

External Police Accountability and the Police Service Commission

Conference Proceedings



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Table of Contents

Acknowledgements	v
Preface	vi
Part One: Opening Remarks	
1. Welcome Address by Chinedu Yves Nwagu Programme Manager, CLEEN Foundation, Abuja	1
Part One: Paper Presentations	
1. The Significance of Police External Oversight and Challenges of Policing Service Commission by Prof Etannibi Alemika	3
2. Successes and Challenges of Chief Simeon Okeke Board in the Police Service Commission and the Way Forward by Chief Simeon Okeke	18
Appendix	
I. Communiqué of the Forum	29
II. Report of the Forum	33

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Preface

All over the world, the principal agency charged with the responsibility of internal peace and security of nations is the Police. As a result, a lot of powers are given to the police to enable it perform its duties. The police wield enormous powers in the performance of its duties, if this power is not subjected to mechanism of accountability, the rights and freedom of citizens can be adversely affected. The overwhelming powers of the Police to carry out surveillance, arrest, investigation, search, seizure, interrogation, detention, bail and prosecution in order to enhance their capability to guarantee the fundamental human rights and freedoms of citizens requires no doubt a strong measure of oversight that can make them accountable through an external mechanism.

While multiple institutions of external and internal oversights exist to make the Police more accountable to the public, the institutions are largely weak, ineffective and uncoordinated. The Constitution of the Federal Republic of Nigeria established the Nigeria Police Council (NPC) and the Police Service Council (PSC) both serve as accountability mechanisms. In addition, the Federal Ministry of Police Affairs exists and exercises oversight of the Police in selected areas, albeit ineffectively. Although the NPC is the highest organ of the state responsible for the policy on organisation and administration of Police in the country the inability of the NPC to seat since Nigeria's return to democracy in 1999 and the fact that the Ministry of Police Affairs is responsible for the disbursement and oversight of fund for the payment of salary and pension for the Police and for executing capital projects like building and renovating barracks, purchasing vehicles has left the Police Service Commission as the primary external Police oversight body. The Police Service Commission is vested with enormous powers by the Constitution and has clear oversight responsibilities in the areas of recruitment, appointment, promotion, dismissal and performance of officers.

However, political interference and the desperation of the leadership of the Police to maintain an overriding influence over PSC, the Commission's lack of adequate resources and political will to carry out its statutory responsibilities, inability to follow its concrete strategies and plans, poor coordination and synergy between the different roles and total absent of

performance evaluation framework to measure progress has continued to undermine the commission.

Thus, this forum has been put together galvanise and harmonise stakeholders' input vis-à-vis the role of the PSC in Nigeria's fledgling democracy, its significance in ensuring Police accountability, adherence to the rule of law, cordial Police/public relationship and Police personnel transparency, accountability and professionalism. It also sought to understand the varied levels of success and challenges of the Commission in discharging its functions. The structure and appointment process for the leadership of the Commission is critical, and as such, the need to open up the process of appointment for debate and get members of the public to make contribution to the process - as part of the on-going dialogue of repositioning the Nigeria Police Force and policing in the country.

The forum was attended by different stakeholders drawn from CSOs, academia, the National Assembly, organised labour sector, ministries, departments and agencies of government. The broad expectation of the forum was to recommend a structural and institutional framework that would enable the effectiveness of the Police Service Commission.

Welcome Remark By Chinedu Nwagu, Programme Manager, CLEEN Foundation, Abuja at the Policing Executive Forum On “External Police Accountability and the Police Service Commission” Held at Bolton White Hotel & Apartments, Abuja, on Tuesday 30 April, 2013.

Protocol

Introduction

On behalf of the CLEEN Foundation, I warmly welcome you all to this Policing Executive Forum (PEF) on External Police Accountability and the Police Service Commission. The PEF was conceived to provide a periodic platform for discourse on contemporary issues affecting policing in Nigeria in order to find implementable solutions to them. This Forum is aimed at bringing together the Police, its oversight institutions, civil society actors, donor agencies, development partners and other stakeholders to brain storm on identified issues, build confidence in one another and synergy of purpose to addressing these problems through shared understanding of the issues.

Why this Forum on the PSC?

The Police Service Commission (PSC) was established by virtue of Section 153 (1) (m) of the 1999 Constitution and Section 1 of the Police Service Commission (Establishment) Act 2001. The powers and functions of the PSC are also succinctly enumerated in Part 1 of the Third Schedule to the Constitution and Section 6 (1) of the Police Service Commission Act. The PSC, by its constitutional and statutory powers, was established as a civilian oversight body of the Nigeria Police Force. According to these provisions, the PSC is empowered, inter alia, to appoint, promote, dismiss and exercise disciplinary control over personnel (other than the Inspector-General of Police) in the Nigeria Police Force.

The role of the PSC in our fledgling democracy is significant as it helps to ensure Police accountability, adherence to the rule of law, cordial Police/public relationship, promotes transparency, accountability and professionalism of Police personnel.

In spite of these all important functions of the PSC, and quite like most institutions in our democratic landscape, the Commission has had varied levels of success in discharging its functions. One of the questions for various persons who seek to engage the Commission is the structure and appointment process for the leadership of the Commission. There is a need to open up the process of appointment for debate and get members of the public to make contribution to the process - as part of the on-going dialogue of repositioning the Nigeria Police Force and policing in the country.

The broad expectation of this programme is: To recommend a structural and institutional framework that would enable the effectiveness of the Police Service Commission.

Today's event is therefore broken into three sessions. The opening session consists of the welcome remarks to set the backdrop for the discussions. The first plenary sessions follows with presentation of a paper addressing the external oversight and accountability mechanisms of the Commission. The second and last session comprises interactive discussions on the way forward for the PSC.

Thus, we hope that deliberations here would be useful in fostering a better understanding of the PSC by various stakeholders, identifying the challenges that have hindered the effectiveness of the Commission so far, proffer practicable solutions to these problems and suggest the way forward for more active engagement of the Commission by civil society actors and the Nigeria public, and ultimately strengthen the Commission in executing its constitutional and statutory mandate.

Compliments

We thank the various resource persons at this Forum, who, at very short notice, accepted our invitation to contribute to and enrich this discourse. We also thank all the participants for being a part of this event. We look forward to the insight you would bring to this discourse and wish you fruitful deliberations. Thank you.

Chinedu Nwagu
Programme Manager
CLEEN Foundation, Abuja

SIGNIFICANCE OF EXTERNAL POLICE OVERSIGHT AND ACCOUNTABILITY MECHANISMS*

Etannibi E.O. ALEMIKA, PhD¹

Introduction

Ideally, the Police in a democratic society are public officials responsible for the promotion and protection of the rights of citizens. Their primary mandate is to protect the life, property, dignity, rights and freedoms of citizens. The Police are vested with the powers of surveillance, arrest, investigation, search, seizure, interrogation, detention, bail and prosecution in order to enhance their capability to guarantee the fundamental human rights and freedoms of citizens². Therefore, properly exercised, Police powers provide important mechanism for promoting and protecting human rights, freedom and security; sustaining public order, and promoting national security and development. However, if abused, and this is often a reality, Police powers can serve as instrument of repression and exploitation, which in the long run engenders threats to national security and development³. Unregulated Police powers, exercised with impunity, will erode the sanctity of human life, human dignity, human freedoms and rights⁴. Mechanisms for external Police

*Presented at the Police Executive Forum Organized by CLEEN Foundation and Justice for All (J4A) Programme of DFID, April 30, 2013

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² Alemika, EEO. 2003 “Police, Policing and Rule of Law in Transitional Countries” in Lone Lindholt, Paulo de Mesquita Neto, Danny Titus and Etannibi E. Alemika (eds.) *Human Rights and the Police in Transitional Countries*, The Hague: Kluwer Law International; 2006 – “Role of the Police in the Development of a just and Equitable Society” in Mohammed SI ed. *Civilian and Security Agencies Relationship: Role of the Police Towards Building an Equitable and Democratic Society- Proceedings of a national Workshop*. Abuja: Friedrich Ebert Stiftung, pp.74-87

³ Alemika, EEO. 2003 - “Police Corruption and Insecurity in Nigeria”, in S. Einstein and M. Amir (Eds.) *Police Corruption: Paradigms, Models and Concepts – Challenges for Developing Countries*, Huntsville, Texas: Office of International Criminal Justice, Sam Houston State University, Chapter 18 (445-494).

