



# African Policing Civilian Oversight Forum

## CONSULTANCY ASSIGNMENT #1

### Deficit analysis of current SAPS policy, training, instructions and practices on racist and xenophobic violence and related hate crimes

#### Terms of Reference

#### 1. Background and context

The African Policing Civilian Oversight Forum (APCOF) has received funding from the European Union (EU) to undertake a project that seeks to develop the capacity of the South African Police Service (SAPS) to detect, prevent and respond to xenophobic violence and related hate crimes.

The project is set against the backdrop of numerous incidents of xenophobic violence and hate crimes directed against non-nationals and other persons marginalised on the basis of their national origin, residing in the Republic of South Africa, since 2008. Outbreaks of xenophobic violence have persisted, and SAPS' capacity to effectively detect, prevent and respond has been questioned, despite successive research studies, inquiries and recommendations to strengthen SAPS' capacity by national, regional and international human rights bodies over the past 11 years.<sup>1</sup>

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<sup>1</sup> This includes policing-specific recommendations by, *inter alia*, the South African Human Rights Commission (SAHRC), the Committee on the Elimination of Racial Discrimination, the Special Rapporteur on the Human Rights of Migrants, the United Nations Human Rights Commission (UNHRC), the African Commission on Human and Peoples' Rights (ACHPR), and local civil society and academia

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The project is also informed by several national developments; namely, the government's 2030 National Development Plan (NDP); the adoption of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance; and the Prevention and Combating of Hate Crimes and Hate Speech Bill, which has been tabled in parliament.

The project will be conducted in several phases, and APCOF now seeks a suitably qualified consultant for the roll-out of Phase one; namely, the design and development of evidence-based research, analysis and recommendations. The research outputs produced in Phase one of the project will inform the development of resources and tools to enhanced the capacity of SAPS and its community and oversight stakeholders to respond to racist and xenophobic violence and hate crimes in subsequent phases.

## **2. Project overview**

The overall objective of the project is to promote equitable and non-discriminatory policing services in South Africa by developing the capacity of SAPS to prevent, detect and respond to racist and xenophobic violence and hate crimes. Specific objectives address the key elements of an effective policing response: prevention, detection, investigation and accountability.

The project is being undertaken in several distinct but inter-related phases.

Phase one involves research on existing SAPS policy, training, procedures and practices on racist and xenophobic violence and hate crimes (the subject of this consultancy assignment); the role of Community Policing Forums (CPFs) in the prevention and early warning of these crimes; and the oversight and monitoring capacity of the Independent Police Investigative Directorate (IPID), the Civilian Secretariat for Police (CSP) and the South African Human Rights Commission (SAHRC) over policing responses to incidents of xenophobic violence and related hate crimes.

Phase two, three and four include consultations with key stakeholders on, *inter alia*, the findings and recommendations of the research, the development of resources and tools to address deficits identified in the research, and advocacy to promote the implementation of the resources and tools by the stakeholders.

## **3. Objective of the consultancy assignment**

SAPS has a constitutional mandate to provide equitable and non-discriminatory services to all persons in the Republic of South Africa, including non-nationals.

The objective of the consultancy assignment is to conduct an audit of current SAPS policy, training, instructions and practices on the prevention, detection and investigation of racist and xenophobic violence and hate crimes; identify gaps in the existing SAPS regulatory, training and management architecture; and provide recommendations to address these gaps.

Specifically, the consultant undertakes to:

- Draft and finalise a report on the current SAPS framework regarding racist and xenophobic violence and hate crimes, focusing on the following areas:
  - What is SAPS' policy on racist and xenophobic violence and related hate crimes and does it reflect national, regional and international standards?
  - What (if any) training does SAPS provide to its members to handle and respond to these crimes? If training is provided, is it comprehensive and does it address prevention, detection and response issues?
  - What instructions (National Instructions and Standing Orders) are in place within the national police service to address racist and xenophobic violence and related hate crimes and to what extent are they adequate in terms of providing an effective response by SAPS?
  - What attitudes and practices can be observed within SAPS' structures in addressing these crimes?
  - To what extent has SAPS incorporated the recommendations of the national, regional and international bodies (mentioned in Section 1 of these Terms of Reference) to address racist and xenophobic violence and related hate crimes?
- Based on the assessment, make targeted recommendations to address any deficits identified and improve policing prevention, detection, responses to racist and xenophobic violence and related hate crimes.

#### **4. Expected deliverables**

The expected deliverables are non-negotiable and all extenuating concerns and limitations should be highlighted in the proposal. Chronologically, the deliverables are:

- Commencement of research by **4 May 2020**.
- First draft of the deficit analysis report, with preliminary recommendations, based on the agreed methodology, submitted to APCOF by **31 July 2020**.

- Final draft of the deficit analysis report, incorporating comments received from APCOF, submitted to APCOF by **31 August 2020**.
- Preparation and delivery of a presentation on the research findings at a launch of the report in **October 2020**.

## **5. Required competencies and expertise**

The consultant needs to have strong knowledge and experience in:

- South African criminal justice system, and specifically the mandate and function of SAPS; the relationships between SAPS and its community and oversight stakeholders; and the roles and capacities of these stakeholders in relation to the research topic;
- The human rights standards that apply to non-nationals and other persons marginalised on the basis of their national origin in South Africa;
- Proven research experience in the field of racism, xenophobia and related hate crimes;
- While English is the working language for this project, proficiency in other South African official languages is an advantage.

## **6. Proposals**

APCOF invites proposals from individuals who meet the abovementioned competencies. Proposals should include the following:

- A brief overview of relevant experience and expertise;
- An outline of the methodology and approach to developing the materials (including proposed modes of delivery); which includes a work plan for completing the deliverables;
- Detailed budget;
- Tax compliance certificate;
- Signed integrity declaration form;
- CVs of all individuals who will work on the assignment;
- Two contactable references.

Applicants will be assessed on the basis of the soundness of the methodology, understanding of the subject matter, history of previous work, cost reasonableness, and skill and qualification of the research consultant/ team.

As the submissions are evaluated, please expect further requests for information and/or consultation on the budget proposal. The deadline for the submission of proposals is **17 April 2020** and the successful applicant will be notified by **24 April 2020**. Please submit your proposal by email and address any queries to:

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