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ANNUAL REPORT ANALYSIS OF THE INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE (IPID) 2017/18

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1. INTRODUCTION

The Independent Police Investigative Directorate (IPID) derives its mandate from the IPID Act, 2011 (Act 1 of 2011), which is to ensure effective independent oversight of the South African Police Service (SAPS) and Municipal Police Service (MPS). It is often difficult to measure the true performance of independent police oversight bodies through its effect on police conduct.

The IPID's performance showed improvement during the 2017/18 financial year, especially relating to the movement from a qualified to an unqualified audit with material findings. Despite the improved performance, major concerns remain on the lack of adequate performance management systems to provide reliable performance information and the low conviction rates on disciplinary and criminal cases referred to the SAPS and the National Prosecuting Authority (NPA).

In 2017/18, the Department had a 19% decrease in case intake compared to the 27% increase between 2015/16 and 2016/17. This decrease in case intake is not necessarily an indication of improved police conduct, but could be related to the high-impact-low-volume approach adopted by the Department, as well a closure of Provincial Offices. Coupled thereto is the underperformance on indicator targets associated with specific offences, including death as a result of police action, torture, assault and discharge of an official firearm by police members. These targets had significant variances between planned and actual performance.

This paper highlights the expenditure of the Directorate as at the end of the 2017/18 financial year and its service delivery achievements against the targets set in the Directorate's 2017/18 APP.



2. INTERNAL AND EXTERNAL AUDITS

2.1. Report of the Auditor General of South Africa (AGSA)

The IPID received an **unqualified audit opinion¹ with emphasis on matters** in the 2017/18 financial year. The emphasis of matters included:

- **Restatement of corresponding figures:** Corresponding figures for 31 March 2017 have been restated as a result of an error in the financial statements of the Department at, and for the year ended, 31 March 2018.
- **Payables not recognised:** Payables not recognised of R10 821 000, exceed the payment term of 30 days, as required in Treasury regulation 8.2.3. This amount, in turn, exceeded the R147 000 of voted funds to be surrendered by R10 674 000 as per the statement of financial performance. The amount of R10 674 000 would, therefore, have constituted unauthorised expenditure had the amounts due been paid in time. This was due to budgetary constraints experienced by the Department which led to the majority of prior year payables being settled in the current year.²

Performance on predetermined performance targets

The AGSA stated that the Department **did not have an adequate record keeping system** to enable reliable reporting on achievement of the indicators (listed below). As a result, the AGSA was unable to obtain sufficient appropriate audit evidence in some instances, while in other cases the supporting evidence provided did not agree to the reported achievements. Based on the supporting evidence that was provided, the achievement of these indicators was different from the reported achievements in the annual performance report.

The AGSA was also unable to further confirm the reported achievements by alternative means. Consequently, the AGSA was unable to determine whether any further adjustments were required to the reported achievements of the indicators listed below.

- Percentage of investigations of discharge of an official firearm cases by a police officer that are decision ready (*repeat finding*);
- Percentage of cases involving torture decision ready; and
- Percentage of investigations of corruption cases that are decision ready (*repeat finding*).

Annual financial statements, performance and annual reports

The financial statements submitted for auditing were not fully prepared in accordance with the prescribed financial reporting framework as required by section 40(1)(b) of the PFMA.

Material misstatements of expenditure and disclosure items identified by the auditors in the submitted financial statement were corrected and the supporting records were provided subsequently, resulting in the financial statements receiving an unqualified opinion.

¹ The Department was able to correct material misstatements of expenditure and provide supporting records to avoid a qualified audit.

² Note 20.2 in the Financial Statements of the Annual Report



Expenditure Management

Effective and appropriate steps were not taken to prevent irregular expenditure amounting to R6 717 000, as disclosed in note 23 to the annual financial statements, as required by section 38(1)(c)(ii) of the PFMA and Treasury Regulation 9.1.1. The majority of the irregular expenditure was caused by contracts to service providers having been extended on a month to month basis which has resulted in a contract extension exceeding the 15% or R15 million threshold as prescribed by National Treasury.

Payments were not made within 30 days or an agreed period after receipt of an invoice, as required by Treasury Regulation 8.2.3. This was due to budgetary constraints experienced by the Department which led to the majority of prior year accruals being settled after 30 days.

Procurement and Contract Management

Contracts were extended or modified without the approval of a properly delegated official as required by section 44 of the PFMA and Treasury Regulations 8.1 and 8.2.