⁴ Alemika, EEO. 1993 “Colonialism, State and Policing in Nigeria” *Crime, Law and Social Change: An International Journal* 20: 187 – 219; Odekunle, F. (1979) “The Nigeria Police Force: A Preliminary Assessment of Functional Performance” *International Journal of Sociology of Law* (7): 61-83. .

oversight are designed to ensure that Police, as a public bureaucracy with coercive power, discharges its responsibility as a promoter and protector of the rights, freedoms and dignity of citizens.

Besides the powers conferred on the Police, substantial proportion of national human and financial resources are allocated to Police agencies to enable them perform their duties. Like other public bureaucracies, the Police should account for the use of the resources allocated to them. In the absence of effective safeguard against misappropriation and waste, the resources allocated to the Police for the purpose of ensuring safety and security of citizens and their property can be mismanaged or stolen by those charged with their management. Therefore, there is need to ensure that the utilisation of the human, financial and other resources allocated to the Police are judiciously utilised for common good. External Police oversight or accountability mechanisms are designed to hold the Police accountable for crime (performance in respect of preservation of security and safety); cost (efficient use of resources) and conduct (lawful and professional) behaviour.

The primary objective of Police oversight is to ensure that the Police Force and its personnel are accountable or answerable for their performance (effectiveness, efficiency, responsiveness), for the use of their powers (civility and legality – observance of the rule of law), resources and their conduct (integrity - honesty and incorruptibility)⁵. The quest for democracy and economic development in Nigeria will not materialise without an effective, efficient, accountable, responsive and civil Police Force to guarantee peace and security; to protect the rights of citizens and to strengthen the rule of law. At present, the Nigeria Police Force lacks adequate capacity to guarantee safety and security needed for the consolidation of democracy; attainment of sustainable economic development; protection of human rights; enforcement of the rule of law and guarantee of safety and security.

In this presentation, we discuss (a) features, advantages and disadvantages of internal and external oversight mechanisms; (b) the significance of Police oversight, and (c) external Police oversight agencies in Nigeria. The development of effective Police oversight system in Nigeria is important in

⁵ Ibid.

the light of the pervasive authoritarian colonial and post-colonial repressive, ineffective and corrupt policing culture.

Features, advantages and disadvantages of external and internal Police oversight

External Police oversight and accountability mechanisms refer to the agencies and mechanisms outside the Police departments established for the purpose of ensuring that the Police are monitored and evaluated with regards to:

- a. *effectiveness* (level of performance in the discharge of their mandates);
- b. *efficiency* (optimal return to resources expended in the discharge of their functions), and
- c. *integrity* (observance of laws and rules, respect for human rights, and avoidance of corrupt practices and abusive behaviours such as brutality, excessive use of force and extra-judicial killing, and law enforcement decisions based on prejudices against groups of individuals).

Police complaints institutions, whether within or outside the Police Force, aim mainly at ensuring Police integrity.

Mechanisms within the Police Force designed to receive, investigate and determine complaints against officers should be conceived as internal disciplinary measures. They are meant to enhance Police integrity which is an essential requirement for public confidence and to enforce discipline within the force, which is also necessary for effectiveness and efficiency. Effective internal Police disciplinary regime enhances accountability to external authorities.

Police are accountable for several issues and actions to different bodies and audiences. They are accountable for funds and policies (recruitment quotas and representation; crime control priorities, plans and targets), operations and conducts. Stone and Ward⁶ identified the following three levels of Police accountability:

1. Internal or departmental control. This refers to the rules and processes within Police departments that are used to ensure compliance with

⁶ Stone, C. and Ward R. 2004. "Democratic policing: A framework for action." *Policing and Society*. 10: 11-45

rules; to investigate complaints, determine culpability of officers and to enforce dispositions;

2. State or governmental control: This refers to institutions, rules and processes through which the government hold the Police accountable for a range of issues – policies, actions, resources, performance and conducts
3. Social control or oversight by civil society. Groups within society constantly monitor the actions, performance, conducts and resource utilisation by the Police. The media and human rights organisations are very active in this respect, and this partly accounts for the mutual suspicion between these groups and the Police, especially in periods when the ‘banner of law and order’ is raised by politicians and Police commanders with the collaboration of their right-wing supporters.

The first and second levels may be properly seen as accountability mechanisms while the third level should be more appropriately considered as watchdog mechanisms.

There are several institutional and legal frameworks for Police accountability. Some of the mechanisms that have been employed to secure police accountability for different things and to different authorities and audiences are:

1. Constitutional provisions that guarantee fundamental rights, which serves as limitation on exercise of police power. Such provisions may be construed as pro-active or preventive measures to the effect that they are intended to control the abusive exercise of power by the police and other organs of the state. Most English-speaking African countries have enshrined fundamental human rights provisions in their constitutions. The provisions constrain the police to act within the ambit of the rule of law or due process;
2. Parliamentary oversight committees that are generally concerned with the way police forces and authorities use resources; carry out their operations and behave towards the citizens;

3. Executive bodies such as the Auditor-General office responsible for the audit of the revenues, allocations and expenditure of government departments, as well as departmental and ministerial tender boards responsible for procurements and contracts.;
4. Ministerial oversight of police policies, plans and operations;
5. Statutory provisions on procedures for policing and law enforcement. One of such potent provisions is the exclusionary rules in respect of evidence obtained from suspects through torture and deception. These provisions may also be construed as both proactive and reactive as they seek to create disincentive for police abuse of their powers of arrest, search and seizure, interrogation and investigation;
6. Judicial mechanism – criminal and civil liability of police for abuse of power;
7. Special Investigation Commissions - standing or ad-hoc agencies – that are given the task of enquiring into specific areas or instances of police operations, especially extra-legal killings, brutality and corruption;
8. Civilian complaints review boards. These are tasked with responsibility for receiving, investigating and reviewing of complaints against the police.

Generally, external civilian accountability have several advantages, including (a) greater accessibility; (b) widely publicised and transparent procedure for the intake and investigation of complaints; (c) minimal chances of intimidation of complainants by the police; (d) legitimating the police, because the process portrays the police department as unobtrusive of investigation, and the attribution of misconducts to “rotten apples” rather than “rotten police agency” is sustained.

But the external complaints review system is confronted by many obstacles and challenges associated with limited functions and powers; expertise in investigation, cost of operation and lack of cooperation from police officers

and authorities. More specifically the obstacles and challenges include the following:

- (a) Most external complaint review boards lack independent power to impose and enforce penalty, they merely recommend penalty to police commanders;
- (b) Many of the boards lack control over investigation and their function is often limited to reviewing findings of internal departments which may have been compromised in favour of officers;
- (c) Boards with investigative powers will have to recruit and train officers for the task and this engenders high operating costs;
- (d) Members of the boards do not have intimate knowledge of police work and may either have unrealistic expectation of what police should do or undue empathy with the police resulting in unfair decisions against the police or complainants respectively;
- (e) Lack of cooperation from police commanders who argue that the activities and powers of an external review board undermine their authority and the confidence of their subordinate;
- (f) Police officers often withhold their cooperation with external review boards because they fear that the boards may be used by citizens as a platform for vendetta or revenge for arrest and prosecution;
- (g) Police officials and authorities also distrust the boards and whenever possible frustrate their work as a reaction against non-police citizens who do not understand the peculiarities of police work, especially the ubiquity of danger, sitting in judgment over their conduct and actions.

Internal police mechanisms

There are two broad types of internal police disciplinary mechanisms. These are:

- (1) Internal administrative review: This is an administrative mechanism within the police. It focuses on intake, investigation and review of complaints against the police by members of the public or by a police officer against another;
- (2) Internal investigation mechanism for external review and enforcement.

Citizens do not usually trust internal administrative review procedures maintained by the police. They think that (a) police commandants do not diligently investigate complaints; (b) solidarity between officers, and rank and file inhibits effective investigation; (c) administrative review mechanisms within the police are opaque and lack transparency; (d) the standard of proof used by the police authority is subjective and favours police officers accused of wrongdoing; (e) complainants are intimidated by police officers, and (f) complainants are not adequately informed about how their complaints are being processed, and of the final decisions⁷.

