

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

THURSDAY, 10 APRIL 2014

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National Assembly and National Council of Provinces

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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 THE
FINANCIAL YEAR ENDING 31 MARCH 2013
INCLUDING THE PERIOD UP TO FEBRUARY 2014**

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1. INTRODUCTION

This is the final Annual Report of the Joint Standing Committee on Intelligence (JSCI) before the 4th Parliament is dissolved. The report therefore includes material which falls outside the usual reporting period. This was unavoidable and also necessary for the sake of completeness. Therefore some matters reported on include the period up until February 2014.

The JSCI was confronted with considerable challenges during the period under review. The membership of the Committee changed a number of times during this period. These changes are set out below. In addition an Ad Hoc Committee appointed to process the Protection of Information Bill and one which processed the General Intelligence Laws Amendment Bill (GILAB) only completed its work in 2013. During this period the Chairperson and a number of JSCI members also served on these Ad Hoc Committees. This, *inter alia*, affected the work of the JSCI.

2. THE LEGISLATIVE MANDATE OF THE JSCI

The functions of the JSCI are set out in Section 3 of the Intelligence Services Oversight Act 40 of 1994 (the "Oversight Act"). A copy of the latest version of the Oversight Act is attached hereto as "**ANNEXURE A**". Some of these functions are however, to receive from:

- the Auditor-General an audit report compiled in accordance with Public Audit Act 25 of 2004 and after obtaining the report, to consider:
 - the financial statements of the Services, Academy and Comsec;
 - any audit reports issued on those statements; and
 - any reports issued by the Auditor-General on the affairs of the Services and the Intelligence Services Entities.

-
- any judge as defined in the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002, 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 judge may deem appropriate: Provided that such report shall not disclose any information contained in an application or direction contemplated in section 3 of that Act.
 - the Ministers responsible for the Services and the Intelligence Services Entities, a report regarding the budget for each Service or Entity for which he or she is responsible.

Further functions are:

- to consider and make recommendations on the report and certificate transmitted to it in terms of section 7 (7) (d) of the Act by the Inspector-General of Intelligence.
- to consider and make recommendations on all proposed legislation relating to a Service and any other intelligence and intelligence-related activities, and to initiate legislation in connection with such Service, intelligence and activities.
- to review and make recommendations on regulations made under section 6 of the National Strategic Intelligence Act, 1994 (Act 39 of 1994), and regulations regarding the intelligence and counter-intelligence functions of a Service, made under section 29 of the Intelligence Services Act, 1994 (Act 38 of 1994), section 87 of the Defence Act, 1957 (Act 44 of 1957), or section 24 of the South African Police Service Act, 1995 (Act 68 of 1995).

-
- to review and make recommendations regarding interdepartmental co-operation and the rationalisation and demarcation of functions relating to intelligence and counter-intelligence between the Agency, the South African Secret Service, the National Defence Force and the South African Police Service.
 - to order investigation by and to receive a report from the Head of a Service or the Inspector-General regarding any complaint received by the Committee from any member of the public regarding anything which such member believes that a Service has caused to his or her person or property: Provided that the Committee is satisfied that such complaint is not trivial or vexatious or made in bad faith.
 - to refer any matter in relation to a Service or intelligence activity which comes to its attention and which it regards as relevant to the promotion of, respect for, and protection of the rights entrenched in Chapter 2 of the Constitution to the South African Human Rights Commission referred to in section 184 of the Constitution, and to receive a report from such Commission concerning the matter.
 - to consider and make recommendations regarding any matter falling within the purview of this Act and referred to it by the President, any Minister responsible for a Service or Parliament.
 - to request the officials or bodies to explain any aspect of a report.
 - to deliberate upon, hold hearings, subpoena witnesses and make recommendations on any aspect relating to intelligence and the national security, including administration and financial expenditure.
 - to consult with any member of the Cabinet appointed in terms of the Constitution, regarding the performance of the functions of the

Committee in terms of this Act.

- to consider and report on the appropriation of revenue or moneys for the functions of the Services and the Intelligence Services Entities.

3. COMPOSITION OF COMMITTEE

The Intelligence Oversight Act 40 of 1994 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. The Chairperson of the JSCI is appointed separately in terms of section 2(4) of the Oversight 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 present composition of the Committee is:

2013

Name	Party
Mr CV Burgess	ANC (NA) Chairperson
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)
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)
Ms Bam-Mugwanya	ANC (NA)

Mr. Fihla and Mr SS Mazosiwe resigned in March and May 2013 respectively. Hon. Ms Bam- Mugwanya was sworn in during June 2103. The Committee also lost the services of Hon Kganyago who sadly passed away in July 2013. Mr. Shilowa (COPE NA) is no longer a Member of Parliament. His replacement is still awaiting the finalisation of his clearance certificate.

4. JSCI REPORTING PROCESS

The compilation of the Annual Report of the JSCI together with its final presentation for tabling in Parliament is a complex matter. The following are some of the detail that affects the tabling of the Annual Reports of the JSCI:

- Chapter 5 of the Public Finance Management Act 1 of 1999, particularly section 40
- Section 3 of the Intelligence Services Oversight Act 40 of 1994
- Section 3(b) of Act 40 of 1994 read with subsections 7(7)(d), (11)(a), (11)(c) and (11)(d)
- Section 3(a)(iii) of Act 40 of 1994
- The provisions of the Public Audit Act 25 of 2004, particularly, Chapter 3 and section 15(3) and section 22

The aforementioned statutory provisions are *inter alia*, a few of the impediments that affect the finalisation of the Annual Report. Moreover, the material and information which form the subject matter of the Annual Report of the JSCI are classified. The declassification of this information does not lie within the jurisdiction of the Committee and is a time consuming process.

In order to comply with section 6(3) of Act 40 of 1994, the JSCI has adopted a protocol. This protocol culminates with the submission of the Annual Report to the President for final consideration on the question of “national security”, after which it is tabled in Parliament.

As a consequence, practical and statutory considerations have traditionally been responsible for the delay in the tabling of the Annual Report of the JSCI. The Committee is therefore waiting for the restructuring process of the State Security Agency to be finalised, after which the JSCI will recommend that the necessary amendments be effected to the Oversight Act to correct the reporting period.

5. STATE SECURITY AGENCY (SSA)

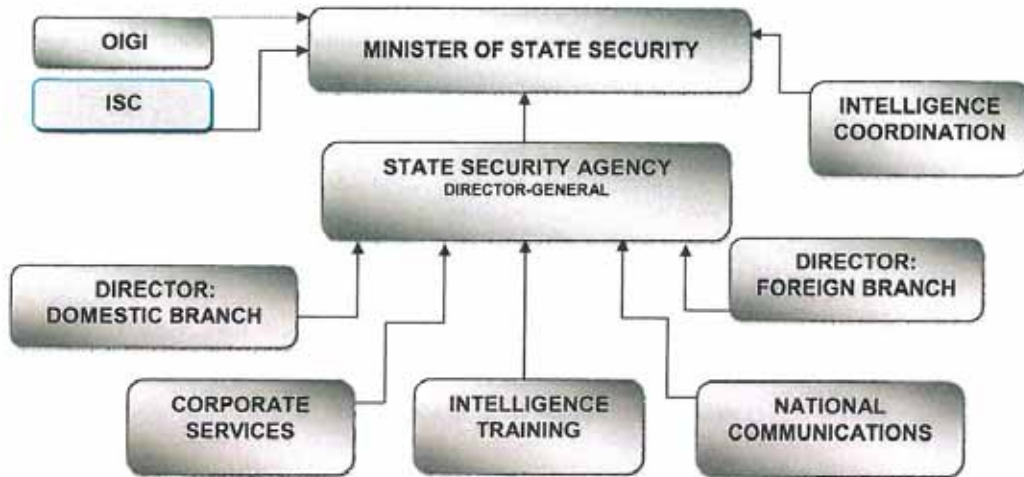
During the 2012/2013 financial year the restructuring and integration of the State Security Agency (SSA) which commenced in the 2009/2010 financial year, was coming to an end with the approval of the final high-level organisational changes.

Restructuring of Civilian Intelligence Services

- The National Intelligence Agency (NIA), the South African Secret Service (SASS) and the National Intelligence Coordinating Committee (NICOC) were established in 1995, following the amalgamation of statutory and non-statutory intelligence organisations.
- NIA and SASS over the years and in terms of legislation, operated as two separate entities, each with its own Accounting Officer, while NICOC was headed by a Director General falling under the NIA budget.
- In 2009, NIA had two Deputy Directors-General, SASS three and NICOC two, resulting in a total three Deputy Directors-General responsible for Corporate Services (CS).

-
- Over the years, in an effort to create centers of specialisation, the South African National Academy of Intelligence (SANAI), the National Communications Centre (NCC), the Office of Interception Centre (OIC), the Electronic Communications Security (Pty)Ltd (COMSEC) and the Intelligence Services Council (ISC) were formed.
 - All these structures had dedicated CS capabilities.
 - The current restructuring process was preceded by various initiatives by the executive authorities prior to 2009 who emphasized the need for a shared service dispensation in areas where duplication occurred.
 - In 2007 a Shared Services Board (SSB) was appointed to consider the issue of shared services. However, this shared service process lost momentum as preparations were being made during 2008 to establish a new single department.
 - Accordingly the restructuring process was aimed at completely overhauling the intelligence business architecture.
 - A review process was initiated in 2008 in conjunction with the Department of Public Service and Administration.
 - This review process was concluded resulting in Presidential Proclamation No. 59 of 2009 that established the State Security Agency (SSA) as a new department, with one accounting officer.

Organisational Structure the State Security Agency (SSA)

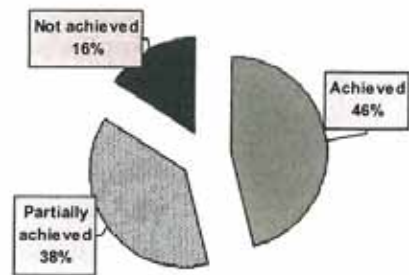


Performance information

Overall SSA Performance - 2011/12



SSA Annual Performance - 2012/13



As depicted in the diagrams above there were varying degrees of success in the achievements of the targets set by SSA for the year under review. 46% of targets were achieved, 38% was partially achieved whilst 16% was not achieved. From the performance results reflected across the different programmes, the Committee is encouraged that with full completion of the restructuring process, targets will be fully achieved.

Reasons for lower overall performance

- Impact of the restructuring on certain programmes, e.g. IM & CI.
- Capacity limitations, particularly in areas where new specialised capacities were created, e.g. Border Intelligence, Economic Intelligence, Counter terrorism, etc.
- New targets which required more time to reach maturity, particularly in Foreign Collection, Border- & Economic intelligence.

Overview of organisational highlights

- Hosting of the AFCON Tournament, BRICS Summit, securing the ruling party's leadership conference, etc.
- Continuing expansion of partnerships with FIS partners in SADC and the Continent.
- Completion of the restructuring process.
- Migration of members into a single post establishment & establishment of a single payroll.
- Reinvigorating the SSA with "new blood" through the implementation of the cadet programme.

-
- Improving language capacity to translate intercepts.
 - Success in supporting government in election of the SADC candidate as AU Commission Chair.
 - Developing an integrated and unifying corporate culture.

Security breaches (Break-ins and Fire)

Several security breaches were reported at offices of SSA. There were break-ins at some offices and a fire destroyed the KZN Provincial Office. Some of the incidents happened towards the end of the previous reporting period, February 2012 and continued till September 2012. All incidents were investigated. The following incidents were investigated:

- 07 – 08 February 2012 a burglary and theft at the office of the Intelligence Service Council and the Inspector General of Intelligence at Bogare Complex, Menlyn (Pretoria).
- 11 February 2012 a fire at the premises of the SSA in KZN Provincial Office Unit located in Umhlanga.
- 12 February 2012 a burglary and theft at the premises of the Western Cape's Operational Unit situated in George.
- 28 – 29 February 2012 a break-in at SSA's operational cover office in KZN.
- 20 – 21 March 2012 a further burglary occurred at the cover office in KZN
- February – May 2012 break-ins into Rhulani bar store room.
- 2 July 2012 a break-in at the SSA's operational cover offices in Pretoria.
- 25 September 2012 a break-in into SSA Mpumalanga Provincial office.

The investigation found no evidence to suggest that the incidents were coordinated attempts to breach SSA security. However, possible involvement of Foreign Intelligence Service (FIS) is still under investigation. A total of five individuals were arrested and charged criminally and certain individuals face disciplinary action due to negligence in performance of their duties.

The Committee called for briefings on all these matters and recommended that an immediate security upgrade for the broader SSA be implemented to prevent similar incidents in the future.

Covert Support Unit (CSU) investigations

The Committee was briefed on certain activities of the Covert Support Unit (CSU). This matter has been unresolved for almost five years. An investigation on the CSU was requested by the Minister in September 2009. During the preliminary inquiry by the internal auditors, incidents of breach of regulatory framework, as well as irregular authorisation and utilisation of funds were identified. Some of the key findings of the audit report included amongst others non compliance with the Ministerial Payment Directive (MPD), inadequate supporting documentation for issuing of Special Temporary Advances as well as non compliance with finance and asset directives.

Moreover preliminary findings indicated that there were irregularities in the formation and management of the programme. Furthermore Supply Chain Management (SCM) procedures were not followed. However, investigations are incomplete and the matter has now been referred to the Office of the Inspector General of Intelligence (OIGI).

Other matters relating to SSA are dealt with herein below in the section covering the certificates of the Inspector General of Intelligence.

6. CRIME INTELLIGENCE (CI)

The instability in Crime Intelligence (CI)

The instability in the Crime Intelligence Unit of the South African Police Service continued in the reporting period. General Lazarus remained under suspension and his matter has been referred to court for prosecution and is accordingly *sub judice*.

General Mdluli returned to work for a brief period but his matter is before the civil court and also *sub judice*. Other Generals in CI implicated in the Mdluli matter were transferred to other divisions. However, the CI Unit is still under an Acting Divisional Commissioner, presently Maj. General Zulu.

