

# **Budget Review and Recommendation Report of the Portfolio Committee on Police on the Independent Police Investigative Directorate (IPID) Annual Report and performance for the 2020/2021 financial year, dated 1 December 2021.**

## **1. Introduction**

The Money Bills Procedures and Related Matters Amendment Act, (Act 9 of 2009) requires that a Budget Review and Recommendation Report (BRRR) be tabled in October every year. This year was affected by municipal elections and primarily because of the effects of the COVID-19 pandemic on the business of Parliament and government, the Annual Report hearings were held later in November. The Portfolio Committee the IPID BRRR hearing on 12 November 2021. The Portfolio Committee on Police, having considered the 2020/21 Annual Report of the Independent Police Investigative Directorate (IPID) reports as follows:

### **1.1 Mandate of the Committee**

The mandate of the Committee therefore is to fulfil its constitutional function to:

- Pass legislation;
- Scrutinise and oversee executive action and the organs of state including the South African Police Service (SAPS), the Civilian Secretariat for Police Service (CSPS), the Independent Police Investigative Directorate (IPID) and the Private Security Industry Regulatory Authority (PSIRA);
- Facilitate public participation and involvement in the legislative and other processes; and
- Engage, participate and oversee international treaties and protocols.

### **1.2 Purpose of the Budget Review and Recommendation Report**

In terms of Section 5 of the Money Bills Amendment Procedures and Related Matters Act, No. 9 of 2009 the National Assembly, through its Committees, must annually compile Budgetary Review and Recommendations reports (BRRR) that assess service delivery and financial performance of departments and may make recommendations on forward use of resources. The BRRR is also a source document for the Committees on Appropriations when considering and making recommendations on the Medium Term.

The Money Bills Amendment Procedures and Related Matters Act, section 5 (3) highlights focus areas on the budgetary review and recommendation report as:

- Providing an assessment of the department's service delivery performance given available resources;
- Providing an assessment of the effectiveness and efficiency of the departments use and forward allocation of available resources; and
- Including recommendations on the forward use of resources.

This report is structured as follows:

**Section 1:** Mandate of the Committee. This sections sets out the mandate of the Committee, the purpose of this report (Budgetary Review and Recommendation Report) and the process to develop this report.

**Section 2:** Overview of key policy focus areas. This section includes the policy determinations of the National Development Plan (NDP), Medium Term Strategic Framework (MTSF), Annual Performance Plan (APP) and Strategic Plan (2020 -2024) priorities stated by the President during his State of the Nation Address (SONA), the Medium Term Strategic Framework and key departmental policy areas

**Section 3:** Report of the Auditor-General of SA (AGSA). This section provides an explanation for the non-inclusion of the AGSA Report.

**Section 4:** Performance overview. This section provides an overview of Departmental performance on predetermined key performance indicators and targets.

**Section 5:** Committee observations: This section provides a summary of the observations made by the Committee during the 2019/20 Quarterly Report hearings.

**Section 6:** Committee recommendations

## **2. OVERVIEW OF KEY FOCUS AREAS**

## **2.1 The National Development Plan (NDP)**

The National Development Plan sets out the policy for policing and the country's development agenda until 2030. Amongst the key themes for policing, the NDP is clear on the type of policing changes that are needed for policing to be effective and professional.

The NDP lists five priorities for policing in its Vision 2030 scenario:

- 1) Strengthen the Criminal Justice System
- 2) Make the Police Service Professional
- 3) Demilitarise the Police
- 4) Build Safety Using an Integrated Approach
- 5) Increase Community Participation in Safety

Strengthening the criminal justice system is an imperative requirement for the public to have confidence in the police and ensure greater safety and it speaks to the Medium Term Strategic Framework (MTSF) Outcome 3: "All people are and feel safe." Given that 2020 was the start of the MTSF for 2020-2024, the performance and delivery of the target outcomes have been adjusted. The CJS must provide swift, equitable and fair justice in criminal matters and effectively deter crime on a sustainable basis is also closely linked to the NDP and forms one of the five focus areas of the NDP.

## **2.2 Medium Term Strategic Framework (2019-2024)**

The MTSF (2019-2024) is the implementation and monitoring framework for the NDP and is premised on three foundational pillars: a strong and inclusive economy, capable South Africans and a capable developmental state.

The MTSF proposes that the focus should be on implementation through getting all three spheres of government to work collaboratively. A district development model will be implemented to coordinate implementation at local level. The new model bridges the gap between the three spheres of government to ensure better coordination, coherence and integration of government planning and interventions.

