

STRATEGIES FOR EFFECTIVE OVERSIGHT AND POLICE ACCOUNTABILITY IN NIGERIA

By

Otive Igbuzor, PhD

Hon. Commissioner

Police Service Commission

Abuja, Nigeria

E-mail: otiveigbuzor@yahoo.co.uk

**A PAPER PRESENTED AT THE 2008
RETREAT OF THE POLICE SERVICE
COMMISSION ON UNDERSTANDING THE
MANDATE AND OPERATIONS OF THE
POLICE SERVICE COMMISSION IN THE
CONTEXT OF THE RULE OF LAW HELD
AT MICCOM GOLF HOTELS AND RESORT,
ADA, OSUN STATE FROM 18-20 AUGUST,
2008.**

1. INTRODUCTION

It is well recognised all over the world that peace and security of life and property are the primary conditions for progress and development of any society.ⁱ In line with this, the 1999 Constitution of the Federal Republic of Nigeria provides that the security and welfare of the people shall be the primary purpose of government.ⁱⁱ 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 1999 Nigerian Constitution provides for the establishment of the Nigerian Police Force under section 214. It provides that there shall be a Police Force, and subject to the provisions of the constitution, no other police force shall be established for the country. Section 214 clearly states that:

- (1) There shall be a Police Force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section, no other police force shall be established for the Federation or any part thereof.
- (2) Subject to the provisions of this constitution-
 - a. the Nigeria Police Force shall be organised and administered in accordance with such provisions as may be prescribed by an Act of the National Assembly;
 - b. the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law.

In line with the provisions of the constitution, the powers and duties were conferred on the Police by the enactment of the Police Act (Cap 359) Laws of the Federation of Nigeria which empowers the Police among other things with the duties of:

- a. Prevention and detection of crime;
- b. The preservation of law and order;
- c. Apprehension and prosecution of offenders
- d. Enforcement of all laws
- e. Performance of military duties within or outside Nigeria as may be required by them or under the authority of the act or any other act and
- f. Protection of life and property.

There is no doubt that these are enormous powers and the exercise of these powers will have impact on the quality of life and rights of citizens. The colonial origin of the Nigeria Police Force complicated matters. Scholars have documented the impact of colonialism on the psychology and the use of power by the Nigeria Police. According to Odinkalu,

It is important to appreciate the social and institutional psychology of the personal power and influence created by this context and its consequences for accountable and civil policing. Membership of the Colonial Police Force conferred indescribable power and privilege underpinned by a distinctive uniform. It created in the surrounding population a perception of closeness to the colonial regime, and of power among (and against) the local community. To the “natives” against whom the Police were trained, this was very much unaccountable power. It was easy for the Police personnel that wished to do so, to run a protection or influence peddling racket for a fee or for nothing if they wished. This explains the abuses for which different units of the colonial Police- from constabularies to the Native Authority Police- were famous.ⁱⁱⁱ

Meanwhile, it has been recognised that all over the world, there is the potential for abuse in the exercise of powers by the Police and other law enforcement agencies.^{iv} Therefore, there is the need for the regulation of the work of the police by domestic and international law. Some of the international instruments for regulating the work of law enforcement agencies include the Universal Declaration of Human Rights, the international Covenant on civil and Political Rights and the Covenant Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment and the United Nations Code of Conduct for Law Enforcement Officials. One of the mechanisms that has evolved to regulate police powers is civilian oversight.

In this paper, we discuss the strategies that can be utilised for effective oversight and police accountability in Nigeria. But we will first clarify the key concepts of oversight, accountability and strategy.

2. CONCEPTUAL CLARIFICATIONS:

a. **OVERSIGHT** : The Longman dictionary defines oversight as “be in charge of something.” The concept of oversight denotes supervision, control or overseeing. The need for oversight arises to prevent the abuse of powers.

b. ACCOUNTABILITY

The concept of accountability constitutes one of the foundations of democracy and rule of law. **Accountability** places a responsibility on organisations to acquire the necessary ability to perform; the obligation to provide information, explanations and/or justifications and the necessity to absorb the consequences of unaccountable actions

