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PARLIAMENT
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**ANNOUNCEMENTS,
 TABLINGS AND
 COMMITTEE REPORTS**

FRIDAY, 17 MAY 2024

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COMMITTEE REPORTS

National Assembly and National Council of Provinces



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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Republic of South Africa

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**ANNUAL REPORT OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE
FOR THE FINANCIAL YEAR ENDING 31 MARCH 2023**

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1. INTRODUCTION

The Joint Standing Committee on Intelligence (JSCI) is established in terms of section 2 of the Intelligence Services Oversight Act 1994, (Act No. 40 of 1994), hereafter referred to as the Act. The primary mandate of the JSCI is to perform oversight over the intelligence and counter-intelligence functions of the Services, which include the State Security Agency (SSA), Defence Intelligence (DI) Division of the South African National Defence Force (SANDF) and the South African Police Service – Crime Intelligence (SAPS-CI).

The JSCI is also responsible for the nomination of the Inspector-General of Intelligence (IGI), which must be approved by the National Assembly (NA) by a resolution supported by at least two thirds of its members for appointment by the President. The Committee also hold accountable the IGI for the overall functioning of the Office of the IGI (OIGI), and shall report on his or her activities and the performance of his or her functions to the committee at least once a year. The Committee hereby tables its Annual Report (AR) for the period ending 31 March 2023 to the Parliament of the Republic of South Africa in accordance with section 6 of the Act.

2. COMPOSITION OF THE COMMITTEE

The Committee consists of 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 to various political parties following the 2019 elections:

- ANC: 8 seats
- DA: 3 seats
- EFF: 1 seat

The membership of the JSCI for the period under review was composed of the following:

Name	Political party
Mr JJ Maake	NA (ANC): Chairperson
Ms LC Bebee	NCOP (ANC)

Mr D Stock	NA (ANC)
Ms DE Dlakude	NA (ANC)
Mr BM Hadebe	NA (ANC)
Mr G Magwanishe	NA (ANC)
Ms Makhubela-Mashele	NA (ANC)
Mr MK Mmoiemang	NCOP (ANC)
Ms ZV Ncitha	NCOP (ANC)
Mr DJ Stubbe	NA (DA)
Ms D Kohler-Barnard	NA (DA)
Ms C Labuschagne	NCOP (DA)
Dr MQ Ndlozi	NA (EFF)

Ms Makhubela-Mashele was appointed to the Committee on 4 May 2023 to replace Ms JM Mofokeng who passed away in April 2021. Mr D Stock was appointed to the Committee on 16 May 2023 to replace Ms MC Dikgale who resigned as an MP in January 2023.

3. LEGISLATIVE MANDATE

Section 2 of the Constitution of the Republic of South Africa, 1996, provides that the Constitution is the supreme law of the Republic, all law or conduct that is inconsistent with the Constitution is invalid and obligations which are imposed by the Constitution must be fulfilled.

Section 199(8) of the Constitution provides that to give effect to the principles of transparency and accountability, multi-party parliamentary committees must have oversight of all security services in a manner determined by national legislation or the rules and orders of Parliament.

Section 3 of the 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 of South Africa (AGSA) and to consider the financial statements of the services;
- Obtain reports from the Secret Services Evaluation Committee;
- Obtain reports from the designated judge as defined in the Regulation of Interception of Communications and Provision of Communication Related Information Act (RICA), 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 IGI;
- 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 IGI 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.

Chapter 3, Joint Rule 120 and schedule B of the Joint Rules of Parliament also set out the establishment, powers and functions of the JSCI. The Constitution, the Act and the Joint Rules provide the bedrock of the mandate of the JSCI which must be strictly fulfilled.

4. ACTIVITIES OF THE JSCI IN THE REPORTING PERIOD: 1 APRIL 2022 TO 31 MARCH 2023

For the reporting period, the following activities were undertaken by the Committee.

4.1 Overview of Committee Meetings

The Committee convened over 33 meetings including special meetings on various matters during the reporting period. During some days, the Committee held more than one meeting with different stakeholders as shown in Annexure E. The meetings ranged from Committee meetings to those with the intelligence services and related entities.

4.2. Annual Performance Plans and Budget

4.2.1 Annual Performance Plan and Budget for State Security Agency for 2022/2023

On 19 May 2022, the Committee was briefed by the SSA on its APP for the 2022/2023 financial year. This was after the SSA, through the Committee, requested permission for the late tabling of its APP, which was denied by the Speaker of NA. The Committee was informed that planned outcomes, targets and outputs were aligned to incorporate the recommendations of the High-Level Review Panel (HLRP).

The JSCI identified notable deficiencies in the APP for the 2022/2023 financial year. The Revised Framework for Strategic Plans and Annual Reports, provided by the Department of Planning, Monitoring, and Evaluation (DPME), emphasised the importance of aligning and integrating planning, budgeting, implementation, reporting, and evaluation. However, the SSA failed to adequately incorporate these crucial aspects, which were essential for a results-based approach. The SSA's inability to align targets had historically impeded its effectiveness and contributed to the underachievement reported in previous financial years.

The Committee resolved that the SSA must resubmit the APP and provide a comprehensive budget for the various programmes. Furthermore, the resubmitted APP

should comply with all DPME drafting prescripts. The APP was resubmitted to the Committee with amendments.

4.2.2 Annual Performance Plan and Budget for South African Police Service-Crime Intelligence for 2022/2023

On 19 May 2022, the Committee was briefed on the APP and budget of SAPS-CI. The JSCI was informed that the APP derived its foundation from the national policing strategy, aimed at fostering a comprehensive multidisciplinary approach to establish a secure and stable environment conducive to social and economic well-being for all citizens. Drafted against the backdrop of the July 2021 unrest, which exposed the shortcomings, SAPS-CI specified that outcomes and sub-outcomes in the APP for the financial year 2022/2023 had been aligned with the requirements of the National Intelligence Estimates (NIEs) and priorities and that in the medium-term SAPS-CI would focus on the effective use of intelligence to support policing initiatives.

The Committee found gaps in SAPS-CI's APP. Specifically, the JSCI found that outcomes, indicators and targets needed to be revised to be Specific, Measurable, Achievable, Relevant or Time-bound (SMART) in order to ensure that plans can be implementable. Furthermore, the Committee found that SAPS-CI had failed to demonstrate that it had addressed the reporting and financial issues identified by the AGSA in the previous financial year. The Committee was of the view that SAPS-CI had not demonstrated assurance that the identified trends and patterns would not be repeated. The Committee requested SAPS-CI to revise the APP and resubmit having made the necessary amendments. SAPS-CI resubmitted a revised APP and budget which was drafted in accordance with the drafting conventions.

The JSCI noted that the absence of a permanent head of SAPS-CI was concerning as this destabilised the institution's effectiveness. Similarly, there was a need to fill key management positions to capacitate the institution. To this end, the Minister of Police indicated that there was a plan to address instability within SAPS-CI and that the appointment of a Divisional Commissioner would be prioritised.

4.2.3 Annual Performance Plan and Budget for Defence Intelligence for 2022/2023

On 18 May 2022, the Committee was briefed on the APP and budget for DI. It was indicated that DI aimed to provide intelligence and counter-intelligence in pursuit of

national security objectives. The main focus of the DI's APP was the implementation of the milestones of the Defence Review 2015 and other imperatives. In this regard, progress was made in some of the milestones. Furthermore, DI's budget constraints impacted its work. This impacted on personnel needed for Cyber Security amongst others. It was also indicated that budget was made for maritime security strategy. However, no breakdown of budget per sub-programme was provided.

4.2.4 Annual Performance Plan of the Office of the Inspector-General of Intelligence for 2022/2023

Following the departure of the then IGI, and the delays in the appointment of the incumbent which was only finalised on 1 November 2022, no APP of the IGI was presented to the Committee. The Act establishes the IGI not the OIGI, and there was no Deputy IGI as legislation lacked such provision.

4.3 Auditor-General of South Africa

On 25 October 2022, the AGSA presented the financial statements of the SSA, SAPS-CI and DI for the financial year ending 31 March 2022.

4.3.1 Audit Report on the Financial Statements of the State Security Agency 2021/2022

The SSA received a qualified finding for the financial year 2021/2022 due to the nature of the business as there were sensitive areas that could not be audited and irregular expenditure. The SSA did not include some irregular expenditure in the notes to the financial statements, as required by section 40(3)(i) of the Public Finance Management Act (PFMA), Act 1 of 1999. This was due to inadequate internal control systems to identify and record the instances of irregular expenditure relating to special operations. This resulted in the irregular expenditure being understated.

In terms of performance planning and reporting, some targets were not SMART and as a result, auditors were limited to conclude on what had been achieved by the SSA. Targets were not specific and technical indicators descriptions were not used effectively as a tool to ensure consistent understanding of what needs to be measured and how it should be measured.

In terms of compliance and reporting framework, the AGSA uncovered significant compliance issues with specific aspects of key legislation. For instance, 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. The material misstatements of commitments, identified by the auditors were corrected and the supporting records provided subsequently; however, the uncorrected material misstatements on irregular expenditure resulted in the financial statements receiving a qualified opinion.

Other issues identified included residual values and useful lives of assets that were not reassessed by the SSA as required by the accounting prescripts. The SSA failed to determine if any state institution involved in education and training required computer equipment before disposal of such equipment, as required by the National Treasury regulation 16A.7.7. The AGSA also found poor contract management as some contracts were extended or modified without the approval of the National Treasury as required by section 44 of the PFMA and treasury regulations 8.1 and 8.2. (see Annexure B).

4.3.2 Audit Report on the Financial Statements of South African Police Service-Crime Intelligence for 2021/2022

For the 2021/2022 financial year, SAPS-CI received a qualified opinion. The AGSA explained that there was improvement on the number of qualification areas as a result of management's commitment to resolving the prior year's qualifications. Although many qualification areas were cleared, SAPS-CI had not dealt with the root causes, and urgent intervention was needed.

The basis for qualification included inherent risk due to the nature of environment and irregular expenditure. SAPS-CI did not implement adequate internal control systems to identify and record instances of irregular expenditure in both the current and prior years. This resulted in the irregular expenditure disclosure being overstated.

In terms of performance planning and reporting, no material findings were identified on the usefulness and reliability of the reported performance information for the Secret Services. With regard to compliance, the financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework, as required by section 40(1)(a) of the PFMA. Material misstatements of the tangible movable assets disclosure, lease commitments (operating lease) disclosure and related party transactions disclosure identified by the auditors in the submitted financial

statements were corrected, but the uncorrected material misstatements resulted in the financial statements receiving a qualified opinion.

Effective and appropriate 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. As reported in the basis for the qualified opinion, the full extent of the irregular expenditure could not be quantified. In addition, quarterly reports were not submitted to the executive authority, as required by Treasury Regulation 5.3.1.

Quotations were received from potential suppliers who did not provide a statement regarding their employment status with the government or any affiliation with government employees, as mandated by Treasury Regulation. Goods and services were procured without inviting competitive bids and deviations were not approved by the accounting officer or National Treasury (see Annexure C).

4.3.3 Audit Report on the Financial Statements of Defence Intelligence for 2021/2022

For the 2021/2022 financial year, DI received a qualified opinion. The AGSA conducted an audit across three critical areas, namely; ensuring fair representations and the absence of significant misstatements in financial statements, validating credible and reliable performance information for predetermined objectives, and verifying compliance with all laws and regulations pertaining to financial matters.

The AGSA clarified that DI is a division in the Department of Defence (DOD) and was programme 7. It was further clarified that the Special Defence Account (SDA) was not a separate account. The AGSA identified areas of concern in ensuring fair representations and preventing significant misstatements in DI's financial statements (see Annexure D).

4.4 Annual Planning Workshop at the State Security Agency

From 18 to 19 October 2022, the JSCI was invited to an Annual Planning Workshop of the SSA. During this workshop, each of the branches of the SSA, the Intelligence Academy (IA) and National Communications (NC) presented on their mandates as well as challenges they faced.

The Committee only played an observer role and not an active participant in the process. Nonetheless, some advice was provided on some matters which fell within the mandate of the Committee as provided in the Act.

4.5 Special Meetings in Pretoria, 19 October 2022

On 19 October 2022, the JSCI convened special meetings with the Designated Judge of Interception of Communications, the Audit and Risk Committee (ARC) of the SSA and the Office for Interception Centres (OIC).

4.5.1 Engagement with the Designated Judge of Interception of Communications

On 19 October 2022, the JSCI held a meeting with the Designated Judge of Interception of Communications. Amongst others, the Judge presented the AR on the interception of private communications, briefed the Committee on the matters connected with the Constitutional Court Judgement on Bulk Surveillance, and the need for the OIC to be independent (see Annexure A).

4.5.2 Engagement with the Audit and Risk Committee of the State Security Agency

On 19 October 2022, the JSCI engaged with the ARC of the SSA, which made a presentation on the AR of the SSA for the financial year 2021/2022. The ARC indicated the SSA received a qualified audit for the financial year 2021/2022. The basis for the qualified opinion was due to the inherited risk due to the nature of the environment; irregular expenditure on operations; and material findings on the usefulness of performance information. It was indicated that 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 prescribed by section 40(1)(a) and (b) of the PFMA.

The effective and appropriate steps were not taken to prevent irregular expenditure. The SSA failed to determine if any state institution involved in education and training required computer equipment before disposal of such equipment, as required by the National Treasury regulation 16A.7.7. The AGSA found poor contract management as some contracts were extended or modified without the approval of the National Treasury as required by section 44 of the PFMA and Treasury Regulations 8.1 and 8.2.

It was indicated that the OIGI, needed to be capacitated with an internal audit section. The Internal Audit and the AGSA, were limited to audit certain areas, due to the nature of the business and the assistance of the OIGI is required in instances where the nature of business is too sensitive for the AGSA to access.

4.5.3 Engagement with the Office for Interception Centres

On 19 October 2022, the JSCI held a meeting with the OIC on its independence and the upgrading of equipment.

Feedback on the independence of the Office for Interception Centres

The Director of OIC informed the Committee about the letter he received dated 3 July 2022 titled “Office for Interception Centres (OIC): Status and Reporting”, from the Minister in the Presidency. In the letter it was stated that the OIC should be established as an independent entity under the administrative management of an Executive Director of the NC.

Before the letter, the Director of the OIC reported directly to the Minister responsible for intelligence, which meant that the Executive Authority had the powers and responsibility of the Accounting Officer. It was indicated that having the OIC under the NC was contrary to the HLRP recommendation, which indicated that the OIC should be independent and manage its resources as per RICA.

It was also indicated that having the OIC report to NC meant that the SSA would be in control of the OIC. This was undesirable as the OIC served law enforcement agencies not just the SSA. It was indicated that having the OIC form part of NC, was unlawful and created a potential conflict of interest and diminished the autonomy as envisioned in RICA which established the OIC.

The OIC indicated that it conducted a comparative analysis of local government components to draw insight from, and considered the Judicial Inspectorate for Correctional Services (JICS), Government Printing Works and the Municipal Infrastructure Support Agent. It was explained that JICS was an independent office under the control of the Inspecting Judge. The primary body was tasked with monitoring and oversight of South Africa’s correctional system. The Inspecting Judge was appointed as head of JICS by the President. It was further indicated that JICS falls within the Administration programme of the Department of Correctional Services (DCS), receiving a transfer from the budget of DCS. The same could be done for the OIC.

It was explained that the location of the OIC was guided by RICA, and decisions regarding OIC need to be made by the Minister responsible for Intelligence in consultation with the other relevant Ministers, and must be aligned to legislation. The interception centres would be managed by the heads of each centre who reports to the Director of the OIC. The OIC would interact with LEAs and report directly to the responsible Minister through the Director. This location would be ideal provided the OIC reporting line was fully compliant with RICA, would report to the Minister of Intelligence and that the relevant Ministers would participate in supporting and ensuring the functioning OIC as per RICA. Alternatively, the location of the OIC could reside with the Minister of Justice (subject to the amendment of RICA to this effect), which would assist in ensuring the independence of the OIC from LEAs as clients.

It was indicated that the continued operation of the OIC as a spending centre of the SSA would grant a level of autonomy but was also not fully compliant with sections 34, 35 and 38 of RICA which assigned administrative control and responsibility of the OIC to the Director.

Upgrading of equipment

The OIC explained that for the past 11 years it had unsuccessfully attempted to procure new equipment, and in 2022 there was some breakthrough. The system that the centre was using was not compatible with the mobile network operators. The OIC needed to upgrade its system regularly in order to continue functioning.

It was indicated that the OIC was in a process of acquiring the Lawful Interception Monitoring Centre (LIMC) to have a compatible system for capturing, monitoring, processing and storage of intercepted communication content and interception-related information. The LIMC infrastructure was to cover for the latest technologies used by the mobile, fixed line and internet services providers.

The OIC indicated that it needed support from the Committee, in order to complete the process of procuring the equipment. It was further indicated that the Accounting Officer of the SSA had not authorised the OIC to procure equipment.

4.6 Annual Reports of the Services and the Inspector-General of Intelligence for 2021/2022

4.6.1 Annual Report of the State Security Agency

On 1 November 2022, the Committee was briefed on the AR of the SSA for the financial year 2021/2022. It was indicated that the third and fourth waves of the Covid-19 pandemic significantly impacted on the planned targets of the financial year that ended on 31 March 2022. The Covid-19 regulations, which went into effect intermittently throughout the year, prompted the SSA to adapt quickly, with the majority of staff working remotely. Although the new method of working initially presented a number of difficulties, it also gave the institution the opportunity to explore contemporary processes and technology to enhance its methods. This development, together with the recommendations of the HLRP, enabled the SSA to reconsider its future business strategy, alter operational procedures, in an effort to provide critical intelligence in an ever changing global environment.

The Committee noted that many performance targets in this reporting year were not well defined. Performance targets were not SMART and technical indicators were used incorrectly. There was lack of compliance with the Framework for Strategic Plans and APPS in crafting the APP of the SSA. Some of the targets were set with dependencies, which was concerning. The interdependent targets had negatively impacted on the achievements of planned targets. Although work was done, many of the targets could not be recorded as achieved because of third party dependencies.

4.6.2 Annual Report of South African Police Service-Crime Intelligence

On 28 February 2023, SAPS-CI presented its AR for the financial year 2021/2022 to the Committee. This is the period in which the July 2021 unrest took place. The impact of the unrest resulted in SAPS-CI assessing its internal capabilities and operational readiness in ensuring national security. The Committee was informed that corrective measures had been put in place to ensure intelligence-led policing. Efforts have been made to ensure that SAPS-CI was in compliance with all regulatory and legislative requirements, particularly regarding its finances.

The Committee was informed that instances of poor performance during the 2021/2022 financial year were noted. This was concerning given that it occurred during the unrest in July 2021 when intelligence services could have played a crucial role. Insufficient

resources were noted as one of the challenges leading to underperformance. There was a lack of both human and physical resources, hindering effective operations within SAPS-CI specifically the completion of critical targets. It was also noted that policies were not aligned to laws and regulations.

The Committee also noted a lack of consequence management for non-compliance and poor quality of financial and performance reporting. Inadequate corrective measures for previous shortcomings identified by the various assurances providers were not implemented.

4.6.3 Annual Report of Defence Intelligence

On 29 November 2022, DI presented its AR to the Committee. It was indicated that DI was a critical pillar in safeguarding national security, contributing to the country's overall Defence strategy. The AR underscored the importance of DI, and testament of the good work done in successfully executing all planned activities outlined in its APP. DI demonstrated remarkable efficiency and commitment in achieving the goals despite of the declining resource allocation and limitation of human resources. Despite some achievements, DI worked under trying and challenging conditions. The major challenge remained the relocation to new DI Headquarters.

4.6.4 Annual Report of the Inspector-General of Intelligence

Following the departure of the then IGI, and the appointment of the incumbent which was only finalised on 1 November 2022, no AR of the IGI was compiled.

4.7 Annual Report of the Financial Intelligence Centre

On 2 November 2022, the FIC presented its AR for the 2021/2022 financial year. It was indicated that the FIC received an unqualified audit opinion from the AGSA for three consecutive years, 2019/2020, 2020/2021 and 2021/2022 with material findings. The FIC received its funding from the National Budget, 98 percent from the National Treasury and 2 percent from interest income.

The FIC explained that it received a high volume of suspicious and unusual transaction reports from the banks, and was unable to produce an intelligence report on every case due to challenges of resources. It was further explained that some reports were not worth reporting to LEAs.

