters within the police initiated by the Executive Director, or after a complaint from a member of the public or referred to the Directorate by the Minister, a Member of the Executive Committee (MEC) or the Secretary for the Police Service; and
8. Any other matter referred to the IPID as a result of a decision by the Executive Director or if so requested by the Minister, an MEC or the Secretary for the Police Service as the case may be.

Section 28 (2) further provides that the Directorate may investigate matters relating to systemic corruption involving the police. In terms of Section 30 of the IPID Act, the National Commissioner or the appropriate Provincial Commissioner must:

1. Within 30 days of receipt thereof, initiate disciplinary proceedings in terms of the recommendations made by the Department of Police and inform the Minister in writing, and provide a copy thereof to the Executive Director and the Secretary;
2. Quarterly submit a written report to the Minister on the progress regarding disciplinary matters made in terms of paragraph (a) and provide a copy thereof to the Executive;
3. Immediately on finalisation of any disciplinary matter referred to it by the Department of Police, to inform the Minister in writing of the outcome thereof and provide a copy thereof to the Executive Director and the Secretary.

**1.1. Structure of the report**

The Report provides an overview of the 2019/20 Budget Hearings of the IPID and is divided into the following sections:

* Section 1: Introduction. This section provides an introduction to this Report as well as a summary of meetings held during the hearings.
* Section 2: Strategic Priorities of the IPID for the 2019/20 financial year. This section provides a summary of the strategic focus areas for the IPID for the year under review.
* Section 3: IPID Budget and Performance targets for 2019/20. This section provides an overall analysis of the estimates of national expenditure of the IPID for the 2019/20 financial year. This section also provides a programme analysis of the IPID.
* Section 4: Committee observations. This section highlights selected observations made by the Portfolio Committee on Police on the annual performance targets and programme specific issues during the 2019/20 budget hearings and subsequent responses by the IPID.
* Section 5: Recommendations and additional information. This section summarises the recommendations made by the Portfolio Committee on Police, as well as the additional information requested from the IPID.
* Section 6: Conclusion. This section provides a conclusion to this Report.

**1.2**. **Meetings held**

The Committee received a briefing from the IPID on the Annual Performance Plan and 2019/20 Budget on 4 July 2019.

**2. KEY STRATEGIC PRIORITIES**

IPID has tabled the following key priorities in the 2019/20 Annual Performance Plan:

Key Priorities for 2019/2020 financial year:

1. Continue Investigating high impact cases - The Directorate’s focus on high impact cases over the medium term will ensure that it is able to deal effectively with cases that are generally more complex to investigate;
2. Working with NPA to ensure speedy prosecution of cases referred;
3. Finalising the Amendment of the IPID Act - in line with Constitutional Court ruling. Assistance of the Committee required in this regard;
4. Full Implementation of IPID Act Section 23;
5. Modernization and Upgrade of ICT infrastructure to enhance operational environment;
6. Procurement of investigative tools to effectively and efficiently executive the mandate;
7. Relocation of Head Office & Finalization of organizational structure;
8. Review closure of Satellite Offices in line with IPID Expansion Strategy;
9. Interface of Case Management System with Criminal Justice Systems; and
10. Implementation of Clean Audit Strategy.

**3. IPID BUDGET AND PERFORMANCE TARGETS FOR 2019/20**

**OVERALL BUDGET ALLOCATION**

The IPID received a main budget allocation of R336.7 million in the 2019/20 financial year, which is an increase of R21.6 million when compared to the previous financial year in which the main allocation was R315 million. This represents a nominal increase of 6.9%. The 2019/20 percentage increase is far less than that of the previous year’s increase of 23.4%. The Investigation and Information Management Programme received the largest allocation of the total Vote at 61.7%, followed by the Administration Programme (32.5%). Together these two programmes received 94.2% of the total Vote, leaving 1.8% and 3.9 % to the Legal and Investigation Advisory and Compliance Monitoring Programme and Stakeholder Management Programme respectively.

The table below provides a breakdown of the 2019/20 budget allocation in comparison to the previous financial year.

