**REPORT OF THE PORTFOLIO COMMITTEE ON POLICE ON THE 2020/21 BUDGET VOTE 24, PERFORMANCE PLAN AND 2020 -2025 STRATEGIC PLAN OF THE INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE (IPID), DATED 27 MAY 2020**

The Committee examined the Budget and Annual Performance Plan (APP) for the 2020/21 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 2020/21 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 virtual briefings from the IPID on the Annual Performance Plan, Strategic Plan (2020-2025) and 2020/21 Budget on 13and 22 May 2020.

**1.3 COVID-19 Pandemic**

The President announced a lockdown of the nation on 23 March 2020 in order to prevent further infections of and spread of the Covid-19 Corona virus. The lockdown took effect on 26 March 2020. The terms of the lockdown period were declared in terms of the Disaster Management Act (57 of 2002), and the Regulations provides that the South African Police Service (SAPS) is supported by the South African National Defence Force (SANDF) and the Metro Police during the period of the lockdown. The period of the national lockdown was declared from 26 March 2020 - 16 April 2020 in terms of section 27 of the Disaster Management Act announced by the Minister of Co-operative Governance and Traditional Affairs in the Government Notice No. 398, published in the Government Gazette, No. 43148 on 25 March 2020. The lockdown period was subsequently extended by the Minister to the end of April 2020 and again until the end of May 2020.

The National Regulations provides for the police to enforce the provisions of the lockdown. This includes for the SAPS, SANDF and Metro Police to amongst others, makes sure that the movement of people and goods are restricted and people are confined to their homes; public transport on the public streets are prohibited with the exception of emergency and health workers; businesses that are not essential services are closed and public places such as taxi ranks remain closed.

The provisions of the Disaster Management Act (2002) together with the Lockdown Regulations places certain obligations on the police to enforce the regulations for the duration of the period of the Lockdown.

The IPID has the mandate to investigate any police misconduct and that mandate applies even during the State of National Disaster and the lockdown period. The IPID mandate pertains as the lockdown does not presuppose a suspension of the Constitution and all the members of the SAPS and Metro Police are subject to the Constitutional provisions. This means that the rights of the public to human dignity as enshrined in the Constitution, remains intact and the right of people to be treated fairly must be respected. It also means that police officers should be held accountable for their actions during the period of the lockdown.

The Committee has held hearings with IPID on the impact and management of the lockdown and reports and allegations of police brutality and heavy-handedness during the lockdown and the impact on IPID investigations on 29 April 2020 and 8 May 2020.

It is clear that the COVID-19 pandemic has already impacted on the IPID operations and investigations.

**1.4 IPID Executive Director**

The 5th Parliament was marked by conflict over the tenure of the Executive Director of IPID which was the basis of three court cases. The former Executive Director’s contract of employment ended in February 2019 and was not renewed for another term. The former Executive Director challenged the non-renewal in the High Court, which facilitated an agreement that the Portfolio Committee on Police deliberate on the merits of renewal/non-renewal. On 28 February 2019, the Committee recommended that Mr McBride’s contract should not be renewed. The decision is currently being challenge and will presumably be referred back to the Committee depending on the outcome thereof.

As stated above, the position of the Executive Director of IPID became vacant from 01 March 2019. On this date, Mr Victor Senna (Chief Financial Officer: IPID) was appointed as Acting Executive Director of the IPID. Since then, the position has not been filled permanently. However, as per the Public Service Act, 1994 (Act No. 103 of 1994), a vacant position may not be filled by an acting person for longer than one year. As such, the Minister of Police appointed Mr Patrick Setshedi (Director for Finance: IPID) as Acting Executive Director for a two-month period starting from 01 March 2020 to 30 April 2020.

The Portfolio Committee on Police discussed the topic of the Executive Director of IPID on 04 March 2020. The Deputy Minister of Police indicated that the Ministry would embark on a headhunting process to appoint the new Head of IPID, as previous rounds of recruitment did not deliver a suitable candidate. The Committee had a robust discussion on the topic during which the concerns around the headhunting process were raised, including that headhunting is not guided by legislation or regulations. It was decided that three candidates (with CVs) would be presented to the Committee for consideration and approval of one candidate.

The Committee has not yet received any nominations from the Minister at the time the Budget hearings were held.Based on the provisions of the Act, the Minster of Police is in contravention of section 6(5) in that the period provided for the appointment of a permanent Executive Director has lapsed.

**2. KEY STRATEGIC PRIORITIES**

IPID has tabled the following key priorities in the 2020/21 Annual Performance Plan:

Key Priorities for 2020/2021 financial year:

1. Finalisation of IPID Amendment Bill;
2. Targets for backlog and current active cases were merged to ensure that all cases receive same attention to contribute towards attainment of APP targets for each classification;
3. Prioritisation of cases including GBV in terms of high impact;
4. Funds were identified to finalise implementation of Section 23;
5. Continue to upgrade ICT infrastructure and Case Management System in support of business operations;
6. Procurement of basic investigative equipment such as, disposable coveralls to ensure effective and efficient investigation of cases;
7. Finalisation of MOU with SAPS on sharing of services;
8. Re-opening of some Satellite Offices that were previously closed due to budget constraints
   1. Upington (NC)
   2. Rustenburg (NW)
   3. Qwaqwa (FS)
   4. Umthata (EC)
9. Conduct community outreach events and station lectures.

