



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA

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**1. ANNUAL REPORT OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE FOR THE  
FINANCIAL YEAR ENDING 31 MARCH 2015**

## TABLE OF CONTENTS

<b>1.</b>	<b>Introduction .....</b>
1.1	Appointment of an Ad Hoc Committee for Budget Vote Process
<b>2.</b>	<b>Composition of the Committee .....</b>
<b>3.</b>	<b>Legislative mandate.....</b>
<b>4.</b>	<b>Legislation .....</b>
<b>5.</b>	<b>ACTIVITIES OF THE JSCI IN THE REPORTING YEAR</b>
<b>5.1</b>	<b>Orientation of Members of the JSCI .....</b>
<b>5.1.1</b>	<b>Presentation by State Security Agency .....</b>
5.1.1.1	Minimum Information Security Standards (MISS)
5.1.1.2	Presentation by National Communications
5.1.1.3	Minister of State Security
5.1.1.4	Minister of Communications
5.1.1.5	Minister of Justice & Constitutional Development
5.1.1.6	Presentation by Intelligence Academy
5.1.1.7	Matters of concern for State Security Agency raised by JSCI -JSCI Observations
<b>5.1.2</b>	<b>Presentation by Crime Intelligence .....</b>
5.1.2.1	Matters of concern raised by Crime Intelligence - JSCI Observations
<b>5.1.3</b>	<b>Meeting with Defence Intelligence .....</b>
5.1.3.1	Matters of concern raised by Defence Intelligence - JSCI Observations
<b>5.1.4</b>	<b>Presentation by National Intelligence Coordinating Committee (NICOC) .....</b>
5.1.4.1	Matters of raised by NICOC - JSCI Observations
<b>5.1.5</b>	<b>Meeting with the Inspector General of Intelligence .....</b>
5.1.5.1	Matters of concern raised by the Inspector General - JSCI Observations

<b>5.1.6</b>	<b>Presentation by Financial Intelligence Centre (FIC) .....</b>
<b>5.1.7</b>	<b>Meeting with the Designated Judge responsible for the authorisation of Interception .....</b>
<b>5.1.8</b>	<b>JSCI Recommendations .....</b>
<b>6.</b>	<b>Presentations of Annual Reports for 2013/2014 and financial expenditures .....</b>
<b>6.1</b>	<b>Office of the Auditor General of South Africa (AGSA) .....</b>
<b>6.2</b>	<b>Presentation by State Security Agency (SSA) .....</b>
6.2.1	Identified interventions
<b>6.3</b>	<b>Presentation by the Office of the Inspector General of Intelligence</b>
6.3.1	State Security Agency
6.3.2	SAPS – Crime Intelligence Division
6.3.3	SANDF – Defence Intelligence
6.3.4	Designated tasks to the OIGI
<b>6.4</b>	<b>Presentation by Defence Intelligence .....</b>
<b>7.</b>	<b>Presentation on Certificates of Services by the Office of the Inspector General of Intelligence .....</b>
7.1	State Security Agency.....
7.2	National Communication .....
7.3	Crime Intelligence .....
7.4	Defence Intelligence .....
<b>8.</b>	<b>Meeting with the President of the Republic of South Africa</b>
<b>9.</b>	<b>Presentations on the Strategic Plans and Annual Performance Plans of the Services</b>
9.1	Presentation by State Security Agency .....
9.2	Presentation by the Office of the Inspector General of Intelligence
9.3	Presentation by Crime Intelligence (SAPS-CI) .....
9.4	Office of the Designated Judge responsible for the authorization of Interceptions .....

- 10.      **Process of filling the vacancy of the Inspector General of Intelligence**  
.....
- 11.      **FINDINGS .....**
- 12.      **RECOMMENDATIONS OF JSCI .....**

## **ANNEXURES**

- A. Judge's Annual Report on applications for interceptions
- B. Audit Financial statements by Auditor General
- C. Programme for the financial year 2014/2015
- D. Glossary

## **1. INTRODUCTION**

This Annual Report examines and reflects on the mandate of the Joint Standing Committee on Intelligence (JSCI) and its execution of its mandate for the period under review. The establishment and mandate of the JSCI is set out in the Intelligence Services Oversight Act, (Act 40 of 1994) (“the Act”).

In the 5<sup>th</sup> Parliament the JSCI was constituted on 14 August 2014 after the fulfillment of the statutory requirements. The members of the JSCI are appointed by the Speaker of the National Assembly and the Chairperson of the National Council of Provinces in concurrence with the President, having been nominated by their respective political parties.

The Constitution of the Republic of South Africa, 1996 (“the Constitution”) recognises that Parliament has an important role to play in overseeing government departments and its public entities. The Act ensures that the JSCI performs the oversight functions in relation to the intelligence and counter-intelligence functions of the Services, i.e State Security Agency; Office of the Inspector General of Intelligence (“OIGI”); Crime and Defence Intelligence and the Office of the Judge for Interception, which include the administration, financial management and expenditure of the Services.

