

COMMITTEE REPORTS

National Assembly and National Council of Provinces



PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

PO Box 15 Cape Town 8000 Republic of South Africa

www.parliament.gov.za

ANNUAL REPORT OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE FOR FINANCIAL YEAR ENDING 31 MARCH 2012

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1. INTRODUCTION

The Joint Standing Committee on Intelligence (JSCI) was confronted with considerable challenges during the period 01 April 2011 to 31 March 2012 under review. The membership of the Committee, for example changed a number of times. These changes are set out below. In addition an Ad Hoc Committee appointed in March 2010 to process the Protection of Information Bill only completed its work in September 2011. During this period the Chairperson and a number of JSCI members also served on the Ad Hoc Committee.

The ongoing restructuring of the civilian intelligence services continued with no end in sight. In addition, an unhealthy disagreement emerged between the Minister of State Security and the senior management of the civilian intelligence resulting in the Director-General of the State Security Agency (SSA), the Head National Intelligence Agency (NIA) - Domestic Branch: SSA and the Head of the South African Secret Services (SASS)- Foreign Branch: SSA leaving the Services.

Furthermore serious problems emerged in the Crime-Intelligence (CI) Division of the South African Police Service resulting in the head of the division changing at least four times. The Committee was inundated with serious allegations against members of CI, including Major General Mdluli, the Divisional Head of CI. As a consequence the Committee spent much of its time investigating and interviewing the relevant officials concerned.

2. COMPOSITION OF COMMITTEE

In the Annual Report of the JSCI for the period 2009/2010 it was reported that, following 2009 elections and the formation of the Fourth Parliament of the Republic of South Africa only the Chairperson, Hon CV Burgess and the Honourable L Landers were reappointed onto the JSCI. The remaining Committee members were all new. The Intelligence Oversight Act 40 of 1994 (the Act) provides that the Committee consists of 15 members of Parliament

appointed on the basis of proportional representation determined according to a fixed formula set out in the Act. Accordingly the following were the seats allocated after the 2009 elections:

African National Congress (ANC)	9 seats
Democratic Alliance (DA)	2 seats
Congress of the People (COPE)	1 seat
Inkatha Freedom Party (IFP)	1 seat
United Democratic Movement (UDM)	1 seat
Freedom Front Plus (FF+)	1 seat
Independent Democrats (ID)	1 seat
Total	16 seats

The members of the Committee up until the changes which took place on 08 February 2011 were:

2009/2010

Name	Party
Mr L.T Landers	ANC (NA)
Mr JJ Maake	ANC (NA)
Ms SCN Shope-Sithole	ANC (NA)
Ms ST Ndabeni	ANC (NA)
Mr NB Fihla	ANC (NA)
Mr SS Mazosiwe	ANC (NCOP)
Ms MG Boroto	ANC (NCOP)
Ms A Dlodlo	ANC (NA)
Mr SD Montsitsi	ANC (NCOP)
Mr TW Coetzee	DA (NA)
Mr DJ Stubbe	DA (NA)
Mr CT Msimang	IFP (NA)
Mr NM Kganyago	UDM (NA)
Mr MS Shilowa	COPE (NA)

2010/2011

Name	Party
Mr Mr NB Fihla	ANC (NA)
Ms SCN Shope-Sithole	ANC (NA)
Mr JJ Maake	ANC (NA)
Mr SS Mazosiwe	ANC (NCOP)
Ms MG Boroto	ANC (NCOP)
Ms ST Ndabeni	ANC (NA)
Mr SD Montsitsi	ANC (NCOP)
Mr TW Coetzee	DA (NA)
Mr DJ Stubbe	DA (NA)
Mr CT Msimang	IFP (NA)
Mr NM Kganyago	UDM (NA)
Mr MS Shilowa	COPE (NA)

Hon. Landers and Dlodlo were discharged from the Committee and replaced by the Hon. V. Bam-Mugwanyana and Hon. S. Williams-De Bruyn on 08 February 2011.

The present composition of the Committee is:

2011/2012

Name	Party
Mrs S. Williams-De Bruyn	ANC (NA)
Mr JJ Maake	ANC (NA)
Ms SCN Shope-Sithole	ANC (NA)
Mr NB Fihla	ANC (NA)
Mr SS Mazosiwe	ANC (NCOP)
Ms MG Boroto	ANC (NCOP)
Ms ST Ndabeni	ANC (NA)
Mr SD Montsitsi	ANC (NCOP)
Mr TW Coetzee	DA (NA)
Mr DJ Stubbe	DA (NA)
Mr CT Msimang	IFP (NA)
Mr NM Kganyago	UDM (NA)
Mr MS Shilowa	COPE (NA)

Hon. Ndabeni was discharged from the Committee on 15 March 2012.

3. STATE SECURITY AGENCY

The 2011/2012 Strategic Plans for State Security Agency (SSA) were outlined during a briefing on 23 and 30 March 2011. All components were present. The components are made of Domestic Branch (DB) formerly known as the National Intelligence Agency; Foreign Branch (FB) formerly known as the South African Secret Service. Both Domestic and Foreign Branches are core business for SSA.

Other components are the Intelligence Academy (IA) formerly known as the South African National Academy Intelligence, National Communication (NC) which incorporated (National Communication Centre (NCC), Communication Security (Comsec) and Office of the Interception Centre (OIC)), as well as Administration component which includes the Ministry, Office of the Director General, Intelligence Service Council and Corporate Services. Administration, IA and NC are the support structures of SSA, the support structures were formerly known to be NIA's spending Centres.

The 2011/2012 plans focused on a period beyond the restructuring of SSA as opposed to the 2010/2011 plans. The strategic plan presented had six programmes, Collection, Analysis, Counter Intelligence, Technology, Training and Administration.

The Collection and Analysis programme, executes the department's overall collection and analysis of critical and unique intelligence, related to threats and opportunities, both domestic and foreign. This is aimed at assisting and providing policy makers with a strategic picture in pursuing of South Africa's national interest. The Counter Intelligence programme ensures an effective, efficient, target driven and reliable counter intelligence capacity that secures the country's national interest both at home and abroad.

The Counter Intelligence and Technology programmes seek to implement the department's overall counter intelligence and technology strategies. Amongst

other things ensure effective, efficient, target-driven and reliable counter intelligence capacity, strategic partnerships in order to secure the country's national interest through the provision of a timely, innovative, efficient and relevant technological services as well as ensure that the existing technology capacities is integrated.

The Training programme incorporates the department's overall training strategy, to guarantee proficiency in intelligence trade craft through the development and integration of existing capacities and strategic partnerships in order to secure the country through timely, innovative, efficient and relevant training services, whilst administration programme aims to implement the single (shared) corporate service and management services capacity strategy for the whole of SSA.

The budget allocation for MTEF for the year under review to 2013 /2014 is mainly towards Collection, Analysis and Administration programmes, followed by Counter Intelligence programme. The programme with the lowest allocation is training whilst the bulk of capital expenditure for same period is allocated to technology and infrastructure developments.

Management issues

The Committee expressed concerned regarding the prolonged restructuring process at SSA. It was noticeable that it was having a negative effect on the management of SSA and the morale of members. Furthermore negative media reports about SSA alleging infighting between the Minister and the senior management of SSA necessitate the Committee to attend to the matter.