**Table 1: IPID Expenditure over the medium-term**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Programmes** | | | | | | | |
| 1. Administration | | | | | | | |
| 2. Investigation and Information Management | | | | | | | |
| 3. Legal and Investigation Advisory Services | | | | | | | |
| 4. Compliance Monitoring and Stakeholder Management | | | | | | | |
| **Programme**  R million | **Revised estimate**  **2018/19** | **Main allocation**  **2019/20** | | **Nominal Increase/ Decrease in 2019/20** | **Real Increase/ Decrease in 2019/20** | **Nominal Percent change in 2019/20** | **Real Percent change in 2019/20** |
| Programme 1 | 102.4 | 107.6 | 5.2 | | - 0.1 | 5.08% | -0.12% |
| Programme 2 | 194.5 | 206.0 | 11.5 | | 1.3 | 5.91% | 0.68% |
| Programme 3 | 5.8 | 7.5 | 1.7 | | 1.3 | 29.31% | 22.92% |
| Programme 4 | 12.4 | 15.6 | 3.2 | | 2.4 | 25.81% | 19.59% |
| **TOTAL** | **315.1** | **336.7** | **21.6** | | **5.0** | **6.9%** | **1.57%** |

**Source: National Treasury (2019)**

**3**. **programme Performance**

* 1. **Programme 1: Administration**

The purpose of the Administration Programme is to provide for the overall management of the Independent Police Investigative Directorate and support services, including strategic support to the Department.

The Administration Programme received a budget allocation of R107.6 million in 2019/20, which is a nominal increase of R5.2 million or 5.08% when compared to the R102.4 million allocation of the previous financial year. The Programme has the second largest proportional allocation of total budget with 31.96%.

The table below provides a summary of the programme performance indicators and targets of the *Administration* Programme for the 2019/20 financial year:

**Table 2: Programme Performance Indicators and Targets**

| **Strategic objectives and Annual Targets** | **2019/20** |
| --- | --- |
| **Strategic objective: Capable workforce** |  |
| 1. Number of strategic training areas undertaken as per IPIDs Training Plan | 7 |
| **Performance Indicator** |  |
| 1. Percentage vacancy rate per year | <10% |
| 1. Percentage implementation of Annual Internal Audit Plan | 80% |
| 1. Percentage implementation of risk mitigating strategies | 50% |
| 1. Number of evaluations conducted per year | 1 |
| 1. Obtain positive audit outcome ***(New indicator)*** | Unqualified audit |
| 1. Percentage implementation of ICT Infrastructure Plan ***(New indicator)*** | 80% |

**Source: 2019/20 IPID APP**

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## **3.2** **Programme 2: Investigation and Information Management**

The purpose of the Investigation and Information Management Programme is to strengthen the Department’s oversight role over the police service by conducting investigations, in line with the powers granted by the Independent Police Investigative Directorate Act No. 1 of 2011. This includes making appropriate recommendations on investigations in the various investigation categories and submitting feedback to complainants. The Programme will also enhance efficiency in case management and maintain relationships with other state security agencies, such as the SAPS, the National Prosecuting Authority (NPA), Civilian Secretariat for Police Service (CSPS) and community stakeholders, through an on-going national and provincial engagement forums.

The core service delivery programme of a Department normally receives the largest portion of the Vote. As such, the Investigation and Information Management Programme received an allocation of R206 million from the total allocation of R336.7 million which is 61.18% of the total budget. The allocation increased with R11.5 million or 5.9% nominally when compared to the R194.5 million allocation of the previous financial year. The items per economic classification shows that R5.3 million was allocated to the line-item *Legal Services,* which will be used to contract private attorneys to assist with litigation cases. This should be questioned because Programme 3: Legal and Investigation Advisory Services is mandated to *provide legal, civil and labour litigation* and receives a budget of R7.5 million in 2019/20.

The table below summarises the programme performance indicators and targets of the *Investigation and Information Management* Programme:

**Table 3: Programme Performance Indicators and Targets**

| **Strategic objectives and Annual Targets** | **2019/20** |
| --- | --- |
| **Strategic Objective: Specialised investigative capacity established** |  |
| * Number of investigators trained on specialised services | 75 |
| **Strategic Objective: Decision-ready cases finalised** |  |
| * Percentage of decision ready cases completed from total cases received | 45% (4 893) |
| **Programme Performance Indicators and targets** |  |
| 1. Percentage of cases registered and allocated within 72 hours of written notification | 80% (5 100) |
| 1. Number of statistical reports on investigations generated | 2 |
| 1. Number of investigations of deaths in police custody that are decision ready | 150 |
| 1. Number of investigations of death as a result of police action that are decision ready | 130 |
| 1. Number of cases for investigation of the discharge of an official firearm by a police officer that are decision ready | 150 |
| 1. Number of investigations of rape by a police officer that are decision ready | 69 |
| 1. Number of investigations of rape while in police custody that are decision ready | 10 |
| 1. Number of investigations of torture that are decision ready *(Revised)* | 45 |
| 1. Number of investigations of assault that are decision ready *(Revised)* | 2 000 |
| 1. Number of investigations of corruption that are decision ready | 60 |
| 1. Number of investigations of other criminal and misconduct matters referred to the directorate in terms of s28(1)(h) and s35(1)(c) of the IPID Act that are decision read | 40 |
| 1. Number of investigations of offences referred to in section 33 of the IPID Act that are decision ready ***(New indicator)*** | 10 |
| 1. Number of approved systemic corruption cases that are decision ready | 3 |
| 1. Number of backlog decision ready cases completed (excluding cases of systemic corruption) | 1 490 |
| 1. Percentage of criminal recommendation reports referred to the NPA within 30 days of recommendation report being signed off | 90% (1 350) |
| 1. Percentage of disciplinary recommendation reports referred to the SAPS or MPS within 30 days of recommendation report being signed | 90% (1 450) |