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

**OVERALL BUDGET ALLOCATION**

The IPID received a Main Appropriation of R355.7 million in 2020/21, which is a nominal increase of 5.6%. Taking into account inflation, the Directorate’s allocation increased by 1.19%. Of the total allocation, the largest portion of funds is allocated to Current Payments (R349.4 million/98.2%), of which 69.4% is allocated to Compensation of employees and the remaining funds to Goods and services. In 2020/21, R820 thousand is allocated to Transfers and subsidies, of which R728 thousand was allocated to the Safety and Security Sector Education and Training Authority (SASSETA) and R92 thousand for Communication. The allocation of R5.5 million for Payments for capital assets are for Machinery and equipment in the Administration Programme and the Investigation and Information Management Programme.

**Table 1: IPID 2020/21 Budget Summary**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| R million | **2020/21** | | |  | **2021/22** | **2022/23** |
|  | **Total** | **Current payments** | **Transfers and subsidies** | **Payments for capital assets** | Total | Total |
| **MTEF allocation** | | | | | | |
| Administration | 105.0 | 101.1 | 0.728 | 3.2 | 111.6 | 121.5 |
| Investigation and Information Management | 231.0 | 228.6 | 0.28 | 2.3 | 245.0 | 248.9 |
| Legal and Investigation Advisory Services | 6.9 | 6.9 | – | – | 7.5 | 8.6 |
| Compliance Monitoring and Stakeholder Management | 12.7 | 12.7 | – | – | 13.6 | 14.5 |
| **Total expenditure estimates** | **355.7** | **349.4** | **0.82** | **5.5** | **377.7** | **393.4** |

**Source: National Treasury (2020)**

The Administration Programme received an allocation of R105 million in 2020/21, which is a nominal increase of 13.39% when compared to the previous financial year. Proportionally, the Administration Programme received 29.52% of the total budget allocation of the Directorate.

The Investigation and Information Management Programme performs the core mandate of the Directorate and as such, the Programme received 64.94% of the Directorate’s total budget allocation. In 2020/21, the Programme received a budget allocation of R231 million, which is a nominal increase of 1.99%. However, when considering inflation, the Programme received a real decrease of 2.31%.

**Table 2: IPID Expenditure over the medium-term**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Programme** | **Budget** | | **Nominal Increase / Decrease in 2020/21** | **Real Increase / Decrease in 2020/21** | **Nominal Percent change in 2020/21** | **Real Percent change in 2020/21** | |
| **R million** | **2019/20** | **2020/21** |  | |  | | |
| **Administration** | 92.6 | 105.0 | 12.4 | 8.0 | 13.39 % | | 8.61 % |
| **Investigation and Information Management** | 226.5 | 231.0 | 4.5 | - 5.2 | 1.99 % | | -2.31 % |
| **Legal and Investigation Advisory Services** | 5.8 | 6.9 | 1.1 | 0.8 | 18.97 % | | 13.95 % |
| **Compliance Monitoring and Stakeholder Management** | 11.8 | 12.7 | 0.9 | 0.4 | 7.63 % | | 3.09 % |
| **TOTAL** | 336.7 | 355.7 | 19.0 | 4.0 | **5.6 %** | | **1.19 %** |

**Source: National Treasury (2020)**

The Legal and Investigation Advisory Services Programme received a budget allocation of R6.9 million in 2020/21, which is a nominal increase of 18.97% when compared to the previous financial year. Proportionally, the Programme received 1.94% of the Directorate’s total budget allocation.

The Compliance Monitoring and Stakeholder Management Programme received a budget allocation of R12.7 million in 2020/21, which is a nominal increase of 7.63%. Proportionally, the Programme received 3.57 % of the Directorate’s total budget allocation in 2020/21.

The Directorate plans to withhold the filling of 24 new posts that were added to the establishment in 2019/20 to strengthen internal controls and compliance. This was done to reprioritise funds for the implementation of section 23 of the Independent Police Investigative Directorate Act (2011), which provides that the salaries of the Directorate’s investigators must be aligned with those of members appointed as detectives in terms of the South African Police Service Act (1995).

Although the process to align the salaries of investigators with those of detectives commenced in 2018/19, the pension component of the salaries and other benefits could not be adjusted due to funds not being available. However, in the 2019 adjustments budget, the Directorate reprioritised R24.5 million within compensation of employees (and an estimated R45 million over the medium term) to provide for the full implementation of provisions of section 23 of the Act. This will result in a reduction of the funded establishment from 428 in 2019/20, as published in the 2019 ENE, to 399 over the MTEF period.