In attending to the matter the Committee determined the following:

- The finalization of the restructuring of the civilian intelligence to give effect to the State Security Agency (SSA) has taken much longer than expected, and,

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- The legislation required to give effect to the formal establishment of the SSA has as yet (October 2011) not been approved,
 - Media statements (whether true or false) reporting on the SSA and the Ministry of State Security have been negative and damaging to the interest of South Africa,
 - A committee oversight visit to Musanda (05 October 2011) where the committee met with officials of SSA revealed that:
 - There was poor communication and co-operation between the Minister and the DG SSA and his Directors, and,
 - The general opinion amongst top management of SSA was that the Agency was in crisis and that,
 - The morale of most SSA members was low due, *inter alia*, to uncertainty concerning employment contracts and possible job losses relating to the restructuring process.
 - The NICOC principals were not meeting as required by law. As a consequence NICOC was reported to be non-functional and that this, would have a serious effect on the production of the National Intelligence Estimates (NIE).

Further matters of concern noted by the Committee were that:

- The Minister of State Security had an extremely busy schedule and that this has affected his overall duties and responsibilities.
- There is an obligation on the Minister of State Security and the Executive Management of SSA to give leadership to the civilian intelligence organization and that this leadership was negatively influenced by the challenges set out herein.

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- There is a view in the Executive Management of SSA that the functions of the Minister are not clearly defined in the Constitution and relevant legislation and that this has led to friction and uncertainty.
 - The Director of SSA Domestic Branch, Njeje, had left the Services.

In an effort to assist in resolving the matters of concern, the Committee resolved the following:

- That an urgent JSCI meeting be scheduled to which the Minister of State Security, DG SSA and top management of SSA be invited.
- That priority be given to the finalization of the restructuring of the civilian intelligence focusing on specific time-frames.
- That legislation giving effect to the creation of the SSA should immediately be finalized so that it could be tabled in Parliament.
- That the problems affecting the operations of NICOC be immediately addressed by the Co-ordinator, relevant Ministers and the NICOC principals.

Because of the urgency involved the Committee accordingly urged, that the above concerns be addressed by November 2011.

However, on the question of the senior management of SSA which also affected the operations of NICOC, events were overcome by the following:

- The Head of SSA Domestic Branch (NIA), Mr L. Njenje resigned in September 2011.
- The Director General of SSA Ambassador, M. J. Maqetuka resigned in November 2011, and

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- The Head of Foreign Branch of SSA (SASS), Ambassador M. Shaik resigned in February 2012

Security Breaches at SSA

In the reporting period, there were several unprecedented incidents of security breaches reported by SSA. The Acting Director General briefed the Committee on the preliminary reports of these incidents. The incidents occurred at the offices of SSA in three Provinces in February and March 2012. The affected provinces were Gauteng, Kwa-Zulu Natal and Western Cape. These incidents relate to:

- A burglary and theft at Bogare, at the building housing the Intelligence Service Council (ISC) and Inspector General of Intelligence (IGI). The break-in took place on 08/09 February 2012.
- A fire at the KZN Provincial Offices on 11 February 2012.
- A burglary and theft at one of the Western Cape Operational Office on 12 February 2012, and
- A burglary at the KZN Operational Office on 28 February and 20 March 2012.

The preliminary findings indicated that the incident at Bogare was an unsophisticated common criminal act with theft of IT equipment as a motive. There was no pronouncement on whether sensitive/classified information was compromised. However, the briefing identified poor implementation and monitoring of security measures which were recommended for the building as a key factor leading to the burglary.

In relation to the fire at the KZN Provincial Office, there was no evidence of arson found but indications were that there were insufficient precautionary measures in place to avoid the spread of the fire in the roof area which went as far as the top of the floor housing the offices. Over 50 desk computers systems were destroyed during the fire including a high quality video conference system.

The preliminary investigations of the burglaries at the Western Cape and KZN Operational offices indicated that it was a common criminal act with the theft of IT equipment as a sole motivation as in the case of the Bogare incident.

3.1 National Intelligence Agency (Domestic Branch) (NIA: DB)

The Domestic Branch has aligned their strategic objectives with the National Intelligence Priorities (NIPS) as well as the government's outcome 3, "all people in South Africa are safe and feel safe" to meet their client's requirements.

In the reporting period, Domestic Branch reported that they have joined forces with other law enforcement agencies in the fight against illegal trading of rhino horns. The department continues to be active in the borders to prevent the smuggling of people and goods and other activities of cross border organised crime groups.

3.2 South African Secret Service (Foreign Branch) (SASS: FB)

The SSA is represented in 52 countries with significant coverage in Africa. During the year under review, it was reported that piracy and terrorism in the Horn of Africa remains a concern with South Africa collaborating with other countries with similar intent to fight piracy in Somalia. There is continued coordination within SADC to maintain stability with situations in Madagascar and Zimbabwe threatening this stability.

The Committee was further briefed on the African Union Commission Chair campaign, which illustrated some anti-South Africa sentiments lobbying from some western countries, particularly from the European Union and other identified African countries. Security situations in Nigeria and East Africa were monitored as well as political situation in Syria.

3.3 National Communications (NC), formerly: Office of Interception (OIC), COMSEC and National Communication Centre (NCC)

The National Communication (NC) component of SSA is a support unit which has been established in line with the restructuring of the civilian intelligence. It is a consolidation of the OIC, COMSEC and the NCC.

The NC falls mainly under programme 4 of the SSA as presented during their strategic planning briefing. According to the progress reports, most of the plans were achieved although limited foreign language capacity, technical skills and experience, coverage of collection systems and information processing remain a challenge within NC.

The Committee remains concerned with the state of equipment used by the NC. Some of systems need overhauling and replacing as it was procured as far as 2004/2005 and is out-date in terms of current technology.

3.4 Intelligence Academy (IA) – SANAI

The Committee has learned of the departure of Mr Sarjoo, the principal of IA to Saudi-Arabia a head of station. Ms Yvonne Setsumi was later in August 2011 introduced as the new principal. The JSCI remains concerned with the accreditation of courses offered by the academy as well as the leadership challenges faced by the academy.

Training Council within the institution discusses all issues of accreditation and other challenges e.g. training material however, the delay in the approval of the high-level organisational structure has led to delay in the implementation of the

training programme. During the briefing, it was also reporting that the institution is on a benchmarking mission with other intelligence services outside the country, such as Cuba, Algeria and Russia.

The long standing case of the former SANAI deputy principal, Mr Nduli that has been reported on in the previous reports has finally been resolved. The sheriff of the Court evicted the deputy principal since he refused to leave voluntarily following a court order.

3.5 National Intelligence Coordinating Committee - NICOC

NICOC as the coordinating structure of intelligence has specific objectives in order to achieve that coordinated effort of dissemination of information. The following are the strategic objectives presented to the JSCI on 31 March 2011 for 2011/2012 financial year:

- Produce and disseminate a high quality NIE.
- Contribute to the realisation of key outcome 3 through the production of strategic intelligence products on the domestic terrain.
- Contribute to the realisation of key outcome 11 through the production of strategic intelligence products on regional, continental and global levels.
- Contribute to the realisation of strategic projects and ad hoc tasking.
- Render effective and responsive support services to NICOC

The JSCI also received a briefing from NICOC on the restructuring process that was taking place within the State Security Agency. It was noted that the restructuring would affect the composition and the structure of NICOC.

However, the Committee was more concerned with the non compliance of NICOC in that it was not meeting regularly as a structure. Mr Diseko was appointed in March 2011 as the Acting Coordinator of NICOC. He advised the Committee that he would be acting until 30 September 2011.