### **1.1 APPOINTMENT OF AN AD HOC COMMITTEE FOR THE BUDGET VOTE PROCESS**

The formal constitution of the JSCI requires that its members undergo the security clearance processes. The National Assembly resolved to appoint an Ad Hoc committee to scrutinize the Strategic Plans and Annual Performance Plans of State Security in preparation for the Budget Vote, while the security clearance processes were being attended to. This Ad Hoc Committee was established on 22 July 2014.

The following members were appointed to serve on the Ad Hoc committee:

- Ms D E Dlakude (ANC);
- Ms Z S Dlamini-Dubazana(ANC);
- Mr D D Gamede(ANC); Mr D M Gumede (ANC);
- Ms C C September (ANC);
- Mr J J Skosana (ANC);
- Mr D J Stubbe (DA);
- Mr D L Twala (EFF);
- Mr A M Mpontshane (IFP);
- Mr B H Holomisa (UDM) and Mr S C Mncwabe (NFP).

Upon completion of the debate on Vote 10 the Ad Hoc Committee ceased to exist.

## **2. COMPOSITION OF THE COMMITTEE**

The first meeting of the JSCI took place on 19 August 2014. All members of the JSCI are in possession of top-secret clearance certificates for a duration of five years. The Committee further resolved to take an oath of secrecy administered by Chief Justice Hlope to not divulge classified information in order to protect national security.

Section (2) (2)(a) of the Act provides for the constitution of the JSCI.

Accordingly the following seats were allocated after the 2014 national elections:

African National Congress (ANC)	10 seats
Democratic Alliance (DA)	3 seats
Economic Freedom Fighters (EFF)	1 seat
Inkatha Freedom Party (IFP)	1 seat
United Democratic Movement (UDM)	1 seat
National Freedom Party (NFP)	1 seat

**The present composition:**

<b>Name</b>	<b>Political party</b>
Ms C C September	ANC (NA) Chairperson
Ms D E Dlakude	ANC (NA )
Ms Z S Dlamini-Dubazana	ANC (NA)
Mr D D Gamede	ANC (NA)
Mr D M Gumede	ANC (NA)
Mr C Nqakula	ANC (NA)
Mr J P Parkies	ANC (NCOP)
Mr O J Sefako	ANC (NCOP)
Mr J J Skosana	ANC (NA)
Ms T Wana	ANC (NCOP)
Mr H B Groenewald	DA (NCOP)
Mr H C Schmidt	DA (NA)
Mr DJ Stubbe	DA (NA)
Mr A M Mpontshane	IFP (NA )
Mr B H Holomisa	UDM (NA)
Mr D L Twala	EFF (NA)
Mr S C Mncwabe	NFP (NA)

**3. LEGISLATIVE MANDATE**

The legislative mandate of the JSCI derives from Section 3 of the Act; including the following:

- To obtain a report from the Auditor General on the financial statement of the Services.
- To obtain from the designated Judge a report regarding the functions performed in terms of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act no 70 of 2002) ("RICA") including the statistics of interception requests made by the Services;



- To consider and make recommendations on the report and certificates presented to it by the OIGI.
- “To consider and make recommendations on all proposed legislation relating to the Services and any other intelligence and intelligence related activities and to initiate legislation in connection with such Services;” and
- “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 a member believes that a Service has caused to his or her person or property”.

#### **4. LEGISLATION**

The JSCI has a responsibility to consider and make recommendations on all proposed legislation relating to the Service and any other intelligence and intelligence related activities, and to initiate legislation in connection with such Service. Due to the JSCI being a joint committee, the aforementioned legislation is processed through the establishment by the National Assembly of an Ad Hoc Committee after which it is dealt with by the National Council of Provinces.

In this reporting year, the Committee has not processed any legislation.

The Committee oversees the intelligence structures in terms of the following legislation:

- National Strategic Intelligence Act, 1994 (Act No 39 of 1994)
- Intelligence Services Oversight Act 40,1994 (Act 40 of 1994)
- Defence Act 44,1957 (Act 44 Of 1957)
- South African Police Service Act 68, 1995 (Act 68 of 1995)
- Regulation of Interception of Communications and Provision of Communication-related Information Act 70, 2002 (Act 70 of 2002).

#### **5. ACTIVITIES OF THE JSCI IN THE REPORTING YEAR**

The programme of the JSCI for the period under review is attached hereto as **Annexure C**.

##### **5.1 Orientation of Members of the JSCI**

A visit to the Intelligence Services in Pretoria was undertaken from 22 – 26 September 2014 as part of intensive interaction between the Services and the JSCI. The objective was to determine the functions of each Service in order to conduct effective oversight and to monitor the handling of classified information; information sharing on usage of Minimum Information Security Standards (MISS) and to obtain information on national security issues.

## **5.1.1 Presentation by State Security Agency**

### **5.1.1.1 Minimum Information Security Standards (MISS)**

The emphasis was on the importance of gaining an understanding of MISS and to ensure adherence to same. The main aim of this policy is to protect classified documentation as defined by the Protection of Information Act (Act 84 of 1982); as any note or writing, whether produced by hand or by printing; typewriting or any other similar process; any copy; plan, picture; sketch; photograph, disk; tape; card or device.

