

COMMITTEE REPORTS

National Assembly and National Council of Provinces

1. Special Report of the Joint Standing Committee on Intelligence (JSCI) on the Special 'Browse' Mole Consolidated Report document leaked to the public and investigated by Government Investigative Task Team, tabled in terms of section 6 (2) of Intelligence Services Oversight Act, Act 40 of 1994.

Introduction

This is a Special Report of the Joint Standing Committee on Intelligence (JSCI), tabled in Parliament in terms of Section 6 (2) of the Intelligence Services Oversight Act, Act 42 of 1994.

The report emanates from the consideration of the outcome of the investigation conducted by a Government Investigative Task Team into the leak of a top secret document.

In 2006 the Directorate of Special Operation (DSO) produced a 'Top Secret' document known as the Special 'Browse' Mole Consolidated Report, herein after referred to as the Browse Mole Report. In 2007 the Browse Mole Report was leaked to the South African public, as a consequence it was sent to the Secretary General of the Congress of South African Trade Unions (COSATU) on 7 May 2007.

The document is extremely inflammatory containing political intelligence and numerous allegations and unsubstantiated statements about prominent political figures in South Africa and the African continent. COSATU formally enquired about this document from the National Director of Public Prosecution (NDPP), who declined to assist them.

On 30 May 2007 the National Security Council appointed a Investigative Task Team herein after referred to as Task Team, to investigate the leaked document. In June 2007 the South African Communist Party (SACP) wrote a letter of complain to the JSCI, requesting the committee to look into the matters raised about the Browse Mole Report.

The Special Browse 'Mole' Consolidated Report

The Browse Mole Report is an intelligence document of the Directorate of Special Operation. The report was supposed to be a 'Top Secret' document of the DSO but was leaked to the public in 2007 and consequently anonymously faxed on 7 May 2007 to the Secretary General of the South African Congress of Trade Unions (COSATU). COSATU shared the document with its alliance organisations and government ministers.

On 17 May 2007 COSATU lawyers wrote to the National Director of Public Prosecutions, Adv. Vusi Pikoli complaining about this document. The essence of the complaint questioned whether the Browse Mole Report emanated from the DSO and whether there would be any investigation pertaining to the document.

The contents of the document are extremely inciteful and provocative, containing, *inter alia*, numerous allegations and unsubstantiated statements about prominent political figures in South Africa and the African continent. In essence the document begins with a conclusion that the former Deputy President Jacob Zuma was involved in a conspiracy which was a threat to the sovereignty and integrity of the South African State. The extract from the introduction reads as follows:

"The conclusion reached as a result of the present browse, is that there are strong indications that former Deputy President Jacob Zuma's presidential ambitions are fuelled and sustained by a conspiracy playing out both inside South Africa and on the African continental stage.

Inside South Africa, as is well known, groupings, like the South African Communist Party, the

ANC Youth League, the SACP's Youth League and Cosatu, seemingly disaffected from the presidency of Thabo Mbeki, have largely thrown in their lot with the former Deputy President; along with these there exist elements within the Security and Intelligence Services that appear to be considering the subversion of the apparatus of State in support of a Zuma presidency

On the continental level, inquiries have revealed that several Heads of State and leaders of African politico/military groupings, apparently alienated by South Africa's perceived pre-eminence in the African Union and especially in Nepad, appear to be providing both funding and support to Zuma's cause. In some case these political leaders appear to pose a threat to the sovereignty and integrity of the South African State."

The document portrays the President of Angola, Eduardo Dos Santos to be giving support to the Zuma conspiracy. It also alleges a \$3 - \$5 million financial support by the Libyan government of Muammar Qadhafi, facilitated by the SACP Secretary General, Blade Nzimande, towards "promotion of a street level revolution in South Africa, in support of Zuma's political aspirations." The document alleges that in April 2006, a group of senior African politicians met to discuss ways of promoting the cause of Jacob Zuma and toppling the "Thabo Mbeki regime" in South Africa.