Additional problems in NICOC that were noted by the Committee were the vacant posts that were not filled due to a moratorium and under spending due to the low frequency of travelling to meetings. The Cape Town office previously used by NICOC was allocated to the Director General of State Security.

Furthermore the proclamation which established the State Security Agency created uncertainty of the status of NICOC and its composition since the proposed General Intelligence Laws Amendment Bill, would give effect to the new structure was still been processed.

The Committee raised concern about the production of the National Intelligence Estimates (NIE) if the NICOC principals were in fact not meeting regularly.

4. CRIME INTELLIGENCE (CI)

The problems which unfolded in Crime Intelligence made it difficult for the Committee to conduct its work in a normal environment. During the period under review the Committee was continually confronted with serious negative allegations affecting CI which needed the attention of the Committee. In this regarded a further concern emanated from the fact that most of the allegations first surfaced in the media. Much of the information was sensitive. Much of the information was false. These mysterious media reports became a trend which clearly indicated that there were serious problems within CI.

Moreover CI was unable to comply with the statutory obligations relating to their annual reports thus affecting the work of both the AG and the IG who have statutory responsibilities to report to the Committee on this matter. It

might be added, in this regard, that the Committee was unable to get the necessary cooperation from CI despite several attempts. This problem was compounded by the fact that during the period under review the position of Divisional Commissioner CI had changed at least four times. Those that acted in this position are:

- Maj-Gen. Matshatshe 2011
- Lieut-Gen. Masemola 2011-2012
- Lieut-Gen. Mkwanazi 2012
- Maj-Gen. Ngcobo 2012-2013

The Committee also found a further problem of infighting and lack of trust between CI members. It was therefore predictable that the performance of the Division would be negatively affected. The Committee also monitored the performance of CI by considering the report of the designated judge in relation to the amount of applications by SAPS (for which CI is responsible) for authorised interception orders in terms of the Regulation of Interception of Communication and Provision of Communicated-Related Information Act 70 of 2002 (RICA).

The instability in Crime Intelligence

Maj-Gen Richard Mdluli was appointed Divisional Commissioner and head of CI in July 2009. Soon after his appointment numerous allegations levelled against Mdluli and some of his senior management began appearing in the media. The Committee interview all concerned at the time and sought the assistance of the IG and the AG. The information before the Committee and explanations given at the time were accepted by the Committee and it was therefore not necessary for intervention. The Committee accordingly continued to monitor the situation within CI. It might be added that Maj-Gen Mdluli was adamant that there was a campaign by unidentified persons within CI to discredit him because certain people were unhappy with his appointment as head of CI. He was specifically questioned on the allegation of the murder of a certain individual in which he was implicated.

Soon after his appointment in August 2009 Maj-Gen Mdluli instructed a senior officer in CI to investigate alleged irregularities carried out by members of SAPS Crime Intelligence division. A sensitive classified report was prepared. The aforesaid investigation appeared to have had the effect of increasing the leaking of negative information to the media on matters of CI.

In October 2010 a weekend newspaper published an article which contained serious allegations of mismanagement, fraud, corruption, nepotism and lack of leadership within CI.

The Committee accordingly invited both the Minister of Police and Maj-Gen Mdluli to address the Committee on the allegations. The Minister was equally concerned about the article and the message it was sending about the intelligence community. Maj-Gen Mdluli dismissed the allegations expressed in the media and attributed rogue and disgruntled elements within CI responsible for the leaking of the information to the media. The Committee requested that the matter be investigated and a written report be produced for the consideration by the JSCI. The report back was discussed and noted by the Committee.

However, by March 2011 there was a warrant out for the arrest of Maj-Gen Mdluli in connection with a murder which had occurred in 1999. Maj-Gen Mdluli handed himself over to SAPS. During the bail application of Maj-Gen Mdluli the Committee learned of an alleged classified document which was declassified and submitted to court. The document was titled "Ground Coverage Intelligence Report".

At a subsequent meeting of the JSCI Maj-Gen Mdluli denied that he had handed the document in to court in support of his bail application. He denied any knowledge of the document. It accordingly remains a mystery how the document landed up in the court file. The investigation which followed the emergence of the document is dealt with herein below. It should be noted that

soon hereafter Maj-Gen Mdluli was placed on special leave and Maj-Gen Matshatshe took over as acting head of CI.

During September 2011 a further disturbing matter regarding CI was brought to the attention of the Committee by IG. The Directorate of Priority Crime Investigations [DPCI (the "Hawks")] had obtained a search warrant which authorised access to the premises of CI and access to certain listed documents in the warrant. Maj. Gen. Matshatshe appointed a senior officer of CI to assist the DPCI to obtain access to the documents set out in the search warrant.

The concern of the Committee related to the exposure of covert structures, undercover agents and the operations of CI. The Committee was furthermore concerned about the estimated and potential financial loss that could occur. Many Committee meetings were held with all parties concerned.

During October 2011, Maj-Gen. Matshatshe requested an urgent meeting with the Committee at which he reported that the officer that he had appointed as the liaison between CI and the Hawks, was requesting access to a list of CI agents and that this lists did not appear on the search warrant. The officer had threatened to arrest him for defeating the ends of justice when he refused to produce the list. He requested the assistance of the Committee. After interviewing all parties concerned and having access to the search warrant, and having established that the DPCI had not requested access to the list of agents, the Committee resolved that a letter be addressed to CI requesting that the officer concerned be replaced. The Committee hereafter noted that the letter landed up in the hands of the media and some media had incorrectly reported that the Chairperson of the Committee had interfered in the investigation of DPCI. The leaking of the Committee letter is still under investigation.

During October 2011 the Committee was informed that Maj-Gen Solomon, Lazarus, the Head: Covert Support Services and CFO for the Secret Service

Account was going to be arrested. The allegations appeared to be related to the abuse of the Secret Service Account amounting to fraud and corruption.

The Committee held several briefings with CI and interviewed many stakeholders to evaluate the developments and establish whether CI was still functioning as expected, as well as ensuring that they account for funds allocated to them during period. Several reports were requested by the Committee from the service as well as from the Office Inspector General of Intelligence and the Office of the Auditor General in an attempt to resolve the challenges at the CI.

The Committee was not officially informed but learnt through media reports that a number of Generals including Maj-Gen. Matshatshe had been moved from CI. During the investigations, the communication between JSCI and CI deteriorated as people were appointed in acting positions at CI without the knowledge of the Committee. The trend that followed was that classified information continually landed in the media. One investigation followed the other on developments in CI but the Committee was not kept informed.

During this period the Committee met with the Minister of Police, Hon N Mthethwa and the Deputy Minister of Police, Hon M. Soty and also the then acting National Commissioner, Lieut-Gen. Mkhwanazi.

The investigations at CI were hampered by the fact that some included cases before the Courts or were the subject of a departmental disciplinary process.

As a consequence of the problems in CI, CI was unable to report to the Committee as provided for in the Oversight Act. This impediment also affected the work of the AG and the IG who have to account to the Committee in terms of the Act.

Notwithstanding the above mentioned problems the following relate to the performance outcomes of CI in the period under review:

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- A number undercover operations were conducted resulting in a large number of arrest
 - A number of undercover agents were recruited
 - A total of 635 532 operational and strategic analysis reports were produced

Ground Coverage Intelligence Report

During the early part of 2011 a document entitled "Ground Coverage Intelligence Report" was mysteriously distributed to various people including the media. The report made serious unsubstantiated allegations against prominent politicians, senior civil servants, business and other persons. There was also an allegation that the document was the product of Crime Intelligence.