There are four classifications of information namely: (1); restricted (2); confidential (3); secret and (4) top secret. Each classification indicates the level of security measures that must be applied for the distribution and storage of information and also indicates the impact that disclosure of information could have if not handled accordingly.

#### **5.1.1.2 Presentation by National Communications**

National Communications is a unit within State Security Agency comprising the Office of Interception of Communication (OIC); the Electronic Communications Security (Pty) Ltd (COMSEC) and the National Communication Centre (NCC).

The core business of National Communications is the collection of Signals Intelligence; lawful interception and ICT security in the interest of national security. The branch is governed by Interim Operational Procedures and Control Measures; Ministerial Directives. Oversight is conducted by the JSCI and the OIGI.

Interception of communication is regulated by RICA, which includes the objective of monitoring interceptions through applications and issuing of directions authorising the interception and provision of communication related information. The authorisation of directions is granted by a retired designated judge and warrants are executed by law enforcement officers.

The relevant Ministers include the Ministers of State Security Agency, Communications and Justice and Constitutional Development who each execute the following roles:

#### **5.1.1.3 Minister of State Security**

The Minister of State Security is responsible for establishing one or more interception centres; to equip, operate and maintain those centres; to acquire; install and maintain connections between telecoms systems and Interception Centre; to administer the Interception Centre, and must exercise final responsibility over administration and functioning of the Interception Centre. The Minister of the State Security appoints a Director: OIC who is the head of the office that performs functions assigned to him/her by the Minister and the Act.

#### **5.1.1.4 Minister of Communications**

The Minister of Communications, in consultation with relevant Ministers, Independent Communications Authority of South Africa (ICASA) and Service Providers (SP's) is responsible for the issuing of directives to the telecommunications service providers defining the following:

- The manner in which telecoms service providers must provide an interceptable service;
- The security, technical and functional requirements of the facilities and devices to be acquired by the telecoms service providers to enable them to be interceptable;
- The type of communications-related information that must be stored;
- The period for which such information must be stored, which may vary between three to five years.

#### **5.1.1.5 Minister of Justice & Constitutional Development**

Administration & compliance with the Act; designation of retired Judges; listing of Interception devices; granting of exemptions; issuing directives with regard to lost & destroyed cellular phones and sim cards; prescribing after submission to Parliament in consultation with Minister of Finance & the Minister of Communications: forms of assistance which may require compensation of telecomm provider; tariffs for compensation of telecomm providers for *inter alia* making available a facility and device or telecomm system.

#### **5.1.1.6 Presentation by Intelligence Academy**

The Intelligence Academy has the following functions as provided for in the Intelligence Services Act 65 of 2002:

- To develop and deliver quality intelligence training in the formation and preparation of professional and competent intelligence officers.
- To develop a coherent intelligence curriculum and promote quality assurance of training.
- To provide training for persons in, or conduct such examinations or tests as a qualification for the appointment, promotion or transfer of persons in or to, the Intelligence Services or departments, as the case may be, as the Minister may prescribe; and
- To issue diplomas or certificates to persons who have passed such examinations or tests
- To compare with any institution of higher learning, in the Republic or elsewhere to achieve its objectives.

- The Academy's qualifications must be done in accordance with the provisions of the South African Qualifications Authority Act 1995.

#### **5.1.1.7 Matters of concern for State Security Agency raised by the JSCI**

The JSCI raised concerns and matters that should be discussed with other departments affected or involved as follows:

- National integrated vetting strategy should be approved.
- The impact and implications of the ostensible large scale employment of foreign nationals by government and academic institutions, is to be considered
- The monitoring and control of private landing strips.
- Issue of foreign missions recruiting locally based people especially in the strategic positions is posing a threat and should be reviewed.
- Stimulating discourse on and understanding of cyber security threats, including consideration of resource allocation.
- Cybercrime - The Committee proposed a joint policy formulation process on cybercrime, including benchmarking with other countries.
- The SSA is currently investigating several instances of cyber- espionage.

### **JSCI observations**

- State Security Agency is awaiting the promulgation of the commencement date of the Protection of State Information Act to establish a legislative basis for the setting of appropriate standards for securing classified information as well as imposition of punitive measures for the who contravention of the relevant security standards.
- National integrated vetting strategy is to be finalised.
- SSA listed findings from counter intelligence.
- The community is not aware of malware and other potential information technology threats.
- The JSCI also proposed that a joint policy formulation process on cybercrime matters, including a study on best practices.

### **5.1.2 Presentation by Crime Intelligence (CI)**

Crime Intelligence is established by the National Strategic Intelligence Act, 1994 (Act 39 of 1994). The JSCI was briefed on the appointment of provincial heads as well as other human resource-related matters.

#### **5.1.2.1 Matters of concern raised by Crime Intelligence**

The following concerns were raised by CI:

- Challenges of border control border there having been allegations of government officials being involved in corrupt activities in the borders.
- Upgrades of technological equipment.
- Disjuncture between the different state organs responsible for the investigation and successful prosecution of crimes.
- SAPS signed Memorandum of Understanding with Council for Scientific and Industrial Research (CSIR) to address science and technology skills.

