

**CONTRIBUTION OF THE INDEPENDENT POLICING OVERSIGHT AUTHORITY
TO POLICE ACCOUNTABILITY IN KENYA**

BY

OBONG'O, WILSON ODIDA

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF MASTER OF RESEARCH AND PUBLIC POLICY**

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DECLARATION

I declare that this research is my original work and has never been presented for the award of a degree in any other institution of higher learning or for any other award. The research has been complemented by referenced sources duly acknowledged.

Sign: Date:

Obong’o, Wilson Odida

MA/DS/00068/021

UNIVERSITY SUPERVISORS

This work has been submitted with our approval as University Supervisors.

Sign: Date:

Dr. Calvince Omondi Barrack, Ph.D

School of Development and Strategic Studies,

Maseno University

Sign: Date:

Dr. Thomas Otieno Juma, Ph.D

School of Humanities and Social Science,

University of Kabianga

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My final gratitude goes to the Almighty God for shepherding me through this academic journey and instilling in me the spirit of determination and perseverance.

DEDICATION

This work is dedicated to: my parents, Peter D.O Makambogo and Lucy Atieno Mbogo, who amidst all the challenges of life, prioritized my education thereby securing me a good foundation and encouraging me to steadily build on it; my wife, Vivian Achieng' Odhiambo and daughter Caisley Geno for their unwavering support, encouragements and prayers during this fulfilling pursuit; upcoming scholars, the pursuit of knowledge knows no horizon and finally to all victims of police misconducts, may justice be your shield and defender.

ABSTRACT

This study focused on the contribution of the Independent Policing Oversight Authority to police accountability in Kenya. It thus established that the National Police Service (NPS) is an important factor in the security sector of Kenya, it serves to; detect and prevent crime, maintain public order, investigate, crimes, and support the criminal justice system. To effectively discharge such duties, the police are legally endowed with the powers to arrest, detain, and use force. This monopolistic privilege to use force has been subject to numerous cases of abuse such as violently crushing demonstrations thereby leading to the deaths of citizens; thus calling for the need for an oversight body to ensure responsibility in the use of police powers. Kenya in a view to reform its police service established the Independent Police Oversight Authority (IPOA) in 2011 to help in promoting police accountability. Notwithstanding the existence of IPOA, complaints of Police misconduct have continued to rise, thus creating a contention as to whether the IPOA is really achieving its founding objectives. The study's overall objective was to evaluate the contribution of IPOA to police accountability in Kenya with the specific objectives being to: assess IPOA's complaint handling mechanism; evaluate IPOA's investigative capacity and examine the challenges IPOA faces in attempts to hold Police accountable for their actions. The study employed the use of Institutional theory to understand how IPOA interacts with the Police as an institution influencing institutional behavior. Similarly, the study adopted a mixed-method design incorporating the use of both quantitative and qualitative approaches for primary data collection. Fisher et al., (1998) formula was employed to arrive at the study's sample size which upon data collection and coding yielded 322 respondents drawn from IPOA, NPS, victims of Police misconducts, and actors within the criminal justice system; four categories of key informants interviews and Focused Group Discussions were employed for qualitative data collection while quantitative data was collected through questionnaires. Qualitative data was thematically analyzed thus generating themes around the three specific objectives whereas quantitative data was analyzed by way of simple descriptive statistics represented in histograms and percentages with the aid of Statistical Packages for Social Science (SPSS). The study established that IPOA's complaints handling mechanism had positively contributed to reporting of complaints of police misconducts thus fostering police accountability in Kenya, that IPOA's investigative capacity is aligned to the responsibilities bestowed on them as custodians of public interest in policing though not sufficiently staffed and finally that IPOA operates in a difficult environment. In conclusion, the study established that IPOA had a positive impact on police accountability in Kenya. The study made recommendations aimed at enhancing IPOA's capacity to uphold police accountability in Kenya. In conclusion, the study made suggestions for further research in the field of policing such as a comparative study of police accountability in Kenya and other countries with similar oversight initiatives.

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LIST OF ACRONYMS AND ABBREVIATIONS

ADR	:	Alternative Dispute Resolution
APS	:	Administration Police Service
CHM	:	Complaints Handling Mechanism
CIPEV	:	Commission of Inquiry on Post-Election Violence
DCI	:	Directorate of Criminal Investigations
DNA	:	Deoxyribonucleic acid
DOJ	:	Department Of Justice
EACC	:	Ethic and Anti-Corruption Commission
FY	:	Financial Year
H.E	:	His Excellency
IAU	:	Internal Affairs Unit
I.B.E.A	:	Imperial British East Africa
ICPNI	:	Independent Commission on Policing for Northern Ireland
IPID	:	Independent Police Investigative Directorate
IPOA	:	Independent Policing Oversight Authority
KACC	:	Kenya Anti-Corruption Commission
KNCHR	:	Kenya National Commission on Human Rights
KPS	:	Kenya Police Service
NACOLE	:	National Association for Civilian Oversight of Law Enforcement
NPS	:	National Police Service
NPSC	:	National Police Service Commission

OCS	:	Officer Commanding Station
ODP	:	Open Door Policy
ODPP	:	Office of the Director of Public Prosecutions
OMII	:	Own Motion Institution of Inquiries
PCB	:	Police Complaints Board
SAPS	:	South African Police Service
SCPC	:	Sub County Police Commander
SSU	:	Special Services Unit
UPF	:	Uganda Police Force
USA	:	United States of America
WPA	:	Witness Protection Agency

OPERATIONAL DEFINITION OF TERMS

Blue code of silence: A universally rooted unwritten rule among police officers of refusal to give incriminating information against another police officer(s) under probe for police misconduct(s).

Blue wall: A noncooperation proclivity of sworn law enforcement officers to impede investigations into cases of Police misconducts by not only exercising the blue code of silence but also intimidating any of their colleague exhibiting goodwill to remain honest and truthful to the probe.

Crime: A proscribed act of breach of law(s) regulating social order within a given geographical set-up.

Independent Policing Oversight Authority: The civilian body in Kenya established through an act of parliament to oversight the National Police Service.

National Police Service: The legally constituted body in Kenya of trained personnel charged with the task of detecting and deterring crime, maintaining law and order, and apprehending suspected criminals for criminal justice processing.

Police accountability: Internal and external regulatory mechanisms put in place to ensure police officers exercise prudence and responsibility in performance of policing functions and failure to adhere attracts sanctions.

Police integrity: The ethical code of conduct expected of police officers in the performance their duties thereby acting as guardrails barring them from abusing powers and privileges bestowed on them as police officers.

Police misconduct: Use of inhumane and disproportionate force by police officer(s) against those they police resulting into violation of their civil liberties.

Policing: The act of enforcing laws or regulation by a legal entity with the goal of maintaining law and order, apprehending law breakers for criminal justice processing and deterring commission of acts which may amount to disorder.

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CHAPTER ONE

INTRODUCTION

1.1 Background of Study

This chapter highlights the background of the study, statement of the problem informing the research, study objectives, research questions, significance and scope of the research, theoretical framework guiding the study, conceptual framework underpinning the study and the chapter conclusion which reflects on the need for this research.

Policing is characterized with legal competence to deploy coercive force in resolving problematic situations likely to cause harm (Bittner, 1970). Therefore, policing entails the preservation of public order and security, law enforcement, detection, prevention and investigation of criminal activities. These functions, thus, bequeath Police with powers to undertake activities that promote security within the communities. To effectively perform the policing duties, the Police are equipped with powers to arrest, detain and deploy use of force in ensuring that security prevails at all times. The power to use force is only bequeathed to the Police hence they enjoy a monopoly in the use of force within the nation-state's jurisdiction. Subsequently, the enjoyment of the monopoly on the use of force has more often than not been subjected to abuse by the Police. The police oversight authorities are therefore critical in ensuring that the Police do not misuse their power in executing their key mandate. Thus, making a case for police accountability in the use of its power. Accountability arises when law enforcement officers and their department are held responsible for efficacy in service delivery to the policed community, while handling members of the public fairly, with dignity, and within the confines of law dictating their work (Walker and Archbold, 2020). The propensity of police officers to commit either on-or-off duty crimes is generally high because of their belief that their standing as sworn law enforcement officers accords them some level of immunity from standing criminal trials (Reiss, 1971; Stinson et al., 2014).

However, the Police are also obligated to be effective in the discharge of their functions. For instance, it has been posited that the confidence in the Police by the public always fade when they are perceived as ineffective or unfair in discharging their mandate in tendering crime (Murphy et al., 2008). Thus, the Police must be able to discharge their functions effectively while remaining accountable. This demands that the Police be bequeathed with some autonomy

in the discharge of its functions. Therefore, it has been posited that Police require independent professional judgment while responding to situations to enhance objectivity and non-arbitrary discretionary decision making in the use of police power. Subsequently, police leadership require some degree of sufficient autonomy on how to respond to questions of law and order informed by their professional expertise and intelligence on a case to case basis. This is critical in enabling them to be held accountable to their actions based on their operational independence.

Operational independence on the part of the Police demands that each and every police officer, irrespective of the rank deploys his or her discretionary powers in evaluating situations and taking the most appropriate action. The need to judge each and every case based on its merit against particular deviant behavior gives credence to the need for operational independence. Thus, police officers characteristically have some room to exercise choice when deploying police powers, with the authority to make decisions on such matters as to what level of force to employ and whether to effect arrests or searches. It is observed that the operational independence of the police demands that they “take blame for their choices and actions, accepting liability for their actions and/or inactions when required, and to demonstrate full transparency in decisions and openness to external scrutiny” (ICPNI, 1999).

The openness to external scrutiny enhances police accountability which in turn helps to restore and enhance public trust in the Police as well as accords police the legitimacy that they need for effective performance of their functions. To achieve police accountability in the presence of operational independence, civilian oversight mechanisms have often been put in place. Subsequently, it is opined that “accepting external, civilian scrutiny is a hallmark of a democratic police force, that is, one that is responsive and accountable to the needs of the public” (Burack et al., 1997). The civilian oversight body points to community involvement in the affairs of the police and the latter’s willingness to be open to scrutiny hence being held accountable. This willingness has got positive implication on perception which is critical for legitimacy of police actions. The civilian oversight needs to have the powers and capacity to hold the police accountable in augmenting police legitimacy in the face of the public.

The National Police Service of Kenya (NPS) which comprises of the Kenya Police Service (KPS) and Administration Police Service (APS), is the agency established and mandated by the

constitution of Kenya, 2010 to primarily perform policing duties. The origin of policing in Kenya is traceable to the colonial businessman Sir William McKinnon and the Imperial British East Africa (I.B.E.A) who in 1987, set up policing units along the Kenyan Coastline to offer protection to the businesses along the Kenyan Coastline, (Kenya Police Service, 2003). Further, the construction of Kenya - Uganda railway line necessitated the need for more police officers to offer protection to the railway workers and the railway line, subsequently through Police Ordinance of 1906, Kenya Police Force was by law recognized.

Pegged on its colonial roots, policing in Kenya has faced several challenges when it comes to accountability to the public. Mukaria (2018) avers that the colonial police force relied on brute force to achieve its objectives, this continued to the post-colonial epoch with Police being in service of the most powerful class. Transformation efforts however, have been implemented with NPS currently striving to live up-to its ambitious motto "*utumishi kwa wote*" translated to mean service to all. History has documented the period between 1978 and 2002 as "*the dark Moi days*", during this period; the president of Kenya, H.E Daniel Moi having promised to follow the footsteps of his predecessor, H.E Jomo Kenyatta (Fuata Nyayo) inculcated the culture of police brutality and impunity within the Kenya Police Force. The dark Moi days were characterized with detention without trial, tortures, and assassinations, violent crushing of demonstrations among other Police misconducts,(Osiro, 2016).

With the setting in of police reforms, policing work in Kenya is currently guided by legal frameworks such as the NPS Act, 2011,National Police Service Standing Orders and International and regional conventions. The frameworks seek to transform the police force into police service through several reform mechanisms put in place. At the heart of all the reform process, is the need to make the police more accountable especially to the public on how they deploy the use of force. Police accountability in essence seeks to ensure that Police do not misuse their powers, bars political entities from undue influence over the police and build public confidence in the police. Police accountability is particularly important given the several scandals that police have been able to engage in the last four decades ranging from gross human rights violations, existence of killer squads within the Police, excessive use of force against the policed and corruption dealings that have led to public uproar, (Awino, 2018).

For instance, in 1994, the Mollen Commission was formed in the United States of America (USA) to investigate the runaway corruption within the New York Police department. The commission in its final report posited that the rise in criminality in New York in the 1980s which thus called for enhancement of the police establishment in terms of human resource capacity was accompanied by unimagined systemic failure as the recruits' background checks was not convincingly conducted thus being a conducive breeding-ground for police misconducts. The commission further established that about 20% of the law enforcement officers admitted to the police service were unfit for police work, (Dolan, 2019). Other than corruption, Police departments in the USA have been accused of using excessive force on those they police. Excessive force implies application of force outside that which a rational and prudent law enforcement officer would deploy in that very situations, (USLegal, 2014); more often than not, resulting in deaths. In Los Angeles, police officers were tried after the beating of African American Rodney King and as if that was not enough, in 2020, the world was treated to a shock when George Floyd was murdered by a police officer in Minneapolis, Minnesota in the USA, an incident that led to street protests in Minnesota and other cities in the USA against unending Police misconducts in the USA. Acts seen by many as just but a tip of the iceberg of the atrocities committed by the Police especially against the African Americans in the United States. This then points to the existences of widespread atrocities in developing countries where police accountability mechanisms are weak.

In Africa, on 9th April 2008, the South Africa's deputy minister for Safety and Security made a statement encouraging the Police not to worry about regulatory measures put in place to enhance police accountability and instead kill suspected criminals, (De Vos, 2013). Such statements especially from high profile leadership in the ministry responsible for security, embolden criminal elements within the Police thus reversing the gains made in transforming the South African Police Service (SAPS) from the Apartheid regime police force to post-apartheid era police service. On that wavelength, on 26th February 2013, a taxi driver namely Mido Macia was accosted by SAPS officers for causing obstruction on East Rand road near Daveyton. A fight ensued between Mido and arresting police officers, eventually Mido was subdued, arrested and handcuffed before being chained to the rear of the police vehicle which then sped off dragging Mido on the road to Daveyton Police Station where he bled to death, (Casert, 2013). This

happening despite the existence of Independent Police Investigative Directorate (IPID) which is the mandated body in South Africa to oversight the South African Police Services (SAPS).

In Egypt, for decades the police force was brutish and unaccountable thus donning a tattered relationship with the policed community. The Police profiled youths as potential criminals thereby baptizing them “*baltagiyya*”. *Baltagiyya* refers to young unemployed poor illiterate thugs mostly slum dwellers (Tadros, 1999). In that backdrop most interactions between the police and the youth was often not cordial, in several instances the Egyptian police force was accused of violence, torture of detainees to death and police shootings against demonstrators (Ismail, 2006). Such ugly experiences in the hands of the Police birthed hatred, anger, disdain and revolt towards the Police and on 25th January, 2011 during the National Police Day – day for commemorating police resistance to British rule in Egypt, the public staged street protests against the Police in Cairo dubbed “*We are all Khaled Said*” to express their displeasure with Police practices in Egypt. As a result of the street protests 99 police stations were stormed and burned down, detention facilities raided and prisoners set free and the President H.E Hosni Mubarak forced to resign due to the demonstrations which spread across Egypt. Khaled Said was in June 2010, plucked from a cyber café by plain cloth police officers and brutalized to death. In a similar incident, police officers on night patrol arrested Ayman at his house for looking at the police and subsequently charged for being in possession of drugs (Ismail, 2006). Such trumped up charges especially on drug possession are not only common within Egypt police force but a usual practice in nearly all police departments world-over.

Fast-forwards, in 2010 Transparency International; through a Corruption Perceptions survey, listed Kenya amongst the most corrupt countries in the world with an indication that 54.4% of those who sought police services’ paid bribes for the police to act on their complaints, (Transparency Intentional Corruption Perception Index, 2010), a similar survey conducted in 2017 positioned the National Police Service as the most corrupt state department in Kenya at 68.7% (Transparency International, 2017). Abbink et al., (2020) in affirming the above findings stated that corrupt police officers resort to obtaining bribes as a substitute for fines for law infractions. The NPS has not only been labelled as corrupt in its dealings with the public but also brutish. In 2021, police officers enforcing government curfew orders were accused of killing two “Kianjokoma brothers” namely Benson Ndwiga and Emmanuel Ndwiga in Embu County, Kenya

thereby sparking street protest in demand for police accountability. Accountability demands that law enforcement officers discharge their duties in compliance with the laws of the land and human rights standards. Generally, there is thus a burning urge by the public to callout the Police for their misconducts hence necessitating police accountability mechanisms with the focus of professionalizing the Police and helping in deescalating such popular anger from an aggrieved public.

Evidently, these Police misconducts have led to both police reforms in attempts to rebuild the public's confidence in Police and in enhancing police accountability. Subsequently, there have been measures to help in the restructuring of police accountability mechanisms in ensuring that Police is provided with external scrutiny of their functions. The accountability measures have focused on provision of guidance for the Police on what they should do before acting in a situation, the presence of supervision and awareness during the act and remedying the inappropriate police actions and omissions after the act, (Call, 2003). Similarly, there is need for the involvement of multiple actors and institutions that would help to scrutinize police behavior on behalf of different stakeholders. Thus, the establishment of police boards, commissions, independent authorities and complaint mechanisms as watchdogs over police actions. The independent bodies that are meant to provide watchdog activities to the Police are expected to perform their functions effectively without interference according to article 36 of the United Nations Convention against Corruption. This would accord such bodies the discretion to undertake their duties without undue influence from the ministry or other state agencies. It is observed that some independent police oversight bodies are placed within the police act, which threatens to undermine their independence (Ismail, 2009). Similarly, the funding system for the oversight bodies needs to be separate from that of the Police to ensure that the Police do not use budget bargains against the oversight bodies. To enhance effectiveness of the oversight bodies' recruitment of the staff of the oversight bodies needs to follow the principles of meritocracy and reflect the diversity in the society. This would be critical in enhancing the investigation capacity of the oversight body since the competency of the individual staff members would reflect on the quality of investigations that they would carry out.

Similarly, in order to enhance the investigation capacity of the oversight bodies, the staff and the commissioners must have an in-depth understanding of policing and police functions to enable

them develop realistic expectations and to avoid undue sympathy for the Police which may lead to partiality in the conduct of their functions especially between a police officer and a complainant. This is based on the different roles played by independent police oversight and complaints bodies which includes receiving, investigating and recording complaints. Some monitor performance of the police while others address issues of policy guidance for police deployment and operations with some focusing on personnel issues or detention by the police or a combination of all the functions.

The mandates always fall within five different categories which include: 1. Complaints handling; 2. General oversight: operational and policy compliance evaluation; 3. Direction-setting: policy input and priority-setting; 4. Human resource issues- “hiring and firing” and 5. Oversight over confinement facilities”. Police accountability therefore, always depend on how effective the oversight bodies are in executing their mandates. The oversight bodies whose roles are narrowed down to handling of complaints always adopt different models in the execution of their functions. For instance, some adopt the Investigative and quality assurance models whereas some adopt review and appellate models with the former engaging in first hand inquiry into misconduct while the latter deals with concluded investigations based on the manner in which such matters of misconduct have been dealt with. There is also the evaluative and performance model whose core interest is to identify patterns and practices of police misconduct and systemic failures to deal with them. There is also the mixed model which involves the combination of the above models to ensure that Police misconducts are effectively handled in promoting police accountability and integrity (Mehta, 2009).

It is argued that despite the model employed, independent oversight bodies as a matter of principle must “probe all deaths and serious injuries sustained within police facilities or resultant from police action; debatably, any use of fatal force must always be investigated independently” (Hopkins, 2009). Police brutality and misuse of firearms therefore, is at the heart of the mandates of the oversight authorities. In Africa and Kenya in particularly, police brutality has been an enduring feature as the police have been under the control of the ruling regimes. This has been depicted as a colonial legacy since the British used the colonial police “to guard the interests of the government – not to serve the interests of the citizenry” (Kivoi, 2022). It is observed that the misuse police power has often not only been commonplace during arrests but also when the

Police are called in to stop demonstrations. Such brute force by the police has many at times led to the loss of many lives and left many others maimed for life. The Commission of Inquiry on Post-Election Violence (CIPEV) indicted the police for their action and in-action during and after the post-election violence that took place in 2007/08. The police were largely blamed in this violence that led to the death of over 1,133 people and caused injuries to over 3,561 people across Kenya. The above report recommended that the grand-coalition government formed after the post-election violence prioritizes police reforms that would ensure that Kenya had a professional police service that would be more accountable and that which would enjoy police integrity.

The dream to have a professional police service was birthed through the Constitution of Kenya, 2010 that outlines the functions of a National Police Service in Article 244 (Constitution of Kenya, 2010). High expectation was placed on the service in taming corruption and holding higher standards of transparency and accountability (Kivoi, 2022). The police reforms that followed led to the merging of the two separate units that existed during the post-election into one formation to promote unity of command. This led to the establishment of the office of the Inspector general of Police who would head all the police service. Some gaps are still apparent despite the fact that the chain of command may be clearer, some of the specialized units and departments are not well identified by the public. Further, the fact that all the unit members do not wear uniform often make it difficult for the public to differentiate them with organized criminal groups more especially during sting operations. In the same vein, the functions of the specialized units can be unclear and overlap (Kivoi, 2022).

The Waki commission of 2008 and Philip Ransley Commission of 2009 proposed for the establishment of an autonomous body to investigate police actions and offer civilian oversight to the Police since police investigations on their misconducts had proved inadequate and riddled with cover-ups. In light of which, the Government of Kenya established the National Taskforce on Police Reforms which then birthed Independent Policing Oversight Authority in 2011 with the mandate to offer civilian oversight to the NPS. Further, to give effect to Article 246 of the Constitution of Kenya (2010), the government of Kenya established the National Police Service Commission (NPSC) to oversee police recruitments, promotions and transfers. The main objective of setting up the above mentioned institutions was to enshrine reforms in the NPS,

entrench police accountability and to address incidents of misuse of police powers (Kivoi, 2022). IPOA is thus the institution mandated to “(a) hold the Police accountable to the public in the performance of their functions;(b) give effect to the provision of Article 244 of the Constitution that the Police shall strive for professionalism and discipline and shall promote and practice transparency and accountability; and (c) ensure independent oversight of the handling of complaints by the Service (IPOA Act, 2011). Further, IPOA in section 25 of the IPOA Act, 2011 has been mandated to investigate any death resultant from police action or inaction. However, the National Police Service Act 2011 has equally established the Internal Affairs Unit, mandated to handle complaints of police misconducts lodged by and against police officers. However, there have been claims that it shelters rogue police officers willing to bribe their way out of trouble (Kivoi, 2022). This points to potential challenges faced by IPOA in its conduct of investigations as its role run counter to that of Internal Affairs Unit. The manner in which IPOA handles complaints become of interest given the competing role that Internal Affairs Unit also play. The question of staffing at IPOA is equally important in understanding the capacity of the staff in terms of understanding of policing functions in handling cases against police misconduct. It has been observed that despite IPOA having helped to improve police compliance with the law, the recorded progress is low (Kivoi, 2022). This means that despite the efforts being made by IPOA, it is riddled with challenges that hinders it from hastening the police compliance with the law.

1.2 Statement of the Problem

The inaugural IPOA Board Chairperson stated the aim of the authority as that which seeks to make “significant contribution to the envisaged Police Reforms in the country through its oversight role within the confines of the law. It is therefore in the interest of the Authority to see the impact of police reforms translated into restored public confidence and trust in police” (Njeru, 2016: xv). Despite these noble aims by IPOA, state security agencies continue to use disproportionate force on the poor and helpless (Kivoi, 2022). Impunity within the NPS and complaints against the police have been on the rise. Political interference with the police has also been on the rise. This has been witnessed in Kenya during electioneering years. The case of Baby Pendo who was fatally hit by anti-riot police in Nyalenda estate in Kisumu County following the disputed 8th August 2017 general elections is just a case in time of how political elites interfere

with the operations of the police despite the independence and existence of IPOA. The attempts to rein in on police excesses have not been very fruitful. IPOA with its mandate of holding police accountable to their actions has largely not been able to eliminate these Police misconducts though there is reduced prevalence. This has been witnessed in many instances where police officers have tried to evade accountability through different mechanisms including transfers so as to hinder investigations into their misconducts with the intention of escaping from taking individual responsibility for their actions or inactions. It is however notable that the cases filed against officers for Police misconducts have been on the rise from 594 cases reported in IPOA's inaugural financial year 2012/2013 to 3,302 cases in the financial year 2021/2022, (IPOA annual report 2012/2013 and IPOA performance report July – December 2021 and IPOA Performance report January – July 2022). The increase in number of reported cases suggested to be due to the decentralization of IPOA offices to all the former eight provinces and sensitization on the functions of IPOA. The nature of reported cases in the financial year 2021/2022 is categorized as; fatal shooting at 5%, death in police custody at 4%, enforced disappearances at 3%, shooting causing injuries at 7%, sexual offences at 3%, physical assault at 9% abuse of power at 10%, unlawful detention at 11% while 60% categorized as others. According to Kivoi (2022), most of these cases are yet to be resolved. The delay of these cases translates to a delay in accountability which leads to public dissatisfaction hence waning public confidence in the police. With the rising number of complaints of police misconducts, a contention thus arises as to whether IPOA has lived up to its founding mandate. This study therefore seeks to evaluate the contribution of IPOA to police accountability in Kenya as the country strives to implement reforms that seek to professionalize the police service and transform it to be pro-public and service centered.