There are seven priorities laid out in the MTSF as follows:

- Priority 1: Capable, Ethical and Developmental State
- Priority 2: Economic Transformation and Job Creation
- Priority 3: Education, Skills and Health
- Priority 4: Consolidating the Social Wage through Reliable and Quality Basic Services
- Priority 5: Spatial Integration, Human Settlements and Local Government
- Priority 6: Social Cohesion and Safer Communities
- Priority 7: A Better Africa and World

The seven priorities are further linked to 81 outcomes, 337 interventions and 561 indicators. The IPID contributes to Priority 1 and Priority 6.

Priority 6 proposes the important deliverables of fighting corruption through holding officials of government to account; Effectively defended, protected, safeguarded and secured communities through strengthening measures to protect borders and ports of entry; Reducing organised crime through reducing drug syndicates through the implementation of the Narcotics Intervention Strategy and the revised National Drug Master Plan; Reducing the levels of serious organised crime through the successful closure of serious organised crime project investigations and the reduction of organised criminal groups and gangs (including the implementation of the National Anti-Gang Strategy); Reducing levels of contact crime through a reduction of crimes against women and children, implementing the draft integrated crime and violence prevention strategy after consultation, strengthened community partnerships, increased police visibility and increased trust in the police.

## **2.3 State of the Nation priorities**

The President, in his State of the Nation Address (SONA) has developed seven priorities for the new administration during the MTSF period:

1. Economic transformation and job creation;
2. Education, skills and health;
3. Consolidating the social wage through reliable and quality basic services;

4. Spatial integration, human settlements and local government;
5. Social cohesion and safe communities;
6. A capable, ethical and developmental state; and
7. A better Africa and World.

During the February 2021 SONA speech, the President outlined the following priorities with respect to policing:

- **Resourcing of police stations:** As part as the SA Connect project, Government will roll out broadband to police stations.
- **Supply Chain Management:** The President noted that the Covid-19 pandemic has closed various global value chains.
- **Rural Safety:** The President committed Government's support for black small-scale farmers and pursuing programmes to assist smallholder and emerging farmers.
- **Corruption:** The fight against corruption and strengthening the state was identified by the President as one of the four overriding priorities of 2021.
- **Crime and violence:** The President stated, "Crime and violence continues to undermine people's sense of safety and security" and that tackling crime is central to the success of South Africa's recovery from the Covid-19 pandemic.
- **Economic crimes:** The President stated that crimes like cable theft, railway infrastructure vandalism, land invasions, construction site disruptions and attacks on truck drivers hamper economic activity and discourage investment.
- **Border Safety:** The President indicated that Government is fast-tracking the implementation and capacitation of the Border Management Agency (BMA) to curb illegal immigration and cross-border crime.
- **Gender-based Violence:** The President repeated his focus on ending gender-based violence as a key priority. Government has introduced three key pieces of legislation in Parliament last year to realise effective change in combatting gender-based violence. The President further stated that Government is making progress in reducing the backlog of gender-based violence cases and that Government continues to provide care and support to survivors of gender-based violence.

## 2.4 Ministerial Priorities

The Minister of Police, Hon Bheki Cele highlighted the following policing priorities for 2020/21:

- 1) The IPID Amendment Bill will be earmarked to address identified shortcomings, such as a proposal to include other law enforcement agencies in its aegis.
- 2) The IPID must continue to execute its mandate and ensure professionalisation of police service to restore the public confidence in the police service.
- 3) The IPID must expedite and prioritise the investigations of rape and death by police officers within a reasonable time frame.
- 4) The IPID is rooting out any form of transgression of the law in the ranks of SAPS and Municipal Police Services.
- 5) The IPID must speed up its investigations to ensure that those who are under investigation are brought before the courts speedily and expeditiously.
- 6) The IPID should implement its legislative mandate of its investigation of any alleged police misconduct and corruption independently so, without fear, without favour nor prejudice.

## 2.5 IPID Priorities

IPID has tabled the following key priorities in the 2021/22 Annual Performance Plan:

- a) The finalisation of IPID Amendment Bill;
- b) Strengthening of investigative capacity and refining processes to improve the quality of investigations;
- c) Prioritisation of cases which will include GBV&F, rape, death, corruption and torture;
- d) Full implementation of Section 23 of the IPID Act to comply with court orders;
- e) Continuous implementation ICT key infrastructure projects;
- f) Development and implementation of new strategies in line with the department's ten-point plan;
- g) Strengthening of partnership through development and signing of an MoU with key stakeholders; and

- h) Strengthening of internal control systems to ensure compliance with applicable legislation.