As a consequence of the above, the morale of CI members continued to be dampened by the unresolved cases and the instability of top management.

In April 2012 General Mdluli and his team appeared before the Committee to present the CI's strategic plans for the year under review. During the briefing he assured the Committee that he was back in his position as head of CI and requested time to report back to the Committee with a turnaround strategy for CI to bring it back to full operation. In this regard CI was planning a management strategic meeting in May 2012. However, General Mdluli shortly after his presentation to the JSCI was put on special leave.

On 11 July 2012, the Committee met with the Minister of Police, the new National Commissioner, General Phiyega and new acting Divisional Commissioner of CI, General Ngcobo. The Committee sought clarity on a number of issues including the instability in CI. The National Commissioner and Gen Ngcobo undertook to provide the Committee with reports on the issues that were raised, including the leaking of information to the media. The media leaks have been an ongoing problem at CI. It became apparent that persons within CI were leaking sensitive information and were also distorting leaked information to create chaos and

uncertainty in the division. In two such incidences the CI leaked false information to the media which implicated the Committee in alleged wrong doing.

On all the matters referred to above, the Committee interacted with all role players and the Office of the IG and where necessary, the Office of the AG.

The funding of CI Secret Account

A significant amount of resources were dedicated to CI to address various prioritised crime threats.

The funds allocated to the Secret Services Account were allocated as follows:

- Violent and organised crime
- Security intelligence
- Crimes dependant on police action
- Property related and commercial crime

Particular attention was given to illicit drug trade, illegal firearms, various forms of armed robberies, various forms of commercial crimes and domestic and foreign terrorism.

The division had a significant under spending on the allocated budget in the year 2012/2013.

Services rendered by the Department

(Utilisation of Secret Services Account Funds)

- Crime Intelligence gathering
- Counter Intelligence Investigations
- Crime Information Analysis and Management
- Surveillance and Technical Support to Crime Intelligence and other clients

Below is a summary of the findings of the Auditor General of South Africa (AGSA) with the response from CI.

Summary: AGSA Audit Findings on Financial Statements (2012/2013)

- Qualified audit opinion.
- Various issues raised originated from 2011/2012 financial year due to comparative figures and opening balances.
- The Department does not have policies and procedures to identify unauthorised, irregular and fruitless and wasteful expenditure
(Rectified: Policy adjusted to include prescripts regarding fruitless and wasteful expenditure)
- The Department made payments in contravention of the supply chain management requirements – eg. three quotations not obtained, competitive bidding process not followed, only one quotation obtained
*(Rectified: Instructions issued in this regard and independent and transparent auction process implemented.
Difficulty in dealing with Secret Services – normal procedures pose risks)*
- The Department did not accurately disclose leases
(Documentation still with HAWKS)

Overview: performance 2012/2013 financial year

Crimes that received priority attention during 2011/2012 financial year:

Crimes prioritised by the SAPS	Obligations towards NICOC
<ul style="list-style-type: none"> • Contact crime 	<ul style="list-style-type: none"> • Crime (contact and property related crimes)

<ul style="list-style-type: none"> • Property-related and other serious crime 	<ul style="list-style-type: none"> • Organised crime (drugs, vehicles, weapons, diamonds, people smuggling, human trafficking, corruption)
<ul style="list-style-type: none"> • Crime detected as a result of police action 	<ul style="list-style-type: none"> • Commercial crime
<ul style="list-style-type: none"> • Security intelligence-related crime 	<ul style="list-style-type: none"> • Political instability • Terrorism • Border security and integrity • Rightwing extremism • Social instability and service delivery protests • Attacks against foreigners • AFCOM 2013 • ANC Manguang national conference • BRICS summit

Reason for Variance: Performance: Undercover Operations and Formal Intelligence Sources and Intelligence Providers

- The Division did not achieve its objectives of undercover operations, which also influenced the recruiting operations.
- This could be attributed to certain influencing factors such as:
 - Several changes to the top management of Crime Intelligence.
 - The restructuring and merger of the Division: Crime Intelligence with the Division: Protection & Security Services.
 - The redesign of the undercover operations approval procedures.
 - Interim withdrawal of current delegations of authority pertaining to the utilisation of secret services account funds.

Summary: AGSA Audit Findings on Performance (2012/2013)

- Lack of documented and approved policies and procedures to address reporting requirements / Lack of standard operating procedures for the accurate recording of actual achievements.
(Rectified: Draft Policy on Performance Management regarding Secret Services compiled, with assistance from AGSA – awaiting final review and approval)

- Two (2) targets were not achieved
(This can mostly be attributed to certain influencing factors, mentioned previously, such as:
 - *Several changes to the top management of Crime Intelligence*
 - *The restructuring and merger of the Division: Crime Intelligence with the Division: Protection & Security Services*
 - *The redesign of the undercover operations approval procedures*
 - *Interim withdrawal of current delegations and authority pertaining to the utilisation of secret services accounts funds)*

- Executive authority did not approve the strategic plan
(Strategic Plan approved by Div Comm Mdluli in Cape Town – unfortunately only one original copy was available and handed to the JSCI during April 2012)

- The Department did not have or maintain effective, efficient and transparent systems of financial and risk management
(In process of developing specific financial and risk management framework / plan for Secret Services)

7. DEFENCE INTELLIGENCE

The Defence Intelligence (DI) is the premier intelligence wing of the South African National Defence Force (SANDF) accountable to the Minister of Defence and Military Veterans. The Service provides a defence intelligence and counter-intelligence capability to the department.

The Strategic objectives of DI are:

- To provide early warning to their clients;
- To promote a state of security for the conduct of operations in the Minister of Defence and Military Veterans (MOD & MV) and the Department of Defence (DOD) and
- To participate in Security Management in the Region and on the Continent.

Defence Intelligence (DI) Headquarters (HQ)

The issue of the DI-HQ was raised in previous reports as well as in the Inspector General certificates as a concern. The building poses an unacceptable security risk to DI members, with structural damages to the building and an unreliable infrastructure. The matter was escalated by the Committee to the Minister and the President. This matter is reported on further herein below.

Loss of Personnel

The JSCI is concerned about the loss of personnel at the DI. This could be due to retirement, poaching by other Agencies and the private sector. The concern of the Committee has always been that the capacity building of DI takes time and recruitment of suitable candidates is not easy. DI depend on specialised skills and training. It is in this regard that the Committee urges that there should be a proper retention strategy to alleviate some of the challenges facing DI.

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

The Inspector General of Intelligence (IGI) is administratively accountable to the Minister of State Security for budget resources expended during the year under review.

The IGI has a civilian oversight responsibility towards the following Services:

- National Intelligence Services (NIA);
- South African Secret Services (SASS);
- Crime Intelligence Division of the South African Police Service (CI) and
- Defence Intelligence Division of the South African National Defence Force (DI)

The NIA and the SASS are referred to as civilian intelligence services and are accountable to the Minister of State Security. The Crime Intelligence Division and Defence Intelligence are accountable to the Minister of the Police and Defence and Military Veterans respectively.

The report of the IGI covers the fiscal reporting period from 1 April 2012 to 31 March 2013.

The OIGI derives its existence from section 210 of the Republic of South Africa, 1996 and is established by the Intelligence Services Oversight Act, 1994 (Act 40 of 1994). Section 7 (7) of the Act provides for the functions of the IGI as follows:

- Monitor compliance by any Service with the Constitution, applicable laws and relevant policies on intelligence and counter-intelligence;
- Review the intelligence and counter-intelligence activities of any Service;
- Perform all functions allocated by the President or any Minister responsible for a Services;
- Receive and investigate complaints from members of the public and members of the Services;

-
- Submit certificates to the JSCI and the Ministers responsible for intelligence services concerning the activities of the services for a prescribed period.

Monitoring Mandate [Section 7 (7) (a)]

The IGI has the statutory mandate of monitoring compliance by any Service to the regulatory framework. This function recognises that any activity undertaken by a Service must be performed within the framework of legitimacy and due process. This function entails an assessment of the adequacy of the regulatory framework governing a Service, testing compliance thereto and providing reports thereon containing findings and recommendations.

Review Mandate (Section 7 (7) (b))

The purpose of the review function is to evaluate the intelligence and counter-intelligence activities of the Services in achieving their mandates. The primary objective of this function is to evaluate performance and is executed through an assessment of management direction, an assessment of capacity to execute the activity and the execution of the activity itself. In addition an evaluation of the adequacy of regulatory framework enabling the activities is conducted. These culminate into a report containing findings and recommendations.

Complaints mandate

Complaints may be submitted to the IGI by an individual, organisation and or any entity if they relate to:

- A complaint from a member of the public or of the Services on alleged maladministration, abuse of power, transgressions of the Constitution, laws and policies, corruption and improper enrichment of any person through an act or omission of any member.

-
- Referrals from the JSCI that are submitted regarding anything that any member from the public believes that a Service has caused to his or her person or property.

Oversight Projects

Acting within the purview of the legislated intelligence oversight mandate, the OIGI Project Team responsible for SASS (SSA-Foreign Branch) identified a number of oversight projects undertaken in SASS. The Component, headed by an Oversight Principal Officer (OPO) was delegated the responsibility of the oversight activities of the Inspector –General in relation to the SASS as a component of the State Security Agency (SSA).

The oversight work undertaken by this unit fall within the ambit of Programme 2 of the OIGI Strategic plan. The component was informed by the OIGI strategic pillar and outcome which provides assurance through effective performance of the oversight mandate and promotion of good governance.

The focus of the oversight work of the OIGI was to determine whether anything done by the Service was, in the IGI's opinion unlawful or contravened any directions issued by the Minister or involved an abuse, unreasonable or unnecessary exercise by the Service of any of its powers. The IGI's opinion is informed by the work which is done with the Services throughout the review period, the complaints received and investigated and the activity report received from the Services. All of the above informs the issuance of a certificate by the IGI in respect of each Service.

IGI identified and performed the following integrated review and monitoring activities in respect of the SASS during the year review period:

1.	Monitor and review SASS's compliance with the regulatory framework (applicable laws, ministerial directions and internal regulatory framework) in the execution of its mandate;
2.	Review intelligence and counter-intelligence activities related to the illicit economy;
3.	Review intelligence and counter-intelligence activities related to espionage, sabotage and subversion;
4.	Review intelligence and counter-intelligence activities related to African and International Security Developments;
5.	Review NIA's activities in investigating and neutralizing terrorism and extremism;
6.	Review the conduct of intelligence and counter-intelligence activities by SASS Stations;
7.	Evaluate NCC interception capabilities;
8.	Evaluate the COMINT activities of the NCC on a quarterly basis;
9.	Enquire into issuance of security clearances for SASS members;
10.	Evaluate the use of all intrusive measures by the Services;
11.	Support IGI Certification process

Significant powers of collection, susceptible to abuse an unlawful conduct in the Agency were also evaluated relating to:

	Oversight Engagement	Nature & Scope
1	Targeting or setting of requirements	Design of regulatory framework, compliance therewith and evaluation of substance in the application of the intrusive technique
2	Interception of communications	Design of regulatory framework, compliance therewith and evaluation of substance in the application of the intrusive technique
3	Surveillance & Tracking	Design of regulatory framework, compliance therewith and evaluation of

		substance in the application of the intrusive technique
4	Human Sources	Design of regulatory framework, compliance therewith and evaluation of substance in the application of the intrusive technique
5	Application for bulk interception	Design of regulatory framework, compliance therewith and evaluation of substance in the application of the intrusive technique

Significant Intelligence Failure and Unlawful Intelligence Activity

No significant intelligence failures or unlawful intelligence activities within the Services were reported by the heads of the Services to the IGI during the year under review.

Execution of Complaints mandate

During the year under review the IGI established a complaints committee to deal with the processing of the complaints. A team was established comprising of members from the different components of the OIGI. A founding complaints handling document together with a schedule was drafted to ensure a uniform and standardised approach to the handling of complaints which included stringent time frames.

In the year under review the OIGI experienced an increase in the number of complaints lodged and investigated. This could be attributed to greater usage of the OIGI website and the awareness of the office. A total of 50 complaints were received and investigated by the OIGI. Of this number, 16 complaints were carried forward as cases received from previous years and 34 new cases were opened, processed and investigated.

Of the total number of 50 cases, 26 complaints were pertaining to alleged adverse effect of management decisions on the complainant's conditions of service. 17

complaints were on allegations of interception and /or surveillance activities by a Service, one case pertained to allegations of dissatisfaction with the outcome of security clearance investigations conducted by a Service and 6 cases dealt with allegations of unlawful intelligence activities.

With regard to the complaints count per Service, the majority of complaints received were against the NIA (28 cases), 7 complaints were both against NIA and SAPS-CI, 5 complaints were against SAPS-CI, 2 cases against SANDF-DI and SAPS-CI and 8 were against SASS.

Complaint Count per Designated Service

Below is a total count of cases investigated from 1 April 2012 to 31 March 2013:

Designated Service	Case Pending	Case Closed	Total Cases
National intelligence Agency (NIA)	8	20	28
South African Secret Services (SASS)	4	4	8
Crime Intelligence Division (SAPS-CI)	2	3	5
Defence Intelligence Division (DI)	0	0	0
NIA and SAPS-CI	1	6	7
SANDF and SAPS-CI	2	0	2
Overall totals	17	33	50

Nature of Compliant	Total Received
Alleged adverse effect of management decisions on member's conditions of service	26
Alleged unfair vetting results	1
Alleged Unlawful Interception of Communication and/or Surveillance	17
Alleged unlawful intelligence activities	6
TOTAL COMPLAINTS	50

Human Resources

The OIGI has an approved post establishment of 34 posts. Since the approval of the new post establishment in July 2010, 18 vacancies have been advertised and by the end of the period under review 5 positions have been filled.

The following are reasons for positions advertised but not yet filled:

- Denial of security clearance
- Non-acceptance of salary offer
- Failing of the pre-employment medical examination
- Suitable candidate(s) not identified from the pool of applicants
- Recruitment still in process

By the end of the period under review, the OIGI had a total staff complement of 21 including the Chief Operating Officer.

