

Budget Review and Recommendations Report of the Portfolio Committee on Police on the Independent Police Investigative Directorate (IPID) Performance for the 2022/2023 Financial Year Dated 20 October 2023.

The Portfolio Committee on Police, having considered the Annual Report and financial information of the Independent Police Investigative Directorate (IPID) for the 2022/23 financial year on 13 October 2023, reports as follows:

1. INTRODUCTION

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 to the Minister of Finance to amend the budget of a National Department.

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

- 1) Assess service delivery performance of departments given available resources;
- 2) Evaluate the effective and efficient use and forward allocation of resources (value for money in services delivered); and
- 3) May include recommendations on the forward use of resources.

The BRRR forms a source documents for the Standing/Select Committees on Appropriations/Finance when they make recommendations to the Houses of Parliament on the Medium-Term Budget Policy Statement (MTBPS). BRRRs must be submitted for tabling in the National Assembly after the adoption of the Appropriation Bill and prior to the adoption of the reports on the Medium Term Budget Policy Statement (MTBPS).

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.

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), the legislative mandate and key policies of the IPID.
- **Section 3: Report of the AG.** This section provides a summary of the report of the Auditor General of South Africa.
- **Section 4: Financial overview.** This section provides an overview of the financial statements of the Department for 2022/23 financial year.
- **Section 5: Performance overview.** This section provides an overview of Departmental performance on predetermined key performance indicators and targets during the 2022/23 financial year.
- **Section 6: Committee observations.** This section provides a summary of observations made by Members of the Committee during the 2022/23 IPID Budget hearing.
- **Section 7: Committee recommendations.** This section provides the recommendations made by the Committee.
- **Section 8: Conclusion.** This section provides a conclusion of the report.

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

2.3. Legislation and key policies

The IPID Act, 2011 (Act No. 1 of 2011) ("the Act") came into operation on 01 April 2012 to give 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;
- Make disciplinary recommendations to the SAPS resulting from investigations conducted by the Directorate;
- Provide for close 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 serious crimes committed by members of the SAPS and the MPS. It further obliges the SAPS and the MPS to report

on matters for investigation by the IPID and the status of implementation of disciplinary recommendations made by the IPID upon the completion of investigations.

In terms of section 28(1) of the Act, the Directorate must investigate:

- a) Any deaths in police custody;
- b) Deaths as a result of police actions;
- c) Complaints relating to the discharge of an official firearm by any police officer;
- d) Rape by a police officer, whether the police officer is on or off duty;
- e) Rape of any person in police custody;
- f) Any complaint of torture or assault against a police officer in the execution of his or her duties;
- g) 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 MEC or the Secretary for the Police Service; and
- h) Any other matter referred to the IPID because 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.

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

The IPID received an unqualified audit opinion with no material findings on the usefulness and reliability of the reported performance information, compliance with legislation, or internal control deficiencies. This is the first clean audit obtained by the Department.

4. FINANCIAL OVERVIEW

4.1. Overall expenditure

The IPID had a Final Appropriation of R363.5 million in 2022/23, of which R359.0 million was spent at year-end, which is 98.8% of the Final Appropriation (underspent with R4.5 million). The main contributing factor for the recorded underspending was the high rate of vacancies that could not be filled.

Table 1: Appropriation statement 2022/23

Programme R'000	Appropriation	Adjusted Appropriation	Final Appropriation	Actual Expenditure	Variance	% Spent
Administration	104 557	114 446	111 033	107 701	3 332	97.0%
Investigation Information Management	231 675	222 743	231 296	230 701	595	99.7%
Legal and Investigation Advisory Services	7 046	6 046	6 168	5 577	591	90.4%
Compliance Monitoring and Stakeholder Management	13 949	13 991	15 032	15 031	1	100.0%
Total	357 227	357 226	363 529	359 010	4 519	98.8%

Source: 2022/23 IPID Annual Report

In terms of economic classification, the following should be noted:

- The Department spent 95.9% of its Final Appropriation for *Compensation of employees*. At year-end, the Department underspent with R9.5 million.
- Significant overspending was recorded on *Advertising* (+R1.7 million). At year-end, the Department had spent 170.3% of its Final Appropriation on this item.
- Significant overspending was recorded on *Payments for capital assets* (+R5.0 million), of which the bulk was on vehicles (+R4.98 million). At year-end, the Department had spent 137.0% of its Final Appropriation on vehicles. The over-expenditure was offset by underspending of several other items, such as Compensation of employees (underspent with R9.5 million).

4.2. Expenditure per programme

Administration Programme: The Programme had actual expenditure of R107.7 million against a Final Appropriation of R111.0 million, which translated to 97.0% expenditure as a percentage of the Final Appropriation at year-end. The Programme underspent with R3.3 million, mainly under *Compensation of employees*.