including disciplinary measures. The UNDP has delineated some principles of accountability.^v We can distinguish between **four forms of accountability: political accountability, administrative accountability, professional accountability and democratic accountability.** Political accountability requires an organisation to act following the political and programmatic provisions adopted by the organization. In practice, these positions are usually encapsulated in the annual budgets. Political accountability involves vertical accountability where officials are supervised and controlled by higher offices in accordance with the institutions' hierarchy; and horizontal accountability which is the accountability of the executive to the legislature in the case of government. Similarly, administrative accountability involves vertical accountability where inferior administrative positions account to superior positions through a wide set of internal mechanisms of control and supervision including inspectorates, audits etc; and horizontal accountability where administrative positions are accountable to citizens and oversight bodies including ombudsman. In addition, administrative accountability involves a full subject of public officials and administrative units to a wide set of constitutional, legal and administrative rules and procedures that govern tightly their performance. Professional accountability refers to the existence of a set of norms and practices of a technical and professional nature that governs the behaviour and performance of members of a certain profession. Democratic accountability is a direct relation between government and civil society where civil society takes active role in ensuring accountability through popular participation, evaluation of government project and activities. In Nigeria, the constitution places a responsibility on the media to hold government accountable.

c. STRATEGY

There is no doubt that strategy is very crucial to the development and performance of any organization. Strategy occupies a central position in the focus and proper functioning of any organization. This is because it is a plan that integrates a nation's major goals, policies and action into a cohesive whole. A well formulated strategy should therefore help to marshal and allocate the nation's resources into a unique and viable posture based on its relative internal competencies and shortcomings, anticipated changes in the environment, and contingent moves by other organizations.

3. CIVILIAN OVERSIGHT OF POLICING

Civilian oversight involves people from outside the police taking a role in calling the Police to account for their actions, policies and organization.^{vi} Reviewing the literature on civilian oversight, Joel Miller points out that civilian oversight of the police are in three key areas: complaints, misconduct and broader police policy.^{vii}

It is important to point out that civilian oversight of police has been supported or opposed by scholars and interested parties to policing. Those who support civilian oversight argue that the problems of complaints, misconduct and police policy are more effectively dealt with when there is civilian oversight. They are of the view that police authorities may not be very keen about investigating and punishing misconduct among their officers and are therefore likely to dismiss complaints without adequate investigation in the spirit of *es spirit de corps*. They contend that there is more thorough investigation and disciplinary measure put in place with civilian oversight. This is particularly so if the police internal systems are weak or compromised. Furthermore, supporters of civilian oversight point out that the process itself increases the confidence of the citizens on the Police. This is of great importance in a country where faith on public institutions including the Police is very low. Finally, supporters argue that civilian oversight is an avenue for policing to become responsive to citizens especially in terms of response to their complaints. Those who oppose civilian oversight normally advance three sets of reasons.^{viii} First, they argue that civilian oversight undermines their authority and confidence of their subordinate. Second, they fear that citizens may use civilian oversight bodies as platform for vendetta, revenge for arrest and prosecution. Finally, they fear that non-police citizens who do not understand the peculiarities of police work, especially the ubiquity of danger, will sit in judgment over their conduct and actions.

As noted above, civilian oversight involves calling the Police to account for their actions, policies and organisations. It has become a settled matter that civilian oversight is a necessity for effective policing. There are many ways this has been done in other countries. In many countries, the commissions have oversights of complaints against the police. In some instances, they engage in **direct investigation** e.g. Northern Ireland. In some countries, they only select some cases as in South Africa. In others, they only carry out a review and audit of the complaints as in California in US. In other countries, Police Service Commissions engage in **proactive approach to police misconduct** where they identify and resolve systemic problems within police organisations-policies, management,

supervision and training. Finally, in some countries, the Commissions do **oversight of broader police policy** including approving annual plans and budget and setting police priorities as in England and Wales. There are different models to implement the oversight: an external agency can investigate the complaints; the police department can investigate the complaints while the commission reviews or the police department investigates and disposes with appeal to the Commission. In Nigeria, there has been a debate on whether the commission should engage in direct investigation or not. Essentially, the commission reviews decisions of the NPF, receive complaints from the public and engages in proactive approach to police misconduct. The instrumentality of civilian oversight on the Police in Nigeria is the Police Service Commission (PSC).

From reviews of various civilian oversight bodies in different parts of the world, scholars have delineated ten principles required to make them effective.^{ix} The principles are:

- I. Independence: the power to conduct hearings, subpoena witnesses and report findings and recommendations to the public.
- II. Investigatory powers: The authority to independently investigate incidents and issue findings on complaints.
- III. Mandatory Police cooperation: Complete access to police witnesses and documents through legal mandate or subpoena.
- IV. Adequate funding: Should not be a lower budget priority than police internal affairs.
- V. Hearings: Essential for solving credibility questions and enhancing public confidence in the process.
- VI. Reflect Community diversity: Board and staff should be broadly representative of the community it serves.
- VII. Police recommendation: Civilian oversight can spot problem policies and provide a forum for developing reforms.
- VIII. Statistical analysis: Public statistical reports can detail trends in allegations, and early warning systems can identify officers who are subjects of unusually numerous complaints.
- IX. Separate offices: Should be housed away from police headquarters to maintain independence and credibility with public.
- X. Disciplinary role: Board findings should be considered in determining appropriate disciplinary action.

