

MISSION STATEMENT

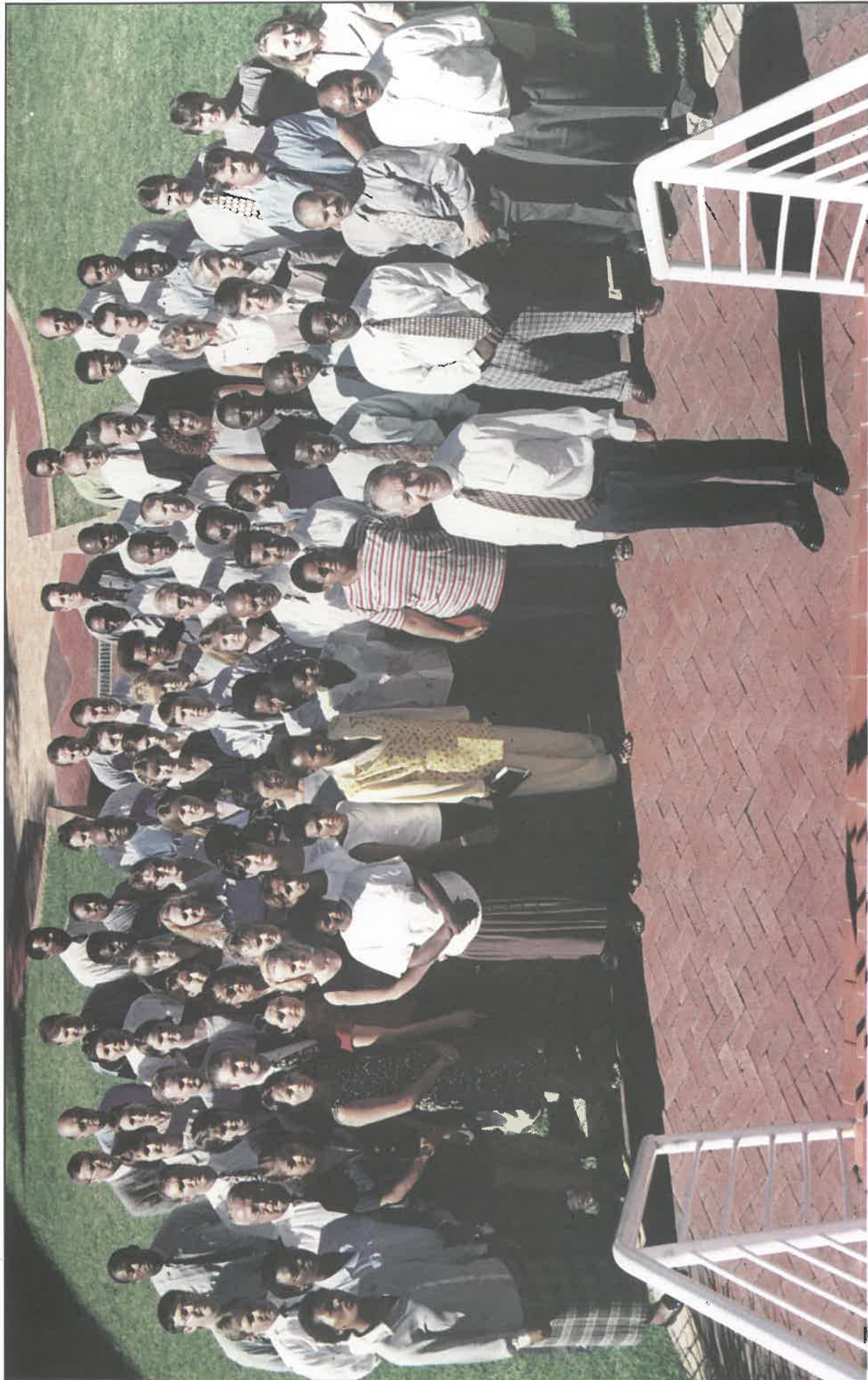
The Special Investigating Unit is committed to provide the highest quality professional forensic investigation and litigation service to all State institutions at national, provincial and local levels. The activities of the Unit are designed to effectively combat maladministration, corruption and fraud involving the administration of State institutions and to protect assets and public money.

SPECIAL INVESTIGATING UNIT

ANNUAL REPORT

1998 / 1999





“Members of the Special Investigating Unit at their offices in East London”



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The Honourable Speaker
Dr F Ginwala
Parliament of the Republic of South Africa
P O Box 15
CAPE TOWN
8000

25 January 2000

Dear Madam

ANNUAL REPORT IN TERMS OF SECTION 4(1)(H) OF ACT 74 OF 1996

On behalf of the Special Investigating Unit, appointed in terms of Section 2 of Act 74 of 1996, we hereby submit to you the Annual Report for the period 1998/1999 as envisaged by the provision of Section 4 (1) (h) of Act 74 of 1996.

The report includes the most important features of the Unit for the year under review.

We would like to apologise for the delay. We had no control over this delay as we were awaiting a decision from the Department of State Expenditure as to which financial system the Unit is to implement. The delay dates back to May 1999.

The Unit has still had no reply from the Department notwithstanding reminders by the Office of the Auditor General and my office. We have now, in consultation with the Auditor General, decided to present financial statements on the GAAP system.

Due to the delay in the annual report, the information contained in the Interim Report for the period April 1999 to September 1999 will be included in the 1999/2000 Annual Report.

The achievements for 1998/1999 can be attributed to the grace of our Maker, hard and sustained work by the members of the Unit and the continued support received from various role-players. My sincere gratitude is due to all concerned.

Yours faithfully



Judge W H Heath
HEAD OF THE UNIT

COMMENT BY THE HEAD OF THE UNIT

The 1998/1999 financial year posed a tremendous challenge for the Unit. Not only did we see a significant growth in personnel numbers at the Unit but the year under review also saw the conclusion of a number of highly successful cases.

The continued support of government departments, both on a provincial and national level, the support of the media and the public and the high visibility enjoyed by the Unit allowed it to become one of the vital parts in the armour of the government in the combatting of corruption, fraud and maladministration.

Certain problems were encountered during the year and I would like to highlight the most significant of these:

- The proclamation procedure – this procedure which necessitates that the Unit requires a presidential proclamation before commencing with an investigation was a thorn in the side of the Unit. Not only is it a cumbersome process but it also allows perpetrators to become aware of an intended investigation thus allowing them to destroy vital information or sell/transfer assets. Certain amendments to the existing legislation were proposed for consideration by Cabinet and a memorandum in this regard was handed to the Minister of Justice in April 1998. The Minister of Justice informed the Unit in January 1999 that these amendments would not be considered before until the June 1999 election.
- Budget – certain frustrations were raised with the Department of Justice and the Department of Finance regarding the financing of the Unit. The budget allocated to the Unit was insufficient in order to accommodate the projected growth and taking into consideration the amount of cases the Unit had on its books.

However, given these problems the Unit was still able to make a significant impact into the battle against corruption, fraud and maladministration. This was as a direct result of the commitment and dedication of the staff members who gave their best at all times to address the recovery, saving and prevention of loss of state assets and state monies.

