

ON THE RECORD...

Secretary of Police, Jenni Irish-Qhobosheane

Gareth Newham (GN): Could you briefly explain what the key developments in civilian oversight of the police have been in the current administration?

Jenni Qhobosheane (JQ): There are two entities that are responsible for oversight of the police, outside the police themselves. The one is the Independent Police Investigation Directorate (IPID) and the other is the Civilian Secretariat for Police. The new legislation governing the IPID has refocused it as an investigation unit, so that it now has the capacity to handle investigations against the police.¹ As the Civilian Secretariat for Police we started a process of institutional and organisational strengthening. New legislation has now been enacted, the only outstanding aspect of the implementation of that legislation is the Secretariat becoming a designated department.² On an organisational level, the Secretariat has been capacitated to perform its functions.

GN: What are recent achievements of the secretariat?

JQ: At a policy level we have a new public order policing policy, a new reservist policy and the development of a Green Paper on policing, which is the most important policy.³ We have also been involved in the drafting of various pieces of legislation, such as the South African Police Amendment Act to strengthen the independence of the Directorate for Priority Crimes Investigation (DPCI),⁴ the Bill on the collection of DNA for investigation purposes;⁵ and towards the end of this year we'll be redrafting the SAPS Act entirely to bring it in line with the Constitution and the White Paper on Policing.

GN: You talked about growth and capacity. Has the secretariat reached its full capacity or is there room for further growth?

JQ: When we first developed our organisational capacity plan we agreed that we would build capacity but not become a huge bureaucratic organisation. We have grown from 30 people a couple of years ago to a staff complement of 110 now. I think that we have reached our full capacity as it stands at the moment, but we are starting to see that there may be capacity gaps.

GN: When we interviewed you two years ago, you mentioned that one of the challenges of civilian oversight is getting the police to understand your role. Of course everywhere in the world there will be an inherent tension in civilian oversight of the police. Police organisations do not necessarily like people second-guessing or overseeing what they are doing. Has that been resolved or are there challenges that you are still facing? What tensions currently exist around police oversight?

JQ: The first two years were the most challenging in terms of the police understanding our role. Even though such tensions have mostly been overcome, they are always going to be there and so it is important that you institutionalise your approach to those challenges. You institutionalise them through effective regulations, and so we are finalising our regulations. As areas of cooperation increase between the Secretariat and the police, we need to make sure that the Secretariat doesn't get drawn into police operational matters. At the same time police need to recognise that policy is not just a document. Policy needs an implementation plan. I think our relationship has therefore become more

dynamic, and that some of the challenges we faced in the first two years have lessened. But they do still exist, and how you manage that tension is important. We are looking at more structured relations with the SAPS such as through joint compliance forums.

GN: Over the last three years, between 2011 and 2013, there have been very high profile incidences of police abuses – examples like the Tatane case and the Marikana tragedy. How does the Secretariat see this kind of policing challenge and what is your role in relation to in trying to understand and improve police conduct?

JQ: Two things: the stronger the IPID is, the better it is able to deal with those specific issues because they are firmly within the mandate of the IPID. We need to ensure that the IPID has the capacity to ensure that there are consequences for the police who are involved in such actions.

From the Civilian Secretariat for Police side, I think that we need to be looking at what policies and interventions are needed, and to assess how far we have come in transforming the police and what still needs to be done. There are areas where the regulations are not tight enough. Also, there are policy areas that need to be addressed, so our focus has been on the Green Paper. The Green Paper deals with those quite specifically. More importantly, there needs to be an implementation plan to address these issues, including dealing with acts of police brutality.

GN: What kind of regulations do you think are not tight enough in relation to managing police misconduct?

JQ: Over time the unionisation of the police has meant that a lot of disciplinary issues are being negotiated. We need to look very carefully at what is required for good discipline and have tight management controls. Then it becomes important that those are set out as part of a legislative approach. Management accountability needs to be very strongly legislated and it cannot only be part of a negotiated agreement.

GN: The new legislation aimed at strengthening the Secretariat includes provisions for police oversight shared between the national secretariat and the provincial secretariats as provided for in the Constitution. Can you speak a little about the way this has played out? Are you getting better coordination amongst the various secretariats?

JQ: The one area of coordination is with the provincial departments of community safety. Most provinces are beginning to establish their provincial secretariats. What has happened during this process has varied from province to province, with some provinces being ready to launch secretariats, and others still in the process of forming secretariats. The provinces have different capacities to deal with civilian oversight and we need to build on provincial capacity in this regard. There are also a number of coordinating forums such as the MINMEC (the inter-ministerial committee on policing). At the end of the day it comes down to becoming more coherent about our reporting and engagement.

GN: Chapter 12 of the National Development Plan deals with community safety and policing. For example, there are very specific recommendations around demilitarising the police and ensuring the code of conduct is in line with disciplinary processes. It also calls for the establishment of a police board to develop clear standards for appointing people, particularly into management positions. What is the way forward in this regard? How do you see those recommendations being implemented?

JQ: There are two aspects to it. The first is the whole area of community safety. We feel that the initiative to establish community safety forums fits in with what the National Development Plan is saying. This was an initiative that was started before the National Development Plan. The other aspects relating to the professionalisation of the police are being dealt with in the Green Paper. As the Green Paper is going to be the key policy, it is important that the Green Paper and the National Development Plan are able to speak to each other. The Green Paper aligns with the NDP and becomes an important way of taking forward the

NDP. There are also a number of processes between ourselves and the SAPS, looking at the practicalities, that will require more detail in relation to implementation.

GN: How would you summarise the core vision of the Green Paper on policing in South Africa?

JQ: I think that what we are looking at is a more professional policing organisation that offers services to the community in the context of crime becoming more and more complex, because you have the growing challenge of transnational and organised crimes.

GN: Do you think the White Paper will be finalised this year, and will that happen before the redrafting of the South African Police Service legislation?

JQ: We are hoping to begin our public consultations within the next month and we would like to engage publicly on the Paper. It is important that the public consultation processes take place before we finalise the White Paper. We hope to finish these in the next two months.

GN: Is there anything else you would like to say about policing and police oversight?

JQ: Initially there was a very strong oversight structure, then, to some extent, it collapsed. I think now it remains a work in progress; and we certainly have not reached the level we need to be at. That is what we need to be working on.

NOTES

1. Independent Police Investigative Directorate Act, 2011, (Act 1 of 2011).
2. Civilian Secretariat for Police Service Act, 2011 (Act 2 of 2011).
3. The process of drafting new legislation starts with a 'Green Paper' that describes government's preferred policy approach. Following consultation, the 'Green Paper' will usually be refined into a 'White Paper' that then guides the drafting of new legislation.
4. South African Police Service Amendment Act, 2012 (Act 10 of 2012).
5. The Criminal Law Forensic Procedures Amendment Bill B09-2013.