ISS submission
Draft White Paper on the Police

Prepared by:

Gareth Newham
Head: Governance, Crime and Justice Division
Institute for Security Studies
gnewham@issafrica.org

Dr Johan Burger
Senior Researcher: Governance, Crime and Justice Division
Institute for Security Studies
jburger@issafrica.org
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1. Introduction

The Institute for Security Studies (the ‘ISS’) was founded in 1991 (initially as the Institute for Defence Policy) and is an African organisation which aims to enhance human security on the continent. It does independent and authoritative research, provides expert policy analysis and advice, and delivers practical training and technical assistance. The ISS head office is in Pretoria, South Africa. Regional offices are located in Nairobi, Kenya; Addis Ababa, Ethiopia; and Dakar, Senegal.

The vision of the ISS is a peaceful and prosperous Africa for all its people. The mission and overall goal of the ISS is to advance human security in Africa through evidence-based policy advice, technical support and capacity building.

The ISS welcomes the opportunity to make a submission on the Draft White Paper on the Police (hereafter ‘the paper.’) We recognise the importance of having a clear policy that guides the orientation of our police agencies that can be used to assist in drafting new legislation and communicating with both the public and police officers as to what is to be expected from them.

The first part of this submission will present specific recommendations that will provide clear direction to the police for achieving the aspirations contained in the white paper. The second part will engage with specific sentences.

2. General Comments

The ISS supports the overall vision and aspirations for the police as contained in the White Paper. In particular we welcome the acknowledgements regarding the importance of ethical police leadership and professional police officers who are orientated to serving their communities within a Human Rights framework.

Our general concern is that the White Paper contains very little detail as to how the various objectives contained therein will be achieved. Moreover, while the paper refers to some of the recommendations contained in the National Development Plan as adopted by the Cabinet in 2012, it does not provide further details as to how these will be implemented and achieved. Moreover, a number of practical recommendations contained in the NDP are left out altogether.

In addition, while the paper is implicit on a number of challenges facing the police, it fails to clearly highlight, diagnose and definitively respond to a number of what we consider substantial policy issues facing the SAPS and other policing agencies in South Africa. We believe that the White Paper would be substantially strengthened if it had engaged with the findings and practical recommendations contained in inter alia:

- Parliament’s Detective Dialogue (2012)
- The National Development Plan (NDP) 2030: Our future – Make it work (2012)
Moreover, it will also not make sense for the White Paper on the Police to be finalised without taking into account the findings and recommendations of the Marikana Commission of Inquiry. In particular, the findings related to the integrity, decision-making capacity and politicisation of the Senior Leadership of the SAPS and how this resulted in the single largest loss of life and injury to civilians on the part of the police in post-apartheid South Africa.

There is a substantial amount of input that could be made based on the above mentioned formal documents on the SAPS, in addition to the substantial research literature available on policing in South Africa. However due to time constraints and in the interests of brevity, we will confine our submission to the following key areas:

- Improving Police Leadership
- Promoting police integrity and reducing corruption
- Ensuring that police are properly capacitated to address priority crimes
- Enhancing police partnerships and legitimacy

Our goal with this submission therefore is to provide some practical options as to where we believe clear policy guidance is required to achieve the objectives for policing as contained in the draft White Paper.

This submission will not be comprehensive of all aspects of policing, but rather focus on what are considered as pressing priorities for achieving improvements in policing in South Africa. Given that the single biggest policing agency is the SAPS, all recommendations are related to this institution unless otherwise stipulated.

3. Improving Police Leadership

The White Paper states that “Policing in the 21st century requires astute leadership and management who strive towards enhancing and building legitimacy and trust of the institution in the eyes of those whom they serve. Police leadership and management must ensure a clear normative standard of the highest quality.” (White Paper, p.18)

Indeed, the National Development Plan also recognises the leadership challenge facing the SAPS and states that “… the organisational culture and subcultures of the police should be reviewed to assess the effects of … the serial crises of top management.” (NDP, p. 393). It is important to recognise, that to improve policing it is crucially important that the senior leadership of the any policing organisation is high experienced, skilled and whose integrity is beyond reproach.

Currently, the SAPS suffers from a situation where there are too many senior managers who either:

- do not possess the skills or expertise for the posts they hold,
- have found to have been untruthful while testifying under oath, and
- are either facing allegations, investigation or are being prosecuted on serious
crime and corruption charges.

Currently, cases against senior officers are not effectively prioritized or dealt with expeditiously resulting in severe damage to the public and organisational integrity of the SAPS. Similarly, those senior managers who do not possess the necessary skills and expertise for the important posts they hold, are limiting the ability of the SAPS to effectively utilise its substantial resources to reducing highly policeable crimes such as aggravated robberies, organised crime and much of the corruption.