I am convinced that the 1998/1999 year was a success and that the future of the Unit looks bright. I have no doubt that the establishment and support of the Special Investigating Unit have been a tremendous investment by the government in the future of South Africa.



Judge W H Heath
HEAD OF THE UNIT

INTRODUCTION

Purpose –

The Heath Special Investigating Unit has pleasure in presenting the Annual Report on its activities for the year ended 31 March 1999. This report is submitted to the Speaker of the National Parliament and particulars presented include those required by law.

The purpose of this Annual Report is to give an overview of the Unit's performance, financial status and achievements during the past year.

Role of the Heath Special Investigating Unit –

The Heath Special Investigating Unit is established in terms of legislation to investigate cases of corruption, fraud and maladministration that have been referred to it by the President. Upon completion of an investigation the Unit can institute civil action in the Special Tribunal in order to recover, protect or save state assets and state monies that have been or could be misappropriated or misused.

The Unit works closely with all other anti-corruption bodies such as the South African Police Services Commercial Branch, the Public Protector, the Investigating Directorate: Serious Economic Offences, the National Prosecuting Authority and the Office of the Auditor General.

In various respects the Unit plays a role that cannot be fulfilled by other institutions as can be seen in the nature and extent of the powers of the Unit as detailed in Section 2 (2) of the Act. This not only includes the basic civil courses of action but in particular those provided for in Section 2 (2), excluding the State Attorney (which has litigating powers not including all the powers in Section 2 (2)).

Highlights –

The past year has been a very busy one for the Unit. Not only did we achieve major successes in the ongoing fight to curb corruption, fraud and maladministration, but we also achieved international status and enjoyed a very high media profile.

The public and the media became aware of the need for such an investigation and litigation body and acknowledged its role in the fight against corruption, fraud and maladministration. A large number of cases were received during the past year and this is an indication of the importance of the Unit. It is also indicative of the trust that the public and the private sector place in us to investigate corruption, fraud and maladministration and deal with it decisively.

In our quest to deliver an effective and efficient service to our clients in line with the growing caseload the Unit appointed 57 additional staff towards the end of 1998 – the majority being in line with the Equity Bill. This meant a growth of 100 % in personnel. Without these appointments the Unit would have faced a serious backlog in caseload – this however is still a problem and needs to be addressed urgently.

Significant highlights achieved during 1998/99 included:

- Major progress in the Baŋkkorp Lifeboat investigation
- Closer working relationships with all anti-corruption agencies
- Conclusion of the Sarafina II investigation and subsequent legal action to recover R6 million
- International recognition at the Transparency International Annual Conference in Kuala Lumpur, the 16th International Symposium on Economic Crime in Cambridge (UK) and the Global Anti-Corruption Conference in Washington, USA
- Various addresses given at a national level to both private and public sector functions
- Introduction of Unit to the Free State and Gauteng Premier's and Cabinet and subsequent starting of investigations in these two provinces
- Attendance and input at the Public Sector Anti-Corruption Conference held in Cape Town
- Approximately R848 million recovered, saved or the loss of which was prevented (unaudited)
- Establishment of satellite offices in Durban and Gauteng while in other provinces teams were operating on a full-time basis
- Substantial growth of the Unit

Legislative Framework –

The mandate for the function of the Unit is contained in Act 74 of 1996. The Unit carries out investigations as referred to it by the President via publication of a proclamation in the Government Gazette. Following the investigation civil action can be instituted in the Special Tribunal for the recovery, saving or prevention of loss of state assets and state monies should the investigation reveal that such monies or assets were misappropriated, unlawfully obtained or had there been mismanagement.

YEAR UNDER REVIEW – 1998 / 1999

Investigations –

During 1998/99, 128 new investigations were referred to the Unit resulting in 161 633 individual cases having to be opened. Allegations were received from various sources including individual members of the public, government officials and departments, NGO's and the media.

High profile investigations conducted during the past year included:

- Investigations into various parastatals in the Eastern Cape including TRACOR, ULIMOCOR, the Eastern Cape Development Agency and Magwa Tea Corporation
- Investigations into alleged irregularities within TLC's around the country and the subsequent assistance to TLC's to recover arrear rentals, rates and taxes
- The Daily Bread Investigation involving R4,4 million allegedly misappropriated. This money was to be used for the Primary School Nutrition Programme in the Eastern Cape
- Investigations into ghost pensioners and theft of pension monies and the subsequent recovery of monies in the Eastern Cape Province
- The investigation into the Bankorp Lifeboat – Lifeboat case
- Investigations into the Mpumalanga Parks Board Promissory Notes and subsequently the financial affairs of the Mpumalanga Parks Board after certain irregularities were uncovered investigating the issuing of the Promissory Notes
- Continued investigation and action against the Butterworth TLC and Councillor's in the Eastern Cape
- Investigation of R18 million overpaid to an attorney in Umtata for work done on behalf of the State Attorney. After investigation the attorney's account was taxed and the remainder of the money was returned to the Department of Justice
- Investigations into the Sarafina II case and subsequent action against six defendants for the recovery of R6 million
- Investigation into the lease contract between the Northern Cape Provincial Government and Kim Diamonds for the lease of a diamond factory as office accommodation
- Investigation into and recovery of state owned farms where lease agreements had lapsed, where tenants had abandoned the farms or where lessees had sub-let parts of the farms contrary to the lease agreement
- Investigations into the whereabouts of state owned vehicles in KwaZulu-Natal, the recovery and subsequent return of the vehicles to the Department of Transport in KwaZulu-Natal
- Investigations into alleged fraud and corruption within the housing subsidy schemes in KwaZulu-Natal and the Northern Cape Province. The investigators have to study thousands of files to determine if there are any irregularities such as application for two subsidies, sale of non-existent land, application for three or four subsidies within one family and ensuring that the correct amount was paid to the applicant.
- Investigation and recovery of R4,3 million which was stolen from the Department of Justice in Mpumalanga. The warrant voucher was cashed in East London and the money used to purchase various assets. The perpetrators were convicted criminally and the money is being recovered with interest.
- Investigation into the fraudulent generation of government cheques in KwaZulu-Natal

The nine investigating teams were significantly strengthened toward the end of 1998. The Investigating Managers identified a need for additional investigating personnel to cope with the caseload in each province and those cases of a national nature. The appointment of a number of trainee investigators, investigators and chief investigators boosted the numbers of each investigating team to allow them to conclude current investigations and deal with the new ones that were being allocated.

Proclamations –

During 1998/99, 53 proclamations were published in the Government Gazette empowering the Unit to conduct in-depth investigations into a variety of cases.

Proposed amendments to the Act were submitted to the Minister of Justice in April 1998 for the consideration of Cabinet and Parliament. One of these amendments was for the scrapping of the proclamation process to allow the Unit to operate more efficiently and effectively and conduct investigations immediately thereby preventing any potential loss and assisting with any potential recovery that may result.

After repeated requests to determine when action could be expected to amend the Act it was communicated in January 1999 that the amendments had been considered and that a decision was taken not to table them before Parliament during the first session of 1999. The Minister of Justice did however indicate that these amendments could be considered after the June 1999 elections.