1.3 General Study Objective

- i. Evaluate the contribution of Independent Policing Oversight Authority to Improved Police Accountability in Kenya.

1.3.1 Specific Objectives

- ii. To assess the complaint handling mechanism put in place by IPOA to enhance police accountability;
- iii. To evaluate IPOA's investigation capacity in handling police misconduct while enhancing police accountability and

- iv. To examine the challenges faced by IPOA in their attempt to hold police accountable for their actions.

1.4 General Research Question

- i. How has Independent Policing Oversight Authority contributed to Police Accountability in Kenya?

1.4.1 Specific Research Questions

- ii. How does IPOA's complaints handling contribute to police accountability in Kenya?
- iii. How effective is IPOA investigative capacity in carrying out investigations in furtherance of police accountability in Kenya?
- iv. What challenges does IPOA face in their attempt to hold the police accountable for their actions?

1.5 Significance of the Study

The aim of this study was to provide policy contributions. The insights will help in dealing with complaints, investigations, general oversight and challenges associated with the performance of these tasks are critical in contributing to procedures and addressing the contemporary issue of police accountability in the long-run. For instance, the handling of complaints and investigations comprises mechanisms that enhance access to IPOA, the protection of the complainant(s) and his/her identity and securing credible evidence worthy of supporting successful prosecution before the Kenyan Criminal Courts. The insights generated from this particular objective will highlight the weaknesses and the fears that are inherent in the current system that can inform policy recommendations in strengthening the ability of IPOA in performance of its tasks.

This study will contribute normatively to the current debates on police accountability with the empirical case of IPOA. The complaint handling mechanism will provide literature on what IPOA has implemented and contributed in enhancing police accountability. The study will contribute to the academic debates and literature on the challenges faced by police oversight bodies in Third World Countries especially from a society where the police was designed to protect the administration and not the interest of the public.

The study will provide empirical contribution from the case of IPOA and how it has enhanced police accountability in Kenya. It will provide valuable insights on the complaint handling

mechanism, the investigation capacity and the challenges that are particular to IPOA. These insights may help in the identification of gaps necessary in the improvement of the performance of IPOA in enhancing police accountability in Kenya.

1.6 Scope and limitation of the study

This study focused on IPOA and its contribution to police accountability in Kenya with particular attention on complaint reporting and handling mechanisms, the investigation of complaints of Police misconducts and the challenges that IPOA face in handling cases of police misconduct. The study population comprised of police officers suspected of involvement in Police misconducts, victims of Police misconducts, actors within the criminal justice system and police commanders. The study was conducted in Siaya county, Kisumu County, Kisii County, Nyamira County, Migori County, Homa Bay county and Nairobi county. The study was limited by scarcity of documentation on police accountability in Kenya with key focus on civilian oversight.

The study's focus was mainly on the three key areas of complaints management by IPOA, IPOA's investigative capacity and challenges faced by IPOA in police accountability process. The study did not interrogate the internal complaint handling mechanism by the National Police Service Commission (NPSC) and the IAU.

1.7 Theoretical Framework

Social research employs the use of theories in addressing even basic issues (Silvermann, 2000). Empirical studies should thus be grounded in a theory (Singleton et al., 1988). This study was guided by the Instrumental theory. This study used the institutional theory to examine the police accountability process in Kenya in respect to the mandate of IPOA.

1.7.1 Institutional theory

John Meyer and Brian Rowan conceptualized Institutional theory in the 1970s to explore why and how organizations do the things they do. Institution denote explicit organizational practice or requirement (Meyer and Rowan, 1977) elsewhere the term has been used to denote wide-ranging systems of norms and values that describe a particular segment of the general public (Friedland and Alford, 1991). Since institutions are part of the society they should reveal basic approval of the more common beliefs of the subordinate system, (Parsons, 1956).

Institutionalized organizations work in very intricate backgrounds, with ideals. For the organizations, to stay alive, they turn their focus ``outward'' to recognize the dominant constituencies and the principles they embody (Meyer and Rowan, 1977).

According to Scott (1995) the theory is grounded on three pillars: Regulatory; cultural cognitive and normative. In regulatory the state defines the rules of the game by enacting of laws and regulations that limit behavior. Through such regulatory measures certain behaviors are proscribed within the jurisdiction of promulgation thereby their commission attracts legal sanction. Organizations too, have their set rules and regulations which are geared towards controlling employees' behavior at workplace and ensuring performance at work; cultural cognitive on the other hand talks about the creation of a mental model of how work should be done mostly brought about by life experiences while normative advance that professionals can lobby for the adoption of a particular policy, (Scott, 2013). In normative unlike in regulatory, employees ask pertinent question of "what is expected of me?" this then propels the employee to conform to the institutional norms on work performance in fear of social sanctions by their peers.

The three fundamentals of institutionalized organizations are as presented below:

(1) The organization, in its conduct and structure -mirrors the beliefs in its institutional atmosphere. According to this component, institutionalized organizations are primarily in the service of their communities. Therefore, complexity in the institutional setting is reflected as organizational complexity. For instance, Police departments are often under public pressure, and/or under court orders, to employ more minorities into their formations or to improve demographic representativeness in their organization. On the other hand, departments are liable for suits if they use irrationalized hiring procedures, many at times wanting to hire more educated recruits. The organization reacts to the complexity of the problem through the development of an elaborate recruitment policy and regular formal contractual negotiations.

(2) To gain and maintain a positive relationship with their clients, institutionalized organizations loosely combine formal practices with actual behavior. Complexity of this relationship is dealt with by loosely joining the formal position or aims of the institution to the actual day-to-day working environment of its employees. This loose linkage is an imitative of institutionalized organizations; the formal procedure of police departments is arrest all offenders which is loosely

tioned to actual line officer's conduct. Where discretionary police powers regarding arrest is permitted even with complainant and suspect present (Black, 1980). Informal structures occasionally qualify police officers to continue to police in exceedingly aggressive ways even when formal oversight practices aim at stopping such aggressive conduct (Christopher Commission, see Independent Commission on the Los Angeles Police Department, 1991).

(3) A logic of good faith infiltrates organizational practices, obstructing dangerous evaluation and command. Organizational members believe in the critical correctness of their actions. In police departments, this can be an obstacle to efforts to analytically assess prevailing organizational practices. Police bosses have a tendency of uncritically accepting the "rotten apple" theory of police deviancy in that corruption is the product of a few bad police officers who slipped through background screening into police service, this is in spite of outside inquiries often citing existence of systemic glitches (Knapp Commission, 1986).

The strength of this theory is the concept of organizational field, which is well-defined as "those organizations that, in the aggregate, constitute a recognized area of institutional life: key suppliers, resource and product consumers, regulatory agencies, and other organizations in the field" (DiMaggio & Powell, 1983: 148). The concept of the organization field allows this theory to be employed in the analysis of the various actors, their role and expectations as they interact and transact in the field. For instance, this theory allows for the collection of data on police as an institution on how it conducts its activities and also allow for collection of data from IPOA as regulation mechanism of police conduct in understanding how the police respond to the regulatory frameworks in the conduct of its activities. The analysis of the collected data has the huge potential in communicating the relationship between the police and IPOA in determining whether the two organizations have lived to the expectations of the environment hence legitimacy within the organizational field.

This theory, however, has been criticized for its conceptualization of organizations as similar and stable while ignoring the roles played by the drivers of institutional changes. Scott (2005) for example, has averred that individuals and organizations harbor the potential to reenact the rules, standards and dogmas that guide their operations with the institutional settings being less monumental with changing and even inconsistent institutional logics. This criticism is important

in understanding the dynamics within the organizations including the leadership styles of various leaders and how they impact the stability of organizations as well as internal changes that can be spurred by human agency as well as technological modifications. However, institutional theory is important in this study since it will help to generate valuable insights on how the police seek to adapt their behavior for acceptability in the organizational filed as IPOA works to oversight its operations and the attended challenges. This would make the limitations of the theory have little impact on the study with regard to its objectives.

1.8 Conceptual Framework

The conceptual framework sets the platform to present the actual study question(s) driving the research being reported based on the problem statement, (McGaghie et al., 2001). Arising from the theoretical framework, conceptual framework is to help interpret the generated data and by extension relate the data to the above theory (Henderson, 1994).

The conceptualization of this research is based on: staff activities at IPOA; institutional structures; staff capacity; corruption levels; and institutional cultures as independent variables which is a breakdown of the study's independent variable. Public perception of police activities; reduced corruption levels; number of police officers held to account; and number of victims who obtained justice as dependent variable which are all composites of the study's dependent variable - police accountability. The intervening variables are: legal and institutional rules and regulations; societal norms and expectations; judicial interventions; and approved best practices.

The research will establish the contribution of Institutional theory and elements of institutionalized organizations such as IPOA and the NPS. Institutional cultures, regulatory frameworks put in place and social responsibility dictating the conduct of individual employee will further influence the interpretation of the generated data.

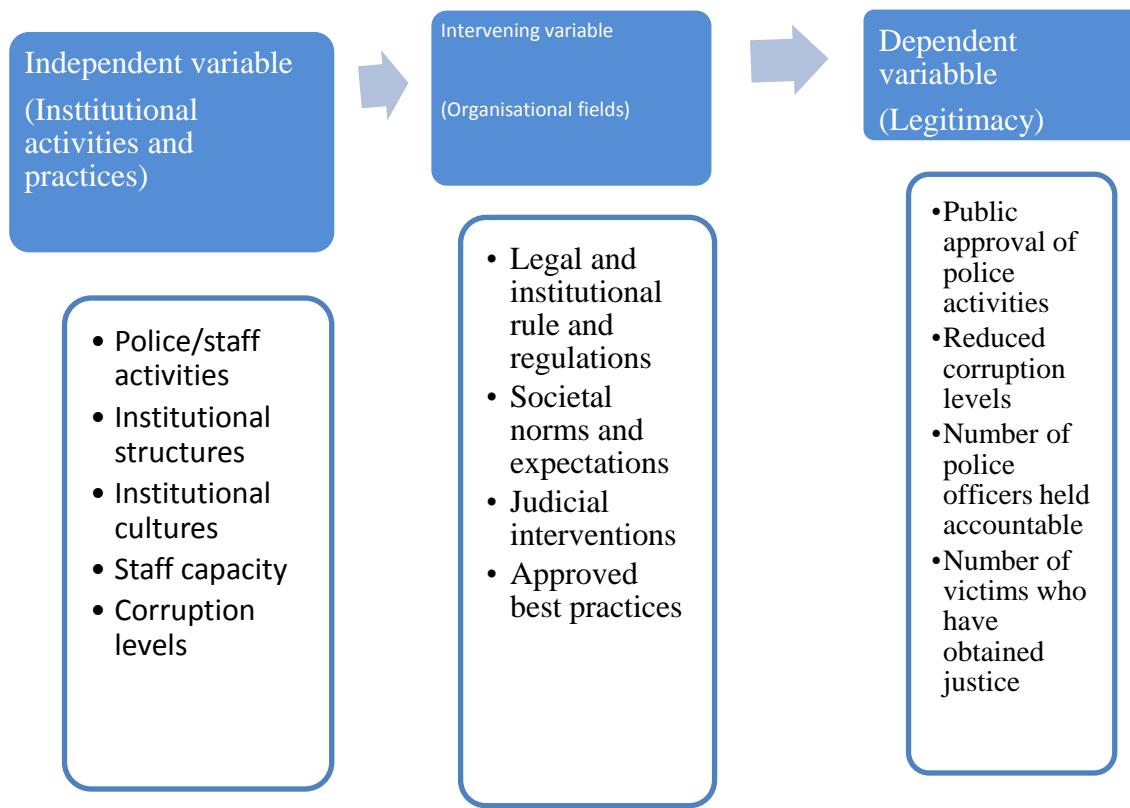


Figure 1.1: Conceptual framework

1.9 Chapter Conclusion

The key issues surrounding this study such as the background informing the study, statement of the problem, research questions employed for the study, have been highlighted and discussed in details in this chapter; purposely laying the foundation of this study. The eminence of this study has therefore been grounded by the magnitude of the underlying problem of Police misconducts cross-cutting in nearly all nation-states globally. The need for police oversight mechanisms translating thereof to police accountability is therefore sustained.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter highlights key issues from the preliminary assessment of secondary materials relevant for this study and chapter conclusion. The review is organized within the framework of the study objectives and highlights on the gaps and takes note of key issues raised.

2.2 Complaints against Police

As early as 1940s, the USA had started welcoming the idea of civilian police oversight as an instrument of entrenching police accountability. This was due to the numerous cases of racial prejudice and unjustified shootings suffered in the hands of the Police. Hyland et al., (2015) posit that three quarters of 16 year olds in the USA described their encounter with the police as abusive. Similarly, Derrick Johnson, the President of National Association for the Advancement of Colored People in America, confirm that the bond between the Police and the policed is a broken one birthed by years of bad systems that have let uncountable questions on accountability go unattended to by governments. Noble and Alpert, (2009) note that in spite of the selfless and honorable policing work undertaken by tens of thousands of police officers in the USA daily, the entire profession suffers irreparable damage due to remote acts of Police misconducts. These cases of unprofessionalism in the discharge of police duties therefore has always dealt police departments serious image dent.

Unprofessionalism in policing is therefore the root cause of complaints against police officers. Firstly, it is linked to the militaristic nature of the police. This militaristic nature is seriously entrenched in our policing styles thereby creating a global problem dating back to the early 1700s when Slave patrols in North Carolina, USA was used to police black slaves with the authority to use excessive force to stem slave uprising. Over the years, police departments worldwide have adopted militaristic nature characterized by cruelty and use of excessive force in the discharge of their duties, many at times going against the dictates of the United Nation Declaration of Human Rights, 1948.

Secondly, these unprofessional conducts are passed down from generation to another generation within the police departments through police canteen culture, leading to the construction of a

cultural regime of dehumanization within the Police. Dehumanization is the genesis of cruelty – being unmindful of the other’s suffering and not seeing the whole humanity of the other. Arising from which in 2014 the President of USA, H.E Barack Obama formed The President’s Task Force on 21st Century Policing with the aim of restoring community trust in policing and deescalating the rising cases of police crimes within USA (US, 2015). However, even with the implementation of the findings of The President’s Task Force on 21st Century Policing, weeding out Police misconducts has not been realized due to this police canteen culture. In June 2020, *USA Today* published national statistics of Police misconducts centered on accounts from prosecutors’ offices, police organizations and other state agencies. Roughly 200,000 complaints of police misconduct were lodged with 22,924 of them being of use of unwarranted force; 3,145 accusations of child molestation, rape and other sexual offences; and 2,307 complaints touching on domestic violence (Kelly and Nicholas, 2020).

United Nations Code of Code for Law Enforcement Officers demands that every law enforcement agency should be responsive and accountable to the policed community, (UN, 2011). A proclamation not welcomed by most serving law enforcement officers in nearly all police departments across the globe throughout history; in 1977 the establishment of Police Complaints Board (PCB) as the focal point for complaints of Police misconducts in England and Wales was met with stiff opposition within the Police leadership occasioning the resignation of the Metropolitan Police Commissioner, Sir Robert Mark who equated police oversight mechanisms to eroding the independence of the police in the discharge of their duties, (Loader and Mulcahy, 2001; Smith, 2002; Luke Staddon, 2021). This however did not stop the operationalization of PCB. Bobb (2003) affirms that self-policing inevitably creates subjective results that even a rational, candid and well-meaning police officer investigating Police misconducts will definitely succumb to pressures from the bosses to exonerate the suspected police officer. To cure which, Hopkins (2009) avers that the agency policing the Police should not only be one that is insulated from interference from the Police in the discharge of its key mandate but also be one that is independent of political interferences. This is so because, police departments have been historically predisposed to interferences arising from the mere fact that globally, governments have misused police departments for political expediency. Emphatic of this, Hopkins’ further posit that the composition of the oversight agency should be

predominantly civilian both in number and culture. Should it however in its engagement employ the expertise of former police officers, critical steps should be put in place to counteract likely police cultural biases and limit their leadership responsibilities in the oversight agency.

In Africa, the Independent Police Investigative Directorate (IPID) of South Africa was the pioneer police oversight body established in 1997 under her constitution as part of post-apartheid era police reforms, SAPS's watchdog organization. However, despite years of existence, complaints against police have been on an upward trajectory, reporting about 5,500 cases of police crimes annually. This police offending culture has been and still remains a dent on SAPS's public image despite attempts by SAPS to professionalize policing to the ideal policing standards. In South Africa, Police misconducts are traced back to the Apartheid days constantly reverse the gains hereby lowering public confidence in the Police as police themselves are notorious offenders. In the year 2021 – 2022, IPID received 5,295 complaints of police misconducts; the nature and representation of the complaints against the Police being, assault at 64%, discharge of firearms at 14%, deaths resultant from police action at 8% and deaths in custody at 4%, (IPID Annual report 2021-2022). Lamboo (2010) asserts that for every socially unacceptable behavior, there is a dark number. That is to say, the above depicted official data just give a glimpse of the prevalence of the socially unacceptable behavior – Police misconducts. National Crime Victimization Survey (2015) reiterates this by demonstrating that even-though crimes occur, not all victims report them for criminal justice processing hence there is a dark number in Police misconducts too. The researcher observes that this unwillingness of the police to conform to acceptable standards of policing has been the epicenter of the discourse on police accountability and the ever depreciating public trust and confidence in police departments.

Uganda's Police Force (UPF) celebrated hundred years of existence in 2014 under the theme: *"Transforming the police force from Colonial Policing to Community Policing"*. It is worthy to note that this celebration did not go without criticism of unprofessionalism and the amount of brute force applied by UPF on its customers – the citizens. When President of Uganda, H.E Yoweri Museveni took over the realms of power, on his agenda list was the need to professionalize the UPF to a people friendly police force. Thus with the deliberate effort to realize H.E Museveni's agenda in the policing, in the 1990s, his government was funded to a tune of 4million pounds by the United Kingdom's Department for International Development to

restore the capacity of the UPF after Amin's rule (Raleigh et al., 1998). Three decades later, very little has been achieved in the front of professionalizing the UPF. In concurrence, Okuda (2014) posit that between 2005 and 2008, the UPF was increasingly militarized and politicized with wanton corruption and gross human rights violation being the new normal within the police cycles. He emphasizes the magnitude of police interference by stating that during that period, UPF disproportionately applied brute force on citizens with dissenting political views. Although Uganda does not have a police complaints body, the above highlights give a projection of a police force seriously stained with incidents of Police misconducts hence in serious needs of reforms. To realize meaningful transformation of the UPF, the researcher observes that a complaints handling system should be put in place as a panacea to the glaring cases of police misconducts as has been characteristic of UPF.

Kenya's case is not any different, unaddressed Police misconducts stands out as the greatest hindrance to the realization of a professional police service. According to Sklansky (2013) professional conduct joins together integrity, expertise, continuous self-improvement and efficiency in the performance of duties. In the same vein, Abdelmottlep (2015) reinforces that stance by expounding that high degree of education, training and specialization is demanded of professional conduct. With proper training and education, the police inclination to abuse discretionary police powers will be limited. The researcher agrees with these scholars; in that, in the complex society we live in today, having a factotum police officer will more often than not yield unprofessional conduct thus worsening the sour public-police relationship.

On discretionary police powers, Saunders (2013) states that in exercise of policing duties, the police come face-to-face with situations warranting use of force to achieve their objectives. The degree of force used by the police officer and the resultant effect (death caused or injuries inflicted) will thus form debate in police accountability circle. Hence posing the question what force is necessary force? Questions on use of lawful force are answered by section 49(4) and Sixth Schedule (a) of NPS Act, 2011. The standards for police operations in Kenya is thus outlined that, an officer performing official responsibility or exercising police powers shall execute such responsibility or apply such power in a lawful manner, that is to remain human and kind to the policed community. Further in the Sixth Schedule (a) of the same Act, sets permissible conditions for use of force by the police as;

(i) A police officer shall at all times endeavor to use non-violent means and only resort to use of force when non-violent means are ineffective or without any promise of achieving the intended policing result and

(ii) The force used shall be relative to the objective to be achieved, the gravity of the offence, and the resistance of the person against whom it is used, and only to the degree necessary while adhering to the provisions of the law and the Standing Orders.

The Police thus have authority to use force when it is deemed absolutely necessary, in which case the above legal provisions must have been explored and exhausted. In accountability spheres the use of force and measure of reasonable force has often pervaded debates with a very thin line being drawn on acceptable levels of force used by police.

The use of excessive force has over the years been blamed on police canteen culture which has ensured a relay-like passing on of the militaristic police operations to successive generations within the police thus the reason behind their cruelty while handling the policed community. The establishment of police oversight was thus handy in keeping checks and balances aimed at realizing police accountability. The efficacy of police oversight therefore rests on its complaints handling process, complaints as filed by members of the public and police officers against the Police should be processed and handled in a similar manner. While accountability encompasses more than an operational complaints management system, in addition it should enjoy the confidence of all its clients that is, the general public and the Police, which when achieved is a significant pointer to high standards of accountability and a definite contributor in restoring the public's confidence in Police. The instituted mechanism must guarantee that complaints are dealt with promptly, appropriately and with proportionality. It is also worthy to note that a jurisdiction with a reliable system of Police misconducts reporting and documentation will be prone to registering higher rates of Police misconducts, (Mwanajiti, et al., 2002).

Making complaints lodging processes more open by eliminating self-protective inaccessibility barriers characteristic of the police can provide information on police misconduct and help police bosses in detecting and addressing problems regarding abuse of police powers thereby enhancing the quality of police internal accountability measures such as internal investigations as a means

of combating police misconduct for posterity (Walker, 2001). In respect to reports of complaints against the police, section 24 of IPOA Act sets the process of complaints reporting against police officers for alleged police misconducts. Arising from IPOA's complaints reporting it is noted that it has had a steadily increasing number of clients since its inception in 2012. In the inaugural financial year IPOA received a total of 594 complaints of Police misconducts which rose to 3,302 in the financial year 2021/2022 and is still on an upward trajectory, (IPOA Annual report 2012/13 and IPOA performance report July – December 2021 and IPOA Performance report January – June 2022).

The researcher thus notes that, at the global, regional and local stage, police accountability is an actively ongoing debate whose realization is progressively likened to a mirage. However, deliberate efforts by nation-states to entrench police accountability through oversight as is the case with IPOA is movement in the right direction in police reforms. The true gateway to police reforms is thus a working complaints-handling mechanism.

2.3 Investigation of complaints against police

Police misconducts has been an issue of concern to most democratic states; for states therefore to adjust to best policing standards, varying approaches have been designed to tame this runaway vice. These approaches include internal control mechanisms within the police departments, external oversight mechanisms to police operations and social control approaches. Historically, police departments operate in an environment of peer solidarity, as such internal control mechanisms suffer the risk of influence from the high in the command structure. Cognizant of this fact, internal control mechanisms should thus be primarily limited to addressing minor offences within the police department whereas serious offences should be dealt with by external oversight mechanisms as espoused by the Mollen Commission of 1994. The foundation of external oversight mechanisms is thus to cure cases of likely biases associated with internal control mechanisms or inability of the police to police themselves in a manner likely to influence public trust and confidence in the police departments, (Mukari, 2018).

In England and Wales, the Independent Office of Police Conduct (IOPC) established in 2018 to replace Independent Police Complaints Commission (IPCC) is the body mandated to investigate serious complaints such as death in police custody, serious corruption, shootings occasioning

serious injuries among other police misconducts (IOPC, 2023). IPCC replaced Police Complaints Authority (PCA) whose replacement was occasioned by its inability to showcase operational independence in investigating complaints of police misconducts, (Balcioglu and Pala, 2015).

In the realization of police accountability in USA, in 1994 through the Violent Crime Control and Law Enforcement Act, the Civil Rights Division of the Department of Justice (DOJ) was capacitated and mandated to institute investigations against police departments whose “policy and practice” contravened the federal law or breeched persons’ constitutionally protected rights, (D’Souza et al., 2018). Chanin (2017) makes further emphasis that the incipient stage of DOJ’s investigations is preliminary inquiries; this is a confidential and deliberate agency decision-making stage aimed at identifying allegation worthy of thorough review, establishing the gravity of the alleged police misconduct, size and type of law enforcement agency involved, amount and credibility of the evidence linking the police department to the misconduct and evaluating the precedential impact of the decision. In cases where the preliminary inquiry established a prima facie case on the existence of a pattern or practice of illegality by the police, the matter is referred to the office of Assistant Attorney General in-charge of the Civil Rights Division for independent review and approval for a full investigations on the police agency. However, despite these noble initiatives by the governments of USA, police accountability has largely remained a mirage with cases of excessive use of force against African Americans constantly being an item of debate in the Unites States of America.