### 3. REPORT OF THE AUDITOR –GENERAL OF SOUTH AFRICA (AGSA)

The IPID received an unqualified audit opinion with a matter of emphasis on payables not recognised of R2.5 million that exceeded the payment terms of 30 days. This is a repeat finding from the previous financial year.

#### 3.1 Report on the audit of the Annual Performance Report

The AG was unable to obtain sufficient audit evidence for the reported achievements on three of the 13 performance indicators in the Investigation and Information Management Programme, including:

- Number of investigations of discharge of an official firearm by a police officer that are decision ready.
- Number of investigations of rape by a police officer that are decision ready.
- Number of investigations of corruption that are decision ready.

#### 3.2 Report on compliance with legislation

In terms of internal control deficiencies, the AG found that management did not implement adequate record keeping controls to ensure that accurate, complete and relevant information is available and retrievable on a timely manner to support compliance with key legislation.

## 4. SERVICE DELIVERY AND PERFORMANCE OVERVIEW 2019/20

### 4.1 FINANCIAL OVERVIEW

#### 4.1.1 Overall expenditure and performance

The IPID received a Main Appropriation of R355.7 million in 2020/21, which was a nominal increase of 5.6% compared to the previous financial year. National Treasury did not reduce the budget allocation due to an already constrained budget. In the Special Adjustment Budget, the Main Appropriation remained unchanged. However, during the Second Adjustments Appropriation, the budget was reduced with R14.69 million to an Adjusted Appropriation of R340.976 million. The Final Appropriation remained at R340.976 million at the end of the 2020/21 financial year, of which the Directorate had spent R340.939 million or 100 per cent of its Final Appropriation (slight underspending of R37 000.00 under Compensation of employees). The underspending on Compensation of employees was located under the Legal and Investigation Advisory Services Programme, which spent 99.4% of its Final Appropriation.

The rest of the three budget programmes spent 100% of their Final Appropriation budgets.

**Table 1: Overall performance in 2020/21**

| Programme R'000                                  | Adjusted Appropriation | Shifting of funds | Virement | Final appropriation | Actual Expenditure | Variance | % Spent |
|--------------------------------------------------|------------------------|-------------------|----------|---------------------|--------------------|----------|---------|
| Administration                                   | 89 941                 | 1227              | (814)    | 90 354              | 90 354             | -        | 100.0 % |
| Investigation Information Management             | 232 450                | 1 050             | (1236)   | 232 264             | 232 263            | 1        | 100.0 % |
| Legal and Investigation Advisory Services        | 6 020                  | -                 | (349)    | 5 671               | 5 635              | 36       | 99.4%   |
| Compliance Monitoring and Stakeholder Management | 12 565                 | 1                 | 121      | 12 687              | 12 687             | -        | 100.0 % |
| Total                                            | 340 976                | 2 278             | (2 278)  | 340 976             | 340 939            | 37       | 100.0 % |

#### 4.1.2 Irregular expenditure

The Department incurred irregular expenditure amounting to R712 000.00 during the 2020/21 financial year. However, the Department had a significant amount of R98.8 million brought over from previous financial years, of which R32.8 million was condoned during the 2020/21 financial year. This amount related to the lease contract for the Head Office Building (City Forum). The Department had a closing balance of R66.7 million in irregular expenditure at year end.

#### 4.1.3 Unauthorised expenditure

The Department did not incur any unauthorised expenditure in the 2020/21 (same as the previous financial year). However, the Department has historic unauthorised expenditure of R891 000.00 related to previous financial years that is awaiting authorisation.

#### 4.1.4 Fruitless and wasteful expenditure

During the year under review, the IPID incurred R5 000.00 in fruitless and wasteful expenditure, of which R1 000 was recovered. The Department has historic fruitless and wasteful expenditure of R125 000.00 from previous financial years. At year-end, the IPID had a closing balance of R129 000.00.

#### 4.1.5 Claims against the Department

In 2017/18, the Department had a contingent liability of R87.9 million allowed for civil claims against the Department. During the 2018/19 financial year, the Department incurred liabilities of R9.250 million and paid R41.018 million in liabilities. This resulted in a reduction in the contingent liability to R56.200 million at year-end. The Department further reduced its contingent liability to R49.8 million in 2019/20, which increased significantly to R84.9 million in 2020/21 (with claims amounting to R35.6 million incurred in 2020/21).

### 4.2 PERFORMANCE AT PROGRAMME LEVEL

Overall, the performance of the Department improved during the 2020/21 financial year achieving 73% of its performance targets compared to 70% overall achievement in the previous financial year. The Administration Programme is the only one of the four programmes that recorded a decline in performance from 43% in 2019/20 to 20% in 2020/21. Both the Compliance and Stakeholder Management and Legal and Investigation Advisory Services Programmes achieved 100% of their performance targets, while the performance of the Investigation and Information Management improved from 67% in 2019/20 to 69% in 2020/21. However, it should be noted that the AG was unable to verify the performance of three performance indicators in this Programme.