The White Paper therefore needs to provide clear and concrete direction on how to ensure that only appropriately skilled, experienced and honest people are appointed to positions of police leadership. Moreover, it needs to provide guidance as to how police integrity is to be maintained when serious allegations against senior police officials emerge. The White Paper in its current form does not do this.

Recommendations:

The NDP recommendations therefore should be included in the White Paper and expanded upon. It is suggested that the White Paper further refine and add to the NDP recommendations as follows (in bold italic):

• A National Policing Board (NPB) with multi-sectoral and multi-disciplinary expertise will be established to set objective standards and oversee the selection, appointment and promotion of all people to senior management posts of Brigadier above, including the National Commissioner of the SAPS.

• The NPB board will be chaired by a retired judge and will consist only of no more than nine people who are recognised as independent professionals with proven senior or executive management expertise and whose integrity is beyond reproach.

• Appointment to the Board should follow a transparent and competitive process run by the Portfolio Committee on Police and appointments ratified by the Minister of Police.

• The National Commissioner should be appointed by the President only on the recommendations by a selection panel consisting of the members of the NPB following a transparent and competitive recruitment process against clear and objective criteria. A shortlist of 12 applicants should be interviewed in public by the panel who may recommend three possible candidates once receiving security clearance to the President of which he may select one.

• Deputy National Commissioners and Provincial Commissioners should be appointed by the National Commissioner only following a transparent and competitive recruitment process overseen by the NPB.

• As a matter of urgency, the NPB will commission and oversee an independent assessment of the competency and integrity of all officers above the rank of Brigadier, starting with those holding the rank of Lt-General.
• Where individuals have either been appointed irregularly and do not possess the required skills and expertise, they must be re-deployed to posts to which their skills and expertise are applicable.

• Where questions are raised about integrity or contraventions of the SAPS Code of Conduct and values on the part of any top or senior manager, the appropriate disciplinary investigations and processes should be undertaken under guidance by the NPB.

• Where senior management posts become available as a result of redeployments based on the competency and integrity assessments, they should only be filled following a competitive and transparent process overseen by the NPB.

• Where senior managers face allegations of misconduct or criminality, investigations should be undertaken by an appropriately staffed Senior Management Integrity Unit staffed by forensic investigators from outside of the SAPS. Such investigations must be given full attention and undertaken expeditiously so that they are completed within 30 days. Subject officers are to be suspended unless otherwise decided by an application to the National Commissioner in consultation with the NPB.

• Senior managers will be expected at all time to adhere strictly to the SAPS Code of Conduct and Code of Ethics and will be held accountable thereto. Any ruling by a court, a commission of inquiry, or any public statement made by a SAPS manager that raises questions about their ethical disposition or behaviour will result in immediate suspension and referral to a disciplinary process that must be completed within 30 days.

4. Promoting Police Integrity and Reducing Corruption

In the 2014 National Victims of Crime Survey (NVCS), showed that the second most likely form of public sector corruption (experienced by 13% of households) is police corruption.

The high level of experience of police corruption is arguably the reason why the South African public generally perceives the police to be corrupt. For example, the 2011 Human Sciences Research Council (HSRC) South African Social Attitudes survey found that 66% of a representative sample of all South Africans perceived that corruption is “widespread” amongst the police. More recently a national survey revealed that “Three quarters of South Africans believe that a lot of police are criminals themselves” and 33% said that they were “scared of the police” (Futurefact, 2015).

It must be noted that these findings stand in clear contrast to the National Victims of Crime Survey that found that 76% of households “trust the police in their areas.” The differences could be explained in the way that the question was asked and to whom (e.g.
older people tend to have greater trust in the police than younger people.) Nevertheless, the NVCS found that both trust and satisfaction in the police was declining which should be a serious policy concern with which the White Paper should engage.

Surprisingly, the White Paper is silent on the challenge of police corruption and does not provide any details about specific step or approaches on how to promote integrity in the police. This is surprising given that integrity related issues such as police officer misconduct, brutality, corruption and criminality are arguably amongst of the key challenges undermining public legitimacy and trust in the South Africa’s various policing agencies. It is therefore recommended that the White Paper engage more specifically about how integrity in the police should be enhanced. This section will provide some ideas as to how this may occur.

4.1 Protecting Operational Integrity

Ensuring that police officers only act in line with the Constitution, the law and SAPS Code of Conduct and stated values, necessarily requires that senior police leadership have integrity. However, there is also the need to protect operational police from arbitrary political interference as this undermines the very ethos of professional policing. A good example is the interference by the former Minister of Police to in the internal investigation and disciplinary processes against the Head of SAPS Crime Intelligence Lt-General Richard Mdluli despite wide ranging evidence supporting charges of criminal behaviour and misconduct. Along with the ongoing protection afforded Mdluli by the current SAPS National Commissioner, this type of interference has caused substantial damage to the Crime Intelligence Division as evidenced in the substantial decline in the quantity and quality of its work.