The document further alleges that in early 2006, a meeting was convened at Shaft 17 Conference Centre at Nasrec outside Johannesburg with a select group of senior Umkhonto we Sizwe (MK) leaders that are now part of the general staff of the SANDF. The ambassadors for the Great Lakes region were said to be in attendance. The former Chief of the SANDF, Siphwe Nyanda is alleged to have raised possible alignment of the military in support of Zuma as well as the possibility of a military coup to force President Mbeki to stand down, possibly with foreign military assistance.

It alleges that the Office of Jacob Zuma was involved in the conspiracy through its association with groups hostile to the Mbeki regime, such as the legal counsel for the murderers of Chris Hani and people associated with Brett Kebble, who was alleged to have been Zuma's major funder.

The document concludes that investigations should urgently be pursued via the South African Reserve bank to establish transactions that may impact on the matter. It calls for briefing of appropriate agencies to further investigate the allegation contained in the report. It characterised the "Zuma camp" at one level as a broad front of the discontent, while at another level as a conspiratorial co-ordination whose players needed urgent identification and appropriate action taken. It highlighted Zuma's supporters as having powerful links in the South African intelligence community.

The document ends by emphasising that issues raised were of sufficient concern to make the following recommendations:

- Full briefing of the National Director of Public Prosecutions
- Bringing the contents of the document to the attention of the Minister of Intelligence and the Minister of Justice and Constitutional Development
- Alerting the Presidency
- Asking other agencies of the South African state to be tasked to take some of the work further in terms of their mandates
- Consideration to be given to declare a preparatory investigation under Section 28 (13) of the National Prosecuting Authority Act, to empower the DSO to initiate investigations into the following:

- Money laundering

- Tax evasion
- Contravention of exchange control regulations
- Conspiracy to sedition.

The Complaint by SACP

On 24 May 2007 Adv. Pikoli responded to the letter of the attorney of COSATU, stating he was not in a position to assist their client. On 6 June 2007 government law enforcement agencies (LEA) made a media statement on the Special Browse Mole Consolidated report and announced that there was an investigation.

Following the aforesaid, on 12 June 2007 the South African Communist Party (SACP), through its General Secretary, Dr Blade Nzimande, addressed a letter of complaint to the Chairperson of JSCI. This letter was also copied to the presiding officers of Parliament, ANC, COSATU and SANCO. The SACP believed the detail and the nature of the content of the browse document to be not only politically explosive, but also to have the potential to create intense, acrimonious and divisive political conflict. They urged the JSCI to consider this matter, conduct necessary oversight and in the interest of democracy produce a report that will address the fears of the public.

The Government Investigative Task Team

On 30 May 2007, the President issued a directive to the Directors General of the National Security Council to investigate the source(s) and compilers of the Browse Report, including their intentions and the relevant networks. The terms of reference of the Task Team were:

1. Inquire into the identity of the principal source and other sources referred to in the report;
2. Determine if the source(s) has been used by the other intelligence agencies of the state;
3. Determine if the said source(s) has provided the DSO and any of the other state intelligence agencies with intelligence and or information;
4. Determine if the source(s) is linked to other networks, within and without South Africa, including links with foreign intelligence and law enforcement authorities;
5. Establish the identity of the person(s) who compiled the report;
6. Determine all persons who were provided with copies of the report;
7. Ascertain the version of the report given to the NDPP and the report the NDPP shared with the DG's of the NIA and the SASS;
8. Ascertain the version received from the legal firm acting on behalf the General Secretary of COSATU;
9. Determine how the General Secretary of COSATU received the report;
10. Ascertain where and by whom the report was amended; and,
11. Make appropriate recommendations.