**3**.**1** **programme Performance**

**Budget allocation per budget programme**

**3.1.1 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 R105 million in 2020/21, which is a nominal increase of 13.39%. The Department Management sub-programme received a budget allocation of R21.4 million in 2020/21, which is a nominal increase of 34.59%. Considering inflation, the allocation increased by 28.92%. Proportionally, the sub-programme received 20.38% of the total Programme allocation.

**Table 3: Budget allocation per sub-programme of the Administration Programme**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Programme** | **Budget** | | **Nominal Increase / Decrease in 2020/21** | | **Real Increase / Decrease in 2020/21** | **Nominal Percent change in 2020/21** | | **Real Percent change in 2020/21** |
| **R million** |  |  | **2019/20** | | | **2020/21** | | |
| **Department Management** | 15.9 | 21.4 | 5.5 | 4.6 | | 34.59% | 28.92% | |
| **Corporate Services** | 36.4 | 41.7 | 5.3 | 3.5 | | 14.56% | 9.73% | |
| **Office Accommodation** | 13.1 | 13.9 | 0.8 | 0.2 | | 6.11% | 1.63% | |
| **Internal Audit** | 5.5 | 5.4 | - 0.1 | - 0.3 | | -1.82% | -5.96% | |
| **Finance Services** | 21.6 | 22.7 | 1.1 | 0.1 | | 5.09 % | 0.66 % | |
| **TOTAL** | 92.6 | 105.0 | 12.4 | 8.0 | | **13.4 %** | **8.61 %** | |

**Source: National Treasury (2020)**

The Corporate Services sub-programme received a budget allocation of R41.7 million in 2020/21, which is a nominal increase of 14.56%. Proportionally, the sub-programme received 39.71% of the total budget allocation of the Programme, which is the largest portion of the Programme.

The Office Accommodation sub-programme received a budget allocation of R13.9 million in 2020/21, which is a nominal increase of 6.11%. Proportionally, the sub-programme received 5.14% of the total budget allocation of the Programme.

The Internal Audit sub-programme received a budget allocation of R5.4 million in 2020/21, which is a nominal decrease of 1.82%. Considering inflation, the sub-programme’s budget allocation decreased by 5.96%.

The Finance Services sub-programme received a budget allocation of R22.7 million in 2020/21, which is a nominal increase of 5.09%. Proportionally, the sub-programme received 21.62% of the total budget allocation of the Programme.

**3.1.2** **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.

The Investigation Management sub-programme received a budget allocation of R20.7 million in 2020/32, which is a nominal increase of 5.08%. Proportionally, the sub-programme received 8.96% of the total budget allocation of the Programme.

The Investigation sub-programme received a budget allocation of R202.6 million in 2020/21, which is a nominal decrease of -0.99%, which is a real decrease of -5.16% (considering inflation). As this is the core mandate of the Directorate, the sub-programme received 56.39% of the Directorate’s total budget allocation for 2020/21.

The Information Management sub-programme received a budget allocation of R9.6 in 2020/21, which is a nominal increase of 128.57% (R5.4 million) and a real increase of 118.94%. Proportionally, the sub-programme received 4.16% of the total budget allocation of the Programme. The table below summarises the programme performance indicators and targets of the *Investigation and Information Management* Programme:

**Table 3: Budget allocation per sub-programme of the Investigation and Information Management Programme**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Programme** | **Budget** | | **Nominal Increase / Decrease in 2020/21** | **Real Increase / Decrease in 2020/21** | **Nominal Percent change in 2020/21** | **Real Percent change in 2020/21** |
| **R million** | **2019/20** | **2020/21** |  | |  | |
| **Investigation Management** | 19.7 | 20.7 | 1.0 | 0.1 | 5.08 % | 0.65 % |
| **Investigation Services** | 202.6 | 200.6 | - 2.0 | - 10.5 | -0.99 % | -5.16% |
| **Information Management** | 4.2 | 9.6 | 5.4 | 5.0 | 128.57 % | 118.94 % |
| **TOTAL** | 226.5 | 231.0 | 4.5 | **- 5.2** | **2.0 %** | **-2.31 %** |

**Source: National Treasury (2020)**

Despite the reduction in its funded establishment, the Directorate intends to focus on investment in human capital, specifically concerning investigations. This is in recognition of the Directorate’s responsibility to gather requisite and necessary evidence to enable the National Prosecuting Authority, the South African Police Service and the Municipal Police Services to make informed decisions on whether to prosecute and/or take disciplinary action against officers.

Accordingly, over the medium term, the Directorate plans to strengthen its investigative capacity by training and upskilling all 179 investigators to respond to advanced criminal activities undertaken by police officers. Training will be provided on conducting investigations of sexual offences, using advanced investigative techniques and methods, and provisions of the Prevention of Organised Crime Act (1998), among other things. For this purpose, R4.5 million is allocated over the MTEF period in the Investigation and Information Management programme.

**3.1.3** **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 Legal Support and Administration sub-programme received a budget allocation of R2.5 million, which is a nominal increase of 19.05%. Proportionally, the sub-programme received 36.23% of the total budget allocation of the Programme.