#### 4.2.1 Programme 1: Administration

The Administration Programme achieved only one from five performance indicator targets, which represents 20% of targets achieved, which a significant decline in performance from the already poor performance recorded in the previous financial year in which 43% of targets were achieved. The following targets were not achieved:

**Table 2: Performance targets not achieved by the Administration Programme**

|                                                                                                                                                                                                                        |                                                                                                                                                                                           |                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Percentage implementation of the Information and Communication Technology (ICT) Strategy <ul style="list-style-type: none"> <li>• Target: 90%</li> <li>• Achievement: 12% (8/65)</li> <li>• Deviation: -78%</li> </ul> | Percentage implementation of the risk mitigation strategies <ul style="list-style-type: none"> <li>• Target: 60%</li> <li>• Achievement: 57% (13/23)</li> <li>• Deviation: -3%</li> </ul> | Percentage compliance of SMS financial interests submitted through e-disclosure per year <ul style="list-style-type: none"> <li>• Target: 100%</li> <li>• Achievement: 97% (29/30)</li> <li>• Deviation: -3%</li> </ul> |
| Percentage vacancy rate per year <ul style="list-style-type: none"> <li>• Target: &lt;10%</li> <li>• Achievement: 11.5% (45/391)</li> <li>• Deviation: -1.5%</li> </ul>                                                |                                                                                                                                                                                           |                                                                                                                                                                                                                         |

The poor performance on the implementation of the ICT Strategy was due to budget cuts and projects that could not be implemented were deferred to the 2021/22 financial year. Various projects were also dependent on the relocation of the head office building. The Department of Public Works only handed over the new building on 26 March 2021.

#### 4.2.2 Programme 2: Investigation and Information Management.

The Programme achieved 9 from 13 performance targets in the 2020/21 financial year, which represents an achievement rate of 69%. The following four targets were not achieved:

**Table 3: Investigation and Information Management Programme**

|                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Number of investigations of deaths as a result of police action cases that are decision ready per year <ul style="list-style-type: none"> <li>• Target: 280</li> <li>• Achievement: 259</li> <li>• Deviation: -21</li> </ul> Underperformance due to: Delays in obtaining technical reports such as ballistic, post-mortem, histology) and constant temporary closure of laboratory due to COVID-19 infections | Number of investigations of rape by police officer that are decision ready per year <ul style="list-style-type: none"> <li>• Target: 130</li> <li>• Achievement: 81</li> <li>• Deviation: -49</li> </ul> Underperformance due to: Delays in obtaining technical reports such as DNA and low active workload cases. | Number of investigations of corruption that are decision ready per year <ul style="list-style-type: none"> <li>• Target: 85</li> <li>• Achievement: 52</li> <li>• Deviation: -33</li> </ul> Underperformance due to: Investigation is complex and takes long to complete. There were also challenges with witnesses not being able to identify alleged suspects or provide information. |
| Number of approved systemic corruption cases that are decision ready per year <ul style="list-style-type: none"> <li>• Target: 3</li> <li>• Achievement: 2</li> <li>• Deviation: -1</li> </ul> Underperformance due to: Due to the complex nature of systemic corruption matters, investigation was still in progress for other active cases                                                                   |                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                         |

#### Case Intake

During 2020/21, 6 122 cases were reported to the IPID, which is an increase of 9% compared to the previous financial year. Of the total, 5 998 cases involved the SAPS, 111 cases involved the MPS and 13 cases involved civilians. The figure below shows that while most categories recorded a decrease, five showed a significant increase, including rape in police custody (+36%), discharge of an official firearm (+21%), torture (+19%), assault (+11%) and other criminal matters and misconduct (+67%).

