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**ANALYSIS OF THE 2008/09 BUDGET OF THE INDEPENDENT COMPLAINTS DIRECTORATE  
(ICD): BUDGET VOTE 20**

**1. INTRODUCTION**

The aim of the Independent Complaints Directorate (the Directorate) is to provide an accessible complaints processing mechanism; efficient and effective investigation of complaints of deaths, misconduct and criminality allegedly committed by members of the South African Police Service (SAPS) and the Municipal Police Services (MPS); and to make appropriate recommendations.<sup>1</sup> The vision of the Directorate is a transformed police service in line with the spirit and purport of the Constitution, while its mission is to promote proper police conduct.<sup>2</sup> The Directorate is an oversight body with both monitoring and investigative powers.<sup>3</sup>

**2. LEGISLATIVE MANDATE**

Section 53 (2) of the South African Police Services Act, Act 68 of 1995, stipulates that the Directorate:

- may upon receipt of a complaint, investigate any misconduct or offence allegedly committed by a member and may, where appropriate, refer such investigation to the Commissioner concerned;
- shall upon receipt of a complaint, investigate any death in police custody or as a result of police action; and
- may investigate any matter referred to it by the Minister or a Member of the Executive Council.<sup>4</sup>

Section 18, Domestic Violence Act (DVA), Act 116 of 1998, stipulates that it is misconduct for a member of the SAPS to fail to comply with an obligation imposed on him or her in terms of the DVA or the National Instructions issued in terms thereof. The Directorate must be informed of any such failure reported to the SAPS and that, unless the ICD directs otherwise, disciplinary action must be implemented against the offending member. In terms of the South African Police Service Act, 1995, the Directorate is empowered to investigate all cases of misconduct against the SAPS and Municipal Police Service (MPS), including the following categories of offences and misconducts:

- Where SAPS member kills or causes the death of any person involved with him or her.
- Where a member commits an offence such as assault, rape, etc. against a person in a domestic relationship with a member, such as a spouse.
- Where a member neglects or refuses to assist a victim of domestic abuse.

The Domestic Violence Act, 1998, provides that when a member of the SAPS fails to comply with an obligation imposed in terms of the Act his or her actions constitute misconduct. The Directorate must be informed of any such failure reported to the SAPS. The Directorate must report to Parliament on a six monthly basis. Such reports should set out the number and particulars of the cases received by the Directorate regarding non-compliance with the Domestic Violence Act, as well as its recommendations in such matters.

<sup>1</sup> ENE, 2008. Vote 20, Independent Complaints Directorate, p. 401.

<sup>2</sup> ICD Annual Report, 2006/7, p. 4.

<sup>3</sup> The ICD Annual Report 2006/07 is titled: "To promote proper police conduct – 10 years of policing oversight". In addition, the Centre for the Study of Violence and Reconciliation (CSV) refers to the ICD as an oversight body that combines monitoring and investigative roles, in a 2005 publication on police oversight.

<sup>4</sup> ICD Annual Report, 2006/7, p. 4



### 3. POLICY PRIORITIES 2008

#### 3.1 Priorities identified by the State of the Nation Address

The 2008 State of the Nation Address<sup>5</sup> identified the revamping of the criminal justice system, to intensify the offensive against crime, as a priority. It does not make any specific reference to the Directorate, but given the emphasis on overhauling the criminal justice system, of which the Directorate is an integral part, many of the identified priorities are of relevance to its work. The 2008 State of the Nation Address utilises 24 Apex Priorities, one of which is the implementation of special crime combating and security initiatives. A key focus of this priority is the undertaking to enhance the combating and prevention of crimes against women and children.<sup>6</sup> The Directorate has two important functions in this regard.

Firstly, the SAPS must report all instances of non-compliance by SAPS members with regard to their obligations in terms of the Domestic Violence Act or National Instructions, to the Directorate. Thus, if a member of the public, for example, feels that the police did not act appropriately with regard to a domestic violence incident, this should be reported to the police, who are then obliged to report this to the Directorate. The SAPS member must then be disciplined, unless the Directorate recommends otherwise. Secondly, incidents of domestic violence, including abuse of spouses and/or children, committed by SAPS members must be reported to the Directorate in terms of the South African Police Services Act, No. 65 of 1995. It is thus clear that the Directorate has an important role to play in terms of enhancing services to victims, particularly in cases of domestic violence, and the combating and prevention of crimes against women and children.