It was indicated that there were 45 555 institutions registered with the FIC. The FIC conducted 24 awareness sessions with more than 7000 participants. The awareness covered compliance with the FIC Act, South Africa's sanctions regime, the impact of money laundering and terrorist financing on the non-profit sector and reporting obligations.

The FIC supervisory bodies conducted 41 on and off-site reviews, and 1143 inspections to check with the FIC Act. The FIC indicated that the Centre had seven sector reports on money laundering namely: Kruger rand dealers, motor vehicle dealers, property practitioners, legal practitioners, gambling sector, trust service providers and lenders of money against the security of securities.

The FIC explained that proceeds recovered by stakeholders using financial intelligence produced by the Centre were R5.1 billion for the financial year 2021/2022. The FIC indicated that the Centre used affidavits produced internally to analyse financial data gathered by the FIC or stakeholders as evidence in court cases. It was further indicated that the FIC had no investigative authority.

The FIC explained that it had restrained resources and could not analyse every report it received. It was indicated that crimes committed were to generate proceeds like house breakings and murder. It was indicated that the SAPS needed people with the right skills and financial investigators, who would be able to understand financial crime.

It was explained that the FIC had implemented a system to obtain feedback from the LEAs on the financial intelligence produced. The LEAs were requested quarterly to provide feedback and were encouraged to assess the usefulness of the intelligence received from the FIC. The FIC had received feedback on 67 percent of intelligence reports, including proactive and reactive financial intelligence reports disseminated to LEAs.

It was indicated that South Africa was part of a global network of close to 160 countries working to prevent money laundering and terrorist financing. For the financial year 2021/2022, the FIC concluded one new international memorandum of understating. South Africa was working closely with the neighbouring countries bringing financial units to the global network to share financial intelligence.

It was indicated that the FIC needed to enhance its Information Communications Technology (ICT) systems and platforms for Big Data Analysis and the use of the Fourth

Industrial Revolution technologies such as artificial intelligence and machine learning. The reconfigured ICT systems were required to increase productivity to meet the needs of the LEAs and other stakeholders.

The FIC explained that the South African Anti-Money Laundering Integrated Task Force (SAMLIT), was a collaboration between the banking industry and the public sector for financial sharing. The partnership's core goal is to aid in the detection, prevention, and disruption of financial crime. The goal was to improve members' comprehension of domestic and global crime patterns and, via the exchange of knowledge and skills, to provide doors for connections and the sharing of information, enabling a prompt and effective response to financial crime.

The FIC indicated that the Fusion Centre was an intelligence-driven platform for tackling crimes that were considered to be of national importance. The Financial Action Task Force had supported and encouraged a partnership between the public and private sectors to exchange financial information since 2016. Many jurisdictions embraced it to improve their capacity to fight financial crime. The Centre served as a platform for collaboration and intelligence-driven investigation of national priority offences involving money laundering, financing of terrorism, and other activities.

The FIC explained what the country had to do to avoid grey listing if possible. The South African authorities were said to have developed action plans to address the deficiencies identified in the mutual evaluation, clearly demonstrating the country's commitment to improving and strengthening the fight against money laundering, terrorist financing, and proliferation finance.

4.8 Annual Report of the Designated Judge of Interception of Communications

On 19 October 2022, the JSCI held a meeting with Justice Nkabinde, the Designated Judge for Interception of Communication. The Judge presented the AR on the Interception of Private Communications for the period 01 March 2021 to 30 September 2022 in terms of the RICA. The AR is submitted to the JSCI in accordance with section 3(a)(iii) of the Intelligence Services Oversight Act. The Judge explained the previous AR was included with the new submission for two reasons. The first was that orders made in section 25 of the Constitutional Court judgement which ordered the suspension of RICA for 36 months to allow Parliament time to make the legislative amendments. The Judge expressed that it was imperative that Parliament make the necessary

amendments and not miss the deadline. The second was that the matter was still relevant and affected the work of the Judge.

The Justice explained that part of the consequences of the judgement was that there had been a significant decrease in applications. As section 25A of the judgement stated that post surveillance notification was required to the person who was under surveillance. According to the Judge, that severely impacted the work done by intelligence agencies. As such, the SSA had only submitted one application.

The Judge mentioned that 159 applications were received from the SAPS from all provinces. This was a significant decline from previous years, and could be attributed to Covid-19 and the seizure of many operations. Of the 159 applications, the majority of them were for criminal activities which included, drug manufacturing, cross border crimes, robbery, threat to life and ATM bombings (see Annexure A). It was reported that the interception of communication had been a key enabler in the success of criminal cases as conventional methods had limitations for the SAPS. The Judge confirmed that she had not received applications from the FIC and DI for the year under review.

The Judge detailed that the OIC ought to be given greater independence. It was indicated that the OIC served all LEAs and intelligence services. As such independence from all its clients was required in order to effectively serve its mandate. The configuration made the OIC beholden to the SSA as it had a duty to report to the SSA. Furthermore, there was an urgent need to amend the legislation to give greater independence to the OIC.

The Judge explained that there was an urgent need for a legislative review of all legislation dealing with interceptions. The legislation ought to reflect what interception seeks to deal with and be aligned with the modern-day threats. Furthermore, the monitoring aspect of the legislation ought to include new technologies such as social media, emails and Whatsapp. In this regard the OIC had conducted a comprehensive benchmarking study on how other nations drafted their interception legislation and strengthened the work of interception.

4.9 Certificates of Activities of the Services by the Inspector-General of Intelligence for 2021/2022

One of the functions of the JSCI is to consider and make recommendations on the report and certificate transmitted to it in terms of section 7(7)(d) of the Act. The period under

review coincided with the appointment of the IGI as mentioned in the previous report. The former IGI's contract lapsed on 15 March 2022, and the incumbent was only appointed on 1 November 2022.

4.9.1 State Security Agency

On his first certificate since his appointed, the IGI briefed the Committee on the Certificate for 2021/2022. The IGI noted that there had been a delay in the appointment of the IGI as such he was unable to conduct a review for the reporting period. To this end the IGI issued a disclaimer Certificate for the 2021/2022 reporting year.

4.9.2 South African Police Service-Crime Intelligence

The IGI briefed the Committee on the Certificate for 2021/2022. The IGI noted that there had been a delay in the appointment of the IGI as such he was unable to conduct a review for the reporting period. To this end the IGI issued a disclaimer Certificate for the 2021/2022 reporting year.

4.9.3 Defence Intelligence

The IGI briefed the Committee on the Certificate for 2021/2022. The IGI noted that there had been a delay in the appointment of the IGI as such he was unable to conduct a review for the reporting period. To this end the IGI issued a disclaimer Certificate for the 2021/2022 reporting year.

4.10 Legal Advice on the Certificates of Activities of the Services by the Inspector-General of Intelligence

Following the presentation of the IGI on the Certificates of the services, the Chairperson, on behalf of the Committee, requested legal advice on the extent of the legal responsibility of the current IGI to develop and submit a Certificate to the Ministers of the Services as envisaged in section 7 read with section 11 of the Act, for the year ending 31 March 2023. The incumbent IGI was appointed on 1 November 2022, and the office was vacant for a period of eight months after the expiry of the employment contract of the predecessor.

The legal advisor presented a legal opinion regarding the submission of Certificates of activities for the Intelligence Services by the IGI for the period when the position was vacant. It was explained that section 7(7) of the Act provided that each Head of Service shall, in respect of every period of 12 months or such lesser period as was specified by

the Minister responsible for that Service, submit to that Minister, a report on the activities of that Service during that period and shall cause a copy of the such report to be submitted to the IGI.

It was explained that it was important to note that the legal responsibility of the IGI to submit the aforementioned Certificate was only applicable when the incumbent was in office. There was no automatic legal responsibility on him to develop and submit the Certificates to the Ministers to transmit to the JSCI. However, legislation indicated that there must be continuous oversight in Parliament. Section 7(6) read with section 7(7)(a) of the Act empowered the Committee and the IGI to look at activities of the year ending 31 March 2022 and flag any compliance issues there might be in the Services. The IGI may be instructed by the Committee to look into compliance matters retrospectively, including the period ending 31 March 2022.

The Committee was advised to request the IGI to consider the activity reports as was submitted to the Minister for the year ending 31 March 2022. The IGI was requested to review the activity reports and advise the Committee on any compliance issues which would enable the Committee to better perform its oversight over the executive function as required by the Constitution and the law.

4.11 Oversight Visits

The Committee commenced its activities of the reporting period with an oversight visit in Gauteng from 19 to 21 April 2022. The main purpose of the oversight visit to the intelligence services was to ensure the effective functioning of the intelligence services. The issues emanating from the Certificates of the IGI for the periods 2019/2020 and 2020/2021 formed the basis of the oversight visit to various premises of the SSA, DI, SAPS-CI, the OIC, and the FIC.

4.11.1 Visit to South African Police Service-Crime Intelligence Offices

On 19 April 2022, the JSCI engaged with SAPS-CI. The delegation of SAPS-CI was led by the current National Commissioner, who was newly appointed at the time. The Committee was briefed on the decentralisation of SAPS-CI and Agent Management Programme.

The National Commissioner informed the Committee that the decentralisation of SAPS-CI had been halted. He explained that he was dissatisfied with the plans to decentralise SAPS-CI as the proposal was not thoroughly ventilated with the relevant structures. The

National Commissioner committed to updating the Committee should there be any plans regarding the decentralisation of SAPS-CI.

With regard to the Agent Management Programme, the Committee received a detailed briefing. It was informed that the programme is a highly classified covert programme which is utilised in the fight against criminal syndicates, gangs or other specialised crime areas. The programme was project-based and used as the last response to operations. The Committee was informed of the various challenges faced by the programme such as the lack of adequate skills and regulations, as previously reported. Possible solutions to overcome those challenges were presented. Some of the challenges were those contained in the Certificate of the IGI on the Activities of SAPS-CI.

The Committee also observed a demonstration of the International Mobile Subscriber Identity (IMSI) - Catcher (grabbers) and Drones as part of the visit. The Committee was informed that the grabbers would be of great value to the work of SAPS-CI as members would be able to intercept mobile communication in real-time which benefit investigations. The Committee was informed that the Grabbers were not in use and were kept in a secure undisclosed location as they were waiting for the Certificate of Exemption which needed to be obtained through the Department of Justice and Constitutional Development in accordance with the RICA. SAPS-CI indicated that it has been trying to deal with the certificate issue for many years with no success.

The drones were also instrumental in fighting crime. It was indicated that the IGI made a finding on the inadequate use of drones. SAPS-CI members indicated that a pilot's licence issued by the Civil Aviation Authority for drones was needed to fly the drones. They explained that the IGI insisted that they be compliant and have a pilot licence in order to operate the drones. They explained that the delay, in attaining licenses, had been for various reasons including medical tests; however, they were committed to ensuring that they were fully compliant.

4.11.2 Visit to the Office for Interception Centres

On 20 April 2022, the JSCI engaged with the OIC. The presentation was centred on the legislative amendments needed, the independence of the OIC as well as oversight of private security companies conducting interceptions without authorisation. It was indicated that the outstanding legislative amendments to RICA had hampered its effectiveness and ability to serve national intelligence structures. To this end, the OIC

requested the JSCI's assistance in requesting the Department of Justice and Constitutional Development to prioritise the amendments.

With regard to the independence of the OIC, it was explained in detail that Chapter 6 of RICA stated that the OIC should be an independent entity servicing the intelligence structures and not a spending centre of the SSA. The OIC mentioned that private security companies had capitalised on the lacuna in the legislation and were conducting interceptions without authorisation. The delegation from the OIC expressed that there was a need to strengthen the legislation to address some of the challenges and would request the assistance of the JSCI in that regard.

The Committee also viewed the offices and the equipment of the OIC. There was a demonstration of how the interception of communication took place. The Committee was taken through the complete process of interception including how the data is saved, and how the office of the Designated Judge of Interception would access the data to verify the number being monitored.

4.11.3 Visit to the Financial Intelligence Centre

On 20 April 2022, the FIC presented its AR for 2020/2021. This report should have been presented during the previous reporting period; however, due to clashing schedules between the Committee and the FIC, it was not presented. During the presentation, it was indicated that the FIC is governed by the Financial Intelligence Centre Act, No. 38 of 2001. The FIC provided information to law enforcement agencies on the identification of proceeds of crime, combating money laundering, financing of terrorist and related activities, proliferation financing; implementation of financial sanctions relating to resolution of United Nations Security Council; and guiding supervisory bodies and enforce compliance with the FIC Act.

The FIC's operational focus areas included corruption and fraud, narcotics, financing of terrorism and tax crimes. The FIC had achieved great success as proceeds recovered by stakeholders using the financial intelligence produced by the FIC for the 2020/2021 financial year totalled R3.4 billion. The FIC implemented a system to obtain feedback from LEAs regarding the financial intelligence produced. At the time, the FIC received feedback on 72 per cent of intelligence reports disseminated to LEAs, which included proactive and reactive financial intelligence reports.

Since its inception in December 2019, SAMLIT had assisted in providing direct, efficient and effective financial information in several high priority financial crime investigations to law enforcement authorities via tactical operations groups. With the assistance of SAMLIT members, the FIC was able to disseminate more than 3 000 financial intelligence reports to law enforcement and other competent authorities, which assisted in criminal investigations and led to the recovery of proceeds of crime to the value of approximately R3.4 billion, as mentioned, between 1 April 2020 and 31 March 2021.

The FIC had deepened its international collaboration as South Africa was part of a global network of approximately 200 countries working to prevent money laundering and terrorist financing. During the 2020/2021 financial year, the FIC concluded four new international memoranda of understanding. The total number of international MOUs as of 31 March 2021 was 95. In August 2020, the FIC Director, Adv Khanyile, was appointed as one of two Deputy Vice-Chairs to the Egmont Group, an international body which as of 31 March 2021, consisted of 166 financial intelligence units. As Deputy Vice-Chair, Adv Khanyile had assumed oversight over the Egmont Group's governance and external communications reference groups.

The Committee was informed that South Africa was amongst a pool of countries that were eligible for grey listing by the Financial Action Task Force (FATF) and was in an observation period. The observation period allowed countries an opportunity to recover and would end in October 2022. Discussions would take place in January 2023 to determine if South Africa had improved and the FATF would decide on the greylisting in February 2023. At that time, South Africa was not in a favourable position. In the event that SA was grey listed by FATF, the country would automatically be listed by the European Union (EU). Although this would not stop trade, it would slow it down drastically as each and every transaction was screened.

The Committee was briefed on the Fusion Centre, which was launched in 2019. The centre provided a central hub for the coordination of matters related to corruption and money laundering. The Fusion Centre was placed to probe fraud and corruption matters that arose regarding the government's COVID-19 pandemic relief efforts. Its successes by the end of March 2021 included blocking R146 million in 81 bank accounts. The Special Investigating Unit (SIU) Tribunal enrolled cases to the value of R289 million. A further R247 million in unpaid taxes was recovered by the South African Revenue Service (SARS).

The organisational challenges experienced by the FIC included funding, retention and recruitment of specialist skills and employees in critical positions. Furthermore, reduction to the FIC's budget baseline over the last few years had severely restricted the FIC's operations, notwithstanding the small adjustment in 2022 budget. This was particularly impactful as most of the FIC's clients, who relied on outputs from the FIC had received funds for additional resources during the same periods. The FIC was unable to increase its operations and therefore its outputs, to meet the increased demands of its clients.

The way forward would include the retaining and recruitment of skills. With the amendment of the FIC schedules, the FIC would be required to supervise more than 30 000 institutions (currently 7 000). It had a limited number of inspectors to do such work. The FIC, at the time, only had two data technologists to identify and isolate key suspicious transaction reports for integration and further processing. It also required to ensure the proactive analysis and integration of data into the production of financial intelligence reports. During the oversight visit, the FIC only had 32 financial analysts and 2 forensic accountants to provide quality forensic accounting services. These also assisted in the preparation of forensic reports to assist in court processes.

The FIC also needed to innovate in order to meet the demand for analysis of regulatory reports and convert them into actionable financial intelligence. For this, the FIC requires improved access to government databases. It also needed to explore new methods, opportunities and/or technologies for using big data to improve the integration, analysis and dissemination of financial intelligence.

4.11.4 Visit to the Gauteng Provincial Office of the State Security Agency

On 20 April 2022, the JSCI engaged with the SSA Gauteng Provincial Office led by the Deputy Director-General: Domestic Branch. The purpose of the visit was to provide oversight on matters raised in the 2020/2021 Certificate of Activities of the IGI regarding office space at the Gauteng Office of the SSA.

The Committee was informed about the structure of the Gauteng Office. The presentation included the number of offices and their location most of which were operational offices and not known to the general public.

Various challenges were outlined which included the leases which were about to expire. The Committee was informed that there were processes underway to procure a

permanent space for the office. A breakdown of rental expenditure was also provided to the Committee.

4.11.5 Visit to the State Security Agency

On 21 April 2022, the JSCI engaged with the SSA in Musanda. The Committee was informed that SSA was seized with dealing with all matters raised in the HLRP and that the Agency had developed an Action Plan to ensure that all the recommendations were attended to. It was mentioned that some of the recommendations were dependent on the new legislation and the separation of the SSA such as the appointment of a Director for the Domestic Branch. Various presentations were prepared on matters including the forensic investigation, the General Intelligence Laws Amendment Bill (GILAB), ownership and leasing of properties, NC and IA.

With regard to the forensic investigation, it was indicated that the President appointed a HLRP in June 2018. The final report of the HLRP was issued in December 2018 and the recommendations were accepted by the President on 09 March 2019. The President instructed the SSA to implement the recommendations, of which one was that a forensic investigation be instituted.

The Committee was informed that Bowmans law firm was identified as the preferred bidder. However, the firm withdrew due to the long procurement process and refusal by their officials to undergo vetting. In February 2021, the process to appoint another forensic firm was resumed, and Ligwa Advisory Services was identified as the preferred service provider. Ligwa's vetting was successfully completed in October 2021 and its appointment letter was issued in late October 2021. In November 2021, the contract was concluded between the SSA and Ligwa and the firm commenced with forensic investigations in March 2022. The first forensic report was expected on 30 May 2022 and would be issued to the DG. All cases were approved/ signed off by the Accounting Officer. While Ligwa had commenced with the investigations, parallel investigations were being conducted.

The DG informed the Committee that the work of the firm continued smoothly with minor challenges which were receiving attention. The DG indicated that acts of criminality uncovered would be directly reported by Ligwa to law enforcement agencies. Transgressions of internal prescripts would be reported to the SSA for disciplinary steps to be taken.

The Committee was also briefed on the ownership of provincial offices as a way to reduce leasing costs of properties. It was mentioned that the SSA own premises where its provincial offices are located in five provinces and processes are underway to procure premises for the other four provinces, which were currently being leased.

4.12 International Trips/Study Tours: United Kingdom and Canada

For the period under review, the JSCI undertook a study tour to the United Kingdom and Canada from 8 to 17 November 2022. The Committee sought to learn best practices, with regard to its functioning, through discussions on shared experiences, challenges, successes and possible areas for future collaboration, in order to strengthen oversight of the intelligence services.

This was in line with the findings of the HLRP which identified challenges resulting from what it called uneven and inadequate parliamentary oversight. The HLRP recommended a review of the functioning of the JSCI. In addition, the Judicial Commission of Inquiry into State Capture, Corruption and Fraud in the Public Sector including Organs of State, hereafter State Capture Commission, found that there was evidence of abuse of intelligence services both financially and politically. More importantly, it found that the JSCI had inadequately performed its oversight responsibilities particularly as it relates to the following:

- Overseeing the creation of a new intelligence service as required by law.
- Ensuring the implementation of the recommendations of the HLRP.
- Enforcing the recommendations of the IGI regarding malfeasances, illegalities and impropriety occurring within the services.
- Ensuring that the AGSA was able to conduct audits in all areas, particularly covert structures.

The focus of the study tour outlined below was aligned with the Sixth Parliament's strategic objectives specifically to deepen democracy through strengthening the legislative and oversight capacity and deepening engagement with international fora. To this end, the JSCI engaged its counterparts in the following areas:

- Overseeing the philosophical doctrine of intelligence services to ensure ideals were aligned with the supreme law.
- Best practice for conducting oversight of reforming intelligence services.

- Insight on how to enact legislation to provide effective financial oversight of covert structures.
- Best practices for overseeing the effective functioning of intelligence services to ensure legality and propriety of activities (particularly covert structures).
- Knowledge of how to strengthen the OIGI and its functions.
- Insight and best practices on how to support the role of auditing bodies similar to the AGSA.
- Knowledge of how to enact legislation to provide effective bulk surveillance and the appropriate oversight (ensuring that civil liberties were respected).
- Understanding how to foster better cooperation and coordination between the various intelligence services.