Indeed the Constitution provides that “A member of the Cabinet must be responsible for policing and must determine national policing policy” … “The National Commissioner must exercise control over and manage the police service in accordance with the national policy and the directions of the Cabinet member responsible for policing”.

However, there is a need to ensure that the direction given by the member of Cabinet is at all times within the law and aimed at promoting the SAPS Code of Conduct and Ethics.

Recommendations:

The White Paper must practically emphasise the Constitutional principles of transparency and accountability by stating that “All direction given to the SAPS National Commissioner by the Minister of Police must be in writing and presented to parliament at least twice a year. Any direction to the SAPS Commissioner not in writing should be considered either illegal or merely an informal recommendation which is not binding on the SAPS National Commissioner.”

Operational integrity also requires that there are well functioning internal accountability practices and mechanisms. The White Paper recognises the role of the inspectorate to conduct administrative reviews to ensure adherence to departmental policies and
procedures and where necessary propose corrective action. This is an important mechanism for ensuring that police officials and other administrative staff are held accountable for their actions or omissions when it comes to complying with SAPS regulations and standards. However, there no information about the role, functions and powers of the Inspectorate in respect of administrative reviews, nor how to ensure that this important structure receives the necessary resources and support to function effectively. Over the years its capacity has declined and many police stations are not inspected, or are subject to irregular inspections. As importantly, the recommendations from the Inspectorate are often ignored and no remedial is taken despite repeated findings of a lack of compliance from station level inspections.

**Recommendation:**

The White Paper needs to ensure that the internal inspectorate has clear and defined rules of engagement and operation. The processes involved in administrative reviews, sanctions and other functions must be practically enforceable and the White Paper must emphasise that the Inspectorate must be capacitated to conduct regular unannounced inspections of police stations and that only police officers of the highest ethical standards and expertise are deployed to this component.

4.2 Tackling Police Corruption and Criminality

The SAPS has an Anti-Corruption Strategy consisting of four key pillars which was formally adopted in 2011. Within each pillar are a number of measurable objectives that have to be achieved. These are summarised below:

**Pillar 1. Prevention of Corruption in SAPS**
- Internal and external communication and awareness initiatives
- Develop roles and responsibilities for all managerial levels
- Establishing and managing partnerships with external agencies

**Pillar 2. Detection of Corruption in SAPS**
- Utilising corruption risk assessments and analyses to identify trends regarding corruption prone areas
- Define the role of Crime Intelligence, the Inspectorate and Internal Audit in detecting corruption
- Develop a whistle-blowing policy for the SAPS
- Develop a ‘Corruption Reporting Incentive Policy’ for the SAPS
- Ensure compliance with all the SAPS’ reporting obligations
- Develop a centralised Information Management System for reports of corruption

**Pillar 3. Investigation of Corruption in SAPS**
- Finalize the SAPS organizational structure regarding the investigation of corruption within the SAPS.
• Develop policy, procedure and standards for the investigation of corruption
Develop protocols for cooperation with other government departments, (e.g. NPA, SARS regarding the investigation of criminal cases of corruption.)
• Ensure the effective management of criminal investigations into corruption perpetrated by SAPS members, including the managing of outstanding investigations using the CMIS & establishing a dedicated unit.

Pillar 4: Resolution of Corruption in SAPS
• Develop policy and procedure for the rectification of SAPS procedures compromised by corruption
• Finalizing of the Discipline Management policy and procedure
• Integrate relevant policies and procedures into the ACS (i.e. risk management, employee wellness, etc)

Recommendations

It is important that the White Paper reflect on the importance of the implementation of this strategy and an assessment of its impact. It is suggested that so to clearly demonstrate that the SAPS is taking steps to address corruption it must provide the Police Minister and parliament with information on the measurable indicators used by the SAPS assess whether the Anti-Corruption Strategy is being effectively implemented and its impact? Moreover, an evaluation of the implementation and impact of this strategy should be undertaken by the Civilian Secretariat at least annually

The White Paper must also incorporate the anti-corruption strategies envisaged in Chapter 14 of the NDP. A holistic and integrated approach to tackling corruption in the police depends on the alignment of these various strategies.

4.3 Enhancing Police Conduct

As part of improving police conduct, it is necessary for the SAPS to improve its systems for receiving information on misconduct committed by police officers, its capacity to effectively and quickly investigate allegations made, and where there is evidence of misconduct to effectively hold officers accountable.

The White Paper should therefore consider stipulating that: the SAPS and all police agencies will implement user-friendly and accessible mechanisms for receiving and processing complaints against its officers. These can take various forms but must ensure confidentiality of the complainant and that all information is captured not only for investigative purposes, but also to enable systemic assessment on officer conduct across the country.