More generally, in terms of the priority identified in the State of the Nation Address on the further implementation of the Victims' Charter, the Directorate has an important function as a reporting body for all victims of police misconduct or criminality.

#### 3.2 Key Strategic Priorities

The key strategic priorities for the Directorate, as identified in the 2008 - 2011 Strategic Plan<sup>7</sup> are:

- Increase accessibility to communities by opening satellite offices in the provinces. Two satellite offices were opened in 2007/08 in Mthatha (Eastern Cape) and Richards Bay (KwaZulu-Natal). Four additional offices are planned for establishment in 2008/09 in the Free State, Northern Cape, Limpopo and the North West provinces.
- Increasing investigative capacity by developing suitable staff as investigators. This is part of its restructuring programme to transform posts of existing monitors and analysts into assistant investigators and investigators.
- To meet its targets of finalising 60 per cent of new cases of deaths within 120 days and 50 per cent of cases of criminality and 60 per cent of cases of misconduct within 90 days.
- To fill three additional posts in the finance sub-directorate to ensure better compliance with the Public Finance Management Act, 1999.<sup>8</sup>
- Reducing deaths in police custody due to police action.<sup>9</sup> The number of criminal offences committed by members of the police increased from 1 643 in 2005/06 to 1 787 in 2006/07, which denotes a 11 %

<sup>5</sup> SONA, 2008.

<sup>6</sup> SONA, 2008. Strategic Priorities for the Directorate, as identified in the 2008 - 2011 Strategic Plan are:

<sup>7</sup> ICD, 2008. Strategic Plan 2008 - 2011. p. 5.

<sup>8</sup> Parliamentary Monitoring Group, 2007.

<sup>9</sup> ENE, 2008. Vote 20, Independent Complaints Directorate, p. 402.



increase. On the other hand incidences of police misconduct fell from 2 855 to 2 760. The number of complaints registered with the ICD decreased from 5 903 in 2003/04 to 5 412 in 2006/07.

- Increase police co-operation on domestic violence non-compliance matters.<sup>10</sup> In terms of the Domestic Violence Act, 1998, it is a misconduct for a member of the SAPS to fail to comply with an obligation imposed on him or her in terms of the Domestic Violence Act, or the National Instructions issued in terms thereof. In practice, very few of these non-compliance cases have been forwarded to the Directorate.

#### Possible Questions

- The restructuring programme saw the translation of the posts of monitors and case analysts into investigators and assistant-investigators. Have any 'teething problems' been encountered with the quality and effectiveness of the investigation of cases by these investigators and assistant investigators? If yes, what are these and how is it being addressed?
- How well have these satellite offices been operating and how many cases have they dealt with respectively since their establishment?
- What is the progress with the opening of satellite offices in the Free State, Northern Cape, Limpopo and the North West provinces be opened?
- When will satellite offices be opened in Mpumalanga, Gauteng and the Western Cape?
- Has the targets been met with regards to the finalisation of cases within the 120 and 60 days deadlines that have been set?
- The 11% increase in deaths in police custody and due to police action, is worrisome. What steps has the ICD taken to effect a decrease in these deaths?
- What were the outcomes of investigations into especially deaths due to police actions?
- The creation and filling of financial posts have been welcomed. What is the progress on the concerns that the Auditor-General has noted in his qualified report for the Directorate?
- How many vacancies are there currently and at what levels are these vacancies?

#### 4. CONCERNS RAISED BY THE PORTFOLIO COMMITTEE DURING 2007

The Safety and Security Portfolio Committee raised a number of concerns during 2007 Budget and Annual Report briefings of the Directorate, including:

- Backlogs in finalising complaints.
- Staff vacancies, particularly in finance.<sup>11</sup>
- Quality of the Directorate's reports.
- Inefficiency of the Eastern Cape office.
- High rates of deaths in police custody and as a result of police action.<sup>12</sup>
- The validity and accuracy of statistics.<sup>13</sup>
- The Directorate relationship with SAPS, especially recommendations to the SAPS.<sup>14</sup>

#### Possible Questions

- One of the reasons given for the backlog in finalising cases is the limited capacity. With the latest round of appointing investigators, what is the average case load per investigator per province and nationally year for the year under scrutiny?
- The Committee has pointed out that the quality of the ICD's reports is shocking. What kind of interventions has been instituted to improve the quality of the reports?