Police accountability institutions and mechanisms in Nigeria

Where does Nigeria stand in terms of institutions, mechanisms and procedures for holding police accountable? The country has multiple institutions for holding police accountable. However, the institutions are weak, ineffective and uncoordinated. We now turn to consider these institutions and procedures, highlighting their strength and weaknesses. There are external and internal mechanisms of police accountability and discipline in Nigeria.

External mechanisms of police accountability and oversight

The Constitution of the Federal Republic of Nigeria established two principal organs for the control of the Nigeria Police Force. In essence, the police are directly accountable to the organs. These are the Nigeria Police Council (NPC) and the Police Service Commission (PSC).

The Nigeria Police Council

The 1999 Constitution established the Nigeria Police Council, as was the case in the 1963 Constitution but omitted in the 1979 Constitution. The Third Schedule of the 1999 Constitution created the Nigeria Police Council and the Police Service Commission. The Police Council consists of:

- (a) the President who shall be the Chairman;
- (b) the Governor of each State of the Federation;
- (a) the Chairman of the Police Service Commission; and
- (b) the Inspector-General of Police.

⁷Alemika, E.E.O. 2003 - "Police Accountability in Nigeria: Framework and Limitations" in E. E. O. Alemika and I. C. Chukwuma (Eds.) *Civilian Oversight and Accountability of Police in Nigeria*" Centre for Law Enforcement Education, Lagos and Police Service Commission, Abuja

The Constitution defined the functions of the Police Council to include:

- a. the organisation and administration of the Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the Force or the appointment, disciplinary control and dismissal of members of the force);
- b. the *general supervision* of the Nigeria Police Force; and
- c. advising the President on the appointment of the Inspector-General of Police.

Section 216(2) requires the President to consult the Nigeria Police Council before making appointment to the office of the Inspector-General of Police and before removing him or her. The state governors constitute an overwhelming majority of the membership of the highest organ of control of the Nigeria Police Force.

The Council as the highest organ of the state responsible for the policy on organisation and administration of police in the country can be an important organ of police accountability. It can for example act proactively by closely monitoring the reports on police by the public, mass media and other civil society organisations and in that light undertake annual evaluation of the Force with a view to dealing with structural and organisational factors that engender police abuse of power. But, there appears to be no political will to establish strong mechanisms for accountability at this level.

Police Service Commission

The Police Service Commission is the agency with explicit powers of police oversight. Under the 1999 Constitution of the Federal Republic of Nigeria, the membership of the Commission consists of:

- (a) Chairman; and
- (b) Such number of other persons, not less than seven but not more than nine, as may be prescribed by an Act of the National Assembly.

The Constitution stipulated that the Commission shall have the power to-

- (a) appoint persons to offices (other than the office of the Inspector-General of Police) in the Nigeria Police Force; and
- (b) Dismiss and exercise disciplinary control over persons holding any office referred to in sub-paragraph (a) of this paragraph.

The Police Service Commission (Establishment) Act, No. 15 of 2001, in Section 6 charged the Commission with the responsibility of:

1. appointing and promoting all officials of the NPF (other than the Inspector-General of Police, IGP);
2. dismissing and exercising disciplinary control over the same persons;
3. formulating policies and guidelines for the appointment, promotion, discipline and dismissal of officers of the NPF;
4. identifying factors inhibiting and undermining discipline in the NPF;
5. formulating and implementing policies aimed at efficiency and discipline within the NPF;
6. performing such other functions as, in the opinion of the Commission are required to ensure optimal efficiency in the NPF; and
7. Carrying out such other functions as the President may from time to time direct.

The membership of the Commission includes representatives of the human rights community, organised private sector, women and the media as well as a retired justice of superior court of record.

The challenges of the Police Service Commission as related to its wide powers and political environment are discussed below. The Commission has overcome some of its initial challenges, especially in the following areas:

- a. recruitment of its staff rather than relying on seconded staff;
- b. development of strategic plan;
- c. development of guidelines, and
- d. Establishment of administrative structure corresponding to its functions of appointment, promotion and discipline.

The Commission has also embarked on the construction of its corporate headquarters and office, which when completed will address the acute shortage of office accommodation that has negatively impacted on the performance of the organisation. However, there are several persisting challenges and constraints, with negative impact on its effectiveness and efficiency that are yet to be effectively addressed. Some of the critical challenges of the Commission that are yet to be effectively addressed are discussed below:

Appointment and promotion

- a. inadequate testing and screening of candidates to match applicants qualifications, competencies and potentials with police work resulting in the recruitment of persons who lack necessary literacy, numeracy and writing skills as well as requisite psychological disposition;
- b. inadequate background check and document validation resulting in the recruitment of persons with dubious character and past deviant behaviours as well as forged or fake documents;
- c. Lack of reliable performance and disciplinary records on officials in the Force resulting in the promotion of undeserving persons by virtue of pending complaints against them or poor performance.

Dismissing and exercising disciplinary control

- a. lack of reliable data on misconduct by police officers, especially junior officers whose disciplinary records are fragmented in various commands, resulting in disconnect between performance and conduct on one hand and promotion on the other;
- b. Ineffective internal and external complaints management systems breed ineffective disciplinary system within the Force, thereby promoting the culture of impunity. A recent assessment of the PSC complaint management system revealed several gaps, including the following:
 - a. Complaints are registered manually and referred to appropriate sections for processing;
 - b. Feedback from the NPF with regards to complaint referred to them for investigation is poor;
 - c. Feedback from the PSC to members of the public who complained against police is poor;
 - d. Complaints treated on case by case basis through files;
 - e. No effective database on police misconduct that can easily be retrieved in taking other related decisions such as promotion and deployment;
 - f. The framework for treating complaints developed by SJG in partnership with the PSC in 2009 is not being used.

Overall, the complaint management system is generally inaccessible, ineffective and does not enjoy the confidence of members of the public.

Formulating policies and guidelines for the appointment, promotion, discipline and dismissal of officers of the NPF:

- a. The Commission has formulated guidelines for appointment, promotion, discipline and dismissal. However, the application of these guidelines remain challenging due to interferences and absence of reliable database containing the indices identified in the guidelines;
- b. Absence of interface of verifiable records between the Nigeria Police Force and the Commission undermines effective implementation of the guidelines.

Identifying factors inhibiting and undermining discipline in the NPF

- a. Lack of effective database on complaints and discipline management system impairs the identification of the factors causing discipline in the Force; and
- b. Absence of systematic and reliable research to aid identification of factors inhibiting or undermining discipline in the Force.

Formulating and implementing policies aimed at efficiency and discipline within the NPF

- a. The production of the guidelines on promotion and discipline by the Commission is a step in this direction. However, the ineffective enforcement of the guidelines constitute a disconnect between the formulation of the policies and their implementation to achieve efficiency and discipline in the Force; and
- b. Policy formulation should be evidence-led or research-driven. Existing policies at the Commission are not adequately driven by research or contextually derived evidence.

In order to overcome these challenges and other constraints such as inadequate funds and dispersal of staffs due to inadequate accommodation, the government should demonstrate commitment to police reform and oversight by committing necessary resources. Further, the government should endeavour to appoint knowledgeable technocrats and strategic thinking about police and policing as Chairman and members of the Police Service Commission. The next Commission should give priority to the automation of the records of police officers, complaint management and its administrative process, The Commission should encourage the Nigeria Police Force to equally create and maintain a computerised data base of records of service, discipline,

misconduct and commendation. There should be interface and interconnectivity between the service records of police officers at the Force Headquarters and the Police Service Commission. This will enhance efficient, transparent and fair decision-making in vital areas of promotion and discipline, and complaints management. Partnership with civil society organisations such as human rights organisations, professional and trade associations, and mass media by the Commission to enhance staff capacity building and public awareness of its functions.