Activity certificates

According to section 7(11)(c) of the Oversight Act the IGI is required to submit certificates on the Activity Reports of the Services. The IGI must report whether the any of the activities of the Services were 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 operated within the rule of law and respect for human rights. The following were some of the concerns recorded in the certificates:

Certification process

The 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 the review a Service 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 a 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

State Security Agency

The IGI's certificates for the reporting period 01 April 2012 – 31 March 2013 were only tabled before the JSCI on 27 November 2013. This traditionally is one of the reasons for the late reporting of the JSCI. However, the issues raised in the certificates of some Services include incidents or activities that occurred in the reporting period 2013 – 2014.

National Intelligence Agency (SSA Domestic Branch)

South African Secret Service – SASS (SSA-Foreign Branch)

Matters of concern:

- Annual report reflects programmes of the SSA not NIA and SASS as assessed by IG (the delay in GILAB affected this, however this will be addressed as the Bill was signed into law by President only in July 2013).
- In terms of regulatory framework, the IG was concerned about the lack of Ministerial Regulations regulating the conduct of intelligence and counter intelligence activities.
- The restructuring of Civilian Intelligence Structures was still a matter of concern during the reporting period.
- Some of the strategic objectives of the Agency were not achieved or partially achieved due to amongst other reasons, lack of integration structures, managerial difficulties. A number of acting appointments have contributed to the non-achievement of the objectives.

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- Prevalence of fraud and theft cases involving members was a concern in the greater SSA. During the year under review, 14 cases of fraud as well as 19 cases of loss/theft were investigated.
 - However the Fraud Prevention Strategy was in place and noted.
 - The state of internal security is also a concern, especially at the Provincial Offices.
 - There was no occupancy certificate issued by the Metro Fire Chief and no electrical certificate.
 - General hygiene within the building was source of concern.
 - Parking area not properly secured.
 - Vetting remained a concern. The Directorate responsible for vetting still faced capacity constraints.
 - The Vetting Review Board was not functioning efficiently in the vetting process.
 - There were some inconsistencies or deviation from the established norms of re-vetting.
 - Vetting and advising in Provincial Offices also faced capacity constraints.
 - Some of the safe houses secured by the Covert Support Unit were not taken care of.
 - Capacity in delivering on the National Intelligence Priorities (NIPS) was a concern, especially in the activities relating to Border integrity and migration area.
 - Capacity constraints in the Intelligence Management directorate remained a concern.

National Communication (NC) _ National Communication Centre

Three monitoring and review projects were undertaken by the IGI at the NCC, that was monitoring and evaluating the use of intrusive measures and determining the NCC's interception capacity and capability. All matters raised were previously reported.

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- The Interim Operational Procedures and Control Measures (IOPCM) that has been in place since 2006 has served its purpose and a new directive has been finalized and approved by the Minister for procedures, authorization and accountability for conducting Signal Intelligence (SIGNIT) operations by the NCC.
 - The Executive Director was still acting in the position.
 - The NCC's SIGNIT Operations Audit Committee did not carry out all its audits as required by the IOPCM.
 - SSA – FB did not renew most of their projects in time, in terms of the regulatory framework.

Defence Intelligence

Most of the issues raised were raised in previous certificates. The only new issue raised is the CAR incident and landing of the private aircraft at the Waterkloof Airbase, which falls under the next reporting period. The JSCI acknowledges that although some of the matters raised were raised in previous certificates, there is an improvement with the regulatory framework, in particular internal policies as well as the appointment of a legal advisor.

The building where the HQ of DI is situated remained a concern. In terms of both the safety and location of the building, members remain at risk. The IG has noted with concern that the Counter Intelligence structure remains fragmented and do not function in a complete and comprehensive manner. The personnel Review Board has not been properly constituted for the past eight years. Vetting remains a concern as previously reported, however there is an improvement since the establishment of vetting capacity in the Western Cape Office which cater for WC and Eastern Cape. The IGI was also concerned with the productivity of the defence and military attaches. There are countries where there was no report which raised concerns of the role of the attaché.

SAPS-CI concerns

The Crime Intelligence Unit of SAPS did not submit their Activity Report (Annual Report) 2012-2013 to the IG, the current review by the IG was compiled without their report. Most of the issues raised in the certificate have been raised in the previous certificates.

Matters of Concern

- CI function has not been explicitly legislated in the South African Police Act.
- The on-going restructuring process was unwarranted and a major concern. There was restructuring with every new appointed Divisional Commissioner or Acting Commissioner.
- There was no stability at CI which affected operations and productivity of members.
- The merger of SAPS CI and SAPS Protection Services has caused more challenges within the Divisions.
- The merger or integration was not really complete, other than both Divisions reporting to the same Divisional Commissioner.
- The Division has different mandates, CI responsibility is more of secret operations whilst Protect Services in a public operations one.
- The Head of Operational Support was assigned the role of Chief Financial officer (previously raised and discussed within the JSCI).
- The segregation of duties. One of the structures approved placed Component Intelligence Collection, Analysis and Coordination in the same component.
- Lack of career growth with CI Officers in one rank without promotion.
- Under utilization of resources due to restructuring.
- Undercover operations decreased significantly in the period under review.

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- There was a continuous leak of classified information within the Division without any proper counter intelligence investigations of these leaks.
 - The applications for interceptions and monitoring of communications have decreased significantly rendering operational members almost redundant.
 - Provincial Heads of CI do not form part of the SAPS Provincial Management this has the potential to weaken relationships between CI and SAPS at large.
 - The vacant senior positions in Provinces were held by acting members, that is WC, Limpopo and KZN.
 - All Heads of Provinces were in acting capacity except EC.
 - There were serious capacity challenges within CI, especially at Provinces. The staff compliment does not talk to the reality and practicalities of the objectives of the Provinces.
 - There were shortages of official vehicles and cell phones for operational members in the Provinces.
 - Western Cape Provincial Management complained that they were not informed about the work output of the Cyber Unit based in WC. The same situation existed at the KZN office.

9. 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 (RICA), the Committee met with Justice Yvonne Mokgoro on 31 July 2013 for a briefing on the statistics of interceptions. The Committee again raised its displeasure in the short term given to each designated judge. The Committee has previously 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 the Judge in terms of the RICA, 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 RICA is attached hereto as **ANNEXURE B**.

10. AUDITOR GENERAL

The Committee depends to a large extent on the Office of the Auditor-General for 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 C**.

11. JSCI ACTIVITIES IN THE REPORTING PERIOD

The programme of the JSCI for the period under review and the extended period is attached hereto as **ANNEXURE D**.

The mandate of the Committee is set out in the Oversight Act which essentially involves performing an oversight function over 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.

Meetings with the President

The Committee has met a number of times with the President on matters concerning the work of the Committee. While it was envisaged that the Committee would meet at least once every quarter with the President this has not been possible due to unforeseen circumstances.

Workshop on General Intelligence Laws Amendment Bill (GILAB) by JSCI and Office of Inspector General

The Committee held a joint workshop with the Office of the Inspector General on Intelligence on the General Intelligence Laws Amendment Bill from 22 – 24 April 2012. A former NICOC Coordinator and the former Inspector General of Intelligence and the Office of the AG were invited to make inputs on the Bill.

At the end of the deliberation, the Committee came up with the following resolution:

The General Intelligence Laws Amendment Bill, 2011 [B25–2011], sought to amend laws which related to the National Intelligence Agency and the South African Secret Service, amongst others. The National Intelligence Service and the South African Secret Service are Services contemplated in section 3(c).

The JSCI has, in terms of section 3(c) of the Act, concluded its consideration of the General Intelligence Laws Amendment Bill, 2011.

The Committee had a number concerns with the Bill:

➤ **National Intelligence Coordinating Committee (NICOC)**

The Committee expressed concern that, while Clause 8 of the Memorandum on the Objects of the Bill stated that the Bill contained no new policy proposition, the proposed amendments contained in the Bill as they relate to NICOC in fact have profound policy implications regarding the requirement for intelligence coordination as contained in Section 210 (a) of the Constitution, in the current White Paper on Intelligence and the National Strategic Intelligence Act.

➤ **Memorandum on the Objects of the Bill**

The Memorandum on the Objects of the Bill stated that the amendments proposed in the Bill are of a technical nature (par. 4) and that the Bill contained no new policy proposition (par. 8). These statements were incorrect in the light of the changed role of functions of NICOC proposed in clause 5 of the Bill.

➤ **National Communications Centre (NCC)**

The Bill further sought to give legislative effect to the NCC. The Committee was of the view that this was a policy matter. The Memorandum on the Objects of the Bill (par. 8) stated that there were no policy considerations. The Committee noted that previous attempts to legislate on this matter resulted in the legislation being withdrawn because policy considerations were not taken into account.

The Committee further noted that there were matters relating to the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002) (RICA), which were not considered in the Bill.

➤ **Consultation**

Committee expressed concern that there was insufficient consultation prior to tabling regarding matters relating to-

- auditing;
- the Office of the Inspector-General;
- oversight;
- the powers and functions of the Minister of State Security and the Director(s)-General;
- coordination of intelligence.

The JSCI accordingly resolved that it could not to support the General Intelligence Law Amendment Bill [25 – 2011] as tabled.

Oversight visit 29/07/12- 02/08/12

The Committee undertook an oversight visit from 30 July to 02 August 2012 to Mafikeng and Pretoria.

The objective of the visit was to receive financial reports for the first quarter from the Intelligence Academy and to assess the progress made since the last visit including the restructuring process as well as to inspect Defence Intelligence facilities and receive briefings on sensitive and special projects.

This was the first time that the Committee visited the Intelligence Academy on oversight since the process of restructuring started. The South African National Academy of Intelligence (SANAI) as it was previously known has since merged into the State Security Agency following a Proclamation in 2009 announced by the President in the Government Gazette.

Meeting at Intelligence Academy

On 31 July 2012, the Committee met with the Acting Director General, Mr Dennis Dlomo, of State Security Agency accompanied by senior management including Intelligence Academy senior management at Mafikeng where the Committee received presentations and briefings.

The Academy is the primary provider of training for the Intelligence Services. During the implementation of the proclamation in 2009 it was decided that training should be centralised with one accredited institution, which is SANAI.

SANAI is in partnership with SADC and BRICS. Training is provided on request but has a core curriculum based on needs analysis. There are three levels relating to the curriculum, i.e. entry level; functional training after completion of entry level and ancillary. There is a huge backlog on training.

The Committee raised concern about the no-issuing of diplomas for completed courses. The Committee was advised that not all courses required the issuing of a diploma e.g. attendance of seminars or short courses. No diplomas had been issued to date. The reasons given were that no member had completed all the modules and that the Academy also needed to get accreditation from the Council for Higher Education and Training.

The delegation was also concerned about the acting positions held by members due to the ongoing process of restructuring at SSA, which subsequently delays the appointment of permanent staff. However, an intervention strategy was in place to focus on the challenges.

Meeting with Defence Intelligence (DI)

The delegation visited the Defence Intelligence Head Quarters (HQ) on 1 August 2012 to receive quarterly reports and briefings on the budgets of all sensitive projects.

The quarterly report presentation revealed the following:

- (i) Under performance – the targets were not met due to shortage of skilled personnel.
- (ii) Achievements – targets on security clearance were met.
- (iii) 149 posts have been approved for strategic capability projects.
- (iv) High vacancy rate is still a threat due to poaching of skilled personnel.

DI was advised by the Committee to consider how to legally implement a restraint of trade clause in the contracts of employment of staff.

➤ **Presentation on dynamic global security environment**

The Committee received a presentation on the global environment security complexities.

The Committee was also briefed on:

- The role of DI in the protection of the waters around South Africa.
- The Maritime Strategy in which DI participates with our neighbours.
- The technology used by DI. The technology was very expensive and advanced but DI was on par with the top advanced technology in the world.
- The continental and regional security environment. DI plays an important role in advising Africa on strategic interventions.
- The operation of pirates along the African coast.
- Migration patterns into the country and all the challenges it possess to the country.

The Committee had valuable discussions on the above topics and a lot has been learnt from the questions and clarity sessions.

➤ **Presentation on DI Headquarters (HQ)**

The Committee was once more advised of the unsuitability of the present offices where DI headquarters are situated. The Committee was informed that building a new HQ by DI would eventually cost less than leasing.

The Committee requested a report from DI on their HQ concerns in order for the Committee to take the matter further with the Executive.

The Committee has for many years had serious concerns about the present location and condition of the HQ of DI. The rental is excessive, the building is in a poor state and the location of the building is highly inappropriate.

International Activities of the JSCI

➤ **International Intelligence Review Agencies Conference (IIRAC)**

The JSCI sent a delegation of three to attend the 8th International Intelligence Review Agencies Conference (IIRAC) in Ottawa, Canada. The conference took place from 24 May to 03 June 2012. Since 1997, the IIRAC has been held bi-annually and the venue rotates between six countries, which are Australia, Canada, the United Kingdom, the United States, South Africa and New Zealand.

The purpose of the conference is to allow for intelligence oversight bodies to meet and share their experiences of intelligence oversight in a changing global security situation. In 2006 the conference was held in Cape Town, hosted by the Office of the Inspector General for Intelligence together with the JSCI.

The 2012 conference, under the theme "Strengthening Democracy Through Effective Review" was attended by 12 countries including the hosts, Canada. The

countries were Australia, Belgium, Denmark, Germany, the Netherlands, New Zealand, Norway, Sweden, South Africa, United Kingdom and the United States of America. The conference officially opened on 28 May 2012.

The Conference had seven vibrant sessions with different speakers presenting papers on different topics, as well as breakout sessions that encouraged delegates to discuss and debate issues such as engaging legislators, academics and the public on intelligence oversight matters.

➤ **Namibian Delegation Visit**

The Committee met with a Parliamentary delegation from Namibia who sought guidance on the functions and the work of the JSCI on 05 September 2012. The purpose of their visit was to seek assistance in establishing a similar oversight authority over their Intelligence Services. Currently the Committee oversees 5 Ministries, including Ministry of Defence, Foreign Affairs and Safety and Security.