Mangwanda (2023) posit that the Police Professional Standards Bureau (PPSB) which is the Ghana Police Service (GPS) internal control mechanism body despite receiving complaints of police misconducts lack the operational independence to conduct impartial investigations into the reported complaints. As such leaving the daunting task of police accountability through investigations to the Ghana Commission of Human Rights and Administrative Justice. To realize impartial investigations of police misconducts, both financial and operational independence of the investigative agency is required.

In Kenya, IAU acts as the internal control mechanism to the NPS while IPOA is the external oversight mechanism. The investigative mandate of IPOA is spelt out in section 6 and section 7 of the IPOA Act, 2011 which empowers IPOA to take up complaints of police misconduct either

on own motion or upon receipt of complaints from complainants for investigations. Section 24 of the Act sets the investigation in motion, this involves calling of witnesses, gathering materials of evidential value in regards to the police misconduct under investigations, careful analysis of the evidence and in the spirit of fair hearing call the suspect police officer for interview sessions. Mrozla et al., (2021) posit that in order to maintain the trust of the victims of police misconducts there is need to ensure that exhaustive and fair investigations are undertaken by investigative agency which entails calling interviews of civilian witnesses and police officers involved in the incident, in addition to incorporating other pieces of evidence in furtherance of realizing police accountability.

Arising from the above procedure and with the backing of gathered evidence, remedial actions which include disciplinary hearings and/or recommendation to the Office of the Director of Public Prosecution (ODPP) to charge the suspect police officer(s) for his/her misconduct. By design, IPOA's investigations are reactive; after the act.

Official records as per IPOA annual reports documents that police complaints reporting has been on the rise from 594 in its first year to 3,302 in the financial year 2021/2022, a trend that is still on an upward trajectory. In that same light, IPOA's investigative wheels have been able to turn faster with the increase in numbers of complaints. In the financial year 2017/2018 for example IPOA reported completion of 194 cases which improved to 862 in the financial year 2021/2022, with a total of 170 cases pending before courts of law across the country, (IPOA annual report 2017/2018 and IPOA performance report July – December 2021 and IPOA performance report January – June 2022). That said, the figures are still not impressive hinged on the overwhelming task demanded of IPOA and the public expectations accompanying police oversight bodies.

As alluded above, it is evident that IPOA's grassroots presence in Kenya vis-vis its scope and area of coverage paints a picture of an overburdened police oversight body hence incapable of promptly investigating and resolving reported cases of police misconduct, such inadequacies to a greater extent erodes public trust and confidence in police oversight bodies. This is despite personnel skills sophistication for the task. To cure this, Minyiri (2020) proposes that internal police accountability mechanism such as IAU in the Kenyan case should be operational and efficient in dealing with complaints of Police misconducts so as to relieve external civilian

policing oversight bodies the burden likely to be suffered should they turn out to be the sole recourse to police accountability. To enhance police accountability therefore, it is expected of both IAU and IPOA to be prompt, thorough and impartial in their investigations into cases of Police misconducts; through this, the waning public trust and confidence in public institutions like the police will be put in control.

To realize impartiality in investigations of Police misconducts, the question on capacity thus comes to the fore. Who are IPOA investigators? What is their understanding of police work? And how many are they? Wabila (2022) avers that, for IPOA to enhance its oversight capacity it should shift its focus to training its own civilian investigators and depart from recruiting former police officers to be part of its investigation team. Liederbach et al.,(2007) on the other hand states that the blue code of silence as exercised by police officers has over time led to biasness in inquiries conducted by police officers into cases of Police misconducts therefore being protective of their colleagues accused of wrongdoings. The failure of internal police oversight mechanisms arises mainly from suspicion of their efficacy thus corroding public confidence and trust in them, averments the researcher agrees with. Further the very protective nature of police officers paints them as likely unreliable investigators and witnesses against their colleagues facing probes thereby creating a “blue wall” to inquiries into Police misconducts. IPOA should thus do better in terms of sourcing for its investigation workforce.

Prenzler and Ronken (2001) ask a pertinent question, who polices the police as a remedy to such cover-ups characteristic of police investigations. It then goes without saying that to ensure accountability in the police service, investigations into Police misconducts should be undertaken by non-police investigators with the capacity to exercise impartiality and technical skills sophistication desirable for the task at hand. The scholars’ thoughts in respect to investigations of Police misconducts being undertaken by civilian non-police investigators are thus the launch pads for the work of IPOA. When IPOA as a civilian oversight entity resorts to having its investigators drawn from the police service, it is likely to suffer the same fate as the Police whose investigations into cases of Police misconducts prior to the creation of IPOA were shrouded with cover-ups leading to exculpation suspected police officers even when and where incriminatory evidence was overwhelming. It should however be noted that within the National Police Service, there are distinguished and well-meaning police officers who when entrusted

with investigative capacities such as that of IPOA, may not be harbors of refuge to their former colleagues or bosses under probe by IPOA. The caution is, to prevent likely cases of biases born of conflict of interest, IPOA should have civilian investigators as opposed to former police officers.

2.4 Challenges faced in police oversight

Reforms in security sectors such as the introduction of civilian police oversight is an international trend traced to 1970s, (Wentkowska, 2016). However more than five decades later, its execution globally is still riddled with challenges, as a result it is largely likened to gatopardismo; a situation where change is more apparent than real or better emphasized as superficially revolutionary policies and institutional reforms that in practice only casually change power structures while retaining the principal features that prompted the transformation in the first place. Sanchez and Guerra (2014) posit that law enforcement agencies should perceive external oversight mechanisms as support and improvement instruments to the police department and not as witch-hunt tools thereby necessitating the need for awareness creation within the police departments and the general public. The scholars further subscribe that for proper functioning of external oversight mechanisms it is essential to: anchor the initiatives in local legal frameworks which then legitimizes their existence and guardrail their functioning; ensure that the oversight agency has a properly constituted personnel infrastructure desired for the preconditioned success; safeguard its autonomy both in management and operations of its secretariat thereby limiting cases of external influence from highhanded members of the executive; empower the agency to not only make recommendations but also enforce them and finally instill in the agency the principle of accountability to the public, thereby routinizing issuance of reports and information to the public on progresses achieved in enhancing police accountability.

In the case of police accountability in USA, Wentkowska (2016) opines that taming police misconduct has been impeded by the bottlenecks encountered in holding police to account for their actions or inaction as such it is one of the most rampant and divisive human rights violation in the USA. Cases of excessive use of force against the policed community especially African Americans, unjustified fatal shootings and fatal chokings constantly pervade police accountability debates in USA. To address these challenges in enshrining police accountability

and since police oversight mechanisms varied from one local government to the next, the National Association for Civilian Oversight of Law Enforcement (NACOLE) comprising individuals and entities charged with police oversight functions was established in 1995. The aims of NACOLE being: offering technical support to police oversight agencies in the USA; capacity building of personnel working at the police oversight agencies and offering advisory services to the oversight entities.

According to an unpublished manuscript by Berge and Howell, police accountability in Africa is confronted by several operational issues such as independence, cooperation from the police departments and legal conundrums. In Lesotho for example Police Complaints Authority is the legally constituted body for promote police oversight. On paper, Police Complaints Authority is an independent oversight body but in practice its powers are severely constrained with reporting of complaints of police misconducts being a preserve of the Police Commissioner as such locking out the policed community from lodging complaints against the police. This in itself is an assault on the operational autonomy desired for police oversight agencies. Further, upon conclusion of investigations referred to it by the Police Commissioner, Police Complaints Authority's powers are again limited to making recommendations to the Police Commissioner.

Alemika (2003) highlights that the relationship between the police and the citizenry of Nigeria is seriously fractured due to the numerous incidents of abuse of police powers. As a result of the fractured relationship, an environment of mistrust between the police and external review boards is created; the police thus viewing the external review boards as a score-settling utility vehicle of the citizens hence non-cooperation from police bosses. This therefore creates an obstacle in realizing police accountability through the external review boards.

In Kenya the civilian police oversight body– IPOA, was initiated in 2011 with powers to handle complaints against NPS; responsibilities which have come with fair share of challenges. The police have had deeply entrenched culture of misuse and abuse of their powers and privileges thereby occasioning violation of civilians' rights. Attempts to unseat this culture has often been met with resistance from the Police.

It has also been noted that even with the existence of IPOA, victims and witnesses of police misconducts shy away from supporting complaints under investigation for fear of their safety

during and after the investigations. The greatest nightmare to them being taking to the witness stand in court of law to testify against the suspect police officer(s). This is in the backdrop of the abduction and murder of Lawyer Willy Kimani and two others in 2016 soon after leaving Mavoko law courts, Kenya following a court case of police misconduct. Similarly, the blue code of silence practiced by police officers has also been a hindrance to resolution of matters under investigation and aided in defeating justice in cases pending before courts of law by robbing the prosecution of crucial evidence worthy of meeting the threshold of the burden of proof.

It has also been noted that reliance on other state and non-state agencies, for technical support in processing materials of evidential value has often impeded the course of police accountability. IPID for example relies on Department of Health and the National Forensic Science Laboratory for postmortem examination of bodies and DNA analysis which then generate technical experts' reports (Independent Police Investigative Directorate Annual Report 2021/202), the Kenyan case being similar.

2.5 Chapter Conclusion

This section highlights the key take-ways elicited on analysis of secondary materials for this study. The need and persuasion to transform police departments from militaristic police forces to people-friendly and service-centered police service is outstanding from the secondary materials. Though progressive steps have been taken by select governments to align their police departments to the desire policing ideals, the realization of a professional police service is still elusive. The Police are by the nature of their duties, discretionary powers and legal certainty to use force has often created a debate on the proportionality and reasonability of use of force. This legal certainty has often been subject to abuse leading to registration of high cases of Police misconducts by police watchdog organizations world-over; IPOA not excluded.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter presents the methodology that provides the framework upon which this study was carried out to meet the research objectives. It provides the research design, the research area, and the study population, sampling procedure, data collection techniques and tools and the approaches adopted in data analysis for this study.

3.2 Research Design

Research design provides for the sail of the study; it guides data collection, analysis and interpretation. This study adopted descriptive exploratory design. This design aided the realization of the research objectives by providing a framework for the presentation of data in narrative format while explaining the quantitative aspects of the data.

Mixed methods research design was employed in a sequential manner, where qualitative data were gathered first followed by quantitative data; the qualitative data were first collected since the study was largely an exploratory study. For exploratory studies, it was desired that qualitative data was first collected to enable for the development of concepts and construct good research question to gather quantitative data. The collection of qualitative data enabled for the understanding of themes guiding the study and issues at stake which then helped in redefining research questions for the collection of quantitative data, thus posing direct, precise questions in respect to each research objective to the respondents. This saved on time, and increased study internal validity (Kothari, 2004). Bhall (2003) reinforces Kothari's justification of the utility of mixed-methods by asserting that while triangulation was the original advantage why researchers shifted to mixed-methods, with time, it emerged that "results from one method could help develop or inform the other method" (Creswell, 2003: 15).

The incorporation of both traditional survey methods using questionnaires with qualitative methods such as observations and interviews has been observed to be of great utility in enhancing reliability and validity (Bhattacharjee, 2012). Further, Creswell (2003) opined that acknowledging that all methods have limitations, and that partialities characteristic in any single method could counterbalanced or annul the partialities of other methods. Triangulating data

sources – a means for looking for conjunction across qualitative and quantitative methods – were born. Subsequently, this design was of great utility in the study as it allowed for collection of both: quantitative data with numerical values especially on unique cases in complaint reporting procedures, investigations and challenges. The significance of such numbers would be instrumental in informing policy directions and operations within IPOA; and the qualitative data on the other hand enabled the study to generate rich and detailed information based on individual respondent's experiences with police misconduct and the general accountability measures as execute by IPOA. The triangulation of the data in overcoming the challenges of each and every method thus enhanced the reliability and validity of the findings in this study.

3.3 Research Area

This study was undertaken in Kenya with the pioneer IPOA offices of Nairobi and Kisumu being the central focus of the study. Kisumu IPOA regional office serves both urban and rural dwellers within the defunct Nyanza province covering the counties of Siaya, Kisumu, Nyamira, Kisii, Homa Bay and Migori. According to the Kenya National Bureau of Statistics census report of 2019, the six counties had a population of 6,269,579 people spread across its landmass of 12,602km². Nairobi and Kisumu IPOA regional offices' jurisdictions have over the years been hotspots of police – civilian confrontations, many at times leading to over-deployment of police officers by the NPS and use of lethal forces unlike in other regions, a classical case being the 2007/08 post-election violence where the police were largely blamed for excesses. In addition, Nairobi IPOA regional office serves a metropolitan jurisdiction. The Census report of 2019 project that Nairobi City County had a population of 4,397,073 people against a total land-space of 703.9km². Nairobi as a metropolitan area houses people from all walks of life and according to media reports, Nairobi City County register high cases of Police misconducts especially in the informal settlements set-ups of Kibera, Korogocho, Dandora, Mathare, Huruma, Mukuru Kwa Reuben, Mukuru Kwa Njenga, Kayole and Kawangware.

It is also important to note that another factor that influenced the choice of the study site is the fact that the two IPOA offices were fully established and operational as of 2017 which is the period of interest for this study. The fact that this study's focus was on police accountability, the study sought clear pictures of the role and challenges faced in holding police officers accountable

for their actions. The uniqueness of the areas covers both and urban and rural also provided a blend of valuable insights on experiences with IPOA and police misconduct by the publics.



Figure 3.1: Map of the defunct Nyanza province

According to the map Siaya county is made up of Siaya and Bondo; Kisumu County is made up of Kisumu and Nyando Homa Bay County is made up of Rachuonyo, Homa Bay, and Suba;

Migori County is made up of Migori and Kuria; Kisii County is made up of Gucha and Central Kisii and Nyamira being a stand-alone County.

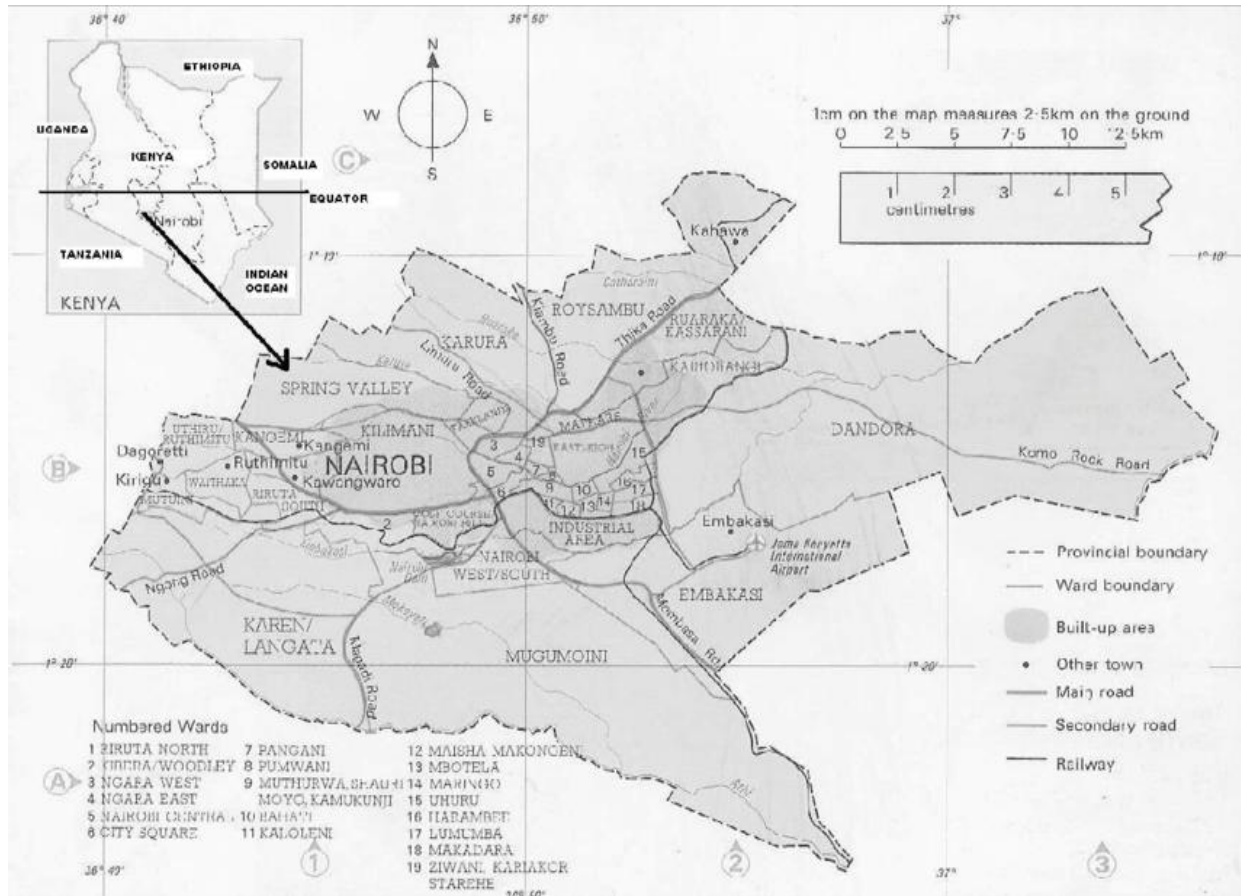


Figure 3.2: Map of Nairobi City County

3.4 Study Population

IPOA staff at the Kisumu regional office and Nairobi regional office formed the target population of this study, they shed light on the complaint handling mechanisms put in place by IPOA, the investigations they carry out and the challenges that they face in their quest to hold police officers accountable. The second category of the study population were the victims of police misconduct. The importance of this category was in providing their experiences with reporting complaints against police officers, the challenges that they have faced as victims of police excesses, their perception of the quality of investigation conducted by IPOA. This category also detailed what they considered as challenges that IPOA faces in holding the police to account.

Other actors in the criminal justice system like advocates, state prosecutors and judiciary staff were also sampled during the study to form part of the study population. They provided insights on the contributions of IPOA in weeding out police misconduct and its shortcomings in realizing its police oversight mandate. Finally, police officers who have been reported for misconducts. This set of respondents gave their perspectives on the entire oversight role of IPOA and whether the manner in which their case have been handle work in promoting fairness both to the police officer and the victims. Similarly, police commanders who primarily deal with police disciplinary issues were interviewed to provide insights on internal police accountability measures.

The total study population for the above named categories of respondents surpassed 10,000 respondents; the complaints received by IPOA between 2017 to 2022 is at 14,750 meaning 14,750 police officers and victims giving a projection of in excess of 29,500 respondents. The sample size used with the quantitative method was arrived at by application of Fisher et al. (1998) which offers guidance for application on sample sizes of population in excess of 10, 000. The formula was thus appropriate for this study since according to the data from IPOA reports, the population of victims of Police misconducts and police officers suspected of misconducts is way above the starting point for a Fisher et al. (1998) finite population.

The Fisher et al. (1998) formula is calculated as follows.

$$n = \frac{Z^2(Pq)}{d^2}$$

Where:

n - Is the desired sample size in an infinite population (above 10, 000).

Z - Is the normal deviate which is = 1.96 equivalent to 95% confidence interval

p – Proportion of the target population estimated to have the desired characteristics

q = 1-p

d – Degrees of freedom = 0.05

D = design effect = 1; since there will be no comparison between two study areas

Therefore,

$$n = \frac{1.96^2(0.5 \times 0.5)}{0.05^2}$$

$$= 384.16$$

To cover for any eventualities, the researcher adjusted this formula with 10% upwards hence final sample size was:

$$n = (10\% \text{ of } 384.16) + 384.16$$

$$n = (0.1 \times 384.16) + 384.16$$

$$n = 422.576 \text{ which is approximately } 423.$$

The resulting scientific/representative sample size was thereafter spread across the seven counties covered by the two regional offices through simple random sampling technique. The simple random sampling strategy was to ensure elimination of bias in the study. The principle of saturation guided the collection of qualitative data. The target population for qualitative data was four categories of key informant interviews and two Focus Group Discussions.

Table 3.1: Distribution of samples for the study

County	IPOA	Victims of Police misconducts	Police officers investigated for Police misconducts	Police commanders	Court actors	Totals
Nairobi	10	27	27	5	5	74
Kisumu	10	27	27	5	5	74
Siaya	-	25	25	-	5	55
Homa Bay	-	25	25	-	5	55
Migori	-	25	25	-	5	55
Kisii	-	25	25	-	5	55
Nyamira	-	25	25	-	5	55
Totals	20	179	179	10	35	423

(Source: Researcher, 2023)

The researcher distributed the study population as tabulated above to guard rail likely biases associated with simple random sampling employed in data collection and also to realize a uniform representation across the research area.

3.5 Sampling Procedures and Sampling Design

This study employed purposive and snowball sampling techniques. The study's target population was staff of IPOA at the Kisumu regional office and Nairobi regional office, the police, the victims, and other actors within the criminal justice system. Purposive sampling design was used to reach these respondents in furtherance of the research objectives. The research also incorporated the victims who have benefitted from IPOA services in seeking justice against police officers, this lot enriched the study with valuable insights on complaint reporting procedure, the investigations and the challenges encountered in the process. Purposive sampling as used in selecting those who had prior experience with IPOA services and snowball approach helped as one victim referred the research to other victims known to him or her, with whom they had sought justice through IPOA as a result of police misconduct. The utility of this approach also helped in reaching out to police officers who have been put under investigation or charged by the ODPP as a result of investigations conducted by IPOA on police misconduct(s). The selection of purposive sampling technique was informed by the fact that the study's intentional desire was to reach information-rich persons as study respondents which was dictated by the data needs and information needed in realizing the study objectives but in so doing, guard against possibilities of research biases born of the technique.

3.6 Data Collection Techniques

This sub-section provides the ways through which the data that have been used in this study has been obtained. It talks about the nature of the data and the tools as well as the techniques used in the collection of data.

3.6.1 Secondary Sources of Data

This study was premised on previous academic work and national, regional, and global reports, and other documents. Secondary data include: analysis of policy and legal documents, national, regional and global in nature; previous relevant theses; Police Reform reports; other

governmental and non-governmental documents as published on their websites, or other locations for archiving such materials.

3.6.2 Primary Sources of Data

This study applied a mixed-methods design hence enjoying the benefits of using both quantitative and qualitative data. Quantitative data was gathered using survey questionnaires and which were largely administered among the victims of Police misconducts within the study area and staff of IPOA at Kisumu regional office and Nairobi Regional office with the assistance of trained research assistants. Qualitative dimensions of police accountability as executed by IPOA were gathered by way of Key Informant Interviews and Focus Group Discussions. It also enabled for the gathering of socio-demographic variable which is key in understanding the context of obtaining justice within a given social context (Babbie, 2008). Thirdly, socio-economic variables enabled the researcher to triangulate how these variables affect the outcome of complaints against police misconduct.

The study collected qualitative data through Focus Group Discussion (FGDs); FGDs involve gathering respondents from a similar background or with bordering experiences in regards to a topic of discussion to converse on that specific issue of interest. FGDs comprised groups of 5-6 targeted IPOA staff and victims of police misconducts with discussions steered by open-ended questions on complaints reporting mechanism instituted by IPOA, IPOA's investigations into reported complaints of Police misconducts and challenges faced by IPOA in the execution of its oversight roles. The formation of FGDs in terms of composition tailored together different perspectives to purposively enhance internal validity of the research findings. Similarly, the study utilized Key Informant Interviews to reach out to: IPOA staff; actors in the criminal justice system; the victims of Police misconducts; and the suspected police officers. Both qualitative and quantitative data was collected for each objective of the study. The data obtained from the diverse groups heightened both internal and external validity as well as reliability. The combination of both qualitative and quantitative data enabled triangulation in enhancing further validity and reliability.

3.7 Reliability and Validity of the Study

The study took necessary steps to ensure reliability and validity of the research. The study employed the use of different sources of data to achieve reliability and validity, a test is reliable if repeat measurement made by it under similar situations yield the similar outcome (Moser and Kalton, 1989). The collection of both qualitative and quantitative data allowed for triangulation thus enhancing reliability. Further combination of both secondary and primary data helped in enhancing reliability as biases in the primary data is overcome by the authenticity of the secondary data.

The researcher carried-out a pre-test of the questionnaire tool in IPOA Nakuru regional office and its area of coverage which was not part of the study population. The pretest helped in addressing deficiencies in the research instruments prompting adjustments to the research tools. The target population for sample size being 24 respondents accounting for 5.67% of the general study population.

