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Submission on the Civilian Secretariat for Police Service Bill 26 July 2010

1. Introduction

The African Policing Civilian Oversight Forum (APCOF) welcomes the opportunity to comment on the Civilian Secretariat for Police Bill. APCOF has worked closely with the Portfolio Committee on Police, the Independent Complaints Directorate (ICD) and the Secretariat of Police since its inception in 2004 to support building police accountability in South Africa.

2. APCOF

APCOF is a network of African policing practitioners drawn from state and non state institutions. It is active in promoting police reform through civilian oversight over policing. It believes that the broad values behind establishment of civilian oversight is to assist in restoring public confidence, develop a culture of human rights, integrity and transparency within the police and promote good working relationship between the police and the community. It achieves its goal through raising awareness and sharing information on police oversight and providing technical assistance to civil society, police and new and emerging oversight bodies in Africa. APCOF was established in 2004 as a coalition of police oversight bodies and practitioners in Africa and was registered in 2006 as a not for profit company (section21) under South African company law.

The objectives of APCOF are to:

- Create and sustain public confidence in police
- Develop a culture of human rights, integrity, transparency and accountability within the police
- Promote a good working relationships between the police and the community

APCOF works on issues such as:

- Promoting fair treatment of citizens by police agencies on the continent
- Exchange of information and better practices among oversight bodies
- Advocating for the establishment of police oversight bodies in countries where they do not currently exist
- Advocating for improved resource allocation to police oversight bodies
- Standard setting for policing and civilian policing oversight bodies in Africa

3. Developments in police oversight In South Africa

Policing in South Africa over the last 10 years has seen a shift in from an initially human rights centred approach to a law enforcement agenda. These developments have impacted on police oversight. Among others, the National Secretariat for Safety and Security was downscaled. At provincial level, better resourced Provincial Secretariats maintained their role in police oversight and crime prevention but suffered from a lack of collaboration and co ordination of activities across provinces.

One of the key findings of a study by Klipin and Mistry (2004) was that” the secretariats are not carrying out all the functions provided for in the current legislation. It is apparent that they are not realizing the full extent of the powers available to them. A related finding is that the restructuring of the national secretariat seems to have resulted in such a diminution of its role that it appears to exist only to advise the Minister of Safety and Security.”¹

In their recommendations Klipin and Mistry propose

- Existing provisions in legislation must be exploited. Currently, the secretariats are not using their power under the law to place civilian oversight firmly on the agenda of the SAPS.
- The current role, function and structure of secretariats should be revisited. The policing context and the priorities of the SAPS should supply the context for a strategic review process.
- The national secretariat should remain a small but effective policy advice think tank for the Minister of Safety and Security and the provincial secretariats. The national secretariat needs to regain its former strategic role as policy advisor to the Minister, while remaining a focused think tank.
- Common policy analysis and implementation training should be provided for all secretariats.
- Collaborative planning and strategising is required between the secretariats and with the ICD.
- The secretariats should share examples of good practice.
- The secretariats should monitor and oversee the Municipal Police Departments (MPDs), and assess how they can best assist them to fulfil their roles.
- Structural processes should be introduced to ensure good working relations between the secretariats and the SAPS.
- The secretariats should contribute to the policy/legislative review processes.

Un their conclusion Klipin and Mistry note, “there is a need for the SAPS to become a more legitimate, accountable and efficient organisation. Civilian oversight is one of the few instruments by which external bodies can compel the SAPS to realise these objectives

¹ Klipin J and Mistry M, Civilian Oversight of Policing, Paper 91 ISS, September 2004

rapidly. The provincial and national secretariats are central to civilian oversight, and therefore essential to the transformation of the SAPS.

APCOF welcomes the Civilian Secretariat for Police Service Bill as an initiative to address many of the issues challenges and recommendations made by civil society over the past decade (ICD).

4. Civilian Secretariat for Police Service Bill

4.1 Policing

APCOF recognises that policing in South Africa is multi faceted and provided by multiple actors including volunteer civil society groups and private security industry often working in partnership with the South African Police Services and municipal police services. APCOF submits that the scope of the objectives of the Secretariat of Police be broadened in clauses 4 and 5 to include all policing agencies.

4.2 Civilian Oversight

APCOF maintains that civilian oversight of police happened at multiple levels and is performed by multiple stakeholders speaking to different audiences The provision in Clause 4 and 29 to facilitate co operation between the Secretariat the Independent Police Investigative Directorate (IPID) and the SAPS should be broadened to include the South African Human Rights Commission, the Public Protector, the Planning and Evaluation Unit in the Presidency and the Auditor General.

4.3 Monitoring

APCOF recognises the important role the Secretariat of Police can play to monitor and asses police services. APCOF submits that the Bill be strengthen to require police and policing agency responses to any recommendations made in monitoring reports or reviews articulating clear plans for implementation of recommendations or reasons as to why such recommendations cannot be implemented.

4.4 Transparency

“Transparency and public reporting are of vital importance to the long-term success of an external civilian oversight agency.” “An external oversight mechanism will be more successful where it has community and political support, and where it involves civil society in its work.”²

² ibid

APCOF submits that all reports investigations conducted by the Secretariat for Police are public and accessible via the Secretariat web site and in hard copy.

4.5 Safety and Crime Prevention

The Secretariat for Safety and Security, the predecessor of the Secretariat of Police was the custodian of the National Crime Prevention Strategy. This role was played to a greater or lesser extent by the provincial secretariats after the downscaling of the national secretariat and the absorption of crime prevention in the SAPS. Crime Prevention and safety promotion is more than a policing function but a role that can and should be played across society and government. The Secretariat of Police is well positioned be a centre for knowledge and good practice on crime prevention and safety promotion. APCOF submits that the role of the Secretariat of Police as a knowledge leader in crime prevention and safety promotion is clearly articulated in the functions of the Secretariat.

4.6 International Obligations

Monitor the adherence to relevant codes such as the Southern African Regional Police Commissioners Coordinating Committee (SARPCCO) Code of Conduct, treaties and bilateral agreements pertaining to policing.

The Secretariat of Police should regularly asses the contributions made by the SAPS to foreign and transnational policing operations in terms of the compliance with and promotion of domestic policy, impact, value of money and the management and oversight of such operations.

4.7 Investigation

Chapter 4 14 (2) (a) ii provides that the Provincial Secretariat can investigate police conduct. The powers and scope of such investigation need to be set out in detail in the Bill and clear distinction drawn between the role and function of the investigators of the IPID.

5. Conclusion

APCOF welcomes the opportunity to comment on the Civilian Secretariat for Police Service Bill and we remain willing to assist the Committee and state our intention to make an oral submission to the Committee.