➤ **JSCI visit to USA**

In February 2013, the JSCI went on a study tour to USA to meet our counterparts. The Committee is currently reviewing both the Oversight Act and the current oversight model. The purpose of the review is to compile a report which will contain findings and recommendations on relevant challenges relating to the current model and recommend amendments where necessary.

The main objective was to look at methods which could assist the JSCI in enhancing its oversight authority and to focus on particular areas such as:

- Computer systems control.
- Interception of communication, on how to improve and exercise effective oversight over bulk interception and other communication to avoid abuse by intelligence officers responsible for interception.
- Effective monitoring and overseeing financial expenditure such as secret services accounts e.g. covert structures.

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- Effective exit employment strategy by security services as to who is responsible for monitoring the activities of former intelligence officers.
 - Monitoring of leakages of classified information within the Services.

The Committee was represented by the Chairperson, Hon CV Burgess and leader of the delegation, Hon NB Fihla; Hon JJ Maake; Hon SD Montsitsi; Hon SCN Sithole; Hon NM Kganyago and Hon DJ Stubbe. The delegation was accompanied by the Committee Coordinator, Ms N Mbuqe for logistical and administrative assistance.

Interaction with the US structures

The Committee had an opportunity to interact with the National Defense University (NDU). The Committee received a briefing mainly on US intelligence structures, US National Security and US policy towards Africa and their oversight relationship.

The US has 16 intelligence Agencies. These agencies work together both independently and collaboratively with organizations within the executive branch to gather intelligence necessary to conduct foreign relations and national security activities. Their primary mission is to collect and convey the essential information to the appropriate authorities.

Meeting with the Permanent Select Committee on Intelligence (HPSCI)

On 5 February 2013, the delegation met with the Select Committee on Intelligence. The Committee has highly qualified professional staff that assists with oversight. Significant exchanges took place.

Meeting with the State Department, Bureau of Intelligence and Research

The JSCI also met the State Department, Bureau of Intelligence and Research. The office provides intelligence and analysis.

Meeting with National Intelligence Council

The top officials briefed the delegation on the National Intelligence Council's report on global trends 2030. A report is released every four years after the election of the President. The Council has an advisory capacity similar to NICOC.

Meeting with the Senate Select Intelligence Committee

On 07 February 2013 the delegation met the Senate Select Intelligence Committee. The Committee is chaired by Senator Dianne Feinstein and a Ranking Member, Senator Saxby Chambliss. The Committee consists of 15 members and is responsible for congressional oversight over the Intelligence Agencies. The Committee has many other functions, including oversight over the CIA.

Members of the JSCI delegation interacted freely with the two chairpersons of the Select Committee who were open and helpful in providing possible solutions to the problems raised by the delegation.

The USA visit was extremely important and the delegation was able to obtain valuable information to assist the JSCI in evaluating its present oversight model.

12. OTHER JSCI ACTIVITIES OUTSIDE THE REPORTING PERIOD

Since this is the last report of the Committee in the 4th Parliament, the Committee accordingly thought it necessary to report on some matters of importance beyond the reporting period.

The Chairperson of the JSCI was appointed to Chair two other committees dealing with legislation, ie the Ad-Hoc Committee on the General Intelligence Laws Amendment Bill and the Ad-Hoc Committee on Protection of State Information Bill. Some of the JSCI members were also assigned to these Ad-Hoc Committees.

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- General Intelligence Laws Amendment Act 11 of 2013 was assented by President on 19 July 2013 and came into operation on 23 July 2013.
 - The Protection of State Information Bill was returned to Parliament by the President in September 2013 to consider reservations he identified. The reservations were considered by an Ad Hoc Committee and approved by National Assembly on 31 October 2013.
 - On 02 August 2013 the Minister of State Security announced the appointments of Senior SSA management.
 - Director General of SSA: Ms Gladys Sonto Kudjoe
 - Director Domestic Branch: Mr Simon Jabulani Ntombela
 - Director Foreign Branch: Dr Batandwa Siswana
 - DDG Domestic Collection: Ms Nozuko Bam (continuation)
 - DDG Counter Intelligence: Mr Thulani Dlomo
 - DDG Foreign Collection, Africa: Ms Joyce Mashele
 - DDG Foreign General: Rest of the World: Ms Matshidiso Mhlambo
 - NICOC Coordinator: Mr Dennis Thokozani Dlomo

Special Report - Prestige Project A: Security Measures at the President's Private residence: Nkandla

On 20 June 2013 the Task Team Report on the Security Measures at the President's Private Residence - Nkandla was tabled in Parliament and because of its classification, the report was referred to the Joint Standing Committee on Intelligence for consideration.

The JSCI considered the Report on the Prestige Project A: Security Measures at the President's Private residence: Nkandla. In carrying out its work the Committee, *inter alia*, met and consulted with the Task Team and considered the relevant

legislation and policies. The Committee also visited and inspected the Nkandla residence and the surrounding area in order to verify all information.

➤ **Briefing by the task team - Pretoria 31 July 2013**

The JSCI met the Task Team on 31 July 2013 in Pretoria and received a comprehensive briefing on the work of the Task Team, the Nkandla Report and the security measures implemented at the private residence of the President. All Committee members were present.

During the briefing the Task Team drew particular attention to the surrounding terrain where the property of the President is situated. The Task Team advised that they found that the location of Nkandla property was carefully considered and greatly affected the security assessments which recommended the upgrades and the implementation thereof.

A further key issue of confusion which the Task Team cleared up was that the property of the President was too small for the execution of the security assessment proposals. As a consequence additional State land adjacent to the property of the President had to be acquired.

The entire security features that were carried out were therefore carried out on two separate properties. The property of the President comprises 3.8324 ha while the adjacent property which comprises 5.1598 ha and is State owned.

➤ **Meeting and deliberations of the JSCI**

The JSCI met on numerous occasions to deliberate on the Nkandla Report. However, following the briefing by the Task Team and the JSCI meeting, the Committee resolved that an inspection of the Nkandla property and the surrounding area should be undertaken.

➤ **Inspection *in loco* by JSCI**

On Monday 30 September 2013 the JSCI accompanied by the Minister of Public Works and members of the Task Team conducted an inspection *in loco* of the Nkandla property and the adjacent State owned property to verify the matters relating to security assessment and to observe the nature of the surrounding terrain. During the visit the committee also requested further briefings from the Task Team members and the project architect who accompanied the Task Team. As a consequence of the inspection *in loco*, the additional briefings received on site from the Task Team, together with numerous questions raised by the Committee, the Task Team was requested to furnish the Committee with specific additional information.

The Special Report of the JSCI covered the work done by the committee and incorporated its findings and recommendations. The full report and findings was published on the Parliamentary Announcements, Tablings and Committee Reports of 13 November 2013.

JSCI MEETINGS IN PRETORIA

The Committee travelled to Pretoria where it held meetings during 04 -06 February 2014 with CI, DI and SSA. The purpose of the visit was to interact with the intelligence services in order to finalise the JSCI annual report for 2012/2013 period. The Committee received briefings on other outstanding matters. The interaction with SSA was particularly important and useful because they were also conducting a strategic planning workshop during this period. The Committee members made valuable contributions and as a consequence the DG State Security Agency addressed a letter of compliments to the Committee. A copy of the letter is attached hereto as “ANNEXURE E”.

13. RECOMMENDATIONS OF THE JSCI

Because of the seriousness and the urgency some recommendations which were recorded in the previous report of the Committee have been repeated below. The Committee therefore recommends that:

- 13.1 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. The capability of the intelligence entities have been adversely affected by the out-dated technology and equipment in use.
- 13.2 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. In this regard it should be noted that the lease agreement of the building in which the HQ of DI is accommodated will soon come to an end. Because of the poor condition of the building, its unsuitable location and the high rental, the Committee has recommended that the lease not be renewed.
- 13.3 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.
- 13.4 A new model of oversight of the intelligence entities needs to be adopted. Following the restructuring of the civilian intelligence with the finalisation of the State Security Agency, legislation regulating the activities particularly relating to the JSCI and OIG needs to be processed urgently. This

legislation must also consider the reporting periods relating to the JSCI and its report to Parliament. Accordingly the Oversight Act must be synchronised with all other applicable legislation in order to allow the Committee to function effectively.

Joint Standing Committee on Intelligence
February 2014

**INTELLIGENCE SERVICES OVERSIGHT ACT
NO. 40 OF 1994**

[ASSENTED TO 23 NOVEMBER, 1994]
[DATE OF COMMENCEMENT: 1 JANUARY, 1995]

(Afrikaans text signed by the President)

This Act has been updated to Government Gazette 36714 dated 29 July, 2013.

as amended by

Committee of Members of Parliament on and Inspectors-General of Intelligence Amendment Act, No. 31 of 1995
Intelligence Services Control Amendment Act, No. 42 of 1999
Intelligence Services Control Amendment Act, No. 66 of 2002
Regulation of Interception of Communications and Provision of Communication-related Information Act, No. 70 of 2002
[with effect from 30 September, 2005, unless otherwise indicated]
General Intelligence Laws Amendment Act, No. 52 of 2003
Prevention and Combating of Corrupt Activities Act, No. 12 of 2004
[with effect from 27 April, 2004]
General Intelligence Laws Amendment Act, No. 11 of 2013

proposed amendment by

General Intelligence Laws Amendment Act, No. 52 of 2003
(provisions not yet proclaimed)

ACT

To provide for the establishment of a Committee of Members of Parliament on Intelligence and to define its functions; and for the appointment of Inspectors-General of Intelligence and to define their functions; and to provide for matters connected therewith.

ARRANGEMENT OF SECTIONS

1. Definitions
2. Establishment of Committee on Intelligence
3. Functions of Committee
4. Access to intelligence, information and documents
5. Secrecy
6. Report to Parliament
7. Inspector-General
- 7A. Offences and penalties
8. Regulations
9. Short title

1. Definitions.—In this Act, unless the context otherwise indicates—

- "Academy"** [Definition of "Academy" inserted by s. 1 (a) of Act No. 66 of 2002 and deleted by s. 8 (a) of Act No. 11 of 2013.]
Wording of Sections
- "accounting officer"** means the Head of a Service;
- "Agency"** means the State Security Agency referred in section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002);
[Definition of "Agency" substituted by s. 1 (b) of Act No. 66 of 2002 and substituted by s. 8 (b) of Act No. 11 of 2013.]
Wording of Sections
- "Auditor-General"** means the Auditor-General referred to in section 188 of the Constitution;
[Definition of "Auditor-General" substituted by s. 1 (a) of Act No. 42 of 1999.]
Wording of Sections
- "CEO"** [Definition of "CEO" inserted by s. 1 (c) of Act No. 66 of 2002 and deleted by s. 8 (c) of Act No. 11 of 2013.]
Wording of Sections
- "chairperson"** means the person appointed under section 2 (4) (b) as chairperson of the Committee;
- "Commission"** [Definition of "Commission" deleted by s. 1 (a) of Act No. 31 of 1995.]
Wording of Sections
- "Committee"** means the Joint Standing Committee on Intelligence established by section 2;
[Definition of "Committee" substituted by s. 1 (b) of Act No. 31 of 1995.]
Wording of Sections
- "Comsec"** [Definition of "Comsec" inserted by s. 1 (d) of Act No. 66 of 2002 and deleted by s. 8 (d) of Act No. 11 of 2013.]
Wording of Sections
- "Constitution"** means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
[Definition of "Constitution" substituted by s. 1 (b) of Act No. 42 of 1999.]

Wording of Sections

"counter-intelligence" means counter-intelligence as defined in [section 1](#) of the National Strategic Intelligence Act, 1994;

"Director" means Director as defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002);

[Definition of "Director" inserted by s. 3 (a) of Act No. 52 of 2003.]

"Evaluation Committee" means the Secret Services Evaluation Committee established by section 2 of the Secret Services Act, 1978 (Act No. 56 of 1978);

"Head of a Service" means the Director-General of the Agency, the head of the Intelligence Division of the National Defence Force or the head of the Intelligence Division of the South African Police Service, but for the purposes of financial and administrative accounting, the head of the Intelligence Division of the South African National Defence Force means the Secretary for Defence and of the South African Police Service means the National Commissioner;

[Definition of "Head of a Service" substituted by s. 1 (e) of Act No. 66 of 2002 and by s. 8 (e) of Act No. 11 of 2013.]

Wording of Sections

"Inspector-General" means the person appointed under section 7;

[Definition of "Inspector-General" substituted by s. 1 (f) of Act No. 66 of 2002.]

Wording of Sections

"Intelligence" means the process of gathering, evaluation, correlation and interpretation of security information, including activities related thereto, as performed by the Services;

"Intelligence services"

[Definition of "intelligence services" inserted by s. 1 (h) of Act No. 66 of 2002 and deleted by s. 8 (f) of Act No. 11 of 2013.]

Wording of Sections

"Intelligence Services Entities"

(Editorial Note: Please note that the definition of "Intelligence Services Entities" is to be deleted by s. 8 (g) of Act No. 11 of 2013. This deletion could not be effected because this definition does not exist in this Act.)

"Minister" means the President or the member of the Cabinet designated by the President in terms of section 209 (2) of the Constitution to assume political responsibility for the control and direction of the Intelligence services established in terms of section 209 (1) of the Constitution;

[Definition of "Minister" substituted by s. 1 (g) of Act No. 66 of 2002.]

Wording of Sections

"money" means all money whatsoever received or held by an accounting officer for or on behalf of the State;

"National Defence Force" means the Force established by section 224 of the Constitution;

"prescribed" means prescribed by regulation;

[Definition of "prescribed" inserted by s. 1 (i) of Act No. 66 of 2002.]

"regulation" means a regulation made under this Act;

"Services" means the Agency, the Intelligence Division of the National Defence Force and the Intelligence Division of the South African Police Service;

[Definition of "Services" substituted by s. 1 (j) of Act No. 66 of 2002 and by s. 8 (A) of Act No. 11 of 2013.]