Once it had been determined that the proclamation process was not going to be scrapped the Unit made all attempts to streamline the process. Meetings with the Department of Justice were arranged to co-ordinate the list of published and outstanding proclamations in early February 1999 and mechanisms have been put in place to ensure that there is a reduction in the amount of delays with regard to proclamations.

These mechanisms include:

- hand delivering motivations for proclamations to Provincial Premiers and National Ministers
- personal discussion with Premiers and National Ministers to explain the allegations and the need for an investigation
- regular contact with the Department of Justice to update the status of proclamations
- closer working relations with the Ministry of Justice and the President's Office to determine when proclamations are signed
- recommended time frames in which proclamations must be dealt with and a close monitoring mechanism to determine where proclamations are within the system.

As at 31 March 1999 the Unit is awaiting the publication of 84 proclamations. A detailed status report can be provided on request.

Questions have been raised regarding delays in the proclamations. A number of factors contribute to this and these include the process itself (i.e. motivation to Justice, submission to the Premier or National Minister, countersignature by the MEC, returned to Justice, submission to the State Law Advisers, returned to Justice, signature by Minister of Justice and finally submission and signature of the President), delays in dealing with requests for further information by Provincial and National Departments, consultation with the relevant provincial and national bodies and most importantly, a shortage of staff within the Department of Justice to deal with the proclamations.

Recoveries, Savings and Prevention of loss –

It is important to note that the Unit operates on three basic principles.

Recoveries:

This reflects recoveries made by the Unit in respect of which orders have been granted in the Special Tribunal for the repayment, with interest, of any monies misappropriated or unlawfully obtained. Also contained in this category are persons who sign acknowledgements of debt and repay amounts on a monthly basis. In addition to this the Unit also recovers state assets such as vehicles and farms and these are then returned to the relevant department.

Savings:

Savings represent cases where the Unit has conducted an investigation and an interdict or an order has been issued to stop a certain transaction because it did not comply with tender procedures or there are irregularities with the contract. Had such a contract or transaction proceeded it could have cost the government more than a similar transaction would have, had the necessary conditions been complied with. It also includes situations where in the event that tender procedures were not complied with the Unit has negotiated a settlement on behalf of the Provincial or National Department which leads to a saving.

Prevention of loss:

This reflects cases where the Unit has issued urgent interdicts or the Tribunal has issued interdicts to stop a transaction where there would have been substantial loss to the government through illegal or fraudulent activities.

Personnel –

During the past year (1 April 1998 to 31 March 1999) the Unit recruited 57 personnel increasing the staff compliment to 106. This was essential as the Unit was expanding into all nine provinces and has a number of national cases. In relation to the investigators and legal personnel appointed there was a dire need for support personnel. It was identified that each investigating team needed a clerk to administer case files, input case data onto the case tracking system, file case material and maintain information and correspondence relating to teams investigations.

With the growth of the investigating component there was also a need to strengthen the legal component. Four additional appointments were made in the section to allow for the increase of cases flowing through the Tribunal.

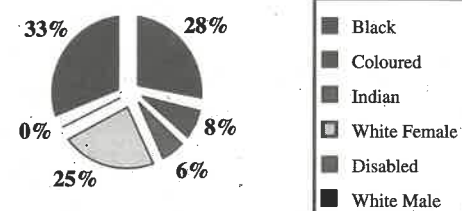
Support personnel employed during the past year include a Human Resources Manager, an additional appointment in the Information Technology Section, 2 typists, 4 financial clerks and 6 administrative assistants as well as 5 other support personnel.

The unit has concentrated on affirmative action and gender equality and this is borne out by the diagrams representing the personnel employed by the Unit.

MANPOWER ANALYSIS PER RACE CATEGORY

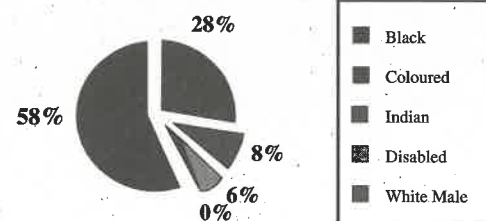
TOTAL ANALYSIS										
DEPARTMENT	BLACK		COLOURED		INDIAN		WHITE		TOTAL	
	M	F	M	F	M	F	M	F	M	F
Head							1	1	1	1
Legal	2			1	2		4	2	8	3
Finance	1			2		1	2	2	3	5
Admin		4		2				8	0	14
Team 1 – Walker	1	2					5	1	6	3
Team 2 – Campbell		3			1		3	1	4	4
Team 3 – Dutton	2	1				1	3	1	5	3
Team 4 – Rheeder	1	1	1				5	1	7	2
Team 5 – Steenekamp	3						2	2	5	2
Team 6 – Vos	2						3	2	5	2
Team 7 – Qoko	3	2			1		2		6	2
Team 8 – Perks	2		1	1			1	2	4	3
Team 9 – Hechter				1			1	2	1	3
Team 10 – Specialist							1		1	0
IT Department							2		2	0
Personnel								1	0	1
SUB TOTALS	17	13	2	7	4	2	35	26	58	48
TOTALS PER CATEGORY	–	30	–	9	–	6	–	61	–	106

EQUITY BILL ANALYSIS



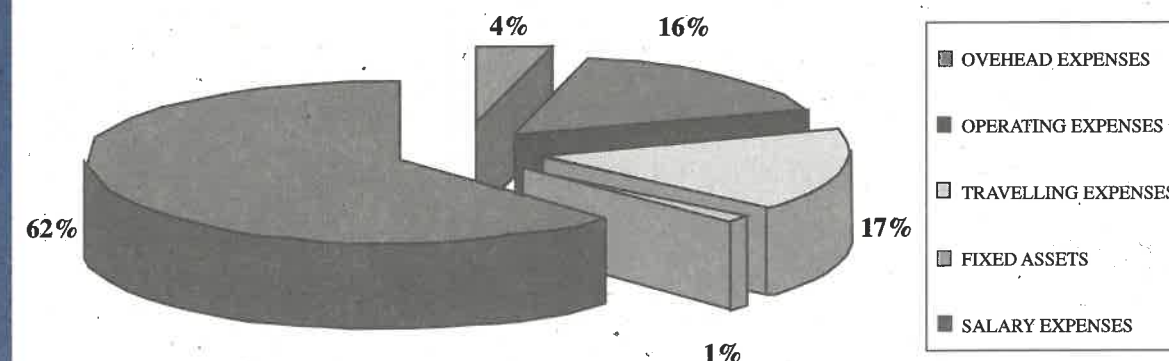
CATEGORY	TOTAL	% OF TOTAL
Black	30	28
Coloured	9	8
Indian	6	6
White Female	26	25
Disabled	0	-
White Male	35	33
TOTAL	106	100

AFFIRMATIVE ANALYSIS



CATEGORY	TOTAL	% OF TOTAL
Black	30	28
Coloured	9	8
Indian	6	6
Disabled	0	-
White Male	35	33
TOTAL	106	100

MINIMUM REQUIRED EXPENDITURE 1999/2000 PER EXPENSE CATEGORY



Personnel expenditure is the major expense of the Unit.

