

Report of the Portfolio Committee on Safety and Security on Budget Vote 22 of the Independent Complaints Directorate.

The Committee has examined the Budget Vote of the Independent Complaints Directorate (ICD) for the 2006/07 financial year and the forward estimates for 2007/08 and 2008/09 included in the Estimates of National Expenditure (ENE) 2006, as well as the strategic priorities and reports as follows:

1. Introduction

The Portfolio Committee on Safety and Security received the following submissions on the budget of the Independent Complaints Directorate for 2006/07:

- Briefing by the Independent Complaints Directorate on 31 March and 17 May 2006.
- Briefing by the National Treasury on 17 May 2006.

2. Overview of the Budget of the Independent Complaints Directorate for 2006/07

2.1. Key Policy Issues Affecting the Vote

- **Vision 2005: Broadening the Scope of Investigation**

In terms of its vision for 2005, the ICD has committed itself to become a fully-fledged investigative body, capable of independently investigating all complaints (deaths, criminal offences and cases of corruption and misconduct) against the SAPS and the Municipal Police Services (MPS). In the past, the ICD only investigated complaints of a serious nature (deaths in custody and as a result of police action and some serious criminal offences). The SAPS undertook the investigation of less serious offences, with the ICD playing a monitoring role. However, due to additional funding, the ICD was able to fulfill its mandate more extensively.

Nevertheless, in order to address backlogs, the ICD reviewed its strategic objectives in 2004/05, and decided to no longer investigate less serious forms of misconduct, leaving this to the Secretariat for Safety and Security. Ultimately, the

ICD aims to permanently transfer the responsibility for investigating less serious offences to the Secretariat.

- **Capacity**

The development of internal capacity and the retention of good staff is still a key priority. Accordingly, four provincial head positions will be created in 2006/07, and more satellite offices will be opened in areas where complaints are greatest. Funding is available for the appointment of 14 additional investigators in 2006/07, and a further 20 and 29 in 2007/08 and 2008/09 respectively.

An Integrity Strengthening Unit was established in 2004/05 and was instrumental in developing a code of ethics, leading to a confidential ethics telephone hotline and email facility for whistle-blowing by employees.

The ICD Anti-Corruption Command was established in 2004/05. This unit is tasked with investigations of all corruption complaints registered against the SAPS and MPS.

The establishment of a new Proactive Oversight Unit in April 2005, which carries out targeted research on operations and systems and undertakes trend and case analyses, has strengthened the increased emphasis on proactive interventions.

- **Cooperation with Policing Bodies and Monitoring**

Despite the focus on investigations, monitoring remains an important function of the ICD. The ICD reports strong links and good co-operation with the SAPS. The National Protocol, which sets out relationships between the SAPS, the MPS, the Department of Transport (at the time responsible for training traffic officers) and the ICD documents the relationship between these bodies and is being continuously updated.

- **The Domestic Violence Act**

The ICD continues to monitor the implementation of the *Domestic Violence Act*. There has been a decrease of 45% in reported cases of non-compliance with the Act and domestic abuse perpetrated by police officials.

2.2. Broad Expenditure Trends

The total budget of the ICD for the financial year 2006/07 has increased from R54, 791 million in 2005/06 to R65, 906 million in 2006/07. The Department expects that its expenditure will continue to grow at an average rate of 15.2% per annum. At least half of this expenditure is on compensation for employees. Over

the MTEF, all the programmes are expected to grow strongly, particularly Investigation of Complaints and Information Management and Research.

Additional allocations were made in the 2006 Budget of R4 million for 2006/07, R7 million for 2007/08 and R13 million for 2008/09. These will be used primarily to increase its internal capacity to handle a higher caseload.

Table 1

Vote 22: Independent Complaints Directorate R thousand	Adjusted Appropriation 2005/ 2006	Medium-Term expenditure estimate			Nominal% Change from Last Year	Real % Change from Last Year
		2006/ 2007	2007/ 2008	2008/ 2009		
Administration	22132	22717	24094	25460	3%	-2.2%
Investigation of Complaints	22132	29094	34955	42324	31%	25.8%
Information Management and Research	10527	14095	14842	15583	34%	28.8%
Total	54791	65906	73891	83367	20%	14.8%
Change to 2005 budget estimate	5269	9714	13189	19660		

Real percentage change is calculated by deducting the Consumer Price Index of 5.2% from the nominal percentage change.