Consequence management

Disciplinary steps were not taken against officials who incurred and/or permitted irregular expenditure which was incurred in the prior year, as required by section 38(1) (h) (iii) of the PFMA.

Internal control deficiencies

The following internal control deficiencies were highlighted:

- The Department did not implement a proper record management system to ensure that complete, relevant and accurate information is available to support the annual performance report.
- Management did not implement adequate controls over the preparation and review of the annual performance report to ensure that all reported performance indicators/ measures are free from material misstatements.
- Management did not implement adequate controls to review and monitor compliance with laws and regulations, which resulted in irregular expenditure and payments not being made within 30 days.
- Management did not approve contract extensions in accordance with their delegation of authority, resulting in the expenditure thereon being irregular.

2.2. Report of the Audit Committee

The Audit Committee recorded the following findings:

- Internal Audit did not manage to fully implement projects, namely IPID Committees Review; Occupational Health and Safety (OHS) and Financial Management, rolled forward to the 1st quarter of 2018/2019.
- The Committee has considered management's responses to address the matters raised by Internal Audit and AGSA and to facilitate corrective actions, improvements and monitoring the controls and procedures. The Committee, however, notes that not all the findings and recommendations of Internal Audit were implemented.



- The Committee also noted that the AGSA audit action plan was not fully implemented.
- The Committee recommends that additional effort should be made to implement these recommendations which will contribute significantly to an improved audit outcome.
- The Audit Committee is concerned that for three consecutive years no assurance could be provided on Information Communication Technology (ICT). As at 31 March 2018, progress in the procurement of ICT Audit Services was made, with the process being at Supply Chain Management evaluation phase.

The Audit Committee has identified specific focus areas to monitor, support and advise management on. These include:

- ICT;
- Implementation of the audit action plan;
- Coordination and cooperation on matters related to financial management and audit;
- improving the control environment;

The Audit Committee further drew attention to the following matters:

- Concern was expressed on irregular expenditure incurred during the 2017/18 financial year and that it related primarily to the extension of contracts. The Audit Committee that the irregular expenditure was avoidable and progress made by management will be monitored.
- The Audit Committee stated that the fact that if the reporting standard was on an accrual basis, then IPID would have indeed overspent, thus resulting in unauthorised expenditure. This is an indicator that IPID was severely constrained financially and unable to meet all its obligations during the financial year. This situation will recur unless additional resources are availed to IPID.
- Concern was expressed on the inability of the Department to pay suppliers within 30 days due to budgetary constraints.
- The Audit Committee stated that the AGSA's finding that this finding on inadequate recordkeeping in Programme 2 could have been avoided.

Key issue for consideration

- 1) Challenges on performance management systems have been raised for the IPID as well as the SAPS. The development and implementation of performance management is crucially important to ensure that complete, relevant and accurate information is available to support performance as reported.
- 2) The lack of assurance on ICT is a key concern. The Audit Committee indicated that the lack of assurance has been a challenge for three consecutive years. The inadequate information system has been identified as a high risk in the Department's 2018/19 Annual Performance Plan (APP). The contributing factor is obsolete IT infrastructure (network and equipment) and compromised information security. The Department plans to reprioritise funds for the upgrading of network and infrastructure. The Committee should request the Department to include the case management system (Flowcentric), as this is



a crucial component of the ICT infrastructure and a critical risk to the verifiable performance and effective case management of the Department.