Recommendations:

It is recommended that the SAPS and other policing services provide civilian oversight agencies such as the CSP with the following information upon demand:
• A clear description of how the citizen complaints system functions, the resources available to run the system, key challenges facing the system and information on how these challenges are being addressed so as to strengthen the efficiency and effectiveness of the system?
• The complaints against police officials that are received by the SAPS complaint mechanisms each year?
• A breakdown of the nature of complaints that distinguishes between criminal, misconduct and service delivery related complaints?
• The average length of time investigations take until a decision is made to prosecute or dismiss the complaint?
• The profile of police officials that receive the most numbers of complaints by station, unit, component, rank and time employed in the SAPS.

Once complaints are received against the police, it is necessary to thoroughly and expeditiously investigate the allegations made. This is to ensure that police officers who are innocent of any wrong doing can be quickly cleared and that those who are found to have committed misconduct can be held effectively accountable.

Of particular importance for achieving this is the establishment of a dedicated and well-resourced SAPS Internal Integrity Unit to investigate all allegations of criminality and corruption committed by police officials (as mentioned under pillar 3 of the above Strategy.) This unit needs to learn the lessons from the previous SAPS Anti-Corruption Unit which operated successfully between 1996 and 2002 when it was closed down by former SAPS National Commissioner Jackie Selebi who was later convicted for corruption.

Recommendations:

For such a unit to be successful it requires the following:
• Political and police leadership who truly want to tackle police corruption and actively support the unit.
• Only the most highly skilled police professionals whose integrity is beyond reproach are selected to manage and staff the unit.
• The unit has adequate resources and capacity to undertaken both reactive investigations and proactive targeted and random integrity testing.
• It only reports to the SAPS National Commissioner on investigations once they are completed and may report attempts at interference to parliament.
• It is held accountable for high standards of conduct and performance.

To demonstrate to the public that that the SAPS takes criminality and corruption amongst its members seriously, it should report the following information to parliament once a year:
• The numbers of police officials that have criminal charges opened against them?
• A breakdown of the charges opened per crime category?
• The number of cases per category that are referred to court for prosecution, that are withdrawn by the prosecution, that end in a “not guilt” verdict, and that end in a criminal conviction?
The sentences received for the convictions per category?
The numbers of police officials that are dismissed, and not dismissed, after being convicted of a criminal offence?

In many instances, investigations against police officials following complaints will reveal conduct that is not consistent with the SAPS Code of Conduct or other internal regulations. It is therefore important that the SAPS has an effective internal disciplinary system.

Notable challenges facing the SAPS is the inadequacy of its internal accountability mechanisms. The following data on the functioning of the SAPS disciplinary system is instructive in this regards (See the SAPS Annual Report for 2014/14):

- In 2013/14 the IPID received 4 585 criminal cases against police officials. A total of 950 (20.7%) cases were before the courts, & there were 84 (1.8%) convictions.
- In 2013/14, out of the 6 053 hearings that were held, 2 294 cases (39%) were withdrawn or ended in a not guilty verdict
- The single biggest outcome of a disciplinary hearing was a “not guilty verdict” – 1 467 hearings (24%).
- While 39 per cent of disciplinary hearings ends with no sanction, only 9 per cent end in a dismissal. There were an additional 664 ‘suspended dismissals.’
- Out of 537 dismissals only 126 (23.5%) were confirmed in 2013/14.

Recommendations:

A rigorous independent evaluation of the SAPS internal disciplinary system must be undertaken as a matter of urgency. This must include a focus on as to why the available evidence of misconduct that results in the decision to hold a disciplinary hearing is so frequently inadequate to uphold findings of guilt. Also, what are the reasons for the high number of cases being withdrawn? For this reason the White Paper should refer specifically for the development of a clear plan of action to strengthen the SAPS internal disciplinary system based on the findings of the assessment.

Adopting a punitive approach on its own will not be adequate to promote a professional police ethos governed by the SAPS Code of Conduct and ethics. For this reason, steps should also be taken to ensure that there is an effective and supportive performance management system of the SAPS. In particular, where police officers are doing good work, they should be prioritised for promotions and rewards.
4.4 Strengthening Training

The White Paper states that the SAPS should be “highly skilled, innovative and able to understand and respond to intricately linked and complex crimes while displaying a strong commitment to ensuring a citizen-centered approach to policing.” (p.23) This partly speaks to the training that police officers receive.

There are ongoing bad practices in the SAPS with regards to training and it is important for the White Paper to specifically present an approach that will ensure that there are improvements in the way that training is provided and the impact that it has on officers skills and conduct.