In an effort to enhance reliability, retest of the questionnaire tool was re-administered to the same respondents after two weeks; Muijis (2004) posit that if the time between pre-test and retest is limited, respondents will likely remember how they responded to the pre-test questions hence corrupting the results of the re-test. Two weeks thus accommodated respondents' change in attitudes and opinions in respect to the study objectives. Similarly, two FGDs and 4 categories of key informants interviews drawn from IPOA staff, victims of Police misconducts, police commanders and police officers investigated by IPOA for their misconducts were conducted during the pretest using the FGD schedule and the KII guide. The results from pre-test study aided in revising the tools appropriately, re-planning the data collection accordingly, and revising the questions for each of the target audience.

3.8 Data Analysis

Data analysis is the act of producing meaning from the bulk of collected field data, the data was subjected to data cleaning and coding. Quantitative data was coded using Statistical Packages for Social Science (SPSS v.20) software thus generating descriptive statistics such as percentages, mean and histograms for analyzing the data in meeting the objectives of this study while

qualitative data was coded to generate categories that eventually morphed into themes for thematic analysis. The themes revolve around the objectives underpinning this study.

3.9 Ethical Considerations

Ethical considerations were prioritized in this study thus regulating the conduct of the research. The researcher kept the research assistants abreast of key ethical requirements for the study. The researcher was accorded necessary permits, licenses and introductory letters needed for this study from the concerned authorities such as Maseno University Scientific and Ethics Review Committee (MUSERC), National Commission for Science, Technology and Innovation (NACOSTI) and the Independent Policing Oversight Authority (IPOA). Data was sourced through voluntary and informed consent from each respondent with the respondent having power to withdraw the consent mid-interview. The research protected the identities of individual respondents, ensured respect for human dignity during data collection and analysis, and put in place necessary steps for data security. The participants of the study were fully informed that upon conclusion of the study, the research's findings would be made public with no individual respondent's identifying information attached.

The principal researcher being an insider, positionality and identity of the researcher was explored, Holmes (2020) indicates that positionality involves locating the researcher's position in relation to three key areas: topic under investigation; research participants and research design, context and process. In addressing issues of positionality and identity, Probst (2015) suggest that there is need to employ the concept of reflexivity throughout the planning and execution of the study in order to yield trustworthy and honest findings. Reflexivity thus helps in reduction of assumed biases linked to the researcher's positionality thus validating the study findings. Jacobson D. and Mustafa N., (2019) point out that reflexivity involves the researcher building on the recognized and clearly stated assumptions using strategies such as involvement of non-insider research assistants and triangulation of data sources thereby contributing to a multi-faceted understanding of the study topic. Chew-Graham et al., (2002) advance that insider led studies yield genuine data as the study respondents will be less guarded in their discussions in addition to the researcher's built-up knowledge on the study topic.

3.10 Challenges faced in the study

The study faced challenges in obtaining primary data from the victims of Police misconducts who were suspicious of the exercise as cases of police excesses do leave in lives permanent emotional wounds both to the victims and their care-givers. To overcome this hurdle, the study looped in the victims' care-givers to help in clarifying the intentions of the research to the victims to enable a free and robust conversation.

Further, obtaining information from the Police was challenging as the study encountered barriers in its attempts to evaluate the functioning of the IAU as an oversight entity entrenching police accountability.

3.11 Chapter Conclusion

This chapter's main objectives surrounded the alignment of data collection and a report on challenges faced during data collection highlighting how the challenges were overcome. The desire therefore was to put in place a formula for arriving at a sample size which it did by employing Fisher et al. (1998) formula with a positive 10% adjustment to cover for any unforeseen eventuality in data collection. This section also explained the data collection techniques which were applied in strict adherence to ethical protocols laid down for the study.

CHAPTER FOUR
COMPLAINTS HANDLING MECHANISM PUT IN PLACE BY IPOA TO PROMOTE
POLICE ACCOUNTABILITY

4.1 Introduction

This chapter presents and analyses the distribution of the study population, bio data of the respondents, IPOA’s complaints handling mechanism, nature of Police misconducts, complaints management and study findings for the first study objective and chapter conclusion.

The research questionnaires were distributed to the respondents and upon conclusion and collection of the questionnaires, they were sorted. The researcher established that 76.1% of the initial intended sample size of 423 respondents accounting for 322 respondents were eligible for analysis thus the study’s response rate; which satisfies the 70% acceptable research response rate as asserted by Creswell and Clark, (2017).

The sub categorizations of the study population and distribution are as indicated in the table below (Table 4.1).

Table 4.1: Distribution of the study population

County	IPOA	Victims of Police misconducts	Police officers investigated for Police misconducts	Police commanders	Court actors	Totals
Nairobi	10	21	16	5	5	57
Kisumu	10	34	28	4	5	81
Siaya	-	11	14	-	5	30
Homa Bay	-	15	15	-	5	35
Migori	-	17	19	-	5	41
Kisii	-	25	21	-	5	51
Nyamira	-	13	9	-	5	27
Totals	20	136	122	9	35	322

Source: Researcher (2023)

4.2 Respondents’ Biographical Data

The application of biographical data (bio data) in research is an old phenomenon in research which Stokes (1994) as referenced in Farmer (2007) equates to over a century old. Researchers incorporate this component in their research tools due to the less cost and time involved in

addition to its numerous advantages such as behavior forecasting. The necessity of studying human behavior is to conceptualize individuality, Tyler (1959) referenced in Farmer (2007). Conceptualization of individuality thus allows for deeper understanding of patterns of differential choice behavior; humans are more inclined to exhibit preconditioned behavior. This then stresses the significance of bio data as a predictor of the future.

The study clustered the all eligible respondents using various socio-demographic characteristics such as age, gender and level of education. The socio-demographic characteristics of the eligible respondents for the study was thus established as shown in table 4.1, table 4.2 and table 4.3 below. In terms of data frequency, the cumulative analysis of age brackets 18-35years and 36-60 years leads to a validity percentage of 24.3 while a comparison of the age brackets 36-60years and above 60 years yields a percentile difference of 3.7.

Table 4.2: Showing age of respondents for the study

Age					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	18 - 35YEARS	232	72.0	72.0	72.0
	36-60YEARS	78	24.3	24.3	96.3
	Above 60YEARS	12	3.7	3.7	100.0
	Total	322	100.0	100.0	

The deduction therefore is that, the study respondents as per the above cadres adopted for this study develops a pyramidal structure from age 18 years to above 60 years.

Table 4.3: Gender of respondents for the study

Gender					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.	261	81.1	81.1	81.1
	2.	61	18.9	18.9	100.0
	Total	322	100.0	100.0	

The second classification of the study population as per the socio-demographic characteristics was on gender. In data analysis the male gender was represented by digit 1 and the female gender assigned digit 2 for ease of analysis using SPSS. On analysis, it was established that the male population in the study was at 81.1% and females comprised 18.9% of the study population as captured in table 4.3 above. Though not an emphasis for this study, the study findings showcase

a disparity in gender representation thus reflecting a patriarchal nature within the institutions where the study population was drawn.

Table 4.4: Showing education levels of the respondents for the study

Education					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Informal level	19	5.9	5.9	5.9
	Primary level	28	8.7	8.7	14.6
	Secondary level	158	49.1	49.1	63.7
	Tertiary level	117	36.3	36.3	100.0
	Total	322	100.0	100.0	

The last socio-demographic characteristics was on level of education attained by the individual respondents in the study. On data analysis the research established that 5.9% were of informal education level, 8.7% of primary level of education, 49.1% of secondary level of education and 36.3% had attained tertiary education as shown in table 4.4 above.

The study reached out to four broad categories of respondents forming the population sample to evaluate the contribution of IPOA to police accountability in Kenya. These included IPOA staff based at the Kisumu regional office and Nairobi regional office, victims of Police misconducts in Nyanza region and Nairobi region, police officers and Court actors in the two regions.

4.3 IPOA's Complaints Handling Mechanism

The universality of complaints filing especially against security agencies is protected by international human rights conventions as a key tool for keeping checks on human rights violations and enshrining oversight on security agencies, (AMAN, 2018). The study examined this aspect of complaints filing to understand how IPOA's CHM works and evaluate its contribution to police accountability in Kenya with a specific focus on Nyanza and Nairobi region which were selected for the study.

Focus Group Discussions with IPOA staff painted a picture of the CHM put in place by IPOA in the realization of a professional NPS.

An Assistant Director at IPOA was of the opinion that:

IPOA's complaints handling system is one unique and robust system that encourages for lodging of complaint from victims, friends/relatives to the victim, human rights defenders

and police officers all in pursuit of police accountability. The complaint is then assigned a unique complaint's number to enable tracking of the case's progress at each and every stage of the management decision in regards to its dispensation. Similarly, the complaints handling system also allows for reporting complaints anonymously. (Informant 01).

The study in interrogating the CHM established that the system is that hinged on:

- (i) An open door policy on lodging of complaints by members of the public and police officers alike. The mediums of complaints reporting include: walk-in of victims, relatives/ or friends to the victims; telephone call through its toll free number of 1559; email and letter reporting and referrals by state or non-state agencies.
- (ii) Own motion institution of inquiries by IPOA which is well premised in the legal framework establishing IPOA. Section 7(1a) of the IPOA Act, 2011 empowers it to pick-up complaints on Police misconducts for independent inquiries. The act dictates that upon receipt of the complaints they are reduced into writing.
- (iii) The complaints are then subjected to internal sieving process and categorization based on seriousness of the allegations of Police misconducts as reported.
- (iv) Finally on complaints handling mechanisms, management decision is prescribed for each received complaint of police misconduct. These decisions include, approval of complaints for investigations, preliminary inquiries on complaints by the complaints department where information is insufficient or the nature of complaint does not warrant an investigation despite prima facie evidence showing a police misconduct and also due to the broad nature of complaints of Police misconducts, IPOA refers complaints it considers best suitable to be undertaken by other states agencies such as IAU, NPSC, NPS and EACC. It is worthy to note that some of the complaints are upon review marked as closed because of their nature.

Table 4.5: IPOA’s Complaints Handling Mechanism (CHM)

Stages	Complaints Handling Mechanism(CHM)	Modalities
1	Open Door Policy (ODP)	Walk ins
		Telephone calls through 1559
		Partner agencies referrals
		Letters and emails
	Own Motion Institution of Inquiries (OMII)	Social media
		Electronic media
Print media		
2	Process and categorizations	Categorization based on nature of police misconduct
3	Management decision	Preliminary inquiries
		Approval for investigations
		Approval for inspection and monitoring
		Referrals to partner agencies i.e. EACC, NPS, NPSC,IAU
		Approval for closure

Source: Researcher (2023)

Overtime reporting of complaints against the police has been termed a risky adventure, to encourage complaints intake from members of the public therefore confidentiality of information is demanded of IPOA in the transaction of its businesses. In that way, complainants will feel free to fully utilize IPOA’s open door complaints reporting policy thereby earning IPOA legitimacy and favorable public perception in the eyes of its clients. IPOA has eight regional offices spread across the country with each having jurisdiction to receive and handle complaints emanating from its area of coverage. The regional offices are in Nairobi, Kisumu, Mombasa, Nyeri, Meru, Garisa, Nakuru, Eldoret and Kakamega.

Existence of seriously embedded institutional bureaucracies has from time immemorial been blamed for erosion of public confidence in organization thereby dimming its perception in the eyes of its customers; with dimmed perceptions, complaints lodging will be negatively impacted thereby negating the very existence of IPOA. Research established that IPOA has from its inception adopted an amiable approach to its customers thereby encouraging lodging of complaints against police officers for Police misconducts. To measure the effectiveness of the CHM, the study employed Likert’s scale ranging from 1 to represent strongly disagree, 2 for

disagree, 3 for neutral, 4 for agree and 5 for strongly agree. A representative sample of twenty staff was interviewed during the study and the findings posted as below in table 4.6.

Table 4.6: IPOA staff self-evaluation on the efficacy of the CHM

IPOA staff self-evaluation on the efficacy of the CHM					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	5.0	5.0	5.0
	Disagree	5	25.0	25.0	30.0
	Agree	8	40.0	40.0	70.0
	Strongly agree	6	30.0	30.0	100.0
	Total	20	100.0	100.0	

From the above table, the study established that 30% of IPOA staff strongly agreed that the CHM put in place was effective in handling cases of Police misconducts, 40% agreed that the CHM effective in handling complaints, 25% of IPOA staff disagreed and 5% strongly disagreed with the effectiveness of the CHM.

The measure of efficacy was based on the turnaround time in resolving individual reported cases of Police misconducts, the study interviewed the second category of respondents. The second category of respondents were the victims of Police misconducts. A total of 136 respondents were sampled for interview in this category to measure their approval ratings on the efficacy of IPOA's CHM and the findings posted as below in table 4.7.

Table 4.7: Victims' approvals on the efficiency of IPOA's CHM

Victims' approvals					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	24	17.6	17.6	17.6
	Disagree	35	25.7	25.7	43.4
	Neutral	39	28.7	28.7	72.1
	Agree	26	19.1	19.1	91.2
	Strongly agree	12	8.8	8.8	100.0
	Total	136	100.0	100.0	

An analysis of the above table posts that the victims of police misconduct generally disapproved of the efficiency of IPOA's CHM (M=2.76, SD=1.208). 8.8% of the victims of Police misconducts averred that the CHM put in place was efficient in addressing cases of Police misconducts, 19.1% agreed that the CHM was efficient, 28.7% were neutral in their responses,

25.7% of the respondents disagreed and 17.6% of the victims strongly disagreed that the CHM was efficient in addressing reported cases of Police misconducts. With the broad nature of complaints reporting and preponderance, it is therefore desirable that IPOA's staff capacity measures up with complaints lodging; this way it will dispense with the complaints in a timely manner and effectively to the satisfaction or expectations of the victims of Police misconducts.

A victim of police misconduct commented as follows:

In comparing the complaints reporting and handing procedures at the police station to those of IPOA, the police tend to employ more timeliness than IPOA. In most instances, a suspect of murder will likely be arrested by the police in 24hours of the commission of the offence and arraigned in court for the offence within that very week. This is however not the case when we report complaints to IPOA. There seems to be some bit of slowness when it comes to offences committed by the police. (Informant 02).

Also, staff activities breed institutional cultures. Cultures such as Police misconducts usually are born of actions of select police officers within the police organization which then spread to their colleagues within the police organization through the bad apple principle. When retrogressive cultures are allowed to take root in institutions like IPOA and normalized in the organization's mode of operation, there is high probability that strong institutional cultures will be formed thereby delimiting its ability to live up to the establishing mandate and societal expectations born of its existence. Inversely, inculcation of progressive cultures like zero-corruption tolerance in rendering of services is a key ingredient in ensuring productivity and limiting biasness in the delivery of services. Corruption many at times limits access of institutional services to those with the means while locking out the vast majority who form the largest share of IPOA's clientele base.

The disapproval in IPOA's CHM by the victims of Police misconducts further casts aspersion on IPOA's ability to hold police accountable in Kenya (M=2.82, SD=1.194) as presented in table 4.8 below. To address this disapproval, IPOA's CHM should keep alive the legal maxim - justice delayed is justice denied, quick turnaround time in addressing these complaints is deterrent thereby contributing to improved police accountability; IPOA's key aspiration.

Table 4.8: Victims’ responses on the contribution of IPOA to enhance police accountability

Victims’ responses					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	22	16.2	16.2	16.2
	Disagree	33	24.3	24.3	40.4
	Neutral	41	30.1	30.1	70.6
	Agree	28	20.6	20.6	91.2
	Strongly agree	12	8.8	8.8	100.0
	Total	136	100.0	100.0	

As depicted in table 4.9 and figure 4.1 below, accessibility of IPOA offices was another factor which the study established as affecting complaints reporting. The victims of police misconduct cited inaccessibility of IPOA offices (M=2.29, SD=1.06) as posing logistical nightmares to the victims of Police misconducts thus a hindrance to complaints reporting. This is despite there being alternative mediums of reporting like telephone call, sending emails and letters. Also the positionality of IPOA Kisumu regional office is that which is inaccessible to persons living with mobility disability. The absence of a ramp or lift in the building discourages the above mentioned group of people who may though be victims of Police misconducts from seeking services from the said office. These logistical nightmares are thus key ingredient in creating dark numbers associated with socially unacceptable behavior.

Much is therefore demanded of IPOA as a police oversight agency especially in Nyanza region: to measure up with police establishments within the jurisdiction of coverage as shown in table 6.1, it should devolve to the county levels if not the sub county levels; to be non-discriminatory to persons living with disability, its location should be that which allows their access. Devolved presence of IPOA is in itself deterrent. Police officers will thus strive to act within the confines of the laws and regulations governing policing work in fear of being held to account by the watchdog body next door. This then contributes to the realization of police accountability. Nairobi IPOA regional office is however located in a building whose access by persons living with mobility disability is considered. Table 4.9 is a display of victims’ response to the accessibility of IPOA offices.

Table 4.9: Victims’ response on accessibility of IPOA offices

Victim		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	36	26.5	26.5	26.5
	Disagree	48	35.3	35.3	61.8
	Neutral	32	23.5	23.5	85.3
	Agree	17	12.5	12.5	97.8
	Strongly agree	3	2.2	2.2	100.0
	Total	136	100.0	100.0	

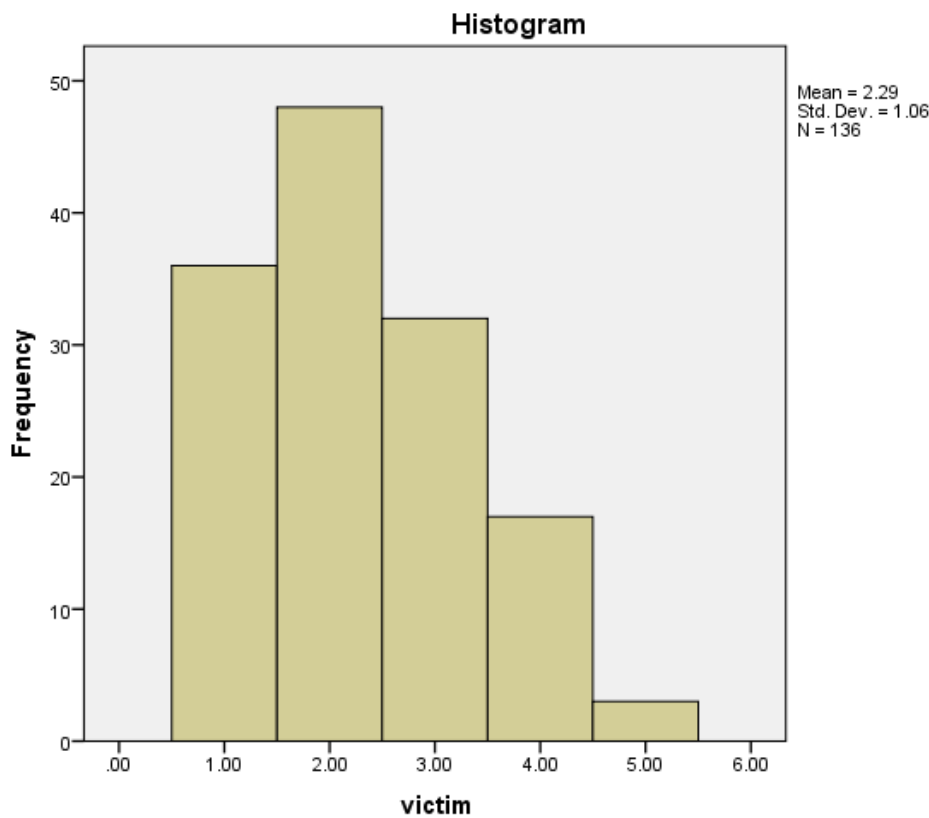


Figure 4.1: Histogram for victims’ responses on accessibility of IPOA offices

The study, in measuring the levels of impartiality employed in handling of complaints by IPOA interviewed the third set of respondents who are actors in the criminal justice system other than IPOA staff and police officers. The findings is presented in figure 4.2 and table 4.10 below which gave an affirmation that IPOA is impartial in handling complaints of Police misconducts

(M=3.09, SD=1.483). Such a positive feedback on IPOA’s impartiality in its complaints handling process is indeed a gesture that a decade after inception, IPOA has been consistent to the founding ideals of impartiality. Further this impartiality nod has also enabled IPOA as an institution to remain appealing to the external environment who are the consumers of its services. This impartiality badge has therefore sustained complaints reporting by victims of Police misconducts.

Table 4.10: Court actors’ responses on impartiality of IPOA

Court		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	5	14.3	14.3	14.3
	Disagree	12	34.3	34.3	48.6
	Neutral	2	5.7	5.7	54.3
	Agree	7	20.0	20.0	74.3
	Strongly agree	9	25.7	25.7	100.0
	Total	35	100.0	100.0	

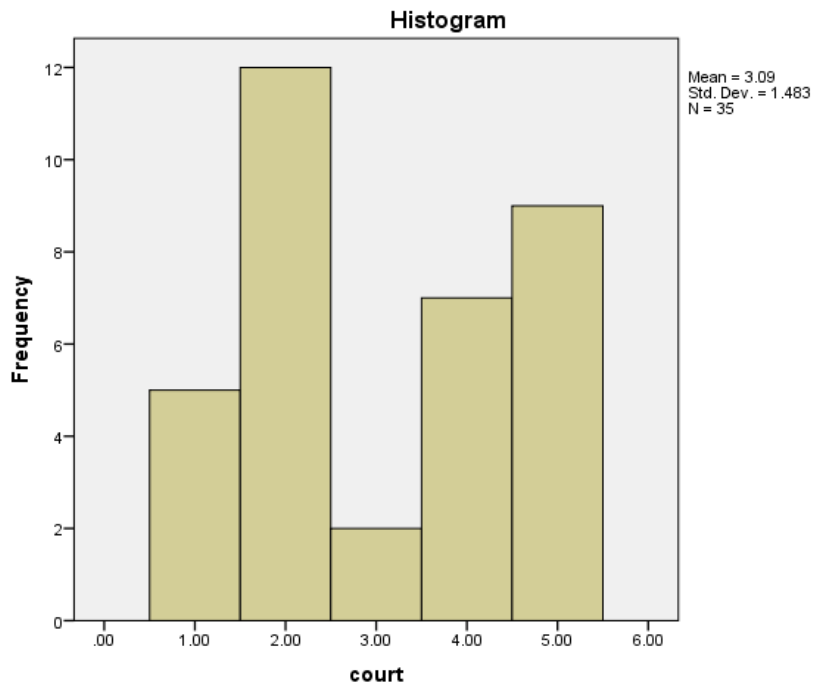


Figure 4.2: Court actors’ responses on impartiality of IPOA

This study further sought to evaluate the confidentiality of information measures put in place within the complaints handling system. A discussion of the findings depict an approval of the confidentiality standards employed by IPOA in handling complaints. Figure 4.3 project that IPOA employs sufficient confidentiality levels in handling information reported to them by victims of Police misconducts (M=3.88, SD=1.232). It is critical to note that by the very nature of complaints handled by IPOA and the people complained against, confidentiality of information is of essence. A gap in confidentiality measures put in place leads to premature exposure of the victim(s), witnesses and likely pieces of evidence IPOA may rely on in proving the offence. Concealing of victims' identification particulars is therefore necessary in IPOA's complaints handling system.

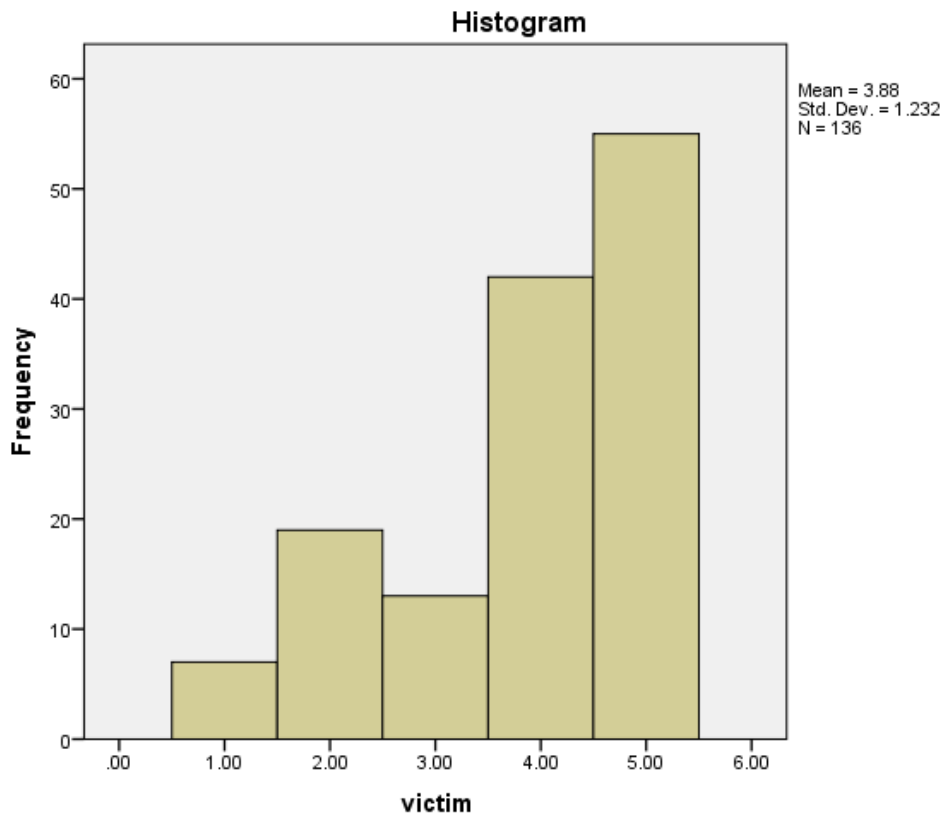


Figure 4.3: Victims' responses in evaluating IPOA's confidentiality in handling complaints

Table 4.11: Victims’ evaluation of IPOA’s confidentiality in handling complaints

Victims’ evaluation of IPOA’s confidentiality measures					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	7	5.1	5.1	5.1
	Disagree	19	14.0	14.0	19.1
	Neutral	13	9.6	9.6	28.7
	Agree	42	30.9	30.9	59.6
	Strongly agree	55	40.4	40.4	100.0
	Total	136	100.0	100.0	

A question of staff integrity is thus posted, like Caesar’s wife, IPOA staff assigned such delicate assignments should be persons of unflinching integrity and true to the call of duty as the needle is to the pole.

