

TO: The Civilian Secretariat for Police

Mr M. Rogers, Director: Policy Development

(rogersmark@saps.gov.za)

FROM: The Centre for Applied Legal Studies (CALs),

The University of the Witwatersrand

DATE: 16 April 2015

SUBMISSION TO THE CIVILIAN SECRETARIAT FOR POLICE

ON THE DRAFT WHITE PAPER ON THE POLICE

NOTICE 179 OF 2015



Introduction

1. The Centre for Applied Legal Studies (CALS) welcomes the opportunity to make submissions to the Civilian Secretariat for Police regarding the Draft White Paper on the Police (The White Paper).
2. CALS is a civil society organisation and registered law clinic based at the School of Law at the University of the Witwatersrand, South Africa. CALS is committed to the protection of human rights through empowerment of individuals and communities and the pursuit of systemic change.
3. CALS' vision is a country where human rights are respected, protected and fulfilled by the State, corporations, individuals and other repositories of power, the dismantling of systemic harm, and a rigorous dedication to justice. It fulfils its mandate by:
 - challenging and reforming systems within Africa which perpetuate harm, inequality and human rights violations;
 - providing professional legal representation to survivors of human rights abuses; and
 - using a combination of strategic litigation, advocacy and research, to challenge systems of power and act on behalf of the vulnerable.
4. CALS operates across a range of human rights issues: rule of law, business and human rights, environmental justice, gender, and basic services. The Rule of Law Programme's purpose and vision is: (i) to protect systems of a constitutional democracy, which are necessary to achieve the fulfilment of all human rights; (ii) to protect civil and political rights as a precursor to the achievement of social and economic justice; and (iii) to work towards eradicating discrimination against people living in poverty.
5. CALS supports the general vision of the White Paper as a framework "that captures a democratic approach to policing, that is aligned to the norms and values expressed in

the Constitution”.¹ In particular, CALS welcomes the approach to policing in a manner that is demilitarised, accountable, community-centric and that adheres to human rights.

6. While the White Paper is framed as an aspirational document with these aims in mind, it is drafted in an extremely vague manner that does not address the challenges of the South Africa Police Service (SAPS) with concrete and measurable recommendations. This makes it very difficult to provide constructive comments at this stage. Furthermore, although it is stated that the White Paper “supports the NDP’s vision of a modernised, transformed and efficient criminal justice system, and a professional and highly skilled police service,”² it fails to address key recommendations set out in the National Development Plan (NDP).³
7. To the extent that it is possible to comment on the White Paper in its current form, CALS makes the submissions that follow.

Structure of the Submissions

8. These submission are divided according to the arrangement of sections as they appear in the White Paper:
 - I. Knowledge-Based Policy Making
 - II. Demilitarised Police
 - III. Community-Centred Policing
 - IV. Adherence to Human Rights Principles
 - V. Accountability
 - VI. Building a professional police service
 - i. Integrity
 - ii. Diversity
 - iii. Specialised Policing
 - iv. Access to Information
 - v. Capacity

¹ Draft White Paper on the Police, page 9, available at: http://www.gov.za/sites/www.gov.za/files/38527_gen179.pdf

² As above, page 11.

³ National Development Plan 2030, available at: <http://www.gov.za/issues/national-development-plan-2030>