Fundamental human rights provisions

The Constitution of the Federal Republic of Nigeria that came into effect on May 29, 1999 contained in chapter four a 'Bill of Rights'. Many of the provisions have bearing on the mechanism and processes of police accountability. The Constitution guarantees the rights to life and dignity, prohibited torture and unusual punishment; guarantees rights of accused person to be presumed innocent until adjudged guilty by a competent court, to due process, and to private property, etc. It also guarantees freedom of movement, religion and association, etc. These provisions, as indicated above, represent pro-active mechanisms for accountability. They set limit on the action of public authorities in their exercise of coercive powers and also provide parameters for complaints against abuse of power by the police. The potential benefits of these provisions have not been realised because of widespread poverty that prevents aggrieved persons from taking civil action against the police and there is yet no complaints review board that is effective and accessible.

Judicial mechanism

Police officers who abuse their powers are liable to civil and/or criminal proceedings, depending on the nature of the abuse. Sections 341 and 374 of the Police Regulations clearly pronounced the liability of individual police for abuse of power. In the case of criminal liability, either the Nigeria Police Force or the Attorney-General of a state or of the Federation will have to invoke the process. They will do this only in a case they consider serious and in which the power exercised by an officer is considered unjustified. Again as in the constitutional provisions, the prospect of an aggrieved citizens taking recourse to civil action is limited because of grinding poverty among the majority of the citizens.

The President of the Federation and Governors of the State

Section 215(3) (4) make the Police responsible to the President and State Governors in matters and directions on ‘maintenance and securing public safety and public order’. This is significant because the President is the Chairman of the Nigeria Police Council and state governors are also members of the Council. Their membership affords them the opportunity to translate their experiences with the Police into policy development for policing but which sadly is not being done. The danger of the provision must be realized. It is capable of turning the civil police to political police – that which is an instrument of the President and Governors rather than a public agency pursuing common good.

National Human Rights Commission

The National Human Rights Commission is empowered to monitor human rights violation by organisations in the country. Since its inception in mid 1990s, the Commission, in its annual reports, has continually drawn attention to high incidence of human rights violation by law enforcement agencies in the country. It has also drawn attention to the unsatisfactory conditions of the police and prisons cells. However, the Commission has only advisory role. It cannot prosecute those people and organisations discovered by it as human rights violators.

Civil society police watchdog organisations

In addition to the formal state mechanisms, there are several organisations that monitor and publish reports on the activities of the Police in Nigeria. They include human rights organisations like CLEEN Foundation, Civil Liberties Organisation (CLO), Constitutional Rights Project (CRP), Access to Justice, Human Rights Monitor, and League of Human Rights, as well as professional and trade organisations, especially the Nigerian Bar Association.

Public Complaints Commission

The Commission was created to receive, investigate and resolve complaints against a public agency or official for wrong administrative actions. Some of the provisions of its law empower it to address some misconduct by public agencies, which can be extended to include the Police.

Significance of Police oversight

Effective external police oversight can enhance police legitimacy and effectiveness, and enhance public-police cooperation. The legitimacy of the police depends on several factors including the following:

- a. Effectiveness and efficiency in the prevention and control of crime, in the detection, apprehension and prosecution of offenders;
- b. Scrupulous observance of the rule of law;
- c. Recognition and protection of the dignity and rights of citizens;
- d. Effective and efficient deployment of human, financial and material resources;
- e. Accountability to the citizens;
- f. Civility and incorruptibility;
- g. Concern for the general welfare of citizens.

These preconditions for the legitimacy of the Police are determined by a range of political, economic and socio-cultural conditions in society. Prominent among such conditions are democratic and good governance, good and responsive laws, economic and technological development, a deeply ingrained socio-cultural values for justice, equity, compassion, and political tolerance. They are also influenced by the degree of professionalism and accountability. Police legitimacy, integrity and efficiency in Nigeria are undermined by several factors. The public do not respect, trust and support the Police because their performance is poor. Also, the public regards the character and level of accountability of the Police as grossly unsatisfactory. The Police in the nation are generally feared but not respected, often distrusted and despised by the Nigerian public⁸

The literature has identified several factors and conditions that enhance the effectiveness of and confidence in an oversight agency. Prominent among the factors are

1. Independence of the agency from interferences that compromise its decisions;
2. Integrity of the agency's officials Political support by the government in the form of providing requisite legal framework and necessary human, financial and material resources;

⁸Alemika E. E. 1988. "Policing and Perceptions of Police in Nigeria" *Police Studies* 11(4): 161-176;
Ahire, P. T. 1991. *Imperial Policing* Milton Keynes: Open University Press. .

3. Confidence and cooperation of the Police authority and officials which are determined by the competence, integrity, transparency and fairness of the agency;
4. Confidence and cooperation of civil society, especially of the members and leadership of the mass media, the Bar, labour unions and professional associations, corporate organisations etc. is required for public support for Police oversight;
5. Adequate human, financial, material and other resources;
6. Adequate powers, including determining and enforcing disciplinary measures against erring Police officers;
7. Strong linkage of internal control and disciplinary mechanisms with external oversight agencies and processes;
8. Effective platform for collaboration with relevant state and non-state organisations and actors;
9. Effective complaint processing and management systems - dissemination and enforcement of code of conduct; guidelines for handling misconduct complaints; proper and adequate documentation of issues and persons involved in misconduct complaints; transparency and fairness of procedures and decisions;
10. Effective use of information technology for the processing and management of complaints and decisions.

Most of these preconditions for effective performance by external oversight agency are lacking in Nigeria thereby posing major challenges to the Police Service Commission.

Conclusion

The transformation of the Nigeria Police Force into an effective, civil, trustworthy, incorruptible, responsive and respected Force requires (a) effective internal professional standard and disciplinary department within the Police forces; (b) efficient, fair and independent external accountability and oversight agencies, and (c) coordination of the external and internal mechanisms of complaints and grievance redressing procedures, discipline and oversight policies.

Successes and Challenges of The Tenure of the Chief Simon Okeke-led Police Service Commission and the Way Forward

By Chief Simon Nsobundu Okeke, OON, FRICS, FNIVS, LL.D
(Honoris Causa) Ochendo Amichi
Chairman, Police Service Commission (2001-2006)

Introduction

The invitation extended to me to present a paper for the Policing Executive Forum on *External Police Accountability and the Police Service Commission: Successes and Challenges of the Tenure of the Chief Simon Okeke-led Police Service Commission and the Way Forward*, constitutes a huge challenge. Let me say from the outset that in a paper such as this, there is the danger of falling foul of self-adulation in the same way as one's modesty may shadow the entire exercise in such a manner that the real essence of one's stewardship may be understated. Again, seriously one is forced to ask whether one who chaired a sensitive and strategic Institution of this nature is the person to present a paper such as this. Ideally, one would have chosen to play the role of a listener. We have a common saying among my people that it is when a woman has had a fortune (or is it misfortune?) of marrying twice that she can answer the question as to who is the better of the two men in her life. I am in effect, not here to judge. The staff who served the two Boards are best qualified to be judgmental, if need be. I am nevertheless pleased to honour the invitation as at least, it presents an opportunity to remind one of some bright as well as dark occurrences in our five years journey along the road in our operation of this strategic institution in the governance and development of our nation.

The Institution

The Police Service Commission was created as one of the Federal Executive Bodies by the Constitution of the Federal Republic of Nigeria, 1999. Its establishment was amplified by the Police Service Commission (Establishment, etc) Act of the National Assembly, 2001. The Constitution and the Act charged the Commission with responsibilities, among other things to appoint Persons to offices other than office of the Inspector-General of Police in the Nigeria

Police Force and to dismiss and exercise disciplinary control over any person holding office in the Nigeria Police Force other than the Inspector-General of Police; and for related purposes.

The Act provides that the management of the Commission shall vest in the following members, whose appointment shall be in line with the Federal Character provision of the Constitution.

- (a) A Chairman who shall be the Chief Executive of the Commission;
- (b) A retired Justice of the Supreme Court or Court of Appeal;
- (c) A retired Police officer not below the rank of Commissioner of Police;
- (d) One representative each of:
 - i. Women interest;
 - ii. The Nigerian press;
 - iii. Non-governmental human rights organisation in Nigeria;
 - iv. Organised Private Sector;
 - v. The Secretary of the Commission.

The Act specifies that the above appointments shall be made by the President of the Federal Republic of Nigeria subject to the confirmation by the Senate. Such persons were expected to be of proven integrity and ability.