Scholars have identified the factors that can help or hinder the work and effectiveness of civilian oversight of Policing.^x These factors include:

1. **Political Support:** On going political support is very necessary for effective functioning of civilian oversight. In Nigeria for instance, the work of the Police Service Commission was hampered by lack of political support and adherence to the rule of law.
2. **Police Co-operation:** It has been documented that hostility by police departments and police officers to civilian oversight is probably one of the most significant factors that helps explain the failures and underperformance that have afflicted oversight agencies.^{xi} It is very clear that effective oversight requires a reasonable working relationship between the oversight agency and Police departments because the work of handling complaints, handling human resource management and broader policy issues cannot be done by oversight agencies without police co-operation.
3. **Activist Support:** The work of policing requires support from citizens. Human rights organisations can play important role in the development of civilian oversight. It is in recognition of this that a representative of human rights organisation is a member of the Police Service Commission in Nigeria.
4. **Resources:** Civilian oversight bodies need human and financial resources to carry out their mandate. Lack of resources can undermine the effectiveness of oversight bodies.
5. **Management and Leadership:** Effective management and leadership is necessary for effectiveness of oversight bodies. This is necessary to ensure that the body follows due process and handles complaints, disciplinary and other functions timeously.
6. **Public Attitudes:** Public attitudes including the media can have impact on the work of oversight bodies. The public want to see that high profile cases are dealt with justly and that the body is independent.

4. POLICE ACCOUNTABILITY IN NIGERIA

As noted above, 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. There is always the challenge of “guarding the guardian” or “policing the police.” As a result, different countries have put in place several mechanisms to hold the police accountable. These include among other things constitutional guarantee of fundamental rights which serves as a limitation on the exercise of police power; statutory provisions on procedures for policing and law enforcement; civilian oversight body; judicial system and special investigation commissions.

In Nigeria, the police has been severely criticised for extra-judicial killing, rape, corruption, brutality, torture and hostility towards members of the public. But there are several institutions in the police sector in Nigeria meant to ensure police accountability. These include the National Assembly, the Nigeria Police Council and Ministry of Interior, the Police Service Commission and Nigeria Police Force. The National Assembly has the responsibility of making laws for the effective organisation and administration of police and policing including oversight functions.^{xii} The Nigeria Police Council as provided for in the 1999 Constitution is responsible for the organisation and administration of the Nigeria Police Force, general supervision and advising the President on the appointment of the Inspector General of Police. Some of the responsibilities of the Police Council has been delegated to the Ministry of Interior including payment of salary and pension, provision of logistics and equipment to the Police etc. The Police Service Commission is responsible for appointing and promoting all officials of the Nigeria Police Force (other than the IGP), dismissing and exercising disciplinary control over these officials, formulating policies and guidelines for its work, identifying factors inhibiting and undermining discipline within the NPF and formulating and implementing policies aimed at efficiency and discipline with the force among other functions. Finally, the Nigeria Police Force in its internal mechanisms is expected to build in accountability mechanism. The provisions of Police Act, Police Regulations and code of Police Conduct is meant to enhance police accountability. Although all of these institutions exist to enhance oversight and police accountability in Nigeria, they are weak, ineffective and uncoordinated.^{xiii} There is therefore the need for strategies for effective oversight and police accountability in Nigeria.

5. STRATEGIES FOR EFFECTIVE OVERSIGHT AND POLICE ACCOUNTABILITY

Although there are agencies responsible for oversight and Police accountability in Nigeria, these institutions have not been effective. Many of the agencies lack the resources to carry out their responsibilities. In addition, there seems to be confusion on the roles and responsibilities of the different agencies even though they are clearly stated in the laws establishing them. Furthermore, many of the agencies lack concrete strategies and plans to carry out the responsibilities assigned to them. In addition, there is poor co-ordination and synergy between the different roles and there are no evaluation framework to measure progress. Therefore, for effective oversight and police accountability in Nigeria, the following strategic actions are proposed:

- a. Strengthening of the institutions for oversight in terms of human resources, capacity building and funding.
- b. Clarification and understanding of roles of the various institutions and agencies.
- c. Formulation of strategies for each of the agencies
- d. Translation of the strategies into costed workplans, programmes and projects
- e. Creation of a Forum for all the agencies to share and learn
- f. Institution of a monitoring and evaluation framework with milestones to monitor progress.