I. Knowledge-Based Policy Making

9. Evidence-based policy making is an approach that ‘helps people make well-informed decisions about policies, programmes, and projects by putting the best available evidence from research at the heart of policy development and implementation’.⁴ Therefore, a policy should be informed by quality information, derived from a variety of sources.
10. CALS is concerned that the White Paper does not provide sufficient evidence-based research on the current state of policing in South Africa and therefore any recommendations or solutions are likely to fail as they do not address evidence-based problems.
11. For example, there is no mention in the White Paper about the recommendations made in the Khayelitsha Commission of Inquiry into Allegations of Police Inefficiency in Khayelitsha and the breakdown in relations between the community and police there (Khayelitsha Report). Furthermore, the Marikana massacre clearly highlights the systematic problems present within the police force. Therefore, any policy that aims to change and tackle structural problems within the police must also be informed by the Marikana Commission of Inquiry Report.
12. In Chapter 6, the White Paper recommends that ‘a state of the police report’ would be compiled to understand the state of the police and propose remedial actions.⁵ CALS believes that this important evaluation should inform the White Paper and not the other way around.
13. Therefore, CALS recommends that the Secretariat produces ‘a state of the police report’, and that this forms the basis of policy decisions. Additionally, the White Paper should also be informed by the Khayelitsha Report and the Marikana Commission of Inquiry Report.

⁴ Davies (2004) ‘Is evidence-based government possible?’ Jerry Lee Lecture presented at the 4th Annual Campbell Collaboration Colloquium, Washington DC.

⁵ Draft White Paper on the Police, page 38

II. Demilitarised Police

14. The Marikana tragedy has been understood as being partly a consequence of the militarisation of the South African Police Service.⁶ The NDP stated that since 2000 the police service has started “resembling a paramilitary force”.⁷
15. The military and the police are intended to be kept for sound policy and Rule of Law reasons, which are based historically on their overlapping work during apartheid in quashing political dissent. The Inter-American Commission on Human Rights has said that in a “democratic system, a clear and precise separation is needed between domestic security, function of the police, and national defence, function of the armed forces”.⁸ Although the Inter-American System doctrine and jurisprudence is not directly applicable to South Africa, as a human rights system that is based in the Global South, there is significance and value in referencing another system.
16. The White Paper reaffirms the NDP in committing to police demilitarisation; however, it fails to make recommendations on how demilitarisation should be conducted and what indicators should be used to measure the transformation.
17. Jane Duncan, in a concept paper on police violence against protests, stated that the extent of militarisation is not just a cultural issue. Duncan, quoting author Peter Kraska, stated that the extent of militarisation can be measured on a continuum of indicators ranging from material indicators (the extent of martial weaponry), cultural indicators (the extent of martial language), organisational indicators (the extent of martial arrangements) and operational indicators (the extent of operational patterns modelled after the military).⁹

⁶ Written submissions of the South African Human Rights Commission Regarding “Phase one”, page 209, available at: <http://www.marikanacomm.org.za/docs/201411-HoA-SAHRC.pdf>; See also: Johan Burger, To what extent has the South African Police Service become militarised?, 6 December 2012, available at: <http://www.issafrica.org/iss-today/to-what-extent-has-the-south-african-police-service-become-militarised>

⁷ National Development Plan, page 367

⁸ IACHR. Justice and Social Inclusion: The Challenges of Democracy in Guatemala. (Available in Spanish only). December 29, 2003, para. 118.

⁹ See: Peter Kraska, Militarisation and policing – its relevance to 21st Century policing, Policing 1 (4), 2007, page 504.

18. CALS therefore recommends that the above indicators should be used to analyse the extent of the SAPS militarisation and what steps should be put in place to achieve the demilitarisation of the police.

III. Community-Centred Policing

19. The White Paper proposal for community engagement with the police takes place through the Community Police Forums (CPF). It is clear that the CPFs are an important institution in building community partnerships.

20. However, the Khayelitsha Commission of Inquiry found some problems with these groups. According to Mr Tait's testimony during the Commission, "researchers had identified problems with CPFs for a long time: that where communities are highly politicised, divided, hostile and fragmented and the police service is under-skilled, the role of CPFs will be limited".¹⁰

21. In the Khayelitsha community, for example, the Commission concluded that "CPF's have not played a significant role in building good relations between SAPS and the community".¹¹

22. It is clear accordingly that CPFs cannot be the only strategy to promote community policing. Other and more concrete ways in which community policing could be promoted must be established and put in place. This extensive approach to community policing is not addressed in the White Paper.

