

# **REPORT OF THE SELECT COMMITTEE ON SECURITY AND JUSTICE ON THE 2020/21 BUDGET VOTE 24, ANNUAL PERFORMANCE PLAN (APP) OF THE INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE (IPID), DATED 29 MAY 2020.**

## **1. Introduction**

The National Council of Provinces represents the provinces to ensure that the provincial interests are taken into account in the national sphere of government as stated in section 42(4) of the Constitution. One of these functions is to hold the government to account in respect of how the taxpayers' money is used. It detects waste within the machinery of government and public agencies. Thus it can improve the efficiency, economy and effectiveness of government operations

The Independent Police Investigative Directorate (IPID) exercises its functions in accordance with the Independent Police Investigative Directorate Act. The Act gives effect to the provisions of section 206(6) of the Constitution, which provides for the establishment of an independent police complaints body that must investigate any alleged misconduct of, or offence committed by, a member of the police service. The thrust of the Directorate's work is to investigate serious and priority crimes allegedly committed by members of the South African Police Service and the Municipal Police Services.

Joint Briefings between the Portfolio Committee on Police and the Select Committee on Security and Justice were held with IPID on their strategic plans, budgets and annual performance plans on the 8 and 22 May respectively. The Briefings were held during the Covid-19 pandemic on virtual platforms.

## **2. Strategic plan**

IPID's contribution to the National Development Plan is in terms of Chapter 12: building safer communities which envision people living in South Africa feeling safe and having no fear of crime and Chapter 14: promoting accountability and fighting corruption which envisions a South Africa with zero tolerance to corruption, accountable public and private officials and leaders acting with integrity and maintaining high ethical standards. IPID's

contribution to the Medium Term Strategic Framework (MTSF) 2019-2024 is in respect of Priority 1: a capable, ethical and developmental state and Priority 6: social cohesion and safe communities.

IPID has developed the following impact statement to guide its work: **‘Responsive and accountable police service that renders professional service in a human rights environment.’**

Key outcomes linked to the impact statement includes:

- Effective and efficient administrative support;
- Reduced level of police criminality and misconduct;
- Department’s legal interests protected; and
- Improved awareness of IPID’s services.

IPID reported that Provinces contributed to the Strategic plan in the following ways:

- Improved Financial governance;
- Percentage increase of vacancies filled within 6 months;
- Increase in number of criminal cases decided by NPA;
- Increase in number of disciplinary recommendations initiated;
- Increase in number of disciplinary recommendations finalized; and
- Increase in number of people reached at through awareness raising campaigns.

### **3. 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.

IPID has four programmes including: Administration, Investigation and Information Management, Legal and Investigation Advisory Services and Compliance Monitoring and Stakeholder Management.

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

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.

Staff establishment was reduced from 415 to 391 due to budget constraints and allocated funds will continue to be reprioritised to support service delivery. Investigation of cases including Gender Based Violence (GBV) were reprioritised due to Covid-19 operations and old cases on the court roll were postponed to later dates, only new cases were enrolled. The recruitment and selection processes for vacancies were affected by the lockdown and the relocation project of head office was also disrupted.

IPID reported the following Key Priorities for the 2020/21 financial year

- Finalisation of IPID Amendment Bill;

- 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;
- Prioritisation of cases including GBV in terms of high impact;
- Funds were identified to finalise implementation of Section 23;
- Continue to upgrade ICT infrastructure and Case Management System in support of business operations;
- Procurement of basic investigative equipment such as, disposable coveralls to ensure effective and efficient investigation of cases;
- Finalisation of MoU with SAPS on sharing of services;
- Conduct community outreach events and lectures; and
- Re-opening of some Satellite Offices that were previously closed due to budget constraints including; Upington (NC), Rustenburg (NW), Qwaqwa (FS) and Umthata (EC).