Wording of Sections

"South African Police Service" means the service referred to in section 214 of the Constitution;

"South African Secret Service"

[Definition of "South African Secret Service" substituted by s. 1 (k) of Act No. 66 of 2002 and deleted by s. 8 (l) of Act No. 11 of 2013.]

Wording of Sections

"Speaker" means the Speaker of the National Assembly contemplated in section 52 of the Constitution;

[Definition of "Speaker" inserted by s. 1 (c) of Act No. 31 of 1995 and substituted by s. 1 (c) of Act No. 42 of 1999.]

Wording of Sections

"this Act" includes the regulations.

2. Establishment of Committee on Intelligence.—(1) There is hereby established a Parliamentary Committee to be known as the Joint Standing Committee on Intelligence, which shall, subject to the Constitution, perform the oversight functions set out in this Act in relation to the intelligence and counter-intelligence functions, which include the administration, financial management and expenditure of the Services, and report thereon to Parliament.

[Sub-s. (1) substituted by s. 2 (a) of Act No. 66 of 2002.]

Wording of Sections

(Editorial Note: Please note that [section 2 \(1\) \(b\)](#) is to be substituted by s. 9 of Act No. 11 of 2013. This substitution could not be effected because this section does not exist in this Act.)

(2) (a) The Committee shall consist of 15 members of Parliament appointed on the basis of proportional representation determined according to the formula in [paragraph \(c\)](#): Provided that—

- (i) if the total number of seats on the Committee allocated to the political parties in terms of [paragraph \(c\)](#) is less than 15, the unfilled seats shall not be allocated to any political party, but the Committee shall nevertheless be deemed to be properly constituted; and
- (ii) if one political party has been allocated more than eight seats in terms of [paragraph \(c\)](#) and more than five political parties are represented in Parliament, the five minority parties with the largest representation in Parliament are entitled to at least one member each on the Committee, and the Committee so constituted shall be deemed to be properly constituted regardless of whether the total number of seats so allocated on the Committee is more or less than 15; and
- (iii) if any political party is unwilling to serve or to continue to serve on the Committee, the seats of such political party on the Committee shall not be allocated to any other political party but the Committee shall nevertheless be deemed to be properly constituted.

(b) No member of Parliament shall be appointed as a member of the Committee before the Agency has issued a security clearance in the prescribed manner in respect of that member.

[Para. (b) substituted by s. 2 (b) of Act No. 66 of 2002.]

Wording of Sections

(c) Political parties shall be entitled to designate a member or members to the Committee in accordance with the principle of proportional representation and as determined according to the following formula: By dividing the number of seats held by the party in the National Assembly by the total number of seats in the National Assembly, multiplying the result by 15 and discarding all decimals.

[Sub-s. (2) substituted by s. 2 (a) of Act No. 42 of 1999.]

Wording of Sections

(3) (a) A member referred to in subsection (2) shall be appointed by the Speaker or the Chairperson of the National Council of Provinces, depending upon the House of Parliament from which the member is appointed, acting with the concurrence of the President, who shall act with the concurrence of the leader of the political party concerned.

[Para. (a)] substituted by s. 2 (b) of Act No. 42 of 1999.]

Wording of Sections

(b) In the event that agreement is not reached in respect of the appointment of a particular member, the matter shall be referred for determination to a committee consisting of the President, the Speaker, the Chairperson of the National Council of Provinces and the leader of the political party concerned, and the decision of the committee shall be final.

[Para. (b)] substituted by s. 2 (c) of Act No. 42 of 1999.]

Wording of Sections

(c) The Committee shall within a period of two years after its first meeting review the appointment procedures referred to in paragraphs (a) and (b).

(4) The Speaker and the Chairperson of the National Council of Provinces acting with the concurrence of the President, who shall act after consultation with the leaders of the political parties represented on the Committee, shall appoint a member of Parliament, excluding a member appointed to the Committee in terms of subsection (3), as the chairperson of the Committee and subsection (2) (b) shall apply with the necessary changes to such member.

[Sub-s. (4)] substituted by s. 2 (d) of Act No. 42 of 1999 and by s. 2 (c) of Act No. 66 of 2002.]

Wording of Sections

(5) A member of the Committee—

(a) shall, subject to paragraph (b), be appointed as a member until the Parliament to which he or she has been elected under the Constitution, is dissolved in terms of the Constitution;

(b) shall be replaced with a member of his or her party in accordance with subsection (3) or (4), as the case may be—

(i) at the request of the leader of his or her party; or

(ii) if he or she has conducted himself or herself in a manner which constitutes a threat to national security in the opinion of the Speaker or the Chairperson of the National Council of Provinces, as the case may be, with the concurrence of the Committee and the President, acting after consultation with the leader of the party concerned;

[Sub-para. (ii)] substituted by s. 2 (e) of Act No. 42 of 1999.]

Wording of Sections

(c) may resign by notice in writing to the Speaker or the Chairperson of the National Council of Provinces, as the case may be, in which event a substitute shall be appointed in accordance with paragraph (b) and subsection (3) or (4), as the case may be.

[Para. (c)] substituted by s. 2 (f) of Act No. 42 of 1999.]

Wording of Sections

(6) (a) The Committee shall meet at such times and follow such procedures as may be prescribed by the rules and orders contemplated in section 45 of the Constitution.

[Para. (a)] substituted by s. 2 (g) of Act No. 42 of 1999.]

Wording of Sections

(b) The Committee may initiate and recommend to the Joint Rules Committee of Parliament any such rules and orders in so far as they relate to the functions and activities of the Committee.

[Para. (b)] substituted by s. 2 (d) of Act No. 66 of 2002.]

Wording of Sections

(7) No person other than members of the Committee or members of the staff referred to in subsection (8) may be present during the proceedings of the Committee, except with the permission of the Committee.

(8) The Committee shall be assisted in the performance of its functions by—

(a) officers of Parliament designated for that purpose by the Speaker and the Chairperson of the National Council of Provinces; and

[Para. (a)] substituted by s. 2 (h) of Act No. 42 of 1999.]

Wording of Sections

(b) persons designated for that purpose by the Minister, after consultation with the Speaker, the Chairperson of the National Council of Provinces, the chairperson and the Heads of the Services.

[S. 2 substituted by s. 2 of Act No. 31 of 1995. Para. (b) substituted by s. 2 (h) of Act No. 42 of 1999.]

Wording of Sections

3. Functions of Committee.—The functions of the Committee are—

(a) notwithstanding anything to the contrary contained in any other law or the common law, to obtain from—

(i) the Auditor-General an audit report compiled in accordance with section 22 of the Public Audit Act, 2004 (Act No. 25 of 2004), and after obtaining the report, to consider—

(aa) the financial statements of the Services and the Office;

[Item (aa)] substituted by s. 10 (b) of Act No. 11 of 2013.]

Wording of Sections

(bb) any audit reports issued on those statements; and

(cc) any reports issued by the Auditor-General on the affairs of the Services and the Office,

[Item (cc)] substituted by s. 10 (c) of Act No. 11 of 2013.]

Wording of Sections

and report thereon to Parliament;

[Sub-para. (i)] substituted by s. 3 (a) of Act No. 42 of 1999; by s. 3 (a) of Act No. 66 of 2002 and amended by s. 10 (a) of Act No. 11 of 2013.]

Wording of Sections

(ii) the Evaluation Committee a report on the secret services and intended secret services evaluated and reviewed by it, together with any comments or recommendations which the Evaluation Committee may deem appropriate;

(iii) any designated judge as defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002), 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;

[Sub-para. (iii)] substituted by s. 61 of Act No. 70 of 2002 and by s. 10 (d) of Act No. 11 of 2013.]

Wording of Sections

- (iv) the Ministers responsible for the Services and the Office, a report regarding the budget for each Service or the Office, as the case may be; [Sub-para. (iv) substituted by s. 3 (v) of Act No. 66 of 2002 and by s. 10 (e) of Act No. 11 of 2013.]

Wording of Sections

- (b) to consider and make recommendations on the report and certificate transmitted to it in terms of section 7 (7) (d);
- (c) to consider and make recommendations on all proposed legislation relating to a Service and any other intelligence and intelligence-related activities, and to initiate legislation in connection with such Service, intelligence and activities;
- (d) to review and make recommendations on regulations made under section 6 of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994), and regulations regarding the intelligence and counter-intelligence functions of the Agency, made under section 37 of the Intelligence Services Act, 2002 (Act No. 65 of 2002), section 82 of the Defence Act, 2002 (Act No. 42 of 2002), or section 24 of the South African Police Service Act, 1995 (Act No. 68 of 1995); [Para. (d) substituted by s. 3 (b) of Act No. 42 of 1999 and by s. 10 (f) of Act No. 11 of 2013.]

Wording of Sections

- (e) to review and make recommendations regarding interdepartmental co-operation and the rationalisation and demarcation of functions relating to intelligence and counter-intelligence between the Agency, the National Defence Force and the South African Police Service; [Para. (e) substituted by s. 10 (f) of Act No. 11 of 2013.]

Wording of Sections

- (f) to order investigation by and to receive a report from the Head of a Service or the Inspector-General regarding any complaint received by the Committee from any member of the public regarding anything which such member believes that a Service has caused to his or her person or property: Provided that the Committee is satisfied that such complaint is not trivial or vexatious or made in bad faith; [Para. (f) amended by s. 3 (c) of Act No. 66 of 2002.]

Wording of Sections

- (g) to refer any matter in relation to a Service or intelligence activity which comes to its attention and which it regards as relevant to the promotion of, respect for, and protection of the rights entrenched in Chapter 2 of the Constitution to the South African Human Rights Commission referred to in section 184 of the Constitution, and to receive a report from such Commission concerning the matter; [Para. (g) substituted by s. 3 (c) of Act No. 42 of 1999.]

Wording of Sections

- (h) to consider and make recommendations regarding any matter falling within the purview of this Act and referred to it by the President, any Minister responsible for a Service or Parliament; [Para. (h) substituted by s. 3 (d) of Act No. 66 of 2002.]

Wording of Sections

- (i) to request the officials or bodies referred to in paragraphs (a), (b) and (f) to explain any aspect of a report; [Para. (i) substituted by s. 3 (b) of Act No. 31 of 1995.]

Wording of Sections

- (j) to deliberate upon, hold hearings, subpoena witnesses and make recommendations on any aspect relating to intelligence and the national security, including administration and financial expenditure; [Para. (j) substituted by s. 3 (e) of Act No. 66 of 2002.]

Wording of Sections

- (k) to consult with any member of the Cabinet appointed in terms of the Constitution, regarding the performance of the functions of the Committee in terms of this Act.

- (l) to consider and report on the appropriation of revenue or moneys for the functions of the Services and the Office. [S. 1 amended by s. 3 (a) of Act No. 31 of 1995. Para. (l) added by s. 3 (c) of Act No. 31 of 1995 and substituted by s. 3 (f) of Act No. 66 of 2002 and by s. 10 (g) of Act No. 11 of 2013.]

Wording of Sections

4. Access to intelligence, information and documents.—(1) The Committee shall, notwithstanding anything to the contrary contained in any other law or the common law, but subject to subsection (2) and the proviso to section 3 (1) (a) (iii), in the performance of its functions, have access to intelligence, information and documents in the possession or under the control of a Service, on condition that—

- (a) such access is necessary for the performance of such functions;
- (b) such intelligence information and documents shall be handled in accordance with the written security guidelines and measures of, or the conditions prescribed or determined by, the chairperson with the concurrence of the Heads of the Services; and
- (c) such documents shall after inspection thereof be returned to a Service as determined by the Head of that Service.
- (2) (a) Notwithstanding anything to the contrary contained in this Act or any other law, a Service shall not be obliged to disclose to the Committee—
- (i) the name or identity of any person or body engaged in intelligence or counter-intelligence activities;
- (ii) any intelligence, information or document in a form which could reveal the identity of any source of such intelligence, information or document if that intelligence, information or document was provided to such Service under an express or implied assurance of confidentiality;
- (iii) any intelligence or counter-intelligence method employed by a Service if such disclosure could reveal or lead to the revelation of the name or identity of any person or body engaged in intelligence or counter-intelligence activities or the identity of the source of any intelligence, information or document: Provided that this provision shall not prevent the disclosure of any part of intelligence, information or a document if such part can be separated from the part which could reveal the name, identity or method referred to in subparagraphs (i) and (ii) and this subparagraph.
- (b) In the event of a dispute arising from—
- (i) the provisions of paragraph (a) as to whether or not the disclosure of any intelligence, information or document may reveal the name or identity of any person or body engaged in intelligence or counter-intelligence activities or intelligence or counter-intelligence methods employed or the identity of the source of intelligence, information or document; or
- (ii) the provisions of subsection (1) (a) as to whether access to certain intelligence, information or any document is necessary to perform the functions of the Committee,

such dispute shall be referred for determination to a committee composed of the Inspector-General, the Head of the Service in question, the chairperson of the Committee and the Minister responsible for that Service, which decision of the Committee shall be final.

[Para. (b) amended by s. 4 (a) of Act No. 66 of 2002.]

Wording of Sections

(3) The Committee may, for the purposes of the performance of its functions, require any Minister responsible for a Service or the Office, the Head of a Service, the Director or the Inspector-General to appear before it to give evidence, to produce any document or thing and answer questions put to him or her: Provided that such person shall—

- (a) be given reasonable notice of such appearance;
 - (b) be given reasonable details regarding the purpose of such appearance; and
 - (c) have the right to be assisted by members of the Services or the Office, as the case may be.
- [Sub-s. (3) amended by s. 4 (d) of Act No. 66 of 2002 and by s. 11 (a) of Act No. 11 of 2013. Para. (c) substituted by s. 4 (c) of Act No. 66 of 2002 and by s. 11 (b) of Act No. 11 of 2013.]

Wording of Sections

5. Secrecy.—(1) The Committee shall conduct its functions in a manner consistent with the protection of national security.