**Table 4: Budget allocation per sub-programme of the Legal and Investigation Advisory Services Programme**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Programme** | **Budget** | | **Nominal Increase / Decrease in 2020/21** | **Real Increase / Decrease in 2020/21** | | **Nominal Percent change in 2020/21** | **Real Percent change in 2020/21** | |
| **R million** |  |  | **2019/20** | | | **2020/21** | | |
| **Legal Support and Administration** | 2.1 | 2.5 | 0.4 | | 0.3 | 19.05% | | 14.03% |
| **Litigation Advisory Services** | 1.6 | 2.0 | 0.4 | | 0.3 | 25.00 % | | 19.73% |
| **Investigation Advisory Services** | 2.1 | 2.5 | 0.4 | | 0.3 | 19.05% | | 14.03% |
| **TOTAL** | 5.8 | 6.9 | 1.1 | | 0.8 | **19.0 %** | | **13.95 %** |

**Source: National Treasury (2020)**

The Litigation Advisory Services sub-programme received a budget allocation of R2 million in 2020/21, which is a nominal increase of 25.0%. Proportionally, the sub-programme received 28.99% of the total budget allocation of the Programme.

The Investigation Advisory sub-programme received a budget allocation of R2.5 million in 2020/21, which is a nominal increase of 19.05%. Proportionally, the sub-programme received 36.23% of the total budget allocation of the Programme**.**

**3.1.4 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:

The Compliance Monitoring sub-programme received a budget allocation of R7.6 million in 2020/21, which is a nominal increase of 16.92%. Proportionally, the sub-programme received 59.84% of the total budget allocation of the Programme.

The Stakeholder Management sub-programme received a budget allocation of R5.2 million in 2020/21, which did not change when compared to the previous financial year. As such, the sub-programme decreased in real terms by -4.2% (considering inflation). Proportionally, the sub-programme received 40.94% of the total allocation of the Programme.

**Table 5: Budget allocation per sub-programme of the Compliance and Stakeholder Management Programme**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Programme** | **Budget** | | **Nominal Increase / Decrease in 2020/21** | | **Real Increase / Decrease in 2020/21** | **Nominal Percent change in 2020/21** | | **Real Percent change in 2020/21** |
| **R million** | **2019/20** | **2020/21** |  | | |  | | |
| **Compliance Monitoring** | 6.5 | 7.6 | 1.1 | 0.8 | | 16.92 % | 12.00 % | |
| **Stakeholder Management** | 5.2 | 5.2 | 0.0 | - 0.2 | | 0.00 % | -4.21 % | |
| **TOTAL** | 11.8 | 12.7 | 0.9 | 0.4 | | **7.6 %** | **3.09 %** | |

**Source: National Treasury (2020)**

Along with the Civilian Secretariat for the Police Service (CSPS), the Directorate is the primary oversight body of the police service. It meets quarterly with the Civilian Secretariat for the Police Service to discuss collective measures that should be taken by both Departments to advance the professionalisation of the police service as envisaged in the NDP. The Directorate stated, “Over the medium term, the Directorate will work closely with the Civilian Secretariat for the Police Service to ensure that there is regular and stringent monitoring of the implementation of disciplinary recommendations made to the South African Police Service.”

The Directorate further stated that monthly meetings would be held with the CSPS and the SAPS to review monthly statistics in relation to the implementation of disciplinary recommendations forwarded to the SAPS and cases referred to the National Prosecuting Authority for prosecution.

In addition, awareness training sessions will be held with police officers in police stations to strengthen compliance with applicable legislation and regulations, and reduce the number of cases reported for deaths as a result of police action and/or while in police custody, rape by a police officer and/or while in police custody, and systemic corruption. Related activities are carried out in the ComplianceMonitoring and Stakeholder Management programme, allocations to which amount to R40.8 million over the MTEF period.

**3.2 PROGRAMME PERFORMANCE**

**3.2.1 Technical indicator descriptions**

The IPID relies solely on output performance indicators with the method of calculation as a simple count. The IPID also did not publish the technical indicator descriptions as part of its APP. The technical indicator description is one of the key requirements from the National Treasury, as provided for in the Framework for Strategic Planning and Annual Performance Plan. This limits full understanding of the performance indicator. All performance indicators must have Technical Indicator Descriptions, known as the TIDs.

A Technical Indicator Descriptor seeks to achieve the following:

* Identify the title of the strategic outcome oriented goal, objective or programme performance indicator
* Provide a brief explanation of what the indicator is, with enough detail to give a general understanding of the indicator
* Explain what the indicator is intended to show and why it is important
* Describe where the information comes from and how it is collected
* Describe clearly and specifically how the indicator is calculated
* Identify any limitation with the indicator data, including factors that might be beyond the department’s control
* Identify whether the indicator is measuring inputs, activities, outputs, outcomes or impact, or some other dimension of performance such as efficiency, economy or equity
* Identify whether the reported performance is cumulative, or non-cumulative
* Identify if an indicator is reported quarterly, annually or at longer time intervals
* Identify whether the indicator is new, has significantly changed, or continues without change from the previous year
* Identify whether actual performance that is higher or lower than targeted performance is desirable
* Identify who is responsible for managing and reporting the indicator

In addition to the information above, the purpose of these definitions is to assist the department in improving the reporting processes. It further ensures that the users of performance information identify with the terms and standards used thus eliminating misconceptions of the information reported. Furthermore, the TID forms the basis for audit of predetermined objectives. The TID document must be read together with the submitted Departmental Strategic Plan and the 2019/20 Annual Performance Plan.