The police officers interviewed for this study registered their satisfaction levels with IPOA’s CHM in addition to establishing whether they were accorded justice by IPOA in its complaints handling. As tabulated below in table 4.12 and figure 4.4, the police officers forming part of the study respondents eluded that IPOA does not accord police officers justice (M=2.79, SD=1.241). Based on this finding, it is evident that for IPOA to effectively police the Police it has to work on its relations with the Police and mandate awareness especially within the NPS. Nonetheless, a favorable rating from the Police was and still is a near impossibility pegged on the inherent fear of the Police being held to account for their actions or omissions by overlooking authorities and laxity in adjusting to global best policing practices. Necessary steps should be put in place to help the police understand the accusations levelled against them and in response the police should also give their side of the story pertaining the complaint. In this IPOA’s CHM will be well suited to effectively dispense with complaints of Police misconducts to the satisfaction or thereof of both the victims and the accused police officers.

Table 4.12: Showing police officers’ levels of satisfaction with IPOA’s CHM

Police		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	21	17.2	17.2	17.2
	Disagree	31	25.4	25.4	42.6
	Neutral	38	31.1	31.1	73.8
	Agree	17	13.9	13.9	87.7
	Strongly agree	15	12.3	12.3	100.0
Total		122	100.0	100.0	

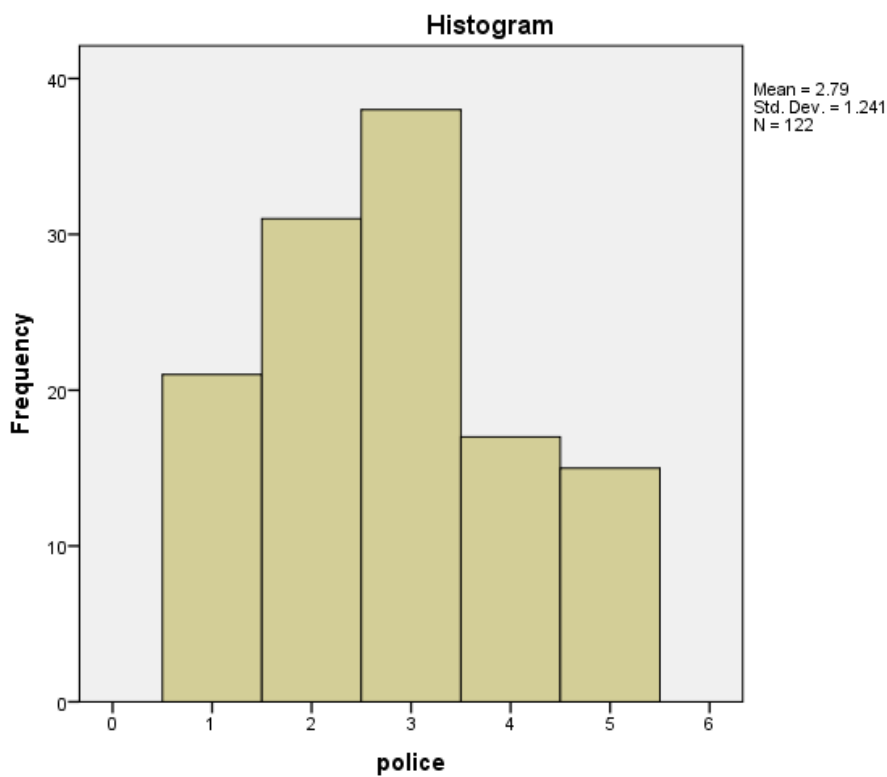


Figure 4.4: Police officers’ levels of satisfaction with IPOA’s CHM

Secondary data such as IPOA annual reports document that cumulatively, IPOA received a total of 14,750 complaints against police officers for financial years 2017/2018, 2018/2019, 2019/2020, 2020/21 and 2021/2022 as shown in Figure 4.5 below which is the researcher’s derivation from IPOA’s annual reports and bi-annual performance reports for the stated financial year

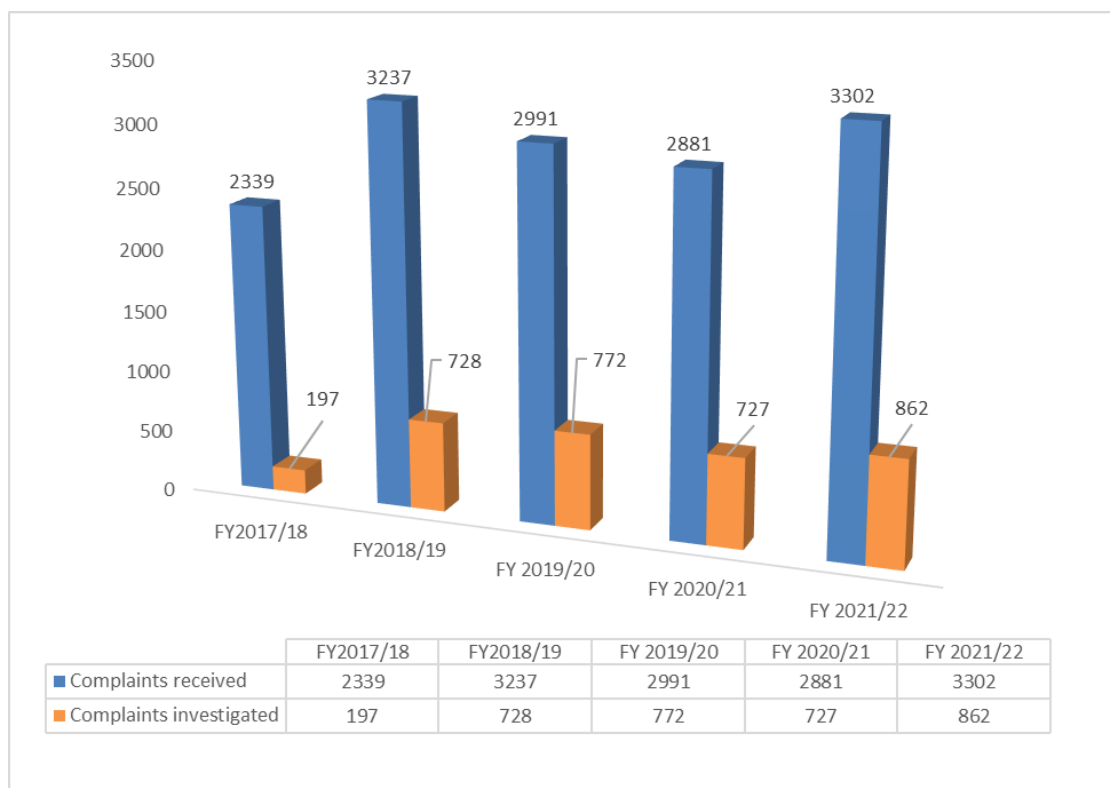


Figure 4.5: Complaints received and investigation output by IPOA between 2017 and 2022

Source: Researcher (2023)

It is also worthy to note that progressively there has been a positive departure in complaints reporting from financial year 2017/2018 and the subsequent financial years. This is due to IPOA’s improved grassroots presence across the country. In the Financial year 2017/2018, IPOA had three offices namely Nairobi, Kisumu and Mombasa as opposed to eight offices opened and operationalized in the subsequent years. This meant abridging the distance gap in search of IPOA services. The devolution and operationalization of new regional offices thus called for increased staff manpower which then led to posting of positive results in complaints processing.

4.4 Nature of Police Misconducts

On receipt, the complaints are then subjected to internal complaints processing to assign to each complaint best mode of dispensation. These decisions are based on the nature of Police misconduct reported, gravity of the reported complaint amongst other administrative factors. Based on IPOA’s annual reports and bi-annual reports for the period under study: complaints of police fatal shooting were at 4.09%; death in police custody were at 1.34%; enforced

disappearances were at 0.77%; shooting causing injuries were at 2.82%; sexual offences were at 1.29%; physical assault were at 12.43%; abuse of power were at 11.92%; unlawful detention were at 4.06% while 61.28% categorized as others. The data depicts that IPOA registers less complaints in its key investigative areas in regards to policing oversight. Table 4.13 shows the nature of complaints received by IPOA for the period 1st July 2017 to 30th June 2022.

Table 4.13 Nature of Police misconducts

Nature of Police misconducts	Cases intake in %				
	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22
Fatal shootings	3.33%	3.68%	5.38%	4.34%	3.73%
Death in police custody	1.15%	1.45%	1.07%	1.25%	1.76%
Enforced disappearance	0.39%	0.46%	0.87%	0.94%	1.18%
Shooting causing injuries	6.33%	2.93%	1.91%	1.42%	1.51%
Sexual offences	2.09%	0.90%	1.00%	1.42%	1.06%
Physical assault	12.18%	9.21%	16.45%	12.88%	11.42%
Abuse of police powers	2.18%	8.84%	18.12%	14.93%	15.54%
Unlawful detention	5.77%	3.74%	3.84%	3.12%	3.82%
Others	66.57%	68.79%	51.35%	59.70%	59.99%

Source: Researcher (2023)

Arising from the nature of complaints reported, best mode of dispensation is assigned each complaint in the management decision stage of CHM. This includes: undertaking preliminary inquiries by the complains team, approval for investigations by IPOA, approval for monitoring by IPOA’s Inspections Research and Monitoring department, referral to IAU for action, referral to the Sub County Police Commander (SCPC) or Officer Commanding Station (OCS) as deemed appropriate, referral to other partner agencies or even closure.

For the period under review, the management decisions reached on CHM are as tabulated in table 4.14 below.

Table 4.14: Complaints management decisions

Complaints management decisions	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	TOTAL
Complaints reported	2339	3237	2991	2881	3302	14750
Approved for investigation	482	489	763	625	781	3140
Referred IAU	119	57	10	30	24	240
Referred to Inspections	171	289	326	358	370	1514
NPSC	90	73	68	50	35	316
NPS	415	415	271	303	109	1513
KNCHR	10	0	0	0	0	10
DCI	12	151	108	82	35	388
Preliminary inquiry	546	795	933	840	1450	4564
Complaints closed	381	876	432	560	468	2717
Other agencies	113	92	80	33	30	348

Source: Researcher (2023)

To note also is that the open door complaints reporting policy employed by IPOA has capacitated it to receive complaints from other entities other than the victims of Police misconducts themselves. This comes in the form of referrals or in certain circumstances on its own motion on commission of cognizable offence by men and women in uniform. In this regard, secondary data on sources of complaints is as shown in table 4.15 below.

Table 4.15: Sources of complaints of Police misconducts

Group	Complaints received per financial year				
	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22
General public	1742	2706	2477	2187	2835
Police	98	100	117	61	121
State agencies	110	107	72	324	96
Non-state agencies	166	126	152	121	134
Own motion	223	198	173	188	116

Source: Researcher (2023)

It is evident that more than three quarters of the complaints received by IPOA for processing are from the general public and that complaints from the police have however stagnated at an all-time low reporting. There is also evidence of cooperation between IPOA and state and non-state agencies in regards to referral of complaints of Police misconducts hence being integrated as important cogs in the clamor for police accountability.

4.5 Socio-demographic characteristics of victims of Police misconducts

To further to understand this study objective, the study sought to establish the socio-demographic characteristics of the victims of Police misconducts. The study established that the male gender unlike the female gender was more predisposed to police offending thus giving credence to most policing studies' findings notably those of Mrozla et al., (2021); a similar case being the youthful population. The socio-demographic characteristics of the victims is as shown in table 4.16.

Table 4.16 - Showing demographic characteristics of victims of Police misconducts

Demographic information		Valid respondents (r)	Percentages ($\frac{r}{n} * 100$)
Gender	Male	126	39.13
	Female	10	3.11
Level of education	Informal	14	4.35
	Primary	28	8.7
	Secondary	40	12.42
	Tertiary	54	16.77
Age	18yrs – 35yrs	94	29.19
	36yrs -60yrs	35	10.87
	Above 60Yrs	7	2.17

4.5.1 Gender

There is low reporting of complaints by female as compared to males. Female victims lack confidence in the criminal justice system hence seldom report complaints against police officers for readdress in fear of victimization and re-traumatization. This means that most misconducts especially sexual offence cases usually go unreported and unaddressed thus motivating perpetration of such abuses against women.

Female urban dwellers registered more complaints reporting that female rural dwellers, this is partly associated with the fatigue of seeking IPOA service arising from its insignificant presence

at the grassroots. Female respondents drawn from informal settlements in Nairobi and Kisumu cities averred that though IPOA has been in existence for over a decade, very little has been done to curtail Police misconducts especially within the informal settlements. According to Kenya Police Service annual report (2010), Nairobi city registered a lot more crime in informal settlements as compared to high-end residential area thus to reduce these crimes to manageable levels the police have been accused of resorting to summary executions. These summary executions mostly against youths suspected of crime involvement in informal settlements such as Kibera, Mathare, Mukuru Kwa Njenga, Korogocho, Mukuru Kwa Reuben and Dandora in Nairobi; and Obunga, Nyalenda and Nyawita in Kisumu, have continued to rise in full glare of the police watchdog body – IPOA. The executions usually take place in broad daylight and under the watch of the public so as to deter would be criminals within the neighborhood.

In April 2017, a plain clothed police officer as captured on camera executing two youths in Eastleigh, Nairobi on suspicion of crime involvement (Kimari, 2018). A key informant interview gave an experience of guardians and parents of youths engaging in criminal activities or suspected of engaging in crime within Nairobi City County. To them the police were largely unaccountable in the discharge of their duties thus resorting to summary execution of suspects to control crime rates. A key informant posited that:

“The police have turned our sons into stoppers of bullets. Once any of them gets into bad books with the police, as a parent or guardian you are compelled to either relocate him to the villages for safety or risk finding him dead in the mortuary, the body having been perforated by police bullets,”(Informant no. 03).

To further reinforce this assertion, in May 2022 Guyo Gorsa Buru alias Sheikh Buru having been acquitted by court on grounds that the prosecution failed to prove terrorism related charges against him, refused to leave Kamiti Maximum Prison in fear of his life outside prison (BBC News, 6th May 2022).Such occurrences give suggestions of the level of police unaccountability to the public long after the promulgation of the Constitution of Kenya, 2010 which demands the Police to be professional and accountable to the public while discharging their duties. All these happening in contravention of the legal frameworks guiding police work such as International conventions, National Police Service Standing orders, NPS Act, 2011 and the Constitution of Kenya 2010 which all outlaw arbitrary deprivation on life. The police are thus encouraged to

adhere to these legal frameworks and use of lethal force should be the last resort; only when an aggressor threatens the life of another, police officer inclusive.

Despite existing fears amongst female respondents in respect to reporting complaints of Police misconducts, female victims drawn from the NPS however showed satisfaction with IPOA's CHM. The study established that male respondents are the greatest beneficiaries of IPOA's services. Hurst and Frank (2000) posit that males harbor greater dislike for police officers because of their numerous contacts with law enforcement officers either as culprits or victims of crime; also the composition of NPS is predominantly male, this may at times lead to favorable treatment accorded to females than males during police operations born of traditional gender roles, Maguire and Pastore, (1997). Skogan (2006) agrees with Maguire and Pastore by stating that Police generally in their work focus more of their attention to male for their proclivity to crime. That background therefore sustains the opening statement. And because they are the majority in seeking IPOA services, the male respondents expressed confidence in IPOA's complaints handling processes with the willingness to go the whole hog in seeking justice which begins at complaints processing.

Police officers, both male and female, are well informed of IPOA's oversight mandate. There is however low registration of complaints from the police officers; in the financial year 2017/2018 complaints received from police officers only formed 4.19% of the total complaints received by IPOA, in FY 2018/2019 they stood at 3.09%, in FY 2019/2020 they were at 3.91%, in FY 2020/2021 they were at 3.90% and in FY 2021/2022 they were at 3.66%. The deduction therefore is that there is little goodwill amongst police officers to report complaints against their colleagues for Police misconducts. That said, female police officers approve reporting complaints of Police misconducts than their male counterparts, this is so because of the female vulnerability tag. They are first vulnerable to abuses within the NPS and secondly as law enforcement officers they have developed the fortitude to navigate through the process of seeking justice which is lacking in non-police officers' female victims.

Unlike male victims of Police misconducts, female victims hardly heal from their ugly encounters with the police thereby creating a permanent dislike for the police in general.

4.5.2 Level of education

The distribution of the respondents in this category was: those with informal level of education formed 5.9% of the study population, primary level of education formed 8.7%; secondary level of education formed 49.06% and those possessing tertiary education formed 36.34% of the study population. It is worth noting that arising from the categorization in table 4.2.3, only victims of Police misconducts were registered under the categorization of those with Informal and primary level of education; respondents from the other categories were at minimum required by their job descriptions to possess secondary level education.

There is low of awareness on the work of IPOA amongst respondents of informal and primary level of education, this contributed to low uptake of complaints from this group for processing. Most victims in this cluster thus adopted the defeatist mentality that the police are all powerful with no safeguards to check on their misconducts. In the inverse, respondents within the secondary level of education and tertiary level of education exhibited knowledge on the mandate of IPOA hence freely lodged complaints against police and expressed exuberance in supporting the inquiry process to hold the police accountable for their misconducts. Most respondents having interacted with IPOA and falling within the informal and primary cluster posited that their first interaction with IPOA was due to referral.

4.5.3 Age

The youths falling between ages 18 years to 35 years formed 72% of the respondents for the study, those within the age 36 years to 60 years formed 24.3% and those above 60years formed 3.7% of the total study population as detailed in table 4.2.1. In the same breadth, youths were the greatest victims of Police misconducts. The relationship between the youth and the police is a broken one, every action by the police attracts a reaction by the youths; youths therefore form a sizeable chunk of consumers of IPOA services. In the counties of Kisumu, Siaya, Homa Bay, Migori and Nairobi, youths have been the greatest victims of Police misconducts, this is due to the balkanization of youths in those areas as anti-government agitators.

Further, the youth resident within the informal settlements of Nairobi such as Korogocho, Dandora, Mathare, Huruma, Kibera, Kawangware Mukuru Kwa Reuben and Mukuru Kwa Njenga and informal settlements of Nyalenda, Obunga and Nyawita have been easy targets of

police bullets. Stojkovic, Kalinich and Klofas (2014) outlined that the police are expected to maintain crime to manageable levels; in realization of which, the police resort to summary execution of youths in informal settlements with an assumption that the gang membership in cities are informal settlements youthful residents. One key informant, a victim of Police misconducts within Nairobi's informal settlements painted a picture of how judgmental the police were towards the youths especially in their neighborhood.

“These boots hanged on the power-lines are a representation of the fallen youths, lives extinguished by the police. In these informal settlements the youth is first presumed guilty of a crime and before proof of innocence he is lifeless,” (Informant no. 04).

A life lost to Police excesses is one too many. In a scenario similar to the averments of Informant no. 2 above, on 21st December 2018 within Laini Saba area of Kibra, a 23 year of Carilton Maina was fatally shot by the police under unclear circumstances. Subsequent investigations being taken over by IPOA, (BBC News, 26th December 2018). The respondents expressed dissatisfaction with IPOA's complaints management; IPOA having been in operation for more than a decade does not shine to the youth convincing rays of hope that police excesses will be curtailed. Respondents within the age of 36 – 60 years expressed confidence in IPOA's CHM while those falling within the age bracket above 60 years, mostly rural folks, expressed concerns on IPOA's poor presence within their localities therefore inaccessible to them. Traveling to Kisumu for example is a challenge from far flung area hence defeats the reasons for lodging complaints.

4.6 Socio-demographic characteristics of police officers suspected of Police misconducts

This section depicts the socio-demographic characteristics of police officers complained against at IPOA for Police misconducts.

Table 4.17: Showing socio-demographic characteristics of police officers accused of misconducts

Demographic information		Number of respondents (r)	Percentages ($\frac{r}{n} * 100$)
Gender	Male	109	37.83
	Female	13	4.49
Level of education	Informal	0	0
	Primary	0	0
	Secondary	98	33.99
	Tertiary	24	8.33
Age	18yrs – 35yrs	81	28.1
	36yrs -60yrs	41	14.22
	Above 60Yrs	0	0

4.6.1 Gender

Police work generally calls for use of force, a comparison of the male gender and the female gender depict that male police officers were more liable to commission of Police misconducts than their female counterparts. Female police officers are found to be more empathetic and fearful of infractions with the law hence prone to exercising restraint in the discharge of policing duties and compliant to legal frameworks governing police work thus bolstering the averments of Ouellet et al., (2019); female law enforcement officers in addition to exercising naturally different skills in police work, register fewer interactions with citizens in respect to use of force or weapons hence subject to fewer complaints of police misconducts.

4.6.2 Level of education

Generally, it is a mandatory requirement during police recruitments that candidates must have secondary level of education above which all candidates are regarded equal hence accorded fair chances for trials. On recruitment and subsequent training, police officers are usually exposed to variety of situations necessitating split second decision making on use of force and deciding how much of the force is reasonable in the realization of policing goals and situation at hand. Such use of force at times result into injuries or even death, Frej (2014) aver that educations broadens police officer’s perspectives in life and expands their worldviews hence limiting irrational and/or erroneous judgments on exercising police powers usually occasioned by preconceived notions and biases. Continuous training thus improves police decisions especially on use of force.

Police officers who've been subjected to promotion training courses and those possessing tertiary education are least predisposed to either on duty or off-duty offending in comparison to their counterparts with the basic academic requirement for police recruitment.

4.6.3 Age

Seniority in police rank and longevity of service have been observed by Ouellet et al., (2019), to be having a strong correlation with offending as such police officers' attitudes towards work and the resultant work ethics predispose younger police officers to disciplinary actions as opposed to senior police officers. To augment this, the study established that IPOA registers a considerably high number of complaints against police officers falling within the ages of 18 years to 35 years. Most police officers in this cluster are fairly inexperienced in police service and lack emotional intelligence that comes with longevity of police service; they thus resort to settling their misunderstandings with the public by applying brute force against them. It is also at this age that candidates join the police service and during the police training, the recruits are subjected to training more inclined to use of force as opposed to modern day democratic policing, this is heavily borrowed from the colonial legacy of the police. Upon pass-out, these recruits tend to exercise use of force as a priority in policing, this usually is the genesis of their infractions with the law.

Police officers falling in the age cluster of 36years to 60years are generally experienced in police service and also cognizant of police oversight mechanisms which then informs their amiable nature and conformity to best policing practices such as applying non-violence against the policed community. Their compliance to the law is at times linked to prior first hand experiences with police watchdogs and /or additional trainings attended in the course of duty centered on 21st century models of policing.

However, most police officers accused of Police misconducts have low confidence in IPOA's processes which is alluded to the antagonistic nature of criminal inquiry processes in Kenya and defensive nature of suspects under inquiries. The suspect police officers, view themselves as the good bobbies undertaking risky tasks of maintaining law and order thus in the course of the probe acquire the cohesion of a threatened and defenseless community from their colleagues within the police service.

According to one serving police officer, there is a general feeling amongst police officers which breeds lethargy in the performance of policing duties:

“Police work is constantly under threat; a lot is expected of you in regards to crime control yet when you execute your duties of crushing crime you are levelled to have applied excessive force in the discharge of your functions. On the flipside, none comes to the defense of a police officer hurt in line of duty,” (Informant no. 05).

This therefore forms a ripe ground for erection of blue wall against probes aimed at unravelling circumstances under which the Police are accused of abuse of police powers.