4.12.1 United Kingdom: 8 to 10 November 2022

In the UK, the Committee met with the Investigatory Powers Commissioner's Office (IPCO), the Intelligence and Security Committee of Parliament, South African High Commission, Investigatory Powers Tribunal, and the Office for Communications Data Authorisations.

Investigatory Powers Commissioner's Office

On 08 November 2022, the Committee met with IPCO represented by Judicial Commissioner Honourable Sir N Blake, the Chief Inspector Mr S Mc Lead, and the Head of Legal Mr P William. The Committee was informed that IPCO had been established in 2017 following the enactment of the Investigatory Powers Act of 2016, and was headed by the Investigatory Powers Commissioner, Sir Brian Leveson. It was explained that in the years preceding the establishment of IPCO, there had been a number of high-profile allegations that were made regarding the (mis)use of investigatory powers by the UK public authorities including the intelligence services. The allegations received widespread media attention and raised public concerns about the use of investigatory powers.

The Committee learned that IPCO had an ex-ante and ex-post facto mandate. Firstly, it reviewed (ex-ante) the use of covert investigatory powers by public authorities prior to the commencement of operations. Secondly, it conducted inspections (ex-post facto) on how services used the investigatory powers and ensured that all methods were used in a manner that complied with the law.

The review process was a double-lock process to ensure a two-stage approval for the use of investigatory powers. Public authorities submitted applications for the use of investigative powers to their respective Ministers (or for communications data, to the Office for Communications Data Authorisations) for approval. Once Ministerial approval was confirmed, the application was submitted to IPCO for the second approval phase to ensure legality, compliance and reasonability. Essentially the Commissioner needed to ensure that the application and use of intrusive investigation powers was in the interests of national security and the economic well-being of the UK, and used to prevent or detect serious crime.

The Judicial Commissioner would then consider the application and submit the response to the requesting public authority. This additional authorisation is referred to as the double-lock. In exceptional circumstances such as an immediate threat to life, prior approval would not be required but the Commissioner needed to be notified of the authorisation.

All intelligence services were obligated to comply with the review process when using all listed intrusive methods. Non-compliance with the preapproval was reported as error. Each error was defined as having caused significant prejudice or harm to the person concerned. The Investigatory Powers Act detailed that the following investigatory powers required prior approval of a Judicial Commissioner using the double-lock process, namely; bulk communication data, targeted communication data – approval is required to identify or confirm journalist's sources, bulk equipment interference, targeted equipment interference, bulk interception, targeted interception, bulk personal datasets, covert human intelligence, approval was required to deploy an undercover officer for more than 12 months, Intrusive Surveillance and Property Interference.

As part of monitoring, IPCO was required by law to look into how investigatory powers were used. IPCO, had a dedicated Inspectorate to monitor how public authorities exercised their investigative powers. This was done to ensure that Services were indeed compliant in their execution of powers. The Inspectorate was divided into three teams each team led by a Chief Inspector, focusing on these different areas of oversight namely; the use of the powers by the UK's intelligence community, Ministry of Defence and other intercepting agencies such as the National Crime Agency; other public authorities' use of communications data; and the use of surveillance, covert human intelligence sources, and property interference powers by other public authorities.

With regard to non-compliance, potential cases of non-compliance that were not sent to IPCO were reported as an error. Each error was evaluated for seriousness, and an inspector would investigate if necessary. The purpose of an investigation into a potentially serious error was to enable the Investigatory Powers Commissioner to consider whether the error has caused significant prejudice or harm and, if so, decide whether it was in the public interest to inform the person concerned; and to review the cause of the error and make recommendations to prevent recurrence. The public authorities would use the results of error investigations to inform policy changes, national training, and product development to lower or eliminate the danger of subsequent occurrences.

In terms of reporting, IPCO reported to the Prime Minister through the tabling of an annual report. The Prime Minister tabled the report in Parliament. IPCO was not accountable to a Parliamentary Committee, however, it could be tasked by Parliament to investigate a certain matter and the Tribunal could also assist in investigations and verify disclosure of public authority.

With regard to bulk interception, its use was constitutional and legislated. Bulk interception was done by Government Communications Headquarters (GCHQ) and after authorisation, it would be submitted to IPCO for further processing. The warrant for bulk interception lasted up to six months. However, there were geographic restrictions on bulk interception and it focused on international interception rather than individuals. There were processes to check and train staff to review whether it was necessary to intercept or not.

Intelligence and Security Committee of Parliament

On 8 November 2022, the JSCI met with the Intelligence and Security Committee of Parliament (ISC), which was represented by Right Honourable Sir Lewis, the Chairperson of the Committee, accompanied by Right Honourable Jones a Member of the Committee and three staff members.

In terms of its mandate, it was indicated that the ISC was a Parliamentary Committee with statutory responsibility for oversight of the UK intelligence community. The ISC was established by the Intelligence Services Act of 1994 and its powers were reinforced by the Justice and Security Act of 2013.

The ISC conducted oversight of the policies, expenditure, administration and operations of the seven Agencies and Departments which form the UK intelligence community, namely: Security Service (MI5), Secret Intelligence Service (MI6), GCHQ, Defence Intelligence in the Ministry of Defence; the Joint Intelligence Organisation (JIO) in the Cabinet Office, the National Security Secretariat (NSS) in the Cabinet Office and Homeland Security Group in the Home Office.

The ISC conducts regular reviews of the intelligence and security agencies' policies, procedures and activities. These reviews involve examining the agencies' compliance with legal and regulatory frameworks, assessing the effectiveness of their operations and identifying areas for improvement. The ISC investigates specific issues or incidents of concern within the intelligence and security community. This may include inquiries into alleged misconduct, breaches of legal or ethical standards, or matters of public interest related to national security. Additionally, the ISC has the authority to access classified information and conduct inquiries in closed sessions to protect sensitive intelligence sources and methods. This enables the committee to conduct thorough and impartial investigations while maintaining the confidentiality of sensitive national security matters.

Furthermore, the ISC publishes reports detailing its findings, conclusions, and recommendations to Parliament and the public. These reports provide valuable insights into the work of the intelligence and security agencies, promote transparency, and facilitate informed debate on matters of national security.

South African High Commission in the United Kingdom

On 9 November 2022, the Committee had an engagement at the South Africa House with the South African High Commission in the UK, Ambassador Jeremiah Mamabolo. The High Commissioner indicated that he just began his posting when the Committee visited. He briefly outlined his previous postings which included Tanzania, Mozambique, Zimbabwe and Cuba before 1994. Post 1994, he became High Commissioner to the Republic of Zimbabwe, until 1999, when he became South Africa's Permanent Representative to the African Union and concurrently South African Ambassador to Ethiopia, Sudan and Djibouti.

In 2002 he became Deputy Director-General for African Affairs, Department of Foreign Affairs, until 2006, when he was appointed as South Africa's Special Envoy to the Great

Lakes Region. From 2009 to 2013, he was South African High Commissioner to the Federal Republic of Nigeria, before moving on to New York to become the Permanent Representative of the Republic of South Africa to the United Nations. In 2017, he was appointed as Joint Special Representative of the Secretary General of the United Nations and Chairperson of the African Union, a position which he held until 2021.

The High Commissioner then briefed the Committee on the importance of relations between South Africa and the UK. He also outlined his role as well as the capacity of the High Commission as well as the services provided.

State Security Agency Foreign Station in the United Kingdom

On 9 November 2022, the Committee visited the Foreign Station in the UK as part of its oversight functions. This was the first time that the Committee conducted oversight to a foreign station. The decision to visit the station was precipitated by the challenges identified by the HLRP. Key among those challenges were huge weaknesses in the process of selecting members for placement abroad, complaints of favouritism in the placing of members abroad, concern about the lack of responses from head office to intelligence and other reports, and consistent complaints that the amalgamation of the South African Secret Services (SASS) into the SSA had reduced focus on foreign intelligence.

The visit was also necessitated by the findings in the IGI certificate with regard to the Foreign Branch of the SSA. The JSCI engaged with the Head of Station (HOS) and received a full briefing on the post establishment and the functioning of the Station. The HOS indicated that the changes within the SSA, particularly at a leadership level, had negatively affected the standard operating procedures at foreign stations. It was indicated that new leaders replaced existing procedures and dismantled resource structures and allocations. Additionally, the abuse of financial resources meant the SSA could no longer meet its foreign station requirements.

The Committee was informed that the Station's lack of adequate technological equipment had seriously impacted its work and effectiveness. There was an overreliance on human sources for collection; however, this method was not useful without adequate personnel. The Station was understaffed and lacked resources, which affected its ability to execute its mandate.

Investigatory Powers Tribunal

On 10 November 2022, the JSCI engaged with the Investigatory Powers Tribunal (IPT) which is an independent judicial body that operates independently from the UK Government. The Committee was informed that its mandate is to provide compensation for anyone who believed that they had been a victim of unlawful action by a public authority using covert investigation techniques.

The IPT hears complaints and legal challenges related to public authorities' use of investigatory powers. Individuals, organisations, and corporations may bring complaints before the tribunal if they believed surveillance activities have infringed upon their rights to privacy or other human rights. The IPT has the authority to review the lawfulness and proportionality of surveillance measures, ensuring that they comply with domestic and international legal standards.

The IPT conducts inquiries and investigations into specific cases of alleged unlawful surveillance or misconduct by public authorities. These inquiries may involve examining the legality of surveillance warrants, the use of intrusive surveillance techniques, or the handling of intercepted communications. The tribunal has the power to compel the production of evidence, hear testimony from witnesses, and make binding rulings on the legality of surveillance activities.

Office for Communications Data Authorisations

On 10 November 2022, the Committee engaged with the Office for Communications Data Authorisations (OCDA), which is responsible for reviewing and processing applications from public authorities seeking authorisation to acquire communications data. This included phone records, internet usage logs, and email metadata, which could provide valuable intelligence in criminal investigations and national security operations. OCDA assessed each application to ensure that it met the legal criteria for obtaining communications data and that it was necessary and proportionate to the objectives of the investigation.

OCDA conducted oversight of the authorisation process to ensure compliance with relevant laws, regulations, and government policies. This included monitoring the conduct of public authorities involved in the acquisition of communications data and conducting audits and inspections to assess compliance with legal and procedural requirements.

4.12.2 Canada: 14 to 17 November 2022

South African High Commission in Ottawa, Canada

On 14 November 2022, the Committee engaged with the South African High Commissioner in Canada, Ambassador Moe Shaik, who was accompanied by Ms Shirley Hoyana, First Secretary: Political and Ms Sylvia Mtombeni, Third Secretary: Political. The Committee was briefed about the programme and scheduled meetings with the counterparts.

He also indicated the diplomatic and strategic importance of Canada, and need for a collaboration and cooperation, particularly in the areas of intelligence since Canada was part of the Five Eyes (FVEY) alliance, which is an intricate web of global intelligence, a covert club that continues to redefine geopolitical landscapes. FVEY is a powerful intelligence alliance that has established an unprecedented era of surveillance and information sharing that continues to shape the world's approach to national security. South Africa could benefit from FVEY.

He also explained that the HOS was not located in Ottawa. He indicated that this arrangement disadvantaged the Mission. Furthermore, he indicated that there was no engagement with the HOS which meant that a briefing on the security of the Mission, threats, risks or opportunities identified from an intelligence perspective could not take place.

Office of the Intelligence Commissioner

On 15 November 2022, the Committee engaged with the Intelligence Commissioner (IC), responsible for performing quasi-judicial reviews of the conclusions on the basis of which certain authorisations were issued or determinations made under the Communications Security Establishment Act and the Canadian Security Intelligence Service Act.

National Security and Intelligence Committee of Parliamentarians

On 15 November 2022, the Committee engaged with the National Security and Intelligence Committee of Parliamentarians (NSICOP) comprising of Members of Parliament who were empowered to review (ex post facto) all national security and intelligence activities across the federal government. It was important to note that NSICOP was not a committee of the Canadian Parliament but rather a committee

comprising of Parliamentarians who reported to the Prime Minister through the tabling of an AR, which is then tabled in the Canadian Parliament. The NSICOP's key ethos was to provide fearless advice and in turn, they expected loyal implementation of their recommendations by the services.

The NSICOP Act mandates the Committee to examine the legislative, regulatory, policy, administrative, and financial framework for national security and intelligence services as well as any activity carried out by a department that relates to national security or intelligence unless the activity was an ongoing operation and the appropriate Minister determined that the review would be detrimental to national security. The NSICOP is supported by a secretariat in carrying out its duties and underscored the importance of a well-resourced secretariat. The Secretariat ensures the Committee had timely access to pertinent, sensitive information and provided strategic and knowledgeable guidance while conducting committee reviews. Furthermore, it offers procedural support to make ensure that security regulations were followed and assisted in the creation of Committee reports.

The NSICOP reviews the legislative, regulatory, policy, administrative, and financial framework for national security and intelligence. The NSICOP's Act is not prescriptive regarding how the reviews ought to be conducted. Under its statutory mandate, the NSICOP performed two different reviews. It conducted referral reviews of any topic pertaining to national security and intelligence that had been referred to the NSICOP by a Minister or framework reviews, which looked into the legal, administrative, policy, and budget matters of intelligence services.

Additionally, the NSICOP conducts activity reviews which examine any activity carried out by an entity that had anything to do with intelligence or national security. The NSICOP takes into account a number of factors, such as whether the organisation had previously been reviewed, how well-known were the activities to Canadians, whether they were subject to specific laws or directives from the government, and the degree to which an activity could jeopardise Canadians' rights under the Charter, Canada's relations with other countries, its sovereignty, or the integrity of its institutions, economy, or society.

While these reviews often concentrate on a single organisation, they frequently look into how the organisation collaborated with others to carry out its mandate or deal with

problems of shared interest. By separating the issue specific reports from the annual reporting cycle (legislative activities in the annual report), the Committee would be able to conduct in-depth reviews of intelligence agencies.

Lunch with National Security and Intelligence Review Agency, Canadian Office of Global Affairs and the South African High Commission

On 16 November 2022, Ambassador Moe Shaik accompanied by Ms Hoyana and Ms Mtombeni hosted the JSCI, National Security and Intelligence Review Agency (NSIRA) and the Canadian Office of Global Affairs for a networking and working lunch. Ambassador Shaik explained that the purpose of the meeting was to allow all parties to meet and engage on matters of mutual interest.

Following introductions by the South African High Commissioner, discussions focussed on how the overhaul of the Canadian oversight model had strengthened accountability within the intelligence community. The discussion moved to the benefits of the FVEY and other oversight affiliations and how the JSCI, through Parliament, could facilitate that South Africa participated in the FVEY Intelligence Oversight Review Council. Discussions were held on how staff members from the JSCI and Secretariat could have exchange programmes and a practical real-time experience that could be mutually impactful.

National Security and Intelligence Review Agency

On 17 November 2022, the JSCI engaged with NSIRA which emerged in 2019 as part of an overhaul of Canada's national security accountability model, aiming to address systemic gaps and enhance independent oversight of national security and intelligence operations. Unlike previous oversight bodies, NSIRA was mandated to comprehensively review all national security and intelligence activities across the Canadian government, ensuring they were lawful, reasonable, and necessary. It operated independently and reported to Parliament through annual reports, providing impartial assessments and investigating public complaints regarding national security organizations and their operations. NSIRA's establishment marked a significant shift towards integrated and robust oversight, transcending departmental boundaries and enabling comprehensive scrutiny of intelligence activities.

Led by a Chairperson and up to six distinguished Canadians, NSIRA's members were appointed by the Governor in Council after consultation with the Prime Minister and

other political parties. Supported by a Secretariat comprising four directorates, NSIRA's operational structure facilitated thorough reviews, legal assessments, corporate services, and executive leadership. As an independent entity separate from public administration and intelligence services, NSIRA played a pivotal role in ensuring accountability and transparency in Canada's national security efforts, funded through the Prime Minister's office and operating with a dedicated staff of approximately 100 employees.

4.13 Implementation of the High-Level Review Panel Recommendations

The previous AR of the JSCI outlined how the Committee had been following up on the implementation of the recommendations of the HLRP into the SSA. Briefings took place on quarterly basis as per the recommendation of the previous report, but progress had been slow. The Committee continued overseeing the implementation of the HLRP during the reporting period. One of the recommendations as indicated previously, was the legislation to enable the separation of the SSA into domestic and foreign services.

4.14 Proposed Committee Bill (General Intelligence Laws Amendment Bill)

Despite undertakings that the Bill would be introduced in November 2022, it was not introduced. During the oversight visit to Gauteng on 21 April 2022, the Committee was provided with a timeline for the Bill. The following was indicated:

No	Development Process	Timeline
1	Draft Bill, Business Case and Cab Memorandum prepared	April – May 2022
2	Internal Consultation	May – June 2022
3	Changes effected to Bill and Business Case post-consultation	June 2022
4	Preliminary opinion from State Law Advisor	June 2022
5	Consultation with DPSA and National Treasury	July 2022
6	Finalise Bill, Cab Memo, Business Case, and Presentation	July 2022

7	Consultation with JCPS Dev Committee & DG Cluster	August 2022
8	Consultation with ICCS & OIGI	August 2022
9	Approval of Minister	September 2022
10	Cabinet approval	September 2022
11	Introduce in National Assembly	November 2022

The above resulted in the Committee delaying the introduction of a Committee Bill of which work commenced in Mid 2021 as reported in the previous AR. At this time, the JSCI already held several briefings on the Committee Bill including a briefing by the Parliamentary Legal Advisors on the drafting of the Bill as mentioned in the previous AR.

The Committee requested regular updates on the introduction of Bill by the executive. On 31 August 2022, the SSA provided an update to the Committee. Having realised that the Bill was unlikely to be tabled in Parliament before the end of the financial year, the Committee instructed legal services to draft a Bill. On 6 September 2022, Parliamentary Legal Advisors made a presentation of a draft Bill to the Committee. Simultaneously, the Committee continued making follow-ups on the introduction of the Bill by the Minister in The Presidency. Nonetheless, the Bill was not introduced in November 2022, and had not been introduced by 31 March 2023.

4.15 Implementation of the Report of Judicial Commission of Inquiry into State Capture, Corruption and Fraud in the Public Sector including organs of state

On 22 June 2022, the State Capture Commission released its *Part V: Vol. 1 Report on State Security and Crime Intelligence*. As indicated in the previous report, the Committee had been overseeing the revelations at the State Capture Commission before the work was concluded. The Office of the JSCI, had put in place an oversight plan with time lines to oversee the implementation of the recommendations with regard to intelligence services. The oversight plan included the analysis of findings and

recommendations, and mechanisms to implement the recommendations which were time bound.

Pursuant to the publication of the report, the JSCI through its support team, proactively synthesised and analysed Vol 1 which reported on the SSA and SAPS-CI as well as Vol 4 which contains recommendations. On 24 August 2022, the Committee received a presentation from its Researcher and Legal Advisor on the findings and recommendations made in respect to intelligence services contained in the report of State Capture Commission (see Annexure E).

4.15.1 State Security Agency

Politicisation of the SSA: It was found that the SSA was used as a conduit to advance political and personal interests of certain individuals. This was done through *inter alia* altering intelligence priorities to serve a particular narrative, the use of its resources (both human and financial) to advance political campaigns. It was recommended that the SSA be monitored to ensure that it is not used for political or personal advancement.

Centralisation of Power into the Office of the Director-General: The creation of the SSA through Proclamation 59 of 2009 resulted in a centralised of all power to the DG: SSA. This also streamlined all reporting lines to the DG. Essentially, the DG had authority over all intelligence operations domestically and abroad with limited oversight. It was recommended that the JSCI must exercise oversight and ensure that there is no abuse of power.

Outdated Policy and Legislation: It was stated that the National Strategic Intelligence Act should urgently be amended to dismantle the SSA, and policies needed to be updated in lieu of the separation of the SSA into domestic and foreign services. It was recommended that the SSA should to be dismantled through legislation.

With regard to legislation, the Committee worked tirelessly to expedite the completion of GILAB. Various requests were made to the SSA for the tabling of GILAB to Parliament (see previous section on Proposed Committee Bill (General Intelligence Laws Amendment Bill)).

Outdated philosophical documents: The White Paper on Intelligence was dated and required urgent revision. It would serve as the bedrock for the SSA's philosophical posture and reposition the intelligence service to serve national security instead of state security.