Police Service Commission (2001-2006)

My Commission was inaugurated on November 28, 2001 by Chief Olusegun Obasanjo, GCFR, President of the Federal Republic of Nigeria, for a tenure of five years with me as Chairman.

Transitional Challenges

Absence of office Infrastructure:

Our initial surprise was the unbelievable absence of office infrastructure. Whereas members were eager to commence work on the strategic national assignment, we were constrained by the glaring sluggishness of the bureaucracy in marching the enthusiasm of the newly appointed commission. There were no offices, no manpower and of course no office equipment to enable the members commence actions on the task that was before them. Members were advised to take a long leave and return when an office space and furniture would have been put in place. Part time members departed while full time members decided to endure the crushing hard times to help the

Commission find its feet. Weeks after, all came in full force to get the Commission on its pedestal.

Long overdue promotion and pending disciplinary matters in the Nigeria Police Force Going by the provisions of the Constitution and consequent upon the dawn of democratic rule, a deluge of officers awaiting promotions and pending disciplinary matters confronted the newly appointed Commission. It was observed that virtually all senior Police officers promoted years before the time of our appointment were on acting capacity. In order to resolve the enormous challenges of longstanding promotions and pending disciplinary matters, the Commissions directed the Police Force Headquarters to recommend and process all outstanding promotions and disciplinary matters to the Commissions for deliberations and appropriate actions.

Junior Police officers in possession of university degrees and higher national diplomas

The commission was confronted with the threatening challenge of junior Police officers who joined the Force as constable and some that had acquired university degrees and higher certificate while in service of the Force. This category of officers threatened and in fact embarked on a Police strike, the first of its kind, which was primarily responsible for the removal of *Mr. Musuliu Smith* from office as Inspector-General of Police. The Commission in dealing with this challenge directed the succeeding IGP, to commence a process of short listing officers who fell within that category for an eighteen-month training programme at the Police Staff College, Jos, Plateau State for promotion to the rank of Assistant Superintendent of Police (ASP).

Working relationship between the Commission and the Inspector-General of Police

The working relationship between the Commission and the Inspector-General of Police remains crucial for the objective of effective service delivery of policing to be achieved. If the head of the Police has no regard or respect for the decisions of the Commission, then not even his subordinates would comply and implement its decisions. The Commission was confronted severally with the challenge of non-implementation of its decisions by the Inspector-General of Police.

The efforts of the commission to comply with decisions and directives of various courts to reinstate Police officers who were previously retired or dismissed and who had ruling in the High or Appeal courts directing their reinstatement met with stiff resistance. The decision of the Commission that any officer who is granted court ruling for reinstatement should be reinstated was flagrantly resisted and abused by each succeeding IGP.

Commission's consultation with the country's chief law officers

In order to clearly resolve the obvious rift, the Commission on May 7, 2002 wrote to the then Attorney General of the Federation and Minister of Justice, Chief Kanu Agabi, SAN and to Professor Ben Nwabueze, SAN, (a renowned Constitutional Lawyer) to proffer professional opinion on the constitutional powers and functions of the commission with respect to section 215, and third schedule part I-M paragraph of the 1999 constitution dealing with the appointment of a Commissioner of Police for each state of the Federation who shall be appointed by the commission and appointment of persons to offices (other than the office of the Inspector-General of Police) and dismissal and exercise of disciplinary control over persons holding any office referred to in sub-paragraph (a) of the paragraph in question. The reason for the above letters stemmed from the embarrassing encroachments into what was considered to be the commission's constitutional powers and functions which are unambiguously enshrined in the Constitution of the Federal Republic of Nigeria. It was common occurrence for IGP of the NPF to read various Police promotions and posting of Commissioners of Police or AIG's without reference consent or approvals of the Commission. In particular on page 4 of the ThisDay Newspaper of 20th April, 2002, the office of the IGP stated thus:

...the issue of posting is solely a Police matter...

The IG has the final say in the posting of Police officers round the country.

The Vanguard's Newspaper of 10th April 2002 in a report by its correspondent Victoria Ojeme, stated thus:

The Police as part of efforts to rejuvenate its crime fighting ability yesterday promoted and redeployed sixteen Commissioners of Police to the rank of Assistant Inspector-General of Police.

In his response titled RE: PROFESSIONAL OPINION dated 6th July, 2002, the then Honourable Attorney General of the Federation and Minister of Justice, stated thus:

The office of Commissioner of Police of a state is an office in the Nigeria Police Force. Under paragraph 30 of part 1 of the third schedule to the constitution, the Police Service Commission is empowered to appoint persons to offices other than the Inspector-General of Police in the Nigeria Police Force. While there may, in some cases, be a distinction between the power to appoint and the power to post, both powers, in the instant case, are vested in the Commission. Not only is the commission empowered to appoint Commissioners of Police, it is also to designate them to the states... Under section 215(12) of the Constitution, the Nigeria Police shall be under the command of the Inspector-General of Police. It is this section that the Inspector-General of Police derives his authority to order or direct the Force.

Nothing in this section vests him with authority to appoint or to post. Once a person has been so appointed and posted by the commission, the person so appointed and posted comes under the jurisdiction of the inspector-General of Police who may then order or command him as the need arises. Any other law such as the Police Act appearing to vest the power to appoint or to post in the Inspector-General of Police is inconsistent with the Constitution and therefore null and void to that extent. The Inspector-General is expected to guide the commission and the commission is expected to take into consideration all reasonable suggestions made by the Inspector-General of Police in these matters. The role of the Inspector-General of Police in these matters is advisory.

In paragraph 15(1), 16 and 17 of his own response, Professor Ben Nwabueze, SAN, opined thus:

15(1) The PSC's power to appoint, dismiss and exercise disciplinary Control over members of the Police. 16. It is a principle of law, firmly established in court decisions. In Nigeria, the United States and England, that power to appoint carries as a necessary incident, power to promote and demote, to transfer or post from one duty location to another, power to discipline by means less than removal, and power to assign functions and duties. Thus, whilst the power to promote or is not explicitly mentioned it is embraced within the powers vested in the Commission by part 1 of the third schedule.

17 *The Commission's power to transfer or post from one duty location to another can obviously be used as a form of discipline.*

In his reaction to the above professional opinions forwarded to him, President Olusegun Obasanjo, in a letter addressed to the inspector-General of Police on 1st August 2002, stated thus:

...In line with the opinion expressed, I am hereby directing you to formally forward all appointments and postings that you have made, since you became inspector-General of Police, to the Police Service Commission for formal approval.

The above opinions and the directive of President were a major achievement in exercising and establishing the powers and functions of the commission.

Subversion of the effectiveness of the Commission

The concerted efforts to subvert the effectiveness of the Commission was taken to its peak, when out of the blues there were syndicated reports in the major *National Newspapers* on April 5, 2004, screaming *Fraud in the Commission*. The *Daily Independent* of April 5, 2004, page A4 had a headline titled, '*Fraud: Presidency orders probe of Police Service Commission.*' *Daily Sun* of the same day on page 8 wrote, '*FG probes N41m fraud in Police Service Commission.*' *Daily Trust* of the same, titled theirs as '*Commission boss accused of N41m fraud.*' The next day 6th April, 2004, same *Daily Trust* newspaper followed their report on page 7 with a cartoon with a bold caption, thus: ***POLICE COMMISSION ACCUSED OF N41m FRAUD-NEWS***, with a response saying, '*Chineke! Then who says that Police cannot go beyond the normal N20 extortion.*' The *Vanguard Newspaper* of the same April 5, 2004 page 5 captioned its report as '*Presidency to probe Public Service Commission.*'

The entire reports were fabricated and orchestrated by *princess (Dr) Nana Aishatu Abdulquadri*, who at the time was a part-time Commissioner but had been hired or at least aligned herself with then IGP, who lavishly furnished an office for her similar to that of DIGs at the Force Headquarters and provided her with necessary logistics all geared to create a division within the ranks of the members of the commission in order for him to erode the effectiveness of the Commission to his self-aggrandisement. The newspaper reports annoyed the members of the Commission who, after all due investigation, collectively addressed a press conference in which they

castigated Commissioner Abdulquadri's shout of wolf where there was absolutely none. It was made public that at the period she quoted the issue of fraud in the commission, the commission only had a budgetary release of N18m managed on its behalf by the office of the Secretary to the Government of the Federation.