**Recommendations:**

• All training courses as part of basic training, must have clearly designated pass marks of no less than 65% and those who fail these courses more than three times may not under any circumstances be recruited into the SAPS, or be given “attendance certificates.”

• Independent assessments of training must be undertaken of all courses by an agency that is external to the SAPS. The assessments should independently establish whether random samples of trainees of all courses are proficient in the material that was trained. The assessments must be presented to the Minister and to parliament.

• All trainers should be subjected to random and unannounced assessments by independent external assessors to ascertain whether they are training the curriculum correctly.

• The curriculum should include a variety of methodologies that are orientated to adult learning

• No one should be deployed to a particular post until they have completed and passed the relevant skills training for that post.

• No one should be promoted to a more senior rank until they have completed and passed the relevant training for that rank.

• The pass rate for all courses related to the ranks of commissioned officers may not be below 70%.

5. Improving Police Response to Priority Crimes

There is a vast amount of evidence that the SAPS is currently not able to mobilise its considerable resources to adequately tackle highly organised crime (as evidenced by the substantial increases in mall robberies, and truck and vehicle hijacking in the past two years) or relatively organised crime (as evidenced by the substantial increases in street, residential and business robberies over the past decade).

Moreover, there is substantial evidence that they are not able to undertaken adequate investigations with regards to murders (as evidenced the rising increase in the murder rate over the past two years), and are not providing adequate services to victims of
sexual assault (as evidenced by the 21% decrease in the proportion of victims willing to report their attack to the police between 2011 and 2014, NVCS 2014).

5.1 The Need for Detailed Crime Specific Policing Strategies

The White Paper should require the SAPS to develop specific strategies for tackling clearly identified emerging crime trends each year. This should be based on a multi-sectoral analysis of all available crime data.

Good example of such strategies include Operation Ngena launched in 2003 in Gauteng which reduced hijacking by 36% and more recently, the Gauteng Aggravated Robbery strategy that was a combined initiative between the provincial SAPS and the Gauteng Department of Community Safety which was implemented from January 2009 to January 2011. Primarily focused on the so called “Trio Crimes” it contributed to the 32% reduction of hijacking, 21% reduction in residential burglaries and 20% reduction in business robberies between 2009/10 and 2011/12. Since the abandonment of this strategy, the Gauteng province has seen an increase in all forms of armed robbery over the past two years.

Recommendation:

Crime specific strategies and the progress in implementing them should be presented to parliament annually and assessments undertaken by the Civilian Secretariat of Police with the support of independent organisations.

5.2 Police Planning in a Democracy

The White Paper refers to a “continuous process of transformation must position the SAPS to adapt to constantly evolving environment” (p.9). However, one of the greatest causes of instability in the SAPS (and indeed most organisation), is continuous reform or restructuring. As the restructuring process undertaken in 2006 that resulted in the closure of ‘Area offices’ and many specialised units revealed, poorly thought out restructuring processes can severely weaken the capacity of the police.

It is therefore important that the SAPS undertaken carefully considered planning processes, that are well consulted and that any large reform or restructuring process is first piloted to establish the viability of the initiative and possible consequences on organisation effectiveness and efficiency.

Recommendation:

The White Paper should therefore encourage the SAPS and metropolitan police services to include other government departments, the public, civil society and the private sector in its strategic and annual planning and prioritization processes.
6. Enhancing Public Legitimacy and Partnerships

The White Paper correctly argues that “An exchange of quality and timely information is at the core of joint problem identification and problem solving, and collective planning for sustainable safety delivery. Communities are entitled to the release of comprehensive and timely information by local police station management. (p.22)

The crime statistics simply reflect the numbers of criminal cases reported to the South African Police Service (SAPS), categorised and added up over a period of time. The problem with the way that police crime statistics are released is that they are completely out of date when shared with the public and have no relation to current or emerging crime threats. The crime statistics released by the police in September every year are only relevant for the previous financial year which ended six months prior on 31 March 2013.

This is not because the SAPS is unable to provide up to date crime statistic and information to the public. In fact, South Africa is fortunate to have a relatively well-developed system for gathering statistics on crime across the country. Many tens of millions of Rands have been spent over the years developing the Crime Analysis System (CAS) used by the SAPS to provide reports on the crime statistics. This system is linked into just about every one of the approximately 1 130 police stations across the country.

Each time a person goes to a police station and reports an incident of crime, a docket is opened and the information about the crime is uploaded onto this electronic system. Every 24 hours, all the criminal cases opened across the police stations are updated on the CAS. This means that the police always have access to detailed and updated information on reported crime.

The information is also geographically tagged so it is possible for the police to track exactly where crimes are taking place and how this pattern changes over time. For example, they also know what times of the day and different types of crime are most likely to take place. They also know a fair amount about the modus operandi of different crime types and the profiles of the likely perpetrator and victims. It is for this reason that they are able to identify crime ‘hot-spots’, which they use to plan their policing operations and to direct their targeted patrols.