Table 2

Vote 22: Independent Complaints Directorate R thousand	Medium-Term expenditure estimate	% of Total Budget Allocation
	2006/ 2007	
Administration	22717	34%
Investigation of Complaints	29094	44%
Information Management and Research	14095	21%
Total	65906	

Note that the % of Total Budget Allocation is rounded off

2.2. Expenditure per Programme

Programme 1: Administration

Administration comprises 34% of the total budget allocation for 2006/07. This Programme demonstrates a nominal increase of 3%, but in real terms represents a decrease of 2.2%. Expenditure increases from R22, 132 million in 2005/06 to R22, 717 million in 2006/07. Expenditure on compensation of employees comprises 56.3% of the total programme expenditure, as compared to 52.2% for 2005/06.

From 1 April 2006, the cost of leases and accommodation costs will devolve to the responsible department from the Department of Public Works. Accordingly, the ICD received R5.7 million from Public Works to cover these expenses.

Over the MTEF, growth will normalise but will increase to cover the costs of relocating three new satellite offices and installing new local area networks.

Table 3

Programme: Administration	Adjusted Appropriation	Medium-Term expenditure estimate			Nominal% Change from Last Year	Real % Change from Last Year
R thousand	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009		
1. Management	5887	6314	6649	6981	7%	1.8%
2. Corporate Services	10976	10689	11256	11819	-3%	-8.2%
3. Property Management	5269	5714	6189	6660	8%	2.8%
Total	22132	22717	24094	25460	3%	-2.2%
Change to 2005 Budget Estimate	5269	6473	7137	7664		

Real percentage change is calculated by deducting the Consumer Price Index of 5.2% from the nominal percentage change.

Key challenges and tasks in the Administration programme include:

- Implementation of Khaedu project.
- Working towards a staff structure of 535 posts.
- Establishment of satellite offices.
- Correct segregation of duties in relation to supply chain management.
- Implementation of LOGIS in the North West and Eastern Cape Provincial offices.
- Implementation of the Personal Development Plan.

Programme 2: Investigation of Complaints

The Budget for *Investigation of Complaints* for 2006/07 has continued to grow rapidly with an increase in expenditure from R22 132 million in 2005/06 to R29 094 million in 2006/07. This represents a nominal increase of 20%. The programme comprises 44% of the total ICD budget allocation for 2006/07.

As with *Programme 1: Administration*, the item compensation for employees dominates this Programme's budget and additional appointments of investigators will be made.

The ICD reported that its targets have been met. Preliminary investigations were completed in all 652 reported cases of deaths in police custody and as a result of police action within the set target of 14 days.

Table 4

Programme: Investigation of Complaints	Adjusted Appropriation	Medium-Term expenditure estimate			Nominal% Change from Last Year	Real % Change from Last Year
R thousand	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009		
1. Investigation of Complaints	21107	27271	33035	40308	29%	23.8%
2. Legal Services	1025	1823	1920	2016	78%	72.8%
Total	22132	29094	34955	42324	31%	25.8%
Change to 2005 Budget Estimate		3228	6896	12876		

Real percentage change is calculated by deducting the Consumer Price Index of 5.2% from the nominal percentage change.

Key challenges and tasks in the Investigation of Complaints programme include:

- Establishment of satellite/contact points to improve accessibility.
- Establishment of sound working relations with the Dept of Health including:
 - Establish a protocol to regulate a professional relationship with pathologists.
 - Appointment of qualified pathologists to conduct post mortem examinations in all police related deaths.
- Qualitative investigations versus reliability of witnesses.
- Improvement of finalisation of cases and increase recommendations to DPP and SAPS management.
- Improvement of conditions of service for investigators.

Programme 3: Information Management and Research

The increase in the *Information Management and Research* programme budget reflects a nominal change from last year of 34%. This programme sees strong growth in the MTEF and, thus, demonstrates a renewed focus on the monitoring and research functions of the Directorate.

Expenditure on goods and services increased by 130% from 2005/06 to 2006/07 to support more travelling for research projects. A similar increase occurs in expenditure for machinery and equipment from 2005/06 to 2006/07 to support the increase in the number of investigations.