(2) No person shall disclose any intelligence, information or document the publication of which is restricted by law and which is obtained by that person in the performance of his or her functions in terms of this Act, except—

- (a) to the extent to which it may be necessary for the proper administration of any provision of this Act;
- (b) to any person who of necessity requires it for the performance of any function in terms of this Act;
- (c) with the written permission of the chairperson, which permission may be given only with the concurrence of the Head of a Service and the Inspector-General; or

[Para. (c) substituted by s. 5 of Act No. 66 of 2002.]

Wording of Sections

(d) as prescribed by regulation.

(3)

[Sub-s. (3) deleted by s. 4 of Act No. 42 of 1999.]

Wording of Sections

6. Report to Parliament.—(1) The Committee shall, within five months after its first appointment, and thereafter within two months after 31 March in each year, table in Parliament a report on the activities of the Committee during the preceding year, together with the findings made by it and the recommendations it deems appropriate, and provide a copy thereof to the President and the Minister responsible for each Service.

[Sub-s. (1) substituted by s. 6 of Act No. 66 of 2002.]

Wording of Sections

(2) The Committee may at the request of Parliament, the President or the Minister responsible for each Service or at any other time which the Committee deems necessary, furnish Parliament, the President or such Minister with a special report concerning any matter relating to the performance of its functions, and shall table a copy of such report in Parliament or furnish the President and the Minister concerned with copies, as the case may be.

[Sub-s. (2) substituted by s. 6 of Act No. 66 of 2002.]

Wording of Sections

(3) Nothing shall be included in any report of the Committee, the inclusion of which will be more harmful to the national security than its exclusion will be to the national interest.

[S. 6 substituted by s. 4 of Act No. 31 of 1995.]

Wording of Sections

7. Inspector-General.—(1) The President shall appoint an Inspector-General of Intelligence—

- (a) nominated by the Committee; and
- (b) approved by the National Assembly by a resolution supported by at least two thirds of its members:

Provided that if the nomination is not approved as required in paragraph (b), the Committee shall nominate another person.

(2) The Inspector-General shall be a South African citizen who is a fit and proper person to hold such office and who has knowledge of intelligence.

(3) The remuneration and other conditions of employment of the Inspector-General shall be determined by the President with the concurrence of the Committee and such remuneration shall not be reduced, nor shall such conditions be adversely altered during his or her term of office.

(4) The Inspector-General may be removed from office by the President, but only on the grounds of misconduct, incapacity, withdrawal of his or her security clearance, poor performance or incompetence as prescribed.

(5) If the Inspector-General who is the subject of an investigation by the Committee in terms of subsection (4) he or she may be suspended by the President pending a decision in such investigation.

(6) The Inspector-General shall be accountable to the Committee for the overall functioning of his or her office, and shall report on his or her activities and the performance of his or her functions to the committee at least once a year.

(7) The functions of the Inspector-General are, in relation to the Services—

- (a) to monitor compliance by any Service with the Constitution, applicable laws and relevant policies on intelligence and counter-intelligence;
- (b) to review the intelligence and counter-intelligence activities of any Service;
- (c) to perform all functions designated to him or her by the President or any Minister responsible for a Service;
- (ca) to receive and investigate complaints from members of the public and members of the Services on alleged maladministration, abuse of power, transgressions of the Constitution, laws and policies referred to in paragraph (a), the commission of an offences referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, and improper enrichment of any person through an act or omission of any member;

[Para. (ca) substituted by s. 36 (1) of Act No. 12 of 2004.]

Wording of Sections

(d) to submit the certificates contemplated in subsection (1) (c) to the relevant Ministers;

[Para. (d) substituted by s. 7 (b) of Act No. 52 of 2003.]

Wording of Sections

(e) to submit reports to the Committee pursuant to section 3 (1) (f); and

(f) to submit reports to every Minister responsible for a Service pursuant to the performance of functions contemplated in paragraphs (a), (b), (c) and (ca): Provided that where the Inspector-General performs functions designated to him or her by the President, he or she shall report to the

President.

[Sub-s. (7) amended by s. 7 (a) of Act No. 52 of 2003.]

Wording of Sections

(7A) The reports of the Inspector-General contemplated in [subsection \(7\) \(f\)](#) in respect of monitoring and reviewing shall contain the findings and recommendations of the Inspector-General.

(8) Notwithstanding anything to the contrary contained in this or any other law or the common law, the Inspector-General—

(a) shall have access to any intelligence, information or premises under the control of any Service if such access is required by the Inspector-General for the performance of his or her functions, and he or she shall be entitled to demand from the Head of the Service in question and its employees such intelligence, information, reports and explanations as the Inspector-General may deem necessary for the performance of his or her functions;

(aA) shall inform the Head of a Service prior to his or her access to the premises of such Service in writing of his or her intention to have access to such premises: Provided that the notice shall specify the date and the nature of access to the premises;

(b) may, if the intelligence or information received by him or her in terms of [paragraph \(a\)](#) is subject to any restriction in terms of any law, disclose it only—

(i) after consultation with the President and the Minister responsible for the Service in question; and

(ii) subject to appropriate restrictions placed on such intelligence or information by the Inspector-General, if necessary; and

(iii) to the extent that such disclosure is not detrimental to the national interest;

(c) shall have access to any other intelligence, information or premises which is not under the control of any Service if such access is necessary for the performance of his or her functions in terms of [subsection \(7\)](#) and he or she shall be entitled to demand from any such person such intelligence, information, reports and explanations as he or she may deem necessary for the performance of his or her functions: Provided that the Inspector-General shall not have access if such intelligence or information is not necessary for the performance of his or her functions: Provided further that the Inspector-General shall first obtain a warrant issued in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), if such information, intelligence or premises are not under the control of the Services in question;

(d) may, if the intelligence or information received by him or her in terms of [paragraph \(c\)](#) is subject to any privilege or restriction in terms of any law, disclose it only—

(i) after he or she has given written notice of his or her intention to do so to the lawful possessor of such intelligence or information; and

(ii) after consultation with the President and the Minister responsible for the Service in question; and

(iii) subject to appropriate restrictions placed on such intelligence or information by the Inspector-General, if necessary; and

(iv) to the extent that such disclosure is not detrimental to the national interest.

(9) No access to intelligence, information or premises contemplated in [subsection \(8\) \(a\)](#) may be withheld from the Inspector-General on any ground.

(10) The Inspector-General—

(a) shall comply with all security requirements applicable to the employees of the Agency; and
[Para. (a) substituted by s. 12 of Act No. 11 of 2013.]

Wording of Sections

(b) shall serve impartially and independently and perform his or her functions in good faith and without fear, favour, bias or prejudice.

(11) (a) Each Head of a Service shall, in respect of every period of 12 months or such lesser period as is specified by the Minister responsible for that Service, submit to that Minister, a report on the activities of that Service during that period, and shall cause a copy of such report to be submitted to the Inspector-General.

(b) (i) Each Head of a Service shall report to the Inspector-General regarding any unlawful intelligence activity or significant intelligence failure of that Service and any corrective action that has been taken or is intended to be taken in connection with such activity or failure.

(ii) Each Head of a Service shall submit the report referred to in [subparagraph \(i\)](#) to the Inspector-General within a reasonable period after such unlawful intelligence activity or significant intelligence failure came to his or her attention.

(c) As soon as practicable after receiving a copy of a report referred to in [paragraph \(a\)](#), the Inspector-General shall submit to the Minister responsible for the Service in question, a certificate stating the extent to which the Inspector-General is satisfied with the report and whether anything done by that Service in the course of its activities during the period to which the report relates, in the opinion of the Inspector-General—

(i) is unlawful or contravenes any directions issued by the Minister responsible for that Service; or

(ii) involves an unreasonable or unnecessary exercise by that Service of any of its powers.

(d) As soon as practicable after receiving a report referred to in [paragraph \(a\)](#) and a certificate of the Inspector-General referred to in [paragraph \(c\)](#), the Minister responsible for the Service in question shall, subject to section (4) (2), cause the report and certificate to be transmitted to the Committee.

(12) The Minister may, after consultation with the Inspector-General, appoint such number of persons to the office of the Inspector-General as may be necessary for the performance of the functions of that office, on such conditions of employment as are applicable to members of the intelligence services.

(12A) The National Commissioner of the South African Police Service and the Chief of the South African National Defence Force may, if requested by the Inspector-General, second employees of the Service or the Force, as the case may be, to the office of the Inspector-General with the consent of the employees concerned and in terms of the laws governing the secondment in question.

[Sub-s. (12A) inserted by s. 7 (c) of Act No. 52 of 2003.]

(13) The budget of the office of the Inspector-General shall be appropriated by Parliament as part of the budget vote of the intelligence services, and shall be expended in accordance with the rules and procedures as set out in the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(14) The Inspector-General may, in writing, delegate any function contemplated in [subsection \(7\)](#) to any employee in his or her office, and any function performed in terms of such a delegation shall be deemed to have been performed by the Inspector-General.

[S. 2 amended by s. 5 of Act No. 31 of 1995 and by s. 5 of Act No. 42 of 1999 and substituted by s. 7 of Act No. 66 of 2002.]

Wording of Sections

7A. Offences and penalties.—Any person who—

(a) contravenes section 5 (2) or 7 (9); or

(b) fails to comply with section 7 (8),

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years.

[S. 7A inserted by s. 6 of Act No. 42 of 1999.]

B. Regulations.—(1) A Minister, acting with the concurrence of the Committee, may make regulations regarding—

- (a) any matter that is required or permitted to be prescribed in terms of this Act;
- (b) the performance of his or her functions by the Inspector-General;
- (c) the reports to be submitted by the Inspector-General and the Heads of the Services;
- (d) the suspension or removal from office of the Inspector-General and the termination of employment of the Inspector-General;
- (e) an oath or affirmation of secrecy to be subscribed to by the Inspector-General, members and staff of the Committee, the leaders of political parties represented or willing to serve on the Committee, and staff appointed in terms of section 7 (12);
- (f) security clearance for the Inspector-General and members of the Committee;
- (g) the procedure for appointment of staff to the office of the Inspector-General;
- (h) the conditions of employment applicable to the personnel appointed to the office of the Inspector-General; and
- (i) the procedure for the lodging and investigation of complaints.

[Sub-s. (1) amended by s. 7 of Act No. 42 of 1999 and substituted by s. 8 of Act No. 66 of 2002.]

Wording of Sections

(2) A regulation made under this section need not be published in the Gazette, but shall be notified to any person affected thereby in such manner as the Minister acting with the concurrence of the Committee may determine.

[Sub-s. (2) substituted by s. 8 of Act No. 66 of 2002.]

Wording of Sections

(3) A regulation made under this section may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years.

[S. 3 substituted by s. 6 of Act No. 31 of 1995. Sub-s. (3) added by s. 7 (d) of Act No. 42 of 1999.]

Wording of Sections

9. Short title.—This Act shall be called the Intelligence Services Oversight Act, 1994.

[S. 9 substituted by s. 7 of Act No. 31 of 1995 and by s. 9 of Act No. 66 of 2002.]

Wording of Sections

**INTELLIGENCE SERVICES OVERSIGHT ACT,
NO. 40 OF 1994**

(Prior to amendment by Act No. 11 of 2013)

Section 1, definition—"Academy"

"Academy" means the South African National Academy of Intelligence established in terms of the Intelligence Services Act, 2002;
[Definition of "Academy" inserted by s. 1 (a) of Act No. 66 of 2002.]

**INTELLIGENCE SERVICES OVERSIGHT ACT,
NO. 40 OF 1994**

(Prior to amendment by Act No. 11 of 2013)

Section 1, definition—"Academy"

"Academy" means the South African National Academy of Intelligence established in terms of the Intelligence Services Act, 2002;
[Definition of "Academy" inserted by s. 1 (a) of Act No. 66 of 2002.]

(Prior to amendment by Act No. 12 of 2004)

Section 7 (7) (cA)

- (cA) to receive and investigate complaints from members of the public and members of the Services on alleged maladministration, abuse of power, transgressions of the Constitution, laws and policies referred to in paragraph (a), corruption and improper enrichment of any person through an act or omission of any member;

(Prior to amendment by Act No. 52 of 2003)

Section 7 (7) the words preceding paragraph (a)

(7) The functions of the Inspector-General are, in relation to the Service—

(Prior to amendment by Act No. 66 of 2002)

Section 1, definitions—"Agency", "Head of a Service", "Inspector-General", "Minister", "Services", "South African Secret Service"

"Agency" means the National Intelligence Agency established by section 3 of the Intelligence Services Act, 1994;

"Head of a Service" means the Director-General of the Agency or of the South African Secret Service, the Chief of the National Defence Force or the Commissioner of the South African Police Service;

"**Inspector-General**" means a person appointed under section 7;

"**Minister**" means the Minister to whom the portfolio of the Agency, the South African Secret Service, the National Defence Force or the South African Police Service has been allocated in terms of section 88 of the Constitution;

"**Services**" means the Agency, the South African Secret Service, the Intelligence Division of the National Defence Force and the National Investigation Service of the South African Police Service;

"**South African Secret Service**" means the South African Secret Service established by section 3 of the Intelligence Services Act, 1994;

(Prior to amendment by Act No. 42 of 1999)

Section 1, definitions—"Auditor-General", "Constitution", "Speaker"

"**Auditor-General**" means the Auditor-General referred to in section 191 of the Constitution;

"**Constitution**" means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993);

"**Speaker**" means the Speaker of the National Assembly contemplated in section 41 of the Constitution;

(Prior to amendment by Act No. 31 of 1995)

Section 1, definitions—"Commission", "Committee"

"**Commission**" means the Commission on Remuneration of Representatives referred to in section 207 of the Constitution;

"**Committee**" means the Committee of Members of Parliament on Intelligence established by section 2;

**REPORT ON LAWFUL
INTERCEPTION 2012/13**

By the Designated Judge Justice Yvonne Mokgoro
to the Joint Standing Committee on Intelligence: Bogare

31 July 2013

STRUCTURE

- 1. INTRODUCTION**
- 2. INTERCEPTION**
- 3. SOUTH AFRICAN LEGAL FRAMEWORK**
- 4. CHALLENGES**
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- 5. FULL STATISTICAL INFORMATION OF APPLICATIONS**
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1. INTRODUCTION

Honourable Chairperson and members of the Joint Standing Committee on Intelligence, kindly allow me to present to you this report. The recent South African Police Statistical Report has revealed a decline in some areas of criminality however it remains clear that the number of reported crimes is still too high.