Programme 2: Investigation and Information Management: The Programme had actual expenditure of R230.7.0 million against a Final Appropriation of R231.2 million which translates to 99.7% expenditure as a percentage of the final budget at year-end. The Programme realised a significant overspending on vehicles (transport equipment) at year-end. The Programme overspent with R5 million on this item and realised expenditure of 201.1% as a percentage of the final budget.

Programme 3: Legal and Investigation Advisory Services: The Programme had actual expenditure of R5.5 million against a Final Appropriation of R6,1 million, which translates to 90.4% expenditure as a percentage of the final budget at year-end. Underspending was mainly under *Compensation of employees* – only 89.2% of the final budget for this item was spent at year-end.

Programme 4: Compliance Monitoring and Stakeholder Management: The Programme had actual expenditure of R15.0 million against a Final Appropriation of R15.0 million, which resulted in 100.0% expenditure at year-end. The Programme recorded significant overspending on Advertising at year-end (overspent with R1.8 million / 182.4% of its available budget). The overspending was offset by underspending on Compensation of employees on which only 83.3% of its available budget was spent (underspending of R1.8 million).

4.3. Irregular expenditure

The Department did not incur irregular expenditure during the 2022/23 financial year. However, the Department has a significant historic amount of R66.7 million brought over from previous financial years. This amount related to the lease contract for the Head Office Building (City Forum). The Department had a closing balance of R66.8 million in irregular expenditure at year end.

4.4. Unauthorised expenditure

The Department did not incur any unauthorised expenditure in the 2022/23 (same as the three previous financial years). However, the Department has historic unauthorised expenditure of R891 000.00 related to previous financial years (2008/09 and 2005/06) that is awaiting authorisation.

4.5. Fruitless and wasteful expenditure

During the year under review, the IPID incurred R10 000.00 in fruitless and wasteful expenditure, of which no funds were recovered. The Department has historic fruitless and wasteful expenditure of R382 000.00 from previous financial years.

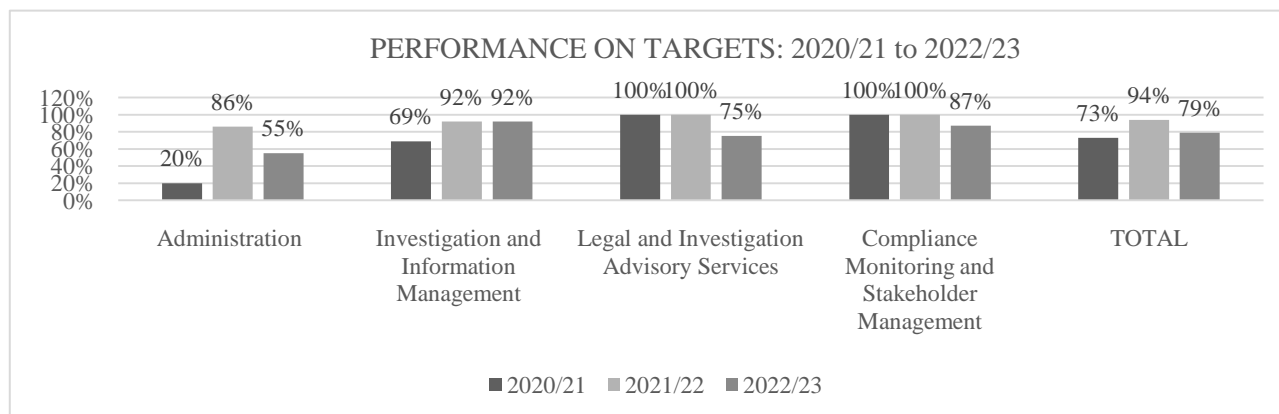
4.6. Claims against the Department

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).

During 2021/22, new claims to the amount of R26.3 million was registered. This was significantly less in the 2022/23 financial year, during which new claims to the amount of R3.7 million was registered. At year-end, the IPID had a closing balance of R110.56 million in civil claims against the State. The reduction of legal claims against the Department is at 36%. According to the Department, the

reduction was as a result of matters that were dormant for over three years. Such matters were removed from the contingent liability list in line with the approved Contingent Liabilities Policy. During 2022/23, the Department spent R17.6 million in liabilities that were paid, cancelled and/or reduced.

5. PERFORMANCE OVERVIEW



Overall, the performance of the Department declined during the 2022/23 financial year, achieving 79% of its performance targets compared to the 94% overall achievement in the previous financial year. Although the decline is across all Programmes, the largest decline is in the Administration Programme, which only achieved half of its performance targets.