The ICD produced 652 reports on deaths in police custody or as a result of police action in 2004/05. The number of criminal offences allegedly committed by the SAPS and MPS increased from 1473 in 2003/04 to 1731 in 2004/05. Incidents of misconduct reported decreased by 18% from 2003/04. Overall the ICD registered 2% less complaints than the previous year. The ICD met the 2004/05 target of registering 70% of cases in 24 hours.

The ICD reported that it failed to meet its target of producing two reports on preventing problems with the Domestic Violence Act and four reports on systemic problems in policing.

Table 5

Programme: Information Management and Research R thousand	Adjusted Appropriation 2005/ 2006	Medium-Term expenditure estimate			Nominal% Change from Last Year	Real % Change from Last Year
		2006/ 2007	2007/ 2008	2008/ 2009		
1. Monitoring and Research	1571	1665	1753	1840	6%	0.8%%
2. Information Management System	8956	12430	13089	13743	39%	33.8%%
Total	10527	14095	14842	15583	34%	28.8%%
Change to 2005 Budget Estimate		13	-844	-880		

Real percentage change is calculated by deducting the Consumer Price Index of 5.2% from the nominal percentage change.

Key challenges and tasks in the Information management and research programme include:

- Meeting strategic targets and improving service delivery.
- Maintaining an up-to-date database.
- Improving compliance with the Domestic Violence Act by SAPS and MPS.
- Taking forward recommendations made at stakeholder workshop.
- Maintaining relations between ICD/SAPS Committee on deaths.

3. National Treasury Concerns

The Directorate of the Public Finance Division of National Treasury briefed the Committee on the ICD 2006/07 Budget. A number of concerns were raised relating to the ICD's Budget for 2006/07.

- The National Treasury is particularly concerned about the ICD's inability to fill vacancies in its establishment. The huge increases in the MTEF Budget of the ICD are mainly aimed at increasing the ICD staff establishment in order to become a fully-fledged investigative agency. The ICD continuously identifies its biggest challenges as insufficient capacity, shortage of investigators and the huge backlog in the finalisation of cases due to budgetary constraints. Over past years, the baseline of the ICD has been increased above the rate of inflation (the average growth *per annum* in the last five years is 13,78%). Yet allocations for compensation of employees, over the past years, consistently reflected under expenditure and were used by the ICD to fund capital expenditure.

- The National Treasury⁴ did advise the ICD to put measures in place to ensure that vacant positions are filled. According to the ICD, it is difficult to recruit and retain staff due to limited career development prospects. Accordingly, the National Treasury advised the ICD, with the assistance of the Department of Public Service and Administration (DPSA), to develop a career pathing strategy for investigators in order to address this problem.
- According to the ICD staff structure as at 31 December 2005, a total of only 173 posts of the 203 posts are filled. The number of vacancies increased from 23 or 11% in the previous quarter to 30 or 17,3% in the third quarter of the financial year. Thus, the low expenditure on Compensation of Employees remains a matter of concern especially seen in the light of the augmented allocations over the MTEF period to cater for the appointment of more Investigators.
- The general performance of the ICD is also a problem. It appears that there are difficulties in finalising cases, which impacts on the ICD's ability to reach its targets. ICD management needs to address the issue of improving performance.

4. Committee Findings and Concerns

The following are the key findings and concerns of the Portfolio Committee on Safety and Security on the ICD and responses of the ICD to these concerns:

Increase to the budget: The Committee requested clarification on increases to the budget and how much of this increase would go to the provincial offices.

Vergoek While the ICD budget has increased by R11 million, this includes the R7 million which was received by the Department of Public Works and which gets paid over for the lease of facilities. The actual increase to the budget is thus R4 million, most of which will be spent in Programme 1 and Programme 2 for the hiring of more investigators and increasing the number of Directors. In four of the provinces (that is, Limpopo, Free State, Northern Cape and Mpumalanga), the status of the provincial heads will be increased to Director. Previously, these Provincial Heads were only on Deputy Director level. This will ensure parity across the provinces.

Satellite Offices: The Committee raised concerns regarding timeframes for the establishment of satellite offices. The Committee is concerned that a lack of timeframes will cause backlogs.