On 23 May 2011 Cabinet Ministers in the Security Cluster established a Task Team to investigate the origins of the "Ground Coverage Intelligence Report" and matters connected therewith. The task team was consisted of officials from the Department of Justice and Constitutional Development, the National Intelligence Agency, the South African National Defence Force (DI) and members from SAPS CI.

The Committee is still awaiting the official findings and recommendations of the Task Team even though it has subsequently become known that the Task Team was unable to establish who was responsible for the production and the distribution of the Ground Coverage Intelligence Report. General Mdluli denied that he had anything to do with the report.

5. DEFENCE INTELLIGENCE

Notwithstanding the challenges facing the civilian intelligence and the ongoing problems in CI, Defence Intelligence (DI) has been unwavering and their members have retained a professional outlook to their work and mandate.

The Committee met DI on 16 March 2012 and received a presentation on their annual performance plans and budget for the financial year 2011/2012. The annual plan covers the objectives of DI which include providing:

- an intelligence capability and service,
- counter intelligence capability and service,
- a Defence Foreign Relations capability and service, and
- Divisional Support Services

The briefing also addressed the role of DI in the field of international relations in as much as the Department of Defence (DOD) and SANDF through the Defence Foreign Relations Division have international and foreign responsibilities.

The budget of DI is housed under the budget of the DOD. Only a small amount is allocated to special intelligence account. The DI budget was in line with the National Intelligence Estimates (NIE) analysis reports.

However, the Committee remains extremely concerned that there was no allocation for border security in the light of the challenges facing the country the management of porous borders. The Committee was informed that the police remained deployed on the borders while the Executive finalises the take-over of DOD.

The long standing problem relating to the Head Quarters (HQ) of DI has not been resolved. DI has been looking for alternate accommodation for its HQ for

a number of years. The presently HQ of DI is in a dilapidated, its location is clearly inappropriate and the rental is high.

The critical areas of underperformance were as a result of some security clearance targets not achieved as promised. However, this was directly affected by the loss of ten skilled personnel of DI to other departments. Defence Intelligence has been struggling with developing a plausible retention strategy, in addition there have been difficulties in persuading DI employees not to take better offers elsewhere. DI has accordingly pleaded for additional funding for the vetting unit.

In response to a concern raised by the Committee, DI also briefed the Committee on the situation in Somalia.

6. OFFICE OF THE INSPECTOR GENERAL OF INTELLIGENCE (OIGI)

According to Section 7(11) (c) of the Oversight Act 40 of 1994 the Inspector General of Intelligence (IG) is provided for to submit certificates on the Activity Reports of the services. The IG must report whether the any of the activities of the services unlawful, contravened ministerial directions and involved unreasonable or unnecessary exercise of any of its powers. In so doing, the OIGI must provide independent assurance that the Services operate within the rule of law and respect for human rights, which give credibility to the office. The following were some of the concerns:

Certification process

OIGI has developed a reporting mechanism regarding the certification process which has been approved by the Committee and essentially involves reviewing and reporting on the activities of the intelligence entities. The certificates are accordingly only presented to the Committee after the annual reports of the

services have been tabled with the Committee. The format of the certificates includes the following information:

- Monitoring and Review of services compliance with the regulatory framework (applicable laws, Ministerial directions and internal regulatory frame) in the execution of its mandate;
- Review intelligence and counter intelligence activities related to espionage, sabotage and subversion;
- Review services activities in investigating and neutralising terrorism and extremism;
- Evaluate compliance of investigative methods and intelligence collection techniques;
- Evaluate reported investigations of irregularities/unlawful activities within the cover support unit;
- Evaluate the use of intrusive measures;
- Determine service's interception capacity and capabilities;
- Review and monitor security screening and issuance of security clearances;
- Follow up on progress made on previous findings and recommendations made by the OIGI.

Matters of concern

Matters of concern expressed in the certificates relate to SSA, SAPS-CI and DI.

State Security Agency concerns

- The annual report of SSA did not directly address the activities of the NIA (Domestic Branch) and SASS (Foreign Branch) as intelligence services which are components of SSA. The activities of respective services ought to be gleaned from the SSA annual report. The OIGI was concerned that the role of these components in achieving the SSA outputs were reflected inconsistently and created the impression that both NIA and SASS were disestablished and replaced by SSA.
- The OIGI noted that, the Minister of Finance granted approval for SSA and its components to produce only one annual report in terms of the Public Finance Management Act, Act 1 of 1999 pending the finalisation of the necessary legislation. However, the current laws and proclamations provide for the continued existence of these NIA and SASS as components of SSA.
- Although the SSA has been established by Proclamation, it has been three years since the initially drafting of the legislation. The delay in the finalisation of the legislation has resulted in legal uncertainty as to the status of SSA as an intelligence service.
- Concern was expressed regarding the prevalence of fraud and theft cases involving members of SSA. Delays in the investigation and finalization of disciplinary cases involving senior managers who were either suspended or staying away from work for years was a matter of utmost concern. However, it was noted these cases were at various investigation/ disciplinary stages and the results were eagerly awaited.

SAPS-CI concerns

- The IG was concerned that there was a lack of proper statutory regulatory framework to deal with CI as a division of SAPS with its functions explicitly legislated in the South African Police Service Act 68 of 1995 (as amended).
- There was a problem with sound financial management in CI. The organisational design was problematic since it allowed for the Chief Financial Officer (CFO) to be assigned functions that were operational and further assigned responsibilities relating to recruitment and the selection of personnel, as well as that of recruiting personnel for agent programme, to the CFO.
- The Secret Service Account was investigated by the IG with the request of the Minister of Police. The IG was tasked to investigate whether there was compliance of the applicable regulatory framework in the utilisation of the Secret Service Account. The investigations revealed that funds allocated to this account were not strictly employed for the purpose which the account had been established.
- Another matter raised by the OIGI was the misuse of covert premises and safe houses in contravention of the Policy Directive and Procedures of SAPS-CI. It was also established during the certification process that there was one occasion where telephone communication of a senior police officer was unlawfully intercepted. The disciplinary processes involving the implicated members were reported to be underway.

Defence Intelligence concerns

- The IG raised personnel shortages in terms of operational capacity in some sub divisions of DI as a possible risk. DI was advised to vigorously pursue a recruitment strategy for certain Directorates, especially Directorate Vetting so that they can achieve their goals.

7. OFFICE OF THE DESIGNATED JUDGE RESPONSIBLE FOR THE AUTHORISATION OF INTERCEPTIONS

As defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002, the Committee met with Judge Khumalo on 16 November 2011 for a briefing on the statistics of interceptions. The report covers a period of seven months. The Committee again raised displeasure in the short term given to each designated judge for interception. It is therefore recommended that the extension of the term for the designate judge be considered as well as ensuring that the term is inline with the financial year.

A report regarding the functions performed by him or her in terms of that Act, including statistics regarding such functions, together with any comments or recommendations which such designated judge may deem appropriate, provided that such report shall not disclose any information contained in an application or direction referred to in that Act. (**See report – Annexure C**).