5.1. Programme 1: Administration

The Administration Programme achieved five from nine performance indicator targets, which represents 55.5% of targets achieved, which is a significant decline in performance from the performance recorded in the previous financial year.

Table 2: Achievement on Performance targets by the Administration Programme

<p>Percentage implementation of the Information and Communication Technology (ICT) Strategy</p> <ul style="list-style-type: none"> Target: 60% Achievement: 70% (35/50) Deviation: +10% <p>Reason for deviation: Target is exceeded due to additional funding that was allocated to ICT projects.</p>	<p>Percentage implementation of the risk mitigation strategies</p> <ul style="list-style-type: none"> Target: 70% Achievement: 65% (17/26) Deviation: -5% <p>Reason for deviation: Target is not achieved due to some of the mitigations being partially implemented, dependency on external stakeholders and others were still at a planning phase.</p>	<p>Percentage implementation of Youth Development Strategy</p> <ul style="list-style-type: none"> Target: 80% Achievement: 92% (24/25) Deviation: +12% <p>Reason for deviation: Target exceeded due to implementation of catch-up plan.</p>
<p>Percentage vacancy rate per year</p> <ul style="list-style-type: none"> Target: <10% Achievement: 9% (37/397) Deviation: 1% <p>Reason for deviation: Target exceeded due to implementation of catch-up plan.</p>	<p>Percentage implementation of annual Internal Audit Plan per year</p> <ul style="list-style-type: none"> Target: 90% Achievement: 97% (31/32) Deviation: +7% <p>Reason for deviation: Target exceeded due to implementation of catch-up plan.</p>	<p>Percentage representation of youth in the Department per year</p> <ul style="list-style-type: none"> Target: 19% Achievement: 13% (46/360) Deviation: -6% <p>Reason for deviation: Target is not achieved due to limited vacant posts at salary level 5-12 to attract youth. The recruitment and selection process for 14 positions that became vacant from</p>

		December 2022 was still in progress by end of the financial year.
<p>Percentage representation of women at senior management service (SMS) per year</p> <ul style="list-style-type: none"> • Target: 50% • Achievement: 57% (17/30) • Deviation: +7% <p>Reason for deviation: Target achieved</p>	<p>Percentage representation of persons living with disabilities in the Department per year</p> <ul style="list-style-type: none"> • Target: 3% • Achievement: 2% (8/360) • Deviation: -1% <p>Reason for deviation: The recruitment strategy for salary level 5 - 12 is internal, thus no additional people with disability to be appointed.</p>	<p>Percentage procurement of goods and services from women-owned enterprises per year</p> <ul style="list-style-type: none"> • Target: 30% • Achievement: 26% (R19.7m/R75.2m) • Deviation: -4% <p>Reason for deviation: A bulk procurement to the value of R7.1 million of motor vehicles that were procured through the Treasury RT Contract had an impact on the performance and none of the service providers met the criteria.</p>

5.2. Programme 2: Investigation and Information Management

The Programme achieved 12 from 13 performance targets in the 2022/23 financial year, which represents an achievement rate of 92.3%. This is the same performance recorded in the previous financial year. Most of the targets were exceeded at year-end because they were reduced in 2022/23 to account for the challenges experienced during the COVID-19 pandemic. These targets were increased in the Department's 2023/24 Annual Performance Plan (APP).

The target that was not achieved in 2022/23, was on the number of investigations of corruption that were decision ready. The target was set at 70 cases of which 52 cases were completed (decision-ready) which is 18 cases less than planned. According to the Department, the National Specialised Investigation Team (NSIT) will assist with the investigation of corruption cases to address the underperformance recorded in the 2022/23 financial year.

Table 2: Achievements on targets: Investigation and Information Management Programme

<p>Number of investigations of deaths in police custody cases that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 80 • Achievement: 196 • Deviation: +116 <p>Reason for deviation: During planning for the 2022/2023 targets were revised downward considering the challenges that were being encountered during the COVID-19 pandemic; however, performance was optimised to ensure service delivery and reduction of backlog.</p>	<p>Number of investigations of death as a result of police action that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 240 • Achievement: 246 • Deviation: +6 <p>Reason for deviation: During planning for the 2022/2023 targets were revised downward considering the challenges that were being encountered during the COVID-19 pandemic; however, performance was optimised to ensure service delivery and reduction of backlog.</p>	<p>Number of investigations of discharge of an official firearm by a police officer that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 370 • Achievement: 498 • Deviation: +129 <p>Reason for deviation: During planning for the 2022/2023 targets were revised downward considering the challenges that were being encountered during the COVID-19 pandemic; however, performance was optimised to ensure service delivery and reduction of backlog.</p>
Number of investigations of	Number of investigations of	Number of investigations of