Executive Overreach. The creation of the SSA made the DG report to a Minister that paved the way for Executive involvement in intelligence operations. The relocation of the SSA to the Presidency as recommended by the HLRP assisted in addressing this matter. The JSCI continued monitoring and ensuring that the Executive was not involved in operational matters.

Temporary Advance (TA) System and the withdrawal of large sums of cash. The TA System and the withdrawal of large sums of cash particularly in the covert structures was a serious problem. The intelligence environment requires that operatives use cash, however, over the years some members flouted financial regulations governing the TA System. As such some members of the SSA were heavily indebted owing money to the State. The State Capture Commission recommend the tightening of financial controls and accountability. The Committee requested that the SSA develops an effective and enforceable system to manage the use of cash withdrawals and the general accounting for operational funds. The Chief Financial Officer (CFO) was requested to provide a full briefing to the Committee on the challenges with the TA System in both covert and overt structures and give a detailed plan on how to strengthen control of the system (inclusive of timeframes). On 1 November 2022, a meeting was held where the CFO briefed the JSCI on the TA System (see Annexure E). Follow-ups were made during quarterly briefings.

Flouting of Recruitment Processes: Over the years the SSA recruitment policies were flouted. The SSA must adhere to all recruitment processes. The State Capture Commission recommended that the SSA adhere to all recruitment processes. The recommendation coupled with the complaint received by the Committee on the irregular appointment of 26 senior managers, made in February 2021 by the former Minister resulted in the JSCI requesting a full briefing on the recruitment processes including promotional policy and a cadet programme. On 31 August 2022 and 1 November 2022 meetings were held regarding the appointment of 26 senior managers. Follow-up correspondence was held in this regard.

Non-Compliance with the requests by the IGI. It was found that the SSA denied the IGI access to information and premises. The State Capture Commission recommended that the SSA must comply with Section 8 of the Intelligence Services Oversight Act. The JSCI constantly monitored this on an ongoing basis, and undertook to actively intervene

in instances where such non-compliance occurred. None occurred during the reporting period which required intervention.

Uneven and Ineffective Parliamentary Oversight: The State Capture Commission, on page 39 of its report, found that “Parliament's Joint Standing Committee on Intelligence (JSCI) failed to properly perform its oversight duty in respect of the SSA. President Zuma restructured the country's Intelligence Services by way of Proclamation dated 11 September 2009. The Proclamation purported to amalgamate the NIA and the SASS into the SSA. This was not permissible as the proposed restructuring could only be effected through national legislation; that is, through Parliament”.

The Commission further stated that “(i)t was not until 13 September 2021 that the JSCI noted the unlawfulness of the Proclamation and sought to regularise the amalgamation which had been effected in paragraph 5.1.1 of its Annual Report "For the Financial Year Ending 31 March 2020 Including the Period Up to December 2020 published on 13 September 2021, the JSCI recorded:

The proclamation was announced in July 2009 but only approved in October 2010 the legislation that amended the changes was only approved later in the form of the General Intelligence Laws Amendment Act, No. 11 of 2013. The gap between 2010 and 2013 resulted in serious concerns and illegal functioning of the SSA. The new structure created a powerful Director-General with powers concentrated on a single individual. The amalgamation also enabled some members of the executive to issue illegal instructions to members of the SSA. These instructions amounted to executive overreach.

The above mentioned report was issued by the current JSCI. The State Capture Commission further stated that “(t)here [was] no evidence before the Commission that any committee before it did anything about the illegal functioning of the SSA during the period between 2010 and 2013 when the General Intelligence Laws Amendment Act was passed”. This had illustrated that there has been uneven and ineffective Parliamentary oversight over the years. The JSCI resolved to hold the Executive accountable through its various mandated functions and ensure adherence to laws and good governance over public funds. The JSCI intensified its functioning by convening more meetings, analysing and synthesising documents presented to the JSCI, briefings on matters arising from analysis and conducting oversight visits and convening special

meetings with the services when required, and undertaking a study tour to the United Kingdom and Canada to learn the best practises as indicated (see Annexure E).

4.15.2 South African Police Service-Crime Intelligence

Politicisation of SAPS-CI: The report stated that SAPS-CI allegedly used its grabbers at the conference of the African National Congress (ANC) held in Nasrec. This resulted in political interference. It was recommended that SAPS-CI be monitored to ensure that it is not used for political advancement. The Committee requested a full briefing on the use of grabbers even before the release of the report by the Commission. On 19 April 2022, SAPS-CI made a full presentation to the Committee during its oversight visit on the matters connected with grabbers (see Annexure E). At this meeting, SAPS-CI was requested to institute consequence management in instances of wrong doing.

Irregularities in financial statements: Financial controls and accountability was found to be weak. An effective accounting system for operational funds needed to be developed. The Committee developed a focused approach into providing oversight on SAPS-CI based on the findings of the HLRP and the State Capture Commission. The Committee convened various meetings with various bodies such as the AGSA (6 September 2022), SAPS-CI Internal Audit (7 September 2022), and ARC of SAPS-CI (7 September 2022) in an effort to understand some of the challenges in SAPS-CI, which related to some of the matters raised in the report of the State Capture Commission.

Following the meetings held, the CFO of the Secret Services Account was requested to provide a full briefing to the Committee on the challenges with the Secret Service Account and give a detailed plan to strengthen control of the account (inclusive of timeframes). On 26 October 2022, the JSCI held a meeting with SAPS-CI on the findings and recommendations in the report of the State Capture Commission. The meetings focused on the functioning of the Secret Services Account, controls of the Secret Services Account, Auditing of the Secret Services Account, challenges of the Secret Services Account, solutions for the Secret Services Account, and consequence management for those who abused the Secret Services Account (see Annexure E).

At the mentioned meeting, the Committee was dissatisfied with the presentation as it did not give enough information for oversight to be conducted. SAPS-CI was instructed to examine the root causes of the vulnerabilities to avoid recurrence. The Committee informed SAPS-CI to put measures in place to prevent the abuse of the Secret Services

Account. SAPS-CI was requested to submit a detailed report on the implementation of the findings and recommendations of the State Capture Commission. The report was submitted to the Committee, and various matters were followed up on regularly.

Vetting of Senior Officials: It was found that most senior officials were not vetted in the SAPS in general and SAPS-CI in particular. It was reported in one meeting that some senior officials refused to be vetted. In addition, there was a backlog in vetting, which was widespread amongst the services. It was also one of the findings of the IGI in the certificates. The Committee had been working on this matter for a while. During this reporting period, the Committee informed all the three Ministers and heads of services that all officials not in possession of a valid Top Secret security clearance certificate were not allowed in its meetings. Furthermore, all services were requested to provide copies of valid security clearance certificates to the JSCI for all officials who attended its meetings. In addition, several meetings were held with special focus on vetting, and regular updates were provided.

4.15.3 Defence Intelligence

Non-compliance with National Treasury regulations regarding competitive bidding for procurement: With regard to DI, it was found that financial controls and accountability needed to be tightened.

Vetting Backlog particularly of Senior Officials: It was found that there was a vetting backlog especially of senior officials. It was recommended that priority be given to those that occupy senior positions working with sensitive information and those in supply chain management. The Committee requested DI to develop a plan to address the backlog, and report quarterly.

4.15.4 Parliament's Implementation Plan to give effect to the Recommendations in the Report of the Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State

On 31 January 2023, the Speaker of the NA, through the Announcements, Tablings and Committee Report No 7 of 2023, referred "Parliament's Implementation Plan to give effect to the Recommendations in the Report of the Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State", to various Committees including the JSCI for consideration and report.

The Joint Rules Committee took a decision that quarterly reports must be submitted by the respective committees to the Office of the House Chairperson. The JSCI has submitted quarterly updates with regards to the State Capture Commission as required.

4.16 Exemption Certificate for the use of Grabbers procured by South African Police Service-Crime Intelligence

The JSCI sought to regularise the use of grabbers procured by SAPS-CI, which would be instrumental in dealing with crime. When the grabbers were procured, the Certificate of Exemption in terms of the RICA was not granted. The IGI, as reported in the previous AR investigated the matter and made findings. The IGI indicated that the procurement of grabbers allegedly contravened section 45(1) of RICA.

During the oversight visit as mentioned, the JSCI was informed that grabbers were not in use due to the outstanding Certificate of Exemption. The Committee resolved to engage the relevant Ministers to regularise the issue of the Certificate of Exemption. Several meetings were held with the relevant Ministers.

On 23 August 2022, the Minister of Justice and Constitutional Development, Hon R Lamola informed the Committee that there had been engagements with the other relevant Ministers. He indicated that the Certificate of Exemption for the possible use of grabbers procured by SAPS-CI had been signed by the relevant Ministers. The Minister mentioned that section (46)(4)(a) of RICA, stated that prior to publishing a Certificate of Exemption the Minister had to table such certificate in the NA for approval.

4.17 Investigation into specific allegations arising out of the Phala Phala Game Farm theft matter

On 05 August 2022, the Speaker of the NA requested the JSCI to investigate the two matters related to the Phala Phala Game Farm theft matter specifically:

“that Deputy State Security Minister Zizi Kodwa knew about the Phala Phala robbery and opted to keep the matter a state secret, rather than reporting the matter to the appropriate authorities. It has also been alleged that Kodwa accompanied Major General Wally Rhooode, the head of the Presidential Protection Unit during secret interactions between the South African and Namibian authorities; and

[that] reports emerged that a secret Crime Intelligence Fund was used to finance the undercover operations which traced the thieves, with the goal of recovering

the stolen money. It has been alleged that almost R2 million a month from this fund was spent to send an elite special task force to guard President Ramaphosa's private game farm. Should this be true, this would constitute a flagrant abuse of our taxpayer's money”.

The JSCI wrote to the concerned parties to grant them a right of reply to the allegations in accordance with the Speaker's request as stated above. Responses were received from the then Deputy Minister in the Presidency responsible for State Security, and the National Commissioner of Police who responded on behalf of SAPS-CI. The responses were as follows:

- The Deputy Minister denied having prior knowledge of the alleged matter and all allegations against him.
- The National Commissioner of Police stated that no funds from the SAPS-CI Secret Services Account were utilised in relation to the theft at the Phala Phala game farm theft.

The Committee found that there was no independently verifiable information to support the allegations against the Deputy Minister and the use of funds from the Secret Services Account of SAPS-CI. On 30 August 2022, the Committee adopted its report on the referred matter.

4.18 Relocation of Defence Intelligence Headquarters

Following various engagements and oversight visits to DI, the Committee resolved to intervene in the challenge faced by DI with regard to the relocation of its headquarters. This began in the previous reporting period. On 23 March 2022, the Departments were directed to form a task team and present a final product to the Committee.

Various meetings were arranged with the Department of Defence and the National Department of Public Works and Infrastructure (DPWI) on this matter. Several updates were provided. On 23 August 2022, the Committee received an update on the outcomes of the feasibility study that was conducted by the DPWI for the relocation of the DI Headquarters. The options indicated were, using the existing building, construction on vacant land, leasing an alternative building or purchasing an alternate building. It was further indicated that DPWI identified four sites that were subject to analysis. It was indicated that DI should decide which was the best option.

The Committee requested the departments to go and engage and provide feedback on the way forward. On 29 August 2022, further feedback was given indicating that once options were finalised the JSCI will be notified.

4.19 Appointment of the Inspector-General of Intelligence

The process to appoint the IGI commenced in the previous reporting period, and was not completed by the end of that period. In accordance with Section 7(1) of the Act,

The President shall appoint an Inspector-General of Intelligence—

(a) nominated by the Committee; and

(b) approved by the NA by a resolution supported by at least two thirds of its members:

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

Accordingly, the JSCI resolved by a simple majority of members present to nominate Mr Imtiaz Ahmed Fazel for approval by the NA, for recommendation to the President for appointment as the IGI.

On 13 September 2022, the NA considered the nomination of Mr Fazel for appointment as IGI. The nomination was supported by two-thirds majority as required in terms of section 7(1) of the Act. Mr Fazel was accordingly recommended for appointment as the IGI.

On 31 October 2022, the President appointed Mr Fazel in accordance with Section 210(b) of the Constitution, read in conjunction with Section 7(1) of the Act. Mr Fazel was appointed as the IGI for a period of five years with effect from 1 November 2022.

On 30 November 2022, Mr Fazel was sworn-in as the new IGI in Parliament by Deputy Judge President Patricia Goliath of the Western Cape High Court.

5. FINDINGS OF THE JSCI

5.1 Certificates of Activities of the Services by the Inspector-General of Intelligence

- The IGI issued disclaimer for 2021/2022.

- The Committee was of the view that review was possible since it is a post facto activity. However, the IGI held a different opinion that a review may not be done since there was no IGI in office.
- Based on the legal advice, the Committee resolved to request the IGI to look at the activity reports of the financial year ending on 31 March 2023 and advise the Committee of any irregularities.
- A vacancy in the IGI position was undesirable as work could not continue.

5.2 The need for the establishment of the Secret Services Evaluation Committee

The engagement with various bodies providing combined assurance and oversight such as the AGSA, the IGI and the ARC illustrated the need for enhanced oversight over sensitive and classified projects. The AGSA audited outcomes for all intelligence services would not get any other audit outcome better than a qualified audit opinion due to the nature of the environment.

Section 3(a)(ii) of the Act states that the JSCI must obtain from the Evaluation Committee a report on the secret services and intended secret services evaluated and reviewed by it, together with any comments or recommendations which the Evaluation Committee may deem appropriate. The Evaluation Committee is established in terms of the Secret Services Act, No. 56 of 1978 as amended.

The functions of the Evaluation Committee are to evaluate all intended secret services in order to determine whether the object thereof and the modus operandi to achieve it are in the national interest; and review all secret services annually with the said object in order to determine whether they may be continued and make a recommendation that an intended secret service may be carried out or a secret service be continued if the Evaluation Committee unanimously so decides.

As indicated, the Evaluation Committee is supposed to submit a report to the JSCI. However, the biggest challenge has been that Evaluation Committee has not been established, and no record exists in the JSCI of a report submitted on secret services.

5.3 State Security Agency

5.3.1 *Ligwa Advisory Services*

- The work that was done by Project Veza was given to Ligwa after Bowmans could not continue with the forensic investigation.
- Ligwa was appointed to investigate transgressions that occurred in the SSA.
- The Investigative Directorate (ID) also became involved in investigations at the SSA with a view of making prosecutions.

5.3.2 *Implementation of the High-Level Review Panel Report*

The JSCI was concerned with the slow implementation of the HLRP recommendations.

5.3.3 *Annual Performance Plan and Budget for State Security Agency for 2022/2023*

- It was found that the APP was not done in accordance with the Framework for Strategic Plans and APPs as prescribed by the DPME.
- Budget was not aligned to planned targets. The APP had fundamental gaps as it failed to align and integrate the planning, budgeting, implementation, reporting and evaluation.
- The budget lacked sufficient detail for the Committee to examine particularly as it relates to previous trends and expenditures.

5.3.4 *Gauteng Provincial Office*

- It was found that provincial offices had challenges with regard to owning their buildings.
- There were also challenges with regard to leases.

5.3.5 *Audit Report on the Financial Statements of the State Security Agency 2022/2023*

- The complex nature of the SSA's business posed inherent risks that limited AGSA's ability to conduct a full audit.
- Similar to the previous year, irregular expenditure was incurred.

- Significant compliance issues with key legislation were identified, including financial reporting framework non-compliance, inadequate steps to prevent irregular expenditure, and lapses in asset reassessment.
- Poor contract management practices were observed with contracts extended or modified without National Treasury approval.

5.3.6 *Annual Report of the State Security Agency*

- The impact of the third and fourth wave of Covid-19 was severe for the SSA in terms of its mandate as most people worked from home and adequate intelligence gathering could not take place.
- Covid-19 had a significant impact on the achievement of targets.
- Some targets were set with dependencies.
- Appointments at senior management were welcomed.
- Position of DG remained vacant with an acting DG in place.
- There was some progress with the implementation of the HLRP directives; but the major one of GILAB was progressing slow.
- There were still areas for improvement for better auditing results.

5.3.7 *Certificates of Activities of the Services by the Inspector-General of Intelligence for 2021/2022*

- No certificates were issued due to vacancy of the IGI position.
- Deputy IGI was required to ensure work continued pending the finalisation of the process to appoint the IGI.

5.4 **South African Police Service-Crime Intelligence**

5.4.1 *Annual Performance Plan and Budget for South African Police Service-Crime Intelligence for 2022/2023*

- It was found that targets were not SMART.
- SAPS-CI inadequately addressed issues previously raised by AGSA.
- There were vacancies at senior management level.
- There was an increase of Rhino poaching and the Committee was concerned if the budget was adequate to address the problem.

- There was an increase of cash in transit heists in Gauteng, Mpumalanga and Limpopo and members were concerned if the budget was adequate to address the problem which was exacerbated by close proximity of the provinces to borders with neighbouring countries.
- There was a general decline in targets as compared to the previous year.

5.4.2 Audit Report on the Financial Statements of South African Police Service-Crime Intelligence 2021/2022

- The nature of intelligence operations introduced inherent uncertainties, further interventions were crucial to mitigate risks associated with SAPS-CI's operational environment.
- Inadequate internal control systems led to the misidentification and misreporting of irregular expenditure, resulting in an overstatement of the disclosure.
- Financial statements were not prepared according to the prescribed financial reporting framework, resulting in a qualified opinion due to uncorrected material misstatements.
- Some goods and services were procured without competitive bids, and deviations lacked approval from the Accounting Officer or National Treasury.
- Quarterly reports were not submitted to the Executive Authority.

5.4.3 Annual Report of South African Police Service-Crime Intelligence

- SAPS-CI faced challenges due to a lack of both human and physical resources, impeding effective operations and the achievement of targets set in the APP.
- Policies SAPS-CI were not aligned with laws and regulations, raising concerns about compliance and potentially impacting the achievement of strategic goals.
- Lack of consequences management for non-compliance and poor quality of financial and performance reporting were identified, affecting the overall accountability and transparency of SAPS-CI.
- Previous shortcomings identified by various assurance providers lacked sufficient corrective measures. This hindered SAPS-CI's ability to learn from past challenges and improve.

5.4.4 *Agent Management Programme*

- There was lack of regulations for the programme.
- There were challenges such as inadequate skills for the personnel.

5.4.5 *International Mobile Subscriber Identity-Catcher/Grabber*

- The grabbers were not in operation since the Certificate of Exemption was not issued.
- The grabbers would enhance SAPS efforts of fighting crime through intelligence led policing.

5.4.6 *Audit Report on the Financial Statements of South African Police Service-Crime Intelligence for 2021/2022*

- The nature of the business of SAPS-CI and the related inherent risk result in a qualified opinion from the AGSA.
- SAPS-CI improved on a number of qualification areas.
- No material finding on Secret Services Account.
- There was inadequate audit evidence.
- Cash and cash equivalent were inadequately reconciled.
- Quotations were received from potential suppliers who did not provide a statement regarding their employment status with the government or any affiliation with government employees.
- Irregular expenditure was incurred.

5.5 Defence Intelligence

5.5.1 *Annual Performance Plan and Budget for Defence Intelligence for 2022/2023*

- It was found that DI was inadequately funded.
- Funding was not consistent with the ordered commitment both internally and externally.
- The Committee found that DI's budget constraints impacted its work and that intervention was needed in this regard.
- Funding was needed for the relocation of DI Headquarters. DPWI identified buildings that could be used by DI as its headquarters.

5.5.2 *Audit Report on the Financial Statements of Defence Intelligence for 2021/2022*

- The audit revealed challenges in validating credible and reliable performance information concerning predetermined objectives within DI.
- The AGSA identified instances where DI's activities did not fully comply with applicable laws and regulations concerning financial matters.

5.5.3 *Annual Report of Defence Intelligence*

- DI demonstrated remarkable efficiency in achieving goals despite declining resource allocations and limitations in human resources.
- DI's dedication to excellence and strategic foresight was evident, solidifying its role as a cornerstone in safeguarding the nation against diverse security challenges.
- DI emerged as an indispensable asset to national security, contributing significantly to the country's overall security apparatus.
- DI showed commitment to the achievement of its planned activities.

5.6 Designated Judge of Interception of Communications

- The amendment of RICA was crucial to ensure lawful interception of communications, especially bulk surveillance.
- There was a need for legislative review of all legislation dealing with interceptions.
- Interceptions were crucial to the success of SAPS operations.
- There was a need for the OIC to be independent from the SSA.