4.7 Chapter conclusion

The study established that IPOA as an institution influencing Police behavior to conform to the acceptable policing standards has in place necessary mechanisms to handle cases of Police misconducts. However, it's not so good grassroots presence hinders complaints reporting in line with its ODP. Further, the study findings revealed a patriarchal nature of the institutions relevant in the data collection; in addition, respondents falling between the age bracket 18-35years suffer greatest affliction in the hands of the Police. IPOA also adopts a mutual working relationship with its partner agencies in holding police accountable for their actions or omissions, this way IPOA receives and refers complaints to the partner agencies as nature of Police misconduct may dictate.

CHAPTER FIVE

IPOA'S INVESTIGATIVE CAPACITY IN ENHANCING POLICE ACCOUNTABILITY IN KENYA

5.1 Introduction

This chapter presents and analyses the study findings on IPOA's investigative capacity, actions succeeding IPOA's investigations and chapter conclusion. IPOA's investigative function is hinged on section 6 of the IPOA Act, 2011 which stipulate that IPOA takes-up for investigations any complaints relating to a criminal offence or disciplinary nature committed by a member of the National Police Service. Further this legal document empowers IPOA to upon conclusion of its investigations make appropriate recommendations to various agencies in the realization of justice and as circumstances may dictate including prosecution of suspected police officers. Other legal instruments upon which IPOA rely to uphold police accountability in Kenya are: the constitution of Kenya (2010), National Police Service Act of 2012, Service Standing Orders, Acts of parliament proscribing certain acts, and international and regional conventions. These legal instruments set permissible standards for Police work against which acts are proscribed with prescribed sanctions. Police in their trainings are therefore to be well grounded in laws protecting their operations.

5.2 IPOA's investigative capacity

Crawshaw (2009) avers that respect for human rights is one of the internationally recognized benchmark of police professionalism. The complaints under investigations by IPOA, are by nature resultant from human rights abuses by the Police; these include fatal shootings, torture, shooting causing injuries, deaths in police custody or resultant from police action or inaction, assaults and sexual offences as captured in table 4.13. It therefore means that police accountability is cast to light by IPOA's investigative capacity.

The legal framework establishing IPOA crystallized its key function as that of investigation. For Kenya to transform its police wholly into a people-centered service, investigations into Police misconducts should be impartial, topnotch and well-guarded by legal instruments controlling police work. The investigators capacity is hence fundamental in the performance of these tasks bestowed on IPOA as a police oversight body. The capacity includes staff dynamics such as sufficient trainings on modern investigation skills and techniques, modern investigation tools and

equipment, years of experience in investigations, ethical investigative practices and processing of evidence admissible in courts of law to support prosecution and logistical arrangements put in place to aid investigations of reported cases of Police misconducts.

IPOA investigator said:

“The Investigation department is made up of a team of dedicated and well trained investigators capable of responding to cases of police misconducts. Also the department has in place effective structures for checks and balances and to ensure quality assurance,” (Informant no. 06).

IPOA’s investigative capacity is thus established to comprise of personnel of diverse trainings and qualifications necessary for realizing police accountability of the NPS. The individual investigators years of experience in matters investigations was also explored. A key informant intimated that:

“.....other than employing the services of seasonal investigators, IPOA also recruits and nurtures graduates fresh from institutions of higher learning with the minimum requirement being a holder of a bachelor’s degree,” (Informant no. 07).

An affirmation which is in agreement with the findings of Awino (2018), in his study he established that 56% of IPOA staff had attained bachelor’s degree while 12% were masters holders. The researcher thus observes that IPOA’s human resource is by majority holders of bachelor’s degree. Another key informant further posited that

“...upon recruitment, the recruits are trained on institutional best practices tailor made to the requirements of the job and assigned seasoned investigators for pupilage and mentorship,” (Informant no. 08).

In the same discussion, the numbers of IPOA investigators also comes to the fore. A decade after inception, IPOA has a lean workforce which does not measure up to the duty requirements based on the numerous cases of Police misconducts. IPOA has therefore greatly not realized a realistic working ratio of its investigators to reported cases of Police misconducts; in professional fields, absence of this working ratio often causes burnout which then hampers productivity and quality of services. It is desirable that an optimal ratio of investigators to the complaints under investigation is established by IPOA’s board of management. In this way efficacy is achieved and best investigations practices and quality guaranteed; which then validate the existence of IPOA hence earning legitimacy in the eyes of its clients. With more staff, IPOA will be prompt

in its investigative duties therefore conforming to the societal expectations of inculcating best policing practices in the National Police Service.

Further, an investigator from IPOA commented that:

“IPOA has incorporated into its human resource, the services of former police officers to help in understanding police operations and guiding in its functioning. This is not only in the investigation section of IPOA but also in other departments within the organization,” (Informant no. 09).

Policing scholars however aver that the inclusion of ex-police officers in external oversight bodies as investigators usually acts as death traps for the external oversight institution as there will be no sure guarantee of impartiality especially when investigating misconducts touching on former colleagues.

The research sought to understand from IPOA staff their self-evaluation of their investigative capacity in realizing police accountability. A discussion on this establish that, IPOA has sufficient investigative capacity to deal with incidents of Police misconducts(M=3.2, SD=1.005)in either of its regional offices which formed part of this study population. Respondents drawn from IPOA’s workforce, who on daily basis interact with cases of Police misconduct posited that IPOA is technically well-positioned to conduct in-depth investigations into cases of police misconducts as depicted in figure 5.1and table 5.1 Further emphasizing the findings of Awino (2018) that 70% of IPOA staff advanced that IPOA’s investigative mechanisms are effective.

Table 5.1: IPOA staff evaluation on IPOA’s capacity to carry out effective investigations

IPOA staff evaluation on its capacity to carry out effective investigation into cases of Police misconducts					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	5.0	5.0	5.0
	Disagree	3	15.0	15.0	20.0
	Neutral	9	45.0	45.0	65.0
	Agree	5	25.0	25.0	90.0
	Strongly agree	2	10.0	10.0	100.0
	Total	20	100.0	100.0	

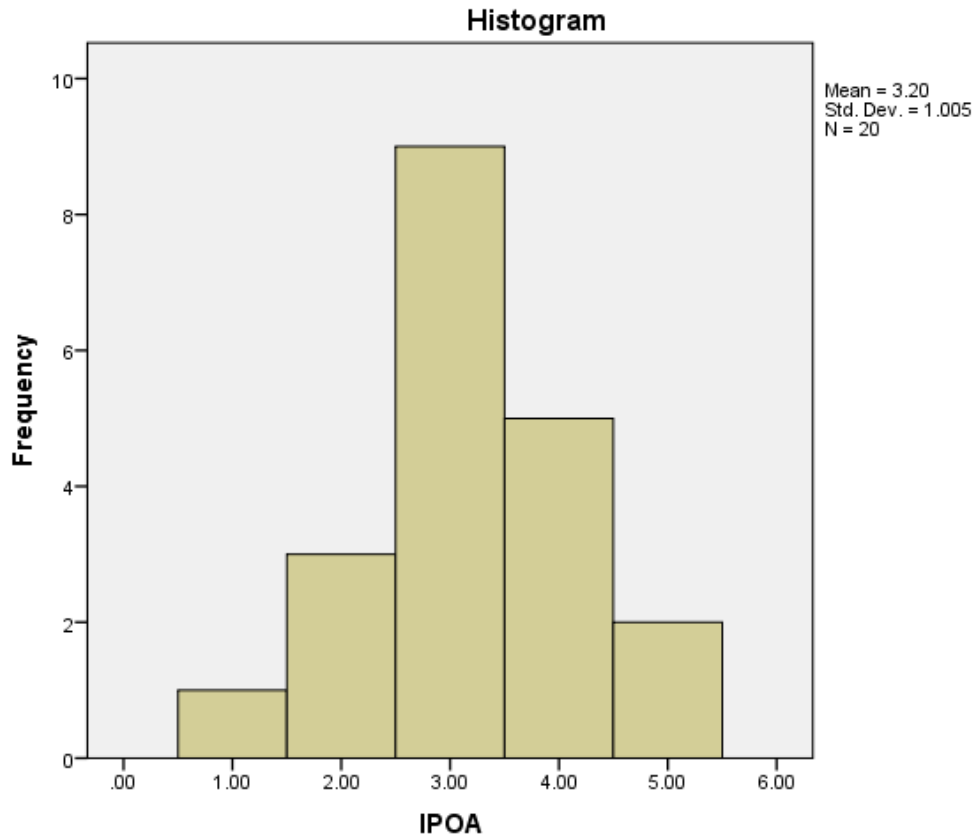


Figure 5.1: IPOA staff evaluation on IPOA's capacity to carry out effective investigations

Public confidence and trust is born of such favorable ratings of institutional capacity to undertake key mandate hence a key ingredient in the life of an institution; IPOA's investigative capacity should therefore inspire public confidence in the institution's ability to foster the police reform agenda. Public approval in this realm thus strengthens institutional structures and mechanisms put in place by IPOA to realize its mandate of policing the Police hence leading to enhanced police accountability. Inversely, the police should too have confidence in IPOA's processes thereby limiting cases of the Police misconstruing the intentions of IPOA's investigative actions. To ascertain whether police officers have confidence in IPOA's processes - investigations in this matter - the research interviewed police officers to elicit their responses on the impartiality of IPOA's investigative process. The findings are tabulated in Table 5.2 and figure 5.2 below; which are in the affirmative ($M=3.07$, $SD=1.207$). This also underscores IPOA's understanding of police operations hence ability to wade through the muddy waters of police accountability effectively.

Table 5.2: Police officers’ level of satisfaction with IPOA’s investigation

Police officers’ response on IPOA’s investigations impartiality levels					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	13	10.7	10.7	10.7
	Disagree	27	22.1	22.1	32.8
	Neutral	38	31.1	31.1	63.9
	Agree	26	21.3	21.3	85.2
	Strongly agree	18	14.8	14.8	100.0
	Total	122	100.0	100.0	

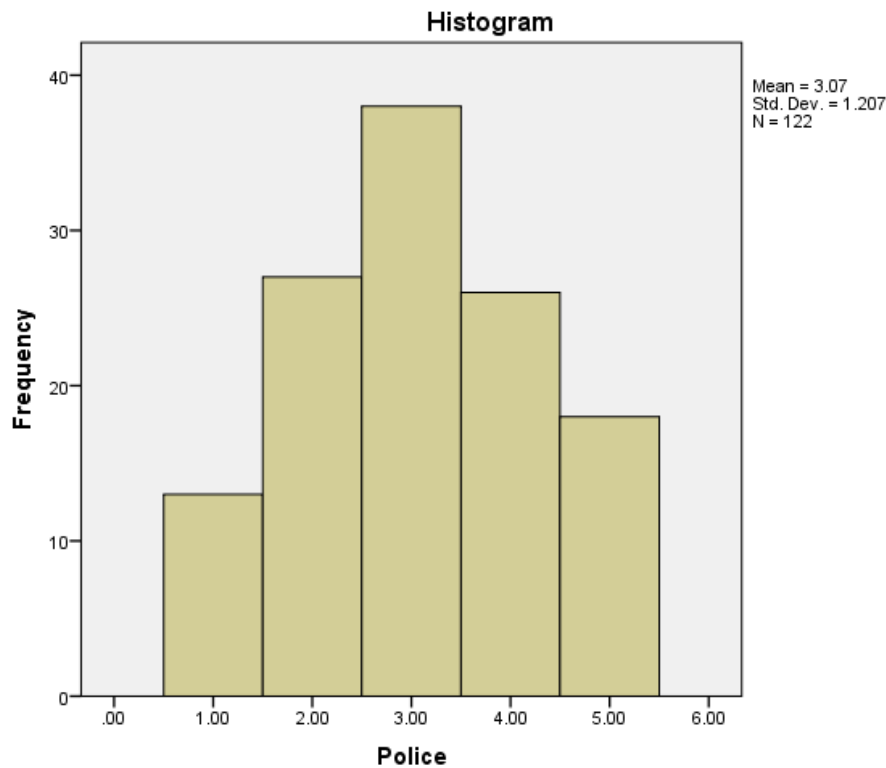


Figure 5.2: Police officers’ level of satisfaction with IPOA’s investigation

As earlier discussed, investigations of Police misconducts as a mechanism of police oversight has proven to be the best way of inculcating professionalism in policing thus contributing to police accountability in the NPS with IPOA serving the midwifery role therein. For the period under review, IPOA registered a total of 14, 750 complaints which were then processed in line with IPOA’s CHM. Official data obtained from IPOA’s annual reports shows that in the financial years: 2017/2018 only 197 complaints were subjected to complete investigations

against a complaints intake of 2339 complaints; in 2018/2019 only 728 complaints were subjected to complete investigations against a complaints uptake of 3237; in 2019/2020 only 772 complaints were subjected to complete investigations against an uptake of 2991 complaints; in 2020/2021 only 727 complaints were subjected to complete investigations against 2881 complaints received then and in 2021/2022 only 862 complaints were subjected to complete investigations against a complaints registration on 3,302 as populated in Figure 4.5.

In total between 2017 and 2022, IPOA conducted investigations into 3,286 complaints of Police misconducts accounting for 22.28% of all the cases received during the period. In this regards it is worth noting that Table 4.14 on complaints management for the period under study IPOA approved a total of 3,140 complaints of Police misconducts for investigations, however Figure 4.5 on IPOA's investigative output for the period, detail that cumulatively IPOA investigated a total of 3,286; this arises from carrying forward of complaints approved for investigations in the preceding financial years.

IPOA's clients - the public- demand of it improved police services resultant of its oversight mandate. This then begs the question, what is the measure of successful police oversight? Does it rest on the overseeing authority's ability to:

- (i) Investigate Police misconducts promptly and effectively;
- (ii) Reduce of complaints of Police misconducts; or
- (iii) Prosecute suspect police officers as a judicial interventions succeeding investigations.

A summary on the importance of IPOA's investigations is underpinned by the affirmations of Harris (2015) that for law enforcement officers to satisfactory discharge their duties with strict compliance to the rule of law, high level oversight mechanisms should be put in place. IPOA as a police oversight agency should thus enhance its investigative capacity as an oversight mechanism needed to realize professionalism in the NPS.

5.3 Actions succeeding investigations by IPOA

IPOA act, 2011, outlines that upon conclusion of investigations into Police misconducts, IPOA should make appropriate recommendations including those to prosecute police officers for the offences they were investigated. Proper investigations generate cogent evidence worthy of supporting prosecutions in the Kenyan criminal courts as the burden of proof lies with the

prosecution in this case acting for IPOA. Successful prosecutions yield convictions whose end goal is to purge criminals in uniform from within the NPS. The mere fact that a police officer is standing trials before a court of law serves sufficient deterrence to police officers with a penchant for abuse of office and offending in general. Such deterrence born of judicial interventions yields reduction in Police misconducts hence contributing immensely to police accountability.

In emphasis of the above, a judicial officer was of the opinion that:

“The rate at which police officers are being put under IPOA’s investigative lenses and few being arraigned in court here and there is a welcomed gesture in fostering police integrity. As such IPOA should remain firm and true to the law so as to disabuse this notion that the police are exempted from prosecution due to their stature as law enforcement officers,” (Informant no. 10).

As at the end of financial year 2021/2022, IPOA had a total of 170 cases of Police misconducts pending before courts of law across Kenya. The nature of the offences ranging from murder to assault (IPOA bi-annual report January – June 2022) this is in the backdrop of so many reported cases of Police misconducts pending under investigations and 550 investigation files having been forwarded to the ODPP for review since its inception. The report further records that IPOA had by the end of June 2022 secured fifteen convictions upon conclusion of criminal proceedings into its cases before courts. Sub-topic 5.2’s parting shot in this regard rings a bell that enhanced investigations will translate to high numbers of court convictions thus purging criminal elements from the NPS.

Notwithstanding that dismal performance in court turn over, IPOA’s contribution to police accountability cannot be gainsaid. In the following table 5.3 and figure 5.3, IPOA staff posit that the existence of IPOA has had positive impact on police reforms and accountability (M=3.95, SD=1.099), a position further reinforced by police officers as projected in table 5.4 and figure 5.3 (M=3.7,SD=1.126). Another success realization badge to IPOA on its contribution to police accountability is given by the actors within the criminal justice system as per the display in table 5.5 and Figure 5.5 below (M=3.09, SD=1.483).

Table 5.3: IPOA’s staff on impact of IPOA on police accountability in Kenya

IPOA staff on the impact of IPOA’s mandate on police accountability					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	4	20.0	20.0	20.0
	Agree	9	45.0	45.0	65.0
	Strongly agree	7	35.0	35.0	100.0
	Total	20	100.0	100.0	

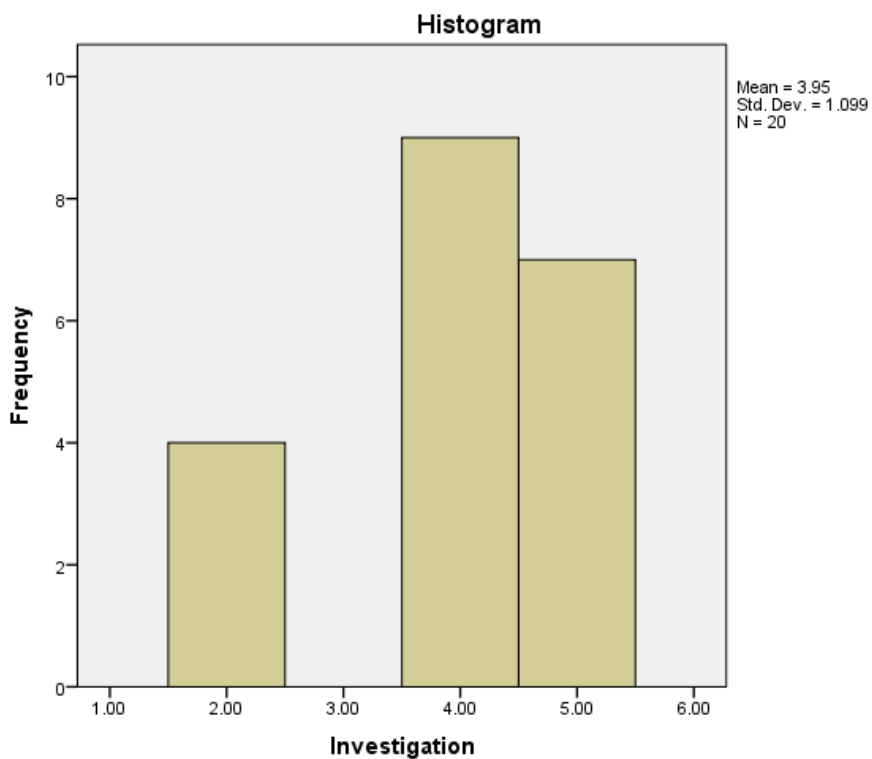


Figure 5.3: IPOA’s staff on impact of IPOA on police accountability in Kenya

Table 5.4: Police officers ‘responses on the contribution of IPOA to police accountability

Police officers’responses on contribution of IPOA to police accountability					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	6	4.9	4.9	4.9
	Disagree	13	10.7	10.7	15.6
	Neutral	25	20.5	20.5	36.1
	Agree	45	36.9	36.9	73.0
	Strongly agree	33	27.0	27.0	100.0
	Total	122	100.0	100.0	

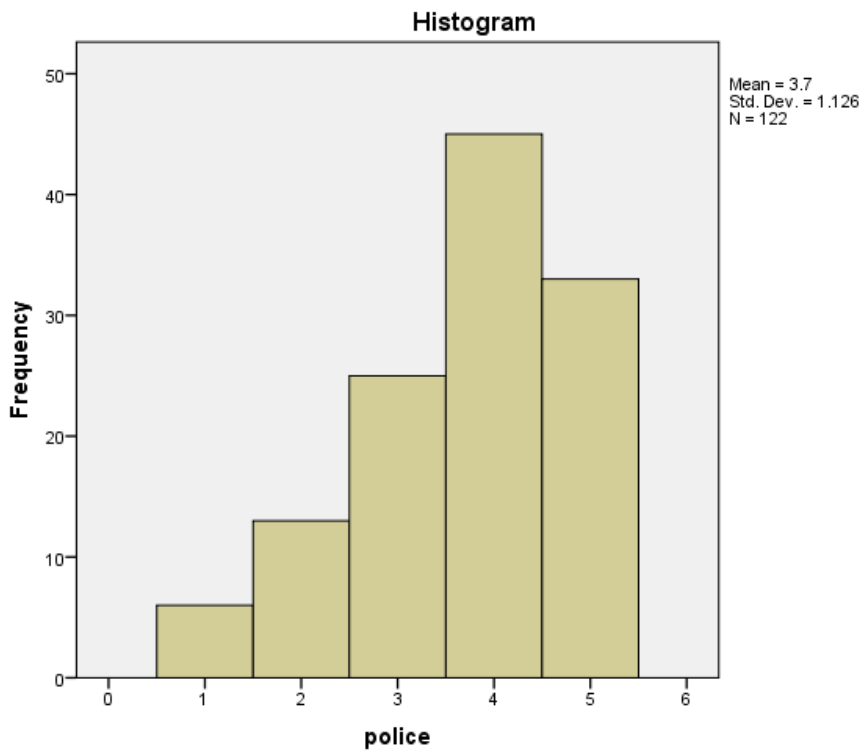


Figure 5.4: Police officers’ responses on the contribution of IPOA to police accountability

Table 5.5: Court actors' response on police accountability

Court		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	5	14.3	14.3	14.3
	Disagree	12	34.3	34.3	48.6
	Neutral	2	5.7	5.7	54.3
	Agree	7	20.0	20.0	74.3
	Strongly agree	9	25.7	25.7	100.0
	Total	35	100.0	100.0	

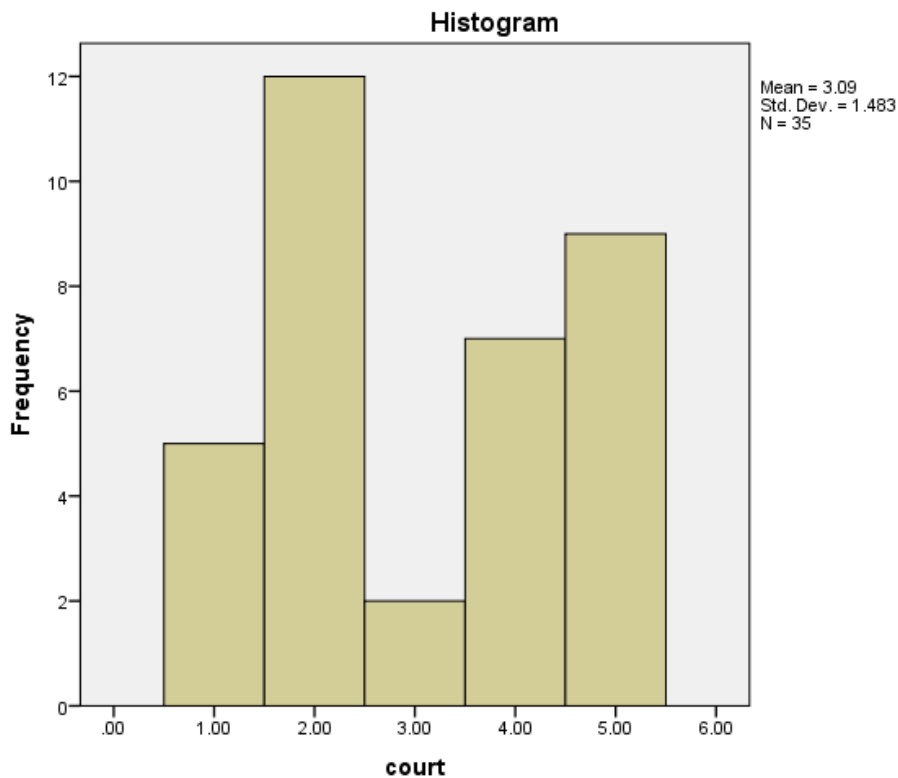


Figure 5.5: Court actors' response on police accountability

Globally the criminal justice system is moving away from retributive justice whose chief goal is to punish offenders and embracing restorative justice aimed at decongesting prisons and relieving courts of cases backlog. In Kenya, section 179 of the Criminal Procedure Code advocates for Alternative Dispute Resolution mechanisms (ADR) by empowering courts to promote reconciliation and encourage amicable settlement of offences not felonies outside court

rooms. The same being echoed by article 159 of the Constitution of Kenya 2010; through ODPP(2019), diversion guidelines for ADR were regularized. According to Orago (2020), ADR is a decision making process other than litigation including but not limited to negotiations, mediations, reconciliations and arbitration. ADR should therefore be seen a practical vehicle to justice and not as an alternative vehicle to justice since it is an easier, faster and less complex gateway to justice and is pillared on reconciliation thereby offering a win-win solution for parties involved. In the interest of fairness, therefore, ADR should neither be exploitative nor punitive as it can create loopholes for abuse by the initiators.

In the same spirit, a key informant presented that:

“ADR is acknowledged both by the Constitution of Kenya and Criminal Procedure Code, and has currently been operationalized by ODPP’s Diversion guideline, the same course should be extended to law enforcement officers accused of petty offences,” (Informant no. 11).