<p>rape by police officer that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 30 • Achievement: 101 • Deviation: +71 <p>Reason for deviation: During planning for the 2022/2023 targets were revised downward considering the challenges that were being encountered during the COVID-19 pandemic; however, performance was optimised to ensure service delivery and reduction of backlog.</p>	<p>rape while in police custody that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 1 • Achievement: 4 • Deviation: +3 <p>Reason for deviation: During planning for the 2022/2023 targets were revised downward considering the challenges that were being encountered during the COVID-19 pandemic; however, performance was optimised to ensure service delivery and reduction of backlog.</p>	<p>torture that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 80 • Achievement: 148 • Deviation: +68 <p>Reason for deviation: During planning for the 2022/2023 targets were revised downward considering the challenges that were being encountered during the COVID-19 pandemic; however, performance was optimised to ensure service delivery and reduction of backlog.</p>
<p>Number of investigations of assault that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 2 000 • Achievement: 2 565 • Deviation: +565 <p>Reason for deviation: During planning for the 2022/2023 targets were revised downward considering the challenges that were being encountered during the COVID-19 pandemic; however, performance was optimised to ensure service delivery and reduction of backlog.</p>	<p>Number of investigations of corruption that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 70 • Achievement: 52 • Deviation: -18 <p>Reason for deviation: Target is not achieved due to the complexity of corruption cases and investigations takes longer to complete.</p>	<p>Number of investigations of other criminal and misconduct matters referred to in section 28 (1)(h) of IPID Act that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 30 • Achievement: 130 • Deviation: +100 <p>Reason for deviation: During planning for the 2022/2023 targets were revised downward considering the challenges that were being encountered during the COVID-19 pandemic; however, performance was optimised to ensure service delivery and reduction of backlog.</p>
<p>Number of approved systemic corruption cases that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 1 • Achievement: 2 • Deviation: +1 <p>Reason for deviation: Investigations for cases that were registered in the financial year were prioritised and concluded.</p>	<p>Number of investigations of offences referred to in section 33 of the IPID Act that are decision ready per year</p> <ul style="list-style-type: none"> • Target: 15 • Achievement: 30 • Deviation: +15 <p>Reason for deviation: During planning for the 2022/2023 targets were revised downward considering the challenges that were being encountered during the COVID-19 pandemic; however, performance was optimised to ensure service delivery and reduction of backlog.</p>	<p>Percentage of dockets referred to the National Prosecuting Authority within 30 days of being signed off per year</p> <ul style="list-style-type: none"> • Target:90% • Achievement: 96% (1 999/2 093) • Deviation: +6% <p>Reason for deviation: Target exceeded due to improved monitoring processed</p>
<p>Percentage of recommendation reports</p>		

referred to the South African Police Service and Municipal Police Services within 30 days of being signed off per year <ul style="list-style-type: none"> • Target: 90% • Achievement: 92% (2 132/2 318) • Deviation: +2% <p>Reason for deviation: Target exceeded due to improved monitoring processed</p>		
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5.3. Case intake: 2022/23

During 2022/23, 5 274 cases were reported to the IPID, which is a decrease of 21 cases (statistically this is a decrease of 0%) compared to the previous financial year. Of the total case intake, 4 969 cases involved the SAPS, 90 cases involved the MPS and four cases involved civilians.

The figure below shows changes in case intakes in the various categories in 2022/23 compared to the previous financial year. Categories that recorded a decrease include, death in police custody (-1%), death as a result of police action (-4%), complaint of the discharge of an official firearm (-5%), assault (-2%) and non-compliance with section 29 of the IPID Act (-26%). Cases of rape by a police officer increased by 23% and rape in police custody increased by 100% (four cases compared to two cases), torture increased by 19%, cases related to other criminal matters and misconduct increased by 16% and cases of systemic corruption increased by 100% (one case compared to nil in the previous financial year).

In 2022/23, the Western Cape Provinces recorded the highest number of cases (1 038 from 5 274), of which the majority of cases involved assault (851 from 1 038, representing 82% of the total provincial case intake). The Gauteng Province recorded the second largest number of cases (976 from 5 274), followed by KwaZulu-Natal (644 from 5 274).