6. ROADMAP BY POLICE SERVICE COMMISSION

As noted above, the centrality of security in the development of the nation cannot be overemphasized. The poor state of the NPF in providing and guaranteeing security of Nigerians is well known. In the 48 years of Nigeria's post independent existence, the oversight body meant to ensure proper functioning of the NPF (the Police Service Commission) did not operate for 30 years of military rule. The Yar'Adua administration recently reconstituted the Police Service Commission with a mandate to reform the NPF.

The mandate of the Commission is very clear:

- Appointing and promoting all officials of the NPF (other than the IGP)
- Dismissing and exercising disciplinary control over the same persons
- Formulating policies and guidelines for the appointment, promotion, discipline and dismissal of officers of the NPF,

- Identifying factors inhibiting and undermining discipline in the NPF,
- Formulating and implementing policies aimed at efficiency and discipline within the NPF
- Performing such other functions as, in the opinion of the commission are required to ensure optimal efficiency in the NPF, and
- Carrying out such other functions as the President may from time to time direct.

The Commission is now being repositioned to carry out its mandate and reform the police. In its inaugural meeting in May, the commission set in motion the principles that will guide its operation. These principles include among others to:

- a. Uphold the rule of law and follow due process, justice, equity in all its dealings and deliberations in line with the seven point agenda of the Yar' Adua administration.
- b. Ensure that the conduct of Police operations, respect and right of citizens.
- c. Protect integrity and merit in the Nigeria Police Force by ensuring that appointments and promotions are based on seniority, merit, and equity, and that appointments, promotions and disciplinary processes are clearly defined, fair and transparent.
- d. Work with and assist the Inspector General of Police to maintain discipline and high ethical standards within the Force.

In addition, the Commission has set up the following Standing Committees:

1. Finance and General Purpose
2. Appointment and Promotion
3. Discipline
4. Public Complaints
5. Legal matters

It has also set up two ad hoc committees on:

1. Review of promotions
2. Strategy (Vision and Mission)

The Strategy (Vision and Mission) committee has put in place a process to put in place a five year strategy to reform the police. The signposts of the process include:

- a. Review of the Commission: Contextual analysis, SWOT analysis, strategic direction and organisational implications
- b. Validation of the review with input from stakeholders
- c. Retreat by the Commission on Understanding the mandate and operations of the Police Service Commission in the context of the rule of law.

But in the interim, it has adopted a three pronged strategy to reposition the police in the short term:

1. **Repositioning of the Commission, Secretariat and Staff:** The Police Service Commission is responsible for the appointment, promotion and discipline in the Nigeria Police Force. The commission is being repositioned in terms of its capacity, competence, capability, culture, creativity and control to deliver its mandate. Specifically,
 - The structure and staff of the commission are being reorganised for effective performance
 - the Commission has put in place a mechanism in place to clear the backlog of disciplinary cases and promotions within the Police Force
 - the internal and external communication system of the commission is being reinvigorated
2. **Oversight of the Nigeria Police Force:** The Nigeria Police Force has not only failed to provide security to Nigeria but has constituted itself into a force that oppresses citizens. In addition, the Police Force has poor internal management. The Police Service Commission as an oversight body has a responsibility in calling the Police to account for their actions, policies and organisation. Specifically,
 - The Commission has put in place a system to ensure a proper liaison between the commission and the Nigeria Police Force.
 - A system of appointment and promotion has been put in place. Subsequently, every promotion in the force will be preceded by prescribed courses and examinations.

- The Disciplinary committee of the Police Service Commission has been reactivated and all cases of discipline will be discharged justly, fairly and on time.
 - The commission will ensure the reactivation and proper functioning of internal control system and disciplinary system of the NPF. The Commission will put in place a system to ensure implementation of police regulations, Force orders, Force Administrative instructions etc
 - Embark on re-orientation of the Police to demonstrate a high sense of social responsibility and respect for the rights of citizens when dealing with them.
3. **Response to Public Complaints and Issues:** One of the main challenges is the acts of injustices perpetuated by the Police on the Nigerian public manifested in unlawful arrest, illegal detention, extortion and abuse of human rights. This has led to erosion of public trust and lack of co-operation for the Police. The Commission has put in place a mechanism to ensure Police Accountability and ensure that members of the public are treated with respect, decorum and in accordance with the rule of law. In this respect the following has been put in place:
- The Public Complaints branch will be reactivated with functional e-mail system and hot lines. All cases of complaints will be dealt with expeditiously.
 - Any Police Officer found guilty of acts of injustice against members of the public will be disciplined according to the prescribed rules and regulations and those of criminal nature will be prosecuted.