The appointments for 1998/99 included the following:

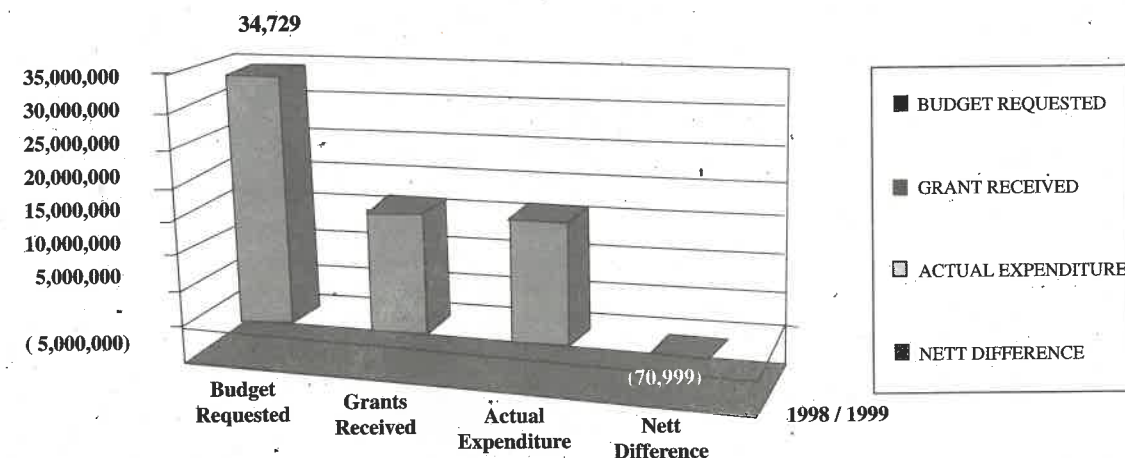
Manager: Investigations	1
Trainee Investigators	13
Investigators	19
Chief Investigators	1
Legal Assistants	2
Senior Advocates	2
Information Technology	1
Support Personnel	18

A number of resignations also took place in 1998/99 and these posts, most of them vital to the operation of the unit, have to be filled as a matter of urgency.

Finance –

The allocated budget for the 1998/99 financial year was R16,9 million. This was far below our requested budget of R33,6 million. Salaries and travelling / accommodation remain the Units biggest expense. Besides salaries, travelling / accommodation, the Unit also had to spend money on equipment and assets to accommodate the growth in the Unit.

1998/1999 INCOME VS EXPENDITURE –



The Unit had a cash surplus at the end of the 1998/99 financial year. This is due to the following reasons:

- Roll over funds from a allocation of R4,146 million made in March 1998
- Interest received on funds through the application of strict cash flow management
- Delayed appointment of staff due to our budgetary constraints
- The costs of the Unit are activity based and a number of investigations “roll over” from one financial year to another

The implementation of a new financial computing package within the Unit has led to a more efficient and effective financial section. It was determined that the Unit had outgrown the initial system and with the increased workload on both the investigating and financial sections the time had arrived to invest in a system that could cope with the links to computer-based systems within the Unit.

This has led to a sophisticated, in-house, computer-based financial system that regulates the budget of each individual team, the legal section and support services. It automatically prevents overspending and allows management to evaluate expenses incurred on a daily basis. In addition to this it also allows for updated statistics and on-hand information that is vital to the operation of the Unit as a whole.

Information Technology –

With the growth of the Unit it was essential that the necessary changes be made in the Information Section. Increases in users and systems made is essential that the IT Department be in a position to provide a complete backup service to members of the Unit.

As a Commission the computer structure consisted of 2 notebooks and 3 desktop computer systems. The Unit now facilitates 100+ users in a heterogeneous server/client network environment. The system includes:

- Firewall services
- File and print services
- Electronic mail services
- Storage services
- Disaster recovery methods, and
- Information highway or internet services

The above platforms make it feasible to connect external institutions such as the Registrar of Deeds, the South African Credit Bureau, the Registrar of Companies, etc.

Communication standards are achieved and maintained via our own web server (www.heathsiiu.co.za) and an internet mail system.

Due to the ever-increasing development in the information technology industry the Unit keeps abreast through good relations in the development and distribution arena. Our platforms are standardised on products produced by market leaders.

The IT personnel employed by the Unit are well trained and skilled to address any problem that is computer based.

National Contact –

Throughout the year the Unit was represented at a number of conferences, seminars or functions where the work of the Unit was highlighted. The profile of the Unit and its integral part of the anti-corruption mechanisms in South Africa were carried over at a number of these functions. These organisations included:

- The Cape Town Press Club
- The Local Authority Security Association of South Africa
- The Institute of Municipal Finance Officers
- The South African Institute of Race Relations
- The Institute for Security Studies
- The Wits School of Business
- The Public Relations Institute of Southern Africa – Border Region
- The Institute of Credit Management – Border Region
- The Johannesburg Chamber of Commerce and Industry, and
- The Foreign Correspondents Association

International Recognition –

During 1998 the Unit enjoyed tremendous international exposure at a number of high profile conferences and symposiums worldwide where Judge Heath was invited to deliver papers.

In addition to this the Judge was invited by the United States Information Service to take part in their International Visitors Programme. He toured various cities in the United States and met with high-ranking officials to discuss matters ranging from corruption, fraud and maladministration to human rights and legal procedures. One of the highlights of this visit was the address that Judge Heath gave to the World Bank on the role of the Unit and its work in curbing corruption in South Africa. Judge Heath was also given honorary citizenship of New Orleans.

Conferences/symposiums attended and papers delivered included:

- Transparency International Annual Conference in Kuala Lumpur – **South African Anti-corruption legislation**
- 16th International Symposium on Economic Crime in Cambridge, UK – **Corruption in the Public Sector and the State as victim of Economic Crime**
- Global Anti-corruption Conference in Washington – **Corruption in Africa, a South African Perspective**

Conclusion –

During the past year the Unit has proved itself as an efficient and effective anti-corruption body. We are continually striving to better our methods of investigation and improve our knowledge regarding legal actions in the Special Tribunal.

In addition to this our public image has grown and this can be seen by the number of enquiries we receive from the media on a daily basis as well as the number of cases that are referred to us, often anonymously, by members of the general public.

Our international reputation has also received a tremendous boost during the past year. Our work in the anti-corruption arena has been applauded and we have received international recognition.

The Special Investigating Unit has become an integral part of the South African anti-corruption drive. With its special powers, experienced investigating staff and competent and experienced legal members, the Unit is in a unique position to recover, save or prevent the loss of state assets and state monies. Working in close co-operation with other anti-corruption bodies we are confident that corruption, fraud and maladministration can be curbed. We will never be able to root out corruption completely and this has been seen in countries around the world – however, we are in a position to stem the loss of public monies and act as a deterrent to any would-be perpetrators.

HEATH SPECIAL INVESTIGATING UNIT -

ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 1999

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The annual financial statements set out on pages 17 to 27 were approved and signed by me in my capacity as head of the unit.