Table 3: Changes in annual intake of cases per category

Annual intake	2021/22	2022/23	Percentage changes
Deaths in police custody	223	221	-1%
Deaths as a result of police action	410	393	-4%
Complaint of the discharge of official firearm(s)	744	710	-5%
Rape by police officer	99	122	+23%
Rape in police custody	2	4	+100%
Torture	192	228	+19%
Assault	3 407	3 354	-2%
Corruption	59	71	+20%
Other criminal matter and misconduct	124	144	+16%
Systemic corruption	-	1	100%
Non-compliance with Section 29 of IPID Act	35	26	-26%
Total	5 295	5 274	0%

Source: IPID 2022/23 Annual Report

As in previous financial years, **assaults** remain the predominant category of cases (3 354 from 5 274), despite the overall number of cases decreasing slightly by 2%, it accounts for 64% of all cases recorded by the IPID in 2022/23. It should be noted that the IPID Amendment Act, 2023 (currently serving before Parliament) proposes that the category for assault be changed to only included assault with the intent to cause serious bodily harm.

Cases of **death in police custody** showed a slight decrease of 1% in 2022/23 compared to the previous financial year. While some provinces recorded a decrease, the following provinces recorded increases: Eastern Cape (+23%), Gauteng (+30%), Limpopo (+28%), and Mpumalanga (+8%). Most deaths in police custody was a result of injuries sustained prior to custody (80 cases) (leading to death while in custody), followed by natural causes (65 cases) and suicide by hanging (53 cases). The IPID only reported one case of death in police custody due to police action involving a vehicle collision.

The number of suicides in police custody decreased by 15% in 2022/23 compared to the previous financial year. According to the Department, items such as clothing and blankets were the main instruments used to commit suicide while in police custody.

In terms of **deaths as a result of police action**, 393 cases were recorded, which is a slight decrease of 4% compared to the previous financial year. The 393 cases included 448 deceased persons, as one incident can lead to multiple deaths. The Northern Cape Province recorded a decrease of 78% in 2022/23 compared to the previous financial year. The largest percentage increase was recorded in the Limpopo Province (+16%).

Of the 393 incidents, 164 involved the death of a suspect during the course of a crime, and 117 incidents involved the death of a suspect during the course of arrest. In terms of the latter, 10 suspects died as a result of assault, and 98 were shot with a service firearm. It is concerning to note that 26 suspects were killed during the course of an investigation, of which one died due to suffocation. During 2022/23, 9 people were killed during crowd management incidents, which is a significant decrease compared to the 21 persons fatally shot by police during crowd management incidents in the previous financial year.

In 2022/23, the IPID recorded 122 incidents of rape by a police officer, of which 43 rapes were perpetrated by officers on duty and 79 rapes by officers while off duty, which is an increase of 23% compared to the previous financial year. The number of rape by a police officer while on duty decreases by 12%, while the number of rapes by a police officer while off-duty increased by 58%. It is unclear whether the 122 incidents included a larger number of victims – as one incident can involve multiple victims. In 2022/23, four cases of rape in police custody were reported which is an increase of 100% (two additional cases).

The number of cases relating to other criminal matters and misconduct (not stipulated in the IPID Act) increased from 124 cases to 144 cases in 2022/23 compared to the previous financial year, which is an increase of 16%. In 2021/22, these cases increase to 124 from 30 cases (313% increase). This consistent increase is concerning.

The total active cases of the IPID as at the end of 2022/23 were 17 988 cases and 28 345 post decision ready cases. Overall the IPID has a workload of 46 333 cases. This is a significant backlog in cases still pending across various financial years. The IPID should provide an age analysis of the backlog cases showing the oldest cases.

At the end of 2022/23, a total of 3 594 cases were closed, of which 1 823 cases were declined and 1 281 cases were closed undetected. These two categories account for a total of 3 104 cases or 86% of the total number of cases closed during 2022/23. Of the 3 594 cases closed in 2022/23, only 50 cases were done so with a conviction, which is 1.4% of all cases closed during this period.

5.3.1.Criminal referrals to the NPA

The IPID made 2 093 criminal referrals to the National Prosecuting Authority (NPA) for decision, of which 1 347 of referrals are still waiting for response, prosecution was declined for 684 cases, 53 cases were approved for prosecution and nine cases were withdrawn. At the end of March 2023, a total of 56 criminal convictions were reported (three carried over from previous financial year), of which the majority was in cases of deaths in police custody (17 convictions), followed by deaths as a result of police action (13 convictions) and assault (12 convictions).

At the end of March 2023, the IPID was awaiting response from the NPA on 64% (which is an increase compared to 57.7% cases awaiting decision in the previous financial year). The NPA took a decision on 737 cases (684 declined to prosecute plus 53 decisions to prosecute), of which the NPA

declined to prosecute in 92.8% of cases. Only 7.1% of cases on which the NPA took a decision were to prosecute.