**Source: IPID 2019/20 APP**

The inclusion of a new indicator to measure performance on investigations of offences referred to in section 33 of the IPID Act that are decision ready is a positive change. It will assist in the strengthening of Chapter 7 of the IPID Act, 2011 (especially section 29) that prescribes that the SAPS and MPS must provide cooperation in the investigation of IPID cases and prohibits any interference with such investigations. Section 33 of the IPID Act, 2011 pronounces these as offences and states the penalties associated. Even though the target is to have 10 cases decision-ready, a prosecution on even one case will have a significant benefit to the legitimacy of the IPID.

**3.3**. **Programme 3: Legal and Advisory Services**

The purpose of the Programme is to manage and facilitate the provision of investigation advisory services and provide legal, civil and labour litigation services. The programme consists of the following three sub-programmes:

• Legal Support and Administration: The sub-programme manages the Directorate’s legal obligations by developing, maintaining systems, procedures and standards to assist, guide, and direct legal support within the Directorate.

• Litigation Advisory Services: The sub-programme coordinates civil and labour litigation, and grants policing powers. Other key activities and outputs include finalising contracts and service level agreements.

The allocation of the Legal and Investigation Advisory Services Programme increased substantially in 2019/20 when compared to the previous financial year. In 2018/19, the Programme was allocated R5.8 million, which increased to R7.5 million in 2019/20 (29.3% nominal increase). This is mainly due to capacity constraints in the Legal and Investigation Advisory Services Programme. Despite these constraints, recruitment and capacity building will be focussed on the appointing Investigators in the Investigation and Information Management Programme (Programme 2) during 2019/20.

The table below summarises the programme performance indicators and targets of the Legal and Advisory Services Programme:

**Table 4: Programme Performance Indicators and Targets: Legal Services**

| **Strategic objectives and Annual Targets** | **2019/20** |
| --- | --- |
| **Strategic Objective: To provide investigation advisory services to investigators to ensure quality investigations** |  |
| * Percentage of legal advice provided to investigators before and after investigations | 90% |
| **Performance Indicator** |  |
| 1. Percentage of legal advice provided to the department on litigation matters within 12 working days of receipt of the action or application ***(New indicator)*** | 100% (6) |

|  |  |
| --- | --- |
| 1. Percentage of written legal advice provided to the Department within 30 working days of the request | 70% (8) |
| 1. Percentage of written legal advice provided to investigators within 24 hours of request | 90% (2) |
| 1. Percentage of written legal advice provided to investigators within 2 working days of request | 90% (5) |
| 1. Percentage of contracts/service level agreements finalised within 30 working days of the request per year. | 1 000 |
| 1. Percentage of PAIA requests finalised within 30 days | 100% (95) |
| 1. Number of workshops conducted with investigators on practice notes produced per year ***(New indicator)*** | 3 |

Source: IPID 2019/20 APP

**3.4. Programme 4: Compliance Monitoring and Stakeholder Management**

The purpose of the Compliance Monitoring and Stakeholder Management Programme is to safeguard the principles of cooperative governance and stakeholder relations. Monitor and evaluate the relevance and appropriateness of recommendations made to the South African Police Service and Municipal Police Services in terms of the Independent Police Investigative Directorate Act, 2011. The programme consists of the following two sub-programmes:

**Compliance Monitoring:** The Sub-programme monitors and evaluates the quality of recommendations made and responses received from on such recommendations from the South African Police Service, Municipal Police Services and National Prosecuting Authority in compliance with the reporting obligations in terms of the IPID Act, 2011.

**Stakeholder Management:** The Sub-programme manages relations and liaises with the Directorate’s key stakeholders such as the South African Police Service, Municipal Police Services, Civilian Secretariat for Police, National Prosecuting Authority, the Special Investigating Unit, the Public Protector of South Africa, the State Security Agency and civil society organisations, in line with the requirements of the IPID Act.