**3.2.2 Administration Programme**

The table below provides a summary of the programme performance indicators and targets of the *Administration* Programme for the 2020/21 financial year:

|  |  |
| --- | --- |
| **Performance Indicator** | **Target** |
|  | |
| 1) Percentage vacancy rate per year | <10% |
| 2) Percentage implementation of Annual Internal Audit Plan | 90% |
| 3) Percentage implementation of risk mitigating strategies | 60% |
| 4) Percentage of compliance of SMS financial interests submitted through e-disclosures ***(new)*** | 100% |
| 5) Percentage implementation of ICT Infrastructure Plan | 90% |

**Source: IPID 2020/21 APP**

Two performance indicators were removed in 2020/21 when compared to the previous year, including -

* To obtain positive audit outcome
* Seven strategic training areas undertaken as per IPIDs Training Plan

A new performance indicator was added to measure compliance by members of the Senior Management Structure (SMS) on disclosure of financial interests.

**3.2.3 Investigation and Information Management Programme**

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 (CSP) and community stakeholders, through 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 64.9% of the total Department’s budget.

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

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

|  |  |  |
| --- | --- | --- |
| **Performance indicators** | **Targets** | |
|  | **2019/20** | **2020/21** |
| 1) Number of investigations of deaths in police custody that are decision ready | 150 | 180 |
| 2) Number of investigations of death as a result of police action that are decision ready | 130 | 280 |
| 3) Number of cases for investigation of the discharge of an official firearm by a police officer that are decision ready | 150 | 370 |
| 4) Number of investigations of rape by a police officer that are decision ready | 69 | 130 |
| 5) Number of investigations of rape while in police custody that are decision ready | 10 | 15 |
| 6) Number of investigations of torture that are decision ready | 45 | 80 |
| 7) Number of investigations of assault that are decision ready | 2 000 | 2 000 |
| 8) Number of investigations of corruption that are decision ready | 60 | 85 |
| 9) 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 | 10 |
| 10) Number of investigations of offences referred to in section 33 of the IPID Act that are decision ready | 10 | 25 |
| 11) Number of approved systemic corruption cases that are decision ready | 3 | 3 |
| 12) Percentage of criminal recommendation reports referred to the NPA within 30 days of recommendation report being signed off | 90% | 90% |
| 13) Percentage of disciplinary recommendation reports referred to the SAPS or MPS within 30 days of recommendation report being signed | 90% | 90% |

Source: IPID 2020/21 APP

The following performance indicators were removed in the 2020/21 APP -

* Number of investigators trained on specialised services (75)
* Percentage of decision ready cases completed from total cases received (45%)
* Percentage of cases registered and allocated within 72 hours of written notification (80%)
* Number of statistical reports on investigations generated (2)
* Number of backlog decision ready cases completed (excluding cases of systemic corruption) (1 490 cases).

The majority of targets were increased in 2020/21 when compared to the previous financial year.

The target for the 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 ready was reduced from 80 cases in 2018/19 to 40 cases in 2019/20. The target was further decreased to 10 cases in 2020/21.

**3.2.4. Legal and Investigation Advisory Services Programme**

The purpose of the Programme is to manage and facilitate the provision of investigation advisory services and to 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 and 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 table below summarises the programme performance indicators and targets of the Legal and Advisory Services Programme:

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

|  |  |
| --- | --- |
| **Performance Indicator** | **2020/21 Target** |
| 1) Percentage of written legal advice provided to the Department within 30 working days of the request | 70% |
| 2) Percentage of written legal advice provided to investigators within 2 working days of request | 95% |
| 3) Percentage of contracts/service level agreements finalised within 30 working days of the request per year. | 90% |
| 4) Percentage of litigation matters referred with instructions to the State Attorney within 10 working days of receipt per year (New) | 100% |

**Source: IPID 2020/21 APP**

The following indicators were removed from the 2020/21 APP compared to the previous year -

* Percentage of legal advice provided to the Department on litigation matters within 12 working days of receipt of the action or application (100%). This performance indicator was only introduced in 2019/20, thus removed the next year.
* Percentage of PAIA requests finalised within 30 days (100%).
* Number of workshops conducted with investigators on practice notes produced per year (3). This indicator was introduced in 2019/20 and removed in 2020/21.
* Percentage of written legal advice provided to investigators within 24 hours of request (90%).