23. The Khayelitsha Commission made concrete suggestions around these issues which should be incorporated into the White Paper. For example, experts at the Commission recommended that for CPFs to function effectively, "they need at least the basic resources, including an office, a telephone or cell phone, and a computer".¹²

¹⁰ Khayelitsha Report page 296. See also: Bruce, D, In the service of a people's democracy. Johannesburg, Centre for the study of Violence and Reconciliation; 2007.

¹¹ Khayelitsha Report, page 411

¹² As above, page 407

24. The Khayelitsha Commission also recommended that the Civilian Secretariat Commission conduct research into the efficacy of CPFs, including: a) the attitudes of members of the public, as well as the attitudes of SAPS members, to CPFs, b) the appropriate role of CPFs, and c) what constraints there may be on CPFs efficiently performing such role.¹³
25. CALS believes that this research is crucial in order to evaluate the role of the CPFs and to make effective recommendations on building effective community-centred policing.
26. While we welcome that the paper mentioned vulnerable groups, we note with concern that foreign nationals are not included with the group identified as vulnerable people.¹⁴ This needs to be addressed, as does the use of language that excludes foreign nationals from protection of the Constitution and human rights generally, discussed in more detail below.

IV. Adherence to Human Rights Principles

27. CALS welcomes the commitment expressed in the White Paper that policing “must translate into a service that upholds and protects the fundamental rights of all people and execute its mandate in accordance with the Constitution”.¹⁵
28. However, a mere reference to human rights, whilst important, alone is insufficient. More needs to be done to develop a human rights-based policy.
29. Mainstreaming human rights in police work “is done by incorporating human rights principles and practices into police doctrines, strategies, and plans. These principles and practices are also applied to all police systems, procedures, methods, and tactics”.¹⁶

¹³ Khayelitsha Report, page 451

¹⁴ Draft White Paper on the Police, page 15

¹⁵ As above, page 17

¹⁶ PNP Guidebook on Human Rights-based policing, 2013, available at http://pnp.gov.ph/portal/images/stories/publicrelations/PNP_GUIDEBOOK_opt.pdf

30. Under the Constitution and international law, South Africa is bound to respect, protect, promote and fulfil human rights and the White Paper should properly incorporate a human rights-based approach that will inform all of the following practices.
31. Human rights principles are of particular importance in the non-exhaustive categories applicable to: use of force, torture and police brutality, the protection that should be afforded to protecting the democratic space of peaceful protest, and the treatment and protection of foreign nationals.
32. Human rights principles must be mainstreamed in police training on use of force, and the ambit and applicability of the Torture Act.¹⁷
33. The language at various places in the White Paper appears to exclude foreign nationals from Constitutional police protection and respect for their human rights and human dignity – which the Constitutional Court and lower courts have repeatedly ruled apply to every person in the country, regardless of their citizenship or particular status as a foreigner.¹⁸
34. Dignity plays a fundamental role in the Constitution as a founding value¹⁹ and as an enforceable right.²⁰ In *S v Makwanyane*, the Constitutional Court held that “all human beings are entitled to be treated as worthy of respect and concern”²¹ and “everyone is entitled to equal dignity and respects regardless of membership to a particular group.”²² Therefore the right to dignity should be at the cornerstone of every policy and piece of legislation in the country.

¹⁷ Prevention of Combating and Torture of Persons Act, Act No. 13 of 2013

¹⁸ In the second paragraph of Chapter 1, the White Paper states that “Internally, the advent of democracy resulted in the increased permeability of our borders, resulting in the emergence of drug and human trafficking and xenophobic based violence.” This sentence is problematic on two fronts. Firstly, it draws a direct link between foreigners and criminality, which is not reasoned or supported by research. Secondly, it blames xenophobic violence on the presence of foreign nationals in South Africa, and not on the root causes of xenophobia. Sentiments like these expressed in the White Paper only serve to increase xenophobia.