The Compliance Monitoring and Stakeholder Management Programme received a main allocation of R15.6 million for the 2019/20 financial year, which is a substantial increase when compared to the previous financial year (R12.4 million). In nominal terms, the 2019/20 allocation increased by 25.81% when compared to 2018/19. The programme received 4.63% of the total Vote, which is the third largest proportion. The increased focus placed on the programme is illustrated by the slight increase in the portion of funds allocated to it as a percentage of total Voted funds (3.94% in 2018/19 to 4.63% in 2019/20).

The table below summarises the programme performance indicators and targets of the Programme:

**Table 5: Programme Performance Indicators and Targets**

| **Strategic objectives and Annual Targets** | **2019/20** |
| --- | --- |
| **Strategic Objective: Ensure an Integrated Communication and Stakeholder Engagement Strategy** |  |
| * Percentage implementation of the Integrated Communication and Stakeholder Engagement Strategy | 90% (22) |
| **Performance Indicator** |  |
| 1. Number of community outreach events conducted per year | 40 |
| 1. Number of formal engagements held with key stakeholders | 128 |
| 1. Number of disciplinary recommendations referred to the SAPS and MPS that are analysed | 1 100 |
| 1. Number of criminal referrals forwarded to the NPA that are analysed | 748 |
| 1. Percentage of responses from SAPS and MPS that are analysed | 70% (1 260) |
| 1. Percentage of responses from NPA that are analysed | 70% (840) |
| 1. Number of case docket inspections conducted per year ***(New indicator)*** | 5 |

**4. Committee Observations**

The Committee made the following observations during the 2019/20 budget hearings:

4.1 The Committee noted the challenges highlighted by the IPID with respect to managing their investigations with a budget that was constrained.

4.2 The Committee was concerned about the manner in which the IPID reported its cases and other investigations. The Department indicated that the mandate of the IPID is derived from section 206(6) of the Constitution, which provides that an independent and impartial body must be established to investigate allegations of misconduct or offences against members of the SAPS. The IPID Act then enables the IPID to implement section 206(6) of the constitution and the Act in Section 28 provides for the cases that the IPID must investigate.

4.3 The Committee wanted to know what other efforts the IPID has made in resolving the matter related to capacity constraints and whether these constraints were quantitative or qualitative. They raised concerns about the high vacancy rate in the department and requested the IPID to explain their action plan to fill the posts as matter of urgency. The Committee also encouraged the IPID to find a strategy to do away with acting personnel, especially in the Senior Management Structure. The response given was that the high vacancy rate was caused by budget cuts.

4.4 The Committee enquired about the method used by IPID to identify Stakeholders and the extent to which the IPID was known in provinces and by the public in general. The Committee was of the view that the IPID needs to put more effort in their marketing strategy in order to be more visible. The response was that the department’s “invisibility” is due to financial constraints but they have developed an expansion strategy that speaks to opening fully-fledged district or regional offices where the communities are.

4.5 The Committee wanted to know the recruitment criteria used by the Department to employ investigators. They also wanted to know what training is being offered to investigators and who is responsible for the training.

4.6 The Committee questioned how the IPID was addressing the Auditor General of South Africa (AGSA) audit findings and what plan of action they have in place in order for AGSA to be able to assist the department. They encouraged the IPID to meet with AGSA on a regular basis to receive guidance regarding the audit findings and to be able to achieve the desire to receive a clean audit in the financial year 2022/23. The response was that the IPID management has developed an audit action plan that is monitored on a quarterly basis and reports to the audit committee as well as the Portfolio Committee on Police. Next time the IPID appears before the Committee they will report on the progress of the audit action plan and they also meet regularly with AGSA.

4.7 The Committee raised concerns regarding case backlogs and the fact that the backlogs are constantly growing. They asked what measures are in place to address the backlogs. The explanation given by the IPID was that the backlogs are historic in nature and intricately tied to lack of resources because when the Independent Complaints Directorate (ICD) was established in 1997 and that the structure was supposed to consist of 535 personnel and 20 years later the IPID still has a far less number of employees. The IPID tries to set high targets for investigators in relation to backlogs in order to try to reduce them as they are one of the priorities.

4.8 The Committee enquired about gaps in the IPID’s ICT systems. They wanted to know the specific areas of concern as well as the divisions that were experiencing challenges.

4.9 The Committee asked what led to the closure of the five satellite offices in various provinces and which satellite offices were closed down. They were concerned that the IPID offices are situated in areas that are not easily accessible to citizens. The reason for closing five satellite offices was insufficient funding due to high accruals and high contractual obligations at the time and a directive from National Treasury to consider closing them down when the lease expired. After closing the satellite offices, the IPID realised that the intake in those provinces is still high especially in the areas where the satellite offices were closed. They looked at their budget to see if they had enough funds to be able to reopen some of the satellite offices. The satellite offices that were closed are, Upington, Rustenburg, Empangeni and Mthatha

4.10 The Committee promised to make a recommendation to the Minister of Police to fast track the appointment process of the Executive Director.