In the report of the presidential panel of inquiry to investigate the Allegation of abuse of the office and embezzlement of public funds in the Police Service Commission from the office of the secretary to the Government of the Federation dated 31st January, 2005, the panel exonerated the chairman and rather directed that Commissioner Abdulquadri should refund all the transport allowances fraudulently collected by her on the claim that Lagos was her place of residence and not Abuja where indeed she should vacate her office at the Police Force Headquarters forthwith.

Lack of Adequate Budgetary Allocation

One of the strategies of destabilising the Commission was in area of inadequate funding. The joke was said in quarters recently that the entire budgetary allocation of the Commission for the period 2001-2006 is less than one year's budget allocation of the present-day Commission.

Organisation and administration of Commission

The task of acquiring office accommodation was pursued vigorously. It took the Commission about eight months to negotiate manageable office spaces through the facilitation of the office of the Secretary to the Government of the Federation. In accordance with the provisions of the Act, the Departments of Administration and Personnel Management; Department of Finance and Supplies; Department of Investigation; Department of Legal Services; and the Department of Planning, Research and Statistics were established to perform the bureaucratic functions of the Commission. Standing and ad-hoc Committees were also established to facilitate the work of the Commission.

Five-year strategic development plan

In order to define a clear vision of the place of the Commission in national development, the Commission embarked on the formulation of a Five Year Strategic development plan encompassing its vision and mission statement as well as setting out its goals and objectives for the effective and efficient performance of its statutory functions. The development of the plan was a

product of wider consultations and participation of various Government Agencies and our development partners.

Relationship with development partners and non-governmental organisations

It must be recalled that in recognition of the enormous task of civilian oversight of the Police, the Commission had to collaborate with such organisations, namely, United Nations Development Programme (UNDP), the Department for International Development (DFID), the Open Society Justice Initiative (OSJI), the CLEEN Foundation, the Independent Complaint Directorate, South Africa, the Federal Ministry of Justice, the National Human Right Commission, the National Orientation Agency (NOA) as well as notable professionals in the fields of law as well as in the academics.

Formulation of policies on appointment, promotion and discipline

The leadership of the Commission was concerned that there was need to streamline policies on appointment, promotion and discipline in the NPF. Towards achieving the above goal, it set up a multi-disciplinary and multi-sectorial ad-hoc committee to produce a comprehensive pamphlet that encompasses the process of appointment, promotion and discipline in the Nigeria Police Force. The process was given wide publicity while its product was inclusive of the views of all stakeholders including serving of personnel of the NPF.

Policy of geo-political representation at the topmost hierarchy of the Police

It was the consideration of the commission that to create sense of belonging, harmony and ownership of the Police Force by all sections of Nigerians, there should be a semblance of geo-political representation at the level of Deputy Inspector-General of Police. The policy was envisaged to assuage the feelings of isolation among some sections of the Nigerian people. The six DIG slots which the Presidency approved within the top hierarchy of the Nigeria Police as against one or two before were distributed on geo-political basis to the satisfaction of all zones in the Country.

Guidelines for the Conduct of Police Officers on Election Duties and Monitoring of the Conduct of Police Officers on Election Duties

Considering the importance of elections in the sustenance of democratic governance in Nigeria, for the first time in the history of elections in all civilised societies the Commission formulated Guidelines for Conduct of Police Officers Elections Duties. These guidelines were printed and circulated in pamphlet booklets to Police Officers on Election Duties throughout Nigeria. The Commission trained and deployed persons as monitors during the exercise. The observations of the Commission were published for the benefit of the public and government to further ensuring a free, fair, credible and peaceful election in Nigeria. It is no gained saying that monitoring of the conduct of security personnel during elections in Nigeria has become a major component of our election exercise. It is gratifying to note that this process pioneered by my Commission has today become a model for monitoring conduct of security personnel during elections all over the world.

Creation of Zonal Offices of the Commission

In view of the massive nature of the Nigeria Police Force and its ubiquitous organisational structural spread, it was considered necessary that for quick dispensation and proper co-ordination of the matters affecting managing of Police personnel, zonal offices of the commission be established first in the six Geo-political zones of the country, namely: Kano for North West; Lokoja for North Central; Yola for North East; Lagos for South West; Calabar for South-South and Umuahia for South East. It was envisaged that it would go to every state of the federation eventually. The zonal offices were also to facilitate collation of complaints from members of the public who may find it difficult to report misconduct of Police Officers to their superiors. How far the succeeding board advanced this worthy act of my Board, am afraid I don't know.

Successes and Major Achievements of the Commission

The major success recorded during the tenure of my board was perhaps the confidence that members of the Police Force and indeed staff of the Commission had in our leadership. It was common knowledge that the Commission abolished the policy of promotion of Police officers on the basis of their state of origin or, through recommendations from the high and

mighty, but through the established and approved guidelines drawn by the Commission and which, by and large, is anchored on performance and merit.

Issues pertaining to discipline and promotion of officers in the Police were of paramount importance to the Commission. Promotion of officers was in accordance to the extant principles of seniority, merit and availability of vacancies. In the area of discipline, the Commission upheld fairness, equity and justice in the exercise of disciplinary control. A case in point was the episode of the attempted kidnap and forceful removal from office of the former Governor of Anambra State, Dr. Chris Ngige. It would be recalled that the Commission subjected the Senior Police Officers involved in the episode through a disciplinary process which led to the untimely retirement of AIG Raphael Ige of blessed memory. Mr. Ige led the Police contingent reported to have forcefully removed the then serving Governor from office.

It would also be recalled that the commission resisted the irregular selective promotion of Police officers and ensured the promotion of some officers who were unduly penalised by Police Authority on the basis of refusing unlawful orders.

Another area where the Commission recorded huge success was in galvanising relationship with partners and non-governmental organisation and by extension the members of the public. In this wise, most programmes of the commission were executed through such collaboration and sponsorship.

The way forward

In fashioning the way forward, there are critical areas that should be considered to enhance effectiveness and efficiency, and avoid disharmony and discontent in the Force. One of such areas is in the disciplinary procedures. I expect that in order to ensure fair hearing, equity and justice, Commission should interface with persons having disciplinary matters through its committee. Continued disconnect between the Police and public does not help the image of Nigeria Police. The commission aims at achieving a synergy between the Police and the public. The moment there is trust between the public and the Police, there will be peace and harmony in the country.

Again, since Police service operates under the Public Service Rules, officers of the Force should not be forced to retire from service when their junior in

rank is appointed into higher office as has become the practice recently. When the President appoints a person into the Office of the Inspector-General of the Police, officers senior to the beneficiary should not be forced to resign. In the public service, when a permanent Secretary is appointed into office as head of the Civil Service of the Federation, those who were hitherto senior to the beneficiary do not exit from service except in accordance with extant rules of sixty years of age or thirty-five years of service whichever comes first. The above practice would reduce misgiving and disharmony in the Force.

Within five years of our tenure, my Commission tried its best to demilitarise the Police as we believe that most of the problems the public encounter with the Police, is the military hang over in the Police arising from long period of military occupation of the Nigerian state between 1966 and 1999.

Conclusions

I have the strong belief that a properly administered and strengthened Police Service Commission would serve as a major catalyst in the effective and efficient transformation of the Nigeria Police Force.

I thank you for your kind invitation and for listening.

APPENDIX

COMMUNIQUÉ ISSUED AT THE END OF POLICING EXECUTIVE FORUM ON EXTERNAL ACCOUNTABILITY AND THE POLICE SERVICE COMMISSION

INTRODUCTION

The 7th Policing Executive Forum was held in Bolton White Hotels & Apartments, Abuja, on the 30th of April 2013 with the theme: “External Accountability and the Police Service Commission”. The forum focused on fashioning ways to improve the civilian oversight function of the Police Service Commission (PSC) in relation to Police service provision. The forum was organised by the CLEEN Foundation, an NGO involved in the promotion of public safety, security and accessible justice. Participants were drawn from the Ministry of Police Affairs, the PSC and civil society groups from across the country, including the Association of Retired Police Officers of Nigeria. Under the Chairmanship of Mr Fola Arthur Worrey of the *Lagos State Security Trust Fund*, the forum deliberated on issues relating to efficiency and integrity in the Police service. Papers were presented by a renowned criminologist and Chair of the Board of CLEEN Foundation, Professor Etannibi Alemika and former Chairman of the Police Service Commission (PSC), Chief Simeon Okeke. The Chairman of the House Committee on Police Affairs, Hon. Usman Bello Kumo, represented by Obadiah Mbila, also made contributions to the deliberations. These led to very insightful discussions.