**JSCI observations**

- CI needs joint cooperation on research and development with universities to assist in building the credibility of police.
- The regulation of certain crimes, such as those involving must be clearly defined to include criminal sanctions.

**5.1.3 Meeting with Defence Intelligence**

The Defence Intelligence has a mandate to gather /use foreign military intelligence and supply the foreign military intelligence related to national strategic intelligence to National Intelligence Coordinating Committee (NICOC). Furthermore, South African National Defence Force (SANDF) ensures national security and security of defence assets; formulation of defence policy; determination of defence strategy; executes defence and foreign policy and assists in the coordination of foreign military assistance.

**5.1.3.1 Matters of concern raised by Defence Intelligence**

- Defence Intelligence is in the process of finalizing a more permanent arrangement for its offices.
- Additional funding has been requested to establish a Defence Intelligence Academy, which will have a Bachelor in Military Degree.
- Public Service Commission is looking at working conditions and other priorities that could assist in retaining staff as this loss has a huge impact on quality lost. The division is losing highly skilled personnel due to lack of retention strategy.
- Resources are required for technology acquisition to monitor space, land and maritime areas, in conjunction with other relevant departments.

**JSCI Observations**

- Defence Intelligence was requested to provide a comprehensive brief on plans to deal with cyber matters.
- The JSCI previously advised DI to devise strategies on retention of skilled personnel, but this still seems to be a challenge.

**5.1.4 Presentation by National Intelligence Coordinating Committee (NICOC)**

This body comprises the Presidency, State Security Agency, Defence and Crime Intelligence, Financial Intelligence Centre (FIC), Department of International Relations and Cooperation, Department of Home Affairs and Transport represented by their respective Directors General. The Departments of International Relations and Cooperation, Transport

and Home Affairs were not present during the orientation of members due to other engagements.

The main function of NICOC is to coordinate intelligence supplied by the National Intelligence Structures, and interpret such intelligence for use by the State and Cabinet for the purposes of:

- Detecting and identifying any threat or potential threat to the national security of the Republic;
- Protecting and promoting the national interest of the Republic
- To coordinate and prioritize intelligence activities within the national intelligence structures; and
- Advise Cabinet on intelligence policies and functions within the national intelligence structures. The principals meet regularly and have achieved much from the collaboration.
- Other state organs also have a responsibility in relation to the state's intelligence function. In terms of the Act, they are obliged to provide information relevant to national security matters to the security services. This should be done on their own initiative.



#### **5.1.4.1 Matters raised by NICOC**

- The SSA is to review of Intelligence White Paper and policy framework.
- The establishment of the National Security Council to address key questions and implement the National Security Strategy.
- Obsolete equipment is a challenge and NICOC urged the Committee to assist in acquiring more funds.
- There is a need to review the coordinating model.
- The JSCI is to assist in educating the youth and instilling a culture of patriotism.
- The processes for the recruitment of staff at diplomatic missions should be reviewed to minimize risk exposure.
- Economic Intelligence needs to be built as an area of growth and future interventions.
- Activities of foreign national and organisations are monitored and illegal money transfers are frozen when they are tracked to stop terror financing.
- Crime Intelligence is the biggest and most effective intelligence structure despite its internal challenges. The JSCI was urged to assist in informing the general public and Members of Parliament on challenges faced by Crime Intelligence and their successes.
- An upgrade of technological equipment for CI is required.

#### **JSCI observations**

- White Paper of Intelligence should be reviewed to address changing circumstances.
- The citizens of SA should be educated on issues of national security to instill a culture of patriotism.

#### **5.1.5 Meeting with the Inspector General of Intelligence**

The Inspector General of Intelligence provided a briefing on the establishment of structure and challenges.

##### **5.1.5.1 Matters of concern raised by the Inspector General**

- The Inspector General of Intelligence requested the JSCI's support with staffing and logistical challenges.
- Clarification of the oversight roles between the OIGI and the JSCI.
- The finalization of the regulations in respect of the OIGI.
- Budgetary matters.

#### **JSCI observations**

- The OIGI's logistical arrangements must promote its independence.

- A legislative review may be required to ensure that the mandate of the OIGI is in line with changing circumstances.

#### **5.1.6 Presentation by Financial Intelligence Centre (FIC)**

This was the first interaction between FIC and the JSCI. The FIC also works with South African Revenue Services (SARS). One of its core functions is to develop and implement measures to combat crime, money laundering and terror financing. The JSCI was informed that there are 187 countries that signed up for value chain of measures to combat money laundering.

The FIC raised the challenges it faces in relation to the evidentiary processes applicable to the intelligence it gathers. There should be a review of the legislative framework for cash-in-transit activities and border management, as well as the strengthening of mechanisms to deal with confiscated money.