On page 23 the White Paper refers to a community centred approach that focuses on ... “diverse South African communities...and it can rebuild the bond between citizens and government.” This does not account for diverse communities that do not only consist of citizens – it is necessary for it to be inclusive of all communities and the people within them regardless of their status.

¹⁹ Section 1, 7(1), 36(1) and 39(1) Constitution of the Republic of South Africa, 1996

²⁰ Section 10 Constitution of the Republic of South Africa, 1996

²¹ *S v Makwanyane* 1995 2 SACR 1 (CC) para 328

²² *Prinsloo v Van der Linde* 1997 6 BCLR 759 (CC) para 32

V. Accountability

35. The White Paper clearly established 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”.²³

36. In order to make the process of appointment open and transparent, the White Paper should incorporate the recommendations contained in the NDP, that:

- a. A National Policing Board should be established, which is multi-sectoral and multi-disciplinary to set objective standards for the selection, appointment and promotion of police officials and officers.²⁴
- b. The National Commissioner and deputies should be appointed on a competitive basis by the President only on the recommendations by a selection panel that would select and interview candidates against clear and objective criteria.²⁵

37. The National Minister of the Police spokesperson, Musa Zondi, stated that this recommendation would require a change in the Constitution.²⁶ However, the NDP recommendation does not remove the President’s power to make the appointment, it simply creates a process that will ensure that the mandate of the President is to perform in an open and transparent process taking considerations of a panel’s proposals into account to ensure that the best candidate would be appointed.

VI. Building a Professional Police Service

38. Chapter 3 of the White Paper speaks to building a professional police service, and sets out the qualities needed in a police officer.²⁷ CALS addresses a few issues in this section:

²³ Draft White Paper on the Police, page 18

²⁴ National Development Plan, page 354

²⁵ As above, page 354

²⁶ IOL News, Proposal on top cop’s appointment ignored, March 8, 2015, available at:

<http://www.iol.co.za/news/crime-courts/proposal-on-top-cop-s-appointment-ignored-1.1828647#.VSzPTtyUeSo>

²⁷ Draft White Paper on the Police, page 20

i. Integrity

39. The White Paper established that the demand is for “honest, efficient and professional policing”.²⁸ In that sense, the White Paper also recognises corruption as a serious problem in the internal functioning of the SAPS.²⁹
40. According to the Global Corruption Barometer 2013, 83% of South Africans believe that police are corrupt. South Africa was among 36 countries in which the police was seen as the most corrupt institution.³⁰ In addition, the National Victims of Crime Survey (2013 – 2014) showed that 13% of households experienced police corruption.³¹
41. In the Khayelitsha Commission of Inquiry, Dr Grobler stated in her expert testimony that her research had shown that both corruption and criminality are “extensive” in SAPS.³²
42. Therefore, the White Paper should engage with the problem of corruption. CALS highlights a few points that have been addressed in other forums such as the Khayelitsha Commission of Inquiry:
43. The issues of police corruption should not be seen as simply a problem of errant individuals, or “a few bad apples”.³³ On the contrary, it should be addressed as an endemic problem.³⁴
44. In 2011 the SAPS adopted an Anti-Corruption Strategy which “focuses on the prevention of corruption, the effective investigation of cases of corruption involving SAPS personnel members, the detection of corruption to ensure the exposing of corrupt practices, and the restoration of the SAPS’ policies, procedures and systems to prevent

²⁸ As above, page 21

²⁹ As above, page 9

³⁰ Transparency International, Global Corruption Barometer, 2013, available at http://www.transparency.org/gcb2013/country/?country=south_africa

³¹ Statistics South Africa, Victims of Crime Survey 2013/14, page 54

³² Khayelitsha Report, page 346

³³ Protector or predator? Tackling police corruption in South Africa, ISS Monograph Number 182, available at: <http://www.issafrica.org/uploads/Mono182.pdf>

³⁴ See Newburn, T. (1999). Understanding and Preventing Police Corruption: Lessons from the Literature, Police Research Series Paper 10, UK Home Office, Policing and Reducing Crime Unit, Research, Development and Statistics Directorate, page 14

re-occurrence of corrupt practices”.³⁵ Corruption is however merely named in the White Paper as a problem of the SAPS, while it does not go deeper into the evaluation of current remedies, such as the Anti-Corruption Strategy.