7. CONCLUSION AND THE WAY FORWARD

Every nation of the world desires to develop and improve the standard of living of its citizens. This is impossible without a conducive atmosphere of peace and security of life and property. The Police is the principal agency charged with the responsibility internal peace and security of nations. This responsibility goes with enormous powers. Historically, the exercise of these powers by the Police has affected the freedom and rights of citizens. Consequently, mechanisms have been put in place all over the world to call police to account for their actions, policies and organisation.

Although there are those who support and oppose civilian oversight of policing, it has been recognised all over the world that civilian oversight is a necessity for effective

policing. However, the way it operates differ from country to country. Meanwhile, scholars have delineated the principles required to make civilian oversight bodies to be effective. These include independence, investigatory powers, mandatory police co-operation, adequate funding, hearings, community diversity, police recommendation, statistical analysis, separate offices and disciplinary role. Similarly, the factors that can help the work and effectiveness of civilian oversight of policing include political support, police co-operation, activist support, resources, management and leadership and public attitudes.

In Nigeria, the police has been severely criticised for extra-judicial killing, rape, corruption, brutality, torture and hostility towards members of the public. However, there are several institutions in the police sector in Nigeria meant to ensure police accountability. These include the National Assembly, the Nigeria Police Council and Ministry of Interior, the Police Service Commission and Nigeria Police Force. But these institutions are weak, ineffective and unco-ordinated. There is therefore the need to adopt strategies for effective oversight and police accountability. The strategies we propose include strengthening of the institutions for oversight in terms of human resources, capacity building and funding; clarification and understanding of roles of the various institutions and agencies; formulation of strategies for each of the agencies; translation of the strategies into costed workplans, programmes and projects; creation of a Forum for all the agencies to share and learn and institution of a monitoring and evaluation framework with milestones to monitor progress.

Interestingly, the Police Service Commission has developed a roadmap for effective oversight including a three pronged strategy of re-positioning the commission; having effective oversight and responding to public complaints and issues. Meanwhile, it has been argued that civilian oversight bodies have worked well in societies where there are synergy of efforts between the oversight bodies and the police internal disciplinary systems. There is therefore the need for the creation of a forum for all agencies with responsibility for police oversight and accountability to share ideas, learn from each other and co-ordinate their actions. We are confident that if these measure are put in place, then the NPF will be repositioned to provide security of life and property and contribute to Nigeria's development.

ENDNOTES

ⁱ Arase, S. E. And Iwuofor, I. P. O. (2007), *Policing Nigeria in the 21st Century*. Ibadan, Spectrum Books Limited.

ⁱⁱ Constitution of the Federal Republic of Nigeria 1999

ⁱⁱⁱ Odinkalu, C. A. (2004), "Changing Roles of Civil Society in Promoting Safety and Security in Nigeria" in Alemika, E. O. And Chukwuma, I. C. (Eds), *Crime and Policing in Nigeria: Challenges and Options*. Lagos, Network on Police Reform in Nigeria.

^{iv} Olujimi, A. (2004), Keynote Address delivered at the Workshop on Civilian-Police Public Access Procedure organised by the Police Service Commission in collaboration with the Open Society Justice Initiative (OSJI), the Vera Institute and the Centre for Law Enforcement Education (CLEEN) held from 24-27 September, 2003.

^v The UNDP has delineated eight principles of accountability including Budgetary processes; audited accounts; loans; contract management; financial regulations; disclosure to parliament; auditor General/Ombudsman and central bank functions. (www.undp.org.org/fj/gold/eight_principles.htm)

^{vi} Miller, J. (2004), "Civilian Oversight of Policing: Lessons from the Literature" in Alemika, E. E. O. And Chukwuma, I. C. (Eds), *Civilian Oversight and Accountability of Police in Nigeria*. Lagos, Centre for Law Enforcement Education (CLEEN).

^{vii} Miller, *ibid*

^{viii} Alemika, E. E. O. (2004), "Police Accountability in Nigeria: Framework and Limitations" in Alemika, E. E. O. And Chukwuma, I. C. (Eds)

^{ix} Chukwuma, I. (2001), *Guarding the Guardian in Nigeria* in *Law Enforcement Review*, A Quarterly Magazine of the Centre for Law Enforcement Education (CLEEN), June, 2001

^x Miller, J.

^{xi} *Ibid*

^{xii} Constitution of the Federal Republic of Nigeria 1999

^{xiii} Alemika, E. E. O. (2004), "Police Accountability in Nigeria: Framework and Limitations" in Alemika, E. E. O. and Chukwuma, I. C. (Eds),