During the time when Nelson Mandela was the president, his Minister of Safety and Security Sydney Mufamadi appointed a committee of inquiry to investigate the collection, processing, analysis and dissemination of crime statistics. The committee was headed by Dr Mark Orkin who was the head of the then Central Statistical Services and consisted of local and international experts including police and civilians. Their recommendations, which were released to Mufamadi on 31 March 1998 largely implemented leading to the sophisticated crime analysis system that is in use today.

Recommendation:

An important recommendation with regards to the dissemination of the crime statistics was that the crime statistics be released monthly and that the National
and Provincial Secretariats of Police assist communities to access, understand and use the statistics effectively to promote community safety through quarterly analytical reports.

Unfortunately, the decision to limit the information that is released to the public in relation on crime had a number of negative consequences. Indeed, most opinion polls demonstrate that the public have relatively low trust in the police compared to other government agencies. Many people do not trust the crime statistics as a result. While not a scientific measure of the crime challenge, crime statistics can play an important role in assisting communities to identify and effectively respond to emerging crime challenges.

The Columbian city of Bogota provides a good example of how the regular monthly release of crime statistics became a fundamental building block for the reduction of serious violent crime without needing to increase the role of law enforcement. Between 1994 and 2004 Bogota managed to reduce its murder rate by 71% without hiring additional police officials. Their murder rate in 1994 was 13% higher than South Africa’s. By 2010, their murder rate is almost 32% lower than ours at 23 murders per 100 000 people compared to 34 per 100 000 in South Africa.

At the start of his campaign to reduce violent crime in Bogota, the Mayor Antanas Mockus established a task team consisting of police, prosecutors, various government departments and civil society organisations, including universities. The purpose of the task team was to analyse and track the crime statistics and other relevant data on deaths and injuries. This data was released monthly to the public so that local communities could have access to updated information on the crime challenges they were facing.

This allowed local communities to tailor crime prevention initiatives to their specific crimes and to regularly assess the extent to which they were successful or not. The availability of this data allowed for different localities to experiment with different interventions, many of which did not require police involvement. One example that proved to have a significant positive impact on violent crime was aimed at promoting responsible alcohol consumption. The police were left to focus on repeat violent offenders and arrest rates of serious criminals increased dramatically.

This approach improved the partnership between government agencies, civil society organisations and communities. And not only did this approach work to reduce violent crime but it also worked to improve other social challenges. For example traffic fatalities also dropped by 50%.

**Recommendation:**

1 The details of how this was done and why it worked were explained to on of the authors of this document, Gareth Newham, during two meetings with the former Mayor of Bogota Antanas Mockus during a visit he made to South Africa in 2007. In fact Mockus said that the infrequently released crime statistics in South Africa “reduce accountability” and “show a lack of trust in the public’s maturity.” Reference to the use of statistics by Mockus appears in some English journal articles such as e. Moncada, 2009, Toward Democratic Policing in Columbia. Institutional Accountability through lateral reform. Comparative Politics. See [http://emoncada.files.wordpress.com/2009/12/cp-moncada-july09.pdf](http://emoncada.files.wordpress.com/2009/12/cp-moncada-july09.pdf)
The White Paper consider the establishment of an police information sharing structure which could be overseen or recommended by the National Policing Board. The purpose of which is to ensure access to non-classified information held by the police to those who are undertaking research into addressing crime and policing challenges. In particular the following information could assist the establishment of partnerships to better understand crime and policing:

- Monthly crime statistics per policing precinct
- Police Precinct Maps of crime hot-spots per category (see for example, [http://www.police.uk/metropolitan/00BK17N/crime/violent-crime/](http://www.police.uk/metropolitan/00BK17N/crime/violent-crime/))
- Disaggregated crime statistics for categories such as “other theft, Sexual Offences, Commercial Crimes, etc)
- Police station performance chart information per component (Detectives, Visible Policing, etc)
- Police activity information per precinct and province (e.g. arrests per crime category, road blocks, etc).
- Any other information possessed by the SAPS that could be used by other state or non-state agencies to better understand crime and policing in South Africa.

7. Specific Comments in response to the Text of the White Paper

This section will engage with specific text and issues raised in the White paper.

1. P.7 – Second paragraph, last sentence: It is unclear what is meant by ‘… and align the police service to the rest of the public service.’

2. P.11 – Second paragraph, last sentence: The White Paper’s position on a ‘single police service’ is highly contentious and will be discussed in more detail under paragraph 9 below.