JUDGE WH HEATH
HEAD OF THE UNIT

25 January 2000

BALANCE SHEET -

as at 31 March 1999

	Notes	1999 R	1998 R
CAPITAL EMPLOYED			
ACCUMULATED SURPLUS	2	<u>9 140 690</u>	<u>4 664 020</u>
EMPLOYMENT OF CAPITAL			
FIXED ASSETS	3	<u>3 981 204</u>	<u>1 157 402</u>
CURRENT ASSETS		<u>10 581 444</u>	<u>3 872 197</u>
Bank balances	4	4 166 756	3 846 653
Bank balances - recoveries	9	4 738 099	-
Accounts receivable	5	236 567	25 544
Prepayments	6	1 354 535	-
Stock	7	<u>85 487</u>	<u>-</u>
CURRENT LIABILITIES		<u>5 421 958</u>	<u>365 579</u>
Accounts payable	8	1 086 323	365 579
Creditors - recoveries	9	<u>4 335 635</u>	<u>-</u>
NET CURRENT ASSETS		<u>5 159 486</u>	<u>3 506 618</u>
		<u>9 140 690</u>	<u>4 664 020</u>

INCOME STATEMENT –
for the year ended 31 March 1999

	Notes	1999 R	1998 R
INCOME		<u>18 440 745</u>	<u>10 143 267</u>
Grants received	12	16 749 363	9 922 508
Interest		<u>1 691 382</u>	<u>220 759</u>
EXPENSES		<u>13 964 075</u>	<u>5 686 701</u>
Staff expenses	13	8 546 898	3 626 527
Travel and accommodation		1 708 277	775 656
Depreciation		716 704	148 030
Other expenses	14	<u>2 992 196</u>	<u>1 136 488</u>
Surplus income for the year		4 476 670	4 456 566
Accumulated surplus at the beginning of the year		<u>4 664 020</u>	<u>207 454</u>
Accumulated surplus at the end of the year		<u>9 140 690</u>	<u>4 664 020</u>

CASH FLOW STATEMENT –
for the year ended 31 March 1999

	Notes	1999 R	1998 R
CASH FLOWS FROM OPERATING ACTIVITIES		<u>8 598 708</u>	<u>4 937 168</u>
Cash generated from operations	15.1	6 907 326	4 716 409
Interest		<u>1 691 382</u>	<u>220 759</u>
CASH FLOWS APPLIED TO INVESTING ACTIVITIES		<u>(3 540 506)</u>	<u>(1 227 583)</u>
Proceeds from sale of fixed assets		17 781	-
Acquisition of fixed assets	15.2	<u>(3 558 287)</u>	<u>(1 227 583)</u>
Net increase in cash and cash equivalents		<u>5 058 202</u>	<u>3 709 585</u>
Cash and cash equivalents at beginning of year		<u>3 846 653</u>	<u>137 068</u>
Cash and cash equivalents at end of year	15.3	<u>8 904 855</u>	<u>3 846 653</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS –
for the year ended 31 March 1999

1. ACCOUNTING POLICIES

The following are the principal accounting policies of the Unit which are consistent in all material respects with those applied in the previous year, except as otherwise indicated. The financial statements have been prepared on the historical cost basis.

1.1 Fixed assets and depreciation

Fixed assets are stated at historical cost and depreciated on the straight line method at rates considered appropriate to reduce book values to estimated residual values, over the expected useful lives of the assets.

Depreciation rates used are as follows:

Office furniture and equipment	20%
Computer equipment	33.33%
Books and law reports	20%
Motor vehicles	25%
Computer software	50%

1.2 Rented assets

All costs relating to rental agreements are charged to income as incurred.

1.3 Income

Income comprises grants received from government on the cash basis and interest received on the accrual basis.

2. ACCUMULATED SURPLUS	1999	1998
	R	R
Surplus at beginning of the year	4 664 020	207 454
Surplus for the year	<u>4 476 670</u>	<u>4 456 566</u>
Surplus at end of the year	<u>9 140 690</u>	<u>4 664 020</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS –
for the year ended 31 March 1999 (continued)

3. FIXED ASSETS

	Books and law reports R	Computer software and equipment R	Office furniture and equipment R	Motor vehicles R	Total R
Year ended 31/3/99					
Opening balance:					
- cost	41 414	671 995	306 751	296 333	1 316 493
- accumulated depreciation	(5 277)	(100 180)	(31 704)	(21 930)	(159 091)
- net book value	36 137	571 815	275 047	274 403	1 157 402
Additions	7 500	1 550 509	1 129 172	871 106	3 558 287
Disposal at cost	-	-	(17 781)	-	(17 781)
Depreciation for the year	(9 533)	(430 699)	(129 107)	(147 365)	(716 704)
At 31/3/99					
Cost	48 914	2 222 504	1 418 142	1 167 439	4 856 999
Accumulated depreciation	(14 810)	(530 879)	(160 811)	(169 295)	(875 795)
Net book value	<u>34 104</u>	<u>1 691 625</u>	<u>1 257 331</u>	<u>998 144</u>	<u>3 981 204</u>
	Books and law reports R	Computer software and equipment R	Office furniture and equipment R	Motor vehicles R	Total R
Year ended 31/3/98					
Opening balance					
- cost	16 000	39 856	33 055	-	88 911
- accumulated depreciation	(533)	(6 437)	(4 091)	(-)	(11 061)
Net book value	15 467	33 419	28 964	-	77 850

NOTES TO THE ANNUAL FINANCIAL STATEMENTS –
for the year ended 31 March 1999 (continued)

3. FIXED ASSETS

	Books and law reports R	Computer software and equipment R	Office furniture and equipment R	Motor Vehicles R	Total R
Additions	25 414	632 139	273 696	296 333	1 227 582
Depreciation for the year	(4 744)	(93 743)	(27 613)	(21 930)	(148 030)
At 31/3/98					
- cost	41 414	671 995	306 751	296 333	1 316 493
- accumulated depreciation	(5 277)	(100 180)	(31 704)	(21 930)	(159 091)
Net book value	<u>36 137</u>	<u>571 815</u>	<u>275 047</u>	<u>274 403</u>	<u>1 157 402</u>

4. BANK BALANCES

Call account	5 468 740	
Current accounts	(1 306 668)	3 823 453
Surety account		20 000
Petty cash	<u>4 684</u>	<u>3 200</u>
	<u>4 166 756</u>	<u>3 846 653</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS –
for the year ended 31 March 1999 (continued)

	1999 R	1998 R
5. ACCOUNTS RECEIVABLE		
Deposits	12 119	-
Staff loans	158 774	25 544
Sundry debtor	<u>65 674</u>	<u>-</u>
	<u>236 567</u>	<u>25 544</u>
6. PREPAYMENTS		
Rent	392 705	-
Insurance	2 063	-
Motor vehicle purchases	<u>959 767</u>	<u>-</u>
	<u>1 354 535</u>	<u>-</u>
7. STOCK		
Stationery and printing	<u>85 487</u>	<u>-</u>
8. ACCOUNTS PAYABLE		
Staff expenses	432 819	16 120
Provision for audit fees	100 000	20 611
Accounts payable	<u>553 504</u>	<u>328 848</u>
	<u>1 086 323</u>	<u>365 579</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS –
for the year ended 31 March 1999 (continued)