The JSCI was briefed that the findings of the Task Team were as follows:

- The Browse Mole Report is reflective of typical information peddling traits;

- The DSO has fallen prey to dubious activities of information peddlers. The context to this is that the DSO is involved in intelligence collection activities for which they do not have the required competency neither the experience. Further, that they believed in the substance of the information generated. The DSO made use of private intelligence companies;
- Law Enforcement Agencies have as yet not taken action against these peddlers, even though they are known to produce and disseminate defamatory and subversive documents;
- Indications are that information peddlers make use of “facilitators” and or have access to some senior leaders of the ruling party;
- The probability exists that the leakage was timed, due to the non responsiveness of the law enforcement agencies. The determination is that these peddlers are driven by a need to create division within the ruling party; and,
- These peddlers have links to foreign government including Foreign Intelligence Services. This raises serious concerns about the role played by these Foreign Intelligence Services in this matter.

The Task Team made the following recommendations:

- The investigation will continue to its logical conclusion including court directed investigations;
- Government should develop a public communication strategy that will reflect the findings of this investigation and the dangers posed by information peddlers;
- NIA must execute its counter intelligence mandate by conducting an audit on all state institutions particularly those who outsourced intelligence gathering to private companies. NIA must advise on remedial actions required;
- The Directors General of the National Security Council must develop a comprehensive strategy to curtail the risk posed by information peddlers;
- All Law Enforcement Agencies must conduct a review of their operational assets to determine the extent to which they have been infiltrated by the information peddlers.

The production of the Browse Mole Report

The Browse Mole Report is a product of the DSO. It was initially produced as an intelligence document based on the information compiled by a senior investigator and three other undisclosed senior DSO officials. It was based on information obtained from various sources. These sources of the DSO were, *inter alia*, the information peddlers mentioned in the previous section. The Head of the DSO instructed these investigators to get more information and produce one consolidated report. Mr Ivor Powell is the person who produced the final consolidated report, known as the Special “Browse” Mole Consolidated Report.

The JSCI has not established how many versions of the Browse Mole Report were produced by the DSO and in which respect they differ from each other. However what is clear from the briefing is that four copies were made by the Head of the DSO, Adv. McCarthy. They were distributed as follows:

- Head of the DSO, Adv. McCarthy;
- National Director of Public Prosecutions;
- Director General NIA; and,

- Director General SASS.

No intelligence mandate for the DSO

The Task Team briefed the committee that the DSO does not have intelligence gathering mandate, yet they do so. They also informed the committee that the DSO does not have the capacity to conduct and handle intelligence, hence they are vulnerable when relying on private intelligence. The JSCI has continuously raised concerns that the DSO was gathering intelligence without the appropriate mandate and necessary oversight. The DSO leadership has always denied this.

The President, under section 84(2) of the Constitution (Act 108 of 1996) and in terms of Government Notice number R317 dated 01 April 2005 appointed a Commission of Inquiry to look into, amongst other things, the mandate and location of the DSO. The commission, known as the Khampepe Commission, was further required to inquire into, make findings, report on and make recommendations regarding the accountability, effectiveness, efficiency and oversight in respect of the intelligence operations of the DSO.

On 10 October 2007 the JSCI met with the DG of Justice for a briefing on the Khampepe Commissions Report. The Report itself was not put before the committee. The JSCI was advised by the DG that the findings of the Commission were as follows:

- DSO as a structure is not unconstitutional;
- DSO does not have a legal basis to collect intelligence. To the extent that they have been doing so at the time it was done illegally and it was ruled that it should stop. Their intelligence work should be done by the intelligence structures;
- For this reason the Inspector General for Intelligence (IG) and JSCI have no oversight authority over DSO;
- Several DSO personnel and external service providers have not been subjected to security screening as required in law;
- Section 19B of the NPA Act makes provision for a category of DSO officials who have to be subjected to security screening;
- Vetting of DSO personnel needed to be done immediately since they were not complying with the NPA Act; and,
- There is nothing wrong with where the DSO is presently situated.

The committee was furthermore advised by the DG of Justice that the Khampepe Commission had made a recommendation, that DSO immediately ceases its intelligence gathering operations.

In a meeting with the JSCI on 12 September 2007, Adv. McCarthy finally concurred with the finding of the Khampepe Commission that the DSO is involved in intelligence gathering operations.