**Table 4: Changes in annual intake of cases per category**

| Annual intake                                     | 2019/20 | 2020/21 | Percentage changes |
|---------------------------------------------------|---------|---------|--------------------|
| Deaths in police custody                          | 237     | 217     | -8%                |
| Deaths as a result of police action               | 392     | 353     | -10%               |
| Complaint of the discharge of official firearm(s) | 684     | 830     | 21%                |
| Rape by police officer                            | 120     | 80      | -33%               |
| Rape in police custody                            | 11      | 15      | 36%                |
| Torture                                           | 256     | 256     | 19%                |
| Assault                                           | 3 820   | 4228    | 11%                |
| Corruption                                        | 84      | 66      | -21%               |
| Other criminal matter                             | 18      | 30      | 67%                |

|                                            |       |       |       |
|--------------------------------------------|-------|-------|-------|
| and misconduct                             |       |       |       |
| Systemic corruption                        | 1     | -     | -100% |
| Non-compliance with Section 29 of IPID Act | 57    | 47    | -18%  |
| Total                                      | 5 640 | 6 122 | 9%    |

Source: 2020/21 IPID Annual Report

At the end of the 2020/21 financial year, the IPID had an active case load of 15 317 and 23 187 post decision ready cases (also referred to as post decision monitoring cases, thus at year-end the IPID had a total case load of 38 501 cases. This is a significant backlog, which is increasing yearly and should be of significant concern to the Committee.

As in previous financial years, assaults remain the predominant category of cases (69% of the total cases) and has also shown a 11% increase in 2020/21 compared to the previous financial year. The highest number of cases was in the Western Cape with 1 016, followed by Gauteng with 678 incidents and Free State with 565 incidents. In terms of assault cases according to their description, the highest number of cases received were assault common with 3 757 incidents, followed by assault with the intent to do Grievous Bodily Harm (GBH) with 415 incidents, crowd management with 42 incidents and dog attacks with four incidents. Cases of death in police custody showed a decrease of 8% in 2020/21 compared to the previous financial year. While most provinces recorded a decrease, the following provinces recorded an increase: Free State (+12%), Gauteng (+4%), KwaZulu-Natal (+38%) and the Western Cape (+10%).

The leading cause of deaths in police custody is suicide by hanging. Of the 217 cases of death in police custody recorded in 2020/21, 64 persons hung themselves in police custody. Of the 64 hangings, most were committed in the Western Cape (17 incidents and a 31% increase compared to the previous financial year), followed by Gauteng (14 incidents and a 27% increase compared to the previous financial year) and the Free State (10 incidents and a 150% increase compared to the previous financial year). Items such as clothing and blankets were the main instruments used to commit suicide. IPID has noted with concern that suicide victims used other prohibited items such as rope, shoelaces and belts.

In terms of deaths as a result of police action, 353 cases were recorded, which is a 10% decrease compared to the previous financial year. Some cases involved more than one victim (deaths) and 388 persons died in the 353 incidents. Of the 353 incidents, 109 involved the death of a suspect during the course of a crime, and 106 incidents involved the death of suspects being shot during the course of arrest. It is concerning to note that 26 suspects were killed during the course of an investigation, of which nine deaths were due to assault, 14 suspects were fatally shot and three suspects were suffocated. During 2020/21, the IPID recorded 21 domestic violence deaths involving police members, during which 2 victims died from assault, 15 victims were fatally shot and four committed suicide.

During 2020/21, 11 persons were fatally shot by police during crowd management incidents. According to Section 29 of the Act, members of the SAPS and MPS should immediately notify the Directorate of any matters referred to in Section 28 (1) (a)- (f). They should, within 24 hours submit a written report to the Directorate and must provide their full cooperation in terms of the investigation, which includes, but is not limited to, arrangement of identification parades, availing members for affidavits and any other information required. The highest number of non-compliance cases were recorded in Mpumalanga with nineteen (19) cases, followed by Gauteng with thirteen (13) cases and Free State with four (4) cases.

The IPID made 1 887 criminal recommendations to the National Prosecuting Authority (NPA) for decision, of which 1 478 of referrals are still waiting for response, prosecution was declined for 369 cases, 34 cases were to be prosecuted and 6 cases were withdrawn. The IPID made 2 173 recommendations to SAPS during the period under review, which comprised of 686 recommendations where the IPID recommended to SAPS to discipline its member(s) and 1 487 recommendations where the IPID recommended no disciplinary action to SAPS member(s). Of the total referrals, the SAPS made 106 disciplinary convictions. The IPID made 47 recommendations to MPS during the period under review, which comprises of 16 recommendations where the IPID recommended to MPS to discipline its member(s) and 31 recommended no disciplinary action to MPS member(s). The majority of negative recommendations were to the Tshwane Metro Police Department (8 recommendations) followed by Ekurhuleni Metro Police (5 recommendations).

The following should be noted with respect to cases of assault/torture:

- 477 of 686 cases referred to SAPS were on assault/torture (65.16%)
- From the 179 finalised cases with a guilty verdict, 105 cases were on assault/torture (58.65%)
- From the 105 guilty verdicts on assault/torture, there were 2 dismissals (1.9%)
- The 2 dismissals from the total 477 assault/torture cases referred to SAPS (finalised and pending) equates to 0.42%.