3. P.14 – First paragraph under par. 2.2: The reference to ‘values and principles of democratic policing’ is important, but it means very little unless these values and principles are identified or the concept of democratic policing defined or explained. In this regard there are some useful examples such as in the following publications:

   - Police and Democracy, by Gary T. Marx in M. Amir and S. Einstein (eds.) Policing, Security and Democracy: Theory and Practice, vol. 2, 2001, where for example it is stated that ‘One element in defining a democratic society is a police [service] that:
     - is subject to the rule of law embodying values respectful of human dignity, rather than the wishes of a powerful leader or party;
     - can intervene in the life of citizens only under limited and carefully controlled circumstances; and
     - is publicly accountable’

   - The International Police Standards: Guidebook on Democratic Policing, Geneva Centre for the Control of Armed Forces, 2009, where some of the most pertinent
objectives of democratic policing are explained – also very relevant for policing in South Africa:

- Public trust and confidence in the police are prerequisites for effective policing. Without this trust the public will not be willing to report crimes and provide the police with the information needed to work successfully.

- Democratic policing requires that the police simultaneously stand outside of politics and protect democratic political activities and processes. For example, freedom of speech, public gatherings, and demonstrations. Otherwise, democracy will be threatened.

- When intervening in conflicts, the police must be guided by the principle that everyone shall be subject to such limitations as are determined by law. For the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

4. P.16 – Last paragraph before par. 2.3, second sentence: It is unclear what is meant with ‘… positioned for primary consideration’.

5. P.17 – Paragraph 2.4: Reference to ‘Inspectorate’ should be changed to SAPS Inspectorate or Police Inspectorate.

6. P.19 – CHAPTER 3: BUILDING A PROFESSIONAL POLICE SERVICE: The structure of this chapter needs some attention. Par.3.1 is about ‘Qualities needed in a police officer’, but only one is mentioned – ‘integrity’. What follows (diversity, specialised policing, access to information, etc) has more to do with the requirements and challenges for a professional police service than with the qualities of ‘a police officer’.


8. P.24 – Second paragraph, last sentence, reference to the SAPS’ Code of Ethics: It should be considered to strengthen this discussion with the relevant recommendations in the National Development Plan (NDP), p. 390, i.e:

   Mandated oversight bodies should monitor adherence to professional ethics and recommend appropriate sanctions where necessary. The Independent Police Investigative Directorate and the Policing Board would also play a role … The [national policing] board should also develop a code of ethics and analyse the professional standing of policing, based on international norms and standards.

9. Pp.25-27 – CHAPTER 4: A FRAMEWORK FOR A PROFESSIONAL POLICE SERVICE: The ISS’s position on the issue of a ‘single police service’ has been thoroughly explained in our submission for the Green Paper on Policing in 2013. It was pointed out then, and this remains our position, that there is more than one section in the South African constitution that refers to the type of police services that are constitutionally acceptable. The White Paper appears to acknowledge the two spheres of policing, but over-emphasizes the ‘national police service’ or ‘single police service’ concept to the extent of creating the impression that at least eventually there should be only one police service.

The ISS is in support of upholding the constitutional provision for both a ‘single
The applicable sections of the Constitution and how it should be interpreted can be summed up as follows:

- Section 199 (1) of the Constitution provides for a ‘single police service’ while section 205 (1) refers to a ‘national police service’. It can therefore be concluded that these two sections, taken together, provide for a ‘single national police service’.

- Section 206 (7), however, provides for the establishment of ‘municipal police services’. This section states very clearly that ‘National legislation must provide a framework for the establishment, powers, functions and control of municipal police services’ (own emphasis).

- It is obvious from these provisions that the Constitutional Assembly, that approved the Constitution on 11 October 1996, intended to provided for both a single national police service and for municipal police services. In other words, we should have only one national police service, but we can have any number of municipal police services.

Support for the above interpretation is provided by the Constitutional Court case of Potsane where Justice Kriegler, who delivered the court’s judgment, interpreted ‘single’ in relation to a ‘single national prosecuting authority’ as follows:

I subscribe to the basic contention on behalf of the Minister that section 179, when speaking of a “single” [national prosecuting] authority, does not intend to say “exclusive” or “only” but means to denote the singular, “one”. Where there used to be many, there will now be a single authority.2

As far as ‘national’ is concerned the court was also clear on how the term should be interpreted:

The word “national” in the context of the phrase “single national prosecuting authority” … denotes more clearly that the multiple national prosecuting heads that formerly existed were to be merged into one … the statement does not extend to lesser or other prosecuting authorities. The sentence speaks of the national authority, not those involved in conducting prosecutions on behalf of municipalities or prosecutions in departmental, police or prisons disciplinary proceedings.3

It is the ISS’s position that both the ‘national police service’ (SA Police Service or SAPS) and the ‘metropolitan (or municipal) police services’ (MPS’s) have important roles to play in the policing of South Africa. However, we acknowledge that there can be uncertainty and even tensions in relation to jurisdiction between the national and metropolitan police services, such as with the undefined function of crime prevention.