The threats emanating from information peddlers used by DSO in the production of the Mole document

The information peddlers are a network of people who originate mainly from pre-1994 or apartheid officers, most of whom worked in the covert intelligence structures. They were involved in "sanctions busting" and disinformation through Stratcom Operations. The peddlers also have links with foreign intelligence services such as of UK, Germany, France, USA, etc.

Their *modus operandi* includes the use of illegal intrusive techniques of getting information or intelligence. They share this information among themselves and produce documents at different sites of their network in order to give an impression of verification of information to their clients. They use specific harmless facts out of context, adding to that, dangerous lies, in the production of their documents. By the use of selected facts, they proceed to distort the truth and so produce documents and supply information to state institutions and governments. Their products are mainly about fabricating 'conspiracies' and 'plots' as a method of getting closer to those who hold power. The negative outcome is for their clients to view the legitimate intelligence services as useless and start relying on the peddlers.

During the briefings by the Task Team the JSCI was informed that the information peddlers appear not to pursue an ideological motive but to extort large sums of money from their clients. This money motive may not only be to receive direct payment for information but also indirectly to get access to state contracts. They use power and influence to get to state resources and contracts. They are known to focus on contracts in the security and mining industry.

The JSCI is of the opinion that the work of these peddlers is to destabilise and subvert the Republic of South Africa. They interfere with the efforts towards national unity and cohesion in South Africa. Their objectives in Southern African Development Community (SADC) and Africa are the same. They operate against our efforts, led by the President to bring peace and stability to the African continent. In short their disinformation subverts the national interest of South Africa.

The Task Team established that the DSO utilised the information from these information peddlers in the production of the Browse Mole Report. This continued despite previous warnings from the Intelligence Community. They found that there are people within the DSO who collaborate with these peddlers using the resources of the state for activities which in our view, seeks to undermine the efforts of the state in many ways.

Handling of the Browse Mole Report by DSO

After the compilation of the Browse Mole Report, which was on the instance of the Head of the DSO, Adv. McCarthy stated that he immediately met with Adv. Pikoli and discussed the report with him. Pikoli's attitude, he stated, was that the report had all the hallmarks of the Military Intelligence and Defence Intelligence structures of the past and that they should disassociate themselves from it. McCarthy stated that he was in fact personally disappointed with the report because whereas the compilers should just have:

"... summarised the facts they actually went to making conclusions. Some of them very far fetched. Some of the information in the report is just not reasonably possibly true. Some of the information in the report with a little bit of probing one could establish that it could not have happened."

They then accordingly agreed that the report had no formal status in the Directorate of Special Operations and disassociated themselves from the Browse Mole Report. In addition the DSO contended that the work done in respect of the report was not an authorised investigation but an informal gathering of information. The DSO further contended that they did not deem it necessary to investigate matters contained in the report, as it did not fall under their mandate.

On the contrary the Task Team found, that DSO had not shelved the Browse Mole Report as stated, but had in fact acted on it in order to pursue or consider prosecution. McCarthy had in fact tasked Adrian Mopp, the head of the DSO in the Western Cape, to institute an enquiry based on the Browse Mole Report.

Moreover, the investigation of the Task Team has revealed that DSO actually believed the intelligence which they received through the report. They did not dismiss and discredit the Browse Mole Report as presented by McCarthy, as the work of sinister forces.

However, the week after receiving the report, Adv. Pikoli met with the Directors General of NIA

and SASS and showed them the Browse Mole Report. They were each given a copy of the report. Since the matters contained in the report did not fall within the mandate of the DSO, DG NIA in fact confronted Adv. Pikoli why the DSO was involved in intelligence gathering operations.

A further matter of concern relating to the Browse Mole Report was its classification. It was classified "Top Secret" by the DSO. Even though DSO advised the JSCI that they had a policy document dealing with the classification of documents this was never presented to the committee. The Browse Mole Report and its handling by DSO did not in many respects comply with the provisions of their own policies as well as those of the Minimum Information Security Standard (MISS).

The leak of the Browse Mole Report

It is not disputed that after COSATU received the Browse Mole Report, their attorneys addressed a letter to the National Director of Public Prosecutions. This letter was also sent to the Secretary General of the ANC and General Secretary of SACP and complained about the contents of Browse Mole Report received by COSATU.