#### **5.1.7 Meeting with the designated Judge responsible for the authorisation of Interception**

On 25 September 2014 the Committee met with the designated Judge who explained the requirement for authorization of interception and the process, including comprehensive reasons for a request for interception. Oral applications are only done in exceptional cases when there is real emergency, but a written request must follow within the specified time frame.

RICA does not prescribe verification of information as to ownership of a cellular telephone number prior to obtaining a directive. The Financial Intelligence Centre also applies for directives to intercept from the Judge. The Judge reported that at the time there were 348 applications completed.

#### **5.1.8 JSCI Recommendations**

- The JSCI will consider holding public hearings to engage with the public on security threats, and to look at possible solutions.

### **6. Presentation of Annual Reports for 2013/2014 and financial expenditures**

The Committee in performing its constitutional oversight mandate, engaged with the State Security Agency, Office of the Inspector General, Defence and Crime Intelligence on Strategic Plans and Annual Performance Plans. During the interaction the Committee invited the office of the Auditor General to give audit report of each Service. Each Service was afforded an opportunity to respond to findings from the Auditor General.

## 6.1 Office of the Auditor General of South Africa (AGSA)

The Committee has a responsibility in accordance with the Act 40 of 1994, to obtain from the Auditor General an audit report in line with section 22 of the Public Audit Act 22 of 2004. The office of the Auditor General addressed the Committee on advices given to State Security Agency regarding implementation of strong internal processes. AGSA was satisfied with the remedial action plans that the Director General of SSA proposed.

**Note:** The audit report of the Auditor General is attached as **Annexure B** with all the findings and recommendations.

## 6.2 Presentation by State Security Agency (SSA)

The State Security Agency briefed the Committee on 28 October 2014 on its Annual Report. SSA integrated the former intelligence services of the Republic of South Africa and was established as the SSA, in terms of the National Strategic Intelligence Services Act 65 of 2002 as amended.

The intelligence legislative framework that was reviewed by GILAA comprise mainly the following:

- National Strategic Intelligence Act 39 of 1994 in respect of SSA and NICOC as well as its composition.
- Intelligence Services Act 65 of 2002 in terms of which the former component structures of the SSA were dissolved into a single structure under the leadership of a single Director General.
- Electronic Communications Security (Pty) Ltd,( COMSEC) Act 68 of 2002 is repealed and the functions are transferred to the SSA.
- Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002 with references to the former component of structures were amended to read SSA.

The Protection of State Information Bill, 2010 has been processed by Parliament and awaiting assent by the President. This Bill is to provide for the protection of certain state information from alteration, loss or destruction or unlawful disclosure, to regulate the manner in which state information may be protected; to repeal the Protection of Information Act of 1982 and to provide for matters connected therewith.

The State Security Agency is mainly focussing on reviewing the White Paper of Intelligence and engaged in developing policy framework on the Protection of State Information Bill that is awaiting assent by the President. There is drafting of Cyber Security Bill that will deal specifically with elements of criminality including influx of people due to weak cyber security plans. There is presently anti-corruption strategy and looking forward to having Risk Management Committee during the period of planning.

In the reporting year, SSA has made commendable strides but there are more partially achieved strategic objectives that the department is working on. There is a developed anti-corruption strategy and also identified the need to tighten legislation on aviation. SSA is anticipating introduction of legislation on this issue in 2015. Plans are afoot to enhance the capacity of the Economic Intelligence Unit to advise policy makers on matters of national security relevant to the South African economy. Collection of relevant intelligence that contributes to strengthening the government program of action has been achieved. Draft of cybersecurity is successfully achieved and was presented to the Minister in September 2013 but continuous monitoring is obligatory as this is a new field.

Partially achieved strategic objectives:

- Target on development and implementation of risk based annual and 3 year audit plan in consultation with the stakeholders
- Combatting of corruption and organised crime e.g. capital flight
- Multilateral issues.
- There is a hope for national counter intelligence espionage to be approved.
- Review of Disaster Recovery System.

#### **6.2.1 Identified interventions**

- To improve the quality of intelligence products by investing on analysts for economic and political fields and re-introduce daily intelligence products.
- To train management whether abroad or locally e.g. if training has to be done in Russia or Cuba members of SSA should be given that opportunity if there is no equivalent training locally.
- Conclusion of migration will stabilise the department and boost the morale of officials.
- The offices of the Inspector General of Intelligence (IGI) and Auditor General (AG) have signed Memorandum of Understanding for the IGI to access those matters where the AG has limited or no access to information and documents.
- The challenge is assets in the offices abroad that AG is concerned about as they are bar-coded under DIRCO but belong to SSA.

- SSA has improved on paying service providers on time if invoices are submitted on time.
- SSA is considering alternative fact finding study on how other countries that are operating in the similar environment are managing to get unqualified reports taking into account the manner of SSA security environment.

### **6.3 Presentation by the Office of the Inspector General of Intelligence**

On 4 November 2014 the Committee met with the Inspector General of Intelligence for the first time in the 5<sup>th</sup> Parliament on Annual Report for 2013/14 financial year.