	1999 R	1998 R
9. CREDITORS – RECOVERIES/BANK BALANCES	<u>4 335 635</u>	<u>-</u>
9.1 Amount reflected is owed to third parties and was obtained through either admission of guilt signed by the individual(s) concerned or through Court Orders issued by the Special Tribunal. These amounts are held and are paid over to the relevant third Parties once the case(s) are completed.		
9.2 Bank balances	<u>4 738 099</u>	<u>-</u>
The difference between bank balances and amount repayable, represents interest earned less bank charges.		
10. COMMITMENTS		
Total rental commitment	<u>1 695 620</u>	<u>1 946 471</u>
Due within 1 year	551 686	420 407
Due thereafter	<u>1 143 934</u>	<u>1 526 064</u>
The above commitments are in respect of 9 Rental agreements for a period ranging from 12 to 36 months		
The estimated monthly rental is R58 345		
Assets rented relate to properties and equipment		
11. TAXATION		

The Unit is not a registered vendor for Vat purposes as no taxable supplies are delivered. No provision for normal income tax is made as the Unit is a public enterprise and funded with Government grants.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS –
for the year ended 31 March 1999 (continued)

	1999 R	1998 R
12. GRANTS RECEIVED		
Department of Justice	16 192 000	9 646 000
Eastern Cape Government	18 050	276 508
Northern Cape Government	240 000	-
KwaZulu Natal Government	<u>299 313</u>	<u>-</u>
	<u>16 749 363</u>	<u>9 922 508</u>
13. STAFF EXPENSES		
Salaries and wages	5 424 526	2 934 651
Provident fund and funeral contributions	777 095	280 516
Travel, subsistence and entertainment allowances	1 396 267	247 959
Computer and telephone allowances	331 625	87 669
Medical aid contributions	227 849	75 732
Leave provision	<u>389 536</u>	<u>-</u>
	<u>8 546 898</u>	<u>3 626 527</u>
14. OTHER EXPENSES		
Annual report	37 142	-
Auditors remuneration	100 000	32 202
Bank charges	26 672	17 177
Books and publications	83 740	59 868
Car and taxi hire expenses	89 639	9 474
Conference and seminar expenses	25 344	3 605
Consultancy fees	549 695	122 255
Consumables	103 585	50 557
Courier services	13 465	1 682
Entertainment	5 064	5 981
Electricity and water	3 589	-
Insurance	81 321	23 184
Legal fees	2 809	41 933
Licences	22 271	8 429
Media and promotions	5 681	-
Petrol expenses	163 171	12 977

NOTES TO THE ANNUAL FINANCIAL STATEMENTS –
for the year ended 31 March 1999 (continued)

	1999 R	1998 R
14. OTHER EXPENSES (continued)		
Relocation and recruitment costs	519 399	243 502
Rent paid	127 391	-
Rental - equipment	88 724	37 356
Repairs and maintenance	68 899	17 083
Security	37 060	-
Stationery and printing	160 492	88 785
Sundry expenses	1 483	919
Telephone, fax and posting expenses	531 949	318 146
Training and development	143 340	24 120
Transcription fees	<u>271</u>	<u>17 253</u>
	<u>2 992 196</u>	<u>1 136 488</u>

15. NOTES TO THE CASH FLOW STATEMENT

15.1 Cash generated from operations

Net income for the year	4 476 670	4 456 566
Adjustment for:		
Interest	(1 691 382)	(220 759)
Depreciation	716 704	148 030
Working capital changes	<u>3 405 334</u>	<u>332 572</u>
Increase in stock	(85 487)	-
Increase in debtors	(1 565 558)	(25 544)
Increase in creditors	<u>5 056 379</u>	<u>358 116</u>
Cash generated from operations	<u>6 907 326</u>	<u>4 716 409</u>

15.2 Acquisition of fixed assets

Computer equipment	1 550 509	632 139
Motor vehicles	871 106	296 333
Office furniture and equipment	1 129 172	273 697
Books and law reports	<u>7 500</u>	<u>25 414</u>
	<u>3 558 287</u>	<u>1 227 583</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS –
for the year ended 31 March 1999 (continued)

	1999 R	1998 R
15. NOTES TO THE CASH FLOW STATEMENT (continued)		
15.3. Cash and cash equivalents		
Bank balances	4 166 756	3 846 653
Bank balances - recoveries	<u>4 738 099</u>	<u>-</u>
	<u>8 904 855</u>	<u>3 846 653</u>

REPORT OF THE AUDITOR - GENERAL

ON THE FINANCIAL STATEMENTS OF THE HEATH SPECIAL INVESTIGATING UNIT FOR THE YEAR ENDED 31 MARCH 1999

PUBLISHED BY AUTHORITY

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Schedule A: Extract from the Special Report of the Auditor-General on the Audit to verify the value of savings/recoveries by the Heath Special Investigating Unit

Schedule B: Extract from the Report of the Auditor-General on the accounts of Vote 20 - Justice for the 1997-98 financial year

REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE HEATH SPECIAL INVESTIGATING UNIT FOR THE YEAR ENDED 31 MARCH 1999

1. AUDIT ASSIGNMENT

The financial statements as set out on pages 16 to 27, for the year ended 31 March 1999, have been audited in terms of the provisions of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), read with sections 3 and 5 of the Auditor-General Act, 1995 (Act No. 12 of 1995). These financial statements, the maintenance of effective control measures and compliance with relevant laws and regulations are the responsibility of the Head of the Heath Special Investigating Unit. It is my responsibility to express an opinion on these financial statements and compliance with relevant laws and regulations, applicable to financial matters, based on the audit.

2. REGULARITY AUDIT

2.1 NATURE AND SCOPE

2.1.1 Financial audit

The audit was conducted in accordance with generally accepted government auditing standards, which incorporate generally accepted auditing standards. These standards require the audit to be planned and performed to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures included in the financial statements;
- assessing the accounting principles used and significant estimates made by management; and
- evaluating the overall financial statement presentation.

I believe that the audit provides a reasonable basis for my opinion.

2.1.2 Compliance audit

Furthermore, an audit includes an examination, on a test basis, of evidence supporting compliance in all material respects with the relevant laws and regulations applicable to financial matters.

I believe that the audit provides a reasonable basis for my opinion.

2.2 QUALIFICATION

2.2.1 Qualification: financial audit

(a) Trust accounts and bank balances

The Unit currently operates a number of "trust accounts". These "trust accounts" are used as accounts in which the Unit surrenders and keeps in trust recovered money until such time as it is paid to the relevant institution. Details appear in paragraph 6.2 on page 7 of my Special Report on the audit to verify the value of savings/recoveries by the Heath Special Investigating Unit [RP 114/1999], an extract of which is attached as Schedule A.

The money recovered and held in trust on behalf of third parties and the bank balances in respect of these recoveries as at 31 March 1999 amounted to R4 335 635 and R4 738 099, respectively (Note 9 to the financial statements).

Inadequate systems, and control structures relating to the aforementioned trust accounts and bank balances, resulted in uncertainty with regard to the completeness of these accounts.