**3.2.5 Compliance Monitoring and Stakeholder Management Programme**

The purpose of the Compliance Monitoring and Stakeholder Management Programme is to safeguard the principles of cooperative governance and stakeholder relations and to 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 table below summarises the programme performance indicators and targets of the Programme:

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

|  |  |
| --- | --- |
| **Performance Indicator** | **2020/21 Target** |
| 1) Number of community outreach events conducted per year | 40 |
| 2) Number of formal engagements held with key stakeholders | 136 |
| 3) Number of station lecture awareness trainings per year ***(New)*** | 56 |
| 4) Number of disciplinary recommendations referred to the SAPS and MPS that are analysed | 1 100 |
| 5) Number of criminal referrals forwarded to the NPA that are analysed | 1 500 |
| 6) Percentage of responses from SAPS and MPS that are analysed | 60% |
| 7) Percentage of responses from NPA that are analysed | 50% |
| 8) Number of case docket inspections conducted per year | 5 |

**Source: IPID 2020/21 APP**

**4. Committee Observations**

The Committee made the following observations during the 2020/21 budget hearings:

4.1 The Committee noted their concern with the reduced IPID budget and it appeared that the core business of IPID Business which was Programme 2 has not been adjusted downwards with respect to its targets. The Committee wanted IPID to indicate what their optimal budget was for them to operate at full capacity.

4.2 The Committee again questioned the funding challenge and budget for IPID as it was clearly underfunded in the Compensation of Employees and operations and spent over R200 million. The IPID only has R8.9 million for operations and this was of particular concern given that it wanted to re-open closed offices. Members pointed out that if those offices were to re-open, they would be expected to be fully operational.

4.3 AMember pointed out that the Free State budget allocation was decreasing every year and has decreased from 11.7% to just over 11% during the current budget year. There are clear indications that the number of complaints received in the Free state is the most in the country and the Member wanted to know how the IPID was going to manage the problem in the province?

4.4 The Committee enquired about the reasons for the increase in the number of complaints of assaults by police officers during the lockdown and wanted an explanation from the Department. Members were worried that the case backlogs would increase as a result.

4.5 The Committee asked the Department to outline the areas where they have capacity constraints as they only outlined the areas where they have achieved targets

4.6 The Committee wanted to know about the numbers of the top management of the SAPS were the target of anti-corruption investigations and how many have been arrested, suspended, arrested and /or convicted. Where there were such cases, Members wanted to know if there were such cases, how long they were under investigation.

4.7 The Committee noted its displeasure with the fact that the IPID Executive Director has not been appointed and no nominee has been brought to the Committee for approval from the Minister. The Committee noted that the Executive Director had to be appointed at the end of February 2020. The Minister was in contravention of the IPID Act by not bringing his nominee to Parliament for approval. This led to instability in the current leadership with acting appointments being made and the Committee wanted this changed as it did not inspire confidence and led to a loss of morale amongst the staff. The Members of the Committee was unanimous in its demand for the appointment of the Executive Director to be made within three months.

4.8 The Committee noted that the Department was under-performing as they have prematurely closed 2015 cases, referred 23 to the NPA without success and they looking for additional space.

4.9 Members questioned the matter of decision-ready cases and the fact that the APCOF had made some recommendations. The IPID was asked if they would cooperate with APCOF to rectify the APP targets. Members also wanted to know why they only had five case docket investigations.

4.10 The Committee was not satisfied with the IPID’s explanation of the distinction between COVID-19 cases and ordinary cases. The Committee asked what the criteria was for a case to be classified in the COVID-19 category.

4.11 The Department was asked to provide cases per province and what the case monitoring statistics were.

4.12 The Committee question the IPID if there was any interference in their investigations by the senior management of SAPS or political leaders. Members wanted to know what the root cause of the attitude of police officers was when they abused citizens. Members wanted to know if this attitude was as a result of the training the SAPS received. Members noted that the role the Minister plays provide a particular culture to police officers.

4.13 The Committee was reminded that the Committee has powers and obligations with respect to the IPID Amendment Bill and the role of the Committee was to hold the Executive to account. Members asked that Committee enquire about the Amendment Bill and whether it has been signed by the President. There was a second judgement with respect to IPID in the form of the Khosa Judgement and it was time that the Committee look at a possible amendment. Members favoured the principle of independence for IPID as encapsulated in the McBride judgement.

4.14 The Committee had an extensive discussion on the implications of the Khosa Judgement with respect to the implications of the death of Mr Collins Khosa. Members noted that it was an opportunity to uphold the independence of the IPID.

4.15 The Committee again questioned the Minister about a case of police brutality in the Stand where a woman was allegedly manhandled by the SAPS. It was pointed out that the Khosa judgement stated that the purpose of arrest should not be to punish, scare or harass the individual and the SAPS did that with the woman in Strand. Members also wanted to know how the Ministry and the department intended to implement the Khosa judgement.

4.16 The Committee was concerned that the SAPS members were not trained in conflict resolution and were not professional enough. They are not equipped to debrief people and the SAPS officers are not properly debriefed themselves. They cannot calm people they police, especially rape survivors and Gender Based Violence survivors. Women were not happy with the service they receive through toll-free numbers. Police officers should be trained and they should not be responding to provocation from the public and there should be measures in place to prevent police officers responding.