4.11 The Committee wanted to know if there was any cooperation between the IPID, SAPS and Metro Police officers. They also asked how far does SAPS implement the recommendations made by the IPID and what steps are taken by the IPID in ensuring that SAPS implements their recommendations. The response was that the IPID makes both positive recommendations where there was no wrongdoing on the part of the SAPS as well as negative recommendations where SAPS has acted unlawfully and must institute disciplinary measures against affected officers.

4.12 The Committee noted that some of the targets were reduced and they wanted to know how the IPID set the targets that they set. The response was that the targets are determined firstly by the mandate of the IPID as directed by the IPID Act, funding received from National Treasury and the baseline information of each target based on the spending trends of a particular target

4.13 The Committee wanted to know the reasons for the IPID to plan moving from the current building they were occupying even though they had budget constraints. The response was that the relocation only relates to the national office since the court declared the current lease invalid and therefore the IPID was occupying it illegally. The IPID has been engaging with the Department of Public Works and Infrastructure to try to find an alternative building and this process has been ongoing since 2011.

4.14 The Committee wanted the IPID to clarify how it got to the estimations of the targets projected in the presentation and where they get the numbers for the indicators. The response was that targets are set based on the budget allocation and the baseline performance of the previous year and the previous financial year informs the IPID to project the targets based on the allocation they receive. This was because both Treasury and the Department of Public Administration expect the IPID to set achievable targets that are not out of line with the budget and human resources. The targets do not change much because the budget allocation does not provide for the IPID to do more.

4.16 The Committee enquired why the Annual Performance Plan (APP) of the IPID does not speak to the convictions made. The response was that the mandate of the IPID is to investigate criminal misconduct by members of SAPS and investigations can come up with two outcomes; that a member has acted lawfully or unlawfully. Therefore, the thrust of the IPID investigations is not about convictions but about getting the truth whether crime was committed or not.

4.17 The Committee wanted to know the number of high profile cases that the IPID dealt with and why there was a delay in prosecuting these cases. The response was that the IPID engages the National Prosecuting Authority (NPA) when dealing with such cases and the delay in the finalisation of these cases was partly due to the vacant position of the National Director of Public Prosecutions (NDPP). Since the appointment of the National Director of Public Prosecutions, there has been some progress in ensuring a speedy resolution of these cases.

4.18 The Committee asked how far the processing of the IPID Act, 2011 was. The response was that the IPID Amendment Bill was initiated by the Portfolio Committee on Police, as a Committee Bill in the fifth Parliament. Unfortunately, the NCOP did not have time to consider the IPID Amendment Bill and as such it lapsed.

**5. Committee Recommendations**

The Committee made the following recommendations

5.1 The Committee recommends that the Minister of Police should fast track the process of appointing the Executive Director.

5.2 The Committee recommends that the IPID should fill in the vacant positions as matter of urgency.

5.3 The Committee recommends that the IPID management must engage with the Department of Public Works to resolve the matter of the lease contract.

5.4 The Committee recommends that the IPID must have a plan of action in place in order for Auditor General of South Africa to be able to assist them with the audit findings.

5.5 The Committee recommends that the IPID should have an upgraded ICT system that will be aligned to an integrated criminal justice system where all elements speak to one another on a daily basis, because one of the priorities of the Committee in the sixth parliament will be to drive towards an integrated criminal justice system.

5.6 The Committee will monitor the progress of the IPID Amendment Bill to comply with the Constitutional Court deadline.

**6. Conclusion**

In conclusion, the Committee noted the work that the IPID is doing in trying to fulfil their mandate of independent oversight, but believes that they require additional budget in order to improve their footprint. The Committee indicated that the IPID must fast track the process of filling vacancies in order to reduce backlogs and improve service delivery. The Committee was concerned that the public is not aware of the existence of the IPID and its mandate. Therefore, the IPID needs to work hard to improve their marketing strategy and to bring their services to areas that will be accessible to communities. The Portfolio Committee thanked the Department for their co-operation in the annual budget hearings.

The Portfolio Committee on Police supports the budget of the Independent Police Investigative Directorate (IPID) for 2019/20 and recommends that the Budget Vote 20 be adopted.

The Democratic Alliance reserved its rights with respect to supporting or not supporting the budget vote.

**Report to be considered.**