#### **6.3.1 State Security Agency**

The focus of IG's oversight work is to monitor compliance by the Services with regulatory framework, inclusive of the Constitution, relevant laws, applicable policy and ministerial direction. In pursuit of the legislated mandate of the IGI, oversight activities were conducted in relation to State Security Agency's Domestic and Foreign branches. The IGI reviewed the intelligence and counter-intelligence activities of three provincial office, namely, Western Cape, Mpumalanga and KwaZulu-Natal.

In Mpumalanga the review took place from 8 – 12 July 2013 including the Lebombo port of entry. In KwaZulu –Natal the visit was from 22 – 26 July 2013 including the Durban Harbour. On 19 – 23 August 2013, the review took place in the Western Cape where fieldwork engagement was undertaken.

#### **6.3.2 SAPS – Crime Intelligence division**

The planned activities were to establish whether the activities carried out by SAPS-CI were conducted within the framework of applicable laws, regulations and due processes. Review was conducted in three provinces, in Limpopo; KwaZulu-Natal and Western Cape. The focus was to assess, evaluate and establish the extent of the coordination of operational activities. Furthermore, the engagement was intended to evaluate the management and direction of intelligence and counter-intelligence activities and the capacity of the SAPS-CI provincial offices and clusters to meet the objectives set out in their legal mandate, National Intelligence Priorities, and APP.

#### **6.3.3 SANDF – Defence Intelligence**

The oversight work undertaken by the Office of the IGI falls within the ambit of Programme 2 of the OIGI strategic plan. The focus is to determine whether anything done by the Service, in the IGI's opinion, unlawful or contravenes any directions issued by the Minister or involves an abuse, unreasonable or unnecessary exercise by the Service of any of its powers.

The OIGI raised concern about the SANDF-DI Liberty building Headquarters that is in the process of being upgraded by the owners, however, the location of the offices in generally are not safe for the members. A report was requested from DI regarding the building and forwarded to the JSCI on 3 April 2013 on finding an alternative accommodation.

The SANDF-DI also reported on the incident that led to the death and injury of several SANDF soldiers in the Central African Republic (CAR) during 22 – 24 March 2013. The OIGI requested a report from the Chief of the SANDF-DI and was also forwarded to the JSCI and the final report was submitted to the Security Cluster and the Minister of Defence and Military Veterans. Furthermore, the SANDF-DI also submitted to the OIGI a report concerning the landing of the Jet Airlines aircraft and other private aircraft landing at the Air Force Base Waterkloof on 30 April 2013. The report was also forwarded to the JSCI.

#### **6.3.4 Designated tasks to the OIGI**

On 20 June 2013 the Minister of State Security, Dr S C Cwele, tasked the IGI in terms of section 7(7) (c) of the Oversight Act, to conduct an investigation into Principal Agent Network (PAN) Programme. The main focus was to investigate the alleged transgressions of applicable laws, regulations and policies relating the PAN Programme and to investigate whether any monies or assets were unlawfully acquired and the prospects of recovery thereof. A report with findings and recommendations was submitted to the Minister of State Security on 12 December 2013. There were complaints received and they were attended and finalised, the OIGI reported back to the complainants about findings.

#### **6.4 Presentation by Defence Intelligence**

On 11 November 2014 the Defence Intelligence (DI) presented its annual report to the JSCI. In its presentation the DI informed the Committee that it has drafted a cyber-warfare strategy.

As it has been reporting on the condition of the building to the Committee, DI reported that a project manager has been appointed to administer the relocation from the current dilapidated building. Update will be given to the JSCI on the new location after meeting with

the senior Department of Public Works management to explain the reasons for moving from where they are currently accommodated.

The DI only receives 2% of the Budget from the Department of Defence and Military Veterans which is insufficient. The challenge with the Office of the Auditor General is limited access to the information of DI due to the environment they operating on. The DI received an unqualified report. In the case of sensitive projects, the Auditor General explained that not all projects belong to the DI but to other sections of the Department of Defence and Military Veterans.

## **7. Presentation on Certificates of Services by the Office of the Inspector General of Intelligence**

### **7.1 State Security Agency**

The Office of the Inspector General of Intelligence presented the certificates for the reporting year 1 April 2013 – 31 March 2014 on 26 November 2014.

The OIGI raised some concerns regarding the Domestic and Foreign Branch as follows:

- Inadequate regulatory framework resulting in the absence of ministerial regulations regulating conduct of intelligence and counter intelligence activities.
- SSA still has not yet implemented an integrated electronic audit trails and logs on the use of intrusive measures and maintains manual records for electronic interceptions, some of which do not always achieve sequential order according to RICA.
- The Accounting Officer of SSA unilaterally suspended the implementation of payment of the performance awards of the Integrated Performance Management System (IPMS) as stipulated in the Human Resource Directives without Ministerial approval.
- It was noted that not all previous recommendations relating to office space and properties were adhered to, and certain tenders were also pending.
- The Chief Directorate Protective Security is faced with challenges relating to capacity constraints in all occupational groups specifically in relation to evaluation, operation support and polygraph examiners regarding internal vetting. Also external vetting is faced with capacity constraints as it is responsible for security vetting of 1.3 million civil servants whilst it has a total staff complement of 210 members of which 163 positions are filled.
- There is subtle resistance both at national and provincial levels by senior government officials to subject themselves to the vetting process.
- The Foreign Branch is supportive to African Countries but capacity is a challenge to attain effectiveness. One of the resolutions to the challenge is to engage with the veterans to assist and the Intelligence Academy has started taking in cadets for

training and there will be wide choice for selection. The Foreign Branch is supportive to African countries but has experienced capacity constraints.