Although, ADR is embedded in the criminal justice system, the researcher’s opinion is that its utility in police misconducts inquiries may be counterproductive in realizing police accountability. The reasoning being, ADR generally allows for out of court settlement for offences not felonies, this would mean that IPOA as the police watchdog will risk having most of its cases as tabulated in table 4.4 being resolved through ADR thus threatening its existence and contribution to police accountability in addition to creating avenues for exploitation of the suspect police officers by the initiators of the ADR.

5.4 Chapter conclusion

Summarily, this chapter’s key discussions were on steps put in place by IPOA in realizing the second objective for the study. The study thus established that IPOA’s investigative capacity is well aligned to the tasks bestowed on them as custodians of public interest in policing though not sufficiently staffed; a lapse in its investigation will more often than not lead to waning public confidence in policing. Also key partner agencies like ODPP and the Judiciary should put in place intentional measures to fast-track on IPOA investigated cases and forwarded to them for action. Reduction of the backlogs in courts and at ODPP will therefore reduce on justice turnaround time thus instilling adherence to legal frameworks safeguarding police work and also serving as deterrence for Police on-duty or off-duty offending.

CHAPTER SIX
THE BOTTLENECKS FACED BY IPOA IN UPHOLDING POLICE
ACCOUNTABILITY IN KENYA

6.1 Introduction

This chapter presents and analyses the study findings on the challenges hampering the realization of IPOA's oversight mandate of championing police accountability in Kenya. Globally the concept of policing the Police has been faced with serious controversies as the Police themselves do not want to be held accountable for their actions or inactions, executive arms of governments too have historically (mis)used the police as an easy source of coercive force against their opponents or perceive detractors hence loathing Police oversight. The challenges of policing the Police has at times led to institutional overhaul of the Police oversight agency, Police commissions or Boards of Police. Early Police oversight mechanisms in the USA, for example, were under the local political leadership with the mayor being the overseer. This led to incubation of Police misconducts such as corruption; the Police solicited for bribes thereby creating a pool of resources useful in funding the mayor's subsequent campaign for reelection into office and providing round the clock protection to the mayor's allies. This misuse by the political class and failure in curbing Police misconducts led to the formation of Police commissions comprising majorly of professionals outside the political class.

The execution of IPOA Act, 2011 has been detracted by unending challenges which have constantly posed hurdles in the realization of an accountable NPS. These challenges are mostly emanating from the external environment upon which IPOA operates, though some are posed by the internal institutional inadequacies.

An informant observed that:

“The police in Kenya has been in existence for more than a century, during which period it has largely operated with no proper monitoring or oversight. As such it has properly established structures and a seriously embedded culture of police misconducts which has been a commonplace occurrence accompanying their duties. To weed out these excesses therefore, IPOA must bravely discharge its mandate amidst the challenges associated with police oversight,” (Informant no. 12).

The study respondents' averments are as tabulated in tables 6.1.1 and 6.1.2 and figures 6.1.1 and 6.1.2; cumulatively the respondents were in agreement that IPOA faces challenges in executing

its oversight functions against the Police(M.3.13, SD= 0.992), to crystalize this further the response from IPOA staff on whose shoulders these tasks rest painted a picture of seriously embedded challenges within the oversight framework thereby making the realization of police accountability a mirage (M=4.35, SD=1.089).

Table 6.1: Impact of challenges faced by IPOA in realizing its mandate

Impact of challenges faced by IPOA in realizing its mandate					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	5.0	5.0	5.0
	Disagree	1	5.0	5.0	10.0
	Agree	6	30.0	30.0	40.0
	Strongly agree	12	60.0	60.0	100.0
	Total	20	100.0	100.0	

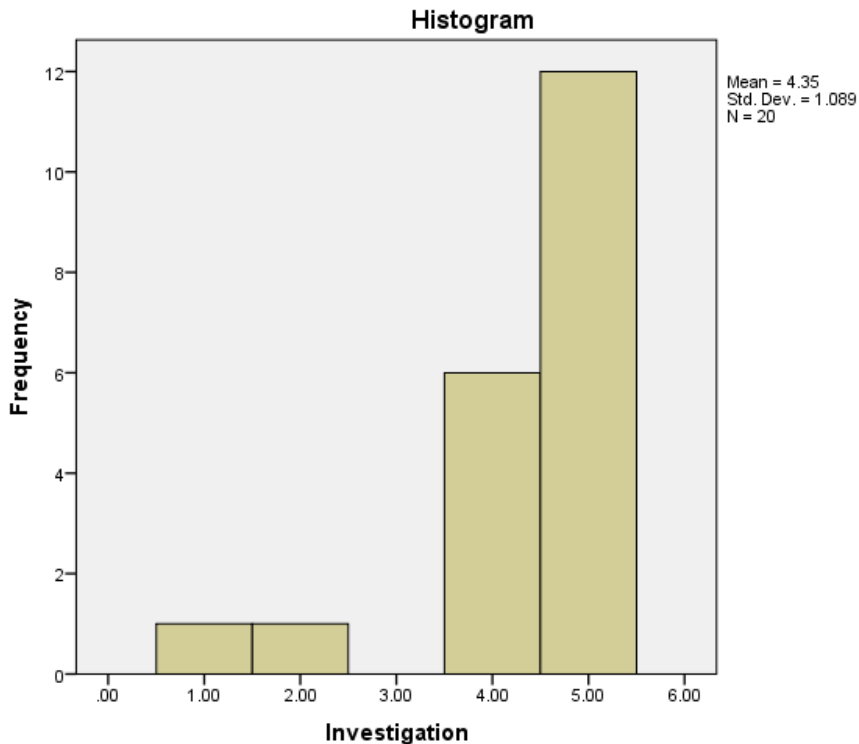


Figure 6.1: Impact of challenges faced by IPOA holding police accountable

Table 6.2: Showing study respondents’ reactions in as far as challenges faced in police oversight are concerned

Challenges					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	21	6.5	6.5	6.5
	Disagree	58	18.0	18.0	24.5
	Neutral	121	37.6	37.6	62.1
	Agree	103	32.0	32.0	94.1
	Strongly agree	19	5.9	5.9	100.0
	Total	322	100.0	100.0	

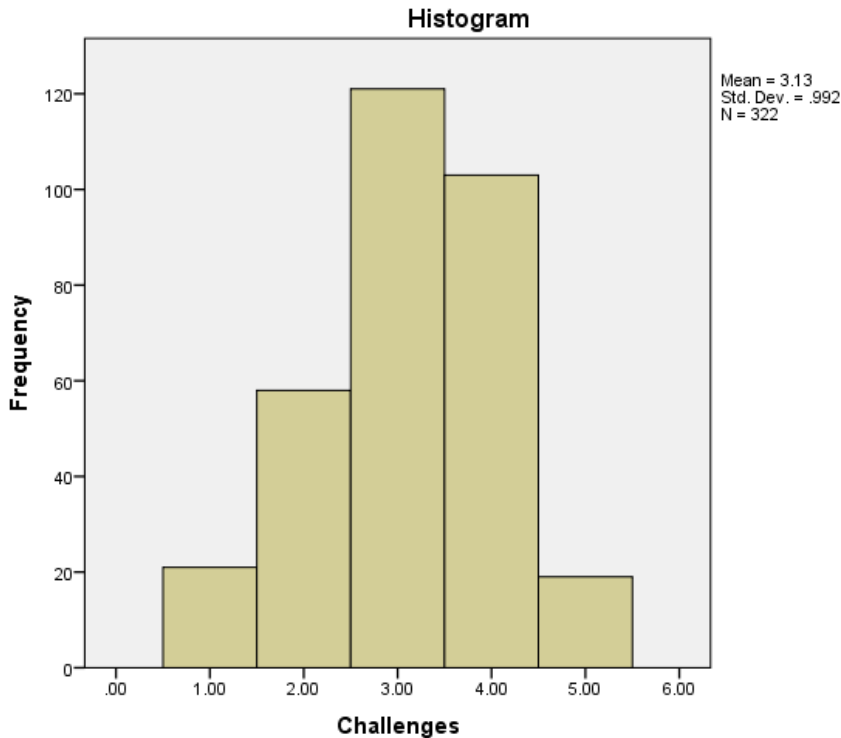


Figure 6.2: Showing reactions of study respondents

As earlier enumerated and as will be basis of the succeeding discussions, these challenges come in many forms. Some at times being out of direct control of IPOA as the police watchdog.

6.2 Intrigues of policing the Police

A decade into existence, IPOA’s mandate has not been fully understood by its stakeholders - the Police and the general public. The general public and likely-clients to IPOA, mostly in rural set-

ups like Siaya, Nyamira, Migori and Homa Bay counties still do not know exactly what IPOA does. The concentration of IPOA offices and services in towns and cities like Kisumu housing its offices creates a recourse gap between the victims of Police misconducts and the institution; to understand IPOA's mandate and disseminate its functions to the grassroots, much is demanded of IPOA in terms of its outreach programs. Lack of proper outreach mechanism has created confusion amongst the victims of police misconducts thus some expecting monetary support in compensation from IPOA for the injuries and pain inflicted on them by police officers. The rural folks have hardly heard of IPOA to say the least.

A human rights defender opined that:

“Decency in policing is largely a forgotten occurrence. IPOA's services which are very integral in enshrining this, are overly lacking in rural setups. This calls for utility of local vernacular radio stations to disseminate information in respect to IPOA's mandate,” (Informant no. 13).

So to keep alive the saying, information is power, IPOA needs to reach the rural dwellers as a catchment area for its services. IPOA should employ the utility of local vernacular radio stations to disseminate information on its functions by having talk shows followed by question and answer sessions. This will enlighten the general public of the functions of IPOA thereby being indispensable cogs in the realization of police accountability. On the other front, the police officers often blame IPOA for turning a blind eye on them especially when violently confronted by members of the public while performing policing duties, unknown to them that IPOA Act, 2011 only mandates it to receive and investigate complaints of police misconduct(s). This has created a miasma of dejection within the NPS thus demoralizing police officers and generally affecting work performance. Consequently, the police officers develop phobia of using force against those they police or using their firearms, this in itself amounts to abdication of duties by the police. A key informant posited that;

“Police officers question the objectivity of IPOA led investigations especially in measuring proportionality or reasonability of force used by the police while discharging their functions; when a police officer deploys the use of force, its amount notwithstanding, he or she will be placed under probe. Is the use of force therefore criminalized in the oversight lenses?” (Informant no. 14).

To effectively police the Police therefore, the Police should be made aware of the scope of IPOA's functions through sensitization seminars on the functions of IPOA. Going forward,

IPOA should adopt a working relationship with the NPS police training colleges such that upon recruitment and while the recruits are undergoing initial police training, they are made aware of what awaits them on passing out. In so doing, Police recruits will be cultured into embracing approved best policing practices hence contributing to police accountability. The same should be replicated during promotional course trainings.

The very nature of IPOA's work demands of its staff to from time to time meet persons harboring crucial information of evidential value necessary for unlocking cases of Police misconducts. To realize this, the willingness of the witness is desired since volunteering information for investigation purposes is by consent of the witness. The study noted that the investigative capacity of IPOA is impeded by: witnesses not willing to speak of incidents of Police misconducts occurring under their watch; fearing to testify in court against police officers in cases of Police misconducts; recanting their evidence; collusion between caregivers to victims and suspect police officers for monetary advancements and witnesses being elusive when called upon to give the evidence being courts of law. These occasions inordinate delay in prosecution of cases of Police misconducts. Such acts thus deprive IPOA of its much needed public approval in holding the police accountable for their misconducts hence contributing to police accountability. In those lenses, it is possible for IPOA to register numerous cases of Police misconducts in courts of law but lack the evidentiary threshold desirable in criminal prosecutions in Kenya. When witnesses lose interest in a course of seeking justice, IPOA will be left with a pile of acquittals in the cases it investigates, this therefore will dim its approval ratings amongst its clients. Unfavorable perception from its customers will henceforward render Police accountability elusive thus emboldening criminal elements in uniform.

Investigations into Police misconducts require that the degrees of injuries suffered is assessed and medical reports issued. In that effect, IPOA has been accused by its clients of referring its clients upon reporting their complaints to IPOA for remedial actions to police stations for further support. This is in the form of reporting the complaint afresh at a police station and obtaining medical assessment reports (P3 forms), Post Rape Care forms and/or Post Mortem forms, well aware that the suspected police officers are or could be serving in those very police stations leading to victimization and premature exposure of witnesses and victims to intimidations by the Police. A decade of walking the police oversight journey, it is prudent that IPOA domiciles these

key investigative instruments as its legal documents in support of its investigations - without which the investigations are deemed incomplete. Reporting complaints of Police misconducts to IPOA by its clients should serve as sufficient reporting since each complainant is assigned a unique number as per CHM similar to Occurrence book entry number (O.B Number) issued at the police station. From the complaints number, IPOA can then issue the complainant with requisite legal documents as the nature of police misconduct dictates.

6.3 Legal working framework guiding IPOA – NPS relations

The Constitution of Kenya (2010) which is the supreme law of the land and in article 244 signals a new dawn in regards to matters policing. In the realization of this article, the legislative arm of the government through Act No. 35 of 2011 created IPOA to perform oversight functions over the NPS. Further in another legislation, Act No.11A of 2011(NPS Act), the legal foundation for the operations of the NPS was laid. In law, the NPS is to be responsive and accountable in the discharge of its duties so as to repair its bruised public image. Section 25(2) of the IPOA Act, 2011 and section 5 of the sixth schedule of the NPS Act, 2011 demand that the police notifies IPOA of deaths or serious injuries resultant from police operations to kick-start investigations. That stated, research noted that NPS has remained insular to IPOA despite its policing oversight mandate being enshrined in law. According to IPOA’s annual reports for financial years 2017/2018, 2018/2019, 2019/2020, 2020/2021 and 2021/2022 there are very few reporting of deaths resultant of police actions or in police premises as dictated by IPOA Act in comparison to the actual lodged complaints regarding death in police premises or resultant of police action. This trend paints a picture of a partially strained relationship between the NPS command and IPOA. The study established this as one of the bottlenecks IPOA has lived with from its inception though with improvements in recent times.

One IPOA investigator postulated that:

“Despite IPOA’s mandate being clearly spelt out in law, the police has largely remained insular and disdainful to external scrutiny even when faced with allegations of serious human rights violations. This is further compounded by police bosses’ public statements labelling IPOA as a busybody thereby creating an organizational sub-culture of contempt to IPOA within the National Police Service,” (Informant no. 15).

This partially strained relationship as has been the case thus encumbers the resolution of such complaints bearing in mind that while conducting investigations into reports of Police

misconducts, IPOA has to constantly engage the police. In the spirit of fair hearing as enshrined in article 50 of the Constitution of Kenya 2010, IPOA usually endeavors to listen to the police officers accused of Police misconducts, intentions at times shunned by police officers who instead build blue walls to the probe. This cloud of mistrust fused with the blue code of silence often negates the realization of a transparent and an accountable NPS. This culture of mistrust and unwillingness of the police to be held to account for their actions is fortified by senior police bosses who despite glaring cases of Police misconducts by officers under their command resort to transferring the suspect police officers to new work stations to impede investigations. In line with 21st century democratic policing ideals, police training in Kenya should reform its Police training in line with its motto “utumishi kwa wote”. This will enable police officers to be abreast with laws and regulations guard-railing policing hence ease to conformity with the legal provisions. There is also need to have professional standards police officers as first-line supervisors during police operations where the police and the community interact and also act as bridges in occasions where the Police are in tension with the law within their workstations hence easing the eminent misunderstandings.

6.4 Duplicity of roles and gray policy areas

A flashback in history shows that prior to the establishment of IPOA in 2011, cases of Police misconducts fell under the investigative powers of the Police. In instances where the police initiated investigations against their colleagues either upon receipt of official complaints from victim(s) or due to public pressure, the outcomes of such investigations were mostly inadequate and unsatisfactory to the victims or the general public with others remaining incomplete; this context validates the opinion of Savage (2013) who hypothesized that as a matter of principle the police should not investigate itself pegged on the concern as to whether the police can remain impartial in investigating cases of abuse of police powers by one of their own. For example, on the night of 23rd August 2000, Fr Antony Kaiser, Roman Catholic priest who had been an outspoken critic of H.E Daniel Arap Moi’s regime was fatally shot at the back of the head. Prior to his death, Fr Kaiser had on several instances been arrested and placed under house arrest by Police. The police investigations into his death however ruled out homicide and concluded that Fr Kaiser died of a self-inflicted gunshot wound to the head, (The Standard Newspaper, 21st April 2019). First forward, on 14th September 2003, Dr. Crispin Odhiambo Mbai was killed by

gunmen in his house in Nairobi, subsequent investigations by the Police led to the arrest and prosecution of three suspects who were later acquitted by the Nairobi High court for lack of sufficient evidence to prove the offence of murder, (*Republic v Collins Katore Kilel & 2 others* [2005] eKLR.) The above are some examples of high profile cases where the police have been implicated for bungling investigations where their colleagues' involvement was suspected.

Post 2010, various policing stakeholders have jostled to take the leading roles on investigation of cases of Police misconducts, a trend that has caused a push and pull in upholding police accountability. What then informs this burning desire to police the police? And who should police the police? Policing oversight functions fall squarely on the doors of IPOA as an independent civilian oversight body established with clear cut functions. Similarly, section 87 of the NPS Act, 2011 created and paved way for the operationalization of the IAU of the police ascribing to it powers to receive complaints on Police misconducts from the general public and police officers and conduct investigations into the reported complaints. Worthy to note is that IAU is purely composed of serving police officers unlike IPOA whose staff composition is civilian. The same Act of parliament despite establishing IAU, in the fifth and sixth schedule dictates that police officers shall notify IPOA of any death or serious injuries resultant of police operations. The Act further demands that the police shall preserve the scene and all evidentiary materials relevant to the incident and hand over the same to IPOA.

The IAU of the police and the DCI are appendixes of the NPS thus having them investigate cases of death and serious injuries resultant from police action or inaction would more often than not be marred with cover-ups due to the blue wall inherent in the police departments. The legal frameworks give IPOA the powers to assign to either of the two agencies investigative duties, as such they should be assigned less serious cases of police misconducts in alignment with the suppositions of Smith (2013) that police oversight should be rolled out in a two-tier model, where the police command structure is accorded autonomy to deal with minor cases of police misconducts thereby enhancing internal accountability mechanisms. Another benefit of the two-tier model being the ability of the external oversight mechanism to review investigations conducted by the internal accountability mechanism should need arise. In that milieu, it is worth noting that despite the existence of IPOA as an external oversight mechanism to the NPS, probe into the River Yalla deaths in 2022 where police involvement was suspected and probe into

extrajudicial killings by the Special Service Unit (SSU) of the DCI were spearheaded by the Homicide section of DCI and IAU respectively. Worthy to note is that neither the findings of these investigations have been made public nor the culprits of these heinous acts held to account for their misconducts. This further casts aspersion on the police's ability to self-regulate.

On that backdrop and as stipulated under Section 25(2) of the IPOA Act 2011 and sixth schedule of the NPS Act, 2011, the arising interpretation is that, complaints regarding use of lethal force should be forwarded to IPOA for impartial investigations to safeguard against likely biases and cover-ups from within the police. This will also help in curing the mistrust victims of Police misconducts have had in police investigation processes hence repairing the decades-old damaged public-police relations. In furtherance of police accountability, the DCI should offer auxiliary services to IPOA such as scenes of crime documentation and preservation of materials of evidential worth. On the other hand, IPOA should show capacity to promptly take up cases of Police misconducts which is currently lacking, conduct impartial and timely investigations into the complaint and hold the suspects to account for their actions. Without which, ring-fencing the domain of investigations into Police misconducts would serve no purpose.

6.5 IPOA as a midwife in police accountability

During FGD it was apparent that IPOA in itself is not self-sufficient, therefore in fulfillment of its mandate, it is required to from time to time cooperate with other states and non-state agency in achieving its oversight functions against the police. An actor within the criminal justice system posited that:

"I sympathize with IPOA in its bid to hold police accountable; much is expected of them yet the architecture of policing the police has not been properly outlaid. A sabotage by any of its partner agencies deals IPOA a smack on the face; the public largely do not understand the intricacies of police oversight," (Informant no. 16).

In Kenya, the Independent Policing Oversight Authority(IPOA) relies on the support services of; ODPP, Judiciary, DCI, Government Chemist, Telecommunication network companies, County governments through their healthcare facilities, Witness Protection Agency among others. Telecommunication companies like Safaricom and Airtel for processing telephonic data; government pathologists for postmortem examinations of deceased persons; ballistics experts based at DCI headquarters for ballistic examinations of police officers' firearms, Cybercrime

experts based at DCI headquarters and Government Chemist for analysis of recovered materials of evidential value such as toxicology tests of blood samples harvested from crime scenes and DNA analysis of exhibits especially in sexual offences cases, Witness Protection Agency(WPA) for the security and protection of its threatened and vulnerable witnesses and victims of Police misconducts, ODPP for review of its investigation file and prosecution thereof before courts of law, Judiciary for hearing and determination of its cases among other agencies.

The independence, internal structures and commands in these agencies may at times create bottlenecks to the police oversight bodies in realizing their mandates. This can be in the form of not meeting timelines set by the police oversight bodies or laxity in the discharge of their duties. There also exists likelihood that the above mentioned state and non-state agencies may at times deflect the trajectory of investigations into allegations of police misconduct(s) and in so doing exonerating suspect police officer(s) using their technical reports.

IPOA is therefore likened to a midwife in the police accountability process. Just like in child birth, all actors within the continuum of police accountability should zealously undertake to accomplish their part of the bargain for the collective realization of a professional police service; the midwife should thus not exclusively suffer condemnation for a miscarriage during pregnancy or a stillbirth. Each of these institutions upon which IPOA relies on for support have their distinct institutional structures, institutional cultures and capacities for performance of their duties, IPOA therefore as a partner-agency may not have control over their functions and decisions.

Attempts to influence the operations of these institutions may thus infringe their working relationship occasioning a constrained working relationship with IPOA, and because of institutional cultures, there are likelihoods of compromises being reached in the course of seeking justice for the victims of police misconduct even without the consent of IPOA. Such compromises usually influence perception thus diminishing the contribution of IPOA to police accountability.

IPOA thus emerges as a vital midwife in the entire process, to realize police accountability therefore, there is need for the goodwill of all actors within the spectrum of police accountability; an inducement to dishonesty at any stage of journey beginning at complaints reporting, to investigations, to internal review of the investigations findings, to forwarding of the investigation

to ODPP for further review and decision making, to litigation before the judge or magistrate and passing of judgment by the judge or magistrate completely erodes chances of realization of police accountability. As an estoppel, police accountability is thus a collective responsibility of all the actors within the criminal justice system.

6.6 IPOA's institutional challenges

In establishing IPOA, devolution of its services was preconceived in section 3(3) of the Act. On that premise, as of 30th June 2019 IPOA had 8 offices spread across the country with a total workforce of 218 overseeing 101,288 serving police officers recorded during the same time on automation of NPS Human Resource management system (IPOA annual report 2018/19 and The Star, 19th March 2019); this in itself is inadequate in realizing a working ratio between IPOA investigators and police officers. Further, Kisumu IPOA regional office serves six counties with a police establishment of 462, see table 6.6 below. The practicability of the effectiveness of the Kisumu IPOA regional office's staff in performance of police oversight duties against the above posted police establishment is thus put to question. In light of this, it is demanded of IPOA to devolve its services to the grassroots where Police misconducts are still rife as was envisaged in IPOA Act, 2011. Devolution of IPOA services will definitely reciprocate to enhancement of human resource capacity desirable for its enormous mandate. These were the observations of a senior complaints management officer:

“As presently is, IPOA's offices are domiciled in towns like Nairobi, Mombasa, Kisumu, Nyeri, Meru, Garissa, Eldoret, Nakuru and Kakamega. As such it lacks proper grassroots visibility which has a negative connotation on complaints reporting, complaints handling and access to justice by the rural dwellers,” (Informant no. 17).