### 3.1 Provincial Budget

#### MTEF BUDGET ALLOCATION BREAKDOWN PER PROVINCE

Provincial Offices	2019/20 Allocation	% Share	2020/21 Allocation	% Share	2021/22 Budget	% Share	2022/23 Budget	% Share
EASTERN CAPE	15,712,000	10.4%	18,949,000	11.0%	19,991,195	11.0%	20,990,755	11.0%
FREE STATE	17,665,000	11.7%	19,126,000	11.1%	20,177,930	11.1%	21,186,827	11.1%
GAUTENG	21,097,000	14.0%	23,053,000	13.4%	24,320,915	13.4%	25,536,961	13.4%
KWAZULU-NATAL	18,757,125	12.4%	22,948,000	13.3%	24,210,140	13.3%	25,420,647	13.3%
LIMPOPO	15,864,912	10.5%	17,234,000	10.0%	18,181,870	10.0%	19,090,964	10.0%
MPUMALANGA	13,683,875	9.1%	15,861,000	9.2%	16,733,355	9.2%	17,570,023	9.2%
NORTH WEST	15,103,530	10.0%	16,401,000	9.5%	17,303,055	9.5%	18,168,208	9.5%
NORTHERN CAPE	13,307,147	8.8%	14,897,000	8.7%	15,716,335	8.7%	16,502,152	8.7%
WESTERN CAPE	19,943,000	13.2%	23,599,000	13.7%	24,896,945	13.7%	26,141,792	13.7%
<b>TOTAL</b>	<b>151,133,589</b>	<b>100%</b>	<b>172,068,000</b>	<b>100%</b>	<b>181,531,740</b>	<b>100.0%</b>	<b>190,608,329</b>	<b>100.0%</b>

IPID has provincial offices and therefore each province has received an allocation of the main budget. The total amount distributed to provinces for the 2020/21 financial year is R172 million. Western Cape receives the biggest allocation of R23.5 million followed by Gauteng with R23 million and KZN with R17.2 million.

### **3.2 MTEF budget allocation priorities**

IPID had to reprioritise its budget to finalise implementation of Section 23 in compliance with the court order. Reallocation of funds has also been done from non-core to core activities of the Department in order to achieve more with less resources. Investigation Capacity has always been prioritized within the limited baseline for continuity on the investigation of the reported cases.

IPID is experiencing capacity constraints in respect of the following functions:

- Integrity strengthening and protection;
- Legal services and contract management;
- Service delivery coverage and accessibility;
- Accounting, compliance and reporting responsibilities;
- Community Outreach Events.

IPID reported that the following policy matters require additional funding:

- IPID Expansion Strategy - Implementation of the IPID Expansion Strategy to accommodate the demand placed on IPID for additional regional and District Offices;
- Full implementation of Farlam Commission report 'recommendations (external experts) - This will limit IPID's dependence on SAPS and other Departments for technical expertise (e.g Ballistics, Forensics, etc);
- Implementation of Security analysis report – strengthening security measures across IPID offices including protection for investigators;
- Implementation of the Disaster Recovery Plan for the Department - including data security.

#### 4. Annual Performance Plans

IPID indicated that Provinces had contributed to the APPs in the following manner:

- Percentage compliance of SMS financial interest submitted through e-disclosure;
- Percentage vacancy rate per year;
- All eleven (11) Programme 2 indicators on investigations of all cases in line with section 28 and 33 of IPID Act;
- Percentage of dockets referred to the NPA within 30 days;
- Percentage of recommendation reports referred to SAPS/MPS within 30 days;
- Number of community outreach events conducted;
- Number of formal engagements held with key stakeholders;
- Number of station lecture awareness trainings;
- Percentage of responses from SAPS/MPS that are analysed; and
- Percentage of responses from NPA that are analysed.

#### 4.1 Programme 1 Administration

**Purpose:** to provide strategic leadership, management and support services to the Department.

Performance Indicator	Targets
% implementation of ICT Infrastructure Plan per year	80%
% implementation of Annual Internal Audit Plan per year	90%
% implementation of risk mitigation strategies per year	60%
% compliance of SMS financial interests submitted through e-disclosure	100%
% vacancy rate per year	<10%

## 4.2 Programme 2: Investigation and Information Management

**Purpose:** to co-ordinate and facilitate the Department's investigation processes through the development of policy and strategic frameworks that guide and report on investigations.

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	2000	2000
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 ready	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%

## 4.3 Programme 3: Legal and Investigation Advisory Services

**Purpose:** to manage and facilitate the provision of investigation advisory services. Provide legal, civil and labour litigation services.

Performance Indicator	Targets 2020/21
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 ( <i>New</i> )	100%

#### 4.4 Programme 4: Compliance Monitoring & Stakeholder Management

**Purpose:** Monitor and evaluate the relevance and appropriateness of recommendations made to the South African Police Service and Municipal Police Services in terms of the IPID Act.