The attorney for COSATU recorded that on 07 May 2007 an 18-page document dated 07 December 2006 was received by fax at COSATU's head office in Johannesburg and came from an unidentified person. The document was entitled "Special Browse "Mole" Consolidated Report" and marked "Top Secret".

Several days later the same document was posted from a Pretoria post office with a gold "confidential" sticker and addressed in similar fashion to Mr Vavi. COSATU believed that it was apparent that the person who despatched the document, first by fax and then by post, wanted to ensure they received it.

The Head of DSO, Adv. McCarthy was clear that he did not know who the people were who leaked the Browse Mole Report. He claims that he first learnt about its leakage on 17 June 2007. McCarthy also advised the JSCI that DSO had found nothing on their computers to indicate that the Browse Mole Report had been telefaxed from their offices.

The JSCI has, on the information presented to it, come to the conclusion that the leaked document is not the same version as the one given to the National Director of Public Prosecution and Directors General of the Services. The Task Team has demonstrated that the leaked document originated from the senior special investigator, Mr Ivor Powell and thereafter found its way to the public through the peddlers and the media.

In this regard the Task Team found that McCarthy did not want to accept that the Browse Mole Report was leaked by Ivor Powell. Yet it is not clear why Mr McCarthy refused the Task Team access to the computers of the DSO and in particular that of Powell. Instead McCarthy advised the JSCI that he was going to instruct someone within the National Prosecuting Authority, Faiek Davids, to conduct an investigation into the leak of the Browse Mole Report. This non-cooperation went beyond denying access to DSO computers. The head of the DSO also refused to provide the Task Team with the names of the sources of their information as well the identity of other DSO officials who compiled the Browse Mole Report.

The DSO did not take any remedial or corrective actions after the leak of their Browse Mole Report despite it being classified as a 'Top Secret' document. They did not take any action against the senior special investigator from whom the leak originated. They also did not take action against the illegal activities of those who were involved in the production of the Browse Mole Report.

Findings of the JSCI

With all the relevant information at the disposal of the JSCI we came to the following findings:

1. The Browse Mole Report is the product of the DSO. The leadership of the DSO, particularly the Head, authorised the investigation and the production of this intelligence document which was outside section 28 of NPA Act, Act 32 of 1998, accordingly the production of the Browse Mole Report was illegal;
2. The purpose of the instruction to compile the Browse Mole Report was primarily directed and targeted at gathering information on a known individual. This person was the Deputy president of the ANC, Jacob Zuma;
3. The DSO was clearly reluctant to cooperate with the Task Team, including the refusal of access to certain of their computers, sources of their information and the names of the compilers of the Browse Mole Report;
4. Many DSO officers have no security clearance as required by law. NIA has registered a vetting project for the DSO. In addition, Ivor Powell and other senior special investigators do not have the necessary security clearance. This is in violation of section 19B of the NPA Act which provides for the security screening of special investigators. Ivor Powell's vetting has been delayed, because the Head of the DSO has not responded by supplying the information requested by NIA in January 2007, which was critical in finalising his vetting;
5. The DSO continues conducting intelligence operations and collecting intelligence contrary to the recommendations of the Khampepe Commission and the law. This illegal activity is prohibited in terms of section 209 (1) of the Constitution of South Africa;
6. The DSO made use of informants, information peddlers and private intelligence companies in collecting information that was used in compiling the Browse Mole Report; and,
7. The DSO did not take any remedial or corrective actions after the leak of their Browse Mole Report despite it being classified as a 'Top Secret' document. They did not take any action against the senior special investigator from whom the leak originated. They also neglected to take action against the illegal activities of those who were involved in the production of the Browse Mole Report.