The Unit indicated that a proper computerised debtors and creditors system had been procured, and that proper written procedures regarding the administrative activities and controls would be implemented.

(b) Accounts payable – staff expenses

Included in accounts payable in respect of staff expenses (Note 8 to the financial statements) is an amount of R389 536, which represents a provision for leave. The approved draft policy of the Unit on annual leave was not applied consistently with regard to whether leave should be accounted for in calendar or working days. The correctness of this provision could therefore not be verified. Opening balances carried forward from the old manual system to a new computerised spreadsheet, could also not be verified.

The Unit indicated that a clear policy, consistently applied in respect of annual leave would be implemented.

2.2.2 Qualification: compliance audit

(a) Unit's legal/fiduciary situation

The Heath Special Investigating Unit (the Unit) was established under Proclamation No. R24 of 14 March 1997 in terms of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996).

Uncertainties exist regarding the Unit's legal/fiduciary situation, which include final accountability, accounting policies, format of financial statements, reporting procedures, retaining of surplus and compliance with financial regulations in terms of the Exchequer Act, 1975 (Act No. 66 of 1975), and other regulations and procedures commonly used by government departments. Details appear in paragraph 2.2.17 on pages 16-18 of my previous Report on the Department of Justice for the 1997-98 financial year [RP 191/1998]. An extract hereof is attached as Schedule B.

The matter was referred to the Department of State Expenditure on 13 May 1999 by the Office for purposes of determining the way forward and to consider granting ex post facto approval in terms of section 11(a) of the Exchequer Act, 1998 for the Unit to open a trading account. This was done with a view to enable the Unit to report separately from the Department of Justice on the results of its operations.

No response was forthcoming from the Department of State Expenditure, and this Office decided to maintain the status quo and proceed with the auditing of the financial statements of the Unit, which were once again compiled in accordance with generally accepted accounting practice.

However, other interpretations of the Unit's legal fiduciary situation may also be possible. The absence of authoritative legal opinion in this regard and a decisive reply from the Department of State Expenditure consequently results in a fundamental uncertainty regarding the abovementioned matters.

(b) Report to Parliament

The Unit, in terms of section 4(1)(h) of the Special Investigating Units and Special Tribunals Act, 1996 is required at least twice a year to submit a report to Parliament on the investigations, activities, and composition of the Unit. As audited financial statements were not available for the 1998-99 financial year, the Unit was not able to comply and the Speaker of Parliament was approached by the Head of the Unit for extension in this regard.

(c) Policies and procedures

With the appointment of the Head of the Unit as accounting officer, the Unit was under the impression that it would be exempted from the financial regulations in terms of the Exchequer Act, 1975, and other regulations commonly used by government departments. The Unit consequently developed its own regulations, and is in the process of drafting more policies and procedures. The extent to which these policies had been approved and implemented could, however, not be verified. The following non-compliance with these unfinalised policies and procedures and other applicable legislation was identified during the audit:

(i) Relocation allowances

The draft policy of the Unit for relocation allowances states that, over and above expenses normally paid by the Unit, a new employee is also entitled to a "once-off" tax-free allowance equivalent to one month's salary or ten percent of the annual salary in some cases, in order to cover additional expenses incurred. The allowance will be paid to reimburse expenditure incurred or, in special instances with the prior approval of the Executive Manager, as a lump sum. Audit tests revealed that this policy was not always adhered to, and lump sums were paid without written approval and documentation to support the actual expenditure.

(ii) Staff and study loans

A proposed policy on loans specifies that the loan amount may not exceed fifty per cent of a staff members' net monthly salary at any given time during the financial year, and approval for any excess may only be granted by the Head of the Unit. Loans to staff members in several instances exceeded this norm, and the approval of the Head of the Unit had also in some instances not been obtained. Loans in certain instances were excessive in relation to the net salary of staff members, which makes recoverability within the terms of the draft policy difficult.

The Head of the Unit consequently placed a moratorium on loans, and a revised policy on staff and study loans is being considered.

(iii) Fixed assets

The Unit's policy on fixed assets stipulates that a tender committee must be established within the Unit to ensure that all capital expenditure is incurred in terms of State Tender Board regulations. This committee is to consist of a minimum of four managers of the Unit, of which one must be from the finance section. The committee will scrutinize all purchases required in order to ensure that the quotes are in terms of State Tender Board regulations before submitting such quotes to the Head of the Unit for approval. This policy was not adhered to for the period under review, and documentation supporting alternative quotations is not available.

Furthermore, staff members that are involved with the day to day operations (users) are not consulted, and the opinions of specialists are also not considered, when decisions are made to purchase new equipment.

(iv) Income tax

Deductions for pay-as-you-earn (PAYE) for the tax year ended 28 February 1999 were calculated incorrectly in respect of some employees. The Unit subsequently changed the payroll software programme to ensure correct calculations in future.

2.3 QUALIFIED AUDIT OPINION

2.3.1 Financial audit

In my opinion, except for the effect on the financial statements of the matters referred to in paragraph 2.2.1, the financial statements and cash flow statement, in all material respects, fairly present the results of financial operations of the Unit for the year in accordance with generally accepted accounting practice.

2.3.2 Compliance audit

The transactions of the Unit that I have examined during the course of the audit were in my opinion, except for the unsatisfactory matters referred to in paragraph 2.2.2, carried out in accordance with the relevant laws, policies and procedures of the Unit applicable to financial matters.

3. EMPHASIS OF MATTER

Without further qualifying the audit opinions expressed above, attention is drawn to the following matters:

3.1 Salary increases

Documentation authorising a salary increase was in some instances not available. During the audit, management reviewed these cases, and assurance was given that the correct procedures had been followed to determine these increases. The lack of documentation was due mainly to a vacancy in the position of Human Resources Manager during the year under review.

3.2 Internal checking and control

Deficiencies in the internal checking and control over a wide spectrum were identified during the audit. The following are worth mentioning:

- The provisions on the schedule of accrued expenses were, in some cases, supported by pro-forma invoices relating to goods not yet received. The schedule also included transactions that were later cancelled and provisions for expenses which did not relate to the year under review.
- Not all invoices were stamped "paid" after payment of such invoices.
- Journals adjusting the salary account in the general ledger were passed without proper explanation of the reasons therefore.
- Monthly reconciliations between current salaries and salaries for the previous month were not performed.
- Vehicle logbooks were not always completed with all the necessary detail to reflect the authorised trips. Travel plans to substantiate kilometres travelled are not always available.
- Monthly petty cash reconciliations of general ledger balances and cash on hand were not performed. Cash replenishments did not always equal the vouchers produced.

The Unit indicated that the necessary corrective steps had been taken, and that the Unit was in the process of implementing additional policies and procedures.

3.3 Staffing of the Unit

The appointment of as many personnel as are needed for the effective functioning of the Unit in terms of section 3(2) of the Special Investigating Unit's and Special Tribunals Act, 1996 (Act No. 74 of 1996), vests with the head of a special investigating unit.

A concern therefore exists that the personnel establishment of a special investigating unit is not subject to approval by an appropriate higher authority as is normally the case with other independent entities in the public sector.