The ICD stated that the satellite offices would only be set up during the 2007/08 financial year as they did not receive the necessary funding for the 2006/07 financial year. The ICD hopes that the establishment of these offices will

decrease investigators response time. A needs analysis will be conducted and based on the outcome, those provinces with the greatest need for satellite offices will be prioritised. The submission to establish the satellite offices in the 2006/07 financial year was rejected by National Treasury, as the request for additional funds (R31 million) was submitted late. In addition, the additional amount requested amounted to over half of the total ICD budget, which is unprecedented.

Late submission for MTEF input: The Committee questioned why the ICD had submitted its MTEF submission late. The due date for submission on the MTEF was 5 August 2005 but the ICD only sent in its submission on 20 September 2005.

The ICD stated that this was the time that the Executive Director had taken sick leave and had decided to leave the ICD. She was not prepared to write or sign off the submission and thus the ICD needed to wait for an acting Head to be appointed before they could submit. The fact that the submission was late resulted in the rejection of the request by the ICD for R31 million to establish the 24 satellite offices.

Staff in the provinces: The Committee requested clarity of the hiring of additional staff in the provincial offices.

A total of 24 additional investigators will be appointed in 2006/07 as well as four Directors. All 24 investigators and Directors will be appointed to the provinces. The ICD had requested funding for an additional 60 persons (in its scaled down proposal which initially had requested an additional 105 posts), but funding had only been given for an additional 24.

Low finalisation rate of cases: The Committee raised concerns regarding the low finalisation rate of cases.

The ICD acknowledged the low finalisation rate and stated that one of the reasons for this low rate was that the set targets were unreasonable. These have now been adjusted. In addition, due to the shortage of staff, supervision has been inadequate, as supervisors have needed to do investigations instead of concentrating on their primary functions. The hiring of more staff should assist in rectifying this problem. The high back load of cases should be reduced in 1 to 2 years.

Staff complement at Head Office: The Committee raised concerns regarding the amount of staff in Programme One who are attached to Head Office.

The ICD stated that Programme One has a staff complement of 77 of which 27 are staff members attached to the ICD Head Office. In contrast to concerns of the Committee around the high number of resources at Head Office, the ICD has

stated that they have, in fact, too few resources at national level. The ICD, for example, does not have a separate labour relations or training unit.

ICD relationship with the Department for Public Works: The Committee requested the ICD to provide more information regarding the agreement reached between the ICD and the Department of Public Works.

The ICD stated that the Executive Director signed an agreement with the Department of Public Works for the execution of all lease agreements. Funds will thus be transferred to the Department of Public Works on a quarterly basis. This agreement will be valid for the 2007/08 and 2008/09 financial years, after which time the ICD may have developed the capacity to manage its own responsibility with regard to facilities.

The Smith Field investigation on sexual misconduct: The Committee enquired about the internal investigation against police members for sexual misconduct with a prisoner in detention. Members felt that this was a gross misuse of authority on the part of these police officers that sexually assaulted this prisoner.

The ICD stated that the police member who was criminally charged had resigned from the SAPS. His resignation was accepted and unfortunately the ICD could not proceed with any internal investigation against this member. Further charges were lodged against senior members but this was handled by the SAPS and the outcome of this case has not been made known to the ICD. The ICD, however, agreed to make enquiries with the SAPS regarding this case and forward a written response to the Committee.

Investigations of less serious forms of misconduct: The Committee expressed concerns regarding the investigations of less serious forms of misconduct, which the ICD has stated will be investigated by the Secretariat for Safety and Security. The Committee requested information on whether discussions with the Secretariat have been concluded on this issue.

The ICD stated that, in the past, it investigated service-related complaints but soon realised that it cannot do justice to these investigations. It was, therefore, decided that the Secretariat for Safety and Security or the SAPS themselves should handle these cases. The ICD is in the process of engaging the Secretariat for Safety and Security regarding this. However until this matter has been finalised the ICD will continue to handle all such cases. In principle, the bodies have agreed that the SAPS should handle service-related complaints. The Secretariat should monitor police action with regard to complaints that are submitted to the SAPS. The ICD should only concentrate on misconduct 'proper', all criminal offences and all deaths in police custody or as a result of police action.

The ICD and its relationship with pathologists: The Committee requested further clarity regarding the interaction between the ICD and pathologists and the Department of Health's role in this relationship.