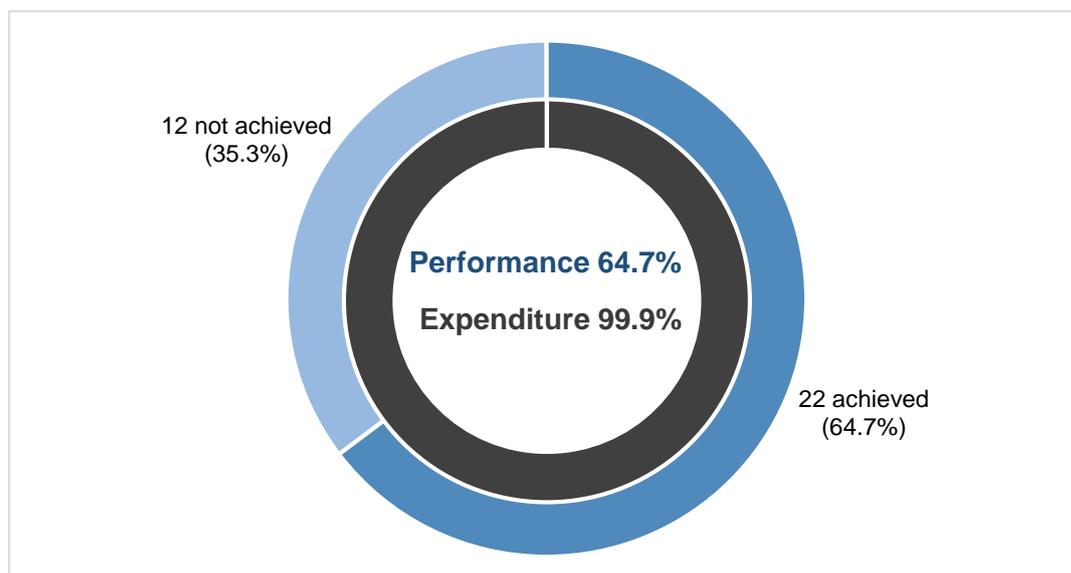
- 3) The Department should provide details on the progress made on the improvement made to the Modified Flowcentric system (case management system). *Flowcentric* is a crucial part of the ICT infrastructure and should be maintained and upgraded to ensure effective quality control on the reported performance information. The inadequate performance management system of the Department has been raised as a concern by the AGSA and the Audit Committee. The effective implementation and use of the system will assist the Department to report reliable performance information and evidence.
- 4) The Department should provide details on the procurement of an ICT Audit Service. The Committee should request the estimated costs associated thereto. Depending on the cost, the Department should provide assurance that proper Supply Chain Management (SCM) protocols were followed during the bid and appointment process.
- 5) The Department should provide details on the contacts that were extended and why this was done without the proper delegation of authority. How will the Department ensure that delegations of authority are properly applied in future?

3. EXPENDITURE AND PERFORMANCE: 2017/18 FY

3.1. Overall expenditure and performance

Departmental expenditure and performance achievements should be considered together in order to evaluate whether value for money was achieved from appropriated funds. When a disjoint between the percentage expenditure and percentage performance exists, it should be interrogated because performance should follow expenditure. In 2017/18, the Department spent R255.33 million of its R255.48 Final Appropriation, which represents an expenditure of 99.8% at year-end. In terms of performance, the Department had 34 performance indicators

Graph 1: IPID Performance against expenditure





of which 22 performance indicators targets were achieved and 12 were not achieved. This represents an achievement of 64.7%. As such, the Department realised a disjoint between expenditure and performance. The graph above provides a visual illustration of performance against expenditure.

At the end of the 2017/18 financial year, the Department had underspending of R145 000.00, which will be surrendered to the Revenue Fund. The underspending is an improvement against the R380 000.00 unspent at the end of the previous financial year. The table below provides a summary of the overall Departmental spending as at the end of the 2017/18 financial year:

Table 1: Appropriation statement

IPID Programmes R'000	Adjusted Appropriation	Virement	Final Appropriation	Actual Spent	Variance	% Spent
1. Administration	87 111	(2 716)	84 395	84 387	8	100%
2. Investigation and Information Management	156 946	3 630	160 576	160 576	0	100%
3. Compliance Monitoring and Stakeholder Management	11 425	(914)	10 511	10 375		98.7%
Total	255 482	-	255 482	255 336	147	99.9%

Source: IPID 2017/18 Annual Report

In terms of economic classification, the Department recorded overspending on several budget items. Expenditure on these items was recorded as:

- Goods and services – 110.3%
- Computer services – 122.4%
- Consultants – 109.8%
- Contractors – 171%
- Property payments – 123.6%

The Department made **virements** in the last quarter of the 2017/18 financial year from the Administration and Compliance Monitoring and Stakeholder Engagements Programmes to the Investigation and Information Management Programme (R3.63 million).

The Department has registered **irregular expenditure** amounting to R6.2 million on the contract extension which exceeded the thresholds without National Treasury approval. The request for approval of the disclosed irregular expenditure was submitted to National Treasury in November 2017. The AGSA made a material finding on the extension of contracts.