Observations

At the end of the deliberations, the forum made a number of observations.

1. The Police Service Commission was established in 2001 after an 18-year military hiatus.

2. The Police Service Commission declares commendation for its achievements, in view of the 18-year military hiatus.
3. The Chief Okeke led board of the PSC developed guidelines for appointment, promotion and discipline in the Nigeria Police.
4. Though the Police Service Commission is charged with appointment, promotion and discipline of the Nigeria Police Force (NPF), the forum observes that there is a general problem of tension in the implementation of its powers, vis-à-vis the Police authorities as the independence of the Commission is yet to be recognised. For example, in issues of recruitment and discipline, there is still need for harmonisation of approaches between the PSC and NPF.
5. Record keeping and efficient data infrastructure is still a problem in the Commission. This indicates that there is still lack of institutional memory. There is lack of reliable data within the Commission and from the Nigeria Police to facilitate proper and efficient functioning of the PSC.
6. The Police Service Commission needs the political support of the President and to enhance its authority to enhance its efficiency by giving the Commission financial and operational independence from the Executive and the Nigeria Police.
7. It was noted with concern that the Commission had limited ability to handle some cases because it has not developed technical capacity to carry out its own investigations.
8. The Commission has serious constraints in dealing with public complaints against the Police.
9. The Commission has not been able to create necessary public awareness about its functions, especially resolving complaints against the Police.

Recommendations

In the light of the foregoing, the forum recommends as follows:

Composition

All stakeholders should work for the independence of the PSC by advocating the amendment to the Police Service Commission Act to address its composition.

1. All appointments should be made in such a way as to strengthen the independence of the Commission. Efforts should be made to appoint people with managerial skills to strengthen the Commission.
2. The Chairman of the Commission should be a person with broad managerial experience, preferably with broad corporate management skills. In the event that the Commission needs expert advice from the Police, it should be given the liberty to seek such service.

Appointment of Members

1. It is recommended that a retired Police officer should not be appointed as Chair of the PSC, in order to ensure effective oversight over the Police.
2. When members of the Commission represent specific interest groups, these groups must be consulted on such appointments and should have the power to recall any representative when they deem fit.
3. The appointment process should be transparent, preferably with properly advertised vacancy notices.

Functions

1. The PSC must have an independent investigative unit to look into any complaint.
2. An efficient, sustainable IT databank should be developed and sustained.
3. In exercising the delegated powers of the PSC, the Police should exercise caution and the PSC should ratify.
4. The PSC should collaborate with National Orientation Agency (NOA) for the purpose of receiving and transmitting complaints from the states and local governments of the Federation.

5. Section 19 of the PSC Act which stipulates that the Commission can receive directives from the President and is duty-bound to comply with such directives diminishes the powers of the PSC. The portion should be abrogated as unconstitutional as the Constitution conceives the PSC as an independent organisation.
6. The Commission should be given adequate budgetary allocation and financial independence.
7. The National Assembly should begin the process of amending the PSC Act in order to enhance its independence.
8. There is need for proper enlightenment within the Police Force on the relationship between the Police and the PSC.
9. The Commission should develop effective and accessible complaints system, with the aid of information and communication (ICT).

**REPORT OF THE 7TH POLICING EXECUTIVE FORUM ON
EXTERNAL ACCOUNTABILITY AND THE POLICE SERVICE
COMMISSION ORGANISED BY CLEEN FOUNDATION
HELD AT THE BOLTON WHITE HOTELS AND
APARTMENTS ABUJA, TUESDAY, 30th APRIL 2013**

INTRODUCTION

The Policing Executive Forum was conceived to provide a periodic platform for discourse on contemporary issues affecting public safety and security in Nigeria in order to find implementable solutions to them. The 7th Policing Executive Forum was organised by the CLEEN Foundation, with the theme: “External Accountability and the Police Service Commission”.

It was organised against the backdrop of the significance of the role of the PSC in our fledgling democracy as the Commission helps to ensure police accountability, adherence to the rule of law, cordial police/public relationship, and promotes transparency, accountability and professionalism of police personnel.

This forum aimed at convening the police, its oversight institutions, civil society actors, donor agencies, development partners and other stakeholders to brainstorm on identified issues, build confidence in one another and synergy of purpose in addressing these problems through shared understanding of the issues. The forum had participants from the Ministry of Police Affairs, the Police Service Commission and civil society groups from across the country, and also the Association of Retired Police Officers of Nigeria.

Mr Fola Arthur Worrey, chairman of the Lagos State Security Trust Fund, chaired the forum. There were paper presentations by Prof. Etannibi Alemika, Barr. Bamidele Aturu, and Chief Simeon Okeke.

The broad expectation of this forum was to recommend structural and institutional frameworks that would enable the effectiveness of the Police Service Commission, especially given the recent experience under just-ended leadership tenure of a retired police officer.

OPENING SESSION

The Chairman of the event, Mr Fola Arthur Worrey, expressed pleasure that there is increased activity by nongovernmental organisations focusing on policing. He said the impact of such activity, however, need to be sharpened with increased policy level and legislative engagement. He expressed dismay that in the 13 years that the Nigerian National Assembly has been in active operation, the legislative committees in charge of police affairs have not been able to carry out important reforms such as amendment of the Police Act and other policy instruments, including the tenure of the Inspector General of Police and appointment processes for the leadership of the PSC. He highlighted the recent launch of the code of conduct for police officers but asked what the role of the Police Service Commission would be in the implementation of the code.

Setting agenda for the day's discourse, Mr Arthur Worrey, asked who is politically responsible for failures and successes of the Nigeria Police Force, and what the relationship should be between the Ministry of Police Affairs, the Police Service Commission and the Nigeria Police Force. He said this meeting should also examine the structure of external accountability for policing in Nigeria.

Mr Chinedu Nwagu, the Program Manager of the CLEEN Foundation, welcomed participants to the forum. He expressed hope that deliberations would be useful in fostering a better understanding of the PSC by various stakeholders. He hoped that the forum would identify the challenges that hindered the effectiveness of the Commission so far, proffer practicable solutions to these problems and suggest the way forward for more active engagement of the Commission by civil society actors and the Nigerian public, and ultimately strengthen the Commission in executing its constitutional and statutory mandate.

The Chairman of the House Committee on Police Affairs, Hon. Usman Bello Kumo, represented by Obadiah Mbila, also made contributions to the deliberations. He agreed with an introductory statement by the Chairman of the occasion, Mr Fola Arthur Worrey, in respect of the need to improve the National Assembly's performance on policing issues. He however admitted that there is a paucity of knowledge in the National Assembly, owing to the wide range of issues that need to be dealt with, as well as the many different

parameters for selection of committee membership. He advised that CSOs should take advantage of the National Assembly's desire for legislative initiatives that can impact people's lives and always create legislative dimensions for action in every workshop such as this. He emphasised that the House Committee on Police Affairs would be specifically waiting for the outcome of this 7th Policing Executive Forum, as it would feed into the process of amending the Police Service Commission Act. He said it was dismaying that in spite of the fact that this was the 7th edition of the PEF, resources and resolutions from the previous PEFs had not been forwarded to the committee. He urged CLEEN Foundation to ensure that this is remedied.

PLENARY SESSION

Paper 1

This session began with a paper on "The Significance of Police External Oversight and Challenges of Policing Service Commission" by Prof. Etannibi Alemika, by a renowned criminologist and Chair of the Board of CLEEN Foundation.