Recommendations of the JSCI

The JSCI would like to make the following recommendations:

1. The Executive Authority must take appropriate action against the Head of the DSO and all the officials who were involved in the production of the Browse Mole Report;
2. The Government must direct the DSO to stop their intelligence gathering operations with immediate effect;
3. NIA must expedite the vetting of DSO officials, prioritising those who are exposed to sensitive state information such as the DSO senior special investigators;
4. Government must expedite the regulation of private intelligence gathering activities and put measures in place that will reduce the risk of being exposed to information peddlers; and,
5. That the government must conduct a comprehensive review of the Directorate of Special Operations. Serious and urgent attention must be given to the manner to which the DSO is presently operating.

Conclusions

The JSCI has come to the conclusion that the activities of the DSO in relation to the production of the Browse Mole Report were very dangerous and against our National Interest. The contents of the Browse Mole Report are extremely inflammatory and divisive. It has the potential of throwing

our new democracy into chaos.

The DSO was involved in several illegal activities including intelligence gathering without a legal mandate, lack of appropriate security clearance for DSO officials, non-compliance with Minimum Information Security Standard (MISS), and unauthorised interaction with private intelligence companies and Foreign Intelligence Services. Such illegal and dangerous activities should be rooted out of our state institutions.

Arising out of the Browse Mole Report investigation, the Task Team is still busy with further investigations which are at a sensitive stage and may lead to the arrest and prosecution of certain individuals.

ADDENDUM

A. Chronological list of events in relation to the Browse Mole Report

DATE	EVENT
01 April 2005	President in terms of Section 84(2) of the Constitution appointed Khampepe Commission of Inquiry to look into mandate and location of DSO
29 June 2006	Cabinet makes the announcement accepting the recommendations of the Khampepe Commission on DSO
12 July 2006	Browse Mole Report given to Adv. McCarthy and Adv. Pikoli by DSO investigators
July 2006	Browse Mole Report given to DGs' NIA and SASS by Pikoli
2007	Browse Mole Report leaked
07 May 2007	COSATU received "Special Browse Mole Consolidated Report" (18 pages) dated 07 December 2006 per fax from unidentified person
17 May 2007	COSATU attorneys write to the NDPP, Adv. Pikoli, enquiring about the Browse Mole Report
24 May 2007	The NDPP responds to COSATU attorneys declining to assist
30 May 2007	A Task Team was appointed by the National Security Council to investigate the Browse Mole Report
12 June 2007	The SACP addressed a letter of complaint to the JSCI
20 June 2007	The JSCI considers the letter and submissions by the SACP
28 July 2007	The Task Team addresses the media at the Union Buildings on it's findings on the Browse Mole Report investigation
28 July 2007	The Task Team briefs the delegation of the JSCI on it's investigation into the Browse Mole Report in Pretoria
02 August 2007	JSCI attends a briefing in Pretoria on Browse Mole Report headed by DG SASS.
08 August 2007	JSCI received a further briefing by the Task Team members in Cape Town
15 August 2007	Further briefing of the JSCI by the Task Team
22 August 2007	JSCI scheduled briefing by the Head of DSO fails to take place due to his non attendance
23 August 2007	JSCI meets with the Minister of Intelligence Services
12 September 2007	Meeting with Head of DSO
13 September 2007	Meeting with the Minister of Intelligence Services and the Minister of Justice and Constitutional Development
10 October 2007	JSCI briefing by DG Justice and Constitutional Development on Khampepe Commission Report
16 October 2007	Meeting with Minister of Safety and Security
17 October 2007	JSCI meeting on the Browse Mole Report
31 October 2007	JSCI second meeting with Head of DSO

31 October 2007	JSCI last meeting with the Task Team
22 November 2007	JSCI considers it's special report on the Browse Mole
27 November 2007	JSCI final consideration of it's special report on the Browse Mole

Report to be considered.

National Council of Provinces

1. Report of the Select Committee on Finance on the Agreement Establishing the Collaborative Africa Budget Reform Initiative (CABRI), dated 26 February 2008:

The Select Committee on Finance, having considered the request for approval by Parliament of the Agreement Establishing the Collaborative Africa Budget Reform Initiative recommends that the House, in terms of section 231 (2) of the Constitution, approve the said Agreement.

Request to be considered.