Between April 2020 and March 2021, the IPID referred 477 cases of assault/torture to the SAPS for disciplinary action and by the end of this period, 0.42% of assault cases had led to a dismissal from the SAPS. The following should further be noted:

- Between April 2020 and March 2021, the IPID had an active case load of 7 820 assault cases and 665 cases on torture (combined total of 8 485 cases).
- In reporting that 105 guilty verdicts were reached on assault/torture cases at the end of this period, it represents 1.23% of the total case workload.
- The 2 dismissals represent 0.02% of the total case workload.

Thus, during the 2020/21 financial year, a police member under investigation by IPID for assault/torture had only a 1.23% chance of being found guilty of assault/torture and an 0.02% chance of being dismissed for allegations of assault/torture (2 dismissals/ 8485 cases).

#### **Discrepancy in IPID figures: 2020/21 Annual Report vs. Presentation**

On 26 May 2021, the Portfolio Committee on Police requested the SAPS and IPID to reconsolidate their statistics because the two sets differed. The table below shows that IPID amended their figures (presented on 17 August 2021 compared to May 2021) to reflect those presented by the SAPS in May 2021. According to the IPID the figures erroneously included the recommendations made to the SAPS as well as to the MPS. The figures were included in a table headed "Recommendations made to SAPS". The mistake (or misstated figures) in reporting on 26 May 2021, is repeated in the presentation scheduled for 10 November 2021 (slide 28). As per the 2020/21 Annual Report (and the August 2021 presentation), 2 173 referrals were made to SAPS and 47 referrals to MPSs.

**Table 5: Differences in data on recommendations**

|                                       | Total Recommendations to SAPS | Positive Recommendations | Negative Recommendations |
|---------------------------------------|-------------------------------|--------------------------|--------------------------|
| 26 May 2021                           | 2 220                         | 1518                     | 702                      |
| August 2021 and 2020/21 Annual Report | 2 173                         | 1 487                    | 686                      |
| November 2021                         | 2 220                         | 1 518                    | 702                      |
| Difference                            | -47                           | -31                      | 16                       |

The most significant change in the figures previously presented to the Committee is that of disciplinary recommendations made by IPID and disciplinary sanctions. These differences are shown in the table below.

**Table 6: Differences in disciplinary sanctions based on IPID referrals finalised**

| Date of presentation                     | Total Guilty | Dismissal | Salary suspended | Final written warning | Written warning | Verbal warning | Corrective counselling |
|------------------------------------------|--------------|-----------|------------------|-----------------------|-----------------|----------------|------------------------|
| 26 May 2021                              | 66           | 6         | 6                | 13                    | 32              | 5              | 4                      |
| 17 August 2021 and 2020/21 Annual Report | 179          | 28        | 13               | 31                    | 71              | 17             | 19                     |
| 10 November 2021                         | 66           | 6         | 6                | 13                    | 32              | 5              | 4                      |
| Difference                               | +113         | +22       | +7               | +18                   | +39             | +12            | +15                    |

#### **4.2.3 Programme 3: Legal and Investigation Advisory Services**

At the end of the 2020/21 financial year, the Legal and Investigation Advisory Services Programme achieved 4 from 4 performance targets, giving the Programme an achievement rate of 100%. The Programme's only outcome is to ensure that the Department's legal interests are protected, mainly focussed on the coordination of civil and labour litigation, drafting and reviewing contracts and service level agreements. The Programme also provides legal advice to investigators, of which only nine such advices were given during the 2020/21 financial year.

#### **4.2.4 Programme 4: Compliance Monitoring and Stakeholder Management**

At the end of the 2020/21 financial year, the Compliance Monitoring and Stakeholder Management Programme achieved 8 from 8 performance targets giving the Programme an achievement rate of 100%. During 2020/21, two performance indicator targets were reduced during the midyear adjustments to comply with COVID-19 gathering regulations, which were: 46 station lecture awareness training sessions per year instead of the initial 56 lectures and the number of formal engagements with key stakeholders was reduced from a planned 136 engagements to 107 such engagements. One of the outcomes of the Programme is to reduce the level of police criminality and misconduct through analysis feedback. As part of the indicators for this outcome, the Programme conducted several analyses during the 2020/21 financial year, including:

- 2 173 recommendations referred to the SAPS and MPS were analysed
- 1 838 criminal referrals forwarded to the NPA were analysed
- 74% (298 from 402) of responses from the SAPS and MPS were analysed
- 68% (497 from 733) responses from the NPA were analysed

Furthermore, five case docket inspections were conducted during the 2020/21 financial year to further contribute to the reduction in the level of police criminality and misconduct.