According to the ICD, all postmortems have to be conducted by a qualified pathologist. While this is done in urban areas, rural areas face a problem of a shortage of pathologists. Subsequently, district surgeons have to perform this function and some of these district surgeons do not cooperate with the ICD. This causes difficulty for ICD investigators. The ICD is in the process of engaging the Department of Health in order to rectify this situation and have requested that in all cases of deaths in police custody or as a result of police action, a pathologist is appointed. The ICD is currently using a private pathologist in some cases who does not request a professional fee from the ICD for his services (this gets paid by the University to which he is attached), but would prefer to use private pathologists only in exceptional cases.

ICD staff who are studying: The Committee raised concerns regarding the low rate of successful completion of studies amongst staff members.

The ICD stated that bursaries are awarded to lower level staff members. In terms of the ICD bursary policy all bursaries are awarded for a maximum period of 4 years. The number of staff that successfully completed their studies was only for this financial year.

The waiting period for forensic results: The Committee raised concerns regarding the long waiting period involved in cases where forensic results are used as evidence.

The ICD stated that the backlog at the Biology Division of the SAPS caused a waiting period of six months and more. This causes substantial delays during investigations. The ICD, thus, have to get a court order in high priority cases in order to reduce the waiting period in such cases.

Insufficient number of vehicles on provincial level: The Committee raised concerns regarding the insufficient number of vehicles for investigators at a provincial level.

The ICD stated that this is the case but only on some provinces. It was, however, found that an Acting Provincial Head in Mpumalanga misused official ICD vehicles and a number of these vehicles were involved in accidents. This caused a shortage of vehicles in the province. The ICD undertook to rectify the situation.

Domestic Violence Act: The Committee requested information on relationship with the police in terms of the DVA.

The ICD stated that there is a problem with cooperation with the police in terms of implementation of the Act. The SAPS is obliged in terms of the Act to inform the ICD with regard to disciplinary action of any of its members if a complaint has been made or to apply for exemption in this regard. The ICD has approached the Area and Provincial Offices in this regard, but the police are still not cooperating. Sometimes, when the ICD has recommended disciplinary action, the SAPS has refused to implement this recommendation. The ICD requested the assistance of the Committee to improve this situation.

Relationship with the provinces: The Committee requested information as to whether the relationship between the national and provincial ICD structures had improved.

The ICD stated that the relationship had improved but that they were not complacent and there was still much that needed to be done to improve the relationship further.

5. Recommendations

Administration: The Portfolio Committee on Safety and Security supports the allocation to this programme.

Investigation of Complaints: The Portfolio Committee on Safety and Security supports the allocation to this programme. In particular, the Committee supports capacitating the provincial offices and the planned addition of satellite offices to ensure that the ICD fulfils its functions in the rural areas.

Information Management and Research: The Portfolio Committee on Safety and Security supports the allocation to this programme.

6. Decisions:

- The ICD National Office must produce quarterly reports on the functioning of ICD Provincial Offices. This information can be used to prepare the Committee for its annual meeting with the Provincial Offices.
- The ICD must provide a detailed breakdown of expenditure for 2005/06. This will include details on the high levels of travel and subsistence which have increased from R2,8 million in 2004/05 to R4,1 million in 2005/06 and high resettlement costs which have increased from R9000 in 2004/05 to R190 000 in 2005/06. This must include a national and provincial breakdown.

- The lack of a clear definition of cases of less serious misconduct versus service related complaints and the respective roles of the ICD, the police and the Secretariat in this regard. The ICD must provide clarity on this issue through a written and verbal submission to the Committee.
- The Committee and the ICD will meet during a one workshop in order to address the Committee's concerns and other related matters. One of these concerns includes ensuring the cooperation of the police in implementing the requirements of the Domestic Violence Act.
- The ICD must send a letter to the Committee detailing the outcome of internal disciplinary procedures of members involved in the Smithfield case.
- The Portfolio Committee will call National Treasury to present on the ICD 2007/08 budget before calling the ICD, in order to further capacitate members to scrutinise the budget effectively.

7. Comments

The Portfolio Committee on Safety and Security supports the 2006/07 budget allocation for the Independent Complaints Directorate. The Committee will continue to monitor the work of this Directorate and support it in its goal of reducing misconduct and criminality in the South African Police Service and the Municipal Police Services.

Report to be considered.