5.3.2. Disciplinary recommendations to SAPS and MPS

The IPID made 2 277 recommendations to **SAPS** during the period under review, which comprised of 794 recommendations where the IPID recommended to SAPS to discipline its member(s) (negative recommendations) and 1 483 recommendations where the IPID recommended no disciplinary action to SAPS members (positive recommendations). Thus, in 65.1% of cases, no action was recommended to be taken against SAPS members and in 34.8% of cases, disciplinary actions were recommended

Of the total referrals for disciplinary action (794), 191 disciplinary cases were initiated of which 116 led to a guilty verdict, 39 led to a not-guilty verdict, in 63 cases no steps were taken and seven cases were withdrawn.

During 2022/23, 257 disciplinary convictions were secured of which the majority led to a written warning (93), followed by dismissal (40%), final written warning (55), corrective counselling (17), verbal warning (20) and salary suspensions (32). The finalisation of cases often run over financial year, as such it is not completely accurate to measure disciplinary convictions against the case intake of a single financial year.

The IPID made 43 recommendations to **MPS** during the period under review, which comprises of 17 recommendations where the IPID recommended to MPS to discipline its member(s) and 26 recommended no disciplinary action to MPS member(s). The majority of negative recommendations were to the Tshwane Metro Police Department (11/17), followed by the Johannesburg Metro Police Department (3/17) and the Durban Metro Police Department (5/17). No recommendations were made to the City of Cape Town Metro Police Department and the Nelson Mandela Bay Metro Police Department.

5.4. Programme 3: Legal and Investigation Advisory Services

At the end of the 2022/23 financial year, the Legal and Investigation Advisory Services Programme achieved 3 from 4 performance targets, giving the Programme an achievement rate of 75%.

<p>Percentage of legal advice provided to investigators within 2 working days of receipt per year (not achieved)</p> <ul style="list-style-type: none"> • Target: 95% • Achievement: 92% (11/12) • Deviation: -3% <p>Reasons for deviation: The performance was off track during the second quarter due to the non-availability of responsible officials. All requests received in other quarters were finalised within the timeframe.</p>	<p>Percentage of legal advice provided to the Department within 30 working days of receipt per year</p> <ul style="list-style-type: none"> • Target: 70% • Achievement: 100% (8/8) • Deviation: +30% <p>Reasons for deviation: Target is exceeded due to the prioritisation of requests that were received.</p>
<p>Percentage of litigation matters referred with instructions to the state attorney within 10 working days of receipt per year</p> <ul style="list-style-type: none"> • Target: 100% • Achievement: 100% (18/18) • Deviation: N/A <p>Reasons for deviation: N/A</p>	<p>Percentage of contracts and service level agreements finalised within 30 working days of request per year</p> <ul style="list-style-type: none"> • Target: 90% • Achievement: 100% (13/13) • Deviation: +10% <p>Reasons for deviation: Target is exceeded due to urgency of requests that were received.</p>

5.5. Programme 4: Compliance Monitoring and Stakeholder Management

At the end of the 2022/23 financial year, the Compliance Monitoring and Stakeholder Management Programme achieved 7 from 8 performance targets giving the Programme an achievement rate of 87.5%.

<p>Number of formal engagements held with key stakeholders per year</p> <ul style="list-style-type: none"> • Target: 166 • Achievement: 167 • Deviation: +1 	<p>Number of media programmes held per year</p> <ul style="list-style-type: none"> • Target: 6 • Achievement: 6 • Deviation: N/A
<p>Percentage of recommendations referred to the SAPS and MPS that are analysed per year</p> <ul style="list-style-type: none"> • Target: 80% • Achievement: 99% (2 089/2 090) • Deviation: +19% <p>Reasons for deviation: Target is exceeded due to regular performance monitoring</p>	<p>Percentage of criminal referrals forwarded to the NPA that are analysed per year</p> <ul style="list-style-type: none"> • Target: 80% • Achievement: 100% (1 887) • Deviation: +20% <p>Reasons for deviation: Target is exceeded due to regular performance monitoring</p>
<p>Percentage of responses from the SAPS and MPS that are analysed within 30 days of receipt per year</p> <ul style="list-style-type: none"> • Target: 70% • Achievement: 79% (493/621) • Deviation: +9% <p>Reasons for deviation: Target is exceeded due to regular performance monitoring</p>	<p>Percentage of responses from the NPA that are analysed within 30 days of receipt per year</p> <ul style="list-style-type: none"> • Target: 70% • Achievement: 95% (1 057/1 106) • Deviation: +25% <p>Reasons for deviation: Target is exceeded due to regular performance monitoring</p>
<p>Number of station lecture awareness training conducted per year</p> <ul style="list-style-type: none"> • Target: 40 • Achievement: 71 • Deviation: +31 <p>Reasons for deviation: Target is exceeded due to the SMS deployment programme to all provinces.</p>	<p>Percentage implementation of Access and Awareness Rural Strategy per year</p> <ul style="list-style-type: none"> • Target: 60% • Achievement: 29% • Deviation: -31% <p>Reasons for deviation: Some activities were delayed.</p>

5.6. Human Resource Management

As at 31 March 2023, the Department had a total of 382 filled positions, against an approved establishment of 419 posts, which is a vacancy rate of 9%. The largest number of vacancies remain in the Investigation and Information Management Programme (17 vacant positions).