5.7 Office for Interception Centres

- There was a strong need for the OIC to be independent.
- The decision to place the OIC under NC was undesirable.
- There was a need for new equipment for the OIC.

5.8 Financial Intelligence Centre

- The greylisting of the country needed to be addressed.
- More efforts were needed to prevent grey listing.

- The FIC was losing staff to private businesses like banks because the Centre could not provide a wage that was competitive.
- The capacity of staff needed to be multiplied by at least four times.
- Some non-profit groups were used as fronts to raise funds for terrorism, and the money would be sent elsewhere.
- The FIC was monitoring the funding of terrorism and provided information to LEAs.

5.9 International Trips/Study Tours: United Kingdom and Canada

IPCO utilised the double-lock process to the authorisation of interceptions. Bulk Interception required authorisation to safeguard individual's rights. The warrant for bulk interception lasted up to six months.

The ISC was established as a crucial mechanism for scrutinising the activities of intelligence and security agencies in the UK. The ISC's composition of Members of Parliament and peers from the House of Lords exemplified the necessity of diverse representation in oversight bodies. Its functions, including monitoring policy, conducting investigations, and producing reports, highlighted the significance of transparency and accountability in ensuring agencies operate within legal boundaries. The ISC's role in reviewing proposed legislation related to intelligence matters emphasised the need for continuous adaptation to evolving threats while upholding civil liberties. Overall, the Committee learnt that ISC served as a testament to the vital role parliamentary oversight plays in maintaining public trust and confidence in intelligence services.

Best practices learned from the IPT include the importance of judicial oversight in ensuring the accountability and legality of investigatory powers, the need for accessible and transparent complaint mechanisms for individuals to challenge state surveillance, the significance of impartial adjudication to uphold civil liberties and human rights, and the value of robust legal frameworks to regulate the use of investigatory powers while balancing security and privacy concerns. Studying the IPT's practices highlighted the importance of principles of transparency, accountability, and legal compliance that can be incorporated into South Africa's surveillance and data collection activities, fostering public trust and upholding democratic principles.

Best practices learned from OCDA's operation included the importance of clear guidelines and procedures for the lawful and proportionate use of communications data, the necessity of robust oversight mechanisms to ensure compliance with privacy regulations and the protection of human rights. The Office's role highlighted the need for continuous evaluation and improvement of authorisation processes to adapt to evolving technological and legal landscapes while safeguarding individual rights and liberties.

Best practices learned from the IC's functions included the importance of independent oversight in ensuring accountability and legality within intelligence operations, the need for transparent and robust mechanisms for reviewing and approving intelligence activities, and the significance of balancing national security interests with the protection of civil liberties and privacy rights. Moreover, the IC's role underscored the value of continuous monitoring and evaluation to address emerging challenges and maintain public trust in intelligence agencies.

6. GENERAL RECOMMENDATIONS

6.1 Certificates of Activities of the Services by the Inspector-General of Intelligence

- The disclaimer for 2021/2022 was unacceptable and should not be repeated.
- The JSCI to consider amending the Act to provide for the Deputy IGI to ensure that work continued when the term of the incumbent lapses. This will be part of the legislative amendment to be undertaken before the end of the Sixth Parliament.
- The Committee instructed the IGI to conduct a review based on the activity reports of the services. The IGI did not do a review and maintained that a disclaimer will remain. Instead he continued to prepare the certificate of 2022/2023.
- Robust discussion must take place between the IGI with regard to the functions of the IGI. There were instances when the IGI seem to differ with the JSCI as it relates to taskings in terms of section 7(6) of the Act. The amendment to the Act must ensure that further clarity was provided.

6.2 The need for the establishment of the Secret Services Evaluation Committee

- The JSCI to include the amendment with regard to the establishment of the Secret Services Evaluation Committee within a specified period when considering legislation to separate the SSA.
- The report of the Evaluation Committee would empower the JSCI with more insights into the covert projects and their funding which the AGSA is unable to provide detailed oversight on both performance and financial information.
- Best practices learnt during the study tour to the UK and Canada to be applied on the work of the Evaluation Committee.

7. SPECIFIC RECOMMENDATIONS

7.1 State Security Agency

7.1.1 Ligwa Advisory Services

- Quarterly updates to be provided on the investigation by Ligwa Advisory Services.

7.1.2 Gauteng Provincial Office

- The SSA to liaise with the DPWI with regard to office space and permanent space where necessary. Report to be provided quarterly.
- The SSA to liaise with other government stakeholders with regard to leases in their premises.

7.1.3 Annual Performance Plan and Budget for State Security Agency for 2022/2023

- It was recommended that, going forward, all APPs must be done in accordance with the Framework for Strategic Plans and APPs as prescribed by the DPME.
- The SSA must enhance efforts to align and integrate planning processes according to DPME guidelines.
- Budget to be aligned to planned targets.
- Detailed budget per programme and subprogrammes required to assist with oversight during the tabling of each APP and Budget going forward.

- On 19 May 2022, the Committee, having considered Budget Vote 8: National Treasury (State Security), and the Annual Performance Plan of the SSA and its spending entities, submitted its report to the National Assembly for consideration.

7.1.4 *Audit Report on the Financial Statements of the State Security Agency 2020/2021*

- The SSA should collaborate with AGSA to enhance audit processes in consideration of the unique challenges posed by its operational environment.
- The SSA must implement robust internal control systems to identify and record irregular expenditures related to special operations. Quarterly reports to the JSCI should include updates on irregular expenditure.
- The SSA must ensure full disclosure of irregular expenditures in compliance with section 40(3)(i) of the PFMA.
- The SSA to align its financial statements with the prescribed financial reporting framework and maintain proper records. Quarterly reports to be provided on progress made.
- There must be strict adherence to section 44 of the PFMA and Treasury Regulations 8.1 and 8.2 when extending or modifying contracts. Consequence management to be instituted for non-compliance.
- There must be strengthening of internal controls to ensure compliance with procurement regulations. Audit and Risk Committee to monitor and advise accordingly.

7.1.5 *Annual Report of the State Security Agency*

- The SSA to craft APPs and associated targets that were SMART and key enablers (resources, finances, tools of trades) and key dependencies (work that must be done by other departments or stakeholders) to be identified timeously. Simply put, proper planning cognisant of other factors was required.

7.2 **South African Police Service-Crime Intelligence**

7.2.1 *International Mobile Subscriber Identity-Catcher/Grabbers*

- Continuing from its previous resolution, the Committee led the initiative to ensure that the Certificate of Exemption was issued in accordance with RICA.

- On 7 June 2022, the Committee held a meeting on the Status of the Exemption Certificate for the use of grabbers procured by SAPS-CI with relevant stakeholders. This was followed by another meeting on 23 August 2022 on feedback on the status of the exemption certificate for the use of Grabbers procured by SAPS-CI. The stakeholders were requested to report regularly until the matter was resolved.

7.2.2 Annual Performance Plan and Budget for South African Police Service-Crime Intelligence for 2022/2023

- The Committee resolved that targets must be made SMART.
- The Committee had recommended that the appointment of Divisional Commissioner be prioritised and updates should be given regularly. Lieutenant General Dumisani Khumalo was appointed as the Divisional Commissioner for SAPS-CI in December 2022.
- Vacancies to be eradicated and reports to be provided quarterly.
- Plans needed to curb Rhino poaching and similar crimes, and updates to be given regularly.
- Plans needed to curb cash in transit heights, and updates to be given regularly.
- Targets to be aligned to previous years.

7.2.3 Audit Report on the Financial Statements of South African Police Service-Crime Intelligence for 2021/2022

- SAPS-CI should collaborate with AGSA to develop tailored risk mitigation strategies aligned with the unique challenges posed by intelligence operations.
- SAPS-CI to implement robust internal controls to accurately identify and record instances of irregular expenditure, ensuring compliance with PFMA and Treasury Regulations.
- SAPS-CI to ensure adherence to the prescribed financial reporting framework, correcting material misstatements promptly.
- SAPS-CI to implement effective measures to prevent irregular expenditure, aligning with PFMA and treasury regulation requirements.

- SAPS-CI to submit quarterly reports to the executive authority promptly, complying with Treasury Regulations. Updates to be given to the Committee quarterly.

7.2.4 *Annual Report of South African Police Service-Crime Intelligence*

- The allocation of additional human and physical resources to SAPS-CI to overcome operational challenges and improve the overall effectiveness of intelligence operations was needed. SAPS-CI to report quarterly on the progress made.
- SAPS-CI to conduct a comprehensive review of existing policies to ensure alignment with laws and regulations to compliance and the achievement of set targets.
- SAPS-CI to implement robust consequence management mechanisms to address non-compliance issues and improve the quality of financial and performance reporting. Reports to be provided quarterly to the Committee.
- SAPS-CI to develop and implement comprehensive corrective measures to address previous shortcomings, drawing from the insights provided by various assurance providers.
- SAPS-CI to ensure adherence to procurement regulations by inviting competitive bids, obtaining necessary approvals, and avoiding deviations without proper authorisation.

7.2.5 *Agent Management Programme*

- Regulations must be made for the programme.
- Personnel must be adequately trained on the required skills. Quarterly briefings to be provided to the Committee.

7.3 Defence Intelligence

7.3.1 *Defence Headquarters*

- The JSCI resolved to schedule a meeting with the Ministers of Defence and Military Veterans, and Public Works and Infrastructure before the end of the financial year. The Committee held a meeting on 23 March 2022 with the Chief

of Logistics of the SANDF and the Department of Public Works and Infrastructure. The officials were requested to come up with plans to procure or lease a building to be used as Headquarters for DI. They were given a week, and reported on 31 March 2022 on the progress (see Annexure E). The Committee requested the plans be finalised in the new financial year.

- It was also recommended that the matter of underfunding and budgets cuts of the SANDF be tabled for discussion in Parliament. In addition, the Committee resolved to engage the President regarding the underfunding of the SANDF.

7.3.2 Annual Performance Plan and Budget for Defence Intelligence for 2022/2023

- More funding was needed for defence, especially DI.
- The issue of DI's headquarters to be finalised.

7.3.3 Audit Report on the Financial Statements of Defence Intelligence for 2021/2022

- DI to strengthen internal controls to ensure accurate financial representations and minimize the risk of misstatements.
- DI should enhance systems for collecting, verifying, and reporting performance information to ensure accuracy and credibility.
- DI must institute corrective measures to address non-compliance issues, ensuring adherence to financial laws and regulations.

7.3.4 Annual Report of Defence Intelligence

- There was a need for increased resource allocation for DI to address constraints and ensure sustained operational efficiency.
- There was a need to prioritise the augmentation of human resources within DI to strengthen its capabilities and adaptability to evolving security challenges.
- Emphasis was needed with regard to strategic investment in DI to enhance its technological capabilities, enabling proactive responses to emerging threats.
- The Committee to make follow-ups on the relocation of DI Headquarters.

7.4 Designated Judge of Interception of Communications

- The JSCI to make follow-ups on the amendment of RICA which was crucial to ensure lawful interception of communications.
- The JSCI to liaise with the Chairperson of the Portfolio Committee on Justice and Correctional Services for regular updates on RICA and request for the legislation to be passed prior to the deadline.
- The JSCI to consider the review of all intelligence related legislation including that which deals with interceptions.
- The OIC to be requested to provide a presentation on its independence and the viable options.

7.5 Office for Interception Centres

- The OIC to provide a full briefing to the JSCI with regard to its independence. On 8 June 2022 a briefing on the independence of the OIC as directed in the HLRP took place. This was followed by a follow-up meeting on 19 October 2022 during special meetings in Gauteng (See Annexure E).
- The OIC to liaise with the Portfolio Committee on Justice and Correctional Services regarding the amendment of RICA.
- The OIC to procure updated systems to ensure effective and lawful interception of communications.

7.6 Financial Intelligence Centre

- South Africa was greylisted in February 2023. The FIC must continue working with the relevant stakeholders to ensure the uplifting of greylisting.
- Adequate funding, retention and recruitment of specialist skills and employees in critical positions required to ensure the optimal functioning of the FIC.
- Intelligence services to work closely with the FIC to improve counter intelligence, and focus on individuals suspected of terrorism activities and funding.

7.7 Best practices from International Trips/Study Tours: United Kingdom and Canada

The JSCI must use best practices learned from the engagement with counterparts in the UK and Canada during the study tour to strengthen its legislative and oversight roles in order to ensure that Parliament succeed in its mandate as it relates to intelligence services. The study tour report must form part of the orientation package for the Seventh Parliament JSCI. Some of the best practices learned include the following:

7.7.1 Investigatory Powers Commissioner's Office

The double-lock process found in IPCO may be adapted for the South Africa case when consideration legislation for bulk surveillance. In addition, safeguards could be used in bulk interception. The JSCI must ensure that that GILAB or any other legislation on bulk interception and surveillance would be done in accordance with the law.

7.7.2 Intelligence and Security Committee of Parliament, and National Security and Intelligence Committee of Parliamentarians

Best practices learned from the ISC (UK) and NSICOP (Canada) underscored the importance of Parliamentary oversight in safeguarding democratic values and national security.

7.7.3 Investigatory Powers Tribunal

The insight will also be useful in strengthening the functioning of the IGI.

7.7.4 Office for Communications Data Authorisations

The process of authorisations by OCDA provided valuable best practices for the JSCI especially given the need for legislation on bulk surveillance and the amendment of RICA to address the deficiencies as outlined by the Designated Judge of Interception of Communications.

7.7.5 Intelligence Commissioner

The insight from the engagement with the IC will enable the JSCI to reimagine the functioning of the Evaluation Committee once established concerning the accountability

and legality of intelligence operations. Best practices from IC must also be used to strengthen the IGI.

7.7.6 National Security and Intelligence Review Agency

Best practices learned from NSIRA include the importance of independent oversight mechanisms in ensuring accountability and transparency within national security and intelligence operations. NSIRA's role highlighted the significance of having a dedicated agency with the authority to review and evaluate the activities of intelligence agencies, ensuring they comply with laws, policies, and ethical standards. Moreover, NSIRA's focus on providing recommendations for improvement underscored the value of continuous evaluation and adaptation to enhance the effectiveness and legitimacy of national security efforts while safeguarding civil liberties and human rights. By studying NSIRA's practices, organisations can glean insights into the importance of independence, accountability, and ongoing evaluation in strengthening oversight and governance of national security and intelligence activities.

7.7.7 Establishment of partnership with Five Eyes States

The JSCI should encourage the foreign branch to leverage on relations with the FVEY. The SSA to be encouraged to establish foreign stations in the FVEY. The partnership with FVEY is critical within the intelligence services. The foreign branch to consider having stations in Canada, Australia and New Zealand. This will allow for more collaboration between South Africa and the FVEY. The JSCI must also leverage the partnership with counterparts in FVEY to ensure exchange of best practices as well as capacitation of staff through training and exchange programmes to enhance oversight over intelligence services.

7.7.8 Oversight visits to Foreign Stations by the Joint Standing Committee on Intelligence

The study tour revealed that the amalgamation of the National Intelligence Agency and the South African Secret Services into the SSA resulted in a loss of capacity and capabilities in the Foreign Branch. With the separation of the SSA into domestic and foreign intelligence services, more focus must be given to ensuring that Foreign Stations are adequately capacitated.

The JSCI must consider overhauling and intensifying its oversight over the foreign intelligence service. The study tour, which takes place once in a while will be inadequate to provide oversight over Foreign Stations. The JSCI must be cognisant that one of its intelligence services operates outside the borders of South Africa. Thus, oversight must be provided where the various elements of the service are located.

The overhauling and identifying of oversight must include conducting annual oversight visits to various foreign stations to ensure that they are adequately supported to carry their mandates effectively. Based on the findings at the Foreign Station in the UK, it is clear that oversight work conducted in Parliament and headquarters in Pretoria will be inadequate and ineffective to ensure that the foreign service returns to its former glory.

ANNUAL REPORT ON INTERCEPTION**OF****PRIVATE COMMUNICATIONS**

(In terms of the Regulation of Interception of Communication and Provision of
Communication-Related Information Act 70 of 2002 (RICA))

Period: 01 March 2021 to 30 September 2022

Chairperson: Mr JJ Maake MP

Joint Standing Committee on Intelligence: Parliament

By Justice B E Nkabinde

Designated Judge

Date: 19 October 2022

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A. Introduction

- [1] This report is submitted to the Joint Standing Committee on Intelligence (JSCI) in terms of section 3(a)(iii) of the Intelligence Services Oversight Act¹ (ISOA), read with the relevant provisions of the Regulation of Interception of Communication and Provision of Communication-Related Information Act² (the RICA or the Act). Apart from dealing with reports from the relevant agencies³ on the implementation of the RICA, it provides an update on the previous detailed report to this Committee, particularly on the decision of the Constitutional Court in the matter of *Amabhunghane*. In its letter to my Office dated 14 October 2022 the Chairperson of the JSCI asked that I may report on any other matter I deem fit.
- [2] This report covers the period spanning March 2021 to September 2022. My tenure in office, as an Interception Judge, was extended by the Minister of Justice and Constitutional Development for a further period of two years. The extended period ends in September 2023.

B. Overview

- [3] As will become apparent from the statistics below, the number of applications for the period mentioned above has decreased, ostensibly consequent to *Amabhunghane*. It will be remembered that the Constitutional Court declared certain provisions of the RICA unconstitutional and suspended the declaration of invalidity for a period of three (3) years to enable Parliament to cure the specified defects in the RICA. In the previous report, I gave a summary of the constitutional and legal framework, particularly on the right to privacy which includes the right to be free from intrusion and interferences in the personal life of the citizenry. I also mentioned that such right is not absolute. Differently put, the right may be limited if such limitation is reasonable and justifiable in terms of section 36 of the Constitution. For brevity, I will not repeat what I said but will

¹ 40 of 1994.

² 70 of 2002.

³ For example, the Financial Intelligence Centre, State Security Agency and the South African Police Intelligence Services.

attach the previous report (as **Annexure “A”**) for ease of reference and convenience.

[4] Needless to say, state intrusions may take different forms. In the performance of my duties in terms of the RICA, in its current form, such intrusion may happen through a **lawful** surveillance of individual(s) by way of monitoring private communication where, for example, there are reasonable grounds, among other things, that a serious offence has been or is being or will probably be committed, the gathering of information concerns an actual threat to the public health or safety, national security or compelling national economic interest of the Republic is necessary and, where organised crime is involved or any offence relating to terrorism or gathering of information relating to organised crime or terrorism or gathering of information concerning property which is or could probably be an instrumentality of serious offence, is being or is likely to be committed.⁴

[5] I hasten to mention that any other monitoring of private communication that is not lawfully regulated by the RICA is prohibited.⁵ Nonetheless, this does not detract from the fact that there may be unlawful interceptions (outside of the office of the Interception Judge). As it happens, my office receives various complaints by certain individuals and requests on behalf of entities⁶ suspecting that their private communication is being unlawfully monitored. In my view, this brings to light some of the challenges regarding the effectiveness of the intelligence regulatory oversight. I think that the time has come for the complete reform of surveillance regulatory measures. I am of the view that Parliament should think outside the box when reviewing the Act.

⁴ Section 16(5) of the RICA.

⁵ Section 7 of the RICA.

⁶ For instance, a requestor in November 2021 to access information under the Promotion of access to Information Act (PAIA) – Act 2 of 2000 whereby the requestor sought, for example, to obtain information regarding the number of applications to intercept private and public individuals since the promulgation of RICA, the number of the applications approved and which led to the arrest of suspected persons and their prosecutions.

C. Declaration of constitutional invalidity of the Act (*Amabhunghane*)

- [6] The importance of the decision in *Amabhunghane* is self-evident. The impact of the decision particularly on the work of the relevant stakeholders and the office of the Interception Judge in the implementation of the Act requires little or no elaboration: The declaratory relief is to the extent that the Act does not—
- (a) provide for safeguards to ensure that a Judge, designated in terms of section 1 is sufficiently independent;
 - (b) provide for notifying the subject of surveillance of the fact of her or his surveillance as soon as notification can be given without jeopardising the purpose of surveillance after surveillance has terminated;
 - (c) adequately provide safeguard to address the fact that interception directions are sought and obtained *ex parte*;
 - (d) adequately prescribe procedures to ensure that data obtained pursuant to the interception of communication is managed lawfully and not used or interfered with unlawfully, including prescribing procedures to be followed for examining, copying, sharing, sorting through, using, storing or destroying the data; and
 - (e) provide safeguards where the subject of surveillance is a practising lawyer or journalist. Related to this part of the order is what I consider to be a reading-in relief (of section 23A) that is deemed to be operative during the period of suspension regarding “[d]isclosure that the person in respect of whom a direction, extension of a direction or entry warrant is sought is a journalist or practising lawyer.” A further reading-in (in section 25A) concerns “post-surveillance notification”
- [7] During the period of the suspension of the order of invalidity (36 months from the date of the order) the Act has been applied in its current form. This will

happen until the defects are cured by Parliament, hopefully before the end of the 36 months period – on or about 3 February 2024.