45. Anti-corruption strategies have been developed in the SAPS in the past and “the common denominator of their failure to reduce corruption was that they were never adequately implemented”.³⁶

46. In order to avoid past mistakes, the White Paper should reflect on the strategy and how it should be implemented and propose a process to measure its impact.

47. Moreover, in her expert testimony, Dr. Grobler made important recommendations to tackle corruption in SAPS that the White Paper should reflect on, for example:

- The establishment of an independent Commission of Inquiry to uncover the extent of corruption within SAPS.
- The SAPS managers should be trained to spot ‘early warning systems’ of dishonesty.
- The basic training for SAPS members should include training on ethics and integrity.³⁷

48. In conclusion, it is fundamental that the White Paper addresses the proper implementation of the Anti-Corruption Strategy as a key element to address corruption and we recommend an evaluation of its impact.

ii. Diversity

49. In this section, the White Paper stated that “South Africa is a dynamic, vibrant society of diverse communities, each with their unique safety and security challenges and needs. This demands a police service that not only reflects this diversity, but has the

³⁵ SAPS, Strategic Plan, page 14, available at

http://www.saps.gov.za/about/stratframework/strategic_plan/2010_2014/strategic_plan_2010_2014.pdf

³⁶ Institute for Security Studies, Walking the Talk? The South African Police Service Anti-Corruption Strategy, November 9, 2011, available at <http://www.issafrica.org/iss-today/walking-the-talk-the-south-african-police-service-anti-corruption-strategy>.

³⁷ See Khayelitsha Report

skill set, knowledge and appreciation to police different communities each with its unique safety challenges”.³⁸

50. While CALS agrees with this approach – and, as set out above, it must include foreign nationals – we point out that there is also crucially a need for a gendered approach that is explicitly detailed in the White Paper.

51. CALS recommends that such an approach must include:

52. Training on gender-sensitivity that debunks stereotypical and chauvinistic gender norms; and

53. In recognition of diversity requirements within the SAPs personnel, the removal of obstacles that preclude women in particular from professional development, and the creation of a police force that is equally welcoming and inclusive of all applicants. Women’s representation is especially important when an officer should take statements and investigate matters of a highly sensitive nature.

iii. Specialised Policing in relation to gender-based violence

54. CALS welcomes that the White Paper acknowledges that “gender-based violence and domestic violence in South Africa remain pervasive and the continuation of these forms of violence will negatively affect growth and development in the country”.³⁹ The White Paper also mentions gender-based violence and acknowledges that “responding to gender-based violence and dealing with dire risk incidences demand targeted and continuous training, specialised skills, appropriate resourcing, unambiguous and transparent management and control, and considered leadership and planning”.⁴⁰

55. This section and its recommendations, although making specific reference to the Domestic Violence Act, will also apply to other gender-based violence infringements

³⁸ Draft White Paper on the Police, page 20

³⁹ As above, page 8

⁴⁰ As above, page 20

and other violations related to the Sexual Offences and Related Matters Amendment Act 32 of 2007 to the extent possible.

56. Section 2 of the Domestic Violence Act, 116 of 1998 (the Domestic Violence Act) imposes specific duties on the police in relation to dealing with domestic violence.⁴¹ Furthermore, SAPS has adopted a National Instruction to regulate the proper implementation of SAPS' obligations in terms of the Domestic Violence Act.⁴²

57. Researcher Lisa Vetten, in her expert testimony for the Khayelitsha Report, pointed to the worrying trend that SAPS does not comply meticulously with its obligations in terms of the Domestic Violence Act and National Instruction 7/1999.⁴³ This is CALS' experience with its work and expertise in this area. This is of grave concern.