The Department did not incur an **unauthorised expenditure** in the year under audit. The reported amount in the 2017/18 financial statements is made of prior's over-expenditure by the then ICD in Programme 3 and 2 for the financial year 2005/06 and 2008/09 respectively. The Department made a submission with the supporting documents requesting the authorisation of the disclosed amount has since been submitted to SCOPA through National Treasury. Despite the fact that no unauthorised expenditure was recorded, the Audit Committee noted the AGSA's analysis of the fact that if the reporting standard was on an accrual basis, then IPID would have indeed overspent, thus resulting in unauthorised



expenditure. This is an indicator that IPID was severely constrained financially and unable to meet all its obligation during the financial year. This situation will recur unless additional resources are availed to IPID.

The Department under-disclosed an amount of R5 000 due to interest incurred as a result of late payment caused by budget constraints and the overtime claimed not in accordance to the granted approval. The R2 000 of the above amount was subsequently approved for write off by the Executive Director whilst the R3 000 for claimed overtime was reported to the Financial Misconduct Committee for evaluation and decision making.

The Department had a contingent liability of R89.6 million at year-end, of which R87.9 million was for **claims against the Department**. The opening balance for claims against the Department was R57.27 million and during the 2017/18 financial year, liabilities of R33.96 million was incurred, bringing the closing balance as at 31 March 2018 to R87.96 million. This is a 34.9% increase when compared to the previous financial year.

Key issues for consideration

- 1) The Committee should focus on the misalignment between expenditure and performance. In future, the Department should aim to improve performance against expenditure despite the constraints on their budget allocation.

3.2. Administration Programme

A R2.7 million virement was made to Programme 2: Investigation and Information Management Programme to address the projected budget shortfall reported in this Programme that originated from higher than planned travel and accommodation and legal costs. At year-end, the Administration Programme had a Final Appropriation of R84.39 million, of which R84.38 million was spent (100%). An amount of R8 000.00 was unspent and surrendered to Treasury.

The Administration Programme achieved four out of five performance indicator targets, which represents 80% of targets achieved. This is a significant improvement from the 42.8% of performance indicator targets achieved in the previous financial year. The performance indicator that was not achieved was on implementing 100% of the Annual Internal Audit Plan. This was due to the timing of provincial audit reviews that affected the execution of audits planned by Head Office.

3.2.1. Human Resource Management

The Department had an approved personnel establishment of 388, of which 359 posts were filled as at the end of the 2017/18 financial year (vacancy rate of 7.4%). The Department had 17 employees additional to the establishment, of which the majority are located in the Compliance Monitoring and Stakeholder Management Programme (11 of the 17).



Key issues for consideration

- 1) The Department should explain the 17 employees additional to the approved personnel establishment. Did the Department of Public Service and Administration approve the additional posts?
- 2) The Department should indicate what initiatives have been taken to ensure the filling of the eight vacant posts in the SMS.
- 3) The Department should indicate why 62.5% of all employees left the Department's employ by resignation (15 from 27).
- 4) The Department did not award any performance bonuses to staff despite the Department's improvement on performance.
- 5) The Department should indicate the nature of the 10 grievances that was lodged during the 2017/18 financial year. Further, the Department should indicate why three grievances were not resolved during the 2017/18 financial year.
- 6) A total of 14 disputes were lodged with Councils during the 2017/18 financial year, of which one was upheld, three were dismissed and 10 are pending. Can the Department provide more information on these disputes?
- 7) The Department should be asked to complete table 3.15.1 to 3.15.4 on page 102 Of the Annual Report regarding the utilisation of consultants, as the Department did incur expenditure on consultants during the 2017/18 financial year.

3.3. Programme 2: Investigation and Information Management

The core service delivery programme, Investigation and Information Management received an Adjusted Appropriation of R156.94 million in 2017/18. A virement of R3.63 million was made to the Programme (entirely to the Investigation Services subprogramme), which brought the Final Appropriation to R160.57 million of which 100% was spent at year-end.

In terms of economic classification within the Investigation and Information Programme, the following should be noted:

- Contractors: An in-programme shift was made from this item, leaving R49 000.00 as the Final Appropriation. At year-end, R152 000.00 was spent, thus overspending by R103 000.00 (310.2%)
- Consultants: The Department spent 155.6% of the Final Appropriation of the item.

The Programme achieved 10 out of 17 performance targets in the 2017/18 financial year, which represents an achievement rate of 58.8%. Although the achievement rate is low, it is a significant improvement when compared to the previous financial year in which only three out of 17 targets were met (17.6%).