8. AUDITOR GENERAL

The Committee depends to a large extent on the Office of the Auditor-General of assistance and reporting on the financial statements of the Services. In this regard reference is made elsewhere in this report to the interactions which

have occurred between the Committee and the AG's office in the period under review.

The relevant statutory audit reports of the AG relating to the Services are attached hereto as **ANNEXURE B**.

9. JSCI ACTIVITIES

The Committee has a mandate spelt out in Section 2 of the Intelligence Services Oversight Act 40 of 1994 about the establishment of the Committee on Intelligence and to perform an oversight on the intelligence structures. The Act gives the oversight responsibilities to the Committee in relation to the intelligence and counter intelligence functions of the Services, which include the administration, financial management and expenditure of the Service and in respect of the administration, financial management and expenditure of the Intelligence Services Entities and report thereon to Parliament.

In performing its financial oversight responsibilities, the Committee is assisted by the Office of the Auditor General (AG). This is accomplished by annual financial audits and any other audit as the Committee may request. While the Committee recognises and respects the independence of the Office of the AG, the co-ordination of the work of the JSCI and the Office of the AG regarding financial oversight of the Services has assisted both offices in strengthening their oversight mechanism.

It should also be noted that the AG has also greatly assisted with the training of the Members of the JSCI.

Meeting with the President

The Committee met with the President on 01 June 2011. A number of matters relating to oversight and the Services were discussed. Further meetings with the President will follow.

JSCI Strategic Workshop – July 2011

In July 2011 the Committee held a strategic planning workshop. The Office of the Inspector General of Intelligence (OIGI) and the office of the Auditor General were invited. The oversight role of each structure in terms of the Oversight Act was a key consideration of the workshop. The OIGI raised the following challenges that hinder their functioning:

- Non – enforcement of findings.
- Lack of redress to complainants.
- Other intelligence entities outside IGI jurisdiction.
- Non-adherence to the national intelligence priorities (NIPS).
- Term of office of the IGI.
- Tasking functions as described in (section 7 (6) and section 7 (7) (c)) of the Intelligence Services Oversight Act.
- Clarity on section 7 (7A) of the Intelligence Services Oversight Act
- Refining of access to premises provisions.
- Increased powers for conduct of investigations

The AG's office raised the following concerns:

- Possible overlap with the mandates of AG and OIGI. A workshop was proposed to address that issue. The workshop would focus on the actual work performed and how to audit predetermined objectives and the certification process. The outcome will be an MOU to address the overlap.
- Timelines for reporting were clearly stipulated and understood.

-
- The legislative environment changed after 17 September 2009 when NIA and SASS were incorporated in the State Security Agency (SSA). However, legislation must still be changed to reflect the new dispensation.

Recommendations from the workshop

- A formal process should be adopted to enforce recommendations and findings of the OIGI after reporting on a complainant of the department or if the department's representative differs with the findings or recommendations of the IG.
- Any intelligence oversight failures should be addressed by the three oversight structures.
- Development of trust and professionalism between the JSCI and the Services should be adopted as a practical approach to a constructive oversight working relationship.
- Decisions taken on oversight responsibilities should be actioned.
- Legislation should be amended to reflect the new dispensation following the proclamation of 2009 incorporating some divisions to State Security Agency including amendment to the Electronic Communication Security Act as a Government Owned Entity.
- The Intelligence Services Oversight Act should be amended to accommodate the tabling of one audit report, one set of financial statements and one annual report, all for the new SSA structure.
- Since oversight was a continuous process the JSCI should use the quarterly reports of the Services to monitor progress and identify problems at an early stage.

-
- When auditing secret funds special attention must be given to the controlled environment and the difficulties in assessing the aspect of “value for money”.
 - Who should act if the JSCI recommends action? The executive authority (ie the relevant Minister) is the executor. This process could take long. If no action is taken, the matter can be addressed through the relevant Accounting Officer, Minister and even the President. The limitation with parliament in this regard is that it can only recommend.
 - There was a need to benchmark or look at other countries oversight models so that the present oversight mechanism could be reviewed.

Investigation of allegations against Minister of Police

The Committee was confronted with allegations of mismanagement against the Minister of Police. The media in April 2012 also carried reports of mismanagement of the CI secret service account by the Minister. In this regard it was alleged in the media that renovations at the Minister’s private residence was paid out of the CI funds.

The Minister was invited to a Committee meeting to respond to the allegations. The Minister denied that he had used state funds to renovate his private residence. He explained that following a security assessment of his premises, the recommendation was to erect a solid brick boundary wall. The assessment had indicated that the existing wall created a security risk. The existing wall was then replaced with a solid brick wall.

The Committee requested the assistance of the AG with investigation and to report back to the Committee.

The subsequent report of the AG found no wrong doing by the Minister. The AG did however, find that CI funds were used to erect the wall and that this should have been done by Public Works.

Bi-lateral international with Delegation from Botswana

The Committee met with a Parliamentary delegation from Botswana on 04 November 2011 in Cape Town. The Committee rendered advice and assistance to the delegation.

10. RECOMMENDATIONS OF THE JSCI

- 10.1 The out-dated technology and equipment used by the NC (OIC, NCC and COMSEC) must be replaced and sufficient funds must be allotted to the division.
- 10.2 Priority should be given to addressing the problems relating to the HQ of DI with the express intention of relocating them. This matter must now be considered to be urgent.
- 10.3 The vetting of officials in the security cluster generally remains an ongoing problem which has perpetually manifested itself in the workplace where government officials are continually confronted with allegations of corruption, maladministration and poor job performance. Accordingly, it is recommended that persons indentified for vetting should first complete the vetting process before they are allowed to take up their positions. Ministers in the security cluster should devise a uniform vetting strategy including methods for swifter completion of the vetting process.
- 10.4 The finalisation of the restructuring of the SSA and the relevant legislation must be urgently completed since it is has had a negative effect on the morale of the membership.

11. CONCLUSIONS

The JSCI deeply regrets the late tabling of its annual report. This has been as a consequence of matters beyond the control of the Committee. There are a number of sensitive matters not dealt with in this report which have also affected the work of the Committee but will be reported on later.

In addition the problems in CI resulted in CI only tabling their annual reports for the periods 2010-2011 and 2011-2012 in September 2013. It therefore followed that both the work of the AG and the IG were affected.

The Committee has noted that the Oversight Act needs to be amended since the reporting time for the JSCI set out in the Act is not synchronized with the provisions of the Public Finance Management Act 29 of 1999 and the Public Audit Act 25 of 2004. Accordingly the 2010-2011 Annual Report was only forwarded to the President in October 2013.