- OIGI commended the Foreign Branch for provision of intelligence in various flashpoint and hotspot areas in the Middle-East and in the Horn and North of Africa.
- A concern raised was relating to the current post establishment of the SSA-FB that is under severe strain to accommodate members who returned from foreign deployments. The situation results in a number of members being supernumerary to the SSA-FB post establishment.

## **7.2 National Communication – (NC)**

National Communication has been amalgamated as a component of State Security Agency after the amendment of National Strategic Intelligence Act through GILAA. The concerns raised were:

- Although the review of Directives in the light of GILAA enactment have been finalised by the Director General but they still waiting for the Minister's approval.
- Defence and Crime Intelligence have been requested to utilise the SIGINT to pursue the mandate of securing national security.
- The Head of NC reports directly to the DG of SSA whilst the Chief Directorate ICT Security, Chief Directorate Signals and the Office for Interception Centres (OIC), including cyber Security and Chief Directorate Management Services report to the Head NC. The concern is that they report to the Acting Head of NC because there are no appointed general managers to head the structures. A migration plan to fill the established NC posts will be implemented.

## **7.3 Crime Intelligence (CI)**

Crime Intelligence is a division of the South African Police Services. According to the concerns raised during certification by the OIGI, here are issues to note:

- The amalgamation of Crime Intelligence with South African Police Protection Services is not desirable as it does not stimulate the desired speedy decision making and enhanced coordination. There is no commonality between the two organisations.
- It was noted that there is restructuring for every appointed National Commissioner and acting Divisional Commissioner. This has effect of stimulating uncertainty, resulting in low morale and non-performance of intelligence activities.
- Another concern is the long period of time that the SAPS-CI officers remain in one rank without promotion.



- Lack of synergy and operational alignment between the Unit responsible for Undercover Operations and Agent Programme on the one hand and the Supply Chain Management on the other.
- Lack of collaboration and proper alignment during the conduct of joint Undercover Operations between the SAPS-CI and other law enforcement agencies.
- There is continuous leakage of classified information to the media.

#### **7.4 Defence Intelligence**

Defence Intelligence is a division within the South African National Defence Force (SANDF-DI). The following concerns were raised:

- The progress report on the Headquarters has been reported in the previous reports but it is still not concluded.
- Protection of State Information Bill will require more capacity when the commencement date is promulgated, which will have an impact on the current structure and posts of DI to ensure adherence to the proposed regulations.
- DI is in need of modern technology to intercept modern communication technologies, eg skype.
- There is a challenge of amount of private landing strips which could be detected if the radius coverage is available and in operation.

#### **8. Meeting with the President of the Republic of South Africa**

The meetings are scheduled quarterly to reflect on the status of security of the country. This was the first interaction that took place with the President on 10 December 2014 in Pretoria. After lengthy discussions, the President recommended the following to the Committee:

- The Committee should have frequent meetings with the President to discuss crucial issues of national security, to determine tasks and programmes with the intelligence community and evaluate the progress at the end of the year.
- The JSCI is the best committee to advise Parliament on issues of national security.
- The Committee must educate the public to be aware of being used against selling the country negatively to the outside world.
- How the committee express its commitment as members to the protection of the state and neutrality of South Africans despite their political affiliation to secure the country has to be a priority.
- The Protection of State Information Bill will be discussed with the JSCI after being signed. The Committee should explore and benchmark with the other countries on handling and protection of information. This should be a priority as the Bill will ensure

proper security and implementation thereof. The countries suggested by the President to be visited by the Committee was Russia and United States of America.

## **9. Presentations on the Strategic Plans and Annual Performance Plans of the Services**

### **9.1 Presentation by State Security Agency**

The State of Nation Address articulated a number of priorities for government. The National Development Plan identified challenges of poverty, crime, unemployment and inequality, amongst other. In order to overcome these challenges the Intelligence Services need to focus in particular areas that fall under each service. The Committee has to ensure that the presented Strategic Plans objectives are attained and the Nine Point Plan from the State of Nation Address is adhered to.

The strategic objectives of Domestic Branch executes the overall domestic collection of critical and unique information related to threats, potential threats and opportunities which provides decision makers with a strategic edge in pursuance of SA's national security and interests. It has five supporting subprograms, namely:

- Domestic intelligence
- Border Intelligence
- Economic Intelligence
- Operational Support
- Special Events

### **9.2 Presentation by the Office of the Inspector General of Intelligence**

In terms of the Intelligence Services Oversight Act section (7), the Inspector-General has a responsibility amongst other functions to monitor compliance by any Service within the Constitution, applicable laws and relevant policies on intelligence and counter-intelligence. The Committee engaged intensively with the Office of the Inspector General.