<sup>10</sup> PMG, 2007. Independent Complaints Directorate Budget 2007/8 briefings, on 15 and 25 March 2007 and dated 28 March 2007. <http://www.pmg.org.za>.

<sup>11</sup> Minutes of the Portfolio Committee on Safety and Security. Dated 15 March 2007. Parliamentary Monitoring Group. <http://www.pmg.org.za>.

<sup>12</sup> Annual Report 2006/7 notes 698 deaths, an increase of 11%.

<sup>13</sup> PMG, 2007. Independent Complaints Directorate Budget 2007/8 briefings, on 15 and 25 March 2007 and dated 28 March 2007. <http://www.pmg.org.za>.

<sup>14</sup> PMG, 2007. Independent Complaints Directorate Annual Report briefing, dated 21 November 2007. <http://www.pmg.org.za>.





- The relationship between the SAPS and the Directorate was identified as being problematic, especially regarding recommendations that the ICD make to act against SAPS members. What has been done to address this?
- The problems that the Eastern Cape ICD has been experiencing have been a concern to the Committee. What is the latest regarding this provincial facility of the ICD?

## 5. ADJUSTED ESTIMATES OF NATIONAL EXPENDITURE 2007

The Adjusted Estimates of National Expenditure 2007<sup>15</sup> indicates the virements that took place in the Programme: Administration. Table 1 illustrates the different virements that took place in 2007. The main reasons supplied why funds were available were:

- The inability to fill the Executive Director post.
- The decision to lease rather than purchase satellite offices.
- The delays in filling vacant posts due to the lengthy vetting process.

Funds were shifted towards payment of leases for the satellite offices, replacement of equipment and marketing of the ICD's 10 Anniversary. While the Directorate refers to these as 'savings', in reality the funds were utilised under another programme/subprogramme. This indicates that although the ICD spent their allocated budget, funds had to be shifted to other items.

Table 1: Details on virements per programme and economic classification<sup>16</sup>

Programme Economic classification	R thousand		Motivation
	From	To	
<b>1. Administration</b>	(579)	205	
<b>Current payments</b>	<b>(419)</b>	<b>140</b>	
Compensation of employees	(419)		Savings due to delays in filling the executive director post have been shifted to machinery and equipment (R65 000) and goods and services in programme 3 (R354 000).
Goods and services		140	Goods and services - 140 Funds shifted from buildings and other fixed structures will be used to pay leases for satellite offices.
<b>Payments for capital assets</b>	<b>(160)</b>	<b>65</b>	
Buildings and other fixed structures	(160)		Savings arose because satellite offices will be leased not bought. The funds have been shifted to goods and services in this programme (R140 000) and in programme 3 (R20 000).
Machinery and equipment -		65	Funds shifted from buildings and other fixed structures will be used to pay leases for satellite offices.
<b>2. Investigations of Complaints</b>	<b>(432)</b>		
<b>Current payments</b>	<b>(432)</b>		
Compensation of employees	(432)		Savings due to delays in filling vacant posts because of the long vetting process have been shifted to goods and services.
<b>3. Information Management and Research</b>	<b>(228)</b>	<b>1 034</b>	
<b>Current payments</b>	<b>(228)</b>	<b>1 034</b>	
Compensation of employees	(228)		Savings due to delays in filling vacant posts because of the long vetting process have been shifted to goods and services.
Goods and services		1034	Funds shifted from compensation of employees in programme 1 (R354 000), programme 2 (R432 000) and this programme (R228 000), and from buildings and other fixed structures in programme 1 (R20 000) will be used for marketing

<sup>15</sup> Adjusted Estimates of National Expenditure, 2007. p. 96.