Performance Indicators	Target 2020/21
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 ( <i>New</i> )	56
4) Number of disciplinary recommendations referred to the SAPS and MPS that are analysed	1100
5) Number of criminal referrals forwarded to the NPA that are analysed	1500
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

#### 5. Discussions / Responses by Minister/ Department

##### 5.1 IPID budget constraints in Programme Two

Members were extremely concerned about the IPID not being able to fulfil its mandate due to budget constraints. It was a serious concern that the budget for programme two has declined over the Medium Term and the fact that the programme is the core business of the department. Members requested the IPID to provide reasons why they have not adjusted their targets.

IPID's response was that in the new APP targets, backlogs and current active cases were merged. This resulted in the perceived increase in targets. The performance indicators were aligned with the budget after extensive engagements during the departmental strategic session. Historical performance information was used to inform the planned targets.

##### 5.2 Budget Reprioritisation

Members raised concerns in relation to the budget and the fact that IPID is spending more than R200 million on Compensation of Employees and R8.9 million on operations which is concerning and affects their efficiency. The Committee wanted to know what measures they

have put in place to maximise efficiency with the little funding that is currently available including in relation to the re-opening of satellite offices.

IPID indicated that it continuously strives to reprioritize and reduce expenditure on non-core budget items to core business which is investigations. In order to align with the available budget, the Department reprioritizes high impact cases such as Death, Rape, Gender Based Violence and Corruption. The Department reported that it was in the process of reopening its offices that were closed.

### **5.3 Distinction between normal and ‘Covid-19’ cases**

The Committees sought clarity on the remark made at the end of the presentation, that the IPID had insufficient funds to ensure that the data is accurate. This was specifically related to the Disaster Recovery Plan. The Department was asked to explain how it distinguishes between normal and Covid-19 related cases.

IPID responded that the cases of Covid-19 relate to incidents emanating from Covid-19 operations by the SAPS and MPS officials. The initial presentation forwarded to the Committee was from 26 March to 17 April 2020 and reflected a total case intake of 403 which included 199 Covid-19 related cases. The revised presentation was from 26 March to 5 May 2020 and reflected an increased total case intake of 828 including 376 Covid-19 related cases.

### **5.4 Re-opening of Satellite offices**

Members expressed concern that while the IPID has a limited budget, it wanted to re-open offices in other provinces. This, while personnel numbers were dropping from 400 to 319. Members requested that the IPID explain why the Department would spend funds on office accommodation rather than increasing the staff personnel.

IPID responded that the re-opening of satellite offices was informed by the distance travelled by investigators when conducting investigations and also the high case intake in the

identified areas. Therefore, funding that has been used for travel and accommodation will be redirected to the operation of the re-opened satellite office.

### **5.5 Allocation of resources to the Free State Province**

Concerns were raised regarding the declining allocation of funds in the Free State province. The allocation percentages in the Free State has declined from the previous year's allocation to the present year by just over 11 percent. It was highlighted on the presentation that there were a number of complaints related to lockdown which has increased by 67% compared to the same time last year. The IPID was asked how it dealt with the higher increase of complaints if its share of allocations in the province has declined.

IPID responded and indicated that it used the following criteria to allocate the resources to provinces; size of the province, case intake and number of investigators. Free State Provincial office has been allocated more investigators compared to other provinces with the same size in respect of case intake. The case intake increase was mainly experienced during the Covid-19 period. In the event that the province is not coping, additional resources will be allocated through the sharing of available investigators.

### **5.6 IPID's Building/Offices**

Members wanted to know whether the building is purchased or leased, and also how the Department determines the allocation of buildings in the regional offices.

IPID responded that it will be renting the building that has been identified through the Department of Public Works. The current departmental budget allocated allows for rental and not buying of office buildings.

### **5.7 Challenges in relation to outstanding cases**

Members wanted to understand the challenges faced by IPID in respect of outstanding cases and how this was being addressed.

IPID responded that it is committed to investigating and completing all cases reported. IPID will consider the establishment of an intervention team to assist provinces. The investigation of some of the cases take longer mainly due to delays in obtaining the post mortem report and the unavailability of witnesses particularly during the lockdown period. The Department is currently developing a database of a panel of experts to assist in fast tracking the finalization of cases.

### **5.8 Rape Cases investigated by IPID**

Members wanted to understand how IPID investigates rape cases and the current status of these rape cases.