In a developing and globalized world, Law Enforcement Agencies (LEAs) are confronted with a challenge of having to match the levels of the sophistication of some of the tools used to facilitate criminality. The use of communication technology in the facilitation of serious crime is a reality.

Undoubtedly LEAs will seek to resort to the interception of communications as a method of investigation and it is the responsibility of the of the Designated Judge to ensure strict due compliance within the prescripts of the Regulation of Interception of Communication and Provision of Communication-related Information Act (RICA) before authorization for the said interception can be granted.

The categories of serious crimes for which interception is usually applied for are amongst others:

- Human trafficking;
- Drug dealing and drug trafficking;
- Money laundering;

- Corruption and fraud;
- Kidnappings;
- Assassinations;
- Terrorism;
- Heists; etc

2. INTERCEPTION

Allow me Chairperson and Honourable Committee members to reiterate what I pointed out in my presentation to you last year:

Lawful interception plays a crucial role in advancing the investigation process for law enforcement agencies. It represents an effective means of information gathering with regard to crime intelligence. ¹ The Interception and Monitoring Act² was designed to allow the state to monitor and listen to conversations and communications when it is difficult to gather useful information pertaining to criminal activities. This process becomes legal and the information gathered becomes admissible in court, once performed in accordance with the relevant legislation.³

¹ Notes on OECS Interception of Communications' Bill, page 6 found at: <http://unpan1.un.org/inradoc/groups/public/documents/TASF/UNPAN024636.pdf>

² Act 127 of 1992

³ S v Naidoo and Another 1998 (1) SACR 479 (N)-It was argued that the tape recordings were made in contravention of IM Act of 1992 and thus declared inadmissible.

Currently the RICA provides guidance and requires strict compliance with the procedure that should be undertaken when applying for an interception direction to the Designated Judge.⁴ In doing so, the Act further demands thorough appreciation of the relevant provisions of the Constitution, importantly, the right to privacy in section 14 and values of human dignity and freedom.⁵

Chapter 3 of the RICA provides for the process and the details to be furnished when making applications for, and issuing of, Directions and Entry Warrants.

When considering an application, the amount of detail required, seeks to ensure amongst others that there is no abuse of such a tool of investigation.

The Applicant must in writing be identified. The target of interception and the and the service provider to whom the interception Direction will be addressed must also be identified. The Act requires that the application must contain full particulars of all the facts and circumstances alleged by the applicant. Consistently emphasised is that, the application process for an interception direction should be considered as a last resort, conventional methods of investigation must first be utilised to gather intelligence.

The application will be granted when there are reasonable grounds to believe that a serious offence has been or is being or will probably be committed and that the gathering

⁴ Regulations of Interception of Communications and Provision of Communication-Related Information Act, 70 of 2002-RICA is the successor to the Interception and Monitoring Act 127 of 1992.

⁵ Everyone has a right to privacy, which includes the right not to have: the privacy of their communication infringed

of information concerning a potential threat to the public health or safety or national security of the Republic is necessary.⁶

3. SOUTH AFRICAN LEGAL FRAMEWORK

The current South African legislative framework is based on a review by the South African Law Reform Commission (SALRC) of the then Interception and Monitoring Prohibition Act, 127 of 1992 (ACT 127). The review showed that, Act 127 had to be repealed and be replaced by the RICA in order to address the diversity and developments in communications' technology, which include, among others, satellites, optical fibres, computers, cellular technology, e-mail, surveillance equipment, and the electronic transfer of information and data.⁷

Section 14 of the constitution protects everyone's right to privacy, including the right not to have "the privacy of their communications infringed".⁸

The South African legal framework recognizes that privacy is a fundamental human right recognised in the UN Declaration of Human Rights, the International Covenant on Civil and Political Rights.

⁶ See section16(5) Of the RICA

⁷ Regulations of the Interception of Communications and Provision of Communication Related Information Act- Nazreen Bawa

⁸ The Constitution of the Republic of South Africa, 1996

In terms of our Constitution, no right is absolute. All rights, including the right to privacy are limited, but only in terms of a law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors.⁹

In the matter of *The Investigating Directorate and Others v Hyundai Motor Distributions*, Justice Langa DP (as he then was), acknowledged the challenges created by the high rate of criminal activities in South Africa when he said,

*"It is a notorious fact that the rate of crime in South Africa is unacceptably high. There are frequent reports of violent crime and incessant disclosures of fraudulent activity. This has a serious effect not only on the security of citizens and morale of the community but also on the country's economy. This ultimately affects the government's ability to address the pressing social welfare problems in South Africa. The need to fight crime is thus an important objective in our society..."*¹⁰, then

In *California v Ciraolo* the court held,

*"The right to privacy is not meant to shield criminal activities or to conceal evidence of crime from the criminal justice process, however, state officials are not entitled without good cause to invade the premises of persons for purposes of searching and seizing property..."*¹¹

⁹ The Constitution of the Republic of South Africa, section 36(1)

¹⁰ *The Investigating Directorate and Others v Hyundai Motor Distributions (PTY) (LTD) 2001 (1) SA 545 (CC)*

¹¹ *California v Ciraolo* 476 US 207 (1985) at 213-4

The above cited Judgements are indeed a recognition by the Courts that good cause may exist to justify the invasion of a person's privacy.

4. CHALLENGES

There is public perception that some LEAs indiscriminately use these intrusive methods to advance their interests with no regard to the rights and values in the Constitution.

As pointed out in my previous report the media has reported that LEAs are capable of:

- Obtaining information in less than 36 hours, without the Designated Judge's knowledge;
- Acquisition of cell phone billing and ownership records through crime intelligence, without the Judge's knowledge or approval, in order to expedite the investigation;
- Obtaining text messages and cell phone billing records needed for personal reasons, through a contact at crime intelligence;
- Failing to provide fact-based justification for an application to the Judge;
- Failing to comprehend that suspicion of crime without any factual basis is not sufficient for application for interception;
- The tendency for vagueness of basis for an application, the cut and paste approach to an affidavit and the tendency to regard the authorisation for interception as a given and there for the taking.
- Of bribery of contacts at banks and telecommunications service providers;

No doubt Chairperson and Honourable Committee Members you have noted the recent local publications on the interception of communications.

4.1 Compliance

In order to enforce compliance, the Office of the Designated Judge has taken the initiative of arranging and participating in workshops to demystify the process of Lawful Interception.

In the last workshop which the Inspector General of Intelligence hosted, LEAs represented by senior officials were taken through all the documents required for an application which are to be lodged together with the importance of clarity and full disclosure of facts in the Supporting Affidavit.

I am pleased to say that there is now a sense of appreciation of the need for full compliance. This has been apparent in all the applications received after the said workshop.

5. FULL STATISTICAL INFORMATION OF APPLICATIONS

5.1 The State Security Agency

• Applications (New)	14	last year	24
• Re-applications	29	##	41

• Amendments	14	##	22
• Extensions	13	##	27
• Amendments and Extensions	4	##	3
• Entry Warrant	1		
• RICA	21		
• Refusals		##	3
• Total	96	##	120

5.2 The South African Police Services (SAPS)

Figures for the period are as follow:

• Applications (New)	47	Last Year	87
• Re-applications	1	##	40
• Amendments		##	1
• Extensions		##	3
• Amendments and extensions		##	8
• Refusals		##	2
• Total	48	##	141

Combined figures for SSA and SAPS are as follow:

• Applications (New)	61	Last Year	111
• Re-applications	30	##	81
• Amendments	14	##	23
• Extensions	13	##	30
• Amendments and Extensions	4	##	11
• Refusals	-	##	5
• Total	122	##	261

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

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 2013 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 Qualification**Level of Assurance**

6. 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

Opinion

7. 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 2013, 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

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

Financial reporting framework

9. 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

10. As disclosed in note 34, 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.

Significant uncertainties - Investigation

11. As disclosed in note 34, an investigation was instituted at the covert support unit. Due to this investigation, the impact on the completeness and accuracy of the balances disclosed for accounts receivable, accounts payable, irregular and fruitless expenditure and contingent liabilities is uncertain.

Restatement of corresponding figures

12. As disclosed in note 32 to the financial statements, the corresponding figures for 31 March 2013 have been restated as a result of errors discovered during 2013 in the financial statements of the department at, and for the year ended, 31 March 2013.

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 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's 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).

Usefulness of information

16. The National Treasury Guide for the preparation of the annual report requires that explanations for variances between the planned and reported (actual) targets should be provided in all instances and should also be supported by adequate and reliable corroborating evidence. Adequate and reliable corroborating evidence could not be provided for 20% of major variances as disclosed in the annual performance report. The institution's records did not permit the application of alternative audit. Consequently, I did not obtain sufficient appropriate audit evidence to satisfy myself as to the reliability of the reasons for major variances.

Reliability of information

17. The National Treasury Framework for managing programme performance information (FMPPi) requires that institutions should have appropriate systems to collect, collate, verify and store performance information to ensure valid, accurate and complete reporting of actual achievements against planned objectives, indicators and targets. Significantly important targets with respect to Domestic Collection and Counter Intelligence are materially misstated

This was due to the lack of standard operating procedures for the accurate recording of actual achievements.

Additional matter

18. I draw attention to the following matter below. This matter does not have an impact on the predetermined objectives audit findings reported above.

Achievement of planned targets

19. Of the total number of 135 targets planned for the year 74 of targets were not achieved during the year under review. This represents 57% (>20%) of total planned targets that

were not achieved during the year under review. This was mainly due to the fact that indicators and targets were not suitably developed during the strategic planning process

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:

Annual Financial Statements

21. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework and supported by full and proper records as required by section 40(1) (a) of the Public Finance Management Act. Material misstatements of non-current assets, non-current liabilities, current assets, current liabilities, irregular expenditure and leases identified by the auditors in the submitted financial statements were subsequently corrected and the supporting records were provided subsequently in the financial statements.

Procurement and Contract Management

22. 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.
23. Goods and services of a transaction value above R500 000 were procured without inviting competitive bids, as required by Treasury Regulations 16A6.1.

Revenue Management

24. The accounting officer did not take effective and appropriate steps to collect all money due, as required by section 38(1)(c)(i) of the Public Finance Management Act and Treasury Regulations 11.2.1, 15.10.1.2(a) and 15.10.1.2(e).
25. Sufficient appropriate audit evidence could not be obtained that interest was charged on debts, as required by Treasury Regulation 11.5.1.

Expenditure Management

26. The accounting officer did not take effective steps to prevent irregular expenditure, as required by section 38(1) (c) (ii) of the Public Finance Management Act and Treasury Regulation 9.1.1.
27. Contractual obligations and money owed by the (entity) were not settled within 30 days or an agreed period, as required by section 38(1)(f) of the Public Finance Management Act and Treasury Regulation 8.2.3.

Liability Management

28. Money was borrowed without the approval of the Minister of Finance or an official authorised by the Minister contravention of section 66(1)(a) of the Public Finance Management Act.

Internal control

27. I considered internal control relevant to my audit of the financial statements, [name of performance report] 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 qualified opinion, the findings on the annual performance report and the findings on compliance with laws and regulations included in this report.

Leadership

28. The accounting officer did approve the policies and procedures for the SSA. The department is in the process of implementation to ensure effective monitoring of compliance, with laws, regulations and internally designed procedures.

OTHER REPORTS

Investigations

29. As reported in the 2011/2012 Regularity Audit Report, 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.
30. An investigation was instituted after reports that transfers from NIA's (SSA) 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.
31. An investigation was instituted at the Covert Support Unit. This investigation is currently being conducted by the office of the Inspector-General and is still in progress.

Pretoria - General

Pretoria

31 July 2013



AUDITOR-GENERAL
SOUTH AFRICA

Acting to build public confidence

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE SOUTH AFRICAN POLICE SERVICE – CRIME INTELLIGENCE AND PROTECTIVE SERVICES: 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, which comprise the appropriation statement, the statement of financial position as at 31 March 2013, 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 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 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 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 Audit Assurance

6. 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 the assets and services are procured and utilised, the level of assurance in respect of certain operational expenditure is, under these circumstances lower than with ordinary audits.

Irregular expenditure

7. 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 in both the 2012 and 2013 financial year.
8. During the 2012 financial year, 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
9. During the 2012 financial year, 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.
10. During the 2013 financial year, the Department made payments amounted to R3 033 116 in contravention of the supply chain management requirements that were not disclosed in the financial statements.

Lease commitments

11. The Department did not accurately disclose leases as reflected in note 18 of the annual financial statements. Consequently Lease commitments as disclosed in the annual financial statements are overstated by an amount R3,656,749 for the 2013 financial year and R 51 642 972 for the 2012 financial year.

Related party transactions

12. During the 2012 financial year 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.

Cash and Cash Equivalents

13. During the 2012 financial year 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.

Sufficient appropriate audit evidence

14. During the 2012 financial year, 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:



- Goods and services-Communication expenditure amounting to R 30 412 000 as disclosed in the annual financial statements.
- Goods and services-Other Operating Expenditure amounting to R 139 121 000
- Goods and services-Inventory expenditure amounting to R 12 015 000
- 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

15. During, the 2012 financial year, the Department did not accurately disclose Goods and Services in the annual financial statements. Consequently, the following accounts are overstated with the following amounts:

- Other operating expenditure : R 18 736 098
- Inventory : R 3 670 815
- Travel and subsistence : R 7 813 749

Journals

16. During the 2012 financial year, the Department could not provide sufficient appropriate audit evidence to support debit and credit journals amounting to R 838 459 504. Consequently I was unable to determine whether any adjustment to the affected account balances and classes of transactions was necessary.

Aggregation of Immaterial uncorrected misstatements

17. 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:

- Goods and services-Contractors reflected as R 1 174 000 in the 2012 financial year is overstated by an estimated amount of R 862 953.
- Goods and services-Property Payments reflected as R 5 166 000 in the 2012 financial year is overstated by an estimated amount of R 1 749 746.