<sup>16</sup> National Treasury, 2007. Adjusted Estimates of National Expenditure 2007. p. 95.



			the ICD's 10th anniversary.
Total Vote	(1 239)	1 239	

#### Possible Questions

- In planning for the satellite offices, were the leasing of satellite offices vis-a-viz purchasing properly considered? If yes, why was it found so late that leasing is a cheaper option?
- Have any options been taken out on the proposed sites that were to be bought? If yes, what were the financial implications for the Directorate?
- What exactly causes the delay with the vetting process? Has this issue been brought to the attention of the Minister of Safety and Security to follow up with his counter-part?
- The 10<sup>th</sup> Anniversary of the Directorate has been known well in advance. Why has the celebrations not been planned and budgeted for well ahead of time?

## 6. BUDGET ANALYSIS

### 6.1 Overall analysis

The Directorate's total budget<sup>17</sup> for the financial year 2008 has increased from R 80.8 million in 2007/08 to R 98.4 in 2008/09. This represents a nominal increase of 21.77% and a real increase of 13.69%. According to the ENE 2008, since 2004/5, the Directorate's budget has reflected an average annual increase of 17.3%. As can be noted in Table 2, the largest programme in 2008/09 is Complaints Processing, Monitoring and Investigation (CMI), consuming 50.7 per cent of the ICD's 2008 budget. Administration consumes 36.2 per cent and Information Management and Research 13.1 per cent. An additional allocation of R3.6 million has been made to the Directorate mainly for spending on the policy priorities of service delivery improvement and capacity building. In addition, the Directorate has identified efficiency savings of R500 000 in 2008/9, emanating mainly from a reduction in the budget for travel.<sup>18</sup>

Table 2

Programme	Budget				Nominal Rand change	Real Rand change	Nominal % change	Real % change
	2007/08	2008/09	2009/10	20010/11	2007/08 - 2008/09		2007/08 - 2008/09	
R thousand								
Programme 1: Administration	29 125	35 631	42 977	46 199	6 506	4 144	22.34 per cent	14.23 per cent
Programme 2: CMI	41 301	49 964	56 254	59 123	8 663	5 351	20.98 per cent	12.96 per cent
Programme 3: IMR	10 465	12 902	16 165	17 322	2 437	1 582	23.29 per cent	15.11 per cent
TOTAL	80 891	98 497	115 396	122 644	17 606	11 076	21.77 per cent	13.69 per cent

### 6.2. Programme 1: Administration

This programme comprises 36.2% of the total budget allocation for 2008/09. In nominal terms there was an increase of R6.5 million (22.34%), but if inflation is considered the increase amounts to R4.1 million (14.23%). The main reason for this increase is to provide for increased capacity in support services, including support staff in the newly established satellite offices, as well as for the

<sup>17</sup> ENE, 2008. Vote 20, ICD, p. 402.

<sup>18</sup> ENE, 2008. Vote 20, ICD, p. 404.



establishment of an Asset Management Unit at head office. The largest increase is in compensation of employees, which comprises 55.2 per cent of the total programme budget in 2008/09 compared to 51.9 per cent in 2007/08.

If one has regard to the different sub programmes, it shows that Sub programme 1: Management had a nominal increase of 7.97 % and a real increase of 0.982%. Sub programme 2: Corporate Services had the largest nominal increase namely 31.84 % with the real increase being 23.10%. The third Sub programme: Property Management, showed a nominal increase of 7.88% with a real increase of 0.73%. The large increase in Corporate Services, as indicated above, has to do with increasing capacity in support services, where the largest of this increase went to the compensation of employees.

Table 3

Programme 1 : Administration						
Programme: Administration	Budget		Nominal Increase / Decrease in 2008/09	Real Increase / Decrease in 2008/09	Nominal Percent change in 2008/09	Real Percent change in 2008/09
	R thousand	2007/08				
Sub-Programme 1: Management	5 380	5 809	429	44	7.97 per cent	0.82 per cent
Sub-Programme 2: Corporate Services	17 555	23 144	5 589	4 055	31.84 per cent	23.10 per cent
Sub-Programme 3: Property Management	6 190	6 678	488	45	7.88 per cent	0.73 per cent
TOTAL	29 125	35 631	6 506	4 144	15.9%	8.22%

The Portfolio Committee on Safety and Security has criticised the Directorate for spending such a large proportion of its budget on Administration, rather than on its core function, investigations.<sup>19</sup> However, it has been explained that many of the Human Resources related functions are provided at Head Office rather than at provincial level. In addition, the Directorate has received qualified reports by the Auditor-General for two consecutive years, largely in relation to financial discrepancies brought about by, among other things, the shortage of appropriately qualified staff.<sup>20</sup> Thus, it has been acknowledged that additional support is needed in Administration, including at Head Office, and funding for the establishment of the Asset Management Unit is welcomed. Hopefully, this will assist in ensuring that future reports by the Auditor-General are not qualified.