JSCI PROGRAMME 2011/2012

Wed, 20 April 2011	Briefing by CI
Wed, 25 May 2011	JSCI Meeting no guests
Wed, 01 June 2011	Preparation of the Budget Speech
Wed, 09 June 2011	Meeting with the President
Wed, 15 June 2011	JSCI Meeting no guests
Wed, 22 June 2011	Briefing on Strategic Plan Workshop
03- 04 July 2011	Strategic Planning Session
Wed, 17 Aug 2011	Briefing by SSA and CI on Quarterly Reports
Wed, 24 Aug 2011	Briefing by OIGI and DI on Quarterly Reports
Wed, 07 Sep 2011	JSCI Meeting, no guests
Wed, 14 Sep 2011	Briefing by NICIC on NIE's and Quarterly Reports
Wed, 21 Sep 2011	Briefing by SSA
03 – 07 Oct 2011	Oversight Week
Tue, 04 Oct 2011	Briefing by CI
Wed, 05 Oct 2011	Briefing by SSA
Thur, 06 Oct 2011	Briefing by DI
Thur, 13 Oct 2011	Oversight Discussions
Tue, 18 Oct 2011	JSCI Meeting, no guests
Wed, 19 Oct 2011	JSCI Meeting, no guests
Wed, 26 Oct 2011	Meeting with NPA, OIGI, AG and CI
Thur, 27 Oct 2011	Meeting with OIGI, AG and CI
Fri, 28 Oct 2011	Meeting with DPCI
Wed, 02 Nov 2011	JSCI Meeting, no guests
Fri, 04 Nov 2011	JSCI meeting with Delegation from Botswana

Wed, 09 Nov 2011	Meeting with CI
Wed, 16 Nov 2011	Briefing from the Judge of Interceptions
Wed, 23 Nov 2011	JSCI Meeting, no guests
Wed, 30 Nov 2011	JSCI Meeting with Gen Mdluli
Wed, 07 Dec 2011	JSCI Meeting with Gen Lazarus
Wed, 07 Dec 2011	Briefing by SSA
Wed, 18 Jan 2012	Preparation of Oversight visit
24 – 27 Jan 2012	Strategic Planning Session
Tues, 31 Jan 2012	Meeting with Deputy Minister of Police
Wed, 08 Feb 2012	Briefing on 2010/2011 IG's Certificates
Wed, 15 Feb 2012	Briefing by SSA
Wed, 22 Feb 2012	Deliberations on IG's Certificates
Wed, 29 Feb 2012	Meeting with Amb. Shaik
Wed, 07 March 2012	Briefing by OIGI on GILAB

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON STATE SECURITY AGENCY (SSA)

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the financial statements of the State Security Agency, set out on pages ... to ... , which comprise the appropriation statement, the statement of financial position as at 31 March 2012, the statement of financial performance, statement of changes in net assets and the cash flow statement for the year then ended, and the notes, comprising a summary of significant accounting policies and other explanatory information.

Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act (PFMA), 1999 (Act 1 of 1999) and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-General's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA), the *General Notice* issued in terms thereof and International Standards on Auditing. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

Basis for qualified opinion**Level of assurance**

6. Due to the nature of certain operational transactions and the circumstances under which they are incurred and recorded as well as the circumstances under which the services and assets are procured, utilised and safeguarded, the level of assurance, in respect of certain operational expenditure and assets are under these circumstances lower than with other audits.

Limited documentation provided

7. Adequate documentation and information requested to support certain transactions and balances in the financial statements were not provided as a result of a current investigation. Due to this limitation I did not obtain all the information and explanations considered necessary to satisfy myself as to the completeness and accuracy of the balances disclosed for accounts receivable, accounts payable, irregular and fruitless expenditure and contingent liabilities. There were no satisfactory alternative procedures that I could perform to obtain reasonable assurance that accounts receivable, accounts payable, irregular and fruitless expenditure, contingent liabilities, operating expenditure and payables were properly recorded. Consequently I was unable to determine whether any adjustments to these accounts were necessary.

Opinion

8. In my opinion, except for the possible effects of the matter referred to in the basis for qualification paragraph, the financial statements present fairly, in all material respects, the financial position of the State Security Agency as at 31 March 2012, and its financial performance and cash flows for the year then ended in accordance with SA Standards of GRAP and the requirements of the PFMA.

Emphasis of matters

9. I draw attention to the matters below. My opinion is not modified in respect of these matters.

Financial reporting framework

10. As disclosed in note 1.1 and 1.5 to the annual financial statements, the Minister of Finance has granted approval to the department to apply GRAP with Directive 4 transitional provisions for medium and low capacity municipalities.

Significant uncertainties - Claims

11. As disclosed in note 32, the department is a defendant against several claims levelled against it. The department is opposing these claims. The ultimate outcome of the matter cannot presently be determined and no provision for any liability that may result has been made in the financial statements.

Restatement of corresponding figures

12. As disclosed in note 31 to the financial statements, the corresponding figures for 31 March 2012 have been restated as a result of errors discovered during 2012 in the financial statements of the department at, and for the year ended, 31 March 2011.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

13. In accordance with the PAA and the *General Notice* issued in terms thereof, I report the following findings relevant to performance against predetermined objectives, compliance with laws and regulations and internal control, but not for the purpose of expressing an opinion.

Predetermined objectives

14. I performed procedures to obtain evidence about the usefulness and reliability of the information in the State Security Agency's annual performance report as set out on pages ... to ... of the annual report.
15. The reported performance against predetermined objectives was evaluated against the overall criteria of usefulness and reliability. The usefulness of information in the annual performance report relates to whether it is presented in accordance with the National Treasury annual reporting principles and whether the reported performance is consistent with the planned objectives. The usefulness of information further relates to whether indicators and targets are measurable (i.e. well defined, verifiable, specific, measurable and time bound) and relevant as required by the *National Treasury Framework for managing programme performance information*.

The reliability of the information in respect of the selected programmes is assessed to determine whether it adequately reflects the facts (i.e. whether it is valid, accurate and complete).

16. The material findings are as follows:

Usefulness of information

17. The National Treasury Framework for managing programme performance information (FMPPi) requires that performance targets be measurable. The required performance could not be measured for a total of 51% of the targets relevant to:
- Programme 1: Collection
 - Programme 2: Analysis
 - Programme 3: Counterintelligence
18. The National Treasury Framework for managing programme performance information (FMPPi) requires that performance targets be specific in clearly identifying the nature and required level of performance. A total of 51% of the targets relevant to the following programmes were not specific in clearly identifying the nature and the required level of performance.
- Programme 1: Collection

- Programme 2: Analysis
- Programme 3: Counterintelligence

Other Matters

We draw attention to the matter below. Our opinion is not modified in respect of this matter.

Achievement of planned targets

19. Of the total number of 164 reported targets, 93 were achieved, 61 partially achieved and 10 not achieved during the year under review. This represents 43.29% of total planned targets that were not fully achieved during the year under review.

Compliance with laws and regulations

20. I performed procedures to obtain evidence that the entity has complied with applicable laws and regulations regarding financial matters, financial management and other related matters. My findings on material non-compliance with specific matters in key applicable laws and regulations as set out in the *General Notice* issued in terms of the PAA are as follows:

Strategic planning and performance management

21. Treasury Regulations requires that the accounting officer of an institution must prepare a strategic plan that is consistent with the period covered by the Medium Term Expenditure Framework for approval by the relevant executive authority. The strategic plan did not include measurable objectives as required by Treasury Regulations 5.2.3(d).

Annual financial statements, performance and annual reports

22. The accounting officer submitted financial statements for auditing that were not prepared in all material aspects in accordance with generally recognized accounting practice (and supported by full and proper records) as required by section 40 (1)(a) and (b) of the PFMA. Material misstatements were identified and subsequently corrected in the following accounts:

- Provisions
- Assets
- Commitments
- Irregular expenditure
- Lease commitments

Procurement and contract management

23. Goods and services of a transaction value above R500 000 were procured without inviting competitive bids, as required by Treasury Regulations 16A6.1. This resulted in irregular expenditure of R86,126,229.88 being incurred. Subsequently to year end the amount was condoned by the accounting officer.
24. Goods and services with a transaction value below R500 000 were procured without

obtaining the required price quotations, as required by Treasury Regulation 16A6.1. This resulted in irregular expenditure of R60,385.80 being incurred. Subsequently to year end the amount was condoned by the accounting officer.