Qualified opinion

18. In my opinion, except for the effect of the matters described in the basis for qualified opinion paragraphs, the financial statements present fairly, in all material respects, the financial position of the South African Police Service – Covert Intelligence Support: Secret Service Account as at 31 March 2013, and its financial performance and cash flows for the year then ended 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).

Emphasis of matter

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

Significant uncertainties

20. 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 annual financial statements.

Material underspending of the budget

21. As disclosed in the appropriation statement, the department has materially underspent the budget to the amount of R86,757 million. As a consequence, the department has not achieved its objectives of undercover operations, which also influenced the recruiting of intelligence providers/sources and informants. This also led to a similar decrease in the spending patterns of the secret services account.

This decrease and under spending can mostly be contributed to certain influencing factors such as several changes to the top management of Crime Intelligence, the restructuring and merger of the Division: Crime Intelligence with the Division: Protection & Security Services, the redesign of the Undercover Operations approval procedures as well as the interim withdrawal of current delegations of authority pertaining to the utilization of secret services account funds.

Additional matters

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

Financial reporting framework

23. The financial reporting framework prescribed by the National Treasury and applied by the department is a compliance framework. The wording of my opinion on a compliance framework should reflect that the financial statements have been prepared in accordance with this framework and not that they "present fairly". Section 20(2)(a) of the PAA, however, requires me to express an opinion on the fair presentation of the financial statements. The wording of my opinion therefore reflects this requirement.

Revision of previously issued financial statements

24. The audit report on the financial statements of the South African Police Services – Crime Intelligence: Secret Service Account for the year ended 31 March 2012 is not signed as yet. Due to the ongoing investigation management refuse to make the corrections after the financial statements have been issued.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

25. 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

I performed procedures to obtain evidence about the usefulness and reliability of the information in the South African Police Service – Covert Intelligence Support: Secret Service Account, annual performance report as set out on pages ... to ... of the annual report.

26. 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's 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 objectives is assessed to determine whether it adequately reflects the facts (i.e. whether it is valid, accurate and complete).

27. The material findings are as follows:

Usefulness of information

28. A total of 43% had no explanations of the reasons for variances between planned and actual achievements reported in the annual performance report as required per the National Treasury annual report preparation guide. This was due to a lack of documented and approved policies and procedures to address reporting requirements.

Reliability of information

The National Treasury Framework for managing programme performance information (FMPP) requires that institutions should have appropriate systems to collect, collate, verify and store performance information to ensure valid, accurate and complete reporting of actual achievements against planned objectives, indicators and targets. A significantly important target with respect to Crime Intelligence is materially misstated

This was due to the lack of standard operating procedures for the accurate recording of actual achievements.

Additional matter

29. I draw attention to the following matter below. This matter does not have an impact on the predetermined objectives audit findings reported above.

Achievement of planned targets

30. Of the total number of 7 targets planned for the year, 2 of targets were not achieved during the year under review. This represents 28.57% (>20%) of total planned targets that were

not achieved during the year under review.

This was mainly due to the fact that indicators and targets were not suitably developed during the strategic planning process together with the leadership challenges facing the Department.

Compliance with laws and regulations

31. 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

32. The executive authority of the department did not approve the strategic plan submitted by the accounting officer as required by Treasury Regulation 5.1.1.
33. The department did not had and maintained effective, efficient and transparent systems of financial and risk management and internal controls as required by section 38(1)(a)(i) of the PFMA.

Annual financial statements, performance and annual reports

34. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework and as required by section 40(1) (a) of the Public Finance Management Act. Material misstatements of comparative figures, lease commitments and irregular expenditure identified by the auditors in the submitted financial statements were subsequently corrected, but the uncorrected material misstatements resulted in the financial statements receiving a qualified audit opinion.

Procurement and Contract Management

35. 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.
36. Goods and services of a transaction value above R500 000 were procured without inviting competitive bids, as required by Treasury Regulations 16A6.1.
37. Sufficient appropriate audit evidence could not be obtained that invitations for competitive bidding were advertised in the government tender bulletin as required by Treasury Regulations 16A6.3(c).
38. 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).
39. 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 (type of auditee), as required by Treasury Regulations 16A6.2(a), (b) and (c).

40. Sufficient appropriate audit evidence could not be obtained that awards were only made to suppliers who submitted 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 16A9.2
41. Sufficient appropriate audit evidence could not be obtained that awards were only made to suppliers who submitted 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 16A9.2
42. Sufficient appropriate audit evidence could not be obtained that quotations were awarded to suppliers whose tax matters have been declared by the South African Revenue Services to be in order as required by Treasury Regulations 16A9.1(d) and the Preferential Procurement Regulations.
43. Sufficient appropriate audit evidence could not be obtained that quotations were awarded to bidders based on points given for criteria that were stipulated in the original invitation for bidding and quotations, as required by SCM regulation Treasury Regulations 16A6.3(a) and Preferential Procurement Regulations.
44. Sufficient appropriate audit evidence could not be obtained that the preference point system was 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).
45. Sufficient appropriate audit evidence could not be obtained that quotations were awarded to suppliers based on preference points that were allocated and calculated in accordance with the requirements of the Preferential Procurement Policy Framework Act and its regulations.
46. Sufficient appropriate audit evidence could not be obtained that quotations were awarded to bidders that scored the highest points in the evaluation process as required by section 2(1)(f) of Preferential Procurement Policy Framework Act and its regulations.
47. Sufficient appropriate audit evidence could not be obtained that quotations 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.
48. Sufficient appropriate audit evidence could not be obtained that all quotations were awarded in accordance with the legislative requirements as the Department, does not have a policy, process or procedure to comply with the requirements of Treasury Regulation 16A.

Expenditure Management

49. The accounting officer did not take effective steps to prevent irregular expenditure, as required by section 38(1) (c) (ii) of the Public Finance Management Act and Treasury Regulation 9.1.1.

Internal control

50. 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 qualified opinion, and the findings on compliance with laws and regulations included in this report.

Leadership

51. The department is currently in the process of approving and implementing policies and procedures to ensure effective monitoring of compliance, with laws, regulations and internally designed procedures. As a result of the non-implementation of policies, relevant to supply chain management, limitations of scope relevant to expenditure and irregular expenditure was identified during the current and previous financial year.

Financial and performance management

52. The Department did not prepare accurate and complete financial and performance reports that are supported and evidenced by reliable information.

53. 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

54. 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.

Auditor - General

Pretoria

31 July 2013



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

JSCI PROGRAMME – 2012/13

18/04/2012	Briefing by Defence and Crime Intelligence on Strategic Plans
19/04/2012	Meeting with Minister of Police
22/04 – 24/04/2012	Workshop on General Intelligence Laws Amendment Bill and recommendations
25/04/2012	Briefing by SSA on Strategic Plans and Budget
02/05/2012	Briefing by OIGI on Strategic Plans and Budget
09/05/2012	Continued briefing by SSA and ISC on Strategic Plans and Budget
16/05/2012	Discussions by the JSCI on previous presentations
23/05/2012	Presentation by OIGI on CI investigations
06/06/2012	Discussions by the JSCI on outstanding issues
13/06/2012	Further discussions by the JSCI on outstanding issues emanating from briefings/presentations
21/06/2012	Meeting with OIGI on media allegations regarding CI
11/07/2012	Meeting with Min of Police and National Commissioner of Police on CI issues
29 July – 02 Aug 2012	Oversight visit to Pretoria (Intelligence Services)
08/08/2012	Briefing by SSA on quarterly reports and break-ins within intelligence offices
22/08/2012	Briefing by Auditor General's Office on financial matter of the Services

29/08/2012	Meeting with the Judge of Interception on challenges encountered
05/09/2012	Meeting with Namibian Parliamentary Intelligence Committee on various issues Further briefing by OIGI on CI investigations and findings
12/09/2012	Presentation of quarterly reports by CI Presentation by Staff Council on matters affecting staff
19/09/2012	Meeting of JSCI on outstanding matters
10/10/2012	Presentation of findings and recommendations by OIGI on CI investigation
17/10/2012	Meeting of JSCI on planning and preparations for oversight
24/10/2012	Further findings and recommendations by OIGI on CI investigations
31/10/2012	Further findings and recommendations by OIGI on CI investigations
07/11/2012	Further findings and recommendations by OIGI on CI investigations
20/02/2013	Briefing by OIGI on certificates for the Services
27/02/2013	Discussions by the JSCI on various issues of concern
06/03/2013	Further briefing by OIGI on certificates
13/03/2013	Briefing by OIGI on more certificates of the Services
20/03/2013	Debriefing by JSCI on previous presentations and briefings

JSCI PROGRAMME – 2013/14

17/04/2013	Briefing by AG on SSA financial audits
18/04/2013	Briefing by Crime Intelligence on Annual Performance Plans and Budget
23/04/2013	Briefing by Defence Intelligence on Strategic Plans and Budget
08/05/2013	Discussions on the preparation for Budget Vote debate (SSA) and briefing by Office of Inspector General on Budget
22/05/2013	Briefing by State Security Agency on sensitive matters
28/05/2013	General discussion on several matters after previous briefings from the Services
05/06/2013	Presentation by Acting Director General of SSA on Waterkloof incident
12/06/2013	Briefing by Crime Intelligence on various issues regarding investigations within CI
19/06/2013	Deliberation and way forward on outstanding matters affecting JSCI
29/07 – 02/08/2013	Oversight visit to Pretoria (Intelligence Services)
21/08/2013	Presentation by the Office of the Inspector General on quarterly reports
28/08/2013	Task team report on security upgrade of the President's residence
29/09/2013	Further discussion on the President's security upgrade
11/09/2013	Briefing by Defence Intelligence on various special projects
18/09/2013	Presentation of audit reports by Office of Auditor General
29/09 – 01/10/2013	Visit to Nkandla to verify briefing information on Nkandla briefing by Task Team

10/10/2013	Report on improvement of President's residence
23/10/2013	Presentation by Office of AG on Crime Intelligence audit statements
30/10/2013	Meeting with AG and Crime Intelligence on Annual Report and financial statement for 2011/2012
06/11/2013	Deliberations on JSCI Annual Report 2011/12 by the Committee
13/11/2013	Consideration and adoption of 2011/12 JSCI Annual Report
27/11/2013	Briefing by NICOC on various security awareness issues
03 -06 Feb 2014	Meeting with the Services in Pretoria on various concerns raised by OIGI in the certificates
12/02/2014	Deliberations on the visit to the Services and planning for the term
19/02/2014	Consideration of draft JSCI Annual Report
20/12/2014	Further consideration of Annual Report and inputs for recommendations



state security

State Security Agency
REPUBLIC OF SOUTH AFRICA

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SSA/DG01 1/5/2

Office of the Director-General
State Security Agency

19 February 2014

Advocate Burgess
Chairperson: Joint Standing Committee on Intelligence
Cape Town

Dear Advocate Burgess

Letter of Appreciation: State Security Agency Strategic Planning Session, 1 – 5 February 2014

1. The Strategic Planning Session of the State Security Agency that was convened from 1 – 5 February 2014 has reference.
2. I wish to convey my gratitude and appreciation to you and to the rest of the Honourable Members of the Joint Standing Committee on Intelligence (JSCI) for your attendance and active participation during our Strategic Planning Session.
3. The Agency truly values the positive contribution that the JSCI continues to make as it fulfils its oversight responsibilities over the work of the organisation.

Yours sincerely,

Amb Sonto Kudjoe
Director-General: SSA

CONFIDENTIAL

Sikhungo Setekuphepha Kwembuso Siqatsveiligheidsagentskap I-Arhente yokhuselo kaRulumente Zhen-dedzi la Vhutsiroletzi la Muzhuzi
Setheo sa Tshireletso sa Mnušo Setheo sa Tshireletso sa Puso Xyonga xa Vuhlayiseki bya Mfumo Boemedi ba Tshireletso Pusing
Isiro yozokuphepha kweLizwe UPhiko Lwezokuphepha Kwezwe

GLOSSARY OF ACRONYMS

AGSA	Auditor General of South Africa
AU	African Union
AFCON	African Cup of Nations
BRICS	Brazil, Russia, India, China and South Africa
CI	Crime Intelligence: Division of the South African Police Services
CICF	Counter Intelligence Coordinating Forum
COMSEC	Electronic Communications Security Pty (Ltd)
CS	Corporate Services
CSU	Covert Support Structure
DCS	Department of Correctional Services
DHA	Department of Home Affairs
DI	Defence Intelligence: Division of the South African National Defence Force
DOD	Department of Defence and Military Veterans
DPSA	Department of Public Service and Administration
EC	Eastern Cape Province
EIA	Environmental Impact Assessment

FIS	Foreign Intelligence Service
GILA	General Intelligence Laws Act
GILAB	General Intelligence Laws Amendment Bill
GIA	Geological Impact Assessment
IG	Inspector General
IIRAC	International Intelligence Review Agencies Conference
IM	Intelligence Management
ISC	Intelligence Services Council on the Conditions of Services
JCPSC	Justice, Crime Prevention and Security Cluster
JSCI	Joint Standing Committee on Intelligence
KZN	Kwa-Zulu Natal Province
MP	Mpumalanga Province
MPD	Ministerial Payment Directive
NIA	National Intelligence Agency
NICOC	National Intelligence Coordinating Committee
NSC	National Security Council
OIC	Office for Interception Centres

OIGI	Office of Inspector General of Intelligence
OPO	Oversight Principal Officer
SADC	Southern African Development Communities
SANAI	South African National Academy of Intelligence
SAQA	South African Qualifications Authority
SASS	South African Secret Service
SCM	Supply Chain Management
SIGNIT	Signal Intelligence
SSA	State Security Agency
VFU	Vetting Fieldwork Unit
WC	Western Cape Province

2. The Minister of Transport

- (a) Revised Strategic Plan of the Ports Regulator of South Africa for 2014/15 – 2016/17 and Annual Performance Plan for 2014/2015.
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