Funded posts are set to increase from 248 posts in 2007/08 to 270 posts in 2008/09. Further increases are envisaged for the Medium Term Expenditure Framework bringing the total funded posts to 322 in 2010/11. It is not clear how many of these newly funded posts will be for investigators, in order to give effect to the strategic priority to increase investigative capacity.<sup>21</sup>

The Directorate allocates 1 per cent of its total compensation for permanent and full-time contract employees on training,<sup>22</sup> while SAPS allocates 3 per cent on the same item for the period 2008/9.<sup>23</sup>

<sup>19</sup> Parliamentary Monitoring Group, 2007.

<sup>20</sup> Independent Complaints Directorate (2007) and Independent Complaints Directorate, 2007.

<sup>21</sup> ENE, 2008, Vote 20, ICD, p. 408.

<sup>22</sup> These include first aid, fire-fighting and HIV and AIDS training. ICD, 2007.

<sup>23</sup> ENE, 2008, Vote 20, ICD, p. 408.





This is a concern as the Independent Complaints Directorate officials need to be highly skilled in order to monitor and investigate complaints against the police, specifically those that are corrupt or guilty of misconduct. To this extent, increased training interventions should be undertaken by the Directorate's investigators to ensure they are better able to investigate and uncover criminal activities perpetuated by members of the SAPS and MPS. Furthermore, if one considers that the headcount for training in the Directorate was 203 out of 271 in 2006/7 and 91 out of 290 in 2007/8, it strengthens the argument to enhance the focus on training in the Directorate.

#### Possible Questions

- With the establishment of an Asset Management Unit at head office, has there been an improvement in the management of assets? Is this Unit fully staffed?
- There is a big increase in Payments for capital assets. What was this for, especially against the background that leases were considered instead of purchasing properties for the ICD offices?
- The largest increase has been in compensation to employees. Since the personnel turnover is high, what retention strategies have been put in place to retain existing staff?
- The increases in posts are in line with improving capacity in the Directorate. How many of these are allocated to investigators, as this is where the Directorate experiences some of its worst challenges.
- Are there any plans to handle the expected increase complaints as SAPS members will increase in numbers and an increase in cases can be expected?

### 6.3. Programme 2: Investigation of Complaints Processing, Monitoring and Investigation

This programme comprises 51% of the 2008 allocation, which translates to R8.6 million (20.98%) more in nominal terms but if inflation is considered it amounts to R5.3 million (12.96%). While this is the largest programme in the budget, it received the smallest increase in comparison to the other programmes.

Table 4

Programme 2: Complaints, Processing, Monitoring and Investigation						
Programme	Budget		Nominal Increase / Decrease in 2008/09	Real Increase / Decrease in 2008/09	Nominal Percent change in 2008/09	Real Percent change in 2008/09
	2007/08	2008/09				
R thousand						
Programme 1: Complaints, Processing, Monitoring and Investigation	40 469	49 142	8 673	5 415	21.43 per cent	13.38 per cent
Programme 2: Legal Services	832	822	- 10	- 64	-1.20 per cent	-7.75 per cent
<b>TOTAL</b>	<b>41 301</b>	<b>49 964</b>	<b>8663</b>	<b>5 351</b>	<b>20.23</b>	<b>5.63</b>

The sub-programme Complaints Processing, Monitoring and Investigation (the other being Legal Services), deals with the core functions of the Directorate and refers to the process of receipt, registration, processing and investigation of complaints of deaths in police custody, or as a result of police action, as well as complaints of misconduct and criminality. This includes the monitoring of issues related to the Domestic Violence Act. This sub-programme received a real increase of R5.4 million (13.38 per cent). The sub-programme Legal Services reflects a nominal decrease of 1.20 per cent and a real decrease of -7.75 per cent. The purpose of Legal Services is to provide officials of the Directorate with legal advice. No explanation is provided for this decrease.