IPID responded that a total number of eight (8) cases of rape by police officers were reported. There was one (1) arrest made in North West and the case was postponed to the 21 July 2020. Gauteng reported three (3) rape cases and the investigation is completed on one case. In the other two cases, the complainants were not available to provide the statements, however arrangements have since been made to meet them. Two (2) cases were reported in the Western Cape and the investigation is completed on one (1) case and the other case is at the final stage of investigation, waiting on DNA results. Eastern Cape has reported one (1) case that is currently under investigation. One (1) case was also reported in Northern Cape and the investigation was delayed due to a quarantined suspect.

### **5.9 Gender Based Violence cases:**

Members wanted to know, if during IPID's investigations, weaknesses have been identified in relation to SAPS conduct and how IPID was addressing this with SAPS.

IPID responded that it has re-established its research unit to amongst others conduct an impact analysis on the SAPS weaknesses that results in Gender Based Violence.

### **5.10 Khosa Judgement update:**

Members requested an update from the Deputy Minister on the stages of implementation of the court orders in the Khosa judgement.

The Deputy Minister responded that the complainant was seeking to restate the law in terms of what was expected from security and law enforcement during lockdown and how they should collaborate on this. SAPS has complied with orders made in the judgement, eg code of conduct and guidelines on the use of force. The Deputy Minister informed the committee that SAPS would be appealing a portion of the court order related to internal investigations contained in paragraph 6.1.2 of the judgement. The Deputy Minister further informed the Committee that a complaints mechanism has been established, as required by the court judgement. SAPS has communicated with the public in respect of how they should report cases and publicized the numbers which the public should use to report cases eg the crime stop number and tip off on the 'mysaps' app. Contact numbers for the GBV command centre and IPID has been made available to the public.

#### **5.11 Appointment of Executive Director:**

Members raised concerns that the contract of the former executive director ended on 28 February 2019. Since then IPID has had two acting executive directors which may result in instability within the Department. Members were of the view that a timeframe had to be determined within which the Minister must appoint an executive director. Members proposed a three-month timeframe for this appointment. Members further raised concerns regarding the independence of IPID and asked the Department to indicate a timeframe for the process of reviewing the IPID Amendment Bill.

The Deputy Minister agreed with the Committee that the appointment of a permanent executive director was important for IPID. The Deputy Minister agreed that he would convey the sentiments of the Committee to the Minister to ensure that the appointment was made within the stipulated timeframe. In respect of the IPID Amendment Bill, the Deputy Minister indicated that they expected the process to be complete by 2021.

## **6. Recommendations**

6.1 Members emphasised the importance of the appointment of a permanent executive director for IPID. Members recommended that the Minister of Police ensure that the appointment of a

permanent executive director for IPID is made within three months. Members emphasised the importance of finding a fit and proper person for the position and recommended that the timelines should not compromise the quality of the recommended individual to the post of executive director of IPID.

6.2 Members recommended that oversight visits should be undertaken to police colleges and detective colleges to understand what types of training they are receiving and to ensure that they are recruiting police officers who are committed to being police officers.

6.3 Members recommended that IPID develop a strategy to compile information regarding the behaviour of police officers resulting from their investigations and that this information should be shared with SAPS towards improving police officer's compliance with the code of conduct.

6.4 Members recommended that continuous awareness training sessions should 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.

6.5 Members noted that IPID's communication, particularly with the media in relation to its cases under investigation was very poor. As a result of this, members recommended that IPID improves its communication and response to media reports regarding cases under investigation.

6.6 Members recommended that the IPID adhere to holding monthly meetings with the CSPA, NPA 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.

6.7 Members recommended that the Committee receives an update and report on the IPID's implementation of the Khosa court judgement, the Miggels investigation and the investigation into the Ficksburg journalist.

6.8 Members acknowledged the financial challenges faced by IPID, however members recommended that despite these challenges, IPID should find pro-active mechanisms to ensure that all cases are investigated effectively. Furthermore, due to the insufficient funding and the proposed expansion strategy, concerted efforts should be made to ensure that the appropriate funds are made available for IPID to function effectively.

## **7. Conclusion**

Members welcomed the presentations made by IPID and appreciated IPID's honesty in relation to its funding and resource challenges. Members encouraged IPID to continue fulfilling its mandate in conducting oversight over SAPS and MPS.

The Select Committee supports Budget Vote 24.

**Report to be considered.**