D. Statistics compiled by the office of the Designated Judge

[8] The following statistics is compiled by the staff in the office of the Interception Judge. It is a matter of public knowledge that the previous two years were marked by worldwide disruptions occasioned by the COVID scourge. The work of this office was not spared by such disruptions. The noticeable decline in the number of applications is illustrative of the impact of the disruptions. In my observation, the decline may be attributable to the meanings assigned to the declaratory orders requiring post-surveillance notification by the Law Enforcement Agencies.

Crime Intelligence Division of the South African Police Services (SAPS)

[9] A total number of 159 applications were received from SAPS:

- 78: New applications.
- 52: Re-applications during or after the period of directions when circumstances giving rise to a direction cease to exist therefore necessitating extensions and/or amendments because of additions and/or cancellations.
- 23: Amendments.
- 7: Extensions.

[10] These applications are spread across provinces as follows:

- Gauteng-47 applications.
- Interprovincial-37 applications.
- Eastern Cape-22 applications.
- Western Cape-19 applications.
- KwaZulu- Natal -13 applications.
- Limpopo-12 applications.
- North West-3 applications.

- Free State-3 applications.
- Northern Cape-2 applications

[11] Of the one hundred and fifty-nine (159) applications received from SAPS, a higher percentage of those applications relate to serious crimes threatening national economic interest at 85 and 21, respectively. On such serious crimes, Gauteng is leading with 24 applications at 28.24%, Interprovincial 22- at 22.88%, Western Cape 15 –at 17.65%, Eastern Cape 10 – 11.76%, KwaZulu-Natal 7- at 8.24%, North West 3- at 3.53%, Limpopo 4- at 4.47%. It is worth noting that interprovincial applications for the serious economic crimes is the second highest at 22.88%. Notably, there is a marked collaboration of suspects across provinces on certain serious crimes.

[12] Further interprovincial applications also relating to serious crimes involving national security lead with 10 applications at 47.62%, followed by Limpopo and Eastern Cape with 6 applications both standing at 14.28%, Free State 2 at 9.52%, Northern Cape 1 at 4.75%. The remaining percentage is spread among other crimes for example, in terms of the Prevention and Combatting of Corrupt Activities Act, the Electronic Communications Act, the Counterfeit goods Act and of the Marine living Resources Act.

State Security Agency (SSA)

[13] One (1) re-application under the Prevention and Combatting of Corrupt Activities Act was received from the SSA.

Financial Services Centre (FIC)

[14] No application was received from the FIC during the specified period.

E. Reports by the Office of Interception Centre (OIC) and Law enforcement Agencies within the Chain of interception under RICA

OIC report

[15] The report by the Director of OIC (annexed hereto as **Annexure “B”**) gives account, among other things, of the effectiveness of the lawful interception chain and successes in the implementation of the RICA. It highlights safeguards put in place to ensure compliance. It also seeks to highlight some of the successes in combating crime through lawful interception. Correctly, the Director mentions that reporting by all role players in the lawful interception value chain is important because such reports provide a complete picture on the efficacy of the RICA processes.

[16] The Director reports that the Centre has put in place measures in the form of Standard Operating Procedures (SOP) to be followed by all employees when dealing with interception directions. He mentions, among other things, the security measures on the interception data. Apart from documenting the statistics for the relevant period and assessment of impact the Directors mentions the following challenges experienced by his Office:

- Not receiving all interception directions issued by the Interception Judge resulting in failure to reconcile figures reported to be received and provisioned by the OIC and those from the Interception Judge’s office. The answer provided by the staff of the Interception Judge is that there are other law enforcement agencies (LEAs) that apply for interception directions but not using the OIC services: It is unclear to me precisely in respect of which interceptions directions the OIC is referring. The Director makes it plain, though, that all interception directions issued by the Designated Judge are forwarded to his Office save for those issued under Section 22 (entry warrant). Such entry warrants directions are forwarded to the relevant law enforcement agency for execution. The report identifies certain discrepancies in relation to the new and/or old application captured by the office of the Designated Judge and the OIC. The discrepancy necessitates heightened interaction between the two offices.

- The assessment of the truthfulness of the affidavits presented to the designated Judge by the LEAs. Indeed, the mendacity of most of the deponents to the affidavits submitted in support of the interception direction are, as we have seen from the matter of Macozoma, a matter of serious concern as the interception Judge is unable to verify the truthfulness of the statements made.
- Development of standards and processes for the implementation of data protection measures between various entities such as service providers, LEAs, OIC and the designated Judge's office to promote confidentiality and integrity of the interception value chain.
- The Director mentions, correctly in my view, that an association of the various stakeholders in the interception processes is necessary. This is important because the left has to know what the right is doing otherwise stakeholders in the interception chain might pursue opposing or contradictory goals and therefore defeat the purpose under the RICA.
- The Director also refers to the decision in *Amabhunghane* regarding the importance of adequate procedures to secure data received including procedures used for examining, copying, sharing, sorting through, using, storing, or destroying the data. Correctly, these are some of the matters to be considered when the defects mentioned in *Amabhunghane* are cured.

SAPS report

[17] The report by the acting Divisional Commissioner: Crime Intelligence, Major General N.P Lushaba, dated 12 September 2022, was send to my office. It is annexed to this report as **Annexure "C"** for completeness and ease of refence. The report deals with the status of certain directions and the achievements in terms of percentages. It elaborates on the status of matters referred to in the summary of applications and extensions. The report also mentions challenges

encountered in the implementation of directions. It is not clear whether the challenges are in relation to all directions issued or in relation to specific ones but one can do no better than recapping what is stated in the report:

“The OIC system is outdated, regularly collapses resulting in the loss of interception communication products;

The fact that interception at OIC is limited to Voice and SMS data means that approximately 99% of the target’s communication is lost;

Inability of the OIC to intercept other forms of communication like WhatsApp including WhatsApp voice calls, skype, emails, facebook and other social media platforms;

Inability of OIC systems to provide images, GIS and GPS; and

Lack of decentralised connectivity (Provincial OIC’s) affects the implementation of Directions especially hot monitoring.”

- [18] Mention of the loss of intercepted communication and targets’ communication support the view that there are no safeguards in place to minimise intrusions into the privacy of the targeted individuals. This is regrettable because the agencies’ reports are, as mentioned by the OIC Director, important as they provide a complete picture on the efficacy (supposedly, including the inadequacies) of the RICA processes.

FIC report

- [19] FIC has written to the Interception Judge that it has nothing to report on because it has not applied for any monitoring of any transactions concluded by any specific person account in terms of section 35 of the Financial Intelligence Centre Act during the said period.

SSA report

[20] The SSA has reported that Chief Directorates Counter Terrorism, Counter-intelligence, Domestic Intelligence have not submitted any interception applications from December 2021 but only one (1) application in terms of section 16. The major challenge, it is reported, is the decision in *Amabhunghane*. The agency explains that the reading-in provisions in the order (section 25A regarding post-surveillance notification) is posing a challenge as they are required to inform the suspect of the interception conducted. The post notification provision is considered as compromising the agency's classified investigations, making it difficult to do their secret work.

F. Other matters

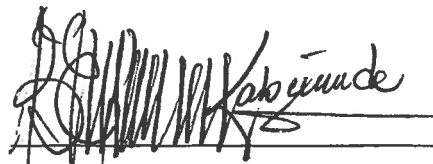
[21] Welcoming the invitation by the Chairperson of this Committee to mention any other matter I consider worth reporting, I emphasise the importance of the OIC as a creature of statute in terms of section 33 of the RICA, especially its role –post 2006 when interception services were centralised. The OIC's important role in support of the national crime fighting efforts, the implementation of the directions and its overall functions as a provider of reliable, quality and real-time lawful interceptor for the maintenance of national security cannot be overstated. Considering its role on the workflow process, the OIC is clearly at the heart of the interception process – between “clients”(namely: SSA, SAPS, Defence, NPA including the National Commissioner, Secretary for Defence, Director-General and SSA National Director and the office of the Interception Judge) on the one hand and the Chapter 6 RICA Stakeholders (namely: Departments of Communication and Digital Technologies, Justice and Correction Services, National Treasury, Defence, Intelligence and Police) on the other. Despite it being a centrepiece in the efforts of maintaining national security, OIC lacks autonomy. Such independence is critical. If accomplished, the OIC should account directly to this Parliamentary Committee. Concomitant with its independence, the safety of the officials, not only in the office of the Designated Judge but also in the OIC, should be prioritised because of the nature of their work.

[22] Much still needs to be done to reform the law and capacitate the OIC with compatible technology that can interface with telecommunication of the service providers to receive the required information. As it happens, monitoring in the space of illegally registered sim-cards (sim-swapping) is a serious challenge. The report of the OIC is attached for the information of the Committee.

G. Concluding remarks

[23] Reforming the RICA and continually reviewing it is, in my view, necessary because the country needs to step ahead of the criminals. Financial criminals are, for example, becoming more daring and sophisticated. Therefore, advanced strategies, such as AI-based encryption to avoid unauthorised access, need to be developed. Having been advised by the Department, I am happy to report that the process of amending the RICA consistently with the decision of the Constitutional Court is underway. Hopefully the said amendments would minimise invasions currently experienced through the current law.

[24] I am thankful to the Department of Justice for providing the support staff and additional assistance to me. I am thankful also to the Senior Official in my office (Ms Juanita Lugela) and her Team for their support in the preparation of this report. The reports by the OIC, SAPS, SSA, for which I am thankful, have been valuable.



Designated Judge: BE Nkabinde

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 (SSA) set out on pages ... to ..., which comprise the statement of financial position as of 31 March 2022, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended as well as notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, except for the effect 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 2022, and its financial performance and cash flows for the year then ended in accordance with the Standard of Generally Recognised Accounting Practice (Standards of GRAP) and the requirements of the Public Finance Management Act, 199 (Act No 1 of 1999) (PFMA).

Basis for qualified opinion

High inherent risk due to nature of environment

3. The SSA 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.

Irregular Expenditure

4. The agency did not include some irregular expenditure in the notes to the financial statements, as required by section 40(3)(i) of the PFMA. This was due to the agency not having adequate internal control systems to identify and record the instances of irregular expenditure relating to special operations. This resulted in the irregular expenditure being understated by [REDACTED]. In addition, I was unable to obtain sufficient appropriate audit evidence for the amounts disclosed as irregular expenditure. I could not confirm this by alternative means. Consequently, I was unable to determine whether any further adjustments were necessary to irregular expenditure stated at [REDACTED] in note 33 in the financial statements.

Context for the opinion

5. 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 my report.
6. I am independent of the State Security Agency in accordance with the International Ethics Standards Board for Accountants' *International code of ethics for professional accountants (including International Independence Standards)* of the International Ethics Standards Board for Accountants (IESBA code) as well as other 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.
7. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of matter

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

Claims against the agency

9. As disclosed in note 31 to the financial statements, the agency is a defendant in a number of claims instituted against it. The ultimate outcome of these matters cannot currently be determined and no provisions for any liabilities have been made in the financial statements.

Restatement of corresponding figures

10. As disclosed in note 27 of the annual financial statements, the corresponding figures for 31 March 2021, were restated as a result of an error in the financial statement of the agency at, and for the year ended 31 March 2022.

Unaudited supplementary schedules

11. The supplementary information set out on pages XX to XX does not form part of the financial statements and is presented as additional information. I have not audited this schedule and accordingly, I do not express an opinion on it.

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 the Standards of Generally Recognised Accounting Practice and the requirements of the Public Finance Management Act 1 of 1999 and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

13. In preparing the financial statements, the accounting officer is responsible for assessing the SSA'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 appropriate governance structure either intends to liquidate the agency 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 25 of 2004 (PAA) and the general notice issued in terms thereof, I have a responsibility to report on the usefulness and reliability of the reported performance information against predetermined objectives for selected programmes presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.
17. My procedures address the usefulness and reliability of the reported performance information, which must be based on the State Security Agency's approved performance planning documents. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures do not examine whether the actions taken by the agency enabled service delivery. My procedures do not extend to any disclosures or assertions relating to the extent of achievements in the current year or 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 programmes presented in the State Security Agency's annual performance report for the year ended 31 March 2022:

Programmes	Pages in the annual performance report
Programme 2 – Domestic Branch	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 and accurate.

The material findings on the usefulness of the performance information of the selected programmes are as follows:

Various Indicators

20. The planned targets for these various indicators were not measurable

Indicator	Target

21. The planned targets for these various indicators were not specific in clearly identifying the nature and requirement level of performance

Indicator	Target

Other matters

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

Achievement of planned targets

23. Refer to the annual performance report on pages x to x; x to x for information on the achievement of planned targets for the year and management's explanations provided for the under/over achievement of targets. This information should be considered in the context of the material findings on the usefulness of the reported performance information in paragraphs [x; x; x] of this report.

Adjustment of material misstatements

24. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information of Domestic Branch programme. As management subsequently corrected the misstatements, I raised material findings on the usefulness of the reported performance information. Those that were not corrected are reported above.

Report on the audit of compliance with legislation

Introduction and scope

25. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the State Security Agency's compliance with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.
26. The material findings on compliance with specific matters in key legislation are as follows:

Annual financial statements

27. 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.
28. Material misstatements of commitments, identified by the auditors in the submitted financial statements were corrected and the supporting records were provided subsequently, but the uncorrected material misstatements on irregular expenditure resulted in the financial statements receiving a qualified opinion.

Expenditure management

29. Effective and appropriate steps were not taken to prevent irregular expenditure amounting to ██████████ for the current year, 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 majority of the irregular expenditure was caused by non-compliance with SCM regulations.
30. Effective steps were not taken to prevent fruitless and wasteful expenditure amounting to ██████████ for the current year, as disclosed in note 32 to the annual financial statements, as required by section 38(1) (c) (ii) of the PFMA and treasury regulation 9.1.1.

Asset management

31. The agency did not determine if any state institution involved in education and training required computer equipment before disposal of such equipment, as required by treasury regulation 16A.7.7.

Procurement and contract management

32. Some of the contracts were extended or modified without the approval of National Treasury as required by section 44 of the PFMA and treasury regulations 8.1 and 8.2.

Other information

33. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report, which includes the director general's report, the audit committee's 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.
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 on it.
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 programmes presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
36. If, based on the work I have performed on the other information that we obtained prior to the date of this auditor's report, we 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.

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. 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.
38. There were inadequate review processes which resulted in material misstatements in the annual financial statements.
39. The agency did not have documented and approved internal policies and procedures to address planning, implementation, monitoring and reporting processes and events pertaining to performance management and reporting. This resulted in several output indicators included in the annual performance plan without a business process to allow a consistent collection of information and reporting. In addition, some targets included in the annual performance plan were not useful (specific and measurable).
40. Management did not adequately monitor compliance with laws and regulations relating financial and performance reporting.

Other reports

41. I draw attention to the following engagements conducted by various parties which had, or could have, an impact on the matters reported in the agency'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.
42. An Independent forensic investigation company has been appointed, to investigate cases reported in the last two financial years. The investigations are currently ongoing.
43. In June 2018, President Cyril Ramaphosa appointed a review panel to assess the mandate, capacity and organisational integrity of the SSA. These proceedings were concluded and a report was released to the public in December 2018. Numerous internal investigations are underway as a result of matters raised in the report.

Auditor-General

Pretoria

30 July 2022



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 the procedures performed on reported performance information for selected programmes and on the agency’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 agency’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 relating to events or conditions that may cast significant doubt on the ability of the State Security Agency 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 my 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 agency to cease operating as a going concern.
 - evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine 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.

I also provide the accounting officer with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.

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

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the South African Police Services: Crime Intelligence: Secret Services Account set out on pages XX to XX, which comprise the appropriation statement, statement of financial position as at 31 March 2022, the statement of financial performance, statement of changes in net assets and cash flow statement, as well as 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 South African Police Service: Secret Services Account as at 31 March 2022, and its financial performance and cash flows for the year then ended in accordance with the Modified Cash Standards (MCS) and the requirements of the Public Finance Management 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 – Crime Intelligence: Secret Service Account accounts for sensitive and non-sensitive project expenditure incurred in connection with the performance of functions and the duty of the Secret Services as defined in section 1 of the Secret Services Act 56 of 1978. The level of assurance that can be given by my audit on sensitive operating and capital expenditure and tangible assets included in notes 4, 7 and 25 to the financial statements is lower than in the case of other audits due to the significant inherent risks relating to the sensitivity of the environment in which the expenditure is incurred and the manner in which the assets are recorded.

Irregular expenditure

4. The department did not implement adequate internal control systems to identify and record instances of irregular expenditure in both the current and prior years. This resulted in the irregular expenditure disclosure being overstated. Consequently, I was unable to determine the full extent of the misstatement of irregular expenditure, stated at [REDACTED] in note 20 to the financial statements as it was impracticable to do so.

Context for the opinion

5. 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 my report.

6. I am independent of the department in accordance with the International Ethics Standards Board for Accountants' *International code of ethics for professional accountants (including International Independence Standards)* (IESBA code) as well as other 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.
7. 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

8. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the MCS 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.
9. In preparing the financial statements, the accounting officer is responsible for assessing the department'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 appropriate governance structure 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

10. 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.
11. 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

12. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I have a responsibility to report on the usefulness and reliability of the reported performance information against predetermined objectives for selected programme presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.

13. My procedures address the usefulness and reliability of the reported performance information, which must be based on the department's approved performance planning documents. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures do not examine whether the actions taken by the department enabled service delivery. My procedures do not extend to any disclosures or assertions relating to the extent of achievements in the current year or 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.
14. 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 department's annual performance report for the year ended 31 March 2022:

Programme	Pages in the annual performance report
Secret Services of the SAPS (Crime Intelligence)	x – x

15. 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.
16. I did not identify material findings on the usefulness and reliability of the reported performance information for the Secret Services of the SAPS (Crime Intelligence) programme.

Report on the audit of compliance with legislation

Introduction and scope

17. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the department's compliance with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.
18. The material findings on compliance with specific matters in key legislation are as follows:

Annual Financial Statements

19. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework, as required by section 40(1)(a) of the PFMA. Material misstatements of the tangible movable assets disclosure, lease commitments (operating lease) disclosure and related party transactions disclosure identified by the auditors in the submitted financial statements were corrected, but the uncorrected material misstatements resulted in the financial statements receiving a qualified opinion.

Expenditure Management

20. Effective and appropriate 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. As reported in the basis for qualified opinion the full extent of the irregular expenditure could not be quantified. The majority of the irregular expenditure disclosed in the financial statements was caused by non-compliance with Treasury Regulation 16A8.4 and paragraph 4.1.2 of Practice Note 7 of 2009/2010.

Consequence Management

21. I was unable to obtain sufficient appropriate audit evidence that disciplinary steps were taken against officials who had incurred irregular expenditure as required by section 38(1)(h)(iii) of the PFMA. This was because investigations into irregular expenditure were not performed.

Strategic planning and performance management

22. Quarterly reports were not submitted to the executive authority, as required by treasury regulation 5.3.1.

Procurement and contract management

23. 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, as required by Treasury Regulation 16A8.4 and paragraph 4.1.2 of Practice Note 7 of 2009/2010. This is due to the nature of the departments' operations where quotations are requested using a legend company (i.e. cover company) and this cannot be disclosed to the prospective suppliers as it might expose the department's covert operations.
24. 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. This is due to the nature of the departments' operations where, bids are requested using a legend company (i.e. cover company) and this cannot be disclosed to the prospective suppliers as it might expose the department's covert operations.
25. Goods and services were procured without inviting competitive bids and deviations were not approved by the accounting officer or National Treasury (NT). In some instances, prior written approval for deviation was requested from NT as required by NT SCM instruction note 3 of 2016/17, NT pre-approved the deviations with conditions however, the department did not comply with the specific conditions.
26. I was unable to obtain sufficient appropriate audit evidence that bid documentation/ invitation to tender for procurement of commodities designated for local content and production, stipulated the minimum threshold for local production and content, as required by the 2017 Preferential Procurement Regulation 8(2). Similar limitations were also reported in the prior year.
27. Some of the contracts were extended or modified without the approval of a properly delegated official as required by section 44 of the PFMA and Treasury Regulations 8.2.1 and 8.2.2. Similar non-compliance was also reported in the prior year.