Table 6.3: Police establishments in Nyanza region oversighted by IPOA Kisumu Regional office

S/No.	County	Sub County (police divisions)	Number of police stations	Number of police posts and patrol bases	Number of specialized police units	Totals
1	Siaya	Siaya	2	2	2	37
		Ugunja	2	1	2	
		Gem	2	3	2	
		Ugenya	3	1	2	
		Rarieda	1	3	0	
		Bondo	3	4	2	
		Seme	4	8	2	
2	Kisumu	Kisumu West	3	8	4	100
		Kisumu Central	5	3	10	
		Kisumu East	2	7	3	
		Nyando	5	4	2	
		Muhoroni	3	11	2	
		Nyakach	4	6	4	
		Homa Bay	2	2	3	
3	Homa Bay	Rachuonyo North	4	4	3	68
		Rangwe	2	4	1	
		Suba North	5	3	3	
		Suba South	3	3	1	
		Ndhiwa	1	10	1	
		Rachuonyo East	2	4	0	
		Rachuonyo South	3	2	2	
		Suna East	1	6	2	
4	Migori	Suna West	4	8	1	97
		Uriri	1	7	1	
		Kuria West	2	13	5	
		Kuria East	1	7	1	
		Awendo	4	8	2	
		Rongo	1	7	2	
		Ntimaru	1	2	1	
		Nyatike	2	6	1	
		Sameta	1	4	1	
5	Kisii	Kitutu Central	3	2	2	97
		Gucha	3	3	2	
		Kenyenya	3	5	2	
		Marani	2	4	2	
		Etago	4	3	1	
		Nyamache	5	6	0	
		Kisii Central	4	6	3	
		Kisii South	4	5	2	
		Masaba	2	5	1	
		Gucha South	2	3	2	
		Nyamira South	4	5	2	
6	Nyamira	Nyamira North	4	10	2	63
		Masaba North	4	4	2	
		Manga	3	7	1	
		Borabu	2	10	3	

(Source: Researcher, 2023)

IPOA experiences infrastructural inadequacies such as motor vehicles for ease of movement in its vast area of coverage. Failure to quickly respond to cases of Police misconducts thus punctures IPOA's ability to hold police officers accountable. In addition, there is need for IPOA to procure modern investigative tools and equipment for utility in its operations. As a police oversight body, IPOA's investigative techniques should forever be kept a step ahead of the police, in so doing, it will be able to permeate the blue wall hence crack cases of Police misconducts. IPOA staff capacity is deficient of versatility. A victim of police misconduct who is also differently abled stated that:

“IPOA lacks personnel with diverse skills such as sign language interpreters thereby making lodging of complaints of police misconducts by a deaf-mute person and subsequent investigation processes a near impossibility. This also limits them from being persons of interest even when they harbor information of evidential value,”(Informant no. 18).

In the spirit of inclusivity therefore, IPOA should thus train its staff on some of these overlooked skills though very necessary for service delivery.

Finally, through secondary data, the study noted wrangles within IPOA between its board of management and the secretariat as a stumbling block to the realization of IPOA's key functions with the board accused of arbitrarily exercising powers against the secretariat. In addition, the Police Reforms Working Group - Kenya, through a presser on 26th September 2019 asked the parliamentary committee on Administration and National Security to institute investigations into crisis at IPOA to safeguard the gains made in police reforms in Kenya with staff recruitment and appointment processes by the board being cited as posing threats to the independence of the organization, (Capital News, 26th September, 2019). The above cited highhandedness by IPOA board and the general situation at IPOA should serve as a presage and ring bells to the all promoters of police accountability and the appointing authorities.

6.7 The precarious life term of IPOA

IPOA draws its lifeline from an act of parliament, Act No. 35 of 2011, with no appendage to the supreme law of the land, the constitution. In many quarters it is argued that IPOA gives effect to article 244 of the Constitution of Kenya, 2010; the article nonetheless only sets the expectations of the people in the NPS without suggesting the modus of realizing the spelt-out desires. As such, the institution's life and police oversight in general is threatened by its very independence

in upholding police accountability. In 2003 through the enactment of The Anti-Corruption and Economic Crimes Act, Kenya Anti-Corruption Commission (KACC) was established to investigate corruption cases in Kenya. Subsequently in 2011, the parliament voted on amendments disbanding KACC and establishing EACC thereby dismissing KACC's top management thereby puncturing the PLO Lumumba led anti-grant purge in the country then.

An advocate of the High Court of Kenya commented that:

“IPOA is surviving on borrowed time. Over the years, every government has had a dreaded killer squad within the police which they deploy to execute dissidents and/or persons posing threats to national security. The consequences therefore of IPOA being a stumbling block to the state’s operatives is obvious,” (Informant no. 19).

Proponents of status quo are usually unsettle with the emergence of strong and independent institutions charged at curtailing a socially unacceptable behavior such as corruption and police misconducts. A tyrannical executive with the National Assembly playing rubberstamping roles thus endangers the life term of IPOA. For convenience therefore, IPOA may opt to surrender its independence in a give and take arrangement with the executive bound on (mis)using the police as a coercive arm of the government; now is the time to firmly anchor police oversight. An informant posited that:

“With the powerful executive and parliament dictated by tyranny of numbers, many Kenyan institutions will still fail in the realization of their founding mandates. There is therefore need to anchor police oversight in the constitution of Kenya to act as a buffer against the excesses of the executive,” (Informant no. 20).

6.8 Chapter conclusion

The study in the above discussions established that the police reform agenda has been impeded by numerous obstacles placed on the path to police accountability. Inter-institutional support in police oversight is thus needed for IPOA to perform the Police misconducts invention role preconceived by the National Task Force on police reforms as highlighted in the background of the study. Curing of legal dilemmas occasioned by overlap in institutions’ responsibilities in regards to holding Police accountable, and intra-agency inadequacies and wrangles will go a long way in realizing a majority law-bound NPS.

CHAPTER SEVEN

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

7.1 Introduction

This chapter presents summary of the study findings in relations to the contribution of IPOA to police accountability in Kenya, crystalizing the key issues enumerated during the study. In so doing, it pursued from the respondents their understanding of IPOA's CHM, IPOA's investigative capacity in realizing police accountability in Kenya and finally to enumerate the impact of the challenges IPOA faces in realizing police accountability in Kenya. Consequently, the study proposes appropriate recommendations to cure the problem for the study. In conclusion, the chapter proposes areas for further research.

7.2 Summary of findings

The study findings are presented below in line with the specific study objectives as outlined in section 1.4.1 of Chapter one.

7.2.1 Assessment of IPOA's CHM in promoting police accountability in Kenya

In line with the first objective for the study, it was established that IPOA in its CHM employs an open door policy on complaints reporting, this had made it possible for persons or entities not necessarily directly affected by the Police misconduct to report a complaint at IPOA. Once complaints are reported, they are processed and categorized and further management decision prescribing the best mode of complaints disposal done. Based on the broad nature of complaints on Police misconducts received by IPOA, decisions on complaints handling and disposal are varied. These disposals include, approval for investigations by IPOA, preliminary inquiries by the complaints department, approval for inspection and monitoring by IPOA's Inspections Research and Monitoring department and referral to other partner agencies such as the NPSC, IAU or even the DCI.

Victims of Police misconducts and police officers suspected for various Police misconducts who formed part of the respondents for this study, registered dissatisfaction with IPOA's CHM. The turnaround time from lodging of complaints to resolution of the complaint is that which unnecessarily delays dispensation of justice thereby casting doubt on IPOA's ability to hold police officers accountable for their misconducts. This undue delay in dispensation with

complaints is birthed by IPOA's human resource capacity; there is thus great disparity between the staff numbers and the work at hand. Further, the respondents for the study posited that inaccessibility of IPOA offices had negatively impacted on the realization of an accountable police service in Kenya. IPOA offices are located in towns like Kisumu, Kakamega, Eldoret, Nakuru, Nyeri, Meru, Garissa, Mombasa and Nairobi. This creates logistical nightmares to victims of Police misconducts residing far away from these towns and in dire need of IPOA services.

Inaccessibility of the Kisumu regional office to persons living with mobility disability was also glaring, the building had no lifts or ramp for ease of movements. The study also established that the greatest consumer of IPOA services were male aged between 18-35years with male police officers in that very age bracket being more inclined to police offending. Secondary data revealed that registration of complaints of Police misconducts is on an upward trend for the period under study.

7.2.2 Evaluation of IPOA's investigative capacity in enhancing police accountability in Kenya

On the second objective for the study, the findings were that police work is guided by several local and international legal frameworks guard-railing the conduct of police officers. Importantly these legal instruments advocate for the use of non-violence by police officers when discharging their duties and only resort to use of force when reasonable force and upon exhaustion of non-violent means in achieving the policing objective. The research found that prompt and impartial investigations into complaints of Police misconducts is key in holding police accountable for their misconducts. IPOA's investigative capacity was thus interrogated during the study. The findings are that IPOA recruits both experienced and entry-level graduates into its investigation workforce; subsequently, the recruits are subjected to induction into the institutions culture in respect to police accountability. IPOA has over the years recruited former police officers to help its employees of different professional backgrounds enrich their understanding police operations in addition to having capacity building trainings. IPOA human resource capacity is sufficiently-skilled, endowed with investigative techniques necessary for the execution of the bestowed tasks. Even with these technical endowments for the job, IPOA is still not sufficiently staffed to measure up with the numerous complaints of Police misconducts it receives annually. The lack

of a working ratio of IPOA investigators to complaints of police misconducts, has caused delays in conclusion of investigative task thereby casting doubts on its investigative output.

Secondary data depict IPOA's investigative arm as that which is duty-bound. For the period under review, IPOA conducted investigations into 3,286 complaints of Police misconducts. Similarly, it has been able to forward to the ODPP 550 investigation files for review to pave way for criminal litigation before Kenyan courts of law since its inception. As of 30th June 2022, IPOA has secured a total of fifteen convictions upon rendering of judgments for its cases before the Judiciary. Despite this small number of successful prosecutions in the corridors of justice, IPOA's contribution to police accountability cannot be refuted. The NPS has due to the oversight measure put in place by IPOA adjusted to the desires of democratic policing to avoid being in conflict with the law and IPOA as the watchdog organization.

7.2.3 Bottlenecks faced by IPOA in upholding police accountability in Kenya

On the third study objective, the research intension was to understand the bottlenecks hindering the realization of IPOA's mandate of fostering police accountability. The study appreciated the fact that policing the Police is dogged with a ray of challenges incapacitating the effective discharge of IPOA's functions. Duplicity of roles by IPOA, DCI and IAU was cited by the study as an encumbrance to the realization of police accountability vis-a-vis the intended complementariness. Secondly, contravention of the legal working framework codifying the working relationship between IPOA and the NPS had led to erection of blue wall hence hindering the realization of police accountability through IPOA's investigations. Thirdly, the study enumerated misunderstanding of the IPOA's functions by its key stakeholders – the police and victims of Police misconducts. The fourth challenge faced by IPOA was institutional inadequacies such as human resource capacity, utility infrastructure such as motor vehicles and inaccessibility of its offices to its clients. Finally, IPOA as a midwife in police accountability faced challenges beyond its control as an institution. To foster police accountability therefore, there is need for concerted efforts of all stakeholders in the field of Police oversight.

7.3 Conclusions

It is on the premise of the above findings that the study makes the following conclusions: -

On the first objective of the study, the research established that the elaborate CHM had had a positive contribution in complaints reporting to IPOA. Conversely, IPOA's turnaround time in handling complaints is that which needs to be worked on for efficacy in realizing desired levels of police accountability in Kenya. That said, confidentiality of information standards exercised by IPOA was given a clean bill of health by the respondents for the study.

On the second study objective, the study established that IPOA's investigative capacity was, by training and suitability for the job sufficient to address cases of Police misconducts. Respondents asserted that IPOA exercises impartiality in its investigations thereby inspiring confidence of its clients. However, absence of a realistic working ratio of IPOA investigators to complaints under investigations would more often than not work in reversing the quality of IPOA's investigation output. Reduction in quality standards negatively impacts on its results in court litigation as the prosecution will be robbed of evidentiary materials necessary to tilt the burden of proof.

Finally, on the third objective the study established that IPOA faces numerous internal and external challenges in discharging its mandate and further that the road to the realization of an accountable NPS was one with unending meanders and blind spots hindering effective policing oversight.

7.4 Recommendations

Arising from the study findings in line with the objectives of the study, the following recommendations have been suggested to boost the contribution of the Independent Policing Oversight Authority to the realization of police accountability in Kenya:

- i. IPOA should make section 3(3) of its Act (IPOA Act, 2011) effective by devolving its services to the counties. This will enable recruitment of more staff for subsequent posting to the new offices hence bridging the human resource disparity against the Police to be held accountable thus improving turnaround time. Additional to devolution, utilization of talk shows in local vernacular stations as outreach media to disseminate its functions is key;
- ii. IPOA should consider domiciling its key investigative instruments such as medical assessment forms (P3 forms), Post rape care reports, post-mortem reports amongst other documents upon which its investigations are hinged to limit its

reliance on the NPS for investigative support. This will improve on its investigative productivity which will translate to higher number of court cases desired to influence favorable public perception thereby serving as deterrence within the NPS;

- iii. To cure IPOA's internal inadequacies, sufficient mobility vehicles should be at the disposal of its staff and for inclusivity-compliance, staff should be acquainted with skills desirable for handling clients who are abled differently and
- iv. To limit over-reliance on other institutions such as ODPP for review of its investigation files and approval of recommendations thereof, the National Assembly of Kenya should in the spirit of article 157(12) of the Constitution of Kenya, 2010 confer by way of legislation prosecutorial powers on IPOA. This way, making of key decisions necessary in holding the Police accountable for their actions will entirely rest on the shoulders of IPOA.

7.5 Suggestions for further research

The study recommends areas for further research in the field of police oversight and accountability in Kenya such as a comparative study of police accountability initiatives in Kenya and against other countries with similar oversight mechanisms, similar studies can be conducted with a focus on the relationship between IPOA and IAU as institutions created to enshrine police accountability in Kenya and finally, further research can be conducted on the relationship between IPOA and its partner agencies midwifing police accountability in Kenya.

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APPENDICES

Appendix 1: Maseno University Introductory letter


MASENO UNIVERSITY
SCHOOL OF GRADUATE STUDIES
Office of the Dean

Our Ref: MA/DS/00068/2021


Private Bag, MASENO, KENYA
Tel:(057)351 22/351008/351011
FAX: 254-057-351153/351221
Email: sgs@maseno.ac.ke

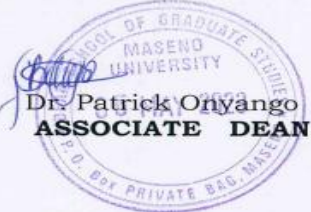
Date: 8th May, 2023


TO WHOM IT MAY CONCERN

RE: PROPOSAL APPROVAL FOR OBONG'O WILSON ODIDA —
MA/DS/00068/2021

The above named is registered in the programme of Master of Arts in Research and Public Policy Degree Programme in the School of Development and Strategic Studies, Maseno University. This is to confirm that his research proposal titled **“Contribution of the Independent Policing Oversight Authority to Police Account Ability in Kenya”** has been approved for conduct of research subject to obtaining all other permissions/clearances that may be required beforehand.


Dr. Patrick Onyango
ASSOCIATE DEAN, SCHOOL OF GRADUATE STUDIES



Maseno University *ISO 9001:2008 Certified* 

Appendix 2: Maseno University Scientific and Ethic Review Committee (MUSERC)



MASENO UNIVERSITY SCIENTIFIC AND ETHICS REVIEW COMMITTEE

Tel: +254 057 351 622 Ext: 3050
Fax: +254 057 351 221

Private Bag – 40105, Maseno, Kenya
Email: muerc-secretariat@maseno.ac.ke

REF: MSU/DRPI/MUSERC/01248/23

Date: 4th August, 2023

TO: Obong'o Wilson Odida
MA/DS/00068/2021
Department of Political Science
School of Development and Strategic Studies
Maseno University
P. O. Box, Private Bag, Maseno, Kenya

Dear Sir,

RE: Contribution of the Independent Policing Oversight Authority to Police Accountability in Kenya

This is to inform you that **Maseno University Scientific and Ethics Review Committee (MUSERC)** has reviewed and approved your above research proposal. Your application approval number is MUSERC/01248/23. The approval period is 4th August, 2023 – 3rd August, 2024.

This approval is subject to compliance with the following requirements;

- i. Only approved documents including (informed consents, study instruments, MTA) will be used.
- ii. All changes including (amendments, deviations, and violations) are submitted for review and approval by Maseno University Scientific and Ethics Review Committee (MUSERC).
- iii. Death and life threatening problems and serious adverse events or unexpected adverse events whether related or unrelated to the study must be reported to Maseno University Scientific and Ethics Review Committee (MUSERC) within 24 hours of notification.
- iv. Any changes, anticipated or otherwise that may increase the risks or affected safety or welfare of study participants and others or affect the integrity of the research must be reported to Maseno University Scientific and Ethics Review Committee (MUSERC) within 24 hours.
- v. Clearance for export of biological specimens must be obtained from relevant institutions.
- vi. Submission of a request for renewal of approval at least 60 days prior to expiry of the approval period. Attach a comprehensive progress report to support the renewal.
- vii. Submission of an executive summary report within 90 days upon completion of the study to Maseno University Scientific and Ethics Review Committee (MUSERC).

Prior to commencing your study, you will be expected to obtain a research license from National Commission for Science, Technology and Innovation (NACOSTI) <https://oris.nacosti.go.ke> and also obtain other clearances needed.

Yours sincerely

Prof. Philip O. Owuor, PhD, FAAS, FKNAS
Chairman, MUSERC



MASENO UNIVERSITY IS ISO 9001 CERTIFIED



Appendix 3: Research license


REPUBLIC OF KENYA


NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY & INNOVATION

Ref No: **593550** Date of Issue: **24/August/2023**

RESEARCH LICENSE



This is to Certify that Mr.. Wilson Odida Obongo of Maseno University, has been licensed to conduct research as per the provision of the Science, Technology and Innovation Act, 2013 (Rev.2014) in Homabay, Kisii, Kisumu, Migori, Nairobi, Nakuru, Nyamira, Siaya on the topic: Contribution of the Independent Policing Oversight Authority to police accountability in Kenya for the period ending : 24/August/2024.

License No: **NACOSTI/P/23/28885**

Applicant Identification Number **593550**


Director General
NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY & INNOVATION

Verification QR Code



NOTE: This is a computer generated License. To verify the authenticity of this document, Scan the QR Code using QR scanner application.

See overleaf for conditions

Appendix 4: Participant’s Consent and Information Form

I am **Obong’o, Wilson Odida – MA/DS/00068/021**, a Master of Research and Public Policy (MRPP) student in Maseno University, School of Development and Strategic Studies (SDSS).

In fulfillment of a partial requirement for my examination and successful completion of the course, I am undertaking a study entitled **“Contributions of the Independent Policing Oversight Authority to Police Accountability in Kenya”**. The aim of this study will be, upon its conclusion to generate important findings that will contribute towards bettering police accountability in Kenya.

The main objective of this study was to Evaluate the contribution of Independent Policing Oversight Authority to Improved Police Accountability in Kenya. The specific objectives for the study will be to: -

- Assess the complaint handling mechanism against police officers put in place by IPOA;
- Evaluate the investigation capacity of IPOA in handling police misconduct while enhancing police accountability and
- Examine the challenges faced by IPOA in their attempt to hold police accountable for their actions.

With your consent, the interview will take between 30 minutes and 1 hour. I will really appreciate it if you allow me (or my research assistant to fill in all the questions). This study will treat every information shared as confidential and will be used only to the extent that this study permits, there is thus no risks to taking part in this study. Taking part in the research is voluntary and even when consent has been granted it can be withdrawn mid-interview.

This is purely an academic study and not being conducted to the benefit of any organization or person, or for personal hidden motives. References can be made to any of the following persons who are the supervisors of the student. Maseno University Dean School of SDSS or Maseno University School of Graduate Studies, or to the National Commission for Science and Technology (NACOSTI) to confirm the legality of this study as an academic work.

For any questions or concerns about this research, please contact:
 Dr. Barack Calvince Omondi (barackcalvince@gmail.com) - Supervisor
 Dr. Michael Omondi Owiso (Owiso.mike@gmail.com) – Dean SDSS
 Dr. Patrick Onyango (patrickonyango@yahoo.com) - Associate Dean, SGS
 Mr. Obong’o, Wilson Odida (willyodida93@gmail.com) – Student

Signature:Date:.....
 Name of Respondent:Signature:.....
 Name-of-Research/Assistant:.....

Appendix 5: Expert Survey Questionnaire

Questionnaire on Contribution of the Independent Policing Oversight Authority to Police Accountability in Kenya

Respondent No _____

SOCIO-DEMOGRAPHIC VARIABLES

(Please tick where applicable)

1. Gender	Male	
	Female	

2. Education level	Informal	
	Primary	
	Secondary	
	Tertiary	

3. What is your age bracket	18-35	
	36-60	
	Above 60	

4. Affiliated Institution	
IPOA	
Police	
Court actors (Judiciary, ODPP and Advocates)	
Health	
Others	

IPOA’S CONTRIBUTION TO POLICE ACCOUNTABILITY IN KENYA – IPOA STAFF

(Strongly agree-SA; agree=A; neutral=N; disagree=D; strongly disagree-SD)

No.	Statement	SA=5	A=4	N=3	D=2	SD=1
5	The complaint’s management system put in place by IPOA enhances police accountability					
6	IPOA has sufficient capacity to carry out effective investigation on police misconduct aimed at enhancing police accountability?					
7	IPOA’s mandate has had a positive impact on police accountability in Kenya					
8	IPOA faces challenges impeding the realization of its mandate in holding police accountable for their actions and/or inaction					

POLICE OFFICERS’ REACTIONS ON POLICE OVERSIGHT BY IPOA

(Strongly agree-SA; agree=A; neutral=N; disagree=D; strongly disagree-SD)

No.	Statement	SA=5	A=4	N=3	D=2	SD=1
9	IPOA has contributed to the improve police accountability					
10	IPOA conducts impartial investigation on reported complaints on police misconduct					
11	IPOA has the investigative capacity to investigate cases of police misconduct					
12	IPOA receives complaints from both civilians and police officers, as a police officer do you feel IPOA accords police complainants justice					

VICTIMS OF POLICE BRUTALITY’S REACTIONS ON POLICE OVERSIGHT BY IPOA

No	Statement	SA -5	A-4	N=3	D-2	SD=1
13	Has IPOA lived up to its mandate of police oversight					
14	IPOA’s response to complaints of police misconduct is efficient					
15	IPOA exercises confidentiality of identity and information in handling complaints					
16	IPOA’s offices/services are accessible thereby enhancing complaints reporting					

COURT ACTORS AND POLICE OVERSIGHT

No.	Statement	SA=5	A=4	N=3	D=2	SD=1
17	IPOA has had a positive impact on police accountability					
18	IPOA employs the doctrine of fair hearing to both police officers and complainants of police misconducts					
19	The reduction in misuse and abuse of police powers and privileges is as a result of the existence of IPOA					

Appendix6: Focus Group Discussion (FGD) Guide

Please try to ask all questions to elicit reaction form the respondents.

Don't hesitate to ask a follow-up question or details when needed.

Date of FGD:.....

Location (County):.....

Principal Investigator: Wilson Obong'o

Number of participants:.....

Read out the below Introductions and Consent statement to the respondents.

Introduction

Hello. My name is **Obong'o, Wilson Odida – MA/DS/00068/021**, a Master of Research and Public Policy (MRPP) student in Maseno University, School of Development and Strategic Studies (SDSS).

I am the principal investigator in this research whose aim is to assess the Contribution of the Independent Policing Oversight Authority (IPOA) to police accountability in Kenya hence that will be the purpose of this interview.

The main objective of this study will be to Evaluate the contribution of Independent Policing Oversight Authority to Improved Police Accountability in Kenya. The specific objectives for the study will be to: -

- Assess the complaint handling mechanism against police officers put in place by IPOA;
- Evaluate the investigation capacity of IPOA in handling police misconduct while enhancing police accountability and
- Examine the challenges faced by IPOA in their attempt to hold police accountable for their actions.

This interview will last approximately 30 to 45 minutes.

Your participation in this study is entirely voluntary. You can refuse to participate or can withdraw from the study at any time. If you consent to participate, your personal information

will be kept confidential. Your participation in this study will not expose you to any harm whatsoever. This interview is purely for academic purposes.

- Do you understand the purpose of the discussion?

Wait for participant(s) to demonstrate that they understand.

- Do you agree to participate?

If participant(s) agree, continue. If any participant in the focus group does not agree, politely invite them to leave and continue the interview with those who agree.

- Do you have any questions or concern?

If you have any concerns, please feel free to contact me at the end of the interview.

Questions:

1. What is your understanding of complaint's management system put in place by IPOA and does it enhance police accountability?
2. Is IPOA sufficiently resourced to carry out effective investigation on police misconduct aimed at enhancing police accountability?
3. What is your assessment of IPOA contribution to police oversight?
4. What impact has IPOA had in improving police accountability in Kenya?
5. What are some of the challenges that IPOA faces in the realization of its mandate?
6. What can you say about the conduct of investigation on reported complaints on police misconduct by IPOA?
7. The IPOA Act empowers it to receive complaints from both civilians and police officers, do police officer feel IPOA accords police complainants' justice?
8. Does IPOA exercises confidentiality of identity and information in handling its clients?
9. How accessible are IPOA's offices/services to its clients?
10. Have there been conflicts between IPOA and the NPS in realizing police accountability?
If yes, what are they like?
11. What suggestions can you make for consideration in regards to police accountability?

Thank you for your time and information.