4.17 The Committee questioned the IPID about the reopening of the Miggels case where the police assaulted an individual who subsequently died of a heart attack. The IPID was asked to also look for the journalist that was chased by the police and subsequently fled to Lesotho.

4.19 Members raised their misgivings about people making complaints to political parties. These complaints should not go to political parties but to the IPID.

**4.2 IPID Responses**

In its response, the IPID stated that the targets for Programme 2 was reviewed after a Lekgothla and due to its previous performance, the Department had used historical data. The performance targets, backlog cases and active cases in the new APP were merged. This resulted in the perceived increase in targets.

The Department also indicated that the APP and the Strategic Plan was conceptualised in consultation with the Department of Performance Monitoring and Evaluation and the IPID was advised to report on the indicators in the Annual Operational Plan.

The Department was considering how the satellite offices it wants to re-open, could save the Department money. In view of the great distances that the investigators had to travel to the areas where there were no offices, they incurred huge fuel bills. They would be saving on these costs to re-open the satellite offices and have access to the community. The Department would strive to re-prioritise and reduce expenditure on non-core items.

The Department has used the following criteria to consider allocating resources to the provinces: size of the province; case intake numbers and the number of investigators. The Free State province was allocated more investigators during the COVID-19 lockdown.

The Department has also aligned its budget and reprioritised high impact cases such as death, rape, Gender Based Violence and corruption.

As far as relocation was concerned, the Department will move into its new offices procured by the Department of Public works at the end of July. The rental is currently less than what the Department is spending and this will translate into a saving.

The Department reported that the figures provided on the COVID-19 pandemic was as initially presented to the Committee in a presentation and was part of the 403 intake cases, of which 199 was COVID -19 related cases. On the revised presentation, the numbers had increased 828 intake cases, of which 376 were COVID-19 cases. The difference was when the police were conducting COVID -19 operations.

The IPID was experiencing difficulties in some investigations that were taking long due to the non-availability of post–mortem reports and unavailability of witnesses during the lockdown period. The Department indicated that it was committed to ensure that all cases are fully investigated and has established intervention teams to assist the provinces. The Department is also developing a database on a panel of experts to fast-track the finalisation of cases.

The acting Executive Director reported that as far as quality assurance on investigations were concerned, some cases were closed prematurely. As a result, a directive has been issued to all provincial heads to carefully satisfy themselves that the work has been done, before such cases are closed. The IPID has also extended the scope of the statistics confirmation task team, with respect to quality assurance and the national committee will look into those cases. The IPID is focussing on high impact cases to deal with capacity challenges.

A new CommunicationsDirector was appointed and will start on I June 2020 after the previous director resigned.

The acting ED responded that there was no issue with the leadership stability, and as the IPID they required 535 people to operate optimally, but they only had 391 people on their staff establishment.

The IPID was working with the National Prosecutions Authority’s Investigative Directorate on corruption cases of senior police managers and they have scheduled a meeting in the following week, after which they will know what progress has been made with prosecutions.

There was a distinction of pre-COVID-19 cases and those encountered and reported during the lockdown. The cases that have occurred during the lockdown are lockdown cases. The cases that happened before lockdown, they are not lockdown cases. Some are domestic violence cases, not lockdown cases. There were limited cases initially and it increased, and as a result, after working with a skeleton staff, the acting ED has requested that all investigators be brought back in compliance with PPE’s. They are dealing with the cases

APCOF is one of IPID’s external stakeholders, and the IPID was supposed to meet with them to discuss the APP and Strategic Plan, but the lockdown interfered. Another attempt is being made to meet with them.

The IPID, as a result of the expansion strategy, required R230 million to increase the footprint of IPID during the 2019/20 financial yearwhich was never allocated.

The IPID reported that they despatched a team of investigators to meet with the journalist who alleged that the police abused him and chased him. When they wanted to meet with him, he indicated that he was in a meeting. When they were supposed to meet the next day, he did not attend and they did not get hold of him. The IPID released a statement that he should come forward, if he feels his life is in danger, but the subsequently discovered that he had fled the country.

The IPID reported that as far as decision-ready cases vs the quality of investigations was concerned, they have such dockets and it is with the courts. The IPID are awaiting further instructions by the courts.

The casesare thoroughly checked by the management in the provinces before it is sent to court, there is a report compiled for the NPA and the other matters are referred to the SAPS

Due to the magnitude of the cases, it is sometimes difficult for our members to respond to those instructions timeously due to the magnitude

**4.3 Deputy Minister’s response**

The Deputy Minister responded by indicating that he takes seriously the advice the Committee has given and that for IPID to be taken seriously, it has to do its work. It was a task that should be done together with the oversight of the Committee.

The question raised by the Members show that the Committee was being reasonable with the Ministry for a long time to bring finality to the matter of the appointment of the appointment of the Executive Director and the sooner it is settled, the better. The Deputy Minister reported that there are mechanisms of how people can report their problems and that they should use the 0800 numbers, the toll-free numbers, life line numbers. If all of that fails, there is recourse to the Commissioners and the Ministry. The SAPS is also trying to communicate with people and people should use their station commissioners and provincial commissioners to report.