25. Employees of the department performed remunerative work outside their employment in the department without written permission from the relevant authority as required by section 30 of the Public Service Act.
26. Persons in service of the SSA who had a private or business interest in contracts awarded to government institutions failed to disclose such interest, as required by Treasury Regulation 16A8.4.

Expenditure management

27. The accounting officer did not take effective steps to prevent fruitless and wasteful expenditure amounting to R30 000 and irregular expenditure, as mentioned in this report, as required by section 38(1)(c)(ii) of the Public Finance Management Act and Treasury Regulation 9.1.1.

Internal control

28. I considered internal control relevant to my audit of the financial statements, and compliance with laws and regulations.

Leadership

29. The accounting officer approved policies and procedures for the SSA. The department is in the process of implementing the revised policies and procedures to ensure effective monitoring of compliance, with laws, regulations and internally designed procedures.

Financial and performance management

30. Schedules to support some disclosure notes could not be generated from the information system and inadequate monitoring and review during the preparation of the financial statements resulted in material misstatements.
31. The Department did not adequately monitor compliance with supply chain management regulations for some procurement of goods and services during the year.

OTHER REPORTS

Investigations

32. As reported in the prior year, an investigation into alleged fraud at Opmed was conducted. The matter was reported to the South African Police Services. Two former NIA/Opmed members were charged and found guilty in the Pretoria Specialized Commercial Court. The case against other members and service providers are still continuing.
33. An investigation was instituted after reports that transfers from NIA's account, within Momentum, was made to the account of a broker. This matter was reported to the Financial Services Board (FSB) and Financial Advisory and Intermediary Services (FAIS) for investigation. The investigation was completed and the matter was referred to the NPA

and Hawks for further consideration.

34. An investigation was instituted at the Covert Support Unit. The DDG-Operations together with three other members were suspended pending the outcome of the investigation. In December 2010 the DG accepted the resignation of the DDG. The investigation is still ongoing.
35. An investigation is currently being done on the source remuneration expenditure. Disciplinary procedures have already been instituted against a member and the disciplinary hearing has commenced in May 2011.

Pretorius - General

Pretoria

14 December 2012



REPUBLIK VAN SUID-AFRIKA
REPUBLIC OF SOUTH AFRICA

PROSECUTOR GENERAL
PROSECUTOR GENERAL

**REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE SOUTH AFRICAN
POLICE SERVICE- CRIME INTELLIGENCE: SECRET SERVICE ACCOUNT
REPORT ON THE FINANCIAL STATEMENTS**

Introduction

1. I have audited the financial statements of the South African Police Service - Crime Intelligence: Secret Service Account set out on pages ... to ..., which comprise the appropriation statement, the statement of financial position as at 31 March 2012, the statement of financial performance, statement of changes in net assets and the cash flow statement for the year then ended and the notes, comprising a summary of significant accounting policies and other explanatory information.

Accounting Officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation of these financial statements in accordance with the Departmental financial reporting framework prescribed by the National Treasury and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No.1 of 1999) (PFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-General's responsibility

3. My responsibility is to express an opinion on the financial statements based on conducting the audit in accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA), the *General Notice* issued in terms thereof and International Standards on Auditing. Because of the matter(s) described in the Basis for disclaimer of opinion paragraph(s), however, I was unable to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for disclaimer opinion

Level of Assurance

4. Owing to the nature of certain operational transactions and the circumstances under which they are incurred and recorded as well as the circumstances under which services are procured, utilised and safeguarded, the level of assurance, in respect of certain operational expenditure and assets, under these circumstances is lower than with ordinary audits.

Related party transactions

5. Declaration of interest forms from those charged with governance was not provided to confirm the accuracy and completeness of the database used as a basis for disclosing related party transactions. Furthermore, the Department does not have policies and procedures to sustain a process to ensure the completeness of related party transactions as required by the PFMA section 38(1) (b). There were no satisfactory alternative audit procedures that I could perform to obtain reasonable assurance that the related parties disclosure note was complete and accurate. Consequently, I was unable to determine whether any adjustments relating to the related parties disclosure note was necessary.

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Unauthorised, irregular and fruitless and wasteful expenditure

6. The Department does not have a policies and procedures to identify unauthorised, irregular and fruitless and wasteful expenditure as required by PFMA section 38(1) (c) (iii). I am therefore unable to confirm whether all unauthorised, irregular and fruitless and wasteful expenditure was recorded.
7. The Department did not include particulars of irregular expenditure in the notes to the financial statements as required by section 40(3)(i) of the PFMA. The Department made payments in contravention of the supply chain management requirements which were not included in irregular expenditure, resulting in irregular expenditure being understated by R 47 061 309.67
8. The Department did not include particulars of unauthorised expenditure in the notes to the financial statements as required by section 40(3) (i) of the PFMA. The Department made payments not in accordance with the purpose of the vote which were not included in unauthorised expenditure, resulting in unauthorised expenditure being understated by R 4 988 761.

Cash and Cash Equivalents

9. I was unable to externally confirm bank balances amounting to R 32 725 615 in the annual financial statements as these accounts were frozen by the respective banking institutions. I was unable to confirm the rights, ownership and valuation of these cash and cash equivalents by alternative means. Consequently I was unable to determine whether any adjustment relating to cash and cash equivalents in the financial statements was necessary.

Journals

10. The Department does not have policies and procedures to sustain a process to ensure the validity of journals processed as required by the PFMA section 38(1) (b). There were no satisfactory alternative audit procedures that I could perform to obtain reasonable assurance that the journals processed are approved in terms of the delegations of authority. Furthermore, the Department could not provide sufficient appropriate audit evidence to support debit and credit journals amounting to R 838 459 504.

Sufficient appropriate audit evidence

11. The Department could not provide sufficient appropriate audit evidence to support the following account balances or class of transactions as disclosed in the annual financial statements:
 - o Goods and services-Communication expenditure amounting to R 30 412 000 as disclosed in the annual financial statements.
 - o Goods and services-Other Operating Expenditure amounting to R 139 121 000
 - o Goods and services-Inventory expenditure amounting to R 12 015 000
 - o Expenditure for capital assets: Tangible Assets amounting to R 97 358 521

There were no satisfactory alternative audit procedures that I could perform to obtain reasonable assurance that the account balances or class of transactions mentioned above

was properly recorded. Consequently, I was unable to determine whether any adjustments relating to these account balances or class of transactions was necessary.

Goods and services

12. The Department did not accurately disclose Goods and Services in the annual financial statements. Consequently the following accounts have been estimated as overstated in the annual financial statements -

- o Goods and services-Other Operating Expenditure, R 18 736 098.
- o Goods and services-Inventory, R 3 670 815.
- o Goods and services-Travel and Subsistence Expenditure, R 7 813 749.

Lease commitments

13. The Department did not accurately disclose leases as reflected in note 33 of the annual financial statements. Consequently Lease commitments as disclosed in the annual financial statements are overstated by an amount of R 51 642 972.

Aggregation of immaterial uncorrected misstatements

14. The financial statements as a whole are materially misstated due to the cumulative effect of numerous individually immaterial uncorrected misstatements in the following elements making up the statement of financial position and the statement of financial performance:

- o Goods and services-Contractors reflected as R 1 174 000 is overstated by an estimated amount of R 862 953.
- o Goods and services-Property Payments reflected as R 5 166 000 is overstated by an estimated amount of R 1 749 746.