Other information

28. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report, which includes accounting officer report the audit committee's report. The other information does not include the financial statements, the auditor's report and those selected programme presented in the annual performance report that have been specifically reported in this auditor's report.
29. 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 on it.
30. 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.
31. 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

32. 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 and the findings on compliance with legislation included in this report.
33. Instability in key leadership and management positions which impacts the decisions that need to be taken for the department's strategic direction, strengthening of control environment, monitoring compliance and implantation of consequence management.
34. Some officials do not have the necessary skills, knowledge and qualifications required for financial and supply chain management which resulted in the non-compliance reported above.
35. Supply chain management policies were not aligned to laws and regulations which resulted in instances of non-compliance.
36. The department does not have systems or standard operating procedures in place to monitor compliance with laws and regulations.

Other reports

37. I draw attention to the following engagements conducted by various parties which 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.
38. The allegations of the misuse and abuse of the department's funds relating to prior years by certain members of staff that were investigated by Independent Police Investigative Directorate has been handed over to National Prosecuting Authority for further assessment.

Auditor-General

Pretoria

30 July 2022



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 the procedures performed on reported performance information for selected programme 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 relating to events or conditions that may cast significant doubt on the ability of the department 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 my 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 operating as a going concern
 - evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine 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 provide the accounting officer with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.

Report of the auditor-general to Parliament on vote no. 23: Department of Defence

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the Department of Defence set out on pages xx to xx, which comprise the appropriation statement, statement of financial position as at 31 March 2022, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, except for the effects and possible 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 Department of Defence as at 31 March 2022, and its financial performance and cash flows for the year then ended, in accordance with the Modified Cash Standard (MCS) as prescribed by the National Treasury and the requirements of the Public Finance Management Act 1 of 1999 (PFMA).

Basis for qualified opinion

Goods and services and investments

3. The department 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 6 of 1974, as amended. I was unable to obtain sufficient appropriate audit evidence on sensitive projects expenditure and related investments due to the sensitivity of the environment and the circumstances under which the related transactions were incurred and recorded. Consequently, I was unable to determine whether any adjustments were necessary to sensitive projects expenditure included in the expenditure of R12,83 billion (2021: R14,26 billion), as per note 4 to the financial statements, and investments for special defence activities included in the investment amount of R179,15 million (2021: R182,16 million), as per note 11 to the financial statements.

Irregular expenditure

4. The department did not fully record irregular expenditure in the notes to the financial statements, as required by section 40(3)(b)(i) of the PFMA. This was due to inadequate systems to detect, record and appropriately disclose this expenditure in the financial statements. Consequently, I was unable to determine the full extent of the understatement of irregular expenditure, stated at R15,18 billion (2021: R11,26 billion) in note 24 to the financial statements, as it was impracticable to do so.

Movable tangible capital assets

5. I was unable to obtain sufficient appropriate audit evidence for movable tangible capital assets as the department could not indicate where these assets are located or provide other information relating to the existence of these assets. I was unable to confirm or verify these assets by alternative means. Consequently, I was unable to determine whether any adjustments were necessary to movable tangible capital assets stated at R64,72 billion (2021: R63,89 billion) in note 30 to the financial statements.
6. I was unable to obtain sufficient appropriate audit evidence to confirm movable tangible capital assets additions amounting to R800 million, as the supporting information was not provided. Consequently, I was unable to determine whether any adjustments were necessary to the movable tangible capital assets stated at R64,72 billion in note 30 to the financial statements.
7. The department did not recognise all items of movable tangible capital assets in accordance with MCS chapter 11, *Capital assets*. I identified items of movable tangible capital assets belonging to the department that were not included in the underlying accounting records. I was unable to determine the impact on the closing balance of movable tangible capital assets as it was impracticable to do so. Consequently, movable tangible capital assets were understated by an unknown amount in the financial statements.
8. The department did not recognise all movable tangible capital assets at cost in accordance with MCS chapter 11, *Capital assets*. I identified a significant number of assets acquired after 1 April 2002 which were recorded at R1. This is in contravention of the MCS which allows R1 values to be assigned only to those assets acquired prior to 1 April 2002 and where documentation to establish the cost is not available. Consequently, I was unable to determine the full extent of the understatement of movable tangible capital assets stated at R64,72 billion in note 30 to the financial statements as it was impracticable to do so.

Employee benefits

9. In the prior year, the department did not establish adequate internal controls to monitor leave processing. As a result, not all leave transactions were captured, which resulted in the leave balance and the provision being overstated. I was unable to confirm these employee benefits by alternative means. Consequently, I was unable to determine whether any adjustments were necessary to the corresponding figure of employee benefits, stated at R3,56 billion as disclosed in note 21. My audit opinion on the financial statements for the period ended 31 March 2021 was modified accordingly. My opinion on the current year financial statements is also modified because of the possible effect of this matter on the comparability of the employee benefits for the current period.

Context for the opinion

10. 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 my report.
11. I am independent of the department in accordance with the International Ethics Standards Board for Accountants' *International code of ethics for professional accountants (including International Independence Standards)* (IESBA code) as well as other 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.

12. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of matters

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

Uncertainty relating to the future outcome of litigation

14. With reference to note 18 to the financial statements, the department is the defendant in various lawsuits. The ultimate outcome of these matters cannot presently be determined and no provision for any liability that may result has been made in the financial statements.

Payables not recognised

15. As disclosed in note 20 to the financial statements, payables of R105,73 million exceeded the payment term of 30 days, in contravention of treasury regulation 8.2.3. This amount, in turn, exceeded the R20,50 million of voted funds to be surrendered by R85,23 million as per note 12 to the financial statements. The amount of R85,23 million would therefore have constituted unauthorised expenditure had the amounts due been paid on time.

Other matter

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

Unaudited supplementary schedules

17. The supplementary information set out on pages xx to xx does not form part of the financial statements and is presented as additional information. I have not audited these schedules and, accordingly, I do not express an opinion thereon.

Responsibilities of the accounting officer for the financial statements

18. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the MCS 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.
19. In preparing the financial statements, the accounting officer is responsible for assessing the department'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 appropriate governance structure 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

20. 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.
21. 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

22. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I have a responsibility to report on the usefulness and reliability of the reported performance information against predetermined objectives for selected programmes presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.
23. My procedures address the usefulness and reliability of the reported performance information, which must be based on the department's approved performance planning documents. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures do not examine whether the actions taken by the department enabled service delivery. My procedures do not extend to any disclosures or assertions relating to the extent of achievements in the current year or 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.
24. 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 department's annual performance report for the year ended 31 March 2022:

Programmes	Pages in the annual performance report
Programme 2: Force employment	x – x

25. 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.

26. The material finding on the usefulness and reliability of the performance information of the selected programme is as follows:

Programme 2: Force employment

Percentage of compliance with combat-ready capabilities available to the South African National Defence Force (SANDF)

27. I was unable to obtain sufficient appropriate audit evidence for the achievement of this classified indicator included in the annual performance report, due to a lack of valid supporting records for certain of the capabilities reported on. 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.

Other matters

28. I draw attention to the matters below.

Achievement of planned targets

29. Refer to the annual performance report on pages xx to xx for information on the achievement of planned targets for the year and management's explanations provided for the under/overachievement 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 27 of this report.

Adjustment of material misstatements

30. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information of the force employment programme. 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

31. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the department's compliance with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.

32. The material findings on compliance with specific matters in key legislation are as follows:

Annual financial statements, performance and annual report

33. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework and/or supported by full and proper records as required by section 40(1)(a) and (b) of the PFMA. Material misstatements of capital work in progress identified by the auditors in the submitted financial statements were corrected subsequently, but

the uncorrected material misstatements and supporting records that were not provided resulted in the financial statements receiving a qualified opinion.

Expenditure management

34. Effective and appropriate 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. As reported in the basis for qualified opinion, the full extent of the irregular expenditure could not be quantified. The majority of the irregular expenditure disclosed in the financial statements was caused by the compensation of employee budget being exceeded without approval of the minister of Finance, in contravention of section 5(1)(b) of the Adjustments Appropriation Act 18 of 2021, and non-compliance with supply chain management prescripts.
35. In some instances, payments were not made within 30 days or an agreed period after receipt of an invoice, as required by treasury regulation 8.2.3.

Asset management

36. Proper control systems were not in place at the department to ensure the safeguarding of assets, as required by treasury regulation 10.1.1(a).

Procurement and contract management

37. I was unable to obtain sufficient appropriate audit evidence that all contracts were awarded in accordance with the legislative requirements as the department did not have proper record keeping in place.
38. Goods and services were procured without obtaining at least three written price quotations in accordance with treasury regulation 16A6.1, paragraph 3.3.1 of practice note 8 of 2007-08 and paragraph 3.2.1 of SCM instruction note 2 of 2021-22. Similar non-compliance was also reported in the prior year.
39. Some of the goods and services of a transaction value above R500 000 were procured without inviting competitive bids, as required by treasury regulations 16A6.1 and 16A6.4 and paragraph 3.4.1 of practice note 8 of 2007-08. Similar non-compliance was also reported in the prior year.
40. Some of the quotations were accepted from 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).
41. 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 regulation 16A9.1(d).
42. The preference point system was not applied in the procurement of some goods and services above R30 000, as required by section 2(a) of the PPPFA and treasury regulation 16A6.3(b). Similar non-compliance was also reported in the prior year.
43. Some of the construction contracts were awarded to contractors that were not registered with the Construction Industry Development Board (CIDB) in accordance with section 18(1) of the CIDB Act. Similar non-compliance was also reported in the prior year.

44. Some of the bid documentation / invitations to tender for procurement of commodities designated for local content and production, did not stipulate the minimum threshold for local production and content as required by the 2017 preferential procurement regulation 8(2). Similar non-compliance was also reported in the prior year.
45. Some of the 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, as required by treasury regulation 16A8.4 and paragraph 4.1.2 of practice note 7 of 2009-10.
46. 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.
47. I was unable to obtain sufficient appropriate audit evidence that bids were adjudicated by committees which were composed in accordance with the policies of the department, as required by treasury regulation 16A6.2 (a) and (b).
48. Quotations were accepted from bidders based on preference points that were not allocated and/or calculated in accordance with the requirements of the PPPFA and Preferential Procurement Regulations.
49. Some quotations were accepted from bidders who had not scored the highest points in the evaluation process, as required by section 2(1)(f) of PPPFA and preferential procurement regulation 2017.
50. Some of the IT-related goods and services classified as mandatory were not procured through SITA as required by treasury regulation 16A6.3(e) and section 7(3) of the SITA Act. Similar non-compliance was also reported in the prior year.
51. Persons in service of the department who had a private or business interest in contracts awarded by the department failed to disclose such interest, as required by treasury regulation 16A8.4 and the public service regulation 18(1).
52. Persons in service of the department whose close family members, partners or associates had a private or business interest in contracts awarded by the department failed to disclose such interest, as required by treasury regulation 16A8.4.
53. Some of the contracts awarded through competitive bidding were also available through a transversal contract facilitated by the relevant treasury in which the auditee participates, in contravention of treasury regulation 16A6.5.
54. Some of the covid-19 personal protective equipment and related items were not procured by following the institution's normal procurement processes, as required by paragraph 3.1 of National Treasury instruction note 11 of 2020-21.
55. Some of the prices of covid-19 personal protective equipment and related items procured through the institution's normal processes were in excess of prices prescribed in annexure A, as required by paragraphs 3.4 (c) and 3.9 of National Treasury instruction note 11 of 2020-21. Similar non-compliance was also reported in the prior year.

56. Some of the covid-19 personal protective equipment and related items procured through quotations did not comply with local content requirements as required by paragraph 4.6 of National Treasury instruction note 5 of 2020-21. Similar non-compliance was also reported in the prior year.

Consequence management

57. I was unable to obtain sufficient appropriate audit evidence that disciplinary steps were taken against officials who had incurred irregular expenditure, as required by section 38(1)(h)(iii) of the PFMA.
58. Disciplinary steps were not taken against some of the officials who permitted irregular expenditure, as required by section 38(1)(h)(iii) of the PFMA.
59. I was unable to obtain sufficient appropriate audit evidence that disciplinary steps were taken against officials who had incurred fruitless and wasteful expenditure, as required by section 38(1)(h)(iii) of the PFMA.

Other information

60. 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.
61. 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 on it.
62. 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.
63. If, based on the work I have performed on the other information that I 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

64. 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.
65. Leadership did not exercise sufficient oversight of financial and performance reporting, compliance with laws and regulations and related internal controls. Action plans developed to address prior year audit matters were not effectively implemented and monitored, resulting in

recurring audit findings. Consequence management was not implemented to create a culture of compliance with policies and legislation and to discourage further irregularities.

66. Management did not prepare regular, accurate and complete financial and performance reports that were always supported and evidenced by reliable information. This was mainly due to lack of proper record management systems and insufficient controls over daily and monthly processing and reconciling of transactions. Additionally, reviewing and monitoring controls over compliance with laws and regulations were not effective to detect and prevent non-compliance.

Material irregularities

67. In accordance with the PAA and the Material Irregularity Regulations, I have a responsibility to report on material irregularities identified during the audit and on the status of material irregularities reported in the previous year's auditor's report.

Material irregularities identified during the audit

68. The material irregularity identified is as follows:

Importation of unregistered drugs without approval from regulating authority

69. The department imported an unregistered drug Heberon® Alfa R (Heberon) into the country between 27 April 2020 and 17 August 2020 without approval from the South African Health Products Regulatory Authority (Sahpra). This resulted in non-compliance with the General Regulations (R859 of 2017) to the Medicines and Controlled substances Act 101 of 1965 which states that a person shall only import a medicine or scheduled substance if such person in the case of unregistered medicines, is authorised by the authority to import such unregistered medicines. The department procured 970 695 vials of Heberon at a cost of US\$15 048 872,50 (approximately R260,59 million). Of this amount, only R33,5 million had been paid to the supplier as at 31 March 2022. This non-compliance was likely to result in a material financial loss of R260 342 813 for the Department of Defence, as Sahpra had authorised the department to use only 10 of the 970 695 vials imported.
70. I notified the accounting officer of the material irregularity on 13 August 2021 and invited the accounting officer to make a written submission on the actions that will be taken to address the matter. On 28 September 2021, the accounting officer provided a written response indicating the measures that were to be implemented to address the material irregularity. The response did not appropriately indicate all the required actions to address the matter and I requested additional information to enable me to conclude on appropriateness of the actions being taken.
71. The Ministerial Task Team (MTT) was commissioned to investigate the procurement of Heberon drugs. They concluded their investigation during October 2021 and submitted the report to the executive authority. The MTT made certain recommendations on this matter which included the return of some Heberon drugs as requested by the Cuban authorities and taking disciplinary actions against officers who caused the irregularity.
72. At the instruction of Sahpra dated 3 November 2021, the department repatriated all the Heberon drugs to Cuba. The Cuban representatives acknowledged receipt of the two Heberon shipments on 20 January 2022 and 17 February 2022, respectively.

73. I did not receive any further response from the accounting officer on actions taken to resolve the material irregularity, including the R33,5 million paid, and have concluded that the actions taken are not adequate to fully address the material irregularity.

74. I am in the process of determining the most suitable action to take.

Status of previously reported material irregularities

Inventory and asset management contract was not awarded only the bidder that scored highest points in the evaluation process

75. In February 2017, the department awarded a contract for services relating to inventory and asset verification for a period of five years, commencing from 1 March 2017. The department did not comply with the requirements of paragraph 2(1)(f) of the PPPFA in awarding this contract because it did not award the entire contract to the bidder that scored the highest points in the evaluation process. The non-compliance is likely to result in a material financial loss as the contract was awarded to two bidders on a 50/50 basis at an increased price of R922 million for the same scope of work. This resulted in an increase of R250,56 million in the project cost. As at the end of the 2021-22 financial year, the department had spent R616,90 million on the contract.

76. The accounting officer was notified of the material irregularity on 18 July 2019. The accounting officer responded by disagreeing that there was non-compliance with legislation in awarding the contract. This resulted in the further review and investigation of the matter by the National Treasury, which confirmed on 28 February 2020 that legislation had been contravened in the awarding of this contract.

77. I recommended that the accounting officer take the following actions to address the material irregularity by 30 November 2020:

- a) The accounting officer should investigate the irregular expenditure and quantify the amount of the financial loss incurred, in accordance with the applicable instruction note(s) issued by the National Treasury dealing with irregular expenditure.
- b) Effective and appropriate disciplinary steps must be taken against any official who the investigation found to be responsible, as required by section 38(1)(h) of the PFMA and treasury regulation 9.1.3.
- c) Appropriate action must be taken to determine whether the responsible official is liable by law for the losses suffered by the department for the purpose of recovery, as required by treasury regulations 9.1.4 and 12.7.1.

78. The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 30 November 2020. Based on the assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.

79. The accounting officer was notified of the outcome of the assessment on 6 April 2021 and given an extension until 30 April 2021 to implement those recommendations. Although an investigation was conducted, the accounting officer in her response cited limitations in terms of the Defence Act 42 of 2002, in so far as it relates to taking disciplinary action against military command

members. I concluded that the recommendations had not been adequately implemented, particularly as they relate to non-military personnel in respect of whom the accounting officer has no limitations.

80. On 18 August 2021, I issued a directive to the accounting officer in terms of section 5A(3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person by 18 November 2021.
81. In addition, I notified the accounting officer of the following remedial actions to address the material irregularity, which should have been implemented by the same date:
- a) Effective and appropriate disciplinary steps must be taken against any civilian official whom the investigation found to be responsible, as required by section 38(1)(h) of the PFMA and treasury regulation 9.1.3.
 - b) Appropriate action must be taken to determine whether the responsible civilian official(s) is liable for the losses suffered by the department for the purpose of recovery, as required by treasury regulations 9.1.4 and 12.7.1.
 - c) Steps must be taken to ensure that the chief of the South African National Defence Force takes:
 - i. effective and appropriate disciplinary action against any military command official whom the investigation found to be responsible, as required by section 38(1)(h) of the PFMA and treasury regulation 9.1.3.
 - ii. appropriate action to determine whether the responsible military command official(s) is/are liable for the losses suffered by the department for the purpose of recovery, as envisaged by treasury regulations 9.1.4 and 12.7.1.
 - d) If the chief of the SANDF fails to take effective and appropriate disciplinary action against military command official(s), and/or fails to take appropriate steps to determine whether the responsible command official(s) is/are liable for the losses suffered by the department for the purposes of recovery, the accounting officer must promptly, and before the expiry of the three-month period envisaged in the notification of remedial action, notify the executive authority of such failure.
82. On 8 November 2021, the accounting officer submitted a written response which was assessed to be incomplete. The accounting officer was therefore requested to provide a revised response that clearly indicated the progress that was made with the actions and the timelines for completing the actions. The supplementary response was received on 23 November 2021.
83. On 26 January 2022, I informed the accounting officer that I was not satisfied with the progress on implementation of the directive and remedial actions. A further submission by the accounting officer on 1 June 2022 confirmed the lack of progress in quantification of the financial loss and implementation of consequence management for both civilian and military command officials.
84. I am in the process of determining the most suitable action to take.

Lease payments made for unoccupied office buildings

85. The department made lease payments in the financial years 2015-16 to 2019-20 for unoccupied office buildings, in contravention of section 45(b) of the PFMA, which requires the effective, efficient, economical and transparent use of the department's financial resources. The non-compliance resulted in a financial loss of R108,3 million, which forms part of the closing balance of fruitless and wasteful expenditure disclosed in note 25 to the financial statements.
86. The accounting officer was notified of the material irregularity on 11 August 2020. On 8 September 2020, the accounting officer issued an instruction to investigate this material irregularity and conclude on it by 30 October 2020.
87. I did not receive any response from the accounting officer on the implementation of the planned actions and the outcomes thereof and concluded that appropriate action was not being taken.
88. I recommended that the accounting officer take the following actions to address the material irregularity, which should have been implemented by 11 November 2021:
- The financial loss should be quantified and the officials responsible for the financial loss identified in accordance with the applicable instruction note(s) issued by the National Treasury dealing with fruitless and wasteful expenditure;
 - Effective and appropriate disciplinary steps should commence against any civilian official whom the investigation found to be responsible, as required by section 38(1)(h) of the PFMA and treasury regulation 9.1.3;
 - Effective and appropriate disciplinary steps should commence against any military command official whom the investigation found to be responsible, as required by section 38(1)(h) of the PFMA and treasury regulation 9.1.3; and
 - Appropriate action must be taken to determine whether the responsible official is liable by law for the losses suffered by the department for the purpose of recovery, as required by treasury regulations 9.1.4 and 12.7.1.
89. On 8 November 2021, the accounting officer submitted a written response that did not appropriately address all the required actions to address the matter. I requested additional information to enable me to conclude on appropriateness of the actions being taken. The supplementary response was received on 23 November 2021. I assessed the accounting officer's revised response and concluded that adequate progress was not made with the implementation of the recommendations.
90. On 1 June 2022, the accounting officer provided a further written submission which acknowledged the financial loss but stated that the board of inquiry did not find anyone liable for the loss and therefore no disciplinary action could be taken against anyone.
91. I assessed the outcome of the board of inquiry and concluded that its conclusion was not appropriate and that appropriate action was not taken to implement the AGSA's recommendations.
92. I am in the process of determining the most suitable action to take.