58. The SAPS plays a crucial role in relation to the proper implementation of the Act and in advancing women's human rights. CALS accordingly submits that in order to effectively address the problem of gender-based violence a number of crucial mechanisms and recommendations should be put in place.⁴⁴ The recommendations below are not exhaustive:

- SAPS members should face automatic disciplinary actions by the relevant government department when they fail to comply with the duties prescribed in the Domestic Violence Act (DVA). This recommendation was made by the Portfolio Committee on Safety to Gauteng police.⁴⁵

⁴¹ Section 2 of the Domestic Violence Act reads as follows –

“Duty to assist and inform complainant of rights

2. Any member of the South African Police Service must, at the scene of an incident of domestic violence or as soon thereafter as is reasonably possible, or when the incident of domestic violence is reported –

(a) render such assistance to the complainant as may be required in the circumstances, including assisting or making arrangements for the complainant to find a suitable shelter and to obtain medical treatment;

(b) if it is reasonably possible to do so, hand a notice containing information as prescribed to the complainant in the official language of the complainant's choice; and

(c) if it is reasonably possible to do so, explain to the complainant the content of such notice in the prescribed manner, including the remedies at his or her disposal in terms of this Act and the right to lodge a criminal complaint, if applicable.”

⁴² National Instruction 7/1999

⁴³ Khayelitsha Report, page 144

⁴⁴ For more information about the topic, see submissions for the Green Paper on Policing, available at <http://www.genderjustice.org.za/publication/submission-to-the-civilian-secretariat-for-police-on-the-green-paper-on-policing/>

⁴⁵ Times Live, Kingdom Mabuza, Cops too light on wife-beaters, March 24, 2015, available at: <http://www.timeslive.co.za/thetimes/2015/03/24/cops-too-light-on-wife-beaters>

- ALL SAPS officials regardless of rank should be trained on the provisions of the DVA, the service of protection orders, the psychological aspects of domestic violence and the consequences of not complying with the provisions of the Act, on a regular and ongoing basis. Lack of funds or resources should not justify the lack of training as they are other resources available like NGOs and academic institutions.⁴⁶
- The CPF members should also be provided with comprehensive training on domestic violence and the psychological aspects of domestic violence to avoid revictimisation.
- A vetting procedure should be implemented for SAPS officials and CPF members that have been involved in and/or have a record of domestic violence.
- The Portfolio Committee on Safety has stated that SAPS does not report domestic violence incidents as a stand-alone statistic.⁴⁷ This is problematic, and indicative that domestic violence is not taken seriously or elevated as prevalent crime of particular concern. A system with accurate statistics on domestic violence should be put in place and made available in a timely manner. The separate category of the statistic is crucial due to the specific nature of the crime that requires a different and specific response.
- Police stations should be accessible in rural areas and temporary settlements to facilitate the access of victims of domestic violence in rural areas.

iv. Access to Information

59. The White Paper states 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”.⁴⁸ There is no detail on what type of information this will include, how often, or in what manner this should be done; the White Paper should

⁴⁶ B Meyersfeld, *Domestic Violence in International Law*, 2010, Hart Publishing, Oxford, page 181

⁴⁷ Wakefield, L (2014) *SAPS and Planning for Gender-Based Violence: An update Parliament of the Republic of South Africa*, Cape Town

⁴⁸ Draft White Paper on the Police, page 21

expressly spell out what type of information it envisages here, such as crime statistics and how often they will become available.