The presenter began on the premise that ideally, the police are a human rights organisation; the police in a democratic society are public officials responsible for the promotion and protection of the rights of citizens. Their primary mandate, he said, is to protect the life, property, dignity, rights and freedoms of citizens. Therefore, if properly exercised, police powers provide important mechanism for promoting and protecting human rights, freedom and security; sustaining public order, and promoting national security and development. However, he said if abused—as is often the reality— police powers can serve as instrument of repression and exploitation, which in the long run engenders threats to national security and development. He also said that the police are probably the most important agency and if left without control, could enslave. Their powers and conduct must be monitored. He summed that unregulated police powers, exercised with impunity, will erode the sanctity of human life, human dignity and human rights.

Prof Alemika informed the participants that mechanisms for external police oversight are designed to ensure that the police, as a public bureaucracy with coercive power, discharge their responsibility as a promoter and protector of the rights, freedoms and dignity of citizens. He stressed that society must

establish mechanism to check abuse of powers. External police oversight or accountability mechanisms are designed to hold the police accountable for crime (performance in respect of preservation of security and safety); cost (efficient use of resources) and conduct (lawful and professional) behaviour). The primary objective of police oversight, according to Alemika, is to ensure that the police force and its personnel are accountable or answerable for their performance, for the use of their powers, resources and their conduct. The presenter explained that external police oversight and accountability mechanisms refer to the agencies and mechanisms outside the police departments established for the purpose of ensuring that the police are monitored and evaluated with regards to:

- a. effectiveness (level of performance in the discharge of their mandates);
- b. efficiency (optimal return to resources expended in the discharge of their functions), and
- c. integrity (observance of laws and rules, respect for human rights, and avoidance of corrupt practices and abusive behaviours such as brutality, excessive use of force and extra-judicial killing, and law enforcement decisions based on prejudices against groups of individuals).

The criminology professor held the view that police complaints institutions, whether within or outside the police force, aim mainly at ensuring police integrity. He further stated that mechanisms within the police force designed to receive, investigate and determine complaints against officers should be conceived as internal disciplinary measures. They are meant to enhance police integrity, which is an essential requirement for public confidence and to enforce discipline within the force, which is also necessary for effectiveness and efficiency. Effective internal police disciplinary regime enhances accountability to external authorities.

Alemika identified several institutional and legal frameworks for police accountability, and highlighted some of the mechanisms that have been employed to secure police accountability for different things and to different authorities and audiences. These included:

1. Constitutional provisions that guarantee fundamental rights, which serves as limitation on exercise of police power. Such provisions may be construed as proactive or preventive measures to the effect that they are

intended to control the abusive exercise of power by the police and other organs of the state.

2. Parliamentary oversight committees that are generally concerned with the way police forces and authorities use resources; carry out their operations and behave towards the citizens.
3. Executive bodies such as the Auditor-General's office responsible for the audit of the revenues, allocations and expenditure of government departments, as well as departmental and ministerial tender boards responsible for procurements and contracts.
4. Ministerial oversight of police policies, plans and operations.
5. Statutory provisions on procedures for policing and law enforcement. One of such potent provisions is the exclusionary rules in respect of evidence obtained from suspects through torture and deception. These provisions may also be construed as both proactive and reactive as they seek to create disincentive for police abuse of their powers of arrest, search and seizure, interrogation and investigation.
6. Judicial mechanism – criminal and civil liability of police for abuse of power.
7. Special Investigation Commissions - standing or ad-hoc agencies – that are given the task of enquiring into specific areas or instances of police operations, especially extra-legal killings, brutality and corruption.
8. Civilian complaints review boards. These are tasked with responsibility for receiving, investigating and reviewing of complaints against the police.

Prof Alemika also said that the PSC has oversight for conduct, effectiveness and efficiency, but he identified a number of challenges facing the Commission including inadequate background check and confirmation as applicants are considered for recruitment into the police; lack of reliable data on police conduct and absence of effective database; and a general lack of record keeping on between the NPF and the PSC. He nonetheless commended the PSC for drafting a strategic plan after its re-establishment in 2001, developing

a guideline for promotion, appointment and discipline and commencing the building of its own permanent office complex.

The criminology professor made a number of recommendations at the end of his paper. This included the need amending the PSC act and for adequate funding of the PSC as a first step to strengthen its independence, in addition to developing an internal oversight mechanism within the Nigeria Police Force. He urged the Police Service Commission to develop creative ways to achieve national coverage without needing an office at every location within the nation. Such initiatives, he said, could include embedding a staff within the offices of the National Orientation Agency throughout the nation for the purposes of monitoring the activities of the police and receiving feedback and complaints from the public at community levels. Prof Alemika also implored the PSC to make effective use of ICT in discharging its responsibilities and with greater efficiency.

Paper 2

The second paper on “Civilian Oversight in the Context of the Freedom of Information” was presented by Mr Bamidele Aturu, a civil rights lawyer and activist. He said regulatory bodies control the powers and freedoms of other bodies or people, which is in recognition of the propensity for such agencies to overstep their bounds. He then posed the question of whether the Police Service Commission is merely a weak oversight body or even a bureaucratic duplication.

Mr Aturu gave three reasons why the PSC was weak in its oversight of the policing function. First was the power conferred on the President to appoint members of the PSC which is exercised without due consultation with the interests groups that some members of the Commission should represent, such as women’s groups, CSOs, the Nigeria Union of Journalists and others. Affirming that the procedure of appointment needs to be more participatory, Aturu suggested that an amendment of the act would be necessary and should provide that the President consults with all stakeholders that members of the PSC represent. Such stakeholders should also be legally armed with the power to recall members that do not satisfactorily represent them, he added.

A second reason that the paper adduced for the PSC’s weak oversight capabilities was the legal provision for the President to give directives to the

Commission which the latter is compelled to carry out. To remedy this, Mr Bamidele Aturu proposed that the PSC be given the kind of legal independence given to the National Human Rights Commission (NHRC), which does not make them beholden to any person or institution. A third reason he gave was that the PSC lacks financial sufficiency and autonomy as it needs to submit budgets and audited reports to the President. He advised that parliamentary oversight of the PSC in addition to its accountability to the public should suffice.

Paper 3

The third paper was an overview of the tenure of the first Chairman of the PSC when it was reconstituted in November of 2001. Chief Simon Okeke, who presented the paper himself, was the chair of the PSC from 2001 to 2006. He narrated how the Commission operated with absence of office infrastructure even though members were eager to work on the strategic national assignment. The Commission worked with the Nigeria Police Force Headquarters to resolve outstanding and disciplinary issues, and dealt with the first ever strike by officers who had obtained degrees but were yet to be promoted. He described how efforts were made to subvert the achievements of the Commission through malicious newspaper reports. In spite of paucity of funds and these orchestrated attempts to frustrate the works of the PSC, Chief Okeke disclosed that his team put up a 5-year strategic plan that guided its activities, which also helped in forging relationships with CLEEN Foundation and other development partners such as the UNDP, USAID, OSIWA and government agencies.

As his recommendation for the way forward, Chief Okeke advised that the practice of forcing senior officers to resign when a junior ranking officer is appointing Inspector General of Police should be discouraged, forthwith, in order to reduce misgivings within the Force. He advocated the more efforts be put into demilitarising the Police as his set out to achieve in order to reduce the level of distrust between the public and the Police. In his view, “a properly administered and strengthened Police Service Commission would serve as a major catalyst in the effective and efficient administration of the Nigeria Police Force.”

Discussions

In his intervention, a former Secretary of the Police Service Commission, Alhaji Rufai argued that the biggest obstacles to positive change in the Police are the Police. He said they personnel of the Force are not responding with the dynamism of crime and policing needs of society. He argued for greater discipline, transparency and accountability in the Police, particularly in respect of the appointment process. Presenting the Kenyan National Police Service Commission as a model, Alhaji Rufai explained the need for an investigation unit in the Nigerian PSC that is able to investigate allegations of indiscipline either from the Police or from the public, since the PSC is supposed to form a bridge between the two. He proposed that persons of integrity should chair the board of the PSC and that the board should have representations of women's groups, youth groups and those living with disability. He also argued strongly that the chairman of the Commission should not represent any of the security agencies, whether serving or retired.

This intervention formed the main thrust of discussions from which a communiqué was drawn and agreed upon.

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