3.4 Verification of savings/recoveries by the Unit

A special Report of the Auditor-General on the audit to verify the value of savings/recoveries by the Unit was issued on 6 July 1999 [RP114/1999]. This report covers the value of savings/recoveries by the Unit for the period 1 January 1998 to 31 March 1999.

3.5 Year 2000 compliance of computer systems

The Unit's computer department has completed the implementation of a Y2K plan of action, and systems compliance has already been tested by the management of the IT section. At the date of compiling this report independent tests had not been performed.

3.6 Post balance sheet event

Shortly before the end of the financial year it came to the attention of the Head of the Unit that the Executive Manager: Support Services had not been running a sound accounting system for the Unit. Two separate groups of internal auditors were appointed to investigate the shortcomings in the accounting system.

As the investigation progressed, the Head of the Unit also appointed an external firm of auditors to assist the Unit with the revision of accounting policies. The system was changed and consequently all policies had to be changed.

A backdated salary increase to the Executive Manager: Support Services for which no written authorisation had been given, was not effected through the normal payroll system and was also detected during the investigation.

The services of the Executive Manager: Support Services were terminated, and a severance payment was made to him after moneys owed to the Unit had been deducted.

3.7 Prepayments

Payments in advance relating to motor vehicle purchased, property rentals and insurance to the value of R1 354 535 were made at the end of the financial year (Note 6 to the financial statements).

As payments in advance are made voluntarily, there might be difficulties in recovering any amounts should the other parties default. There is also a financial loss as interest could have been earned on the amounts paid.

The Unit indicated that these amounts were paid in respect of assets and expenses provided for in the budget. As a major portion of the grant received from the Department was only paid towards the end of March 1999, normal procedures to expense these amounts were not possible. As indicated in paragraph 2.2.2(a) above, there is also no clarity on the possibility of carrying over surplus money to the next financial year.

4. APPRECIATION

The assistance rendered by the management and staff of the Unit during the audit is sincerely appreciated.

S A Fakie,
AUDITOR-GENERAL.

Pretoria,
15/12/1999.

5. GENERAL

SCHEDULE A –

Extract from the Special Report of the Auditor-General on the Audit to verify the Value of Savings/ Recoveries by the Heath Special Investigating Unit [RP 114/1999]

Paragraph 6.2 on page 7 of the Special Report of the Auditor-General on the Audit to verify the Value of Savings/Recoveries by the Heath Special Investigating Unit reads as follows:

“Trust accounts” of the Unit

The Unit currently operates a number of “trust accounts”. These “trust accounts” are used as accounts in which the Unit surrenders and keeps in trust, recovered money and assets until such time as they are paid over to the relevant institution.

Trust money, in terms of the Exchequer Act, 1975 (Act No. 66 of 1975), is defined as money kept by an accounting officer or other person in the service of the State on behalf of a person or body, and which money is not State property. In terms of Section 31(1)(s) of this Act, the Treasury must give guidance in the handling of and exercising control over all trust money and trust property temporarily deposited or left in the care of an accounting officer or other person in the service of the State.

The money collected by the Heath Unit is, however, money that already belongs to the State, and does not fall under the aforementioned definition. It can, however, be argued that it was the intention of the Act to implement control measures over all money kept by an accounting officer on behalf of a third party. The principle of opening “Trust Accounts” and to deposit and collect money on behalf of State Institutions and government/provincial departments must therefore be presented by the Unit to the Department of State Expenditure together with rules regulating the control of money in trust accounts for their guidance.”

SCHEDULE B

Extract from the Report of the Auditor-General on the accounts of Vote 20 – Justice for the 1997-98 financial year [RP 191/1998]

Paragraph 2.2.17 on page 16 of the Report of the Auditor-General on the accounts of Vote 20 – Justice:

“Transfer payment to the Heath Special Investigating Unit

The Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), does not make provision for separate accountability. It was the intention of the act to make the accounting officer of the Department of Justice accountable, and expenditure incurred by a unit established in terms of the Act should therefore be charged against the appropriation account of the Department of Justice reads as follows.

The Heath Special Investigating Unit was established under Proclamation No. R24 of 14 March 1997 and, following requests by the Unit, the head of the Unit was appointed by the Department of State Expenditure as accounting officer in terms of section 15A of the Exchequer Act, 1975. The Department of State Expenditure also assigned all the powers and duties referred to in section 15(2) of the Exchequer Act, 1975, to the head of the Unit, and the financial regulations and Treasury Instructions are therefore fully applicable. The Accountant-General on 27 May 1997 also approved the opening of a separate bank account by the Unit. The implementation of these actions, *inter alia*, resulted in the head of the Unit becoming responsible for the portion of the vote applicable to him. In such instances, particulars relating to that portion are dealt with separately in the vote account and the person concerned shall in terms of the provisions of the Exchequer Act, 1975, furnish the accounting officer with sufficient particulars to compile an appropriation account according to the provisions of the Act.

The head of the Unit was, however, under the impression that his appointment as accounting officer and the approval of a separate bank account exempted the Unit from complying with the aforementioned regulations and instructions and, consequently, compiled a set of financial statements in accordance with generally accepted accounting practice, the format applicable in the private sector. A private audit firm was also appointed by the Unit as its external auditor and an unqualified audit opinion for the 1997-98 financial year was expressed on 19 April 1998. The annual report of the Unit, which includes the audit report and financial statements, was submitted to the Justice Portfolio Committee on 15 May 1998.

The amount reflected in the financial statements of the Unit as income received from the Department of Justice amounts to R9 646 000 (1996-97: R1 265 603), and agrees with the amount included as a transfer payment under Programme 6: Auxiliary and associated services. Amounts of R276 508 and R220 759 (1996-97: R4 969 and R13 532) derived from other sources are, however, also accounted for as Income by the Unit. Expenditure incurred by the Unit amounted to R5 686 701 (1996-97: R1 119 441), leaving a surplus of R4 456 566 (1996-97: R164 663), which has been carried forward.

In terms of the provisions of section 9(8) of the Exchequer Act, 1975 (Act No. 66 of 1975) any surplus on a vote at the end of a financial year must be surrendered to the Exchequer. The surplus of R4 456 566 in the Unit's Bank Account can be regarded as such a surplus as it was financed by a transfer payment-ex the Vote. The surplus should therefore have been paid to the Vote, which would have reduced the excess on the Vote.

Although the Office is supportive of the accounting policy being followed by the Unit, it seems necessary to obtain approval in terms of section 11A of the Exchequer Act to open a Trading Account and to retain the aforementioned balance in the Unit's Bank Account. Discussions by the Office with the Director-General of State Expenditure are indicative that he would consider such ex post facto approval favourably.

Other interpretations of the Unit's legal/fiduciary situation may be possible. An authoritative legal opinion may thus be appropriate in the circumstances before any course of action is decided upon.

In this regard it must, however, also be mentioned that, while the appropriation account of the Department is prepared on the cash basis, the financial statements of the Unit were prepared on the accrual basis but, apart from the provision for depreciation, the capital expenditure ex the Vote is not included in the Unit's expenditure. The amount reflected by the Unit as surplus would be affected, were capital expenditure debited to the Unit's Bank Account."