## **6. HUMAN RESOURCE MANAGEMENT**

At the end of the 2020/21 financial year, the Directorate had 346 filled positions against an approved establishment of 391 posts (45 vacancies), resulting in a vacancy rate of 11.5%. During 2020/21, the organisational structure was reviewed to ensure optimal utilisation of resources. The Department's baseline allocation has been reduced over the 2021 MTEF period. The budget cut was mainly in compensation of employees. All vacant posts in the establishment were reprioritised to accommodate the reduction of the budget baseline, which resulted in the process of filling vacant posts being put on hold.

## **5. COMMITTEE OBSERVATIONS**

The Portfolio Committee on Police made the following observations on the IPID performance:

### **Audit outcomes**

The Committee welcomed the audit outcome of IPID receiving an unqualified audit opinion with findings. All members were in support of the progress shown and encouraged the Department to work towards a clean audit. There were however concerns with respect to unauthorised expenditure which occurred when the budget was moved around from non-core programmes to core in order to implement section 23 of the IPID Act. The Committee emphasised that the IPID should work towards addressing the findings in order to reduce the findings.

### **IPID Performance**

The Committee raised its concerns sharply with the non-performance of the IPID with respect to certain of its programmes. The Committee emphasised that it was unacceptable for the IPID to have a 20% attainment of pre-determined objectives in Programme 1 (Administration), and 69% in Programme 2 (Investigation and Information Management). The targets were not met in these programmes and was concerning because Programme 2 is a core service delivery programme. Members felt it was very difficult to measure true performance of the Department if consequence management is not fully implemented.

### **IPID Independence**

The Committee noted that it welcomes all efforts to exercise the independence of IPID and the fact that it is dealing with the consequences of wrongdoing by members of the police. Members wanted to know if the Executive Director has made any recommendations to the Minister of Police on how the independence of IPID can be strengthened.

### **Quality assurance in investigations referred to the NPA**

The Committee raised its concerns about the fact that the NPA has in a number of cases declined to prosecute the cases referred to it. The Committee questioned the quality of investigations conducted

by the IPID and wanted assurances that the legal quality assurers appointed by the IPID were up to the task. Members wanted details on how many legal quality assurers were appointed and in which programmes they were located.

#### **Quality Assurance Framework for legal quality assurers**

Members also wanted to know if the Executive Director has developed a quality assurance framework and how it was monitored. This was especially important in view of the fact that the SAPS does not fully respect the IPID mandate and process. The Committee noted that such a framework was important, especially since cases referred to the NPA was returned with decisions by the NPA declining to prosecute.

#### **IPID assurance on technical reports**

The Committee welcomed the IPID assurance that it is seeking other means of securing independent technical reports such as ballistics and forensics reports. This would go a long way to strengthen the IPID's independence. However, the Committee wanted to know how the IPID can assure that those reports would be independent.

#### **Case backlogs**

Members of the Committee expressed their concerns that the case backlogs appear to be growing and stands at 39 000 cases and wanted to know if the IPID was making the impact they are supposed to. The department has shown that there are a number of poor investigations and there is an increase in deaths in police custody and rapes perpetrated by police officers. The Committee noted that something drastic has to be done about the situation as it cannot continue in this way.

#### **Colonel Kinnear matter**

The Committee noted media reports that the IPID handed a 61-page report on the death of Colonel Kinnear to the Minister and according to these reports two DPCI detectives in the Free State have not done their work properly when they had prima facie evidence of a crime that was going to be committed. Members called on the IPID to make the report available.

#### **Reopening of cases**

The Committee called on the IPID to make available the findings of the cases it re-opened after having been declined to prosecute by the NPA because of poor investigations. The Committee noted that the Executive Director promised to have those cases re-opened and asked the ED for a report on their findings of the re-opened cases. These included five dockets which were taken on criminality and misconduct. The Committee wanted the IPID to make its recommendations known to it.

#### **Progress on impact indicators**

The Committee noted that the IPID was asked to develop indicators that would address the impact of its performance. The Committee has not received such indicators, and asked for a progress report and what steps have been taken to align its indicators in this direction.

#### **Significant increase in civil claims**

The Committee noted the increase in civil claims and asked the IPID to provide a response as to the reasons for the significant increase.

#### **IPID Responses**

The IPID welcomed the responses from the Committee on the audit outcome and the need for independent technical reports. The ED reported that there have been recommendations made to the Minister of Police in this regard as the failure to secure such independent technical reports threatened the independence of IPID.