In terms of Section 28(1) of the IPID Act, Act 1 of 2011, the IPID is obligated to investigate the following matters:

- 1) Any deaths in police custody;
- 2) Deaths as a result of police actions;
- 3) Any complaint relating to the discharge of an official firearm by any police officer;
- 4) Rape by a police officer, whether the police officer is on or off duty;
- 5) Rape of any person while that person is in police custody;
- 6) Any complaint of torture or assault³ against a police officer in the execution of his or her duties;
- 7) Corruption matters within the police initiated by the Executive Director on his or her own, or after the receipt of a complaint from a member of the public, or referred to the Directorate by the Minister, an MEC or the Secretary, as the case may be; and
- 8) Any other matter referred to it as a result of a decision by the Executive Director, or if so requested by the Minister, an MEC or the Secretary as the case may be, in the prescribed manner.

Section 28(2) of the IPID Act 1 of 2011, the IPID may investigate matters relating to systemic corruption involving the police. And section 29 of the Act places an obligation on members of the South African Police Service (SAPS) and Municipal Police Service (MPS), to report all matters referred to in Section 28(1) (a) to (f) to the IPID immediately upon becoming aware of such a matter and within 24 hours, forward the said report in writing to the IPID. Failure to comply with section 29 of the IPID Act by SAPS members is an offence in terms of section 33(3).

A total of 5 651 cases were reported to the IPID during the 2017/18 financial year. The IPID had an overall decrease of 19% compared to the 2016/2017 intake. The decrease was noted in most categories except in torture cases (25%), death as a result of police action cases (11%) and non-compliance with IPID Act cases (11%). In 2016/17, the overall intake of cases increased by 27% compared to the 2015/2016 year intake. Most cases reported were related to allegations of assault, followed by complaints of discharge of an official firearm, death as a result of police action, torture and death in police custody.

As the offences listed above must be investigated by the Department, performance indicators and targets have been developed to measure performance on this statutory obligation. The table below provides a comparison between the intakes in 2017/18 compared to the previous financial year together with the percentage change between the two financial years. The table also indicates whether the performance indicator target set for the finalisation of investigations related to the offences were achieved or not.

The table below shows that the Department achieved the performance indicator targets of 50% of mandatory cases for investigation. It shows that the intake of cases of death as a result of police action increased with 11% in 2017/18 and case of torture increased by 25%. This should be viewed against a significant underperformance on the performance indicator targets set in the 2017/18 financial year (deviations of 18% and 27% respectively).

³ The IPID distinguishes between torture and assault investigations



Table 3: Intake comparisons and performance on targets relating to offences

Section of IPID Act	Intake of cases	2016/17	2017/18 ⁴	% change	2017/18 achievement on targets for finalising investigations (decision ready)
28(1)(a)	Deaths in police custody	302	201	-33%	Target achieved. Investigated 72% of cases against a target of 62%
28(1)(b)	Deaths as a result of police action	394	436	11%	Target not achieved. Investigated 30% of cases against a target of 48%
28(1)(c)	Complaint of the discharge of official firearms(s)	1 640	677	-56%	Target not achieved. Investigated 21% of cases against a target of 60%
28(1)(d)	Rape by police officer (on or off duty)	112	105	-6%	Target achieved. Investigated 66% cases against a target of 65%.
28(1)(e)	Rape in police custody	20	9	-55%	Target achieved. Investigate 100% of cases.
28(1)(f)	Torture	173	217	25%	Target not achieved. Investigated 18% of cases against a target of 65%
28(1)(f)	Assault	3 827	3 661	-4%	Target not achieved. Investigated 31% of cases against a target of 51%
28(1)(g)	Corruption	160	124	-23%	Target achieved. Investigated 45% of cases against a target of 40%
28(1)(h)	Other criminal matter(s) and misconduct	169	148	-53%	Target not achieved. Investigated 22% of cases against a target of 51%
28(2)	Systemic corruption	6	4	-33%	Target achieved. Investigated 5 of cases against a target of 2
29	Non-compliance with section 29 of the IPID Act	62	69	11%	No target
Total		7 014	5 651	-19%	5 targets achieved/5 not achieved (50%)

Source: IPID 2017/18 Annual Report

Key issues for consideration

- 1) The Department should explain why a large shift was made from Contractors, which led to a significant overspending on the item. Similarly, the Department should explain the overspending of R1.0 million on computer services (146%).

⁴ The number includes both SAPS (5 524) and MPS (118) and civilians (9).