As stipulated in section (7A) of the Intelligence Services Oversight Act, the Inspector General has a responsibility of reporting to the Committee on the activities of the Intelligence Services. 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. During interaction on the certificates, the Committee invited all the Services to respond to the recommendations presented by the Inspector General orally during the meeting and matters that needed more information were requested in writing.

The report of the Inspector General covers the fiscal reporting period from 1 April 2014 to 31 March 2015.

### **9.3 Presentation by Crime Intelligence (SAPS –CI)**

Crime Intelligence is a division within South African Police Services dealing specifically with providing intelligence for organised crime, to provide intelligence gathering and analysis and operational support services in support of the detection, investigation and the implementation of counter intelligence measures where necessary.

#### **9.4 Office of the designated Judge responsible for the authorization 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 10 December 2014 for a briefing on the statistics and challenges of interceptions.

A report regarding the functions performed by the Judge in terms of the RICA, including the statistics regarding such functions, together with any comments or recommendations which such designate 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 as **Annexure A.**

#### **10. PROCESS OF FILLING THE VACANCY OF THE INSPECTOR GENERAL OF INTELLIGENCE**

The Joint Standing Committee on Intelligence (JSCI) having considered the end of term of office of the Inspector General of Intelligence being 31 March advertised for applications in various newspaper in December 2014. In terms of section 7 (1) (b) of the Intelligence Services Oversight Act (Act 40 of 1994) the JSCI has a mandate to nominate a candidate for recommendation to the National Assembly for the President to appoint.

The Committee received 57 applications, however 56 applicants complied with the deadline while one application missed the deadline by a week and was disqualified. Of remaining 56 applications, one applicant withdrew. The Joint Standing Committee on Intelligence appointed a sub-committee that met on 24 February 2015 to conduct shortlisting of the candidates through a panel appointed by the Committee and was to report back to the JSCI. The sub-committee recommended eight (8) candidates in an open meeting and reported to the JSCI for approval. The Committee agreed on pre-screening by the State Security Agency before interviewing the candidates.

The names are as follows:

- Mr. Cecil Valentine Burgess;
- Mr. Clinton Paul Davids;
- Mr. Mathe Matthews Diseko;
- Mr. Imtiaz Fazel;
- Advocate Jayashree Govender;
- Mr. Smanga Phillip Jele;
- Mr. Andile Barnabas Kilifele and
- Mr. Mampogoane Petrus Nchabeleng.

The interviews took place on 17 and 18 March 2015 after the Committee agreed to have proceedings in a closed meeting. On 24 March 2015, after the deliberations on the interviews, the Committee resolved that no suitable candidate was recommended.

## **11. FINDINGS**

- There is a need for joint oversight visits to the ports of entry with all the related committees. The porous borders including the airports have impact on illicit trading and affect the economy of the country.
- Leaking of information is still a challenge in the Services and compromises operations. Approval of the Protection of State Information Bill will assist in addressing the challenge.
- Inadequate internal controls within SSA causes investigations not to be finalized on time which causes lengthy suspensions with pay to the alleged officials.
- Vetting is still a challenge for the government as a whole.

As a consequence of the overall work done by the Committee and because of seriousness and urgency some recommendations which were previously recorded in the previous reports of the Committee might be repeated. Therefore, the JSCI makes the following recommendations:

- That the Minister of SSA should prioritise capacitation of governance structures, e.g. Risk Management Unit; Internal Audit Unit and ICT.  
The Minister should address unlawful disclosure of classified information and unnecessary leakages.
- The outstanding regulations; review of White Paper of Intelligence and policy framework and tabling of Cyber Security Bill should be priority in 2015/16 financial year.
- The Department should liaise with other relevant departments to implement tight security on borders. Due to emerging cyber threat, SA has to develop the National Cybersecurity Policy Framework to ensure coordinated and integrated approach in dealing with this kind of threat.
- The Intelligence Academy needs to establish and sustain engagements with strategic partners, like higher education, government, regulatory bodies and foreign intelligence services on training priorities.
- The rapid changes in technology requires the National Communications to continuously improve and enhance its capacity and processes in order to face the new challenges. The outdated technology equipment affect the capability of intelligence entities.
- The Intelligence Services Oversight Act needs to be amended in line with the General Intelligence Laws Amendment Act.
- The Minister of Police has to ensure that there are adequate resourced satellite police stations to combat crime.
- The Minister (Police) should address shortage of resources especially technology that assist in intelligence gathering to minimize human trafficking, drugs and car hijacking.
- Inadequate vetting in the intelligence community regarding both procedure and the vetting of officials is of serious concern and this must be addressed as a matter of urgency. Officials should first complete vetting process before taking up positions to avoid manifestation of corruption, maladministration and non-existing qualifications. National integrated vetting strategy should be approved.
- Economic Intelligence needs to be built as an area of growth and future interventions.

- The term of office of the Judge for interception should be extended to allow for enhanced co-operation between the Judge and the intelligence community.