The IPID has 175 investigators and require much more investigators as there are over 185 000 police officers and more capacity is needed. There are quarterly meetings held with the Civilian Secretariat of Police and the ED indicated that the IPID needs to be part of the disciplinary hearings for SAPS personnel. The IPID wants access to all disciplinary hearings in order to monitor the outcomes of such disciplinary processes, as they are unhappy with the outcomes.

The IPID has recommended that the SAPS establish an Independent Disciplinary Panel to adjudicate disciplinary cases to deal with the inconsistencies in the SAPS disciplinary outcomes.

The ED reported that she has met with Adv De Kock of the NPA to provide it with support in terms of the recommendations that are held up in the offices of the NPA. The IPID did not have the budget to appoint legal quality assurers and have approached the Department of Justice to provide them with such legal quality assurers. The Department of Justice has agreed to support them, through training all the IPID investigators, but they have to sign a partnership agreement to this effect. This is proceeding.

The legal team from the Department of Justice is ready to assist in four hotspot provinces with backlogs and the *nolle prosequi* decisions. The IPID legal services has been asked to provide a concept document in order to deal with the backlog and the intention of the ED is to put its investigations programme on par with the Special Investigations Unit.

The IPID also reported that it has addressed the question of impact indicators and had a strategic planning session where it was discussed and they have agreed that they require to put record systems in place. A team has been nominated to attend to it and the Department is hoping that the outcomes would be implemented.

Where there are cases that is awaiting outstanding evidence, the IPID committed to making such information and evidence available for the cases to proceed. A plan has also been developed to address the backlog and the ED reported that they are seeing a spike in assault, rape in police custody and discharge of official firearm backlog cases. They have also done work on complex cases such as systemic corruption, and they are making progress with some cases being completed and others awaiting assessments.

The strategy for reducing the backlog is to prioritise death and rape cases and through this, the IPID will make significant progress, despite the acute shortage of personnel. They are also going to communities to promote the IPID.

The increase in contingent liabilities will be addressed through legal services and improving the quality of investigations. To this end, the IPID has developed a concept paper and engaged with the Justice College to train its investigators. It has also engaged the NPA and the Investigative Directorate for support. A number of interns are being trained and it was hoped that this will provide the desired results.

The Executive Director noted that there was a serious leakage of information and this compromises its investigations. The IPID will undertake a forensic investigation to determine the source of the leaks. As far as the investigation into the killing of Colonel Kinnear was concerned, the ED confirmed that there is prima facie evidence that senior members of the DPCI have not done their work, but that the investigation and report has not been completed. A preliminary report was made to the National Commissioner and the Minister and the IPID has requested another meeting with both the Minister and National Commissioner.

As far as criteria for investigators are concerned, the IPID requires prosecution-led investigations as the current quality of investigations are not so good. Some investigations have been re-opened and they have realised that they require forensic investigators. Some investigators have a matric qualification and the ED reported that she has asked forensic investigators to come on board.

The ED noted that she has refused to meet with the individual who requested to meet with her as he had insulted her and told her how useless she was. The ED felt her dignity was impaired by the accusations. The ED also confirmed that the national task team has been sent to the Free State province to start looking at some cases.

## **6. COMMITTEE RECOMMENDATIONS**

The Portfolio Committee makes the following recommendations:

1. The Committee recommends that the IPID develop an Audit Implementation Plan and make it available to the Committee by end December 2021. The Committee further recommends that the IPID addresses and implements all the recommendations of the AGSA and the Portfolio Committee on Police.
2. The Committee recommends that the IPID Management Team reviews its under-performance in the Investigation and Information Management programme and develop a turnaround plan and make such plan available to the Portfolio Committee by December 2021.
3. The Committee recommends that the IPID report back on its plans to procure independent technical reports.
4. The Committee recommends that the National Treasury consider making funds available to enable this to happen.
5. The Committee recommends that the IPID concludes the MOU with the Department of Justice to train IPID investigators to improve the quality of investigations and welcomes the decision to approach the Justice Department to provide and train Legal Quality Assurers.
6. The Committee recommends that the IPID urgently develops a plan and provide monthly reports on the case backlogs and measures to reduce such case backlogs.
7. The Committee recommends that the IPID report on the investigation into the death of Colonel Kinnear be made available to it.

8. The Committee recommends that the IPID provide it with a report on the recommendations it made with respect to re-opened cases, the number of re-opened cases and the decisions in those cases.
9. The Committee recommends the IPID develops impact indicators and make it available by February 2022.
10. The Committee recommends that the IPID reviews the increase in civil claims.

The Democratic Alliance and the Economic Freedom Fighters reserve their rights with respect to supporting the report.

**Report to be considered.**