The Department had a turnover rate of 6.6% in 2022/23 (24 employees left the employment of the Department and 41 employees were appointed or transferred into the Department). The highest contributing factor was resignations (19).

Disciplinary action was taken against 12 employees during 2022/23, of which the sanctions included five final written warnings, three written warnings, one corrective counselling, two suspensions without pay and one dismissal. The Department reported two injuries on duty during 2022/23.

6. COMMITTEE OBSERVATIONS

The Committee made the following observations:

- 1) The Committee welcomed the unqualified audit opinion without any material findings (clean audit), which shows that proper financial systems and internal controls were in place during the 2022/23 financial year. Members commended the Department for this achievement. Despite the audit outcome, Members indicated that this does not mean that the Department is free from serious challenges, especially in terms of capacity constraints to effectively deliver on its mandate.
- 2) Members noted the slight decline in the overall performance of the Department, especially in the Administration Programme, and questioned the root causes for the decline when compared to the previous financial year.
- 3) Members noted that the Department underspent on its budget allocation for Compensation of Employees (COE), yet the Department has insufficient capacity to manage its caseload. Members further noted that funds were shifted from the COE budget allocation to that of Capital Assets to procure vehicles, and questioned whether this shift was approved by National Treasury. The Department was further requested to explain the intended purpose of the vehicles that were procured in the 2022/23 financial year. The Department indicated that the appointment of staff was delayed due to certain dependencies on other agencies for background and criminal record checks, which led to the underspending on the budget allocation for COE. The Department further indicated that attrition rate of staff is high, which also impacts negatively on expenditure on COE. The Department is currently reviewing its policy to reward employees, which will lead to improvements in the retention of staff members. The Department indicated that the current vehicle fleet is old and needs replacement to ensure that Investigators have sufficient and serviceable vehicles to attend crime scenes and conduct investigations.
- 4) Members noted the significant overspending recorded on advertising at year-end and questioned whether these funds could not have been allocated to a different budget items where funds are needed such as COE for the appointment of additional Investigators. The Department indicated that many posts were advertised throughout the 2022/23 financial year, which led to the overspending recorded on advertising. The Department, in collaboration with the Department of Government Communication and Information Systems (GCIS), also embarked on a radio campaign which ran for three months to communicate the mandate of IPID and raise awareness on how to access IPID services, especially in rural areas. The Department received positive feedback on the campaign from various stakeholders including the AGSA. The Department stated that additional funds are needed to embark on further awareness campaigns to strengthen the IPID's mandate and visibility.
- 5) Members noted the increase in civil claims against the Department during the 2022/23 financial year compared to the previous financial year and requested the Department to indicate the manner in which further increases will be stemmed and down-managed. The Department noted that it is sighted as second respondents in many cases (not first respondent) and further that contingent liabilities are being monitored. The Department is reviewing its contingent liabilities register and dormant cases are being cleared. The Department indicated that no funds are budgeted for contingent liabilities.
- 6) Members welcomed the funds allocated towards youth development, but requested additional details on the spending under this item and whether the desired outcomes are achieved. The Department indicated that focus was placed on the employment of youth as interns.
- 7) Members raised concern about the increase in backlog cases and noted that the total caseload of IPID was in excess of 46 000 cases at year-end. Members indicated that the IPID will not be able to down manage the active caseload with its current capacity and recommended that serious interventions must be made to assist the Department to effectively deal with new intakes and backlog cases. Members requested the Department to provide an age breakdown of active cases and further that the Department conduct a needs analysis to assist the Committee to advocate for additional funding to the Department. Members further indicated that capacity constraints will be ongoing for the foreseeable future. The Committee

suggested that the IPID must build their own pool of investigators to draw from in future. The Department acknowledged that the backlog is growing but that it is employing retired detectives to address the backlog. The Department stated that 60 per cent of its caseload are assault cases and that these are consuming the Department and its limited capacity. The Department noted that its Expansion Strategy was presented to Committee previously and needs to be funded. The Department stated that Investigators are currently appointed at Level 7 but that the suggestion to build an internal selection pool is an innovative way to address recruitment challenges and the Department will consider appointing junior investigators at lower salary levels.