The Deputy Minister reported that most of the cases that IPID is involved with, because the public raised it and that is why the Khosa case was included.

He appealed to the Committee Members who witnesses something, they should feel free to communicate with the Commissioner or the Minister, PC or station commissioner. The SAPS have also developed a directory of contacts so that people can easily and without difficulty contact the right officials. Any police officer who does not comply with the spirit of the constitution, would be dealt with seriously, include police officers who violate the rights of everyone.

It has not been easy 25 years into democracy, to accept what the security forces have done, but such incidents are still encountered, but the blame cannot be shifted. The SAPS should become the pride of all South Africans.

The IPID Amendment Bill will be presentedto Parliament in the first quarter of 2021. As far as the appointment of the IPID Executive Director was concerned, the Ministry have started a head- hunting process, but this is still subject to a recruitment process. The head-hunting process was started but the COVID-19 pandemic and lockdown disrupted the process. The Ministry was confident that the issue would be resolved and the public requires a vibrant and viable IPID which must be independent, robust and able to do its work.

**4.3.1 The KHOSA Judgement**

The Deputy Minister indicated that the Ministry and SAPS was complying with the judgement, although they were taking certain sections on appeal. As far as he was concerned, the judgement was a restating of the law. This was what was expected from the South African community which was that citizens and the security forces should collaborate to implement the findings.

He pointed out that sections 3-6 provided for the security forces to do certain things and that the SAPS have complied with the judgement with respect to the code of conduct, the guidelines on use of force, restriction of movement and other activities. The Ministers of Police and Defence must sign an affidavit as to the sections to do with the code of conduct by the police and army, must be lodged by 12 midnight on 22 May 2020.

The joint affidavit was being signed, afterwards it will be published and sent to the court. The SAPS have outlined what the judgement said with regard to sections 3.1-3.5. There has already been a command to police members to comply with prohibition on torture and the National Commissioner has complied.

The Minister is appealing section 6.1.2 of the judgement which states that the 1st and 4th respondent should ensure investigations are completed and reported, including the treatment of any person whose rights have been infringed by the SAPS, SANDF and the Metro Police department.The judgement was restating the law and there were police officers who did not conduct themselves in the way they should. The court was reminding the Ministry and the SAPS to work within the prescripts in line with the law

**5. Committee Recommendations**

**Additional Information**

* The IPID is to provide the Committee with a detailed list of all disciplinary case recommendations made to SAPS.
* The IPID is to provide the Committee with the detailed classification of all the cases, and all police stations where such offences occurred.
* The IPID must make available a list of all provincial statistics.

**The Committee made the following recommendations**

5.1 The Committee notes that the Executive Authority is in contravention of the IPID Act with the appointment of the IPID Executive Director and recommends that the Minister of Police should fast track the process of nominating the Executive Director of IPID for Parliament’s approval within the next three months. The Committee also recommended that the acting IPID Executive Director should be not be moved during the next three months until such time that a new Executive Director has been appointed.

5.2 The Committee recommends that the IPID work to rectify the decision–ready case APP targets with its stakeholders.

5.3 The Committee recommends that the IPID management must review the basic training course of the SAPS to ensure that the members undergo conflict resolution, anger management and debriefing skills training.

5.4 The Committee recommends that the IPID re-open the Miggels case and provide feedback to the family of the deceased.

5.5 The Committee recommends that the IPID should implement all the recommendations of the Khosa judgement and ensure that the SAPS co-operates with it to implement all the outstanding areas of the judgement.

5.6 The Committee recommends that the IPID reviews all its low APP targets.

5.7 The Committee recommends that the IPID provides a plan for the re-prioritisation of the budget to deal with areas where there are shortfalls and provide a report to Parliament.

5.8 The Committee recommends that the IPID consider other government funding sources to recover the areas where funding shortfalls exist.

5.9 The Committee recommends that the IPID develop a plan to deal with its underperformance.

5.10 The Committee will monitor the IPID Amendment Bill and wait for the further IPID amendments.

5.11 The Committee recommends that all CIVID-19 related cases during the lockdown be forwarded to the IPID National Office for quality control before being closed or processed.

5.12 The Committee recommends that all provincial reports of cases closed be made available to the Members.

**6. Conclusion**

In conclusion, the Committee noted its serious concerns that the budget shortfall will have on the ability of the IPID to implement its mandate and effective oversight over the police. The Committee is also seriously concerned about the instability in the leadership of IPID by the fact that an Executive Director has not been appointed. The Committee wants the Executive Authority to move with speed to complete the process it has started to appoint the Executive Director.

The Committee notes that the public must have public trust in the police and the IPID should be effective to hold the police to account and for that to happen, 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 2020/21 and recommends that the Budget Vote 24 be adopted.

The Democratic Alliance and the Economic Freedom Fighters reserved its rights with respect to the adoption of the report.

**Report to be considered.**