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3 Ibid., 22.
and therefore that role clarification is necessary. We also support the White Paper in relation to the need for uniform standards for professional conduct, resources and training, as well as the need for effective coordination between the two spheres of policing.

10. P.27 – Second paragraph, ‘This model of integrated policing will ensure the overall command …’: This is a problematic statement. It culminates in a position where the SAPS’s overall ‘command’ includes the MPS’s and strengthens the belief that the MPS’s should become or be viewed as an extension of the SAPS (as a ‘single police service’). Overall command during specific joint operations such as with crime combating or security of major events, should not be confused with coordination between the two spheres of policing in the exercising of their respective and often overlapping mandates.
Reference to ‘integrated policing’ as a ‘model of policing’ is also quite a novel addition to the White Paper discussion of a single police service. The ‘model’ is not mentioned anywhere else in the White Paper and should be properly explained.

11. P.27 – Last three paragraphs: The intended changes to the mandate of the MPS’s should be carefully considered. The idea of conferring limited investigative competencies on the MPS’s can bring some relief to the SAPS detective services, but will have to be clearly defined.

However, of the current three functions of the MPS’s, it is the crime prevention function which they share with the SAPS, that is the most contentious and problematic. Part of the problem is that the concept of crime prevention is not defined in our law and is thus open for interpretation and even exploitation. In addition, many municipal or metropolitan areas felt the need to establish or strengthen local police services as a result of growing concerns that the SAPS were neglecting local crime and safety problems. This is especially with regards to the policing of public disorder, drug related crimes and other crimes requiring specialised policing, along with the apparent de-specialisation in the SAPS during the last decade.

To a varying degree MPS’s have used the vagueness of the crime prevention function and the perceived inability of the SAPS to meet their policing needs, to establish their own specialised units to deal with local crime threats and disorder, i.e. anti-drug units, dog units, equestrian units, etc. To expect MPS’s to close down these units without a clear indication of how the SAPS would fill the vacuum, may be more than problematic and also, at least until this problem is resolved, perhaps not in the interest of public safety and security.

12. P.31 – Par.5.1: Minister of Police: Second sentence ‘… the Minister determines plans and sets national policing policy, priorities, budget’: This sentence should be brought in line with sections 206 (1) & (2) and section 207 (2) of the Constitution. Section 206 (1) provides for the determining of ‘national policing policy’ by the minister after taking into account ‘the policing needs and priorities of the provinces’. Section 207 (2) also refers to the authority of the Minister to set national policing policy and to direct the National Commissioner of police. However, it makes no provision for a ministerial authority to ‘determine plans’ for the police. The police, as part of the operational responsibilities of the National Commissioner, provided for by section 207 (2), ‘[to] exercise control over and manage the police service …’, are responsible for developing the necessary ‘plans’ to meet the objectives set by ministerial policies.
This position is supported by section 11 (2) (a) of the *South African Police Service Act (Act No. 68 of 1995)* which states that the National Commissioner ‘shall develop a plan before the end of each financial year, setting out the priorities and objectives of policing for the following financial year.’ It is important to maintain a clear separation between the policy directives of the Minister and the operational duties of the National Commissioner.

13. P.32 – Par.5.3, first paragraph: It is incorrect to state that the Minister manages the SAPS. As explained in the previous paragraph, the Minister provides policy and direction, but the national Commissioner manages the SAPS.

14. P.32 – Par.5.3, first paragraph, last bullet: This is the first mention of Community Safety Forums (also mentioned on p.36). It is recommended that more clarity on these structures and their relationship to Community Police Forums be provided.

15. P.34 – The diagram appears to be vague or incomplete. For example, the bulleted responsibilities of the National Commissioner is wholly lacking compared to the long list of the Secretary for Police. Listing human resource management in addition to the overall management and control of the police service is further proof that these responsibilities were not properly thought through. The same can be said for the stated ‘national policing policy priorities’ of the SAPS.

16. P.38 – Second paragraph, internal audits: The discussion of audits, as part of the recommendations of the NDP, should be included in a broader discussion of the NDP. There are a number of other important recommendations such as relating to the appointment of the National Commissioner and Deputy National Commissioners, that are missing from this draft White Paper. As pointed out elsewhere relevant recommendations are often mentioned without linking it to the NDP. Where recommendations are deliberately excluded it may be proper and useful to explain the reasons for doing so.

**8. Conclusion**

We want to thank the Civilian Secretariat on Police for the opportunity to comment on the Draft White Paper on Police. We believe that this is a timely and very necessary initiative that has the potential to promote professionalism in South Africa’s policing agencies. We will continue to support such initiatives given the important oversight and policy development role played by the CSP.