- 8) Members noted that the bulk of the IPID's intake is related to assault cases and requested a breakdown of cases relating to assault common and assault with the intent to inflict serious bodily harm. Members highlighted that the Department's limited resources could be used to investigate cases of corruption, which will have a greater impact on the achievement of performance indicators. Members further asked whether the Department is engaging with other government agencies to overcome some of their capacity challenges.
- 9) The Committee expressed concerns about the turnaround time on decisions by the NPA on criminal recommendations referred for prosecution as well as the low conviction rate on criminal referrals. The Department is continuously analysing dockets that are declined for prosecution to identify areas for improvement. The Quality Assurance Framework has been developed and appointed quality assurers to assist and give guidance to investigators, but additional Quality Assurers must be appointed to address withdrawals and *nolle prosequi* cases. The IPID is working jointly with the Investigative Directorate (ID) and the Directorate for Priority Crime Investigations (DPCI) to assist with complex corruption cases.
- 10) The Committee requested the Department to provide more detail on the incidences of rape in police custody and rape by police officers. The Committee requested the Department to indicate the places where rapes were committed by police officers and requested a breakdown of the conviction rates for rape by a police member.
- 11) Members raised concern about the number of deaths in police custody of people who sustained injuries prior to detention. Members questioned whether arrestees are not sent for medical attention when they have visible injuries during processing. The IPID indicated that they are unable to respond to this question on behalf of SAPS. The question has been forwarded to the SAPS for response.
- 12) Members questioned whether the IPID conducts any preventative visits to police detention cells as part as South Africa's National Preventive Mechanism under the Optional Protocol to the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (OPCAT). The Department is conducting cell inspection as part of South Africa's National Preventive Mechanism (NPM).

7. COMMITTEE RECOMMENDATIONS AND REPORTING REQUIREMENTS

7.1. Recommendations to National Treasury

The Committee recommends the following:

- 1) The Committee recommends that National Treasury considers an increase to the IPID's budget allocation over the medium-term to fund the Department's Expansion Strategy, specifically for the appointment of IPID Investigators to improve the ratio between police officers and IPID Investigators. Consideration should be given to the development of entry-level investigator posts.

7.2. Recommendations on service delivery performance

The Committee recommends the following:

- 1) The Department should develop a comprehensive needs analysis to indicate the ideal number of Investigators needed to effectively deal with the Department's active caseload.

This should include a review of the Department's existing Expansion Strategy to find a balance between available funds and return on investments.

- 2) The Department should improve its budget baseline management to align it with existing fiscal pressures.
- 3) The Department should conduct spending reviews to monitor the efficient use of existing resources, such as ICT spending.
- 4) The Department should prioritise the filling of critical vacant posts.
- 5) The Department should have powers to enforce certain recommendations and/or be included in the SAPS disciplinary processes relating to investigations conducted by IPID.
- 6) The Department should reassess timelines of completion of investigations based on the types of investigations, complexities, and requirements. This should be aligned to budget allocations across the Department's Budget Programmes.
- 7) The Department should improve its marketing strategies to the public to bring about awareness of the role of IPID in police accountability.
- 8) The Department should continue its preventive inspection visits to police detention facilities/cells under South Africa's OPCAT obligation as and part of South Africa's NPM.

Progress on the implementation of recommendations should be submitted to the Committee by 01 February 2024. Progress should also be presented to the Committee as part of the Department's 2024/25 APP presentation during the 2024/25 budget hearings.

7.3. Reporting requirements

The Committee requests the following information to be submitted:

- 1) The Department must provide a comprehensive age analysis of its active cases (total active caseload), including backlog cases. The Committee would like to consider the oldest cases still open as well as the average completion time of cases in all categories under section 28 of the IPID Act, 2011.
- 2) The Department must provide a breakdown of assault cases in categories of assault common and assault with the intent to cause grievous bodily harm (GBH). The report should further explain the manner in which the IPID distinguishes between the two categories of assault.
- 3) In terms of rape committed by members of the SAPS and MPS (on and off duty) and rape committed in police custody, the Department must submit a report on the success rate of prosecutions and convictions on the aforementioned cases. The report should include possible reasons for low prosecution and conviction rates.

The requested reports must be submitted to the Committee by no later than 05 November 2023.

8. CONCLUSION

The Committee expresses its appreciation to the Minister of Police, Deputy Minister of Police, Executive Director of IPID and the staff of IPID for their services and commitment during the 2022/23 financial year. The Committee encourages the Department to improve its performance during the 2023/24 financial year (and going forward) to have a greater impact on the improvement of the professionalism of the police services (SAPS and MPS) and building public trust that criminality and misconduct in the police services will be rooted out.

The Democratic Alliance (DA) reserves their rights on the report.

Report to be considered.