A key development under this programme has been the implementation of the decision to transform case analysts and monitors into assistant investigators and investigators in order to increase the investigative capacity of the Directorate. In addition, continued monitoring of the functioning of the satellite offices is imperative in order to ascertain the extent to which the decentralisation of investigative capacity is contributing towards reduced case loads of investigators, and thus more timeous and effective resolutions of cases.

In addition, the Directorate needs to play a more proactive role in mobilising the SAPS to fulfil its reporting functions effectively, in terms of the Domestic Violence Act. This may include, for example, following up on the extent to which recommendations by the Directorate are implemented, and suggesting legislative and other changes that should be implemented to strengthen the monitoring and investigative roles of the Directorate in this regard.

#### Possible Questions

- What was the reason for the decrease Legal Services?
- How many cases were investigated in 2007/08?
- How many cases were finalised?
- What process is in place to ensure the follow up of recommendations by the Directorate to the SAPS in terms of the Domestic Violence Act?

#### 6.4. Programme 3: Information Management and Research<sup>24</sup>

The Information Management and Research programme represents 13 per cent of the allocation and reflects a R2.4 million (21.8 per cent) nominal increase (Table 2), but a real increase of R1.58 million. According to Table 5, the Research sub-programme reflects a real decrease of -0.24 per cent while the Information Management Systems sub-programme reflects a real increase of 18.2 per cent. The increase in the Information Management sub-programme is attributed to the purchase of machinery and equipment for the communication network.<sup>25</sup>

Table 5

Programme 3: Information Management and Research						
Programme	Budget		Nominal Increase / Decrease in 2008/09	Real Increase / Decrease in 2008/09	Nominal Percent change in 2008/09	Real Percent change in 2008/09
	R thousand	2007/08				
Sub-Programme 1: Research	1 753	1 873	120	- 4	6.85 per cent	-0.24 per cent
Sub-Programme 2: Information Management System	8 712	11 029	2 317	1 586	26.60 per cent	18.20 per cent
<b>TOTAL</b>	<b>104650</b>	<b>12902</b>	<b>2 437</b>	<b>1582</b>	<b>33.46 per cent</b>	<b>17.96 per cent</b>

Key concerns by the Portfolio Committee on Safety and Security regarding this programme have included the poor quality of research reports emanating from the Directorate's Research Unit, and questions around the effectiveness of marketing and communication strategies and structures of the Directorate.<sup>26</sup> Measures to improve the accessibility of the Directorate, particularly in rural areas

<sup>24</sup> Key challenges and tasks in Information Management and Research programme that were identified in the ICD's strategic plan 2006 - 2009 included: Maintaining an up-to-date database, and Improved relationship between police, Secretariat and civil society.

<sup>25</sup> ENE, 2008. Vote 20, ICD, p. 407.

<sup>26</sup> Parliamentary Monitoring Group, 2007.





(which may be partially addressed by the establishment of satellite offices), and increased marketing of the Directorate's role in terms for the Domestic Violence Act, should be reflected in the budget.

#### Possible Questions

- What does the purchase of machinery and equipment for the communication network entail? Will the above purchases assist in delivering a better communication system for the ICD?
- Has any plan been instituted to determine how effective the communication and marketing strategies are? If yes, what was the outcome and how can it be improved?
- What initiatives have the ICD undertaken to inform the public of the services it offers? How is public access to the ICD facilitated, particularly in rural areas? Is there for instance a toll free number or a hotline available?
- How well are the workshops to inform civilians of their rights being attended and at what times of the day are these conducted?

## 7. CONCLUSION

The 2008/09 Budget of the ICD addresses to a large extent the strategic priorities of the Directorate for the 2008/09 financial year. The increase in funded posts aimed at addressing the capacity challenges to investigate complaints effectively, is testimony to this. The allocation of increased funds for the development of existing and the establishment of new satellite offices, to enhance the reach of the Directorate, especially in rural areas, also supports the strategic priorities. It is in this sense that the stated purpose of the additional allocation, namely to improve service delivery and build capacity, is welcomed. There is, however, also a need for progress in improving the salaries of the Directorate's staff, as well as to improve co-operation with the police regarding compliance with the Domestic Violence Act, No 116 of 1998.

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staff, as well as to improve co-operation with the police regarding compliance with the Domestic