- 2) The Department should explain how investigations against civilians are conducted. During the 2017/18 financial year, nine civilians were investigated on charges of rape in police custody.
- 3) The Department should provide a docket analysis on cases relating to the discharge of an official firearm by police officers. This should examine the circumstances under which firearms are discharged – when and why.
- 4) The Department should indicate whether the low-volume-high-impact approach had an impact on the 19% decrease in the intake of cases.
- 5) The intake of cases on the discharge of an official firearm decreased significantly from 1 640 cases in 2016/17 to 677 cases in 2017/18, which is a 56% decrease. The Department set a target to fully investigate 60% of these cases, but only investigated 145 from 677 cases (21%). In the South African context where violent protests are increasing and police accused of brutality more effort should be put into the investigation on the discharge of official firearms.
- 6) Cases relating to non-compliance with section 29 of the IPID Act increased by 11%. Of the 35 cases referred to the NPA for criminal convictions, only one conviction was made and from the 35 disciplinary recommendations referred to SAPS, 11 disciplinary convictions were made.
- 7) During 2017/18, the Department made disciplinary recommendations to the SAPS on 1 823 investigations, of which 234 had disciplinary convictions and 159 had disciplinary acquittals. Thus, of the cases referred to the SAPS for disciplinary action, 12.8% had a disciplinary conviction. In total, 393 decisions were taken, thus leaving 1 430 investigations without decision.
- 8) The Department made 1 428 criminal recommendations to the NPA for prosecution, of which 99 convictions were made. As such, only 6.9% of the total cases recommended for criminal prosecution had convictions.
- 9) The investigations completed and referred to SAPS and the NPA have very low conviction rates.
- 10) The Department should indicate what becomes of the 34 cases referred to the NPA for criminal prosecution in which the NPA did not make a criminal conviction?
- 11) The underperformance on the target to reduce backlog cases should be concerning, as the backlog is seemingly growing. The Department planned to finalise 50% of backlog cases but only finalised 33% or 1 123 of the 3 343 backlog cases. The Department should address the backlog and also indicate from which date is the longest outstanding case.
- 12) Due to a lack of resources, the Department decided to prioritise five categories of cases based on their impact. These include death in police custody, death as a result of police action, rape by a police officer, rape while in police custody and corruption cases. The



Department should explain what methodology was used to determine the high impact categories.

3.3.1. Legal Services

The Legal Services Division is not part of the budget programme of the Department and should not be referred to as a Programme. The budget for Legal Services are addressed under Programme 1: Administration and Programme 2: Investigation and Information Management Programme budget programme.

Legal Services⁵ achieved four out of eight performance targets (50% achievement rate), which is a decline when compared to the 62.5% achievement in the previous financial year.

Key issues for consideration

- 1) The Department should indicate what the current status is on engagements with Treasury to have Legal Services reinstated as a budget programme of the Department.
- 2) The Department has restructured the Investigation and Information Management Programme and included Investigation Advisory Services Subprogramme to provide legal advice, guidance and support to investigators.

3.4. Programme 3: Compliance Monitoring and Stakeholder Management

The Compliance Monitoring and Stakeholder Management Programme had an Adjusted Appropriation of R11.42 million in 2017/18. After a virement of R914 000.00 was made from the Programme, it had a Final Appropriation of R10.51 million of which R10.37 million was spent (98.7%), leaving R139 000.00 unspent.

The Programme achieved all of the four performance indicator targets, which is an achievement of 100%. Furthermore, all the predetermined performance indicator targets were exceeded by a wide margin during the 2017/18 financial year. This is a significant improvement when compared to the 40% achievement rate of the previous financial year.

The expenditure and performance of the Compliance Monitoring and Stakeholder Management Programme are well aligned and should be a benchmark for the Department.

Key issues for consideration

- 1) Based on the overachievement on performance indicator targets, it would follow naturally that the Department should increase the targets in the next financial year. However, the Department effected various changes to the Programme's performance indicators. Four new performance indicators were added. A further two indicators were combined for which the new (combined) target is less than that of the separate indicators.

⁵ It should be noted that the Legal Services Programme was removed as budget programme, as per request of the Acting ED of IPID. The Programme has not yet been reinstated.



- 2) The Department should explain why the target for the number of community outreach events was reduced from 108 to 80 in the 2018/19 financial year. In 2017/18, the target was exceeded by 19 events, due to the collaboration with other Departments.
- 3) The Department should indicate whether there will be an increase in the number of collaborations with other government Departments in the 2018/19 financial year, so as to reach more communities.

REFERENCES

Independent Police Investigative Directorate (IPID) (2018). Annual Report for 2017/18.