60. It is also of concern that this section does not appear compatible with the section on ‘Regulatory enablers for professionalism’ where in paragraph 2 on page 26 Standard Operating Procedures, National Instructions and Operational Policies and Protocols are mentioned. The White Paper envisages these being made available to all levels of command. While we endorse that this is absolutely critical, it is of concern that the White Paper expresses that they may be made available to the public at large “where appropriate”. In CALS’ view, there is no basis for secrecy around these policies. Rather, sharing them with the public will go a long way towards building trust in the police by the public, and dismantling a culture of secrecy within a militarised police force hiding behind unnamed “security threats”.

v. Capacity

61. The White paper correctly states that the SAPS should be highly skilled and that a curriculum and training methodology that speaks to the democratic philosophy of policing is needed as well as a culture of continuous training and learning.⁴⁹

62. The South African Human Rights Commission (SAHRC), represented by CALS in the Marikana Commission of Inquiry, stated in their submissions that “there are three significant failures in SAPS training which are relevant to the events at Marikana: first, the absence of any regulated system of continuing professional training in public order policing or crowd management; second, the inadequacy of firearms training; and third, the absence of first aid training”.⁵⁰

63. The SAHRC/CALS made important recommendations. These submissions should be reflected in the White Paper. Furthermore, the White Paper should include that:

64. The training curriculum should be informed by input from civil society and monitoring should be in place to measure the impact of the training.

⁴⁹ Draft White Paper on the Police, page 22

⁵⁰ Written submissions of the South African Human Rights Commission, page 222

65. Effective training of police in human rights is an essential element in order to promote and protect human rights in the country. Furthermore, police officers must be familiar with the various international guidelines and bodies of principles – such as the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms – and be able to use them as tools in their everyday work.⁵¹ This also applies to judgments and authority of the higher courts which pronounce on police conduct.
66. The training for public order police should be prioritised and provided on a regular basis to members of all ranks.
67. As stated above, training on the provisions of the Domestic Violence Act should be provided on a continuous basis as well as proper registration of domestic violence statistics should be included in the curriculum and should also be attended by CPF members.
68. SAPS members should be trained on gender consciousness and have sensitisation training for interacting with all communities, and additionally the LGBTI community.
69. SAPS should be trained on the legal system as it relates to foreign nationals and their rights under the Constitution, which is sensitive to the shortcomings of the Department of Home Affairs, as well as applicable authority on unlawful arrest and detention of foreign nationals.
70. The SAPS should be trained on the law around peaceful protests with a view to recognising that SAPS position ought to be the protection and support of people engaged in this democratic space – rather than the current emphasis which appears to be of quashing any political dissent or expression.

⁵¹ Office Of The United Nations High Commissioner For Human Rights, Human Rights and Law Enforcement A Trainer's Guide on Human Rights for the Police, 2012, available at <http://www.ohchr.org/Documents/Publications/training5Add2en.pdf>

71. Linked to the above is training on the use of force, and in particular the least amount of force applicable in all appropriate situations aimed at defusing situations of harm, not damage, destruction and fatally wounding members of the public through to potential criminal suspects.
72. SAPS officials should also be trained and sensitised on the impact of poverty in all aspects of life of people in South Africa, and its link to homelessness and consequent community and familial relationship challenges. Whereas operations such as Ke Molao criminalise poverty, the SAPS should be sensitised in community policing to assist the poor and marginalised, and not to cause them new harm.
73. Pass and fail mechanisms should be put in place in the training programmes to make sure that those who fail the training, will not be recruited into SAPS, nor be able to remain within the SAPS.
74. Given the particular placement of SAPS officials within South African society, and the nature of their work, SAPS officials should also receive mandatory training on self care, and care for colleagues, on how to deal with their own direct and secondary post traumatic stress and trauma. This has the dual purpose of caring for the needs of SAPS officials in enabling them to be effective and professional police officers and, it ensures SAPS officials that interact with the public are of sufficient mental and emotional health to do their jobs professionally and with respect for the human rights of the public.

Conclusion

75. In light of our submissions above, we are of the view that the White Paper requires far more detailed elaboration, supported by empirical research on the current state of policing in South Africa – where after we would welcome the opportunity to make further comments.

For queries or further information please contact Marianna Belalba (Researcher: Rule of Law Programme) at Mariana.BelalbaBarreto@wits.ac.za or on 011 717 8651.