



PARLIAMENTARY OVERSIGHT

EXHIBIT ZZ 16

BALEKA MBETE



**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

2nd floor, Hillside House
17 Empire Road,
Parktown
Johannesburg
2193

Tel: (010) 214 to 0651

Email: inquiries@sastatecapture.org.za

Website: www.sastatecapture.org.za

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In the matter:

**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR
INCLUDING ORGANS OF STATE**

AFFIDAVIT

I, the undersigned,

BALEKA MBETE

do hereby make oath and state that:

1. I am the former Speaker of the National Assembly. In that capacity, I was first elected in 2004 to 2008, and in 2014 to 2019. Relevant for the purposes of this affidavit, would be the period, 2014 to 2019.

2. The facts deposed to herein fall within my personal knowledge and are both true and correct.
3. I have been invited by the Commission to help it in its enquiry into matters of state capture and I do so with all alacrity.
4. I have, when convenience permitted, had occasion to listen to some of the evidence tendered before the Commission.
5. This affidavit is intended to address the subject-matter of the Commission relating only to the role of Parliament (the National Assembly) in the discharge of its constitutional duty, *inter alia*, to hold the executive accountable.

The Legal Framework

6. The powers of the National Assembly are provided in the Constitution of the Republic of South Africa, 1996. The powers include, providing mechanisms to ensure that all executive organs of state in the national sphere of government are accountable to the National Assembly and to

maintain oversight of the exercise of national executive authority, including the implementation of legislation as well as oversight of any organ of state.¹

7. Regarding the internal arrangements, proceedings and procedures of the National Assembly, the Constitution provides that the National Assembly may determine and control its internal arrangements, proceedings and procedures; and may make rules and orders concerning its business, with due regard to the representative and participatory democracy, accountability, transparency and public involvement.²
8. The Constitution further provides, *inter alia*, that the rules and orders of the National Assembly must provide for the establishment, composition, powers, functions, procedures, and duration of its committees. Further, the rules and orders must provide for the participation in the proceedings of the Assembly and its committees of minority parties represented in the Assembly in a manner consistent with democracy.³

¹ Section 55(2)(a) and (b) of the Constitution.

² Section 57(1)(a) and (b) of the Constitution.

³ Section 57(2)(a) and (b) of the constitution.

9. There are several legislative instruments that have been passed by Parliament to give meaning to these constitutional prescripts.⁴ There has also been models produced by Parliament to enable it to discharge its oversight responsibilities. Those are the Oversight and Accountability Model and Public Participation Model.

The Parliamentary Architecture regarding Executive Accountability

10. In the discharge of its constitutional mandate to hold the executive accountable, I point to a few of these instruments:

- 10.1 There are as many committees of Parliament as there are portfolios of government. These committees are structured with proportionality of the parties represented in the National Assembly. In the committees not all parties are represented but any member of Parliament may attend and participate in the deliberations of the committees.

⁴ e.g. Public Finance Management Act, the Powers, Privileges, and Immunities of Parliament and Provincial Legislatures Act, the Money Bills Amendment Procedure and Related Matters Act, the Public Audit Act, the Executive Members' Ethics Act.

10.2 In essence, the committees maintain oversight of the national executive authority, the executive organs of state, and the national constitutional institutions falling within their portfolios.

10.3 There are also *ad hoc* committees, which are an exception to the rule, and are established to address specific matters.

10.4 The rules provide for questions and answers. These questions are asked of the executive as an accountability mechanism. Question time affords members the opportunity to question members of the executive on service delivery, policy, and other executive action, on behalf of their political parties and the electorate.

10.5 The questions and answers sessions are both in writing and oral.

10.6 The portfolio committees have powers to summons anyone to give evidence on oath or affirmation, or produce documents, regarding any matter that falls within the mandate of Parliament.

10.7 The Constitution also provides for motions of no confidence in the President or the Cabinet. In relation to the President the Constitution also provides for a motion to remove the President.⁵

10.8 Another method to hold the executive to account, is the power of any member to make a statement on any matter and, in terms of the rules,

⁵ Section 89 of the Constitution.

there is provision for the executive to respond to statements directed to them or made in respect of their portfolios.

10.9 The rules provide for motions which members may use to bring issues to the attention of Parliament for debate. This is apart from what is commonly referred to as 'snap debates' where matters of public importance are scheduled for debate after approval by the Speaker.

11. I mention these processes, by way of example, to convey my sense that there are adequate legal and procedural instruments to hold the executive accountable. These instruments, by and large, serve their purpose. I mention that during my period as the presiding officer of the National Assembly, there were four motions of no confidence in the then President of the country. There was also a motion of censure on the President and two motions for removal of the then President.⁶

12. These are motions that are approved by the Speaker and whose outcomes are dictated by the votes cast in favour or against such motions. At no stage, during my period, did I disallow a motion of no confidence in the

⁶ Section 89 of the Constitution.

President, submitted in terms of the rules, from being scheduled, debated, and voted upon.

My Impressions

13. It is my considered opinion that the lapses that occur to explain irregularities that have occupied the work of the Commission do not owe themselves to inadequate legislative instruments and mechanisms. By way of illustration, the many motions of no confidence in the then President which were tabled, dealt with, and finalised are a typical demonstration of Parliament holding the highest political office-bearer to account.

14. As cycles of fiscal accountability dictate, the portfolio committees would receive the Auditor-General's report which, may point to irregular expenditure of monies by an entity of government or organ of state. These findings are in their nature *ex post facto*. Parliament may not be able to prevent this *de facto* state of affairs but would then submit recommendations in this regard to the responsible minister for action and a response. The responsible minister would be given a time period within

which a response must be furnished. In some instances, this process works well.

15. One of the limitations that Parliament suffers from are limited resources, both financial and human. The portfolio committees can only do such work as their budget allows. This in itself should serve as no excuse given the nature of the powers that the portfolio committees have to do what they must with those constraints.
16. The principle of separation of powers between the executive, legislature, and the judiciary, which is an incidence of the rule of law, says Parliament cannot get involved in the day to day running of state organs. *A fortiori*, Parliament, in most instances, comes after the fact. I am alive to proactive oversight which Parliament exercises in monitoring how state organs discharge their responsibilities against their budgets and stated objectives.
17. The caucuses of political parties, as they are entitled to, conduct their affairs, and these processes do influence the outcomes of motions which are tabled.

18. Motions of censure; motions of no confidence and question and answer sessions or for that matter 'snap debates' are intended to be instruments that would hold the executive on its toes and may cause embarrassment to any offending member of the executive. These instruments of holding the executive to account sometimes suffer the dictates of politics.
19. The movement of executives in state owned enterprises and their resignations subsequent to allegations of irregularity makes them escape accountability. This problem may be greatly assisted by a robust criminal justice system, which I believe, is alive to some of these challenges.
20. It also bears mentioning that the time in a calendar year for portfolio committees to discharge their oversight responsibilities is limited. Members of portfolio committees have other responsibilities such as constituency work and attending to plenary work of the Assembly. This I do not offer as a justification but merely to point to the fact that according to the Parliamentary calendar, by way of illustration, in the current year, committees have about ten and a half weeks (10.5 weeks) dedicated to their work. The other time is taken up by plenaries, constituency and leave periods.

21. There may also be some room of improvement in capacitating members regarding their oversight responsibilities on an ongoing systematic basis. In this regard, members ought to be encouraged to rely more on their individual critical thinking and knowledge.
22. It can be appreciated that a much harmonised and agile security environment would serve as an early warning sign regarding covert operations such as we have come to know around a subject like “state capture”.
23. In terms of what could be done to improve both oversight and accountability, I believe that effective administrative processes such as tracking that resolutions taken are actually implemented by the executive must be put in place to ensure that, firstly, committees are able to do real time tracking of implementation of recommendations to the executive, and that the office of the Speaker is able to intervene as and when necessary. There may also be room for strengthening those mechanisms that could serve the purpose of putting pressure (perhaps employing motions of

censure and pointed questions where necessary) on the executive to ensure responsiveness to Parliament's interventions.

Areas of concern by the Commission

24. It has been brought to my attention that the Commission invites my submissions regarding whether Parliament was successful in carrying out its constitutional mandate of oversight and, if not, what that could be attributed to and what can be done to improve the situation. My submission is:

24.1 The legal instruments and procedures may perhaps be refined as Parliament seeks to answer to its constitutional mandate. What comes to mind, by way of example, are the events that largely explained the public exchanges and disruptions involving members during the fifth Parliament. This, unnecessarily, consumed the attention of Parliament. There are now rules in place to mitigate that problem.

24.2 Jurisprudence, particularly that of the Constitutional Court, helps to modify the workings of Parliament for the better. To this I may point to the position relating to the legal standing of remedial actions taken

by the Public Protector. Until the Constitutional Court spoke on the matter, Parliament held a view that it could effectively review the remedial action of the Public Protector in terms of its own rules or mandate. The final word by the court was that anyone disaffected by the remedial action by the Public Protector must seek judicial review of that remedial action. When the allegations of “State capture” came to the fore, Parliament did what it could, particularly when greater clarity about what was happening came to the fore. The “Gupta leaks” are one such example.

24.3 It is my belief that the workings of the Commission itself and the recommendations that will follow will largely help the work of Parliament with its oversight responsibilities.

25. The evidence leaders of the Commission appear to recognise that the Standing Committee on Public Accounts (‘SCOPA’) and other Parliamentary committees seem to have made attempts at effective oversight and identified issues including elements of possible state capture. The observation is made that there seemed to be an inability to ensure that recommendations are implemented. The question is what the challenges in that regard were. My sense is this:

25.1 I have not been furnished with any specific recommendations that were not implemented. I surmise that the evidence of Mr T Godi, who was the chairperson of SCOPA, may be referenced in this regard. I acknowledge that there may be areas where follow-up on the implementation of recommendations may be improved, and I am informed that there are steps being undertaken to address the situation.

25.2 The other example may very well relate to Ms N Mazzone's reported reference to a request for the establishment of an ad hoc committee on state capture. As a general statement, Parliament held a view that these issues could be competently handled by the existing portfolio committees and the establishment of ad hoc committees is, at times, a duplication and parallel process that is unnecessary. I make the observation that political posturing on some of these issues also muddies the waters where, it would appear, that ideas get defeated politically by reference to whence they come.

25.3 The magnitude of "state capture" tends to put in poor light some of the significant oversight responsibilities that were undertaken around the same period. What comes to mind would be the ad hoc committee which was probing the fitness of the South African Broadcasting

Corporation (SABC) board; the committee on public enterprises which inquired into ESKOM (inquiry into governance, procurement and the financial sustainability of ESKOM); portfolio committee on home affairs inquiry into allegations of state capture into granting of citizenship to non-South Africans; and the portfolio committee on mineral resources and energy inquiry into alleged governance and maladministration issues. Passenger Rail Agency of South Africa (PRASA) also came under the scrutiny of the portfolio committee on transport.

26. I have already expressed my views regarding the requests by opposition parties for the establishment of ad hoc committees. I accept that the rules of Parliament do provide for the establishment of ad hoc committees on issues of special public interest. That notwithstanding, these matters are sometimes coloured by politics.
27. The Commission is desirous to have me opine on the letters which were sent to committees under the signature of the House Chairperson, Mr C. T Frolick. In June 2017, as a consequence of the "Gupta leaks", Mr Frolick sent letters directing committees of the Mineral Resources and Energy,

Transport, Public Enterprises and Home Affairs, to investigate allegations of state capture. I have already made reference to these committees in paragraph 25.3 above. Parliament was mindful of the investigations regarding the allegations of state capture undertaken by the Public Protector and the recommendation that a judicial commission of inquiry had to be established. I concede that Parliament could have acted with greater haste than it did. Hindsight makes this very plain.

28. Regarding whether, as the Speaker of the National Assembly, I exercised independence as I was enjoined by the Constitution to do, I most emphatically say I did. When I took office as a Speaker of the National Assembly, there were unfortunate noises that given the fact that I was the National Chairperson of the African National Congress (ANC), I would be incapable of being impartial. Nothing could be further from the truth. The workings and the business of the National Assembly are tightly governed and regulated by the rules of the National Assembly, obviously drawing their standing from the Constitution and related laws, practices, precedents, and conventions. There is very little room for individual idiosyncrasies to direct the affairs of the Assembly otherwise. The Assembly

is ultimately governed by the political parties who have the constitutional power to shape its rules and operations.

29. Whether Parliament failed to hold former President Jacob Zuma accountable is a matter of public record. I am not aware that there is ever any president who has had to face such a number of motions of no confidence, censure, and removal motions. At each instance, as Speaker, I did table each motion for Parliament to consider, debate, and vote upon. The outcomes of such votes on the motions, are a matter outside the control of Parliament as an institution and the Speaker as a person or office.
30. It is correct that on one of the motions of no confidence in the President, I did direct the voting to be held by way of a secret ballot. This was not an easy decision. It is a decision that was arrived at after the Constitution Court had considered the matter, given its judgment, together with guidelines that I, as a Speaker, should consider in making the decision on the voting. Even in this regard, I consulted the various political parties which ultimately also informed the ultimate decision I made. It is note worthy that despite the vote being by way of a secret ballot, the outcome of that motion was no different than the others before.

Conclusion

31. I hope that I have given the Commission responses that adequately address the issues on which my input may be of assistance. I remain willing to give any and all such information as the Commission may require. Should the Commission be minded to have me give oral evidence regarding these matters, I will do so without hesitation.

32. I wish the Commission well in its work.



BALEKA MBETE

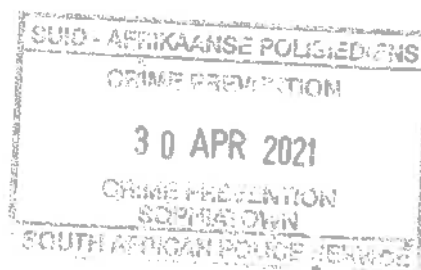
I CERTIFY THAT:

1. The Deponent has acknowledged to me that:

1.1 She knows and understands the contents of this declaration;

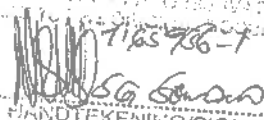
- 1.2 She has no objection to taking the prescribed oath;
- 1.3 She considers the prescribed oath to be binding on her conscience;
- 2. The Deponent thereafter uttered the words: *"I swear that the contents of this declaration are true, so help me God"*. The Deponent signed this declaration in my presence at the address set out hereunder on this__ day of April 2021.

COMMISSIONER OF OATHS



EK SERTIFISEER DAT NIE DIE DOKUMENT 'N WARE AFDRUK (AFSKRIF) IS WAN DIE OORSPRONKLIKE DOKUMENT WAT AAN MY VIR WAARNEMING VOORGELE IS. EK SERTIFISEER VERDER DAT, VOLGENS MY WAARNEMING, DAAR NIE 'N WYSSING OF VERANDERING OF DIE OORSPRONKLIKE DOKUMENT AANGEBRING IS NIE.

I CERTIFY THAT THE DOCUMENT IS A TRUE COPY TO WITNESS (COPY) OF THE ORIGINAL. I FURTHER CERTIFY THAT, ACCORDING TO MY BEST KNOWLEDGE AND BELIEF, THERE IS NO CHANGE, VARIATION OR AMENDMENT TO THE ORIGINAL DOCUMENT.

7165986-1

 HANDTEKENING/SIGNATURE

MAGSNUMMER / FORCE NUMBER: 7165986-1 RANG / RANK: w/o

NAAM IN DRUKSKRIF / NAME IN PRINT: SENGWASL SEMONO

- 1.2 She has no objection to taking the prescribed oath;
- 1.3 She considers the prescribed oath to be binding on her conscience;
- 2. The Deponent thereafter uttered the words: *"I swear that the contents of this declaration are true, so help me God"*. The Deponent signed this declaration in my presence at the address set out hereunder on this 30 day

of April 2021.

Prof Colonel
Michael Ndhlazi
30/04/21

COMMISSIONER OF OATHS

SOUTH AFRICAN POLICE SERVICE
 PRESIDENTIAL PROTECTION SERVICE
 2021 -04- 30
 PRESIDENTIAL PROTECTION SERVICE
 SOUTH AFRICAN POLICE SERVICE

I certify that the above statement was taken by me and that the deponent has acknowledged that he / she knows and understands the contents of this statement. This statement was sworn to / affirmed before me and the deponent's signature / mark was placed thereon in my presence.

at *Stellenbosch* on *2021-04-30* at *09:00*

(SIGNATURE) *Michael Ndhlazi*
 COMMISSIONER OF OATHS

FULL FIRST NAMES AND SURNAME IN BLOCK LETTERS

P.O.S. *170529 0159 Tray E and*
 BUSINESS ADDRESS (STREET ADDRESS)

170529 0159
Prof Colonel RANK S.A. POLICE SERVICE

Introductory remarks to Submission to Zondo commission (UPDATED)

1. Chairperson, today I appear here willingly to talk about my past role in Parliament as Speaker in the National Assembly and to convey my commitment to the purpose and envisaged outcome of the Commission's work.
2. I thought by way of introduction, I should first share with the Commission a little bit of my background. Chairperson, I left the country in 1976 and joined the ANC in Swaziland. I returned to South Africa in June 1990 and continued to work in different capacities towards the new South Africa's Constitutional dispensation. The key areas in which a lot of my life was contributed were for the advancement of women's rights, and I am also a devout cultural worker.
3. I was elected the first Secretary-General of the ANC Women's League after the unbanning. I was part of the ANC delegation to the S.A Constitutional talks towards the interim Constitution and later the final Constitution. I became Deputy Speaker of the National Assembly in 1996. I have since spent many years being part of the leadership of the evolving Legislative Sector in the new democratic state. In my last term in Parliament, I oversaw the finalisation of the rules book (9th edition) in the National Assembly and led the High level Panel program at the Speakers' Forum as its Chairperson.
4. I was a founder member and National Convenor of the Progressive Women's Movement of South Africa in 2006, my first experience at leading a national non-partisan entity. During the transition in 2008, I was appointed Deputy President of South Africa. At the 2007 ANC national conference I was elected the first woman National Chairperson of the organisation. In that role, I led the ANC's national program of marking the Centenary of the ANC until the Centenary Conference in December 2012. My term as Chairperson ended in 2017.
5. At an international level, I was a member of the Africa Peer Review Mechanism. I was also a founder member of the Pan-African Parliament and its Committee on International Relations.
6. I am currently a Founder Trustee of the National Liberation Heritage Institute of South Africa (NaLHISA) which seeks to pursue the unearthing and better organization of the history of our people's proud legacy of freedom.
7. Having concluded the aspect about my background, Chairperson my understanding is that this Commission gives us the opportunity as a democracy in the making, - among other things - to be self-critical and to honestly address the warts we see in the mirror as the Commission listens to what happened in the past. The need to enhance the capacity of Parliament is already part of the testimony before Commission. I wish to build on what has already been said in this regard Chairperson.

8. The first Parliament after the 1994 elections had the task to discuss the constitution, in its capacity as a Constitutional Assembly - to finalise the constitution-making process which had started at the World Trade Centre and produced the interim constitution. A schedule 4 of 34 (thirty-four) Constitutional Principles was the basis on which the final constitution was to be judged by the Constitutional Court. Constitutional principle no VI (6) made provision for the three separate arms of the state which are the legislature, the judiciary and the executive.

“There shall be a separation of powers between the legislature, executive and judiciary, with appropriate checks and balances to ensure accountability, responsiveness and openness”.

9. The political culture has since evolved which has given the executive what, in my view, are unequal powers that militate against the principle of separation in relation to the other arms in as far as procurement of finances from the national fiscus for work of each arm is concerned. The judiciary’s budget is through the Minister of Justice and Correctional Services and that of Parliament also comes through the Minister of Finance. This is not in keeping with the spirit of this original relevant constitutional principle VI. If anything, it is a practice which unwittingly promotes the supremacy of the executive as opposed to the separation of powers.
10. One of the most important negative results of this has been that our Presidents’ role has been confined to Head of the Executive as opposed to him acting as actual Head of State. As Head of State, the President’s preoccupation should be fairly spread, covering all arms of the state as opposed to sometimes being so drawn into the nitty gritty of only one of the arms. The President must be above the dynamics of everyday politics, but must be reasonably accessible to all three arms of state.
11. The above anomaly must change and the correct approach can be attained if a process which was left unfinished during the fourth term were to be finalised. This was when the then Heads of the three arms of State engaged on this matter. (Speaker Sisulu and Chairperson Mahlangu from Parliament; Chief Justice Ngcobo; President Zuma had correctly gone back to the CPVI; The former DG in the Presidency, Dr Lubisi headed the technical team, he was the one to retire most recently about a year ago). Had this process been completed, we, as a democracy, would have learnt a lot from other countries that had been identified around the globe. That exposure would have helped us improve our own system. I believe it is not too late to correct ourselves.
12. My view is that the committee section in particular needs a great boost in terms of resources for them to extend the Portfolio Committee members’ capacity to do a lot more by way of oversight. They could be better enabled to do oversight on more entities in their respective portfolios than they’ve been able to do so far. In

addition, every MP needs a lot more to spread themselves across the many other different roles they play including in the constituencies and communities whose needs they have to help look after. Correcting the imbalance, which is referred to above, would go a long way in improving Parliament's oversight work in general and broadly the capacity of every public representative.

13. The environment in which politics plays itself out daily is one in which our people remain very alert and sensitive to the often politically highly charged media reports. Sadly, not all media reporting is always based on accurate factual and verified evidence. The Zondo Commission has heard testimony in this regard. As a result, South Africa was shocked by my decision of the 08 August 2017 in relation to the secret ballot. It was unexpected as it was not in keeping with what had been dished out in the public domain, for very long which had been contrary to reality and fact.

Baleka Mbete (Ms)

(Updated) 18 May 2021

PERTINENT MATTERS RELATING TO THE PERIOD OF 2014 – 2019

Timelines	
Report of the Ad Hoc Committee on Report by the President regarding security upgrades at the Nkandla private residence of the President	<ol style="list-style-type: none"> 1. Public Protector Report No 25 of 2013/14 entitled <i>“Secure in Comfort – Report on an Investigation into Allegations of Impropriety and Unethical Conduct relating to the Installation and Implementation of Security Measures by the Department of Public Works at and in respect of the Private Residence of President Jacob Zuma at Nkandla in the KwaZulu-Natal Province”</i> released on 19 March 2014. 2. 2 April 2014, a letter from the President to the Speaker on the Nkandla matter was published in the ATC. In the letter, the President acknowledged the investigation and report by the Public Protector as well as an investigation by Ministers in the Security Cluster and its findings. The President also advised that he had issued a proclamation in December 2013 which empowered the Special Investigating Unit (SIU) to investigate the security upgrades at Nkandla. The President undertook to provide Parliament with a final report on the executive interventions he considered necessary once he had received the SIU report. 3. On 9 April 2014 the Speaker established the Ad Hoc Committee on the President’s Submissions in response to the Public Protector’s Report by an announcement in the ATC. 4. The committee reported on 29 April 2014, and noted that despite its commitment to the task, there was insufficient time to complete its work as set out in the terms of reference before the dissolution of the NA, and it recommended that the matter be referred to the 5th Parliament for consideration. The report did not serve before the House as it had adjourned on 13 March.
Report by the President regarding the security upgrades	<ol style="list-style-type: none"> 1. The <i>Ad Hoc</i> Committee to consider the Report by the President regarding the security upgrades at the Nkandla private residence of the President was

<p>at the Nkandla private residence of the President</p>	<p>established through a Resolution of the National Assembly on 19 August 2014.</p> <ol style="list-style-type: none"> 2. The committee reported in the ATC of 11 November 2014. 3. The committee's report was debated and adopted by the Assembly on 13 November 2014.
<p>Report by the Minister of Police in reply to recommendations of ad hoc committee on report by the President regarding security upgrades at Nkandla private residence of the President</p>	<ol style="list-style-type: none"> 1. On 28 May 2015, the Minister of Police submitted for tabling in the Assembly a report in reply to the recommendations in the Report of Ad Hoc Committee on Report by President Regarding Security Upgrades at Nkandla Private Residence of the President, as adopted by the House on 13 November 2014. 2. On 2 June 2015, the Assembly resolved to establish an ad hoc committee to consider the report by the Minister of Police tabled on 28 May 2015. 3. After consideration, which included two briefings by the Minister of Police, a briefing by the Minister of Public Works and an in loco inspection at the private residence of the President in Nkandla, KwaZulu-Natal, the committee reported on 6 August 2015. 4. The Assembly considered and adopted the ad hoc committee's report on 18 August 2015.
<p>Ad hoc committee on the SABC board Inquiry into the fitness of the SABC board</p>	<ol style="list-style-type: none"> 1. On 3 November 2016 the National Assembly resolved to establish an ad hoc Committee on the SABC Board to inquire into the fitness of the SABC Board. 2. The National Assembly adopted the report of the ad hoc committee on 7 March 2016.
<p>"State of Capture". A Report of the Public Protector.</p>	<ol style="list-style-type: none"> 1. The Public Protector published her report on state capture on 14 October 2016. As the Public Protector, Adv T Madonesela's, term was about to expire she concluded her report on state capture. The report was not released, but after consultation handed to the Speaker of the National Assembly, for safekeeping Urgent court applications, by

	<p>President Zuma and Minister Des van Rooyen, prevented the public release of the report. The report was in the safekeeping at the National Assembly for a matter of days, but not released or tabled according to Parliamentary processes. When the incoming Public Protector, Adv B Mkhwebane's, term commenced the report was handed back to her office for safekeeping while court processes unfolded.</p> <ol style="list-style-type: none"> 2. Adv Mkhwebane submitted the report to the National Assembly on 2 November 2016. On the same day the report was tabled in the ATC. 3. In mid-2017 a series of emails and documents, commonly referred to as the "Gupta Leaks" were widely circulated in the media. In light of accusations of state capture linked to these emails involving a number of Ministers, parliamentary committees were directed by the House Chairperson for Committees, Mr CT Frolick, to urgently probe the allegations and report back to the National Assembly. 4. A series of enquiries that resulted from this correspondence is listed below (the dates refer to meetings of these committees and the subject matter of the meeting). <p>Portfolio Committee on Public Enterprises</p> <p>Eskom Inquiry report: adoption by Committee on 28 November 2018. The National Assembly adopted the report on 29 November 2018.</p> <p>Portfolio Committee on Home Affairs</p> <p>The committee reported on the matter of Gupta naturalization in the ATC of 14 March. The report was not scheduled for consideration by the end of the Fifth Parliament (ATC, 14 March 2019, p.49-101).</p> <p>The portfolio committee on mineral resources and energy conducted an inquiry into alleged governance and maladministration issues. Passenger Rail Agency of South Africa (PRASA) also came under the scrutiny of the portfolio committee on transport.</p>
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A. RELATED NON PARLIAMENTARY EVENTS

1. **August 2011** – Mr Fikile Mbalula was reported to have complained that the Guptas knew of his appointment before it happened.

2. **16 March 2016** – Mr Mcebisi Jonas alleged that members of the Gupta family offered him the post of Finance Minister to replace Mr N Nene.

B. MATTERS DEALT WITH BETWEEN PRESIDING OFFICERS AND PARTY LEADERS

The Speaker initiated several meetings with leaders of political parties that were represented in the National Assembly with a view to having round-table conversations on matters relating to the functioning of the Assembly. These meetings, which took place on 13 April, 25 May and September 2016, discussed the following:

1. The need for political parties to work together towards rehabilitating the credibility of Parliament by ensuring that there was decorum in the Assembly's sittings.
2. Possible monetary sanctions against parties that caused disruptions and damage to property in the House.
3. Alignment of Rules with the court judgments in relation to Parliamentary processes of holding the Executive to account.
4. The need for the procedure for the removal of the President to be stipulated in the Rules.
5. The need for the Joint Committee on the Financial Management of Parliament to meet regularly.
6. The impact of the judgment in *Democratic Alliance v Speaker of National Assembly and Others* in respect of section 11 of the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act, 2004. (Whether Members could be removed/arrested in chamber)

C. RECOMMENDATIONS

1. Financial oversight - there is a need to expand the capacity of the Parliamentary Budget Office to support all committees. Currently the office is only able to support four committees, namely the Appropriation and Finance Committees of the two House.
2. Tracking of House resolutions – House resolutions embody the decisions of the Assembly and are the outcome of extensive work of committees. The capacity to track, monitor and ensure compliance should be put in place and prioritized.
3. Non-compliance - to the extent that there may be members of the Executive that are not response to Parliamentary resolutions – the rules should be strengthened to make it difficult for this to happen. This may include such things as censure motions and “naming and shaming”.

4. Capacity building – no effort should be spared in ensuring that Members of Parliament are capacitated to carry out their functions as Members. This includes training as well as availing adequate resources.
 5. Parliament's budget must enable it to conduct its constitutional mandate and this is a matter on which the Executive must work with Parliament to achieve.
-

In the matter:

**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR
INCLUDING ORGANS OF STATE (“the Commission”)**

SUPPLEMENTARY AFFIDAVIT

I, the undersigned,

BALEKA MBETE

do hereby make oath and state that:

1. The facts deposed to hearing fall within my personal knowledge and are both true and correct.
2. On 18 May 2021, I appeared before the *Commission*.
3. During my testimony certain questions were put to me, in particular, relating to the annual reports that are, by law, to be submitted to

Parliament by the Joint Standing Committee on Intelligence (“JSCI”). The assertion was that the *JSCI* did not submit the annual reports. The second category of questions related to the appointment of the Inspector General of the Intelligence. The assertion, in this regard, was that Parliament failed to make this appointment.

4. After giving evidence, I caused these assertions to be investigated, and this affidavit is aimed at supplementing my evidence regarding those two areas identified in the paragraphs above.

Annual Reports of the Joint Standing Committee on Intelligence

5. Section 6(1) of the Intelligence Services Oversight Act, 1994 (Act 40 of 1994) (“*the Act*”) requires the *JSCI* to, 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.
6. The tabling of Committee Reports is announced in the parliamentary journal, entitled Announcements, Tabling’s, and Committee Reports (“ATC”).
7. The *ATC* dated 25 March 2015 indicates the tabling of the Report of the *JSCI*, tabled in terms of section 6(1) of the Act was tabled.

8. The *ATC* dated 26 January 2016 indicates the tabling of the Annual Report of the *JSCI* for the financial year ending 31 March 2015.
9. The *ATC* dated 13 December 2016 contains a copy of the Annual Report of the *JSCI* for the financial year ending 31 March 2016.
10. The *ATC* dated 31 October 2017 indicates the tabling of the Annual Report of the *JSCI* for the financial year ending 31 March 2017.
11. The *ATC* dated 12 December 2018 indicates the tabling of the Annual Report of the *JSCI* for the financial year ending 31 March 2018.
12. The various annual reports accompany this affidavit in a separate bundle and are marked *ATC* Reports A – E in their respective years of sequence.
13. The reports are filed in order that the record of the *Commission* is corrected accordingly.
14. I am advised that the only annual report that was not tabled was the one relating to the year end of the Fifth Parliament, 2019, apparently due to the transition from the Fifth Parliament to the Sixth Parliament.

Filling of Vacancy of Inspector-General of Intelligence

15. Section 7(1) of the *Act* mandates the *JSCI* to nominate a candidate for recommendation to the Assembly of an Inspector-General of Intelligence

Services, for the President to consider for appointment. The *Act* requires the National Assembly to approve the recommendation of the *JSCI* by means of a two-thirds majority vote.

16. The position of Inspector-General of Intelligence Services became vacant as at 31 March 2015 when the term of office of Adv F D Radebe expired.
17. I am advised that the *JSCI* started a process, including advertising in various newspapers, to fill the vacancy. Advertisements were published from 19 to 21 December 2014 and the closing date for applications was 16 January 2015.
18. On 17 April 2015, the President of the Republic requested the Assembly to expedite the process of filling the vacancy in the office of the Inspector-General of Intelligence Services. The matter was referred to the Committee for consideration and report.
19. On 18 June 2015, the Committee reported that it had nominated Mr C V Burgess to fill the vacant position of Inspector-General of Intelligence Services.
20. On 24 June 2015, the Assembly was scheduled to consider the report of the Committee but before it could do so, the Chief Whip of the Majority Party moved a motion in terms of the Rules that the matter stand over. The matter was not finalised at the end of the 2015 annual session and lapsed on the last sitting day of the National Assembly. The matter was revived by the Assembly on 10 March 2016. On 16 March 2016, the Assembly

considered the matter and resolved to refer the report back to the Committee for consideration and report.

21. My information is that the delay in the processing of this matter was due to the fact that no consensus among political parties represented in Parliament could be reached around the recommended candidate. The Commission will be aware that the threshold of two-thirds majority, for the appointment of the Inspector-General is high. This makes it necessary for political parties to reach sufficient consensus on the candidate for the recommendation to pass through the Assembly.
22. The Committee reported on 23 November 2016 and requested the Assembly to consider recommending to the President Dr Isaac S Dintwe for appointment as Inspector-General of Intelligence Services.
23. On 29 November 2016, the House agreed to the recommendation of the Committee with a supporting vote of two-thirds of its members as required in terms of section 7(1) of the *Act*.
24. The delays in the appointment of the Inspector-General of Intelligence Services were therefore institutional if not political, rather than the failure of the Speaker to do the duties of the office of Speaker.
25. Lastly, as the name suggests, the Joint Standing Committee on Intelligence is a joint committee. In simple terms, it is a committee made up of

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No 15—2015] SECOND SESSION, FIFTH PARLIAMENT

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

WEDNESDAY, 25 FEBRUARY 2015

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ANNOUNCEMENTS

National Assembly and National Council of Provinces

The Speaker and the Chairperson

1. Draft Bills submitted in terms of Joint Rule 159

- (1) **Division of Revenue Bill**, 2015, submitted by the Minister of Finance.

Referred to the **Standing Committee on Appropriations** and the **Select Committee on Appropriations**.

- (2) **Defence Laws Repeal and Amendment Bill**, 2015, submitted by the Minister of Defence and Military Veterans.

Referred to the **Portfolio Committee on Defence and Military Veterans** and the **Select Committee on Security and Justice**.

2. Classification of Bills by Joint Tagging Mechanism (JTM)

- (1) The JTM in terms of Joint Rule 160(6) classified the following Bill as a section 75 Bill:

- (a) **Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill** [B 18 – 2014] (National Assembly – sec 75).

- (2) The JTM in terms of Joint Rule 160(6) classified the following Bill as a section 76 Bill:

- (b) **Financial and Fiscal Commission Amendment Bill** [B 1 – 2015] (National Assembly – sec 76).

National Assembly

The Speaker

1. Introduction of Bills

- (1) **The Minister of Finance**

- (a) **Appropriation Bill** [B 6 – 2015] (National Assembly – proposed sec 77).

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- (b) **Division of Revenue Bill** [B 5 – 2015] (National Assembly – proposed sec 76) [Explanatory summary of Bill and prior notice of its introduction published in *Government Gazette* No 38458 of 13 February 2015.]

Introduction and referral to the Joint Tagging Mechanism (JTM) for classification in terms of Joint Rule 160.

In terms of Joint Rule 154 written views on the classification of the Bill may be submitted to the JTM. The Bills may only be classified after the expiry of at least three parliamentary working days since introduction.

(2) **The Minister of Defence and Military Veterans**

- (a) **Defence Laws Repeal and Amendment Bill** [B 7 – 2015] (National Assembly – proposed sec 75) [Explanatory summary of Bill and prior notice of its introduction published in *Government Gazette* No 38197 of 10 November 2014.]

Introduction and referral to the **Portfolio Committee on Defence and Military Veterans** of the National Assembly, as well as referral to the Joint Tagging Mechanism (JTM) for classification in terms of Joint Rule 160.

In terms of Joint Rule 154 written views on the classification of the Bill may be submitted to the JTM. The Bill may only be classified after the expiry of at least three parliamentary working days since introduction.

TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Finance

- (1) Budget Speech of the Minister of Finance – 25 February 2015 [RP10-2015]
- (2) Budget Review 2015 [RP9-2015], including the –
- (a) fiscal framework;
 - (b) revenue proposals (including customs and excise duties);

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- (c) estimates of national revenue for 2015; and
 - (d) replies to Budgetary Review and Recommendation reports.
- (3) Division of Revenue Bill [B 5 – 2015], tabled in terms of section 10(1) of the Intergovernmental Fiscal Relations Act, 1997 (Act No 97 of 1997).
- (4) Appropriation Bill [B 6 – 2015].
- (5) Estimates of National Expenditure 2015 [RP8-2015].

The fiscal framework and revenue proposals, as well as the Budget Speech of the Minister of Finance, are referred to the **Standing Committee on Finance** for consideration and report.

COMMITTEE REPORTS

National Assembly and National Council of Provinces

1. **REPORT OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE ON ACTIVITIES OF THE COMMITTEE AFTER 5 MONTHS OF ESTABLISHMENT, AS STIPULATED IN THE INTELLIGENCE SERVICES OVERSIGHT ACT, ACT 40 OF 1994, DATED 10 FEBRUARY 2015**

2. BACKGROUND

The Joint Standing Committee on Intelligence (JSCI) is established in terms of the Intelligence Services Oversight Act 40 of 1994. In the 5th Parliament the Committee was constituted on 14 August 2014 after the process of undergoing top secret security clearance which is a statutory requirement. The members of the Committee are appointed by the President in consultation with the Speaker of the National Assembly and the Chairperson of the National Council of Provinces, as the case may be, having been nominated by their respective political parties.

3. INTRODUCTION

The Constitution of the Republic of South Africa, 1996 recognizes that Parliament has an important role to play in overseeing government departments and its public entities. The Intelligence Services Oversight Act (Act No 40 of 1994) ensures that the JSCI performs the oversight functions set out in this Act in relation to the intelligence and counter-intelligence

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functions of the Services, which include the administration, financial management and expenditure of the Services.

This report is the result of Section 6(1) of the Intelligence Services Oversight Act that the Committee shall, within five months after its first appointment, table in Parliament a report on the activities of the Committee.

The process of finalizing the appointment of the JSCI continued while the Committee was not functioning pending finalization of all legal processes.

3.1 APPOINTMENT OF THE JSCI

The Committee was appointed in terms of the Intelligence Services Oversight Act on 14 August 2014 after all legal processes were finalized. The first meeting took place on 19 August 2014.

The Intelligence Services Oversight Act 40 of 1994 provides that the Committee shall consist of 15 members of Parliament appointed on the basis of proportional representation determined according to the formula set out in the Act. The Chairperson is appointed separately in terms of section 2(4) of the Act. Accordingly the following seats were allocated after the 2014 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:

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

4. Orientation of JSCI members

After the Committee had been established with all members having been awarded with top secret security clearance certificates, they had to undergo intensive training. Section 5 of the Intelligence Oversight Act clearly stipulates that, the Committee shall conduct its functions in a manner consistent with the protection of national security. Furthermore, 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.

The first induction was conducted by the Legal Services of Parliament on legislative functioning of the Committee as stipulated in the Intelligence Services Oversight Act. The Act further provides for the establishment of a Joint Standing Committee to perform oversight functions related to intelligence and counter-intelligence functions of the Intelligence Services and report thereon to Parliament.

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4.1 Interaction with Intelligence Services as part of orientation

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 and how the JSCI would plan its oversight with understanding and without interfering with national security operations.

State Security Agency undertook enormous restructuring that left the department with challenges. Some of the departments within State Security Agency had to be merged to form one department under one Director General. Previously, it was known as National Intelligence Agency (NIA) with spending agencies such as South African National Academy of Intelligence (SANAI), Comsec; National Communications Centre (NCC) and Office of Interception Centre. South African Secret Services (SASS) was a standalone with its own Director General.

The Committee was familiarized with the challenges experienced during implementation of General Intelligence Laws Amendment Act. The Act was signed and came into operation in May 2013. The Committee engaged all the Services including the Defence Intelligence which is a unit from Department of Defence and Military Veterans as well as Crime Intelligence from the Police department.

During the visit the Committee interacted with the designated Judge for interception who gave extensive background on the requirement for authorization of interception and the process. The Judge further requested the JSCI to educate general public and Members of Parliament on obstacles that the Crime Intelligence faces and what they have overcome in terms of intercepting communication.

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.

5. Activities in the Committee during the period of reporting in Parliament

5.1 Strategic Plans and Annual Performance Plans of the Services

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, Annual Performance Plans and financial expenditure. During the interaction the Committee invited the office of the Auditor General to give financial audits of each Service. Each Service was afforded opportunity to respond to findings from the Auditor General.

5.2 Presentation of Annual Report

The Minister of State Security; the Deputy Minister and the Director General accompanied by the senior management presented the Annual Report 2013/14. The Inspector General, Defence and Crime Intelligence also presented their Annual Reports to the Committee during October 2014 respectively.

5.3 Presentation of certificates by 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 orally and in writing.

5.4 Meeting with the President of the Republic of South Africa

This was the first interaction that took place with the President on 10 December 2014 in Pretoria. The meetings are scheduled quarterly to reflect on the status of security of the country.

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6. Committee findings

Having considered the Strategic Plans; Annual Performance Plans and the Budget of State Security Agency; Office of the Inspector General; Defense and Crime Intelligence, this section summarizes the observations of the Committee as follows:

- The Committee raised a concern of insufficient Budget for Defence and Crime Intelligence which impacts on its ability to execute its functions effectively.
- Vetting on crucial positions within the government departments were found to be disproportionate.
- Border management control and private landing strips a major concern
- National Intelligence Coordinating Committee (NICOC) challenges relating to technology were considered.
- JSCI to hold interactive public hearings to foster an understanding of threats to national security and to instill patriotism and sense of ownership of the country to the citizens was found as imperative to have serious engagements.
- As one part of encouraging meaningful dialogue with the citizens, a plan should be devised to address valid grievances of protesters appropriately.
- Allegations of fraud and corruption and the impact that it has on maintaining effective control standards in the borders, was highlighted.
- That improved gathering and presentation of evidence in court will improve the standards of Crime Intelligence.
- Defence Intelligence still having challenges in occupying a building that is not habitable.
- SAPS signed Memorandum of Understanding with CSIR to address science and technology skills.

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*[Wednesday, 25 February 2015]***7. Recommendations**

- National integrated vetting strategy should be approved.
- In order to address Budget challenges for Defence Intelligence an urgent Defence Review should be finalized before end of this financial year.
- Regulations of all Acts involving Intelligence Services should be reviewed as a matter of urgency.
- JSCI and SSA need to address the challenges related to companies owned by former intelligence officers.
- Economic Intelligence needs to be built as an area of growth and future interventions.
- Joint policy formulation and best practices on cybercrime is proposed.
- Review of Intelligence White Paper and policy framework should be done as soon as possible.
- A joint oversight programme on border management should be developed together with other relevant Committees.

Report to be considered.

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National Council of Provinces

REPORT OF THE SELECT COMMITTEE ON COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS ON THE INTERVENTION IN MAKANA LOCAL MUNICIPALITY, IN TERMS OF SECTION 139(1)(b) AND (5) OF THE 1996 CONSTITUTION, DATED 25 FEBRUARY 2015

1. Background

- 1.1 On the 28 August 2014, the Council of Makana Local Municipality resolved for intervention and made an appeal to the MEC for Local Government and Traditional Affairs in the Eastern Cape Province to institute section 139(1)(b) of the Constitution.
- 1.2 The Municipal Council resolved to accept the proposed intervention per resolution made at the Special Executive Council meeting held on the 10 September 2014. The Provincial Executive then delegated its authority to the MEC responsible for Local Government and Traditional Affairs to invoke section 139(1)(b) and (5) of the Constitution of the Republic of South Africa, Act 108 of 1996.
- 1.3 On the 27 October 2014, the MEC for the Department of Local Government and Traditional Affairs tabled a notice of intervention to the Office of the Chairperson of the National Council of Provinces (NCOP), which informed the NCOP of the decision of the Provincial Executive Council to intervene in Makana Local Municipality in terms of section 139(1)(b) and (5) of the Constitution.
- 1.4 The Chairperson of the NCOP subsequently referred the notice of intervention in terms of Rule 101, to the Select Committee on Cooperative Governance and Traditional Affairs, for consideration and report. Further noting that the intervention has been submitted to the NCOP in 42 days after the intervention began. On the 25 February 2015, a multi-party delegation of the Committee conducted an oversight visit to Makana Local Municipality.

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*[Wednesday, 25 February 2015]***2. Objectives of the Oversight Visit**

- 2.1 The main objectives of the oversight visit were to determine whether procedural requirements have been met and also to verify whether the provincial executive has used its discretion appropriately before the Select Committee can recommend approval/disapproval of the intervention to the NCOP. Through the deliberations and interaction with internal and external stakeholders, the Select Committee wanted to determine how the Provincial Executive intends to restore the fulfilment of the relevant obligations and ensure fulfilment in the long-term. The aim being to ensure intergovernmental checks and balances aimed at guarding the integrity and efficiency of the intervention process.

3. Multi-Party Delegation

- 3.1 The multiparty delegation of the Select Committee composed of the following Members of Parliament and officials: Hon T Wana, Eastern Cape (ANC); Hon JWW Julius, Gauteng (DA); Hon M Chetty, KwaZulu-Natal (DA); Hon LPM Nzimande, KwaZulu-Natal (ANC); Hon SJ Thobejane, Limpopo (ANC); Hon MT Mhlanga, Mpumalanga (ANC); Hon GM Manopole, Northern Cape (ANC); Hon TJ Mokwele, North West (EFF), Hon DL Ximbi, Western Cape (ANC); Mr TM Manele (Committee Secretary); Mr N Mfuku (Content Advisor); Mr N Mangweni (Administration Assistant); Mr B Mahlangeni (Committee Researcher); Ms J Thorpe (Committee Researcher); Ms T Matthews (Committee Researcher); Mr T Gubula (Media Officer).

4. Overview of the Oversight Visit to Makana Local Municipality

- 4.1 On the 25 February 2015, the delegation of the Select Committee on Cooperative Governance and Traditional Affairs had interaction and consultative meeting with the internal and external stakeholders of the Municipality. The stakeholders the delegation interacted with included the Mayor, senior official of the Provincial Department of Cooperative Governance and Traditional Affairs, the Ministerial Representative and

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representatives of the Organised Labour Forum, Rhodes University, Makana Civil Society Coalition, NAFCOC and the Unemployed People's Movement.

5. Presentation on the Justification for Intervention in Makana Local Municipality

5.1 The Provincial Department of Local Government and Traditional Affairs briefed the Members of the Select Committee on the background of the constitutional intervention and the resolution of the Eastern Cape Provincial Executive Council, dated 10 September 2014, to intervene in terms of section 139(1)(b) and (5) of the Constitution. Its presentation focused on the constitutional, procedural, substantive matters related to the intervention and the terms of reference of the Ministerial Representative in Makana Local Municipality.

6. Constitutional, Procedural and Substantive Context of Intervention

6.1 When a provincial executive intervenes in terms of section 139(1)(b) of the Constitution, as a procedural requirement, it should be remembered that within 14 days after the intervention has begun, it should notify the Minister for Cooperative Governance and Traditional Affairs and the NCOP of the intervention and request approval. The intervention will end automatically if the Minister does not approve the intervention within 28 days, and the NCOP within 180 days.

6.2 Equally, in terms of section 139(5) of the Constitution which relates to a crisis in the financial affairs of the municipality, the provincial executive must submit a written notice of the intervention to the relevant legislature and the NCOP, within 7 days after the intervention has begun.

6.3 With regard to the intervention in Makana Local Municipality, procedural and substantive requirements have not been met. In particular, requirements of section 139(2)(a)(ii) and 139(6)(b) of the Constitution were not met. By implication, the intervention is invalid to the extent of it being inconsistent with the Constitution.

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*[Wednesday, 25 February 2015]***7. Presentation by the Municipal Mayor**

7.1 For the past three to four years, the Municipality has repeatedly been getting disclaimers, and there were serious financial cash flows challenges, especially in instances where it was difficult to pay staff. Further, due to the state of bad infrastructure the Municipality experienced water outages, electricity, bad roads network and water leakages. On realizing these challenges, the Municipality approached the Department of Sanitation and Water Affairs for assistance. All government institutions came to the rescue in respect of funding, and most of the support was mainly to address water challenges.

8. Terms of Reference of the Ministerial Representative at Makana Local Municipality

8.1 An Administrator has since been appointed for a period of six months, subject to review, with effect from 06 October 2014 to perform the disregarded obligations, which included financial challenges at the Municipality which had seen the “collapse of basic services” where residents had gone weeks without water.

Based on the terms of reference, the Administrator was charged with the responsibility of implementing the following terms of reference:

- (a) Facilitate the appointment of the Municipal Manager as an Accounting Officer of the Municipality.
- (b) Facilitate the appointments of the Chief Financial Officer and other section 56 managers.
- (c) Assist in addressing the challenges confronting the Municipality such as management, financial management and service delivery.
- (d) Ensure that the oversight structures of the Municipality are strengthened in order to be able to perform their functions effectively and efficiently.
- (e) Ensure that the supply chain management systems are in place for the smooth running of the procurement management processes.
- (f) Develop, facilitate and monitor the financial recovery plan in consultation with National and Provincial Treasury.

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- (g) Facilitate the review of all financial related policies, especially the credit control and revenue collection policies.
- (h) Attend to all legal matters that are confronting the Municipality including litigations that seek to rip off the Municipality's finances.
- (i) Ensure that there is effective general administration with the Municipality.

9. Presentation on the Municipal Recovery Plan and Turn-Around Strategy

- 9.1 For the purpose of this report, the recovery plan and turn-around strategy is structured based on the key focus areas related to the Background to the Application of the Intervention and the Intervention Approach; Key Challenges Identified; Areas of Priority and Associated Challenges; Key Achievements and Outstanding Challenges.

10. Background to the Application of the Intervention

- 10.1 A council resolution was passed, requesting the Provincial Government to intervene in terms of section 139(1)(b) of the Constitution in Makana Local Council. Subsequently a high level report was prepared by the Province on the status of the Municipality, and what the main challenges were. An Administrator was then appointed, who was tasked to do a further assessment to confirm the status quo; stabilize the Municipality; prepare a financial recovery plan and assume executive obligation in areas. The areas include Corporate Services, Financial Management and Administration, and lastly on infrastructure development and provision of basic services.

11. Intervention Approach

- 11.1 The intervention approach was premised on the challenges encountered by the Municipality, based on the status quo report that was prepared. An intervention plan was then prepared to stabilize the Municipality, especially with regard to compliance issues. Various meetings and workshops were then held, including members of troika, senior

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management, SAMWU and IMATU, local business community, Rhodes University, as well as ESKOM.

12. Key Challenges Identified

12.1 In the Municipality there was finance and cash flow challenges, and infrastructure and water challenges. Meetings were held with the Department of Water Affairs and Sanitation, Amatola Water Board and MISA to address these challenges. Another crucial problem was the non-implementation of audit findings. There have been allegations of corruption against councilors and officials and these impacts negatively on the image of the Council. At the center of such allegations is the need to complete the work done on the Internal Audit investigation.

12.2 On challenges with regard to institutional capacity and non-compliance, the Municipality had not finalized the SDBIP and the IDP review process was not on track. There was also no fully functional local labour forum. In terms of governance issues some council committee meetings were not meeting as scheduled, and sometimes presenting a challenge with compliance. Some municipal workers were without uniforms and protective clothing, and there was general financial crisis in the Municipality.

13. Key Achievements

13.1 The intervention plan was consulted with stakeholders, and presented to council on the 04th December 2014. Equally a Service Delivery Summit held on 5th December 2014. A firm of auditors called Kabuso which conducted an investigation and compiled a report, including a draft financial recovery plan will be presented to the full council on the 26 February 2015. Lastly, interviews were conducted for the vacant position of the Municipal Manager and the Chief Financial Officer.

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14. Critical Challenges that Still Remain

14.1 For the past four years, the Municipality has annually received disclaimer audit opinions. With the last 2012/13 audit report, drawing attention to a wide range of failures in the legal and regulatory requirements. Out of the five senior management positions that are vacant, only one was filled. There were irregularities in staff recruitment and appointments, and there are capacity constraints in the Municipality. There is also a need to strengthen and improve procurement systems and processes in the Municipality.

14.2 On infrastructure planning, the crucial challenge was the absence of a master plan, which should seamless link the IDP and community expenditure. Further, there is a financial challenges, especially with regard to under expenditure on capex.

15. South African Local Government Association (SALGA)

15.1 On institutional arrangements, there were serious capacity challenges and to some extent there was laxity in terms of the commitment to work by some within the staff establishment. The Municipality also experienced challenges to attract scarce skills in the Technical Department. The Association supported the intervention.

16. Opinion of the Representative of Organised Labour

16.1 The organized labour was against corruption prevalent in the Municipality, hence it supported the implementation of the Kabuso investigation report findings. In terms of the position of the Human Resource Manager, it was requested that an appointment to be made urgently on a person who qualifies. The organized labour was in support of the section 139 intervention in Makana Local Municipality.

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*[Wednesday, 25 February 2015]***17. Opinion of the Representative from Makana United Business Chamber**

17.1 The Business Chamber strongly believe that, unless the Administrator deal with the root causes of the collapse of the municipality, the intervention will yield little progress. Just in 2012/13, the Municipality spent over R100 Million which benefitted outside companies. Only R700 000.00 benefitted local SMME's on tenders. The Chamber believe that the Administrator was doing a very good job, and they supported her recovery plan. Hence a call was made for contract to be extended.

18. Opinion of the Representative from NAFCO

18.1 Black businesses were not given work in the Municipality. Currently there are no investments in area, and this has serious implication on the gross domestic product of Makana. These concerns has been raised for years, but without any intervention from the Municipality.

19. Rhodes University

19.1 Grahamstown was a microcosm of the sharp and stark realities of apartheid legacy, where grinding and debilitating poverty and deprivation exist alongside relative affluence. The University relied on the Municipality for the provision of basic services such as water, electricity and sanitation. Failure by the Municipality to provide these essential services has serious and far-reaching ramifications for the University and its intellectual project.

19.2 The Municipality placed on record its deep and sincere appreciation to the Presidency, the Presidential Infrastructure Coordinating Commission (PICC) and the Provincial Government for their interventions on water challenges.

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20. Opinion of the Representative of Makana Civil Society Coalition (MCSC)

20.1 The MCSC welcomed the placement of the Municipality under section 139 of the Constitution, as well as supported the work of the Administrator. Although the MCSC welcomed the intervention, it was not convinced that the Administrator alone can rescue the distressed Municipality in six months. Equally, the Administrator's terms of reference should be urgently reconsidered and broaden to achieve the desired turn-around outcomes. Lastly, the local community has lost confidence in the Municipality, due to institutional failures and the collapse of service delivery mechanisms. Hence the Coalition proposed the Municipality to be dissolved in terms of section 139(1)(c) of the Constitution, in order to address and resolve the deeply rooted political and administrative problems in the Municipality.

21. Select Committee General Observations and Opinion

21.1 The Select Committee observed that all stakeholders in Makana supported the placement of the Municipality under administration.

21.2 The Select Committee noted that prior to the intervention, the Municipality faced challenges related to management, service delivery, executive leadership and was ultimately unable to sustainably provide basic services, and was faced with many challenges including inability to meet financial obligations and pay creditors in the short term and long term financial sustainability.

21.3 The Select Committee has further noted that the leadership challenges faced by the Municipality included failure to fulfill oversight responsibilities with regard to the implementation and monitoring of internal control in respect of financial management, compliance with law, regulations and performance reporting requirements.

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- 21.4 Furthermore, the Select Committee has observed that the presentation of the Administrator, the Department of Local Government and Traditional Affairs, as well as the South African Local Government Association, lacked synergy in respect of progress made with regard to intervention in the Municipality. For example, the functionality of audit committee, lack of detailed figures and no specifics in respect to debtors.
- 21.5 The Committee had also observed that the Administrator upon appointment was assigned with ten terms of reference but her progress report was not contextually specific in addressing all the terms of reference. The report was silent on the Municipal Infrastructure Grant (MIG) expenditure patterns, yet part of the MIG funds has been irregularly used to fund salaries and wages.
- 21.6 On governance related matters, the report was silent on the relationship between the council and the troika, as well as the community. It appears that there is lack of clarity on the service delivery agreement between the council and the Rhodes University.
- 21.7 The supply chain management component is a key risk area in the Municipality, yet the turnaround plan was silent on governance intervention regarding this important function.
- 21.8 The Select Committee observed that the placement of the Municipality under section 139(1)(b) and (5) of the Constitution, and the appointment of the Ministerial Representative has been a good corrective measure in assisting with the service delivery and administrative challenges facing the Makana Local Municipality.
- 21.9 The role of the Sarah Baartman District Municipality in the intervention was an issue that is worth considering. In general, it appears as if there was no visible role played by the District. A more intergovernmental approach to an intervention may be appropriate.

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21.10 The Select Committee is of the opinion that the successful implementation of the turnaround plan will depend on the cooperation, political will and active involvement of both the internal and external stakeholders of the Municipality.

22. Committee Recommendations to the NCOP

22.1 Having interacted with Makana Local Municipality, the Select Committee recommends to the Council as follows:

22.1.1 Since procedural requirements of section 139(2)(a)(ii) and 139(6)(b) of the Constitution were not met, the intervention has been rendered null and void. Thus the Select Committee is unable to come to a determination based on the procedures followed to inform the NCOP in terms of section 139 of the Constitution.

22.1.2 The Select Committee has observed with grave concern the dysfunctional state of the Municipality. The Select Committee therefore recommends that the MEC for Local Government and Traditional Affairs, should urgently regularize the appropriate intervention in accordance with all the legislative prescripts.

22.1.3 The Select Committee on Cooperative Governance and Traditional Affairs should conduct a follow-up visit to the Makana Local Municipality, to verify and observe the extent of progress achieved in the Municipality.

22.1.4 The Administrator should fast-track the process of tabling the Kabuso Forensic Investigation report to the municipal council, the Provincial Legislature and the NCOP as a matter of urgency.

22.1.5 The Eastern Cape Provincial Department of Local Government and Traditional Affairs should table an exit-report on the intervention in Makana Local Municipality to the NCOP, immediately after the intervention has ended.

Report to be considered.

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No 1—2016] THIRD SESSION, FIFTH PARLIAMENT

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

TUESDAY, 26 JANUARY 2016

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ANNOUNCEMENTS**National Council of Provinces****The Chairperson****1. Recommendation of candidates for appointment to NYDA board**

- (1) A letter dated 23 January 2016 has been received from the Minister of Planning, Monitoring and Evaluation, requesting Parliament to recommend seven candidates for appointment to the board of the National Youth Development Agency in terms of section 9 of the National Youth Development Agency Act, 2008 (No 54 of 2008).

Referred to the **Select Committee on Cooperative Governance and Traditional Affairs** for consideration and report.

TABLINGS**National Assembly and National Council of Provinces****1. The Speaker and the Chairperson**

- (a) Annual Report of the Joint Standing Committee on Intelligence for the financial year ending 31 March 2015.

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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**

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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 5th 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.

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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:

Name	Political party
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;

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- 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).

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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.

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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.

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- 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.

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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.

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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.

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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.

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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.

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- 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 5th Parliament on Annual Report for 2013/14 financial year.

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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

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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.

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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 compliment 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.

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- 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.

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- 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.

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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

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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.

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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.

12. RECOMMENDATIONS OF JSCI

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.

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- 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.

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GLOSSARY OF ACRONYMS

AGSA	Auditor General of South Africa
CI	Crime Intelligence: Division of the South African Police Service
CSIR	Council for Scientific and Industrial Research
CSU	Covert Support Structure
DHA	Department of Home Affairs
DI	Defence Intelligence: Division of the South African Defence Force
DOD	Department of Defence and Military Veterans
FIC	Foreign Intelligence Centre
GILAA	General Intelligence Laws Amendment Act
ICASA	Independent Communications Authority of South Africa
IG	Inspector General
JSCI	Joint Standing Committee on Intelligence
KZN	Kwa-Zulu Natal Province
NICOC	National Intelligence Coordinating Committee
OIC	Office of Interception Centre
OIGI	Office of the Inspector General of Intelligence
SAQA	South African Qualifications Authority
SIGNIT	Signal Intelligence
SP	Service Provider

JSCI PROGRAMME 2014-2015

DATE	ACTIVITY
19/08/2014	First meeting in the 5 th Parliament.
02/09/2014	Legislative presentation by the Parliament Legal Services on legislative mandate of the Committee
09/09/2014	Consideration of Legacy Report
16/09/2014	Briefing by Minister of State Security on current security issues
22 - 26/09/2014	Orientation of Members of JSCI by the Services
14/10/2014	Consideration of draft programme and evaluation of the orientation programme
21/10/2014	Presentation from Office of the Auditor General on audits of the Services
28/10/2014	Briefing by Minister of State Security and DG on Annual Report 2013/14
04/11/2014	Briefing by Office of the Inspector General on 2013/14 on Annual Report
11/11/2014	Presentation of Annual Report 2013/14 by Defence Intelligence
25/11/2014	Presentation of Strategic Plans and Annual Performance Plans by Office of the Inspector General of Intelligence; and Presentation of the PAN programme report
26/11/2014	Response by Minister of Defence and Military Veterans on recommendations of the Office of the Inspector General during certification process
26/11/2014	Response from State Security on recommendations raised by the OIGI during certification
26/11/2014	Response from Crime Intelligence regarding recommendations of the Inspector General in the presentation of certificates, and Presentation of Annual Report 2013/14 by Crime Intelligence

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03/02/2015	Meeting postponed due to lack of quorum
10/02/2015	Consideration of Committee programme and adoption of 1 st report according to the Act; appointment of subcommittee to conduct shortlisting for the vacancy of the Inspector General of Intelligence
24/02/2015	Subcommittee submitted shortlisted names of candidates to the JSCI for consideration.
03/03/2015	Deliberations on the process of appointing the Inspector General of Intelligence and briefing the Minister of State Security on Al Jazeera leakages
10/03/2015	Interviews of the Inspector General postponed
17/03/2015	Interviews conducted for the position of the Inspector General of Intelligence
18/03/2015	Continuation of interviews for the position of the Inspector General
24/03/2015	Deliberations on the recommendations of the candidate to fill the position of the Inspector General
25/03/2015	Presentation of Strategic Plans and Annual Performance Plans by Crime Intelligence 2015-2019 Presentation of Strategic Plans and Annual Performance Plans by State Security Agency 2015-2019
26/03/2015	Office of the Inspector General of Intelligence presented its Strategic Plans and Annual Performance Plans 2015/2019 Presentation of Strategic Plans and Annual Performance Plans by Defence Intelligence

**REPORT ON INTERCEPTION
OF
PRIVATE COMMUNICATIONS**

By JUSTICE YVONNE MOKGORO

Joint Standing Committee on Intelligence: Parliament

September 2012 – September 2014

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STRUCTURE

- 1. INTRODUCTION**
- 2. INTERCEPTION**
- 3. INTERNATIONAL LAW**
- 4. SOUTH AFRICAN LEGISLATIVE FRAMEWORK**
 - 4.1 Prohibition of Interception of Communication**
 - 4.2 Interception in case of Emergency**
 - 4.3 Application for issuing of directions and entry warrants**
- 5. KEEPING OF RECORDS BY HEADS OF INTERCEPTION**
- 6. SUPPLEMENTARY DIRECTIVES REGARDING APPLICATIONS**
- 7. THE ACT vs RIGHT TO PRIVACY**
- 8. CHALLENGES**
- 9. RICA AND THE FUTURE**
- 10. FULL STATISTICAL INFORMATION OF APPLICATIONS**
 - 10.1 The National Intelligence**
 - 10.2 The South African Police Service**

1. INTRODUCTION

The 2010/2011 South African Police Statistical Report has revealed that, approximately 2.1 million violent crimes were registered in the last financial year. Although this figure shows a decline in comparison with the previous financial year, the number remains high.

The escalating rate of crime where electronic technology is used has increased significantly and is becoming more sophisticated. The latter situation poses severe challenging to the law enforcement agencies to fulfil their duties optimally and efficiently. Criminals utilize these technologies successfully and with ease.

These methods are frequently utilised in the planning and perpetration of serious crimes ranging from:

- Human trafficking;
- drug dealing and drug trafficking;
- money laundering;
- corruption and fraud;
- kidnappings;
- assassinations;
- terrorism;
- heists; etc

This state of affairs, together with the escalating rate of technological crime and highly sophisticated criminal methods have made interception a popular method of investigation not only in the Republic of South Africa but in almost every country in

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the world. Interception of communications is generally considered a necessary evil to protect law abiding citizens from criminal conduct.

2. INTERCEPTION

Lawful interception plays a crucial role in advancing the investigation process. It represents an indispensable means of gathering criminal intelligence.¹ The Regulation of Interception of Communications and Communication-related Information Act, 2002 (Act 70 of 2002), herein after referred to as the "RICA"), was designed to allow the State to intercept communications and provide communication-related information during the investigation of serious crimes. This process becomes legal and the information gathered becomes admissible in court, if it is done in accordance with the RICA.²

The RICA provides guidance and requires strict compliance with the procedure that should be undertaken when applying for an interception direction from the designated judge.³ When doing so, the RICA demands thorough appreciation and application of section 14 of the Constitution, which relates to the right to Privacy.

Most importantly, the application process for an interception direction should be considered as a last resort, as the RICA seeks to guard against abuse of constitutionally protected rights.

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

² *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 be declared inadmissible.

³ 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.

3. INTERNATIONAL LAW

To detect and investigate crimes that are committed through the use of electronic technology has been a global challenge for years. This resulted in the approval of the use of interception devices by the Council of Europe Convention, to which South Africa is a signatory. Almost all countries in the world, for example, the United Kingdom (Regulation of Investigatory Powers Act, 2000), the United States of America (, inter alia, Title III of the Omnibus Crime Control and Safe Streets Act of 1968 as amended), Australia (Telecommunications (Interception) Act 1979), New Zealand (Crimes Act and Misuse of Drugs Act), various countries in Europe etc, have adopted legislation to regulate the lawfully intercepted communications in order to combat criminal activities. In general the interception and monitoring of communications in all these countries balance the subject's right to privacy with that of the need to investigate and detect crime. Interception of communications in these countries is only allowed if it is judicially sanctioned or approved by an independent higher authority.

4. SOUTH AFRICAN LEGISLATIVE FRAMEWORK

To deal with the question of finding better mechanisms in addressing this challenge, the South African Law Reform Commission (SALRC) felt it was important to undertake a review of the effectiveness of the then Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992). The investigation had shown that the Interception and Monitoring Prohibition Act, was outdated in that it did not adequately deal with new developments in the field of electronic technology and the use thereof in the commission of crimes.

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As a result of the recommendations of the SALRC the Interception and Monitoring Prohibition Act, was replaced by the RICA. The aims of the RICA are, inter alia, to:

- (a) Protect subjects of the Republic against the unlawful interception of communications;
- (b) oblige all electronic communications service providers (ECSPS) to provide a service which is interceptable and which is able to store communication related information;
- (c) provide for a structure which is responsible for the interception of communications;
- (d) oblige ECSPS to record and store information which can be used to identify their customers;
- (e) prohibit the possession and manufacturing of interception devices;
- (f) provide for the interception of communications in emergency situations;
- (g) provide that the interception of communications must, unless the RICA provides otherwise, be approved by a judge.

Some of these aspects are dealt with in more detail below:

4.1 Prohibition of interception of communication

The Regulations on Interception of Communications prohibit any person to intentionally intercept or attempt to intercept, or otherwise procure any other person to intercept or attempt to intercept, at any place in the Republic, any

communication in the course of its occurrence or transmission unless it is done in terms of the provisions of the RICA.⁴

4.2 Interception in cases of emergency

In a case of an emergency, where there are reasonable grounds to believe that an emergency exists by reason of the fact that the life of another person is being endangered, the applicant can orally request the ECSP concerned to intercept any communication to or from the sender in any other manner which the telecommunication deems appropriate or provide such assistance as may be necessary to determine the location of such a person (sections 7 and 8 of the RICA).⁵

These processes are however subject to judicial scrutiny in that the information obtained as well as affidavits from the ECSPS and law enforcement officers who requested the information must be submitted to the designated judge for scrutiny.

4.3 Application for issuing of directions and entry warrants

Under the RICA, a designated judge may authorise –

- (a) the interception of direct or indirect communications by way of an interception direction in terms of section 16 of the RICA;
- (b) the interception of real-time communication-related information on an ongoing basis by means of a direction in terms of section 17 of the RICA;

⁴ Section 2

⁵ Section 8(1)(b) and (aa)

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- (b) the combined interception of of direct or indirect communications, real-time communication-related and provision of archived communication-related information by means of a direction in terms of section 18 of RICA;
- (c) the decryption of intercepted information by means of a decryption direction in terms of section section 21 of RICA; and
- (d) entry warrants for the purposes of entering a premises for the placing of interception devices in terms of section 22 of RICA.

The above-mentioned directions or entry warrant can only be granted after the law enforcement agencies make a formal application to the designated judge. In considering such an application, the RICA imposes various factors that must be considered by the designated judge before he or she may grant a direction or entry warrant.

With regard to an interception direction, the Act compels any person who is authorised to intercept communication, to complete an application and submit it to the designated judge for consideration. The application should clearly indicate, *inter alia*, the identity of the applicant, the identity of the law enforcement officer, the person whose communication is required and the telecommunication service provider to whom the direction must be addressed.⁶

To invoke the application of section 36 of the Constitution, the Act further requires the applicant, in his or her application, to include the basis for believing that evidence relating to the ground on which the application is made will be obtained

⁶ Section 16

through the interception applied for.⁷ Furthermore, the application must indicate, where applicable, whether other investigative procedures have been applied and failed to produce the required evidence and why other investigative means are unlikely to succeed or appear to be too dangerous.⁸

An interception direction may be granted if the designated judge is satisfied that:

- A serious offence has been or is being or will be committed or public health or safety is threatened etc;
- the interception will provide information regarding the offence or threat;
- the facilities from which the communications will be intercepted are usually used by the person; and
- other investigative methods had been unsuccessful or too dangerous.

5. KEEPING OF RECORDS BY HEADS OF INTERCEPTION

The head of an interception centre must on a quarterly basis submit a written report of the records kept, abuses in connection with execution of directions and any defect in any electronic communications system which has been discovered.⁹

This obligation is there to ensure that there is full compliance with the RICA.

6. SUPPLEMENTARY DIRECTIVES REGARDING APPLICATIONS

A designated judge or designated judges, jointly, after consultation with the respective Judges-President of the High Courts, may issue directives to

⁷ Section 16(2)(d)(ii)

⁸ Section 16(2)(e)

⁹ Section 37(1)(2)(a)(i-iii)

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supplement the procedure for making applications for the issuing of directions or entry warrants and the directive issued must be submitted to parliament.¹⁰

7. THE ACT vs THE RIGHT TO PRIVACY

Section 14 of the constitution protects everyone's right to privacy, which includes the right not to have "the privacy of their communications infringed".¹¹ Furthermore, Privacy is a fundamental human right recognised internationally in instruments like the UN Declaration of Human Rights, the International Covenant on Civil and Political Rights, and regionally in the African Charter on Peoples' Rights, etc. It underpins human dignity and other key values such as freedom of association and freedom of speech.¹²

Article 8 of the Convention on Human Rights explicitly states that, "there shall be no interference by a public authority with the exercise of this right except in accordance with the law and to the extent that it is necessary in a democratic society and in the interests of national security, public safety or the economic well-being of the country. The right to privacy in this regard may also be limited in preventing disorder or crime, for the protection of health, or the rights and freedom of others".

The Article makes it clear that the information collected by enforcement agencies, must only relate to that which is identified by the warrant issued, such that, only persons or people who are suspected of committing serious offences or

¹⁰ Section 58(1) and (3)

¹¹ The Constitution of the Republic of South Africa, 1996

¹² Privacy and Human Rights-An International Survey and Privacy Laws-
<http://gilc.org/privacy/survey/intro.html>

participating in activities against the interests of national security, may lose their right to privacy.¹³

In 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.¹⁴

Indeed, "the shift in balance towards absolute individual privacy is in itself a threat to security and the consequence of this choice will [in the context of the state of crime rates in South Africa] affect our personal safety, our right to live in a society where lawlessness is not tolerated and the ability of law enforcement to prevent serious and other violent criminal activity".¹⁵

In the matter of *The Investigating Directorate and Others v Hyundai Motor Distributions*, Justice Langa DP held that

*"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..."*¹⁶, then

¹³ European Convention on Human Rights for the Protection of Human Rights and Fundamental Freedom- www.hrcr.org/docs/Eur_convention/euroconv3.html

¹⁴ The Constitution of the Republic of South, section 36(1) 1996-Limitation Clause

¹⁵ Lawful interception-Andres Rojab-centre for advanced Internet Architectures Swinburne University of Technology-Feb 9 2006- <http://caia.swin.edu.au>

¹⁶ *The Investigating Directorate and Others v Hyundai Motor Distributions (PTY) (LTD) 2001 (1) SA 545 (CC)*

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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..."¹⁷

8. CHALLENGES

There is a general public perception that some law enforcement and other institutions use these intrusive methods to advance their own interests with no regard to the rights and values in the Constitution. The media, in particular the social networks, are inundated with reports, allegations and comments of manipulation and abuse of the interception system by officials and even individuals, ranging from-

- obtaining of 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;
- the popularity of interception method which is preferred over conventional method;
- the apparent lack of trust of the Designated Judge with regard to information gathered through crime intelligence;

¹⁷ *California v Ciraolo* 476 US 207 (1985) at 213-4

- failure of applicants to provide fact-based justification for an application to the Judge;
- applicant's need 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 therefore the taking and
- wide allegations of bribery of contacts at banks and telecommunications service providers;¹⁸ etc

Not all of these challenges may be resolved through legislative amendments. Some may only be resolved through the dedication, commitment, full understanding and appreciation of the role of investigation officers gathering crime intelligence in a democratic society based on the values of human dignity, freedom and equality. The need to sharpen and constantly improve the investigative skills and prowess of our law enforcement agencies comes to mind - no doubt on important aspect of contemporary policing.

9. RICA AND THE FUTURE

The RICA was assented to on 30 December 2002 and came into operation on 30 September 2005. From 2002 to date, there have been substantial developments that took place in the electronic communications field. The Electronic Communications Act, 2005 (Act 36 of 2005), introduced a new electronic communications dispensation in South Africa, moving away from the dispensation

¹⁸ How the government spies on you-Mail and Guardian Online-<http://mg.co.za/articles/2011-10-14>

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envisaged in the RICA, where there is a clear, based on the Telecommunications Act, 1996 (Act No. 103 of 1996), distinction based on fixed line, internet and mobile cellular communications. The RICA should be revamped to bring the terminology in line with the current electronic communications dispensation as is envisaged in the Electronic Communications Act, 2005.

New services are seeing the light, inter alia, Black Berry Messenger Services, BlackBerry Enterprise Services, Skype and a host of other services, which is mostly Internet based, which is clearly not interceptable, and even if it were interceptable, the encryption that is applied to such services makes it nearly impossible for the law enforcement agencies to obtain any information about the content of a communication. This aspect should be further investigated in order to find a solution.

RICA may need to be revised in light of the obligations which the Republic may incur if we accede to the African Union Convention on the establishment of a credible legal framework for cyber security in Africa in order to deal with cybercrime.

RICA should in so far as possible regularly be revised in order to ensure that it keeps pace with developments.

There is reliable information that an electronic process for the application of directions was previously discussed in this Committee. The Department of Justice and Constitutional Development, who is the State Department responsible for the administration of the RICA, will be approached in due course to consider proposals.

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10. STATISTICAL INFORMATION OF APPLICATIONS FOR DIRECTIONS

10.1 State Security Agency (SSA)

Figures for the period are as follow:

• Applications (New)	28
• Re-applications	32
• Amendments	34
• Extensions	31
• Amendments and Extensions	13
• Entry Warrants	4
• Section (11)	66
• Oral intercepts	2
• Refused	5 (No RICA confirmation)
• Total	215

10.2 THE SOUTH AFRICAN POLICE SERVICES (SAPS)

Figures for the period are as follow:

• Applications (New)	150
• Re-applications	22
• Amendments	8
• Extensions	4
• Amendments and Extensions	18
• Total	202

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10.3 THE SOUTH AFRICAN SECRET SERVICE(SASS)

Figures for the period are as follow:

• Applications (New)	2
Total	2

10.4 FINANCIAL INTELLIGENCE CENTRE(FIC)

Figures for the period are as follow:

• Applications (New)	3
Total	3

10.5 SOUTH AFRICAN NATIONAL DEFENCE FORCE(SANDF)

Figures for the period are as follow:

• Applications (New)	3
• Amendments	1
Total	4

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Combined figures for NIA , SAPS,SASS,FIC and SANDF are as follow:

• Applications (New)	185
• Re-applications	54
• Amendments	5
• Extensions	35
• Amendments and Extensions	31
• Entry Warrants	4
• Section(11)	66
• Oral intercepts	2
• Refused	5
• Total	387

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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 XX to XX which comprise the appropriation statement, the statement of financial position as at 31 March 2014, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, as well as the notes, comprising a summary of significant accounting policies and other explanatory information.

Accounting Officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation of these financial statements in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act, 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 of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

Basis for Qualified opinion**Level of assurance**

6. 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 other audits.

Property Plant and Equipment

7. I was also unable to physically verify some of the assets during the asset count and to confirm the inclusion of assets identified during the count in the assets register. I was unable to confirm assets through alternative means. Consequently, Property, Plant and Equipment has been overstated by R28 082 986 (2013: R1 058 452) and understated by R34 588 160.

Goods and services

8. The department did not account for goods and services in the correct financial year in accordance with GRAP 1, *Presentation of Financial Statements*. In addition due to lack of adequate supporting documentation the accuracy of the amounts could not be confirmed. Consequently, Goods and services were overstated by an estimated amount of R70 617 277 (2013: understated by R61 029 974). Additionally, there is a consequential impact on the Accumulated Surplus for the year.

Opinion

9. In my opinion, except for the possible effects of the matters referred to in the basis for qualification paragraphs, the financial statements present fairly, in all material respects, the financial position of the State Security Agency as at 31 March 2014, 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 matter

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

Significant uncertainties - Claims

10. The department is a defendant against several claims levelled against it. The department is opposing these claims. The ultimate outcome of these matters cannot presently be determined.

Restatement of corresponding figures

11. As disclosed in note 30 to the financial statements, the corresponding figures for 2013 have been restated as a result of an error discovered during 2014 in the financial statements of the State Security Agency at, and for the year ended, 31 March 2013.

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REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

12. In accordance with the PAA and the general notice issued in terms thereof, I report the following findings on the reported performance information against predetermined objectives for selected programmes presented in the annual performance report, non-compliance with legislation as well as internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

13. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information for the following selected programmes presented in the annual performance report of the State Security Agency for the year ended 31 March 2014
- Programme 2: Domestic Collection on pages XX to XX
 - Programme 3: Foreign Collection on pages XX to XX
 - Programme 5: National Communication on pages XX to XX
14. I evaluated the reported performance information against the overall criteria of usefulness and reliability.
15. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned programmes. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant, as required by the National Treasury's *Framework for managing programme performance information* (FMPPI):
16. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
17. The material findings in respect of the selected programmes are as follows:

Domestic Collection

Usefulness of reported performance information

18. Having due regard for the nature of the business and security implications arising from the circumstances under which operations are planned and carried out, the reporting of indicators and targets is not done to the level of detail that would be expected to make indicators and targets measurable under normal circumstances.

Reliability of reported performance information

19. I did not raise any material findings on the reliability of the reported performance information for Domestic Collection

Foreign Collection

Usefulness of reported performance information

20. Having due regard for the nature of the business and security implications arising from the circumstances under which operations are planned and carried out, the reporting of indicators and targets is not done to the level of detail that would be expected to make indicators and targets measurable under normal circumstances.

Reliability of reported performance information

21. I did not raise any material findings on the reliability of the reported performance information for Foreign Collection

National Communications

Usefulness of reported performance information

22. Having due regard for the nature of the business and security implications arising from the circumstances under which operations are planned and carried out, the reporting of indicators and targets is not done to the level of detail that would be expected to make indicators and targets measurable under normal circumstances.

Reliability of reported performance information

23. I did not raise any material findings on the reliability of the reported performance information for National Communications

Additional matter

24. We draw attention to the following matter. Our conclusion is not modified in respect of this matter:

Unaudited supplementary information

25. The supplementary information set out on pages XX to XX does not form part of the annual performance report and is presented as additional information. I have not audited this schedule and, accordingly, I do not report thereon.

Achievement of planned targets

26. Refer to the annual report on pages XX to XX for information on the achievement of the planned targets for the year.

Compliance with legislation

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

Annual financial statements, performance and annual reports

28. Material adjustments were made to the annual financial statements submitted for audit purposes, which was not fully prepared in accordance with generally recognised accounting practice as prescribed by section 40(1)(b) of the PFMA.

Procurement and contract management

29. Goods and services with a transaction value below R500 000 were procured without obtaining the required price quotations, as required by Treasury Regulation 16A6.1.

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

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Revenue management

31. Effective and appropriate steps were not taken 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).

Expenditure management

32. Irregular expenditure of R 8 071 262 was identified during the audit. Effective steps were not taken to prevent irregular expenditure, as prescribed by section 38(1)(c) (ii) and Treasury Regulation 9.1.1.
33. Payments due to creditors were not settled within 30 days from receipt of an invoice as required in terms of section 38(1)(f) of the PFMA and Treasury Regulation 8.2.3

Asset management and liability management

34. Adequate controls were not in place to ensure that assets are recorded in the asset register, as required by Section 38(1)(d) of the PFMA. Full and proper records of the department's assets were not kept, as assets were recorded without asset numbers.

Internal control

35. I considered internal control relevant to my audit of the financial statements, annual report and compliance with legislation. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for qualified opinion, the findings on the annual performance report and the findings on non-compliance with legislation included in this report

Leadership

36. The accounting officer approved policies and procedures for the SSA. The department is in the process of implementing the revised policies and procedures to ensure effective monitoring of compliance, with laws, regulations and internally designed procedures. All operational policies and procedures were approved after year end. The accounting officer made use of the Internal Audit function and the Office of the Inspector General to obtain additional assurance on covert expenditure and performance information.

Financial and performance management

37. Insufficient role clarification and inadequate monitoring and review during the year resulted in material misstatements in the financial statements as well as inadequate monitoring of the assets of the department. The department does not have a proper record keeping system in place that allows for easy retrieval of documents and as a result of a lack of supervision; transactions were found to have been recorded in the incorrect financial years.

OTHER REPORTS

Investigations

The following audits, which relate to the department, are in progress.

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38. As reported in the 2012/2013 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
39. An investigation was instituted after reports that transfers from NIA's account, within Momentum, was made to the account of a broker. This matter was reported to the Financial Services Board (FSB) and Financial Advisory and Intermediary Services (FAIS) for investigation. The investigation was completed and the matter was referred to the NPA and Hawks for further consideration.
40. An investigation was instituted at the Covert Support Unit. The DDG-Operations together with three other members were suspended pending the outcome of the investigation. In December 2010 the DG accepted the resignation of the DDG. The investigation is still on-going.

Auditor - General

Pretoria

27 September 2014



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

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

Introduction

1. I have audited the financial statements of the SAPS CI set out on pages XXX to XXX, which comprise the appropriation statement, the statement of financial position as at 31 March 2014, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, as well as 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 Modified Cash Standard 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.

Qualified opinion

7. In my opinion, except for the effect of the matter described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the South African Police Service – Covert Intelligence: Secret Service Account as at 31 March 2014, and its financial performance and cash flows for the year then ended, in accordance with the Modified Cash Standard prescribed by National Treasury and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999).

Emphasis of matters

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

Material losses

9. As disclosed in note 8 to the financial statements, losses to the amount of R1,914 million were incurred as a result of a write-off of thefts and losses.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

10. In accordance with the PAA and the general notice issued in terms thereof, I report the following findings on the reported performance information against predetermined objectives for the selected programme presented in the annual performance report, non-compliance with legislation as well as internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

11. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information for the following selected programme presented in the annual performance report of the department for the year ended 31 March 2014:
- Programme 1 – Crime Intelligence on pages x to x
12. I evaluated the reported performance information against the overall criteria of usefulness and reliability.
13. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned programme. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant, as required by the National Treasury's *Framework for managing programme performance information* (FMPPI).
14. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
15. I did not raise any material findings on the usefulness and reliability of the reported performance information for Programme 1 – Crime Intelligence.

Additional matter

16. Although I raised no material findings on the usefulness and reliability of the reported performance information for the selected programme, I draw attention to the following

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matter:

Achievement of planned targets

17. Refer to the annual performance report on pages XX to XX for information on the achievement of planned targets for the year.

Compliance with legislation

18. I performed procedures to obtain evidence that the department had complied with applicable legislation regarding financial matters, financial management and other related matters. My findings on material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA, are as follows:

Annual financial statements, performance and annual reports

19. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework as required by section 40(1) (b) of the Public Finance Management Act. Material misstatements of disclosure items identified by the auditors in the submitted financial statements were subsequently corrected and the supporting records were provided.

Procurement and contract Management

20. 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.

Expenditure Management

21. Effective steps were not taken 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

22. I considered internal control relevant to my audit of the financial statements, and compliance with legislation. The matters reported below are limited to the significant internal control deficiencies that resulted in the findings on non-compliance with legislation included in this report.

Leadership

23. 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.

Financial and performance management

24. The preparation of the Annual financial statements requires attention through enhanced reviews to ensure accurate financial statements supported by appropriate supporting evidence.
25. 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

26. A criminal investigation is currently being conducted since 2011/12, by the Hawks (Department of Priority Crime Investigations (DPCI)) into allegations of misuse and abuse of the Department's funds by certain members. An internal investigation resulted

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in one official being dismissed and another one being charged in terms of the SAPS internal disciplinary processes.

1- Auditor - General.

Pretoria

31 July 2014



AUDITOR - GENERAL
SOUTH AFRICA

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2. The Minister of Police

- (a) Report of the Independent Police Investigative Directorate for the period April 2015 – September 2015, tabled in terms of section 9(n) of the Independent Police Investigative Directorate Act, 2011 (Act No 1 of 2011).

3. The Minister of Telecommunications and Postal Services

- (a) Report and Financial Statements of the South African Post Office SOC Limited (SAPO) for 2014-15, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2014-15.

4. The Minister of Trade and Industry

- (a) Protocol Amending the Marrakesh Agreement establishing the World Trade Organisation (WTO), including Annex 1A on the Agreement on Trade Facilitation, and Establishment of the National Committee on Trade Facilitation, tabled in terms of section 231(2) of the Constitution, 1996.
- (b) Explanatory Memorandum to the Protocol Amending the Marrakesh Agreement establishing the World Trade Organisation (WTO), including Annex 1A on the Agreement on Trade Facilitation, and Establishment of the National Committee on Trade Facilitation.

National Council of Provinces

1. The Chairperson

- (a) Statement issued in terms of section 106(1)(a) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), on allegations of fraud, corruption or any other serious malpractices within Govan Mbeki Local Municipality, Mpumalanga.

Referred to the **Select Committee on Cooperative Governance and Traditional Affairs** for consideration.

- (b) Notice of extension of Intervention issued in terms of section 139(1)(b) of the Constitution, 1996 to Matlosana Local Municipality, North West.

Referred to the **Select Committee on Cooperative Governance and Traditional Affairs** for consideration and report.

COMMITTEE REPORTS

National Assembly

- 1. Report of the Portfolio Committee on Transport on the Cape Town Agreement of 2012 on the Implementation of the provisions of the Torremolinos Protocol of 1993 relating to the International Convention for the Safety of Fishing Vessels, 1977, dated 26 January 2016:**

The Portfolio Committee on Transport, having considered the request for approval by Parliament of the *Cape Town Agreement of 2012 on the Implementation of the provisions of the Torremolinos Protocol of 1993 relating to the International Convention for the Safety of Fishing Vessels, 1977*, referred to it and tabled in terms of section 231(2) of the Constitution, 1996, recommends that the House approve the said Agreement.

Report to be considered.

- 2. Report of the Portfolio Committee on Transport on the African Maritime Transport Charter, dated 26 January 2016:**

The Portfolio Committee on Transport, having considered the request for approval by Parliament of the *African Maritime Transport Charter*, referred to it and tabled in terms of section 231(2) of the Constitution, 1996, recommends that the House approve the said Charter.

Report to be considered.

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3. Report of the Portfolio Committee on Sport and Recreation on the implementation of the National Sport and Recreation Plan in Eastern Cape and Gauteng, July 2015, dated 13 October 2015

A. Introduction

A delegation of the Portfolio Committee on Sport and Recreation conducted oversight in Eastern Cape and Gauteng provinces from 21-24 July 2015 to:

- Assess the use of the grant allocated to the provinces in terms of the Division of Revenue Act (DORA) for the implementation of sport and recreation programmes for providing sporting opportunities to communities;
- assess whether provincial plans are aligned to the Sport and Recreation SA (SRSA) mandate of implementing the National Sport and Recreation Plan (NSRP) vis-à-vis the provincial outcomes;
- assess the impact of facilities built for sport and recreation through the assistance of the National Lottery and Sport Trust; and
- monitor the implementation of the sport focus schools model in assisting talented athletes to achieve their potential.

The delegation of the Portfolio Committee on Sport and Recreation included:

Ms B N Dlulane (ANC, chairperson,), Ms B J Dlomo, ANC, Ms B L Abrahams, ANC, Ms D P Manana, ANC, Mr S G Mmusi, ANC, Mr S M Ralegoma, ANC, Mr D Bergman, DA, Mr M S Malatsi, DA, Mr P G Moteka, EFF, Mr M S Mabika, NFP and Mr M L W Filtane, UDM.

On 21 July 2015 the delegation conducted three meetings: first with the provincial department of sport, provincial academy and sports confederation, thereafter with staff and learners of Dale College sport focus school in King William's Town and the provincial and national departments of sport and recreation, and finally with boxing promoters in East London. On 22 July the committee conducted two meetings, first with councillors and officials of the Nelson Mandela Bay Metropolitan Municipality, the municipal and local sport confederation and district sport academy, and thereafter with the municipal sport confederation, regional sport clubs, the provincial sports council, the provincial department of sport and recreation, and Salga. On 23 July 2015

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the committee conducted three meetings and three site visits (Sport Science Centre in Johannesburg, High Performance Centre at University of Pretoria, and High Performance Centre school in Pretoria). The first meeting was with the Gauteng department of Sport and Recreation, provincial academy and sports confederation, the second with the Gauteng Sports Confederation and provincial academy at their premises, which included a visit to the sport science centre at the Johannesburg Stadium, and the third with officials and staff of the Rosina Sedibane sport focus school, officials of the provincial and national departments of sport, and the national department of Education. On 24 July the committee conducted two meetings; the first meeting was with the member of municipal council (MMC) responsible for sport and recreation and officials of the municipal department of sport in Ekurhuleni metropolitan municipality, and the second was with sport federations and officials of the municipal sport academy at the Germiston Stadium.

In Eastern Cape the delegation was accompanied by the chairperson of the Eastern Cape Legislature Portfolio Committee of Sport, Arts, Culture and Recreation and met officials of the Department of Sport and Recreation (SRSA), Department of Basic Education (DBE), Department of Sport, Recreation, Arts and Culture (DSRAC - EC), Eastern Cape Department of Education, Eastern Cape Sport Confederation, Eastern Cape Sport Council, the principal, teachers, officials and learners of Dale College sport focus school, teachers and coaches of neighbouring schools, Nelson Mandela Bay Sports Council, SA Local Government Association (Eastern Cape and national), members of the Nelson Mandela Bay Metropolitan Municipality (NMBMM) Portfolio Committee on Sport and Recreation, officials of NMBMM, officials of national, provincial and district sport federations, unions and clubs, such as SA Rugby (national), Eastern Province Rugby, Netball (NMB), SA Football Association (NMB), sport clubs in the NMB Metro, Eastern Cape Provincial manager of Boxing SA, and boxing promoters (East London).

In Gauteng the delegation was accompanied by the chairperson of the Gauteng legislature Portfolio Committee on Education, chairperson of the Gauteng legislature Standing Committee on Public Accounts, and legislature staff. The delegation met the Ekurhuleni Metropolitan Municipality mayoral committee member for Sport, Recreation, Arts and Culture, , officials of the Department of Sport and Recreation (SRSA), Department of Basic Education

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(DBE), Department of Sports, Arts, Culture and Recreation (SACR - Gauteng), Gauteng Department of Education, the, Gauteng Sport Confederation, Gauteng Sports Council officials of the national High Performance Centre at University of Pretoria, SA Local Government Association (Gauteng and national), officials of the Ekurhuleni Metropolitan Municipality, City of Johannesburg, Johannesburg Sports Council, Ekurhuleni Sport Academy, Ekurhuleni Sports Council, officials of SA Rugby Union and Valke Rugby, and staff and school governing body deputy chairperson of Rosina Sedibane Modiba Sport School.

The focus of the meetings at municipalities was utilisation of grant funding, sport programmes, facilities and budgeting, as well as cooperation with government and private entities on local, provincial and national level. The committee inquired about the availability of sport and recreation programmes, impact on schools and school sport, and problems and responsibilities regarding maintenance and provision of facilities, and met sport clubs to obtain input regarding the successes and shortcomings of sport and recreation programmes and club development.

Oversight focus included the sport focused schools programme for talented athletes supported through the Ministerial Sport Bursary Scheme, the Gauteng provincial academy's scientific support to athletes (dependent on funding from provincial allocations) and data collection and reporting systems.

In Gauteng the committee endeavoured to assess the impact of the provincial department's Operation Mabaleng aimed at addressing the sport infrastructure backlog in depressed and deprived communities; cooperation and coordination by all departments and federations in sports and alignment to the NSRP; the province's support of sport academies, schools (sport equipment), and sport federations and the Gauteng academy's implementation of programmes and progress with setting up a district academy in Ekurhuleni before the end of the financial year.

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*[Tuesday, 26 January 2016]***B. Information gathered during meetings and site visits, 21 – 24 July 2015****1. Eastern Cape province****1.1. Meeting with Eastern Cape Department of Sport, Arts and Culture (21 July 2015)****1.1.1 Sport-related plans and programmes**

The provincial department's NSRP-related plans for 2014-19 comprised: School Sport, Active Recreation Programmes and Campaigns, Academies of Sport, Club Development, Support to Sport Councils and Federations, Sport Tourism, International Relations. The department presented a briefing on programmes related to sport development, recreation, school sport and the mass participation conditional grant.

6% of the Eastern Cape provincial department's conditional grant allocation is allocated to permanent staff, 3,5% to district and provincial academies, 3% to the provincial sports council, 40% to school sport, 20% to hubs, 20% to club development and 7% to provincial programmes. The provincial department's R 166 155 million budget for the 2015-16 financial year comprises grant and voted funds. The provincial department had equipped eight sport academies, some of which were in Alfred Nzo municipality, Nolitha special school satellite at Mount Ayliff, and also at McClear school, It was important that the department, after setting up the model for Dale College, maintain a good relationship in order to maintain and support the programme.

1.1.2 Boxing

Support for open boxing/amateur boxing: 33,4% of the allocation for boxing goes to open boxing. A SANABO tournament was held in Grahamstown shortly before the committee's oversight visit, and the provincial department was surprised to receive feedback that the committee had received letters from stakeholders in professional boxing, and that the committee had been informed that professional boxers were not taken care of.

Assistance when boxing purse money was not paid: In the past the provincial department had assisted to release the funds, but payment of purse money to boxers was in private hands. The matter of purse money was between Boxing SA and promoters. The provincial department knew of two promoters

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who had taken disputes about payment of purse money to court. These matters were still before court and therefore *sub judice*.

The provincial department engaged with boxing and other sectors in service level agreements (Premier Boxing League, for example) and was careful not to include outstanding competition fees because it was outside regulations. The provincial department was not a partner with regard to purse money and outstanding fees, and it ensured that these were compliant with the dates on which the boxers had to receive the purse money, and also followed up. Approximately 40% of the athletes in the programme were boxers.

1.1.3. School sport - Input by Eastern Cape Department of Basic Education'

Demarcations: The provincial Department of Basic Education started their programmes from regional (district) level upward. The demarcations were a challenge, since the provincial Department of Basic Education operated under 23 districts and the provincial department of sport under 7 districts.

Wednesday school sport, leagues, physical education: Wednesday school sport was being implemented. There had been a launch of Wednesday leagues, and it was a matter of monitoring. There were code committees in all the codes, and the provincial department was strong in all the indigenous games. Physical education was also a challenge, and the provincial department was assisted by Mr Price clothing company. The programme had been rolled out in three districts, and with the help of the GET phase and all the foundation phase teachers they were working together at operational level.

Transport, participation and school sport policy: Transport was difficult for rural schools, because some learners lived 15 km from the nearest school. The league format was in terms of the geographic setup in former Transkei. The provincial department made schools participate in sport, starting with intra school sport. An official of the national Department of Basic Education reported that the department was engaging on the school sport policy and negotiations had not been concluded at the time of the committee's oversight visit.

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*[Tuesday, 26 January 2016]***1.2. Eastern Cape Academy of Sport, Sport confederation programmes and Club development**Input by the Eastern Cape Sport Confederation

The work of the Eastern Cape sport confederation includes increasing sport participation, coordination, development and transformation, and strengthening structures at local level.

The sport confederations' geographic footprint is in all districts, and the Eastern Cape Academy of Sport supports the preparation of identified talent through districts and the provincial academy.

The provincial department was inundated with requests for sport kit, and required that communities to first affiliate to a federation before such assistance was given. Communities have organised their own sport activities and play cricket and rugby on week-ends, however, the provincial department goes out to assist them to affiliate to federations.

The Confederation was established in 2009. The confederation reported that they did not always agree with provincial department how to tackle programmes. Training in sports administration was done also through a twinning agreement with Lower Saxony, and the confederation managed to host the provincial Sports Awards ceremony in collaboration with the provincial department.

The provincial confederation had applied for R500 000 in Lottery funding successfully to cover administration cost, since the money from the provincial department was not sufficient to cover administration costs. The provincial confederation requested the committee's assistance in overcoming the imbalances they were facing.

The provincial department had attended all the confederation's constitutional meetings. The provincial department and provincial confederation worked together in sports tourism by inviting proposals from event organisers and all sport federations. Current sport tourism programmes were boxing, road running and soccer.

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1.3. Sport focus school Dale College – King William's Town (21 July 2015)

Dale College specialises in rugby, and had received R 800 000,00 from the Eastern Cape Department of Sport, Recreation, Arts and Culture in the 2014-15 financial year, and R1 000 000 in the 2015-16 financial year. The school accommodates 6 learners who had received sport focus school bursaries for rugby from the provincial department. The boys had been identified through the academy system. The school hosts 19 other schools on Tuesdays to play rugby, and on Wednesdays the pupils play for their own schools. Dale College fetches the pupils on Tuesdays and they play their league matches at Dale College. The players also receive specialised training. Talented children from this group are offered bursaries. The facility of R1,2 million was donated by old boys. Dale parents, staff and old boys play a critical role.

Problems: Transport

The largest problem for the general teachers is transport to honour their fixtures every Tuesday. The provincial department provides transport for them to play at Dale every Tuesday. The intention was not to take the talented learners away from their schools, since they play for their schools on Wednesdays.

1.4. Meeting with Boxing Promoters, East London (21 July 2015)

The committee held a meeting with the promoters of Boxing in the Eastern Cape alongside the provincial Manager from Boxing South Africa. The purpose of the meeting was to get to understand the matters of boxing as they relate to the non-payment of match fees by promoters to boxers. The other important matters of concern that the committee wanted to understand included matters of disputes that the EC promoters seemed to have in relation to cooperation with Boxing South Africa. However, during the meeting, the Committee realised that there were two associations of boxing promoters within the province and, which was in conflict with section 28 (3) of the South African Boxing Act, Act 11 of 2001.

The two groups of promoters raised a number of concerns related to the legitimacy of their structures, the establishment of the task team that the minister appointed, the process followed to appoint members of the task team, purse money and how it should be distributed, appointment of contractors and the period of appointment, issues relating to their involvement on determining the broadcasting of boxing on SABC etc. The committee advised that the two groups of promoters submit their concerns in writing, so that it could attend to the details of the submissions separately due to the complex nature of the concerns raised.

1.5. Meeting at Nelson Mandela Bay Metropolitan Municipality (NMBMM) (22 July 2015)

The Nelson Mandela Bay Metro's department of Sport, Recreation, Arts and Culture consists of 3 sub-directorates: Sport and Recreation; Arts, Culture, Heritage and Library Services; and Beaches and Resorts. It is a new directorate, formerly part of economic development, and therefore not fully staffed. 525 positions out of 820 were filled as a result of unfunded vacancies, and because the organogram has not been reviewed for the city. It was hoped that the organogram would be adopted on 6 August 2015.

Budget issues were a challenge and there was a moratorium on filling vacancies, and the issue of task grading was affecting the city and made it impossible for them to fill vacancies. It was not unique to the directorate.

The Metro's department of Sport, Recreation, Arts and Culture had only two staff members to take care of maintenance in the department, with a R13 million maintenance budget.

1.5.1. 2014-15 Budget for facilities and sport programmes

The city does not give the municipal sport department 15% of the DORA allocation or the Urban Settlements Development (USDG) grant. In the 2015-16 financial year R54 million was allocated to dealing with the backlog of sport facilities. The metro's sport department will work on approximately 40 sport facilities in the 2015-16 financial year. The capital budget for facilities has increased from R10,3 million in the 2010-13 financial year to R71 million in the 2015-16 financial year. There are 310 sport and recreation facilities in the Nelson Mandela Bay Metropolitan Municipality. The 2015-16 budget for sport programmes is R 1, 600 000.

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1.5.2. Areas of support

Support funding will be limited to campaigns addressing social issues, programs focusing on women and sport, the aged, programmes that promote an active and healthy life style, days of remembrance, mass participation, competition, capacity building, sports equipment and event hosting support. The allocation will not be used to support transport and accommodation to provincial, national and international participation; catering at tournaments or buying tracksuits and t-shirts.

1.5.3. Challenges raised by NMBMM

- Insufficient budget to maintain and manage facilities at an acceptable standard
- Vandalism and theft at sport facilities
- No facility management committees (FMCs) in place (in process)
- Declining staff numbers due to natural attrition, many funded and unfunded vacant posts
- Moratorium on filling of vacancies due to budget cuts
- Long delays in recruiting processes
- Poor management of subordinates by line managers
- Absence of succession planning
- Some job descriptions do not support the service delivery imperatives of the directorate
- Current organogram does not provide for the changing needs of the directorate
- Grading issues emanating from the merging processes, TASK implementation

1.5.4. SA Local Government Association input on MIG in Eastern Cape

Salga's brief was to look at expenditure patterns.

For the financial year ending 31 March 2015 the Eastern Cape (EC) was allocated approximately R 3 billion, the second highest of MIG allocations. They had spent about 55% of provincial grant allocation at the end of Cogta's financial year. Only 2% of the total grant was spent for sport and recreation. The key component of the grant is focusing on community services, therefore the communities, through the public participation programmes, decide on the needs and priorities, and by law the

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municipalities are compelled to focus on the priorities as mandated by their communities. There are municipalities that see the need for sport facilities. Chris Hani District Municipality, for instance, had spent beyond 15%.

1.6. Sport clubs - Nelson Mandela Bay Metropolitan Municipality (22 July 2015)

Rugby:

The state of facilities was problematic. Premier league field had no ablution facilities, floodlights were dangerously close to flood lights/line. Electricity concrete blocks were dangerous. At Motherwell football club there had been six drownings. There was no assistance; the clubs had to have prepaid electricity or no electricity, and there was no enclosed box at gate for taking ticket money. It was requested that the local authority should have a blanket subsidy and that the Eastern Cape Education Department should rather help schools to play.

Springrose rugby club had heard that the department was reopening negotiations on ownership of fields. None of the African clubs own fields and it was a sore point to the clubs in PE. They shared with soccer in New Brighton. The municipality's hosting events on pitch was problematic. There was a golf programme for young black persons, aged 15-17, from underprivileged homes in Walmer Township; a volatile area. Cooperation in offering this programme was requested from municipal officials.

Athletics:

The state of facilities, the unavailability of venues because of parties or preferred users, and government making deals with the private sector on behalf of athletics were problematic. The tartan track in New Brighton cannot be used, and the Galvendale stadium track cannot be used; it is only used for functions. Motherwell stadium is also problematic and cannot be used. The federation has taken a step to partner with Transnet Coega to sponsor electronic timing for Motherwell stadium and was also doing it for the schools. It was an irritation to use Nelson Mandela MU Stadium which was used for Varsity Cup, since they had preference. The Athletics association made a request that they are the sole custodian of athletics in the Metro and that athletics event should be funded without their input.

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Netball in Nelson Mandela Bay Metro requested education and training programmes, to work with structures, since one of the challenges for netball was structures. There was a need to ensure the netball structures were structured and organised and matches were played, like the other codes.

Facilities: Stadiums and facilities were not initially built to cater for women. They had applied for lottery funding, to ensure through the lotto grant that they have facilities.

Safa Mandela Bay submitted that facilities were the biggest challenge in the metro. Football had 398 clubs in the metro - seniors only, not players under 13, 11 or 9 years of age. About 50% of these clubs had training fields, but there were not enough stadia. Not having enough facilities caused overuse of the facilities they had. The cutting of grass at the pitch was another challenge. Planning together could save costs and the establishment of facility committees would assist in this regard.

Port Elizabeth football association - Khaya saziya. Black people have moved to previously white residential areas where there are facilities for sports played by predominantly white people. Facilities are expensive, and there is a need for soccer to be looked into in the so-called white areas.

Northern areas football association president

The challenges affect every footballer, the facilities in the former disadvantaged areas are grossly inadequate. He requested that if the facilities were not to be upgraded decisive management of the facilities was needed. Facilities were needed that were not in the stadium mode. SAFA Nelson Mandela Bay and football planned separately from local government. It was requested that an advisory committee be considered getting the sport council to meet with local to plan for all sport in Port Elizabeth.

It was requested that since there were no playing fields in schools, joint planning should be done for the optimal used of municipal and school facilities.

SAFA women's football: SAFA NMB found facilities to be problematic. There were 16 teams in the regional league and the lack of change rooms was problematic. Some women had to change outside, which was embarrassing and posed a safety risk. SAFA women's football requested assistance with transport and exposure of international players to motivate the ladies.

Judo

There are no facilities for the judo indoor games. In boxing in New Brighton there used to be three facilities, but now there are none. People convert shacks into their gyms. Vandalising of rightsized schools was a sore point in view of the dearth of training facilities. Athletes could have used them to train for indoor games.

2. Gauteng Province

2.1. Meeting with Gauteng Department of Culture, Sport and Recreation, (23 July 2015)

In 2007, the Gauteng Provincial Government (GPG) adopted a "GPG Sport Development Policy Framework" that guided all GPG's sport programmes and initiatives within the context of a developmental approach. The Gauteng Sport Plan was re-aligned to the National Sport Plan in 2012.

2.1.1 Financial allocations

The provincial department does not have voted funds for their programmes, and programmes for cultural affairs and library must also receive allocations. The grant was at R90 million, which had to be distributed between all the subdirectorates in the provincial department. Sport had money from the grant. The programmatic areas had a compensation budget and the money came from the grant. Voted funds were only allocated for the competitive issues.

2.1.2 Provincial support to Gauteng Sport Confederation (GSC)

2.1.2.1. Funding

Gauteng Provincial Sport Council changed their name to the Gauteng Sport Confederation. The GSC receives funding through the Conditional Grant (4%) and the Gauteng Gambling Board for Infrastructure Development. The provincial department supports the GSC with interns. The 4% is an allocation

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agreed by the department across the country; a norm that has been inculcated in the framework.

2.1.2.2. SASCO support of Gauteng Sport Confederation

The primary role of the Gauteng sport confederation is to establish, sustain and support the provincial federations. The academy programme is implemented jointly by the Department of Sport, Arts, Culture and Recreation and the Gauteng Sport Confederation. The programmes relate to identification of suitable venues and availability of the facilities. Regular meetings are held with the provincial sport confederation whereby progress reports on programme implementations are given and the expenditure thereof.

2.1.3. Academy Programme

Gauteng Provincial Academy consists of a virtual academy and partners with University of Johannesburg and the High Performance Centre at University of Pretoria, which caters for national and provincial programmes.

District Academies for Gauteng are: Ekurhuleni District Academy (2014-15), West Rand District Academy (Simunye Gymnasium) (2014-15), Tshwane District Academy (2015-16), Johannesburg District Academy (2016-17) and Sedibeng District Academy (2017-18).

Outreach programmes via mobile units: Four mobile units will be operating from the 2015-16 financial year: One, based at the Gauteng Sports Confederation, is already in use, two are to be purchased with the HPC as base, and one with University of Johannesburg as base.

2.1.4. Intergovernmental relations

The Gauteng provincial department engages with local government on political technical and operational level, and the Chief Directorate Sport and Recreation engages with Local Government Sport and Recreation at least twice a year on provincial level. One-on-one meetings also take place to consolidate the integration of programmes (per quarter).

2.1.5. School sport programmes aligned to NSRP

Programmes: Team Gauteng, Capacity building, Equipment, Attire, Regional/provincial events, Focus schools, School sport structures, School sport coordinators, Administration.

2.1.5.1. Ministerial Bursary Programme

In 2013 four learners received bursaries at Rosina Sedibane school; two boys for tennis, one girl for football and one boy for basketball. In 2015 six learners received bursaries, one for swimming, one for football, two for tennis, one for wheelchair tennis and one for wheelchair basketball.

Gauteng Sport Focus Schools: Rosina Sedibane - Tshwane, Queens - Johannesburg, General Smuts - Sedibeng, Nigel High - Ekurhuleni, Krugersdorp High – West Rand

2.1.5.2. School sport issues - policy, quality training, physical education

The challenge is not coordination of the school sport programme but the training/curriculum. In Gauteng there are 6 levels, and meetings are held at all six levels: There is a working relationship and a programme of action, and it is a long term process. Physical education is a national outcome. Previously physical education was a standalone subject which had allocated resources and an inspector visited schools for quality assurance.

2.1.5.3. Rural schools in Gauteng

There are 3 districts, and the department has a farm and rural schools programme. 7 out of the 15 have rural schools have a farm and rural schools festival in November which includes volleyball, netball and chess. The provincial department also engages with the educators in districts on programmes to ensure their level of education is on par with others.

2.1.5.4. Capacity building

There are two programmes to capacitate educators. The capacity building programmes on coaching, and technical officiating are funded and coordinated by the department, and others by codes and federations, e.g. rugby, chess, netball coordinate jointly with the provincial department of sport in Gauteng.

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2.1.6. Transformation (geopolitical boundaries)

GSC's role is to facilitate dispute resolution amongst its members, and is working on devising and implementing a transformation audit. Federations that do not comply will be deregistered; not all want to cooperate. The current constitution of SARFU limits the national department to instruct the provinces to comply; SARFU has 14 provinces, so the geopolitical boundaries must be demarcated. Even ASA has 11 provinces. They need help in this regard because the federations are said to be hiding behind their constitutions.

2.1.7. Hubs

The 13 hubs in Johannesburg had been reorganised into 7 regions; similarly in other districts, so that there were 15 cluster offices at the time.

2.1.8. Club development

90% of clubs are in townships. In working with the programme much improvement has been found with the clubs. 10% of clubs, boxing mostly, was in other areas. All the swimming clubs are in townships and work is done with municipalities with indoor heated pools. All rugby clubs come from townships and netball has been revived in the province. The national football academy is based at the high performance centre. One of the core things in clubs is capacity building, because many clubs are one man shows. It is desirable to enter them into the club smart programmes so that clubs are more sustainable.

2.1.9. Challenges Gauteng

- With regard to club development, the biggest cost was transport to fixture matches;
- Academy tracking of rural athletes has been a challenge.
- In school sport transformation in schools and support from parents in black townships were regarded as a big problem.

2.2. Meeting at the Gauteng Sport Confederation Offices

The Gauteng Sport Confederation (GSC) represents Gauteng sport to the following stakeholders to develop partnerships. MEC, GDSACR, MMCs, Metropolitan and municipal departments of sport and recreation, SASCO, SRSA, Business, International donors, Sport Federations, School Sport

structures, Academies of Sport and high performance centres, Provincial Sport Council's Presidents Forum, Tertiary institutions. The Gauteng Sports House is based at the Johannesburg athletics stadium and offers accessible, professional working environment for sport organisations in Gauteng.

There are five regional structures in Gauteng Sport Confederation: Ekurhuleni, Johannesburg, Sedibeng, Tshwane, West Rand.

Sport confederation offers a wide range of programmes at the provincial and district levels. Funding is received from SRSA, Gauteng sport department GDSACR, Lottery and SASCOG.

2.3. Gauteng Academy of Sport

The Gauteng Academies of Sport Structure is: SASCOG, Gauteng SC, SC & Gov Academies; Tshwane, West Rand, Westonaria Satellite, Johannesburg, Sedibeng, Ekurhuleni, Federation Academies, Community academies, Private academies. Coaches commission and programmes: The GSC has established the coaching programme in the province and worked with SASCOG to implement a provincial coaches database, Attendance at the national coaches conference, Establishment of federation coaches committees, Implementation of the coaches' framework in the province, Implementation of the training of the coaching leaders in the province.

2.3.1. Challenges identified by the Gauteng Academy of Sport

Federations are not complying with NSRP demarcation. There is a challenge regarding Metro and Municipal departments and MMC buy-in and partnerships in all districts and municipalities, linkage of Municipal programmes to the NSRP, competence / capacity of SC committee members, SCs are not performing, lack of funding to district sports councils, lack of consultation in IDP, misinformation regarding the GSC, and transformation in sport in federations

2.4. Site visit at Rosina Sedibane High School (Tshwane)

Rosina Sedibane Modiba Sports School opened on 24th January 2003 to cater for previously disadvantaged learners (Academic & Sport). The premises used to house the Transvaal College of Education. The school

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offers six priority codes: Athletics, Basketball, Netball, Soccer, Swimming and Tennis and can accommodate 340 learners.

Facilities: 1 functional gymnasium; 1 25 m x 12 m swimming pool; 2 tennis courts; 2 basketball courts; 2 netball courts; 2 soccer fields; 1 soccer training pitch and 1 synthetic soccer field

Funding and sources of income: Parents School Fee, Allocation from Gauteng Department of Education (GDE), GSACR (Fund), Ministerial Sport Bursary. The allocation from GDE went to R2,8 million and the GSACR R200 000 annual allocation is paid to maintain specialised codes to ensure the learners in the specialised codes are supported.

Parent fee: R 2 500.00 (School), R3 132.00 (Sport), R10 668.00 (Boarding).
Amount payable per learner per annum: R16 300.00

The school allocation is R1 693 034.36, and the hostel allocation is R1 158 500.00. The R200 000 focus school allocation from GSACR for 2014 was for coaches' capacity building, Sport Science consumables, affiliation to clubs, installation of irrigation system, landscaping on sports grounds and maintenance of swimming pool. The R200 000 focus school allocation from GSACR for 2015, meant for four floodlights, two grandstand, movable posts, soccer and basketball balls, coaches' capacity building and resurfacing of basketball courts, had not been received at the time of the meeting.

2.4.1. Challenges reported by Rosina Sedibane High School

Systemic, academic, social and psychological: Ministerial bursary payments are not made on time, resulting in the school carrying the cost of learners' fees, and there is no clear reporting system; most of the learners' academic performance is poor, they have little commitment to academics and do not work hard; learners have emotional challenges; learners do not cooperate with intervention programmes and show lack of interest in extra classes offered to those who struggle academically.

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- Financial challenges: Parents do not pay the school and hostel fee in full; 75% of parents pay the school fees; the parents are not able to pay the fees as expected; the school is spending more than it receives from parents; the school has no sponsorship, and many learners are from a needy background.
- Sport challenges: Coaches scout talented learners, but the school loses athletes annually to other schools that offer bursaries; the school has limited sporting facilities, courts are old and need urgent resurfacing, and coaches are paid poorly because the school has limited funds.

2.4.2. Requests by school

The school requested that -

- A clear communication system be made available including the provincial department,
- A workshop for parents, school governing body and senior management team (SMT) to ensure a common understanding of the ministerial commitments by all role players,
- Academic and emotional assessment to be done before placement of learners,
- Allocation for specialised coaching per code,
- Allocation for academic support,
- Timeous submission of first payment per child,
- Scientific testing be done provincially,
- Coaches accompany players during testing - (parents don't have means to assist with transporting the child to OR Tambo etc,

2.5. Ekurhuleni Municipality (24 July 2015)

2.5.1. Programmes and budget aspects for 2015-16 in Ekurhuleni Municipality Sport, Recreation, Arts and Culture Department

Ekurhuleni Municipality accommodates 36 active sporting codes which are involved in sport development programmes. In line with priority sporting codes, the municipality has prioritised athletics and swimming to pilot the Sport Academy Programme .The Gauteng Department of Sport, Arts, Culture and Recreation is engaging with the municipality exploring the opportunity of supporting a high performance gym in Ekurhuleni. The provincial department of SACR will assist Ekurhuleni Sport Academy to test

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all the identified athletes in the 2015-16 financial year. Ekurhuleni sport council requires R10 420 000 in the 2015-16 financial year.

Club development

The club development programme is aimed at facilitating enhanced access to the municipality's programmes through community structures. The municipality frequently has to support federations with ad hoc programmes. Programmes include Aquatics Club Development, Regional netball Programme, Disability Sport, and Federation Support.

Outreach programmes

In order to solve problems experienced with outreach programmes, the Ekurhuleni metro capacitate 20 customer care centres to with the sports continuum. Each customer care centre has a sports council and an Eco gym. The city partners with the province regarding outreach, and has allocated funds for the outreach mandate.

Organogram and line functions

The department experienced a mandate conflict because it had three line functions: arts and culture sport and recreation and libraries, which the municipality solved by adding support systems, approving the new structure in March 2015, thereby separating the facilities function from the sport and recreation function. The municipal sport department is now able to concentrate on delivery of programmes.

Challenges:

The municipality had difficulty accessing the schools to deliver on their school sport mandate. At the time of the meeting they were in the process of concluding a service level agreement with the Department of Education in order to achieve improved access to schools.

2.6. Ekurhuleni Sports Academy

The Ekurhuleni district Sports Academy is based at the Germiston Stadium. The district academy has identified two out of 36 sporting codes to prioritise to support as municipality to pilot the sport academy programme. They intend to add two codes every financial year. Gauteng department of sport arts culture and recreation is engaging with the municipality to explore supporting a high performance gym. The academy has satellites, but has not

partnered with a university. The academy has voted funds for athletes support.

2.6.1. Swimming Academy - Aquatic support

The municipality and EGA have started a second tier Swimming Development Squad which comprises to address the demographics. Swimming Trials are scheduled for August 2015 to determine potential among the new squad. The athletes are supported with clothing and nutritional supplements. All the athletes are white because of the nature of the sport and the selection criteria. Swimming academy is based at the Boksburg indoor swimming pool.

2.6.2. Athletics Academy

Selection criteria for the Athletics Academy Squad had been finalised in the 2014-15 financial year. At the Ekurhuleni athletics Trials in the 2014-15 financial year more than 100 athletes were identified to be part of the Ekurhuleni Athletics Academy Programme. The large number was trimmed to an academy squad of 35 athletes between 13 years old and 16 years old. Competitions included the schools championships. The municipality supported the squad by creating competition opportunities for the athletes during the 2014-15 financial year.

2.6.3. Rugby federations and clubs

Reiger Park Rugby club and Valke rugby federation briefed the delegation on how the development fits in with SA Rugby (SARU) and how it is implemented in Ekurhuleni. The Valke is bound by the SARU transformation plan. Geopolitically the federation is aligned with Ekurhuleni and Sedibeng and all boundaries are aligned. Geopolitically the biggest challenge is from the Lions federation.

Ekurhuleni and Sedibeng rugby are aligned in equal competition structures with top-, second and third-tier leagues. They have integrated the former development clubs into one system, thus Ekurhuleni participates as one area.

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The SARU development programme in the municipality focuses on capacity building and creating participation on certain levels - In this case coaches and technical officials. They allow for salary based employment of officials. Ekurhuleni Valke appointed two development officials focused on school sport.

The school sport rugby programme is structured by means of volunteers. All the schools in Reigerpark now play rugby and will play in the final league in 2015. At one point they were funded through the programme, but SARU had restructured. SARU has redistributed funding. Valke is focusing on capacity building and women's rugby. The Valke fund women's rugby and fund volunteers to operate

3. Findings and concerns

- There was no consistency in availability and quality of data and statistics on participation trends, facilities and expenditure;
- There appeared to be little knowledge of and dissemination of information about the duty of government agencies/departments to collect, process and forward data and numbers with regard to geographic spread, participation trends, facilities and expenditure;
- The provincial department was awaiting a directive on provincial geographic areas from national department, without which they were not able to proceed;
- Very little detailed information on expenditure and programmes was provided by the Eastern Cape Department of Sport, Arts and Culture;
- There seemed to be misunderstanding among some stakeholders about the policy on school sport,
- The 2011 memorandum of understanding on school sport was implemented in a punitive way in that schools that had not registered did not benefit, which translated into the children not receiving the intended benefit;
- School sport was found vulnerable in terms of delivery.

3.1. Findings Eastern Cape

- It seemed as if the provincial department's programmes for the 2015-16 financial year were saturated around events linked to commemorative dates;
- It was not clear whether the provincial department had signed a memorandum of understanding with regard to the MIG allocation;
- It appeared as if there were two leagues in rugby: Those in the system where there were psychologists, massage and physiotherapists and sufficient equipment, and those out in the rural areas who had no chance of accessing such facilities, playing under rough conditions with half the equipment;
- Amateur boxing and the SA National Boxing Organisation (SANABO) were experiencing challenges, especially regarding grant funding which fluctuated year by year. The provincial department transfers the money through the Sports Council, and there had been concern about whether the Sports Council was aware of the needs of amateur boxing;
- Some rural schools (no fee schools) did not participate in school sport and competitions.

3.2. Findings: Dale College School

- The financial and practical support of parents and old boys was invaluable;
- Transport of learners to the practice sessions at Dale is problematic, even though participants received financial assistance from the provincial department;
- It was hoped that the practice of championing neighbouring schools will be implemented nationwide.

3.3. Findings (EC Boxing)

- There were two boxing promoters associations within the province and this is in contravention of the Sec 28(3) of the South African Boxing act of 2001;
- The Minister of Sport and Recreation had set up a task team that should resolve the disputes of promoters in the EC;
- The concerns raised by the promoters have a potential to delay the development of boxing in the province if they cannot be resolved;

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- The matters of dispute that had been raised resulted from funding allocation by the provincial department.

3.4. Findings: NMBMM

- NMBMM had not complied with spending the 15% grant allocation for sport and recreation facilities;
- The NMBMM sport department was understaffed because of budget allocations, moratorium on filling vacancies and local government task grading, and did not have enough money to maintain existing facilities adequately;
- The NMBMM had not fully consulted with the stakeholders within the sport fraternity to determine the facility needs of the metro;
- There was a lack of communication between the local authority and the sport clubs.

3.5. Findings (Rosina Sedibane School)

- The school spent more money than its budget allows and has not resurfaced its sport field as required;
- The school had not received the R200 000 payment late in the financial year;
- The school had not attempted to access lottery funding;
- The school did not have the correct post establishment for a sport school;
- SRSA did not pay the money to the school, since the previous year's funds were not accounted for and SRSA paid the money to the parents who visited the department's office with complaint that they did not receive certain things the year before. The principal did not respond to inquiries in this regard by SRSA.

3.6. Findings (Ekurhuleni municipality)

- The link between overall projects and the impact it had on communities (sport and recreation related service to communities) was not readily apparent;
- There seemed to be an imbalance in terms of investment of recreational facilities vs sport facilities;
- Ekurhuleni had its own funding that can be used for infrastructure;

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- Ekurhuleni municipality had implemented the marketing and communication objective in the conclusion of the NSRP: "The NSRP needs to be supported by a marketing and communication plan with a two-pronged approach focusing on: Communicating the value and benefits associated with participating in sport and recreation supported by accurate and relevant details of how and where to get involved. There is general consensus that there seems to be a dearth of information regarding what is available and how to access the sport and recreation activities available." The municipal department visited community members in communities and involved them in programmes such as mass participation aerobics, and communicated through local radio interviews, flyers, posters and social media, and by reaching out to the community;
- Ekurhuleni municipality separated line functions in its department of sport by creating a standalone structure for facilities.
- The municipality's presentation did little to highlight the progress achieved in the past regarding the maintenance and development of sports facilities.

4. Conclusion

A measure of success has been achieved in delivering on the objective set out in section 3: Roles and responsibilities of the National Sport and Recreation Plan: "There is a need for a coordinated, integrated and aligned national sport and recreation system within which all component parts are aligned with the National Sport and Recreation Plan to be subjected to a regular, objective monitoring and evaluation framework." However, there is much room for improvement in terms of coordination and setting up a monitoring and evaluation framework, since data gathering, processing, reporting sharing and availability is glaringly absent. The latter can possibly be attributed to a shortage of staff, inadequate training and skills, lack of knowledge of the duty to report and how to gather, package and present the requisite data. An aggressive cross-sectoral information and training drive by the relevant department may serve to alleviate the challenge.

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5. Recommendations

The Committee recommends:

5.1. EC Provincial Department of Sport, Arts and Culture

That the Minister of Sport and Recreation -

- Insists that the provincial department should collaborate with the municipalities to ensure that there is a collective planning and implementation of the MIG for the building of sport and recreation facilities in the province;
- Encourages the provincial department to improve its relationship with SALGA in order to improve the planning and building of sport facilities in the province;
- Encourage the provincial department to utilise the DORA allocated funds towards sustainable sport development programme which would have long term participation effect and not only spend on events;
- Follows up with the provincial department of sport with regard to the matters of Boxing that have been raised and are being attended to;
- Ensures that the provincial department delivers school sport to all schools in the province including the ones in rural areas;
- Encourages the provincial department to work closely with the provincial department of education in finding a solution regarding learner transport and participation in school sport activities.

5.2. Grants

That the Minister of Sport and Recreation -

- Encourages the provincial departments of sport and recreation to support municipalities in the early stages of the IDP process to define their needs in order to achieve required outputs with regard to NSRP outcomes;
- Explores the possibility of SRSA staff attending annual planning sessions of receiving MIG municipalities;
- Engages with appropriate government structures on upskilling role players at all levels in implementing norms and standards, data gathering, processing as well as reporting and monitoring;

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- Encourages municipalities to ensure that there is consultation between all relevant stakeholders in sport to fast-track the use of the ring-fenced 15% of the P-component of MIG for sport infrastructure in order to streamline planning at municipal level;
- Encourages municipalities, through provincial departments, to improve planning for and management of facilities;
- Explores ways to intensify the implementation of the stipulation in the NSRP that the sports development agenda be elevated among other competing needs, that the roles and responsibilities of the stakeholders in the sector be clarified and communicated to the general public, together with accurate and relevant details of how and where to get involved in sport and recreation activities and how to access the sport and recreation activities available.

5.3. Nelson Mandela Bay Metropolitan Municipality (NMBMM)

That the Minister of Sport and Recreation -

- Follows up with the provincial department regarding the participation of federations in IDP formulation to include the needs of all sporting codes at the Nelson Mandela Bay Metropolitan Municipality;
- Encourages the provincial department to ensure that the money for sport facilities is used for sport facilities only;
- Encourages the municipality to also allocate funds to support sport development programmes and local associations.

5.4. Boxing SA

That the Minister of Sport and Recreation -

- Upon receiving the completed report, updates the Portfolio Committee of the work of the task team that has been appointed to address the concerns of EC Boxing Promoters and ensures that there are systems in place to allow for effective Boxing management.

5.5. Gauteng

That the Minister of Sport and Recreation -

- Engages the Minister of Basic Education with regard to finalising the school sport policy.

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5.6. Rosina Sedibane school

That the Minister of Sport and Recreation -

- Encourages the Gauteng provincial department of sport to ensure that the school follow and document the correct communication line from district level upwards, and identify faulty communication;
- Encourages the Gauteng provincial department of sport to ensure that the principal submits an application for maintenance of infrastructure to the district office and cc the province, since the provincial department does not make applications for windows etc;
- Encourages the Gauteng provincial department of sport to ensure that the school applies for additional funding if the R200 000 is not enough, illustrating how the money had been spent;
- Follows up with the Gauteng provincial department of sport to ensure that the school discuss the process regarding learner retention with the Gauteng department of sport;
- Follows up with the Gauteng provincial department of sport in Gauteng to ensure that the department consider identifying another sport school in the area;
- Ensures that the gender equality programme which seeks to address transformation and gender balance in all sporting bodies is implemented and adhered to.

5.7. Ekurhuleni municipality

That the Minister of Sport and Recreation -

- Encourage the Gauteng provincial department of sport to empower the provincial sport confederations to conform to the geopolitical boundaries and have their own capacity up to municipal level;
- Monitor that the Gauteng provincial department of sport establishes cooperation with municipalities to guard against duplicating programmes and services offered by national or provincial entities.

5.8. Ekurhuleni Sport Academy

That the Minister of Sport and Recreation -

- Cooperate with the Gauteng provincial department of Sport to ensure that federations and sport confederations are encouraged to facilitate public participation in terms of determining and building necessary facilities;

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- Follow up with the provincial department of Sport in Gauteng to ensure that an audit of facilities is conducted in Ekurhuleni;
- Work with the Gauteng provincial department of Sport to ensure that the academy liaise with SA Institute for Drug-free Sport (SAIDS) with regard to antidoping programmes.

Report to be considered.

National Council of Provinces

1. Report of the Select Committee on Social Services on the Local Government: Municipal Electoral Amendment Bill [B22B-2015] (National Assembly – sec 75), dated 25 January 2016:

The Select Committee on Social Services, having considered the subject of the *Local Government: Municipal Electoral Amendment Bill [B22B-2015]* (National Assembly – sec 75), referred to it, reports that it has agreed to the Bill.

Report to be considered.

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No 164—2016] THIRD SESSION, FIFTH PARLIAMENT

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

TUESDAY, 13 DECEMBER 2016

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ANNOUNCEMENTS**National Assembly****The Speaker****1. Request for filling of vacancies in Icasa**

(1) A letter dated 30 November 2016 has been received from the Minister of Communications –

- (a) Informing the Assembly that the terms of office of Ms Nomvuyiso Batyi and Ms Katharina Pillay, councillors of the Independent Communications Authority of South Africa (Icasa), will expire on 31 January 2017; and
- (b) Requesting the Assembly to commence with the process of filling the vacancies in terms of section 5 of the Independent Communications Authority of South Africa Act, 2000 (Act No 13 of 2000).

Referred to the **Portfolio Committee on Communications** for consideration and report.

2. Appointment of whips

- (a) The following member has been appointed as a whip of the African National Congress in the National Assembly with effect from 1 October 2016:

Mabe, P P

- (b) The following members have been appointed as whips of the Democratic Alliance in the National Assembly with effect from 6 December 2016:

Boshoff, H S
Figg, M J
Mackenzie, C

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3. Referral to Committees of papers tabled

- (1) The following papers are referred to the **Portfolio Committee on Environmental Affairs** for consideration and report. The Report of the Auditor-General is referred to the **Standing Committee on Public Accounts** for consideration:
 - (a) Report and Financial Statements of Vote 27 – Department of Environmental Affairs for 2015-16, including the Report of the Auditor-General on the Financial Statements and Performance Information of Vote 27 for 2015-16.

TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Finance

- (a) Report to Parliament on the over- and underspending of municipalities as at 30 June 2016.

2. The Minister of Trade and Industry

- (a) South Africa's Protocol of Accession to the Agreement Establishing the Advisory Centre on World Trade Organisation (WTO) Law (ACWL), tabled in terms of section 231(2) of the Constitution, 1996.
- (b) Explanatory Memorandum to South Africa's Protocol of Accession to the Agreement Establishing the Advisory Centre on World Trade Organisation (WTO) Law (ACWL).

National Assembly

1. The Speaker

- (a) Reply from the Minister of Rural Development and Land Reform to recommendations in *Report of Portfolio Committee on Rural Development and Land Reform on Public Hearings on the Implementation of the Recapitalisation and Development Programme held on 4-5 February 2015*, as adopted by the House on 15 March 2016.

Referred to the **Portfolio Committee on Rural Development and Land Reform**.

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- (b) Final Report of South African Human Rights Commission on African Diaspora Forum and 30 others v King Goodwill Zwelithini.

Referred to the **Portfolio Committee on Cooperative Governance and Traditional Affairs** for consideration and to the **Portfolio Committee on Justice and Correctional Services**.

COMMITTEE REPORTS

National Assembly and National Council of Provinces



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PO BOX 15 Cape Town 8000 Republic of South Africa

www.parliament.gov.za

**ANNUAL REPORT OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE FOR
THE FINANCIAL YEAR ENDING 31 MARCH 2016**

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*[Tuesday, 13 December 2016]***1. INTRODUCTION**

The Joint Standing Committee on Intelligence “The Committee or JSCI” is established in terms of section 2 of the Intelligence Services Oversight Act 1994, (Act No. 40 of 1994) (“The Oversight Act”). The purpose of the Committee is to perform an oversight function over the intelligence and counter-intelligence functions of the Services which includes the State Security Agency (SSA), the intelligence division of the South African National Defence Force and the intelligence division of the South African Police Service. The Committee hereby presents its report to the Parliament of the Republic of South African in accordance with section 6 of the aforementioned act.

2. COMPOSITION OF THE COMMITTEE AS AT 31 MARCH 2016

Name	Political party
Ms C C September	NA (ANC) Chairperson
Ms D E Dlakude	NA (ANC)
Ms Z S Dlamini-Dubazana	NA (ANC)
Mr D D Gamede	NA (ANC)
Mr D M Gumede	NA (ANC)
Mr C Nqakula	NA (ANC)
Mr J P Parkies	NCOP (ANC)
Mr O J Sefako	NCOP (ANC)
Mr J J Skosana	NA (ANC)
Ms T Wana	NCOP (ANC)
Mr H B Groenewald	NA (DA)
Mr H C Schmidt	NA (DA)
Mr DJ Stubbe	NA (DA)
Mr R N Cebekhulu	NA (IFP)
Mr B H Holomisa	NA (UDM)
Mr S C Mncwabe	NA (NFP)

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Mr D L Twala (Economic Freedom Fighters) resigned as a Member of Parliament and the position was vacant as at 31 March 2016.

3. LEGISLATIVE MANDATE

Section 3 of the Oversight Act provides that the Committee, in exercising its oversight responsibility, performs inter alia, the following functions:

- Obtain audit and other reports from the Auditor-General and to consider the financial statements of the services;
- Obtain reports from the Evaluation Committee;
- Obtain reports from the designated judge as defined in the Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002 (Act No. 70 of 2002);
- Obtain reports from the Ministers responsible for the Services;
- Consider and make recommendations on the report and certificates issued by the Inspector-General;
- Consider and make recommendations on all proposed legislation and regulation relating to any Service or any other intelligence or intelligence related activity;
- Review and make recommendations about co-operation, rationalisation and demarcation of intelligence functions performed by the Services;
- 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 provided such complaint is not trivial, vexatious or made in bad faith;

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- Refer any matter in relation to an intelligence activity which the Committee regards as relevant to the promotion and respect of the Bill of Rights to the South African Human Rights Commission;
- Consider and make recommendations on matters falling within the purview of the Act and referred to the Committee by the President or a Minister responsible for any Service or Parliament;
- To request relevant officials to explain any aspect of reports furnished to the Committee;
- To hold hearings and subpoena witnesses on any matter relating to intelligence and national security; and to
- To consult with any member of Cabinet in relation to any function performed by the Committee in terms of the Oversight Act.

4. ACTIVITIES OF THE COMMITTEE

The Committee hereby reports on the following matters for the period 1 April 2015- 31 March 2016.

4.1 Allegations of Rogue Intelligence Unit at the South African Revenue Service (SARS)

The Joint Standing Committee on Intelligence “the Committee” (JSCI) received briefings from the South African Revenue Service (SARS) and the Office of the Inspector General of Intelligence on 12 May 2015. The SARS delegation was led by the Deputy Minister, Hon M Jonas accompanied by the Commissioner, Mr T Moyane and other seniormanagement members. Adv J Govender represented the Office of the Inspector General. The Minister of State Security was also present but did not make any presentation.

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4.1.1 Presentation by the Deputy Minister of Finance and the Commissioner of SARS

The Committee was briefed on the Sikhakhane Report and the Advisory Board process that was headed by the retired Justice F Kroon. The findings of the Sikhakhane Report were as follows:

- The establishment, existence and operations of the National Research Group and or the High Risk Investigation Unit (HRIU) were unlawful and without the requisite statutory authority;
- That the unit was operated ostensibly in a covert manner and created a climate of intrigue, fear and subterfuge within SARS;
- Prima facie evidence that the unit may have abused its power and resources by engaging in activities that reside in other agencies of government and which the SARS had no authority to form;
- Prima facie evidence that the unit's activities may have included rogue behavior that had the potential to damage the reputation of SARS as an organ of state.

The Advisory panel led by retired Justice Kroon was to advise on the outcome of the Sikhakhane Report and to inter alia review governance structures.

The Commissioner advised that going forward it was a priority to establish a stable and efficient SARS tasked with the collection of all revenue due to the State. A review is being undertaken that is looking at the SARS operating model, value for money on the investment made by SARS, the efficiency and efficacy of systems, ownership of intellectual property to build internal capability and to ensure long-term sustainability and good governance processes. Furthermore, there are discussions and negotiations with the State Security Agency that have commenced with a view to establish a unit that will combat illicit trade within the parameters of the law and it is proposed to be located in SSA.

4.1.2 Presentation by the Office of the Inspector General of Intelligence

The Minister of State Security informed the Committee that he requested the Office of the Inspector General of Intelligence to investigate the allegations made against the SSA in an article published in the City Press on 10 August 2014. In the absence of an Inspector General of Intelligence, officials in the Office of the Inspector General briefed the Committee on the findings of the investigation. SARS falls outside the Inspector General's mandate and as such the report focused on various media allegations made against SSA. The Committee was informed that the allegations in the City Press article were investigated and that SSA was exonerated.

4.1.3 Committee Findings

- There is a need for an intelligence unit at SARS to combat illicit trade, amongst other things, but such intelligence capacity must operate within the legal framework;
- Investigations relating to criminal charges, if any, must reach finality as quickly as possible.

4.2 Process for filling the vacancy of the position of Inspector General of Intelligence

The Committee was seized to the process to fill the position of the Inspector General of Intelligence. The term of the previous incumbent came to an end on 31 March 2015. The position was advertised from 10 May 2015 and closed on 21 May 2015. The Committee received 58 applications. A subcommittee was established to consider applications and short candidates who met requirements. Shortlisting and interviews were to be held in open meetings.

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The subcommittee submitted to the full JSCI Committee the following 11 (eleven) candidates for interviews: Mr Cecil Valentine Burgess; Mr Clinton Paul Davids, Mr Mathe Matthews Diseko, Mr Imtiaz Fazel, Ms Desire Fouche, Ms Annalize Gerber, Advocate Jayashree Govender, Mr Smanga Phillip Jele, Mr Andile Barnabas Kilifele, Mr Mampogoane Petrus Nchabeleng and Mr Mahlubandile Itumeleng Radebe. Interviews took place on 09 and 10 June 2015. On 17 June 2015 the Committee deliberated on the outcome of the interviews and Mr Cecil Valentine Burgess was nominated as the successful candidate to fill the position of the Inspector General of Intelligence.

The Committee adopted the report and it appeared in the ATC on 18 June 2015. During March 2016 the National Assembly resolved to refer the report back to the Committee for further processing. On 30 March 2016 the Committee considered the matter and resolved to re-advertise the position.

4.3 Annual Reports and Auditing of the Secret Services Accounts of the Intelligence Services

4.3.1 Annual Report: State Security Agency

The Minister of State Security informed the JSCI that the department achieved most of its set targets but was concerned about cybercrime and terrorism but that the department was making good progress on those matters. The department received a qualified report due to limited access to sensitive information that could compromise national security. The Minister further noted that the issue of the Inspector General should be finalised and a future discussion on the proposal of a deputy Inspector General should happen in the near future.

The Director-General provided details of the projects undertaken during the year under review with specific emphasis on those partially achieved. The Director-General proposed striking a balance and building a greater understanding in respect of the auditing of the intelligence community. In this regard the Deputy Minister proposed a workshop to build trust and understanding with auditors and the intelligence services.

4.3.2 Annual Report: Crime Intelligence

The JSCI was unhappy with the style and orientation of the report of the police's Crime Intelligence. The Minister suggested an agreed format of reporting between the Portfolio Committee on Police and the JSCI, to align the reports submitted to the two committees.

Crime Intelligence indicated that during the year under review it achieved all the targets that were set in its Annual Performance Plan. Irregular expenditure was due to non-compliance with Treasury Regulations as documents were seized during a court case. Until the documents were returned, the irregular expenditure would remain an issue. A significant improvement was that outstanding policies had been finalised. The Committee noted that notwithstanding the presentation not being in line with the Committee requirements, there has been an improvement.

4.3.3 Annual Report: Defence Intelligence

The delegation was led by the Minister of Defence and Military Veterans. The Minister gave a brief overview of the Annual report. The Special Defence Account received a qualified audit for the first time as a result of limited access to sensitive information by the Office of the Auditor General of South Africa (AGSA).

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The presentation by Defence Intelligence indicated that most of the targets that were set were achieved. Challenges that were reported included funding of the Defence Intelligence function, the military degree and the relocation of Defence Intelligence to a new headquarters. The Committee asked for plans on the headquarters in order to assist where possible. The Minister instructed the delegation to arrange for another meeting to provide detailed steps on the project of the headquarters to the JSCI including any blockages and challenges that may be hindering the relocation progress.

4.3.5 Audit-Reports

Each Service received a qualified report from the AGSA. The Audit Reports are attached hereto as Annexure B. Notwithstanding the qualified reports there has been positive progress, especially in respect of the SSA. There will however always be situations where the AGSA will not have access to certain information while conducting the Audit.

The AGSA advised that due to the intelligence environment they do not have unlimited access to information. As a result it would be misleading to give an unqualified audit opinion. Spending that cannot be verified by the supporting documentation will inevitably be classified as irregular expenditure. There will however be continuous engagements with the Services on this matter. All Ministers in the security cluster will be met by the AGSA together with their Directors-General to discuss the matter.

During the Committee oversight visit in January 2016 the Committee requested all the Services and the Office of the Inspector General to meet with the Auditor General and report thereafter to the Committee on the outcome thereof.

4.3.6 Committee Findings and Recommendations:

- A balance must be found between the need for accountability and good financial governance and access to information that has national security and intelligence implications.
- All the Services must report to the Committee on the outcome of engagements with the Auditor-General.
- The funding of the Intelligence Services is a concern to the Committee. The Minister of Finance will be invited to advise on the correct measures the Committee can explore regarding the Budgetary Review process that the JSCI is currently not participating in;
- Economic Intelligence and Cybercrime must be prioritised by the Services going forward. Each Service must indicate how they contribute to improving the security of the State against Economic and Cybercrime.
- The Committee expressed concern that presentations by the Services did not provide the Committee with information regarding crimes such as drug trafficking, copper theft and illegal mining.
- The Committee required that all details of Crime Intelligence work are presented, not only overt operations. The mere reporting of facts and figures does not place the Committee in a position to determine whether a difference is being made on the ground, and the value being received for the budget that is provided.

4.4 Annual Report: Office of the Inspector General of Intelligence

As a result of the vacancy in the position of Inspector General of Intelligence (IG) senior officials presented the activities of the Office of the Inspector General (OIGI) for the year under review. Flowing from the presentations the Committee observed the following:

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- The vacancies at senior management level at National Communications (NC) has an impact on the execution of the mandate of NC;
- Information leakage from the Services is a cause for concern;
- The absence of a Risk Management Committee to monitor internal risk controls;
- That the Committee is unable to consider and make recommendations on the report and certificate transmitted to it in terms of section 7(7)(d) read with sections 7(11)(c) and 7(11)(d) of the Oversight Act.

4.5 Report by the Designated Judge on the Interception of Electronic Communications

The Committee, in accordance with Section 3(a)(iii) of the Intelligence Services Oversight Act, 1994 (Act 40 of 1994) may obtain from any designated judge as defined in section 1 of the Regulation of Interception of Communications and Communication related Information Act, 2002, (RICA), 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 contemplated in section 3 of RICA.

The Report by the Designated Judge is attached hereto as Annexure C.

During January 2016 the Committee held a workshop with stakeholders involved in the implementation of RICA and findings and recommendations are included.

4.6 Border Management: Oversight Visit to the Province of KwaZulu Natal

4.6.1 Introduction

A parliamentary delegation comprising the Joint Standing Committee on Intelligence as well as the Portfolio Committees on Police, Home Affairs, Defence and Military Veterans, and International Relations and Cooperation embarked on a five-day border management oversight visit to KwaZulu Natal, on 15-18 September 2015. The purpose of the oversight visit was to focus on the following areas:

- *Land borders:* Challenges related to land border safeguarding; all forms of cross-border crime; crime and corruption at the ports of entry; border safeguarding of the areas between ports of entry; community engagement to ascertain levels of inter-departmental cooperation; and, readiness to integrate the Border Management Agency (BMA).
- *Maritime borders:* Challenges related to crime and corruption at the harbours; plans for the integration of the BMA; means to ensure the success of Operation Phakisa (advancing the Blue Economy); maritime territorial control including piracy and maritime crime; and, the status of the African Integrated Maritime Strategy.
- *Air borders:* Challenges related to airspace control; crime and corruption at air ports of entry; the status of radar control relating to South Africa's airspace; and, the BMA's approach to air border safeguarding.

A full report on this Joint Oversight Visit will be tabled separately from this report. In preparation for the oversight visit the JSCI received briefings from Crime Intelligence, Defence Intelligence and the State Security Agency.

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South Africa's borders encompass land, air and maritime. The expanse and nature of South Africa's borderline contributes to complex safeguarding. Due to the porous nature of the country's borders, border safeguarding faces a number of problems which enable, inter alia, illegal migration; the spread of cross country diseases, human trafficking and other cross-border crimes. These problems are compounded by the threat of corruption and a lack of funding for border safeguarding purposes. Given these ongoing concerns, securing the borders must be prioritised.

4.6.2 Briefing on Border Management by Intelligence Services

Cross Border Criminal activity include inter alia:

- vehicle smuggling;
- poaching;
- illegal crossings;
- foreigners gaining access to government grants from South Africa;
- cigarette smuggling;
- livestock theft;
- Weapon smuggling from Mozambique and Swaziland via KZN to Lesotho, and
- Breach of airspace by low flying aircraft

The fight against the abovementioned cross border criminal activity and securing our borders is hindered by below average security at points of entry and inadequate scanners and CCTV equipment. Staff securing borders are not all adequately trained and some entry points are understaffed. Lack of adequate management personnel contributes to lack of control and increased corruption and collusion by staff. Fences along the border are in poor condition and border

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patrols are ineffective. Maritime border security is hampered by the inadequate number of appropriate patrol boats while insufficient radar coverage compromises the safeguarding of air space.

Border security can be improved by having a greater visibility of the South African National Defence Force at identified areas, intelligence operations to be conducted at criminal hot spots and an increase of planned patrols at designated areas.

4.6.3 Committee findings and recommendations

- Intelligence operations are not yielding the desired outcomes
- Officials are inadequately trained and equipped
- Installation of CCTV cameras and scanners at land border posts are not prioritized
- There is no central database of illegal entrants, stowaways and asylum seekers to identify repeat offenders and persons who abuse refugee status applications.
- Corrupt and criminal activities by locals, government officials and taxi drivers providing information to illegal crossers and smugglers regarding roadblocks or presence of security forces at different points of the border line are not properly managed.
- Inadequate radar coverage compromises air border security.
- The Committee resolved to invite the Ministers of the Security Cluster to discuss the concerns identified during the joint oversight visit to the borders of KZN and to prioritise border management going forward.

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4.7 Regulation of Interception of Communications and Communication related Information Act, 2002, (RICA): Oversight Visit from 25 to 29 January 2016

4.7.1 Introduction

The Committee visited the Interception Centres Office (OIC), and National Communications (NC). It also participated in a workshop with stakeholders involved in the implementation of RICA.

The workshop was a joint initiative between the Office of the Judge for interception and the Committee to better understand the challenges in the implementation of RICA. Amongst the stakeholders that attended were the Department of Justice and Constitutional Development, State Security Agency, Post and Telecommunication, Communications, Crime and Defence Intelligence.

4.7.2 Visit to the Office of Interception Centres (OIC)

The OIC is established in terms of section 33 of RICA and is responsible for, inter alia, the implementation of the provisions of RICA in relation to interception activities. The Acting Head of the OIC informed the Committee that the main function of the OIC is to facilitate the interception of electronic communication for the Services. The process to intercept requires firstly a warrant from the designated Judge. Secondly the warrant must be sent to the Service Provider who will then route the electronic communication of the target listed in the directive to the OIC. The OIC therefore does not have capability, on its own, to intercept any electronic communication without the warrant and the routing of the communication to the OIC by the service provider.

The Acting Head summarised the challenges facing the OIC as follows:

- Rapid technological advancement has resulted in technical directives being outdated. Most of the equipment installed at the OIC was done at its establishment in 2002.
- Advancement of technology has also resulted in a gap in the ability to intercept certain communications
- An improved electronic application system will enhance the directive application process and the fight against crime.

In concluding the OIC recommended the following:

- Review of RICA legislation
- Electronic application for an interception directive to be implemented as quickly as possible
- Complete review of the structure
- Disaster recovery system should be established

4.7.3 National Communications (NC)

National Communications (NC) is a branch within SSA that is comprised of the OIC, the National Communications Centre and COMSEC which was previously Electronic Communications Security (Pty) Ltd.

The Acting Head of National Communications summarised part of the NC function as follows:

- To analyse the electromagnetic spectrum and programme the acquired signals to extract usable information;

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- To install and maintain Signal Intelligence (SIGINT) collection platforms; and to
- Conduct feasibility studies to identify new geographic signal collection sites

Similarly to the challenge experienced by the OIC, rapid advances in technology are not compatible with the outdated technology NC is presently using. NC summarised its challenges as follows:

- Rapidly changing technology;
- Inability to collect SIGINT information for
 - Intelligence purposes;
- Limited Access to relevant source of signals;
- Signal coverage due to the geographic position of South Africa; and
- Intellectual and professional capacity in respect of Communications Security.

4.7.4 Workshop with RICA stakeholders

The workshop laid a foundation for further work that the Committee will pick up during the next reporting cycle before specific recommendations are made. The committee found that RICA is in urgent need of review. The outdated legislation, together with the outdated technology provides a gap that is exploited by criminals. There are many Stakeholders involved in the implementation of RICA they should work much more closely together. The Committee noted the good working relationship, and a level of trust, between the Designated Judge and the LEA's which contributed in achieving the balance between protecting the constitutional right to privacy and fighting crime.

Recommendations

- The funding of the Intelligence Services is a concern to the Committee. The Minister of Finance will have to advise on the correct measures the Committee can explore regarding the Budgetary Review process.
- Economic Intelligence and Cybercrime must be prioritised by the Services, with each Service indicating how they contribute to improving the security of the State against Economic and Cybercrime factors.
- SARS should establish an intelligence unit to combat illicit trade, amongst other things, but such intelligence capacity must be created and deployed within the legal framework.
- Relevant Ministers dealing with communication related matters (RICA) must be able to address the responsibilities and accountabilities of the Service Providers and to discuss the reliability of the country on the service providers.
- A central database of illegal entrants, stowaways and asylum seekers to identify repeat offenders and persons who abuse refugee status applications, should be established.

Report to be considered.

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GLOSSARY OF ACRONYMS

AGSA	Auditor General of South Africa
BMA	Border Management Agency
IG	Inspector General
JSCI	Joint Standing Committee on Intelligence
KZN	Kwazulu Natal Province
NC	National Communications
OIC	Office of Interception Centres
OIGI	Office of the Inspector General of Intelligence
RICA	Regulation of Interception of Communications and Communication – related Information Act, 2002 (Act No. 70 of 2002)
SARS	South African Revenue Service
SIGINT	Signal Intelligence
SSA	State Security Agency

**ANNUAL REPORT ON INTERCEPTION
OF
PRIVATE COMMUNICATIONS
PERIOD 2014/2015**

By JUSTICE YVONNE MOKGORO

Designated Judge

To : Joint Standing Committee on Intelligence: Parliament

Date: 15 October 2015

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STRUCTURE

- 1. INTRODUCTION**
- 2. INTERCEPTION**
- 3. INTERNATIONAL LAW**
- 4. SOUTH AFRICAN LEGISLATIVE FRAMEWORK**
 - 4.1 Prohibition of Interception of Communication**
 - 4.2 Interception in case of Emergency**
 - 4.3 Application for issuing of directions and entry warrants**
- 5. KEEPING OF RECORDS BY HEADS OF INTERCEPTION**
- 6. SUPPLEMENTARY DIRECTIVES REGARDING APPLICATIONS**
- 7. THE ACT vs RIGHT TO PRIVACY**
- 8. CHALLENGES**
- 9. RICA AND THE FUTURE**
- 10. FULL STATISTICAL INFORMATION OF APPLICATIONS**
 - 10.1 The National Intelligence**
 - 10.2 The South African Police Service**
 - 10.3 The South African National Defence Force**
 - 10.4 The Financial Intelligence Centre**

1. INTRODUCTION

The need for good quality and timely intelligence to counter crime and security threats cannot be exaggerated. For that reason, good quality must include reliability of the intelligence gathered. Although the interception of electronic communications has for a number of obvious reasons become a preferred method of gathering crime intelligence, it is critical to be cognisant of the constitutional limitations of an intelligence method of interception as a first-even in the face of highly organised criminal syndicates.

The idea is to continuously strike the fine balance between ensuring legal compliance without frustrating effective intelligence method. This test is that of justification, finding good cause, based on the facts of the particular case as required in Section 16(2)(a) of the Regulation of Interception of Communications and Provision of Communication-Related Information Act (RICA), Act 70 of 2002.

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Further, the escalation of cyber-crime and its increasing sophistication continue to pose grave challenges to law enforcement agencies fulfilling their duties optimally and most efficiently. Crime syndicates in particular, utilize these technologies successfully and with ease, planning and perpetrating serious crimes like:

- Human trafficking;
- drug dealing and drug trafficking;
- money laundering;
- corruption and fraud;
- kidnappings;
- assassinations;
- terrorism;
- heists; etc

This state of affairs, together with the escalating rate of technological crime and highly sophisticated criminal methods has made interception a popular method of investigation not only in South Africa but in almost every country in the world. Thus, the world over, interception of communications relative to the right to privacy and human dignity, is generally considered a necessary evil to protect law abiding citizens from criminal conduct.

2. INTERCEPTION

Lawful interception plays a crucial role in advancing intelligence as part of gathering the investigative method. It represents an indispensable means of gathering criminal intelligence.¹ The Regulation of Interception of Communications and Communication-related Information Act, 2002 (Act 70 of 2002), (“RICA”), was designed to allow the State to intercept communications and provide communication-related information during the investigation of serious crimes. The process must, however be legal in that it must be authorised by the designated judge.

The RICA provides the necessary guidance and requires strict compliance with the procedure that should be undertaken when applying for an interception direction from the designated judge.² When doing so, the RICA demands thorough appreciation and application of section 14 of the Constitution, which relates to the right to Privacy.

For that reason, the application for an interception direction must be considered as a last resort, as the RICA seeks to guard against its abuse and the violation of constitutionally protected rights.

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

² 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.

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3. INTERNATIONAL LAW

To detect and investigate crimes that are committed through the use of electronic technology has been a global challenge for years. This resulted in the approval of the use of interception devices by the Council of Europe Convention, to which South Africa is a signatory. Almost all countries in the world, for example, the United Kingdom (Regulation of Investigatory Powers Act, 2000), the United States of America (, inter alia, Title III of the Omnibus Crime Control and Safe Streets Act of 1968 as amended), Australia (Telecommunications (Interception) Act 1979), New Zealand (Crimes Act and Misuse of Drugs Act), various countries in Europe etc, have adopted legislation to regulate the lawfully intercepted communications in order to combat criminal activities. In general the interception and monitoring of communications in all these countries balance the subject's right to privacy with that of the need to investigate and detect crime. Interception of communications in these countries is only allowed if it is judicially sanctioned or approved by an independent higher authority.

4. SOUTH AFRICAN LEGISLATIVE FRAMEWORK

To deal with the question of finding better mechanisms in addressing this challenge, the South African Law Reform Commission (SALRC) felt it was important to undertake a review of the effectiveness of the then Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992). The investigation had shown that the Interception and Monitoring Prohibition Act, was outdated in that it did not adequately deal with new developments in the field of electronic technology and the use thereof in the commission of crimes.

As a result of the recommendations of the SALRC the Interception and Monitoring Prohibition Act, was replaced by the RICA. The aims of the RICA are, inter alia, to:

- (a) Protect subjects of the Republic against the unlawful interception of communications;
- (b) oblige all electronic communications service providers (ECSPS) to provide a service which is interceptable and which is able to store communication related information;
- (c) provide for a structure which is responsible for the lawful interception of communications;

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- (d) oblige ECSPS to record and store information which can be used to identify their customers;
- (e) prohibit the possession and manufacturing of interception devices;
- (f) provide for the lawful interception of communications in emergency situations;
- (g) provide that the interception of communications must, unless the RICA provides otherwise, be approved by a designated judge.

Some of these aspects are dealt with in more detail below:

4.1 Prohibition of interception of communication

The Regulations on Interception of Communications prohibit any person to intentionally intercept or attempt to intercept, or otherwise procure any other person to intercept or attempt to intercept, at any place in the Republic, any communication in the course of its occurrence or transmission unless it is done in terms of the provisions of the RICA.³

³ Section 2

4.2 Interception in cases of emergency

In a case of an emergency, where there are reasonable grounds to believe that an emergency exists by reason of the fact that the life of another person is being endangered, the applicant can orally request the ECSP concerned to intercept any communication to or from the sender in any other manner which the telecommunication deems appropriate or provide such assistance as may be necessary to determine the location of such a person (sections 7 and 8 of the RICA).⁴

These processes are however subject to judicial scrutiny in that the information obtained as well as affidavits from the ECSPS and law enforcement officers who requested the information must be submitted to the designated judge for scrutiny.

4.3 Application for issuing of directions and entry warrants

Under the RICA, a designated judge may authorise –

- (a) the interception of direct or indirect communications by way of an interception direction in terms of section 16 of the RICA;
- (b) the interception of real-time

⁴ Section 8(1)(b) and (aa)

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communication-related information on an ongoing basis by means of a direction in terms of section 17 of the RICA;

- (b) the combined interception of of direct or indirect communications, real-time communication-related and provision of archived communication-related information by means of a direction in terms of section 18 of RICA;
- (c) the decryption of intercepted information by means of a decryption direction in terms of section section 21 of RICA; and
- (d) entry warrants for the purposes of entering a premises for the placing of interception devices in terms of section 22 of RICA.

The above-mentioned directions or entry warrant can only be granted after the law enforcement agencies make a formal application to the designated judge. In considering such an application, the RICA imposes various factors that must be considered by the designated judge before he or she may grant a direction or entry warrant.

With regard to an interception direction, the Act compels any person who is authorised to intercept communication, to complete an application and submit it to the designated

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judge for consideration. The application should clearly indicate, *inter alia*, the identity of the applicant, the identity of the law enforcement officer, the person whose communication is required and the telecommunication service provider to whom the direction must be addressed.⁵

To invoke the application of section 36 of the Constitution, the Act further requires the applicant, in his or her application, to include the basis for believing that evidence relating to the ground on which the application is made will be obtained through the interception applied for.⁶ Furthermore, the application must indicate, where applicable, whether other investigative procedures have been applied and failed to produce the required evidence and why other investigative means are unlikely to succeed or appear to be too dangerous.⁷

An interception direction may be granted if the designated judge is satisfied that:

- A serious offence has been or is being or will be committed or public health or safety is threatened
etc;

⁵ Section 16

⁶ Section 16(2)(d)(ii)

⁷ Section 16(2)(e)

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- the interception will provide information regarding the offence or threat;
- the facilities from which the communications will be intercepted are usually used by the person; and
- other investigative methods had been unsuccessful or too dangerous.

5. KEEPING OF RECORDS BY HEADS OF INTERCEPTION

The head of an interception centre (i.e The OIC) must on a quarterly basis submit to the State Security Agency (SSA) a written report of the records kept, abuses in connection with execution of directions and any defect in any electronic communications system which has been discovered.⁸

This obligation is there to ensure that there is full compliance with the RICA at all times.

⁸ Section 37(1)(2)(a)(i-iii)

6. SUPPLEMENTARY DIRECTIONS REGARDING APPLICATIONS

A designated judge or designated judges, jointly, after consultation with the respective Judges-President of the High Courts, may issue directives to supplement the procedure for making applications for the issuing of directions or entry warrants and the directive issued must be submitted to parliament.⁹ During the period of this report, no supplementary directions have been found necessary. Therefore, none has been issued.

7. THE ACT vs THE RIGHT TO PRIVACY

Section 14 of the Constitution protects everyone's right to privacy, which includes the right not to have "the privacy of their communications infringed".¹⁰ Furthermore, Privacy is a fundamental human right recognised internationally in instruments like the UN Declaration of Human Rights, the International Covenant on Civil and Political Rights, and regionally in the African Charter on Peoples' Rights, etc. It underpins human dignity and other key values such as freedom of association and freedom of speech.¹¹

⁹ Section 58(1) and (3)

¹⁰ The Constitution of the Republic of South Africa, 1996

¹¹ Privacy and Human Rights-An International Survey and Privacy Laws-

<http://gilc.org/privacy/survey/intro.html>

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Article 8 of the Convention on Human Rights explicitly states that, “there shall be no interference by a public authority with the exercise of this right except in accordance with the law and to the extent that it is necessary in a democratic society and in the interests of national security, public safety or the economic well-being of the country. The right to privacy in this regard may also be limited in preventing disorder or crime, for the protection of health, or the rights and freedom of others”.

The Article makes it clear that the information collected by enforcement agencies, must only relate to that which is identified by the warrant issued, such that, only persons or people who are suspected of committing serious offences or participating in activities against the interests of national security, may forfeit their right to privacy.¹²

In 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.¹³

¹² European Convention on Human Rights for the Protection of Human Rights and Fundamental Freedom-www.hrcr.org/docs/Eur_convention/euroconv3.html

¹³ The Constitution of the Republic of South, section 36(1) 1996-Limitation Clause
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Indeed, “the shift in balance towards absolute individual privacy is in itself a threat to security and the consequence of this choice will [in the context of the state of crime rates in South Africa] affect our personal safety, our right to live in a society where lawlessness is not tolerated and the ability of law enforcement to prevent serious and other violent criminal activity”.¹⁴

In the matter of *The Investigating Directorate and Others v Hyundai Motor Distributions*, Justice Langa DP held that

“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...”¹⁵, then

¹⁴ Lawful interception-Andres Rojab-centre for advanced Internet Architectures Swinburne University of Technology-Feb 9 2006- <http://caia.swin.edu.au>

¹⁵ *The Investigating Directorate and Others v Hyundai Motor Distributions (PTY) (LTD) 2001 (1) SA 545 (CC)*
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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...”¹⁶

8. CHALLENGES

There is a continued general public perception that some law enforcement and other institutions and/or officers use these intrusive interception methods to advance their own interests with no regard to the rights and values the RICA aims to protect in the context of the Constitution. The media, in particular the social networks, are inundated with reports, allegations and comments of manipulation and abuse of the interception system by officials and even individuals, ranging from-

- obtaining of 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;

¹⁶ *California v Ciraolo* 476 US 207 (1985) at 213-4

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- obtaining text messages and cell phone billing records needed for personal reasons, through a contact at crime intelligence and/or the service providers;
- the popularity of interception method which is preferred over conventional methods of investigation;
- the apparent lack of trust of the Designated Judge with regard to information gathered through crime intelligence;
- failure of applicants to provide fact-based justification for an application to the Judge;
- applicant's need 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 therefore the taking and

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- wide allegations of bribery of contacts at banks and telecommunications service providers etc.¹⁷

Not all of these challenges may be resolved through legislative amendments. Some may only be resolved through the dedication, commitment, full understanding and appreciation of the important role of investigation officers gathering crime intelligence in a democratic society based on the values of human dignity, freedom and equality. The need to sharpen and constantly improve the investigative skills and prowess of our law enforcement officers comes to mind - no doubt an important aspect of contemporary policing.

9. RICA AND THE FUTURE

The RICA was assented to on 30 December 2002 and came into operation on 30 September 2005. From 2002 to date, there have been substantial developments that took place in the electronic communications field. The Electronic Communications Act, 2005 (Act 36 of 2005), introduced a new electronic communications dispensation in South Africa, moving away from the dispensation envisaged in the RICA, where there is a clear, distinction based on a

¹⁷ How the government spies on you-Mail and Guardian Online-
<http://mg.co.za/articles/2011-10-14>

fixed line, internet and mobile cellular communications based on the Telecommunications Act, 1996 (Act No. 103 of 1996). The RICA should therefore be revamped to bring the terminology in line with the current electronic communications dispensation as is envisaged in the Electronic Communications Act, 2005.

New services are seeing the light, inter alia, Black Berry Messenger Services, BlackBerry Enterprise Services, Skype and a host of other services, which is mostly Internet based, which is clearly not interceptable, and even if it were interceptable, the encryption that is applied to such services makes it nearly impossible for the law enforcement agencies to obtain any information on the content of a communication. This aspect must be further investigated in order to find a solution.

The RICA needs to be revised in light of the obligations which the Republic may incur if we accede to the African Union Convention on the establishment of a credible legal framework for cyber security in Africa in order to deal with cybercrime.

The RICA should in so far as if possible regularly be revised in order to ensure that it keeps pace with ongoing developments.

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9.1 Amendments to the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act 70 of 2002) (the RICA)

The Department of Justice and Constitutional Development has indicated that legislation which affects various amendments to the RICA is on the legislative program of the Department for the 2016/2017 financial year. Amendments which are considered are, among others, amendments which are aimed at –

- (a) facilitating an electronic process for applications for directions and service of directions contemplated in Chapter 3 of the RICA;
- (b) ensuring the integrity of the process of obtaining customer information;
- (c) further regulating listed equipment provided for in sections 44, 45 and 46 of the RICA;
- (d) complimenting information sharing between electronic communications service providers and Government agencies;
- (e) further providing for interception capabilities of law enforcement agencies;

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- (f) imposing obligations on electronic communications service providers who provide an internet service to record and store call related information; and
- (g) appoint a regulatory body to ensure compliance with the RICA by the electronic communications service providers.

The terminology used in the RICA will also be reviewed to address interpretation problems which are being experienced.

A specific problem was identified which relates to the RICA registration process, provided for in section 40, where the particulars of customers were incorrectly captured. According to available information, certain persons RICAed various SIM-cards in their name and thereafter sold the SIM-cards to other persons without complying with section 40(5) of RICA. In terms of section 40(5) of the RICA, any person who sells or in any manner provides an activated SIM-card to another person (other than a family member), as well as the person who receives the SIM-card, must, immediately upon the sale or provision of the SIM-card, provide the relevant electronic communication service

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provider with their full names, surnames and identity numbers. Specific amendments are introduced to address this shortcoming in the RICA.

9.2 The Cybercrimes and Cybersecurity Bill, 2015 (the Bill)

The Department of Justice and Constitutional Development has recently published the Bill for public comment. The Bill—

- (a) comprehensively criminalises offences which can be committed in cyberspace;
- (b) provides for expanded jurisdiction;
- (c) gives law enforcement agencies cyber specific investigative powers;
- (d) deals with international co-operation in matters relating to cybercrime;
- (e) provides for the establishment of various structures in Government to deal with cybercrime and cybersecurity;
- (f) provides for the protection of critical information infrastructures;
- (g) deals with certain aspects of evidence;

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- (h) imposes obligations on electronic communications service providers to report cybercrime and to provide assistance to their clients to curb cybercrime; and
- (i) provides for international agreements between the Republic and foreign States or territories.

The Bill also affects amendments to other legislation, among others, the RICA.

The Bill contains provisions which ensure that there is synergy between the RICA and the Bill in so far as it relates to information which must be obtained to investigate or prove cybercrimes (clauses 39, 40 and 41).

In so far as international co-operation is concerned the Bill introduces new processes, which involve the office of the designated Judge, see clauses 41(3) to (11) (disclosure of data) and clauses 46 to 48 (requests for international co-operation). If Parliament follows the course proposed in the Bill it will mean that the workload of the office of the designated judge will increase substantially and it is hoped that the office of the designated judge will be expanded accordingly.

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In terms of clause 66 of the Bill, the Schedule to the RICA is amended by the inclusion of the various offences contemplated in the Bill in the Schedule to the RICA. The Schedule to the RICA is further amended to include offences which are substantially similar to the offences provided for in the Bill, which are or was committed in a foreign State or territory. The effect of these amendments is that the RICA can be used to intercept indirect communications, real-time communication-related information and archived communication-related information in respect to the offences provided for in the Bill.

10. NEW LAW ENFORCEMENT AGENCY (NLEA)

Two additional agencies namely South African National Defence Force (SANDF) and Financial Intelligence Centre (FIC) has started to submit applications for interception during 2014. The Designated Judge has provided the necessary workshop to both these agencies, with a view to heighten the consciousness, understanding and appreciation of the need for the submission of RICA compliance application at all times.

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11. SOME INFORMATION ON “GRABBER” AND OTHER LISTENING DEVICES.

Under the RICA Act, the devices utilised by various Law Enforcement Agencies do not require the designated Judge’s authorisation. Once authorisation has been obtained to install a listening device, the nature of the device does not require approval of the designated judge. Whatever challenges are experienced in that regard can be explained by the particular agencies.

12. STATISTICAL INFORMATION OF APPLICATIONS FOR DIRECTIONS

12.1 State Security Agency (SSA)

Figures for the period are as follows:

	2014/2015	2013/2014
• New Applications	41	28
• Re-applications	52	34
• Amendments	57	38
• Extensions	54	35
• Combined Amendments and Extensions	23	13
• Entry Warrants (Installation of listening devices)	4	5
• Section 11 (Application for RICA information)	103	66

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• Refusals	10	5
• Oral Applications for Interceptions (i.t.o Section 7 & 8)	4	2
• Total	348	231

12.2 THE SOUTH AFRICAN POLICE SERVICES (SAPS)

Figures for the period are as follow:

	2014/2015	2013/2014
• New Applications	233	158
• Re-applications	35	23
• Amendments	12	10
• Extensions	36	6
• Refusals	0	0
• Amendments and Extensions	70	22
• Total	386	385

12.3 THE SOUTH AFRICAN SECRET SERVICE(SASS)

Figures for the period are as follow:

	2014/2015	2013/2014
• New Applications	2	2
• Refusals	0	0
• Total	2	2

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*[Tuesday, 13 December 2016]***12.4 FINANCIAL INTELLIGENCE CENTRE(FIC)**

Figures for the period are as follow:

	2014/2015	2013/2014
• New Applications	6	3
• Amendments	1	
• Extensions	7	
• Amendments & extensions	3	
• Refusals	1	0
Total	18	3

**12.5 SOUTH AFRICAN NATIONAL DEFENCE FORCE
(SANDF)**

Figures for the period are as follow:

	2014/2015	2013/2014
• New Applications	5	3
• Amendments	1	1
• Refusals	0	0
Total	6	4

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Combined figures for SSA, SAPS, SASS, FIC and SANDF are as follow:

	2014/2015	2013/2014
• Applications (New)	286	194
• Re-applications	87	56
• Amendments	71	49
• Extensions	97	41
• Amendments and Extensions	96	35
• Entry Warrants	4	5
• Section(11)	103	66
• Oral intercepts	4	2
• Refusals	11	5
• Total	760	453

The total number of all applications for interception in the current financial year has increased by 296 from the total of application in the previous year. Four (4) Entry Warrants, the most invasive of all interceptions had been applied for and granted. All four (4) has been requested by SSA and were therefore obtained for States Security investigations. Similarly in the 2013/2014 financial year five (5) Entry Warrants had been applied for by SSA and were also granted. No other agency had applied for Entry Warrant in

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the last financial year. Oral applications are submitted in cases of utmost urgency. Four (4) applications had been submitted and all 4 had been for purposes of the SSA investigations and were approved.

13. THE SUCCESS RATE OF INTERCEPTION.

The rate of success of the interception method in the fight against crime is not easily discernable. It may be argued that the number of successful interceptions is equal to the number of applications for extension of existing interception directions, in that every application for extension requires clear indication of the relevant court – admissible evidence obtained in the last direction and what further information is intended to be obtained to make a case against a target right for prosecution. Besides, the successful prosecution of a particular target does not rely only on information obtained through interception. Success depend on a holistic approach to the investigation of a particular case.

The success of interception as an investigative method is therefore highly subjective.

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14. ADMINISTRATION

The Office for the Control of Interception and Monitoring of Communications, processes applications submitted to the designated Judge in terms of the provisions of the Regulation of Interception of Communications and Communication-related Information Act, 2002 (Act 70 of 2002) (the RICA).

14.1 Staffing

The staff component comprises of six officials namely Assistant Director, Legal Administration Officer, Administration Officer, Chief Administration Clerk, Receptionist and Registry Clerk. Their responsibilities in brief are as follows.

14.2 Office Manager (Ass. Director)

Planning and organizing activities of the component. Provide leadership pertaining to financial and administrative Services. Manage processing of applications. Liaising with all stakeholders in Law enforcement. Co-ordinating activities of all law enforcement agencies. Duties also include staff management, asset management, compilation of statistics, ensure high level of confidentiality in the office and provides overall executive support to the office of the designated Judge.

14.3 Legal Administration Officer

Provides Legal support to the designated Judge. She is responsible for all the research required by the designated Judge to facilitate the role and functions of the designated Judge, including compilation of information for public presentations, seminars, workshops and conferences.

14.4 Administration Officer

Render secretarial and administrative duties to the Judge, provides administrative support for the office as a whole, processes all payments and assists with efficient management of stores and assists clients daily.

14.5 Chief Registry Clerk

Supervision of Registry personnel ensures proper handling of records, ensures proper execution of track and trace list and also ensures that documents are delivered to National Office and Office for Interception Centres.

14.6 Receptionist

Performs receptionist functions, performs clerical duties, supports the Judge and other staff members, filing and updating all records.

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14.7 Registry clerk

Opening, closing and disposing of files according to National Archival Instructions, ensures correct placing of records, maintains proper track and trace lists daily, re-filing daily and related miscellaneous tasks.

14.8 Budget

Historically, the office of the Designated Judge does not have its own budget. It continues to function as a component of the Higher and Record Management Directorate in the Department of Justice and Correctional Services. All requisitions are therefore subject to approval by the Director (PAIA and Records Management) who manages the resources of the Unit in terms of need.

14.9 OFFICE INFRASTRUCTURE

Furniture

The Office is in dire need of new office furniture, filing system, new telephone system, official cell phones for Chief Registry Clerk and Administration Officer. A request was made for the purchase of office furniture on the 25/07/2013. The request was forwarded to the Director

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(PAIA & Interception). In it was approved by the then Acting Deputy Director-General (Corporate Services) on the 01/08/2013. The office was later advised that there is no funding for furniture.

Official cell phones

A request was made for official cellular phones for Chief Registry Clerk and Administration Officer. It was forwarded to the designated official on the 30 July 2013. The office is still awaiting a response in this regard.

Why the need for cell phones?

The office deals with application on a 24hrs basis. The Chief registry Clerk transports the applications daily to the Judge. It is therefore necessary to be reachable and be able to make contacts by telephone at all times.

Mobile Filing System

Why Mobile Filing System?

The office handles top secret documents which must be stored for a minimum period of 5 years. In order to comply with the Archival Act, storage is a challenge. A mobile filing system will address this difficulty.

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A request to purchase mobile filing system was forwarded to the Director on the 30 July 2013. We are still waiting for a response.

15. CONCLUSION

Indeed, that the system of lawful interception of private communications may be open to abuse is a likelihood that we should not be blinded to. It could be for expediency where the legal application process may be overly cumbersome. However, abuse in any form cannot be tolerated. However, together the relevant monitoring systems are well-functioning, ever conscious of the need for utmost vigilance.

As a matter of fact, that the approach of the designated judge has been one of capacity-building among others:

- Two annual workshops on the understanding of the interceptions application process and its challenges, in the context of the constitutional provisions and values are planned, and two (2) have been conducted by the designated judge-for the benefit of all sectors and role players in the interception process.

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- Individual attention is provided where necessary, giving specific comments on the shortcomings of each application and continuously conscientising applicants of the importance of the realisation that interception directions are not there for the taking and shall be justified by facts which point to the commission of a crime or a crime in process and
- The need to be ever conscious that interception is not an investigative method of first resort. It is employed only once conventional methods have been shown in the application to have been ineffective and or impossible, due to the particular circumstances of the case.

This capacity-building method has been highly effective and generally welcomed. The response to the workshops and the above individual attention has borne positive results, e.g mere suspicion is not based on sex generally no longer viewed as basis for an interception application and there is clear appreciation that an application for an interception direction is not there for the taking.

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Report of the auditor-general to parliament on the South African police service crime intelligence: secret service account

Report on the financial statements

Introduction

1. I have audited the financial statements of the South African Police Service Crime Intelligence: Secret Account set out on pages XXX to XXX, which comprise the appropriation statement, the statement of financial position as at 31 March 2015, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, as well as 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 Modified Cash (MCS) Standard prescribed by the National Treasury and the requirements of the Public Finance Management Act of South Africa, 1998 (Act No. 1 of 1999) (PFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-general's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with 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.

16/12

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.

Qualified opinion

7. In my opinion, except for the possible effects of the matter described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the South African Police Service Crime Intelligence: Secret Service Account as at 31 March 2016, and its financial performance and cash flows for the year then ended, in accordance with the MCS and the requirements of the PFMA.

Report on other legal and regulatory requirements

8. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives for selected programmes presented in the annual performance report, non-compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

9. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information for the following selected programme presented in the annual performance report of the account for the year ended 31 March 2015:
- Programme 1 – crime intelligence on pages XX to XX
10. I evaluated the reported performance information against the overall criteria of usefulness and reliability.
11. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned programme. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant, as required by the National Treasury's Framework for managing programme performance information (FMPPi).
12. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

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13. I did not identify any material findings on the usefulness and reliability of the reported performance information for programme 1: crime intelligence.

Additional matter

14. Although I identified no material findings on the usefulness and reliability of the reported performance information for the selected programme, I draw attention to the following matter:

Achievement of planned targets

15. Refer to the annual performance report on pages XX to XX for information on the achievement of planned targets for the year.

Compliance with legislation

16. I performed procedures to obtain evidence that the account had complied with applicable legislation regarding financial matters, financial management and other related matters. I did not identify any instances of material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA.

Internal control

17. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with legislation. I did not identify any significant deficiencies in internal control.

Other reports

Investigations

18. A criminal investigation is currently being conducted since 2011/12, by the Hawks (Department of Priority Crime Investigations (DPCI)) into allegations of misuse and abuse of the Department's funds by certain members.

Phiso - General

Pretoria

23 July 2015



AUDITOR-GENERAL
SOUTH AFRICA

Aiming to build public confidence

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 xx to xx, which comprise the statement of financial position as at 31 March 2015, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, as well as 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 of South Africa, 1999 (Act No. 1 of 1999) (PFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-general's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with 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.

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Basis for qualified opinion

High inherent risk due to the nature of the environment

6. The State Security Agency accounts for non-sensitive and sensitive project expenditure incurred in connection with the performance of the function and the duty of the Intelligence Services as defined in section 1 of the Intelligence Services Act, 2002 (Act 65 of 2002). The level of assurance that can be given by my audit on sensitive projects expenditure and assets included in notes 7 and 18 to the financial statements respectively, is lower than in the case of other audits due to the significant inherent risk relating to the sensitivity of the environment in which they are incurred and the manner in which they are recorded. This expenditure amounts to 9,6% of the 2014/15 financial year's total budget.

Qualified opinion

7. In my opinion, except for the possible effect of the matter described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the State Security Agency as at 31 March 2015 and its financial performance and cash flows for the year then ended, in accordance with the 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.

Claims against the department

9. With reference to note 33 to the financial statements, the department is opposing several claims instituted against it. The ultimate outcome of these matters cannot presently be determined and as a result no provision for any liability has been raised.

Restatement of corresponding figures

10. As disclosed in note 30 to the financial statements, the corresponding figures for 31 March 2014 have been restated as a result of an error discovered during the year ended 31 March 2015 in the financial statements of the SSA et, and for the year ended, 31 March 2014.

Additional matters

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

16/0

Supplementary explanations of budget variances presented outside the financial statements

12. The supplementary explanations of budget variances contained in the appropriation statement do not form part of the financial statements. I have not audited these explanations and, accordingly, do not express an opinion thereon.

Report on other legal and regulatory requirements

13. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives for selected programmes presented in the annual performance report, compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

14. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information for the following selected programmes presented in the annual performance report of the State Security Agency for the year ended 31 March 2015:
- Programme 2: Domestic intelligence on pages xx to xx
 - Programme 3: Foreign intelligence on pages xx to xx.
15. I evaluated the reported performance information against the overall criteria of usefulness and reliability.
16. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned programmes. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant as required by the National Treasury's *Framework for managing programme performance information (FMPP)*.
17. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
18. The material findings in respect of the selected programmes are as follows:

Domestic intelligence

Usefulness of reported performance information

19. I did not raise any material findings on the usefulness of the reported performance information for the programme

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Reliability of reported performance information

20. The FMPPF requires auditees to 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 were not reliable when compared to the source information or evidence provided. This was due to a lack of documented system descriptions for the accurate recording of actual achievements, monitoring of the completeness of source documentation in support of actual achievements and frequent review of the validity of reported achievements against source.

Foreign intelligence

Usefulness and reliability of reported performance information

21. All material findings raised on the usefulness and reliability of the reported performance information for the programme were subsequently resolved.

Additional matter

22. I draw attention to the following matter:

Achievement of planned targets

23. Refer to the annual performance report on pages xx to xx and xx to xx for information on the achievement of the planned targets for the year. This information should be considered in the context of the material findings on the reliability of the reported performance information for the selected programmes reported in paragraphs xx to xx of this report.

Adjustment of material misstatements

24. I identified material misstatements in the annual performance report submitted for auditing on the reported performance information for programme 2: Domestic intelligence and programme 3 Foreign intelligence. As management subsequently corrected only some of the misstatements, I raised material findings on the reliability of the reported performance information

Compliance with legislation

25. I performed procedures to obtain evidence that the department had complied with applicable legislation regarding financial matters, financial management and other related matters. My findings relating to material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA, are as follows:

H&D

Strategic planning and performance management

26. Specific and appropriate information systems to enable the department to monitor the progress made towards achieving the goals, targets and core objectives as indicated in the strategic and annual performance plan did not exist, in contravention of public service regulation part IIB.1(f)(i)(ii).
27. Procedures for the facilitation of effective performance monitoring, evaluation and corrective action were not established as required by treasury regulation 5.3.1.

Expenditure management

28. Effective steps were not taken to prevent irregular expenditure, as prescribed by section 38(1)(c)(ii) of the PFMA and treasury regulation 9.1.1.

Internal control

29. I considered internal control relevant to my audit of the financial statements, the annual performance report and compliance with legislation. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for qualified opinion, the findings on the annual performance report and the findings on compliance with legislation included in this report.

Leadership

30. Processes and controls relating to the oversight and review of performance information need to be enhanced and strengthened. This will ensure that the annual performance report submitted for audit is accurate and complete.
31. The policies and procedures for travel and accommodation, including covert travel and accommodation, should be updated to prevent irregular expenditure due to inadequate procurement procedures.

Other reports

Investigations

32. As reported in the 2011-12 regularity audit report, an investigation was conducted into alleged fraud at Opmed. The matter was reported to the South African Police Service. Two former NIA/Opmed members were charged and found guilty in the Pretoria Specialised Commercial Court. The cases against other members and service providers are continuing.
33. An investigation was instituted after reports that transfers were made from NIA's account, within Momentum, 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.

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34. An investigation was instituted at the Covert Support Unit. The deputy director-general: Operations, together with three other members, was suspended pending the outcome of the investigation. In December 2010 the director-general accepted the deputy director-general's resignation. The investigation is still ongoing.
35. The Inspector General is conducting an investigation at the request of the director-general. The investigation relates to operational expenditure transactions and is currently still in progress.

Auditor-General

Pretoria

17 September 2015



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

Part 5 - Financial Performance

**SPECIAL DEFENCE ACCOUNT
ANNUAL FINANCIAL STATEMENTS
for year ended 31 March 2015**

**REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE SPECIAL
DEFENCE ACCOUNT**

REPORT ON THE FINANCIAL STATEMENTS**Introduction**

1. I have audited the financial statements of the Special Defence Account (SDA) set out on pages 360 to 387, which comprise the statement of financial position as at 31 March 2015, the statement of financial performance, statement of changes in net assets, cash flow statement and the statement of comparison of budget and actual amounts for the year then ended, as well as 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 Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Public Finance Management Act of South Africa, 1998 (Act No. 1 of 1998) (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 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**Special defence activities**

6. The special defence account accounts for non-sensitive and sensitive projects expenditure incurred in connection with special defence activities as per section 2(2)(a) of the Defence Special Account Act, 1974 (Act No. 6 of 1974), as amended. I was unable to obtain sufficient appropriate audit evidence regarding

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Part 6 - Financial Performance**SPECIAL DEFENCE ACCOUNT
ANNUAL FINANCIAL STATEMENTS
for year ended 31 March 2015**

sensitive projects expenditure and related financial assets due to the sensitivity of the environment and the circumstances under which the related transactions are incurred and recorded. In addition, material classes of sensitive projects expenditure were not separately classified per nature as required by GRAP 9. *Presentation of financial statements* I was unable to confirm the sensitive projects expenditure and financial assets by alternative means. Consequently, I was unable to determine whether any adjustments to sensitive projects expenditure stated at R674 844 000 in note 14 and financial assets stated at R89 395 000 in note 6 to the financial statements were necessary.

Qualified opinion

7. In my opinion, except for the possible effects of the sensitive activities described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Special Defence Account as at 31 March 2015 and its financial performance and cash flows for the year then ended, in accordance with 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 1.9.1 to the financial statements, the Minister of Finance has exempted the SDA from applying GRAP 6 and to instead apply GRAP 104 regarding some special defence activities due to the sensitive nature of the activities involved.

Significant uncertainties

10. With reference to note 18 to the financial statements, the SDA through the Department of Defence is a defendant in a certain lawsuit. 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.

Report on other legal and regulatory requirements

11. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives, compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

12. The objectives of the SDA are included within the Department of Defence's reporting on performance information against predetermined objectives.

Compliance with legislation

13. I performed procedures to obtain evidence that the SDA had complied with legislation regarding financial matters, financial management and other related matters. These procedures were however not extended to certain sensitive expenditure in connection with the special defence activities as per section 2(2)(e) of the

Part 5 - Financial Performance

SPECIAL DEFENCE ACCOUNT
ANNUAL FINANCIAL STATEMENTS
for year ended 31 March 2016

Defence Special Account Act, 1974 (Act No. 6 of 1974) as amended. I did not identify any instances of material non-compliance with specific matters in key legislation, as set out in the general advice issued in terms of the PAA.

Internal control

14. I considered internal control relevant to my audit of the financial statements and compliance with legislation. I did not identify any significant deficiencies in internal control as the limitation imposed on the audit is inherent to the environment of Special Defence Account.

Auditor General

Pretoria
11 September 2016



AUDITOR GENERAL
SOUTH AFRICA

Account of SA 2016/16

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JSCI PROGRAMME 2015-2016

DATE	ACTIVITY
22/04/2015	Closed Meeting
12/05/2015	Closed Meeting
26/05/2015	Closed Meeting
28/05/2015	Closed Meeting
02/06/2015	Closed Meeting
09/06/2015	Interviews for the appointment of Inspector General of Intelligence.
10/06/2015	Interviews for the appointment of Inspector General of Intelligence.
17/06/2015	Deliberations on the interviews for the appointment of Inspector General of Intelligence.
11/08/2015	Closed Meeting
01/09/2015	Closed Meeting
08/09/2015	Closed Meeting
13//10/2015	Closed Meeting
14/10/2015	Closed Meeting
15/10/2015	Closed Meeting
20/10/2015	Closed Meeting
27/10/2015	Closed Meeting
03/11/2015	Closed Meeting
10/11/2015	Closed Meeting
25/11/2015	Closed Meeting
24- 29 Jan 2016	Closed Meeting
16/02/2016	Closed Meeting
23/02/2016	Closed Meeting
01/03/2016	Closed Meeting
08/03/2016	Closed Meeting
15/03/2016	Closed Meeting
30/03/2016	Closed Meeting

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No 156—2017] FOURTH SESSION, FIFTH PARLIAMENT

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

TUESDAY, 31 OCTOBER 2017

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- (1) Mr J L Mahlangu was elected as Chairperson of the Portfolio Committee on Telecommunications and Postal Services with effect from 31 October 2017.
-

TABLINGS**National Assembly and National Council of Provinces****1. The Speaker and the Chairperson**

- (a) Annual Report of the Joint Standing Committee on Intelligence (JSCI) for the financial year ending 31 March 2017.

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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 2017**

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1. INTRODUCTION

During the year under review, 01 April 2016 to 31 March 2017, we interacted with the entire South African intelligence community, comprised of the State Security Agency, Crime Intelligence of the South African Police Service (SAPS), and the South African National Defence Force (SANDF) Defence Intelligence. The interactions were based on the mandate of the Joint Standing Committee on Intelligence (JSCI), as defined in the Intelligence Services Oversight Act 1994 (Act No. 40 of 1994).

The main areas of the JSCI's interface with the intelligence community were the annual strategic and performance plans of the entities during the period under review.

2. COMPOSITION OF THE COMMITTEE AS AT 31 MARCH 2017

Name	Political Party
Mr C Nqakula	NA (ANC) Chairperson
Ms D E Dlakude	NA (ANC)
Ms Z S Dlamini-Dubazana	NA (ANC)
Mr D D Gamede	NA (ANC)
Mr D M Gumede	NA (ANC)
Mr P J Parkies	NCOP (ANC)
Mr O J Sefako	NCOP (ANC)
Mr J J Skosana	NA (ANC)
Ms T Wana	NCOP (ANC)
Mr H B Groenewald	NA (DA)
Mr H C Schmidt	NA (DA)
Mr D J Stubbe	NA (DA)
Mr R N Cebekhulu	NA (IFP)
Mr S C Mncwabe	NA (NFP)
Mr B H Holomisa	NA (UDM)

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The vacancy that occurred when the former Chairperson of the JSCI, Hon CC September, was redeployed to Chair another committee by the African National Congress, was filled by Hon C Nqakula. The Economic Freedom Fighters has not taken its seat in the Committee as yet, since the resignation in 2015 of its member, Hon DL Twala.

3. LEGISLATIVE MANDATE

Section 3 of the Oversight Act provides that the Committee, in exercising its oversight responsibility, performs inter alia, the following functions:

- Obtain audit and other reports from the Auditor-General and to consider the financial statements of the services;
- Obtain reports from the Evaluation Committee;
- Obtain reports from the designated judge as defined in the Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002 (Act No. 70 of 2002);
- Obtain reports from the Ministers responsible for the Services;
- Consider and make recommendations on the report and certificates issued by the Inspector-General of Intelligence;
- Consider and make recommendations on all proposed legislation and regulations relating to any Service or any other intelligence or intelligence-related activity;
- Review and make recommendations about co-operation, rationalization and demarcation of intelligence functions performed by the Services;
- Order investigations and receive reports from the Head of a Service or the Inspector-General regarding any complaint received by the Committee from any member of the public, provided such complaint is not trivial, vexatious or made in bad faith;

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- Refer any matter in relation to an intelligence activity which the Committee regards as relevant to the promotion and respect of the Bill of Rights to the South African Human Rights Commission;
- Consider and make recommendations on matters falling within the purview of the Act and referred to the Committee by the President or a Minister responsible for any Service or Parliament;
- To request relevant officials to explain any aspect of reports furnished to the Committee;
- To hold hearings and subpoena witnesses on any matter relating to intelligence and national security; and to
- To consult with any member of Cabinet in relation to any function performed by the Committee in terms of the Oversight Act.

4. ACTIVITIES OF THE JSCI IN THE REPORTING YEAR

The Committee hereby reports on the following matters for the period 1 April 2016 - 31 March 2017.

4.1 PRESENTATIONS TO THE JOINT STANDING COMMITTEE ON INTELLIGENCE (JSCI)

4.1.1 STRATEGIC AND ANNUAL PERFORMANCE PLANS

4.1.1.1 Defence Intelligence (DI)

The Chief of Defence Intelligence outlined the salient and priority issues of Defence Intelligence based on its organisational renewal and design. We picked up the following matters:

- The staffing
- A review and expansion

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- DI has been given the responsibility of coordinator in the National Cyber Security division, which has been costed. The implementation plan has been completed. DI is expected to expand its footprint in Africa. However, there are serious budgetary constraints

4.1.1.2 Crime Intelligence (CI)

The key priorities of CI for this period are:

- Contact Crime;
- National Security;
- Property related and other serious crime; and
- Crime detected as a result of police action
- Illicit mining, police corruption, police killings, taxi violence, human trafficking, environmental crime and drug trafficking.

CI will also focus on filling up critical posts, finalising its organisational structure, cyber security capacity building, building its capacity at borders

4.1.1.3 State Security Agency (SSA)

State Security Agency has assured the Committee that South Africa remains relatively stable. The Minister said he was rededicating the national intelligence structures to continue to consolidate the democratic order through the creation of conditions of peace and stability in SA to benefit all who live in the country. He said SSA would continue to work with the Justice, Crime Prevention and Security Cluster to help advance the existing work of combating all threats to the country's national security.

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Given its character as a country with one of the most progressive constitutions in the world, SA has not been free of demonstrations by disgruntled members of the various communities and people's organisations. Unfortunately many of those demonstrations have been highly volatile and violent. The SSA, through its Minister was of the view that system of interaction with all stakeholders had to be found to resolve many of the problems through dialogue. The Minister indicated that cyberspace had become a serious arena of crime and criminality, including international terrorism. He was hoping that, SA sooner rather than later, will have effective cyber security laws. This would include a review of the White Paper on Intelligence.

We want to lift up the following matters from SSA's strategic plans:

- Improving the capacity of the intelligence structures
- To continue to build and strengthen the SSA's institutional capacity as an important strategic function.
- To improve intelligence gathering by developing the skills of all member of the SSA and;
- Invest in appropriate technologies to detect early all danger signals.

4.1.2 FINANCIAL AUDIT STATEMENTS: AUDITOR GENERAL OF SOUTH AFRICA (AGSA)

The Auditor General having given an extensive explanation on challenges of the intelligence environment. He told the Committee that his office always struggled to deal with the audit of the secret accounts on its desired outcome and expected level of assurance taking into account the covert operations of the Services. It was important, the AG said to improve the tools of assurance to make it easier to deal with the audit.

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[Tuesday, 31 October 2017]

The State Security Agency, Crime and Defence Intelligence all received qualified audits because of the covert transactions that could not be accessed. Although risk assessment has been used to test reliability, there are still inherent limitations. It was suggested that a workshop involving the Committee, office of the Auditor General and office of the Inspector General of Intelligence would be crucial in order to find solutions experienced to the AG's difficulties. The Auditor General welcomed the proposal. The audited statements are attached as an Annexure A.

5 BRIEFING BY THE FINANCIAL INTELLIGENCE CENTRE (FIC) ON ILLICIT FINANCIAL FLOWS

FIC was established in terms of the FIC Act 38 of 2001 and complements the Prevention of Organised Crime Act, No 121 of 1998 and Protection of Constitutional Democracy Against Terrorist and Related Activities Act No 33 of 2004.

Given that the phenomenon of illicit financial flows are part of the areas the Committee takes interest in, we had a fruitful interaction with the Financial Intelligence Centre (FIC). We agreed to have a regular process of engagement with the FIC further to surface the various complexities regarding illicit financial flows, across the world. There are various areas requiring urgent enquiry and we believe FIC has been able to scan the environment and have created a platform for further engagement.

6 PROCESS ON THE APPOINTMENT OF THE INSPECTOR GENERAL OF INTELLIGENCE

6.1 Meeting on preparations for the appointment of the Inspector General

The Committee revisited the process of appointing the Inspector General of Intelligence after some few attempts.

The Committee decided to do the interviews in open court

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and also to publish the CVs of all applicants to allow for public participation.

On 24 May 2016, the Chairperson outlined the process and confirmed the applicable Joint Rules that apply to the subcommittee with a mandate to shortlist candidates for the position of the Inspector General of Intelligence. The subcommittee members were to shortlist candidates from the 39 applications received. The subcommittee proposed a list of six candidates for consideration by the Joint Standing Committee on Intelligence for the position of Inspector-General of Intelligence as follows:

1. Adv. U B Bongco
2. Adv. G S Lebeya;
3. Mr B N Nkontwana;
4. Ms M D Phillips;
5. Prof B W Watson
6. Dr. N C Tshitereke

The six recommended candidates were referred to the JSCI for consideration and final approval in accordance with the Intelligence Services Oversight Act 40 of 1994 and the Rules of the Committee. On 11 October 2016 the Committee discussed the process for the appointment of the Inspector General of Intelligence

6.2 Finalisation of the Appointment of the Inspector General

The Committee received only seventeen (17) applications. However only twelve (12) of the applicants met the requirements. Out of the 12 two were disqualified. The Committee recommended that all the ten (10) candidates be interviewed. Interviews were held on 08 and 09 November 2016 in an open meeting.

The names of the recommended candidates were:

Mr C P Davids, Dr SI Dintwe; Adv J Govender; Mr S P Jele; Mr A B Kilifele; Mr M P Nchabeleng; Mr NVE Ngidi; Mr B N Nkontwana; Mr N C Tshitereke and Prof B W Watson. After the interviews were conducted, the Committee unanimously recommended the name of Dr S I Dintwe. A report was tabled in Parliament recommending the appointment of Dr S I Dintwe. The report and the nomination of Dr Dintwe were adopted by the National Assembly on 29 November 2016.

7. OVERSIGHT VISIT TO OR TAMBO INTERNATIONAL AIRPORT

Over the years there have been reports indicating serious crimes, including human trafficking, smuggling of drugs, and heists involving million of Rands of monies coming into the country or going to foreign lands. Over a period of ten (10) years in South Africa's recent history two daring heists happened in South Africa. The first one involving almost R10 million happened in 2008 and the recent one involving more than R20m happened in March this year.

The Joint Standing Committee on Intelligence, decided, given the spate of the serious crimes at the airport to visit and for oversight work at the airport. The Committee's view was that the intelligence services, especially Crime Intelligence and State Security Agency, were not paying particular attention to OR Tambo International Airport, which is a National Key Point. The oversight visit happened on 22 – 23 March 2017.

The Committee's observation over the two days of the visit was that the intelligence services needed to do much more to address the weaknesses and prevent possible fatalities at the airport. The question is on the Committee's agenda for

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continuous engagement with the intelligence community and the relevant stakeholders at the airport.

8. INTERACTION WITH THE JUDGE FOR INTERCEPTION OF COMMUNICATIONS

The Committee intends to meet soon with the retired Judge Maluleke who was appointed recently to replace Judge Mokgoro as judge for interception of communication in terms of Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002 (Act No. 70 of 2002).

The Committee submitted a request to the office of Judge Maluleke for a report on the various aspects of interceptions. The relationship between the Office of the Interception of Communications and the Joint Standing Committee on Intelligence is defined by Act 70 of 2002. The report is attached as Annexure B.

9. COMMITTEE CONCLUDING REMARKS

It is our view that developments in the geopolitics of the world make it necessary for a consistent process of review of the laws and regulations that relate to the practice of intelligence. The 23-year span of our democracy is a long period of time over which it has become necessary for the Committee to look at all influences, at home and abroad, that may necessitate the strengthening of our laws to meet the challenges that relate to the new arena of crime and criminality, that include international terrorism.

In the circumstances, we have put together a committee composed of Honourable Members, Ms Z S Dlamini-Dubazana, Mr D J Stubbe and Mr S C Mncwabe to plough through our intelligence laws to address any shortcomings.

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The Committee is finalising a programme of interaction, at a workshop where the JSCI will be discussing various elements of the responsibilities of the intelligence community and the demands of oversight and how those dovetail into a project better to strengthen the effort to make South Africa safe and stable. The Committee believes that such a workshop will address the Committee's own shortcomings in its oversight as well as expose, for corrective action, weaknesses with the intelligence community.

Ministers of the relevant departments as well as members of the Office of the Inspector General of Intelligence and the relevant personnel at the office of the Auditor General will attend the workshop.

The Committee, having interacted during the period under review, with the intelligence community, is of the view that in order of our intelligence services to discharge their functions in accordance with the dictates of their mandates they should be assisted with adequate funding.

One of the absolute demands of the work of intelligence in South Africa is the proper training and skilling of all intelligence officers and the building of a formidable network of underground agents including informers. What the Committee has discussed with the relevant Ministers is that their strategic orientation must be a smaller contingent of intelligence officers at the national and provincial headquarters of the intelligence community but officers who will be highly capable and highly trained.

Most of the funds will not go, therefore to a bloated service at the various headquarters but rather to intelligence activities on the ground where intelligence is gathered. Such a tactic will help, especially the police who must drastically reduce the levels of crime in South Africa. The intelligence services must not only be comprised of highly trained

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officers and agents, they must also be appropriately equipped with highly effective tools of the trade which must include modern gadgets, including sophisticated technology.

PROGRAMME OF THE JSCI FROM 31 MARCH 2016 TO 01 APRIL 2017

DATE	ACTIVITY
12/04/2016	Closed meeting
19/04/2016	Closed meeting
26/04/2016	Closed meeting
24/05/2016	Closed meeting
11/10/2016	Closed meeting
18/10/2016	Closed meeting
25/10/2016	Closed meeting
26/10/2016	Closed meeting
01/11/2016	Shortlisting of candidates for the IG position
08/11/2016	Interviews for the Inspector General of Intelligence
09/11/2016	Interviews for the Inspector General of Intelligence
10/11/2016	Closed meeting
15/11/2016	Closed meeting
22/11/2016	Closed meeting
23/11/2016	Closed meeting
29/11/2016	Closed meeting
24/01/2017	Closed meeting
07/02/2017	Closed meeting
28/02/2017	Closed meeting
07/03/2017	Closed meeting
14/03/2017	Closed meeting
22/03/2017	Oversight visit to O R Tambo International Airport
23/03/2017	Oversight visit to O R Tambo International Airport

Part E – Financial Information

**SPECIAL DEFENCE ACCOUNT
ANNUAL FINANCIAL STATEMENTS
for the year ended 31 March 2016**

**Report of the auditor-general to Parliament on the
Special Defence Account**

Report on the financial statements

Introduction

1. I have audited the financial statements of the Special Defence Account (SDA) set out on pages 348 to 376, which comprise the statement of financial position as at 31 March 2016, the statement of financial performance, statement of changes in net assets, cash flow statement and the statement of comparison of budget and actual amounts for the year then ended, as well as 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 Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-general's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with the 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 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.

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Part E – Financial Information

**SPECIAL DEFENCE ACCOUNT
ANNUAL FINANCIAL STATEMENTS
for the year ended 31 March 2016**

Basis for qualified opinion

Special defence activities

6. The SDA accounts for non-sensitive and sensitive projects expenditure in connection with special defence activities as per section 2(2)(a) of the Defence Special Account Act, 1974 (Act No. 6 of 1974), as amended. I was unable to obtain sufficient appropriate audit evidence regarding sensitive projects expenditure and related financial assets due to the sensitivity of the environment and the circumstances under which the related transactions were incurred and recorded. In addition, due to the sensitive nature of the activities involved the entity did not comply with the requirements of GRAP 6 *Consolidated and Separate Financial Statements*, and instead applied GRAP 104 *Financial Instruments*, which also does not result in fair presentation. I was unable to confirm the sensitive projects expenditure and financial assets by alternative means. Consequently, I was unable to determine whether any adjustments to sensitive projects expenditure stated at R408 721 000 (2015: R674 944 000) in note 14 and financial assets stated at R83 320 000 (2015: R71 296 000) in note 6 to the financial statements were necessary.

Qualified opinion

7. In my opinion, except for the possible effects of the sensitive activities described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the SDA as at 31 March 2016 and its financial performance and cash flows for the year then ended, in accordance with GRAP and the requirements of the PFMA.

Emphasis of matter

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

Significant uncertainties

9. With reference to note 18 to the financial statements, the SDA through the Department of Defence was a defendant in a certain lawsuit. The ultimate outcome of the matter could not be determined and no provision for any liability that may result had been made in the financial statements.

Report on other legal and regulatory requirements

10. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives, compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Part E – Financial Information

**SPECIAL DEFENCE ACCOUNT
ANNUAL FINANCIAL STATEMENTS
for the year ended 31 March 2016**

Predetermined objectives

11. The objectives of the SDA are included within the Department of Defence's reporting on performance information against predetermined objectives.

Compliance with legislation

12. I performed procedures to obtain evidence that the SDA had complied with applicable legislation regarding financial matters, financial management and other related matters. These procedures were, however, not extended to certain sensitive expenditure in connection with the special defence activities as per section 2(2)(a) of the Defence Special Account Act, 1974 (Act No. 6 of 1974) as amended. I did not identify any instances of material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA.

Internal control

13. I considered internal control relevant to my audit of the financial statements and compliance with legislation. I did not identify any significant deficiencies in internal control as the limitation imposed on the audit is inherent to the environment of the SDA.

Auditor-General

Pretoria

31 July 2016



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

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Report of the auditor-general to Parliament on the South African Police Service: Crime Intelligence Secret Service Account

Report on the financial statements

Introduction

1. I have audited the financial statements of the South African Police Service: Crime Intelligence Secret Service Account set out on pages xx to xx, which comprise the appropriation statement, the statement of financial position as at 31 March 2016, the statement of financial performance, statement of changes in net assets and statement of cash flows for the year then ended, as well as 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 modified cash standards and the requirements of the public finance management act of South Africa (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 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.
5. 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.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

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Basis for qualified opinion

High Inherent risk due to the nature of the environment

7. The South African Police Service: Crime Intelligence Secret Service Account accounts for sensitive and non sensitive project expenditure incurred in connection with the performance of the function and the duty of the Secret Services as defined in section 1 of the Secret Services Act, 1978 (Act 56 of 1978). The level of assurance that can be given by my audit on sensitive projects expenditure and assets included in notes 6, 39 and 40 to the financial statements respectively, is lower than in the case of other audits due to the significant inherent risk relating to the sensitivity of the environment in which they are incurred and the manner in which they are recorded.

Qualified opinion

8. In my opinion, except for the possible effect of the matter described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the South African Police Service: Crime Intelligence Secret Service Account as at 31 March 2016 and its financial performance and cash flows for the year then ended, in accordance with Modified Cash Standard and the requirements of the PFMA.

Report on other legal and regulatory requirements.

9. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives of selected programmes presented in the annual performance report, compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

10. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information for the following selected programme presented in the annual performance report of the account for the year ended 31 March 2016:
 - Programme 1 – Crime intelligence on pages xx to xx
11. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned programme. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant, as required by the National Treasury's *Framework for managing programme performance information* (FMPPi).
12. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
13. I did not raise any material findings on the usefulness and reliability of the reported performance information for programme 1: crime intelligence.

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Additional matter

14. Although I did not raise any material findings on the usefulness and reliability of the reported performance information for the selected programme, we draw attention to the following matter:

Achievement of planned targets

15. Refer to the annual performance report on pages x to x; x to xx for information on the achievement of planned targets for the year.

Compliance with legislation

16. I did not identify any instances of material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA.

Internal control

17. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with legislation. I did not identify any significant deficiencies in internal control.

Other reports

18. I draw attention to the following engagements that could potentially impact on the department's financial, performance and compliance related matters. My opinion is not modified in respect of these engagements that are either in progress or have been completed.

Investigations

19. A criminal investigation is currently being conducted by the Department of Priority Crime Investigations (Hawks) into allegations of misuse and abuse of the department's funds by certain members during 2011. The investigation was initiated in 2011, at the request of the accounting officer. The case was postponed until 22 August 2016.

Auditor - General

Pretoria

31 July 2016



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

Report of the auditor-general to the 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 xx to xx, which comprise the statement of financial position as at 31 March 2016, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, as well as 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 Standard of Generally Recognised Accounting Practice (SA Standard of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No.1 of 1999) (PFMA) and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-general's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with the 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 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.

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Basis for qualified opinion

High inherent risk due to the nature of the environment

6. The State Security Agency accounts for non-sensitive and sensitive project expenditure incurred in connection with the function and the duty of the Intelligence Services as defined in section 1 of the Intelligence Services Act, 2002 (Act 65 of 2002). The level of assurance that can be given by my audit on sensitive projects' expenditure and assets, included in notes 7 and 18 to the financial statements respectively, is lower than in the case of other audits. This is due to the significant inherent risk relating to the sensitivity of the environment in which they are incurred and the manner in which they are recorded. This expenditure amounts to 11,01% of the 2015-16 financial year's total budget (9.6% in 2014-15).

Qualified opinion

7. In my opinion, except for the possible effect of the matter described in the basis for qualified opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the State Security Agency as at 31 March 2016 and its financial performance and cash flows for the year then ended, in accordance with the SA Standard 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.

Claims against the department

9. With reference to note 33 to the financial statements, the department is the defendant in a number of claims instituted against it. The department is opposing these claims as it believes the claims to be invalid and/or overstated. The ultimate outcome of these matters cannot presently be determined and no provisions for any liabilities have been made in the financial statements.

Restatement of corresponding figures

10. As disclosed in note 28 to the financial statements, the corresponding figures for 31 March 2015 have been restated as a result of an error discovered during 31 March 2016 in the financial statements of the State Security Agency at, and for the year ended, 31 March 2015.

Material losses

11. As disclosed in note 13 to the financial statements, material losses of approximately R16,9 million were incurred as a result of theft that occurred at the head office of the department in December 2015.

Additional matter

12. I draw attention to the matter below. My opinion is not modified in respect of this matter.

Supplementary explanations of budget variances presented outside the financial statements

13. The supplementary explanations of budget variances contained in the appropriation statement do not form part of the financial statements. I have not audited these explanations and, accordingly, I do not express an opinion thereon.

Report on other legal and regulatory requirements

14. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives of selected programmes presented in the annual performance report, compliance with legislation and internal control. The objective of my tests was to raise reportable findings as described under each subheading, but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

15. I performed procedures to obtain evidence about the usefulness of the reported performance information of the following selected programmes presented in the annual performance report of the State Security Agency for the year ended 31 March 2016:
- Domestic intelligence on pages xx to xx
 - National communications on pages xx to xx

Usefulness

16. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned programmes. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant, as required by the National Treasury's Framework for Managing Programme Performance Information.

Reliability

17. With due regard to the sensitivity and confidentiality of the documents that underlie the reported targets and their close link to national security, we did not evaluate the reliability of the reported performance information to determine whether the reported performance targets are valid, whether amounts, numbers and other data reported have been recorded accurately, and whether all the results and events that should have been recorded, have indeed been included in the annual performance report. As a result, I do not report findings on the reliability of performance information.

Domestic intelligence and national communications

Usefulness of reported performance information

18. I did not raise any material findings on the usefulness of the reported performance information.

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Additional matter

19. Although I identified no material findings on the usefulness of the reported performance information for the selected programmes, I draw attention to the following matter:

Achievement of planned targets

20. Refer to the annual performance report on pages xx to xx for information on the achievement of the planned targets for the year.

Compliance with legislation

21. I performed procedures to obtain evidence that the department had complied with applicable legislation regarding financial matters, financial management and other related matters. My material findings on compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA, are as follows:

Financial statements, performance reports and annual reports

22. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework required by section 40(1) (b) of the PFMA. Material misstatements of current assets, liabilities and disclosure items identified by the auditors in the submitted financial statement were subsequently corrected.

Internal control

23. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with legislation. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for qualified opinion and the findings on compliance with legislation included in this report.

Leadership

24. Processes and controls relating to the oversight and review of financial information need to be enhanced and strengthened. This will ensure that the annual financial statement submitted for audit is accurate and complete.

Financial and performance management

25. Controls over daily and monthly processing and recording of transactions need to be enhanced to ensure that the financial statements are supported and evidenced by reliable information.
26. Management is encouraged to prepare financial statement schedules quarterly and submit them, together with the annual financial statements, to internal audit on time, to ensure that internal audit is able to add value to the quality of the financial statements.

Other reports

27. I draw attention to the following engagements that could potentially have an impact on the department's financial, performance and compliance related matters. My opinion is

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not modified in respect of these engagements that are either in progress or have been completed.

Investigations

28. The internal investigation unit investigated the alleged collusion between medical service providers and the members working at the department's medical aid unit, which allegedly resulted in fraudulent medical aid claims being processed. The investigation covered the period 2005 to 2011 and was initiated at the request of the accounting officer. The investigation concluded in 2011 and resulted in criminal proceedings against two members. The case was closed in March 2016 because the required dockets could not be located.
29. During 2008, at the request of the department an independent consulting firm investigated allegations of the theft of a State Security Agency member's investment funds by the broker of the investment company. The investigation concluded in 2008 and resulted in criminal proceedings against the broker. These proceedings are currently in progress.
30. The Office of the Inspector General on Intelligence investigated alleged fraudulent transactions instituted at the covert support unit. The investigation was initiated at the request of the accounting officer in 2009. The investigation concluded in the 2015-16 financial year.
31. The Office of the Inspector General on Intelligence investigated, at the request of the accounting officer, alleged fraudulent operational expenditure transactions during the 2014-15 financial year. The investigation has concluded, but the report has not been signed as the inspector general post is vacant.
32. At the request of the accounting officer the internal investigation unit investigated allegations of fraudulent transactions being processed at the internal travel desk from August 2015 to February 2016. The investigation concluded on 2 February 2016 and resulted in criminal proceedings against two members. These proceedings are currently in progress.
33. The internal investigation unit, at the request of the accounting officer, investigated possible misconduct in relation to the theft of cash at the department's headquarters in December 2015. The investigation concluded in May 2016 and resulted in criminal proceedings against three members. These proceedings are currently in progress.

I-Robert - General
Pretoria
31 July 2016



AUDITOR - GENERAL
SOUTH AFRICA

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PERIOD 1 OCTOBER 2016-31 MAY 2017

	NEW	EXTENSION	AMENDMEND	EXT & AMEND	AMENDMEND	RE-APPLICATION
SAPS	228	58	7	112		17
NIA	10	5	15	67		
FICA	6	3				2
TOTAL	244	66	22	179		19

TOTAL APPLICATIONS-530

PROGRAMME OF THE JSCI FROM 31 MARCH 2016 TO 01 APRIL 2017

DATE	ACTIVITY
12/04/2016	Closed meeting
19/04/2016	Closed meeting
26/04/2016	Closed meeting
24/05/2016	Closed meeting
11/10/2016	Closed meeting
18/10/2016	Closed meeting
25/10/2016	Closed meeting
26/10/2016	Closed meeting
01/11/2016	Shortlisting of candidates for the IG position
08/11/2016	Interviews for the Inspector General of Intelligence
09/11/2016	Interviews for the Inspector General of Intelligence
10/11/2016	Closed meeting
15/11/2016	Closed meeting
22/11/2016	Closed meeting
23/11/2016	Closed meeting
29/11/2016	Closed meeting
24/01/2017	Closed meeting
07/02/2017	Closed meeting
28/02/2017	Closed meeting
07/03/2017	Closed meeting
14/03/2017	Closed meeting
22/03/2017	Oversight visit to O R Tambo International Airport
23/03/2017	Oversight visit to O R Tambo International Airport

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2. The Minister of Finance

- (a) Report and Financial Statements of the Government Employees Pension Fund (GEPF) for 2016-17, including the Report of the Independent Auditors on the Financial Statements and Performance Information for 2016-17.
- (b) Report and Financial Statements of the Reconstruction and Development Programme (RDP) Fund for 2016-17, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2016-17 [RP 347-2017].
- (c) Consolidated Financial Statements for the year ended 31 March 2017 [RP 346-2017].

3. The Minister in The Presidency

- (a) 2017 Third Quarterly Report (July – September 2017) of the National Conventional Arms Control Committee (NCACC), tabled in terms of section 23(1)(c) of the National Conventional Arms Control Act, 2002 (Act No 41 of 2002).

4. The Minister of Transport

- (a) Integrated Report of the South African National Roads Agency Limited (SANRAL) SOC Limited for 2016-17 (Volume 1) [RP 179-2017].
 - (b) Annual Financial Statements of the South African National Roads Agency Limited (SANRAL) SOC Limited for 2016-17, including the Report of the Auditor-General on the Financial Statements and Performance information for 2016-17 (Volume 2) [RP 179-2017].
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COMMITTEE REPORTS

National Assembly

1. Final report of the Portfolio Committee on Communications on the filling of three vacancies in the Independent Communications Authority of South Africa (ICASA) Council, dated 31 October 2017

The Portfolio Committee on Communications (the Committee), having considered the request from the Minister of Communications to fill two vacancies in the ICASA Council and a request by the Deputy Speaker to fill a vacancy that arose as a result of Mr Rubben Mohlaloga's term expiring on 30 June 2017, reports as follows:

A letter was received from the Minister of Communications informing the National Assembly that the terms of office of Ms Nomvuyiso Batyi and Ms Katharina Pillay expired on 31 January 2017; and requesting the National Assembly to commence with the process of filling the vacancies.

Another letter was received from the Deputy Speaker of the National Assembly, dated 28 June 2017, advising the Committee of the upcoming vacancy of Mr Rubben Mohlaloga and requesting that this vacancy be filled together with the other two vacancies as it would be the most cost effective and time efficient manner to handle the appointment process.

The Committee advertised the call for nominations of persons to serve in the ICASA Council and received 117 submissions.

On 25 August 2017, the Committee met and unanimously recommended that the following 15 candidates be shortlisted to be interviewed: Adv Cawekazi Mahlathi; Ms Natalie-Ann Delpont; Dr Mashilo Boloka; Mrs Nomonde Gongxeka-Seopa; Mr Phosa Mashangoane; Mr Peter Hlapolosa; Mr Rubben Mohlaloga; Mr Thabo Makhakhe; Prof Shiela Onketse Mmusi;

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Ms Thembeke Semane; Ms Lulama Mokhobo; Mr Ashraf Patel; Mr Andrew Pheto; Mr Themba Phiri; and Ms Kate Skinner.

The names of the 15 shortlisted candidates were published on the parliamentary website for a period of 5 working days in order to allow the public to submit comments thereon. The screening of all candidates was conducted through the State Security Agency (SSA) and the verification of qualifications was conducted through Parliament's Human Resources Unit.

The candidates were interviewed on 12 October 2017, with the exception of Prof Onketse Mmusi and Mr Themba Phiri who withdrew from the process.

On 31 October 2017, the Committee deliberated on the interviewed candidates and recommends to the National Assembly that three of the following five candidates be recommended for appointment to the ICASA Council: Mrs Nomonde Gongxeka-Seopa; Mr Rubben Mohlaloga; Ms Kate Skinner; Ms Thembeke Semane; and Ms Lulama Mokhobo.

Report to be considered.

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2. REPORT OF THE PORTFOLIO COMMITTEE ON PUBLIC SERVICE AND ADMINISTRATION AS WELL AS PLANNING, MONITORING AND EVALUATION ON THE PUBLIC SERVICE COMMISSION AMENDMENT BILL [B 21-2015], DATED 25 OCTOBER 2017

The Portfolio Committee on Public Service and Administration as well as Monitoring and Evaluation, having considered the Public Service Commission Amendment Bill [B21-2015] referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 76 Bill, the Committee report as follows:

1. INTRODUCTION

On 26 August 2015, the Speaker of the National Assembly had through the ATC No 105-2015 referred the Public Service Commission Amendment Bill [B 21-2015] to the Committee for processing the legislation and as well as referral to the Joint Tagging Mechanism (JTM) for classification in terms of Joint Rule 160.

2. OBJECTIVE OF THE BILL

The Public Service Commission Amendment Bill seeks to amend the Public Service Commission Act of 1997 in order to ensure efficiency and certainty with regard to the process of renewal of the term of a Commissioner. The Bill aimed to provide continuity in the PSC, with respect to the retention of commissioners with experience and having regard to the execution of the mandate of the Public Service Commission.

Furthermore, the Bill seeks to amend section 5 of the Act by empowering the Chairperson to designate an Acting Chairperson whenever both the Chairperson and the Deputy Chairperson are absent.

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3. LEGISLATIVE PROCESS

The Minister of the Public Service and Administration introduced the Bill to the Committee on 24 February 2016. The Committee advertised the Bill on the 04 March 2016 in the national newspapers, inviting members of the public and organised groups to submit written submissions. The advert for the Bill closed on 23 March 2016. There were no written submissions received on the Bill from members of the public and organised groups.

The Parliament Legal Services was involved throughout the entire process of the Bill. The Committee deliberated on the amendments of the Bill, the following were noted that:

- 3.1 The principal Act talks about the renewable term, but does not provide a process to renew it. The recruitment process must start all over again, even for the extension or renewal of the term of an incumbent commissioner.
- 3.2 The recruitment process takes place after term has expired and it procedurally takes longer to fill the vacancy again. This situation had sometimes resulted in instability in the Commission.

Having deliberated on the Bill, the Committee agreed to the following amendments:

- (i) On page 2, from line 11, to omit “after consultation with” and to substitute “on the recommendation of”
- (ii) On page 2, from line 13, to omit “after consultation with” and to substitute “on the recommendation of”
- (iii) On page 2, after line 15, to insert the following subsection:
“(7) The renewal must be based on criteria approved by the National Assembly or the provincial legislature, as the case may be.”.

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4. RECOMMENDATION

Having deliberated on the Public Service Commission Amendments Bill [B 21-2015] extensively, the Committee recommends that the House adopt the amendments to the Bill.

Report to be considered

3. REPORT OF THE PORTFOLIO COMMITTEE ON ENVIRONMENTAL AFFAIRS ON THE REASONS WHY THE SOUTH AFRICAN WEATHER SERVICE BOARD SHOULD NOT BE HELD LIABLE FOR THE FRUITLESS AND WASTEFUL EXPENDITURE FOLLOWING ITS DECISION TO TERMINATE THE SERVICES OF THE FORMER CHIEF EXECUTIVE OFFICER, DR L MAKULENI, DATED 24 OCTOBER 2017.

The Portfolio Committee on Environmental Affairs having interacted with the South African Weather Service (SAWS) Board on the reasons why Board members should not be held personally liable for fruitless expenditure following their decision to terminate the services of the former Chief Executive Officer (CEO), Dr Linda Makuleni reports as follows:

1.BACKGROUND

At the meeting of the Portfolio Committee on Environmental Affairs held on 3rd May 2017, the Chairperson of the SAWS Board, Ms N Mngomezulu presented a report pertaining to the termination of the contract of its former CEO by the Board. It transpired during the presentation of the Board Chairperson and subsequent engagements that the former CEO of SAWS was paid *eight* months' salary after the termination of her contract. The eight months' salary consisted of the five months remaining on her contract at the time of her termination of her contract and the three months was a settlement reached at the Commission for Conciliation Mediation and Arbitration (CCMA). The Committee considered this as a fruitless and wasteful expenditure and consequently resolved to invite the entire SAWS Board to provide valid

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reasons why Parliament should not demand that members of the Board of SAWS pay individually for the fruitless and wasteful expenditure that SAWS has unnecessarily incurred as a result of the ill-advised Board's decision to prematurely terminate the services of the CEO *five* months before the expiry of her contract.

1.1 INTRODUCTION

On the 4 October 2017, SAWS the Board appeared before the Portfolio Committee on Environmental Affairs. The Board was represented by the following members:

- Ms N Mngomezulu – Board Chairperson;
- Mr D Lefutso;
- Mr K Modimoeng
- Mr R Nicholls;
- Ms J Beaumont;
- Ms N Madiba; and
- Prof E Mokotong;

2. EXPLANATION BY THE BOARD CHAIRPERSON ON THE CIRCUMSTANCES THAT LED TO THE TERMINATION OF THE CONTRACT OF THE FORMER CEO

The SAWS Board was provided an opportunity to give account of the reasons that led to the termination of the former CEO's contract and why members of the Board should not be held responsible for their decision pay in their individual capacity for the fruitless and wasteful expenditure incurred relating to the termination of the contract.

Ms Mngomezulu, the Board Chairperson provided the following account:

2.1.The first employment contract period of Dr Makuleni was from 1st April 2009 to 31st March 2012;

2.2.The second contract period was from 1st April 2012 to 31st March 2015;

2.3.The Minister of Environmental Affairs, Hon Edna Molewa further extended the contract to 31st March 2017, in order to align with the contracts of the other CEOs in entities reporting to the Minister;

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2.4. On 26th August 2015 the Minister wrote to the former CEO confirming her re-appointment to the SAWS Board as an ex-officio Board member in her capacity as CEO until to 31st August 2018;

2.5. On 7th June 2016, the former CEO was requested to provide her employment contract by the Board Chairperson as it would form part of the agenda for the bilateral meeting that was scheduled for 8th June 2017;

2.7. On 8th June 2016, the Board meeting was held and the former CEO did not attend the meeting;

2.8. On 14th June 2016, the Board Chairperson requested the former CEO in writing, to provide her contract as a matter of urgency;

2.9. The former CEO wrote to the Company Secretary on 14th June 2016, requesting her to provide her employment contract that extended her contract to August 2018 to the Board Chairperson;

2.10. The Company Secretary responded to the former CEO on the same day, and informed her that letter was given to her previously. Furthermore, the Company Secretary explained that the only reference to 2018 was the former CEO's appointment as an ex-officio member of the current Board;

2.11. On 6th July 2016, the Board Chairperson wrote to Minister Molewa seeking clarity on the former CEO's contract;

2.12. On 27th July 2016, Minister Molewa responded and clarified that the extension of the contract of the former CEO was due to end by 31st March 2017;

2.13. On 2nd August 2016, the Board meeting was held wherein the former CEO was formally notified about the non-renewal of her employment and that the process of recruitment of a new CEO would commence. The former CEO left the meeting and indicated that she would dispute the process;

2.14. The Board Chairperson also received a letter from the former CEO requesting to attend an international meeting, which the Chairperson declined. This, according to the Chairperson contributed to the tension between her and the former CEO;

2.15. On 15th August 2016, the meeting was scheduled between the Minister, the Chairperson of the SAWS Board and the former CEO. Although the meeting was requested by the former CEO, she did not arrive

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and called to say that her car broke down and the Weather Service was not in the position to arrange for an alternative transport for her;

2.16. The Board initiated the process of appointing the new CEO in August 2016;

2.17. On 1st November 2016, the Board received a letter from the former CEO's attorneys, indicating her intention to litigate against the SAWS Board for infringing on her rights by recruiting the new CEO;

2.18. On 2nd November 2016, the Board met to consider the attorneys' letter and took a decision to terminate the contract of the former CEO;

2.19. On 1st December 2016, the former CEO took the matter to the CCMA;

2.20. On 13th January 2017, the CCMA hearing took place;

2.21. Approval was granted by Cabinet for the appointment of Mr Jerry Lengoasa as the new CEO for SAWS;

2.22. On 27th March 2017, the arbitration was held and both parties settled;

2.23. Mr Lengoasa resumed his duties on 8th May 2017; and

2.24. Ms Mngomezulu concluded by stating that the premature termination of the former CEO's employment contract did not fit the definition of fruitless and wasteful expenditure as found in *section 7* of the Public Finance Management Act (PFMA).

3. ACCOUNT BY THE SAWS BOARD MEETING RELATING TO THE TERMINATION OF THE EMPLOYMENT CONTRACT OF THE FORMER CEO

The SAWS Board members present were also given opportunity to give their account on their role regarding the termination of the former CEO contract:

3.1. Mr David Lefutso supported the Board Chairperson's account. He stated that the termination of the former CEO contract was done in good faith. The decision was taken as a result of the former CEO's having missed Board meetings and hence the Board took this rational decision. He opined that the decision was in line with the prescripts of the relevant law. He made reference to a similar judgement heard in the Constitutional Court between

Mr Xulu and the Minister of Defence's review application not to extend his fixed contract. Minister Lefutso voted for the termination of the former CEO's contract;

3.2. Dr Keabetswe Modimoeng also concurred with the Board Chairperson's account of the events and reaffirmed that it reflected what transpired in the meeting of the Board. The relationship between the Chairperson of the Board and former CEO had broken down. Furthermore, he noted that the former CEO stomped out of meetings and that she failed to attend meetings without notice or making an apology. The former CEO was also at the tail end of her contract. These relationship dynamics had to be taken into account when evaluating the situation. The Board had to use its discretion and it was on that basis that the decision was taken. He concluded by stating that it would have been helpful if the Committee could provide reasons about why it felt that there was fruitless and wasteful expenditure, citing that the financial year in question had been audited by the Auditor-General and the fact of the matter was disclosed;

3.3. Mr Rowan Nicholls, who is the Chairperson of the Board's Risk and Audit Committee, said he voted against the Board resolution to terminate the contract and he recorded his vote as such. He believed that the matter could have been mediated or handled differently. He disputed the assertion by the other Board member that the former CEO failed to attend meetings of the Board. He also cited that there were attempts by the former CEO to meet with the Board to address the dispute that arose as a result of the interpretation of the terms of her contract, in particular the question as to when is her contract supposed to come to an end, but her efforts were not heeded. He highlighted the fact that SAWS did well under the tenure of the former CEO, who succeeded to position the organisation onto the path of a clean audit;

3.4. Ms Judy Beaumont, Deputy Director-General (DDG) of Climate Change and Air Quality in the Department of Environmental Affairs indicated that she was part of the meeting and that she concurred with the report presented by the Chairperson of the SAWS Board and further stated that the Board acted legally, rationally and in good faith;

3.5. Ms Nandi Madiba expressed her appreciation to appear in front of the Committee and expressed her surprise to learn that the Committee invited Board members who did not honour the invitation. She apologised for not attending and confirmed that the Committee's invitation did not

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reach all members of the Board. As a member of the Audit and Risk Committee, she evaluated the risk that the decision to prematurely terminate the contract of the former CEO could have on the organisation, and hence decided to vote against the decision. Secondly, there was no formal written report advising members of the Board on the course of action that needed to be taken prior to the decision to prematurely terminate the former CEO's contract. She on previous occasions requested that a special meeting of the Board be convened to discuss the dispute regarding the interpretation of the contract of the former CEO which was affecting the relations in the workplace. She submitted a request and agenda item to the Chairperson of the Board but the meeting was never called. The request was rejected on the basis that it was not the majority who requested the meeting. She supported Mr Nicholls that the matter could have been avoided if the Board had acted in a professional and mature way and prioritised the interest of the organisation instead of looking at individuals. She also mentioned that although the decision to terminate the former CEO's employment contract was not arrived at unanimously, the Board members were not divided in their work. In addition, some of the information presented by the Board members on the duration of the breakdown in the relationship between the Board Chairperson and the former CEO of SAWS was new information to her. According to her, the main issue was around the interpretation of the contract;

3.6. Prof Elizabeth Mokotong agreed with Ms Madiba that they were not necessarily a divided Board. Her observation as a social scientist was that the relationship had broken down between the former CEO and the Board Chairperson. A big source of unhappiness in her view was the interpretation of the term of contract of the former CEO. The organisation's staff morale was at its lowest ebb due to what was happening. Prof Mokotong also mentioned that she met with the former CEO and realised that the relationship between her and the Board Chairperson had broken down. She stated that there were several meetings scheduled to discuss the matter, however, unfortunately, the former CEO did not attend them. Prof Mokotong said she had to leave the meeting early before the vote was taken on the matter. She however supported the Board's decision in order to save the organisation.

4. COMMITTEE OBSERVATIONS AND FINDINGS

The Portfolio Committee, after having engaged with the SAWS Board, makes the following observations and findings:

4.1. The SAWS Board's inability to give a proper account around the circumstances leading to the dismissal of the former CEO is concerning to the Committee. The Committee struggled to obtain a formal report on what happened, despite repeated attempts to get an explanation from the Board;

4.2. It is the Committee's considered view that the Board did not act professionally and in line with the requirements of good governance in that it did not request written legal opinion on a dispute regarding the interpretation of the contract of the former CEO, neither did the Board request and consider a written report outlining various options available to the Board before deciding to prematurely terminate the former CEO, Dr Makuleni's contract. The Board's decision to unilaterally terminate the employment contract was solely arrived at on the basis of the verbal narrative by the Chairperson of the Board, Ms Mngomezulu, despite the significant financial and legal risks that decision posed to the organisation;

4.3. Failure by the Board to seek legal advice on the implications of the unilateral termination of a contract of employment without following due process constituted a reckless behaviour and a flagrant failure to exercise due care and diligence by the Board;

4.4. The so-called breakdown of relationship as a reason for the premature termination of the employment contract of the former CEO was not included in the initial report that the Chairperson of the Board presented to the Committee, it only came about during robust questioning by the Committee members. It is the Committee's view that the so-called breakdown of relationship was only introduced later to justify what was clearly an ill-advised decision and it was not the real reason for the premature termination of the contract;

4.5. During the presentation and briefing to the Committee on the SAWS Annual Report in October 2016, the Chairperson of the Board praised the CEO for her performance and good work in contributing towards the organisation attaining a clean audit. The Portfolio Committee was not alerted to any challenges/concerns the Board might have had with the former CEO, the Committee was shocked only to learn approximately three weeks later of the instant dismissal of the CEO;

4.6. There was no formal report outlining possible options, implications and recourse before the dismissal of the former CEO by the Board;

4.7. There was no value derived by SAWS from the R2 million settlement to the former CEO and it is the considered view of the Committee that this expenditure could have been avoided had the Board exercised due and

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reasonable care before arriving at this reckless decision. This amount of R2 million is only for settlement payment and does not include legal fees incurred;

4.8. The Board is weak, lacks understanding of the principles of good corporate governance, does not consist of suitably qualified members as required by section 5(2)(a) of the SAWS Act and is incapable of providing effective leadership to the organisation as required by section 6 of the South African Weather Services Act No 8 of 2001, as amended and therefore has to be relieved of its responsibility; and

4.9. The Board's decision to dismiss the CEO was not a unanimous.

5. COMMITTEE RESOLUTIONS

The Portfolio Committee on Environmental Affairs, having deliberated on the decision of the SAWS Board to terminate the employment contract of the former CEO, resolves as follows:

5.1. That the decision by the Board of SAWS to prematurely terminate the employment contract of the former CEO, Dr Makuleni, has led to the expenditure of R2 million in a form of a settlement payment to the former CEO, which expenditure could have been avoided had the Board exercised reasonable care, and that SAWS did not derive any value from this expenditure and therefore it's a fruitless and wasteful expenditure as defined by the Public Finance Management Act, No.1 of 1999 (PFMA);

5.2. That Board members who voted for the decision to prematurely terminate the contract of the former CEO without any legal advice or a formal written report presented to the Board are personally liable for the fruitless and wasteful expenditure that was incurred following their reckless decision and must pay back such expenditure to the state;

5.3. That the Minister of Environmental Affairs remove the Chairperson and other members of the Board in line with *section 7(1)(b)* of the South African Weather Services Act, 2001 (Act No 8 of 2001) because of their failure to exercise proper fiduciary duties in performing their functions as members of the Board of SAWS;

5.4. That the new members of the Board to be appointed be thoroughly inducted on the requirements of good corporate governance; and

5.5. That the new Board, in conjunction with the CEO and management, put measures in place to address the significant irregular expenditure reported by the Auditor-General for the 2016/17 financial year.

Report to be considered.

4. REPORT OF THE PORFOLIO COMMITTEE ON ENVIRONMENTAL AFFAIRS ON THE DONATIONS OF HIGH-VALUE WILDLIFE SPECIES TO PRIVATE INDIVIDUALS BY THE NORTH WEST PROVINCIAL GOVERNMENT DEPARTMENT OF RURAL, ENVIRONMENTAL AND AGRICULTURAL DEVELOPMENT, DATED 26 OCTOBER 2017.

The Portfolio Committee on Environmental Affairs having interacted with the North West Provincial Government Department of Rural, Environmental and Agricultural Department (READ) on the donations of high-value wildlife species to private individuals, reports as follows:

1. Background

On 30th August 2016, the South African National Parks (SANParks) briefed the Portfolio Committee on the sharing of the national biodiversity asset of the country by local communities as well as on its land claims model. During the briefing, it emerged that the North West Provincial Government Department of READ had presented a report to the Portfolio Committee on Tourism and Rural Environment and Agricultural Department at the North West Provincial Legislature in 2016, on the donations of high-value game species to certain private individuals in the North West Province. The Provincial Legislature became involved due to the public outcry about these donations and the associated media interest, alleging that those animals were donated to certain politically connected individuals. For example, the Provincial Committee requested to meet with the MEC, Ms Manketse Tlhape after reports spiralled in the media that rare breeds of wildlife were donated to private farms, persons or friends alleged to be politically connected. The media statement issued by the North West Provincial Legislature on 25th October 2015 on the matter of the said wildlife donations vividly illustrates this fact.¹

¹ South African Government (2015) North West Legislature seeks more clarity on donations of wild life [Internet]. Available from <<http://www.gov.za/speeches/north-west-legislature%E2%80%99s-committee-agriculture-seek-more-clarity-donations-wild-life-25-oct>> (Accessed on 19th July 2017).

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Accordingly, the North West Provincial Legislature's Portfolio Committee on Rural Environment and Agricultural Development resolved to allow MEC Manketse Tlhape and her senior management *three* working days to compile a detailed report to further clarify the responses that were provided to question regarding donations of wildlife purportedly awarded to private entities for a 10-year breeding programme. It was, therefore, in response to the public concerns raised and the value of those donations that the Portfolio Committee on Environmental Affairs (hereinafter the Portfolio Committee) in the South African Parliament resolved to request the aforementioned report from the North West Department of READ (hereinafter the Department). Consequently, the Portfolio Committee requested, in writing the Department to submit the report on the donations of high-value wildlife species to certain individuals and to appear before it in Parliament on 1st November 2016, to present the report. This is because the Portfolio Committee needed to accurately and fully understand the circumstances under which the donations occurred to ensure accountability and transparency in dealing with the public funds involved in the matter.

On 1st November 2016, the North West MEC, Ms Manketsi Tlhape and her Department failed to appear before the Portfolio Committee, despite having been given sufficient notice and notwithstanding the fact that an official in the MEC's office confirmed receipt of the notice. It was in this regard that the Portfolio Committee unanimously resolved to utilise the necessary parliamentary processes to summon the MEC to appear before the Portfolio Committee to account for the manner in which they (she & her delegated officials) had disposed of those wildlife species, raised on public funds, which were appropriated by an Act of Parliament. This led the Portfolio Committee invoking *section 56* of the Constitution, which empowers a Committee of the National Assembly to require any person or institution to report to it. This decision prompted the MEC to agree to appear before the Portfolio Committee on 29th November 2016, without any further action from the Portfolio Committee. However, as the capture and translocation of certain wildlife species (buffaloes, *inter alia*) involved in this project required the intervention of the national Department of Agriculture, Forestry and Fisheries (DAFF), it became necessary for the Portfolio Committee on Agriculture, Forestry and Fisheries to come on board in order to holistically assess the soundness of the project. Consequently, members of the Portfolio Committee on Agriculture, Forestry and Fisheries, attended some of the meetings of the Portfolio Committee on Environmental Affairs scheduled to further interrogate wildlife donations to SARGBH by the North West Department of READ.

2. Briefing by the North West Provincial Government Department of Rural, Environmental and Agricultural Development (the Department)

On 29th November 2016 and on 24th January 2017, the MEC appeared before the Portfolio Committee to account for the donations of wildlife worth over R100 million from provincial parks and nature reserves to the South African Rare Game Breeders Association (SARGBA) and the black transformation partners in the second half of 2015. The Committee requested to be briefed on the following issues by the MEC and her Department in the presence of members of the Portfolio Committee on Agriculture, Forestry and Fisheries:

- The circumstances under which the donations were made;
- Entity/person(s) that formulated the Game Donation Policy used and the date the Policy was adopted;
- Whether the Department had donated similar high-value species in the past and who were the recipients;
- The details of the species available in the various parks prior and after the donations, including their sex ratios;
- Whether there was any impact on the viability and the breeding potential of the remaining species;
- The capacity, human resources and land suitability of the individuals and/or company that received the animals;
- Details of the individuals who constituted South African Rare Game Breeders Holdings (SARGBH), the company that received the donations;
- Whether there was any impact on the viability of the breeding potential of the remaining population;
- Details of the births per species since the first donations (births of donated game);
- The old and new game donation policies, including the signed resolutions of the relevant authorities which adopted the respective policies;
- Correspondence (all letters and memos) between the Department and Provincial Treasury exchanged regarding compliance with the provisions of the Public Finance Management Act (PFMA);
- Any sale of animals, that is, post-donation transaction;
- All information pertaining to other organisations or persons who approached the Department expressing interest or requests for game donations and the responses of the Department; and

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- All veterinary reports pertaining to this SARGBH Project.

The North West MEC, Ms Tlhaphe apologised to the members of the Portfolio Committee for her Department's non-appearance before the Committee on 18th October 2016, stating that the invitation reached her office late. She provided the outline of the presentation and handed it over to Dr Mokaila, Head of Department (HOD) to present the Department's response to the Committee under the following italicised thematic areas:

2.1 Circumstances Under Which the Donations were made

The MEC and her team stated that the then North West Provincial Government Department and the North West Parks and Tourism Board received a request for wildlife donations from SARGBH on 6th November 2014. Upon receiving the request, the North West Provincial Executive Council (EXCO) requested the Department to conduct due diligence, which was done in March 2015. As a result, the EXCO granted approval for the donations of the requested game to SARGBH on 25th March 2015, thereby obliging the Department to implement the EXCO's resolution, with the consequence that on the same day (25th March 2015) a Steering Committee was established with clear Terms of Reference. An announcement of the new vision for the North West Parks Board to ensure transformation of the Game Industry with the development of Wildlife Management Transformation was made during the 2015/16 Departmental Budget Vote Speech. The project was identified through SARGBH in the Kgetleng Local Municipality.

2.1.1 Dynamics in Deciding the Numbers of Wildlife in the Donations

A later engagement with the staff of the Ecological Services of the North West Parks Board (NWPB) in May 2017, indeed confirmed that SARGBH approached the North West Provincial Department in November 2014 with the concept of a game breeding project to promote game transformation in the North West Province. Consequently, the Management of the Ecological Services was invited at the beginning of May 2015 to a presentation of the project concept at the SARGBH farms in Swartruggens, where members of the Department accompanied them. SARGBH made the initial request for 210 buffaloes, 210 sabres, 210 roan antelopes and 630 nyalas. However, Mr Wilfred Seithamo the then Acting Manager for Ecological Services was instructed by Mr Mack Magodiello, Chief Conservation Officer at the end of April 2015, to develop proposals for a donation package to the SARGBH

Project, suggesting the following: 50 buffaloes, 20 sable antelopes and 10 nyalas. Unfortunately, these quotas fell short of meeting the sustainability requirements of the breeding project, and hence it was agreed that additional species and animals be made available. This led to the addition of 50 elands, 250 impalas, 100 blue wildebeest and 20 white rhinos on the 12th June 2015.

The Manager of Ecological Services conducted a habitat suitability assessment for the *five* game-receiving farms in June 2015, including Eiland (360.6 ha), Inyati (299.8 ha), Mooivallei (597.6 ha), Midfort (262.7 ha) and Ebisu (455.6 ha), constituting a cumulative area of 1977.3 ha. It is noteworthy that the Manager of Ecological Services wrote and submitted a habitat suitability report to this effect. Thereafter, the MEC called for a meeting with the senior management of the North West Parks Board in her office where the Head of Department, Dr Mokaila, Mr Mack Magodiello, Mr Eric Madamalala, and Mr Peter Leitner, the Regional Manager for the Madikwe Cluster were present. The Hon MEC indicated that the quotas suggested were not sufficient for the project, and requested for 130 buffaloes, 50 sable antelopes, 50 white rhinos and 15 nyalas. It was in this regard that the Manager of Ecological Services wrote a memorandum to his supervisor Mr Mack Magodiello and proposed that the removals be focused on populations with marginal performance and populations where there were poaching issues.

They then proposed the following removals for *white rhinos*: 20 from the Pilanesberg National Park, 10 from Mafikeng Game Reserve and 20 from Botsalano Game Reserve, whereas for the *sable antelopes* it was stated that all the 48 animals should be removed from Borakalalo National Park due to poaching threat and all the *four* from the Pilanesberg National Park due to the unviability of the population. Similarly, the population inviability was considered as the basis for removing all the three *roan antelopes* from the Kgaswane Mountain Reserve. Conversely, 30 buffaloes were to be removed from the Pilanesberg National Park, all the 35 from the Borakalalo National Park, 20 from the Mafikeng Game Reserve, all 10 from the Botsalano Game Reserve, and all 26 from the Molemane Eye Nature Reserve due to nutritional deficiencies, especially during the dry season when the need for supplementary feed arises. Finally, all the 32 nyalas in the Borakalalo National Park were recommended for removal, as the park falls outside the natural range of the species.

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The packages identified by the senior conservation managers were highly skewed towards females, specifically reproductive ones. Similarly, only specific male animals were selected from the available stock, leaving the NWPB short of the new quotas required by the MEC. Therefore, the populations in the respective parks and reserves remaining after capture consisted mostly of male animals, thereby rendering their populations inviable; the only use of these animals could be for their tourist value, such as visible game drives or they could be used for hunting purposes. It further suffices to mention that the capturing of wildlife for the SARGBH Project started at the beginning of July 2015, where it became immediately clear from the onset that the NWPB would not be able to deliver on the new breeding stock request. This means that the approval of the donation of available breeding stock to SARGBH on 23rd June 2016, by the Chairperson of the NWPB occurred when the animals were already in SARGBH facilities for nearly a year.

The Department indicated that SARGBA signed Partnership and Shareholders Agreement with BEEE Partners and Shareholders and Employees Trust to form the SARGBH on 3rd July 2015. This comprised of 50 per cent SARGBA and 50 per cent BEEE Partners. In March 2016, through Project Steering Committee, a Monitoring and Evaluation Plan was approved to look at the issues of Transformation and Empowerment; Financial Sustainability; Breeding Success; Regulatory and Compliance; and Institutional Governance. During the 2015/16 audit by the Auditor-General, there were no findings for both the North West Parks Board and the Department to which the entity accounts.

2.2 Game Donation Policy used and the date the Policy was adopted

The Department stated that the old Game Donation Policy was used for the purposes of the donations. However, it was pointed out that the Policy was subjected to a review process for subsequent cases approved in 2015. However, the author of the said Policy maintained in both a verbal response and written submission that the old Game Donation Policy, which was developed in 2010, and was presented to the Conservation Subcommittee of the then North West Parks and Tourism Board was never officially approved. Therefore, the Department's response that the SARGBH transaction was conducted under the old Policy was at best misleading, worst false.

2.3 Whether the Department had donated similar high-value species in the past and who were the recipients

It was indicated that the Department had been implementing game donations to empower farmers since 1994, for example, in Bakgatla Lebatlane, a community game reserve received zebras, impalas, blue wildebeest and waterbuck; and Mojamoja Game Farm received 32 buffaloes from the North West Parks and Tourism Board. A later engagement with the Manager of Ecological Services of the NWPB confirmed that an agreement between the North West Parks and Tourism Board, Moja-Moja Game Breeders and Barolong Boo Ratlou Boo Mariba Traditional Community was signed on 2nd December 2013, and in April 2014. As a result, the buffaloes were captured and placed in boma in the Borakalalo National Park. The buffaloes were subsequently transferred to MojaMoja Breeding site towards the end of May 2014. It was further indicated that the Ecological Services of the NWPB also conducted ecological assessments on a number of black owned/community farms in the Dr Ruth Segomotsi Mompati District, as well as in the Kgetleng District. These assessments proposed stocking plans and other management proposals, which would be submitted to the District Council as part of its empowerment programme.

2.4 Details of the species available in the various parks prior and after the donations

The Department made reference to a certain confidential wildlife census report that was compiled before and after the donation. The report detailed that 50 buffaloes, 20 sable antelopes and 10 nyalas were donated worth of **R183 190 830**. The Department employed a team of scientists to ensure the well-being of the animals and to record those animals that could be used for breeding purposes. However, the Manager of Ecological Services pointed out that annual game counts in protected areas in the North West Province were conducted on an annual basis, using methodologies based on scientifically accepted principles. The game counts were coordinated by his section (i.e., the Ecological Services Section of the Conservation Management Division of the NWPB). The Ecological Services Section compiled the final game count report, which reflects the population estimates for animals in the 15 parks/reserves in the North West Province.

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2.5 Whether there was any impact on the viability and the breeding potential of the remaining species

The Department conducted an investigation to evaluate the habitat and veld conditions in *five* prospective properties for the breeding and management of sable antelopes, buffaloes and rhinos. The scientists involved gave assurance on animal viability to ensure that species were not exposed to dangerous conditions that could threaten their survival and hence sustainability in their new environment. The Ecological Services Manager concurred that he conducted the habitat assessment in June 2015. The assessment was done for the species identified for the *five* properties, concern was expressed on the veld condition for some properties for specialist species such as sable and buffalo, as well as white rhino. He further noted that veld conditions in some camps were addressed by SARGBH during the past season/months and significant progress was made on this in certain camps. This was mostly done through reseeded of certain areas with favourable grass seed mixtures. However, certain areas still needed attention.

2.6 Human resources capacity and security of receiving land/farms

The Department stated that SARGBH had presented to the Department an inspection report on their facilities. The report highlighted, amongst others, rights to ownership, skills development, conflict mediation, beneficiation and business model and eligible beneficiaries. The Department emphasised that the capacity for breeding high-value species was still in the hands of private farmers, and not in the hands of the government, indicating further that SARGBH breeders had a land capacity of 2 000 hectares, and this area was sufficient to allow wildlife to thrive. They also had ability to give the species supplementary feed and veterinary services. The supplementary feeding was in terms of having the financial resources to feed the stock during the drought period currently being experienced in South Africa. They also had trained veterinary staff and could additionally provide security for the donated animals.

2.7 Details of individuals that constituted the SARGBH Company, as per the shareholder agreement

The individuals who constituted the SARGBH comprised of Mr M de Kock, Mr H de Kock, Mr A Boshoff and Mr H du Toit as well as BEEE beneficiaries, namely, Mr N Manyathi, Mr B Manamela, Mr R Makwela,

Mr M Wolmarans and Mr M Manyeneng and 40 employees on the project. SARGBA and the BEEE partners both owned 50 per cent shares in the SARGBH.

2.8 Details regarding the available species per park as per male or female prior to and after the donation

The Department stated that it managed populations of high-value species such as buffalo, white rhino, sable antelope and nyala in several of its parks in Madikwe, Pilanesberg, Mafikeng, Botsalano, Borakalalo, Molemane Eye and Kgaswane Mountain nature reserves. Buffaloes were present in all nature reserves. White rhino populations were originally present in all nature reserves, but were removed from Borakalalo and Molemane Eye nature reserves due to poaching pressure. Sable antelopes were present in Pilanesberg, Borakalalo and Kgaswane Mountain nature reserves, while nyalas were only found in the Borakalalo Nature Reserve. After translocation, the buffaloes remaining in Molemane Eye and Borakalalo were 11 and 18 males, *three* male and *one* female sable antelopes in Borakalalo and *eight* sexless nyalas in the same game reserve. Presently, white rhinos had not been relocated and buffaloes had not been moved from Pilanesberg, Mafikeng or Botsalano, as planned in the project.

2.9 Whether there was any impact on the viability of the breeding potential of the remaining population

The Department mentioned that the nyalas did not do well in the North West, as their natural range is the northeastern lowveld. Therefore, the objective was to translocate the remaining *eight* sexless nyalas in Borakalalo to their naturally suitable habitat. Although the remaining sable antelopes in Borakalalo were a viable species, they were under threat from poachers. With regard to the remaining male buffaloes in Molemane Eye, the animals had to be given supplementary feed due to drought-induced low levels of nitrogen. The buffaloes in Borakalalo were viable, although they were under threat from poaching due to their high value, thereby raising the need for a relevant intervention. The Department further indicated that translocation of animals did not have a negative impact on the viability of the breeding potential of all remaining animals, which is not true (as indicated in the response of the Manager of Ecological Services).

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2.10 Details of deaths and births experienced per species

The Department conceded that there were indeed deaths as a result of injuries that the animals suffered such as broken jaws during translocation or even during the capture of wild animals. The veterinary surgeon's report was presented, in this regard. In relation to the details of births per species since the donation, six sable antelopes, three buffaloes and five nyalas were born in the SARGBH facilities.

2.11 Game donation policy and the signed resolutions of the relevant authorities, which adopted the policies

The Department presented the purpose and provisions used for all donations, the guidelines for project implementation, screening of applicants, criteria used and limitations contained in *Annexure 3*, which was submitted to the Committee. The Department indicated that a new Game Donation Policy was developed and approved by the accounting authority in the absence of a Board. However, the old Policy was used for the SARGBH transaction because the decision had been made before the new Game Donation Policy was developed. Notwithstanding, the said Policy was never formally approved as the North West Provincial Government's official position on wildlife donations from its provincial game reserves.

2.12 First Quarter and Second Quarter Monitoring and Evaluation (M&E) Report

The Department indicated the presence of such a report, which detailed the strategic objectives, governance mechanism, regulatory compliance, breeding success, transformation and empowerment, and requisite financial statements. In addition, the Report highlighted key achievements and challenges for the two quarters under consideration.

2.13 Correspondence between the Department and the Provincial Treasury on PFMA compliance

The Department drew the attention of the members of the Committee to *Annexes 7* and *8* documents in its submission that contained the details of such interaction between the Department and the Provincial Treasury.

2.14 Animal sales after the game donation transaction

The Department stated that in addition to the application received from SARGBH, it received applications from the following applicants:

- Sunshine Game Breeding Programme for buffaloes, roan and sable antelopes;
- Eagle Quest Game Farm (EQGF) for sable antelopes and white rhinos; and
- Baphiring Traditional Community for sable antelopes, blue wildebeests, impalas, kudus, blesboks and waterbucks.

2.15 Normal protocol used in effecting donations

After the game counts, the Ecological Management Committee (EMC), which consists of a park manager and Ecological Services Regional manager, evaluates the results in terms of other factors, including stocking levels, income generation, hunting and donations, among others. The EMC recommends a quota for removals via introductions to other parks/reserves, hunting and/or donations. The recommendations of the EMC are consolidated and discussed at the Game Removals and Introductions Committee (GRIC) meeting, which brings together regional managers, Manager of Ecological Services and Chief Financial Officer. The meeting discusses the quotas in terms of possible transfers between parks, other objectives, such as provincial and national conservation projects, donation, community projects, income targets, breeding projects and so forth. A final recommendation with reference to possible community/transformation projects is then made to the Chief Conservation Officer.

The quotas are further presented to the Executive Management Committee, then to the Conservation Subcommittee and finally to the Board of Directors from where it is passed on to the MEC of the Department for sign off. A call for proposals is publicly advertised and project proposals are received and reviewed by GRIC, and where necessary additional information is obtained, such as ecological feasibility studies and business plans, *inter alia*.

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3. Discussions by the Committee

The Committee raised the following questions and issues to the Department:

- Did the Department seek legal opinion before proceeding with the contract agreement, considering that the contract agreement was an unsolicited bid?
- The Department presented that donations were made to a community in previous years, however, this was contrary to *Annexure 14* of the report, which listed the donations made in past years to foreign countries such as Botswana, Denmark and Switzerland. For example, between 1997-2014, 121 animals had been donated locally and 99 animals had been donated overseas, whereas in 2015 a massive number of 262 animals was authorised for donation.
- Furthermore, an explanation was sought on why 130 buffaloes and 50 white rhinos had been donated to Mr Mike de Kock and other members of SARGBH;
- The Department should provide the details of the relevant experiences, qualifications and expertise of the BEEE partners involved as well as how the shareholding of SARGBH was done, the criteria for donation and the veterinary report used to make donations.
- The Department was asked about the identity of the Chairperson of SARGBH, as the relevant annexure carried the signature of an unidentified person.
- What other aspects of transformation were taking place, apart from the donation of animals? Did the donations take place on only one farm or were there other farms? The Committee also wanted to know whether training was provided to the BEEE partners and whether the donations were a profit-sharing initiative. The Department was also asked to point out the benefits that it would receive in the later years from the donations effected.
- The Department did not advertise for this contract, meaning that the project favoured a particular group and did not take transformation issues into account, for example, only males benefited; there were no indications that women and youth as well as the marginalised in our society (e.g., the disabled) benefited. Females, youth and the marginalised people should have benefited from the donated game species, considering that the animals in question were a public asset.

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It is in this regard that the Committee wanted to know the criteria used by the Department to determine game donation to the concerned beneficiaries.

- The Committee wanted to know the size of the farms that received the game donations, and the kind of animals that SARGBH had on its farm before receiving donations and whether the Department could account for each of the animals donated in order to ascertain whether the game donations were not used to enrich a few individuals.
- What was the status of the animals donated so far? The Committee was informed that some of the donated animals died during the translocation and whether the animals donated to private farms would ever be returned to the Department.
- Questions were raised about the capacity of the Department to stock the animals donated, in addition to whether the Game Donation Policy clarified the number and value of game species that could be donated in a single project.
- Did the Department have any framework for donations and was this framework followed in the game donation process?
- Did the Department have the capacity to check if the desired private farm had a suitable habitat to nurture the donated game? Had they received other requests for game donations at the time SARGBH made its request, and could they presently donate game to other parties who make such requests now?
- The Committee wondered whether SARGBH farms were predominantly white-owned private game farms or some of the BEEE/transformation partners also owned game farms.
- The Committee asked for the reasons that led the Department to change the date of the signed agreement from August to February 2016 and whether the agreement should be disregarded, as the Department's presentation and the signed agreement showed contradicting figures of game donations. There was also a serious concern about the Department's presentation, which stated that SARGBH had 2 000 hectares of land to stock the donated animals. This was likely to cause overstocking, particularly as *Annexure One* indicated that SARGBH had received double the number of animals that it originally had on its farm.

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- An explanation was sought on the timelines for the signing of the donation agreement, as the Department received the proposal on 6th November 2014, and the EXCO shortly approved the SARGBA proposal on 25th March 2015. The Committee wondered whether the process of approving the SARGBH proposal followed due diligence, as certain crucial determinations by the Department (and hence the North West Parks Board) needed to be concluded prior to the approval of the proposal, and also noting the long December break in-between.

4. Responses by the North West Provincial Government Department

- The Department responded that it had a regulatory monitoring plan that was used to monitor the project's strategic objectives, which ranged from institutional governance issues, regulatory compliance matters, breeding success and health of the animals, financial costs incurred and transformation empowerment. In addition, the Department had a tool that monitored the animals and the timeframes (six months or one year), had an indicator for genetic purity and strength, signs of disease, births recorded and signs of stress.
- The Department requested the Committee to allow it to submit a written response with the figures on mortality during the movement of animals.
- The project was a breeding programme, and all the animals selected for breeding in the project were marked and could be identified to provide population figures of animals on site (e.g., on the farm). It was stated further that the Department had facilities within the country to check habitat suitability, whereas it relied on checks made by the receiving country (in case of foreign destinations) and a team of South African scientists would often visit such foreign countries to authenticate the information submitted on habitat suitability.
- There was a follow-up question on the habitat suitability report and whether it covered the issue of overcrowding that was raised earlier?
- It was responded that a breeding facility did not rely on natural feeding, but a lot of artificial feeding would be used to supplement the feeding during the breeding programme.

- The Department noted that it had not responded adequately to the question, which dealt with the number of animals taken into each farm and the number of animals present on the farm initially (at the time of donations), and hence undertook to submit a written response.
- The Committee stressed that it was following the line of response from the Department on the question of overcrowding, taking into account the number of animals the receiving farms had initially and following the number of animals donated by the Department. Consequently, the Department indicated that the habitat was looked at on the basis of supplementary intensive feeding, not the size of the farm. Notwithstanding, the Department's response did not answer the core question on habitat suitability of the receiving farm. This prompted the Committee to ask for a further clarity.
- In clarifying the issue, the Department stated that *Annexure 16* addressed the matter of habitat suitability of the receiving farms, and not the provincial farms. It referred to a Table within the Annexure that described the size of different private farms used for breeding of different species. However, the Committee noted that the habitat suitability presented in *Annexure 16* was not for any of the receiving farms.
- The Department acknowledged that it had not followed ethical principles or considerations in moving game from the provincial nature reserves to zoos in the past, and had learnt a valuable lesson in the process. It was reported that the Department was committed to making improvements on ethical procedures, noting that game donation initiatives had not come with any monitoring requirements in the past, and hence game donations had not added value to the North West Parks Board (NWPB). The Department indicated that the quantum leap in game donations identified in the SARGBH Project was a partnership between NWPB and SARGBH, and this step had been undertaken to improve the population of game species owned by NWPB by making a significant investment. A particular reference was made to *section 4.6* of the contract agreement, which reads as follows: “*On expiration of this agreement half the initial breeding stock of each of species donated shall be returned to NWPB or be donated to other BEE beneficiaries at the discretion of NWPB, based on the game donation policy*”.

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- It was affirmed by the Department that no immediate game donation could be made to any applicant, taking into account the quantum leap in game donation by NWPB to SARGBH. However, for future donations, *section 4.6* of the contract agreement has empowered NWPB to donate game to other farms because the initial stock would be evaluated after *five* years and the 50-per cent stock returned could be donated to other farms.
- The Department asserted that NWPB was not interested in returning game that had been intensively bred back to the wild because this game would become vulnerable to predators. As a result, all intensively bred games would be used in future empowerment projects, and SARGBH would become an important partner in such projects. The Department further stated that no rhinos were removed from the wild in the recent SARGBH donation.
- Regarding the contradiction in the dates, the contract was signed retrospectively in 2015 because the new Board had been going through a process of adjustment, necessitated by the fact that the Department had gone through a major reformation that led to the repealing of the North West Parks and Tourism Board (NWPTB), resulting in the establishment of two new entities, namely, the North West Parks Board (NWPB) and the North West Tourism Board (NWTB). The discussion on the agreement had taken place under the NWPTB, but when the MEC had appointed the new Board, the successors had gone through a new process and had decided to continue with the contract based on the date that they had signed the contract with the parties concerned.
- The Committee were of the view that a successor did not need to sign any other agreement, except to nullify the former agreement, so there was no need to backdate the signing date from 2016 to 2015. In this regard, the Department held that the entity was undergoing transition, but recalled that on 25 March 2015, the Department already had an EXCO resolution that the project must be implemented based on the conditions stated, although the shareholders had some transitional issues. Because of the commitment to continue with the project, the project had commenced, while planning and implementation continued simultaneously.

- In relation to the legal opinion sought, the NWPB had obtained legal opinion from the internal legal officers, but had not sought external legal opinion. Furthermore, in terms of the Public Finance Management Act (PFMA), the Department was required to adhere to *section 54*, which concerns the disposal of significant assets. Accordingly, the accounting officer was required to inform the Provincial Treasury, which the accounting officer duly complied with in the matter of animal donations to SARGBH. In fact, the transaction had been interpreted as such by the internal legal team of NWPB.
- With regard to the relevant experience of SARGBH, the beneficiaries had relevant business experience, farming and technical expertise. The Department further noted that different applicants had made requests for game about the same time as SARGBH.
- On the participation of women, youth, disabled individuals and previously disadvantaged people, the Department admitted that NWPB had not fully complied with the BEE equity targets, stressing that white farmers still dominated the agricultural sector and wildlife or game farming industry.
- On whether the Department was satisfied that the transaction had followed government prescripts in terms of PFMA, the Department conceded that it had not fully complied with government prescripts, but they had learnt some useful lessons along the way, including from the engagements with the Portfolio Committee.

5. Observations and findings by the Committee

The Portfolio Committee noted the following:

- The Portfolio Committee accepted the apology of the MEC on behalf of the Department for not appearing before it on 1st November 2016, although the Committee did not entirely agree with the explanation provided that an official in her office did not notify her about the request for her to appear before the Committee to account for the SARGBH Project, particularly as the Committee Secretary had confirmed the receipt of the Committee's request with an official in the MEC's Office well ahead of the scheduled date for her appearance before the Committee.

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- The Committee considered it irrational that the Department recommended emptying some of its parks/reserves of certain species due to poaching threats when they could not ensure the security of those same species in SARGBH facilities. It is unacceptable that the SARGBH Project was being seen as an avenue for the Department to absolve itself of the responsibilities for protecting those species, which was tantamount to ‘*not on my hands*’ attitude.
- It did not make sense for the Department to argue that the SARGBH donation was done to facilitate transformation when the donation actually benefited the previously advantaged white game farmers, comprising Mr M de Kock, Mr H de Kock, Mr A Boshoff and Mr H du Toit.
- The Department did not comply with the prescripts of PFMA, particularly the Expression of Interest, as stated in the Preferential Procurement Policy Framework Management Act (Act No 5 of 2000). The Act explicitly states what should be done when deviations such as unsolicited bids arise.
- The Committee noted the explanation regarding the use of the old Game Donation Policy by the Department as an attempt to mislead the Committee as both the date for the approval of the policy and the authority that sanctioned the approval of the said Policy were indeterminate, or non-existent.
- The Department’s response on overstocking was flawed because even when breeding animals on an area of 1700 hectares, only 106 animals could be sustainably catered for.
- The numbers of game donated in this transaction were very high and conservation principles were not followed; the retention of only male buffaloes at Molemane Eye Nature Reserve and Borakalalo was against conservation principles.
- There is a mismatch between the date on which the animals were captured for transfer into SARGBH facilities and the date on which the Chairperson of the NWPB approved the project. The Department appeared to be under some form of compulsion from the onset, considering the manner in which the quotas for the animals were determined.
- The MEC conceded that the project had not been carried out with due diligence, and the Department had made some errors. For instance, it had not initiated an ‘expression of interest,’ particularly when it had escalated the number of game donations to SARGBH. The Department further affirmed that it had learnt a useful lesson and was willing to do due diligence on the project, based on the Committee’s advice.

- There does not seem to exist records that the Department advised the EXCO that the old Policy was inconsistent with the NWPB mandate. Notwithstanding, the EXCO's approval of the SARGBH game donation proposal did not make the transaction right; and the handling of the project did not comply with conservation principles.
- There was a signature supposedly of the Chairperson of SARGBA on an official document without the name of the individual, and neither the Department nor the North West Parks Board raised any concern.
- The massive quantum leap donation of high-value wildlife to SARGBH has effectively prevented the Department and hence the NWPB from donating animals to any new potential beneficiaries, how promising their proposals could be.
- The role played by the MEC is questionable and of great concern indeed as she pushed the numbers of the animals higher up (130 buffaloes, 50 sable antelopes, 50 white rhinos and 15 nyalas), more than the numbers of the wildlife species (50 buffaloes, 20 sable antelopes and 10 nyalas) determined by the then Acting Manager of Ecological Services, Mr Wilfred Seithamo.
- That the Department misled the Portfolio Committee and hence Parliament that the SARGBH donation was sanctioned by a valid Game Donation Policy when the Department was aware that it had not formally adopted a policy, in this regard.

6. Committee Resolutions

The Portfolio Committee on Environmental Affairs having deliberated on the donations of high-value wildlife species to private individuals by the North West Provincial Government Department of Rural, Environmental and Agricultural Development (i.e., the Department), resolves as follows:

- That there is prima facie evidence that North West Department of Rural, Environment and Agricultural Development (READ) did not handle the donations of the high-value wildlife animals in accordance with the requirements of the PFMA and thus the Committee directs the MEC and the Department of READ to reverse the SARGBH donation project with immediate effect and to ensure that no further donation to SARGBH take place,
- The relevant authorities need to be consulted on the vulnerability of the animals which have been removed from the natural, wild habitat for breeding and the need to find them suitable habitat within the provincial reserves,

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- The prima facie anomalies are severe enough to warrant that the Auditor General and National Treasury must take necessary steps in terms of the PFMA to investigate the SARGBH game donation project for possible financial irregularities, which investigation could result in a finding –
 - That the costs of the reversal of the SARGBH project be recovered from the MEC, the Accounting Officer or any persons or entity that might have contributed in these transaction or that may inappropriately have benefited.
- That the Auditor General and the National Treasury should report back to the Committee on all actions taken with regard to recommended PFMA informed measures within the next three (3) months
- That the National Department of Environmental Affairs should finalise its Game Donation Policy that is currently underway in the next three months in order to enable orderly transfer and/or donation of public wildlife species from statutorily (National and Provincial) protected areas to communities and private persons/entities throughout the Republic
- That the Legal Services of Parliament present a legal opinion to the Committee within 30 days of the adoption of this report on the steps that can be taken against any persons who, in accounting to the Committee, appears to have misled the Committee with regard to claims that the SARGBH donations were executed using a valid Game Donation Policy well knowing that the Department had not formally adopted a policy, in this regard; and
- That the Committee should seek further guidance on the referral of the wildlife donations in question to the relevant law enforcement agency for further investigation, considering the amount of public funds involved.

7. Conclusion

Overall, both the conception and implementation of the game donation project was not properly done despite the high value of the wildlife species involved in that transaction. These two processes appeared to have been hurried for some reasons unknown to the Committee. Of much concern was the inability of the North West Provincial Department of Rural, Environmental and Agricultural Development to halt the donations of wildlife at a time when the public media and even the North West Provincial Legislature's Portfolio Committee on Tourism and Rural

Environment and Agricultural Development became concerned about the execution of the project. Worse still, after having identified several anomalies with the relevant policy that was supposed to underpin the conception and implementation of the project; the lack of strict adherence to the PFMA requirements and associated legislation; and obvious disregard of good conservation principles during the two engagements with the MEC and her Department, there was no conclusive assurance that further transfer of wildlife would be stopped. It would therefore be appropriate for the Committee to determine the rationale that underpins this game donation project. It is important to note that although 50 per cent of the animals involved in the project would revert back to the NWPB seemingly after *five* years, those animals would never be wild as at the start of their transfer to the SARGBH. It is therefore logical for the Committee to seek legal advice, with the aim of referring this matter to law enforcement agencies for further investigation to establish criminal liability where necessary, based on the value of the wildlife species involved.

Report to be considered.

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National Council of Provinces

**1. REPORT OF THE SELECT COMMITTEE ON SOCIAL SERVICES ON AN
OVERSIGHT VISIT TO THE ETHEKWINI LOCAL MUNICIPALITY IN
KWAZULU-NATAL PROVINCE, 04-08 SEPTEMBER 2017**

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PARLIAMENTARY DELEGATION

1. Ms LC Dlamini – Chairperson: Select Committee on Social Services
2. Mrs LL Zwane
3. Ms TK Mampuru – Whip
4. Mrs TG Mpambo-Sibhukwana
5. Ms PC Samka
6. Mr C Hattingh
7. Mr M Khawula
8. Ms D Ngwenya
9. Mr D Stock
10. Ms L Moshodi

PARLIAMENTARY OFFICIALS

1. Ms Marcelle Williams – Committee Secretary
2. Ms Thabile Ketye – Content Advisor
3. Ms Zukiswa France – Committee Assistant
4. Mr Mkhululi Molo – Committee Researcher
5. Ms Jeanie Le Roux – Committee Researcher

1. INTRODUCTION

The Select Committee on Social Services (hereinafter, the Committee) conducted an oversight visit to the Kwazulu-Natal Province. The oversight visit took place during the week of 04–08 September 2017. The decision to conduct an oversight trip to Kwazulu-Natal followed a decision taken during the National Council of Province's (NCOP) Strategic Planning session held on 1-2 September 2014 and Annual Planning Session held on 28 February-1 March 2017.

In line with the National Development Plan (NDP), Medium Term Strategic Framework (MTSF), priorities of the Fifth term of Parliament, and the mandate of the Committee, the oversight undertaken in Kwazulu-Natal focused on five key portfolios: Health, Water and Sanitation, Human Settlements and Home Affairs. This was done by visiting specific projects and programmes implemented by the above-stated Departments. In Kwazulu-Natal, the Committee visited the eThekweni Local Municipality.

The Committee identified the key focus areas per Department. The oversight that was conducted included site visits of two health facilities, namely: Addington District and Regional Hospital, and Cato Manor Community Health Centre/Day Hospital; human Settlements project - the Cornubia Housing development; Durban Harbour as a Home Affairs port of entry; and interacted with Umgeni Water Board.

This report provides an overview of the areas the oversight focused on. It highlights the findings from the sites that were visited and reported challenges. Based on these, recommendations and issues for follow-up have been identified and made.

2. STRATEGIC FOCUS OF OVERSIGHT VISIT

The NDP serves as a premise to the Committee's plan and programme of implementation as it highlights the importance of reaching a minimum standard of living for all South Africans by 2030. A key mechanism of realising this is through a holistic multi-pronged approach.

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2.1 Health

A long and healthy life for all South Africans is Outcome/Priority 2 in the MTSF and NDP. Some of the targets geared at improving the health of the South African population include:

- Raising life expectancy to at least 70 years.
- Ensuring that the generation of under-20 year olds is largely free from HIV.
- Significantly reduce the burden of disease.
- Achieving an infant mortality rate of less than 20 deaths per 1,000 live births, and an under-5 mortality rate of less than 30 per 1,000.
- Construction of 213 clinics and community health centres, 43 hospitals; and refurbishment of over 870 health facilities in 11 national health insurance (NHI) pilot districts.
- Doubling of the number of people on ARTs from the present 2.4 million to a projected 5.1 million.
- Intensifying TB screening and treatment programmes for vulnerable groups, including 150,000 inmates of correctional services facilities, 500,000 mineworkers and an estimated 600,000 people living in mining communities.
- Vaccination of all girls in Grade 4 against the human papilloma virus, to significantly reduce their risk of acquiring cervical cancer in future.

For the purposes of this aspect of the oversight visit, the Committee visited the *Addington District and Regional Hospital, and Cato Manor Community Health Centre*. The focus visiting these two sites was on the availability of medicines, emergency medical services, infrastructure, human resources and Ideal Clinics status.

2.2 Human Settlements

Human settlements as defined in the NDP and other strategic policy documents, refers to a provision of not only houses but elements that will ensure people live in a community with all the basic amenities. A lot of infrastructure comes into play in relation to provision of human settlements. These include but are not limited to planning, building and provision of water and electricity. This also has its

complexities because planning takes place at the local level; building of houses is a provincial level responsibility; and provision of water, sanitation and electricity is split between the departments responsible for bulk services and reticulation. Due to this the Committee met with all the respective role-players and stakeholders.

For the purposes of this aspect of the oversight visit, the Committee focused on the *Cornubia Housing development project*.

2.3 Water and Sanitation

According to the NDP, water is a strategic resource for critical socio-economic development. Further, it is acknowledged that South Africa is a water scarce country hence greater attention should be paid to water management and use. Moreover, it is acknowledged that water supply and sanitation services are vital for community health, development, cohesion and continued economic activity (National Planning Commission, 2012). It is within this context that the Committee focused on this sector during its oversight.

For the purposes of this aspect of the oversight visit, the Committee was briefed by the Provincial Manager of the Department of Water and Sanitation on bulk water supply.

2.4 Home Affairs

The NDP (National Planning Commission, 2012) notes the need for people living in South Africa to feel safe and enjoy a community life free of fear, which has a direct impact on the need for effective internal control of immigration detention centres in the country. Likewise, Outcome 6 of the MTSF (also) highlights the requirement that the identity of all persons in South Africa be known and secured, which would not be possible without effective border management and immigration control.

For the purposes of this aspect of the oversight visit, the Committee visited Durban Harbour, which is as a port of entry. The focus was on the management of the facilities and the types of services offered.

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3. FINDINGS, CHALLENGES & RECOMMENDATIONS: VISITED SITES

The Committee received briefings from the role-players and stakeholders in the form of PowerPoint presentations prior to undertaking site visits. The briefings were followed by discussions where the Members of Parliament (MPs) asked questions to explore and probe on issues raised (during the presentations), and during the site visits.

Information presented in this report therefore comes from the information collected from presentations, discussions and observations.

2.1 Addington Hospital

2.1.1 Background

The hospital was opened in 1878. It consists of several interlinked buildings. Since that period there have been renovations. The initial renovations entailed the building of the “O and “S” blocks in the 1930s, and the opening of the Tower block on 10 November 1967.

2.1.2 Findings

The Committee visited Addington District and Regional Hospital which operates in Ward 26 of Ethekewini Municipality. The hospital offers tertiary services which include oncology and medical physics. It supports two primary healthcare Clinics: Addington Gateway Clinic, weekdays from 07h00 to 16h00, and Beatrice Street Clinic, weekdays from 07h00 to 16h00.

The hospital’s outpatient services department is operational weekdays, from 07h00 to 16h00. The accident and emergency department, and the in-patient services departments are operational 24 hours a day, 7 days a week.

(a) Bed utilisation

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According to the hospital CEO, the hospital has 571 authorised beds but only 450 are usable. They are allocated per ward as shown in the table below.

HOSPITAL UNIT/WARD	NUMBER OF USABLE BEDS
Surgery	87 (loss of 13 beds 2016)
Orthopaedic	54
Obstetrics	62
Medical	109 (loss of 10 beds in 2015/16 and 6 2016/17)
Paediatric	40
Gynaecology	16 (and 4 for multidisciplinary use)
Oncology	30
Psychiatry	18
Critical Care:	
-Adult ICU /HC	4
-Neonatal	20
Coronary Care	6
Total:	450

(b) Finances

The delegation was presented with the hospital's budget allocation for 2016/17 and 2017/18 as reflected in the table below. The table shows that there was a nominal increase in the allocated budget between the two years.

It was reported that a bulk of the allocation (R601,053,000.00) goes to salaries (Compensation of Employees). The second largest allocation (R180,537,000.00) is for goods and service.

PERIOD	ALLOCATED BUDGET
2016/17	R759,134,000.00
2017/18	R853,786,000.00

(c) Medicine Availability

The delegation was informed that all tracer medicines were in stock at the time of the visit. Thus there was a 100% availability of medication. The hospital Pharmacy utilizes web-based stock control treatment systems with stock cards as a back-up

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system. Further, overall medicine availability for the current financial year, as per the National Dashboard, ranges from % to 91% and currently stands at 87%.

The delegation was informed that in cases where medical items are not available it is generally due to supplier constraints and, includes items that are not on contract or tender.

(d) Infrastructure

Recently the hospital had a “*total refurbishment and rehabilitation of the 16 floors of the hospital core block*” project. The project includes the replacement of all windows with new aluminum windows, installation of aluminum sun louvers, roof water proofing, lightning protection, the refurbishment of two cooling towers, aluminum auto sliding doors at the main entrance, replacement of central chilled water air conditioning plant serving theaters, wards and a new chiller pipes. The contract for this project commenced on 19 March 2012 and was completed on 16 December 2016. The value of the contract was: R 167,937,846.59.

The other infrastructure project included the refurbishment of 7 theatre rooms with new X-Rays equipment, the renovation of 3 ablution facilities, 2 change rooms, kitchen and tea lounges, vinyl flooring, tiling, a Doctors lounge, Porters lounge, 3 sleep areas for Doctors, fire protection and detection, a Nurse call system, new ceilings, new shelving, medical gas, and instrument washers. The contract for the project commenced on 20 February 2014 and was completed on 20 January 2015. The contract was valued at: R 26,235,207.87.

The provincial Head of Department indicated that the Infrastructure Head Office is progressively implementing an “Infrastructure Maintenance and Renewal Programme”.

2.1.3 Challenges

The delegation visited a number of units/wards in the hospital. During the “ward rounds” it was informed, and observed the following key challenges -

- Human Resource challenges:

- Filling of posts is prioritised according to budget availability.
 - Aging workforce resulting in increased retirements and potential ill health/decreased capacity.
 - Lengthy recruitment process resulting in loss of potential candidates.
 - Staff shortages in the labour and antenatal wards.
 - Registrars from the University are used (to assist) due to the shortage of qualified Doctors.
- Infrastructure challenges:
 - Aging infrastructure.
 - Plumbing problems.
 - Electrical problems
 - Leaking roof.
 - Non-functional fire detection and insufficient firefighting system.
 - The PA system was not functional.
 - Lift-dependent structures.
- Supply Chain Management (SCM) challenges:
 - Lengthy SCM processes.
 - R200 000 delegation prevent the placement of bulk orders.
 - Inappropriate companies tendering for items and then cannot supply.
 - Lack of transversal contracts.
 - Casualty area is small and has a shortage of beds.
- Bed shortages:
 - High risk patients are diverted to other hospitals, high maternal mortality rate.
- Medical equipment:
 - Not all machines are functional. The oncology machine was not working at the time of the visit.

2.1.4 *Recommendations and Issues for follow-up*

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The delegation was informed that a streamlined ratification process has been implemented. As part of this process, a critical post list is being established in order to expedite the human resources replacement process at facility level.

The Committee recommended to the provincial Department of Health that the following takes place in the 2017/18 to 2019/20 financial years:

- Transversal contracts for commonly utilised items be put in place.
- Both Financial and SCM delegations be increased to R500 000.
- Additional staff be employed.
- Additional beds be acquired.

2.2 Cato Manor Community Health Centre

2.2.1 Findings

The Committee visited the Cato Manor Community Health Centre (CHC). The delegation found that the facility is fully functional. It offers an array of services, such as: maternity, paediatrics, x-ray unit, dentistry and pharmacy, physiotherapy and speech therapy. It was reported that medication is available 99% of the time.

2.2.2 Challenges

The main challenges reported are:

- The CHC operates with 1 acute nurse, who is a Professional Nurse. Further, there is a shortage of midwives.
- It has a combined waiting area, with a 3 hours waiting period.
- There is a shortage of consultation rooms.
- There is no Home Affairs office at the CHC.
- It has infrastructure challenges.

2.2.3 Recommendations and Issues for follow-up

- The facility management staff should conduct a survey to assess various patient needs, with 2017/18.

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- The national and provincial Department of Health should assist with equipping the CHC with staff and infrastructure needs, in 2018/19.

2.3 Human Settlements, title deeds, military veterans housing, Cornubia Housing Development

2.3.1 Title Deeds

2.3.1.1 Findings

The Committee was briefed by the Department of Human Settlements on title deeds. The table below provides a summary of title deeds transfers that have occurred pre-1994 and post-1994.

SUMMARY OF TITLE DEEDS TRANSFERS							
	Transfers 2009/10- 2016/17	Backlog 2017/18	Target 2017/18	Actual achieved 2017/18	Instructions	Lodgements	Actual Work in Progress
PRE 1994	5 076	23 215	11 178	300	1 250	242	1 492
POST 1994	18 160	124 768	24 492	3 055	6 298	2 830	9 128
TOTAL	23 236	147 983	35 670	3 355	7 548	3 072	10 620

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2.3.1.1.2 Challenges and Interventions

No.	Challenge	Programme of Action/ Interventions	Time Frame	Comments
1.	Identify backlog of title deeds	Ring fenced all projects completed prior to 2014/15 where title deeds were not issued. Divided a TRP Business Matrix	Completed	Completed
2.	Establishment of the TRP unit	Established a TRP Unit headed by a Chief Director Approved secondment of DD, appointed three contract staff and one Land Surveyor.	Completed	Completed
3.	Resolving Town Planning issues	Appointment of three town planners to address all town planning issues for the eThekweni region Projects allocated to town planners per region. Monthly meetings are held with the town planners, eThekweni and HDA	On-going	On-going
4.	Resolving beneficiary verification and validation	Appointment of six Social Facilitators to undertake beneficiary verification and validation Projects allocated to Social Facilitators . Regular meetings are held to monitor progress. Where approved beneficiaries are still in occupancy Social Facilitators conclude all necessary documents and handover to the municipality to effect transfer. Where approved beneficiaries are not in occupancy Social Facilitators complete all documentation and recommendation is made to the municipality for regularisation.	On-going	On-going

No.	Challenge	Programme of Action	Time Frame	Comments												
5.	Resolving Land Legal issues	Establishment of the Technical Land Legal Task Team with experts form COGTA, Human Settlements , deeds office Appointment of Land Legal expert	Completed 31 st September 2017	Completed, already resolved Mpumalanga and Ntuzuma G land Legal Challenges Recommendation made to HOD to appoint a firm of Land Legal experts to assist with all Land Legal issues												
6.	Issuing of Section 28(1) Certificates	Task team formed with eThekweni Municipality's engineers two projects are presently used as pilot projects (Kingsbury West & Welbedatch East)	Commenced and ongoing 31 st September 2018	Task team accessing two pilot projects to be finalised in the short term. (Kingsbury West and Welbadatch East) EThekweni municipality intends to apply to council to indemnify engineers in order for them to release the section 28(1) certificates .												
7.	Sectionalisation of units	Appointment of Land Surveyor	31 st October 2017	Land Surveyor appointed to undertake sectionalisation of units in Austerville . Once a sectional transfer register has been opened transfers will proceed.												
8.	Title Deed	Eradication of backlog over a three (3) year period. Annual Target as follows: <table border="1" style="margin-left: 40px;"> <thead> <tr> <th></th> <th><u>2017/18</u></th> <th><u>2018/19</u></th> <th><u>2019/20</u></th> </tr> </thead> <tbody> <tr> <td>Pre 1994 :</td> <td>11 178</td> <td>12 037</td> <td>0</td> </tr> <tr> <td>Post 1994 :</td> <td>24 492</td> <td>35 000</td> <td>50 000</td> </tr> </tbody> </table>		<u>2017/18</u>	<u>2018/19</u>	<u>2019/20</u>	Pre 1994 :	11 178	12 037	0	Post 1994 :	24 492	35 000	50 000	31 st March 2020	Backlog anticipated to be eradicated within the MTEF period.
	<u>2017/18</u>	<u>2018/19</u>	<u>2019/20</u>													
Pre 1994 :	11 178	12 037	0													
Post 1994 :	24 492	35 000	50 000													

2.3.2 Military Veterans' Housing

2.3.2.1 Findings

The Committee was briefed by the Department of Human Settlements on military veterans' housing. It was reported that to date 252 beneficiaries have been approved on the Housing Subsidy System (HSS). This means that these beneficiaries are on the Department of Military Veterans (DMV) database and have been verified by the DMV. Further, the department has identified some serviced sites from the residential sites owned by the department for the construction of houses for military veterans. These are listed below:

- Ten (10) serviced sites in uMkumbaan – Ethekewini Municipality
- Seven (7) serviced sites in Savannah Park - Ethekewini Municipality
- Four (4) serviced sites in KwaMakhutha – Ethekewini Municipality
- Thirty (30) serviced sites in Glenwood - Msunduzi. Municipality

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- Twenty (20) serviced sites in Copesville – Msunduzi Municipality

The Council Resolution was obtained from Ethekwini Municipality for the release of serviced sites to build military veterans houses. To date, 131 serviced sites have been verified for construction of houses. The Council Resolution was obtained from Alfred Duma Municipality for the release of 13 serviced sites in Acaciaville. Approximately 130 sites were donated by Msunduzi Municipality for this programme and sites still need some planning activities and installation of bulks. Twenty (20) serviced sites have been made available for this programme in Ray Nkonyeni Municipality. The sites are being enrolled with the National Home Builders Registration Council in preparation for the start of construction. The Newcastle Municipality has committed to release serviced sites for the Military Veterans Programme. The Council Resolution still needs to be obtained. The KwaDukuza Municipality committed to release sites for the implementation of the Military Veterans Programme. The Endumeni Municipality indicated that there are sites which could be made available for this programme. Fifteen serviced sites have been made available for this programme in Mpofana Municipality. The Implementing Agent will be undertaking process of National Home Builders Registration Council enrolment in preparation for the start of construction.

2.3.2.2 Construction of Units

In terms of actual construction of military veterans' houses, the following has been achieved:

- 1 show house completed in Chesterville – Ethekwini Municipality
- 4 houses are at roof level in uMkumbaan – Ethekwini Municipality
- 5 house at wall plate level in uMkumbaan – Ethekwini Municipality
- 2 platforms cut in KwaMakhutha –Ethekwini Municipality
- 2 houses currently being painted in Mbumbulu – Ethekwini Municipality
- Contractor is cutting platforms in Glenwood, Msunduzi for construction of 14 military veterans' houses as part of the first phase of the 30 units.

2.3.2.3 Challenges

The following challenges were reported by the Department to the delegation.

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- There has been slow progress in the approval of military veterans by the DMV.
- Most of the military veterans approved in the HSS currently reside in the Ethekwini Metro, where technical verification of sites is currently on-going.
- Where serviced sites have been identified and are ready for construction, the beneficiaries are not approved on DMV and HSS. For example, in Ray Nkonyeni and Alfred Duma Municipalities.
- The process of enrolling houses with NHBRC before construction commence on site is taking long due to geo-tech assessments that need to be done prior to enrolment.
- Social issue in Umkhumbane within Ethekwini have resulted in work stoppage on site due to Ridgeview Gardens home owners not wanting 50sq.m houses for military veterans built within their homes as they view these houses to reduce the value of their homes in the market.
- Some Military Veterans have invaded houses BNG houses in Ethekwini on the following projects: Cornubia (39), Hammonds Farm (7), Kingsburgh West (22) and Philani Valley (33).

2.3.2.4 Interventions

- In addressing some of the challenges confronting the Department in the Implementation of the military veterans housing programme, the following has been done:
- The Department is working with Military Veterans Associations to finalize the list of beneficiaries in those municipalities that have committed sites and get them urgently approved.
- With 131 serviced sites already verified in Ethekwini, the Implementing Agent is commencing with the process of NHBRC enrolment on these sites in preparation for construction.
- The issue of houses built in uMkumbaan is being addressed at a political level by Ethekwini Metro, DMV, the National Rapid Response Task Team (NRRTT) and the Department.
- Engagements are being convened with regional structures of military veterans to sort out the lists and take them to DMV for finalisation of the database. Rural houses included as well.

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- The policy of beneficiation of military veterans' businesses is being finalised to give direction on matters relating to what constitute a military veteran company, ownership issues.
- The municipality is in the process of regularising these military veterans who invaded houses.

2.3.3 Cornubia Housing Development

2.3.3.1 Findings

The Committee was taken to view the Cornubia Housing Development. It comprises different informal settlements/ transit camps. It caters for those who earn below R3.500, are unemployed or disabled.

2.3.3.2 Challenges

The main challenges reported are:

- The quotes received, doesn't accommodate the budget allocation.
- It was reported that some Somalians take houses from the beneficiaries.
- There are maintenance issues (of the houses).

2.3.3.3 Recommendations and Issues for follow-up

- The Committee recommended that a national intervention occur.
- It was reported that a court order had been obtained to evict illegal tenants. It was also reported that verification exercises will be carried out by the Department. In this regard, the Department must submit a report to the Committee on the size/scale of the problem, with a detailed intervention strategy by the end of this calendar year

2.4 Durban Harbour

2.4.1 Background

The Republic of South Africa shares borders with six countries, Lesotho; Swaziland; Mozambique; Zimbabwe; Botswana; and Namibia.

On 12 March 2015 the Department of Home Affairs Director-General announced the approval of the new organisational structure of the Department, the relocation of the ports of entry (POE) with effect from 1 April 2015 from Civic Services to the Head Office – Chief Directorate Port Control. The Chief Directorate Port Control is responsible for the facilitation of legal entry and departure of all persons into and out of the Republic through 72 designated ports of entry (11 airports, 8 harbours and 53 land ports).

The movement of 41 908 876 travellers were processed during 2016. This was an increase of 4.78% from 2015. Being faced with an ever increasing number of travellers, the balance between efficient and effective traveller facilitation and security considerations becomes critical.

The key focus is on facilitating the movement of bona fide visitors and tourists with the highest possible degree of certainty, security and efficiency in support of national security, priorities and interests whilst preventing illegal migration through the ports of entry. Movement of persons and goods is managed with the participation of other border management stakeholders who have clear responsibilities at the ports of entry and borderline.

Government agencies face the difficult task of identifying high-risk travellers as early as possible in the travel process and target resources accordingly. By building risk-assessment profiles and conducting analysis against watch-lists, it enables governments to make fast, accurate and informed decisions to secure borders whilst protecting legitimate travel, tourism and trade. Whilst facilitating the legitimate movement of travellers and goods, border management staff are also faced with threats posed by transnational crime, terrorism, illegal migration, corruption, pandemics and environmental hazards.

2.4.2 Findings

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Durban Harbour is Africa's largest sea port. The length of the harbour along the quayside is 26km. It includes two areas for leisure craft (yachts) situated in different areas of the harbour.

Due to the amount of cargo received, the harbour traffic in and around the harbour area can be very congested making it very difficult to travel from one berth to the next to clear vessels. Passenger liners visit Durban Harbour from October to April, when 2 – 4 vessels will dock per week.

2.4.3 Challenges and Commitments

The following challenges were noted by the delegation:

CHALLENGES		COMMITMENTS/ ACTION PLAN
Infrastructure	Three offices are utilised for all functions. There is no filing space. The port control office is situated outside the port which poses a security risk.	The Department to negotiate with the Department of Public Works and TNPA to acquire suitable office space in the harbour.
Stowaways	A large number of stowaways are detected in the port.	A stowaway and trespasser Committee has been formed. Joint operations within the port and surrounding areas are undertaken on a regular basis.
Information Technology (IT) system	There is a lack of data points. There is only one computer.	Require a 3G card to access the internet. Utilise the Umgeni Office to access the other functions. New accommodation to be acquired.
Inspectorate establishment	The establishment has not been approved.	Seconded members from Admissions to form Inspectorate Unit.
Vehicles	All existing vehicles are not in a good condition. Need a cage van.	Utilise vehicles from offices to conduct operations and deportations.

2.4.4 Recommendation and Issue for follow-up

- The Committee recommended that the national Department of Home Affairs assist with staff shortage issues at the harbours, in 2018/19.

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- The Committee embark on an oversight programme of all 8 South African marine ports of entry from 2017/18.

2.5 *Water and Sanitation*

2.5.1 *Findings*

The Committee received a presentation by the Department of Water and sanitation (DWS).

The Department reported that the Universal Access Plan (UAP) study is a collaborative initiative undertaken by Umgeni Water, Co-operative Government and Traditional Affairs the DWS. The focus of the study is backlogs, projected demands and estimates of the cost of infrastructure needed to provide universal regional bulk access.

2.5.2 *Status of water resources*

In the 12-month period since July 2016, rainfall over the northern to central parts of South Africa was mostly average to above average. The remainder of the country, including the Umgeni Water area of operation, received mostly average or below-average rainfall during this period. The rainfall measured over the last quarter has not been sufficient to improve the storage of the uMgeni system. With rainfall, forecasts for the next quarter being inconclusive, restrictions and curtailments are still required in the uMgeni system. The latest data on the status of El Niño or La Niña shows an inconsistent trend and it is inconclusive as to which event is likely to take place in the next summer season. Close monitoring of the water resources of the uMgeni Catchment - dam storage, abstractions and demand patterns are continuing with mitigation measures implemented where necessary.

Water restrictions are at 50%. Municipalities are paying their Bills. Education programmes on saving water are visible.

2.5.3 *Challenge(s)*

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- There is a 7% backlog currently (as reported at the time of the visit., and a 1,300mL/a day future water demand.
- R78 billion is needed to eradicate the backlog.
- The cost estimate for universal access is R3.1Billion. The average cost per household is R63,950.00.

4. CONCLUSION

The Committee undertook oversight on the Departments of Health, Human Settlements, Water and Sanitation and Home Affairs.

The sites were visited with various stakeholders and role-players, provincial and national Departmental officials. This proved to be a fruitful exercise as it enabled the stakeholders and role-players to see and understand progress made in relation to the projects.

The Committee deliberated and concluded that in the main, the following are crucial in strengthening the projects visited:

- Funding issues to be taken up with National Treasury- Kwazulu –Natal has ageing infrastructure across the Province, which has not been maintained and thus contributed to this enormous problem.
- Funding issues relating to employment of staff at key government facilities, that is, health facilities and ports of entry.
- The importance of taking into account policy implications during the planning phase of projects.
- The need for strengthened inter-governmental relations and thus better coordinated collaboration.
- Comprehensive monitoring and reporting of progress.

Following this undertaking, the Select Committee on Social Services will (continue to) undertake oversight on the identified projects.

Report to be considered

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**2. REPORT OF THE SELECT COMMITTEE ON SOCIAL SERVICES ON AN
OVERSIGHT VISIT TO THE MBOMBELA, BUSHBUCKRIDGE AND
NKOMAZI LOCAL MUNICIPALITIES IN THE MPUMALANGA
PROVINCE 27-31 MARCH 2017**

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PARLIAMENTARY DELEGATION

1. Ms LC Dlamini – Chairperson: Select Committee on Social Services
2. Mrs LL Zwane
3. Ms TK Mampuru – Whip
4. Mrs TG Mpambo-Sibhukwana
5. Ms PC Samka
6. Mr C Hattingh
7. Mr M Khawula

PARLIAMENTARY OFFICIALS

1. Ms Marcelle Williams – Committee Secretary
2. Ms Thabile Ketye – Content Advisor
3. Ms Zukiswa France – Committee Assistant
4. Mr Mkhululi Molo – Committee Researcher
5. Ms Jeanie Le Roux – Committee Researcher

1. INTRODUCTION

The Select Committee on Social Services (hereinafter, the Committee) conducted an oversight visit to the Mpumalanga province. The oversight visit took place during the week of 27 – 31 March 2017. The decision to conduct oversight visits at these areas followed a decision taken during the National Council of Province's (NCOP) Strategic Planning session held on 1-2 September 2014 and Annual Planning Session held on 28 February-1 March 2017.

In Mpumalanga, the Committee visited the Mbombela, Bushbuckridge and Nkomazi Local Municipalities. The purpose of the visit was to conduct oversight on all sectors within the mandate of the Committee (Health, Home Affairs, Human Settlements, Social Development, and Water and Sanitation). This was visited by visiting specific projects and programmes implemented by the various Departments.

The Committee thus conducted oversight on Health services offered at Rob Ferreira Hospital and Tekwane South Clinic. The Home Affairs office in Mbombela was visited regarding the issuing of identification documents, processes followed and all matters relating to documentation. A Thusong Services Centre which offers the South African Social Security Agency (SASSA) services and processes identity documents was also visited. In terms of Human Settlements the Committee focused on the Tekwane Housing project. In terms of Water and Sanitation the Committee focused on bulk water supply and the development of the Hoxane Water Treatment scheme. Lastly, the Swartfontein Treatment Centre and Ndzalama Early Childhood Development Centre were visited as areas relating to Social Development.

This report provides an overview of the areas the oversight focused on - highlights the findings from the sites that were visited, and reported challenges. Based on these, recommendations and issues for follow-up have been identified and made.

2. STRATEGIC FOCUS OF OVERSIGHT VISIT

In line with the National Development Plan (NDP), Medium Term Strategic Framework (MTSF), priorities of the Fifth term of Parliament, and the mandate of the Committee, the oversight undertaken in Mpumalanga focused on five key portfolios:

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Health, Home Affairs, Water and Sanitation, Human Settlements and Social Developments.

The NDP which serves as a premise to the Committee's plan and programme of implementation, highlights the importance of reaching a minimum standard of living for all South Africans by 2030. A key mechanism of realising this is through a holistic multi-pronged approach. In the NDP the elements of a decent standard of living are listed in no chronological order as:

- Nutrition
- *Healthcare*
- *Housing, water and sanitation, and electricity*
- Clean environment
- **Education and skills**
- *Safety and security*
- Employment
- Recreation and leisure
- Transport

The Committee's oversight visit is in line with the highlighted pillars of the NDP (and as indicated previously the priorities of the Fifth term of Parliament and the mandate of the Committee).

2.1 Health

A long and healthy life for all South Africans is Outcome/Priority 2 in the MTSF and NDP. Some of the targets geared at improving the health of the South African population include:

- Raising life expectancy to at least 70 years.
- Ensuring that the generation of under-20 year olds is largely free from HIV.
- Significantly reduce the burden of disease.
- Achieving an infant mortality rate of less than 20 deaths per 1 000 live births, and an under-5 mortality rate of less than 30 per 1 000.

- Construction of 213 clinics and community health centres, 43 hospitals; and refurbishment of over 870 health facilities in 11 national health insurance (NHI) pilot districts.
- Doubling of the number of people on ARTs from the present 2.4 million to a projected 5.1 million.
- Intensifying TB screening and treatment programmes for vulnerable groups, including 150 000 inmates of correctional services facilities, 500 000 mineworkers and an estimated 600 000 people living in mining communities.
- Vaccination of all girls in Grade 4 against the human papilloma virus, to significantly reduce their risk of acquiring cervical cancer in future.

For the purposes of this aspect of the oversight visit, the Committee visited the *Rob Ferreira Hospital* and *Tekwane South Clinic*. Initially the Committee was to visit *Kwamhlotshwa Clinic*. However this was subsequently changed (to *Tekwane South Clinic*) after the Committee was made aware of community service delivery dynamics around the location of the facility. The focus of the oversight visits were on the availability of medicines, emergency medical services, infrastructure, human resources and Ideal Clinics will be assessed.

2.2 Home Affairs

The NDP notes the need for people living in South Africa to feel safe and enjoy a community life free of fear, which has a direct impact on the need for effective internal control of immigration detention centres in the country. Likewise, Outcome 6 of the MTSF (also) highlights the requirement that the identity of all persons in South Africa be known and secured, which would not be possible without effective border management and immigration control.

For the purposes of this aspect of the oversight visit, the Committee visited *Mbombela Regional Office* and *Mbangwane Thusong Service Centre*. The focus was on the management of the facilities and the types of services offered (to community members).

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2.3 Human Settlements

Human settlements as defined in the NDP and other strategic policy documents, refers to a provision of not only houses but elements that will ensure people live in a community with all the basic amenities. A lot of infrastructure comes into play in relation to provision of human settlements. These include but are not limited to planning, building and provision of water and electricity. This also has its complexities because planning takes place at the local level; building of houses is a provincial level responsibility; and provision of water, sanitation and electricity is split between the departments responsible for bulk services and reticulation. Due to this the Committee met with all the respective role-players and stakeholders.

For the purposes of this aspect of the oversight visit, the Committee focused on the large-scale integrated development that links Mbombela with White River. That is, *Tekwane North and South human settlements* developments.

2.4 Water and Sanitation

According to the NDP water is a strategic resource for critical socio-economic development. Further it is acknowledged that South Africa is a water scarce country hence greater attention should be paid to water management and use. Moreover, it is acknowledged that water supply and sanitation services are vital for community health, development, cohesion and continued economic activity.¹ It is within this context that the Committee focused on this sector during its oversight.

For the purposes of this aspect of the oversight visit, the Committee visited the *Hoxane Water Treatment Scheme*. This project is aimed at supplying water to 15 additional villages in the Bushbuckridge Local Municipality. Initially, it was projected that it would be completed by December 2016.

2.5 Social Development

¹ National Planning Commission (2012).

To implement the commitment in the NDP to realise *a comprehensive, responsive and sustainable social protection system*, the MTSF contains actions intended to:

- Improve efficiency in the delivery of social protection services;
- Address the exclusions by identifying and reaching those who are entitled to the existing benefits of social protection;
- Reduce the administrative bottlenecks that prevent people from accessing benefits; and
- Develop an enabling environment and create conditions for social partners such as the NGO sector to contribute to social protection.

The key targets that the MTSF seeks to achieve include²:

- Ensuring that by 2024, an essential age- and developmentally stage-appropriate package of quality early childhood development (ECD) services is available and accessible to all young children and their caregivers.
- Universal access (at least 95% of eligible people) to social assistance benefits by 2019, notably the child support grant, disability grant and old age pension.

For the purposes of this aspect of the oversight visit, the Committee visited the *Swartfontein Treatment Centre, Mbangwane Thusong Service Centre* and *Hoxane ECD centre*. The focus was on the following:

- Management of the facilities.
- Overview of the services offered and assessment of the long term after care.
- Timeous Payment of social grants, types of beneficiaries and operations of the Centre.

3. FINDINGS, CHALLENGES & RECOMMENDATIONS: SITES VISITED

The Committee received briefings from the role-players and stakeholders in the form of PowerPoint presentations prior to undertaking site visits. The briefings were

² MTSF 2014-2019.

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followed by discussions where the Members of Parliament (MPs) asked questions to explore and probe on issues raised (during the presentations), and during the site visits.

Information presented in this report therefore comes from the information collected from presentations, discussions and observations.

2.1 Rob Ferreira Hospital

2.1.1 Findings

The Committee was taken to view the Rob Ferreira Hospital and found that it is a tertiary hospital with 302 beds and 404 unusable beds. The hospital was on the revitalization programme from 2003 – 2014. The hospital renders most services however, it refers patients to Steve Biko Academic Hospital and Kalafong Hospital (both located in Pretoria) which are both approximately 320 kilometres away.

2.1.2 Challenges

The main challenges reported are:

- There is a lack of security and in-house laundry.
- The length of stay of mentally ill patients and orthopaedic patients is too long. That is, instead of a 3 day stay, they stay longer and thus hospital beds are insufficient.
- There is no psychiatric hospital in Mpumalanga and there is a shortage of psychiatric beds.
- There is a scarcity of Specialists such as Anaesthesiologist or Anaesthetist, Neurosurgeon, and doctors for the intensive care unit (ICU).
- There is poor waste secretion. There is poor communication between staff and patients.
- Negative staff attitude remain a challenge.
- Waiting periods of patients in the casualty ward are long.
- The filing system is not electronic. Further, patient files get lost (or missing).

In addition to these the Committee noted that the “help desk” is not user-friendly, and an electronic filing system is required.

2.1.3 Recommendations and Issues for follow-up

- The hospital management should motivate for an installation of security cameras as part of its long term planning.
- Training in patient care should be offered to help address negative staff attitudes.
- Patient satisfaction surveys should be conducted at least quarterly. In addition, there should be monitoring of findings and implementation of interventions.
- Training staff on waste management should be prioritised.
- Waiting periods should be minimised by means of a functional help desk and queue marshalling.
- In line with the “ideal clinic” norms, the national Department should look into the level in which criteria is met (and not met).

2.2 Mbombela Regional Home Affairs Office

The Regional office operates from Monday to Friday (07:30–16:00) and on Saturdays (08:00-13:00). The services offered mainly include issuing enabling documents to citizens and qualifying persons. The office also offers Immigration Services which entail tracing and charging transgressors.

2.2.1 Findings

The regional office is in the process of replacing floor tiles, of which the completion date is estimated to be 04 April 2017. The regional office and ports of entry relationship only extends to handing over detected document fraud, and arrest of illegal persons for deportation as well as inspections on farms, businesses and roadblocks. Corruption is addressed in morning meetings. The office is still using a paper-based application system. However it is transitioning to a modernized system.

2.2.2 Challenges

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- The office is still using paper-based systems.
- Corruption occurs at the ports of entry.
- There is no live capture facilities for the mobile units.
- There is no shelter outside the office against the harsh summer and winter elements.

2.2.3 Recommendations and Issues for follow-up

The Committee recommended that the computer and printer be procured as soon as possible. Further, the Committee recommended that corruption be addressed and stricter penalties be applied. The Department should erect shelter especially for the disabled and elderly.

2.3 Swartfontein Treatment Centre

The treatment centre was built during the 1920s by soldiers returning from the Anglo Boer War. Skills were taught such as bricklaying, plastering, painting and carpentry. Due to war trauma many soldiers developed drinking problems which resulted in the government establishing the Treatment Centre. Currently the Centre is the only public treatment facility in the province. It caters to provinces without treatment centres. For example, the North West. The Centre assists females as well as males for a duration of 16 weeks depending on treatment needs. Referrals are made to Themba Hospital if needed (which is where detoxification of users occurs).

2.3.1 Findings

The Committee was informed that the Centre was officially opened in July 2016. Services offered include: vocational services, recreational services, occupational therapy, spiritual services, medical services and social services.

2.3.2 Challenges

- The Centre is being renovated in order to accommodate more users. Due to this admissions are taking a bit longer. Further, before users can be admitted to the Centre they have to undergo detoxification.
- A comprehensive aftercare programme is necessary in order to assist with lifelong sobriety. The Centre does not offer users an aftercare programme.
- Vocational skills and training are necessary for the users.
- At the time of the visit Social Workers in the province were embarking on a strike action.

2.3.3 *Recommendation and Issue for follow-up*

The Committee recommended that the Department try and find creative ways to assist the Centre in terms of staff requirements as well as vocational training and long-term aftercare.

2.4 *Hoxane Water Treatment Scheme*

The project is the extension of the capacity of the plant from five treatment modules to eight treatment modules (6, 7 and 8). Each comprises of 9 mega litres per day. (Ml/d). The aim is to increase the quantity of potable water produced from 45 Ml/day to 72 Ml/day to enable it to become a regional node and supply purified water to Nsikazi North areas.

Phases 1 and 2 of the project entailed the following:

- Providing additional pumping capacity at the raw water pump station.
- Pumping water from the Sabie River to the Hoxane water treatment scheme.
- Providing three modules (9 Ml/day each) of flocculation, sedimentation and rapid gravity sand filtration.
- Providing additional capacity at the high lift pump station.
- Providing sludge handling facilities.

2.4.1 *Findings*

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The Hoxane Water Treatment Works is situated on the northern bank of the Sabie River. It extracts water from the Sabie River. The construction of the plant started on 09 March 2015 and its completion date is now set for 14 June 2017. At the time of the visit (March), the projects overall progress stood at 90 percent.

The project costs are listed in the table below.

PROJECT PHASES	PROJECT COSTS
Phase 1	R 27,460,000.00
Phase 2	R 80,887,000.00
Phase 3	R 120,155,000.00
Total Project Cost	R 228,502,000.00

These amounts are inclusive of the value added tax (VAT) and other fees.

Phases 1 and 2 are completed. They were funded under the Municipal Infrastructure Grant (MIG). Phase 3 is under construction and is being funded through the Regional Bulk Infrastructure Grant (RBIG).

2.4.2 Challenges

The key challenges identified are as follows:

- Ownership of the scheme is not yet finalized.
- Future operations and maintenance cost.
- Phase 3 of Hoxane to be fully operational and requires Northern Nsikazi to be fully completed.
- Confirmation of co-funding by the City of Mbombela Local Municipality for Northern Nsikazi amounting to R101m is still outstanding.

2.4.3 Recommendations and Issues for follow-up

The Committee recommended that Rand Water should be approached immediately and take ownership of the project. The Bushbuckridge Local Municipality must engage with the role players of this project as the water scheme will service them as well.

2.5 Ndzalama Early Childhood Development Centre

The preschool was opened in March 2017. It was funded by the National Development Agency (NDA). Two crèches were combined to form the ECD Centre.

2.5.1 Findings

The Centre has 148 registered children of which DSD funds 100. According to the Department of Social Development the rest of the children will be funded (48) in, 2017/18. The ECD has sufficient staff (and a principal) and a Board. The Centre has a Social Worker and an Auxiliary Social Worker and a cleaner and general worker.

2.5.2 Challenges

- The preschool kitchen is too small and the storeroom has limited space.
- Currently there are seven ECD Centres that are being revamped by the NDA, because of a high need for ECDs in the province. In Mpumalanga there are 199 ECDs that are non-functioning, which constitutes a great challenge for pre schooling in the province.
- The Centre was built to accommodate 100 children but now accommodates 148 children.

2.5.3 Recommendations and Issues for follow-up

The Committee recommended that DSD follow up on the 48 kids that are not funded for. That small maintenance issues be addressed as soon as they appear and that record management be prioritised. Since the Centre recently opened the DSD should make sure that it functions properly and offers a good and safe environment for children to develop. Training should be provided to staff and Board members to strengthen the work done at the Centre.

2.6 Mbangwane Thusong Service Centre: SASSA & Home Affairs

The Thusong Service Centre recruits departments, NGOs and private companies to occupy space, all under one roof -on the same premises. This offers the community

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access to services close to home, especially in rural areas. Services offered include computer classes, women's sewing group, and printing facilities. The Centre houses the following Departments and Agencies: Home Affairs, SASSA, Finance, Labour, Co-operative Governance and Traditional Affairs (Cogta), Small Enterprise Development Agency (SEDA) and the Government Communication Information System (GCIS).

2.6.1 Findings

Cogta collects statistics on a monthly basis. The Department of Labour operates on Wednesdays, SEDA operates on a Tuesday. The Department of Finance runs an internet café and SASSA is there full time. The Local Inter-Sectoral Committee consists of 5 Ward Councillors. Their role is to identify the needs of the community.

SASSA assists with grant applications as well as running an outreach programme targeting the needs of the community. The SASSA staff compliment comprises 1 team leader, and 5 officials. The SASSA office operates from 07:30 to 16:00. SASSA approximately completes 10 applications daily.

The Home Affairs office at the Mbangwane Thusong Service Centre collects manual applications for identity documents and birth registration documents. Its operating hours are from Tuesday to Thursday (09:00 – 15:00).

2.6.2 Challenges

Challenges at the Centre include the following:

- Funding for managing the Centre.
- Water shortages.
- Maintenance issues. For example, the garage door needs to be replaced, the bathrooms are dilapidated.
- The signing of service level agreements and memorandums of agreements with the Departments and Centre Manager have not taken place.
- The Department of Public Works has not installed computers as requested by the centre.

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- The SASSA office has challenges, namely with the low number of applications from the community as well as having computer system failures.
- The Home Affairs office is in need of a computer and a printer.

2.6.3 *Recommendations and Issues for follow-up*

- The Committee recommended that DSD monitor and interact with the community in getting them to use the services offered.
- The Department of Public Works should proceed with the signing and implementation of the service level agreements.
- Formulate a strategy should be formulated in addressing the community to access services.
- Printers and computer equipment should be procured in order to assist the various departments with their work.

2.7 *Tekwane South Clinic*

The Tekwane Clinic was officially opened in November 2013. It services approximately 9540 patients in and around the area, of which 1297 are children under five years of age. The majority of the patients are females. The Clinic is said to comply with the ideal clinic standards however, it does not comply to the National Core Standards as yet.

The Clinic operates 7 days a week for eight hours a day, however the clinic has issues with security thus operating for longer hours is a problem.

2.7.1 *Findings*

The Clinic offers the following services: - motor accident victims, assault, poisoning, acute illness. The Clinic also services chronic conditions. It has a “baby clinic”, provides sexual reproductive health, counselling on termination of pregnancies, HIV screening and counselling, TB, cervical cancer screening and STI care. A medical doctor visits the Clinic once a week, whereas a Psychiatrist and Oral Health Specialist

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visit twice a month. There is Physiotherapist, Dietician and Speech Therapist available at the facility once a month. A social worker has been appointed and will start in April 2017. Home based care givers are also attached to the Clinic.

2.7.2 Challenges

Challenges at the Clinic include (negative) staff attitude, incomplete adult and paediatric resuscitation trolleys. Waiting times are long, approximately 2h30. Further it was reported that there are no Magill forceps (medical instruments), certain medications were out of stock and there were staff shortages.

2.7.3 Recommendations and Issues for follow-up

The Committee recommended that Department of Health assist with staff training and recruiting to alleviate waiting times and adjust staff attitudes. Equipment should be budgeted for and then procured.

2.8 Tekwane South and North Housing projects

The Tekwane North and South housing projects are adjacent developments. They are situated 22 kilometres outside Mbombela and approximately 6 kilometres from the Moyeni Mall. Upon completion of the developments the settlements will house 8000 households combined. Bulk infrastructure has been completed. Currently 500 top structures are being completed at Tekwane North. At Tekwane South 250 top structures will be constructed. It was reported that 727 sites are completed.

This development is expected to include a vast housing project that will have 828 middle income and 352 low cost houses, residential apartments, student accommodation and a parliamentary village.

2.8.1 Findings

At Tekwane North the progress thus far is that 299 units have been completed. The budget is R30 900 000. At Tekwane South 2000 housing opportunities exist of which

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250 will comprise low cost housing. About 500 rental social housing and 222 will be bond based.

Due to protest action, the Municipality and ward councillor were unavailable, therefore the Committee would have to revisit the site when an opportunity arises.

2.8.2 Challenges

It was reported to the Committee that theft and vandalism on site, insufficient bulk water services and unavailability of electricity infrastructure remain challenges in the area.

2.8.3 Recommendations and Issues for follow-up

The Committee recommended that Department of Human Settlements carefully monitor the projects under construction until completion. Further, the Committee recommended that beneficiaries entitled to housing units be allocated houses.

Due to protest action, the Municipality and ward councillor were unavailable, therefore the Committee would have to revisit the site when an opportunity arises.

4. CONCLUSION

The Committee undertook oversight on the Department of Health, Human Settlements, Water and Sanitation, Social Development and Home Affairs.

The sites were visited with various stakeholders and role-players, provincial and national Departmental officials. This proved to be a fruitful exercise as it enabled the stakeholders and role-players to see and understand progress made in relation to the projects.

The Committee deliberated and concluded that in the main, the following are crucial in strengthening the projects visited:

- The importance of taking into account policy implications during the planning phase of projects.

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- The need for strengthened inter-governmental relations and thus better coordinated collaboration.
- The importance of ensuring that the list of beneficiaries who are meant to occupy the BNGs is captured appropriately, and allocations are done according to the housing register' and in line with policy.
- Comprehensive monitoring and reporting of progress.

Following this undertaking, the Select Committee on Social Services will (continue to) undertake oversight on the identified projects.

Report to be considered

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**3. REPORT OF THE SELECT COMMITTEE ON SOCIAL SERVICES ON AN
OVERSIGHT VISIT TO THE SOL PLAATJE LOCAL MUNICIPALITY IN
THE NORTHERN CAPE PROVINCE 14-18 AUGUST 2017**

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PARLIAMENTARY DELEGATION

1. Ms LC Dlamini – Chairperson: Select Committee on Social Services
2. Mrs LL Zwane
3. Ms TK Mampuru – Whip
4. Mrs TG Mpambo-Sibhukwana
5. Ms PC Samka
6. Mr C Hattingh
7. Mr M Khawula
8. Ms D Ngwenya
9. Mr D Stock

PARLIAMENTARY OFFICIALS

1. Ms Marcelle Williams – Committee Secretary
2. Ms Thabile Ketye – Content Advisor
3. Ms Zukiswa France – Committee Assistant
4. Mr Mkhululi Molo – Committee Researcher
5. Ms Jeanie Le Roux – Committee Researcher

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1. INTRODUCTION

The Select Committee on Social Services (hereinafter, the Committee) conducted an oversight visit to the Northern Cape Province. The oversight visit took place during the week of 14 – 18 August 2017. The decision to conduct an oversight trip at Northern Cape followed a decision taken during the National Council of Province's (NCOP) Strategic Planning session held on 1-2 September 2014 and Annual Planning Session held on 28 February-1 March 2017.

In line with the National Development Plan (NDP), Medium Term Strategic Framework (MTSF), priorities of the Fifth term of Parliament, and the mandate of the Committee, the oversight undertaken in Northern Cape focused on five key portfolios: Health, Water and Sanitation, Human Settlements and Social Development. This was done by visiting specific projects and programmes implemented by the above-stated Departments. In Northern Cape, the Committee visited the Sol Plaatje Local Municipality.

Key focus area per Department was identified. The Committee thus conducted oversight on Health services offered at Kimberley Hospital and Galeshewe Community Health Centre/ Day Hospital. In terms of Human Settlements the Committee focused on the Lerato Park military veteran's project. In terms of Water and Sanitation the Committee focused on bulk water supply. Lastly, the Lerato Place of Safety was visited as an area relating to Social Development.

This report provides an overview of the areas the oversight focused on - highlights the findings from the sites that were visited, and reported challenges. Based on these, recommendations and issues for follow-up have been identified and made.

2. STRATEGIC FOCUS OF OVERSIGHT VISIT

The NDP serves as a premise to the Committee's plan and programme of implementation as it highlights the importance of reaching a minimum standard of living for all South Africans by 2030. A key mechanism of realising this is through a holistic multi-pronged approach.

2.1 Health

A long and healthy life for all South Africans is Outcome/Priority 2 in the MTSF and NDP. Some of the targets geared at improving the health of the South African population include:

- Raising life expectancy to at least 70 years.
- Ensuring that the generation of under-20 year olds is largely free from HIV.
- Significantly reduce the burden of disease.
- Achieving an infant mortality rate of less than 20 deaths per 1 000 live births, and an under-5 mortality rate of less than 30 per 1 000.
- Construction of 213 clinics and community health centres, 43 hospitals; and refurbishment of over 870 health facilities in 11 national health insurance (NHI) pilot districts.
- Doubling of the number of people on ARTs from the present 2.4 million to a projected 5.1 million.
- Intensifying TB screening and treatment programmes for vulnerable groups, including 150 000 inmates of correctional services facilities, 500 000 mineworkers and an estimated 600 000 people living in mining communities.
- Vaccination of all girls in Grade 4 against the human papilloma virus, to significantly reduce their risk of acquiring cervical cancer in future.

For the purposes of this aspect of the oversight visit, the Committee visited the *Kimberley Hospital and Galeshewe Community Health Centre/ Day Hospital*. The focus visiting these two sites was on the availability of medicines, emergency medical services, infrastructure, human resources and Ideal Clinics status.

2.2 Human Settlements

Human settlements as defined in the NDP and other strategic policy documents, refers to a provision of not only houses but elements that will ensure people live in a community with all the basic amenities. A lot of infrastructure comes into play in relation to provision of human settlements. These include but are not limited to

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planning, building and provision of water and electricity. This also has its complexities because planning takes place at the local level; building of houses is a provincial level responsibility; and provision of water, sanitation and electricity is split between the departments responsible for bulk services and reticulation. Due to this the Committee met with all the respective role-players and stakeholders.

For the purposes of this aspect of the oversight visit, the Committee focused on the *Lerato Park military veteran's project*.

2.3 Water and Sanitation

According to the NDP water is a strategic resource for critical socio-economic development. Further, it is acknowledged that South Africa is a water scarce country hence greater attention should be paid to water management and use. Moreover, it is acknowledged that water supply and sanitation services are vital for community health, development, cohesion and continued economic activity.¹ It is within this context that the Committee focused on this sector during its oversight.

For the purposes of this aspect of the oversight visit, the Committee was briefed by the Provincial Manager of the Department of Water and Sanitation on bulk water supply.

2.4 Social Development

To implement the commitment in the NDP to realise *a comprehensive, responsive and sustainable social protection system*, the MTSF contains actions intended to:

- Improve efficiency in the delivery of social protection services;
- Address the exclusions by identifying and reaching those who are entitled to the existing benefits of social protection;
- Reduce the administrative bottlenecks that prevent people from accessing benefits; and
- Develop an enabling environment and create conditions for social partners such as the NGO sector to contribute to social protection.

¹ National Planning Commission (2012).

The key targets that the MTSF seeks to achieve include²:

- Ensuring that by 2024, an essential age- and developmentally stage-appropriate package of quality early childhood development (ECD) services is available and accessible to all young children and their caregivers.
- Universal access (at least 95% of eligible people) to social assistance benefits by 2019, notably the child support grant, disability grant and old age pension.

For the purposes of this aspect of the oversight visit, the Committee visited the *Lerato Place of Safety*. The focus was on the following:

- Management and operations of the facilities.
- Overview and assessment of the services offered.

3. FINDINGS, CHALLENGES & RECOMMENDATIONS: VISITED SITES

The Committee received briefings from the role-players and stakeholders in the form of PowerPoint presentations prior to undertaking site visits. The briefings were followed by discussions where the Members of Parliament (MPs) asked questions to explore and probe on issues raised (during the presentations), and during the site visits.

Information presented in this report therefore comes from the information collected from presentations, discussions and observations.

2.1 Kimberly Hospital

2.1.1 Findings

The Committee was taken to view the Kimberly Hospital and found that it is the only tertiary hospital in province (T1), the Regional hospital for eastern half of the province and a District hospital for Sol Plaatje district.

It comprises of the following:

² MTSF 2014-2019.

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- 671 operational beds
- 25,278 per annum inpatient admissions
- 168,195 per annum outpatients and emergency attendances
- 3,868 per annum births
- 72% bed utilisation rate
- 6.8 days average length of stay

The total budget allocated is R935 million. Of this amount, R635 million is for compensation of employees, R271 million is for goods and services, and R29 million for capital equipment.

The clinical staff complement is as follows:

- 486 Nurses (however there are 98 vacancies)
- 27 Specialists
- 168 Medical officers (including 60 community service/ trainee doctors)
- 60 Medical Interns

The delegation visited the maternity ward, radiology and intensive care units (ICUs). At the maternity ward it was reported that the facility has the best Kangaroo Mother Care and Milk Bank.

The *Kangaroo Mother Care and Milk Bank* is a 9 bedded unit which provides babies with warmth and nutrition by continuous skin to skin contact on a mother's chest. In addition, child feeding is done on demand; sleep schedules are synchronised; there is temperature, heart rate and respiration regulation; there is quicker breastfeeding/initiation of breastfeeding. The delegation was informed that this unit enables bonding between mother and baby; increases growth rate; stabilizes the blood sugar levels of babies; and provides infants in need with donated safe pasteurized breast milk. In turn, this improves chances of survival as all the new moms are informed about the benefits of breastfeeding.

The *Radiology* unit comprises of a Picture Archiving and Communication System (PACS). The PACS stores digital images on a hard drive, which can be viewed on computers anywhere on the network. It has six general electric digital x-ray units: which produces 80,000 images per annum. In addition, it has a Lodox system (which

is a full-body digital x-ray imaging device) that is used at the Emergency Centre. The Lodox system produces 380 full body and spinal scans. The Specialised Radiology unit has 65 slice computed tomography (CT) scanner, which produces $\pm 10,000$ images per annum; a magnetic resonance imaging (MRI) scanner, which produces $\pm 1,700$ scans per annum; and a Mammography unit, which produces $\pm 4,000$ examinations per annum.

The ICU has two *Intensive Care Unit (ICU)* sections, namely the Paediatrics and Adult units. The *Paediatrics ICU* has six specialist beds. It is for critically ill patients that need close observation and, post-operative patients that needs to recover fully. The *Adult ICU* has ten specialist beds. It is the Intensivist's or critical care Physician's decision to admit patients into the unit.

2.1.2 Challenges

The delegation was informed and observed the following key challenges:

- Ageing infrastructure. This includes sewage pipes, leaking rooves, lifts/elevators, lights, security, fire detection, heating, ventilation, and air conditioning (HVAC).
- Clinical staff shortages. This entails theatre capacity (orthopaedics, general and specialist surgery) obstetrics and gynaecology, neurosurgery, oncology, 72-hour mental health, critical care, renal dialysis. The provincial Department indicated that through a recent recruitment process, Specialist and General Nurses, Specialist Doctors, Medical Officer posts were filled. In addition, there are 60 Community Service Medical Officers.
- There are budgetary constraints, which lead to supply chain delays. The delegation was informed that the provincial Department is under administration form the province.

2.1.3 Recommendations and Issues for follow-up

The Committee recommended to the provincial Department of Health that the following takes place in the 2017/18 to 2019/20 financial years:

- The MRI machine should be replaced.

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- An additional orthopaedic theatre should be opened.
- The old mental health unit should be replaced with new 20 beds unit.
- Six high care beds should be opened.
- A feasibility study prior to procuring radiotherapy equipment (linear accelerators and bunkers) should be undertaken.

2.2 Galeshewe Community Health Centre/ Day Hospital

2.2.1 Findings

The Committee was taken to view the Galeshewe Community Health Centre and found that it is a 24-hour facility. It is not fully functional. It offers an array of services. That is, maternity, paediatrics, x-ray unit, dentistry and pharmacy, physiotherapy and speech therapy. It is the only community health centre (CHC) in the Sol Plaatje district that assists border provinces as well. The pharmacy works well as it supplies other pharmacies in the district.

2.2.2 Challenges

The main challenges reported are:

- The CHC operates with nine doctors, of which four are community service (trainee) doctors that require supervision.
- Approximately 350 patients are seen per day. Thus, there is a high demand for services.
- The dental unit does not have essential equipment. The dental chair is not functional – it needs to be replaced. A suction machine and an air compressor are needed. Due to this, only extractions are performed.

2.2.3 Recommendations and Issues for follow-up

- The facility management staff should conduct a survey to assess various patient needs.
- The national Department of Health should assist with equipping the dental unit.
- The provincial Department of Health should recruit an additional Radiographer.

2.3 Military Veteran Housing and the revitalisation of mining towns, Lerato Park village

The Committee was briefed by the Department of Co-operative Governance, Human Settlements and Traditional Affairs (Coghsta). The delegation was informed that in terms of the revitalisation of mining towns national programme, the following Municipalities were named for interventions:

- Gamagara Local Municipality (located in Kathu)
- Ga-Segonyana Local Municipality (located in Kuruman)
- Tsantsabane Local Municipality (located in Postmasburg)

According to the Department of Coghsta, distressed mining towns are characterised by a widespread growth of informal settlements, distressed, stagnant and declining property markets with no major investment or renewal of infrastructure and general deterioration of public infrastructure. In addition, they are characterised by outward migration driven by a lower labour demand and weakening of the local economy, deterioration and vandalism of public infrastructure. Furthermore, community unrest and broken trust, labour concerns (job losses and loss of income) also contribute negatively.

It was reported that at the time of visit there were land acquisitions in progress. The Department had commissioned dolomitic investigations. From this process, detailed planning has begun for the upgrading of the promised land in Kuruman and 300 ventilation improved pit (VIP) toilets. The Department further reported that a dolomitic investigation is also underway for Tlhakatlou informal settlement in Danielskuil.

In relation to the issuing of title deeds, the Department that the backlog was 24,865 at inception (of the project), during 2014. In 2016/17 there was a backlog of 3,222. The target for 2017/2018 is 9,500 properties and, 872 properties are to be registered in the first quarter of 2017/18. Figures for Lerato Park were not provided, however it was indicated that the issuing of title deeds would be underway.

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2.3.1 Findings

The houses at Lerato Park are built with quality face brick but are incomplete. However, residents moved in - keys were handed over. The residents the delegation spoke with indicated that they had not yet received title deeds.

The houses the delegation viewed have two bedrooms. However, the delegation felt the second bedroom was too small. There are no stoves in the houses and some finishes need work.

2.3.2 Challenges

The following challenges were identified and noted:

- The houses are built on tribal land.
- At times the approved beneficiary is not occupying the house, but an illegal person.
- Regular deeds update on the national housing register is not done.
- Turnaround time at Vryburg deeds office needs to be improved
- Top funding for Military veterans has not been received, as the programme is being funded from the Human Settlements Development Grant (HSDG).
- Not all municipalities have erven available for the implementation of the military veterans programme.
- Very few municipalities have responded positively to the request for them to allocate land to the mv for formalization and servicing.

2.3.3 Recommendations and Issues for follow-up

- The title deeds should be transferred to the Kimberley deeds office by the Department of Coghsta.
- All the relevant departments should contribute to a fund in assisting the military veterans to get (proper) housing.
- The Department of Military Veterans should look at possible job opportunities for the Veterans, as they are unable to maintain their livelihood.

- A meeting should be held with the Minister of Human Settlements to address the size of the houses (number of the bedrooms, 3 bedroom instead of 2 bedroom), as it per the specification that was initially agreed upon.

2.4 Lerato Place of Safety

The Centre has been operational since 1991. It has been servicing boys and girls that are awaiting trial, and children in need of care and protection (including toddlers and children living with disabilities).

This is the only place of safety in the province. The Centre caters for 65 boys and girls and is divided into 3 sections:

- junior boys (aged 8-13 years),
- girls section (aged 9-17 years), and
- senior boys (ages 14-17 years).

There are 41 children at the internal school: Mimosa Primary. There are 19 children registered at mainstream schools, one is in Matric and one in a Technical and Vocational Education and Training (TVET) College. There are four children at a special school (3 boys and 1 girl).

2.4.1 Findings

The Committee was informed that the Centre has the following staff compliment an operational manager, two social workers, a professional nurse, team leader's drivers, cleaners, grounds men, administration clerks and child and youth care workers. Admissions are done only when the relevant documentation is presented, providing for the immediate basic needs of children. A development assessment is done within 48 hours and a 5 day structured orientation programme for new intakes is completed. Registration of children at schools is also then done. Various developmental programmes are offered as well as recreational programmes, therapeutic and awareness programmes.

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Programmes are monitored by the District and Provincial office. The Centre has a good relationship with SAPS, Correctional Services, faith-based organisations, NGO's, corporate departments and various government departments. During February 2017, the children embarked on protest action against the centre. The Head of Department (HoD) intervened and the following concessions were made:

- Fixing of the electricity cable as the lights were not working properly.
- Improved allocation of toiletries, mattresses, door locks, tables and chairs, laundry and meals.
- Approval of vacant posts were signed by the HoD and MEC.

2.4.2 Challenges

The following challenges were noted by the delegation:

- There is limited movement for the children in terms of space.
- Children that are awaiting trial were not separated from other children.
- There are no structured and accredited programmes being attended by the youth care workers.
- There are staff shortages in the youth care unit.
- There are infrastructural challenges as the building is old and does not comply to the norms and standards of youth centres.
- There is insufficient office space for staff.
- At the time of the visit, the geyser was broken and there was no hot water. There were broken windows, it appeared that the children were not receiving adequate blankets to keep warm, and the floor tiles were chipped at the children's dormitories. This means that the children are sleeping in very cold rooms and are exposed to harsh living conditions.

2.4.3 Recommendation and Issue for follow-up

- The Committee recommended that the Department try and find creative ways to assist the Centre in terms of staff requirements, vocational and accredited training for staff.

- Compliance to norms and standards of youth centres should be adhered to as awaiting trial children ought to be kept at a separate facility. The Department should follow-up on this.
- The national Department of Social Development should request National Treasury to allocate more funds so that the Centre can receive assistance with repairing the structural issues.
- The Provincial Department Managers should meet with Centre Management staff to resolve household issues.

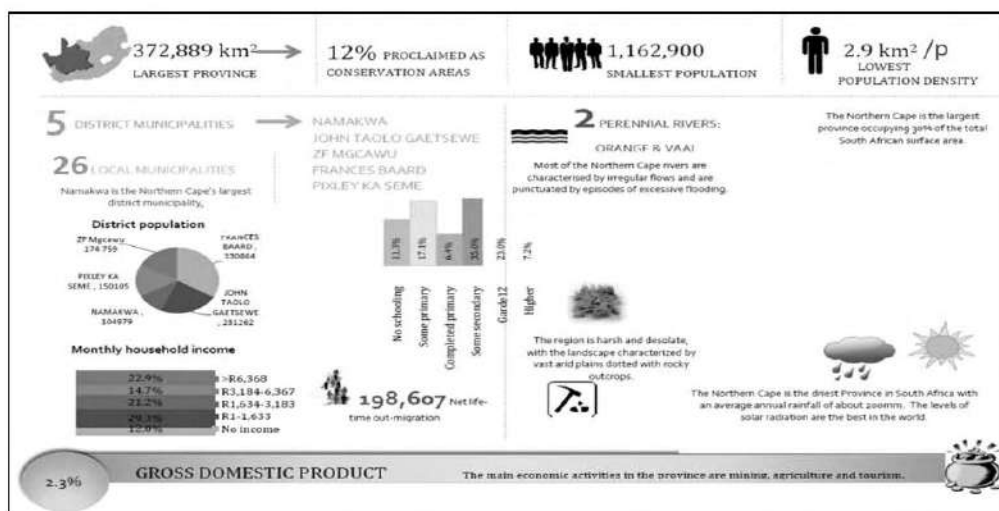
2.5 Water and Sanitation

The Committee received a presentation by the Department of Water and sanitation.

2.5.1 Findings

The Department highlighted to the delegation that Northern Cape is a vast province, which covers a third of South Africa’s surface area. Most services are rendered from Kimberley resulting in long travel distances and response times. The province is viewed as an “unattractive” province for professionals which contributes to high staff turnover. There are language barriers, for example, the western region is largely Afrikaans speaking. The Northern Cape has 26 Local Municipalities and 5 District Municipalities. All the municipalities are designated Water Service Authorities.

This is reflected in the figure below.

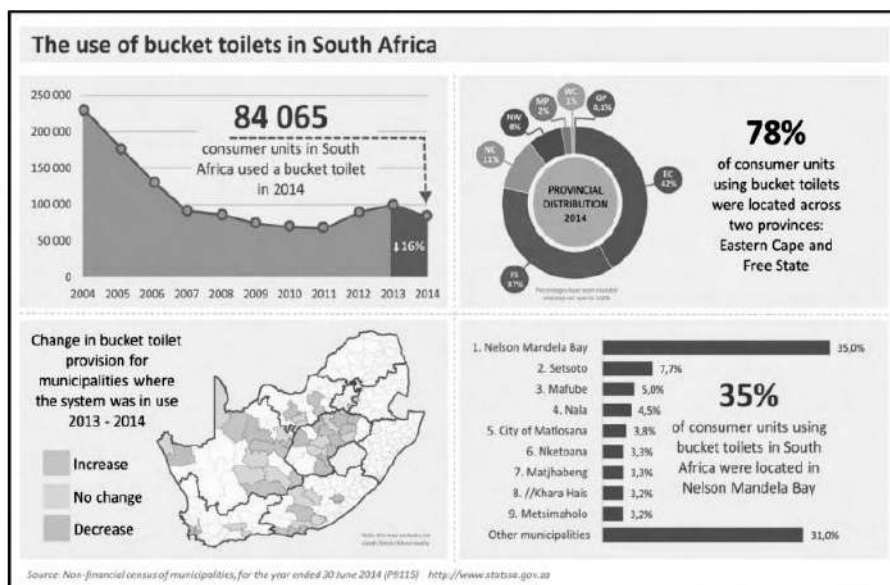


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Trends in use of bucket toilets in South Africa: 2004 to 2014

The figure below shows the usage of bucket toilet system in South Africa. Although the consumer units that were using bucket toilets had decreased by 16%, it was still a high number at 84 065. 78% of these consumer units were located in two provinces, Eastern Cape and Free State. At Municipal level, 35% of the consumer units using bucket toilet was in Nelson Mandela Municipality.



The cost of the sanitation and water infrastructure needs for Northern Cape are reflected in the two tables below.

SANITATION				SANITATION TOTAL
DM	INTERNAL BULK	REGIONAL BULK	RETICULATION	
Frances Baard	692 998	653 163	40 943 442.00	1 387 105 833.29
	787.29	604.00		
John Taolo Gaetsewe	63 638	1 486 988	61 659 365.00	1 612 286 412.24
	441.00	606.24		

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Namakwa	332 524 611.00	143 703 704.00	100 363 922.00	576 592 237.00
Pixley Ka Seme	326 406 521.00	242 808 691.00	351 425 229.00	920 640 441.00
ZF Mgcawu	335 881 868.00	443 683 137.00	65 540 487.00	845 105 492.00
Grand Total	1 751 450 228.29	2 970 347 742.24	619 932 445.00	5 341 730 415.53

DM	WATER			WATER TOTAL	GRAND TOTAL
	Internal Bulk	Regional Bulk	Reticulation		
Frances Baard	414 182 634.56	18 300 643 854.00	798 713 140.00	19 513 539 628.56	20 900 645 461.85
John Taolo Gaetsewe	1 771 737 876.82	1 837 062 018.00	307 255 779.34	3 916 055 674.16	5 528 342 086.40
Namakwa	802 203 723.05	1 158 161 400.00	87 964 552.09	2 048 329 675.14	2 624 921 912.14
Pixley Ka Seme	454 130 195.00	1 053 461 285.00	130 138 102.00	1 637 729 582.00	2 558 370 023.00
ZF Mgcawu	878 619 707.41	2 164 305 775.22	105 075 920.59	3 148 001 403.22	3 993 106 895.22
Grand Total	4 320 874 136.84	24 513 634 332.22	1 429 147 494.02	30 263 655 963.08	35 605 386 378.61

2.5.2 Challenges

The key challenges identified are as follows:

- Strengthening institutional capacity at the Department of Water and Sanitation and Water Service Authorities. The Department's areas of concern include water use authorization, validation and verification, infrastructure, local government support, planning and regulation.
- Improve intergovernmental relations – synergy between/alignment of government programmes

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- Water monitoring programmes – long term trends informing water use and management
- Mainstreaming water planning - planning upfront for water requirements – Northern Cape Planning Commission.
- Diversifying the water mix – desalination, re-use, artificial recharge.
- Water sector climate change response strategy – appropriate technology, water security, climate change resilient infrastructure.
- Promoting water conservation and demand management –reduction of leaks, metering.
- Water allocation reform and equity – from who sits round the table to allocation of water use entitlements, equity in water and sanitation services between urban and rural areas.
- Promoting and maintaining water quality – mine water management,.
- Changing water use behavior - nurturing attitudinal and behavioral changes towards the value of water – community engagement, participation and ownership
- Water infrastructure – integrated provincial infrastructure plan – role of private sector - Northern Cape Infrastructure Fund – rural water supply programme
- Refurbishment (infrastructure recapitalization) and operation and maintenance of water infrastructure.
- Financial sustainability relating to – water tariffs, social considerations, improving financial management, etc.
- Confirmation of co-funding by the City of Mbombela Local Municipality for Northern Nsikazi amounting to R101m is still outstanding.

2.5.3 Recommendation and Issue for follow-up

The Committee recommended that the bucket eradication programme be relooked.

4. CONCLUSION

The Committee undertook oversight on the Departments of Health, Human Settlements, Water and Sanitation and Social Development.

The sites were visited with various stakeholders and role-players, provincial and national Departmental officials. This proved to be a fruitful exercise as it enabled the stakeholders and role-players to see and understand progress made in relation to the projects.

The Committee deliberated and concluded that in the main, the following are crucial in strengthening the projects visited:

- Funding issues to be taken up with National Treasury- Northern Cape is a vast Province however the funds allocated to various portfolios are unable to cater to the needs of the Province.
- The importance of taking into account policy implications during the planning phase of projects.
- The need for strengthened inter-governmental relations and thus better coordinated collaboration.
- Comprehensive monitoring and reporting of progress.
- Continuous monitoring of the Lerato Place of Safety, and communication between the Department and centre management.

Following this undertaking, the Select Committee on Social Services will (continue to) undertake oversight on the identified projects.

Report to be considered

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**4. SELECT COMMITTEE ON SOCIAL SERVICES JOINT STUDY TOUR
(with the SELECT COMMITTEE ON EDUCATION AND RECREATION)
to INDONESIA, SINGAPORE AND MALAYSIA**

10-21 July 2017

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LIST OF ACRONYMS

AHS	Alexandra Health System
EHA	Eastern Health Alliance
EMS	Emergency Medical Services
GDP	Gross Domestic Product
HDI	Human Development Index
ICT	Information and Communication Technology
JHS	Jurong Health Services
MoH	Ministry of Health
NCD	Non-communicable disease
NHG	National Healthcare Group
NHI	National Health Insurance
NRF	National Research Foundation
NUHS	National University Health System
PHC	Primary Health Care
PUB	Public Utilities Board
PPP	Public-Private Partnership
SHS	Singapore Health Services
UHC	Universal Health Coverage
WHO	World Health Organization

PARLIAMENTARY DELEGATION

1. Ms LC Dlamini – Chairperson: Select Committee on Social Services
2. Mrs LL Zwane – Chairperson: Select Committee on Education and Recreation
3. Ms TK Mampuru – Committee Whip
4. Mrs TG Mpambo-Sibhukwana
5. Ms PC Samka
6. Mr C Hattingh
7. Mr M Khawula
8. Ms L Moshodi
9. Ms D Ngwenya

PARLIAMENTARY OFFICIALS

1. Ms Marcelle Williams – Committee Secretary
2. Ms Thabile Ketye – Content Advisor

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1. INTRODUCTION

The Select Committee on Social Services undertook its first Study Tour in the Fifth Parliament (in line with its Annual Performance Plan and Strategic Plan) to three countries, namely: Indonesia, Singapore and Malaysia. The Study Tour took place from 10 to 19 July 2017.

The aims of the study tour were to explore, understand and learn from the Singapore and Malaysia health care systems and the Indonesia and Singapore water and sanitation systems. This report therefore reflects learning from the health care, water and sanitation systems of the visited countries.

The report is structured and/or divided into four parts. The first part of the report is the introduction to the report. The subsequent parts of the report provide information on the lessons from each country. Below is a brief background on the areas that the Committee focused on in each country.

1.1. Indonesia

The Committee focused on the provision of water and sanitation services in Indonesia's informal settlements.

In recent years, the Indonesian government identified the lack of access to adequate water and sanitation services as a key challenge to be addressed. The Indonesian government has placed specific emphasis not only on urban settlements, but informal settlements and rural areas. It has since embarked on a number of projects and programmes to address this issue. For example, in 2010 the Settlement Sanitation Development programme was launched to provide access to adequate sanitation to 80% of urban households by 2014. At the time the programme was estimated to cost US\$5.5 billion. The programme was aimed at developing waste water services in 226 cities, build sanitary landfills which would serve 240 urban areas and stop inundations in strategic urban locations, covering around 22 500 hectares.

Prior to that, in 2008, the Indonesian government had embarked on the National Strategy for Community-Based Total Sanitation. The purpose of the programme was to introduce more effective water treatment methods in 10 000 villages by 2012.

It was due to this background that the Committee identified Indonesia to be part of the Study Tour. It was important for the Committee to learn what programmes the Indonesian government is undertaking to provide adequate access to water and sanitation services in informal settlements, as this is one of the priorities for South Africa.

1.2. Singapore

The focus of the Committee was on Singapore's water and health systems.

Singapore has a successful Universal Health Coverage (UHC) system that it has been implementing for years. The South African government is in the process of phasing-in the National Health Insurance (NHI), which is about providing UHC. Further, Singapore's medical facilities are among the finest in the world. The South African government is implementing an Ideal Clinic initiative which seeks to provide world class healthcare facilities.

In terms of water services, Singapore has long recognised the vital role the provision of a sustainable water supply plays in its future prosperity.

It is within this background that the Committee felt it would benefit in performing a well-informed oversight in the roll-out of NHI in South Africa.

1.3. Malaysia

There are a number of similarities between the Malaysian and South African healthcare systems. Over the past few decades, the Malaysian government has successfully implemented UHC, better known as the NHI in South Africa.

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The socio-economic development in Malaysia, over the few decades, has brought about significant improvement in the general health status of the population partly due to sustained investment into social infrastructure such as schools and health facilities. The country's public healthcare system has gradually improved and provides comprehensive care at minimal fees to the country's citizens.

Due to healthcare reforms in the country, Malaysia can claim to have achieved UHC - the ultimate health system goal of the World Health Organisation (WHO).

It was due to this background that the Committee identified Malaysia to be part of the Study Tour.

1.4. Mode of Interactions during the Study Tour

The mode of information sharing was largely through PowerPoint presentations followed by discussions. Members of Parliament were given opportunity to ask questions to explore and probe on issues raised in the presentations. In some instances, books were made available to learn more about topics of interest to the delegation. Thus, the Information presented in this report stems from those interactions.

2. OVERVIEW OF INDONESIA

2.1. Demographics of Indonesia

Indonesia has a population of 256 million, with 34 provinces, 17 000 islands, and 516 regencies or districts. Its urban population comprises of 54% of the total population. Please see the map of Indonesia below.

Map of Indonesia



The country has an expansive pyramid population, with almost 60% of its population aged less than 30 years. The national coverage of the slum area is 38 431 hectares (ha). The national coverage of safe drinking water is 71.6%. The national coverage of safe sanitation is 64%.

The poverty rate is at 11.2%. The life expectancy is 71 years. The gross domestic product (GDP) is US\$ 3,605 with an economic growth of 5%, and a population growth of 1.1%. Its human development index (HDI) ranking is 112 of 186 countries.

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There are only two seasons in Indonesia – dry and wet/rainy.

2.2. Parliament's Commission V

The Committee held a meeting with its Indonesian counterpart, Commission V. Commission V is a “committee” that oversees the following departments in Indonesia:

- Public Works and Housing
- Transportation
- Climatology
- Underdeveloped Regions

The Commission comprises of 52 Members. Its mandate includes the following:

- Processing and passing laws.
- Monitoring and evaluating programmes that are being implemented by the Executive.

In relation to its mandate, Commission V prepared and passed Law 1 in 2011. Law 1 speaks to housing (and the alleviation of slums) in Indonesia. This Law entails three components, namely:

- Restoration: The focus was repairing and rebuilding existing settlements into decent and sustainable settlements.
- Building renovation: The focus was on establishing a better quality of settlements to address the security and safety needs of communities.
- Resettlement: The focus is on relocating communities from existing (disaster prone) locations that many not be rebuilt in accordance with the spatial plan.

It has also drafted a law on infrastructure which was being debated at the time of the visit. It is envisaged that a water resource management law will be processed and passed in future.

The Indonesian motto is: Humility in diversity.

2.3. Water Services

The Committee met with the Ministry of Public Works and Housing. The Ministry is responsible for overseeing water services under its Human Settlements Directorate.

The Indonesian government believes in strong public-private partnerships (PPPs). The Ministry of Public Works and Housing gives the opportunity to propose creative and innovate ways of alleviating slums to the local government, academia, experts and communities.

In terms of policy, the Indonesian government has committed itself to the National Medium Term Development Plan for 2015–2019. This Plan entails the ambitious target of eradicating slums and achieving universal access to safe water and sanitation by 2019. The programme is called “100-0-19”. This basically means that there will be 100% (universal) access to safe drinking water, and a complete eradication of slums by 2019.

More specifically, the National Medium Term Development Plan for 2015-2019 states that:

- Universal access to safe drinking water will be achieved through the development of water supply systems at regional, city, district and neighbourhood levels; in both rural and urban areas.
- Urban slum area eradication will be achieved through slum upgrading efforts in the 38 431 ha area, and through a community empowerment programme in 7 683 sub-districts.
- Universal access to adequate sanitation will be achieved through meeting the basic domestic waste water, solid waste and drainage system needs in urban and rural areas.
- Improved building security and safety; and enhancement and maintenance of harmony will be achieved through the following:
 - Development and monitoring of state-owned buildings;
 - Development of regulations on, and implementing green building;
 - Establishment of local building codes.

In line with these targets, the Indonesian government has launched sectoral platforms of service delivery in urban and rural water, sanitation and slum upgrading and has established the

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National Slum Upgrading Programme as a national platform for collaboration between governments, the private sector, communities and multi-lateral donors. A proposed loan to the amount of US\$216.5 million is under consideration by the World Bank for the National Slum Upgrading Project.

2.4. Universal Access to Adequate Sanitation

The Indonesian government has initiated a community-based sanitation project (SANIMAS) in partnership with communities. SANIMAS is a communal wastewater infrastructure development project which entails the installation of communal wastewater treatment, and the installation of a combination (with *Mandi Cuci Kakus++*) of wastewater treatment for low income societies that either do not have wastewater infrastructure or have it but it is not yet feasible; and house connections for locations with non-optimal house connections.

The project is underpinned on the following principles:

- SANIMAS must respond to the needs of the communities.
- The community members are entirely responsible for decision-making.
- Communities must define, plan, build and manage their systems.
- The government must facilitate community group initiatives.

It is envisaged that the project will:

- Improve public health status through stimulus development of decent sanitation facilities, especially for low income people in dense and sanitation-prone areas in urban region;
- Increase public awareness regarding sanitation infrastructure and facilities; and
- Improve the utilisation of sanitation facilities that have been built.

The project funding sources are as follows:

- National budget: This covers the physical development (building materials, workers' wages) costs; training, operations and salary of community facilitators; and non-physical cost of construction assistant.

- Provincial and regency/city budget: This entails the replication of community-based infrastructure development, including the cost of empowerment; and the co-financing fund for the project pre-construction activities in line with local government policy.
- Community fund: This funding from the community is done as proof of the sincerity of the community. The contribution may be in cash or in kind (local labour and materials).

2.5. Universal Access to Drinking Water

Indonesia has experienced water supply challenges. In 2015, access to safe water had reached 71% of the total population in Indonesia. About 29% (77 million people) remain without access to safe water.

The Indonesian government envisages improving access to drinking water by at least 6% annually. The total funding investment required to achieve this is US\$19.53 billion (or 253,850 Rupiah). This funding would come from different sources which include the central government budget allocation, PPP (including commercial borrowing), local government budget, and the water utility budget.

The strategies towards 100% access to safe water are shown in the table below.

IMPLEMENTATION STRATEGY	TARGET
Construction of water supply systems (WSS)	-Provide support for the construction of WSS for regional, urban and special regions.
Assistance of provincial government/local government	-Provide assistance for local government in strengthening institutions and improving financial capacity. -Provide technical assistance in: <ul style="list-style-type: none"> • Preparing norms, standards and guidelines. • Monitoring water supply development. • Supporting emergency response programmes. • Providing programme assistance for water utilities.
Community participation	-Provide support for construction of water supply system through community-based programme.

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-Provide assistance in preparing community work plans.
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2.6. Issues Emanating from the Deliberations

Indonesia has no significant water supply problems. There is adequate water for consumption and sanitation.

Indonesia has its own regional water treatment facility, which entails the development of an environmental drainage system. In Indonesia there are three pipe water delivery systems, namely the regional pipe water delivery system, urban pipe water delivery system, and the community-based delivery system in special zones. At the time of the visit, it was reported that it is at 71% of its 100% target for 2019.

There is no bucket system or open latrines in the urban area. Many households have access to underwater tables or well points.

The government sets the tariffs for water services. The local water utility companies collect the tariffs. In addition, local water utility companies are delegated to provide water reticulation services. The Ministry is also responsible for constructing dams and ensuring that there is water.

An on-line procurement system is utilised. This ensures more transparency and accountability and leaves no room for fraudulent activities.

The Public Works Directorate is responsible for irrigation systems, dam infrastructure, and roads. The Ministry of Health is responsible for the water quality and management of related water illnesses. The Ministry of Public Works and Housing works closely with the Ministry of Health on the community programmes related to sanitation.

Public housing is built by both the national and local governments. About US\$15 to 20 million is provided by the Indonesian government to assist in the provision of public housing. The Ministry of Housing puts a ceiling on how much can be spent. In the main, contractors are

outsourced for construction. The local government works with local contractors/consultants. There is one Director-General (DG) for Construction Development. The responsibility of the DG is to improve the skills of local contractors/consultants.

The national housing programme provides about 1 million houses per year. Assistance may be in the form of grants or rental. A subsidy is paid by government towards housing. In addition, the interest rate is kept at a minimum (about 5%). In addition, government also assists through bank loans and house deposits. The resident can then pay for the house over 20 years.

The Public Service Agency is responsible for marketing and lobbying. The central or local government is responsible for the maintenance of government houses.

3. OVERVIEW OF SINGAPORE

3.1. Demographics of Singapore

The population size in Singapore is 5.6 million. The land size is 719.2 kilometres. Its population density is 7.8 per kilometre square. Please refer below for the map of Singapore.

Map of Singapore

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The life expectancy is 82.7 (84.9 for Females and 80.4 for Males).

3.2. Health Services

The Committee met with the Ministry of Health (MoH). The meeting was followed by a site visit to one of the new public health facilities in Singapore.

The responsibilities of the Ministry of Health entail the following:

- Being a regulator – introducing legislation
- Systems design and governance. This includes performance management.
- Service planning. This includes preventing and controlling infectious and non-communicable diseases; infrastructure planning; emergency service (EMS) response; and ensuring there are skilled and adequate human resources.
- Healthcare financing. This includes subsidised healthcare services and, 3Ms.

The structure of the Ministry of Health (MoH) is shown below.

STATUTORY BOARDS	PROFESSIONAL BOARDS	MOH HOLDINGS
Health Promotion	Medical Council	Agencies

	Nursing Council	
	Pharmacy Council	
	Dental Council	Public Health (PH) Clusters
Health Services Authority	Medical Practitioners Council	
	Allied Health Council	
	Optometrist Council	- 6 health systems

Singapore has one of the most efficient health care systems in the world. However this was not always the case. Before 1985, the system was highly bureaucratic – government owned and operated all public health sector hospitals. From 1985, government embarked on corporatisation, where hospitals became subsidiaries under the Health Corporation of Singapore, now known as MoH Holdings.

The objectives of corporatisation was to allow the following:

- More room for market forces to operate.
- Improved corporate discipline and cost-consciousness.
- Flexibility and responsiveness to needs.

In 2001, two clusters of healthcare existed in Singapore. Between 2010 and 2017, a process of re-clustering was introduced and implemented. This led to six regional healthcare systems, namely: Alexandra Health System (AHS), National Healthcare Group (NHG), Eastern Health Alliance (EHA), Singapore Health Services (SHS), National University Health System (NUHS) and Jurong Health Services (JHS). Each of these was allocated a region, in line with the growing population and demographic needs.

The Ministry is currently in the process (or planning phase) of reorganising and integrating the healthcare system, into three clusters. The clusters will be: West NUHS (which will merge NUHS and JHS), Central NHG (which will merge NHG and AHS), and East SHS (which will merge SHS and EHA). The purpose of reorganising the systems is to provide a fuller range of assets, capabilities, networks and services across different care settings, including ensuring a strong PHC system. Further, it will enable more effective and efficient provision of healthcare services.

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The public healthcare system in Singapore can be defined in three broad categories. These are discussed below.

3.2.1 Healthcare 2020

The MoH has embarked on a new strategy called “Healthcare 2020”. The focus of this strategy is on improving accessibility, quality and affordability of public healthcare in Singapore.

The vision is to improve accessibility by expanding capacity in facilities; improve quality by leveraging on technology, by empowering citizens, enabling providers (through the use of personal digital assistants to follow-up on patients), and having a national electronic healthcare record system’ improve affordability through an enhanced NHI scheme.

The NHI scheme known as Medishield Life covers all citizens automatically from birth, covers patients for life, and provides better protection (that is, it pays more – patients pay less). Previously, very old patients were excluded.

The Singapore government subsidises a part of the premium for those who are poor or cannot pay. However, all patients are expected to make a contribution towards the scheme.

3.2.2 Beyond Healthcare 2020

This initiative is about making positive shifts to ensure better healthcare for Singaporeans.

- Beyond hospital to community
 - Transforming PHC services.
 - Developing aged care in the community.
 - Integrating care across the continuum.
- Beyond quality to care
 - Ensuring appropriate care and treatments.
 - Making healthcare delivery more productive. Being innovative.
 - Tapping on the private sector, especially in PHC sector.
- Beyond healthcare to health

- Ageing actively – ensuring seniors stay engaged and active.
- Moving upstream to health – declaring a war on diabetes.
- “ACE” unit based at the MoH
 - Using technologies.
 - Ensuring value for money without compromising on quality.

3.2.3 Healthy Living Masterplan

In 2014, the MoH launched the “healthy living” masterplan. This entailed introducing more healthy food options in schools and workplaces, as well as introduction of gyms.

In 2016, the MoH launched the “war on diabetes” programme. The programmes focuses in prevention, screening management of the disease, public education and stakeholder engagement.

3.3. Site Visit: Ng Teng Fong General Hospital

The delegation visited Ng Teng Fong General Hospital, which is part of Jurong Health (JHS). It is the first hospital to be twinned with a community healthcare centre – the 400-bed Jurong Community Hospital. It is integrated into the community. The train station is nearby. There are shopping centres in the surrounds. Thus there are three buildings which have been integrated and comprise of two healthcare facilities.

The facility was built in response to the rapid growth in the population (it serves over 1 million patients), rapid ageing of the population, and the increasing burden of chronic diseases.

The facility, which took six years to build comprises of 3 towers. Tower A, which is the General Hospital Clinics has eight levels. Tower B which is the General Hospital Wards has sixteen levels and 700 beds. Tower C which is the Community Hospital has twelve levels and 400 beds.

The facility Clinic (Tower A) offers a satellite pharmacy on almost every floor. It has a modular design to manage patient flow. To optimise infection control and ensure a patient-

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centred approach to healthcare, there is natural ventilation in the wards. Further, the wards are designed in such a way that there is a window for each patient. Patient beds are diagonally to ensure privacy and dignity.

Jurong Hospital offers post-acute and rehabilitation services. It has a mobility park with a bus and train. These were included to ensure that patients can acclimatise to using public transport post-treatment.

The facility is focused on ensuring a hassle-free experience for its patients. This is done through using less paper, and more electronic systems. For example, the in-patient pharmacy has an automated barcode system. About 976 medical devices were integrated into the system at the time of the visit. The kitchen uses the cook-chill technology used in airplanes. Further, there is an electronic self-registration system, to curb long queues and waiting times. The system provides a detailed account of where the patient needs to go and when. At the end of the visit, the payment for all services is consolidated in one bill, and the patient can settle it at the last service point/ward they visit.

The staff compliment for the integrated facility is 4 500. To address nurse and doctor shortages, it is looking into having “nurse extenders”.

3.4. Water Services

Singapore’s Ministry of Environment and Water Resources (MEWR) has overarching responsibility for water related affairs. However, the country’s national water agency, the Public Utilities Board (PUB), indicates it is afforded a high degree of autonomy in designing policy and spearheading initiatives aimed at ensuring an efficient, adequate and sustainable supply of water in Singapore. Be that as it may, it is said that due to the country’s small land mass and limited water storage facilities, Singapore has historically been forced to rely on imported water from Malaysia, despite its relatively high and regular rainfall. Singapore’s water agreements with Malaysia date back to 1927, and have a source of strategic tension between the two countries.

It is argued that there has been a clear political intent and wide spread public support for ensuring national water security and establishing a diversified, clean, safe and sustainable water supply that is sufficient to meet the country's growing demand for water going forward.

3.4.1 Key Strategies

Singapore has four sources of water, namely: desalinated water, NEWater, imported water and water from the local catchment areas.

Water management in Singapore can be characterised into the following key strategies:

- Collection of every drop of water.
- Reuse of water, endlessly.
- Desalination of sea water. To help meet 30% of water needs, there are two desalination plants which are operational currently. One plant is expected in 2017. One plant is planned for 2020.

There is a three-pronged water strategy to manage the water demand. These are:

- Pricing. Potable water through tariffs and water conservation tax. Used water through a waterborne fee and sanitary fee.
- Voluntary.
- Mandatory.

3.4.2 NEWater Initiative

The first masterplan for NEWater was drawn up in 1972. The pilot plant was built in 1974. Singapore has five NEWater plants: Bedok in 2003, Kranji in 2003, Ulu Pandan in 2007, Changi in 2010. Three of these are run by the private sector.

The production process entails microfiltration, reverse osmosis and ultraviolet disinfection. PUB tracks the water at system level. Once the water is in the loop, then about 50% of it recycled. When the water reservoirs are full, some of the water is released into the sea because there is a challenge of storage space. Singapore has a lot of waterways but do not have large rivers.

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During the reverse osmosis phase, heavy metals and materials are removed from the water.

The National Research Foundation (NRF) has put aside S\$670 million, since 2006. Payment is made in three tranches. The first one was made in 2011. The second one was made in 2016. The last one is expected in 2030.

4. OVERVIEW OF MALAYSIA

4.1. Demographics of Malaysia

Malaysia has a population of about 30.5 million, with 13 States and 3 Federal Territories. The national language is Bahasa.

Map of Malaysia



The life expectancy is 74.8 years.

4.2. Health Services

The total allocation to public health from the national budget is 8.6%. The total expenditure on health as a percentage of GDP is 4.5%. Of this, the total expenditure on health is 52.4%

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The public healthcare system is divided into Secondary Health (hospitals) and Primary Health (clinics and community clinics). The public healthcare system comprises of 143 hospitals, 1 061 clinics, 1 808 community clinics and 6 flying doctor services.

4.2.1 Universal Health

Malaysia achieved independence in 1957. Universal health coverage was achieved in the 1980s, through general taxation, government revenue, social security, MoH and the local authority.

The PHC services were developed over time. Currently there are approximately 2 869 health clinics, which include the rural health teams and (about 203) mobile clinic teams. The aim is to decongest hospitals, and to improve the provision of effective health.

The Malaysian health system, through universal health coverage, is pro-poor. Patients pay 1 Malaysian Ringgit for consultation.

4.2.2 Refocusing Health Coverage

The Malaysian health system focuses on the following pillars:

- Infrastructure development.
- Human resources. This entails ensuring that healthcare providers do not work in silos, to improve access to healthcare.
- Operations or business process reengineering. This entails the establishment of urban transformation centres – implementing a multi-sectoral approach and offering one-stop centres. Further, this entails increasing access to ICT.
- Prevention of NCDs and strengthening population health. This entails refocusing for early detection, and improving communication skills. This also entails community empowerment through government agencies, to raise awareness and translating knowledge into practice.

5. CONCLUSION

The Select Committee on Social Services found the engagements experience by means of the Study Tour very enlightening. South Africa has similar policies and plans, however implementation seems to be a challenge, especially with the economic climate.

Water management, appreciation and saving mechanisms are important to ensure that South Africa supplies clean water to its citizens for various uses. Water responsibility and education on saving water is a theme that ran through all engagements that the Committee had. South Africa can start implementing these mechanisms at primary school level as part of the curriculum programme like, Life Skills. Children learn from an early age to appreciate and save water which is a necessity.

Both Singapore and Malaysia have great universal health coverage models. The concept of universal health coverage would alleviate many issues around providing much needed medical care to the population of South Africa. Singapore and Malaysia have proven that it can be done, and it works well in both countries. However, although it is envisioned by the South African Department of Health, it is health system that requires huge investment.

Overall, the Committee applauds the initiatives taken by these countries in trying to create a better life for all their citizens. The strategies implemented by the various countries can be achieved in South Africa, granted the right skills, planning and monitoring are put in place, in line with the required financial resources.

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No 188—2018] FIFTH SESSION, FIFTH PARLIAMENT

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

WEDNESDAY, 12 DECEMBER 2018

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ANNOUNCEMENTS

National Assembly

The Speaker

1. Referral to Committees of papers tabled

- (1) The following papers are referred to the **Portfolio Committee on Home Affairs** for consideration and report.
 - (a) Revised Annual Performance Plan of the Independent Electoral Commission for 2018-19.
 - (b) Revised Technical Indicator Descriptions of the Independent Electoral Commission for 2018-19.
-

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National Assembly and National Council of Provinces

1. The Speaker and the Chairperson

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PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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**ANNUAL REPORT OF THE JOINT STANDING
COMMITTEE ON INTELLIGENCE FOR THE
FINANCIAL YEAR ENDING 31 MARCH 2018**

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1. INTRODUCTION

The Joint Standing Committee on Intelligence "The Committee or JSCI" is established in terms of section 2 of the Intelligence Services Oversight Act 1994, (Act No. 40 of 1994). The purpose of the Committee is to perform an oversight function over the intelligence and counter-intelligence functions of the Services which include the State Security Agency (SSA), the intelligence division of the South African National Defence Force, i.e Defence Intelligence (DI) and Intelligence division of the South African Police Service which is known as Crime

Intelligence (CI). The Committee hereby presents its report to the Parliament of the Republic of South Africa in accordance with section 6 of the aforementioned act.

During the year under review, 01 April 2017 to 31 March 2018, the Committee interacted with all the relevant entities of the South African Intelligence community as defined by the Intelligence Services Oversight Act of 1994. The interactions were not merely based on the mandate of the JSCI but also included investigations of on financial misappropriations.

2. COMPOSITION OF THE COMMITTEE AS AT 31 MARCH 2018

Name	Political Party
Mr C Nqakula	NA (ANC) Chairperson
Ms D E Dlakude	NA (ANC)
Ms Z S Dlamini-Dubazana	NA (ANC)
Mr D D Gamede	NA (ANC)
Mr D M Gumede	NA (ANC)
Mr P J Parkies	NCOP (ANC)
Mr O J Sefako	NCOP (ANC)
Mr J J Skosana	NA (ANC)
Ms T Wana	NCOP (ANC)
Mr H B Groenewald	NA (DA)
Mr H C Schmidt	NA (DA)
Mr D J Stubbe	NA (DA)
Dr MQ Ndlozi	NA (EFF)
Mr R N Cebekhulu	NA (IFP)
Mr S C Mncwabe	NA (NFP)
Mr B H Holomisa	NA (UDM)

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The vacancy that occurred when Hon J J Skosana was deployed to Mpumalanga Province has not yet been filled by the time the Annual Report was finalized. On 13 March 2018 Hon MQ Ndlozi from the Economic Freedom Fighters filled the vacancy that had been vacant for almost four years.

3. LEGISLATIVE MANDATE

Section 3 of the Oversight Act provides that the Committee, in exercising its oversight responsibility, performs inter alia, the following functions:

- Obtain audit and other reports from the Auditor-General and to consider the financial statements of the services;
- Obtain reports from the Evaluation Committee;
- Obtain reports from the designated judge as defined in the Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002 (Act No. 70 of 2002);
- Obtain reports from the Ministers responsible for the Services;
- Consider and make recommendations on the report and certificates issued by the Inspector-General;
- Consider and make recommendations on all proposed legislation and regulations relating to any Service or any other intelligence or intelligence related activity;
- Review and make recommendations about co-operation, rationalization and demarcation of intelligence functions performed by the Services;
- 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 provided such complaint is not trivial, vexatious or made in bad faith;
- Refer any matter in relation to an intelligence activity which the Committee regards as relevant to the promotion and respect of the Bill of Rights to the South African Human Rights Commission;

- Consider and make recommendations on matters falling within the purview of the Act and referred to the Committee by the President or a Minister responsible for any Service or Parliament;
- To request relevant officials to explain any aspect of reports furnished to the Committee;
- To hold hearings and subpoena witnesses on any matter relating to intelligence and national security; and to
- To consult with any member of Cabinet in relation to any function performed by the Committee in terms of the Oversight Act.

4. ACTIVITIES OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE (JSCI) IN THE REPORTING YEAR

The Committee, during the period 1 April 2017 to 31 March 2018, had several engagements that included meetings with the Intelligence Community under its purview, together with the relevant ministers. The engagements included oversight interactions at the national offices of the Intelligence communities. There were other oversight visits which looked at matters that relate to the activities of the intelligence units for example, with regards to the management of security at the OR Tambo International Airport as well as the phenomena of violence and the hijacking of buildings, mainly in Gauteng.

The Committee also interacted with the Inspector General and the designated Judge for Interceptions. The last time an engagement took place with the designated judge on the matter of interceptions, was with Judge Yvonne Mokgoro who retired in 2016. The next person appointed to that position was Judge GSS Maluleke who passed away during August 2017 before the committee could engage him on his work. The current authority on interceptions is Judge HMT Musi who was appointed on 01 September 2017 and with whom the committee met on 29 November 2017. One of the matters he raised related to the need to review the

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Regulation of Interception of Communications and Provision of Communication-Related Information Act (RICA).

4.1 PRESENTATIONS TO THE JOINT STANDING COMMITTEE ON INTELLIGENCE (JSCI)

4.1.1 INTERACTIONS WITH THE OFFICE OF THE INSPECTOR GENERAL OF INTELLIGENCE

The Committee had several engagements with the Inspector General of Intelligence since his appointment on 15 March 2017. We received the IG's Annual report and annual plans. Engagements were concluded on thorough basis. One of the major presentations by the IG, related to the submission of certificates issued by him regarding an assessment of the intelligence community. This matter generated substantial discussion and raised questions, in particular to matters of principle as well as governance relating to how the process had been managed. It was suggested therefore that time be found for a thorough engagement between the IG and the Ministers of the cluster.

In the view of the Committee the following assessment was made,

- that the IG did not consult the relevant Ministers before presenting the certificates to the JSCI;
- the IG exceeded the reporting on the mandate of the period under review
- the report painted a compromised intelligence services and intelligent community matters related to corruption, unqualified people doing the job and questionable undercover fraud.
- The Committee is expecting a report with regards to the suggested interface.

The IG's report relating to the State Security Agency raised a number of controversies which culminated into allegations and counter allegations between

the Inspector General and the State Security Agency Director General, Mr Arthur Fraser. During that period, the Director General withdrew the Inspector General's security clearance. The matter was taken to court by the IG and, is currently still before the courts. The former DG has since been redeployed by the President who has effected some changes at the Agency, including the appointment of an Acting Director General, Mr Loyiso Jafta.

There are a number of things that the JSCI still needs to give attention to, in particular, in terms of the relevant legislation, the relations between the offices of the IG and the Intelligence Community. Part of the problem between the IG and the office of the State Security has been a misunderstanding of the relevant legislation relating to governance systems in all the entities. This means, off course, that the JSCI, should engage with all concerned parties quite exhaustively in order to resolve all problems.

5. FINANCIAL ACCOUNTABILITY

5.1 SECRET ACCOUNTS

The matter of Secret Accounts in the Intelligence Community continues to be a very difficult matter to resolve. The JSCI's view is that the intelligence Community, in its use of the Secret Account, must show a sense of commensuration between funds allocated and accountability that follows the allocation. The Committee is, therefore of the view that when huge amounts of money have been allocated to operations, a list of successes must be compiled to justify the funds allocated.

The question of budget allocations to the Intelligence Community also received dedicated focus on the part of the Auditor General. There has been a certain amount of friction between the Auditor General and the Accounting Officers regarding the secret accounts. The Auditor General is insisting, correctly so, on traditional reasonable assurance that the funds have been used correctly. The

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JSCI called a meeting where the Inspector General of Intelligence and relevant Directors General as well as all functionaries dealing with financial matters within the Intelligence Community here present and where the matter of reasonable assurance was discussed.

Before the above meeting, there had been another attempt to resolve the issue which was jointly sponsored by the Intelligence Community and the AG's office where a combined delegation travelled abroad to do benchmarking on the matter of secret funds and how accounting is done regarding such funds. The JSCI wanted to ensure a system that would stop all attempts at stealing or irregularly using the funds in the Secret Accounts. This matter though has also not been finalized. The JSCI therefore intends to pursue it in the financial year ending 31 March 2019.

The JSCI is also concerned that the Intelligence Community continues to receive negative findings from the AG's office regarding their financial statements. The Committee though has encouraged the AG to continue its interaction with the Chief Financial Officers of the relevant structures to inform them regarding processes and procedures required to improve their financial reporting.

6. INTELLIGENCE GATHERING

The JSCI met with the President on 7 March 2018 to acquaint him with its activities and some of the matters it was dealing with. There were two (2) issues in the main that the Committee raised with the President. Those matters were the following:

6.1. PRINCIPAL AGENT NETWORK (PAN) PROGRAMME

PRINCIPAL AGENT NETWORK was a project used as an instrument to pilfer money from the Secret Account of State Security Agency for use by certain individuals who were recruited for PAN. The matter was not fully investigated by

State Security Agency and a report was submitted to Dr Siyabonga Cwele, the Minister at the time for decision.

No prosecution was instituted by the NPA and a report from the current Minister is awaited. The Committee is still awaiting Minister Cwele in order to discuss the report.

The JSCI persuaded the President therefore to reopen the matter for proper investigation and prosecution as the Committee is of the view that serious crime may have been committed by those responsible for PAN. The JSCI recommended to the President that anyone found to have been involved in any type of crime regarding the activities relating to PAN had to be prosecuted to the full extent of the law.

6.2 RECONSTRUCTION OF THE INTELLIGENCE SERVICES

The Committee made a case for the reconstruction of the State Security Agency given the many weaknesses within the entity which the JSCI became aware. The President, in his response, indicated that he also had received a full briefing on those matters and had already taken a position that it was necessary to rebuild the State Security. He would therefore, sooner rather than later, appoint a panel of experts to do an exhaustive assessment of the entity and make recommendations on how the reconstruction could be designed.

The JSCI believes that an overarching assessment needs to be done to cover the entire Intelligence Community. Such an assessment, given that its main aim would be to produce a highly efficient and professional Intelligence Community, would have to be accompanied by a review of the effectiveness and modernized tools of trade for the intelligence structures which would include the procurement of high technology instruments to deal with cybercrime.

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Modernization of the Intelligence Community would no doubt, require re-skilling and re-training. The requirements indicated above presuppose a budget that would make it possible for the project to be undertaken.

One of the issues that has troubled the JSCI, has been the deployment in the intelligence sector of people without integrity while others have simply not been equal to the job. One of the issues the Committee dealt with during the period under review was the matter of Crime Intelligence Chief, Richard Mdluli. He has since been removed from of Crime Intelligence.

7. LEGISLATION

The JSCI's Legislative sub-committee comprised of Ms ZS Dlamini-Dubazana, Adv HC Schmidt, Mr SC Mncwabe and Mr DJ Stubbe, revisited the Intelligence Services Oversight Act of 1994 (Act 40 of 1994) where some concerns were identified. The Committee was also advised by Judge H MT Musi to give attention, to possible on amendment to the Regulation of Interception of Communications and Provision of Communication-Related Information Act (RICA) Act.

The sub-committee identified so many loopholes within all the intelligence pieces of legislation. The was therefore requested to approve that all the pieces of legislation within the intelligence services must be attended to by a State Legal person.

The Committee also interacted on at least three occasions during the period under review with the Directors of the Financial Intelligence Centre. During these engagements, it came to the fore that it was also necessary to review the FICA Act.

There is a stipulation in terms of schedule B of the Rules of the JSCI which allows, in (section 4 (1) of the rules) for the appointment of an acting chairperson. The

JSCI has also experienced periods when the position of the chair of the Committee has not been available for one reason or the other which has made it difficult for the committee to convene.

The JSCI will therefore approach the Presiding officers in accordance with the relevant regulation, to start the process of the appointment of a member of the committee as acting chairperson. This will be part of the proposed legislative amendments that will be submitted to during the 2018/19 financial year.

8. INTERNATIONAL ACTIVITIES

There is great interest from many quarters in the work of the JSCI. That has translated into requests from various countries for interaction with the committee in a sense where notes were exchanged on how the work of oversight is done in our country in particular respect to the intelligence community.

The Committee has met on home soil during the period under review with delegations from Nigeria and Italy.

8.1 MEETING WITH THE NIGERIAN HOUSE COMMITTEE ON NATIONAL SECURITY AND INTELLIGENCE HOUSE OF THE NATIONAL REPRESENTATIVES OF THE PARLIAMENT OF THE FEDERAL REPUBLIC OF NIGERIA

A four-member delegation visited the Joint Standing Committee on Intelligence for exchange of information and study of robust oversight over the intelligence services. The visiting Committee was interested in the functions of the Judge for interception as the position does not exist in their country. The differences were that Nigeria does not have a Minister of State Security but has a Head of Services and the Inspector General does not fall under the Intelligence Committee.

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Both committees showed interest for further engagements and the JSCI promised to return the favour by visiting Nigerian Intelligence Committee in the near future to learn more on internal terrorism that Nigeria had experienced in the presence of Boko Haram.

8.1.1 FINDINGS

The Nigerian counterpart depends on judiciary for investigative matters while the Joint Standing Committee on Intelligence has the Inspector General of Intelligence for investigating matters within the intelligence community. The OIGI is not the last alternative for investigation as the courts have more legal muscle to handle maladministration, corruption and money laundering matters. The other difference was that the Nigerian Parliament does not have a Minister of Intelligence and an Inspector General of Intelligence. As the South African intelligence services are struggling to come into amicable conclusion on auditing secret services, Nigeria does not audit the secret accounts. National security is the priority and cannot be discussed openly. Nigerian Intelligence Committee will be updated on findings and recommendations from the benchmarking report when finalised.

8.2 VISIT BY THE PARLIAMENTARY COMMITTEE FOR THE SECURITY OF THE REPUBLIC OF ITALY

A ten-member delegation including members of the Embassy and personnel met with the Joint Standing Committee on Intelligence. The Italian Committee also reports to Parliament once a year. The functions of both committees are similar.

The only difference was that the Italian Committee has power to nominate directors of agencies; give legislative input to intelligence matters, interview head of agency when necessary, have access to their bank accounts during interview; request documents when necessary and propose enquiries to Parliament. Identification of

employees is not available but they check characteristics and requirements for the job. Italian intelligence does not have an Inspector General of Intelligence.

The Italian delegation also wanted to know if recommendations for legislation are compulsory or obligatory, when witnesses are called by the JSCI must they be under oath, if the Inspector General of Intelligence acts autonomously or by Parliament or the President when investigating a member of intelligence or that involves a magistrate and whether the secret documents have a time for disclosure.

The JSCI enquired about the cybersecurity's jurisdiction whether it falls under the Italian Intelligence Committee. The response was that the process was still ongoing of establishing a body that will be responsible but in the meantime there are three parts that deal with cybersecurity issues. The police deal with cybercrime and the magistrate also deals with the same. Once the body is appointed there will be separation of roles.

8.3 STUDY TOUR TO NETHERLANDS AND SWEDEN

The Joint Standing Committee on Intelligence undertook a study tour to Netherlands and Sweden fact-finding on the following objectives:

- Understanding key global security threats and way of doing oversight over intelligence services responsible for cybercrime and the smuggling of contraband through borders i.e. special ways of securing the borders, monitoring immigration with special attention given to migrants and their integration as well as terror threats to security.
- Benchmarking on implementation of the Protection of Information Bill in terms of secrecy versus transparency in a democratic country.
- Methods that could assist the Committee to improve and exercise effective oversight on bulk interception and other means of communication to avoid abuse of resources by intelligence officers responsible for interception.

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- Monitoring of leakages of classified information. Exploring on how to conduct oversight in the era of digital technology.
- Auditing of secret accounts from the Intelligence Community
- Legislation on bulk interception

The Committee had several meetings with different structures during the study tour that gave few lessons to share with the stakeholders within the intelligence and other sections of the country.

8.3.1 FINDINGS

There is no agreement to arrest the suspects e.g. a container from SA which has an illegal consignment. However, the embassy has written to the South African Police Service and Interpol for intervention, the Committee was also urged to assist in that regard.

The Netherlands and Sweden have adopted a biometric system, which has been integrated into the EU, outsourcing their biometric data, as a means of developing improved migration profiling and detection technology. This system could be used to secure South Africa and the rest of our neighbours. The Netherlands has an oversight structure empowered to establish an Assessment Committee on Investigatory Powers of Parliament, through enabling legislation. This oversight body is independent of the Intelligence Services and is the eyes and ears of Parliament, on crime intelligence matters. Its main function is to assist in crime intelligence matters by providing the public and politicians with an understanding of a proper balance between national security and privacy protection.

Bodies such as Amnesty International operate in the Netherlands as an institution aimed at working on the Human Rights aspect of Crime Intelligence investigations by State Agencies, e.g. interception of data by Security Agencies which is not for

operational issues but done in manner which could be in violation of the human rights perspective of civilians.

The Organisation for Prohibition of Chemical Weapons, appealed to the JSC to assist it by foster disclosure and cooperation by other African countries possessing chemical weapons within their respective borders, as a means of monitoring the circulation of such weapons at any given time. The challenge for other African countries is that, unlike South Africa, they do not have an Act of Parliament in place aimed at cooperation and monitoring, the existence of chemical weapons within borders. The organisation requested the Committee's assistance in lobbying to its counterpart committees on the continent, to promulgating the required legislation.

The engagements above were all educational and highlighted the differences between South Africa and other Countries with regards to oversight work.

9. RECOMMENDATIONS

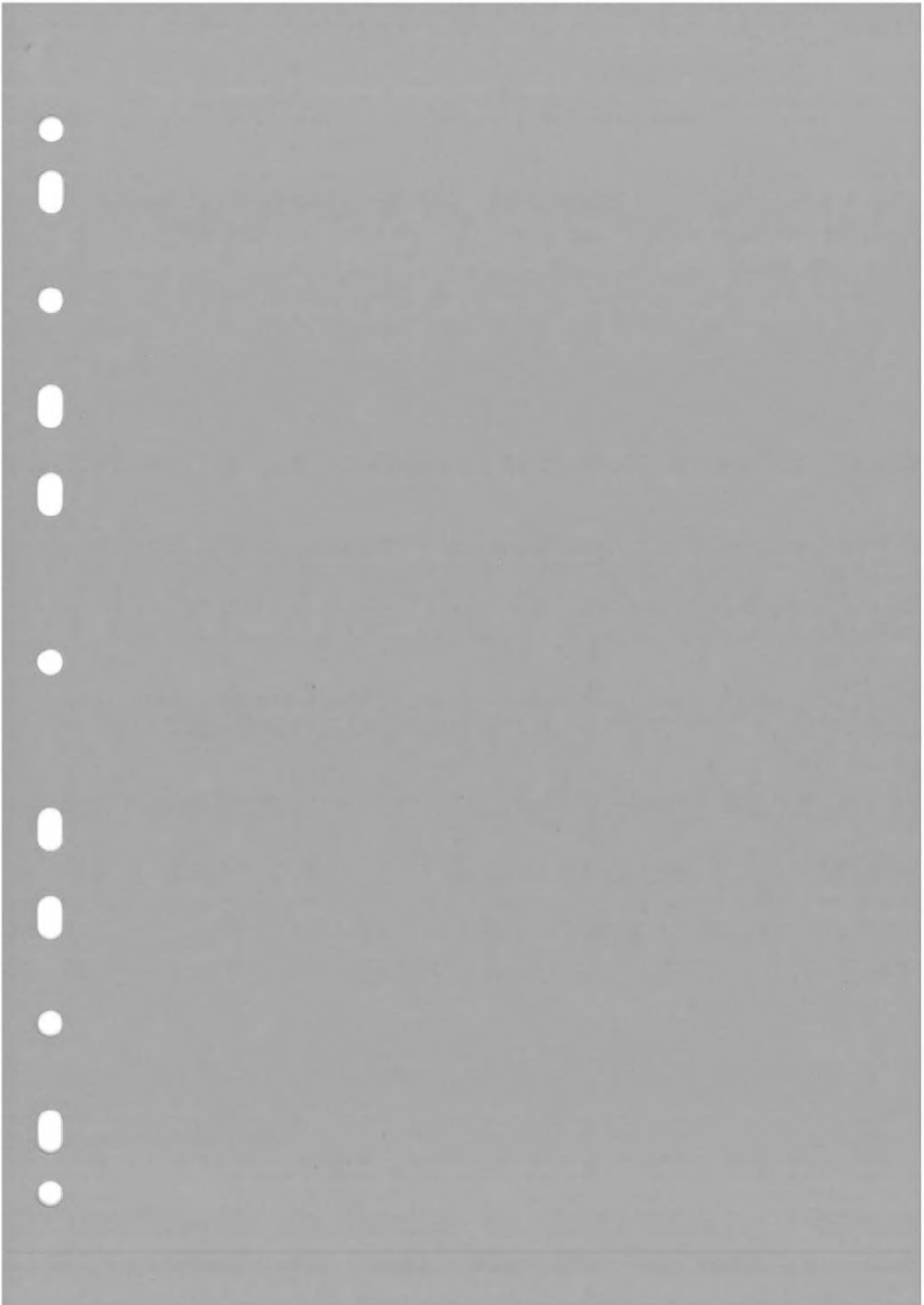
The Committee recommends that:

- A number of things need to be given attention to, in particular, in terms of the relevant legislation, the relations between the offices of the IG and the Intelligence Community.
- A solution be found regarding the matter of Secret Accounts. The JSCI's view is that the intelligence Community, as it uses the Secret Account, must show a sense of commensuration between funds allocated accountability that follows the allocation.
- The Committee suggested that a small committee be formed by Finance sections of the Intelligence services and a representative from Treasury. The Auditor General agreed to have a joint meeting with the Treasury and Minister of Defence and Military Veterans on exposing how the secret account funds were allocated and utilized and thereafter report to the JSCI.

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- An overarching assessment needs to be done to cover the entire Intelligence Community. Such an assessment, given that its main aim would be to produce a highly efficient and professional Intelligence Community and have to be accompanied by a review of the effectiveness and modernized tools of trade for the intelligence structures which would include the procurement of high technology instruments to deal with cybercrime.
- The deployment in the intelligence community of people with questionable characters while others have simply not been equal to the job should come to an end. Parliament must resolve that all senior officials should be vetted.
- The long drawn case of the Principal Agent Network programme should be finalized and those involved in wrong doing should be prosecuted.
- In the following financial year, the Presiding officers if required in accordance with the relevant regulation, consider the process of the appointment of a member of the Committee as acting chairperson in accordance with the stipulation in terms of schedule B of the Rules of the JSCI which allows, in (section 4 (1) of the rules).



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Report of the auditor-general to Parliament on the Special Defence Account

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the Special Defence Account set out on pages ... to ..., which comprise the statement of financial position as at 31 March 2018, the statement of financial performance, statement of changes in net assets, cash flow statement and statement of comparison of budget and actual amounts for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, except for the effects of the matters described in the basis for qualified opinion section of this auditor's report, the financial statements present fairly, in all material respects, the financial position of the Special Defence Account as at 31 March 2018, and its financial performance and cash flows for the year then ended 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 of South Africa, 1999 (Act No. 1 of 1999) (PFMA).

Basis for qualified opinion

Sensitive projects

3. The Special Defence Account accounts for non-sensitive and sensitive projects expenditure in connection with special defence activities as per section 2(2)(a) of the Defence Special Account Act of South Africa, 1974 (Act No. 6 of 1974), as amended (DSAA). I was unable to obtain sufficient appropriate audit evidence regarding sensitive projects expenditure and related financial assets due to the sensitivity of the environment and the circumstances under which the related transactions were incurred and recorded. In addition, due to the sensitive nature of the activities involved, the entity did not comply with the requirements of GRAP 6, *Consolidated and separate financial statements*, and instead applied GRAP 104, *Financial instruments*, which also did not result in fair presentation. I was unable to confirm the sensitive projects expenditure and financial assets by alternative means. Consequently, I was unable to determine whether any adjustments were necessary to sensitive projects expenditure stated at R357 930 000 (2017: R209 903 000) in note 13 to the financial statements and financial assets stated at R142 582 000 (2017: R103 163 000) in note 6 to the financial statements.

Context for the opinion

4. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of this auditor's report.
5. I am independent of the account in accordance with the International Ethics Standards Board for Accountants' *Code of ethics for professional accountants* (IESBA code) and the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of matters

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

Restatement of corresponding figures

8. As disclosed in note 20 to the financial statements, the corresponding figures for 31 March 2017 have been restated as a result of an error in the financial statements of the entity at, and for the year ended, 31 March 2018.

Uncertainty relating to the outcome of exceptional litigation

9. With reference to note 18 to the financial statements, the Special Defence Account through the Department of Defence is the defendant in a lawsuit. The ultimate outcome of the matter cannot currently be determined and no provision for any liability that may result has been made in the financial statements.

Responsibilities of the accounting officer for the financial statements

10. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the SA Standards of GRAP and the requirements of the 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.
11. In preparing the financial statements, the accounting officer is responsible for assessing the account's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless there is an intention to liquidate the account or to cease operations, or there is no realistic alternative but to do so.

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Auditor-general's responsibilities for the audit of the financial statements

12. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
13. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

14. The objectives of the Special Defence Account are included within the Department of Defence's reporting on performance information against predetermined objectives.

Report on the audit of compliance with legislation

Introduction and scope

15. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report material findings on the compliance of the account with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance. These procedures were, however, not extended to certain sensitive expenditure in connection with the special defence activities as per section 2(2) of the DSAA.
16. The material findings on compliance with specific matters in key legislation are as follows:

Annual financial statements

17. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework, as required by section 40(1)(b) of the PFMA. Material misstatements identified by the auditors in the submitted financial statements were corrected subsequently. The limitations relating to special defence activities could not be corrected due to the nature of the transactions involved, and resulted in a qualified opinion.

Expenditure management

18. Effective and appropriate steps were not taken to prevent irregular expenditure amounting to R32 278 000, as disclosed in note 24 to the annual financial statements, as required by section 38(1)(c)(ii) of the PFMA and treasury regulation 9.1.1. The majority of the irregular expenditure was due to proper procurement processes not having been followed.

Consequence management

19. I was unable to obtain sufficient appropriate audit evidence that an investigation was done and disciplinary steps were taken against officials who had incurred fruitless and wasteful expenditure, as required by section 38(1)(h)(iii) of the PFMA. This was due to the department not submitting supporting documentation substantiating investigations conducted into fruitless and wasteful expenditure.

Procurement and contract management

20. Some 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.
21. Some quotations were accepted from prospective suppliers who did not submit 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.
22. Some quotations were awarded to suppliers whose tax matters had not been declared by the South African Revenue Service to be in order, as required by treasury regulation 16A9.1(d).

Other information

23. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements and the auditor's report.
24. My opinion on the financial statements and findings on compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.
25. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements, or my knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement in this other information, I am required to report that fact. I have nothing to report in this regard.

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Internal control deficiencies

26. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it. The matters reported below are limited to the significant internal control deficiencies that resulted in the findings on compliance with legislation included in this report, as the limitation imposed on the audit is inherent to the environment of the Special Defence Account.

Leadership

27. The accounting officer did not exercise oversight responsibility over financial reporting, internal controls and compliance with legislation. The financial statements were not adequately reviewed before submitting them for auditing, which resulted in material misstatements being identified during the audit process. Compliance with laws and regulations was not continuously monitored, resulting in transgressions against legislation.

Financial and performance management

28. Existing controls were not adequate to monitor compliance with applicable legislation and to support accurate financial reporting.

Auditor-General

Pretoria

31 July 2018



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

Annexure – Auditor-general’s responsibility for the audit

1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements, and on the account's compliance with respect to the selected subject matters.

Financial statements

2. In addition to my responsibility for the audit of the financial statements as described in this auditor's report, I also:
 - identify and assess the risks of material misstatement of the financial statements whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control
 - obtain an understanding of internal control relevant to the audit 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 account's internal control
 - evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the accounting officer
 - conclude on the appropriateness of the accounting officer's use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the account's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify the opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause an account to cease continuing as a going concern
 - evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation

Communication with those charged with governance

3. I communicate with the accounting officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
4. I also confirm to the accounting officer that I have complied with relevant ethical requirements regarding independence, and communicate all relationships and other matters that may reasonably be thought to have a bearing on my independence and, where applicable, related safeguards.

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Report of the auditor-general to Parliament on the South African Police Service - Crime Intelligence: Secret Service Account

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the South African Police Service: Crime Intelligence: Secret Service Account set out on pages XX to XX which comprise the appropriation statement, the statement of financial position as at 31 March 2018, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, the financial statements present fairly, in all material respects, the financial position of the South African Police Service: Crime Intelligence: Secret Service Account as at 31 March 2018, and financial performance and cash flows for the year then ended in accordance Modified Cash Standards (MCS) and the requirements of the Public Finance Management Act, Act 1 of 1999 (PFMA).

Basis for qualified opinion

High inherent risk due to the nature of the environment

3. The South African Police Service Secret Services Account accounts for sensitive and non-sensitive project expenditure incurred in connection with the performance of the function and the duty of the Secret Services as defined in section 1 of the Secret Services Act, 1978 (Act 56 of 1978). The level of assurance that can be given by my audit on sensitive projects expenditure and assets included in notes 6, 39 and 40 to the financial statements respectively, is lower than in the case of other audits due to the significant inherent risk relating to the sensitivity of the environment in which they are incurred and the manner in which they are recorded.

Cash and cash equivalent

4. During 2017, the department overstated cash and cash equivalents by R6 181 920. In the current year the department have not investigated and corrected the misstatement. Consequently, cash and cash equivalent is overstated by 2017: R6 181 920.

Expenditure

5. The department did not account for the expenditure incurred in the correct accounting period as required by chapter 8 of the MCS, *Expenditure*. Consequently, expenditure is understated

and voted funds to be surrendered to the revenue fund is overstated by approximately R5 804 362.

Irregular expenditure

6. The department procured goods and service without adhering to the prescribed National Treasury Regulations, instruction notes and practice notes, resulting in irregular expenditure of R 91 230 461 (2017: R137 203 711). The irregular expenditure incurred was not disclosed in the financial statements and was consequently understated by these amounts.
7. The department procured goods and service without adhering to the prescribed National Treasury Regulations, instruction notes and practice notes by paying employee allowances (i.e. expenditure incurred by department for petrol and vehicle maintenance for office-bound personnel for travelling between office and home), resulting in irregular expenditure of R10 526 308. The irregular expenditure incurred was not disclosed in the financial statements and was consequently understated by these amounts

Movable tangible assets

8. In the prior year, I was unable to obtain sufficient appropriate audit evidence to confirm existence of movable tangible assets with a projected amount of R 5 782 260. I was unable to confirm the physical assets by alternative means. In the current year management removed assets that could not be confirmed for existence from the asset register without investigating those assets and following the appropriate disposal process. Consequently, movable tangible assets disclosed at R914 285 000 for the prior year is still misstated.

Context for the opinion

9. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of this auditor's report.
10. I am independent of the department in accordance with the International Ethics Standards Board for Accountants' *Code of ethics for professional accountants* (IESBA code) and the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
11. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Responsibilities of the accounting officer for the financial statements

12. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with modified cash standards and the requirements of the PFMA and for such internal control as the accounting officer determines is necessary to enable the

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preparation of financial statements that are free from material misstatement, whether due to fraud or error.

13. In preparing the financial statements, the accounting officer is responsible for assessing South African Police Service - Crime Intelligence: Secret Service Account's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the accounting officer either intends to liquidate the department or to cease operations, or has no realistic alternative but to do so.

Auditor-general's responsibilities for the audit of the financial statements

14. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
15. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

Introduction and scope

16. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report material findings on the reported performance information against predetermined objectives for selected programmes presented in the annual performance report. I performed procedures to identify findings but not to gather evidence to express assurance.
17. My procedures address the reported performance information, which must be based on the approved performance planning documents of the department. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures also did not extend to any disclosures or assertions relating to planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.
18. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected programme presented in the annual performance report of the department for the year ended 31 March 2018:

Programmes	Pages in the annual performance report
Secret Service of the SAPS	X – X

19. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
20. The material findings in respect of the usefulness and reliability of the selected programme are as follows:

Programme: Secret Service of the SAPS

Various indicators

21. The targets for the followings indicators were not specific in clearly identifying the nature and required level of performance or measurable as required by the FMPPi:
- National average of formal intelligence sources/informers/ providers per intelligence collector/gatherer to support undercover operations.
 - Turnaround time for the deployment of agents and provisioning of agent safe houses and basic logistical requirements needed by an agent.
 - Percentage of feasible cybercrime intelligence/cyber forensic support - related services rendered on request.
 - Percentage of feasible surveillance - related services rendered on request.
 - Percentage of feasible technical workshop - related services rendered on request.
 - Percentage of feasible counter intelligence measure - related requests received.

Various indicators

22. The reported achievement in the annual performance report did not agree to the supporting evidence provided for the indicators. The supporting evidence provided indicated misstatements in the achievements of these indicators listed below:

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Indicator	Reported performance	Audited value
One hundred and twenty-nine active undercover operations concluded per financial year	169	152
Turnaround time for the deployment of agents and provisioning of agent safe houses and basic logistical requirements needed by an agent	75,00%	58,25%
Percentage of feasible cybercrime intelligence/cyber forensic support related services rendered on request from covert managers, investigating officers and any other approved or normally accepted client of the SSA	85,04%	79,24%
Percentage of feasible surveillance related services rendered on request from covert managers and any other approved or normally accepted client of the SSA	85,26%	78,73%
Percentage of feasible counter intelligence measure related requests from covert managers and any other approved or normally accepted client of the SSA	80,00%	66,95%

indicator: National average of formal intelligence sources/informers/ providers per intelligence collector/ gatherer to support undercover operations.

23. I was unable to obtain sufficient appropriate audit evidence for the reported achievement of target. This was due to the supporting documents to verify validity of the reported performance not being provided as the documents contain sensitive information that could compromise the intelligence operations. I was unable to confirm the reported achievement by alternative means. Consequently, I was unable to determine whether any adjustments were required to the achievement of 3.6 active informer per handler as reported in the annual performance report.

Other matter

24. I draw attention to the matter below. My opinion is not modified in respect of this matter

Achievement of planned targets

25. Refer to the annual performance report on pages X to X for information on the achievement of planned targets for the year and explanations provided for the under/ over achievement of a significant number of targets. This information should be considered in the context of the material findings on the usefulness and reliability of the reported performance information in paragraph 20 to 22 of this report.

Report on the audit of compliance with legislation

Introduction and scope

26. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the compliance of the department with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.

27. The material findings on compliance with specific matters in key legislations are as follows:

Annual financial statements

28. 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) and (b) of the PFMA. Material misstatements identified by the auditors in the submitted financial statements were not adequately corrected and/or the supporting records could not be provided subsequently, which resulted in the financial statements receiving a qualified opinion.

Procurement and contract management

29. Goods and services of a transaction value above R500 000 were procured without inviting competitive bids, as required by treasury regulations 16A6.1. Deviations were approved by the accounting officer without prior written approval from the national treasury as required by National Treasury SCM instruction note 3 of 2016/17. Similar non-compliance was also reported in the prior year.

30. Some of the contracts were awarded to bidders based on preference points that were not allocated in accordance with the requirements of the Preferential Procurement Policy Framework Act and its regulations.

31. Contracts were extended or modified without the approval of a properly delegated official as required by treasury regulation 8.1 and 8.2. Similar non-compliance was also reported in the prior year.

Expenditure management

32. Effective steps were not taken to prevent irregular expenditure, as required by section 38(1)(c)(ii) of the PFMA and treasury regulation 9.1.1. The value of R48 728 000 as disclosed in note 31, is not complete as management was still in the process of quantifying the full extent of the irregular expenditure.

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Other information

33. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements, the auditor's report thereon and those selected programme presented in the annual performance report that have been specifically reported on in the auditor's report.
34. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.
35. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected programme presented in the annual performance report, or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed on the other information obtained prior to the date of this auditor's report, I conclude that there is a material misstatement of this other information, I am required to report that fact.
36. I did not receive the other information prior to the date of this auditor's report. When I do receive and read this information, if I conclude that there is a material misstatement therein, I am required to communicate the matter to those charged with governance and request that the other information be corrected. If the other information is not corrected, I may have to retract this auditor's report and re-issue an amended report as appropriate. However, if it is corrected this will not be necessary.

Internal control deficiencies

37. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it.
38. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified opinion, the findings on the annual performance report and the findings on compliance with legislation included in this report.
39. The SCM policy of the division is not aligned to the latest National Treasury regulations, instructions and practice notes, which resulted in the deviations that were not approved according to the latest instruction notes.
40. The department's policies in place are not aligned with changes in the laws and regulations and are not continuously reviewed to address the emerging risks. Furthermore, there are no adequate standard operating procedures in place for financial reporting, supply chain management and performance information to ensure correct interpretation and consistent application of policies. These standard operating procedures should include verification of reported information, as well as an independent quality assurance process.

41. The department does not have an approved policy for allocation and utilisation of vehicles and cellphones allocated to employees.
42. The department did not develop action plan to address all deficiencies identified in the previous year's audit. Furthermore, for the areas where the action plan was developed it is not monitored properly and evidence supporting progress report is not reviewed.
43. Management did not implement proper record keeping mechanism to ensure that reported performance information and financial statements are supported by complete and accurate information, as a result there were material differences identified between the underlying records and the financial statements and reported performance information.
44. The internal audit unit did not review financial and performance reports to confirm the reliability of these reports before their submission to the audit committee or external auditors.

Other reports

45. I draw attention to the following engagements conducted by various parties that have or could potentially have an impact on the department's financial statements, reported performance information and compliance with applicable legislation and other related matters. The reports noted do not form part of my opinion on the financial statements or my findings on the reported performance information or compliance with legislation. The summarised other reports will be included in the auditor's report as follows:
46. At the time of writing this report, various investigations were still being conducted by the Independent Police Investigative Directorate (IPID) into allegations of misuse and abuse of the department's funds by certain members.

Auditor-General

Pretoria

31 July 2018



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

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Annexure – Auditor-general’s responsibility for the audit

1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements, and the procedures performed on reported performance information for selected programmes and on the department’s compliance with respect to the selected subject matters.

Financial statements

2. In addition to my responsibility for the audit of the financial statements as described in this auditor’s report, I also:
 - Identify and assess the risks of material misstatement of the financial statements whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control
 - obtain an understanding of internal control relevant to the audit 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 department’s internal control
 - evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the accounting officer
 - conclude on the appropriateness of the accounting officer’s use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the SAPS-CI: SSA ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor’s report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify the opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor’s report. However, future events or conditions may cause a department to cease continuing as a going concern
 - evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation
 - obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities within the group to express an opinion on the consolidated financial statements. I am responsible for the direction, supervision and performance of the group audit. I remain solely responsible for my audit opinion

Communication with those charged with governance

3. I communicate with the accounting officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
4. I also confirm to the accounting officer that I have complied with relevant ethical requirements regarding independence, and communicate all relationships and other matters that may reasonably be thought to have a bearing on my independence and, where applicable, related safeguards.

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Report of the auditor-general to Parliament on the State Security Agency

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the State Security Agency set out on pages ... to ..., which comprise statement of financial position as at 31 March 2018, the statement of financial performance, statement of changes in net assets, and cash flow statement for the year ended 31 March 2018, as well as the notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, except for the effects of the matter described in the basis for qualified opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the State Security Agency as at 31 March 2018, and its financial performance and cash flows for the year then ended in accordance with the Standards of Generally Recognised Accounting Practice (Standards of GRAP) and the requirements of the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA).

Basis for qualified opinion

High inherent risk due to nature of environment

3. The State Security Agency accounts for non-sensitive and sensitive project expenditure and assets incurred in connection with the performance of the function and the duty of the intelligence services as defined in section 1 of the Intelligence Services Act, 2002 (Act No. 65 of 2002). The level of assurance that can be given by my audit on sensitive projects expenditure and assets included in notes 7 and 18 to the financial statements, respectively, is lower than in the case of other audits due to the significant inherent risk relating to the sensitivity of the environment in which they are incurred and the manner in which they are recorded. This expenditure amounts to 8,6% of the 2017-18 financial year's total budget.

Operational expenditure

4. The use of operating advances is a standard practice in this environment, these advances gets cleared based on a certificate that is duly authorised. During the audit process I request management to confirm whether the money was used for its intended purpose and to confirm the expenditure to the supporting documentation. During the audit, I was unable to obtain sufficient appropriate audit evidence regarding the operational expenditure incurred amounting to R125 674 000, as the supporting documents could not be found and I was unable to obtain the audit evidence by alternative means. Consequently, I was unable to determine whether any further adjustment was necessary to operational expenditure stated at R548 462 000 in the financial statements.

5. The department did not review the residual values and useful lives of property and equipment at each reporting date in accordance with GRAP 17, Property, plant and equipment. As a result, property and equipment with a gross carrying amount of R378,8 million (2017: R323,9 million) had a zero net carrying amount while still being in use. The effect on the financial statements was that property, plant and equipment was understated by R38,5 million (2017: R77,058 million) and depreciation was understated by R38,5 million (2017: R77,058 million). In addition, I was unable to obtain sufficient appropriate audit evidence regarding the redundant assets amounting to R9,042 million, as the redundant assets could not be located by the agency. I was unable to confirm these redundant assets by alternative means. Consequently, I was unable to determine whether any adjustments were necessary to the assets' value disclosed in the financial statements, the surplus for the period and the accumulated surplus.

Irregular expenditure

6. I was unable to obtain sufficient appropriate audit evidence to confirm that all of the irregular expenditure included in note 34 to the financial statements as a result of the department incurring irregular expenditure because of utilising the B-BBEE certificates obtained from the central supplier database which was not reliable as indicated on the database. I was therefore not in a position to determine the amount that needs to be disclosed as irregular expenditure as a result of the above. I was unable to confirm this by alternative means. Consequently, I was unable to determine whether any further adjustments were necessary to the irregular expenditure stated at R31 376 000 in the financial statements.

Context for the opinion

7. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of this auditor's report.
8. I am independent of the department in accordance with the International Ethics Standards Board for Accountants' *Code of ethics for professional accountants* (IESBA code) and the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
9. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of matter

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

Claims against the department

11. As disclosed in note 32 to the financial statements, the department is the defendant in a number of claims instituted against it. The department is opposing the claims as it believes the claims to be invalid and/or overstated. The ultimate outcome of these matters cannot currently be determined and no provisions for any liabilities have been made in the financial statements.

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12. As disclosed in note 28 to the financial statements, the corresponding figures for 31 March 2017 have been restated as a result of an error in the financial statements of the State Security Agency at, and for the year ended, 31 March 2018.

Responsibilities of accounting officer for the financial statements

13. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with Standards of GRAP and the requirements of the 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.
14. In preparing the financial statements, the accounting officer is responsible for assessing the States Security Agency's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the accounting officer either intends to liquidate the department or to cease operations, or has no realistic alternative but to do so.

Auditor-general's responsibilities for the audit of the financial statements

15. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
16. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

Introduction and scope

17. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report material findings on the reported performance information against predetermined objectives for selected programmes presented in the annual performance report. Due to the nature of the environment I was not able to test the completeness of the performance information reported. I performed procedures to identify findings but not to gather evidence to express assurance.

18. My procedures address the reported performance information, which must be based on the approved performance planning documents of the department. I have not evaluated the completeness and appropriateness of the performance indicators/ measures included in the planning documents. My procedures also did not extend to any disclosures or assertions relating to planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. My procedures did not cover the completeness of the performance information reported. Accordingly, my findings do not extend to these matters.
19. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected programmes presented in the annual performance report of the department for the year ended 31 March 2018:

Programmes	Pages in the annual performance report
Programme 3: Domestic operations	x – x
Programme 4: Foreign operations	x – x
Programme 5: Counter intelligence	x – x
Programme 6: Technical operations	x – x

20. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid and accurate

21. The material findings in respect of the usefulness and reliability of the selected programmes are as follows:

Programme 3 – Domestic operations

Indicator: Effective defensive and offensive measures implemented in the economic intelligence environment

22. The planned target for this indicator was not specific in clearly identifying the required level of performance.

Indicator	Target
Effective defensive and offensive measures implemented in the economic intelligence environment	Conduct collection and support actions aimed at mitigating illicit economic activities in RSA
	Provide support to Government's programmes and initiatives regarding economic growth and development

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Programme 4 – Foreign operations

Foreign intelligence collected on positions of countries and blocs as it relates to South Africa's national interest

23. I was unable to obtain sufficient appropriate audit evidence for the reported achievement of the indicator. This was due to the listing provided as audit evidence not agreeing to the reported achievement as per the annual performance report. I was unable to confirm the reported achievement by alternative means. Consequently, I was unable to determine whether any adjustments were required to the reported achievement as reported in the performance report:

Indicator	Targets
Foreign intelligence collected on positions of countries and blocs as it relates to South Africa's national interest	Collect intelligence in support of government's multilateral engagements in the African Continent and the rest of the world
	Collect intelligence on the positions of global and regional formations, and major global powers to enable government to negotiate and influence the System of Global Governance to advance South Africa's national interest

Programme 5 – Counter intelligence

Various indicators:

24. I was unable to obtain sufficient appropriate audit evidence for the reported achievement of five of the eight indicators relating to this programme. This was due to the listings provided as audit evidence not agreeing to the reported achievement as per the annual performance report as well as the achievement in other indicators reported as narratives instead of numbers, this made it difficult to determine the performance achieved. I was unable to confirm the reported achievement by alternative means. Consequently, I was unable to determine whether any adjustments were required to the reported achievement as reported in the performance report:

Indicators	Targets
Effective defensive and offensive measures implemented to enhance security and integrity in the border environment	Contribute knowledge in the construction of the Border Management Authority (BMA) architecture and processes
	Conduct intelligence operations to ensure that South Africa's borders are protected, secured and well managed
	Coordinate and engage with relevant domestic and foreign role players to improve national and regional security and stability
South Africa's interests protected from threats related to the deliberate use of Weapons of Mass Destruction (WMD), espionage, covert influencing, subversion and sabotage	Conduct operations to prevent and mitigate foreign interference and abuse of diplomatic privileges, espionage, manipulation and undue influencing of state processes to preserve the authority of the state
	Conduct operations to prevent and mitigate espionage, manipulation and undue influencing of state processes to preserve the authority of the state.
	Conduct operations to prevent and mitigate acts of subversion and sabotage
Sufficient measures to mitigate risks posed by acts of terrorism and extremism directed against South Africa's valued resources, citizens and strategic installations	Conduct operations and contribute to the implementation of measures aimed at mitigating domestic and international extremism and acts of terrorism

Improvement of security within the SSA, government institutions and critical state entities	Conduct the vetting and screening of personnel in organs of state and service providers to protect the integrity of the state
	Conduct vetting and regular re-vetting to ensure that the integrity of the personnel of the SSA is beyond reproach.
Improved security levels in relation to the protection of personnel, information and physical infrastructure of the State Security Agency and spending centres	Implement and maintain physical security measures and processes throughout the SSA to secure all SSA offices, facilities, personnel and assets
	Implement and maintain information security measures and electronic security systems to protect information, offices facilities, personnel and assets of the SSA

Indicator: Enhanced security within SSA, National Departments, Stated Owned Companies and Foreign missions;

Target: Provide security advising and investigation services to improve physical and information security within the state

25. I was unable to obtain sufficient appropriate audit evidence for the reported achievement for this indicator and targets relating to this programme, this was due to inadequate performance management system to enable reliable reporting on the achievement of targets. The evidence provided did not agree to the recorded achievements which resulted in a misstatement of the target achievement reported. I was also unable to confirm the reported achievement by alternative means. Consequently, I was unable to determine whether any further adjustments were required to the reported achievements.

Programme 6 – Technical operations

Various indicators

26. The planned target for these indicators were not specific in clearly identifying the required level of performance.

Indicator	Target
ICT security services and products provided to secure and protect critical information and communications infrastructure of organs of state (OoS)	Develop policies and establish cybersecurity centre structures
Established Project Management Office (PMO) and Technology Research & Development (R&D) units with Governing Frameworks	Review existing policies and controls and implement adequate controls in all sub-programmes

Other matters

27. I draw attention to the matters below.

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Achievement of planned targets

28. Refer to the annual performance report on pages ... to ... for information on the achievement of planned targets for the year. This information should be considered in the context of the material findings on the usefulness and reliability of the reported performance information in paragraphs 22 to 26 of this report.

Adjustment of material misstatements

29. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were on the reported performance information of domestic operations, foreign operations and counter intelligence. As management subsequently corrected only some of the misstatements, I raised material findings on the usefulness and reliability of the reported performance information. Those that were not corrected are reported above.

Report on the audit of compliance with legislation

Introduction and scope

30. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the compliance of the department with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.
31. The material findings on compliance with specific matters in key legislations are as follows:

Annual financial statements

32. 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) and (b) of the PFMA. Material misstatements of disclosure items identified by the auditors in the submitted financial statements were corrected, but the supporting records that could not be provided resulted in the financial statements receiving a qualified opinion.

Expenditure management

33. Effective steps were not taken to prevent irregular expenditure amounting to R31 376 000 as disclosed in note 33 to the annual financial statements, as required by section 38(1)(c)(ii) of the PFMA and treasury regulation 9.1.1. The expenditure was condoned by the accounting officer.

Strategic planning and performance management

34. Quarterly report for the last quarter of the year was not prepared and submitted to the Minister D Letsatsi-Duba, as required by treasury regulation 5.3.1.

Procurement and contract management

35. Some of the goods and services of a transaction value above R500 000 were procured without inviting competitive bids and deviations were approved by the accounting officer even though it was practical to invite competitive bids, as required by treasury regulation 16A6.1 and 16A6.4.
36. Some of the contracts were awarded to suppliers whose tax matters had not been declared by the South African Revenue Service to be in order as required by treasury regulations 16A9.1(d).
37. Some of the contracts were awarded to bidders who did not submit 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.
38. 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 as the BBBEE certification was not confirmed during the procurement process.

Other information

39. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements, the auditor's report and those selected programmes presented in the annual performance report that have been specifically reported in this auditor's report.
40. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.
41. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected programmes presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
42. If, based on the work I have performed on the other information obtained prior to the date of this auditor's report, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

Internal control deficiencies

43. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified opinion, the findings on the annual performance report and the findings on compliance with legislation included in this report.

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44. There is a lack of consequence management as the leadership is not always holding staff accountable for poor quality of financial and performance reporting, which created the perception that audit findings are acceptable and tolerated.
45. There were inadequate review processes which resulted in material misstatements on the annual financial statement as well instances of non-compliance around the supply chain management processes being unnoticed.
46. The department did not have approved standard operating procedures to guide a collection, collation, verification, storing and reporting of actual performance information.
47. The numerous senior acting positions have created instability when the minister issued a directive that all acting personal are to go back to their original posts. This has resulted in delays in the audit of performance information as it became difficult to determine responsibility.
48. There was a lack of monitoring and implementation of actions plans by accounting officer and senior management to address key control deficiencies that resulted in repeat material findings and root causes of prior year findings not addressed, resulting in the similar findings in the current year particularly around the area of performance information.
49. A proper assessment of the useful lives of assets was not completed as management is still in the process to assess all the assets.
50. The findings on supply chain management is due to an oversight as management was not aware of the notice on the central supplier database that alerts the user not to rely on the BBBEE certification.

Other reports

51. I draw attention to the following engagements conducted by various parties that had, or could have, an impact on the matters reported in the department's financial statements, reported performance information, compliance with applicable legislation and other related matters. These reports did not form part of my opinion on the financial statements or my findings on the reported performance information or compliance with legislation.
52. The Office of the Inspector General on Intelligence investigated, at the request of the accounting officer, alleged fraudulent operational expenditure transactions during the 2014-15 financial year. The investigation has been delayed due to the position of the Inspector General being vacant at the time and that the individuals against which the complaints were laid has since left the organisation.
53. The Office of the Inspector General on Intelligence are in the process of investigating numerous complaints received, which are at various stages of completion.
54. At the request of the accounting officer, the internal investigation unit investigated allegations of fraudulent transactions being processed at the internal travel desk from August 2015 to February 2016. The investigation concluded on 2 February 2016 and resulted in criminal proceedings against two members. These proceedings are currently in progress.

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55. At the request of management, the internal investigation unit investigated allegations of fraudulent transactions being processed by a member. The member has been placed on suspension in relation to another investigation and the financial misconduct proceedings are currently in progress.
56. In June 2018, the president appointed a review panel to assess the mandate, capacity and organisational integrity of the department. These proceedings are currently in progress.

Auditor-General

Pretoria

07 September 2018



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

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Annexure – Auditor-general’s responsibility for the audit

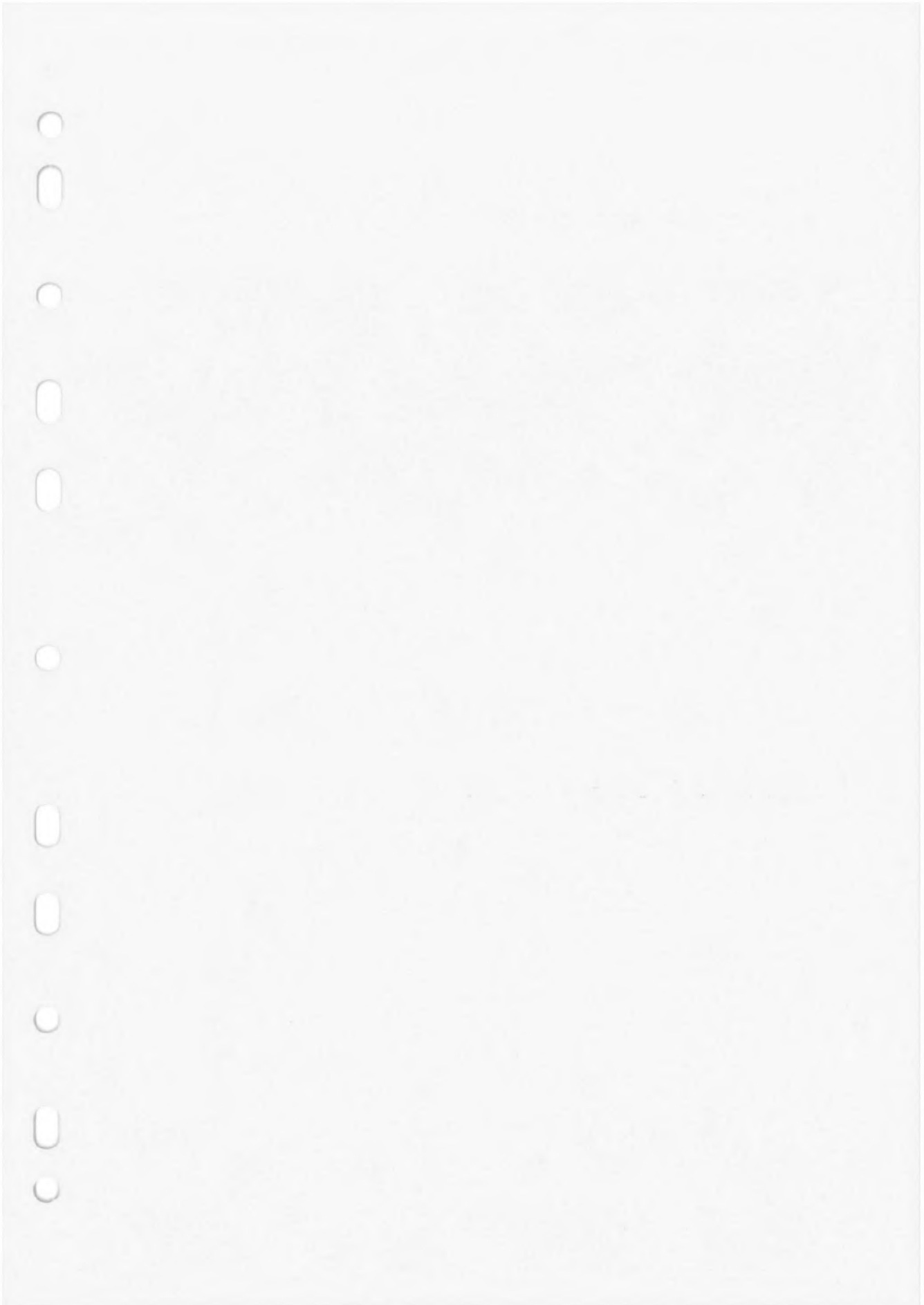
1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements, and the procedures performed on reported performance information for selected programmes and on the department’s compliance with respect to the selected subject matters.

Financial statements

2. In addition to my responsibility for the audit of the financial statements as described in this auditor’s report, I also:
 - identify and assess the risks of material misstatement of the financial statements whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control
 - obtain an understanding of internal control relevant to the audit 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 department’s internal control
 - evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the accounting officer.
 - conclude on the appropriateness of the accounting officer’s use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the State Security Agency’s ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor’s report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify the opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor’s report. However, future events or conditions may cause a department to cease continuing as a going concern
 - evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation

Communication with those charged with governance

3. I communicate with the accounting officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
4. I also confirm to the accounting officer that I have complied with relevant ethical requirements regarding independence, and communicate all relationships and other matters that may reasonably be thought to have a bearing on my independence and, where applicable, related safeguards.



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ANNUAL REPORT ON INTERCEPTION

OF

PRIVATE COMMUNICATIONS

PERIOD: 01/11/2017 - 31/10/2018

By JUSTICE H. M.T MUSI

Designated Judge

To : Joint Standing Committee on Intelligence: Parliament

Date: 09 November 2018

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1. INTRODUCTION

This report is issued pursuant to the provisions of section 3(a)(iii) of the Intelligence Services Oversight Act 40 of 1994 to be read in conjunction with the provisions of the Regulation of Interception of Communications and Provision of Communication Related information Act 70 of 2002 (RICA). As the cover page reflects, the report covers the period from 01 November 2017 to 31 October 2018. In preparing this report, I sought the inputs of the various law enforcement agencies that are involved in the whole chain of interception of communications-SAPS, SSA and FIC as well as the officials from the Office of Interception Centres (OIC). Letters were addressed to the heads of all these agencies. Responses were received from the SAPS responded through the office of their Crime Intelligence Division and the OIC. I must indicate though that the stakeholders were given less than a week to respond. The short notice to the stakeholders was necessitated by the fact that I received the invitation to submit this report only last week. It is hoped that in future this office will be given sufficient time to prepare its report.

I propose to follow the same format as in the 2016/2017 report. Paragraphs 2 and 3 of that report, respectively dealing with the legal framework and applications for issuing of directions and entry warrants, remain as valid now as they were last year. Accordingly I shall simply repeat them here.

2. THE LEGAL FRAMEWORK

The starting point is section 14 of the Constitution, which guarantees everyone the right to privacy, which significantly includes the right not to have the privacy of their

communications infringed. This constitutional prescript is fully acknowledged and reinforced by section 2 of RICA which provides as follows:

"Subject to this Act, no person may intentionally intercept or attempt to intercept, or authorise or procure any other person to intercept or attempt to intercept, at any place in the Republic, any communication in a course of its occurrence or transmission."

Whilst Chapter 2 of the Constitution clearly guarantees fundamental rights, it makes it equally clear in section 36 that such rights are not absolute and may be limited. Section 36 stipulates, however, that the rights "*may be limited only in terms of law of general application and 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 certain relevant factors. In other words, the Constitution empowers parliament to pass a law of general application that may infringe on any of the fundamental rights, if necessary, provided the legislative measure is reasonable and justifiable.

Quite clearly RICA is such law of general application that provides for interference with the right not to have one's communications infringed. The purpose and objectives of RICA are clearly set out in its preamble. It *inter alia* aims to regulate the interception of certain communications; to regulate the making of applications for, and the issuing of, directions authorising the interception of communications and the provision of communication – related information under certain circumstances; to regulate the executions of directions and entry warrants by the law enforcement officers and the assistance to be given by postal service providers, communication

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service providers and the decryption key holders in the execution of such directions and warrants etc. It is important to note that only law enforcement agencies are allowed to intercept communications but even then they must first obtain permission to do so. The Act sets out the procedure to be followed in applications for permission to intercept and such applications must comply with stringent requirements and conditions. All such applications must be submitted to the designated judge and only he or she has the power under the Act to authorise interceptions.

Section 16(4) of RICA is significant. It provides as follows:

“Notwithstanding section 2 or anything to the contrary in any other law contained, a designated judge may, upon an application made to him or her in terms of sub section (1), issue an interception direction.”

This provision underlines the wide powers granted to the designated judge and the pivotal role that he or she plays in the interception process. It gives the designated judge a discretion to grant or not to grant an interception direction. Quite clearly the designated judge will only grant the direction if he or she is satisfied that there has been a proper compliance with the requirements of the Act. And, of course, the discretion must be exercised judicially. The exercise of the discretion will necessarily involve the balancing of two sometimes conflicting interests: the constitutionally guaranteed right to privacy, on the one hand, and the need for law enforcement officers to be able to effectively fight crime and ensure the security of the State and its citizens, on the other.

3. APPLICATIONS FOR ISSUING OF DIRECTIONS AND ENTRY WARRANTS

It should be noted that RICA provides for instances where communications may be intercepted without first applying for, and obtaining, an interception direction. Examples of these are interceptions to prevent serious bodily harm in terms of section 7 and interceptions for purpose of determining the location of a sender of communication in cases of emergency in terms of section 8. An important feature of interceptions that transpire without prior permission of a designated judge is that the law enforcement officer and the telecommunication service provider concerned must account to the designated judge as soon as possible after the event and the designated judge is obliged in terms of section 7(6) to *"keep all returned confirmations and affidavits and any recordings, transcripts or notes submitted to him or her in terms of subsections (4) and (5), or causing to be kept for a period of at least 5 years"*.

The following are the main applications that are submitted to the designated judge: applications for interception of direct or indirect communication in terms of section 16; interceptions of real-time communication-related information on an on-going basis in terms of section 17; combined application for interception direction, real-time communication-related direction and archived communication-related direction or interception direction supplemented by real-time communication-related direction in terms of section 18; archived communication-related direction in terms of section 19; amendment or extension of an existing direction in terms of section 20; decryption direction in terms of section 21; and entry warrants in terms of section 22. Entry warrants differ from the rest because they entail the placing of listening or

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monitoring devices in a specific physical location and are carried out by the law enforcement officers.

Besides the above applications, section 23 provides for oral applications for, and issuing of, oral directions and oral entry warrants. It is apposite to quote subsection 1 thereof in *full*:

“An application referred to in section 16(1), 17(1), 18(1), 21(1) or 22(1) may be made orally by an applicant who is entitled to make such an application if he or she is of the opinion that it is not reasonably practical, having regard to the urgency of the case or the existence of exceptional circumstances, to make a written application”.

Subsection (2) sets out the requirements for the grant of such oral interception direction or entry warrant but subsection (3) thereof gives the designated judge the ultimate discretion whether or not to grant such application. It is noteworthy that the section stipulates that, following the application for an oral direction, a written application must still be filed with the designated judge, within 48 hours after the issuing of the oral direction. This means that the law enforcement officer who applies for an oral direction must be satisfied that all the ingredients of a formal application are there. It is noteworthy that whereas the application is made and granted orally, the direction or entry warrant issued must be reduced to writing before it can be implemented. As the statistics will show, applications of this nature are rare. In providing for the grant of an oral direction, the section also provides for sufficient safeguards against possible abuse.

4. STATISTICS**State Security Agency (SSA)**

Figures for the period are as follows:

01 November 2017 – 31 October 2018

New Applications	8
Re-applications	11
Amendments	11
Extensions	9
Amendments and Extensions	6
Section 11	6
Oral Applications	1
Declined	7
Total	59

South African Police Services (SAPS)

Figures for the period are as follows:

01 November 2017 - 31 October 2018

New Applications	170
Re- Applications	95

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Amendments	4
Extensions	34
Amendments and Extensions	110
Declined	5
Total	418

Financial Intelligence Centre Act (FICA)

01 November 2017 – 31 October 2018

New Applications	2
Extensions	1
Amendments	1
Total	4

5. COMMENTS ON THE STATISTICS

I need to explain what re- applications and combined amendments and extensions entail. A re-application relates to a direction that has lapsed and a fresh application is made for the re-issue thereof. This usually happens when an application for extension has reached the designated judge after the date of expiry of the original

direction had passed, necessitating a fresh application. Sometimes when an extension of an existing direction is sought, a need may arise to incorporate one or more suspects or to remove one or more suspects and to add new cell phone numbers or remove some cell phone numbers. The extension application will then incorporate an application for amendment. It should be noted that the South African Secret Services (SASS) no longer submits applications separately; their applications are now submitted through State Security Agency (SSA), and they incorporate applications in terms of section 11 of the Intelligence Services Act 65 of 2002. Accordingly in the current period SASS will not feature in the statistics. No applications were submitted by the SANDF in the current period.

Significantly, only one oral interception was granted in the current period and no entry warrant was issued as none was applied for.

The combined figures for the current period for SSA, SAPS and FIC are as follows:

TOTAL COMBINED

New applications - 180

Re- Applications – 106

Amendments – 16

Extensions – 44

Combined Amendment and Extensions – 116

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Oral Directions – 1

Refusals – 12

Total – 481

There has been a marked decline in the overall numbers of the applications handled by the designated judge in the 2017/2018 period as compared to the 2016/2017 period. This is a trend that started in the preceding period.

The following table illustrates the difference:

SSA		
2016/2017	2017/2018	DIFFERENCE
304	59	245
SAPS		
2016/2017	2017/2018	DIFFERENCE
738	418	320
FIC		
2016/2017	2017/2018	DIFFERENCE
17	4	13

6. CHALLENGES

6.1 OIC

In my previous report I reported on the complaints that emanated from the officials of the OIC, which included that there was no permanently appointed head of that office,

no legal advisor and some technical deficiencies. I pointed out that no director had been appointed as envisaged in section 34 of RICA.

It is apposite to clarify a few issues with regard to the OIC. Firstly, section 33 of RICA clearly establishes the OIC and it does so in so many words. This is apparently the office that is located in Gauteng which currently handles all interceptions. In my last report I incorrectly referred to it as an Interception Centre as envisaged in section 32. It appears that no interception centres envisaged by this section have been established. In my last report I also incorrectly stated that the directions are executed by the Communication Service Providers and the results routed to the Interception Centre which, in turn, furnishes the law enforcements agencies with the results. The correct position is that the actual interception is carried out by the law enforcement officers at the OIC. The OIC then furnishes them with transcripts of the conversations. It will be recalled that I was new in this office when I compiled that report and relied on the information provided by others.

The challenges that the OIC is currently experiencing are briefly, as follows:

- No director has been appointed. The office is currently headed by a manager, who has had to assume the responsibilities of the Director.
- The infrastructure of the OIC still requires to be upgraded and there is still no service level agreement in place. The infrastructure needs to be upgraded as since the current version is no longer supported and hardware infrastructure has already reached its end of life. The technical capacity of the system continues to decline amid the developments and infrastructure upgrades from the service provides that are creating technical challenges with the OIC.

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- This challenge is further compounded by the Communication Directives which are not updated and should be used by all service providers as standards for upgrading their own systems. The failure to have specific standards leads to an unregulated telecoms practice in so far as interception is concerned and will create operational challenges for the OIC.
- The OIC continues to operate with limited budget that makes it impossible to upgrade its system and continue to provide services to law enforcement agencies as mandated by RICA.
- The OIC still continues to operate without Director who should head the OIC and key personnel skilled in telecoms and legal.
- The process of reviewing RICA is yet to unfold and this delay impacts on the ability of the OIC respond to challenges brought about by the advancement in technology in assisting the law enforcement agencies.

6.2 UNLAWFUL INTERCEPTION OF COMMUNICATIONS

This office has received a number of enquiries relating to members of the public complaining that their private communications are being, or have been, unlawfully intercepted. It appears that there is a general lack of understanding of the mandate and the functions of this office. I wish to briefly clarify the position. This office is not involved in the actual interception of communications and there is no way it can be involved in unlawful interceptions. As a matter of fact my work starts and ends in my office and there is no way I can know what members of the law enforcement agencies do out there in the field. This office receives formal applications from law

enforcement agencies for permission to intercept the communications of targeted individuals. In considering the applications, my primary concern is to see to it that there is compliance with the requirements RICA. If the application meets the requirements of RICA I grant permission in the form of a written direction; if it does not meet the requirements I decline to grant permission. Once the officer who applied for the direction is armed with a written direction and accompanying documentation, he leaves my office with his file and does the rest away from my office.

It stands to reason that complaints about unlawful interception of communications should be addressed to the law enforcement agencies to investigate. Only in those instances where directions issued by this office are involved can my office be approached.

6.3 ASSESSMENT OF SUCCESS RATE

In my last appearance before the Joint Standing Committee on Intelligence, a question was raised about how to assess whether the directions issued by this office produce the desired results; how effective are they in the fight against crime. On the 28 June 2017, I convened a meeting attended by representatives of the law enforcement agencies involved in the interception of communications to explore this question. The representatives undertook to look into the matter. I have since received a feedback from the South African Police Service which, incidentally, handles most of the directions. They have advised that they have put in place mechanism to monitor the execution of the directions and do so on a quarterly basis. Their report for the period July- September 2018 shows a 100% success rate. It was found that each of the 29 directions executed in this period produced the desired

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results. The offences investigated were mostly murders, cash in transit robberies, business and house robberies as well as drug trafficking. Many suspects were arrested, stolen motor vehicles recovered, drugs and money confiscated and firearms and vast quantities of ammunition confiscated. In some cases the police were able to thwart robberies and other serious offences.

It can be accepted that the directions serve a very useful purpose in the work of the police to fight crime.

7. CONSTITUTIONAL CHALLENGE

The case AMABHUNGANE CENTRE FOR INVESTIGATIVE JOURNALISM NPC V MINISTER OF JUSTICE AND CORRECTIONAL SERVICES AND OTHERS, in which the constitutionality of certain provisions of RICA are challenged is still pending. It will probably be heard next year.

8. REVIEW OF RICA

I am advised that the review is still in the drafting process in the Department of Justice and Correctional Services. The review can be expected to be extensive and thorough as it must take into account the tremendous technological evolution that has taken place since the enactment of the current version 16 years ago. Some of the problems currently experienced by the OIC point to the need for an overhaul of RICA. For example, the Interception Centres envisaged by section 32 of current Act have not been established, precisely because (so I am advised) technological

developments have rendered their establishment unnecessary. With modern technology, the OIC is able to service the whole country from one location.

9. PROPOSED LEGISLATION THAT MAY IMPACT ON THE FUNCTIONS OF THE OFFICE OF THE DESIGNATED JUDGE

I can report that the Cybercrimes Bill is currently before Parliament. I understand that it was approved by the Portfolio Committee on Justice and Correctional Services on 06 November 2018.

10. ADMINISTRATION

The support staff of this office remains the same as previously reported. As I reported last year the office is suitably furnished and equipped and functions fairly well. The only problem is the faulty air conditioning system. This problem has been reported to the landlord many times and on each occasion technicians were dispatched to effect repairs but they seem to be unable to fix the problem. As I write we do not have any air conditioning. This is a problem that requires the intervention of the Department as the lessee of the premises.

CONCLUSION

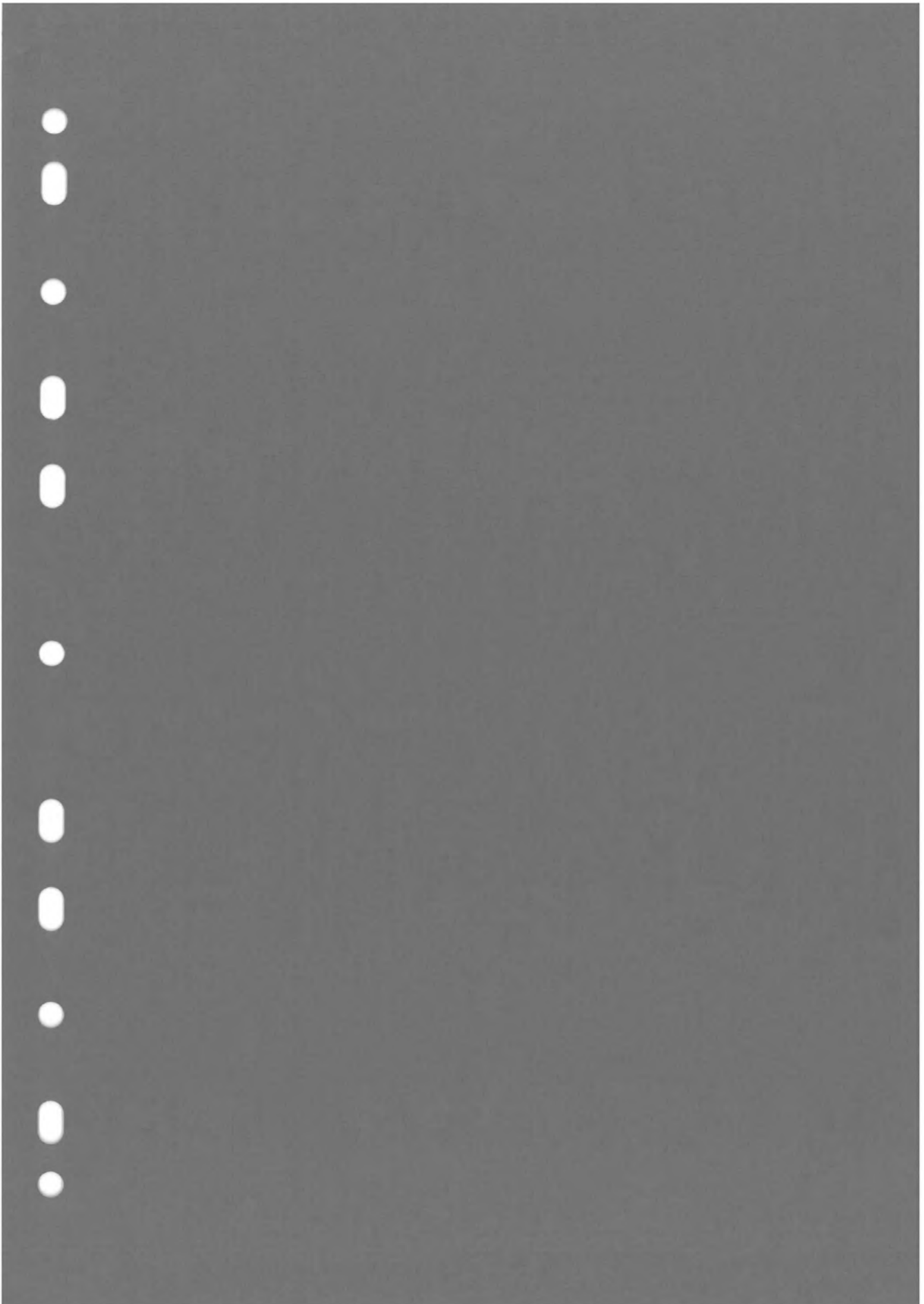
I have again been assisted in the drafting of this report by inputs from the various stakeholders. I found on-going interactions with the role players in the interception chain to be very helpful; it helps me understand better how the implementation of

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provisions of RICA takes place and challenges related thereto. This can only improve and strengthen compliance.

I take this opportunity to again record my appreciation and gratitude for the inputs received from all the role players in the interception chain.



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JSCI PROGRAMME FOR THE FINANCIAL YEAR 2017/2018

Date	Content
04 Apr 2017	Follow up visit to ACSA
02 May 2017	Meeting with the Inspector General of Intelligence
03 May 2017	Presentation of Strategic and Annual Performance Plans by Defence Intelligence Presentation of Strategic and Annual Performance Plans by Crime Intelligence
04 May 2017	Presentation of Strategic and Annual Performance Plans by State Security
23 May 2017	Consideration of the JSCI draft Annual Report 2016/17 Consideration of the draft oversight report to O R Tambo International Airport
30 May 2017	Adoption of minutes Consideration and adoption of JSCI Annual Report
05 Sept 2017	Briefing by OIGI on Strategic Plans and Annual Performance Plans
11 – 15 Sep 2017	Oversight visit to KZN and Gauteng
24 Oct 2017	Presentation of Annual Report and financial expenditure by Defence Intelligence

Date	Content
31 Oct 2017	Presentation of Annual Report and financial expenditure by Crime Intelligence Presentation of Annual Report and financial expenditure by State Security Agency
14 Nov 2017	Consideration and adoption of all outstanding minutes Consideration and adoption of KZN and Gauteng draft oversight report Presentation of legislative amendments
21 Nov 2017	Meeting with NICOC on Zimbabwe update Hosting of Nigerian Intelligence Committee
24 Nov 2017	Presentation of audit benchmarking report on intelligence services
28 Nov 2017	Meeting with Italian Parliamentary delegation
29 Nov 2017	Meeting with designated Judge of Interception Meeting with State Security Agency
15 – 26 Jan 2018	Study tour visit to Netherlands and Sweden
13 Feb 2018	Planning for Committee 1 st & 2 nd term Programme

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Date	Content
20 Feb 2018	Consideration and adoption of Committee Programme 1 st and 2 nd terms Consideration and adoption of minutes
06 Mar 2018	Presentation of SSA certificates by the OIGI
07 Mar 2018	<u>Urgent</u> meeting with the Minister of State Security
13 Mar 2018	Presentation of Crime Intelligence (CI) certificates by the Office of the Inspector General of Intelligence (OIGI)
20 Mar 2018	Presentation by Financial Intelligence Centre (FIC) on financial illicit flows Presentation of Defence Intelligence certificates by OIGI
27 Mar 2018	Responses on IG certificates by State Security

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2. The Minister of Public Enterprises

- (a) Report and Financial Statements of Denel SOC Limited for 2017-18, including the Report of the Independent Auditors on the Financial Statements and Performance Information for 2017-18.

COMMITTEE REPORTS**National Assembly****1. REPORT OF THE PORTFOLIO COMMITTEE ON HIGHER EDUCATION AND TRAINING ON ITS STUDY TOUR TO THE RUSSIAN FEDERATION ON 14 – 21 SEPTEMBER 2018, DATED 05 DECEMBER 2018**

The Portfolio Committee on Higher Education and Training having undertaken a study tour to the Russia Federation on 14 – 21 September 2018, reports as follows:

1. Introduction

A delegation of the Portfolio Committee on Higher Education and Training (herein referred to as the delegation) undertook an international study tour to the Russian Federation from 14 – 21 September 2018.

In light of the release of the Presidential Commission Report into the feasibility of fee-free higher education, and the Presidential pronouncement on the 16 December 2017 on fee-free higher education for the poor and working class as from the 2018 academic year, the Committee is required to play a robust oversight role in the implementation of this pronouncement by the executive.

Furthermore, the National Development Plan (NDP) envisages that by 2030, South Africans should have access to education and training of the highest quality. The education, training and innovation system should cater for different needs and should produce highly skilled individuals. The NDP further stresses that the graduates of the post-school system should have adequate skills and knowledge to meet the current and future needs of the economy and society. To meet such needs of the economy and society, the

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NDP advocates that many of the new graduates must be found accommodated in the critical skills categories, such as engineering, actuarial science, medicine, financial management, and chartered accountancy.

The Portfolio Committee on Higher Education and Training resolved to undertake a study tour to the Russian Federation to embark on its own independent research and benchmarking exercise in order to look into the following areas:

- Financing of the education system in Russia, its successes and challenges;
- The contribution of vocational education and training and higher education to sustainable economic growth and development;
- The skills planning: supply and demand;
- Challenges experienced within the post-school education and training sector and the mitigation strategies; and
- How consensus on education and funding matters is reached between students, government, parents, industry and other role players in education.

1.2 Delegation

The multiparty delegation comprised of the following members:

Hon C September: Chairperson / Leader of the Delegation (ANC).

Hon D Kekana (ANC).

Hon J Kilian (ANC).

Hon R Mavunda (ANC).

Hon S Mchunu (ANC).

Hon B Bozzoli (DA) was absent from the meetings from 17 – 19 September 2018 due to illness.

Hon A van der Westhuizen (DA).

Hon N Nolutshungu (EFF).

Support staff:

Mr A Kabingesi: Committee Secretary

Ms M Modiba: Content Adviser.

Mr K Matlala: Assistant to Hon Kekana.

2. Arrival in Russia

The delegation arrived at the Domodedovo International Airport in Moscow on 15 September 2018 and was welcomed by Mr H Short: Minister Plenipotentiary, South African Embassy in Moscow and other officials of the Embassy. The delegation was accompanied by the Embassy's officials to the Double Tree by Hilton Hotel Marina, Moscow, where it was lodged for the duration of the study tour.

2.1 Sunday, 15 September 2018

The delegation was accompanied by Embassy officials to visit the Cenotaphs of the late Messrs MM Kotane and JB Marks at the Novodevichy Cemetery in Moscow. The Embassy officials indicated that it was a normal practice for all South African delegations visiting Russia to be taken to these Cenotaphs to pay respect to the late struggle stalwarts. The delegation had an opportunity to lay wreaths on these Cenotaphs in honour of the sacrifices that these two struggle stalwarts have made.

The delegation was also accompanied to visit the Red Square, a city square in Moscow that separates the Kremlin, a former royal citadel and now the official residence of the President of Russia. The Red Square is also considered to be the central square of Moscow, with major historical attractions such as the Lenin Mausoleum, Kremlin and Saint Basil's Cathedral.

2.2 Monday, 16 September 2018

2.2.1 South African Embassy, Moscow

The delegation made a courtesy call to the Ambassador NM Sibanda-Thusi, Ambassador Plenipotentiary and Extraordinary of the Republic of South Africa to the Russian Federation. Subsequent to welcoming the delegation to the South African Embassy and to the Russian Federation, the Ambassador briefed the delegation on the Organisational Structure of the Embassy noting that it comprised of 52 officials supporting the South African government on foreign relation matters. The following ministries were represented at the Embassy: Health, Trade and Industry, Home Affairs, Defence, Agriculture and State Security.

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The Ambassador indicated that South Africa enjoyed strong bilateral relations with the Russian Federation and political relations dating back to the Soviet Union. Moreover, there were 44 Embassies in Moscow from the African continent, and this signified Russia's strong relations with African states. The partnership between the two countries was regulated by the strategic level partnership, with the overarching mechanism being the Integrated Government Trade and Investment Committee. With respect to trade and investment, the Ambassador indicated that more work had to be done for the Russian Federation to increase its investment in South Africa in order to expand job creation and for the development of the economy. South Africa could gain more from the Russian Federation since it had a big economy ranked among the top 10 economies in the world. Furthermore, the South African agricultural sector had a lot to offer and could therefore benefit from the Russian Federation substantially.

Mr H Short: Minister Plenipotentiary briefed the delegation on higher education in the Russian Federation. He said that the Russian Federation is the biggest country in the world, comprising of 85 autonomous regions which were located at 14 different time zones. The education system in Russia was an integrated one and its strong basic education and quality education cascade to the higher education system.

With respect to the higher education system of Russia, Mr Short said that the country had 896 universities located in 85 regions from Kaliningrad to Vladivostok with 4 million students. The Russian universities had a strong focus on teaching and learning, and research and community engagement. The academic year in the Russian Federation stretches from September to June (10 Months) and was divided into two semesters.

In relation to the presence of international students in Russia, Mr Short indicated that there were 220 000 international students in the Russian Federation, and 700 of them were South Africans. The majority of the South African (327) students studying in Russia were funded by the Free State government, followed by Mpumalanga with 230 students. The majority of these students were mainly enrolled in medical and agricultural programmes. The selection process of these students was based on merit and

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targeted mainly the top performing learners from disadvantaged backgrounds. The Russian Federation provided 35 scholarships to the South African students through the Department of Higher Education and Training annually.

The Russian government placed more emphasis on university education as compared to secondary vocational and training and the presence of international students in the Russian Federation contributed to its fiscus significantly. The Russian government was opening more spaces of learning in an attempt to accommodate foreign students. There were 40 South African students in the Russian Federation in the past four 4 years, and the number has increased to 720. Students were required to learn the Russian language for the first 10 months before they could commence with the first year of their academic studies. However, there had been challenges experienced by South African students studying at other regions in the Russian Federation, in particular with regard to poor living conditions at the dormitories. The Embassy expressed the desire for an official of DHET who could be based in Moscow so as to take care of the interests of South African students in Russia.

The briefing concluded with the Ambassador reiterating that the Russian Federation was willing to increase the number of scholarships to these South African students as well as that other provinces could emulate the Free State and Mpumalanga in sending students to study in Russia. The Embassy was concerned that information regarding the scholarships was not reaching South African students and appealed to the Committee to ensure that this information be accessible to those who can really benefit from these scholarships. South Africa was urged to improve the quality of basic education and to also strengthen career guidance at basic education level so as to socialize learners in terms of the careers of choice from the early stages of their education.

The Embassy also informed the Committee that a delegation from the Free State was scheduled to meet with different institutions in Russia to discuss the challenges experienced by students from the Free State at Russian universities. The Embassy arranged a meeting between the Free State

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delegation and the Parliamentary delegation to get insight about such challenges experienced by the students at Russian higher education institutions. The delegation agreed to meet with the Free State delegation.

2.2.2 Ministry of Science and Higher Education of the Russian Federation

2.2.2.1 Russian Education Export: New Perspectives and Priorities

Ms E Gorozhankina: Deputy Director International Department of Cooperation started the presentation by extending a warm welcome to the delegation and said that the Ministry hoped that the delegation's visit to the Russian Federation would further strengthen the cooperation between the two countries, especially with regard to education. Ms Gorozhankina said that the Ministry is a federal executive body responsible for overseeing the implementation of government policy in the field of education and science and the entire Russian education and training sector.

In relation to international cooperation, Ms Gorozhankina said that South Africa was one of the leading partners with the Russian Federation on bilateral agreements within the Brazil, India, China, South Africa (BRICS) countries. The Russian government was planning to have 7.2 million foreign students studying at Russian universities by 2025. The opening of more University spaces for foreign students offered the Russian Federation an opportunity to increase its state revenue and to attract talented and skilled people to operate in a highly competitive environment. The goal of the Ministry was to increase the share of non-primary exports of the Russian Federation by increasing the attractiveness of Russian education to the international educational market. The planned increase of foreign students studying in the Russian Federation to more than three (3) times from the current number would also increase the country's national economy income. In realizing this goal, the Russian government planned to spend close to 4.9 billion RUB from 2018 to 2024.

The strategic directions of the Ministry included: the improvement and development of the existing legal framework; development of a set of measures to increase the attractiveness of educational training programmes;

creation of comfortable conditions for foreign students during their studies in Russia and the development and implementation of an effective strategy of brand promotion. The Ministry had national programmes to improve the conditions of foreign students living and studying in the Russian Federation, which included: creating a favourable environment for international students; educational tourist routes of Russia; the standard organization of foreign student training and the Russian education ambassadors. The tone was set by the President of the Russian Federation, Mr Vladimir Putin, who sent a message to the Federal Assembly of the Russian Federation in 2018, noting the proposal to create the most comfortable and attractive conditions for talented young people from other countries to study at the Russian universities and a need to create conditions for the best foreign graduates of the Russian universities to remain working in Russia.

2.2.2.2 Higher Education in Russia

The presentation was made by Mr A Rozhkov: Director of State Policy for Higher Education and Youth Policy and highlighted the following: The higher education system of the Russian Federation has approximately 4.5 million students with more than 766 universities and 500 (70 percent) of them being public universities. The number of students studying at universities was estimated to be 3.5 million in public universities and 40 000 in private universities. The public universities received their funding from the federal government. 45 percent of students in the Russian higher education institutions received fee-free higher education (budget spaces) funded by government. Budget spaces are allocated to all public and private universities annually based on the critical and scarce skills identified by the federal and regional governments. Budget spaces are awarded to students on a competitive basis. 50 percent of the free budget spaces are allocated to students studying towards Bachelor qualifications or to school leavers. Students who are not funded by government have the option to apply for a study loan (soft loan), which is payable upon completion of their studies. The Russian government also provides funding and social support to students living with disabilities in order to ensure equality of rights and to provide quality education that is more accessible to all irrespective of their

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background. The Russian government further provides fully funded scholarships to Russian students studying at leading international universities abroad. The Russian Federation was also putting plans in place for the funding of full scholarships to foreign students and to simplify visa regimes in order to facilitate their employment by the Russian companies when they complete their studies.

The allocation of funding to Universities was done through the federal government. The regional authorities and local municipalities contributed to university subsidies. The allocation of funding to universities was based on merit and the contribution of each institution to the government's development priorities.

In relation to the placement of graduates into the workplace, the Ministry worked closely with industry to have an understanding of the demands of the different sectors. The Ministry had experts from the business sector, professional community, researchers, methodologists and non-governmental organisations who worked closely with the industry and thus assisted with the development of the curriculum for universities. The industry also opened its workplaces for students to gain work integrated learning (WIL).

With respect to the information technology (IT), the Ministry was prioritising the training and development of IT specialists for the digital economy. This project was done in collaboration with 260 universities. The Ministry was involved in a project on the establishment of pivotal universities to spearhead the development of regional economies. The partnerships between the federal universities in regions and industry ensures continuous responsiveness of the universities to the needs of regional economies.

This project was done in collaboration with industry so as to train specialists for each region. The Ministry was also planning to make higher education in Russia to be more competitive and to enter the top 10 countries with leading universities in the world rankings. The Russian Federation has realised that the development of higher education cannot be achieved without investment in research. There is a massive funding injection to support universities to increase their research output and to develop specialization in certain areas.

2.2.2.3 Secondary Vocational Education

Mr A Trosak from the Department Policy of Vocational Education and Advanced Training of Skilled Workers made the presentation which highlighted the following: The learners in high school had a choice in their career path after completing basic secondary education (Grade 9), and they could choose to either enroll at secondary vocational education colleges or continue with their high school studies. The Russian Federation had over 3 000 vocational education colleges which are under the control of government and 3 million persons were registered in 2017.

With respect to funding, secondary vocational colleges received state support from the federal government and the regions. In relation to the improvement of the practical oriented training model, the Ministry had a pilot project for the training of skilled workers appropriated to the needs of high-tech industries which was based on the dual education system. This pilot project involved 13 regions with 150 organisations, 57 000 students and 1 100 Small Medium-sized Enterprises (SME). The other project was called skilled workers for the advanced technologies. The goal of this project was to set up the competitive system of vocational training until 2020. This is meant to increase the number of graduates who demonstrate the level appropriate with the WorldSkills Russia standards. The minimum number of persons to be trained was 50 000.

The modern trends in the system of secondary vocational education and training included: consolidation of state resources, business and education; providing the appropriate skill level and abilities of graduates; providing equal access to? various categories of users and creating conditions for successful socialization of graduates. With respect to supplementary professional education statistics, there were 5.96 million people trained in 2017 and 6 099 organisations which realised supplementary professional education. The top five most popular areas of the supplementary professional education: educational sciences and pedagogics, clinical medicine, economics and management, engineering protection of environment and nursing and care. The top five most supplementary professions in the secondary vocational sector included: car driver; guard; stuccoworker; slingsman and cook.

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2.2.2.4 The BRICS Network University

Ms E Yatsenko from the RUDN University started the presentation by giving a brief background of the BRICS Networks University. She indicated that the idea of the project started in 2014 through the Fortaleza declaration of the BRICS summit in Brazil. In 2015 a memorandum of understanding on the BRICS Network University was signed in Russia. The aims of the BRICS Network University are to provide large scale academic mobility between BRICS NU, establish collaborative projects and offer?? joint masters and postgraduate programmes.

Ms Yatsenko said that the first BRICS Network University conference took place at Yakanterinburg in Russia in 2016, and involved 56 universities. The number of South African universities which form part of the BRICS Network Universities were 12, namely: Central University of Technology (CUT), Durban University of Technology (DUT), Stellenbosch University (SU), Rhodes University (RU), North West University (NWU), Tshwane University of Technology (TUT), University of Cape Town (UCT), University of Johannesburg (UJ), University of Limpopo (UL), University of Pretoria (UP), University of Venda (UNIVEN) and University of Witwatersrand (Wits). The strategic research areas for collaboration are: Energy, Computer Science and Information Security, Ecology and Climate Change, Economics, Water Resources and Pollutions Treatment and BRICS studies.

Ms Yatsenko highlighted the challenges regarding the BRICS NU which included: difficulty in communication and coordination of joint programmes, significant distance between the countries, the costs related to flight and accommodation of students as an additional obstacle to the development of the project, as well as support for mobility in the form of grants is required.

2.2.2.5 Meeting with the Free State Province delegation

The Committee delegation met with the Free State delegation which was led by Dr D Motaung: Head of Department (HOD) in the Office of the Premier. Dr Motaung expressed his gratitude to the delegation for agreeing to meet

with his team. He informed the delegation that the Free State government took education seriously, and that the government sent students from disadvantaged backgrounds to study abroad to take part in critical programmes such as health sciences and agriculture which were in high demand in the Free State province. The Free State government sent 187 students to Cuba to be trained as medical doctors, and 117 of them were undergoing clinical training at various health care facilities in the Free State. The Free State government had the highest number of students from South Africa studying in Russia.

Dr Motaung informed the Committee that the Free State government experienced a challenge regarding the students that were sent to China to be trained as medical doctors. As a result, the Free State government took 44 students that were being trained in China to become doctors, and transferred them to Russian universities. The transfer took place after the Chinese government did not undertake to provide internships to these students in order to complete their training and to register them as health professionals in China. The situation was compounded by the Health Professional Council of South Africa (HPCSA) which indicated that it would not register these students as doctors, since the Chinese training of medical professionals' program was not compatible with the HPCSA's requirements. There were 26 students that chose to remain in China, and it would indeed be a long journey for them to become doctors given the HPCSA's regulations.

Dr Motaung said that these students had done two to three years of medical training in China prior to being transferred to Russia; however, the Russian universities did not agree on admitting these students at the second or third year level of their studies. The main concern of the Russian government was language acquisition, and in terms of its policy, international students were required to undergo one year of training in the Russian language before they could proceed to the first year. The Free State government was alarmed and shocked by this development, and resolved to send a delegation to negotiate for these students to be enrolled at the second or third year level of their studies. Furthermore, the living conditions at the residences for students that were studying in Rayzan were poor. In this regard, the Free State government was negotiating with other universities in Moscow to accommodate these students.

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Dr Motaung said that the Free State government was paying for tuition, accommodation and stipends for the students studying abroad. With respect to tuition, the FS government paid 10 000 dollars, 300 dollars for accommodation and a monthly stipend of 500 euros. These amounts were fixed based on the agreement with the Russian government, and were not affected by fluctuations of the currency. The retention rate of students studying abroad was very high, and they were encouraged to complete their studies so that they could contribute to their province that was in dire need of medical professionals.

2.3 Tuesday, 18 September 2018

2.3.1 The State Duma of the Federal Assembly of the Russian Federation

The State Duma is the lower house of the Federal Assembly of Russia, while the upper house is the Council of the Federation. The Duma headquarters are located in central Moscow and its members are referred as deputies.

The delegation started off its programme by undertaking a tour of the State Duma. The delegation was informed that the first election of the State Duma in the modern Russia took place in 1993 and there had been seven elections since then. The total number of the members of parliament (MPs) in the State Duma was 450 and the ruling party was the United Russia Party, which held 335 seats (74 percent) followed by the official opposition party known as the Communist Party of Russia which had 52 MPs. Other political parties represented in the State Duma were the Liberal Democratic Party of Russia and the Just Russia Party. The total percent of female MPs in the State Duma stood at 16 percent, and there were 26 committees overseeing different government departments. The delegation was taken to the State Duma's library and to the different political parties' offices.

2.3.2 Meeting with the Committee on Education and Science

Dr V Nikonov: Chairperson of the Committee on Education and Science extended a special welcome to the delegation for visiting the Russian

Federation. He started his presentation by indicating that he was the Chairperson of the Brazil, India, China, South Africa (BRICS) Education Forum, and President Putin recently signed new agreements with South Africa in the recent BRICS summit hosted in Johannesburg.

In explaining the Russian education system, Dr Nikonov indicated that the Ministry of Education and Science was recently split into two, the Ministry of Science and Higher Education and Ministry of Education after the 2018 elections. The Federal Agency for Scientific Organisation, which managed the institutions of the Russian Academy of Sciences was merged into the Ministry of Science and Higher Education. Dr Nikonov said that the Russian education system was large and comprised of 35 million learners in the basic education system with five (5) million teachers and support staff. The Russian Federation had 70 000 scholars (researchers) to support science. With respect to the funding of the education system, the three spheres of government, namely, federal, regional and municipality funded the education system. Regional authorities spent more than 25 percent of their budget on education while municipalities spent 50 percent of their budget on education and they were also responsible for infrastructure of the schools and universities. The Federal government spent approximately 800 billion rubles on university education.

With respect to the literacy rate, Dr Nikonov said that the Russian Federation had a literacy rate of 99.9 percent and this had already been achieved during the Soviet Union. Moreover, Russia was the leading country with respect to the number of people with bachelor's degrees, with 60 percent of the adults having a university degree. However, government was not satisfied about the education at some institutions. Compounding the situation was that the number of universities in Russia increased fourfold with some providing poor quality education from 1991 to 2013. In response, the Federal Assembly adopted legislation to strengthen the quality assurance of higher education in Russia. This led to the establishment of an oversight body by which the quality of qualifications offered by universities was assessed. This move has led to the shutting down of 1000 universities which were offering qualifications that did not meet with the required standards.

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With respect to basic education, Dr Nikonov said that education in Russia was prioritised from an early age, where children from three years old were attending kindergarten. Moreover, the Russian government was committed to creating more opportunities for young children to attend kindergarten. In terms of Russian legislation, children have the right to access kindergarten from as early as two months old. There has been an increase in the number of new schools established to accommodate the need for basic education.

In relation to vocational education, Dr Nikonov said that these institutions played a critical role in training people for the job market. The curriculum of these institutions was developed by universities in line with the demands of the economy. Learners from Grade 9 in Russia had a right to choose their career path, either to undergo training at vocational education and training colleges or to continue with their studies and study at universities. The programmes that were offered by colleges were linked with the demands of the economy and practical learning was prioritised. Learners in the vocational education and training colleges were trained on modern equipment that would be in the workplace in the next two years.

With respect to university education, Dr Nikonov said that free higher education existed in the Russian Federation, and that 55 percent of high school leaving students got a free higher education funded by government. The Russian government allocated funding to universities based on their performance/output, and on the programmes that were in demand by the economy. The government was prioritising funding for the digital technology related programmes as opposed to the humanities. Furthermore, government was planning to increase enrolment in information technology (IT) related programmes from 50 000 IT specialists in 2018 to 500 000 by 2023. Owing to the sanctions, Russia did not get hi-tech equipment from the West, and it had to develop its own advanced technology. The country developed its own high-tech military equipment, including electronic warfare, surveillance, bombs and nuclear equipment as it could not be dependent on the western countries.

The Russian Federation experienced challenges with regard to low birth rate and this has contributed to the drop in the number of high school graduates

between 2000/1 – 2014 and decreased enrolments at universities between 2008/09 – 2014/15. However, there has been a steady increase in birth rates in recent years and this has increased the need to create more opportunities for kindergarten and thus becoming a government priority.

2.3.3 Meeting with the Vice-Rector of RUDN University

Prof L Efremova: Vice-Rector for International Relations began her presentation by extending a warm welcome to the delegation for visiting the University. She informed the delegation that the University was founded in 1960 and was established to cater for the education and training needs of international students mainly. The University had students coming from Africa, Asia, and Latin America (156 countries) and these students shared in different cultures and social values, amongst others. The University utilised a multicultural residence allocation system according to which the students from different countries were grouped with the Russian students so that they could learn the language and culture of the Russian Federation with ease and so as to appreciate multiculturalism.

With respect to the cooperation with South African universities, Prof Efremova said that the University had a memorandum of agreement with the University of the Western Cape, University of the Free State, University of Venda, University of Johannesburg, University of Witwatersrand and University of Pretoria. Moreover, the University had a partnership with the Free State government for the training of medical and agricultural specialists. There were more than 100 students from the Free State who were enrolled in medical healthcare and agricultural programmes at the University. These students were studying the programmes in the Russian language and others in English. The retention and success rate of the students from the Free State was good, with only 20 out of the 145 students enrolled in medicine and agriculture programmes who had failed and who went back to South Africa.

In relation to the transfer of medical students from China to the University, Prof Efremova said that the University had engagements with the Free State government about the transfer of these students to the University. The

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University was open to negotiations with the Free State government to accommodate these students so that they could continue with their studies.

Concerning the University's contribution to the African continent, the University had 1000 students from the African continent, and students were encouraged to return to their countries of origin upon completion of their studies so that they could contribute to their communities. The University sent its lecturers to the African countries to contribute to teaching and learning. The University had an agreement with the Ministers of Education of the African countries with respect to the training and development of health care professionals. Based on the request from other African countries, the University was developing some of its professional staff to manage clinics and hospitals in some African countries, and this initiative could also be expanded to South Africa.

In clarifying the training of the medical doctors, Prof Efremova said that the training of physician specialists took six years, and thereafter, students undergo a two-year internship/clinical training programme at a hospital or clinic. Students were required to pass the clinical training before they could become doctors. The University did not have its own academic hospital, however, it had agreements with hospitals and clinics around Moscow for the clinical training of health care students. The clinics in Moscow had, on average, 5 100 beds and were fitted with modern equipment. The health system of the Russian Federation was among the best in the world.

The University concluded the briefing by requesting the delegation to facilitate cooperation between the Minister of Higher Education and Training and partner universities in South Africa.

2.2.4 On-site visit to the medical simulation centre and the Agrarian and Technological Institute of RUDN University

The delegation was divided into two groups, of which one group conducted on-site visit to the medical simulation centre and the other group visited the Agrarian and Technological Institute.

The delegation was informed that the state of the art medical simulation centre of the University was established in December 2013 and occupied more than 1 700 square meters of the University space. The simulation centre was accredited by the Society in Europe for Simulation Applied to Medicine (SESAM).

The simulation centre included human patient simulation, computerized simulation and virtual reality. The delegation was informed that the main goal of the simulation centre was to improve safety within patient care and acquisition of practical skills in no- stress conditions, without constant monitoring of the mentor and without risk to the patient. The health care students practiced on the mannequin-based simulations in improving their skills before going to the real world. The delegation had an opportunity to visit the following simulation rooms / specialties, namely: obstetrics and gynaecology; traumatology / orthopedics; ultrasound diagnostics; endovascular surgery; cardiology; intensive care unit; dentistry and endoscopy.

The delegation was presented with and shown a demonstration of ultrasound diagnostics wherein students specializing in obstetrics were trained. The delegation was also taken to the ICU simulation room where students were trained in responding to patients who were in critical condition. The University indicated that it did not possess its own academic hospital, however, it had agreements with nearby clinics and hospitals to which students were sent for clinical training known as residence in Russia. The residency training was conducted for two years before students could qualify as doctors.

At the Agrarian and Technological Institute (ATI), the delegation visited the Research and Education Centre for Medical Quality Control – Chromatographic Research Methods Laboratory. The laboratory is used by postgraduate students to conduct research on drugs for human and animal consumption and animal feeding nutrition. The laboratories were fitted with modern high-tech equipment and offered students an opportunity to conduct practical skills.

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The delegation was also shown the Pre-Clinical and Clinical Research Centre – Pharmacokinetics Laboratory; Agrarian and Technological Institute – Scientific Training Laboratory; Centre for Precision Instrumental Methods of Analysis – High Resolution Mass Spectrometry and NMR Spectroscopy Laboratory. At the NMR Spectroscopy Laboratory there was high-tech equipment which enabled analysis in real time. At this laboratory, researchers were undertaking analysis of dietary supplements to assess molecular mass. They indicated that they conduct the research to ensure that whatever manufacturers promise on the dietary supplements labels must actually be contained in these supplements. This is done to ensure that consumers are protected from consuming supplements that could be harmful to their health. The researchers further work for government regulatory authorities.

The delegation further went to the ATI which was equipped with a greenhouse. This greenhouse was part of the Meristem student laboratory where students were trained to grow plants from one cell and receive multiple seedlings which were resistant to diseases and stress. The delegation was shown seedlings of strawberries, pineapples and potatoes, which were already produced. Students were also trained to produce clean seedlings of subtropical fruits using microclonal propagation. The Institute also produced diseases resistant seedlings for farmers dealing with large produce.

The delegation also had an opportunity to see the animal anatomy laboratory. The laboratory is used by student training in veterinary medicine. The laboratory had skeletons of different domestic and exotic animals. At this laboratory, the delegation also interacted with the South African students studying veterinary medicine. Students appreciated the opportunity to study at one of the best medical universities in Russia and the world. They noted that modern laboratories provided an opportunity for them to conduct practicals inside classrooms.

The on-site visit concluded with students pleading to be afforded the opportunity to conduct practicals at the South African veterinary facilities during their long summer holidays.

2.2.5 Meeting with the South African students studying at RUDN University

The delegation had an opportunity to meet with the South African students studying at RUDN University. The delegation received a warm South African welcome from the students who expressed their gratitude to the delegation for finding time in their schedule to visit them. The majority of the students were from the Free State and arrived at the University since 2013. The students shared their life experiences in Russia and having to adapt to a different country with a different culture and language. These students played a five-minute video to the delegation showcasing their socio-cultural and sport activities at the University.

The Chairperson of the Committee / Leader of the delegation expressed her gratitude to the students for their reception during the delegation's arrival at the University. She indicated that the Committee was thankful for the opportunity provided by the Russian government to allow South African students to train at their institutions. The Chairperson said that the relationship between South Africa and Russia was not a new one, and many other former leaders who were in exile received their education at Russian universities.

The Chairperson explained the purpose of the visit of the delegation to the students and acknowledged that South Africa had experienced challenges with respect to the shortage of skilled workforce in order to grow the economy. In this regard, the Chairperson supported the government's programme of sending more students to study abroad to acquire the requisite skills to support the economy. She encouraged the students to continue to shine and to raise the South African flag through their achievements abroad.

2.3 Wednesday, 19 September 2018

2.3.1 Agency for Strategic Initiatives (ASI)

The delegation was informed that ASI is a non-profit organisation based in Moscow, which is involved in lots of innovative projects in Russia and which also worked with over 200 educational projects. ASI worked closely

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with the communities in the Russian Federation and additionally shared its facilities with the needy communities to undertake their programmes. ASI worked closely with the Ministry of Education and Science of the Russian Federation and was also involved in influencing the overall education system of the country. ASI had different units within its precincts which further supported business projects aimed at stimulating the economic growth of the Russian Federation.

2.3.1.1 Atlas of Emerging Jobs

Mr D Sudakov: Co-Author of the Atlas for Emerging indicated that the Atlas was the directory of promising industries and jobs for the future. The Atlas assisted in identifying which areas would grow intensively, and what new technologies and changes in industry will emerge. The Atlas was targeted at young learners in schools to assist them in their understanding of the futuristic needs of the economy. The Atlas identified 200 jobs in high demand in 25 industries of the economy.

Mr Sudakov proceeded to explain the skills technology foresight (STF) which was a methodology based on rapid foresight approach. The STF was developed by the Moscow School of Management (SKOLKOVO) team of experts in Russia in 2014 where two pilot STF validation projects were implemented in Armenia and Vietnam in 2014, and in 2015 the STF was used in the Tanzanian National Skills Development Project. In 2016, the STF was used to forecast the demand for personnel in Tunisia and South Africa. The STF principles included: collaboration; honesty; responsibility, system thinking; risk recognition; commitment and acceptance of rules. The STF looked at the map of the future for the sectors: key trends that influence its transformation, and the sector's visions within a 10-year perspective; key skills that will be demanded by the sector within the near, medium and long term perspective and projects initiatives that can be implemented to increase relevance of TVET for the sector. The regional version of the Atlas was also produced with the focus on a future vision for the region, 11 region-specific sectors plus global trends and local expertise.

2.3.1.2 University 20.35

The delegation was informed that the project University 20.35 was a digital platform that offered students individually required competencies along a personal educational roadmap. The project commenced with 1 200 students and was conducted over 11 days. The project was aimed at assisting students towards the kind of skills required of them in order to thrive in the modern economy. The project further assisted in understanding how the potential of a person could be developed. The project presented also a model of a university of the future by 2035.

The students who were enrolled in the programme were assessed through diagnostic instruments and the utilization of games to collect data on their participation. The data from each student was analyzed to determine his/her competency skills and to direct the student towards the skills that he or she is likely to be successful in acquiring.

2.3.1.3 WorldSkills Russia

The delegation was informed that the world skills competition started way back in the 1950s in Spain, where workers decided to organize a competition to compete on various skills competencies. Since then, the competition has evolved and 79 countries formed part of the WorldSkills competition. The WorldSkills competition organized the world championships of vocational skills in different parts of the world every two years, and South Africa participated in the last competition which was held in Abu Dhabi in 2017. The next WorldSkills competition would be hosted in the Russian city of Kazan from 22 – 27 August 2019.

With respect to partnerships, the WorldSkills competition was supported by 100 industry partners and each member country sent a group of experts from its industries, and business and educational institutions in order to join in discussions about skills development. The competition helps to highlight the skills competencies of the students/participants during the four days of the competition. The Russian team took fifth position in the last competition, which was held in Abu Dhabi and won 11 medals. The competition had 312 competitors, 300 experts, 31 skills and 130 enterprises.

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The delegation was informed that all graduates from the Vocational Education and Training and universities are required to pass a demonstration examination to get the skills passport. The Russian Federation's plan is that by 2024, 100 percent of all graduates should pass the demonstration examination. The skills passport profiles the person's potential, skills and competencies, thus positioning them to access the labour market; this information is made accessible to potential employers.

2.4 Thursday, 20 September 2018

2.4.1 Lomonosov Moscow State University

The delegation was informed that the University was founded in 1755 by Mikhail Lomonosov and that it had its first building structure situated in the now famous Red Square. The main building of the University was built in 1948 till 1953 and was 182 metres high with 32 floors. The University has 43 faculties covering all basic research and other major fields of study. The physics, chemistry and biology faculty was the largest faculty of the University with 300 employees, and even bigger than some other universities in Moscow. The University had 40 000 students with a total of 10 000 staff (4 000 professors, 4 000 researcher and 2 000 additional support personnel).

In terms of the managerial structure, the University has a rector who was appointed by the State President and is supported by eight vice-rectors. The State President also appointed the board of trustees for the University, and the academic council met every two months. The University was also involved in the space research programme, and also had its own satellite in space. With respect to funding, the University received 60 percent of its funding from the federal government and the other 40 percent was from tuition fees. The University was able to attract 15 percent of the state funding for research and also accounted for 15 percent of the research publications produced by Russian universities.

2.4.2 National University of Science and Technology (NUST MISIS)

Prof T O'Connor: Vice-Rector Academic Affairs started the presentation by expressing a warm welcome to the delegation for visiting the University. He

said that the University had nine colleges for: economic and industrial sciences, mining, information technology and automated control systems, environmentally sound technologies and engineering, new materials and nanotechnology, information business systems, lifelong learning, basic professional studies and quality of higher education). With respect to the student body, the University had 17 000 students, of which 3 300 were international students coming from 69 countries of the world.

In relation to the history of the University, Prof O'Connor said that the University was established in 1918 as a Moscow Academy of Mines and in 2008, the University was renamed as the National University of Science and Technology (NUST). In 2016, NUST showed the highest growth rate among Russian universities in the QS World and Regional rankings. In 2018, the University celebrated its 100-year anniversary and the centenary celebrations were attended by over 20 000 visitors.

In relation to the academic programmes, the University had 135 study areas with 265 academic programmes and nine English language programmes. The University had 20 online courses that have been developed and launched on the open education national platform. The University's 2018 admission campaign became the best of the last five years in Russia. Moreover, the University's admission competition reached 55 applications per one place funded by government.

With respect to research and innovation, the University in collaboration with the Russian Quantum Centre created the NUST MISIS Quantum Centre joint science and educational project which included 10 research and development laboratories. In relation to the cooperation with business, the University had partnerships with 1 600 Russian and international leading companies and the placement of students and internships was followed by employment in 80 – 90 percent cases.

2.4.3 Nanotechnology / Quantum Physics hall

The delegation was accompanied to the Nanotechnology and Quantum Physics hall where the University shared information about its work related to: the Quantum Physics for Advanced Material Engineering Masters

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programme; the Nanotechnology and nano/micro systems course; the different master's programme offered in English; the communications and internal public relations master's programme and the areas of cooperation between NUST MISIS and universities in South Africa pertaining to the minerals and mining sector.

2.4.4 Visit to the high efficiency prototyping centre

The delegation was accompanied to the state of the art high efficiency prototyping centre of the University, which was built in 2016 at a cost of \$15 million. The delegation was informed that the idea behind the creation of the centre was to build a highly equipped special facility to create specialized prototypes. The delegation was informed that the 2016 Sochi Winter Olympics torch was designed at the facility. The centre was fitted with a third dimension (3D) printers, dyeing facility, electrical cutting machines and hydro cutting by sanded water. The centre was only accessible to the masters and doctorate students.

2.4.5 National Research University / Moscow Power Engineering Institute (MPEI)

Prof A Tarasov: Vice-Rector of International Relations started his presentation by submitting an apology on behalf of Prof N Rogalev: Rector, who could not attend the meeting with the Committee due to other commitments. He said that the University was founded in 1930 to provide engineers to the soviet industry. The University got the status of a Technical University, and in 2010, the MPEI received a status of the Research University. The MPEI was one of the largest technical universities in Russia, which provided training of specialists and researchers in the field of power engineering, electrical technology, economics and humanities.

The MPEI had over 15 000 full time students in Moscow and 7 500 part-time students. The University had 10 institutes, namely: Power Machinery and Mechanics; Thermal and Nuclear Power Engineering; Electric Engineering; Power Engineering Efficiency Problems; Electrical Power Engineering; Automatics and Computer Engineering; Radio Engineering and Electronics; Humanities and Applied Sciences; Engineering Economics

and Distant and Additional Education. In relation to its programmes, the University had 24 bachelor and master fields of study, and 47 doctoral specialties.

In relation to the national and international rankings, the University was ranked at number 96 in the QS University rankings for BRICS countries (900 universities) and number 25 among Russian universities. The University has also received numerous awards of recognition from the Russian Federation and other foreign countries for its contribution to research and teaching and learning. The University has 208 cooperation agreements with foreign universities in 66 countries.

2.4.6 Visit to the high voltage equipment department

The delegation was accompanied to the cloud and lightning simulation laboratory. The laboratory was used to train students in the investigation of the process of lighting and its impact on power installation. Through this process, students were trained to develop processes for insulation of power installation.

The delegation was shown the high voltage laboratory where electrical engineering students were trained to operate the control systems and switches that were fitted in power station that host high voltage electricity. The high voltage electricity generated one million volts and could be used in transmission and substation. Students were trained in developing high voltage installation for cleaning of waste water, separation of various kinds of minerals or separation of nano powders. The delegation was shown demonstrations in the control rooms of the high voltage electricity and was able to witness the transmission of high voltage electricity and risks associated with the process. The high voltage laboratories were mainly used for practical training of students.

2.5 Friday, 21 September 2018

2.5.1 Moscow State University of Railway Engineering (MIIT)

Ms S Baskina: Leading expert of the International Office began the presentation by apologising on behalf of the University Rector, Prof B Lieven who could not host the delegation due to other commitments. She

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said that the University was one of the oldest institutions of higher technical education in Russia, having been established in 1896. The University was the largest and leading institution that offered transport related programmes in the Russian Federation. The alumni of the institution were involved in the construction of some of the hallmarks of the city of Moscow. The University had 12 institutes and a student population of 93 000 students. The University had 1 363 students from 35 foreign countries. 7 000 students resided at the University's 13 student residences around Moscow. The total workforce of the University was 3 400 staff. The University had 169 partnerships with other universities on joint educational programmes, and collaborations with engineering companies in Russia.

2.5.2 Simulation centre for multimodal transport system

The delegation was accompanied to the simulation centre for the multimodal transport systems which was used by the University to train students on different modes of transport. The simulation centre was fitted with the state of the art modelling system simulating the real work of the railway station and integrated transport system. The students were trained at operating the control rooms of the railway transportation systems, which was largely used in Russia.

2.5.3 Visit to the marshalling yard simulation centre

The delegation was taken to the marshalling yard simulation centre where students were trained to operate the marshalling yard. The simulation centre was fitted with monitors and control switches equivalent to the real marshalling yard, and students are able to see all the movement of wagons to reform trains on screen.

The delegation was informed that students were trained as train station operators to mainly control the switches and railway positioning. Students were taught to manage the system and manage accidents. The delegation was shown the management of breaking positions and speed control of wagons. The simulation equipment was able to simulate the work of the railway station in real life and in different weather conditions.

The delegation was informed that it was a huge task to control a marshalling yard, and one mistake could cost massive delays to the distribution of cargo and a loss of income. The marshalling yard operated 24 hours and seven days a week, and students were also trained to deal with any eventualities that may arise at the marshalling yard. 80 percent of the cargo flow from the marshalling yard included oil, gas and iron ore that were exported to other countries.

3. Observations

The Committee undertook the study tour visit to the Russian Federation with the objective to conduct a benchmarking exercise to look into the following areas:

- Financing of education system in Russia, successes and challenges.
- The contribution of vocational education and training and higher education to sustainable economic growth and development.
- The skills planning: supply and demand.
- Challenges experienced within the post-school education and training sector and the mitigation strategies.
- How consensus on education and funding matters is reached between students, government, parents, industry and other role players in education.

The Committee having undertaken the study tour visit to the Russian Federation and the following lessons were learnt:

3.1. Financing of the education system in the Russian Federation

3.1.1. The entire education system in the Russian Federation is mainly funded by the state. All spheres of government (Federal government, regional authorities and local government (municipalities) contribute to funding education. Regional authorities and local government spent more than 25 percent and 50 percent of their budgets on education respectively. They are also responsible for infrastructure of the schools and universities.

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- 3.1.2. Funding to universities is linked to the occupations that are in higher demand in the economy. Universities also generate third stream income and its spending is governed by the university's internal acts in accordance with its strategic objectives. The Federal government also funds private higher education institutions.
- 3.1.3. The Russian Federation in terms of Para 3, Article 5 of the Federal Law on education in the Russian Federation guarantees free of charge, referred to as budget spaces education on a competitive basis if the education in that cycle is provided to a citizen for the first time. The free of charge education at both VET and universities is directed to support students in economies and areas of skills need identified by both the Federal and the regional authorities. Free of charge education (budget spaces) is also provided for students studying at private VET colleges and universities.
- 3.1.4. 45 percent of students in higher education receive free of charge higher education in the Russian Federation.
- 3.1.5. The Russian government also provide funding and social support to students living with disabilities to ensure equality of rights and to provide quality education that is more accessible to all irrespective of their background.
- 3.1.6. Students who are self-funded have the option of applying for government student loans (soft loans) which are repayable after completion of the study.

3.2. The contribution of vocational education and training and higher education to sustainable economic growth and the skills planning supply and demand

- 3.2.1. The Russian government works with other entities in the development of the Atlas for Emerging Jobs. The Atlas forecasts future growth and decline of economies and the new technologies and industry changes that would emerge. The Atlas is also targeted at identifying skills needs in the 85 regions so that plans could be put in place to ensure relevant responses.

- 3.2.2. Vocational Education and Training is pivotal to the economic stability of the Russian Federation as it trains people for job market. Its curriculum is developed by universities in line with the skills demands for the economy.
- 3.2.3. Universities also play a critical role to supporting the economic growth of the country. The Ministry of Science and Higher Education had experts from business sector, professional community, researchers, methodologists and non-governmental organisations who worked closely with industry and this assisted with curriculum development for universities.
- 3.2.4. In ensuring that the country has relevant skills to respond to the high technological demand by the economy and the fourth industrial revolution, the Russian government was planning to increase enrolment in information technology (IT) related programmes from 50 000 IT specialists in 2018 to 500 000 by 2023.
- 3.2.5. The Russian government used the economic sanctions imposed on it by the Western countries to develop its own skills to design and manufacture high-tech military equipment, including electronic warfare, surveillance, bombs and nuclear as it could not import them from the Western countries. This has created employment opportunities and contributed to economic growth of the country.
- 3.2.6. The Russian government has also brought reforms in the higher education sector through identifying some of the universities that would specialize in technological innovation and high- and research in order to improve the country's international competitiveness and rankings. The Russian Federation has realised that the development of higher education cannot be achieved without investment in research. There is a massive funding injection to support universities to increase their research output and develop specialized niche in certain areas.

3.3. Challenges experienced within the post-school education and training sector and mitigation strategies

- 3.3.1. The higher education in the Russian Federation was adversely affected by the low birth rates, which resulted in low graduate

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numbers from secondary schools and low enrolment in higher education. The Russian government invest a lot in attracting students from other countries to study at its universities. The Russian President also support the attraction of international students and has made a call to government to ensure that it creates the most comfortable and attractive conditions for talented young people from other countries to study at the Russian universities and a need to create conditions for the best foreign graduates of the Russian universities to remain working in Russia.

- 3.3.2. The Russian government lost a million scientists/researchers and highly skilled people due to out migration. The country had to train more skilled people to address the shrinking critical labour force. The Russian Federation has put in place regulations to ensure that teaching staff in the VET institutions and university researchers and professionals earn 200 percent more than the regional minimum wage. This is a strategy to retain skilled labour force in the country. This move has also contributed to the majority of the out migrated Russian skilled labour force returning to work in Russia.
- 3.3.3. The Committee learnt that the quality of education at some universities, in particular private universities was not of good standard. This was due to proliferation of these institutions. The Federal Assembly adopted legislation to strengthen the quality assurance of higher education and this resulted in the shutting down of 1000 universities.

3.4. How consensus on education and funding matters is reached between students, government, parents, industry and other role players in education

- 3.4.1. The Committee learnt that there was a good partnership between the Ministry of Science and Higher Education, universities and other Ministries. For example, the Minister of Transport was the Chairperson of the Board of Moscow State University of Railway Engineering.

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3.4.2. There was a shared vision amongst different stakeholders; Federal government, regional and local government, education and training institutions, business, researchers and non-governmental organisations. All stakeholders have bought into the vision of government and were working towards meeting the priorities of government at their different levels. The Committee noted through engaging with all the stakeholders that they understood their role in contributing towards the overall goal of government of growing the economy and improving the socio-economic conditions of all the Russian Federation citizens.

3.5. Governance

3.5.1. The Committee learnt that though the Ministry of Science and Higher Education is the key federal authority responsible for setting of the education standards and policy making, including financial policy and the legal regulations of the system of higher education and vocational education; the universities in the Russian Federation are autonomous and legally entitled to form their structures, identify goals and objectives of academic and research activities, determine admission rules, set the level off tuition fees and raise them and develop course and identify areas of training. The head of the higher education institution is the Rector who is elected for a five-years term and has a number of deputy voce-rectors responsible for specific activities and operational issues. Higher education institutions have Academic Councils elected for five years and are responsible for issues relating to the development of the higher education institutions. The higher education policy set by the Ministry of Science and Higher Education is implemented by the regional education administrations and the higher education institutions can adopt their own regulations and regional parliaments can adopt regional education legislation.

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3.6. Ploughing back

- 3.6.1. The Committee noted that there was a spirit of ploughing back the dividends of education and training in the country.
- 3.6.2. The Russian government also ensured that there was a contractual agreement signed by companies and students, which guarantees employment after graduation. In terms of the contract, both parties were liable to adhere to the contractual agreement. Failure by the student to take up employment offered by the sponsor company, the student would be liable to repay the all the funds. Likewise, if the company fails to employ the student, it would be liable to pay a 3 months' salary and also pay back the university all the costs related to the training of the student. These mechanisms were put in place to ensure the employability of students.

3.7. Basic Education

- 3.7.1. Throughout the study tour, the delegation noted that the basic education is taken seriously in the Russian Federation and the government make means to ensure equitable access to education and training opportunities for its population without prejudice. The quality of kindergarten, including basic education is the foundation of quality post-school education and training. The literacy rate in the Russian Federation is 99.9 percent and this was already achieved during the era of the Soviet Union.
- 3.7.2. The Russians are generally good at mathematics and physics. All learners in the Russian Federation are required to pass mathematics and the Russian language in order to graduate from high school in addition to other compulsory subjects.
- 3.7.3. The Russian language is used as a language of teaching and learning through the entire education system. Therefore, language of teaching and learning is not a barrier to access and success in education. Foreign students studying at the Russian universities are required to study Russian for 10 months before they commence with their academic programme.

3.8. Vocational Education and Training

- 3.8.1. The vocational education and training system of the Russian Federation is similar to the German model of vocational and continuing education and training. Students in the Russian Federation have an option of choosing to further their studies at secondary vocational education and training after Grade 9. The South African system of education also offers Grade 9 graduates an option to study at TVET College. However, learners continue with academic programmes to obtain a National Senior Certificate (NSC). Some learners who have passed NSC opt to study at TVET colleges and enroll for the National Certificate Vocational [NC(V)] level 2-4 which is equivalent of Grade 10 -12. This becomes a wasteful investment.
- 3.8.2. The training of students in secondary vocational education and training institutions is linked to the industry. Students are guaranteed employment after the completion of their diploma from the secondary vocational education institutions.
- 3.8.3. Articulation from the secondary vocational education and training institutions to higher education is seamless in the Russian Federation. Moreover, universities offer part-time courses to the majority of graduates from vocational institutions.
- 3.8.4. The professions such as car driver is among the most popular profession in the secondary vocation education sector, which constitutes 40 percent enrolment as compared to other programmes.

3.9. University Education

- 3.9.1. The Russian Federation has 896 universities (70 percent public universities) with 4.67 million students across 85 regions of the country, and the country is keen to accommodate more international students to its institutions of higher learning. The Russian Federation had a total of 220 000 international students.
- 3.9.2. The Russian Federation have specialized universities which were established to provide critical and scarce skills to respond to the economic needs of the country and across a range of different economic sectors, including transport and power.

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- 3.9.3. The Russian Federation is keen on providing fully funded scholarships to more South African students to gain access to higher education. However, the coordination of the scholarships by the DHET needs to be improved.
- 3.9.4. The South African students studying at different Russian universities are required to learn the Russian language basics for a period of 10 months before commencing to the first year of the course. Some of the courses at universities are offered in English, however, the majority of the health sciences programmes are offered in the Russian language.
- 3.9.5. The Russian male learners are required to undergo compulsory two-years military training before admission to higher education.
- 3.9.6. The Russian Federation is experiencing sanctions from the West, however, the cooperation with institutions of higher learning in the European Union is growing.
- 3.9.7. The Russian institutions of higher learning have agreements with South African universities through the BRICS Network of Universities. However, the implementation of these agreements and cooperation is adversely impacted by lack of funding.

3.10. Other observations: South African students in the Russian Federation

- 3.10.1. There were more than 700 South African students studying in the Russian Federation with the majority of them (327) coming from the Free State Province, and who have enrolled in the health and agricultural sciences related programmes. Whilst commending the efforts by the Free State government in expanding access of students from disadvantaged family backgrounds, the delegation expressed concerns pertaining to the inadequate participation by other provinces in this kind of programme.
- 3.10.2. The delegation expressed a concern about the inadequate coordination of the scholarships provided by the Russian Federation to South African students. The Department of Higher Education and Training (DHET) administers the scholarships and

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the recruitment of students is done through advertisements on various media platforms, thus disadvantaging students that come from remote and rural areas and who do not have access to the internet or social media.

- 3.10.3. The delegation expressed a concern with respect to the students from the Free State who had undergone training in the medicine programme of up to three years in China; however, the programme offered was incompatible with the South African medical programmes. The Chinese government also refused to offer these students clinical training, and as a result, the Health Professionals Council of South Africa (HPCSA) would not accredit these students as medical professionals. The delegation was of the view that the Free State government did not undertake due diligence concerning the medical programme offered prior to sending students to study in China. Compounding the situation was the refusal of 26 students who chose to remain in China instead of being transferred to Russia, and it would take many more years for these students to be accredited by the HPCSA.
- 3.10.4. The Free State students that were transferred to the Russian universities from China were refused to articulate to the third year of study for the medical programme. Instead, the Russian universities compelled them to start the medicine programme from the first year. The Free State government did not accept this offer and sent a delegation to negotiate with the relevant institutions so that the students can be credited for the completed modules.
- 3.10.5. The lack of consultation of the Department of Higher Education and Training and the relevant professional bodies (the HPSCSA and the South African Veterinary Council (SAVC) in terms of sending provinces in the training of medical students abroad is a serious concern for the success of this programme. The placement of medical graduates at hospitals remains a serious challenge due to the shortage internship opportunities.

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- 3.10.6. The Free State students studying at the RUDN University were deeply appreciative to the Free State government for the opportunity to study in the Russian Federation, and they were making means to adapt to life abroad.
- 3.10.7. The delegation did not have an opportunity to visit the South African students from the Mpumalanga province who are studying at the Astrakhan State Medical University through the RACUS Agency which recruited them. These students sent correspondence to the Embassy and the Leader of Delegation complaining about the inadequate support from their province as compared to the Free State students. The delegation undertook to follow up on the matter and to write to the relevant people involved in this programme.

4. Summary

The Committee's study tour to the Russian Federation was underpinned by its desire to get informed about the best practices of the Russian post-school education and training sector. The Russian Federation is a massive country, the biggest in the world by its geographical spread with an estimated population of 144 million people. Moreover, the country has more than 800 universities as compared to 26 universities in South Africa. The official unemployment rate in the Russian Federation is 5 percent, which is incredibly low for a country that has a population of over 100 million citizens. Russia is also amongst the top 10 biggest economies in the world with its main exports being oil, gas and ore.

The delegation was warmly welcomed to the Russian Federation by the South African Embassy in Moscow, which arranged the official programme for the study tour. The reception from the institutions visited was commendable given their preparations for the delegations. The study tour programme offered the delegation with an opportunity to visit various institutions of higher learning, the Russian Parliament, Ministry of Science and Higher Education and the agencies for skills development. The engagement with the relevant institutions gave the delegation a comprehensive picture of the Russian post-school education and training sector as per its purpose of the study tour.

The delegation was impressed about the willingness of the Russian government and relevant institutions to accommodate more South African students to study at the Russian universities. The delegation observed that the Russians took education seriously, and that the investment in education has had a positive contribution for the country's growth. The delegation acknowledged that South Africa has challenges relating to high unemployment amongst the youth, as well as the shortage of skills to support economic growth. In this regard, South Africa could draw positive lessons from the Russian government's investment in education and training that is equitable and for the benefit of the population as a whole irrespective of their race, religion or background.

5. Recommendations

The Committee having undertaken a study tour to the Russian Federation and arising from the lessons learnt, the Committee recommends the following:

5.1. Funding

- 5.1.1. The Portfolio Committee on Higher Education and Training had gained valuable knowledge on Russia's education funding model and recommend that the Committee be afforded an opportunity to make input into the Department of Higher Education and Training Funding Framework for Post-Education and Training as it relates to the condition in which funding from the National Student Financial Aid Scheme (NSFAS) would be made available to students.
- 5.1.2. The patriotic culture experienced by the Committee in Russia should be instilled in the students who are funded through the public purse to plough back the dividends of their education and training into the country's economy.
- 5.1.3. The Russian government provides free of charge education (budget spaces) to student studying in private VET institutions and universities. The South African National Development Plan

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proposed that there should be a consideration towards extending the National Student Financial Aid Scheme to qualifying students in registered private colleges as an incentive for private sector expansion. The Department should engage in a feasibility study to make comparison to enable it to assess the correctness of funding students from poor and working class studying at private colleges.

- 5.1.4. The Committee observed that the Russian government provides funding and social support to students living with disabilities to ensure equality of rights and to provide quality education that is more accessible to all irrespective of their background and where they study. The Committee recommends that consideration for funding support for students with disabilities studying at all institutions should be looked at.

5.2. The contribution of vocational education and training and higher education to sustainable economic growth and the skills planning supply and demand

- 5.2.1. Partnership with the Department and the Labour Market Intelligence Partnership is in place to forecast the skills demand and supply. The Department should report to the Portfolio Committee on Higher Education and Training on the contribution of vocational education and training towards sustainable economic growth and skills planning and looking at the viable models to strengthen this partnership and ensure that measures are put in place to ensure timeous and relevant response to address the identified skills needs.
- 5.2.2. Learning from the experiences gained in the Russian Federation, the Portfolio Committee recommends that the Department of Higher Education and Training look at the viability of institutions in its domain to explore specialized niche areas to address skills deficits for various sectors of the economy at local, provincial and national level.

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5.3. How consensus on education and funding matters is reached between students, government, parents, industry and other role players in education.

5.3.1. The National Development Plan argues there should be a social contract that will enable South Africa to achieve higher growth and employment, increase investment and savings. The Committee learnt that there was a shared vision amongst different stakeholders; Federal government, regional and local government, education and training institutions, business, researchers and non-governmental organisations. All stakeholders have bought into the vision of government and were working towards meeting the priorities of government at their different levels. Progress has been made in some areas to reach consensus which yielded positive results in the post-school education and training sector in South Africa, for example, National Skills Accord signed in 2011. Arising from the benefits of consensus as experienced in Russia, the Committee urges the Department of Higher Education and Training to implement the National Development Plan.

5.4. Vocational Education and Training

5.4.1. The Committee observed an approach in curriculum development in the Russian Federation as it relates to the needs of industry and recommends that the Department and the TVET sector should undertake a comprehensive study on the review of the curriculum of the Technical and Vocational Education and Training (TVET) institutions in order to make it more practical and aligned to the needs of industry and the economy. This will contribute to the employment of graduates from the TVET sector since students would be trained in skills that are required by the economy.

5.4.2. The Committee observed that the TVET sector in the Russian Federation is placed at the centre of economic development and is a viable option for youth to access employment. The Committee

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recommends that the Department undertake a robust promotion of the TVET sector as a viable option for young learners to access opportunities in the economy should be expedited given the inadequate awareness of this sector.

5.4.3. The Committee observed that the Russian government prioritised strengthening the quality of maths and science and every learner was required to pass maths and science, and this was benefitting from learners who can enroll easily in the critical areas that required maths and science. The Portfolio Committee on Higher Education and Training should confer with the Portfolio Committee on Basic Education on intervention strategies to optimally benefit from maths and science in order to increase graduate output in science, technology, engineering and maths related programmes.

5.4.4. The Committee was informed of the patriotic culture of the private sector in the Russian Federation and the role they play in funding scholarships for students, their involvement in curriculum development as well as opening up their workplaces for work-based learning. The Committee recommends that the private sector in South Africa should be more involved in education and training and implementation of the National Skills Accord should be strengthened.

5.5. University education

5.5.1. The Committee observed that articulation through different sub-frameworks of the Russian Federation national qualifications is seamless. Students from TVET institutions as well as workers who wish to develop themselves professionally articulate to higher education with ease. The Committee recommends that the Department implements the articulation policy and also undertake a comprehensive study of the enablers of articulation of the Russian Federation articulation system.

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- 5.5.2. The Committee was informed of the investment made by the Russian Federation government to produce 500 000 Information Communication Technology (ICT) specialists to support the fourth industrial revolution digital economy. The Committee recommends that the Department of Higher Education and Training in collaboration with relevant stakeholders should explore possibilities of investing more resources with regard to the development of information technology specialists in preparation for the digital economy. Furthermore, the Human Resource Development Council (HRDC) should report to the Committee on the efforts made on curriculum changes that take the 4th Industrial revolution and the creation of new skills.
- 5.5.3. Universities and TVET colleges should consider more partnerships with the private sector to expand their ability to generate third stream income that will support their research and development initiatives, and the funding of underprivileged students.
- 5.5.4. The Committee was informed of the funding constraints to implement BRICS Network Universities agreed projects. The Committee recommends that the Department report to it on the funding availed to support the South African universities participating in the BRICS Network of Universities agreed projects.

5.6. South African students studying abroad

- 5.6.1. The participation of more provinces in sending students from a disadvantaged family backgrounds to study abroad should be expedited given the limited spaces at institutions of higher learning in South Africa, especially in the health science programmes; and the Department of Higher Education and Training should coordinate.
- 5.6.2. Higher Education and Training is not a concurrent function. Schedule 4 of the Constitution of the Republic of South Africa clearly states that education at all levels, excluding tertiary education is a functional area of concurrent national and provincial legislative competence. Further, Section 41 (1) (h) of the Constitution states that: All spheres of government and all organs of state within each

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sphere must co-operate with one another in mutual trust and good faith by - (i) fostering relations, (ii) assisting and support one another, (iii) informing one another of, and consulting one another, on matters of common interest. The Intergovernmental Relations Framework Act, 2005 (Act No 13 of 2005) provides for the relations of different spheres of government. Notwithstanding the Constitutional provisions and the Intergovernmental Relations Framework, the Committee had observed that provincial departments had funded students to study outside the country and this was done without conferring with the Department of Higher Education and Training, Department of International Relations and Co-operation and relevant professional bodies. The Committee recommends that the Department of Higher Education and Training should develop a protocol for government institutions wishing to support students through publicly funded initiatives to undertake studies in foreign countries. The Department should also ensure that government departments and entities at national, provincial and municipal level adhere to the protocol.

- 5.6.3. The Department should brief the Committee on the implementation of all signed international agreements, including its role in coordinating the international scholarships opportunities for South African students for foreign studies as well as national scholarships offered by government departments, entities at both national and provincial level. The challenges experienced by the Mpumalanga students studying at the Astrakhan State Medical University should be speedily addressed, and the Committee should write to the Premier of the Mpumalanga Province on the matter.
- 5.6.4. The Committee should confer with the Portfolio Committees on Health and Agriculture, Forestry and Fisheries, the Departments of Health and the Department of Agriculture, Forestry and Fisheries to understand their role in foreign studies of South African students, especially in medical and veterinary sciences programmes.
- 5.6.5. The South African professional bodies should be consulted and approval gained from them that the qualifications would be recognised prior spending public funds on foreign studies.

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- 5.6.6. The Department should undertake an investigation into the cost-effectiveness of foreign studies at undergraduate level as compared to training locally.
- 5.6.7. The Committee observed that the South African Embassy in the Russian Federation was inundated with the psycho-social and economic needs of students studying at the Russian universities. The Embassy utilized its limited financial and non-financial resources to respond to the said needs. The Committee recommends that the Department of Higher Education and Training in collaboration with the Department of International Relations and Co-operation explore a possibility of resourcing the Embassy with an Attaché to attend to the post-school education and training matters.

Report to be considered.