Unfair award for the supply of fuel

93. In July 2019, the department awarded a contract worth R13,9 million for the supply and delivery of fuel to a supplier using evaluation criteria that differed from those stipulated in the original request for quotations. The original request for quotations stipulated that the award would be made to a bidder with a lower price, but the department used the rotation of suppliers as the criterion to award this contract. The mode of transport was also changed after the award, which resulted in a further price increase. The awarding of the contract using different criteria resulted in non-compliance with treasury regulation 16A.3.2(a), which requires that the supply chain management process be fair, transparent, competitive and cost-effective. The non-compliance caused a material financial loss of R2,57 million due to a higher price being paid for the fuel.
94. The accounting officer was notified of the material irregularity on 11 August 2020. On 8 September 2020, the accounting officer issued an instruction to investigate this material irregularity and conclude on it by 30 October 2020.
95. On 27 November 2020, the accounting officer completed the investigation into this material irregularity and disagreed that there was non-compliance with legislation in awarding the contract.
96. I referred the material irregularity to the Directorate for Priority Crime Investigations (DPCI) on 15 November 2021 for investigation as provided for in section 5(1A) of the PAA. The referral was accepted by the DPCI on 6 December 2021 and as at the date of this report, the investigation was still in progress.

Personal protective equipment (PPE) not procured in a cost-effective manner

97. On 14 April 2020, the department procured 1 000 infra-red (IR) thermometers at a price of R3 984,75 each, spending a total of R3 984 750 on this transaction. The price paid was above the recommended price of R2 727,86 per IR thermometer, as indicated in National Treasury instruction note 8 of 2019-20 (annexure A, table 2), issued on 19 March 2020. The procurement of IR thermometers at a higher price resulted in non-compliance with paragraph 3.7.6(ii) of the same instruction note. This non-compliance is likely to result in a material financial loss for the department, as PPE items were procured at prices that were excessive.
98. I notified the accounting officer of the material irregularity on 15 July 2021 and invited the accounting officer to make a written submission on the actions that will be taken to address the matter. The accounting officer convened a board of inquiry on 16 August 2021 to investigate and report on the circumstances that led to the material irregularity. The board of inquiry planned to complete its investigation on or before 20 September 2021.
99. On 7 October 2021 and 17 May 2022, respectively, I submitted a request for information on the progress made in addressing the material irregularity. The accounting officer provided feedback on 30 May 2022 indicating that the board of inquiry had to be reconvened due to the shortcomings identified regarding the first inquiry. As at the date of this report, a new board of inquiry has not been convened.
100. I have concluded that appropriate action is not being taken to address the material irregularity.
101. I am in the process of determining the most suitable action to take.

Other reports

102. In addition to the investigations relating to material irregularities, I draw attention to the following engagements conducted by various parties which 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.

Investigations

103. The department conducted a forensic audit on the refurbishment and repairs and maintenance project at 1 Military Hospital. The investigation, which was completed in December 2020, has been referred by the department to the Directorate for Priority Crime Investigation (the Hawks) for further investigation (DPCIHQ Inquiry no. 2021/09/02). At the date of this report, the investigation was still in progress.

104. The Special Investigating Unit conducted investigations into the procurement of, or contracting for goods, works or services, including the construction, refurbishment, leasing, occupation and use of immovable property by or on behalf of the state institutions procured during, or in respect of the National State of Disaster. The investigation, which was conducted in terms of Proclamation No. R23 of 2020, covered the period 1 January 2020 to 23 July 2020, or transactions which took place prior to 1 January 2020 or after the date of publication of the Proclamation but were relevant to or connected with the matters being investigated under authority of the Proclamation. For the department, the investigation focused on the procurement of personal protective equipment. The investigation was concluded in September 2021 and resulted in disciplinary referrals against 11 officials, as well as criminal referrals to the National Prosecuting Authority against 15 officials from the department, three external parties and eight companies.

Pretoria

Auditor General

31 July 2022



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 the procedures performed on reported performance information for selected programme 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 board of directors, which constitutes 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 relating to events or conditions that may cast significant doubt on the ability of the department of defence 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 my 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 operating as a going concern.
 - evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine 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 provide the accounting officer with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.

PROGRAMME FOR THE FINANCIAL YEAR 2022/2023

DATE	AGENDA
19 – 21 April 2022 (Gauteng)	<ul style="list-style-type: none"> • Oversight Visit to the Intelligence Services in Gauteng
19 April 2022	<ul style="list-style-type: none"> ○ Meeting with SAPS-CI ○ Demonstration of Precise Mobile Location (Grabbers) and Drones
20 April 2022	<ul style="list-style-type: none"> ○ Meeting with OIC ○ Meeting with FIC ○ Meeting with SSA Gauteng Provincial office
21 April 2022	<ul style="list-style-type: none"> ○ Meeting with SSA on the following: <ul style="list-style-type: none"> ○ Presentation on the Forensic Investigation ○ Presentation on the General Intelligence Laws Amendment Bill ○ Presentation by the Chief Directorate: Infrastructure and Logistics ○ Briefing by the NC ○ Briefing by the IA ○ Viewing of offices
Tuesday, 10 May 2022	<ul style="list-style-type: none"> • Consideration and adoption of Draft Second Term Programme • Consideration and adoption of outstanding Minutes and Report • Briefing by South African Police Services-Crime Intelligence (SAPS-CI) on its Annual Performance Plan and Budget for 2022/2023
Tuesday, 17 May 2022	<ul style="list-style-type: none"> • Consideration and adoption of Draft Second Term Programme • Consideration and adoption of outstanding Minutes and Report • Deliberations on the appointment of the Inspector-General of Intelligence (IGI) • Adoption of the report of the Joint Standing Committee on Intelligence (JSCI) on the nomination of the IGI
Wednesday, 18 May 2022	<ul style="list-style-type: none"> • Presentation by the Researcher on the Analysis of Defence Intelligence (DI) Annual Performance Plan for 2022/2023 • Briefing by DI on its Annual Performance Plan for 2022/2023
Thursday, 19 May 2022	<ul style="list-style-type: none"> • Briefing by the SAPS-CI on its Annual Performance Plan for 2022/2023 • Presentation by the Researcher on the Analysis of the State Security Agency (SSA) Annual Performance Plan for 2022/2023 • Briefing by SSA on its Annual Performance Plan for 2022/2023

DATE	AGENDA
	<ul style="list-style-type: none"> • Consideration and adoption of the Budget Vote Reports
Tuesday, 7 June 2022	<ul style="list-style-type: none"> • Briefing on the Status of the Exemption Certificate for the use of grabbers procured by SAPS-CI • Briefing by the Office for Interception Centres (OIC) on the possible use of the grabbers procured by SAPS-CI
Wednesday, 8 June 2022	<ul style="list-style-type: none"> • Briefing on the independence of the OIC as directed in the High Level Review Panel Report • Briefing by the National Intelligence Coordinating Committee (NICOC) on the National Intelligence Estimates and Security Development in Cabo Delgado, Mozambique
Tuesday, 23 August 2022	<ul style="list-style-type: none"> • Update on the Study Tour to the United Kingdom and Canada • Deliberations on the appointment of the IGI • Consideration and adoption of the Draft Third Term Programme • Feedback on the status of the exemption certificate for the use of Grabbers procured by SAPS-CI • Update on the relocation of DI Headquarters
Wednesday, 24 August 2022	<ul style="list-style-type: none"> • Consideration and adoption of outstanding minutes • Consideration and adoption of outstanding oversight report • Presentation by the Researcher and Legal Advisor on the findings and recommendations made in respect to intelligence services made in the report on Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (Zondo Commission)
Tuesday, 30 August 2022	<ul style="list-style-type: none"> • Deliberations on the appointment of the IGI • Consideration and adoption of the report to the Speaker of the National Assembly regarding the allegations arising out of the Phala Phala game farm theft • Consideration and adoption of outstanding minutes
Wednesday, 31 August 2022	<p>Briefing by the SSA on the following:</p> <ul style="list-style-type: none"> • Feedback on the introduction of the General Intelligence Laws Amendment Bill (GILAB) to Parliament • The appointment of 26 senior managers, made in February 2021 by former Minister Ayanda Dlodlo

DATE	AGENDA
	<ul style="list-style-type: none"> • All lease agreements and cost analysis for the procurement of buildings for provincial offices • Feedback on the lease agreement and rental fee of the Gauteng provincial office located at OR Tambo International Airport • Refurbishment of Kiepersol office space • Work done by Ligwa Advisory Services • The suspension of Mr Robert McBride
Tuesday, 6 September 2022	<ul style="list-style-type: none"> • Briefing by the Auditor-General of South Africa (AGSA) on the following: <ul style="list-style-type: none"> - The challenges AGSA experiences when conducting audits of Intelligence Services - Areas of concern within the Services - The intervening methods that could be introduced to enable the Services to have clean audits - How can the Committee assist the AGSA in executing its mandate • Presentation of the quarterly report by the Audit & Risk Committee (ARC) responsible for SSA • Presentation by Legal Drafters on the General Intelligence Laws Amendment Bill (GILAB)
Wednesday, 7 September 2022	<ul style="list-style-type: none"> • Presentation by SSA Internal Audit on the first quarter audit report • Presentation by SAPS-CI Internal Audit on the first quarter audit report • Presentation by the Audit and Risk Committee (ARC) responsible for SAPS-CI on the first quarter report • Presentation by DI Internal Audit on the first quarter audit report
Tuesday, 13 September 2022	<ul style="list-style-type: none"> • Briefing by SSA on its first quarter report
Wednesday, 14 September 2022	<ul style="list-style-type: none"> • Briefing by DI on its first quarter report
Tuesday, 20 September 2022	<ul style="list-style-type: none"> • Presentation by the Researcher on the analysis of the SAPS-CI first quarter report • Briefing by SAPS-CI on its first quarter report

DATE	AGENDA
18 – 19 October 2022	<ul style="list-style-type: none"> • Annual Planning Workshop and Special meetings in Pretoria
Tuesday, 18 October 2022	<ul style="list-style-type: none"> ○ Attend the Annual Planning Workshop at SSA
Wednesday, 19 October 2022 (Gauteng)	<ul style="list-style-type: none"> ○ Briefing by the Designated Judge for Interception on the 2021/2022 Annual Report ○ Presentation by the ARC on the SSA 2021/2022 Annual Report ○ Briefing by the OIC on its independence and upgrading of OIC equipment
Tuesday, 25 October 2022	<ul style="list-style-type: none"> • Consideration and adoption of the Draft Fourth Term Programme • Update on the Study Tour to the United Kingdom and Canada • Engagement on the decision by the Minister to revert the reporting line of the OIC to National Communications Centre (NCC) • Presentation by AGSA on the 2021/2022 Annual Report of the Intelligence Services • Presentation by the ARC on SAPS-CI 2021/2022 Annual Report
Wednesday, 26 October 2022	<p>Briefing by SAPS-CI on the following:</p> <ul style="list-style-type: none"> • First quarter report • Findings and recommendations in the Zondo Commission report with specific reference to the following: <ul style="list-style-type: none"> - Functioning of the Secret Services Account - Current controls of the Secret Services Account - Auditing of the Secret Services Account - Current challenges of the Secret Services Account - Solutions for the Secret Services Account - Consequence management for those who abused the Secret Services Account
Tuesday, 1 November 2022	<ul style="list-style-type: none"> • Presentation by the Researcher on the Analysis of the SSA 2021/2022 Annual Report • Briefing by the SSA on the following: <ul style="list-style-type: none"> - 2021/2022 Annual Report - Protocols for interacting with Foreign Intelligence Services - Geo Politics • Briefing by the Chief Financial Officer on the Temporary Advance System

DATE	AGENDA
	<ul style="list-style-type: none"> • Challenges in the UK and Canadian foreign stations • Follow-up on the Ministerial directives used in the appointment of the 26 Managers
Wednesday, 2 November 2022	<ul style="list-style-type: none"> • Briefing by the Financial Intelligence Centre (FIC) on its 2021/2022 Annual Report • Update on the Study Tour to the United Kingdom and Canada: 5 to 20 November 2022
05 – 20 November 2022	<ul style="list-style-type: none"> • Study Tour of the JSCI to the United Kingdom and Canada
Tuesday, 29 November 2022	<ul style="list-style-type: none"> • Consideration and adoption of outstanding minutes • Briefing by DI on its 2021/2022 Annual Report • Update on the relocation of Defence Intelligence Headquarters
Wednesday, 30 November 2022	<ul style="list-style-type: none"> • Briefing by the SSA on the following: <ul style="list-style-type: none"> - The vetting mandate, vetting strategy and update on the development/upgrading of the electronic vetting system - Progress report on the investigation by Ligwa Advisory Services • Briefing by NICOC on the following: <ul style="list-style-type: none"> - National threat picture including critical issues within the intelligence environment - Update on Cabo Delgado crisis - Draft regulations to regulate the production of intelligence products by NICOC • Briefing on the draft National Security Strategy (NSS) with specific reference to: <ul style="list-style-type: none"> - What is the NSS and its importance - Current challenges in drafting and finalising the NSS - The solutions to the identified challenges - Implementation plan in finalising the NSS
Tuesday, 21 February 2023	<ul style="list-style-type: none"> • Briefing by SAPS-CI on the following: <ul style="list-style-type: none"> - Detailed audit of all Provincial Offices - Detailed account of all matters raised in the IGI's Certificate FY 2019/20 & 2020/21 with regard to KwaZulu-Natal - SAPS-CI's role at the borders at the provincial level

DATE	AGENDA
	<ul style="list-style-type: none"> - Challenges at Provincial Offices and detailed plan of action with timelines • Briefing by OIGI on the following: <ul style="list-style-type: none"> - IGI Certificates for FY 2021/22. - Discussions on the tasking of the OIGI specifically: <ul style="list-style-type: none"> * The independence of the OIGI * Monitoring and Review of intelligence and counter-intelligence activities in Foreign Stations: SSA & DI * Monitoring and review of intelligence and counterintelligence in Provincial Offices: SSA and SAPS-CI
Wednesday, 22 February 2023	<ul style="list-style-type: none"> • Committee business: <ul style="list-style-type: none"> - Briefing by the Researcher on the prioritisation plan for JSCI annual programme - Briefing by the Legal Adviser on matters referred from ATC 7 of 2023, Tuesday 31 January 2023 - Consideration and adoption of the Draft First Term programme - Consideration and adoption of outstanding minutes • Briefing by SSA Foreign Branch on the following: <ul style="list-style-type: none"> - Detailed audit report of all Foreign Stations - Classification of each Foreign Station - Strategic importance of each Station - Regulations of Foreign Deployments - Challenges experienced at Foreign Stations, proposed solutions and assistance required from the JSCI - Detailed audit report on the physical security of Foreign Stations as well as a plan to deal with the identified security vulnerabilities with timelines • Briefing by SSA Domestic Branch on the following: <ul style="list-style-type: none"> - Detailed audit of all Provincial Offices - Detailed account of all matters raised in the IGI's Certificate of FY 2019/20 & 2020/21 pertaining to specific provinces - Border intelligence

DATE	AGENDA
Tuesday, 28 February 2023	<ul style="list-style-type: none"> • Presentation by the ARC on SAPS-CI 2021/2022 Annual Report • Briefing by the Researcher on SAPS-CI 2021/2022 Annual Report and Quarterly Reports analysis • Briefing by SAPS-CI on the following: <ul style="list-style-type: none"> - 2021/2022 Annual Report - 2nd and 3rd Quarterly reports - SAPS-CI Organisational structure
Wednesday, 1 March 2023	<ul style="list-style-type: none"> • Briefing by the Ministry on the commitment made by the Executive branch on the implementation of the Zondo Commission Recommendations • Briefing by NICOC on the following: <ul style="list-style-type: none"> - The current national threat picture including critical issues within the intelligence environment - The effect of load shedding on National Security - Draft regulations for the production of intelligence products by NICOC - Draft National Security Strategy (NSS) with specific reference to: <ul style="list-style-type: none"> * What is the NSS and its importance * Current challenges in drafting and finalising the NSS * Solutions to the identified challenges
Tuesday, 7 March 2023	<ul style="list-style-type: none"> • Briefing by SSA on the following: <ul style="list-style-type: none"> - 2nd and 3rd quarterly reports • Follow-up on matters arising from 2022: <ul style="list-style-type: none"> - Briefing by Ministry on the decision taken for OIC to report to NC - Briefing by the Director-General on the delays in authorising the procurement of equipment for the OIC
Wednesday, 8 March 2023	<ul style="list-style-type: none"> • Briefing by DI on the deployments of Defence Attachés as follows: <ul style="list-style-type: none"> - Location and areas of responsibility for all Defence Attachés - Strategic importance of each deployment and how they contribute to DOD priorities - Regulations of deployments

DATE	AGENDA
	<ul style="list-style-type: none">- Challenges with Defence Attaché deployments, proposed solutions and assistance required from the JSCI• Briefing by DI on the 2nd and 3rd Quarterly Reports

GLOSSARY OF ACRONYMS

AGSA:	Auditor-General of South Africa
APP:	Annual Performance Plans
ANC:	African National Congress
AR:	Annual Report
ARC:	Audit and Risk Committee
CFO:	Chief Financial Officer
DA:	Democratic Alliance
DCS:	Department of Correctional Services
DI:	Defence Intelligence
DPME:	Department of Planning, Monitoring, and Evaluation
DPWI:	Department of Public Works and Infrastructure
DOD:	Department of Defence
EFF:	Economic Freedom Fighters
EU:	European Union
FATF:	Financial Action Task Force
FIC:	Financial Intelligence Centre
FVEY:	Five Eyes
GCHQ:	Government Communications Headquarters
GILAB:	General Intelligence Laws Amendment Bill
HLRP:	High-Level Review Panel
HOS:	Head of Station
IA:	Intelligence Academy
IC:	Intelligence Commissioner
ICT:	Information Communications Technology
ID:	Investigative Directorate
IGI:	Inspector-General of Intelligence
IMSI:	International Mobile Subscriber Identity
IPCO:	Investigatory Powers Commissioner's Office

IPT:	Investigatory Powers Tribunal
ISC:	Intelligence and Security Committee of Parliament
JICS:	Judicial Inspectorate for Correctional Services
JIO:	Joint Intelligence Organisation
JSCI:	Joint Standing Committee on Intelligence
LEAs:	Law Enforcement Agencies
LIMC:	Lawful Interception Monitoring Centre
MI5:	Security Service
MI6:	Secret Intelligence Service
MTSF:	Medium Term Strategic Framework
NA:	National Assembly
NC:	National Communications
NCOP:	National Council of Provinces
NICOC:	National Intelligence Co-ordinating Committee
NIEs:	National Intelligence Estimates
NSICOP:	National Security and Intelligence Committee of Parliamentarians
NSIRA:	National Security and Intelligence Review Agency
NSS:	National Security Strategy
OCDAs:	Office for Communications Data Authorisations
OIC:	Office of the Interception Centres
OIGI:	Office of the Inspector-General of Intelligence
PFMA:	Public Finance Management Act
RICA:	Regulation of Interception of Communications and Provision of Communication-related Information Act
SAMLIT:	South African Anti-Money Laundering Integrated Task Force
SAPS:	South African Police Service
SAPS-CI:	South African Police Service-Crime Intelligence
SARS:	South African Revenue Service
SASS:	South African Secret Services
SDA:	Special Defence Account
SIU:	Special Investigating Unit

SMART: Specific, Measurable, Achievable, Relevant or Time-bound

SSA: State Security Agency