15. In addition, we were unable to obtain sufficient appropriate audit evidence and we were unable to confirm or verify the following elements by alternative means.

- o Goods and services - Contractors reflected as R 1 174 000 in the annual financial statements.
- o Goods and services - Property Payments reflected as R 5 166 000 in the annual financial statements.

As a result, we were unable to determine whether any adjustments to these elements were necessary.

Disclaimer of opinion

16. Because of the significance of the matters described in the Basis for disclaimer of opinion paragraphs, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on these financial statements.

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REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

PAA REQUIREMENTS

17. In accordance with the PAA and the *General Notice* issued in terms thereof, I report the following findings relevant to performance against predetermined objectives, compliance with laws and regulations and internal control, but not for the purpose of expressing an opinion.
18. I performed procedures to obtain evidence about the usefulness and reliability of the information in the South African Police Service-Crime Intelligence: Secret Service Account's annual performance report as set out on pages XX to XX of the annual report.
19. The reported performance against predetermined objectives was evaluated against the overall criteria of usefulness and reliability. The usefulness of information in the annual performance report relates to whether it is presented in accordance with the National Treasury annual reporting principles and whether the reported performance is consistent with the planned objectives. The usefulness of information further relates to whether indicators and targets are measurable (i.e. well defined, verifiable, specific, measurable and time bound) and relevant as required by the *National Treasury Framework for managing programme performance information*.
20. The reliability of the information in respect of the selected programme is assessed to determine whether it adequately reflects the facts (i.e. whether it is valid, accurate and complete).

The material findings were as follows:

Usefulness of information:

Consistency

21. Treasury Regulation 5.2.4 requires that the strategic plan should form the basis for the annual report, therefore requiring the consistency of objectives, indicators and targets between planning and reporting documents. A total of 60% of the reported targets are not consistent with the targets as per the approved strategic plan. This is due to the inadequate understanding of the requirements of the Treasury Regulations and PFMA.

Relevance

22. The *National Treasury Framework for managing programme performance information (FMPPi)* requires that the indicator should relate logically and directly to an aspect of the institution's mandate, the realisation of strategic goals and objectives. A total of 80% of measures did not relate logically and directly to an aspect of the institution's mandate and realisation of strategic goals and objectives as per the three year strategic plan, due to the fact that it is the first time that SAPS CI is reporting on performance information.

As a result there was a lack of development and implementation of proper performance planning and management practices to provide for the development of performance indicators and targets included in the annual performance plan.

Handwritten mark

Reliability of Information

23. I was unable to obtain sufficient, appropriate audit evidence to satisfy myself as to the validity, accuracy and completeness of the actual performance reported in the annual performance report. This was due to a lack of a document management system.

Compliance with laws and regulations

24. I performed procedures to obtain evidence that the Department has complied with applicable laws and regulations regarding financial matters, financial management and other related matters. My findings on material non-compliance with specific matters in key applicable laws and regulations as set out in the General Notice issued in terms of the PAA are as follows:

Strategic planning and performance management

25. The accounting officer did not prepare the quarterly reports on the progress made in achieving measurable objectives and targets as required by Treasury Regulations 5.3.1.
26. There is no documentary evidence that the Evaluation Committee on Intelligence held meetings as required by the Secret Service Act 56 of 1978, in order to evaluate the Department's activities.
27. Information regarding informer rewards is not classified as required by the Minimum Information Security Standards, Chapter 4, paragraph 1.
28. The Intelligence Network System is not customised in a manner that classifies active, on-active and iced informers as required by Public Finance Management Act, Section 38(1) (a).

Procurement and contract management

29. Goods and services with a transaction value below R500 000 were procured without obtaining the required price quotations, as required by Treasury Regulation 16A6.1.
30. Goods and services with a transaction value above R 500 000 were procured without inviting competitive bids, as required by Treasury Regulation 16A6.1.
31. Sufficient appropriate audit evidence could not be obtained that invitations for competitive bidding were advertised for a required minimum period of 21 days, as required by Treasury Regulations 16A6.3(c).
32. Sufficient appropriate audit evidence could not be obtained that bid adjudication was done by committees which were composed in accordance with the policies of the Department, as required by Treasury Regulations 16A6.2(b) and (c).
33. Contracts were awarded to bidders who did not submit a declaration of past supply chain practices such as fraud, abuse of SCM system and non-performance, which is prescribed in order to comply with Treasury regulation 16A9.1

34. Sufficient appropriate audit evidence could not be obtained that all extension or modification to contracts were approved by a properly delegated official as required by Treasury Regulation 8.2.
35. The preference point system was not applied in all procurement of goods and services above R30 000 as required by section 2(a) of the Preferential Procurement Policy Framework Act and Treasury Regulations 16A6.3(b).
36. Sufficient appropriate audit evidence could not be obtained that contracts were awarded only to bidders who submitted a declaration on whether they are employed by the state or connected to any person employed by the state, which is prescribed in order to comply with Treasury regulation 16A8.3.
37. Employees of the department performed remunerative work outside their employment in the department without written permission from the relevant authority as required by section 30 of the Public Service Act.
38. Persons in service of the Department whose close family members, partners or associates had a private or business interest in contracts awarded by the Department failed to disclose such interest, as required by Treasury Regulation 16A8.4. Appropriate action was not taken against role player in the supply chain management system, as required by Treasury Regulation 16A9.1 (b) (i).
39. The accounting officer failed to implement measures for combating the abuse of the supply chain management (SCM) system as required by Treasury Regulations 16A9.1 in that awards were made to providers who committed a corrupt or fraudulent act in competing for the contract.

Expenditure management

40. The accounting officer did not take effective steps to prevent unauthorised, irregular and fruitless and wasteful expenditure, as required by section 38(1) (c) (ii) of the Public Finance Management Act and Treasury Regulation 9.1.1.
41. Expenditure was incurred which is not in compliance with section 2(3) of the Secret Service Act for some procurement of goods and services.
42. The accounting officer did not ensure effective internal controls were in place for payment approval and processing, as required by Treasury Regulation 8.1.1.
43. Money was spent without the approval of the accounting officer or a properly authorised official, as required by Treasury Regulations 8.2.1 and 8.2.2.

Assets and liabilities

44. Sufficient appropriate audit evidence could not be obtained that bank reconciliations were performed on a daily basis, as required by Treasury Regulation 15.10.1.2(j).

Annual financial statements

45. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework as required by section 40(1) (a) and/or (b) of the Public Finance Management Act.

Internal control

46. I considered internal control relevant to my audit of the financial statements, and compliance with laws and regulations. The matters reported below under the fundamentals of internal control are limited to the significant deficiencies that resulted in the basis for disclaimer of opinion, the findings on the report on performance information and the findings on compliance with laws and regulations included in this report.

Leadership

47. The accounting officer did not exercise adequate oversight responsibility over the financial and performance activities of the Department.
48. The accounting officer did not ensure that policies and procedures were developed and implemented for all critical financial and performance aspects of the business.

OTHER REPORTS

Investigations

49. An investigation is currently being conducted by the Hawks(Special Investigation Unit) into allegations of misuse and abuse of the Department's funds by certain members. As a result of the investigation, two senior members of the Department were suspended. The investigation is still in progress as at the date of this report.

T-Auditor - General.

Pretoria

31 July 2013



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence